

their intention to meet on Friday, 10th (May) at 11 o'clock for the transaction of Parish business, and requesting his attendance at the Vestry Room at that time, that they might proceed to business: That to this they received for answer—"That if the Members of the Vestry who signed the Requisition for a Vestry Meeting on Friday next, will state the particular nature of the Parish business to be transacted, the Rector will have no objection to meet them on any day, after due notice of such meeting has been publicly announced on a Sunday in the Church.

The Attorney General now showed cause against the Rule, for the Rev. Rector, upon his own Affidavit, stating in substance, that—"He has been desirous of being apprized beforehand, of the object of any proposed Vestry meeting, that he might be prepared to do his duty as a constituent part of the Vestry, and thereby be on an equal footing with those who desired such meeting: That he had reason to believe it seldom or never occurred in the times of his predecessors, that the objects of the proposed meetings of the Vestry had been unknown to the Rectors; although, from the harmony then happily subsisting no formal notice may have been given: That almost invariably until the election of the present, and immediately preceding Vestry, he had been acquainted with the object of Vestry meetings, by some one or more of the members of the Vestry:—And upon a joint Affidavit of John V. Norden, J. Tucker, and Nath. Bascome, Esqrs. stating substantially, That though not aware of any formal mode of notification in writing or otherwise to the Rectors, when they are Vestrymen, of the specific object of proposed meetings of the Vestries; yet, from the friendly manner in which business had usually proceeded and the free intercommunication which had subsisted between the Vestries or the individual members, and the several Rectors, it had mostly if not always, been the case, that the several Rectors had been fully aware of the object of meeting, before such meeting took place: That they knew of no instance during the period of which they spoke, in which such notice had been refused, nor of any disposition to withhold it.

The Chief Justice after stating the case and reading the Affidavits, pronounced Judgment, in substance, as follows:—

The Question is, whether the want of notice, in the Requisition of the Vestry, of the particular business to be transacted, is a legal excuse to the Rectors for not holding a Vestry? If it be so, such notice must always have been essential to the legal transaction of the Vestry business: And if essential it must have been made so by the written law of the Colony—by the usage of the Parish of St. George's—or by some Law of England, in force within these Islands. The Colonial Act of 1793 under which this Rule was granted, says nothing upon the subject of such notice. The preceding Act of 1786 (repealed by that of 1793,) after directing how the Vestry shall be elected, enacts, "that any seven of the said number, whereof the Minister always to be one, except in case of sickness, or that after a notice of a Vestry summoned, he omit to come, be a quorum to do business." Though this Act required notice to the Minister of a Vestry being summoned, it did not make it necessary that the particular nature of the business to be transacted should be mentioned, as is specially required in England by an Act of the 58th of the late King, referred to by Mr. Tucker in the argument. With respect to the usage of the Parish of St. George's, the Affidavits read in opposition to the rule do not prove that notice to the Rector for the time being, of the business to be transacted at a Vestry, was invariably given. They state in substance, that from the harmony that had generally prevailed between the Rectors and the Vestries, it had almost always, if not always, happened that the Rector had been apprized of what was to be done at the Vestry; though no formal notice thereof either in writing or otherwise had been given. And Mr. Lough states in his affidavit, that almost invariably until the election of the present and immediately preceding Vestry, he had been made acquainted with the object of Vestry meetings, by some one or more of the Members of the Vestry.

Here is no proof of a usage; which must be constant and uniform. If notice of the particular business was essential it could not have been made to depend upon the volun-

tary acts of individuals, to be given or omitted as they pleased, and upon the harmony that might subsist between the Vestry and the Rector. A suspension of that harmony has occasioned this sort of notice to be withheld from the Rector; and now each party stands upon his strict legal right. The Rector says, I am not obliged by Law to hold a Vestry unless I am informed of the particular business to be transacted. The Vestry reply, the Law does not require us to give you this particular notice; and we will therefore not give it to you.

As to the Law of England, the Rev. Rector states, that he thought himself justified in what he had done by the English Law and Custom. But the English Law and Custom are not always the Law and Custom of these Islands. They are not so in this case: as we have a Colonial Act regulating the appointment and duties of Vestries. There is a great variety of Law and Custom upon the subject of Vestries in England. And if particular parts of England may have particular customs, surely these islands may. By the General Law of England the Vestry is composed of all the Parishioners, who pay to the Church Rates. In particular places, there are select Vestries, consisting of a small number of Parishioners, elected yearly by custom. There are several Acts of Parliament appointing the persons who shall constitute certain Vestries; and in the year 1818, the Act of Parliament referred to in argument was passed. This Act among other regulations requires notice of the particular business intended to be transacted at a Vestry to be given when the Vestry is summoned—(which is not made necessary here by the existing colonial Act of 1793, nor was it by the preceding one of 1786). This Act of Parliament is not declaratory, but is introductive of new Law; and does not extend to these Islands: It "enacts" merely. But had the law been so before, such enactments had been unnecessary. The compendium of Parish Law, by Ashdowne cited by the Attorney General, states too largely, that notice must be given of the particular business when the Vestry is summoned. No authority is quoted; but the paragraph is evidently taken from Burn's Ecclesiastical Law, (a book of high authority,) which only states that "it is fairest" to give such notice. This very form of expression proves that the Law did not make it essential antecedently to the Statute 58 of the late King. In Burn's justice the same terms are used.

But though I am of opinion, that notice to the Rector of the particular business intended to be transacted at the proposed meeting of the Vestry, was not essential in this case; and that therefore the want of such notice furnished no legal ground to the Rector for refusing to hold the Vestry; yet I think it reasonable that he should have such notice. The law imposes a very important duty upon him: and it is desirable that he should have every facility for a proper discharge of that duty. The motive stated by the Rev. Rector, for wishing to be apprized of the particular nature of the business—viz.—"that he might be prepared by previous deliberation, to do his duty," is highly laudable; and there can be no possible reason assigned why it should not be done. I therefore strongly recommend to the Vestry always to give the Rector notice of the business. Mr. Tucker mentioned one case where publicity might be improper: In that case however a private communication to the Rector might be proper.

Upon the whole, being of opinion, that the reasons assigned by the Rev. Rector, for refusing to hold a Vestry, are not sufficient in Law to justify him in that refusal, I must make the Rule absolute. Let a *mandamus*, issue.

The Attorney General then stated, that as Mr. Lough was now informed of the opinion of the Court, a *mandamus* would be unnecessary; and he would meet the Vestry in conformity to that opinion.

J. B. PAYNE, takes this method of returning his most grateful thanks for the many favours he has received in the line of his business, both from Town and Country,—and once more earnestly requests that all those who are indebted to him, to the first of May last, will pay their accounts by the first of July next, or they will be put in the hands of an Attorney to collect without discrimination, as his business in this place and the county must be closed by the first of August next. 11th June, 1822.

FREDERICTON, (N. B.)

30TH JULY, 1822.

MONUMENT

To the Memory of His late Majesty,
KING GEORGE the THIRD.

PURSUANT to the orders of His Excellency the **LIEUTENANT-GOVERNOR**, published in the Gazette of the 25th ult. the Public are notified that Subscription Lists for this desirable purpose are open at the Store of Jedediah Sisson, Esqr. and at the Subscriber's Office.

H. C. CLOPPER,

Dep. Provin. Treasurer.

Fredericton, 29th July, 1822.

A return of Vessels entered inwards at the Naval Office, Saint John, between 18th June and 25th July, 1822.

July 19—Margaret, M-Mackin, Cork, 38—ballast—130 passengers.

20.—Jane Ann, Colly, Norfolk, 18—30 M. staves, 135 M. shingles, and 1000 bunches onions.

—Osbaldeston, Hutton, Boston, 3—ballast.

A list of vessels entered inwards at Miramichi, Port of St. John, New Brunswick, between the 1st and 18th July, 1822, inclusive.

July 5—Ann, Harrison, Boston—ballast.

6—Sisters, Robertson, Leith—do.

8—Myrtle, McKim, Limerick—do.

—Westmorland, Smith, Havre de Grace—do.

18—Bowes, Latham, Liverpool—do.

LONDON, MAY 15.

We are sorry to find that Her Royal Highness the Duchess of Clarence has disappointed the hopes of the Royal Family, having been delivered of twins, which were still born.

The Earl of Eldon is said to be about to retire from his arduous duties as Lord High Chancellor. It is rumoured that he will be succeeded by Lord Manners, at present Lord Chancellor of Ireland, in which case the Right Honble. W. C. Plunkett, Attorney General for Ireland, will most probably succeed to the Lord Chancellorship of his native country. Newman Knowlys, Esqr. has been elected Recorder of London, in the room of the late Sir John Sylvester, Bart. and Thomas Denman, Esq. M.P. succeeds Mr. Knowlys, as Common Sergeant. Mr. Baron Wood retires from the Bench, and is to be succeeded by Sir Robert Gifford, Attorney General. Sir John Singleton Copley, Solicitor General, becomes in consequence, Attorney General, and is himself succeeded by Mr. Sergeant Hullock. Mr. Sergeant Blosset goes out to India as Chief Justice.

The King George IV. of 120 guns, was lately launched at Chatham Dock Yard. She is the largest ship ever built with a round stern.

SAINT JOHN, JULY 23.

Yesterday the City Corporation waited on His Excellency the Lieutenant-Governor with the following Address, which we have every reason to believe was dictated by real attachment to his person and administration, and an attachment which they had long wished for a proper opportunity of thus publicly testifying.

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

The humble Address of the MAYOR, RECORDER, ALDERMEN, and COMMONALTY of the City of SAINT JOHN:

May it please your Excellency,

THE Mayor, Recorder, Aldermen, and Commonalty of the City of Saint John, rejoice that the opportunity which they have long desired is now afforded them of approaching your Excellency, and offering their sincere congratulations on your return to this City, from whence you had been lately called by the laws of hospitality to welcome to our shores the distinguished Stranger who has honored us with his presence.

The long residence of your Excellency in this Province, has taught us to appreciate the advantages we have derived from your wise and impartial administration of our laws and your unremitting solicitude for our best interests.

In this place it becomes us as citizens, in a more especial manner, to bear testimony to the distinguished favour we enjoy by so large a portion of your Excellency's patronage being devoted to the interests of this City and its several Public Institutions.

The foundation of seminaries for the instruction of our youth in the principles of true religion and useful learning, will be felt with gratitude by our offspring, long after the fostering hand which reared them, shall cease to guide and to cherish.

While we feel grateful for the advantages which we now enjoy, and crave permission to express our gratitude, a higher reward awaits the labours of your Excellency in the cause of religion; and we beg your Excellency to accept our sincere wishes that every happiness may attend you here and hereafter.

JOHN ROBINSON, Mayor.

J. S. PETERS, jun. Deputy Clerk.

TO WHICH HIS EXCELLENCY WAS PLEASED TO RETURN THE FOLLOWING ANSWER.

Gentlemen,

MY late visit to St. Andrews has been productive of much gratification to my feelings, having, at that place, experienced together with our late distinguished visitor Sir JAMES KEMPT, the most cordial welcome; and on my return to this City your kind congratulations are highly valued and deserve my thanks.

Strangers read the character of Cities, and of nations, in their Public Institutions; and it is most pleasing to me to state to you, that those of this place have not failed to attract notice, and to receive their meed of praise.

My annual visits to the City of Saint John have afforded me opportunities of becoming acquainted with your interests, and could not fail in a particular manner to secure my attachment, and engage my warmest concern for your prosperity; and your expressions on this head are entitled to my sincere acknowledgments.

The want of Public Seminaries whose doors should be unfolded to every denomination of the people, and in which the rudiments of useful learning and the important truths of Christianity are blended together, was long felt in this Colony;—and the zeal of your community in this good cause has greatly contributed to the formation of a suitable establishment, first planted in this City, and whose branches now expanded and flourish in all parts of the Province with happiest success.

While this reflection must prove a real source of satisfaction to yourselves, it affords the best proof of your zeal for the public good; and enables me with confidence to avail myself of this opportunity to recommend our Central Madras School, as the particular child of your care, to your continued protection and support.

That your Citizens may be wise and virtuous, is no more than a Christian wish; and should the influence of my station amongst you, have been instrumental in promoting their happiness here, or their attainment of "higher rewards hereafter," I shall consider every exertion on my part amply repaid.

GEORGE STRACEY SMYTH.

Government House, July 22.

His Excellency Sir JAMES KEMPT, Lieutenant-Governor and Commander in Chief of Nova Scotia, &c. &c. returned to this City from Fredericton on the evening of Thursday last. Friday being the Anniversary of the Coronation of GEORGE the FOURTH, the Royal Standard was displayed, and Salutes fired from Fort Howe and His Majesty's Sloop *Jasour* then lying in the harbour. At one o'clock of that day, the Corporation of the City, accompanied by the Rev. ROBERT WILLIS, and the Rev. DR. BURNS, in their Gowns and Bands, went in procession to the house of R. H. HAMILTON, Esq. where His Excellency Sir JAMES KEMPT resided, and presented the following address which was read by E. J. JARVIS, Esq. Recorder, in the name of the whole Corporation:

To His Excellency Lieutenant General Sir JAMES KEMPT, Knight Grand Cross of the most Honourable Military Order of the Bath, Lieutenant-Governor of the Province of Nova-Scotia, &c. &c. &c.

The respectful Address of the MAYOR, RECORDER, ALDERMEN, and COMMONALTY of the City of SAINT JOHN:

May it please your Excellency,

THE Mayor, Recorder, Aldermen, and Commonalty of the City of Saint John, impressed with a sense of the high honour conferred upon this City by your Excellency's visit among them, beg leave to offer this testimony of their respect:

They approach your Excellency with feelings of the highest admiration of the