

THE SENTINEL.

AND NEW BRUNSWICK GENERAL ADVERTISER.

VOL. III.

FREDERICTON, SATURDAY, NOVEMBER 21, 1840.

No. 47.

THE SENTINEL.

PUBLISHED EVERY SATURDAY MORNING
By Edmund Ward.

Office—Phoenix or Tank House—Fredericton.
AND CONTAINS,
The Decisions of the Executive, and Notices of
Sales of Crown Lands.

During the sitting of the Legislature THE SENTINEL is published twice each week, and in it will be inserted
The Debates in the Legislative Council and House of Assembly.

TERMS.—15s. per annum, exclusive of Postage
Half in advance.

No Paper will be discontinued at the request of a Subscriber until all arrears are paid.

ADVERTISEMENTS not exceeding twelve lines will be inserted for four shillings and six pence the first, and one shilling and sixpence for each succeeding insertion. Larger in proportion.

PUBLIC INSTITUTIONS.

CENTRAL BANK OF NEW BRUNSWICK.—W. J. Bedell, Esq. President. Saml. W. Babbit, Esq. Cashier. Discount Days, Tuesdays and Fridays. 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. Director next week, Mr. JOHN J. MUNRO.

COMMERCIAL BANK OF NEW BRUNSWICK.—Fredericton Branch. Archd. Scott, Esq. Cashier. Discount days, Mondays and Thursdays. Hours of business from 10 to 3. Notes or Bills for discount are to be left at the Bank, enclosed to the Cashier before three o'clock on Saturdays and Wednesdays. Manager next week, J. GREGORY.

BANK OF BRITISH NORTH AMERICA.—Fredericton Branch.—George Taylor, Esq. Manager. Discount days, Wednesdays and Saturdays. Hours of business from 10 to 3. Notes and Bills for discount to be in before 3 o'clock on the days preceding the Discount Days. Director next week, J. SIMPSON, Esq.

SAVINGS' BANK. Trustee for next week, PETER FISHER, Esq.

CENTRAL FIRE INSURANCE COMPANY.—B. Wolhaupter, Esq. Office open every day, at Mr. Minchies Brick House, opposite the Parade, (Sundays excepted,) from 11 to 2 o'clock. Committee for the present month, W. D. ARTT and T. T. SMITH.

ALMS HOUSE AND WORK HOUSE.—Commissioner, till Thursday next, L. A. WILMOT, Esq.

FOR THE SENTINEL.

MR. EDITOR.—Sir,—A spirit of hostility has been lately evinced by some of the gentlemen of Bathurst against the "Sentinel," from what reason I am unable to ascertain, unless it is because it is issued from a free, and open, and unshackled press, and its columns bespeak manly independence in supporting the prerogative of the crown, and the rights and liberties of the people. Those gentlemen have been earnestly soliciting a number of your subscribers to discontinue that "damned radical paper" the Sentinel, as they are pleased to call it. I have no desire to wound the feelings of any person, be his sentiments what they may; but every principle of justice, of candour, and of honour, induces me to state the impropriety of such proceedings, and to avow my utmost abhorrence of such conduct. The honorable personages alluded to, enjoy the unenviable privilege of taking whatever paper they please, themselves, and were they to grant others the same liberty, and not interfere at all in such affairs, it would certainly be much more creditable to them.

If by the expression "radical paper" they mean—that which has for its object the weal of the community at large, and not of a few favoured individuals—that which shrinks not from exposing the imposition upon the public in the expenditure of its revenue, in short—that which renders unto all their dues; tribute to whom tribute is due; custom to whom custom; fear to whom fear; and honour to whom honour—then I glory, in patronizing such a paper; and so long as this shall be the character of your paper: so long as it will continue a faithful sentinel warning against impending danger, and aiding to stem the tide of corruption; so long will it find a subscriber in
JUSTITIA.
Bathurst, Nov. 10, 1840.

FOR THE SENTINEL.

The recent developments in relation to the Boundary Line Question made by Messrs. Mudge and Featherstonhaugh, will place the subject before the British Government in a light entirely new. It has always been to us a matter of surprise, that in all the negotiations and writings on this subject no reference has been before made, except in one or two obscure instances, to the mistake in adopting the Chiputneetook as the true St. Croix or Schoodeag river. On some of the American maps of Maine, the Lakes on the Western Branch or Maine river are called the Schoodic Lakes, thus applying the name of the river to those Lakes, and indicating that the Western Branch is a continuation of the river Schoodeag or St. Croix. In the articles which have appeared in the Newspapers, and in the pamphlets on the subject published in the Province, there appears to have been something like a studied effort to keep out of sight the ground now taken by the above named Commissioners of Survey. Whether this is the result of accident or design, time may disclose.

It is not a little singular that the subject should have been constantly before the British Government for the last twenty-five years, and that in the mean time (1815) a survey of the North-eastern boundary should have been made by Commissioners appointed for that purpose, and the Government still remain in ignorance of the true and only tenable ground on which its claim, and more than it has hitherto claimed, can be supported. The survey of 1815 taking the monument at the source of the Chiputneetook as the starting point, plainly demonstrated, that by proceeding from that point, the provisions of the Treaty of 1763 could not be fulfilled, and consequently that a part of the stipulations of the Treaty must be wholly nugatory, not merely from uncertainty, but from the impossibility of giving effect to them. The

whole difficulty, as is now manifestly proved, arose from the error of taking the wrong Branch for the true St. Croix. This circumstance has involved the Government in the impracticable effort of applying the treaty stipulations to a state of facts for which they were not intended, and which do not exist. Neither was their existence assumed or contemplated by the Treaty itself. The Report of Messrs. Mudge and Featherstonhaugh, appears to vindicate the original framers of the Treaty from the charge of ignorance of the topography of the Country, and from the folly of assuming at a venture facts, which they did not know to exist.

The whole subject has been a tissue of mystery, sophistry, and special pleading, and could, in the manner in which it has been hitherto treated, up to the time of the "Report," produce no other results than that of incomprehensibility and confusion. The departure from the Treaty by taking the Eastern Branch instead of the Western, was a virtual abandonment of it from the junction of those branches, and left all the advantage at the side of the Americans. The only method of giving effect to the Treaty, is to commence at the source of the Western Branch, or if concession be expedient, to commence at the monument and run to that point in the Treaty Highlands intersected by a due North line from the source of the Western Branch; and there as specified in the Treaty. In the settlement of the Question, it is probable the grand object of the British Government will be, not so much the re-acquisition of territory, as the securing of an unobstructed communication between the upper and lower Provinces. In order to accomplish this object, it is important that the spirit of concession should not, in any event, extend beyond the relinquishment of claim to the territory Southerly and Westerly of the line above indicated. This line would of course leave to Maine a large tract of country rightfully belonging to us, and which if retained, should be paid for.

By a glance at a map of the country, it will readily be seen that the country Northerly of the above line is necessary to a direct communication between this Province and Quebec, instead of turning Mars Hill as is done by the rail road line recently surveyed. A direct line from Woodstock to where the rail-road line crosses the Allegash, whether for the purpose of a rail-road or common road, would greatly shorten the distance, and secure, what is of much importance in itself, a lower elevation of country. Besides, in a military view, it is important to remove the boundary as far as possible from a practicable military route between the upper and lower Provinces.

The pertinacity with which the leading men of Maine have all along asserted her pretensions has been a blind pertinacity, and can hardly be accounted for on any other supposition, than that of their ignorance of the true merits of the question. Had the true merits been fully understood, a people so distinguished for astuteness in bargain-making, would not have committed the egregious folly of interposing their voice to set aside the award of the King of the Netherlands, and prevent the General Government from giving effect to it, as it would readily have done, but for the uproar against it by the leading partizan politicians of that State. It should have occurred to them, that their own clamor for the strict fulfilment of the Treaty of 1783 might one day be turned against themselves, and materially weaken the advantage which any arrangement between the governments subsequent to the Treaty, might have given them. All that we require is an adjustment of the question on their own grounds, namely, a rigid adherence to the Treaty, throwing aside all subsequent arrangements.

Maine has obviously placed herself in a false position; and it remains to be seen whether the past ignorance of her true rights, now that the tables are likely to be turned against her, will be succeeded by the unmanly conduct of practically abjuring her own doctrine, and denying to us what they have hitherto claimed for themselves—a settlement of the whole question in accordance with the Treaty.

As well might a mariner expect to find his port of destination by steering a course indicated by a false compass, as the parties to the treaty expect the execution of it, in its letter or spirit, by the method hitherto purchased. The absurdity of running a line according to a treaty the directions of which have almost in the outset been departed from, is sufficiently apparent.

The Journal of Commerce (New-York), after alluding to the great number of arrivals of vessels at Quebec, Halifax, Pictou, Sydney, and St. John during a part of the month of September last, and difference of duty allowed by the British Government on Colonial Flour, remarks, that "with such a trade, it is very natural that every means should be resorted to by the English Government, to hold on to the Disputed Territory, thereby to enable her to have a direct inland communication by rail-ways from St. John to Quebec and Montreal—To England it is worth millions. The pass commands Lower Canada in the event of a war, during the long period when the St. Lawrence is closed by ice."

The treaty expressly contemplated a continuous range of highlands from the Northwest-most head of the Connecticut passing easterly so as to intersect a due North line from the source of the St. Croix. And such a range it appears actually exists, by taking the source of the Western Branch or true St. Croix as the point of departure. Had this range continued easterly far enough to have intersected a due North line from the monument, it is probable the question would long ago have been settled with an apparent adherence to the treaty, and before the attention of the British Government had been called to the error. Fortunately perhaps for us, the non-existence of such a continuous range has prevented a final adjustment until the present time, when the British Government will be enabled by recent developments, to enter upon the subject, with a full understanding of its merits.

Two men are now living in the County of Charlotte, who were employed on the Survey made in 1794; one of whom belonged to the British and the other to the American party. It appears by their statements, that when the parties arrived at the Louis-Island Lake (about seven miles from the junction of the two rivers) the American party refused to proceed any farther, asserting that the Lake was the source of that branch. The Americans then proposed to fix the monument at the source of the Chiputneetook, and contended that this proposition was for the advantage of the British Government. In the meantime the British Commissioner despatched Col. Millidge with a party to explore the Western river to its source and ascertain the Treaty highlands, which he accom-

plished without difficulty. Before Col. Millidge returned, and he had an opportunity of reporting the information acquired, it appears an agreement had been made to adopt the Chiputneetook as the boundary, at which it is said Col. Millidge was greatly indignant. Both parties it appears were much surprised at this arrangement, as they considered the western river to be unquestionably a continuation of the true St. Croix.

Unless the American Government can upset by manly argument based upon the real facts of the case, the developments of Messrs. Mudge and Featherstonhaugh, we see no reason to anticipate much further difficulty or delay in coming to a final and satisfactory settlement of the question.

(From the Halifax Morning Post, Nov. 14.) HIGH COURT OF CHANCERY.

Discussion of an Important Question relating to the extent of the power and jurisdiction of the Master of the Rolls, and to the Rules governing Appeals from his Decisions.

CAUSE.—CRAIG VS. ROSS.

This cause, on appeal, was heard on Thursday last in the Council Chamber, by his Excellency Lord Viscount Falkland, attended by their lordships the Chief Justice, and Judges Hill and Bliss; his honor the Master of the Rolls, being also present.

The Honorable Alexander Stewart and Jas. Stewart, Esq. appeared for the petitioner, Mr. Ross; and James F. Gray, Esq. for the plaintiff Mr. Craig. There was a full attendance of the Bar, and a numerous auditory, the cause exciting much interest.

From the defendant's statement (which was read by the registrar,) it appears, that on the 11th of April last he filed his petition of appeal to the Chancellor, from a decree made by the Master of the Rolls on the 23rd of March preceding and paid into Court the usual deposit of £20 on the 15th of April. That in pursuance of the direction of the Master of the Rolls, the defendant's Counsel, on the 20th of April, moved in the Rolls Court on such petition, and therefore his honor declared that the appeal should be allowed, unless cause to the contrary should be shown on the then next Court day. That no cause against it having been offered, the defendant, on the 31st of August, filed another petition, praying that his appeal might be heard by his Excellency at an early day. That afterwards, on the 19th of October, his honor made and signed an order, that the appeal should be allowed, adding thereto the following words, (which formed one of the principal subjects of complaint in the present case) viz. "And that such appeal be set down to be heard on such day and at such place as the Chancellor shall be pleased to direct; he being assisted by the Master of the Rolls, and by such other Advisers as he shall think proper to require at such hearing." That the defendant deeming such addition to be without precedent, unauthorized, and irregular; on the 26th of October had presented a petition to his Excellency the Chancellor, through his Secretary, referring him to the practice in England, and to that of this province upon appeals; also referring to the act of Assembly passed in 1833, relatively thereto, and to the order in question, praying that the same might be discharged as irregular, and requesting that he might be heard by his counsel before him as Chancellor, in case his Excellency entertained any doubt on the subject. That in answer to such petition, his Excellency, "being advised that no order or decree whatever, made in the Court of Chancery, could be varied in its terms, unless after a formal rehearing or appeal thereupon," desired the petitioner, if he desired to have the order referred to altered in any manner, forthwith to present a petition for rehearing to the Master of the Rolls, according to the usual practice, and, making the required deposit, proceed to obtain an order for rehearing the order referred to before his Excellency, at such time as he should appoint therefor." It further appeared that he had obeyed these directions, by paying another deposit of £20, and filing another petition on the 6th of November, appealing from the order of 19th October, and praying that the same might be wholly reversed and discharged, or such other made in the cause as justice might require.

On Monday last, an order was made to hear the present appeal on Thursday the 12th of November at 12 o'clock, as mentioned in our notice in the Morning Post of Tuesday last. This last order, as well as that directing a further deposit, appear to have been advised by the Master of the Rolls, but signed by his Excellency himself, and the last order was also signed by the Master of the Rolls.

The Hon. Alex. Stewart opened the argument, (occupying four hours in the delivery of his address, of which we can give but a comparatively brief outline) by referring to the facts detailed in the defendant's petition, the several orders made relating to the appeal to what had taken place in the Rolls Court on Monday last, when the Master of the Rolls declared "that the order he had made was irregular in containing the words, such other advisers as his Excellency should think proper, as no one but the Master of the Rolls could advise the Chancellor on appeals," and also to his honor's observations as to preventing petitions of appeal to his Excellency through his Secretary, and his determination to fine any one who should present petitions to the Chancellor contrary to his honor's directions, &c.

Mr. Stewart stated the position taken by the Master of the Rolls to be the following, viz. "Whenever, in this Province, a party appeals from the decision of the Master of the Rolls to the Chancellor, it is the right of the former, by an order to be made and signed by him, to direct that the latter shall be advised by himself only, and that the Chancellor cannot legally consult any other advisers upon such appeal. The learned Counsel said he should oppose thereto the following proposition. "By the law of England, upon an appeal to the Lord Chancellor, it is not competent for the Master of the Rolls to limit the power of the Chancellor; or to order who shall be his assistant and adviser; or to impose restrictions limiting the right of the parties in respect to such appeal; or to make orders directing how, when, or where, the appeal shall be heard; or the terms on which it shall be obtained; or to prevent either party from performing any petition thereon to the Chancellor, either in person, or by his Solicitor, or Counsel, or through the Registrar or his lordship's Secretary; it being by the Appellate tribunal, (as well in appeals from the Master of the Rolls to the Chancellor, as on appeals from his Lordship

to the House of Lords,) and not by that appealed from, that rules and orders to regulate such appeals are made, and directions given to the parties therein. But if the Master of the Rolls of England had such authority there, the Master of the Rolls in this Province has it not here, because, by the tenor and spirit of the act of the General Assembly, 3 Will. 4 cap. 52, which passed 20th April, 1833, he is expressly restrained from interfering in appeals from himself to the Chancellor, who in this country can, if he think proper, (as the Lord Chancellor in England can, and as the Lord Chancellor frequently does,) call any or all the Judges of the Superior Courts of common law to aid and advise him upon such appeals."

The learned counsel continued, and observed that he had thus put his views of the question in writing, that there might be no mistake between his Honor the Master of the Rolls and himself; and he should proceed to support his proposition by reference to the law and practice of the mother country, as well as those of this Province, whilst he should treat that of the Master of the Rolls with the respect which was due to the office which he filled, but with the freedom and independence which became him as a member of the Bar of Nova Scotia, and were due to the interests of his client. That the doctrine, now for the first time announced, was unfounded in law, unsupported by reason, repudiated by the practice of the Courts at home, and in this country unsustained by a single analogous case, destructive of the rights of the suitors in the court, and of the freedom and independence of the Bar by whom those rights were to be vindicated, he was prepared to contend.

The question could not but be important to his Excellency, as he must be desirous to deliver to his successor the prerogatives which his Sovereign had entrusted to him, for the benefit of the people of this Province, as he had received them from his predecessor, inviolate and unimpaired. But though it was important, and as novel as important, there was no difficulty in it whatever, except in discovering by what arguments the proposition of his Honor could be supported. He had indulged in fancy in search of such, and sought among his brethren of the Bar for reasons, or doctrine, or practice, in support of his Honor's proposition, in vain. He said in all sincerity, that his principal embarrassment arose from the utter absence of all these, and if the proposition had emanated from any member of the Bar, however respectable, he should have waited until he had heard something in its support before he said a word; but he could not thus deal with it, delivered as law from the bench, and therefore carrying with it the authority of a learned Judge. It would be unbecoming in him to do so. But he could scarcely call what he should address to his Excellency an argument. It would rather be in the nature of a dissertation or treatise on the office and powers and practice of the Court of Chancery in general, and in matters of appeal from the Master of the Rolls to the Lord Chancellor in particular. He should refer to and support and fortify the ABC of the law, and vindicate and maintain first principles by grave authorities and decided cases. He should take nothing for granted, but prove all things at the risk of wearying his Excellency's patience, for strong as his own opinion was, he was bound to imagine that it might not be correct. It was his good fortune to have the honor of addressing a member of the highest appellate court of the empire, who would therefore be more prepared by his previous investigations, than many of his predecessors, to appreciate his argument, to which he would without farther observation at once proceed. The subject might be conveniently considered: first, by referring to the law and practice of England, secondly, by enquiring what were the law and practice of Nova Scotia in respect to it.

(To be concluded next week.)

MECHANICS INSTITUTE.

INITIATORY SCHOOLS.

The conversation at the Institute last Wednesday evening, to which we briefly alluded in our editorial of Thursday last, turned upon the propriety of introducing the English system of management, relative to giving courses of scientific lectures, and conducting, in connection with the Institute, "Initiatory Schools." The first was strongly urged by one speaker, whilst another said it was impossible to introduce them in the present circumstances of the Province. Their advantage was equally admitted on both sides; but it was said that it could not be expected, that, in a young country like this, courses of scientific lectures could be commanded with the same facility as in England, where, in all the principal cities, men could be found who devoted their entire time to the prosecution of some particular branch. It was stated besides, that it was the practice in England to pay for such lectures, and that the price at the London Institute was about £5 per night. It was suggested, also, that a course of scientific lectures could be had, a syllabus of their contents should be published beforehand, in order that the members could have time to read upon the subject; and come, in some measure prepared, to acquire the more abstract knowledge which a lecturer was in the habit of conveying. Mr. G. R. Young stated, that, from his knowledge of Institutes in the Mother Country, he was aware that science was mainly taught to the Members of Institutes by attendance on Initiatory School. That the system has been tried here and had been supported in the branch attempted very successfully. Mr. Thompson, the Secretary, stated that the attendance in this class had met the expectations of the Committee at the time, and indicated that there was a strong feeling in the community in their favour. Mr. Young further said, that Mr. McKimley, the President, and himself had formed a scheme, at the opening of last session, to introduce an initiatory school, or, in other words, a course of cheap and popular lectures adapted to the junior members of the Institute—upon the more interesting branches of natural science—Electricity, Galvanism, Astronomy, &c. and they had then no doubt whatever, that if the tickets could have been sold at a moderate price, 100 or 200 would have been sold for the course. They were obliged then to abandon their design from the difficulties they felt in furnishing a lecturer of popular education were still entertained by the Committee and others friendly to the Institute—that the hope of introducing them had not yet been abandoned—and that the day was not very distant when these useful additions would be made in the conduct of this useful institution. We can only add, we wish it and these important improvements good speed!

From the London Sun.

The last letter of Sydney Smith to Charles James London, is a far more severe satire on the Established Church and the grasping Bishops, than any article, pamphlet or book ever written by a layman. The reason is obvious; those who are behind the curtain know what is going on; and Churchmen, like thieves and pickpockets, when the plunder is not equally divided, naturally split and tell tales of one another. This is the case in the present instance. The pious Bishop of London, with an income of £20,000 a-year, and something more, and the "attenuated Prelate" (as the facetious sinecure functionary of St. Paul's describes the Archbishop of Canterbury) with £30,000 a-year, being afflicted at the sight of such vast masses of fellow-creatures living without God in the world, resolved to reform the Church, and began with the drones in the cathedrals. This of course brought a hornet's nest about their ears, and, to the credit of the leading drone in the hive, he has buzzed and stung admirably.

The Rev. Sydney Smith, indignant that the idle Prebends and Canons should be robbed while the idle Bishops are allowed to escape, has stuck to the Bishop of London for the last four years, and has clearly proved, with the assistance of the Bishop, that of all the systems by which mankind have been deluded, that which is called the Established Church of England is the most nefarious. He and the pious Prelate have proved that while petitions are presented to the House of Lords from the Clergy, as containing their spontaneous sentiments, they are only emanations from the Archdeacons and Bishops; that the Clergy of the Church of England are the most enslaved of the human race, that they put their names to doctrines which they deny; and that while the heads of the Church are constantly crying out about "spiritual destitution," and the deplorable condition of the vast masses "living without God in the world," they are rioting in wealth, making a gain of godliness, and laying on men heavy burdens, which they will not touch even with their little fingers.

This is a frightful description; given by one of their own body—one who knows them well, and whose authority, if we had not other sufficient reasons, we should take for Gospel. Will the people of England submit longer to this system of oppression? Sydney Smith thinks not. They are good scholars, and can easily see that if Prebends and Canons are curtailed of their fair proportions, there is no reason why the rule should not be made general, and £60,000 per annum be levied on the Bench of Bishops for the "spiritual destitution of the Church." There is only one part of this admirable letter with which we disagree. You are fast hastening," says the writer, "with the acclamations and gratitude of the Whigs to Lambeth, and I am hastening after a life of seventy years, with gout and asthma, to the grave." The Whigs would not be such madmen, even if the ambitious Bishop would give up his present immense income for a paltry £15,000 a-year, and a vain title, and we confidently believe that Sydney Smith will defy gout and asthma, till he sees the same measure meted out to all the drones of the Church, that has been meted out to him and the sleepy functionaries of cathedrals.

The Causus Belli Removed.

It is evident now, that the French will not make a warlike demonstration unless we attack Egypt; and as we shall not probably attack Egypt, the moderate Liberals in power will have to answer to the Chambers for an enormous and idle expenditure of wealth, and to the country for an enormous and idle levy of enthusiasm and warlike ideas, which already threaten to turn against the tranquillity and the institutions of the state. As the Journal des Debats says, "For every two persons excited to enthusiasm there are two hundred filled with terror." Such is the state of France. The war party is every day getting absorbed in a terrorist and revolutionary party, whilst the masses of the more respectable citizens, alarmed by the shouts of the *Marseillaise*, are filled with fear for the peace of their streets, as well as for the peace of the world, and see in war the signal of revolution. Already the more ardent of the National Guards are drawing petitions for war, because forsooth the "national honour has been insulted." This was the cry put forth by the moderate Liberals—a cry as false as that telegraphic despatch which announced the nine days' bombardment of Beyrout. This nine days' wonder turns out all a lie; and so ought to be seen "the insult to the national honour of France." The civic guard of Metz is very warlike, very indignant; the language of its petition is worthy of 1792. Metz is the capital of a frontier province, which is most anxious to recover the fertile coal districts looted from it in 1815, and to get closer to the Rhine. Some pacific Lorrainers protested that Prussia had no intention of offending France, and that war should not be directed towards Prussia. Great is the indignation of the Metz war party at this, which they are not to be deprived. The same ferment reigns everywhere. The writers and orators who first raised the war cry would now, indeed, allay it. The *Journal des Debats*, which on several occasions fanned the flame, and denounced the perfidious Albion, is now in despair at the menacing and universal cry. What will be the result we know not; but this we clearly see, that the leaders, whether statesmen or publicists, are alarmed as to the consequences of their own premature war-cry, and are startled by the echoes which their imprudent and exaggerated clamours have excited.—*Morning Chronicle*.

The Nottingham game list contains the names of thirty-nine sporting clergymen, on whom the wags of the county have conferred the title of the "Thirty-nine Articles."