

# THE NEW-BRUNSWICK ROYAL GAZETTE.

Volume XII.]

TUESDAY, 2d AUGUST, 1825.

[Number 23.]

## The Gazette.

BY His Excellency Major-General Sir Howard Douglas, Baronet, (L. S.) Lieutenant-Governor and Commander-in-Chief of the Province of New-Brunswick, &c. &c. &c.

**HOWARD DOUGLAS.**  
A PROCLAMATION.  
WHEREAS the General Assembly of this Province stands prorogued to Monday the Sixth day of June next; I have thought fit further to prorogue the said General Assembly, and the same is hereby prorogued to the First Monday in September next ensuing.

Given under my Hand and Seal at Fredericton, the twenty-fourth day of May in the year of our Lord one thousand eight hundred and twenty-five, and in the Sixth year of His Majesty's Reign.

By His Excellency's command.  
W. M. F. ODELL.

By the Honorable John Saunders, Esq. Chief Justice 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 David Wortman of Fredericton in the County of York and Province aforesaid, Carpenter, and Asa Coy and Thomas Stewart of the same place, Merchants, to me duly made according to the form of the Act of the Assembly in such case made and provided, I have directed all the Estate, as well real as personal, within this Province, of Matthias G. Valentine, late of Fredericton, in the County of York, in the said Province, Carpenter, (which said Matthias G. Valentine is departed from and without the limits of this Province, with intent and design to defraud the said David Wortman, Asa Coy and Thomas Stewart, and the other Creditors of the said Matthias G. Valentine, if any there be, of their just dues, or else remains concealed within the same 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 Matthias G. Valentine do return and discharge his said debt or debts within three months from the publication hereof, all the Estate, as well real as personal of the said Matthias G. Valentine, within this Province, will be sold for the payment and satisfaction of the Creditors of the said Matthias G. Valentine.

Dated at Fredericton the eleventh day of July, one thousand eight hundred and twenty five.

JOHN SAUNDERS, Chief Justice.  
G. J. DIBBLEE, Solicitor.

## TRADE OF THE NORTH-WEST COAST OF AMERICA.

Convention between His Majesty and the Emperor of Russia, respecting the free Navigation, Commerce, and Fisheries in the Pacific Ocean, and the Limits on the North-West Coast of America, signed at St. Petersburg, Feb. 28 (16), 1825.  
In the name of the Most Holy and Undivided Trinity.

His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of all the Russias, being desirous of drawing still closer the ties of good understanding and friendship which unite them, by means of an agreement which may settle, upon the basis of reciprocal convenience, different points connected with the commerce, navigation and fisheries of their subjects on the Pacific Ocean, as well as the limits of their respective Possessions on the North-West Coast of America, have named Plenipotentiaries to conclude a Convention for this purpose, that is to say:—His Majesty the King of the United Kingdom of

Great Britain and Ireland, the Right Hon. Stratford Canning, a Member of his said Majesty's Most Hon. Privy Council, &c. and his Majesty the Emperor of all the Russias, the Sieur Charles Robert Count de Nesselrode, his Imperial Majesty's Privy Councillor, a Member of the Council of Empire, Secretary of State for the Department of Foreign Affairs, &c. and the Sieur Pierre de Poletica, his Imperial Majesty's Councillor of State, &c. Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and signed the following Articles:—

Article 1.—It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested, in any part of the ocean, commonly called the Pacific either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following articles.

2.—In order to prevent the right of navigating and fishing, exercised upon the ocean by the subjects of the high contracting parties, from becoming the pretext for an illicit commerce, it is agreed that the subjects of His Britannic Majesty shall not land at any place where there may be a Russian Establishment, without the permission of the Governor or Commandant; and, on the other hand, that the Russian subjects shall not land, without permission, at any British Establishment on the North-West Coast.

3.—The line of demarcation between the possessions of the high contracting parties upon the Coast of the Continent, and the Islands of America to the North-West, shall be drawn in the manner following.

Commencing from the Southernmost point of the Island called Prince of Wales Island, which point lies in the parallel of 54 deg. 40 min. North latitude, and between the 131st and the 133d degree of West Longitude (meridian of Greenwich), the said line shall ascend to the North along the Channel called Portland Channel, as far as the point of the Continent where it strikes the 56th degree of North latitude; from this last mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of West longitude (of the same meridian); and, finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean, shall form the limit between the Russian and British possessions on the Continent of America to the North West.

4.—With reference to the line of demarcation laid down in the preceding Article, it is understood—

First. That the Island called Prince of Wales Island shall belong wholly to Russia.

Second. That whenever the summit of the mountains which extend in a direction parallel to the coast, from the 56th degree of North latitude to the point of intersection of the 141st degree of West longitude, shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possession and the line of coast which is to belong to Russia as above-mentioned, shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom.

5.—It is moreover agreed, that no Establishment shall be formed by either of the two parties within the limits assigned by the two preceding Articles to the possessions of the other; consequently, British subjects shall not form any Establishment either upon the coast or upon the border of the continent comprised within the limits of the Russian possessions, as designated in the two preced-

ing Articles; and, in like manner, no Establishment shall be formed by Russian subjects beyond the said limits.

6.—It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean or from the interior of the continent, shall forever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean may cross the line of demarcation upon line of coast described in Article 3 of the present Convention.

7.—It is also understood that, for the space of ten years from the signature of the present Convention, the vessels, of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens and creeks on the coast mentioned in Article 3, for the purposes of fishing and of trading with the natives.

8.—The port of Siika, or Novo Archangelisk shall be open to the commerce and vessels of British subjects for the space of ten years from the date of the exchange of the ratifications of the present Convention. In the event of an extension of this term of ten years being granted to any other Power, the like extension shall be granted also to Great Britain.

9.—The above mentioned liberty of commerce shall not apply to the trade in spirituous liquors, in fire arms, gunpowder or other warlike stores; the High Contracting Parties reciprocally engaging not to permit the above mentioned articles to be sold or delivered, in any manner whatever, to the natives of the country.

10.—Every British or Russian vessel navigating the Pacific Ocean, which may be compelled by storms or by accidents to take shelter in the ports of the respective parties, shall be at liberty to refit therein, to provide itself with all necessary stores, and to put to sea again, without paying any other than port and light-house dues, which shall be the same as those paid by national vessels. In case, however, the master of such vessel should be under the necessity of disposing of a part of his merchandise in order to defray his expenses, he shall conform himself to the regulations and tariffs of the place where he may have landed.

11.—In every case of complaint on account of an infraction of the Articles of the present Convention, the Civil and Military Authorities of the High Contracting Parties, without previously acting or taking any forcible measure, shall make an exact and circumstantial Report of the matter to their respective Courts, who engage to settle the same in a friendly manner, and according to the principles of justice.

12.—The present Convention shall be ratified, and the ratifications shall be exchanged at London, within the space of six weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at St. Petersburg, the 28th (16th) day of February, in the year of our Lord 1825.

(L.S.) STRATFORD CANNING.  
(L.S.) The Count DE NESSELRODE.  
(L.S.) PIERRE DE POLETICA.

LIVERPOOL, June 15.

## LAW OF FACTOR AND AGENT.

The following extract from the *New Times* appears to us deserving of the attention of the Merchants, as it relates to a Bill now brought by Lord Liverpool into the House of Lords, which passed the Commons in the last Session, but too late to be fully discussed in the Upper House:

"In the House of Lords last night, the

Earl of Liverpool gave notice, that, on Tuesday next, he should move the second reading of the Bill for improving the law of dealing with factors or agents. Petitions signed by almost all the most eminent Merchants in London, including many who are Members of Parliament, Bank Directors, &c. on the subject.

"It was proved in 1823, that the laws of France, Portugal, Spain, Sardinia, Italy, Austria, Holland, the Hans Towns, Prussia, Denmark, Sweden and Russia, all concurred in adopting the rule, that, in moveable property, 'possession constitutes title,' and that persons making advances of Money upon such property, are not bound to enquire to whom it belongs, but are fully protected for the advances they make.

A similar principle exists in the law of Scotland; but in England, prior to 1823, the Courts of Justice held, that a person making a bona fide advance, in the regular course of business, to an agent, upon the security of Merchandise, in ignorance that such agent was not the owner of the property, might be deprived of his security; and that a bona fide purchaser from an agent, not invested with the power of sale, would be liable or pay a second time the value of the Merchandise.

This English rule is to be found in no statute, nor in any decided case earlier than 1742, but between that time and 1823, it had been established by a series of decisions; and the argument generally used in its defence was, that it gave increased security to the foreign merchant, in sending goods to this country, by protecting him against the possibility of fraud of his agent. Now there seems to be no reason in natural equity, why our laws should protect foreign merchants from the consequences of their own want of caution in the choice of agents, at the expense of our own dealers whom no caution could save from loss. Neither is there any reciprocity in such rule, as between us and the nations which afford no protection to our merchants. A refined argument, however, is suggested, namely, that the superior security which our rule gives to foreigners, induces them to send their goods here for sale; but, in the first place, the main, and almost the only motive, for any merchant to select a particular market for his goods is, the demand which he supposes that market to afford; and secondly, in order to prove that he pays any regard to a collateral circumstance, it must, at least, be shown that he knows that circumstance to exist; but it was distinctly proved in evidence, that, of the foreign merchants trading to England, scarcely one ever suspected that the English Law differed from his own, and the few who came to know the difference disapproved of it.

"In 1823 the English rule, as we have called it, was so far departed from that by statute 4 Geo. IV. c. 83, it was enacted, that persons in whose names goods appeared by a Bill of Lading to be shipped, should be deemed owners, so as to entitle the consignee to a lien thereon, for advances made upon them. A Committee of the House of Commons had recommended a statute, applying not only to Bills of Lading, but to any apparent symbol of property, but it was thought fit to confine the measure, in the first instance within the narrower limit.

"Hence arises, in the present state of the law, a curious inconsistency: a Merchant in London receiving one parcel of goods, by sea, from Leith, Bristol, &c. and another parcel of the same goods, from the same person, by land, may acquire, by the mere difference in the mode of conveyance, totally different, and even opposite rights! Such an absurdity as this cannot surely be suffered long to disgrace our legislation. It was, therefore, proposed last year, and is now proposed again, that the rule suggested by the Committee of 1823, should be adopted in its full extent, as law. If we were even