

New-Brunswick.

SAINT JOHN,
WEDNESDAY, August 18, 1802.

Late accounts from Cape Francois and Aux-Cayes, via New-York, state, that the Yellow Fever raged there with great violence.—At the former place the Deaths averaged one hundred a day.

On Saturday the 14th instant, agreeable to General Orders, the Head-Quarter Division of the New-Brunswick Regt. under the command of the Hon. Lt. Col. ROBINSON, was disbanded at Fort Howe.

The men conducted themselves with the greatest order and decorum, and seemed happy after they had received the discharges, to express their satisfaction to the officers for their conduct towards them.

We cannot omit our decided approbation of the judicious, and prudent management of the whole transaction by the commanding officer.

FOR THE ROYAL GAZETTE.

To a True FRIEND to the CONSTITUTION.

YOUR last production reminds me of what happened, some few years since, to a gentleman of the Law, on another occasion and before another tribunal. When he had made one of his long-winded speeches, his antagonist, of facetious memory, commenced his reply with the following memorable ejaculation, "thank God! he has done!"—In the same sentiment of pious gratitude to Heaven, the unprejudiced Reader will undoubtedly join, when he shall have followed you through nearly five columns and a half of the Royal Gazette. I will not say, as Nathan did to David, thou art the Man.

I shall not, as you suppose, undertake "the vindication of the conduct of the seceding Members," as you are pleased to call them. They need no defence, no vindication—they have done nothing to deserve the scandalous, unhandsome and ungentlemanly liberties, you have so repeatedly taken with them. And my advice to you is, to keep yourself as snug and close under cover as possible. Anonymous writers, or those, who lie concealed behind fictitious signatures, may, if they please, abuse each other; but it is base and cowardly in them to take improper liberties with known characters.

You and your fellow scribbler in the Saint John Gazette, under the signature of a Freeholder, seem to have forgot the Law maxim, "that the Press cannot be abused to any bad purpose, without incurring a suitable punishment," and I tremble for the Freeholder, lest the "veteran Major," he so licentiously and shamefully abuses, should "face about," his great age notwithstanding, and give him that sort of chastisement, which, if I mistake him not, he has more than once experienced, and to which he has, as often, tamely submitted. You both should recollect another good and wholesome maxim of Law, "that to censure the Licentiousness, is to maintain the Liberty of the Press." How dare you charge a number of truly respectable Members of the late House of Assembly, with having been guilty of "the most reprehensible transaction, that ever disgraced the political conduct of public characters?"—What, in the name of decency! can give you a right to use such language?

The time will probably soon come, when the Gentlemen you allude to, and the Speaker, will meet face to face, and then it will more clearly appear, whether I have, as you declare, "asserted as a fact, what is known to be an absolute untruth." When these Gentlemen or the Speaker shall contradict my assertion, as to their leaving the House with his express approbation, I shall correct my mistake as readily, as you did your "mere clerical error;" but until I shall have this evidence, I shall consider your assertion in the same light, as you are pleased to view mine. The issue is now joined, and until the above proof shall be produced, no verdict can be found against me.—My credit will therefore, for the present, I presume, stand good with the public, especially as the charge against me is, as yet, supported only by the testimony of a witness, already convicted, by his own confession, of a palpable misrepresentation of a fact, to which he was a witness.

I will not give you any further un-

caniness as to my conjecture, that his Excellency had no official information of the altering and passing the Bills in question in the late House, when Eight Members only were present, save only to set you right as to your negative pregnant, or implication, that he must be supposed to have had private information, because he had no official information. I now, for your satisfaction, will add my belief, that no communication, either officially or otherwise, of that fact was made to him; and I will hazard another conjecture, that neither his Excellency or the Council will thank you for any pains you have taken to make him or them sanction the doings of your "small but patriotic band in the last House."

I must indeed be allowed to answer the following Questions, asked in a style and manner all your own.—"Had his Excellency the same knowledge of the number of Members in the House on this occasion, that he had in the first Session of the first General Assembly, &c." and whether "there was any regular, official communication made to him then more than now?"

At that time his Excellency, having called on the people to return Twenty-six Members to serve in General Assembly, and when Thirteen only, half the number, had arrived and reported themselves a House and been qualified by Privy Counsellors, appointed by his Excellency for the purpose, and had proceeded to the choice of a Speaker, it was very natural for the Governor to inquire of these his Privy Counsellors, who and how many Members had been qualified. This method of obtaining the knowledge of the number of Members then was regular and official; but did not exist at the time, you refer to, in the last Session.

His Excellency having obtained information, that but half the Members elected had assembled, conducted, I presume, precisely as the late celebrated Judge Blackstone would have done in a similar case. That learned Judge, when treating on the subject of the "manner and time of assembling the Parliament," asks the following question—"If half of the Members met, and half absented themselves, who shall determine, which is really the Legislative Body, the part assembled or the part which stays away?" The case we are considering, was exactly the same, half the Members met, and half absented themselves. His Excellency thereupon, I repeat it, "wisely, legally and constitutionally recommended it to the House to adjourn until Monday then next," in the reasonable expectation, that the other half of the Members elected, or at least some of them, would before that time arrive, as was the case. Seven more arrived before Monday, the day to which the House, as had been recommended, had adjourned.

You take a great deal of pains to establish as a fact, that Thirteen Members have always been deemed necessary to be present before the Speaker can take the Chair. Will this serve your purpose? Should you be right, will it follow, that because that number may have always been considered as necessary, that therefore Eight Members only can make a House, and alter Bills solemnly passed in a full House? Had the form of a Governor's commission been published before the first Session of the Assembly, the present dispute would probably never have taken place, nor would the mysterious number Thirteen ever have been thought of, as a quorum of the House.

I come now to the true and only question of real moment in dispute between us, whether "an Act of Assembly can constitutionally be passed, unless a majority of the two Branches, that is Seven of the Council and Fourteen of the House be actually present at the time it is passed by those Branches respectively." And I do not see any good reason why this question may not be discussed coolly and dispassionately. It may be of much more consequence to the community to discover the truth, than for you to secure the re-election of your particular friends, or prevent that of mine, as you do me the justice to consider them, which is the obvious burden of your song.

The words, which have given rise to the dispute, are to be found in the King's commission, which contains the Constitution of the Province, and must be considered as a Grant of invaluable Privileges to the People, that particularly of participating in the making of Laws, &c. for the public peace, welfare,

and good Government of the Province, and of the People and Inhabitants thereof. The words are plain English words, of unequivocal meaning, and he who runs may read. They are as follows: "You A. B. by and with the consent of our Council and Assembly, or the major part of them respectively, shall have full power and authority to make, constitute and ordain Laws, &c." The Legislative Council consists of Twelve Members and the Assembly of Twenty-six, what is the major part of the Council of Twelve and what the major part of the Assembly of Twenty-six, will not be made a question. Can the Governor under this Grant, and we must take it as we find it, make Laws without the consent of Seven, being a majority of the Council, and Fourteen being a majority of the Assembly? nothing can be plainer, he certainly cannot. I will here allow, that in construction of Law, an Act of Assembly passed by a bare majority of the Members of the whole House may be said to be the Law of and to express the consent of the whole Assembly, in which sense, which I contend is the sense of the words, or a major part of them respectively, if a majority of the Assembly, viz. Fourteen Members are present, an Act passed by a bare majority of these, may be said to be the Act of the whole Fourteen and to express their consent, and of course may be said to be an Act of and consented to by the Assembly, otherwise popular Assemblies would seldom, if ever, agree in passing a Law, they must be and consent by a majority.

It will be necessary, before I consider your authorities from *Halsel*, respecting the Proceedings of the House of Commons, to inquire into the origin of that House, and whence it derived its Constitution, and to compare these with the origin and Constitution of the Assembly of this Province, but this, in compassion to Mr. Ryan and the Reader, must be deferred to the next week, when, it is my intention to close our Correspondence.

A CUSTOMER and READER of the ROYAL GAZETTE.

TO CORRESPONDENTS.

We must apologize for the omission of "A True Friend to the Constitution."—The extreme length of it and the late hour in which it was received, precludes the possibility of giving it a place in this day's Gazette.

Public Auction,

BY ANDREW PHAIR.

NOTICE is hereby given, as by Law directed, that in pursuance of a Licence in that behalf given by His Excellency the LIEUT. GOVERNOR, and the Hon. His Majesty's Council,

ALL the real Estate of Isaac Hadden, late of FREDERICTON, Esqr. deceased, intestate, WILL BE SOLD, At Public Auction,

At his late Dwelling-House in Fredericton, at 11 o'Clock, On FRIDAY the 10th SEPTEMBER next, in order to pay the Debts due from the said Estate.—

IT consists of Half a Share in a GRIST-MILL near Mill-Creek—FOUR TOWN LOTS, with a comfortable Dwelling-House, convenient Out-Houses, and a Garden in high order thereon.—Also, a Lot College Land, No. 22, in the rear of Fredericton, containing 32½ acres, subject to an annual Rent of 6d per acre.—This Lot has a quantity of hard Timber, and about Ten acres cleared, fit for mowing or pasturage, and the whole is under fence.—Immediate possession will be given to the Purchasers.

ALL Persons having any legal demands against the above Estate, are requested to present the same duly attested, on or before the FIRST day of NOVEMBER next;—And all Persons indebted to the said Estate, are requested to make immediate payment to the Subscriber.

ANDREW PHAIR,

Administrator.

FREDERICTON, 2d AUGUST, 1802.

ALL persons having any demands against the Estate of WILLIAM WILLIAMS, late of King's County, deceased, are requested to send in their accounts within Twelve Months from the date hereof;—and those persons indebted to said Estate, are desired to make immediate payment to

MUNSON JARVIS,
Administrator.

New-Brunswick, to wit:

WHEREAS (in pursuance of an Act, intitled, "An Act for relief against absconding Debtors,") we the subscribers have been duly appointed and sworn before the Hon. JOSHUA UPHAM Esq. one of the Justices of His Majesty's Supreme Court of Judicature for this Province, as Trustees for all and every the creditors of Peter M'Pherson, late of the City of St. John, in the County of St. John, an absconding Debtor; We do therefore, in pursuance of such our appointment, require all persons indebted to the said Peter M'Pherson, to pay to us on or before the tenth day of November next, all such sum or sums of money, debts, duties and things, which they owe to the said Peter M'Pherson, and to deliver to us all other effects of the said Peter M'Pherson, which they or any of them may have in their hands, power, or possession;—And the Creditors of the said Peter M'Pherson are also required to deliver to us on or before the tenth day of February next, their respective accounts and demands against the said Peter M'Pherson.

Dated at the City of Saint John, in the County of Saint John, this tenth day of August, in the Year of our Lord, One Thousand Eight Hundred and Two.

GEO. YOUNGHUSBAND,
OLIVER BOURDETT,
JAMES REED,

THE Property of NICHOLAS WILLIAMS, deceased, as advertised in the 3d column of the first page of this day's paper, will be sold by the Subscriber, at 11 o'clock in the forenoon on the day alluded to:—AND

AT TWELVE O'CLOCK,
On the Premises likewise,

LOTS No. 128 and 129, with the Dwelling house thereon, situated in Germain Street, at present occupied by Mr. Anthony Reece:—These Lots comprise a plot of 100 by 200 feet, well calculated for any kind of business that require water in the carrying it on, having abundance at all Seasons.

Possession will be given on the 1st day of May next: conditions will be made known at the time of Sale, or may be had by applying to

Andrew Crookshank.

St. John, 16th August, 1802.

FOR SALE,

A Valuable Tract of Land in the Township of Maugerville, fronting the River Saint John Ninety Rods, containing TWELVE HUNDRED Acres, with a comfortable Dwelling-House, good Barn and out-Houses, and an excellent Spring of Water that never fails. The situation is as pleasant, if not superior, to any in the Township, and about Five Miles from the Seat of Government. The back Land is of an excellent quality, well wooded, and not subject to be overflowed, which renders it much more valuable.—Also, an excellent Island Right, belonging to the above Farm, containing Seven and a half Acres, mostly cleared and under improvement.—Also a complete well finished STORE, suitable for a Retailer in the Country, with a good Dwelling-House, and a large Wind-Mill, situated in the above-mentioned Township, opposite the mouth of the River Oromocto, well known to be the best stand for any public Business in the County.—The Mill is in complete repair, and has never failed of bringing the Owner an income of One hundred a year (when attended to) clear of all expences.—Any person or persons inclined to purchase, will be much better satisfied by viewing the Premises.—

For further particulars apply to James Sayre, on the Premises, or William & Thomas Pagan & Co. Merchants, in Saint John.

MAUGERVILLE, 9th Aug. 1802.

PUBLIC NOTICE

IS hereby given, that, on application of the Subscriber, in behalf of himself and others, to His Excellency the Lieutenant-Governor in Council, on the 23d of July, 1802, an Inquest was ordered to be held, Three Months after this Notification, for escheating a Tract of Land, formerly granted to Charles Thomas and others, on the North-west side of the Washademoack Lake.

RICHD. S. CLARKE.

GASSETOWN, 10th August, 1802.