

THE GLEANER.

And Northumberland, Kent, Gloucester, and Restigouche Schediasma.

Volume XII:|

Nec araneorum sane textus ideo melior, quia ex se fila gignunt, nec noster vilior quia ex alienis libamus ut apes.

Number 41.

Miramichi, Tuesday Morning, June 22, 1841.

P. DONNELLY,

Begs to inform his friends and the public that he has opened the House in which he now resides, in Richibucto, for the accommodation of TRAVELLERS, and hopes, by strict attention to their comfort, to merit a share of public patronage.
Richibucto, May 15, 1841.

NOTICE.—All persons having demands against the ESTATE of BRYANT HENNESSY, late of Chatham, deceased, are requested to present the same for payment to Messrs. CARMAN & WILLISTON.

ANN HENNESSY, Administratrix.
24th May, 1841.

NOTICE.—All persons having claims against the ESTATE of Harriet Mary Layton, late of Chatham, in the county of Northumberland, deceased, will please render the same duly stated at the office of Street & Kerr, within three months from this date; and all persons indebted to the said Estate, will please make immediate payment to the same place.

JOHN M. JOHNSON, Sole Executor.
Chatham, 1st June, 1841.

NOTICE.—The business for some years past carried on by the subscribers in Chatham, as Tanners & Carriers, under the firm of Johnston & Nicholson, terminated on the first day of May last, by Robert Nicholson retiring from the concern and making over to George Johnston (who is to pay all the debts due by the partnership) all his interest in the Stock and debts of the said firm. All persons therefore indebted to the said late firm of Johnston & Nicholson will please pay their respective debts to the said George Johnston, and all persons to whom the said late firm is indebted will please call upon Mr Johnston for settlement.

George Johnston,
Robert Nicholson.

Chatham, 4th June, 1841.

Notice to Builders.

The Justices of the Peace for the County of Gloucester, are desirous of receiving Plans and Specifications for a NEW GAOL to be erected at Bathurst, of the following size and description, that is to say—The Building to be constructed of Wood, raised on a Stone Wall, to be twelve feet between the wall plate and basement floor; to contain on the basement story—two Debtors Rooms of unequal size, two Criminal Rooms of unequal size (the smaller one to be adapted for a Condemned Cell, when required), a good Day Room for Prisoners, with a Kitchen and Bed Room for a Gaoler.

The Attic to contain three Apartments not to be used as Prison Rooms. The whole Building not to be materially larger than 30 by 40 feet. The Plans to be conceived with a due consideration to secure strength, facility for warming in winter, ventilating in summer, and the convenience of Water Closets without foul air.

The Plans and Specifications to be lodged at the Office of the Clerk of the Peace, on or before the last Tuesday in July next, on which day they will be submitted to a General Session of the Peace for consideration. Ten Pounds will be paid for the approved plan, and five pounds for the second or next best plan.

WM. END, Clerk of the Peace.
Bathurst, 10th June, 1841.

CENTRAL FIRE INSURANCE COMPANY

NEW-BRUNSWICK.

FREDERICTON. Capital Stock £50,000.
Committee of reference at Newcastle, and Chatham.

Thomas H. Peters }
John Wright }
William Abrams }
Michael Samuel }
Charles J. Peters, Jun. }
} Esqir's

AGENTS

At Newcastle, C. A. HARDING, Esq.
Chatham, GEORGE KERR, Esq.
Bathurst, WILLIAM STEVENS, Esq.
Dalhousie, DUGALD STEWART, Esq.

IN THE PRESS,

And shortly will be Published:

A Meteorological Journal.

Kept at Richibucto:

For the years 1835, 1836, 1837, 1838, 1839, and 1840:

WITH AN APPENDIX.

Giving the results of other Observations made at Fredericton, St. John, and Buctouche.

Under the Patronage of

His Excellency Major General SIR JOHN HARVEY, K. C. B., K. C. H.

And the Honourable

The LEGISLATURE.

CHEAP STORE.

NEW AND FASHIONABLE GOODS.

Just received by the Queen from London, Importer from Liverpool, and John Kerr from Greenock, and now ready for inspection at the Subscriber's Establishment, his Spring Supply of *British Dry Goods*:

Also, HARDWARE, CUTLERY, & IRON MONGERY, Earthen and China WARE, &c. The whole of which comprise an elegant assortment.

The Stock having been selected by himself while in Britain, on the most reasonable Terms, enable him to sell at unprecedented low prices, either for cash or approved credit.

HENRY C. D. CARMAN.
Chatham, June 1, 1841.

Just Received,

—Per schooner Defiance, from Halifax—

100 Kegs WHITE LEAD,

Green, Black, and White PAINTS,

28 bls prime No 1 HERRING,

Also, per Schr Dove, from P E Island—

200 bushels OATS,

12 bls prime PORK.

10 cwt OAT MEAL:

The above will be sold low for CASH.

HENRY C. D. CARMAN.
Chatham, May 17, 1841.

CONSIGNMENT.

On Consignment, and now offered for Sale by the Subscriber:

20 bolts No 1 PATENT CANVAAS,

1 Ton Liverpool SOAP, in boxes of 30 & 60 lbs

May 17, 1841. H. C. D. CARMAN.

—Just Received—

By the Subscriber, per Schooner Waterloo from Halifax:

4 hhd's prime Cuba Molasses

50 bls No 1 Herring

Corn Brooms

Olive Oil.

H. C. D. CARMAN,
1st June 1841.

Flour, Butter and Bread.

Just received, by the Subscriber, from Quebec:

20 bls Fine FLOUR,

20 kegs BUTTER,

10 bags SHIP BREAD.

HENRY C. D. CARMAN.
June 4 1841.

NOTICE.

The Subscriber is in daily expectation of a General Assortment of

British and other GOODS,

which he will offer for Sale in the Building lately occupied by Messrs. Street & Kerr, at the head of Mr Peabody's wharf.

JAMES JOHNSON.
Chatham, 10th May, 1841.

April 17, 1840:

MOLASSES!

Just received, ex schr 'Ben'—

20 puncheons Molasses,

For Sale by the Subscriber.

JAMES JOHNSON.
Chatham, May 18, 1841.

FOR SALE.

By the Subscriber, at his Establishment opposite Mr. John Hea's, and next door to Mrs. Martin's Hotel.

A Variety of GOODS,

suited for the Season, consisting of—MUFFS, BOAS, and Ruffs, of various kinds; ladies' & gentleman's Fur Gloves, Brouse & black Kid Shoes, Prunella Boots & Shoes, Silks, Satins, Flannels, Merinoes &c. &c. Which, with his former Stock, will be sold at low prices for Cash.

—Also, on Hand—

15 Quarter Casks good quality Sherry and Madeira WINE; PAINTS, and Paint OILS

Seal Oil; Fine FLOUR, TEA, SUGAR, &c. &c

A few good quality North West BUFFALO ROBES.

The highest price, in Cash, given for all descriptions of Fur.

J. SAMUEL.
Chatham, 1st December, 1840.

Bills Lading,

For Sale at the Gleaner Office.

THE GLEANER.

United States.

DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE TO CONGRESS.

Mr. Webster to Mr. Fox.

Department of State,
Washington, April 24, 1841.

The undersigned, Secretary of State of the United States, has the honor to inform Mr. Fox, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty, that his note of the 12th of March was received and laid before the President.

Circumstances, well known to Mr. Fox, have necessarily delayed, for some days, the consideration of that note.

The undersigned has the honor now to say that it has been fully considered, and that he has been directed by the President to address to Mr. Fox the following reply:—

Mr. Fox informs the Government of the United States, that he is instructed to make known to it, that the Government of Her Majesty entirely approve the course pursued by him in his correspondence with Mr Forsyth in December last, and the language adopted by him on that occasion; and that that Government have instructed him 'again to demand from the Government of the United States, formally, in the name of the British Government, the immediate release of Mr Alexander M'Leod; that 'the grounds upon which the British Government make this demand upon the Government of the United States are these—That the transaction on account of which Mr M'Leod has been arrested and is to be put upon his trial, was a transaction of a public character, planned and executed by persons duly empowered by Her Majesty's Colonial authorities to take any steps and to do any acts which might be necessary for the defence of Her Majesty's territories, and for the protection of Her Majesty's subjects, and that consequently those subjects of Her Majesty who engaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country.'

The President is not certain that he understands precisely the meaning intended by Her Majesty's Government to be conveyed by the foregoing instruction.

This doubt has occasioned with the President some hesitation, but he inclines to take it for granted that the main purpose of the instruction was to cause it to be signified to the Government of the United States, that the attack on the steamboat Caroline, was an act of public force, done by the British Colonial authorities, and fully recognized by the Queen's Government at home; and that consequently no individual concerned in that transaction can, according to the just principle of the law of nations, be held personally answerable in the ordinary courts of law as for a private offence; and that upon this avowal of Her Majesty's Government, Alexander M'Leod, now imprisoned on an indictment for murder, alleged to have been committed in that attack; ought to be released by such proceedings as are usual and are suitable to the case.

The President adopts the conclusion that nothing more than this could have been intended to be expressed, from the consideration that Her Majesty's Government must be fully aware that in the United States as in England, persons confined under judicial process can be released from that confinement only by judicial process. In neither country, as the undersigned supposes, can the arm of the Executive power interfere, directly or forcibly to release or deliver the prisoner. His discharge must be sought in a manner conformable to the principles of law and the proceedings of courts of judicature. If an indictment like that which has been found against Alexander M'Leod, and under circumstances like those which belong to his case, were pending against an individual in one of the courts of England, there is no doubt that the law officers of the Crown might enter a *nolle prosequi*, or that the prisoner might cause himself to be brought up on *habeas corpus* and discharged, if his ground of discharge should be adjudged sufficient, or that he might prove the same facts, and insist on the same defence or exemption on his trial.

All these are legal modes of proceeding, well known to the laws and practices of both countries. But the undersigned does not suppose that, if such a case were to arise in England, the power of the Executive could be exerted in any more direct manner. Even in the

case of Ambassadors and other public Ministers whose right to exemption from arrest is personal, requiring no fact to be ascertained but the mere fact of diplomatic character, and to arrest whom is sometimes made a highly penal offence, if the arrest be actually made, it must be discharged by application to the Courts of Law.

It is understood that Alexander M'Leod is holden as well as civil as on criminal process for acts alleged to have been done by him in the attack on the Caroline, and his defence or ground of acquittal must be the same in both cases. And this strongly illustrates, as the undersigned conceives, the propriety of the foregoing observations; since it is quite clear that the Executive Government cannot interfere to arrest a civil suit between private parties in any stage of its progress, but that such suit must go on to its regular judicial termination. If, therefore, any course different from such as have been now mentioned was in contemplation of Her Majesty's Government, something would seem to have been expected from the Government of the United States as little conformable to the laws and usages of the English Government as to those of the United States, and to which this Government cannot accede.

The Government of the United States, therefore, acting upon the presumption which it already adopted, that nothing extraordinary or unusual was expected or requested of it, decided, on the reception of Mr Fox's note, to take such measures as the occasion and its own duty appeared to require.

In his note to Mr Fox of the 26th December last, Mr Forsyth, the Secretary of State of the United States, observes, that 'if the destruction of the Caroline was a public act of persons in Her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the Government of the United States by a person authorized to make the admission; and it will be for the court which has taken cognizance of the offence with which Mr M'Leod is charged to decide upon its validity when legally established before it; and adds, 'The President deems this to be a proper occasion to remind the Government of Her Britannic Majesty that the case of the Caroline has been long since brought to the attention of Her Majesty's principal Secretary of State for Foreign Affairs, who, up to this day, has not communicated his decisions thereon. It is hoped that the Government of Her Britannic Majesty will perceive the importance of no longer leaving the Government of the United States uninformed of its views and intentions upon a subject which has naturally produced much exasperation, and which has led to such grave consequences.'

The communication of the fact that the destruction of the Caroline was an act of public force by the British authorities being formally communicated to the Government of the United States by Mr Fox's note, the case assumes a decided aspect.

The Government of the United States entertains no doubt, that after the avowal of the transaction as a public transaction, authorized and undertaken by the British authorities, individuals concerned in it ought not, by the principles of public law and the general usage of civilized states, to be holden personally responsible in the ordinary tribunals of law, for their participation in it. And the President presumes that it can hardly be necessary to say that the American people, not distrustful of their ability to redress public wrongs by public means, cannot desire the punishment of individuals when the act complained of is declared to have been an act of the Government itself.

Soon after the date of Mr Fox's note, an instruction was given to the Attorney General of the United States from this department, by direction of the President, which fully sets forth the opinions of this Government on the subject of M'Leod's imprisonment, a copy of which instruction the undersigned has the honor herewith to enclose.

The indictment against M'Leod is pending in a State court; but his rights, whatever they may be, are no less safe, it is to be presumed, than if he were holden to answer in one of the courts of this Government.

He demands immunity from personal responsibility by virtue of the law of nations; and that law, in civilized states, is to be respected in all courts. None is either so high or so low as to escape from its authority in cases to which its rules and principles apply.

This Department has been regularly informed by his Excellency the Governor of the State of New York, that the Chief Justice of that State was assigned to preside at the hearing and trial of M'Leod's case, but that owing to some error or mistake in the process of som-