



# The Royal Gazette.

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FREDERICTON, N.B., WEDNESDAY, MARCH 23, 1853

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*All Official Notifications appearing in this Paper, duly authenticated, are to be received as such by the persons whom they may concern*



## BY AUTHORITY.

### PROVINCIAL APPOINTMENT.

H. M. G. GARDEN, Deputy Surveyor, to be Commissioner of the Tobique Indian Reserve, in the room of Benjamin Beveridge, Esquire.

*By His Excellency's Command.*

J. R. PARTELOW.

Secretary's Office, 17th March, 1853.

### GOVERNMENT NOTICE.

**T**HE following Documents are published for the information of all concerned, in order that, if evils of a similar nature exist in this Province, the necessary steps may be taken for their immediate correction.

*By His Excellency's Command.*

J. R. PARTELOW.

Secretary's Office, March 22, 1853.

[Circular.]

*Downing Street, 22nd February, 1853.*

SIR,—Some inconvenience having been experienced in Quebec in consequence of the forms of proceedings adopted by the Justices in hearing complaints relating to Merchant Seamen's Wages, Her Majesty's Government have deemed it advisable to consult the Legal Advisers of the Crown on the question, whether those forms could not be simplified. I transmit to you, for your information and guidance, a copy of the Case and opinion on this subject, by which you will perceive that much litigation and expense might be avoided if the Justices, in the Colonies where complaints of this kind are likely to arise, were to adopt certain specified changes in the forms and mode of proceeding in their Courts.

I have the honor to be, Sir,

Your most obedient humble Servant,

NEWCASTLE.

Lieut. Governor Sir Edmund Head,  
Bart., &c. &c. &c., New Brunswick.

Copy.

*Office of the Committee of Privy Council  
for Trade, 31st January, 1853.*

SIR,—I am directed by the Lords of the Committee of Privy Council for Trade to enclose a Case submitted to the Law Officers concerning the forms of Proceedings for Seamen's Wages now in use at Quebec, with their opinion thereon, from which it appears that they consider that great inconvenience and expense might be avoided if the Justices in the Colony were to adopt certain specified changes in the Forms and mode of proceeding in their Courts. As it is of great importance to take all possible measures for preventing Desertion and Insubordination among the Crews of British Vessels in Colonial Ports, I am to request you to move the Secretary of State for the Colonies to consider the expediency of sending such Instructions to the Colonial Government as may have the effect of calling the attention of the Justices at Quebec to the suggestions contained in the Opinion of the Law Officers, and I am also to request that my Lords may be informed whether those suggestions are adopted.

I am, &c.

(Signed)

JAMES BOOTH.

Herman Merivale, Esq., &c. &c. &c., Colonial Office.

Copy.

CASE

*For the Opinion of the Attorney and Solicitor General.*

By the Act 13 & 14 Vic., cap. 93, s. 94, it is enacted, "That no Seaman who is engaged for a voyage, or engagement which is to terminate in the United Kingdom, shall be entitled to sue abroad for wages in any Court, or before any Justice, unless he is discharged

in the manner required by the 'General Merchant Seamen's Act,' and with the written consent of the Master, or proves such ill usage on the part of the Master, or by his authority, as to warrant reasonable apprehension of danger to the life of such Seaman by remaining on board; but if any Seaman on his return to the United Kingdom, proves that the Master or Owner has been guilty of any conduct or default which, but for this Enactment, would have entitled the Seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover, in addition to his wages, such compensation not exceeding Twenty Pounds, as the Court or Justice hearing the case may think reasonable."

The object of this Enactment was to prevent frivolous litigation on the part of Seaman belonging to ships of this country who, attracted by higher wages in the Colonies, were in the habit of preferring frivolous complaints, thus involving the Master in expensive litigation, in order to obtain the means of abandoning their original engagements.

It is stated by Ship-owners in this country, that the Justices at Quebec entertain complaints by Seamen, belonging to ships bound to return to this country, for wages, although they do not contain such averments as would bring the cases within the provisions of the above Enactment, and that by so doing, they exceed their jurisdiction; and that, although the complaints may be ultimately dismissed, they do, by entertaining them in the first instance, give rise to the litigation and expense which it was the object of the Enactment to prevent.

Copies of complaints so entertained, accompany this Case, and your opinion is requested on the following points:—

1. Whether the complaints in question are such as ought, considering the above Enactment, to be entertained by the Justices at Quebec, assuming the ship mentioned in them to be one bound from this country to Quebec and thence back to Great Britain.
2. If not, what additional averments ought to be contained in the complaint in order to bring the Case within the Justices' jurisdiction under the above Enactment.
3. If the complaints in question are such as the Justices ought to entertain, whether any alteration can be made in the Enactment, so as to preclude altogether litigation in the Colonies, in the cases in which it is intended to have that effect.

We are of opinion that there is nothing illegal in the course pursued by the Justices of Quebec in entertaining complaints and issuing Summonses in the form submitted to us.

Nevertheless, it cannot be doubted that it would be much more convenient, and would prevent much unnecessary litigation and annoyance to the Masters of Vessels, if the Justices, instead of receiving Complaints and issuing Summonses framed in so general a form, would cause the parties complaining, to be in the first instance examined, to see whether the Case comes within the 94th section of 13 & 14 Vic., cap. 93, or is within its exceptions, and would cause the Port to which the ship is ultimately destined, to be added to the name of the Ship in the Complaint. If, on such preliminary inquiry it should appear that the case is one over which the Justices have not jurisdiction, much trouble will be avoided, by refusing the Summons in the first instance.

We entertain no doubt that if the attention of the Justices were called to this subject by the Local Government, they would readily adapt their practice to these suggestions, if not, it would be easy to remedy the mischief by Legislative Enactment.

(Signed)

A. E. COCKBURN,  
RICHARD BETHELL.

*Temple, January 27th, 1853.*

Copy.

PROVINCE OF CANADA,  
District of Quebec.

To John Magnire, Esquire, one of Her Majesty's Justices of the Peace for the District of Quebec, residing in the City of Quebec, in the said District.