

Handwritten signature: *Wm. Chipman for Reg*

THE NEW-BRUNSWICK

ROYAL GAZETTE.

[Volume IX.]

TUESDAY, 25th MARCH, 1823.

[Number 4]

The Gazette.

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

A Proclamation.

WHEREAS several Persons have memorialized for Licences to cut Pine Timber off the Crown Lands, without coming forward to take out the same, and have their Births surveyed agreeably to regulation—Such Persons are hereby cautioned against proceeding to cut the Timber applied for, under the penalty of being proceeded against in common with other Trespassers.

A list will be published in the Royal Gazette, of the names of those Persons who have taken out their Licences and complied with all the requisite conditions; after which notification, no more Licences will be granted for the present Season.

GIVEN under my Hand and Seal at Fredericton the third day of February, in the year of our Lord one thousand eight hundred and twenty-three, and in the fourth year of His Majesty's Reign
By His Excellency's Command.
WM. F. CDELL.

By the Honorable EDWARD JAMES JARVIS, Esquire, one of the Justices of His Majesty's Supreme Court of Judicature for the Province of New-Brunswick.

To all whom it may concern Greeting: NOTICE is hereby given that upon the application of James Wood, to me duly made according to the form of the Act of Assembly in such case made and provided, I have directed all the estate as well real as personal within this Province, of Thomas A. Hammond, late of the City of Saint John (which same Thomas A. Hammond is departed from and out of the limits of this Province, with intent and design to defraud the said James Wood, and the other creditors of the said Thomas A. Hammond, (if any there be) of their just dues, or else to avoid being arrested by the ordinary process of the Law as it is alleged against him) to be seized and attached; and that unless the said Thomas A. Hammond do return and discharge the said debt or debts, within three months from the Publication hereof, all the estate as well real as personal of the said Thomas A. Hammond within this Province will be sold for the payment and satisfaction of the Creditors of the said Thomas A. Hammond.

Dated at Saint John, the twenty first day of November, in the year of our Lord one thousand eight hundred and twenty two.

EDWARD J. JARVIS, J. S. C.
C. S. PUFNAM, Att'y.

NEW BRUNSWICK, } February 25th,
In Chancery, } 1823.
Between George Ludlow and others,
Complainants,
And Joseph Young, Defendant.

FORASMUCH as the Court was this day, informed by Mr. Robinson, of Counsel for the Complainants that the Bill in this cause was filed, on the thirteenth day of July last, as by the certificate of their Clerk in Court appears, and process of Subpoena taken out against the said Defendant, 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, the truth of the above allegation being made out to the satisfaction of the Court: It is ordered, that the said Defendant do appear and answer to the Complainants' bill, on or before the tenth day of June next.

By the Court,
D. L. ROBINSON,
Registrar.

Legislature of New-Brunswick.

Friday, 14th March.

On motion, the House resolved itself into a Committee of the whole House, upon the recommendation of the bill, "to alter and amend an Act intituled "An Act to establish Grammar Schools in the several Counties in this Province."

Mr. Speaker left the chair. Mr. M'Kay took the chair of the committee. Mr. Speaker resumed the chair.

Mr. M'Kay, from the Committee, reported that they had gone into further consideration of the bill to them referred, and agree to the same with an amendment, which he read, and delivered the same at the Clerk's table, where being again read was agreed to by the House. Ordered that the report be accepted and the bill as amended engrossed.

The order of the day being read, the House according thereto resolved itself into a Committee of the whole House, in consideration of the bill "to repeal an Act intituled "An Act to alter an Act to provide for sick and disabled Seamen not being Paupers belonging to the Province, and to provide buildings for the accommodation of the same."

Mr. Speaker left the chair. Mr. Stubs, took the chair of the committee. Mr. Speaker resumed the chair.

Mr. Stubs, from the Committee, reported that they had gone into consideration of the bill to them referred, and agreed to the same without any amendment. Ordered that the report be accepted and the bill engrossed.

On motion, ordered that the Clerk of the Crown in Chancery, or his Deputy, do attend this House with the writ issued to the Sheriff of the County of Sunbury, for the Election of a Member for the said County, with the return thereon as soon as the same may have been made.

A Message from the Council.

Mr. Robinson, delivered the Message--as follows:

"Mr. Speaker,--The Council have concurred in passing the bill, "to provide for the surrender of the Principal in discharge of Bail in actions pending in the Supreme Court of Judicature of this Province."

And then Mr. Robinson withdrew.

On motion of Mr. Stubs,--"Whereas the Commission of His Excellency the Lieutenant-Governor, and the Royal Instructions form a part of the Constitution of this Colony, and whereas the House are not in possession of a copy of His Excellency's Commission, therefore

Resolved,--"That an humble address be presented to His Excellency the Lieutenant-Governor, praying that he would be pleased to direct that a copy of such part of his Commission as he may think necessary, be laid before this House."

Ordered that Mr. Campbell, Mr. M'Kay, and Mr. Miles, be a Committee to present the said Address to His Excellency.

The order of the day being read the House according thereto resolved itself into a Committee of the whole House, in consideration of the report submitted yesterday from the Committee of Privileges, appointed in pursuance of a resolution of the 7th instant, to report upon His Excellency's Message of the 4th.

Mr. Speaker left the chair. Mr. Ritchie took the chair of the committee. Mr. Speaker resumed the Chair.

Mr. Ritchie, from the Committee, reported that they had gone into consideration of the Report of the select Committee of Privileges to them referred, that in the Committee it was moved and seconded, that the following paragraph of the said Report be struck out, viz:--

"And your Committee beg leave to state, that they can see no good cause for this House departing from the usages and modes of

proceeding hitherto pursued by the former Houses of Assembly of this Province."

And upon the question being put thereon, the Committee divided as follows:--

YEAS,--Mr. R. Simonds, Mr. C. Simonds, Mr. Scovill, Mr. Stubs, Mr. Campbell

NAYS,--Mr. Speaker, Mr. Vail Mr. Smith, Mr. Allen, Mr. Johnston, Mr. H. Peters, Mr. M. Wilmot, Mr. Werniere, Mr. Slason, Mr. J. Wilmot, Mr. Miles, Mr. Dow, Mr. Fraser.
It therefore passed in the negative.

And that on further motion the following Resolution was made:

"Resolved, as the opinion of this Committee, that the Report of the select Committee be adopted by the House,"--and which is as follows:

The Committee of Privileges to whom was referred the Message of His Excellency, with the other documents accompanying the same, to report thereon, beg leave to state,

That they have made diligent research and inquiry into the usages that have prevailed in the different Legislative Assemblies of this Province, with respect to the subject matter of His Excellency's Message to this House, from their first establishment in the year 1786, until the present time--And the results are as follows:--

That from the year 1786, the period when the Provincial Establishment was completed and the Legislative Assembly instituted, until the year 1793, the mode uniformly pursued by the different Legislative Assemblies, was to include in one Bill all items of appropriation of what nature soever, as well matters recommended as those that originated with themselves, under the title of "A Bill for appropriating and disposing of the public monies" And during the period above stated, your Committee cannot discover that any objections were ever made to this mode of proceeding by either of the other Branches of the Legislature. During the Session of 1793, they find that an estimate of expences for the public services of the Province for that year, was laid before the House by order of His Excellency the Lieutenant Governor; but your Committee on reference to the Appropriation Bill of that Session, observe that it not only did not make provision for the several objects recommended in the estimate, but that it did embrace various other matters and provisions originated by the House of Assembly; and your Committee also find that a conference was requested by the Council with the House of Assembly, on the subject of a clause in the Appropriation Bill, granting a certain sum for the purpose of aiding and assisting in the education of Youth, in each Parish of the Province. That the object of the Council in requesting the conference, was to state that the appropriating of money for the education of Children, in the different Parishes of this Province, was a new institution, and necessarily required particular regulations; and that if appropriations of that nature were included in general money Bills, the Council would not be left to decide freely on the merits of those regulations; because, although they disapproved of them, they could not reject them, without at the same time rejecting every other article in the general Money Bill; but at the same time observed, that it is the sole and undoubted right of the House of Assembly, to originate a Money Bill, and include therein not only what may be recommended from the Executive Chair, but also such other sums as they think necessary for the public good, which Bill the Council can neither alter nor amend, but must accept or reject in toto.

Your Committee cannot find that any further objections were made to the Appropriation Bill of this year, although it did not provide for measures that were particularly and earnestly recommended from the Executive Chair. That in 1793, the Bill of Appropriation had also the concurrence and assent of the other Branches of the Legislature, notwithstanding it did not make provision for the measures so particularly recommended by His Excellency during the preceding Session, and to which he again called their attention, in his Address to the House of that year. That in 1795, the appropriations were sent up by Bill as formerly, which Bill did not make provision (as recommended by His Excellency in his Message to the House) for the payment of certain services that had been performed by his directions--The House deeming it their inherent right to consider and determine upon the expediency of all public services to be provided for by them.

That a conference was requested by the Council, on the subject matter of the Bill of Appropriation, at which conference the following objections to the Bill were stated on the part of the Council--

1--That it provides for the services not recommended, which the Council conceive to be unparliamentary.
2--That some of the services specially recommended by His Excellency in this Session, remain unprovided for, although those services are acknowledged to be for the general defence, and ought therefore to have been among the first objects of provision, while on the contrary greater sums are appropriated for other objects.
3--That the appropriating of sums of money to the several Members for their attendance in General Assembly, does not accord with Parliamentary usage.

To the first of which objections, the House of Assembly replied in the words made use of by the Committee of Council who managed a conference with a Committee of this House on the 9th of March, 1793--"That it is the sole and undoubted right of the House of Assembly, to originate a Money Bill, and

to include therein not only what may be recommended from the Executive Chair, but also such other sums as they think necessary for the public good.

To the second objection--The House of Assembly observe that it is their inherent right to consider and determine upon the expediency of all public services recommended to them to be provided for--That the services in question are military expenditures, and that all expenditures on military works in Canada, Nova-Scotia, and Newfoundland, for the purposes of public defence, have invariably been included in the Extraordinaries of the Army, and annually presented to the House of Commons, by the Secretary at War, in the 1st state of Army Extraordinaries.

To the third objection the House of Assembly observe, that the payment of Members serving in Parliament, is Constitutional and agreeable to the ancient usage and custom of Parliament--That the circumstances and situation of this Province, render any other mode of payment than that hitherto invariably adopted by the Legislature, inexpedient. That the same is conformable to precedents in our own Acts of Assembly, (from which the House will not depart without good cause) and both in estimates of expences laid before the House by order of His Excellency the Lieutenant Governor, been recommended to be provided for as a Public Service. And the House of Assembly further declare, that they consider the words made use of in the second objection of the Council to the Bill, "and ought therefore to have been among the first objects of provision, while on the contrary, greater sums are appropriated for other objects," as a reflection upon their proceedings, and an infringement of the Privileges of the House of Assembly.

That your Committee find that a subsequent conference between the Council and Assembly, that the Committee of Council were pleased to admit the truth of the premises stated in the answer of the House of Assembly to the second objection urged by the Council against the Bill, but in consequence of a Resolution of the Council, declaring the usage of the House of Assembly with regard to their Appropriation Bills, contrary to Parliamentary usage; and the same being considered by the Committee of Council in the nature of an Instruction to them, and from which they were not at liberty to depart, it precluded the Committee of Assembly from going into a full investigation of the first and third objections of the Council to the Bill. And the House being prorogued on the following day, the Appropriation Bill of that year, did not receive the concurrence and assent of the other branches of the Legislature.

That in 1796, The Appropriation Bill was sent to the Council for the concurrence under the title of a Bill "for raising a Revenue in this Province, and for appropriating the same together with the monies now in the Treasury" Your Committee would here observe, that it did not contain provision for expences incurred by the direction of His Excellency the Lieut. Governor; the payment of which he particularly recommended to the House in his Address of that year, but as heretofore, it embraced various matters not recommended, and entirely different in their nature--On the subject-matter of this Bill, a conference was requested by the Council with the House, when objections to the following effect were made by the Council to the Bill

That the different objects and services were so mixed in the Bill as to preclude them from a free and distinct consideration of each service provided for and each article taxed. That it nominated persons for the performance of Public services. That it provided in an unconstitutional manner for the wages of the Members of the House of Assembly, by taking the same out of the Public Treasury, instead of receiving it from their respective Constituents. &c. &c.

To the first of which objections, the House replied--That it was couched in such vague and general terms, as to render it impossible for them to speak specifically to the objects and services which were alluded in it, to be mixed in the Bill; but that if the Council expected that each service provided for, and each article taxed, should be sent up to them in a distinct and separate Bill for their approbation or rejection--the House considered such mode of proceeding would be contrary to all Parliamentary precedents, and that if the mixture of objects and services generally alluded to in it, was meant to refer to the appropriation of the Revenue of that year, in the Act which raises it, the House cannot help considering the insertion as an infringement of the Privileges of the House of Assembly, who alone possess the right of disposing, as well as raising the public money, and in such manner as they only think proper--That the Bill is confined to one general object, the grant of supplies for the ordinary services and expences of Government, and many Acts of Parliament comprehend a much greater variety of objects and services than are included in the present Bill.

That your Committee find that a subsequent conference, it was admitted on the part of the Council, that it was not expected of the Legislative Assembly to send up for their approbation or rejection, in a separate Bill, each service provided for, and each article taxed; and that it was not unparliamentary to appropriate the Revenue of the year in the Act that raised it, but that it had not been ever practiced in this Province, and that in case of disagreement of opinion be ween the two Houses upon any one article, of either the loss of the Revenue and Appropriation would be the consequence.

The Revenue and appropriation Bill did not pass the other branches of the Legislature at this Session. That in 1793, the Appropriations were sent up to the Council for their concurrence under the title of a Bill "for raising a Revenue in this Province and for appropriating the monies arising therefrom,

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