

W. S. S. S.

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The Gazette.

By His Excellency Major-General GEORGE STRACEY SMYTH, Lieutenant-Governor and Commander-in-Chief of the Province of New-Brunswick, &c. &c. &c.
G. S. SMYTH.

A PROCLAMATION.
WHEREAS the General Assembly of this Province stands prorogued to Wednesday the fifth of this instant June: I have thought fit further to prorogue the said General Assembly, and the same is hereby further prorogued to the first Wednesday in September next ensuing.

GIVEN under my Hand and Seal at Fredericton, the third day of June, in the year of our Lord one thousand eight hundred and twenty-two, and in the third year of His Majesty's Reign.
By His Excellency's Command.
Wm. F. ODELL, Register.

Secretary's Office, 13th April, 1822.
Representation having been made that sundry Persons are in the practice of burning Charcoal on the Common and Public Grounds in Fredericton—this practice is strictly forbidden by order of The Lieut. Governor in Council—And any Person found so offending hereafter, will be immediately prosecuted.

NEW-BRUNSWICK,
In Chancery,
2d April, 1822.
Henry Smith, Administrator of
James Bell, deceased,
and
Frederick Depyster, and others.

FORASMUCH as the Court was this day informed by Mr. Bliss, Counsel for the Complainant, that the Bill in this cause was filed on the twenty-sixth day of April last, as by the Certificate of his Clerk in Court appears, and Process of Subpoena, taken out against the said Defendant, Frederick Depyster, but that the said Defendant now resides without the limits of this Province, or doth otherwise abscond to avoid being served with such Process, as by affidavit appears: And the said Certificate and Affidavit being read, and the truth of the above allegation being made out to the satisfaction of the Court,

It is ordered, that the said Defendant, Frederick Depyster, do appear to the Complainant's Bill, on or before the ninth day of July next.
By the Court,
D. L. ROBINSON, Register.

NEW-BRUNSWICK,
In Chancery,
The twenty-sixth day of February, in the 3d Year of the reign of King George the Fourth, A. D. 1822.
Stephen Wasie De Blois, Administrator of George De Blois, Junr. deceased Intestate, Complainant,
and
Gratiana Wilhelmina Henrietta Zephalinda Sophia Lyons, Heiress of Arthur Gould deceased, Defendant.

FORASMUCH as the Court was this day informed by Mr. Chipman, of Counsel for the Plaintiff, that the Plaintiff on the twenty-fourth day of April, one thousand eight hundred and twenty-one, filed his Bill against the Defendant, as by the Certificate of the Clerk in Court appears, and took out Process of Subpoena, returnable on the third Tuesday in May then next, requiring the said Defendant to appear to and answer the same; but that the above named Arthur Gould died at Halifax in the Province of Nova Scotia, in the year of our Lord one thousand seven hundred and ninety-two, having at that time absented himself for some years from this Province, and that the said Defendant resides without the limits of this Province: And the said Certificate and

Affidavit being read, and the truth of the above allegation being made out to the satisfaction of the said Court,

It is ordered, that the Defendant appear to the Plaintiff's Bill on or before the first day of July next.

By the Court,
Wm. F. ODELL, Register.

THE CHURCHMAN'S PROFESSION OF HIS FAITH AND PRACTICE.

(Continued.)

How thankful then should I be for this inestimable privilege, that I live in a country where I may openly profess the faith by which I hope to be saved, and, in testimony of that profession, take my share in the religious worship of the Church to which I belong; that I may also partake in the blessings and benefits of that divine institution? The enjoyment of this comfortable privilege may sometimes expose me to a little bodily trouble, or worldly inconvenience, if I happen to reside at any great distance from a place of regular worship, or am obliged to contribute liberally to the support of it. But how trifling is any hardship of this kind, when compared to what the ancient patriarchs and people of God, as well as the primitive persecuted Christians, had to encounter, in maintaining the true worship and service of their God, and preserving it pure and untainted from the corruptions by which they were every where surrounded? This was an object of so much consequence in the eyes of these old venerable worshippers, that while they were blessed with health and strength to enable them to attend the regular celebration of God's holy service, they could not be kept back from the place appointed for it, nor ever thought of any frivolous pretence to excuse their absence. And have not we the same motives to encourage our punctual attendance? Does not the same authority require it of us, and point out the way in which we ought to join our part in performing this public act of homage to our Heavenly Sovereign, the King of Glory? For this purpose, we are not only blessed with a duly authorized ministry, to gather us regularly together in the name of Christ:—We are also furnished with a Liturgy, or stated form of service, so excellently constructed, as both to invite and enable the congregation assembled, to become parties in every act of religious worship that is going forward, that there be no unconcerned spectators in a business in which all present ought to be equally engaged, and to send up their petitions and acknowledgements to the throne of grace, with the united voice of supplication, prayer, and praise.

It is the consideration of this blessed privilege that makes me anxious to support and attend the public worship of the Church to which I belong, and likewise desirous to be present in the place appointed for it, as soon as the service begins, that so I may lose no part of it, nor show the least symptoms of backwardness or delay in coming up to it.

When I take my place in the house of prayer, the first thing I have to do is, to fall down on my knees to thank God for all his mercies, and particularly for the opportunity I then have of appearing before him; beseeching him to grant his blessing on all the congregation, as well as on myself, and that he will assist and accept us in what we are about to perform.

During the time of divine service, I wish to avoid as much as possible all matters of ceremony, or idle compliments to those about me; and do not like to hear or see any thing said or done, that may tend to divert the attention or discompose the minds of the congregation. While the clergyman is reading any of the prefatory sentences with which the order for morning and evening prayer begins, I consider the great God as speaking to me, by the holy Prophet or Apostle

from whose writings the sentences are taken.

To the exhortation which follows I listen with becoming attention, that it may serve to fix my mind on the pious purpose for which God's people are thus gathered together; and, at the general confession, kneeling in the most humble manner, I acknowledge my own sins, and those of the congregation assembled with me, beseeching our almighty and most merciful Father to have mercy upon us, to spare and restore the penitent according to his promise declared in Christ, and, for his sake, to enable us to live a godly, righteous, and sober life: in making which petition, I resolve with myself, that by his grace and assistance, I will earnestly endeavour to love him more and serve him better for the time to come, and will carefully avoid those sins which I have more particularly confessed as committed by myself: after which, while the priest alone is pronouncing the absolution, as something particularly belonging to his sacred office, I do not repeat it after him, but attend to it and receive it with all gladness and humility of mind, begging from my heart that this pardon and forgiveness, which God hath given his Ministers power and commandment to pronounce in general, may be applied to me and to my case in particular; and that I, and all present with me, may afterwards lead a pure and holy life, and come at last to God's eternal joy, through Jesus Christ our Lord: at the end of which, and of all the other prayers, I am taught to join with the people in a fervent Amen.

BERMUDA.

HAMILTON, APRIL 13.

Court of Errors.
On Thursday last, the 11th inst. a Court of Errors was held at the Council Chamber in Hamilton, when the following members were present:

His Excellency Sir WILLIAM LUMLEY.
The Hon. William Smith, J. Hutchison, A. W. Harvey, H. G. Hunt, Francis Albany, Saml. A. Smith, Geo. Huskisson, Rev. A. G. Spence.

The cause *Atkins v. Basham* was called on, and Mr. Musson opened the case for the Plaintiff in error: Mr. Tucker, Counsel for Basham the Defendant in error, stated the Defence—which occupied the rest of this day.

On Friday the 12th, (yesterday) the same members of the Court re-assembled—and

Mr. Butterfield, (Attorney-General), replied in behalf of the Plaintiff in error.

Any abstract that we could give of the arguments of the learned Gentlemen, would do them injustice, and possibly would not afford much edification to our readers: But it may perhaps gratify them to be informed correctly of the present state of this very important case, which we believe may be stated shortly as follows:

Mr. S. Basham, one of the Churchwardens of St. George's parish, brought an action of Trespass and False Imprisonment against John Atkins, a Constable of that Parish, and obtained a verdict at the Court of Assize in November last, for £250 damages and costs. At the trial of the cause in the Court of Assize, Atkins pleaded as it is called, a plea of the General Issue, that he was not guilty; and his Counsel offered to give in evidence a certain Warrant from his Excellency Sir Wm. Lumley the Governor and Ordinary—under which he was taken and detained in custody Mr. Basham, and Mr. Till the other Church-warden;—and which Warrant, it was insisted, might be given in evidence under the plea not guilty, by virtue of an English Statute passed in the reign of King James the 1st, which enacts that Constables and certain other officers, if sued for any thing done by virtue

of their office, may plead the General Issue, and give in evidence under it any special matter of justification. His Honor the Chief Justice Eston decided (as was reported in the *Bermuda Gazette* of the 8th December last,) that this Warrant would not have been sufficient matter of justification if it had been specially pleaded on the Record; and consequently that it could not be given in evidence.—To this, Atkins's Counsel tendered a Bill of Exceptions,—and the question now before the Court of Errors is, Whether this Judgment of the Court of Assize was, or was not, erroneous?

The case of *Atkins v. Till* in error, precisely similar to that of *Atkins v. Basham*, except that the other Church-warden was a party—was also argued in the Court of Errors yesterday.

At the conclusion of the Argument, His Excellency the Governor stated that these cases being of very great importance, the Court had thought fit to take some time to deliberate upon them; and unless some extraordinary circumstance should occur to prevent it, would meet on Tuesday next, to pronounce their decision—when he doubted not every Member of the Court would be prepared conscientiously to perform his duty, according to the best of his judgment.

We have only to add, that during a great part of the time, the Court was attended by a very numerous and respectable audience,—and that neither the Court nor the Counsel were betrayed into any of those hasty personalities which the animation and interest of an important cause, are sometimes apt to engender even in the best regulated minds.

APRIL 20.

Court of Errors.

On Tuesday last the 16th, the Court of Errors met, for the purpose of declaring their Judgment in the case of *ATKINS, vs. TILL* in Error, and *ATKINS vs. BASHAM* in Error. His Excellency the GOVERNOR, as President of the Court, pronounced the Judgment; and in giving an outline of his Excellency's decision, which we propose to do, we have only to regret that we are so little qualified to do it justice, from the want of legal information.—and we have therefore to anticipate to our readers, that what we shall report is more that which fixed itself on our own memory, than perhaps what is really deserving in a judicial report,—for we candidly profess ourselves entirely incompetent to tracing the legal discrimination and nice connexion of the *Common Ecclesiastical* and *Statute Law*, on which the decision was founded. But as this Court is to be considered the highest Court of Law in this Country, we feel it our duty to do as much as in us lies to furnish the Public with a view of their decision on these important cases—that what has been declared to be the law of the land, may be known.

His Excellency said—

“Previous to entering upon the cases before the Court, I deem it advisable to make a few remarks;—and I do sincerely wish that what I have to say, could be heard from one extremity to the other of these Islands.

“Much irrelevant and extraneous, not to say indecent matter, has been brought forward on these Trials both in the Court below, and here.

“It has fallen to my lot, I believe, to have seen more of the world and of mankind, than any one who now hears me.

“I was in France previous to the Revolution, and witnessed the cause and origin of that war, which for nearly thirty years deluged Europe with blood; and it was but too evident that the irreligious and incendiary writings of Voltaire, D'Alembert, Condorcet, Mirabeau and others, together with the leading of a few bad men and demagogues, by overturning all religious establishments, were the primary causes of the mischiefs and miseries which ensued.