

REPORT
OF THE
**Board of Trustees of the Public
Archives of Nova Scotia**

For the Year ending 30 November, 1949



KING'S PRINTER
HALIFAX, N. S.
1950

Report of the Board of Trustees of the Public Archives of Nova Scotia

For the Year 1949

TO HIS HONOUR

THE HONOURABLE J. A. D. McCURDY, M.B.E.,
Lieutenant Governor of Nova Scotia

May it please Your Honour:

I have the honour to submit herewith the report of the Provincial Archivist to the Board of Trustees of the Public Archives of Nova Scotia, for the year 1949, together with a statement of receipts and expenditures for that period.

Respectfully Submitted,

ANGUS L. MACDONALD,
Premier.

Board of Trustees

PUBLIC ARCHIVES OF NOVA SCOTIA

HIS HONOUR, THE HONOURABLE J. A. D. McCURDY, M.B.E.,
Lieutenant Governor of Nova Scotia.

‡THE HONOURABLE SIR JOSEPH CHISHOLM, Kt.,
Chief Justice of the Supreme Court of Nova Scotia.

THE HONOURABLE ANGUS L. MACDONALD, B.A., LL.B., S.J.D., LL.D.,
Premier of Nova Scotia.

ROBERT L. STANFIELD, B.A., LL.B.,
Leader of the Opposition in the House of Assembly.

J. C. WEBSTER, C.M.G., M.D., D. Sc., LL.D., F.R.S.C.,
Shediac, N. B.

ALEXANDER E. KERR, B.A., B.D., D.D.,
President of Dalhousie University.

PROFESSOR D. C. HARVEY, M.A., LL.D., F.R.S.C.,
President of the Nova Scotia Historical Society.

MISS WINIFRED MCFATRIDGE,
Secretary.

‡Deceased

Report of the Public Archives of Nova Scotia

FOR THE YEAR 1949

BOARD OF TRUSTEES OF THE PUBLIC ARCHIVES OF NOVA SCOTIA

GENTLEMEN:

I have the honour to present my nineteenth report as Archivist of Nova Scotia.

As anticipated, our services have been in constant demand throughout the past year by historians, journalists, radio artists, novelists, genealogists, school teachers and their pupils, and other individuals, all seeking information in person or by mail and telephone, on various aspects of Nova Scotian life and history for various purposes. Though much of the information sought, prior to the bicentennial celebrations, concerned Halifax and Haligonians, many of the visitors during the summer months took the opportunity to enquire about people and places throughout Nova Scotia; and, since September, many have written for further information on the subjects of their research.

Though the actual number of visitors to the Archives in 1949 did not exceed that of 1948 by more than 200, some of them spent much more time in research, and consulted 5,701 books and 2,501 manuscript volumes, as compared with 1948, when 5,127 books and 2,284 volumes of manuscripts were consulted. The newspaper and photograph collections also were in constant use.

Besides assisting the casual enquirer and supplying both information and illustrations for those who were preparing the official publications for the bicentenary, and arranging special exhibits in the Archives for the occasion, work in which all members of the Archives staff had a part, the following members of the staff made more direct contributions to the dissemination of knowledge about Halifax:

Miss Phyllis R. Blakeley compiled Publication number 9, "Glimpses of Halifax, 1867-1900", a volume of over 200 pages with an index of twelve double-columned pages to facilitate its use as a book of reference. Mr. C. Bruce Fergusson gave four radio talks over the Maritime network of the C.B.C. on Halifax in 1749, 1799, 1849 and 1899 respectively, which talks were later published in the *Journal of Education*. I prepared an illustrated article of 32 pages for the January number of the *Canadian Geographical Journal* on "Halifax 1749-1949", which was widely distributed; and gave a lecture before the Royal Society of Canada at its meeting here in June on "A View of Halifax, 1749-1949", which is appearing in the "Transactions" of that Society now in the press. Miss Blakeley and Mr. Fergusson read papers on phases of Halifax history at the dinner given by the Nova Scotia Historical Society to the Canadian Historical Association during their annual meeting here, which papers will be published in their Report for 1949. We also contributed an article each to the Halifax Bicentenary Issue of *The Dalhousie Review*.

As further extension work of the Archives, Mrs. R. G. Flewwelling read a paper to the Nova Scotia Historical Society in January on the "Diary of Mary Ann Norris, 1818-38", which is appearing in current issues of the *Dalhousie Review*; Mr. Fergusson gave a course of lectures on Nova Scotian history to the Summer School for Teachers; and I conducted the usual seminar in Nova Scotian history throughout the academic session of Dalhousie and directed the preparation of four M. A. theses on significant phases of Nova Scotian history, from documentary sources in the Archives.

I also arranged for the erection by the Historic Sites and Monuments Board of Canada of nine tablets in different parts of Nova Scotia, six in Halifax and one each in Annapolis, Cape Breton and Guysborough counties. Five of those erected in Halifax were placed on the front wall of the Maritime Museum, in H.M.C. Dockyard, to commemorate the careers of those Nova Scotians who were born within sight and sound of Halifax Harbour and rose to the rank of admiral in the Royal Navy. Their names in alphabetical order were, Sir Edward Belcher, Sir Provo William Parry Wallis, George Edward Watts, Sir George Augustus Westphal, and Philip Westphal. These tablets were unveiled by Vice-Admiral R. V. Symonds-Tayler, R.N., in the presence of representatives of the British, American and Canadian navies, as the opening ceremony of Navy Week during

the bicentennial celebrations. The other tablet erected in Halifax, that to Sir John S. D. Thompson, was placed on the Post Office building in Gottingen Street.

Of the three erected in other parts of Nova Scotia, one to Sir John George Bourinot was placed on the Post Office building in Sydney; another to Captain Savalette was placed on a large boulder near English Harbour, Guysborough County, overlooking the Sugar Islands of Tor Bay, among which he had carried on the sedentary fishery for more than 40 years before he entertained Champlain and Lescarbot there, on their return to France from Port Royal in 1607; and still another to Harriette Taber Richardson of Cambridge, Mass., in honour of her inspirational and practical work in exploring the hitherto neglected site, organizing the Associates of Port Royal and cooperating with the Government of Canada in restoring the Port Royal Habitation, was placed in the office of the reconstructed "habitation".

Whenever possible the work of assimilating new material and indexing the old has been proceeded with steadily; and several thousand items have been added to our card catalogues during the year.

An alphabetical list of those who presented material to the Archives will be found in Appendix A. Special mention should be made of Mrs. W. H. Fulton of Halifax who gave a score of rare volumes including, besides the histories of Nova Scotia by Beamish Murdoch, Duncan Campbell and R. R. McLeod and Thomas Miller's "Historical and Genealogical Record of the First Settlers of Colchester County", the first two editions of Haliburton's "An Historical and Statistical Account of Nova Scotia": the one printed and published by Joseph Howe, 1829; and the other, "Published for Joseph Howe; and sold by C. H. Belcher; Robert Scholey, London; and Oliver and Boyd, Edinburgh," 1829.

Mention should also be made of four photographs of oil paintings of the engagement between the *Shannon* and the *Chesapeake*, supposed to have been made by Sir Provo Wallis himself, presented by Frederick F. Hill, Director of the Mariners' Museum, Newport News, Virginia; photographs of the Windsor Fire of 1897, presented by John Hugill of Calgary; a framed water-colour of "Studley", residence first of Sir Alexander Croke and later of Matthew and Louisa

Richardson, presented by Mrs. John A. Tory, Toronto, great-granddaughter of Matthew Richardson; the editorial chair of Rev. Robert Murray, presented by Judge R. H. Murray, Dartmouth; miscellaneous papers and sketches of McNab's Island, presented by Raymond A. Willis of London, England; and the passenger list of the St. Lawrence, Jonathan Cram, master, which landed 208 passengers from the Island of Rum, in Ship Harbour (now Port Hawkesbury), Cape Breton, in 1828, presented, together with a Letter of Marque 1782, by Mrs. J. McG. Stewart of Halifax.

In addition to these gifts of private individuals, special mention should be made of the valuable collection of pre-Confederation postage stamps which the government of Nova Scotia placed in custody of the Archives, in order that they might be seen by all who are interested in such collections. This collection includes both stamps and proofs of different values in pennies and cents, together with the dates of issue and withdrawal from circulation: the former having been withdrawn on the adoption of decimal currency and the latter on the establishment of Confederation. The stamps and proofs are now on display in one show-case, and the stamped covers are displayed in another, together with the McHale Collection of air mail covers.

Appendix B contains some information on the founding and consolidation of the Uniacke estate and the career and ambition of Richard John Uniacke Sr., the Founder.

Appendix C contains some documents illustrating the difficulty experienced by lieutenant governors in adjusting themselves to the new conditions created by the concession of responsible government.

A statement of the receipts and disbursements for the financial year ended November 30, 1949, will be found below.

Respectfully submitted,

D. C. HARVEY,

Archivist.

Statement of Receipts and Expenditures

YEAR ENDED NOVEMBER 30, 1949.

RECEIPTS

Balance on hand November 30, 1948.....	\$ 216.65
Government of Nova Scotia.....	25,000.00
City of Halifax.....	500.00
Interest Savings Bank.....	2.90
Sales of publications and miscellaneous items.....	176.80

DISBURSEMENTS

Maintenance and Expenses of Building....	\$ 1,226.02
Furnishings and Equipment.....	676.49
Salaries.....	20,166.75
Temporary Salaries.....	1,513.96
Office Sundries.....	214.18
Transfer and Express.....	21.77
Library and Manuscript Room.....	194.66
Bindery Materials.....	162.62
Purchases, Archival Material.....	70.45
Printing Publications.....	1,373.61
Sundry Expenses.....	42.90

\$25,663.41

Balance on hand November 30, 1949..... 232.94

\$25,896.35 \$25,896.35

For and on behalf of

BOARD OF TRUSTEES OF THE PUBLIC ARCHIVES OF
NOVA SCOTIA.

D. C. HARVEY, Archivist

WINIFRED McFATRIDGE, Secretary.

I have audited the records of receipts and disbursements of the Board of Trustees of the Public Archives of Nova Scotia for the year ended November 30, 1949, and certify that the within statement is true and correct, and that the balance shown as on hand and in the bank has been verified.

G. WALLACE DICKSON,

Chartered Accountant.

Halifax, N. S., December 8, 1949.

APPENDIX A

Gifts of Books, Pamphlets, Periodicals or Pictures were received from the following individuals and public bodies:

Achilles, Mrs. Edith Mulhall, New York.
Allen, Miss Kathleen, Halifax.
American Antiquarian Society, Worcester, Mass.
Anderson, G. Douglas, Esq., Halifax.
Archives Board of Saskatchewan, Saskatoon, Sask.
Archives of the Province of Quebec, Quebec.
Armstrong, Maurice W. Professor, Collegeville, Pa.
Armstrong, Miss W. O., Port Medway, N. S.
Board of School Commissioners, Halifax
Bollinger, E. A., Esq., Halifax.
Borrett, Major William C., Halifax.
British Columbia Historical Association, Victoria, B.C.
Brookfield, Piers, Esq., New York.
Brophy, J. A., Esq., Bridgewater, N. S.
Bureau of Statistics, Quebec.
Business Historical Society, Boston, Mass.
Cameron, Dr. A. E., Halifax.
Carroll, Mrs. W. F., Halifax.
Casey, Miss Margaret, Rawdon, N. S.
Chisholm, Sir Joseph, Halifax.
Collins, C. A., Esq., Halifax.
Connell, Mrs. G. W., Digby, N. S.
Conner, Dr. Victor, Digby, N. S.
Cornelius, J. R., Esq., Halifax.
Cox, Dr. George H., New Glasgow, N. S.
Curtis, F. W., Esq., Halifax.
Dallyn, G. M., Esq., Ottawa.
Department of Education, Halifax.
Dimock, Fred W., Esq., Windsor, N. S.
Dominion Bureau of Statistics, Ottawa.
Ells, Mrs. J. E., Halifax.
Falconer, Dr. J. W., Halifax.
Frame, Rev. D. A., D.D., Halifax.
Fulton, Mrs. W. H., Halifax.
Gass, Miss Jean, Halifax.
Grant, Mrs. H. G., Halifax.
Government of Nova Scotia, Halifax.

- Government of Saskatchewan, Regina, Sask.
Greenough, Harry P., Esq., Port Wallis, N. S.
Gustin, Lester C., Esq., Winchester, Mass.
Harvey, D. C. Prof., Halifax.
Hattersley, Prof. A. F., Pietermaritzburg, South Africa.
Hattie, R. M., Esq., Halifax.
Hetherington, J. L., Esq., Halifax.
Howe, Herbert Barber, Esq., Mount Kisco, New York.
Hugill, John W., K.C., Calgary, Alberta.
Hyde, L. E., Esq., Dartmouth, N. S.
Institute of Historical Research, London, England.
Johnson, Rev. C. H., Spryfield, N. S.
John Carter Brown Library, Providence, R. I.
Kerr, Dr. A. E., Halifax.
Langill, Dr. Morton H., Worcester, Mass.
Letson, Miss E. M., Halifax.
Lewis, Mrs. Henry, Prince's Lodge, Halifax Co., N. S.
Library of Congress, Washington, D. C.
Lord, Kenneth, Esq., New York.
McClung, Miss H., Toronto.
McCurry, H. O., Esq., Ottawa.
Macdonald, Miss S., Halifax.
McHale, John J., Esq., Halifax.
MacKay, Donald C., Esq., Halifax.
McKay, G. W., Esq., New Glasgow, N. S.
McLaughlin, Miss Lilla B., Halifax.
MacMillan, Mrs. Angus, Waterdown, Ont.
Mariners' Museum, Newport News, Virginia.
Matheson, Rand H., Esq., Moncton, N. B.
Maxner, M. O., Esq., Lunenburg, N. S.
Medinus, Mrs. Carl, Chicago, Ill.
Mitchell, V. W., Esq., Halifax.
Montague, Mrs. H. L., Halifax.
Munro, Mrs. Kenneth M., Halifax.
Murray, Judge R. H., Dartmouth, N. S.
National Archives, Washington, D. C.
New Brunswick Museum, Saint John, N. B.
Nicholson, Miss Margaret E., Halifax.
Ontario Historical Society, Toronto, Ont.

Parker, Rupert U., Esq., Glen Rock, N. J.
Peters, D. G., Esq., Halifax.
Provincial Secretary, Halifax, N. S.
Public Archives of Canada, Ottawa.
Sanderson, Charles R., Esq., Toronto, Ont.
Schurman, Mrs. R. P., Port Medway, N. S.
Seaborn, Dr. E., London, Ont.
Spicer, Mrs. Penn, Yarmouth, N. S.
Stacey, Col. C. P., Ottawa.
State Historical Society, Madison, Wis.
Stewart, Mrs. James McG., Halifax.
Strum, Miss Laura J., Mahone Bay, N. S.
Suttis, Miss Laura, Halifax.
Swain, Norman M., Esq., Halifax.
Talman, Dr. J. J., London, Ont.
Tory, Mrs. John A., Toronto, Ont.
University of Washington, Seattle, Wash.
University of Western Ontario, London, Ont.
Walcott, Estate of the late Mrs. Ethel L., Halifax.
Ware, W., Esq., Halifax.
War Services Committee, National Council of Y.M.C.A.'s of Canada.
Webster, Dr. J. C., Shediac, N. B.
Whidden, Miss Helen, Milford Station, Hants Co., N. S.
Whitman, Mrs. F. C., Chester, N. S.
Willis, Raymond A., Esq., London, England.
Wylde, Miss L., Port Medway, N. S.
Yeoman, Miss Jean, Halifax.

APPENDIX B

Of the seven documents printed below, four illustrate the stages by which Richard John Uniacke Sr. built up and consolidated his estate at Mount Uniacke by grants from the Crown; and the other three comprise a long memorandum, in which he gives his own view of his services in competition for the office of Chief Justice of Nova Scotia, and two covering letters of Sir James Kempt, in which he in turn gives his reasons for writing to the Secretary of State and some comments upon the respective claims of the candidates. As the last three documents are selfexplanatory, no further comment is necessary, except to say that Uniacke carefully avoids any reference to his career in Nova Scotia prior to 1781 and that he died before the Chief Justice actually retired; but something should be said to link up the first four documents.

In 1786 Uniacke, who at the time was a member of the Assembly, Solicitor-General and King's Advocate in the Court of Vice-Admiralty, petitioned the Council for a grant of Lots 46 and 47 on the Windsor Road, containing 1000 acres—the largest amount that could be granted under the regulations of the period. His petition was approved at a meeting of the Council on August 17, 1786. On September the second, a warrant of survey was issued by Governor Parr; and on September 21st., a return was made by Charles Morris, the Surveyor General. On the following day, the Deputy Surveyor of the King's Woods reported (document one) that the tract therein described was not included in the Crown Reservations; and on September 25, 1786, S. S. Blowers, Attorney General, endorsed the warrant of survey and instructed the Secretary of the Province to prepare a grant in the usual form. This was done forthwith and this grant became the nucleus of the future large estate at Mount Uniacke.

Between 1790, when a ban was placed by the Imperial government on further grants of land, and August 1807, when the ban was lifted, it would not have been possible for him to get any outright grant, even if he had not already obtained the maximum; and, when the new instructions came into force in 1808, he found that the maximum grants in future were set at 500 acres per person and that he would have to get special permission from the Secretary of State for any additional grant to himself. Although 4000 acres were granted under these regulations in July, 1812, to members of the Uniacke family, this tract was on the Great Shubenacadie Lake and did not

further the consolidation of the estate at Mount Uniacke. But in the meantime a movement had been set afoot in the Council, of which Uniacke was now a member, to have a special grant made to all members of the Council as a reward for their services. In January 1811, Governor Prevost forwarded memorials of Alexander Croke and John Butler for 4000 acres each to Lord Liverpool, and recommended that similar amounts be given to each member of the Council. As no answer was given to this letter, on October 20, 1812, Governor Sherbrooke, on the advice of his Council, transmitted a copy of Prevost's letter to Earl Bathurst, the new Secretary of State, with his recommendation; and Bathurst replied, December 9, 1812, that he could not admit the principle that every member of the Council was entitled to a grant of land without reference to his particular services; but that he would gladly consider any individual cases recommended by the governor.

It was through this loophole in the regulations that Uniacke got the extra grant of 4000 acres, six years later, after several lots in the neighbourhood of his original grant had been escheated for non-fillment of the terms of the grants. Accordingly, on March 17, 1818, Governor Dalhousie, transmitted a memorial of Uniacke for an additional grant of land and praised him for the example he had set in the development of his former holdings. Bathurst authorized the further grant, on May 13, 1818; whereupon Uniacke immediately petitioned for a warrant of survey (document two). This was issued on June 29th (document three), and returned with a description of the various lots comprised in the new grant (document four), on March 18, 1819. The certificate that the grant was not included in the Crown Reservations was given by Michael Wallace on March 27th; and on March 31, the draft grant was finally approved by Uniacke himself, as Attorney General. Henceforth he had a consolidated estate of 5000 acres.

Incidentally, the following advertisement, which ran in the *Weekly Chronicle* from January 15, 1813, until May 28th., would indicate that not much work had been done on the original Uniacke estate prior to that date, and that construction of the residence at Mount Uniacke could not have been commenced until late in 1813, or early in 1814:-

Mr. Uniacke will receive Proposals from any persons desirous to Contract for cutting down and burning, on or before the 1st day of September next, from 10 to 100 acres of Wood Land, at

Mount Uniacke, on the Windsor Road; and also, for delivering 6000 of good Fencing Poles, at the same place, in convenient situation, on or before the 1st day of May next. John O'Brien, on the Premises, will shew the Wood Land intended to be cleared. ALSO, Wanted 6000 feet of Spruce Boards, & 1500 feet of Larch or Hackmatack Ranging Timber, the Boards and Ranging Timber to be delivered at the same place, on or before the 1st day of June next. Weekly Chronicle, January 15, 1813.

- I -

<p>^O N 491. RICHARD J. UNIACK, ESQ. 1000 Acres Windsor Road.</p>	<p>^R</p>	<p>^R JOHN WENTWORTH Esq. Surveyor General of Woods in the Province of Nova Scotia and all other His Majesty's Territories in America, &c^a - - -</p>
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WHEREAS application hath been made to me to grant a certificate that a certain Tract of land containing One thousand Acres is not included within the Crown Reservations, which Said Tract of Land is Situate lying and being on the S. W. Side the road to Windsor, within the County of Hants, and is abutted and bounded as follows; beginning at the bounds between 45 & 46 being a Spruce Stake marked N° XXXXV & XXXXVI, and standing 50 feet from the center of the present road to Windsor; thence to run Southwest 258 Chains; thence N 34° W. 40 Chains and 50 Links; thence N. E. till it comes to Windsor road aforesaid; thence bounded by the Said road running South easterly the Several courses thereof to the bounds first mentioned, containing One Thousand Acres including a part of a Small Lake, all the remainder wilderness Land;—which Said Tract of Land hath been Surveyed and laid out unto Richard John Uniacke Esq^r as by the report of the Surveyor General of Lands in the Province of Nova Scotia dated the 21st. Day of September, 1786 with a plan annexed will more fully appear; relation thereunto being had. - - -

I do therefore hereby certify that the aforesaid described Tract of Land is not part of or included in any district marked out as a Reservation to the Crown.

Given under my hand this Twenty Second day of September 1786 in the Twenty Seventh Year of His Majesty's Reign.—

(Signed) JOHN H. FLIEGER,
Dy. Surv.r King's Woods—

-II-

TO HIS EXCELLENCY LIEUT. GENERAL THE RIGHT HONOURABLE
THE EARL OF DALHOUSIE G. C. B. LIEUTENANT GOVERNOR OF
THE PROVINCE OF NOVA SCOTIA—

The petition of Richard John Uniacke Esquire Attorney General
—Sheweth

That as your Lordship has recently received Instructions from
Lord Bathurst to allow a grant to pass to Petitioner for four thou-
sand Acres of land—your Lordship will be pleased to give the usual
instructions for the same—and that a Warrant of Survey may issue
in favor of Petitioner for the before mentioned quantity of land—

And Petitioner will ever pray—

RICHARD J. UNIACKE,
Atty. Genl.

-III-

BY HIS EXCELLENCY LIEUTENANT-GENERAL
THE RIGHT HONORABLE
GEORGE EARL OF DALHOUSIE,

Baron Dalhousie, of Dalhousie Castle, Knight Grand
Cross of the Most Honorable Military Order of the Bath,
Dalhousie Lieutenant Governor and Commander in Chief
in and over His Majesty's Province of Nova-Scotia, and
its Dependencies, &c. &c. &c.

To the Hon. Charles Morris, Surveyor-General of Lands

You are forthwith by Yourself or Deputy, to admeasure and
lay out unto The Honble Richard John Uniacke Four Thousand
Acres of Land under the authority of a Letter received from the
the Right Honorable Earl Bathurst one of His Majesty's Prin-
cipal Secretaries of State bearing date in the thirteenth day of
May in the year of our Lord one thousand eight hundred and
eighteen.

and make due return in the Secretary's Office, within Six Months from the date hereof, with a Plot or Description hereunto annexed, as also to Certify the Nature and Quality of the said Lands, conformable to His Majesty's Instructions, and for so doing this shall be your Warrant.

Given under my Hand at Halifax,
this 29 Day of June 1818

-IV-

IN Obedience to the annexed Warrant I do Certify that there has been Surveyed and laid out unto the Honorable Richard John Uniacke One of His Majesty's Council and Attorney General of this Province several parcels or tracts of land containing in the whole Four thousand Acres: Situate lying and being within the County of Hants on both sides of the Public Road leading from Halifax to Windsor, and described as follows, that is to say—A tract or lot of land marked A on the annexed plan, being part of the land formerly granted Anthony Stewart Esq.r (and which lately reverted to the Crown by escheat) which Lot of land is abutted and bounded as follows that is to say—Beginning on the Western side the Old Road which formerly led from Halifax to Windsor, at the south Eastern angle of land formerly granted to James Morden Esq.r (and now the property of the Honble Thomas N. Jeffery Esq.r) From thence to run South forty five degrees West along the southern side line of said land One hundred and forty six chains—Thence South forty five degrees East forty five Chains or until it comes to the Northern side line of land formerly Granted to John Bowser. Thence along the said line North forty five degrees East One hundred and forty five chains or until it comes to the said Old Road so called—Thence North Westerly along the Western side of said Old Road to the place of beginning—Containing in this tract Six hundred and fifty two Acres—Also the tract of land marked B on the annexed plan being part of the land formerly Granted to the above named John Bowser, and which lately reverted to the Crown by escheat—This Tract of land is abutted and bounded as follows that is to say Beginning on the Western side of the New Road, and on the Southern side line of the before described tract of Land, From thence to run south forty five degrees West Eighty five Chains along the boundary line of said lot of land marked A—Thence South forty five degrees East twenty chains or until it comes to a

Tract of land belonging to the said Richard John Uniacke—Thence along the line of said land North forty five degrees East eighty six Chains to the said New Road—Thence North Westerly along the line of said New Road to the place of beginning Containing one hundred and sixty Acres—Also One other Lot or parcel of land marked C on the annexed plan, being part of the lots described on the Plan of the lands on said Windsor Road, as lots Numbers forty three forty four and forty five, Situate on the Western side of the said Road and which lately reverted to the Crown by escheat—And is abutted and bounded as follows that is to say—Beginning on the South Eastern Angle of Lot Number forty six Granted to the said Richard John Uniacke in the Year 1786—From thence to run South fortyfive degrees West along the Southern side line of said lot one hundred and fortytwo Chains—Thence South forty five degrees East on ungranted land Sixty Chains, or until it meets the Northern side line of lot number forty two Granted to Conrad Pence—Thence North forty-five degrees East along said side line One hundred and thirty two Chains or until it comes to the said Windsor Road—Thence North Westerly by the same Road to the place of beginning Containing in this Tract eight hundred and twenty acres—One other Tract of land comprehending the Lots on the plan of the lands on said Windsor Road as Lots Numbers forty three, forty four and forty five Situate on the Eastern side of the said Road lately reverted to the Crown by escheat—This tract of land contains One thousand eight hundred and thirty acres and is marked on the annexed plan Letter D And is abutted and bounded as follows that is to say Beginning At the North Western Angle of the lot number forty two in the possession of Jacob Pence, (formerly Granted to Ernest Preper) from thence to run North forty five degrees East along the Northern side line of said lot number forty two three hundred and six ehains—Thence North thirty five degrees West on Ungranted land sixty one chains or until it comes to the Eastern Angle of Lot Number fortysix, now owned by the said Richard John Uniacke—Thence South forty five degrees West along the southern side line of said Lot number forty six three hundred and four chains or until it comes to the said Road—Thence Southerly by the Courses of said Road to the place of beginning—Also one other lot comprehending the lot described on the plan of the lands lying on the Eastern side of said Windsor Road as lot number fifty, and which lately reverted to the Crown by Escheat. This Tract of land contains five hundred and thirty eight Acres and is marked Letter E on the Annexed plan and is abutted and bounded

as follows, that is to say Beginning on the Eastern side of the said Road at the Southern angle of land formerly granted to Isaac Wilkins Esq.r and now owned by the said Richard John Uniacke—From thence to run North forty five degrees East along the line of the said Richard John Uniackes land and Ungranted land Two hundred and Sixty-five Chains—Thence South thirty five degrees East twenty Chains or until it meets the Northern side line of lot number forty nine formerly granted to Andrew Thompson, and now owned by the said Richard John Uniacke—From thence to run South forty five degrees West along said side line two hundred and seventy three Chains or until it comes to the said Road—Thence Northerly by the said Road to the place of beginning Containing in the whole of all the before described pieces, parcels or tracts of land Four thousand acres according to the Annexed plan—

(Signed) CHARLES MORRIS,
S. Genl.

N.B. the most part of these tracts
are Rocky. Barren, Swamps Bogs
—the Land covered with an Inter-
mixture of Spruce Hemlock Birch
& Maple—

(Signed) CHARLES MORRIS,
S. Genl.

-V-

SEPARATE

Castle of St Lewis

Quebec November 9th 1829.

Sir,

Feeling that I have no Right as The Governor in Chief of the British Provinces in North America, to recommend to Office, or to interfere with the Judicial Arrangements in any of those Governments except the one under my immediate charge, it is with great reluctance that I trouble you with this Letter, but I cannot resist complying with an earnest Request which Mr. Uniacke, The Attorney General of Nova Scotia has made to me, to forward to you the Paper which I have the Honor herewith of transmitting to you.

It is the Duplicate of a Letter which Mr. Uniacke has addressed to the Administrator of the Government of Nova Scotia, on the subject of his succeeding to The Office of Chief Justice when it becomes vacant, and I feel persuaded that Mr. Uniacke's application will receive from you that favorable consideration which his long and faithful service as the Principal Crown Officer in The Colony, and in the other high and honorable situations which he has filled for a long series of years, justly entitle him to look for from His Majesty's Government.

I have the honor to be Sir,

Your most Obedient,
Humble Servant,

JAMES KEMPT.

The Right Honble,

Sir George Murray G.C.B.

&c &c &c.

Endorsed. Separate

Quebec 9 Novr 1829

Sir James Kempt

one Enclosure.

Transmits Letter from The Honble R. J. Uniacke Atty Genl. of Nova Scotia on the subject of his succeeding to the Office of Chief Justice when it becomes vacant.

-VI-

Duplicate

in Sir J. Kempt's
Halifax 14th October 1829

To

THE HONORABLE MICHAEL WALLACE

the Administrator of the

Civil Government of Nova Scotia.

Sir,

Within a few days past, I was informed for the first time I had several Competitors actively engaged in pursuits of the Office of Chief Justice of this Province to which it was generally supposed my past services (in case of a Vacancy) gave me a just claim.

On making Enquiry I found this competition, without my knowledge had existed a long time and latterly become the subject of public conversation. I must confess I was surprized to hear of this proceeding which appeared highly disrespectful to the Gentleman who had so long and ably filled that Office; situated as I was I felt at a loss what course to pursue, for whatever views I may entertain I assure you I never directly or indirectly communicated them to any department of His Majestys Government, or to any person; being sensible of the impropriety of anticipating an event which possibly I might not live to witness.

Yesterday His Excellency Sir Peregrine Maitland directed me to be informed that this subject had been brought to his consideration that morning and that he had been requested to adopt steps respecting the reversion of this Office and that he would transmit to His Majesty's Government any communication I might think my interest requires upon this occasion; it has therefore become imperative on me to remain no longer silent, but when I considered the distressing state of Sir Peregrine's health and that this day was appointed for his departure to a warmer climate I could not bring myself to agitate his mind with the consideration of these conflicting claims; but if time had permitted I should certainly have laid before him the grounds on which I considered myself entitled in case of a vacancy to succeed to the Office of Chief Justice and would have requested him to send my statement to His Majesty's Government with such observations respecting the justness and fitness of my claim as he had been enabled to make during the short time he has governed this Province.

These are the reasons which have compelled me in the first instance to bring the subject before you as the Administrator of the Civil Government, knowing it to be the proper Channel through which matters of this nature should be communicated to His Majesty's Government; at the same time I beg leave to inform you that I will take the earliest opportunity of transmitting a Duplicate of this Letter to His Excellency the Governor in Chief, and to solicit him (as I had previously requested you) to forward it to the Right Honorable His Majesty's Secretary of State for the Colonies with such observations respecting me and my claim as he has had an opportunity of making during the several years he governed this Province and as soon as possible I will forward a similar statement to Sir Peregrine Maitland accompanied with a like Request.

In the year 1779 I was enrolled an Attorney of the Court of Exchequer and admitted a Member of the King's Inns in Dublin.

In 1781 I was admitted as an Attorney in the Supreme Court of this Province.

In the same year I was appointed His Majesty's Solicitor General which was confirmed the following year by the Mandamus of His late Majesty.

In the year 1782 I was elected a member of the House of Assembly in which capacity I long served and during that period was three times chosen the Speaker of the House and officiated as such many years.

In the year 1784 I was appointed the King's Advocate in the Courts of Vice Admiralty and discharged the arduous and important duties of that Office during the whole of the late war.

In the year 1797 I succeeded the present Chief Justice as Attorney General and as I experienced on that occasion a powerful competition I think it proper to insert the Copy of a letter from His Grace the late Duke of Portland to the Earl of Shannon which will shew the grounds on which I then obtained Promotion.

London, Wednesday night
19th July 1797.

"MY DEAR LORD

I am extremely happy to find that the wishes your Lordship has expressed to me in the letter I had the honor of receiving from you on the 12th instant have been anticipated by my having represented to Sir John Wentworth the Governor of Nova Scotia the fitness of recommending Mr. Uniacke as a proper successor to Mr. Blowers who has been just appointed to the Office of Chief Justice of that Province in the room of Mr. Strange who is going in a high judicial situation to the East Indies. The interest your Lordship takes in every event which can concern the House of Uniacke would be a very powerful inducement to me to pay every attention in my power to his, Mr. R. Uniacke's promotion and advancement; But it would be injustice to him and myself not to avow that Mr. Uniacke has

“a claim to perferment in his professional line far beyond any which
“he can derive from private friendship or patronage and that the
“station he is now destined to fill is justly due to his talents and
“services.

I beg to offer my best respects to Lady Shannon and to assure
“Your Lordship of the sincere regard and Esteem with which I have
“the honor to be my my Dear Lord

Your Lordship's most faithful and obedient Servant

(Signed) PORTLAND

To

The Earl of Shannon)

&c &c &c)

)

In the year 1808 I became a Member of His Majesty's Council,
and for Twenty five years commanded a battalion of Militia

During the whole of this time I have never been absent from the
Province altogether more than about Twenty months having at two
periods in 1805 and 1825 obtained leave to visit England; since the
time I last went to England I have given up all private practice and
confined my attention wholly to the Crown business and various
other duties which attach to the public stations I hold, Whatever
time I can spare from public duty I devote to the cultivation of my
Farm which is distant not more than three or four hours drive from
Halifax where my Office is regularly attended and kept open every
day from ten o'clock until four, and I can confidently state that to
this hour I know of no instance which required the performance of
any official duties on my part that the smallest delay or impediment
has been experienced, nor has the slightest complaint on that head,
either public or private ever come to my knowledge, and I can with
honest pride say I will cheerfully submit every transaction of my
public and private life to the most strict and close investigation; to
my Brethren at the Bar of which I am now the oldest member I can
safely appeal having daily experience of their Kindness and good
wishes, to the public opinion I can with like confidence resort for al-
though I never courted public favor yet it has been my study to de-
serve it and every days experience convinces me I have not labored
in vain.

After a long life spent in the zealous and diligent service of His Majesty and uniformly exerting myself by every means in my power to give facility to the Administration of his different representatives in this government and at the same time to convince the people that the happiness and welfare of his subjects were the great end and object of His Majesty's paternal government, you may judge how painful it was to me to discover that measures had been adopted to defeat that laudable ambition, which everybody must know it is natural for me to indulge, that if I survived the good man who now fills the Office of Chief Justice I would be appointed to succeed him, as I had formerly done in the Office of Attorney General, and I leave you to judge what my feelings must be when I find it has been artfully and falsely insinuated that I had retired from public life and was incapable of discharging the duties of Chief Justice from the infirmities of old age.

To you who have known me so many years it is unnecessary to make any observation on this subject, I am confident you will credit the assurance I give you, that if it happened I should survive our present venerable Chief Justice, and then feel that age or infirmity had rendered me unable to perform with full effect every duty which the Office of Chief Justice required that I would on no account accept it was it offered nor would I retain the situation I now fill one hour if I thought either my mental or corporal powers rendered me unequal to the performance of its duties.

Desirous on this subject (as I have been on all others through life) to act with open and honorable candor, I freely disclose to you; that independent of the sense I have of the justice of my claim to this Office (if a vacancy should happen during my life) I cannot be indifferent to the feelings of others I have a large Family all of age to ask for themselves, they have performed various and extensive connections in different parts of His Majesty's dominions, my six sons are placed in different situations of life and it has been my constant study to impress on their minds from infancy the duty they owe to His Majesty's Government and the gratitude they ought to feel when they consider that throughout a long life my humble services have been rewarded with favorable attention; I well know how bitterly they would feel the smallest slight or neglect shewn to me in my latter days, by a Government I had so long and faithfully served therefore independent of the personal mortification, I should feel; it

would send my gray hairs with sorrow to the grave if from any cause the favorable impression I have been so anxious to make on their minds should be disturbed. In the ordinary course of nature my life cannot be long, but at present, thank God, I enjoy as much mental and bodily vigor and health as any of my age, and when I consider our present Chief Justice is at least ten years older than I am and in the full enjoyment of excellent health and spirits you must be convinced that had I not been forced to it, I never should have moved His Majesty's Government respecting the reversion of this Office, but it has now become a subject of public discussion and whether I may live to see it vacant or not it would under existing circumstances gratify my feelings to know the opinion of His Majesty's Government and would be pleasing to my family to think if a vacancy should happen my claims would not be treated with neglect, nor can I be unmindful of the public feeling on this occasion as it is gratifying after a service of nearly half a century to know that I have good cause to believe that the people of this Province do not view my claim to further promotion with indifference.

My Competitors as far as I know at present are Mr. Halliburton and Mr. Archibald, for the former I have a high respect, but when I consider his claim compared with my own I think he cannot avoid being convinced that mine is preferable. In the year 1803 he was admitted an Attorney in the Supreme Court of this Province, and in the year 1807 appointed one of our Provincial Judges and a Master in Chancery and in the year 1815 made one of His Majesty's Council, the respective duties of which Offices I believe him to have discharged correctly and well, in points of pecuniary Emolument I consider him better provided for than myself, his annual income including Salary and other Emoluments equals £900 or £1000 pounds Nova Scotia Currency whilst my income for many years including Salary and every other Official Emolument has not exceeded any year five hundred pounds of this Currency. Mr. Haliburton founds his claim to the favor of Government on his having discharged in conjunction with the other provincial Judges many of the duties appertaining to the Office of Chief Justice in consequence of the advanced age of the Gentleman filling that situation and I freely yield to Mr. Halliburton and the other Judges all the credit they merit for endeavouring to lessen the duties of the Chief Justice who I have no doubt is sensible of their kindness, but I cannot think Mr. Halliburton entitled to put such services which originate in private feelings of kindness to an Individual; in Competition with my claims for past services to Government.

Mr. Archibald was admitted an Attorney of the Supreme Court of this Province in 1805, in the year 1806 became a Member of the House of Assembly; in the year 1825 was chosen Speaker and in the year 1826 was appointed Solicitor General, previous to which in the year 1824 he solicited and obtained the Office of Chief Justice of Prince Edward's Island which he took on speculation, expecting to be allowed the Emoluments of the Office for attending at the meeting of the General Assembly and the sittings of the Courts which did not occupy more than forty or fifty days in each year, for which he received a Salary of seven hundred pounds Sterling during the remainder of the year he was absent from that Government and reside in this Province enjoying the Emoluments of the Offices he held here with the above mentioned Salary and perquisites, this Experiment after a trial of four years was found not to answer and he was refused leave of absence and required to reside which he declined and another person was nominated in his stead—Mr. Archibald was amply paid for his service while he held the Office of Chief Justice, his resignation was voluntary, founded on motives of interest, for he knew if he complied with the desires of Government that he would be compelled to execute the duties of his Office in the same manner it was performed in all the other Colonies which would not be to his advantage; on the failure of this experiment he founds a special claim to the favour of Government the justice of which claim I am at a loss to discover as he was greatly indulged in being allowed so long to enjoy the liberal Salary of a judicial Office without residence, and I believe the leave of Absence granted him is quite without precedent and never allowed to any Colonial Chief Justice before, but whatever may be his pretension to favor under these circumstances I humbly presume it ought not to be placed in opposition to the claim I have to the favorable consideration of His Majesty's Government. I am also told but I can scarcely believe it that he assumes merit for assisting me in my duty of Attorney General. I will do Mr. Archibald the Justice of admitting I have always found him ready to co-operate with me in transacting the Crown duty since he obtained the Office of Solicitor General; while I was in England previous to my departure from Nova Scotia I made ample provision for the performance of my duty with which the Governor was satisfied, and I am not aware of having left Mr. Archibald any more of the Crown duty to perform than appertained to the Office of Solicitor General, and which I performed when I held the same Office, nor has there been a Criminal Prosecution since Mr. Archibalds appointment which required any particular attention.

I have now fairly and candidly stated my claim to succeed our present Chief Justice; the measures adopted by others have compelled me to bring forward this statement and I am particularly anxious that my proceedings should not be construed so as to manifest the slightest intention to disturb the peace and tranquillity of this good and venerable Gentleman, God forbid that I should envy him the enjoyment of an Office he has so long held and the duties of which he has so well discharged, I should be ashamed to shew my face in the Country where I have so long resided if I thought it could be imagined that my interest could tempt me to wish for the termination of so valuable a life as that of our present Chief Justice.

It has been a painful task entering on a discussion of this subject and I acknowledge I have silently contemplated the possibility of succeeding to an Office to which I could have no pretension until his death, and in this I was justified considering the disparity of our ages which certainly admits the probability that I may survive him.

You Sir, have long witnessed my public & private life and the only request I have to make is that as the Administrator of the Government you will take the earliest opportunity to transmit to His Majesty's principal Secretary of State for the Colonies this letter Accompanied with such observations as you may think proper to make on the subject.

I have the honor to be with very high respect and Esteem

Sir

Your very faithful & obedient Servant

(Sign'd) R. J. UNIACKE

Attorney Genl. of The
Province of Nova Scotia.

VII

Private

Castle of St Lewis

Quebec 9th November 1829

MY DEAR SIR GEORGE

I feel very unwilling to trespass on your time, and particularly in respect to matters that are not strictly within the line of my duty, but my long connection with N. Scotia, and certain applications which have been lately made to me by some of the Law Officers of that Province will I trust be deemed a sufficient apology to you for this intrusion.

It would appear by letter wch I have lately recd. from Halifax that certain Dignitaries of the Law there, have entered into a competition to secure the Reversion of the Office of Chief Justice, under the belief that it will soon become vacant.

These Persons are M^r Uniacke the Attorney Genl., Mr. Justice Halliburton, the Senior Puisne Judge of the Supreme Court and Mr. Archibald the Solicitor General—and, as I administered the Government of N: Scotia for a period of 8 years, and references have been made to me by some of these Gentlemen, I venture to communicate to you for your private information the opinion which I entertain of their respective claims.

If the Office of Chief Justice had become vacant during My Administration of the Govt., I feel that I could not possibly have set aside Mr. Uniacke's claims. His standing in the Community, and his long and able services as the first Law Officer of the Crown in the Colony, give him the first claim to the favorable consideration of H. M's. Government—But Mr Uniacke is now 76 years of age, a period of life when most men think of retiring from the Public Service, and altho a very stout and hale person—yet some reward, or honorable distinction for past services, would appear to be a more suitable way of providing for an old Servant of The Crown who has attained the age of 76, than by promotion to an Office of so much labour and responsibility as that of Chief Justice—Altho' he might be able to perform the duties for a few years to come.

Next to Mr. Uniacke—Mr. Halliburton has, I humbly conceive, the best claim to the favorable consideration of H. M.'s. Government, for he possesses a sound judgment; Talents of a superior order; a perfect knowledge of the Province and its Inhabitants; and great tact and *prudence* in the discharge of his public duties, qualities which in my humble opinion eminently fit him for the Office of Chief Justice. He has been on the Bench for many years, is now the *Senior Puisne* Judge of the supreme Court, and has for some time past *presided* for Chief Justice Blowers, a Veteran of 87 years of age who still takes his place as President of the Council during the sitting of the Legislature, but now rarely attends to his Judicial duties.

He has held the Office of Chief Justice for upwards of 30 years on a small Salary of £850 a year and *never*, I believe, *solicited* any augmentation to it! altho' the Chief Justices in Upper and Lower Canada have each double that Income.

Mr. Archibald, the Solicitor General, is also a person of considerable Talent, & I entertain a very favorable opinion of his Professional Character; but he is not in my mind so well qualified to fill the Office of Chief Justice in Nova Scotia as Mr. Halliburton is; nor do I consider Mr Archibalds claims by any means so strong as that Gentlemans are.

You will pardon, I hope the freedom which I have taken in making this private communication to you and not attribute it to any desire on my part to meddle with matters that do not properly come within the line of my duty.

I have the honor to be my dear Sir George
your faithful and obedient Servant

JAMES KEMPT

The Right Honble.

Sir G. Murray

G. C. B.

in Sir J. Kempt's

MEMORANDA.

Mr. Justice Halliburton is the Person who wrote a very able Pamphlet some years ago to prove the very great importance of the British N: American Colonies to Great Britain.

Mr. Haliburton the Author of the History of Nova Scotia (late-ly published) is a *different* Person

J. K.

APPENDIX C

The documents which follow illustrate some of the difficulties experienced by lieutenant governors in adjusting themselves to the new procedures called for by the concession of responsible government. The chief problem was the relation of the lieutenant governor to his executive councillors in view of his responsibility to the Imperial government.

Prior to the concession of responsible government to Nova Scotia, Sir John Harvey had found it very difficult to understand that making himself "a mediator and moderator between the influential of all parties" did not mean that he was to refuse to form a ministry from one party alone; but, once responsible government had been conceded and a party government formed, he went farther than the Colonial Secretary had intended, and allowed the Provincial Secretary both to write his despatches to the Secretary of State and to keep them on file in his office. It was this practice which Lieutenant Governor Le Marchant repudiated (document one), and was upheld in so doing by the Secretary of State (document two).

Though the next two despatches (documents three and four) were exchanged between the Lieutenant Governor of New Brunswick and the Secretary of State, they were circulated amongst the Colonial governors and, therefore, may be said to represent that compromise between Imperial and Local executive responsibility accepted by 1852. They call for no particular comment except to say that they represent an advance on the views and practice of Lord Sydenham ten years earlier and, apparently, of Lieutenant Governor MacDonnell a decade later.

The third group of despatches (documents five, six, and seven) seem to indicate that Lt. Gov. MacDonnell wanted to revert to the position of Sydenham: under the guise of improving the procedure of the Council and of preventing the spread of the "spoils system", after the manner of Lord Normandy, which reforms were desirable, he practically set out to destroy cabinet solidarity, which so far as Nova Scotia was concerned would have meant constitutional retrogression.

It will be remembered that, owing to the political exigencies of the moment, Lord Normanby had appointed William Young President of the Council in 1859 and that Joseph Howe had held the same title from 1860 to 1863, which appointment had been severely criticized by Johnston and Tupper. Consequently, when the latter took up the leadership of the government, in 1863 and 1864 respectively, neither could have assumed that title without loss of face. It was perhaps easier, therefore, for MacDonnell to make himself virtual President of the Council or Leader of the Government, or Premier for the first months of his administration, while Johnston and Tupper were on the defensive in regard to the spoils system; but it is doubtful if Tupper would have stood for it long, and it is obvious from Cardwell's guarded support of the lieutenant Governor that he was not too confident of his success.

Moreover, that MacDonnell himself was not too sure of the position which he had assumed may be gathered from his urgent appeal for the Colonial Secretary's support, and from the fact that he read to his Council only the following extracts from the letter of October 15, 1864, which taken from their context seem to give that support

"The Right Honorable the Secretary of State remarks in the letter that he 'had no hesitation in approving the course which His Excellency had adopted'—and concludes with these words, 'I think you will do well in maintaining the position which you have taken up as being virtually as well as theoretically the President of the Council—in regarding Your Councillors as bound to you individually and not collectively only, and in regarding as generally privileged and confidential what passes between yourself and them.' " (Minutes of Council, 12th December, 1864).

I

P. A. N. S. 123

Govt. House Halifax
18th August 1852.

Sir

1. On my arrival here I found that it had been the custom during the period of the Administration of my predecessor in this Government since the concession of the system of Responsible Government

to Nova Scotia to entrust to the care & custody of the Provincial Secretary all the Despatches received from the Secretary of State for the Colonies, in addition to this however, all the correspondence between the Governor and the Secretary of State not only passed through but remained in the hands of the Provincial Secretary; the despatches themselves were written by this officer, and only laid before the Governor for his approval and signature.

2. I am sure that I need not enter into any length to explain the great and serious inconvenience this method of conducting the official correspondence entails on the public service, as well as the false position in which the Governor is himself placed thereby.

3. I will only observe that the effect must be; the making the Governor a passive instrument in the hands of whatever party may have the majority of the House of Assembly, and the first duty of a Governor, that of exercising the trust confided to him by his Sovereign with fairness and impartiality towards all classes of the Community cannot be fulfilled, when every observation and comment he may be called upon to make to the Secretary of State must undergo the scrutiny at least of the very Individual, whose own conduct, or that of some one of the party, with whom he is acting may perhaps be called in question, and to show that I am not putting forth any imaginary case of my own creation, the subject has formed a matter of discussion in the Assembly, and the Leader of the opposition in his place in that house publicly charged the head of the existing Administration with personally dictating the whole of the official correspondence, that was carried on with the Colonial Department during the time of my predecessor in this Government.

4. I waited some days after my arrival to make myself thoroughly acquainted with this subject and the influence it bore on the public feeling of the Colony, and having been satisfactorily convinced of all the disadvantages of this system I communicated that opinion to the Provincial Secretary and to my Executive Council, & informed them of my determination henceforth of requiring all public Despatches being placed under my sole custody and that in future I should personally conduct the entire correspondence with the Secretary of State.

5. This arrangement I adopted during the whole of my administration in Newfoundland, and it is in my opinion the only one that

can afford the Colonial department that free & unbiassed information on all subjects, which will be found either satisfactory to the Head of a Colonial Government or useful to her Majesty's Ministers at home.

6. I am happy to have it in my power to acquaint you that Mr. Howe has acquiesced in these views in the very best spirit, and I confidently predict most favourable results therefrom both to my position as the Lieut Governor of this Province, and to the future mode of transacting the public correspondence between this Province & the Colonial Department.

I have &c.

(Signed) J. GASPARD Le MARCHANT.

The Right Honorable
Sir John S. Packington Bart
&c &c &c

II

P.A.N.S. 96

Downing Street,
6th September 1852.

Sir,

I have to acknowledge the receipt of your Despatch No 6, of the 18th of August announcing your intention for the future to take under your own charge the management and conduct of the correspondence with the Secretary of State.

I entirely approve of the Course which you have thus determined to adopt as the one which I believe most consistent with your duty to the Crown, as well as with the proper conduct of business and the public interest.

I have the honor to be
Sir,
Your most Obedient
Humble Servant

JOHN S. PAKINGTON

Lieutenant Governor
Sir G. Le Marchant,
Nova Scotia.

III

Separate

(Copy)

Government House
Fredericton, N. B.
February 28, 1852.

MY LORD,

I am satisfied by experience that a good deal of irritation and difficulty have from time to time arisen in this Colony in consequence of a misconception on one side or the other of the true nature and conditions of the system of Govt. established in British N. America under the popular name of "Responsible Government." I say in "British North America" for I disclaim all idea of the system in this Province being different from that pursued in Nova Scotia or Canada, although the imperfect organization of departments here may for the moment increase the difficulties of the Lt Governor—

I know the general inexpediency of raising abstract points: but because there is no precise question at issue at the present moment which obliges me to discuss these principles in connection with an individual case, the opportunity seems to me all the more favourable for bringing the subject before Your Lordship, in a form such as may enable me hereafter, if necessary, to produce to my Council, or the Legislature, this despatch, and any answer expressing the opinions of Her Majesty's Advisers—

According to my views then

1. The Executive Council (if they remain in office) are "responsible" to the Colonial Legislature for the acts of the Lt Governor as administrator of the Colonial Government whether such acts are done with or without their express advice, or whether done by the direction of the Secretary of State or not. Of this responsibility they can at any moment relieve themselves by resigning office when an obnoxious act is done. The Lieut. Governor may then swear in another Council (provisionally) or he may have to appeal to the people of the Colony by dissolving the Assembly.

2. The Lt Governor is "responsible" to no authority in the Colony but he is "responsible" to the Law of England, and to the Crown and Parliament of England for all his acts and all his despatches—

3. The Executive Council are in no sense or degree "responsible" for the despatches addressed by the Lt Governor to Her Majesty's Secretary of State, except so far as such despatches expressly convey their opinion and advice—Important Acts of which the Council disapprove may, no doubt, result from despatches—if so, their remedy is to resign when such acts are done, or sanctioned by the Queen—The despatches signed by the Lt Governor are, as they profess to be, those of the Lt Governor alone, and in his own custody—According to my views then, my Lord, the Executive Council are not "responsible" for the Lt Governor in his relation to the Queen's Government but in his relation to the people of the colony—His responsibility in England in the former capacity is entire and undivided—It could not be so, if he were bound to sign as his own the opinions of others or if he were obliged ministerially to advocate to the Secretary of State a course which he disapproved of himself—On any such theory his accountability as the Queen's servant would necessarily disappear—

4. If the Executive Council desire at any time to place their opinions before the Queen's Advisers in England it is the duty of the Lt Governor at once to forward their representations to the Secretary of State, and he is bound to inform the Secretary of State when the Council differ from himself on important points—That the Lt Governor does not agree with the representations of the Council is hardly *in itself* a ground for resignation by the members of the Council as it is obvious that the Queen through Her Secretary of State may decide in favour of the policy supported by the Council instead of that adopted by the Lt Governor—The Council are answerable for Administrative Acts done, not for opinions entertained—

The Executive Council would thus stand with regard to the ordinary administration in the same constitutional relation to the Colonial Parliament as Her Majesty's Ministers occupy with reference to the Imperial Parliament—The exceptions and anomalies, such as they are, are implied by the fact that the Government is that of a Colony—not of an Empire—

Such, My Lord, are my views generally—they may be erroneous and if so, I shall be glad to be set right, and govern myself accordingly

I have, &c

Sd EDMUND HEAD

The Rt Honble Earl Grey &c &c

IV

Separate (Copy)

Downing Street

2 April 1852

Sir

I have to acknowledge your separate despatch of Feby 28th last, in which you explain your views as to certain particulars of the system established in the greater part of Her Majesty's North American Colonies, and popularly known by the name of "Responsible Government" namely, the responsibility of the Executive Council to the Colonial Legislature: that of the Lieutenant Governor to the Crown and Parliament: and the relation of the Executive Council to the Lieutenant Governor in respect of his correspondence with the Secretary of State, for which you state that, in your opinion, they are not responsible, although if they at any time disapprove of the administrative conduct of the Lieut: Governor resulting from such correspondence, this furnishes them with a sufficient ground for resignation—

2. I fully accede to the general correctness of your explanations on this subject, and believe that the consequences expressed in them follow legitimately from the principles laid down by Lord John Russell and other Secretaries of State and by the Colonial Legislatures in correspondence with them, as embodied especially in the papers printed for Parliament 10 Aug. 1848 No. 621, with which you are fully acquainted; principles similar to those on which the Government of this Country is conducted, but unavoidably modified by the relations which must subsist between Colonial Governments and that of the Empire in general.

I have &c

Sd JOHN S. PAKINGTON

Lt Governor

Sir E. Head Bt.

V

P.A.N.S. Vol. 127

Government House
Halifax, Nova Scotia.

3rd. September 1864

No. 16.

Sir,

I think it advisable to invite your attention to the mode in which the business of the Executive Council had been transacted previous to my arrival here, and the action which I have taken in the matter—

2. It seems that formerly it had never been usual before proceeding to business to read over and confirm the minutes of the preceding Council. This omission was of course directly contrary to the 5th paragraph of the Instructions from the Crown, under which it is my duty to act. Those instructions are, it is my opinion, extremely important, and I cannot suppose it to have been the intention of the Crown that they should have less weight or be less exactly observed in this Colony than in other British Provinces, which have the same form of Government.

3. The Instructions to which I more especially refer directs and commands a "full and exact Journal or Minute to be kept of all the deliberations acts proceedings votes and resolutions of the Executive Council, and that at each meeting of the said Council the minutes of the last preceding meeting shall be read over confirmed or amended as the case may require, before proceeding to the dispatch of any other business."

4. The above order is too precise and clear to admit of any doubt or argument as to the necessity of confirming the minutes of each preceding Council—Accordingly at the first Council at which I presided I directed the minutes of the previous meeting to be read over and I confirmed them before consenting to proceed with any fresh business.

5. I likewise drew attention to the direction which enjoins the keeping a full journal of the "deliberations" of Council and explained, that occasionally it was very important that not only the Governor

but any other Member of Council should have the privilege of placing on record his opinions and arguments as to any proposed political action.

6. I further mentioned that in the several Colonies where formerly I had discharged similar functions to those entrusted to me here—I had regarded each Executive Councillor as bound in the terms of his Oath “freely to give his counsel and advice to the Governor”—As therefore I could not expect him to do so, if the records of the Council were to be exposed at every change of Ministry to the scrutiny of political opponents, I mentioned that I had always reserved to myself or the Clerk of Council the Custody of the Minutes—and had never since the establishment of Responsible Government, given them over for indiscriminate perusal by the ministry for the time being.

7. Therefore, except those results of the Council’s deliberations which take some public shape, in the form of proclamations appointments or otherwise I expressed my opinion that the debates as a general rule were to be considered secret—and must be so regarded by the Members unless the oath of a Member be a nullity and no meaning be attached to its declaration that each member shall “not directly nor indirectly reveal such matters as shall be debated in Council and committed to his secrecy.”—

8. Practically the greater part of the business consists of routine matters and minor local appointments intended for the Gazette and which involve no general principle. It does however happen occasionally that matters of great and general importance become questions of debate. A Governor in such cases can ordinarily look to the records of Council as the sole faithful depositary of the views, which in discharge of his duty to the Crown he may seek to impress on the Members. A minister on the other hand has the Press, the Parliament, and public meetings where he can find or make opportunities for putting himself right with the Public to whom he is responsible, and explaining his views. I presume therefore that in ordering a full record of the deliberations and proceedings of the Council to be kept the Crown had in view amongst other matters the exigencies of the Governor’s position—

9. It would however be obviously futile to expect a Governor or his Ministry to interchange their opinions in the frank and unre-

served manner likely to promote the general good unless there be a certainty that without their consent such opinions are not to be placed before the Public and exposed to general criticism—For the action taken subsequently Government is responsible and must expect criticism—but a secure reliance on the inviolable secrecy of the minutes of Council except in communications to Her Majesty's Government can alone ensure to the Public that unreserved interchange of opinions at the Council board which must result in promoting the welfare of the Province and elevating the Public service.

10. For a long period and in various quarters of the Globe I have always put the above principles in practice in reference to the Executive Council—and I have elsewhere declined to allow a new Ministry to peruse the record of their predecessors deliberations whilst in one case a Court of Justice decided on the right of the Clerk of Council to withhold a minute he had been subpoenaed to produce.

11. I was therefore greatly surprised to hear a question lately raised as to the right of the Legislature to demand and the obligation of the Ministry to advise the production of any or all minutes of the Executive Council. Were such a principle conceded it would operate a decided change and a very prejudicial one, in my opinion, in the Constitution of the Colony.

12. As the Executive Council is altogether a creation of the Prerogative of the Sovereign, and as I should regard such a demand as a violation of the entire spirit of my Instructions—for the observance of which I am wholly responsible to an authority higher than any in this Province I should certainly not hesitate to give a peremptory refusal to any such demand whether made by the Legislature or a Ministry.

13. I can scarcely suppose that such a contingency will occur—but since I heard such an opinion broached, I think it my duty to apprise you of my own views as to what my conduct ought to be in such a case, that I may be set right if mistaken because except in obedience to further Instructions from Her Majesty's Government I cannot modify or depart from those Instructions which I conceive are now in force and which in my opinion never contemplated the possibility of the confidential interchange of opinion between a

Governor and his Ministers being even asked for much less of its being placed before the Legislature, irrespective of the Governors wishes, for the gratification of Public curiosity.

I have &c

(sigd.) R. G. MacDONNELL.
Lt Governor

The Right Honorable
Edwd Cardwell, M.P.
& - - -

VI

Government House
Halifax Nova Scotia
15th September 1864.

Confidential

Sir,

In my Despatches Nos 15 & 16, I endeavoured to place before you the present position of the Ministry in reference to the important question of dismissals from Office on the grounds of political opinions and also the mode of transacting business in the Executive Council—

2. These two subjects happen to have been very intimately connected, for although it does not appear from the first of the above Despatches, it nevertheless is certain that unless I could have conducted the business of the Executive Council here as I had done in other Colonies, that is unless I could have been virtually as well as theoretically the President of the Council with a power to call for the individual opinion of each of the members of that body and to record my own, I never could have effected what I certainly must regard as a most beneficial reform in the political Government of this Province—

3. I need scarcely say that a Governors Despatches must generally convey but a meagre and lifeless outline of the anxious conferences and varied proceedings which go before the adoption of any

important change of policy—I was very doubtful for some time whether, if really determined to make a stand on the question of tenure of Office, I must not have appealed to the Country, but fortunately the discussions ended as all must wish—

4. Nevertheless if business proceeded as was formerly usual here, that is to say, if Ministers had laid a prepared Memo before the Governor in Council at each step, they would have acted more as a body and therefore felt a greater difficulty in making concessions—now they find themselves they scarcely know how—in the position where from the first I meant to place them—and which it is to be hoped they will maintain

5. I am therefore extremely anxious that my Despatch No 16 should be considered in connection with a Confidential Despatch by me from South Australia, written probably early in 1858, on the constitution of the Executive Council there, and which met the general approval of Her Majesty's Government. The mode in which the powers conferred on the Council are worked affects so much the whole tone and details of Public business, that neighbouring Colonies with the same "scripta lex" may nevertheless be at least practically living under different constitutions

6. The influence of the Crown as arbitrator, moderator and friendly adviser, through its Representative, is apparently most usefully exerted through the Executive Council because less intrusive publicity is given to such influence when exerted by that channel than is possible elsewhere—That influence however would be greatly impaired if those who fill responsible ministerial Offices were to imagine that the Office and Oath of Executive Councillor imposes on them no special duties to the Crown and its representative—I have always held that if a man did not like the duties cast on him by the oath of Executive Councillor he was bound to decline any Office which required him to be of that Council.

7. Long experience therefore has so convinced me of the importance of maintaining a power to separate occasionally the Executive Councillor from the mere minister that I trouble you with my Despatch No 16 of the 3rd Instant and this more Confidential communication—I do so because I hope to be strengthened by your sanction

of my views as to the generally privileged and Confidential nature of the communications which pass in Executive Council between a Governor and his Ministers—

8. I can foresee that my present ministers are rendered somewhat uncomfortable for the moment by finding themselves so unexpectedly placed in a position where they may have at any time to explain their motives to an authority influenced by higher and broader views than frequently sway local discussions. Therefore if they can shew that the Legislature can reasonably expect the production of those explanations and thereby render them inexpedient and unsafe they would get rid of a constant pressure towards right for right's sake which undoubtedly must at times be inconvenient to a Responsible Ministry too often compelled to purchase support by yielding to a very different sort of pressure.

9. I hope therefore that the importance which long experience makes me attach to this subject, and which I cannot over-rate will excuse the length of this explanation and will result in my views receiving your confirmation in such a form that if necessary I may appeal to it as conclusive, otherwise I prefer to withdraw my despatch No 16 and being left to deal with such difficulties as may occur according to the best of my ability—

I have

&c &c &c

(Signed) RICHARD G. MacDONNELL
Lieut Governor

The Rt Honble

Edward Cardwell, P.M.

&c &c &c

P.A.N.S. Confidential Governor to Secretary of State, 1859-1867

VII

Confidential

Downing Street
15th October 1864

Nova Scotia

Sir,

I have to acknowledge the receipt of your Despatch of the 3rd September, No 16, in which you direct my attention to the mode in which the business of the Executive Council is transacted, and enquire what is to be the position of the Governor in that Body—What the practical position of the Council in the Government, and what the proper mode of conducting the business in the Council.

Having carefully considered the subject which you have brought before me, I have no hesitation in approving the course which you have adopted. The success of it will depend in a great degree upon your vigour, ability and conciliatory spirit,—and the influence which you are able to exercise in consequence. I trust that you will be able to inspire a just sense of the real benefits which will accrue to the Province from a high standard of responsibility in the Ministers, and of authority and moral weight in the Governor and his Council.

It would not be possible for me to prescribe in a peremptory manner the precise limits of the course to be pursued in this respect. The practice could not be made uniform in all the Colonies having responsible Governments: You observe that the mode in which the powers conferred on the Council are worked affects so much the whole tone and details of Public business that neighbouring Colonies with the same scripta lex may nevertheless be at last practically living under different Constitutions: It would not be possible for me to compel an uniform acceptance of any one mode of action, however desirable I might consider it to be.

If this remark be true of different Colonies as compared with each other, it is no less true of the same Colony at different times and under different circumstances of government and Administration. One Governor with one set of Advisers might find it possible to enforce a practice, which his successor with different Ministers might

attempt in vain: And any Cabinet resolutely bent upon doing so could easily conform to the most wholesome outward Rules, while at the same time they wholly disregarded and defied their real purport and effect. It therefore seems to me to follow that reliance must be placed on the ability of the Governor, and the wisdom and patriotism of his advisers, rather than upon the formal establishment of technical rules. I think you will do well in maintaining the position which you have taken up as being virtually, as well as theoretically, the President of the Council, in regarding your Councillors as bound to you individually and not collectively only, and in regarding as generally privileged and confidential what passes between yourself and them

I have the honor to be

Sir,

Your most obedient
humble Servant

EDWARD CARDWELL

Governor

Sir R. G. MacDonnell C.B.

&c &c &c