

# REPORT

OF THE

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

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To His Honour  
The Honourable Arthur Fraser, M.C., Q.C., LL.D.,  
Lieutenant-Governor of Nova Scotia.  
May it please Your Honour:

I have the honour to submit the report of the Provincial  
Archivist to the Board of Trustees of the Public Archives of  
Nova Scotia for the year 1956, together with a statement of  
receipts and disbursements for the period April 1st, 1956, to  
March 31st, 1957.

Respectfully submitted,  
R. L. STANFIELD,  
Premier.



QUEENS PRINTER  
HALIFAX, N. S.  
1957

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

**For the Year 1956**

To His Honour

The Honourable Alistair Fraser, M.C., Q.C., LL.D.,

Lieutenant Governor of Nova Scotia.

May it please Your Honour:

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Respectfully submitted,

R. L. STANFIELD,

Premier.



# Board of Trustees

## PUBLIC ARCHIVES OF NOVA SCOTIA

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His Honour, The Honourable Alistair Fraser, M.C., Q.C., LL.D.  
Lieutenant Governor of Nova Scotia.

Rt. Hon. J. L. Ilsley, P.C., Q.C.,  
Chief Justice of the Supreme Court of Nova Scotia.

The Honourable Robert L. Stanfield, Q.C., B.A., LL.B.,  
Premier of Nova Scotia.

Henry D. Hicks, Q.C., B.C.L., D.Ed., D.C.L.,  
Leader of the Opposition in the House of Assembly.

Alexander E. Kerr, B.A., B.D., D.D., LL.D.,  
President of Dalhousie University.

Judge V. J. Pottier,  
President, Nova Scotia Historical Society.

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Dr. C. Bruce Fergusson,  
Archivist.

Miss Winifred McFatridge,  
Secretary.

## Report of the Public Archives of Nova Scotia

**For the Year 1956**

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Board of Trustees of the Public Archives of Nova Scotia

Gentlemen:

I have the honour to present the annual report of the Public Archives of Nova Scotia for the year 1956.

Throughout the year members of the staff have been busy at the performance of the primary functions of the institution—the collection, preservation, sorting and classifying of public records and historical documents, and in making these records or the information in them available for use in the business of government and in the service of the public. This work has included assistance to research students, historians and other visitors, answers to numerous inquiries received by mail, and conducted tours of the building for groups and individuals.

There is continued evidence, both in the number of visitors and the type of researches made, of an increasing interest in and use of the facilities of the Public Archives of Nova Scotia. In the course of the year visitors have come from every county in the Province, every province in Canada, various states of the Union from Maine to California, and from Michigan to Texas, as well as from the District of Columbia, from England, Scotland and Ireland, from France, from the Gold Coast, and from such far away places as India, Hawaii and Indonesia. Included among them have been school groups from several counties in the Province, as well as from the city of Halifax, school teachers and young people's associations. In addition to those who visited the historical museum, 2567 have been guided and assisted in the use of 4459 books, 2636 manuscripts, 313 photographs, 299 maps, 4094 newspapers and 309 microfilms.



During the year a considerable number of acquisitions has been made by gift, bequest, purchase or transfer. These comprise 413 books, 411 pamphlets, 161 photographs and 67 rolls of microfilm.

Further progress has been made in transferring books, pamphlets and newspapers belonging to the Nova Scotia Historical Society from the Legislative Library and in assimilating these materials to our previous collections. In all, 280 volumes were transferred during 1956.

A collection of oaths of allegiance, signed by members of the Legislative Assembly of Nova Scotia, the Legislative Council, judges or other officials, for certain years between 1856 and 1941, was transferred from the Provincial Secretary's office.

Another interesting acquisition was a photographic reproduction of Thomas Davies's water colour of Halifax in 1757—"A View of Hallifax in Nova Scotia taken from Cornwallis Island with a Squadron going off (to) Louisburgh in the Year 1757."

Other notable accessions during the year were twelve aquatints done by F. S. Coburn as illustrations for W. H. Drummond's works, and presented by Miss L. Florence Burrill, of Weymouth, N. S.; books and documents, including a letter written by Wm. Fenwick (afterwards Sir Wm. Fenwick) Williams to his sister, in 1814, presented by Dr. Lalia B. Chase, of Port Williams, N. S.; a bound typewritten copy of Charles S. Hamilton's "The History of Kings County, N. S.", which was submitted in 1869 for the Akins Historical Prize at Kings College, Windsor, N. S., and presented by Mr. W. S. H. Hamilton, of Larchmont, N. Y.; books and muniments donated by Mr. E. N. Rhodes of Ottawa—in memory of his father and grandfather—including two silver trowels, presented to the Hon. E. N. Rhodes, Premier of Nova Scotia, on the occasions of laying the corner-stones of Pictou Cottage Hospital, 1927, and the Archives Building, Halifax, 1929; a clock with electric button, which Hon. E. N. Rhodes, Premier of Nova Scotia, pressed in order to start machinery in the pulp and paper mills of the Mersey Paper Company, Limited, Liverpool, N. S., 1929; a silver tray presented to Hon. E. N. Rhodes, P.C., M.P., Minister of Finance in the Bennett government, on the 25th anniversary of his entry into public life; and the Young gold medal for mathematics, 1st prize, Acadia College,

which was awarded in 1870 to W. T. Pipes, afterwards Premier Pipes of Nova Scotia 1882-84; and books and papers of the late Mr. Henry Arthur Waterman, Yarmouth, N. S., including Edgar F. Waterman's *The Waterman Family* (New Haven, 1939), in two volumes, donated by Mrs. Henry Waterman, of Yarmouth, N. S. A number of maps and plans of Louisbourg and other places in Cape Breton Island have been acquired. In addition, a collection of Sydney newspapers for the years 1903, 1914-18, 1927, 1930, 1937, 1939-40, and 1947 was presented by Mr. Roy D. Duchemin, of Sydney, N. S., and other miscellaneous newspapers were presented by Rev. C. H. Johnson, of Saint John, N. B.

Microphotography, which has recently come into widespread use in archival institutions, offers a means not only of preserving the text of documents and newspapers in instances where the original papers are deteriorating rapidly, but also of reproducing such materials at a speed and a volume little short of astonishing in comparison with the capacity of copyists working by hand. What a difference it would have made to the work of Dr. Akins and other 19th century archivists if it had been available to them!

In order to take fuller advantage of the benefits of microphotography, additions are steadily being made to our microfilm collection. During the year 67 rolls, over 6600 feet, both negative and positive, have been acquired. These are chiefly of newspapers, including many whose condition was worsening rapidly, as well as positive films presented by the Halifax Herald, Limited, of current issues of both the *Chronicle-Herald* and the *Mail-Star*. They also contain copies of Acadian registers of births, marriages and deaths (Annapolis 1727-55; Beaubassin, 1741-55; Grand Pre, 1707-48); church records of Guysborough Methodist and United Churches; St. Luke's Anglican Church, Halifax; St. James's and St. John's Churches, Jeddore; and St. Stephen's Anglican Church, Ship Harbour; and Robert J. Long's "Annals of Liverpool and Queen's County, 1760-1867."

New equipment has been acquired during the year just ended in order to accommodate a steady accumulation of archival material and to provide better service for students, historians, and other visitors. Two new library stacks have been installed and two book-trucks and a second Recordak (microfilm) Reader have been purchased.



According to previous arrangements, three pieces of statuary from the estate of the late Mr. George S. Campbell, (David, Mercury and Colleoni), which had been placed in the Public Archives of Nova Scotia until the Nova Scotia College of Art could provide proper accommodation for them, have been transferred to the Nova Scotia College of Art, now located in its new quarters on Coburg Road.

The past year has seen a reduction in personnel on the staff of the Public Archives. Dr. Harvey retired after twenty-five years as Archivist and Miss Gaylan Rutledge resigned in order to heed the call of the teaching profession.

Early in the year Miss Blakeley read a paper at a meeting of the Nova Scotia Historical Society and I read one at another meeting of the same society.

At the Nova Scotia Summer School for Teachers I again gave lectures on the history of Canada and the history of Nova Scotia.

Since the beginning of the University session of 1956-57 I have been conducting a seminar for advanced students of history in Dalhousie University on historical research in the history of Canada, with special reference to Nova Scotia and specific use of materials in the Archives building.

For the Historic Sites and Monuments Board of Canada, of which I was made a member in 1955, I have had to carry on considerable correspondence about the proposed marking of historic sites. On August 18th, 1956, I was present at the official opening of the Alexander Graham Bell Museum at Baddeck.

As a member of the Nova Scotia Historic Sites Advisory Council, I have attended meetings of that body and carried on correspondence in the promotion of its work.

For some time I have been engaged in writing an account of the early history of Nova Scotia. It is now nearly completed and may be published in 1957.

Appendix A is a list of donors for the year 1956.

Appendix B is a reminder of an important centenary in 1957: the appointment of Mr. (later Dr.) T. B. Akins as Nova

Scotia's first Archivist in 1857. The first document in this appendix is a copy of the resolution moved by Hon. Joseph Howe on April 30th, 1857, and seconded by Hon. J. W. Johnston, the leader of the government of Nova Scotia at the time, and which led to the appointment of Mr. Akins as Record Commissioner on May 29th, 1857. The second document, dated May 7th, 1891, is a copy of a resolution agreed to by the House of Assembly of Nova Scotia on the day following the death of Dr. Akins.

Appendix C is in recognition of a significant bicentenary which will be celebrated in 1958: the establishment of the House of Assembly of Nova Scotia, which was convened for the first time at Halifax, on October 2nd, 1758. This selection of documents includes not only extracts from the Governor's instructions and correspondence, Council Minutes, and Journals of the Lords Commissioners for Trade and Plantations, but also the Lunenburg Poll Book for the election of 1758 and the proceedings of the first three sittings of the first Legislative Assembly in Nova Scotia and the first representative government in Canada.

A statement of the receipts and disbursements for the financial year ending March 31st, 1957, will be found below.

Respectfully submitted,

C. BRUCE FERGUSON,  
Archivist



**STATEMENT OF RECEIPTS AND DISBURSEMENTS****For the Year ended March 31, 1957.****RECEIPTS**

Balance on hand, April 1, 1956.....	\$ 2,967.29
Government of Nova Scotia.....	35,000.00
Savings Bank Interest.....	5.64
Sales of publications and miscellaneous items.....	159.66

**DISBURSEMENTS**

Maintenance and Expenses of Building..	\$1,733.85	
Furnishings and Equipment.....	3,455.94	
Salaries.....	23,719.63	
Temporary Salaries.....	2,242.30	
Office Sundries.....	306.03	
Transfer and Express.....	161.95	
Library and Manuscript Room.....	500.47	
Bindery Materials.....	64.40	
Purchases, Archival Material.....	991.76	
Microfilm Expenses.....	808.12	
Sundry Expenses.....	52.95	
Total Disbursements.....	\$34,037.40	
Balance on hand, March 31, 1957.....	4,095.19	
	<u>\$38,132.59</u>	<u>\$38,132.59</u>

For and on behalf of

**BOARD OF TRUSTEES OF THE PUBLIC ARCHIVES  
OF NOVA SCOTIA****C. BRUCE FERGUSON, Archivist  
WINIFRED McFATRIDGE, Secretary.****AUDITORS' REPORT**

We have audited the records of Receipts and Disbursements of the Board of Trustees of the Public Archives of Nova Scotia for the year ended March 31, 1957, 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—HAZEN H. VENO,  
Chartered Accountants**Halifax, N. S.  
April 5, 1957.

## APPENDIX A

Alberta Historical Society, Edmonton, Alberta.  
American Antiquarian Society, Worcester, Mass.  
Andreassen, John C. L., Esq., Baton Rouge, Louisiana.  
Babson, Mrs. Gustavus, Jr., Batavia, Ill.  
Backman, G. P., Esq., Halifax.  
Bell, Dr. Winthrop, Chester, N. S.  
Bennett, Miss A. L., Newport Landing, Hants Co., N. S.  
Board of School Commissioners, Halifax.  
Bourinot, Dr. Arthur S., Ottawa.  
British Columbia Historical Association, Vancouver, B. C.  
British Council, London, W. 1.  
Burgess, Kenneth F., Esq., Chicago, Ill.  
Burrill, Miss L. Florence, Weymouth, N. S.  
Caldwell, Major A. F., R.C.A., Halifax.  
Campbell, Douglas, Esq., Halifax.  
Canadian Broadcasting Corporation, Halifax.  
Canadian Church Historical Society, Montreal, P. Q.  
Canada Permanent Mortgage Corporation, Halifax.  
Chase, Dr. Lalia B., Port Williams, N. S.  
Coward, Mrs. Elizabeth Ruggles, Bridgetown, N. S.  
Craik, W. A., Esq., Toronto.  
Dalchiel, Gerard, Esq., Halifax.  
Department of Education, Halifax.  
Department of Municipal Affairs, Halifax.  
Dickie, Mrs. S. W., Gilbert Hill, North Haven, Conn.  
Dutton, Wm. L., Esq., Noroton, Conn.  
Dwyer, Capt. J. P., Halifax.  
Eisener, Mrs. Spurgeon, Chester Basin, N. S.  
Ells, Mrs. J. E., Halifax.  
Fenerty, Mrs. Robert, Bedford, N. S.  
Fergusson, Dr. C. Bruce, Halifax.  
Flemming, Mrs. Pansy, Clerk of the Municipality, Shubenacadie,  
N. S.  
Frame, Dr. D. A., Halifax.  
Frame, S. H., Esq., Victoria, B. C.  
Gibson, Estate of the late John N., Victoria, B. C.  
Gibson, Rev. M. Allen, Chester, N. S.  
Glover, Mrs. Olive, Halifax.  
Godfrey, Arthur, Esq., Pictou, N. S.  
Graves, Ross, Esq., Port Williams, N. S.  
Halifax, City of  
Hamilton, Wm. S. H., Esq., Larchmont, N. Y.



- Hancock, Glen N., Esq., Halifax.  
Harris, Mrs. James, Charlottetown, P. E. I.  
Harvey, Dr. D. C., Halifax.  
Henry E. Huntington Library and Art Gallery, San Marino,  
Calif.  
Henson, Guy, Esq., Halifax.  
Institute of Historical Research, London, England.  
International Nickel Company of Canada, Ltd., Toronto.  
James, L. W., Esq., St. John's, Newfoundland.  
John Carter Brown Library, Providence, Rhode Island.  
Johnson, Rev. C. H., Saint John, N. B.  
Kidston, Mrs. Harold, New Glasgow, N. S.  
Kline, James Russel, Esq., Halifax.  
La Société Historique Abitibienne, La Sarre, Quebec.  
Lamb, Dr. W. Kaye, Dominion Archivist, Ottawa.  
Legislative Library, Fredericton, N. B.  
Letson, Miss E. M., Halifax.  
Levy, Prof. George E., Wolfville, N. S.  
Little, Mrs. Robert, Fredericton, N. B.  
Lodge, Thornton H., Esq., Hollywood, Calif.  
Loomer, Mrs. Ralph, Falmouth, N. S.  
McKay, Neil C., Esq., Midland, Michigan.  
MacKenzie, Dr. Kenneth A., Halifax.  
MacLaren, George E. G., Esq., Halifax.  
McLennan, Miss Katharine, Sydney, N. S.  
MacPhee, Harvey, Esq., Truro, N. S.  
Maritime Telegraph and Telephone Co., Ltd., Halifax.  
Massachusetts Historical Society, Boston, Mass.  
Matthews, Major J. S., City Archivist, Vancouver, B. C.  
Medical Society of Nova Scotia, Halifax.  
Medinus, Mrs. Carl, Chicago, Ill.  
Minister of Education, Toronto.  
Minto, C. S., Esq., Central Public Library, Edinburgh.  
Morrison, A member of the family of the late Alfred G., Halifax.  
National Gallery of Canada, Ottawa.  
New Brunswick Museum, Saint John, N. B.  
New York Historical Society, New York.  
Noonan, W. H., Esq., Halifax.  
Northern Electric Co., Ltd., Montreal.  
Nova Scotia Institute of Science, Halifax.  
Nova Scotia Light and Power Co., Ltd., Halifax.  
Nova Scotia Museum of Science, Halifax.  
Nova Scotia Technical College, Halifax.  
Ontario Historical Society, Toronto.

Patterson, Mr. Frank H., Q.C., Truro, N. S.  
Piers, Miss Judith, Halifax.  
Porter, Master Gary, Halifax.  
Public Archives of Canada, Ottawa.  
Randall, S. A., Esq., Lunenburg, N. S.  
Rhodes, Edgar N., Esq., Ottawa.  
Robb, Andrew W., Esq., Halifax.  
Roy, Dr. Antoine, Quebec.  
Sabine, W. H. W., Esq., Hollis 12, New York.  
Saskatchewan Archives Board, Saskatoon, Sask.  
Saunders, E. A., Esq., Halifax.  
Shaw, Rev. R. E., Halifax.  
Shelburne Historical Society, Shelburne, N. S.  
Siteman, Mrs. Aubrey, Lower Ship Harbour, Halifax Co., N. S.  
Smith, A. C., Esq., Barrington, N. S.  
State Historical Society, Madison, Wis.  
Theakston, Estate of Miss Emma, Halifax.  
United Church of Canada, Toronto.  
University of New Brunswick, Fredericton, N. B.  
University of Queensland, Brisbane, Queensland, Australia.  
University of Washington, Seattle, Washington.  
University of Western Ontario, London, Ont.  
Wainwright, Rev. Kennedy B., Stewiacke, N. S.  
Waterman, Mrs. Henry, Yarmouth, N. S.  
Williams, Osgood, Esq., Salem, Mass.  
Yeoman, Miss Jean, Halifax.



## APPENDIX B

## NOVA SCOTIA'S FIRST ARCHIVIST

THE HOWE-JOHNSTON RESOLUTION OF APRIL 30th,  
1857.

*Resolved*, That his excellency the governor be respectfully requested to cause the ancient records and documents illustrative of the history and progress of society in this province to be examined, preserved and arranged, either for reference or publication as the legislature may hereafter determine, and that this house will make provision for this service.

Journal and Proceedings of the House of Assembly.

Journal of the House of Assembly

Thursday, 7th May, 1891.

On motion of the Hon. Attorney-General the following resolution was put and agreed to by the House:

That this House has learned with profound regret of the death of Thomas B. Akins, Esquire, D.C.L., who for many years has held the position of Commissioner of Records in this Province, and desires to express the recognition of his eminent learning and research, and of the great services which his assiduous devotion to the records of our provincial history has rendered to the students of Nova Scotian and indeed of North American history.

## APPENDIX C

ESTABLISHMENT OF THE HOUSE OF ASSEMBLY OF  
NOVA SCOTIA, 1758

## I

86th ARTICLE OF THE INSTRUCTIONS OF GOVERNOR  
CORNWALLIS, 1749.

And Whereas by Our aforesaid Commission You are authorized and impowered to summon and Call General Assemblys of Freeholders and Planters within Our said Province, You are therefore so soon as you shall see expedient to issue Writs in Our Name directed to the Sheriff or other proper Officer in each Township, directing them to Summon the Freeholders of the said Township, and to proceed to the Election of two persons to represent them in General Assembly, which Election shall be held in each Township respectively, and at such time as You shall think proper; in which said Writ the Time and Place for the Meeting of the said Assembly shall also be specified.

## II

86th ARTICLE OF THE INSTRUCTIONS OF GOVERNOR  
HOPSON, 1752.

And whereas by His M. aforesaid Commission you are authorized & impowered to call general Assemblys of the Freeholders & Planters within the said Province, You are therefore as soon as any of the said Townships have fifty or more Families settled therein, to issue Writs in H. M. Name, directed to the Sheriff or other proper Officer in each Township, requiring them to summon the Freeholders of the said Townships and to proceed to the Election of two persons to represent them in general Assembly which election shall be held in each Township respectively and at such time as you shall think proper, in which said Writ the Time & Place for the Meeting of the said Assembly shall also be specified.



## III

EXTRACT FROM A LETTER OF GOVERNOR  
LAWRENCE TO THE LORDS OF TRADE,  
DATED AT HALIFAX, JANUARY 12, 1755

I acquainted your Lordships in a former Letter that Mr. Pownall had, as from your Lordships expressed to the Chief Justice some doubts about the Legislative authority of the Council, I now transmit your Lordships his opinion thereon it is a case I am by no means a competent judge of but that power has hitherto passed unquestioned in this Colony, and I doubt not but your Lordships are well satisfied by both the Governors that have gone home, how impossible it is in our present circumstances to call an assembly, and what numberless inconveniences would attend the collecting a set of people, such as are to be found in this Province, in that shape, until we are better prepared for it, or it is in their power to grant money towards defraying the public expence.

## IV

CHIEF JUSTICE BELCHER TO POWNALL, JANUARY 16th,  
1755.

Sir,

I presume my Uncle Mr. Partridge acquainted You that I arrived at Halifax after a passage of 26 days on the 11th of October last.

At my first waiting on the Governor I deliver'd the Letter You honour'd me with, and I am daily experiencing the effect of it in the most obliging reception and treatment.

Soon after my arrival, pursuant to His Majesty's Mandamus I was sworn in the Council, and on the 14th of October My Commission as Chief Justice pass'd the Great Seal of this Province, and a Copy of the Commission is inclosed.

The Points I mention'd to You respecting the Laws of this Province, I took an Opportunity of stating in Council—Upon considering the Commission and Instructions, the Laws seem to be well warranted from the Principles and Reasons which I have

laid before the Governor, to be transmitted to the Lords, and I hope they may be Satisfactory. Convening an Assembly would at present be not only impolitick but almost impracticable, and tho' Halifax should be divided into Districts, it would be difficult to find Persons qualified for Representatives either as Freeholders or otherwise.

The Business of the last Term held Five Weeks, & a considerable part of the time was employ'd in debating upon the trial of Several Persons, who were charg'd with the Murder of two Barge-men belonging to His Majesty's Sloop of War the Vulture upon this Station, Whether they should be tried by the Admiralty, or by the Course of the Common Law. After Several Arguments it was conceived to be within the Jurisdiction of the Supream Court, which proceeded on the Trial accordingly. The trial lasted ten hours. The Evidence appear'd plain and Sufficient to support the Indictment for Murder, and so was the Sense of the Court express'd to the Jury, who were pleas'd to conceive otherwise, and brought in their Verdict Manslaughter only. The Circumstances in the Course of the Evidence were so apparently full of Insult and Indignity to the Crown and of dangerous Consequences to this Province that it was thought highly incumbent on the Court to manifest its resentment against their Crimes and therefore after the burning in the hand inflicted a further Correction agreeable to the Statute of Eliz<sup>a</sup>. by imprisoning them for Nine Months. The Indictments against them with the Verdict and Judgment, and the proceedings in all the other Criminal Causes during the Term I have delivered to Mr. Secretary Cotterell, who transmits them to you by this Conveyance. A Circumstantial Account both of the Criminal and Civil Business of the Term I am now preparing and I hope will be finished to send You by the next Opportunity.

I think myself bound in Justice to mention the Services and Diligence of Mr. Nesbit the King's Attorney in the Criminal Business of this Term. The Office of an Attorney General is of the highest Importance to the Court, and for this reason Mr. Nesbit, who was appointed by Col. Hopson, thinks himself entitled to some reward for his labours. Mr. Nesbit tells Me he was assured that a Salary would be applied for, and is in hopes that Application has been made for that purpose in his behalf. He assures Me that he has never received any Consideration for his Services. Mr. Nesbitt is a Gentleman of Industry in the



Profession of a very humane benevolent disposition, and is much esteem'd in the Province. His Great Usefulness and Assistance to Me in the Court, engage Me to recommend him, that if it may be thought reasonable, Some Allowance might be given for his past Services, and that he may receive an Appointment to Support and encourage him in his future endeavours in behalf of the Crown.

I shall ever retain the most grateful Sense of Your favourable Attention to my Interests in the course of my Applications at the Plantation Office, and for all the Marks of Your favour, and for your Obliging Assurances of the Continuance of your regards It would give Me the highest Pleasure to express my Gratitude by any possible Obedience to Your Commands, being with great respect

Sir

Your Most Humble  
and Most Obliged  
Servant

Jonath. Belcher

Halifax

Nova Scotia

16 Jan'y 1755.

Mr. Secretary Pownall

## V

OBSERVATIONS ON THE POWER OF THE GOVERNOR  
AND COUNCIL TO MAKE LAWS FOR NOVA SCOTIA

The principle of Law is Settled that in Countries accruing to the Crown by conquest or by Cession, The King has a right to Govern the Inhabitants by such Laws as he may think expedient. If the Subjects of England become Settlers and Inhabitants of those Countries they carry with them the Laws of England and are to be Govern'd by them 'till they are changed by Other Laws or ordinances from the Crown. This Doctrine is Supported by the Case of Blanckard and Galdy, and Smith vs. Brown and Cooper in Sal. reports and by a Case in 2d. Peer Williams 75.

As the King can by himself without the Consent of the People enact Laws for their regulation and Government so he may delegate that power to others.

As to Nova Scotia which was Ceded to the Crown by the Treaty of Utrecht, this Power of framing Laws has been delegated by His Majesty in his Commissions to the respective Governors in Conjunction with the Council.

In the Clauses of the Commissions investing the Governor and Council with this power of Legislature, it is added *by and with the consent of the General Assembly of the Province*, which has created Some doubt whether the Provincial Laws are binding as they have not been assented to by an Assembly. If the Commission had vested the power in the Governor and Council only, from the General authority of the Crown in the Plantations, the Laws enacted by them alone could never be impeach'd or controverted.

The question will then arise upon the Sense of the Crown in adding those words in the Power given to the Governor and Council, that the Laws Should be enacted *by and with the Consent of the Assembly*. These words suppose that an Assembly is in being, which could not be the Case when Nova Scotia was to be entirely Planted and Settled, and yet in the mean time there can be no doubt, that Laws would be necessary for the regulation of the Province during its Settlement.



By the Clauses in the Commission immediately preceding the paragraph empowering the Governor and Council and Assembly to make Laws Authority is given to the Governor to Issue writs for convening an Assembly in Nova Scotia, But in that Clause no time is prescribed when an Assembly shall be first call'd, for the words are, *that the Governor shall Issue writs for convening an Assembly from time to time as need shall require.*

By a General Clause in the Commissions the respective Governors are directed to conform themselves to such Instructions as they shall receive from His Majesty, and by these words the King's Instructions become part of the Commissions, and the Governors are obliged to resort to the Instructions for the explanation of the powers vested in them by any General Clauses contain'd in their Commissions.

By His Majesty's 86th Instruction to the Governors they have been directed that as soon as any Towns shall consist of Fifty Families, The Governors should Issue writs for convening an Assembly.

From this instruction it was clearly the Sense of the Crown, that *need would not require* that an Assembly should be call'd till at least Two Townships should be Settled consisting each of Fifty Families; and it can admit of no doubt, that one Town consisting of a Thousand Families would require Municipal Laws for their good order and Government before another Township consisting of Fifty Families could be Settled. The Governors therefore being restrained by the Instructions as referr'd to in the Commissions from calling an Assembly for representing one Town only, and a positive direction being given for making Laws, the power must of necessity rest in the meantime in the Governor and Council, and the assent of the Assembly becomes necessary only when it shall be found expedient to convene one.

As the Instruction has not prescrib'd the Number of Townships consisting of Fifty Families to be first Settled before an Assembly shall be convened, the Judgment must be left with the Governor, as to the Qualifications and Freeholds of the Inhabitants, and the emergencies of the Province, What number of Towns ought to be Settled before it may become necessary to convoke an Assembly.

The Case at present with Nova Scotia is this, that excepting Mines, and Piziquid, consisting of French and Lunenburg Settled

by Germans, The Town of Halifax only falls within the rule as to the Number of Families, and that being a Single Town is not within the letter or meaning of the Instruction, nor could it at present answer the Political views for extending the Fishery and Settlements of the Province to Convene an Assembly, But on the Contrary would be productive of Confusion and opposition in the measures necessary to be pursued in the Infancy of every Colony, and upon this Plan the Government Proceeded in the first Settlement of the Province of Virginia.

(signed) WM. MURRAY

RICH<sup>d</sup> LLOYD April 23rd. 1755



## VI

## REPORT OF H. M.'S ATTORNEY AND SOLICITOR

GENERAL dated April 29th, 1755

To the Right Hon<sup>ble</sup> the Lords Commissioners for Trade and Plantations.

May it please your Lordships

Pursuant to your Lordships desire signified to Us by Mr. Hill in his Letter of the 31st of March last setting forth, That a doubt having arisen whether the Governor and Council of His Majesty's Province of Nova Scotia have a Power of enacting Laws within the said Province and Jonathan Belcher Esq. having transmitted to your Lordships his Observations thereupon inclosing to Us a copy of the said Observations together with Copys of several Clauses in the Commission and Instructions of the said Governor of that Province referred to (all which are herewith returned) and desiring our opinion, whether the said Governor and Council have or have not Power to enact Laws for the publick Peace, Welfare and Good Government of the said Province and the People and the Inhabitants thereof.

We have taken the said observations and clauses into our Consideration and are humbly of opinion that the Governor and Council alone are not authorized by His Majesty to make Laws till there can be an Assembly. His Majesty has ordered the Government of the Infant Colony to be pursuant to his Commission and Instructions and such further Directions as He should give under His sign Manual or by Order in Council.

All which is humbly submitted to your Lordships Consideration.

(signed) WM. MURRAY

RICH<sup>D</sup> LLOYD April 29th. 1755

## VII

EXTRACT FROM A LETTER OF THE LORDS OF TRADE  
TO LIEUTENANT GOVERNOR LAWRENCE, dated May  
7th, 1755

Immediately upon the Receipt of your Letter, We took into Consideration the Observations made by the Chief Justice upon the power of the Governor & Council of Nova Scotia, to pass Laws without an Assembly, and as it appeared to us to be a matter of very great Consequence, We transmitted those Observations, together with such parts of His Majesty's Commission and Instructions as related to the passing of Laws to His Majesty's Attorney & Solicitor Gen<sup>l</sup> for their opinion upon this point, and having received their Report, We herewith inclose to you a Copy of it for your guidance and Direction; and though the calling an Assembly may in the present Circumstances of the Colony be difficult, and attended with some Inconveniences, yet as the Attorney and Solicitor General are of opinion, that, the Governor and Council have no power to enact Laws, We cannot see how the Government can be properly carried on without such an Assembly; We desire therefore you will immediately consult with his Majesty's Chief Justice, in what manner an Assembly can be most properly convened, of what number of Members it shall consist, how those members shall be elected, and what Rules and Methods of Proceeding it may be necessary to prescribe for them transmitting to us as soon as possible your Opinion and Report thereupon, in as full and explicit a manner as possible, to the end We may lay this matter before his Majesty for His Majesty's further Directions therein; As the validity however of the Laws enacted by the Governor and Council or the Authority of those acting under them do not appear to have been hitherto questioned; xxxxxxxxxxxxxxxxxxxx It is of the greatest Consequence to the Peace and Welfare of the Province that the opinion of His Majesty's attorney & Solicitor General should not be made publick until an Assembly can be convened and an Indemnification passed for such Acts as have been done under Laws enacted without any proper Authority.



## VIII

LETTER FROM GOVERNOR LAWRENCE TO THE LORDS  
OF TRADE Dated December 8th 1755.

My Lcrds

I have the honor by this opportunity to transmit to your Lordships the opinion of the Chief Justice upon the manner of convening an Assembly in this Province. Tho' this is a matter, that in many of its parts, I am by no means qualified to judge of, yet I think it my duty to lay before your Lordships such reflections as have occurred to me upon so important a subject.

The general necessity of convening an assembly upon account of the present invalidity of the laws, being altogether a point of law, I can say no more upon that head than that the Laws are chiefly such, as it appeared indispensably necessary to make, for the good regulation of the Town of Halifax and the encouragement of its commerce they were mostly made at the request of the Merchants, or the people whom they concerned, who have been perfectly satisfied therewith and have never made the least question of their validity that ever I heard, I have been well informed that at the first establishment of the Colony of Virginia Laws were enacted in the same manner and continued in force until an Assembly could be easily convened for their confirmation.

The enclosed opinion seems to be founded upon the necessity of performing a promise made to the first settlers of their having an Assembly. I believe from the first settlement of the Province to the present time the Governor has been required by the 86th Instruction to call an Assembly, by causing two Members to be elected for each Township but as the Town of Halifax is the only place qualified to elect two Members, they alone would not be sufficient to form an Assembly, therefore I humbly apprehend such a promise, cannot in any wise be said to have been broke through, but its performance not yet become possible, by the circumstances of the Province. As to the manner proposed by the Chief Justice, for convening an Assembly at present, by electing 12 Members for the Province in the form of a County Election if it is to be any precedent for future elections, it will be attended with a very great inconvenience. As it is to be held at Halifax, which most likely will not be the residence of the landed people, but of the Merchants the former whose well being is much more

connected with the security of the Province, will be mostly excluded and the Assembly chiefly composed of the latter, who are not so nearly concerned in its welfare, and who may sometimes have views and interests incompatible with the measures it may be necessary to take in a Province so contiguous, both by land and water, to the whole force of the French in North America.

I have now laid before you, fully, my thoughts upon this subject, which I flatter myself, your Lordships will receive with your usual candour, and excuse any error that may be found therein, upon reflecting how seldom it has fallen in my way to consider things of this nature.

If it is thought necessary to put this Plan, or any other to the same purpose in execution, I beg of your Lordships that I may have full instructions upon the subject, which I will take care most punctually to execute. It would be necessary, in this case, to provide for the expense of a House for the Assembly to sit in, and for a Clerk and such salaried Officers as may be thought necessary for their attendance for I can venture to assure your Lordships that the people here, in general, are not in a condition of contributing any sum of money, to defray such an expense.

I am &c

Signed) CHAS. LAWRENCE



## IX

EXTRACT FROM A LETTER OF THE LORDS OF TRADE  
TO GOVERNOR LAWRENCE OF MARCH 25th, 1756

We have taken into Our Consideration your Letter to us dated the 8th of December last, inclosing the Proposals of the Chief Justice for convening an Assembly in Nova Scotia; and although We are fully sensible of the numberless Difficulties which will arise in carrying this or any other Plan for an Assembly into Execution in the present state of the Province and that many of the Inconveniences pointed out in your Letter must necessarily attend it, yet We cannot but be of Opinion that the want of a proper authority in the Governor and Council to enact such Laws as must be absolutely necessary in the Administration of civil Government is an Inconvenience and Evil still greater than all these, and altho His Majesty's subjects may have hitherto acquiesced in and submitted to the Ordinances of the Governor and Council yet We can by no means think that that or any other Reason can justify the Continuance of the Exercise of an illegal Authority; what you say with regard to the Council of Virginia's passing Laws in the first Infancy of that Colony is very true, but then they derived the Power of doing it from their Commission, which was also the Case of many other of the Colonies at their first Settlement, tho it was a Power of very short Duration, and in later times since the Constitution of this Country has been restored to its true principles, has never been thought advisable to be executed.

Whether the Measure proposed by the Chief Justice is or is not a proper one depends upon a precise knowledge of a variety of Facts, which We at this distance cannot be competent Judges of; but whether that or any other Plan is followed, it will only be a temporary Plan and in no degree a precedent for future Assemblies, when the Circumstances of the Province will admit of other Regulations.

The first Assembly convened, be it in what form it will, must necessarily consist of Persons of xxx Property in Trade because there is no Person who can be truly said to have any considerable landed Interest untill the Country is cleared and the Lands laid out; yet it may be proper and it will be necessary to take care that a certain Landed Property, be it ever so small, be the Qualification as well of the Electors as the Elected, because the Com-

mission directs that the Assembly shall be chosen by the Majority of the Freeholders.

The Election of twelve Persons or of any greater or lesser number to represent the whole Province considered as one County may be a proper method as far as appears to us, but this must be left to your Discretion, who, by being upon the spot will be better able to determine upon this point; perhaps a Division of the Province into Districts or Townships may be the more eligible method; for altho Halifax is at present the only Town in which there are any Inhabitants qualified to be Electors or Elected, yet as it is not proposed that actual Residence should be required in order to qualify a Person to act in either one or other of those Capacities, the making a few Grants of Lands in any of the Districts, as Minas, Chignecto, Piziquid, Coboquid, &c. will remove this Difficulty; and if this can be done, the first Assembly will bear the nearer Resemblance to the form, in which it must be convened when the Province becomes better peopled and settled.

This however We only throw out for your Consideration, and xx desire it may be understood, that this point is left to your Discretion under the Powers given you by your Commission.

This being settled, The next Consideration will be the form of the Writ of Summons, the manner of executing it and the previous points to be settled before the Assembly proceeds upon Business, so far as regards the Election of a Speaker and the Rules to be observed with respect to Dissolutions, Prorogat<sup>ns</sup> and Adjournments; as to all which Points, We must refer you to the inclosed Copy of the form of a Writ made use of in the Province of New Hampshire, which appears to us, (regard being had to the different Circumstances of the two Provinces) the best adapted to the purpose, and to the inclosed Copies of the Instructions, lately given to the Governor of Georgia and to the minutes of the Council of that Province, shewing the manner in which these Instructions were carried into Execution.

There is one part of the Chief Justice's proposal however which We can by no means approve of, and which must be particularly guarded against, and that is the Continuance of the first Assembly for 3 years, which might be and probably would be attended with great Inconveniences; for, altho We have no Doubt but that the first Assembly will be constituted of proper Persons and Persons well disposed to promote the Publick Service, yet



it may happen either from some Defect in the first formation of the Assembly or from their irregular and improper Proceedings, that the Governor may find it necessary for the good of the Service to dissolve them and as it would be highly improper that his Hands should in such case be tyed up, We thought it necessary to say thus much upon this Point, as it appears to us of great Consequence.

Another Inconvenience necessary to be guarded against is long Sessions, which will not only be attended with Expence, but will also, in the present Situation of affairs, greatly obstruct and hinder you in the necessary Attention which you must give to other important Matters, and therefore you will take care, that the Sessions be as short as possible, and the meetings at such times as shall be most convenient as well to the Members as to yourself.

These are all the Points which occur to us at present upon this important Question; and it only remains for us to desire, that, you will take the earliest Opportunity after the first Session of the Assembly to acquaint us in the fullest and most particular manner of all the steps you have taken in this matter of the Effect and Operation of this measure with regard to the Publick Service, pointing out to us at the same time the Conveniences and Inconveniences of it, how far the Plan upon which you proceeded is defective, the cause of those Defects, and in what Manner you would propose to have them remedied, to the end that We may lay the whole matter before His Majesty, and the Plan for future Assemblies ascertained by proper Instructions to you.

## X

### EXTRACT FROM A LETTER OF THE LORDS OF TRADE TO GOVERNOR LAWRENCE, OF JULY 8th, 1756.

We have, in our Letter to you dated the 25th of March last, given you our Sentiments at large upon the Propriety and method of summoning an Assembly, and as We are fully convinced of the expediency of this measure, and are satisfied that untill it be done this Infant Colony cannot be truly said to be upon a permanent and lasting Establishment, We hope you will have thoroughly considered this matter and carried Our directions into Execution; We have no doubt but that all His Majesty's Subjects in Nova Scotia enjoy their Rights and Libertys to the full extent, under

the present form of Government, but, untill an Assembly is established, malevolent and ill designing Men will take occasion to complain and misrepresent things to the prejudice of the Colony, and even the best disposed of His Majesty's Subjects there will be uneasy under the present form of Government, a Petition, setting forth the Inconveniency resulting from the want of an Assembly, having already been transmitted.

## XI

## REMARKS RELATIVE TO THE CONVENING AN ASSEMBLY AT NOVA SCOTIA MADE AUGUST 1756

Extract. From the Chief Justices proposals.

"An Assembly is extreemly necessary for removing any "Objections against the present Form of Government whereby "the Inhabitants who became Settlers at Nova Scotia, at least "under the Expectation if not a promise of the same priviledges— "of which an Assembly is the highest, with all the other Colonies "have been thought to be bound by Laws to which they have "never assented"

From Their Lordships of the Board of Trade Their Letter of  
March 25th 1756

"We are fully sensible of the numberless Difficulties which "will arise in carrying this or any other plan for an Assembly "into Execution in the present State of the Province &<sup>ca</sup> Yet "we cannot but be of Opinion that the want of a proper *Authority* "in the Governor and Council to enact such Laws as must be "absolutely necessary in the Administration of Civil Government "is an Inconvenience & Evil still greater than all these—and altho "his Majesty's Subjects may have hitherto acquiesced in, and "Submitted to the Ordnances of the Governor and Council Yet "we can by no means think that, that or any other Reason can "justifie the Continuance of the Exercise of an illegal Authority" &ca

Remarks humbly Submitted

As it is very Obvious that it would have been utterly impracticable as well as inexpedient, for Governor Cornwallis, on his Arrival here for Settling a Colony to have immediately establish'd



such a Constitution of Government as has obtained in the neighbouring Colonies (and was proposed in this as soon as Circumstances would permit) more particularly that of the Legislative Authority and as all the confusion & Evils of a State of Anarchy must have been the unavoidable Consequence of a *Want of power* in some person or persons—to enact, in the mean time, such Laws or ordinances as must be absolutely necessary, in the Administration of Civil Govern<sup>t</sup>. His Majesty by his Royal Commission & Instructions, to his said Governor was graciously pleased to declare, That *For the better Administration of Justice and Management of the public Affairs of his Majesty's said province his Majesty did give and grant to his said Governor full power and Authority to chuse nominate and appoint such fitting and discreet persons, as he should find there, or carry with him not exceeding the number of twelve to be of his Majesty's Council in his said Province &<sup>ca</sup> at the same time prescribing sundry Rules and Methods to be observed by the said Governor & Council in such their Administration of the public affairs, and vesting them with all the power and Authority requisite for the Establishment and good Government of his Majesty's Subjects in the said province untill his Majesty's further will & pleasure should be known* At the same time also giving power and Authority to the said Governor with the Advice of his Majesty's said Council, as need should require and as soon as he should see expedient to summon and call General Assemblies of the Freeholders and Planters within his Majesty's said Government According to the Usage of the rest of the Colonies & plantations in America, And the like power and Authority relating to the convening an Assembly having been continued by his Majesty's Royal Commissions and Instructions to the two succeeding Governors and the Expediency of such a measure, considering the Circumstances of the Province not having hitherto appear'd to them. In as much as altho' at the first Settlement of the new Colony here under Governor Cornwallis it might have been expected that such a number of Towns would have been Settled before this time as might have been Sufficient to furnish a respectable Body to constitute such a Branch of Legislature. Yet the constant obstructions from the Indian Enemy and other Circumstances arising from the unsettled State of the province by reason of pretentions and Inroachments of the French have so far prevented it that there scarcely can be said to appear any greater Expediency of such a measure now than at it's first Formation more especially since a War with France is commenced by which this province must be so particularly affected and the rather as the putting it in this point upon the footing of the other Colonies

might be construed as an Ability in it to maintain it self, And his Majesty having by the 20th Article of the present Govern<sup>rs</sup>. Instructions enjoyn'd him upon the first meeting of an Assembly to signifie to them his express Royal Will and pleasure & to use his utmost Endeavours, that an Act be passed for raising & settling a permanent & establish'd public Revenue for defraying the necessary Charges of the Gov<sup>t</sup>. of the province A Measure altogether impracticable, and the least Intimation of which, howsoever it might be afterwards over ruled, would infinitely Alarm the Inhabitants & tend to unpeople the Colony. It is therefore humbly hoped & presumed that They will not fall under the Imputation of having *exercised an illegal Authority*, by having continued to conduct the Public affairs of the Province, to the best of their Abilities, in the manner which by his Majesty's Royal Commission and Instructions they esteemed themselves Authorised to do, especially as it is humbly conceived that the Direction of the Form of Government and Management of the Public affairs in all his Majesty's American Colonies & Dominions is absolutely in his Majesty, unless and untill his Majesty may have divested himself of any part thereof either by Charter proclamation Instructions to his Governors or in some other manner, Neither did there appear to the Governor any pressing reasons for the convening an Assembly in the present State of the province unless to gratifie a few persons in their self interested and Pecuniary Views. the Generality of the people & especially of the better sort being fully satisfied with the present Constitution of Government, and many of the most considerable of Those who some time since were desirous of an Assembly and who join'd in the petition on that head do now declare themselves convinced of the Inexpediency & many inconveniences that would attend such a Measure at this critical juncture. But as their Lordships of the Board of Trade to whose opinions as well as Commands the Governor always has & ever will pay the highest Deference, have been pleased strongly to recommend such a measure The full Consideration thereof and of the most expedient Means & Methods for carrying the same into Execution with the fewest Inconveniences, will engage his most serious Attention as soon as the Chief Justice from whom he had the proposals which were transmitted to their Lordships, and from whom he expects peculiar assistance in digesting and carrying into Execution the necessary Measures for the Accomplish<sup>g</sup> thereof, who is now absent, with Leave, on his private affairs upon the Continent shall be return'd—in the meantime The few following further Remarks on this Subject are humbly submitted.



*From the Chief Justices proposals.* — “An Assembly will likewise at present be of the highest service to the province, by inviting persons from other Colonies to settle upon the lands evacuated by the French.”

*From Their Lordships letter.* — “As the recall of the Two Thousand New England Troops puts an End to any View which might have been entertained of converting them into Settlers upon the Lands left vacant by the Transportation of the French Inhabitants, We shall remain extremely anxious till We hear what Occurs to You with respect to the Settlement of those Lands, which appear to us to be an Object of the utmost Importance, and on the right Determination of which, the future Strength and prosperity of the Colony greatly depends &<sup>ca</sup>.”

*Remark* — The Governor, immediately upon the Evacuation of the Lands formerly possess'd by the French Inhabitants in this province wrote fully to Gov<sup>r</sup> Shirley upon the Subject of repeopling them, It being from the province under his Command that the most useful Settlers and in the greatest Number were to be expected. Whose Sentiments in answer thereto were “That it appear'd to him very difficult to be effected during the present State of Hostilities in North America especially as Chignecto is so remote from Halifax and exposed to sudden Attacks from Canada the Island of St. John & Cape Breton &<sup>ca</sup>.” And indeed it appear'd more especially so whilst there should remain such a demand for Men in the other Colonies to carry on the design'd Operations against the Enemy on the Continent so that until the Circumstances of the Province in that particular are become more favourable that reason for an Assembly seems To Subside.

*From the Chief Justices proposals.* “It is submitted as a prudent Measure that an Assembly should be convened, previous to any Grants or proposals for Settling the Lands of Chignecto Minas & Pisequid.”

*From Their Lordships letter.* — “The making a few Grants of Land in any of the districts, as Minas Chignecto Pisequid Cobequid &<sup>ca</sup> will if it can be done make the first Assembly bear the nearer resemblance to the Form in w<sup>ch</sup> it must be convened When the province becomes better peopled & Settled.”

*Remark.* — As one of the principal Benefitts proposed from an Assembly is, that it would have a tendency to invite persons

from the other Colonies to settle upon the evacuated Lands as it would obviate the Umbrage of a Subjection to Laws to which they had never assented, It always has been proposed to make the promise of an Assembly one of the Terms of Encouragement to such Settlers, but should an Assembly be convened before such proposals and of Consequence before the arrival of such Settlers, and the giving them thereby An opportunity of joyning in the Election of their proportion of Representatives in whose Capacity & Integrity they could have Confidence from their own knowledge it is conceived that a Number, more or less, of Halifax Voices, to them utterly unknown, being join'd to the Governor and Council, inbinding them to whatsoever might be by them injoin'd, would not induce them to entertain any greater assurances of the Security of their Liberties or properties, more especially if thereby they must be Subject to such Submission for at least three Years from their Arrival, but, tis feard, would rather have the contrary Effect.

*From the Chief Justices proposals.* — “Under the present Circumstances of this Province it would be *impracticable to constitute an Assembly by Members from the respective Towns as is customary in all the other Colonies* the people compared with them being very inconsiderable in Number and the Inhabitants, except at Halifax being either Foreigners or Soldiers who ought not to be qualified to be Electors, It is therefore proposed as the least exceptionable Method &<sup>ca</sup> That the first Members should *by Instructions from his Majesty to the Governor* be elected for the whole province, as it now stands constituted in one County &<sup>ca</sup>. and the number to be twelve, and when the present Towns are increased in Inhabitants qualified to elect, the province might then be divided into Counties, and such a number for each County return'd as shall be judged necessary by the Governor and Council.”

*From Their Lordships Letter.* — “Whether the measure proposed by the Chief Justice is or is not a proper one Depends upon a precise Knowledge of a variety of Facts which We at this distance can not be competent Judges of, but whether that or any other plan is followed, it will only be a temporary plan, and in no degree a precedent for future Assemblies, when the Circumstances of the province will admit of other Regulations, The Election of 12 persons or of any greater or lesser number to represent the whole province consider'd as One County, may be a proper method as far as appears to us, but this must be left to your Discretion who being upon the Spot will be better able to determine upon This



point perhaps a Division of the Province into Districts or Townships, may be the more eligible method &<sup>ca</sup>. This we only throw out for your Consideration and desire it may be understood that this point is left to your discession — *Under the powers given you by your Commission.*”

*Remarks.* — The 11th Article of his Majesty's Instructions to the present Governor on a point of so great importance to the present welfare and future prosperity of his Majesty's Subjects of this Province as the Convening an Assembly (which is the only one on that head) Being very short and concise without prescribing any particular method therein more than *when found necessary by the Governor it shall be chosen by a Majority of the Freeholders* seems to imply that reference ought to be had to the Instructions of the 2 preceeding Governors on that head which are much more full and explicite more particularly the 87th Article of Gov<sup>r</sup> Cornwallis the 86 Art<sup>c</sup> of Governor Hopson's Instructions. And to which if regard is paid in the plan for convening an Assembly it will be utterly impracticable under the present Circumstances of the province to carry such a measure into Execution. As the Chief Justice in his plan has observed, and who has accordingly proposed in order to obviate the difficulties that would arise thereby *That an Instruction from his Majesty to his Govern<sup>r</sup>* authorising him to proceed thereon in a manner less exceptionable will be necessary for his Authority therein, and their Lordships having been pleas'd to observe to the Governor that this point is to be proceeded in at his discession *under the powers given him by his Commission* — The Governor therefore conceives he might Subject himself to an Imputation of having exceeded his power should he proceed therein in any manner not perfectly consonant to his Majesty's Commission and General Instructions, until he shall have received such an additional Instruction relating to this Matter, — but so far as it may upon Consideration be judged practicable he will not make such Doubt the Occasion of any unnecessary Delay, — If the whole number of Members be twelve Allowance must necessarily be made for the occasional Absence of some of them which may unavoidably happen by Sickness or otherwise, and if the presence of so great a part as Ten shall be determined necessary to qualifie them for acting it will thereby be in the power of Five persons and if a Majority only shall be thought necessary, that being only seven, it will be in the power of Four persons whatever their Abilities and dispositions may be to obstruct and intirely prevent any Act of Legislative Authority and that in a province wholly maintain'd

& protected at the Expence of the Crown a Circumstance unknown in the most inconsiderable Colony in his Majesty's Dominions, even where they wholly defray their own Expenses of Government. —and [which] it is humbly conceived would in no degree induce any considerate persons to esteem their Liberties & Properties more secure than in the hands of its present Guardians who have been impartially nominated & appointed out of such persons as have been judged best qualified to promote the Welfare of the Colony, amongst whom those Military Gentlemen who have composed a part thereof have been judged to be. Another difficulty here seems to be is that if the first Assembly should be constituted as is proposed of Twelve persons Chiefly Merch<sup>ts</sup> chosen at Halifax to represent the whole province as one County no Alteration can hereafter be made in the Constitution of Assemblies by dividing the Province into many Countys without the consent of this first; and it is to be apprehended they might not without difficulty give their Consent to the divesting themselves of the power in their hands of having the whole province represented as it were by themselves only.

*From the Chief Justices proposals.* — “It is submitted whether the Instruction may not also direct the proper Qualifications for Voting, as either a personal Estate of £30. or a freehold of 40<sup>s</sup> per Annum &<sup>ca</sup>.”

*From Their Lordships letter.* — “The first Assembly convened, be it in what Form it will, must necessarily consist of persons of property in Trade &<sup>ca</sup>. Yet it may be proper and will be necessary to take care that a certain landed property, be it ever so small be the Qualification of the Electors as well as the Elected — because the Comm<sup>n</sup> directs that the Assembly shall be chosen by the Majority of the Freeholders.”

*Remarks.* — Altho a landed property must necessarily be one part of the Qualification of Electors in pursuance of the Tenor of his Majesty's Commission, Yet the Qualifications of the Elected will remain with their Electors unless His Majesty by an Instruction for that purpose should determine it especially if the Governor and Council have no power prior to such Election to prescribe the same.

*From the Chief Justices proposals.* — “In order to prevent Confusion in Government from Annual Elections, and to give time for Alteration of Circumstances in the province the In-



structions might also direct That the First Assembly should subsist for three years, and by a Law of this first Assembly all future Assemblies be made triennial."

*From Their Lordships Letter.* — "There is one part of the Chief Justices proposals however which we can by no means approve of, and which must be particularly guarded against and that is the continu<sup>ce</sup> of the First Assembly for three Years which might be and probably would be attended with great Inconveniences, for altho we have no doubt but that the first Assembly will be constituted of proper persons, and persons well disposed to promote the public service yet it may happen either from some defect in the first Formation of the Assembly, or from their irregular and improper proceed<sup>gs</sup> that the Governor may find it necessary for the good of the Service to dissolve them, and as it would be highly improper that His hands should in such Case be tyed up, We thought it necessary to say thus much on this point, as it appears to us of great Consequence."

*Remarks.* — Their Lordships have so strongly set forth the Impropriety of such a Measure that no further remark thereon is necessary Unless that it then appear'd to the Governor rather of an extraordinary Nature but that he was however unwilling To make any Observation upon or Objection thereto, lest it might have the Appearance of a desire in him to throw cold Water upon the Chief Justices plan & proposals.

*From the Chief Justices proposals.* — "As the town of Lunenburg is composed chiefly of Foreigners who upon the late Act of Parliament of his present Majesty will in two years be intituled to the priviledges of natural born Subjects and if otherwise qualified will consequently have a right of Voting — which may be prejudicial to the Province it is therefore submitted that on dividing the province into Counties, Lunenburg should be made a distinct County with a power of sending Two Members but that it should not afterwards be made a Shire Town which will exclude them for sending more than two Representatives."

*Remarks.* — Tho' it may be a necessary measure to prevent such a number of Foreigners in the Assembly as might by their Settling there possibly tend to the prejudice of the Government, Yet it can hardly be thought prudent or just to deprive the Inhabitants of Lunenburg from whose numbers, and Industry the province has at present by far the greatest Expectations in point of Agri-

culture and Husbandry from an equal Share in all the privileges of his Majesty's Subjects in the province and which they have sufferd so much to intitle themselves to, more especially after their having been so often and Strongly assured of the contrary and most certain the Gov<sup>r</sup>. and Council will never take any Measures to debar them from what the Wisdom of the British Parliament has thought fit to grant to other persons under their Circumstances and it would undoubtedly render them extremely dissatisfied to find themselves excluded from any share in the Choice of the first Assembly.

*From the Chief Justices proposals.* — "It is further proposed that when the Towns become very large and populous, the most considerable should be made the Shire Towns, and have the right of electing One or more Members and that by the Instruction, and an Act of Assembly when Summoned, persons tho' not residing either in the Counties or Shire Towns for which they are return'd—shall be capable of Setting in the Assembly. By this method of electing non resident persons the principal and best approved Gentlemen would be return'd as Representatives, and this will prevent the Obstructions in Government which so frequently happen in the other Colonies, by electing from every single Town persons who retar'd Business either from their not understanding it or from private Views which in a time of War would be of dangerous Consequence, as Nova Scotia is a Frontier to the Enemy and might be invaded and destroy'd before any Resolves of the Assembly could be obtain'd for the defence of the province."

*Remarks.* — It is humbly conceived that whether the Assembly consisted of Residents or non Residents it would create no difference in this point, but that it does not however appear that under the present Circumstances of the Province an Assembly could have any pretence of power to make any Resolves for the Governors Direction in the necessary measures to be taken for the defence of the province And it is upon the whole humbly submitted That if the convening an Assembly in any way practicable in the present Circumstances of the Province shall be found absolutely requisite, An Additional Instruction thereon will be first necessary as has been observed in the Chief Justices proposal and the Course of these remarks, also that the promise of an Assembly be made one of the Terms of Encouragement for Settling the evacuated Lands but the Convention of it defer'd until by



the arrival of such Settlers they shall have an Opportunity of joyning in the Election October 26th.

Since the foregoing Remarks were made the Governor has received their Lordships Letter of July 8th. which came to hand the 24th Instant, and altho he acquainted their Lordships in his last Letter that he must defer the Consideration of this point until his return from New York, yet as the expected arrival of the Troops from Ireland will necessarily defer his intended Conference with the Earl of Loudon For at least some time And as the Chief Justice is now return'd from the Continent, but at present deeply engaged in the Business of the General Court, The Governor proposes as soon as that Business is accomplish'd to proceed to a particular and full Consideration of this matter and should not have transmitted these remarks until he might have been able to be more particular thereon, but that their Lordships in their last Letter seem to be pressing on the affair. It is however with the greatest satisfaction that he observes that their Lordships have not urged this measure from any Apprehension that his Majesty's Subjects in this province do not enjoy their Liberties & privileges to the full Extent under the present Form of Government.

P.A.N.S., Vol. 221, doc. 3.

## XII

### EXTRACT FROM A LETTER OF GOVERNOR LAWRENCE TO THE LORDS OF TRADE, dated November 3rd, 1756

In my letter to your Lordships of the 14th of October last, which was forwarded by way of Boston, I had the honor to acquaint you of my intentions to wait on my Lord Loudoun at New York, and that upon my return, the business of a house of representatives recommended by your Lordships, which from the absence of the Chief Justice upon the Continent for some time past, could not be sooner attended to, should be set about with all convenient diligence. But since the receipt of your Lordships last letter, and of one from the Secretary of State, I have laid aside my design of visiting my Lord Loudoun at least for the present, and as the Chief Justice is now arrived, I shall, as soon as the business of the Supreme Court, in which he is now deeply engaged is over, proceed to the consideration of what your Lordships have proposed in that respect, and in the meantime I take the

liberty to enclose to your Lordships some remarks upon the expediency of this measure, pointing out the different objections and the difficulties we at present labour under in order to pave the way for carrying it into execution and which your Lordships look upon as so essentially necessary to the permanent and lasting establishment of this Infant Colony, which remarks when your Lordships shall have maturely considered, I flatter myself you will agree with me in opinion that in our present critical situation it will be no easy matter to obviate the many difficulties which naturally arise in the making such alterations in the present form of Government as your Lordships have now proposed, I can with great truth assure your Lordships that I know not of one instance wherein his Majesty's Subjects in Nova Scotia have been in the least molested in the enjoyment of their rights and liberties to the full extent, under the present form of Government and that since I have had the honor to be entrusted with the management of the Province affairs, I have done my utmost endeavours to give satisfaction to every person in it. But my Lords it is impossible for me to redress pretended grievances that I have never been informed of nor can I indeed conjecture what reasons could be given to your Lordships by those Petitioners to induce you to think they labour under such great inconveniences from the want of an Assembly. This much I certainly know, that those very persons who were so forward in pushing this matter during Mr. Cornwallis's Government seem now to be entirely of opinion that a House of Representatives in the present posture of affairs instead of obviating the inconveniences complained of would serve only to create heats, animosities and dissension amongst the people at a time when the enemy is as I may say at our doors, and when the whole should join together as one Man for their mutual safety and defence. That there are malevolent and ill designing men who will take occasion to misrepresent things to the prejudice of the Colony and that there are some such in this place I have some reason to conclude these my Lords will be always the same under any Government, not from any particular regard for their Country, or to the advantage and prosperity of the Colony but from views and motives of a very different and perhaps not so disinterested a nature. But that the well disposed part of His Majesty's subjects here should be in the least uneasy under the present form of Government, I have not the least reason to surmise, because they have never signified any thing of it to me; and I dare say, if any of them have joined in the Petition your Lordships make mention of, they have been led into it thro' inadvertency, and the specious pretences of



the persons I have been just now describing but whatever might be their inducement at that time I have the most just grounds to be satisfied that they are now of a quite different way of thinking.

### XIII

#### COUNCIL MINUTES

December 3rd, 1756.

His Excellency then communicated to the Council some proposals which Mr. Chief Justice Belcher had laid before him the last year for calling a House of Representatives and which he had at that time transmitted to their Lordships of the Board of Trade for their consideration. His Excellency also communicated extracts from two letters which he had received from their Lordships on that head, wherein they had directed him to take such measures as he should think most proper for calling such a house, wherefore he desired the Council would give him their opinion and advice thereon.

The Council then proceeded to consider what measures would be most proper to be taken for convening the Assembly, but not coming to any resolution thereon, they adjourned the further consideration thereof to Monday next at Ten of the Clock in the forenoon.

### XIV

#### COUNCIL MINUTES, JANUARY 3rd, 1757.

His Excellency the Governor together with His Majesty's Council having had under mature consideration the necessary and most expedient measures for carrying into Execution those parts of His Majesty's Commission and Instructions which relate to the calling General Assemblies within the province came to the following Resolutions thereon. viz<sup>t</sup>.

That a House of Representatives of the Inhabitants of this Province be the civil Legislature thereof in conjunction with His Majesty's Governor or Commander in Chief for the time being and his Majesty's Council of the said province. The first House to be Elected and Convened in the following manner, and to be Stiled the GENERAL ASSEMBLY viz<sup>t</sup>.

That there shall be Elected for the province at large until the same shall be divided into

Counties.....	12 members
For the Township of Halifax.....	4 Ditto
For the Township of Lunenburg.....	2 Do
For the Township of Dartmouth .....	1 Do
For the Township of Lawrencetown .....	1 Do
For the Township of Annapolis Royal ..	1 Do
For the Township of Cumberland.....	1 Do

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22

That untill the said Townships can be more particularly described the Limits thereof shall be deemed to be as follows viz<sup>t</sup>.

That the Township of HALIFAX comprehend all the Lands lying Southerly of a Line extending from the Westernmost Head of Bedford Bason across to the Northeasterly Head of St. Margarets Bay with all the Islands nearest to said Lands, together with the Islands called Cornwallis's, Webbs and Rous's Islands.

That the Township of LUNENBURG comprehend all the Lands lying between Lahave River, and the Eastermost Head of Mahone Bay, with all the Islands within said Bay, and all the Islands within Mirliguash Bay, and those Islands lying to the Southward of the above Limits.

That the Township of DARTMOUTH comprehend all the Lands lying on the East side of the Harbour of Halifax and Bedford Bason, and extending and bounded Easterly by the Grant to the Proprietors of Lawrence Town and extending from the Northeasterly Head of Bedford Bason into the Country until One hundred Thousand Acres be comprehended.

That the township of LAWRENCE TOWN be bounded on the Ocean according to the Limits of the Grant to the Proprietors and thence under the same Lines to Extend into the Country 'till One hundred Thousand Acres be comprehended.

That the Township of ANNAPOLIS ROYAL be bounded Northerly by the Bay of Fundy and comprehend all the Lands from the Entrance of the Bason to extend up the River as far as the late french Inhabitants have possessed, and all the Lands



on the South side of the Bason and River of ANNAPOLIS, under the same Limits East and West and to Extend Southerly till One hundred Thousand Acres be comprehended.

That the Township of CUMBERLAND in the District of Chignecto, comprehend all the Lands lying between the Bason formerly called BEAUBASSIN, now called CUMBERLAND BASON, and the Bay Verte, and all those Lands lying within Seven Miles of the Southwestward and Northwestward of the Road leading from said Bason to said Bay.

That when Twenty five Qualified Electors shall be Settled at Pisiquid, Minas, Cobequid or any other Townships which may hereafter be Erected, each of the said Townships so Settled shall, for their encouragement, be intitled to send one Representative to the GENERAL ASSEMBLY, and shall likewise have a Right of Voting in the Election of Representatives for the Province at large.

That the House shall always consist of at least Sixteen Members present, besides the Speaker, before they Enter upon Business.

That no Person shall be chosen as a Member of the said House, or shall have a Right of Voting in the Election of any Member of the said House, who shall be a Popish Recusant, or shall be under the Age of Twenty one Years, or who shall not at the time of such Election, be possessed in his own Right, of a Freehold Estate within the District for which he shall be Elected, or shall so Vote, nor shall any Elector have more than one Vote for each Member to be chosen for the Province at large, or for any Township; and that each Freeholder present at such Election, and giving his Vote for one Member for the Province at large, shall be obliged to Vote also for the other Eleven.

That respecting Freeholds which may have been Conveyed by the Sheriff, by virtue of an Execution, the Right of Voting shall remain and be in the Persons from whom the same were Taken in Execution, until the Time of Redemption be elapsed.

That no Non Commissioned Officer or Private Soldier in actual Service, shall have a Right of Voting, by virtue of any Dwelling built upon Sufferance, nor any Possession of Freehold, unless the same be registered to him.

That all the Electors shall, if so required at the Time of the Election, Take the usual State Oaths appointed by Law and declare and Subscribe the Test.

That any Voter shall at the request of any Candidate, be obliged to Take the following Oath, which Oath together with the State Oaths, the Returning Officer is hereby Empowered to administer.

"I A:B: do Swear that I am a Freeholder in the Township of \_\_\_\_\_ in the Province of Nova Scotia, and have Freehold Lands or Hereditaments lying or being at \_\_\_\_\_ within the said Township and that such Freehold Estate hath not been made or granted to me fraudulently on purpose to Qualify me to give my Vote, and that I have not received or had by myself, or any other person whatsoever in Trust for me, or for my use and benefit, directly or indirectly, any Sum or Sums of Money Office, Place or Employment, Gift or Reward or any Promise or Security for any Money, Office Employment or Gift, in order to give my Vote at this Election, and that I have not before been Polled at this Election and that the Place of my Abode is at \_\_\_\_\_."

That a Precept be issued by His Excellency the Governor to the Provost Marshal or Sheriff of the Province, requiring him, by himself or his Deputys, to Summon the Freeholders of the Province to Meet within their respective Districts, at some convenient Place and Time, to be by the said Provost Marshal or one of his Deputies appointed, and of which he or they shall give Twenty days notice, Then and there to Elect (agreable to the Regulations hereby prescribed) such a number of Representatives, as shall in the said Precept be expressed, agreable to the preceding detail.

That (on account of the present rigorous Season) the Precept for Convening the first Assembly be made returnable in Sixty days from the Date thereof, at which Time the Assembly shall meet at such Place as His Excellency the Governor shall appoint in the Precept.

That the Provost Marshal or his Deputy shall be the Returning Officer of the Elections, to be held by him with the Assistance of three of the Freeholders present, to be appointed and Sworn



by the Returning Officer for that purpose, and in case a Scrutiny shall be demanded, the same shall be made by them, and in case of further Contest the same to be determined by the House. the Poll for each Township to be closed at the expiration of Forty eight hours from the Time of its being opened; and for the Province at large the Poll, after four Days from the Time of its being Opened for the Election, shall be Sealed up by the Returning Officer for each Township, and Transmitted to the Provost Marshal by the first Opportunity, that seasonable Notice may be given to the Persons who shall, upon Examination, appear to have been chosen by the greatest number of the said Votes, PROVIDED nevertheless that if the Votes in the Townships of ANNAPOLIS ROYAL and CUMBERLAND for the first Members for the Province at large, shall not be returned Eight Days before the Expiration of the Time limited for returning the Precept, the Provost Marshal shall, in such case, proceed to declare who are the Persons Elected, from the other Votes in his hands.

That the Provost Marshal or his Deputy, shall appoint for each Candidate, such one Person as shall be nominated to him by each Candidate, to be Inspectors of the Returning Officer and his Assistants.

That no Person shall be deemed duly Elected, who shall not have the Votes of a Majority of the Electors present.

That the Names of all Persons Voted for, together with the Names of the Voters, shall at the Time of Voting, be publicly declared and Entered on a Book kept for that purpose.

That in Case of the Absence of any of the Members from the Province, for the Term of Two Months, it shall and may be lawful for the Governor, Lieutenant Governor, or Commander in Chief (if he shall Judge it necessary) to Issue his Precept for the Choice of others in their Stead.

That the Returning Officer shall cause the foregoing Resolution to be publicly read at the Opening of each Meeting for the Elections, and to govern the said Meetings agreeable thereto.

## XV

To the Honourable Robert Monkton Esqr Lieutenant Governor of his Majesty's Province of Nova Scotia & the Honourable the Council of the said Province.

We the Freeholders & Inhabitants of the Town of Halifax Beg leave humbly to Represent; That a considerable Number of us have lately Presented an Address to his Excellency Governour Lawrence Intreating that he would Issue the Writt for calling a house of Representatives before his departure; & shewing the fatal Consequences which might attend the delaying it. As this Address is now in print we need not recite the particulars of it.

To this his Excellency Answered; That he was prevented from Issuing the Writt before his departure as was intended; by a Petition he had received from some of the Inhabitants to put it off for the present: but that nevertheless he had signed it & left it with your Honour, to do with it as you should think proper.

What inducement those few persons could have to sign such a petition, we are at a loss to conceive; but we have too much reason to conclude, that Love for the publick Good had the least share in it. We are also equally strangers to the reasons which prevailed on the Governour to Comply with it.

From your known character Sir, We come now with an assuredness of Success; To lay before you the almost unanimous Desire of the People; that you would immediately Issue the Writt for convening the Representatives. To the reasons given to Governour Lawrence, we could add many other unanswerable arguments, to prove it not only expedient but necessary; but we should think it altogether Needless & indeed an affront, to offer them to your Honour; who are so well acquainted with the English Constitution & who we are persuaded have no private Views to biass your Judgment.

You have on one side Sir a whole Colony openly & almost unanimously Supplicating for the Rights of Englishmen; on the other side an inconsiderable number of weak & ignorant persons, secretly inveigled by the craft of two or three ill-designing men to Request that their narrow interested Views may be attended to, & that you would be deaf to the united Voice of the People.

We hope your Honour will excuse us if we cannot help shewing some indignation when we speak of such a pernicious sett of men who are seeking to raise their own Fortunes upon the ruins of this poor Colony.



We are so thoroughly convinced of your Honours sincere desire, to see this a thriving Settlement; that we presume it will be farr from being disagreeable to you, when we declare; that in takeing this great step towards makeing it so, you will lay the highest obligation on us & all the Inhabitants of Nova Scotia.

Halifax, 25th January, 1757.

## XVI

EXTRACT FROM A LETTER OF THE LORDS OF TRADE  
TO GOVERNOR LAWRENCE, of March 10th, 1757.

We entirely agree in Opinion with you that in the present Situation of things and vexed and harrassed as the Province is by the Hostilities of the French and Indians it will be in vain to attempt to induce hardy and industrious People to leave Possessions which perhaps they may enjoy in peace in other Colonies, to come and settle in a County where they must be exposed to every Distress and Calamity which the most inveterate Enemy living in the Country and knowing every Pass and Corner of it, can subject them to, and therefore We do not desire, nor mean to press this Measure upon you further than the Circumstances of the Province & of the Times will admit of it; It does not however appear to us that the same Reasons do altogether, tho they may in part, operate against the calling an Assembly, concerning which we have given our Opinion so fully, and we hope so explicitly in a former Letter, that no other Difficultys can remain than those which arise from the Obstruction and Embarrassment which such a Measure may give to His Majesty's Service in time of War, and which is a Consideration that will however more or less weigh according to the manner in which the Measure is carried into Execution, for which reason We thought it proper after pointing out to you as clearly as We were able the general light in which this Matter appeared to Us, to leave it to your Discretion to do it in such manner as you should think most proper, list by prescribing any peculiar method We should lay you under Difficulties which our Ignorance of particular Facts would not permit us to foresee; and in this as well as in every other direction contained in our Letter upon this Subject, the principal Point We had in View was to avoid everything that might give you unnecessary Trouble or Embarrassment in the Execution of an Measure which our unprejudiced Judgment suggested to us as absolutely necessary for the Peace, Welfare and Credit of the

Colony, being one of the fundamental Principles upon which it was first established.

After having said thus much with regard to this Point, We cannot but express our Concern that you should have entertained a Suspicion that this Measure arose from any Representation of Grievances sustained or most distant apprehensions that all His Majesty's Subjects had not enjoyed their Rights and Liberties to the full Extent under the present Form of Government; had the Petition mentioned in our Letter contained any such matter, We should not have proceeded upon it without first communicating it to you, but in fact it did not contain such, and was so far from being the Foundation of Our Orders to you, that, We had upon our own Judgment and Knowledge of the thing, come to a final Resolution long before that Petition was presented and only mentioned it as an Additional argument for the measure's taking place; and upon the whole We beg you will rest satisfied that we have an entire Confidence in your Justice and Integrity, of which we have received so Many proofs during the Course of your Administration, and shall at all times be extremely cautious of proposing any Measures which may involve you in any Difficultys unless they shall appear to Us essential to the Welfare of the Province and the Good of His Majesty's Service.

## XVII

EXTRACT FROM A LETTER OF GOVERNOR CHARLES LAWRENCE TO THE LORDS OF TRADE, DATED AT HALIFAX, NOVEMBER 9TH, 1757.

As the calling an Assembly is doubtless a point of great importance to the welfare and prosperity of the Province and a measure about which I have been much more embarrassed than any other that has occurred since I have had the honor to conduct the administration of affairs here I am extremely happy to find by your Lordships letter of the 10th of March last that your Lordships are of opinion with me the same reasons may in part tho' perhaps not altogether, operate against calling an Assembly under the present circumstances of the times and of the Province, as served to obstruct the well peopleing and settling the evacuated and other valuable Lands within it. That those reasons and obstructions did heretofore, and do still subsist was the opinion not only of your Lordships and myself but also of the most knowing of the most substantial and of the truest wellwishers to the



Colony's welfare, that are to be found amongst its inhabitants; of the same opinion were the people of New England whose notions of liberty and of Government your Lordships are too well acquainted with to need any account thereof from me, for when I was amongst them last winter I took every occasion of discovering their sentiments on this subject in order to be well satisfied whether there was any truth in the reports that had been industriously propagated by some evilly disposed persons amongst us, that to the want of a House of Representatives it was principally owing that the evacuated lands were not already settled, the more I enquired into the truth of such reports the better I became convinced that they were without the least foundation. And I am further to observe to your Lordships that no person whatever with whom I have conversed and on whose judgment and advice I could the least rely, have of late considered the measure of calling an assembly of the people, situated and circumstanced as they are at present, and in a state of hostilities with so dangerous and near a neighbour, otherwise than as Chimerical. I have said above that the most substantial of our own Inhabitants have opposed it, and that they have done so may appear by their own memorials begging it might not take place whilst the Province continued in a state of War, knowing of how little use it could be and of what disservice it possibly might be, those who have urged it, have done so, to inflame the minds of the people, who they have much deceived and misled to deprive me of their confidence and regard, and in short to embarrass the affairs of Government, without any other views than those of private advantage, and from no other motives than those of resentment for disappointments in places and employments with which it was not in my power to gratify them. As the uneasiness that has been given on this head has proceeded from scarcely any person that has property in the Province or that has even applied to me for the possession of an Acre of Land within it, I shall pass over the Calumnies that have been spread, without troubling your Lordships further, than just to observe, that had we been infinitely better prepared for such a measure than we truly are, my being called by the Earl of Loudoun to Boston last winter, my being ordered on the expedition against Louisburg this summer, my going to Chignecto when that expedition was dropped and the multiplicity of military affairs in which the safety and the very being of the Colony, have constantly engaged my attention, have rendered the accomplishment of such a measure utterly impracticable for these twelve months past. For these reasons I hope your Lordships cannot

be displeased that it has not been already carried into execution, nor even that if it be deferred till some happy change in the face of American affairs promises more success in an undertaking of so much moment, nevertheless if it should be still your Lordships express pleasure that at all hazards and events an assembly shall absolutely be called without waiting for a favorable alteration in our circumstances, I beg leave to assure your Lordships that I shall without a moments delay after receiving your Lordships commands execute the plan that I formed last winter for that purpose, by the advice and assistance of His Majesty's Council.

## XVIII

JOURNAL OF THE COMMISSIONERS FOR TRADE AND  
PLANTATIONS TUESDAY, JANUARY 31ST 1758

Present:—Earl of Halifax, Mr. Oswald, Mr. Jenyns, Mr. Hamilton, Mr. Sloper.

The minutes of the last day's proceedings were read and signed.

Their lordships pursuant to the preceding minutes took into consideration the memorial of Mr. Paris, agent for the freeholders of Nova Scotia, and the papers referred to therein; and Mr. Paris attending as desired with **NOVA** Mr. Forrester, his counsel, they were called in, together with Mr. Bower, an inhabitant of the said **SCOTIA** province, lately arrived from thence; and Mr. Forrester having opened the nature and effect of the several matters complained of by the said freeholders, and Mr. Bower having been examined touching the alledged declining state of the colony and some particular injury alledged to have been sustained by him from proceedings of the Governor and other officers of government there, which he stated to be arbitrary and illegal, and several depositions made by persons resident in the said province, touching injurys sustained by them by the proceedings of the Governor and his officers, having also been read, Mr. Forrester then moved their lordships that they would be pleased to advise and recommend to his Majesty to issue his Royal Instruction to the Governor and Commander in Chief in Nova Scotia for the time being, that he do forthwith and without delay proceed to call a General Assembly or House of Representatives in that province under such qualifications and regulations as



their lordships shall think fit to offer to his Majesty's consideration.

That with respect to the plan proposed by the Governor and Council for calling an Assembly in their declaration of the 3rd of January, 1757, Mr. Forrester observed that the freeholders are intitled to such an Assembly as other colonies have, namely to have a free Assembly to be elected by themselves; but the proposition is so framed that the Governor really and in substance may nominate more than two thirds of the members.

That the declaration proposes that members should be returned for the province at large 12

For the township of	Halifax	4
	Lunenburg	2
	Dartmouth	1
	Lawrence Town	1
	Annapolis	1
	Cumberland	1
		—
		22

That as to the inhabitants of Lunenburg, they are foreigners, such as Germans, Swiss and French Roman Catholicks; the inhabitants at Lunenburg are more than all the other English inhabitants in the colony; many of them have been there seven years, and therefore under the Act of the 13th of his present Majesty, claim to be intitled to the privilege of subjects; but even freeholders, natural born subjects in their circumstances, it's apprehended ought not yet to vote at all, in electing any members (more especially, not in electing 14 out of the 22 members) because they are upon the foot of poor persons subsisted by charity, indeed by the charity of this nation, though made to believe that they owe it to the Governor's benevolence, so that to let them at present vote for 14 members would be effectually to give the Governor the power of nominating so many himself.

That as to the inhabitants of Lawrence Town, of Annapolis, and of Cumberland, it is proposed that each of these townships (as called) should elect one member for itself, and join in the election of 12 more, for the province at large; even now, while they are so inconsiderable, as that the inhabitants of Cumberland consist of five old serjeants and soldiers, all sutlers to the garrison

there, and subject to military law (for none other was ever heard of in that place); Lawrence Town consists of three sutlers subject to the direction of the proprietors of that tract, and under their influence, and the town decaying every day; and Annapolis is a garrison, of the like sort of inhabitants and a place of no significance to the Crown.

That it is humbly apprehended that the proposing that those three towns, in such circumstances, should send each their own particular member, and should also join in choosing twelve other members for the province at large, manifestly shews, either one or both of the following matters:—

1st That the inhabitants are reduced to a very small number,  
or

2ndly That the Governor desires to have the nomination of the greater part of the Assembly.

That as to the qualification and disqualification of the electors and elected, one of the qualifications of the electors and elected is the having a freehold in the place, where voted for, or where elected; but the value of such freehold in either person is not at all limited; so that persons of the very lowest condition, if they have but any such freehold, of ever so mean a value, may elect or be elected, which is conceived not to be agreeable to the British Constitution, nor to the practice in other colonies, and whereby the members may possibly consist of the lowest and most unfit persons to the exclusion of those of the best property and substance; and it is submitted how reasonable or proper it may be to confine the member's qualification to a freehold in that particular district, for which he is to be chosen, since a more proper person might be chosen, who has a proper freehold though not in that district. It is therefore humbly submitted whether the yearly value of the freehold to intitle a freeholder to elect, and the yearly value of the member's freehold to make him capable of being elected should not be ascertained, and whether the member's having a freehold of such value in any part of the province is not a reasonable and proper qualification.

That the declaration excludes non-commissioned officers and private soldiers from voting, by virtue of any dwelling built upon sufferance or by virtue of any possession of freehold, unless the same be registered to him, but it does not exclude even such from being elected members.



That under this head it may be proper to pray that no soldier may at any rate be allowed to vote, there being 3,000 soldiers there, and the inhabitants not more than half that number, so that if soldiers were permitted to vote, and any the smallest freehold (were it but the hundredth part of an acre) was to be a qualification, the other inhabitants can have but little hopes of being represented.

That the declaration provides that the voters, if required, should take the usual State oaths, and declare and subscribe the Test, and take the oath therein mentioned, but, which is very wonderfull, requires no such matter of the candidates or persons to be elected.

That the declaration provided that the precept for convening the first Assembly should be made returnable in sixty days, and the reason given for it in express words is, "On account of the present rigorous season," from whence persons of plain understanding imagined the precept was to issue instantly during the then present, rigorous season. It is now thirteen months since the date of that declaration, and all the seasons of the year have succeeded, but the precept not issued.

That the freeholders rest assured that his most sacred Majesty and the Lords of Trade intended they should have an Assembly, not in name only, but in reality, to be freely elected by the persons of property settled there, and not to be either directly or consequentially nominated by the Governor or elected by the troops, and are perfectly satisfied that their lordships know what is best and most fit for the service of the province and will advise the Assembly to be constituted under such regulations as to answer his Majesty's most gracious intentions . . .

Mr. Forrester having nothing further to offer he withdrew, and their lordships after some time spent in the consideration of this affair resolved to take it into further consideration on Friday next, the 3rd instant, and the Secretary was ordered to give notice thereof to Mr. Paris, and also to Mr. Cotterell, Secretary of the province of Nova Scotia, now in England . . . .

## XIX

JOURNAL OF THE COMMISSIONERS FOR TRADE  
AND PLANTATIONS

Friday, February 3, 1758.

Present:—Earl of Halifax, Mr. Oswald, Mr. Pelham, Mr. Jenyns.

The minutes of the last day's proceedings were read and signed.

Their lordships pursuant to the minutes of the 31st of last month, took into further consideration the petition of Mr. Paris, agent for the freeholders in Nova Scotia, and the papers presented therewith; and the Secretary having reported to their lordships several precedents of **NOVA** complaints made of mal-administration and oppression in the colonies, and also the proceedings had and orders given, their lordships after some time spent in the consideration thereof, and of what had been proposed by the petitioner's counsel, ordered Mr. Paris who was attending without to be called in.

Their lordships then observed to Mr. Paris that it appeared to them that his petition consisted of two parts;

1st A representation of the necessity and expediency of having an Assembly or House of Representatives in Nova Scotia.

2nd Complaint against the Governor and other officers of government there for mal-administration and oppression.

That with respect to the first point, their lordships should give directions to the Governor forthwith to call an Assembly or House of Representatives in such manner as should appear to them to be best adapted to the situation and circumstances of the colony.

With respect to the complaints against the Governor and other officers of government, their lordships observed that the papers annexed to the petition were of such a nature, and the charges contained in them were so blended together and inter-



mixed with matter which had no relation whatever to any complaint against any particular person that they would not be admitted as articles of complaint, whereon the Board could found any orders or proceedings, and therefore it would be necessary that all such matter, contained in the petition and papers annexed as has no relation to any fact properly chargeable as matter of complaint against the said Governor and other officers, should be drawn out therefrom; and also the several charges against each particular officer likewise drawn out separately with the particular proofs upon which such charges are founded, in order that the Board might transmit to each of the persons complained of their particular parts only which relate to such person for his answer and defence, with directions that the complainants or their agents as well as the persons complained of or their agents should have free liberty to take depositions and examine witnesses before a proper magistrate touching the matters complained of in such manner, and under such regulations as have usually been practised in cases of the like kind, all which directions Mr. Paris said he would endeavour to comply with, and then he withdrew.

Mr. Cotterell, Secretary of the province of Nova Scotia, attending without pursuant to notice given him by the Secretary he was called in, and the petition of Mr. Paris and the papers annexed to it having been read to him, he withdrew.

## XX

JOURNAL OF THE COMMISSIONERS FOR TRADE  
AND PLANTATIONS

Tuesday, February 7, 1758

Present:—Earl of Halifax, Mr. Oswald, Mr. Jenyns, Mr. Sloper.

The minutes of the last day's proceedings were read and signed.

Read a petition of Ferdinando John Paris, gentleman, agent for the freeholders in Nova Scotia, setting forth that upon consideration of what had been proposed by the Board at their last meeting respecting the complaints against the Governor and other officers of government in Nova Scotia, he did not think himself authorized to draw out any particular charge against any particular person from the paper as transmitted to him

by the said freeholders, and annexed to his former petition, and therefore prayed the Board to give such directions upon the said papers as had been before prayed for by him.

Their lordships upon consideration of the said petitions and papers were of opinion that they were of such a nature that they could not admit them as regular articles of complaint against any person whatever, so as to ground any orders or proceedings thereupon, but when the persons who alledge themselves to be aggrieved by the said Governor and other officers shall think proper to exhibit in a regular manner articles of complaint against them supported by proper proofs, or shall shew that they have been denied the means of obtaining such proofs, the Board will receive the same and take such measures thereupon as have usually been taken in cases of the like nature; and Mr. Paris attending without was called in, and being acquainted with their lordship's resolutions upon the matter he declared himself satisfied therewith and then withdrew.

Their lordships then took into consideration the letter and papers from Mr. Lawrence, Governor of Nova Scotia, mentioned in the minutes of the 20th of January last, and after some time spent therein, the draught of a letter to him in answer thereto was prepared, agreed to, transcribed and signed.

## XXI

### EXCERPT FROM A LETTER OF THE LORDS OF TRADE TO GOVERNOR LAWRENCE OF FEBRUARY 7TH, 1758.

We have fully considered that part of your Letter, which relates to the calling an Assembly, and also the Plan for that purpose, contained in the Minutes of the Council transmitted with it; and having so often and so fully repeated to you Our sense and Opinion of the Propriety &c Necessity of this Measure's taking place, it only now remains for us to direct its being carried into immediate execution; that His Majesty's Subjects (great part of whom are alleged to have quitted the Province on account of the great Discontent prevailing for want of an Assembly) may no longer be deprived of that Privilege, which was promised to them by His Majesty, when the Settlement of this Colony was first undertaken, and was one of the Conditions, upon which they accepted the Proposals then made.



We are sensible that the Execution of this Measure may in the present situation of the Colony be attended with many Difficulties, and possibly may in its consequences, in some respects interfere with, and probably embarrass His Majesty's Service; but without regard to these Considerations, or to what may be the opinion of individuals with respect to this measure, we think it of indispensable Necessity, that it should be immediately carried into execution.

We approve in general that part of your Plan, which establishes Townships, and ascertains their Limits, as corresponding with the Plan laid down in the Instructions given to Mr. Cornwallis at the first Settlement of the Colony; but We do not think it adviseable, that any of those Townships, which has not fifty settled Families, should be allowed to send Representatives to the Assembly; and therefore we would propose, that for the present those only, which have that number of settled Families, should have that Privilege, & that the rest of the Members, computing the whole at twenty two, should be elected for the Province at large considered as one County, according to the Plan agreed upon; but that whenever any of these Townships, which are now established, or any others which may be hereafter established, shall contain fifty settled Families, they shall be entitled to a Writ for electing two Representatives, and the Number of the Members for the whole Province at large, considered as one County, shall be diminished in proportion.

As to the other parts of your Plan, they do not appear to Us liable to Objection, excepting only that part which establishes the Quorum of the Assembly, and fixes it at seventeen, which We apprehend to be too great a proportion of the whole; and that it ought not at the most to exceed one half of the whole number, which is more agreeable to what has been judged to be proper in cases of other American Assemblies; whose great Inconveniencies have been found to result from the Quorum of the Assembly being too great a proportion of the whole.

With respect to the time it may be proper to fix for the Return of the Writs, we could wish that you should conform yourself to what has been the general Rule in cases of the like kind in other Colonies, so far as the Situation and Circumstances of Nova Scotia will admit of it. What this Rule has been we are not at present sufficiently apprized; but of which you will be able to inform yourself from the many Persons now in Nova

Scotia, who have come from other Colonies, and are doubtless well acquainted with what has been the Custom in this case: But whatever this Rule may be, or however short the Term( and We apprehend, the shorter it is, the better, provided it leaves sufficient time for the due Execution of the Writs,) no great Inconveniencies can arise from it, because it will be in your Power, whatever day may be fixed by the Writs for the Assembly's meeting, to postpone it to some further day by a Proclamation of Prorogue, in case you shall find that it will interfere with any particular Services, which yourself or the Lieut. Governor may be employed in, and which must necessarily prevent their proceeding upon Business.

## XXII

## COUNCIL MINUTES, MAY 20TH. 1758.

His Excellency having communicated the Council an Extract of a Letter to him from their Lordships of the Board of Trade dated February 7th, 1758 relative to the Plan framed by the Governor and Council on the 3rd. day of January 1757, and transmitted to their Lordships by the Governor for carrying into Execution His Majesty's Instructions upon calling General Assemblies within the Province, Signifying their Lordships approbation, which being Considered the Council came to the following Resolution thereon viz That the said Plan with the Amendments proposed by their Lordships shall be forthwith carried into Execution and Published in Form as follows vizt.

His Excellency the Governor, together with His Majestys Council having had under mature consideration the necessary and most expedient measures for carrying into Execution those Parts of His Majestys Commission and Instructions which relate to the Calling of General Assemblies within the Province, came to the following Resolutions thereon vizt.

That a House of Representatives of the Inhabitants of this Province be the Civil Legislature thereof in Conjunction with His Majestys Governor or Commander in Chief for the time being, and His Majestys Council of the said Province. The first House to be Elected and Convened in the following manner, and to be stiled the General Assembly viz



That there shall be Elected for the Province at large until the same shall be divided into Counties Sixteen members, For the Township of Halifax Four, for the Township of Lunenburg, Two.

That until the said Townships can be more particularly described the Limits thereof shall be deemed to be as follows vizt.

That the Township of Halifax comprehend all the Lands lying Southerly of a Line extending from the Westernmost Head of Bedford Bason across to the Northeasterly Head of St. Margarets Bay, with all the Islands nearest to said Lands together with the Islands called Cornwallis's, Webbs and Rouss Islands.

That the Township of Lunenburg comprehend all the Lands lying between Lahave River and the Easternmost Head of Mahone Bay, with all the Islands within said Bay, and all the Islands within Marliguash Bay, and those Islands lying to the Southward of the above Limits.

That when Fifty qualified Electors shall be settled at Pisquid, Minas, Cobequid or any other Townships which may hereafter be Erected each of the said Townships so settled shall for their Encouragement, be entitled to send two Representatives to the General Assembly, and shall likewise have a Right of Voting in the Election of Representatives for the Province at Large.

That the House shall always consist of at least Eleven members present besides the Speaker before they enter upon Business.

That no person shall be chosen as a Member of the said House or shall have a right of Voting in the Election of any member of said House, who shall be a Popish Recusant or shall be under the age of Twenty one years or who shall not at the time of such Election be possessed in his own right of a Freehold Estate within the District for which he shall be elected or shall so vote, nor shall any Electors have more than one vote for each member to be chosen for the province at large or for any township, and that each freeholder present at such Election and giving his vote for one member for the province at large, shall be obliged to vote also for the other fifteen.

That respecting freeholds which may have been conveyed by the Sherriff by virtue of an Execution, the right of voting shall remain and be in the persons from whom the same were taken in Execution until the time of Redemption be elapsed.

That no noncommissioned officer or private soldier in actual service shall have a right of voting by virtue of any dwelling built upon sufferance nor any possession of freehold unless the same be registered to him.

That all the Electors shall if so required at the time of the Election take the usual state Oaths appointed by Law and Doctare and Subscribe the Test. That any Voter shall at the request of any Candidate be obliged to take the following Oath, which Oath together with the state Oaths the returning officer is hereby empowered to administer.

"I A. B. do swear that I am a freeholder in the County of \_\_\_\_\_ in the Province of Nova Scotia and have freehold lands or hereditaments lying or being at \_\_\_\_\_ within the said Township and that such freehold Estate hath not been made or granted to me fraudulently on purpose to qualify me to give my vote and that I have not received or had by myself or any person whatsoever in Trust for me or for my use and benefit directly or indirectly any sum or sums of money office place or emolument gift or reward, or any promise or security for any money office emolument or gift in order to give my vote at this Election, and that I have not before been polled at this Election and that the place of my abode is at \_\_\_\_\_"

That a precept be issued by His Excellency the Governor to the provost Marshall or Sheriff of the Province requiring him by himself or his Deputies to summon the freeholders of the province to meet within their respective districts at some convenient place and time to bely the said Provost Marshall or one of his Deputies appointed, and of which he or they shall give Twenty days notice then and there to elect (agreeable to the Regulations hereby prescribed) such a number of representatives as shall in the said precept be expressed agreeable to the preceding detail.

That the precept for convening the first Assembly be made returnable on the second day of October next.



That the Provost Marshall or His Deputy shall be the Returning officer of the Elections to be held by him with the assistance of Three of the freeholders present to be appointed and sworn by the returning officer for that purpose, and in case a Secretary shall be demanded the same shall be made by them and in case of further contest the same to be determined by the House. The poll for each Township to be closed at the expiration of forty eight hours from the time of it being opened; and for the province at large the poll after four days from the time of its being opened for the election shall be sealed up by the Returning officer for each Township and transmitted to the Provost Marshall by the first opportunity that seasonable notice may be given to the persons who upon examination appear to have been chosen by the greatest number of said Voters.

*Provided* nevertheless that if the Votes in the Townships of Annapolis Royal and Cumberland for the first members for the province at large shall not be returned Eight days before the expiration of the time limited for returning the precept the provost Marshall shall in such case proceed to declare who are the persons elected for the other votes in his hands.

That the Provost Marshall or his Deputy shall appoint for each candidate such one person as shall be nominated to him by each Candidate to be Inspectors of the Returning officer and his assistants.

That no person shall be deemed duly elected who shall not have the votes of a majority of the electors present.

That the names of all persons voted for together with the names of the voters shall at the time of voting be publicly declared and entered on a Book kept for that purpose.

That in case of the absence of any of the members from the Province for the term of Two months it shall and may be lawful for the Governor, Lieutenant Governor or Commander in Chief (if he shall judge it necessary) to issue his precept for the choice of others in their stead.

That the Returning officer shall cause the foregoing Resolution to be publicly read at the opening of each meeting for the Election and to govern the said meetings agreeable thereto.

The Council did likewise resolve and order that it be minuted on the Council Records that the reasons inducing them to protract the time for convening the first Assembly to so distant a period were that His Excellency the Governor and the Lieutenant Governor were both immediately to leave the Province to go on the expedition against Louisbourg and that the time appointed will be more convenient for the Inhabitants than at present.

## XXIII

## LUNENBURG POLL BOOK FOR THE ELECTION OF 1758.

You Swear that you'll faithfully & Impartially Assist me  
as returning Officer, and with all your Power prevent  
Confution and fraud

So help you God

Lett A N<sup>o</sup> 25

Middle Range

L. John.

Town      The Name of the Candidate to gather [together] with  
the Names of the Voters for said Can<sup>ds</sup> this 31st day  
of July 1758

Philip Knaut }  
Alex<sup>d</sup>. Kedy }      Candidates

Gotlieb Seidler		Ludwig Spindler	Do
Frid. <sup>ch</sup> Arenberg	Do	Pierre Launer	Do
John Lonis	Do	Andreas Young	Do
Henr. Claessen	Do	Asmus Thiel	Do
John Simon	Do	Jacob Sporry	Do
Godf. Terple	Do	Adam Pieler	Do
Jacob Moser	Do	Jacob Tanner	Do
Jacob Smith	Do	Peter Wambold	Do
Frid. <sup>ch</sup> Weile	Do	Martin Kolbach	Do
Conrd. Ramichen	Do	John Rehfus	Do
Anton Treber	Do	Paul Anshutz	Do
Martin Usler	Do	Jacob Phaffhauser	Do
Casp. Schaufferberger	Do	Caspar Lary	Do
John Young	Do	28Conrd. Hatt	Do

Seb: Zouberbuhler & }  
P. Knaut }      Cand<sup>s</sup>



Louis Beloud		Joseph Lay	Do
Guillaume Rosty	Do	Ben West	Do
Chr <sup>s</sup> . Rosty	Do	Jean Mange	Do
Mich <sup>el</sup> Lay	Do	Ad: Wiederhold	Do 8

S. Zouberbuhler & } Cand<sup>s</sup>  
J. Creighton }

Bruin Romkies 1

Seb: Zouberbuhler & } Cand<sup>s</sup>  
Josh. Mauger }

Jo. Dorrey	Do	Thomas Little John	Do
Edwarth Smith	Do 4	D. C. Jessen	Do

P. Knaut & } Cand<sup>s</sup>  
P. Anshutz }

Gelle Gertzens 2 Anton Coch

Sebas<sup>t</sup>. Zouberbuhler & } Cand<sup>s</sup>.  
Alex.<sup>d</sup> Kedy }

Joseph Howe	Do	John Gammon	Do
Jo Creighton	Do	Will <sup>m</sup> Grant	Do
Jo. Turner	Do	John Padnell	Do
Jo. Crook	Do	J. B. Morreau	Do
Ref. Nesson	Do	John Cunningham	Do
Wil <sup>m</sup> White	Do	Jo. Phillips	Do 12

Jo<sup>s</sup>. Mauger & } Can.  
Alex. Kedy }

Seb. Zouberbuhler 1

S. Zouberbuhler & } Cand.  
Leon: Rudolff }

Alex. Kedy 1

Jos. Mauger & }  
Alex. Kedy }

Geo: Fancy 1

Lunenburg 31st July 1758

An Account of Candidates which have put up for to Represent the Town of Lunenburg

	No. of Votes
Sebastian Zouerbuhler } Esqrs	26
John Creighton	1
Majr. Leo <sup>d</sup> Chris <sup>t</sup> Rudolff	1
Mr. Philip Knaut	38
Mr. Alexander Kedy	42
Mr. Joshua Mauger	6
Mr. Paul Anshutz	2
	—
	116

#### XXIV

EXTRACT FROM A LETTER OF GOVERNOR LAWRENCE TO THE LORDS OF TRADE, dated September 26th, 1758

The last which I have had the honor of writing to your Lordships, was of the 22nd of May, just before my embarking for Cape Breton, with which I transmitted to your Lordships the resolutions taken by me and the Council here, in consequence of the final instructions received from you in regard to the calling an house of representatives in this province.

I have now the honour to acquaint your lordships further on that head, that as I found General Amherst had, upon the reduction of Louisbourg appointed Colonel Monckton to command an Expedition into St. John's River and judging it to be highly expedient that either the Gov<sup>r</sup> or the L<sup>t</sup> Gov<sup>r</sup> should be present at the first meeting of the Assembly I obtained the General's leave to return to this province, for that purpose on my way to the Continent where I am to join the Forces as soon as possible.

As the day fixed for the meeting of the Assembly draws nigh, I hope I may be able to dispatch such business with them as may be necessary for the present, without too much loss of time in rejoining the Army as directed by the General the principal point which I apprehend will be necessary (after the Forms requisite to be attended to upon their first coming together) is



that of a sanction being given to what the Governors with the Council have hitherto done here in a legislative way, and then appointing a committee of both Houses to prepare drafts of such laws as may be necessary for the future good Government of the Province, to be passed, upon mine or the Lieut. Governor's return to this place.

I hope I shall not find in any of them a disposition to embarrass or obstruct his Majesty's service or to dispute the Royal prerogative, though I observe that too many of the Members chosen are such as have not been the most remarkable for promoting unity or obedience to His Majesty's Government here, or, indeed that have the most natural attachments to the Province.

I shall by all opportunities acquaint your Lordships of our proceedings, and hope they may be perfectly agreeable to your constant paternal concern for the Colony.

## XXV

FIRST MEETINGS OF THE FIRST CANADIAN HOUSE  
OF ASSEMBLY

Province of Nova Scotia  
House of Assembly  
Halifax Monday October 2<sup>d</sup> 1758

Joseph Gerrish	}	Esquires
Robert Saunderson		
Henry Newton		
William Foye		
William Nesbitt		
Joseph Rundel		
Jonathan Binney	}	Gent <sup>n</sup> .
Henry Ferguson		
George Suckling		
John Burbidge		

Robert Campbell	}	The members meet Gent <sup>n</sup> .
William Pantree		
Joseph Fairbanks		
Philip Hammond		
John Fillis		
Lambert Folkers		
Philip Knaut		
William Best		
Alexander Kedie		

Met at the Court House pursuant to a Summons from the Provost Marshall acquainting them that they were duly elected, and chose William Nesbitt Henry Newton and Joseph Rundell to wait on the Governor with a message that they were assembled at the Court House and were ready to enter on Business; and they were answered that he would send down two Members of the Council to swear them; accordingly the Honorable Benjamin Green and Charles Morris Esqrs came to the Court House and administered the Oath to the aforementioned and they all made and Subscribed the Declaration, after which the House received a Message that His Excellency would meet the Assembly at his own House pursuant to which they waited on His Excellency who was then in Council where he directed them to proceed to the Choice of a Speaker, upon which they went down and chose Robert Sanderson Esq for their Speaker and returned to acquaint His Excellency therewith who approved of the choice they made and was pleased to make the following speech—

Gentlemen of the Council and House of Representatives  
His Majesty having been most graciously pleased by His Royal Instructions to his Governors of this province to direct the calling an Assembly of the Freeholders to act in conjunction with His Governors and Council as the Legislative Authority when such a Measure should be found essential to his service.

I am to assure you that it is with particular pleasure I now meet you Convened in that Capacity, in Consequence of a plan some time since formed here for that purpose, with the advice and assistance of His Majesty's Council and by me Transmitted to the Lord Commissioners for Trade and plantations to be laid before His Majesty for his approbation.

Gentlemen of the House of Representatives

I entertain the most sanguine Hopes that you are come together unanimously disposed to promote the service of the Crown, or in other words, the real welfare and prosperity of the people whom you have the Honour to represent, in every point to the utmost of your Authority and Capacity—

This I presume you will conceive is justly to be expected not only from the immediate Regard due to the Civil Rights and Interests of your constituents but likewise from the unspeakable obligations you are under to demonstrate in their Behalf your



Dutiful sense of His Majestys paternal concern for the prosperity and Security of these His Subjects in those distinguishing Marks of His Royal Favour and protection which we have from time to time so happily experienced in the Fleets and Armies sent out for our immediate preservation when we were under the most eminent Danger of being swallowed up by a Merciless Enemy, also in the ample supplies of Money for so many years annually Granted for the support and Encouragement of this Infant Colony; and moreover Still in the Continuance of His Majestys Royal Bounty for that purpose, when from the seeming Inclination of the Inhabitants to have an Assembly convened some time since, it might have been presumed, and indeed by an Article of His Majestys Instructions (which I shall order to be laid before you) it has been judged that the Colony was become Capable of providing for the necessary support of Government here as has been usual in all his Majestys other Merican Dominions

Gentlemen of Both Houses

As my Military occupation requires my attendance as early as possible, upon the Commander in Chief of the Forces to the Westward and as the Lieutenant Governor is now necessarily employed, and will be for some time to come, upon an Enterprize of Importance in a distant part of the province there is not at present an Opportunity of entering upon such particulars as might otherwise call for your attention; I am therefore earnestly to Recommend to your Serious consideration the Expedency or rather necessity of Unanimity and dispatch in the Confirmation of such acts or Resolutions of a Legislative Nature, as the Governors and Council under His Majestys Royal Instructions have found expedient, before the Forming of an Assembly and indispensibly necessary for promoting the welfare and peaceable Government of this people.

"You may depend upon it, Gentlemen, on my return to the Government you will find me, perfectly disposed to concur with you in enacting such further Laws, making such amendments to the present ones, and Establishing such other Regulations as shall appear upon more mature Deliberation to be consistent with the Honour and Dignity of the Crown and conducive to the lasting Happiness of His Majestys Subjects where I have the Honour to preside.

CHAS. LAWRENCE.

The House went down and proceeded to the Choice of Officers, and voted that Mr. David Lloyd be clerk of the Assembly.

Voted that William Reynolds be Doorkeeper, and have five shillings a day for his attendance.

Voted that John Callbeck be messenger to the House and have three shillings a day for his attendance.

The Question being put whether any money should be voted to the Members of the House for their service during the present sessions—unanimously resolved in the negative and that they would all serve without reward this Session.

A motion being made by Mr. Suckling for leave to bring in a Bill to Establish the authority of the House.

Voted that Mr. Suckling bring in the Bill on Wednesday morning.

Voted that a committee viz<sup>t</sup> Mr. Nesbit, Mr. Newton, Mr. Gerrish, Mr. Foye, Mr. Burbidge should prepare an address in answer to His Excellency's Speech by Ten o'clock tomorrow morning.

Thence adjourned till tomorrow morning ten o'clock.

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Tuesday October 3<sup>d</sup> 1758

The Committee appointed to prepare an Address in answer to His Excellency's Speech Reported to the House that they had prepared the same which being read was approved of.

Voted that a message be sent by a Committee to desire His Excellency will be pleased to order that all the Resolutions of His Majestys Governors and Council heretofore made and passed may be laid before the House, and also the Collection of the English Statutes.

The Clerk of the Council came down with a Message from His Excellency that he was ready to receive any message from the Assembly.



A Committee viz<sup>t</sup> Mr. Gerrish, Mr. Newton and Mr. Suckling were directed to carry a Message to His Excellency, that the House is ready to attend him with an Address, To which His Excellency answered that he was ready to receive it which being Reported they accordingly waited upon His Excellency with their address which was read by Mr. Speaker as follows:

To His Excellency

Charles Lawrence Esq.

Captain General and Governor in Chief and over His Majestys province of Nova Scotia or Acadia in America Vice Admiral of the same &c &c

The Humble address of the House of Representatives met in General Assembly.

May it please your Excellency—

“We his Majestys most Dutiful and Loyal subjects of the House of Representatives, having taken into consideration Your Excellency’s Speech delivered upon the opening the first General Assembly beg leave to Return your Excellency our thanks for the particular pleasure you express in meeting us convened as the Representatives of the Freeholders of this province to act in conjunction with His Majestys Governor and Council as the Legislative Authority.

We assure your Excellency that we are come together unanimously disposed to promote the service of the Crown, and the real welfare and prosperity of the people whom we represent, in every point to the utmost of our Authority and Capacity, which we conceive may justly be expected from us not only from the immediate regard due to the Civil Rights and Interests of our Constituents, but likewise from the unspeakable obligations we are under to demonstrate in their behalf our Dutiful sense of His Majestys paternal concern for the prosperity and Security of His Subjects, in general, and for the many distinguishing marks of his Royal Favour protection and Bounty to this Infant Colony, in particular having so happily experienced the same in the means directed by his Majesty for our immediate preservation when we were under the most eminent Danger of being swallowed up by a most merciless enemy also in the ample supplies of money for many years annually granted for the support and encouragement of this Infant Colony, and not only in the continuance of His

Majestys Royal Bounty for that purpose, But also for the Happiness and prosperity which we conceive will with the Blessing of the Almighty, flow from His Majestys Royal Favour to the Infant Colony, in directing the Calling a General Assembly within the same from minds deeply impressed with a sense of the Greatest Loyalty and Gratitude to the best of Kings every thing may justly be expected to answer His Majestys Royal Intentions in directing the calling of a General Assembly in this province which the present low circumstances of the Colony and our authority and Capacity are able to provide.

We beg leave to assure your Excellency in particular that it is a great concern to us that your Military occupation requires your attendance so soon upon the Commander in Chief to the Westward, as the Lieutenant Governor is necessarily absent in a distant part of this province: we are fully sensible of the Great necessity of a due consideration of such acts or Resolutions of a Legislative nature as the Governors and Councils under His Majestys Royal Instructions have found expedient before the forming an assembly; The work is great and will of course take up much time to digest into due method to answer your Excellency's Intentions in recommending the same to our speedy consideration, but in the mean while we shall as well in that as in everything else that may require our consideration (with your Excellency's assistance) disinterestedly endeavour to promote the welfare and peaceable Government of His Majestys people in this province and the future ease and assistance of your Excellency, and we doubt not on your Excellency's return to your Government we shall find you perfectly disposed to concur with us in inacting such further Laws, and establishing such other regulations as shall appear upon more mature deliberation to be consistent with the Honour and Dignity of the Crown and conducive to the last happiness of His Majestys Subjects of this province.

ROBT. SANDERSON, Speaker.

After which His Excellency acquainted the House that he would return his answer tomorrow morning.

Then adjourned till tomorrow morning Ten o'clock.



Wednesday October 4<sup>th</sup> 1758

The Clerk of the Council came down with a message from his Excellency that he was in Council and directed the attendance of the House, accordingly they attended His Excellency, who delivered his answer to the address of both Houses as follows:

Gentlemen of the Council and House of Representatives I have the highest sense of the testimony you now give me of your attachment to the Crown, your zeal for the publick welfare and your esteem for me. I cannot therefore, but rest perfectly satisfied that in your different stations Gentlemen, you will exert your utmost abilities for the accomplishment of His Majestys most gracious designs of making us a flourishing and happy people towards the attainment of which, be assured, you may with the Greatest Confidence, rely and depend upon my constant concurrence and assistance.

CHAS. LAWRENCE.

A Message came down from the Council by their Clerk to know if the House would admit a Member of the Council to come down with a Message, which was assented to, and the Honourable Charles Morris Esq came and delivered his Message that they desired a Free conference with the whole House in the assembly room.

Pursuant to the Resolution of the second Instant Mr. Suckling brought in a Bill for Establishing the authority of the House, which being read three times was approved of with the amendments ingrossed and ordered to be sent up for concurrence.

A motion was then made that the vote of the third instant should be put in Execution, viz<sup>t</sup> to send a message to His Excellency that he would be pleased to order that all the Resolutions of His Majestys Governors and Council heretofore made, may be laid before the House; as also the English Statutes, in the possession of the Government, and accordingly Mr. Suckling, Mr. Rundel and Mr. Burbidge were named a committee to go with the same, the Governor answered, that he had ordered the Clerk of the Council to lay the Resolutions of Council before them, the Committee also acquainted the Council that the House would meet them agreeable to their request.

The house having formed themselves into a Committee of the whole House chose William Nesbitt, Chairman and received the Council viz<sup>t</sup> The Honourable Jonathan Belcher, Benjamin Green, John Collier, and Charles Morris Esq. who having taken their seats, Mr. Belcher was chose Chairman of the whole Committee and a conference being had and reported the House came to no resolutions thereon.

Then adjourned till tomorrow morning Nine o'clock.

## XXVI

EXTRACT FROM A LETTER OF GOVERNOR LAWRENCE  
TO THE LORDS OF TRADE, dated December 26th, 1758

I have now the honor to acquaint your Lordships, that the Assembly met according to appointment on the 2nd of October, and passed a number of laws, a list of which are enclosed and I have reason to hope from their proceedings hitherto, that we shall get through the whole business in good time, and with less altercation than (from the seeming disposition of the people) I was heretofore apprehensive of whenever the Session is closed I shall take particular care that your Lordships have fair copies of the laws at large, under the Seal of the Province as directed by His Majesty's Instructions together, with transcripts of the Journal and Proceedings of the Council and Assembly during their session.

In the mean time I flatter myself that your Lordships in consideration of our being new in this business, which calls for our best care and attention, will be good enough to make allowances for the time it will necessarily take up, and not conceive, that a moment has been lost or mispent in transacting the Public affairs, tho' the Session when finished should appear to be stretched beyond the ordinary period of other Assemblies, where the current of business has been long regulated and established.