

be adjudged to sit in the pillory, and to find a surety for his good behaviour." Such is the liberal and persecuting act by which it was attempted to give ascendancy to Episcopacy in Nova Scotia. Is not the Church of England guilty of infringing this act daily in allowing other Ministers than those ordained by the Bishop of London to occupy her pulpits in Nova Scotia? The idea of this act or of any act of Nova Scotia being binding on the inhabitants of this Province, after its separation from Nova Scotia, is too preposterous to deserve serious notice, and is moreover guarded against by provincial statute.

When New Brunswick was formed into a separate and distinct Province, it had no longer any connexion with the older Province, but was to be governed by its own Constitution and Laws. And to show how careful our Legislature was not to depend on the laws of Nova Scotia, the second Act passed by the first Assembly, which met at St. John on the 3rd day of January, 1786, was entitled "An Act for the Registering of Letters Patent and Grants made under the Great Seal of the Province of Nova Scotia, of lands now situate within the limits of this Province." Section first of that Act requires each registry to be effected within one year from its passing. And section 3rd enacts, that Letters Patent of Nova Scotia not registered within one year, shall be void. [Sec. 26, Geo. III. ch. 2.]

Your correspondent attempts to prove the establishment of the Church of England in this Province by reference to the 26 Geo. III. ch. 4—being "An Act for preserving the Church of England, as by law established in this Province, and for securing liberty of conscience," which was also passed during the first session of the Legislature. But if by the Act just referred to, the Legislature of New Brunswick really meant to establish the Church of England in the Province, they were chargeable with a great blunder in not passing a specific enactment for that purpose. Every body knows that the title of an Act is nothing, unless the matters mentioned in the title are specifically enacted in the body or statutory part of the Act. Now, it so happens, that while the 26 Geo. III. ch. 4, [the title of which has just been recited] gives directions for admission to the benefices or livings of the Church of England in the Province, and lays down instructions as to the use of the common prayer, and the administering of the sacraments by Episcopal Ministers, it makes no enactment whatever, for the establishment of the Church of England in the colony, or provision for that purpose. I need scarcely say then, that this Act can have no force in effecting or proving even a nominal establishment of the Church of England, with any superiority over the other churches in the Province. The Act in question, in my opinion, was never meant to effect such establishment.

And the whole ambiguity of the title, and its inconsistency with the act itself, may be obviated by simply placing a comma after the word established, and then it would signify that it was an Act for preserving and regulating that portion of the Established Church of England which is in this Province—and this, moreover, was the way in which Sir John Harvey understood the Act. The blunder in omitting the comma at the place referred to, in the title of said Act, most probably occurred in the copying or printing of the Act—and even supposing that the Legislature of 1786 really meant by said Act to establish the Church of England in the Province, or to recognize it as the Established Church, if their Act will not bear out legally their intention, their intention cannot give it the force of Law. This is not the only act produced by the "collective wisdom" of the Province that has proved a failure. Nor is your correspondent more fortunate with respect to the 5 Geo. IV. ch. 12, entitled "An Act to provide for the permanent interment of the Parish Church of Fredericton." The words "The Parish Church of Fredericton," on which your correspondent would lay stress, are not once mentioned either in the preamble or body of that Act. The preamble runs thus—"Whereas His Excellency, &c. a short time before his decease solemnly enjoined the executors named in his last will, to have his remains interred under the Church in Fredericton, and whereas the church warden and vestry of the said church, &c. The church here referred to, is the Episcopal church which at the time [1824] was the only church erected in Fredericton, and which has been so long known by the title of "Christ's Church." This Act, therefore, will afford your correspondent no warrant to call any place of worship in which he officiates the Parish Church. Even Archdeacon Coster is known in law only as the Rector of Christ's Church, Fredericton; and his church, referred to in Governor Smyth's will, is no more the Parish Church of Fredericton than the Scotch Church of St. Paul's in that town. Neither of them, indeed, can be called Parish churches.

With regard to the 29 Geo. III. Ch. 1 for incorporating "The Rector, Church Wardens and Vestry of Trinity Church, in the Parish of St. John," and the Rectors, Church Wardens and Vestries of the several and respective Episcopal Churches already erected or which shall thereafter be erected, by the name of the Rector, Church Wardens and Vestry of the several and respective churches (not parishes) to which they belong—with regard to this Act I would observe, that it is exactly similar in its provisions with the 2 Will IV. ch. 18—being an act for incorporating St. Andrew's church in the city of St. John, and the several churches erected or to be erected in this Province in connexion with the church of Scotland by the title of the Trustees of the several and respective churches. By the acts just referred to the same status is assigned to both the English and the Scotch churches in the Province, and exactly similar powers are conferred on their respective

corporations. And I may here mention that the church of Scotland in this Province has been acknowledged and to a certain extent endowed by the British Government. Upon an application to the home government in 1834, the right honorable Spring Rice [Lord Montagu] then Secretary for the Colonies, by a Despatch directed the Lieutenant Governor of the Province to grant to each of the churches, in connexion with the established church of Scotland in the Province, five hundred acres of good land, for the use of a Glebe, and the benefit of said churches, which was accordingly granted by Sir Archibald Campbell, and continued to be granted by Sir John Harvey up to the period of the surrender of the Crown Lands to the Province. Can the church of England in any of these Provinces produce a stronger recognition than this upon the part of the crown?

I have thus endeavored to shew, successfully I trust, that the church of England is not the established church of New Brunswick, that it possesses none of the characteristics or privileges of an Ecclesiastical Establishment, and that by the Act of Union, a fundamental law of the British Constitution, the Church of Scotland, in all the Colonies of the Empire, stands upon the same footing with the Church of England, and that by the statute law of this Province, the two Churches are placed upon the same level. This subject has not received heretofore that attention which it merits, but now that it has been agitated and forced into view by the Church of England, no sufficient reason can be assigned why it should not be set in its proper light.

It is customary with Episcopalians in these colonies, in speaking and writing of the Scottish Church, to call her the Scottish Kirk. This is done by some it is believed, under the impression that such is her legal and proper title, and that the epithet Church belongs of right exclusively to the English Church. But this is a mistake. The designation Kirk indeed formerly belonged to the English as well as the Scottish National Church, and was applied to Episcopal Churches in the northern parts of England as late as the reign of George the Third, as may be seen from an undoubted Episcopal authority, the Ex-chancellor of the Diocese of Carlisle.—See Dr. Burn's Ecclesiastical Law, vol. 1, p. 320. "The ancient Saxon word," says the Doctor, "is *Kyrche*, the Danish *Kirke*, the Belgic *Kercke*, the Cimbric *Kirkia* or *Kirk*; probably from the Greek word *Kuriaion*, belonging to the Lord, or *Kuriou oikos*, the Lord's House: so that we have lost the ancient pronunciation of the word [except in the northern parts of England and Scotland] by softening the letters c or ch, as we have done in many cases; which letters the ancient Greeks and Romans always pronounced hard as the letter k."

The term in question has for a length of time been considered obsolete on both sides of the Tweed. By the Act of Union, and a multitude of acts of the Imperial Parliament, the national church of North Britain is expressly called "the Church of Scotland," and "the Established Church of Scotland," as may be seen by reference to the decision of the Judges of England in the case of the Clergy Reserves of Upper Canada. In the annual appointment of a Lord High Commissioner to represent her Majesty in the General Assembly, in all the correspondence of the Government with the Scottish Establishment, and in all the Courts of Law in the United Kingdom, she is designated and known as the Church of Scotland.

The same designation is given to her in the Provincial Statutes of New Brunswick. See the 2nd Will IV. ch. 18. 3rd Will IV. ch. 15. Were Presbyterians to retort by calling the Church of England—the Episcopal Kirk, or the Kirk of England, Episcopalians would no doubt feel dissatisfied. We may remind them therefore of the Latin adage—*sum cuique tribuito* and of the duty of "doing unto others in this case as they would be done by."

With many thanks, Mr. Editor, for the access afforded me to your columns,

I remain, Sir,  
Yours very truly,

JAMES SOUTER.

## Editor's Department.

MIRAMICHI:  
SATURDAY EVENING, APRIL 1, 1843

ARRIVAL OF THE MAIL.—The Courier, with the Southern Mail, arrived on Thursday, at 4 o'clock, P. M.

Legislative Proceedings.—Journals of the House of Assembly have been received by us, to the 25th of the month, but the late hour at which they were obtained, prevents us from making many extracts.

The following extracts are taken from the Sentinel of the 24th inst.

"Our Legislative Summary must necessarily be very brief to-day, as the House have been engaged during the last two days in the consideration of the Revenue Bill, which was reported yesterday afternoon, and will probably be sent up to the Legislative council to-day. By this Bill, the duty on British goods is fixed at 4 per cent. exclusive of one per cent. imposed by the Loan Bill, and various alterations were made in the scale in other respects."

"On Wednesday Mr. ENO gave notice, that he should lay on the table a Resolution which he read; and which disapproves of the calling

members of the House to the Executive council, as has hitherto been the case. If the notice is proceeded with, an interesting debate will probably be the only result."

From the same paper of the 28th inst. we extract the following paragraphs:

"On Saturday Mr. ENO brought up a Resolution for issuing a writ for a member to represent the county of Northumberland, in the place of JOHN T. WILLISTON, Esq. whose seat was declared to be vacant by the committee, which after some discussion was carried 12—11. In the course of the day however, a Resolution was brought in by Col. ALLEN to reconsider the vote, which ultimately was carried 13—10. The time for holding the election being fixed for the first week in July. Yesterday Mr. ENO again brought the subject up, and moved a Resolution to reconsider the vote of Saturday; but after some time, there being several members absent, he withdrew his Resolution, with a view to bring it up again when there shall be a full House. The debates will appear on Friday."

"Yesterday one or two Law Bills sent down by the Legislative council, were taken up in committee and disposed of. The House subsequently went into committee of the whole, on the Bill for holding Elections simultaneously, when all the clauses were passed; but as it is proposed to engraft those of the old law that are not repealed by the Bill, it was taken up to-day, and to-morrow will be finally passed."

"His Excellency the Lieut. Governor came down to the council Chamber at 3 o'clock yesterday, and gave his assent to the Loan Bill; which will therefore be sent home by the April mail."

"The proceedings of the Post office Department, and its interference with the stagecoaches, have made that branch of the public service so unpopular, that the committee to whom the subject was referred, have recommended that no aid be given to the proprietors of those establishments."

The College Bill.—This bill, as we stated last week, was lost in the Council. On referring to the Journals of that body, we perceive that its further consideration was postponed for three months. The division was as follows:

For the postponement—Messrs. Black, Shore, Baillie, Peters, Robinson, Saunders, Lee, Street and Wyer.

Against it—Messrs. Cusard, Allanshaw, Botsford, Attorney General, Chandler, and Hatch.

The following Resolutions were passed in the Assembly on the subject, on the 20th inst.

"Resolved, That this House have learned with much regret and disappointment, that a majority of the Legislative Council have rejected the said Bill during the present session; and further

Resolved, That this House should persevere in their endeavors to amend the said charter, by Legislative enactment, and not resort to an Address to the Throne for a new charter; and this House will steadfastly adhere to the principle, that all the Educational Establishments of the Province, which are endowed from the colonial revenues, whether incorporated by Royal charter, or otherwise, should be at all times subject to the supervision of the Local Legislature."

American Reprints of British Works.—By the last British mail, the Collector of the Customs at St. John received the following Letter of instructions. Similar orders have been received by the Postmaster here.

"Sir,—In consequence of a letter from the secretary to His Lordship the Postmaster General, dated the 22d ultimo, transmitting copy of a communication from the Lords Commissioners of the Treasury, on the subject of the introduction through the Post Office, of printed Editions of the works of British Authors published in the form of a Newspaper, in the United States of America.

"I have it in command to acquaint you that the Extra numbers of the Newspaper published in New York called the 'New World' and other papers of a similar description have been deemed not to be entitled to the privilege of passing through the Post Office as a newspaper, and that in future the full rates of Postage will be charged thereon as letters, and that should any such Papers containing reprints of parts of British Works, the copyright of which is still extant, be imported as merchandise, the same will be liable to seizure.—And you are to govern yourself accordingly so far as concerned, and to communicate this Order to the several Parties at your Port for their information."

I am, Sir,  
Your most ob't servant,  
(Signed) C SCOVELL.

Custom House, London,  
3d March, 1843.

Wolves.—It appears by the Halifax papers, that a Wolf was shot at River Philip, in Nova Scotia. The Legislature of this Province has very properly granted a bounty for the

destruction of these ravenous and dangerous animals, which have of late been committing much damage among the cattle and sheep in the county of Carleton.

The Season.—There is a great quantity of snow on the ground for the advanced period of the season, and the weather is unusually cold. We understand the ice on the river is very bad.

Local.—John T. Williston, Esq. returned home from head quarters yesterday afternoon. His friends, we understand, intend presenting him with an address, requesting him to come forward at the approaching election.

To the Editor of the Gleaner,

Sir—I am at last, taken by surprise, having arrived from Fredericton only last evening, and not having seen the Gleaner of last Monday, in which you state your determination to publish on Saturday instead of Monday, until my arrival at home, and must therefore apologize to my friends for not appearing in this day's paper, but next week, if spared, I shall resume my narrative.

Your obedient servant,  
JOHN HEA.

April 1.

ERATA.—In the letter of the Rev. Daniel Bagot, quoted in the Rev. Mr. Souter's last letter for Diocesan read Diocesan. This and another typographical error of the same description, we omitted to correct at the proper time.

The Acting Deputy Postmaster General having signified his determination to exact the sum of Two Shillings and Sixpence, yearly, for all papers transmitted by us by mail, our Subscribers are informed that that sum will in future be added to their subscriptions.

As the late hour at which the mail arrives on Monday, precludes the possibility of our making any extracts from the papers received by it, in time to transfer them to our columns, ere the mail is despatched to the Southward; we have determined to publish our paper in future on SATURDAY AFTERNOON.

## Marriages.

At Bathurst, on Monday Evening, the 27th ultimo, by the Rev. George McDonnell, Mr. THOMAS BROWN, of Richibucto, to Miss AGNES CRAIG, of Bathurst.

By the Rev. James Souter, A. M. Mr. ROBERT JOHNSTON, to Miss MARGARET McKAY, both of the Parish of Northesk.

## Deaths.

At Newcastle, on the 21st inst. JANE, daughter of the late Captain Davidson, aged 15 months.

## Notices.

Mr. Pierce,

Sir,—I consider that I am in duty bound to publish to the world, for its benefit, the almost miraculous cure that Doctor Cotton has, under the assistance of God, performed on me. I was afflicted with the most excruciating Rheumatic pains—so intensely, as that several of my joints were dislocated, with a chronic disease of long standing in my breast. But by the assistance of Doctor Cotton, and his famed Novator, my joints are all in their natural places—my breast free of pain, and I feel as well and hearty as I ever did in my life.

MARY M'GINESS.

Bortibo March 30, 1843.

To those affected with Rheumatism.—I was most alarmingly attacked with severe Rheumatism, and bed-ridden for several months, and suffered all but death; but on hearing of the Cottonian Novator, I applied to Doctor Cotton and with his assistance, and his Novatory Machine I have been completely restored to health and strength, for which I will ever feel thankful.

PATRICK M'CLUSKY.

Miramichi, Boies Town,  
March 30, 1843.

To those who may be afflicted as I have been—I was for eight years grievously afflicted with Scrofula of the very worst kind. I went to several mineral springs, which to me were useless. I also went to Prince Edward Island, and was attended by the best Doctors there, but they were no better than the springs. I also attended the Faculty in Miramichi, but could get no assistance; but from a notice of the Cottonian Novator, which I saw in the Miramichi Gleaner, I was thereby induced to give Dr. Cotton a trial, which trial has been completely successful, and thank God, and the efforts of the Doctor, I am as sound a man as there is in the Province of New Brunswick.

WILLIAM M'LEAN.

North Esk, Miramichi,  
30th March, 1843.