

ROYAL GAZETTE.

FREDERICTON, FEBRUARY 20, 1839.

Central Bank of New Brunswick.

JOHN SIMPSON, President.
ROBERT GOWAN, Cashier.

Discount Days.....Tuesdays and Fridays.
Director this week.....THOMAS PICKARD.
Bills or Notes offered for discount must be left at the Bank, enclosed and directed to the Cashier before two o'clock on Mondays and Thursdays.

Bank of Fredericton.

ASA COY, President.
ARCHIBALD SCOTT, Cashier.

Discount Days.....Mondays and Thursdays.
Director this week.....CHARLES FISHER.
Notes or Bills for discount are to be left at the Bank, enclosed to the Cashier, before 3 o'clock on Saturdays and Wednesdays.

Bank of British North America.

FREDERICTON BRANCH.
ALFRED SMITHERS, Manager.

Discount Days.....Wednesdays and Saturdays.
Director this week.....JOHN F. TAYLOR.
Hours of business, from 10 to 3.
Notes and Bills for Discount to be left before 3 o'clock on the days preceding the Discount Days.

Saving's Bank.

Trustee for next week.....PETER FISHER.

Central Fire Insurance Company.

Office open every day, at Mr. Minchin's Brick House opposite the Parade, (Sunday excepted), from 11 to 2 o'clock.

B. WOLHAUPTER, President.
Committee for the present month.

JOHN S. COX and THOMAS STEWART.

Alms House and Work House.

Commissioner for the week commencing to-morrow.
GEORGE MINCHIN.



By Authority.

HEAD QUARTERS,

FREDERICTON, 13th FEBRUARY, 1839.

MILITIA GENERAL ORDER.

No. 1. With reference to the Proclamation of the Commander in Chief of this date, the officers commanding the 1st and 2nd Battalions Carleton Militia are directed to proceed without any delay to make the Draft therein pointed out, of one fourth the number of their respective Battalions.

No. 2. Lieutenant Colonel Maxwell, 36th Regiment, having been placed in the command and direction of Her Majesty's Troops ordered into the County of Carleton, the officers commanding the 1st and 2nd Battalions Carleton Militia, are directed to conform to such requisitions as may be made upon them by Lieutenant Colonel Maxwell for Militia Reinforcements, to the extent which he may require, from the Draft ordered to be made from those Battalions in the Proclamation of the Commander in Chief of this date.

The Quarter Master General of Militia will proceed forthwith to Head Quarters, with a view to being attached to the Force under the command of Lieutenant Colonel Maxwell.

By Command,
GEORGE SHORE, A. G. M.

By His Excellency Major General Sir JOHN HARVEY, K. C. B. and K. C. H. Lieutenant Governor and Commander in Chief of the Province of New Brunswick, &c. &c. &c.

JOHN HARVEY.

A PROCLAMATION.

WHEREAS, I have received information that a party of armed persons, to the number of two hundred, or more, have invaded a portion of this Province, under the jurisdiction of Her Majesty's Government, from the neighbouring State of Maine, for the professed object of exercising authority, and driving off persons stated to be cutting Timber therein; and that divers other persons have without any legal authority, taken up arms with the intention of resisting such invasion and outrage, and have broken open certain Stores in Woodstock, in which arms and ammunition belonging to her Majesty were deposited, and have taken the same away for that purpose,--I do hereby charge and command all persons concerned in such illegal acts, forthwith to return the arms and ammunition so illegally taken, to their place of deposit, as the Government of the Province will take care to adopt all necessary measures for resisting any hostile invasion or outrage that may be attempted upon any part of Her Majesty's Territories or Subjects. And I do hereby charge and command all Magistrates, Sheriffs, and other Officers, to be vigilant, aiding and assisting in the apprehension of all persons so offending, and to bring them to justice. And in order to aid and assist the Civil Power in that respect, if necessary, I have ordered a sufficient Military Force to proceed forthwith to the place where these outrages are represented to have been committed, as well to repel Foreign invasion, as to prevent the illegal assumption of arms by Her Majesty's Subjects in this Province. And further, in order to be prepared, if necessary, to call in the aid of the Constitutional Militia Force of the country, I do hereby charge and command the Officers commanding the first and second Battalions, of the Militia of the County of Carleton, forthwith to proceed as the Law directs, to the drafting of a body of men, to consist of one fourth of the strength of each of those Battalions to be in readiness for actual service, should occasion require.

Given under my Hand and Seal at Fredericton

the thirteenth day of February, in the year of our Lord one thousand eight hundred and thirty nine, and in the second year of Her Majesty's Reign.

By His Excellency's Command,
WM. F. ODELL.
GOD SAVE THE QUEEN.

HEAD QUARTERS, FREDERICTON,

15th February, 1839.

MILITIA GENERAL ORDERS.

His Excellency the Governor and Commander in Chief has been pleased to order, that the Draft directed to be made from the First and Second Battalions Carleton Militia, under the Proclamation of the Lieutenant Governor and Commander in Chief, dated 13th February instant, be immediately formed into a Battalion, and His Excellency has further been pleased to appoint thereto, the following Officers.

John Dibblee, from 1st Battalion Carleton Militia, to be Major.

TO BE CAPTAINS.

Thomas G. Cunliffe, from 1st Carleton Militia.
James Ketchum, " " do. do.
Charles M'Lauchlan, " 2d do. do.
William M'Kenzie, " 1st do. do.
Murphy Giberson, " 2d do. do.

TO BE LIEUTENANTS.

Ralph Ketchum, from 1st Carleton Militia.
J. A. C. Phillips, " " do. do.
Wm. M'Donald, " 2d do. do.
R. D. Beardsley, " 1st do. do.
Henry Baird, " 2d do. do.

TO BE ENSIGNS.

C. Wolhaupter, from 1st Carleton Militia.
George M'Kenzie, " " do. do.
Abner Bull, " " do. do.
Charles Upton, " 2d do. do.
G. S. Tompkins, " " do. do.
Adjutant—Robert Woodward, (Captain).
Paymaster—James R. Tupper.
Surgeon—LeBaron Botsford.

Quarter Master—Patrick Murphy.
By Command,
GEO. SHORE, A. G. M.

HEAD QUARTERS,

FREDERICTON, 17th February, 1839.

MILITIA GENERAL ORDERS.

The Lieutenant Governor and Commander in Chief has been pleased to order a Draft to be made from the following Battalions of Militia to the extent hereinafter mentioned, viz:—

From the 1st, 2d and 3d Battalions York County, one hundred men each, exclusive of Non-Commissioned Officers.

From the Regiment of Saint John City Militia, one hundred and fifty men, exclusive of Non-Commissioned Officers; that is to say:—Seventy five men from the 1st Battalion, and the like number from the City Rifle Battalion.

From the 1st and 4th Battalions, Charlotte County, fifty men each, exclusive of Non-Commissioned Officers.

His Excellency has further been pleased to appoint the following Officers:—

TO THE DRAFT FROM THE COUNTY OF YORK.
Lieutenant Colonel John Robinson, (3d York Light Infantry.)

CAPTAINS.

D. L. Robinson, 1st York.
George Clements, 3d do.
George Long, 2d do.
John M'Gibbon, 3d do.
John Yerxa, 2d do.

LIEUTENANTS.

Jacob M'Keen, 2d York.
Thomas Bowden, 1st do.
James Carman, 3d do.
Thomas Campbell, 3d do.
Benjamin Wheeler, 2d do.

ENSIGNS.

James Nelson, 2d York.
D. S. Kerr, 1st do.
William M'Lean, 1st do.
John M'Lean, 3d do.
Alex. Campbell, Junior, 3d do.
Adjutant and Captain George Priestly, from Sunbury Militia.
Paymaster, Thomas Howe,
Surgeon, William Woodford,
Quarter Master, B. Wolhaupter, 1st York.

SAINT JOHN, CITY.

Captain Charles Drury, 1st Battalion.
T. B. Millidge, Rifle Battalion.
Lieutenant Douglas Clarke, 1st Battalion.
Charles Johnston, Rifle Battalion.
2d Lieutenant Thomas Nesbitt, Junior, 1st Battalion.
Ensign, G. F. Wilmot, Rifle Battalion.
Adjutant, T. W. Peters, 1st Battalion.

By Command,
GEO. SHORE,
Adjutant General Militia.

The following Warrants are payable on demand at the Treasury.

276. J. A. MacLauchlan and Asa Dow,	£300 0 0
277. G. E. Ketchum and F. E. Beckwith,	50 0 0
280. Justices of Westmorland,	40 0 0
281. Hon. E. B. Chandler,	27 15 0
282. Jas. M'Pherson,	15 0 0
285. B. L. Peters,	1100 0 0
286. Jas. Wallace, Jr. and John Nixon,	400 0 0
288. Sam. Nevers,	150 0 0
289. Benjamin Noble,	50 0 0
290. Sam. Easterbrooks,	50 0 0
291. Joseph Rideout,	40 0 0
292. James Sharpe,	70 0 0
293. Abner Bull,	80 0 0
294. Frederick Dibblee,	33 0 0
295. Ralph Beardsley,	47 0 0
297. William M'Kenzie,	52 10 0
298. John Dibblee,	75 0 0
299. Wm. Ensley,	180 10 0
300. Benjamin Tibbits,	40 0 0
302. Chas. Beckwith,	45 0 0
303. Wm. M'Donald,	55 0 0
306. Wm. Mallory,	25 0 0
309. Jas. M'Graw,	30 0 0
310. Robert Lindsay,	30 0 0
312. Henry Sharp,	30 0 0
313. Ralph Ketchum,	120 0 0
316. Walter Hay,	40 0 0

317. Trustees of Schools, Dorchester,	70 0 0
318. do. Sackville,	100 0 0
319. do. Westmorland,	80 0 0
320. do. Hopewell,	180 0 0
321. do. Botsford,	70 0 0
322. do. Moncton,	80 0 0
323. do. Coverdale,	50 0 0
324. do. Shediac,	50 0 0
325. do. Hillsborough,	30 0 0
326. Nathan Lawrence,	145 0 0
327. John Trenholm,	175 0 0
331. Simon Legere,	35 0 0
332. George Oulton,	40 0 0
333. William Peacock,	25 0 0
334. William Evans,	95 0 0
335. John Palmer,	80 0 0

The intermediate numbers have been paid.

B. ROBINSON, Province Treasurer
Treasury, Saint John, 16th Feb. 1839.

We understand that the Law Officers before whom the case of the Land Agent and party from the State of Maine, arrested on the Disputed Territory was investigated, have reported it to His Excellency the Lieutenant Governor, as their opinion, that the offence charged against them, is one rather against the Law of Nations and of Treaties than against those of this Country, and that therefore as offenders against the State, their disposal is referred for the decision of Her Majesty. We further understand that they have been allowed to return to the State of Maine on their Parole of Honor, and made the bearers of a strong representation from the Lieutenant Governor to the Executive of Maine upon the recent occurrences. It is understood the parties left Fredericton on Monday evening.

SUPREME COURT.

HILARY TERM, 1st VICTORIA, A. D. 1839.

GENERAL RULES, AS TO PROCEEDINGS AGAINST PRISONERS.

I. It is ordered, That from and after the last day of this Term, in all cases where a Prisoner is or shall be taken, detained or charged in custody by mesne process thereafter returnable, issuing out of this Court, and the Plaintiff shall not cause a Declaration against such Prisoner to be delivered to such Prisoner, or to the Sheriff in whose custody such Prisoner is or shall be detained or charged, within three Calendar months after the return of the Process, by virtue whereof such Prisoner is or shall be taken, detained or charged in custody; and cause an affidavit to be made and filed with the Clerk of this Court, of the delivery of such Declaration, and of the time when, and the person to whom the same was delivered, before the last day of the next term after the delivery of such Declaration, the Prisoner shall be discharged out of custody by writ of *superseas* to be granted by this Court, or one of the Judges thereof, upon filing common bail; unless upon notice given to the Plaintiff's Attorney good cause shall be shewn to the contrary.

II. It is further ordered, That on every Declaration so to be delivered against a Prisoner as aforesaid, a Rule to appear and plead shall be indorsed according to the form following that is to say: "The Defendant C. D. is to appear and plead hereto at the suit of the Plaintiff A. B. within twenty days after service of this Declaration; otherwise judgment will be entered against him by Default."

G. H. Plaintiff's Attorney.

and that Judgment shall not be entered against such Defendant by default until the expiration of the said Rule.

III. It is further ordered, That the Sheriff who shall have received a copy of a Declaration against any Prisoner in his custody, shall indorse thereon, the time of his so receiving the same, and shall forthwith deliver the same to the said Prisoner, and shall also enter in a Book to be by him kept for that purpose, the time of receiving such declaration, and of delivering the same to the Prisoner.

IV. It is further ordered, That where the Plaintiff declares against the Prisoner, it shall not be necessary to make more than two copies of the Declaration, of which one shall be served, and the other filed with an affidavit of service, and a copy of the Rule to appear and plead indorsed thereon.

V. It is further ordered, That upon application made by the Plaintiff before the time at which the Defendant may be *superseas*, and good and sufficient cause shewn by affidavit; further time to declare may be given by Rule of Court or order of a Judge.

VI. It is further ordered, That upon every application for a *superseas* for want of declaring in due time, in addition to the certificate of the Sheriff that no Declaration has been delivered to him for the Prisoner, there shall be an affidavit of the Defendant, that he has not been served with such declaration.

VII. It is further ordered, That unless the Plaintiff shall proceed to trial or final judgment within three terms next after the delivery or filing of Declaration, if by the course of this Court the Plaintiff can so proceed; of which three terms, the term wherein such Declaration shall be delivered shall be taken to be one; or if by the course of the Court the Plaintiff cannot so proceed to trial or final judgment within the time above limited; then unless the plaintiff shall proceed to trial or final judgment as soon after as by the course of this Court he may so proceed; the Prisoner shall be discharged out of Custody by writ of *superseas* to be granted as aforesaid, upon filing common bail, unless upon notice given to the Plaintiff's Attorney good cause shall be shewn to the contrary.

VIII. It is further ordered, That in all cases after final judgment obtained against a Prisoner unless the Plaintiff shall cause such Prisoner to be charged in execution within

three calendar months next after the day on which such final judgment shall be signed; in case no writ of error shall be obtained for stay of proceedings; and if any writ of error shall be depending nor injunction be obtained, then within three calendar months next after judgment shall be affirmed, the writ of error be non-*prossed* or discontinued, or the injunction dissolved, the Prisoner shall be discharged out of custody by *superseas* to be granted as aforesaid; unless upon notice given to the Plaintiff's Attorney good cause shall be shewn to the contrary.

IX. It is further ordered, That after trial had unless the Plaintiff do proceed to have his judgment entered up and signed as soon as by the course and practice of the Court he may so do, or within one calendar month thereafter; in case no injunction shall be obtained or order made for stay of proceedings; and if any such injunction shall be obtained or order made, then within one calendar month after such injunction shall be dissolved or order discharged; the Prisoner shall be discharged out of custody, in like manner as in the last preceding Rule is provided.

X. It is further ordered, That in case of a tender in discharge of bail after final judgment obtained, unless the Plaintiff shall cause the Defendant to be charged in execution within three calendar months next, after such tender and due notice thereof given, and in case of tender after trial and before judgment, unless the Plaintiff do proceed to have his judgment entered up and signed within the time limited by the last preceding Rule, or within one calendar month after such tender and due notice thereof, the Prisoner shall be entitled to his discharge in manner aforesaid, unless good cause be shewn to the contrary.

XI. It is further ordered, That no treaty or agreement shall be sufficient cause to prevent any Prisoners having the benefit of a *superseas*, unless the same be in writing signed by the Prisoner or his Attorney, or some person duly authorized by such Prisoner.

WARD CHIPMAN,
W. BOTSFORD,
R. PARKER.

GENERAL RULE.

It is ordered, That the writ of *Super Facies* to be issued under the Act of Assembly, 26, George 3d. C. 24, shall be in the form following, or to that effect; adding in the body of the same any special matter which in particular cases may be deemed requisite.

FORM OF WRIT.

Victoria, &c. To the Sheriff of , Greeting. Whereas A. B. lately in our Court before us at Fredericton, impleaded C. D. and E. F. in a plea of , (the said C. D. having been duly taken and brought into Court by virtue of process issued in the said suit against the said C. D. and E. F., and the said E. F. not having been taken and brought into Court by virtue of such process,) and did afterwards by the judgment of the same Court recover as well against the said E. F. as the said C. D. [state the recovery.] in the same manner as if they had both been taken and brought into Court, pursuant to the Act of Assembly in such case made and provided, whereof the said C. D. and E. F. are convicted as by the record and proceedings thereof still remaining in our same Court manifestly appear:

And now on behalf of the said A. B. in our same Court, we are informed that although judgment be thereupon given, yet satisfaction of the [debt and] damages aforesaid still remains to be made to him; and he is desirous of executing an Execution for such [debt and] damages against the body, or the lands or goods the sole property of the said E. F. wherefore the said A. B. hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you that by honest and lawful men of your Bailiwick, you make known to the said E. F. that he be before us at Fredericton, on to shew if he has or knows of any thing to say for himself, why the said A. B. ought not to have execution for the [debt and] damages aforesaid, to be executed against the body or the lands or goods the sole property of him the said E. F. according to the force, form and effect of the said recovery, and pursuant to the said Act of Assembly in such case made and provided, if it shall seem expedient for him so to do; and further to do and receive what our said Court before us shall then and there consider of him in this behalf: and have you there the names of those by whom you shall so make known to him, and this writ. Witness, &c.

WARD CHIPMAN,
W. BOTSFORD,
R. PARKER.

HILARY TERM, 2d VICTORIA, A. D. 1839.

I. It is ordered, That in future where the Defendant in any action shall plead one or more special pleas, and serve copies on the Plaintiff's Attorney, with rule to reply in twenty days, the Plaintiff shall file and deliver his replication in twenty days from the time of such service of plea and rule, and in default thereof the Defendant shall be entitled to judgment of *non pross*, a replication being first demanded after the said twenty days; and in like manner twenty days shall be allowed for every subsequent pleading, and the opposite party shall be entitled to judgment by default or *non pross*, as the case may be, for not replying, surrejoinder, &c. a rule to rejoin, surrejoinder, &c. being served and demand made as aforesaid, unless the Court or a Judge shall think proper to allow further time. Provided that no such judgment of *non pross* or default shall be signed until ten days after demand of replication, rejoinder, &c.

II. It is further ordered, That all such rules to reply, rejoin, surrejoinder, &c. may be taken out in vacation and entered as of the preceding Term, the Attorney delivering to the Clerk a *præcipe* for such rule.

WARD CHIPMAN,
W. BOTSFORD,
R. PARKER.

HILARY TERM, 2d. VICTORIA, 1839.

It is ordered, That Mr. Solicitor General, Mr. W. B. Kinnear, Mr. D. L. Robinson and Mr. Wright, be appointed in pursuance of the

General Rule of Michaelmas Term, 1st Victoria, the Barristers for conducting the examination of persons who may make application for admission as Attorneys of this Court, during the year ending with the next Hilary Term.
WARD CHIPMAN.
W. BOTSFORD.
R. PARKER.

SUPREME COURT.

HILARY TERM, 2d. VICTORIA.

It is ordered, That the examination of Students applying for admission as Attorneys at the next Trinity Term, shall take place at the residence of Mr. Justice PARKER in St. John, on Monday the 3d day of June next, and at Fredericton on Monday the 10th day of June next, at the Province Hall.

By the Court.

GEO. SHORE, CLERK.

GEOLOGICAL SURVEY OF NEW BRUNSWICK.

BY ABRAHAM GESNER, PROVINCIAL GEOLOGIST.

This work has been so extensively noticed, and reviewed by our contemporaries, that we shall content ourselves with an acknowledgment of its receipt at our office. But as we believe that we cannot occupy our pages more advantageously, thereby assisting in the diffusion of the important information which Dr. GESNER has compressed in this small volume, we shall copy the work entire in our Journal.

The Magnet Packet, with the Mails for Halifax, sailed from Falmouth on the 9th January.

H. M. S. Malabar from hence and Bermuda, had arrived at Plymouth.

H. M. S. Inconstant sailed this afternoon for England.—*Hal. Reg. Gaz.* 13th Feby.

LONDON, JANUARY 8.

ASSASSINATION OF LORD NORBURY.—On the evening of New Year's day Lord Norbury was fired at in his own denance, within a few paces of his own hall door, and the bullet of the assassin unfortunately took effect. The noble victim lingered on in intense suffering until Thursday at noon, when he expired.

The melancholy event took place at his Lordship's castle of Duroor, between Tullamore and Kibbeggan, a distance of about 40 miles from the metropolis.

CANADA.

The *Quebec Mercury* of the 12th inst. contains the following complimentary remarks on the Speech of Sir JOHN HARVEY:—

"The several suggestions are clearly made, and show that the Lieutenant Governor has taken no inconsiderable pains to make himself acquainted with the state of the Province of which he administers the government. We learn that His Excellency's speech has already produced a strong effect in the Province, and is pronounced by the population in general to be that of a man who can speak to them himself, but who abstained from doing so till he had obtained a perfect personal knowledge of the state of the Province. This in itself is the fact, for since his arrival in New Brunswick Sir John Harvey has visited every section of it, and closely investigated the want of the inhabitants; his suggestions, therefore, have the value of being the result of personal observation, and as such, are entitled to additional respect. We have reason to believe that the most cordial good feeling exists in that loyal Colony between the governor and governed, the good effects of which are already apparent in the zealous co-operation of the people in all measures for the maintenance of the connexion with the mother country and the support of Her Majesty's Government, and is becoming more and more marked in the daily development of the rich resources of that fine Province, which have hitherto been, from various circumstances, but little understood, and consequently, to a certain degree, neglected."

We have the greatest satisfaction in being able to publish the following patriotic communication from Sir JOHN HARVEY, the Lieutenant Governor of New Brunswick, to the Governor General, accompanying the very handsome donation of one Thousand Pounds, from the Legislature of our Sister Province for the relief of the immediate necessities of such of their loyal fellow subjects in the Canadas, and their families, as have been sufferers from the recent inroads of brigands from the United States. It is impossible to peruse this short but animating production, without emotions of the liveliest pleasure at the feelings by which the Governor, the Legislature, and the whole people of New Brunswick are alike actuated, in their desire to be of assistance to their suffering fellow subjects in these Provinces. The record of such cordial sympathy for distress will be an everlasting monument of the generous conduct by which the people of New Brunswick are characterized at the present moment; and the way in which Sir JOHN HARVEY states that the donation enclosed in His Excellency's letter, was voted, will be a convincing proof to the Empire at large, that the spirit of their fathers still glows in the hearts of our loyal countrymen in New Brunswick; whose mainly and generous support will ever be remembered with gratitude by the loyal inhabitants of both the Canadas.

We have added to Sir John Harvey's letter, the Resolutions of the House of Assembly and Legislative Council of New Brunswick, voting the above donation, with the Reply of His Excellency to the Address of both Houses on the subject.—*Montreal Gaz.*

GOVERNMENT HOUSE,

Fredericton, January 28, 1839.

SIR,—In compliance with the desire of the General Assembly of this Province, I have great pleasure in transmitting to your Excellency the sum of One thousand pounds, voted by the House of Assembly, and warmly concurred in by the Legislative Council, for the purpose of being applied, under your Excellency's directions, to the relief of the immediate necessities of such of their loyal fellow