

COPY OF A LETTER

FROM

JAMES STUART, ESQ.

TO THE

RIGHT HON. LORD VISCOUNT GODERICH,

RELATING TO

**ANIMADVERSIONS AND IMPUTATIONS ON HIS CONDUCT AND CHARACTER,
IN CERTAIN PROCEEDINGS OF**

THE ASSEMBLY OF LOWER CANADA.

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FROM

JAMES STUART, ESQUIRE,

TO

THE RIGHT HON. LORD VISCOUNT GODERICH, &c. &c. &c.

London, 8, Dover-Street, 22d October, 1831.

MY LORD,

In a Memorial addressed to your Lordship, from Quebec, and also in a Memoir in support of my humble Petition to His Majesty, I have had the honour of bringing under your Lordship's consideration, a satisfactory, and, I apprehend, conclusive answer to the charges of the Assembly of Lower Canada, upon which, by their address to His Majesty, they have prayed for my dismissal from the office of Attorney-General for that province. Besides these charges, however, I find that various animadversions on my conduct, and misrepresentations of it, are interspersed in certain proceedings of the Assembly, transmitted hither for your Lordship's consideration, which might produce impressions injurious to my character, if not repelled and refuted. I hope, therefore, your Lordship will permit me to use this mode of pointing out these animadversions and misrepresentations, and of establishing, that my conduct, in all the particulars referred to, has been unexceptionable and proper.—In proceeding to acquit myself of this easy task, I may perhaps be allowed to observe, that the course thus pursued by the Assembly is, I believe, without precedent, and is certainly of a nature (however unintentional it may have been on the part of the Assembly) to operate great injustice to the officers of His Majesty's Government, who may be the objects of such a course of proceeding, as well as extensive injury to the public service.—The House of Assembly having adopted the resolution of preferring charges against me, it would seem to have been reasonable, just, and proper, that whatever was deemed criminal or culpable, in my conduct, should have been embodied in these charges.—All the grounds of imputed offence would thus have been made known to the party inculpated;—an opportunity would have been afforded to him to defend himself, and a fit determination on them might easily have been obtained. Instead of adopting this course, which reason and justice would prescribe, the Assembly, at the same time that they prefer and convict me of certain charges, bring under the notice of His Majesty's Government, it would appear, *ex parte* proceedings, unconnected with these charges, in which are to be found animadversions, untrue allegations, and misrepresentations, injurious to my character. Hence cause for impressions to my disadvantage, and probably permanent injury, is afforded; while an opportunity for self-defence and justification, or even for explanation of any kind, is withheld. This course of proceeding, I beg leave in all humility to state, appears to me to be most unjust towards the person against whom it is adopted, as being calculated indirectly, on the false, unfounded, and malicious statements of irresponsible individuals, to injure him in credit and character, without cause, without hearing or trial, and without means of redress on his part; and to be highly injurious to His Majesty's service, as having the effect of bringing a public officer, and, through him, the Government itself, in some degree, into disparagement and discredit; thus impairing the usefulness and efficiency of both, while the gratification of private malignity, a purpose not intended by the Assembly, is alone accomplished.—Either the statements of facts contained in the proceedings now referred to, did or did not, in the opinion of the Assembly, afford sufficient cause for imputing official misconduct to me: if they did, charges against me, grounded on them, ought to have been exhibited: if they did not, these statements, it appears to me, ought not to have been extracted from the Journals of the Assembly, to be submitted to His Majesty's Government, or to be put into public circulation, to my injury.

At the same time that I have deemed it a duty, therefore, respectfully to solicit your Lordship's attention to the manner in which the animadversions and misrepresentations, as to my conduct, have been brought under your Lordship's notice, I most readily and willingly proceed to point out and refute them.—They are to be found in the Report of a Committee of Grievances, on the Petition of Edward Glackmeyer, in a Report and Resolutions of the

To the Right Hon. Lord Viscount Goderich,
&c. &c. &c.

same Committee, on the Petition of William Lampson, in which Resolutions the Assembly has concurred, and in detached statements of individuals, unconnected with any subject before the Committee.—In this order, I shall beg leave to advert to them.

In the first of these Reports, my conduct is made the subject of animadversion in two particulars; 1st. In having received fees on new Commissions for attornies and notaries, on the occasion of the demise of His late Majesty; 2d. In having introduced alterations in the Commissions of Notaries, by which these Commissions are assimilated, it is said, to the Commissions of Public Officers, whose appointment depends on His Majesty.

That these animadversions of the Committee of Grievances may be duly appreciated, it is necessary briefly to state what was done by the Government of Lower Canada, with respect to the issuing of new Commissions, after the demise of His late Majesty, and what acts of official duty were performed by me, in relation to this matter.—On the 7th December, 1830, a circular letter* was addressed by Lieutenant Colonel Glegg, the Governor's Secretary, to the Judges and Law Officers of the Crown, requiring them "to report, with all practicable despatch, for his Lordship's information, what effect (in their opinion) the demise of his late Majesty George the Fourth would have on the Commissions of Public Officers in this Province, after the lapse of six months from that event, and whether a renewal of such Commissions would be of indispensable necessity, before the expiration of the said period of six months." Upon this reference, the Chief Justice of the Province, the Chief Justice for the district of Montreal, and all the Judges, with the exception of two, and all the Law Officers of the Crown, concurred in opinions † separately given, that the Commissions of Public Officers in the colony would be determined at the expiration of six months from the demise of His late Majesty, and that the renewal of them, before the expiration of that period, would be indispensably necessary.—In consequence of these opinions, the Governor of the Province, by an Order in Council, directed the Provincial Secretary to publish, in the Newspapers, a notice ‡ by which persons holding Commissions, during pleasure, under His Majesty's Provincial Government, which, at the time of the demise of His late Majesty, were in force, and would continue to be so, by statute, till the 26th December, might be notified, that their new Commissions, rendered necessary thenceforward by His late Majesty's demise, would be delivered to them, on application at his office. At the same time, an order of the Governor § was conveyed, in a letter from his Secretary, to the Attorney General, directing him to give his assistance to the Secretary of the Province, in the issuing of new Commissions, by preparing such drafts of them as might be required. No authority whatever was exercised by the Colonial Government, as to the issuing of new Commissions, except in the particulars now mentioned. In the course thus taken by the Government, I became its humble instrument, in execution of its express orders, by performing three acts of official duty;—I gave an opinion, as required by the Governor's order of the 7th December, 1830, in which the Chief Justices and Judges of the land, and the other Law Officers of the Crown, concurred;—I prepared the draft of a notice, which was approved by the Governor in Council, who ordered it to be published by the Secretary of the Province; and I prepared such drafts of Commissions, as were required at my hands, by that Officer. It was not to have been imagined, that cause of complaint, either of the Colonial Government, or myself, as one of its Officers, could have been found in these facts.—The measure of issuing new Commissions was adopted on the highest authority within the Colony, and was grounded on the best legal advice that could be obtained, that of the Judges and Law Servants of the Crown. The notice which was published, under this authority and advice, it is also to be observed, was expressly and exclusively addressed to those public officers only, whose commissions by law would expire, at the end of six months from His late Majesty's demise. At the same time, no obligation was imposed on any public officer to renew his commission, it being left to his discretion to do so or not, as he might be advised, and on his own responsibility. In this, as in other cases, depending on a rule of law, or an enactment of the legislature, it was not competent to the Government to prescribe an interpretation of it. A specification of the officers on whom it might be incumbent to renew their commissions could not, therefore, proceed from the Governor of the Colony: the law itself was to be referred to by the individuals themselves, as governing this point; and the cases in which a renewal of commissions might or might not be necessary, could ultimately be determined by the King's Courts alone; though on this, as on some other recent occasions, in Lower Canada, their authority, if not superseded, was certainly encroached upon in an extraordinary manner by public meetings, called for the purpose of determining and settling the law on this subject, at which resolutions to that effect were passed. The decisions of these meetings are even referred to in the Report of the Committee of Grievances, with approbation, and, it would appear, as constituting some authority. No reference, however, was ever made to me by the Colonial Government, on the point now adverted to, and I was neither required to give, nor did ever give, any opinion as to the description of public officers, whose commissions would or would not require renewal. In what respects Public Notaries, in particular, I was never called upon to express, nor have I ever given, any opinion, as to the necessity of the renewal of their commissions. These being the general facts connected with the animadversions of the committee, on my conduct, in the issuing of new Commissions, I now beg leave to answer, specifically, the two animadversions above mentioned.

* Vide Appendix, No. 1.

† Vide Append. No. 5.

‡ Vide three of these opinions in Append. Nos. 2, 3, 4.

§ Vide Append. No. 6.

With respect to Fees on the new Commissions of Attornies and Notaries, I have to observe, that Fees on Public Commissions are received, not by the Attorney General, but by the Secretary of the Province, who demands and receives fees, at his peril, on Public Commissions, and afterwards accounts to the Attorney General, from time to time, for his proportion of them. The Fees on the new Commissions of Attornies and Notaries, who solicited them, in conformity with this usage, was received by the Secretary of the Province for himself, and the other officer, whose services were required, in preparing them. If, therefore, fees had been improperly taken on these new Commissions (which is not the fact), the culpable officer would not have been the Attorney General, but the Secretary of the Province. In this, as in other instances of the proceedings of the Assembly against me, I cannot but remark, as evincing a singular proneness to fasten the imputation of offence on me, that I am made chargeable for the supposed misconduct of other public officers, which is imputed to me, and me only, as if it were mine; and in this particular instance, that which is deemed innocent in another, is declared to be culpable in me. The effect of such a spirit in leading to the erroneous conclusions which have been adopted by the Committee of Grievances, your Lordship cannot fail to appreciate. But, in truth, the secretary of the Province only discharged his duty, in taking fees on the new Commissions of such attornies and notaries as required them: these Commissions were prepared at their express desire, and they were of course equally bound to pay for them, according to the established tariff, as for the former Commissions which they held. What renders this animadversion of the Committee the more extraordinary is, that the attornies and notaries, who solicited and obtained new Commissions, have not complained of the payment of fees on them; and no reference appears ever to have been made to the Committee on this head. Mr. Glackmeyer, a notary, who alone petitioned the House, and whose Petition was referred to the Committee, was not one of the number of notaries who solicited and obtained new Commissions, and could not therefore complain of the payment of fees. The Committee has, therefore, it would appear, directed its attention to a matter not brought under its cognizance; and, in doing so, has evidently misapprehended the subject, and mistaken its object, in imputing blame to me, on the score of fees taken by the secretary of the Province, on the new Commissions of Attornies and Notaries, who applied for them.

In the second of the animadversions above-mentioned, alterations, it is said, have been made in the Commissions of notaries, by which "these Commissions are assimilated to the Commissions of Public Officers whose appointment depends on His Majesty." What is meant by these latter words, I do not distinctly understand.—Notaries are public officers, vested with considerable powers, and charged with very important duties, among which are the preparing, authenticating, and safe custody of all titles to lands held under the French tenures.—The appointment of these officers in Lower Canada proceeds from, and has always been made by the Crown: it, therefore, depends on His Majesty; and I am at a loss, therefore, to conceive on what ground such appointments are supposed to differ from other appointments which depend on His Majesty, and with which an assimilation, it would seem, is held by the Committee of Grievances to be improper. But, in reality, no alterations whatever have been made in the Commissions of Notaries, by which the nature, duration, or effect of these Commissions could in the smallest degree be changed or affected. Having for the first time been required to prepare the Draft of a Notary's Commission, I became responsible for the correctness and sufficiency of the Draft I might furnish. The form in use* for Commissions of Notaries was under the Governor's Private Seal. In the appointment of these, as of other public officers, it appeared to me, that the Public Seal of the Province ought to be used; and my opinion on this point might (if it were necessary) be justified not only by obvious reasons, but by reference to high authorities. Deeming it proper, therefore, to prepare my Draft † in the form of an Instrument, to be passed under the Great Seal, it became necessary that His Majesty's name, instead of that of the Governor, should be used, and with it, the usual style in which grants of office, or other things, by His Majesty, are made. As part of this style, it is stated, in my Draft, that His Majesty, "of his especial grace, certain knowledge, and mere motion," confers the appointment; and the Draft terminates with the usual conclusion of an Instrument under the Great Seal, viz.: "In testimony whereof we have caused these our letters to be made patent," &c. These words of mere form, it must excite surprise when it is mentioned, are the "alterations" in the Commissions of Notaries, to which the Committee of Grievances applies its censure, "as being contrary to the spirit of the Ordinance of the 25 Geo. III. c. 4., and as having the effect of assimilating these commissions to those of public officers, whose appointment depends upon His Majesty." The notions of the Committee of Grievances on this head, I may be permitted to mention, are somewhat singular and peculiar, to which it will not be expected I should oppose any argument or observation; it being too plain, to persons who understand the English language, that these words, which unfortunately have given offence to the Committee, are perfectly harmless, and merely words of course, in the place in which they are found.—When the use of such words is made a ground of grave censure, it will be readily conceived, that the animadversions of the Committee of Grievances of the Assembly of Lower Canada may be incurred for slender causes.

Having thus disposed of the two specific animadversions of the Committee of Grievances, to my prejudice, on the head of New Commissions, it will not, I hope, be deemed improper

* Vide Appendix, No. 7.

† Vide Appendix, No. 8.

if I should add a few words, as to the constitutional means that might have been used, to obviate the inconveniences, upon which the Committee has been disposed to lay so much stress.—The necessity of issuing new Commissions, within the colony, might have been prevented, by an act of the colonial Legislature, in one of its sessions which preceded the demise of His late Majesty.—This measure, having been omitted previous to that event, might have been adopted during the six months which succeeded it, and the convocation of the colonial Legislature, by the Governor of the Province, at a somewhat earlier period than was fixed upon, would have facilitated its adoption. Even after the session was commenced, in January last, all inconveniences as to the Commissions of Notaries might have been obviated, by an act of the Legislature, at that time. These remedies it was within the power of the members of the Committee of Grievances to suggest, and of the Assembly to apply. It is to be regretted, therefore, that, overlooking such remedies, my conduct, without the shadow of a cause, has been impeached by the Committee of Grievances, as having contributed to inconveniences, which might have been so easily prevented by the Assembly itself, but to which I have been in no degree accessory. Out of the limits of Lower Canada, it may excite surprise, that attornies should be appointed by commissions during pleasure, instead of being admitted to the exercise of their profession, as in other parts of His Majesty's dominions, by His Majesty's Courts of Justice. This peculiarity, with the inconveniences that may be incident to it, obtains under a law of the Province; and as to this subject of complaint also, on the part of the Committee, the constitutional remedy would have been found, in an act of the Legislature, repealing the law under which Commissions of Attornies are now issued, and substituting other proper provisions, instead of it. Not having the honour of being a member of the Assembly of Lower Canada, and never having been consulted by His Excellency Lord Aylmer, on the subject in question, or indeed on any other subject, it has not fallen within the limits of my duty to suggest, or promote, the adoption of any of the remedies now adverted to.

Your Lordship's attention is now respectfully requested to the second document above-mentioned, containing animadversions and misrepresentations to my prejudice, namely, the report and resolutions of the Committee of Grievances, on the Petition of William Lampson.—In adverting to this document, I must beg leave to submit to your Lordship some explanations, as to matters of fact, in order to render my refutation of what has been alleged against me, in this form, the more complete.

In July, 1822, a lease for a term of twenty years was granted, by the Provincial Government of Lower Canada, to a Mr. John Goudie, of an extensive tract of country in that Province, known by the name of the King's Posts, upon which trade with the Indians for a long period of time has been carried on.—In the succeeding year, a claim was preferred to the Government, on the part of Mr. Goudie, to the Post of Portneuf, then in the possession of the Hudson's Bay Company, as lessees of the proprietors of a seigniory called *Mille-Vaches*, adjoining to the King's Posts; which Post of Portneuf was represented by Mr. Goudie, to be comprised within the limits of the King's Posts.—Upon the investigation of this matter, which then took place, although an opinion favourable to the pretensions of Mr. Goudie had been given by Mr. Uniacke, the Attorney General, and Mr. Vanfelson, the Advocate General, the Provincial Government, after the production of the titles of the adverse party, and, among these, of an ancient procès verbal of survey of *Mille-Vaches* in 1675, including Portneuf as part of that seigniory, was of opinion, that the proprietors of *Mille-Vaches* were lawfully in possession of the Post of Portneuf, as being part of their seigniory, and ought not to be disturbed in it. The decision of the Provincial Government being adverse to the claim of Mr. Goudie, it was deemed unnecessary that any action should be brought, for the establishment of boundaries between the King's Posts and *Mille-Vaches*. In this decision Mr. Goudie acquiesced, and continued to possess the King's Posts within limits not comprising the Post of Portneuf, which remained in the exclusive possession of the Proprietors of *Mille-Vaches*. He afterwards assigned his lease to Mr. James M'Dowall, who entered into possession of the Posts within the same limits, and acquiesced in the adverse possession of the Post of Portneuf, by the lessees of *Mille-Vaches*, without disturbing them in it.—The lease of the Posts was subsequently assigned by Mr. M'Dowall to Mr. William Lampson, an American, who received possession of them within the same limits, within which Goudie and M'Dowall had previously possessed them. Under these circumstances, the right of the Proprietors of *Mille-Vaches* to retain the undisturbed possession of the Post of Portneuf, till evicted by the judgment of a competent Court of Justice, could not be questioned.—It does not appear that their continued possession of Portneuf was in fact interrupted, or materially infringed, till the spring of 1830, when, in open violation of that possession, Mr. Lampson commenced a series of acts of aggression, upon the servants and property of the Hudson's Bay Company, the lessees of *Mille-Vaches*, which he has since attempted to justify, by a renewal of the claim to Portneuf, as being comprised within the King's Posts; although he could not be ignorant, that no excuse for them could be derived from such a naked claim, whether just or unjust, opposed to legal possession. The acts of aggression thus committed, gave occasion to the adoption of criminal and civil remedies, at the instance of the agent of the Hudson's Bay Company.—The part which it became my duty to take in the prosecution of these remedies having been most untruly misrepresented, it is proper I should here state in what particulars I was called upon to act, and have acted, in the differences between the servants of the Hudson's Bay Company and Mr. Lampson, now referred to. The first call on me for official duty, in these matters, was an order of reference made to

me by his Excellency Sir James Kempt, then administering the Government, dated the 5th August, 1830. The circumstances which gave occasion to this order were these:—A complaint on oath had been made to Mr. Christie, the Police Magistrate at Quebec, by Mr. Cowie, the chief factor of the Hudson's Bay Company at *Mille-Vaches*, that he and other of the servants of the Company, while engaged in their lawful pursuits, had been, within the limits of that seignior, feloniously assaulted by Peter M'Leod the elder, the chief clerk of Mr. Lampson, and a number of hired men in his employment, and had been robbed of provisions and various effects, of which they were possessed. Upon this complaint, Mr. Christie issued a warrant for the apprehension of M'Leod, directed to Charles Prevost, who proceeded to a trading post called *Islet à Jeremie*, for the purpose of executing it. He there found M'Leod, who was apprised of his approach, at the head of an armed party of men, to the number of one hundred and more, consisting of Indians and white men, collected together for the avowed purpose of resisting and preventing the execution of the Magistrate's warrant, and was compelled by M'Leod and his party, *re infecta*, to return to Quebec, without being able to execute the warrant. The Police Magistrate was then applied to, for a warrant against M'Leod and his principal co-delinquents, in this outrageous resistance to public authority; and on his refusal to grant it, application was made, by the agent of the Hudson's Bay Company, to his Excellency the Administrator of the Government, for his interposition, to render these persons amenable to justice.—Upon this application, his Excellency having been pleased to make his order of reference above-mentioned, requiring my opinion whether a warrant ought to be issued, for the obstruction of public justice complained of, I had the honour of making a report to his Excellency on this subject, of which I beg leave to annex a copy*. In consequence of this report, a warrant was issued for the apprehension of M'Leod, and others of the principal ringleaders, in opposing the execution of the Magistrate's warrant; but it was not executed, as they had, in the mean time, withdrawn themselves into the interior of the country, and could not be reached.—Various depositions were afterwards put into my hands by the clerks of the Crown, for the districts of Quebec and Three Rivers, charging the agents and servants of Mr. Lampson, with offences committed on the servants and property of the Hudson's Bay Company; and, with these, there were also delivered to me depositions, charging the servants of the latter with offences against persons in the service of the former, in the district of Quebec. According to the practice which has always prevailed in Lower Canada, the Attorney General is charged with the duty of carrying on criminal prosecutions in the Courts of King's Bench, in the several districts of the Province; and upon the depositions put into his hands, before the opening of these Courts, he prepares the necessary indictments, which are in readiness to be preferred, as soon as the Court assembles. It became, therefore, incumbent on me, as a matter of course, to prepare, and lay before the Grand Jury, such indictments as were warranted by the depositions which had been delivered to me, as well against the servants of Mr. Lampson, as against those of the Hudson's Bay Company. This duty was discharged by me, with perfect impartiality between the parties concerned.—The criminal court for the district of Three Rivers being held before that for the district of Quebec, the depositions to be acted on in the former district first received attention. By these it was substantiated, that one Charles M'Carthy, a clerk of Mr. Lampson, with a party of men under his orders, had assaulted one Antoine Hamel, a clerk, and three hired men, in the service of the Hudson's Bay Company, while engaged in their trading pursuits, had made them prisoners, had taken them to several trading posts of Mr. Lampson, in the interior of the country, and, after compelling them, as prisoners, to go from place to place as suited the convenience of their captors, had at last set them at liberty, in a remote part of the province, several hundred miles from the place where they had been captured. For this offence an indictment was laid by me before the Grand Jury for the District of Three Rivers, and was returned a true bill against all the persons named in it†. One of them only, a hired man of the name of Moïse Villeneuve, was in custody, and he pleaded guilty to the indictment‡; against the others, who had not yet returned from the Indian country, into the civilised parts of the Province, process was ordered to issue. At Quebec, as soon as the Court of King's Bench opened there, in September last, I laid before the Grand Jury, as it was my duty to do, indictments as well against the servants of the Hudson's Bay Company§ as against those of Mr. Lampson||, upon all the charges contained in the depositions which had been put into my hands. The indictments thus preferred, at the instance of Mr. Lampson's servants, were all ignored by the Grand Jury¶. Of the indictments preferred at the instance of servants of the Hudson's Bay Company, two were ignored, and three were returned true bills**. One of the former was a bill for the robbery above mentioned, complained of by Mr. Cowie. The Grand Jury, in ignoring this bill for the felony charged in it, requested me to lay before them a bill for a misdemeanor, on the same facts; and I, therefore, laid before them a bill charging M'Leod and eight other individuals, servants of Mr. Lampson, with “a riot, assaulting and beating Robert Cowie and others, and forcibly taking from and out of the lawful custody of the said Robert Cowie divers goods and chattels, and converting the same to their own use.” This indictment was returned by the Grand Jury a true bill††; and they also found a bill against the same M'Leod and four other individuals, servants of Mr. Lampson, for a riot and forcibly opposing and preventing the execution of the warrant of Mr.

* Vide Append. No. 9, p. 5.
 † Vide Append. No. 10, p. 6.
 § Vide Append. No. 12, p. 10.
 ** Vide Append. No. 11, p. 8.

‡ Vide Append. No. 10, p. 6.
 || Vide Append. No. 11, p. 8.
 ¶ Vide Append. No. 12, p. 10.
 †† Vide Append. No. 11, p. 9.

Christie, the Police Magistrate, above mentioned *. It would have been highly desirable, in order to check effectually the disorders that gave occasion to these indictments, that the trials of them should have taken place, without delay. But the Defendants insisted on their right to traverse; and, in consideration of the alleged difficulty to be experienced in travelling from the King's Posts to Quebec, in the succeeding term of March, they applied for and obtained a postponement of their trials till September following—that is, for one whole year. As affording some security against a renewal, in this interval, of the outrages which had been made the subjects of indictment, the Defendants, at my instance, were put under recognizances, with sureties, to keep the peace during the time to elapse previous to their trials. With these proceedings my official ministry terminated, as to the criminal remedies which had been resorted to, by the parties respectively.—The next official duty required from me was an opinion, in relation to certain *qui tam* actions which had been brought, on a provincial statute, against the servants of Mr. Lampson, for having, as trespassers, cut down trees within the limits of *Mille-Vaches*. Upon the reference † made to me on this subject, at the instance of Mr. Davidson, the Justice of the Peace before whom the actions were pending, I was of opinion that the plea of prescription set up by Mr. Lampson's servants was well founded, and reported accordingly ‡. This opinion was acted upon by Mr. Davidson, who dismissed the actions.

Soon after a Petition of the Hudson's Bay Company, through their agent at Quebec, was presented to His Excellency Lord Aylmer, administrator of the government, in which, among other things, it was represented, "That Mr. Lampson, the present lessee of the King's Posts, having lately attempted, by every means in his power, to drive the Hudson's Bay Company from the possession of the post of Portneuf and the seigniory of *Mille-Vaches*, for his own private purposes, had, by the means of one George Linton, laid informations against Robert Cowie, William Davis, and Elie Boucher, three of the agents and servants of the Hudson's Bay Company (founded upon the ordinance 17 Geo. III. c. 7. made to prevent the selling of strong liquors to the Indians, without license from the Governor of the Province of Quebec, &c.) for selling and distributing liquors to Indians at Portneuf aforesaid." It was further represented in the same Petition, "that although the Petitioners were fully convinced that the said ordinance was never intended to apply to trading companies having a right to traffic with the Indians, and although it was apparent that these proceedings were vexatious, and carried on for the purpose of private gain, without any view to the interests of the public; yet the Petitioners, for greater security in preventing the vexatious and oppressive application of this ordinance for the past, and guarding against the same misapplication of it to their future dealings and intercourse with the Indians, were desirous of obtaining, for themselves and their agents and servants, a pardon for any acts of this nature done in past time, and full authority to them, for the future, to distribute liquors to the Indians, without which they could not carry on their lawful trade." On these grounds, the Petitioners prayed for a pardon for past offences of this nature, and a license to distribute spirituous liquors, in future, to the Indians.—This Petition, by order of His Excellency the Administrator of the Government ||, was referred to me, and I was required "to state, for His Excellency's information, whether he was empowered by the laws in force to grant the licence prayed for, and whether it was expedient that the prayer of the Petition should be granted." Being perfectly aware that the Indian trade, with the sale and distribution of spirituous liquors incident to it, had been carried on in both the Canadas for a long period of time, without any license whatever, and in the same unrestrained manner as any other description of trade, and having besides, during a personal experience of nearly forty years in legal proceedings in Lower Canada, never heard of any such *qui tam* actions as those in question having been brought, I was led to suppose, that the provision of the ordinance 17 Geo. III. c. 7. referred to in the Petition of the Hudson's Bay Company, must have been repealed by a subsequent law. Upon examining the subject, I found my impression on this head verified, and that by an ordinance of the 31 Geo. III. c. 1. the provision on which the *qui tam* actions of Linton were grounded had been, in the plainest and most unequivocal terms, repealed; from the period of which repeal, no license whatever had been granted for trade with the Indians, or for the sale or distribution of spirituous liquors to them. I therefore reported to His Excellency my opinion §, that this repeal had taken place, and that neither the pardon nor the license applied for, was necessary. Upon my report, His Excellency, it would appear, declined compliance with the prayer of the Petition, and a copy of the report was delivered by his secretary to the agent of the Hudson's Bay Company, as containing the reason of his determination. The *qui tam* actions referred to in the Petition, were afterwards brought to a hearing before Messrs. Neilson, Wilson, and Duchesnay, three Justices of the Peace for the District of Quebec, the latter being also one of the Provincial Aides-de-Camp of His Excellency. Although the repeal of the ordinance on which these actions were founded, it appears, was insisted upon by the Honourable Mr. Primrose, the attorney and counsel of the defendants, and although the Magistrates were by him made acquainted with the report on which the pardon and license had been refused, they, nevertheless, convicted the defendants of the alleged offences for which these actions were brought, and, besides imposing on them a penalty of five pounds, sentenced them to an imprisonment of twenty-four hours, in the Common Jail for the District of Quebec.

* Vide Append. No. 11, p. 9.

† Vide Append. No. 14, p. 11.

§ Vide Append. No. 15 (3), p. 13.

‡ Vide Append. No. 13, p. 11.

|| Vide Append. No. 15 (1), p. 12.

Boucher, one of the defendants, being on the spot, was immediately imprisoned under this conviction: against the two others, Messrs. Cowie and Davis, who were at *Mille Vaches*, distant about one hundred and fifty miles from Quebec, warrants were forthwith issued for their apprehension and commitment, to undergo at Quebec an imprisonment of twenty-four hours. After Boucher was lodged in jail, under an order of Mr. Sewell,* the sheriff of the District of Quebec, who, it would appear, took upon himself to execute the Magistrate's sentence of imprisonment, without any warrant in writing from them to that effect, a Petition † for a Writ of Habeas Corpus to relieve him from his imprisonment, was presented by the Honourable Mr. Primrose on his behalf, to the Chief Justice of the Province, and, on his refusal to grant the Writ, a similar Petition ‡ was presented to the Honourable Mr. Justice Kerr, one of the Justices of the Court of King's Bench, who ordered a Writ of Habeas Corpus to issue, as prayed for.—Under this Writ, Boucher was brought before Mr. Justice Kerr, but before the hearing of his case was concluded, the period of his imprisonment expired, so that he was discharged on this ground, as a matter of course.—Similar Petitions § were afterwards presented to Mr. Justice Kerr on behalf of Messrs. Cowie and Davis, to be liberated from their imprisonment, and, upon the return of the Writs which he granted, they were discharged. The defendants having afterwards obtained Writs of *certiorari*, to bring into the Court of King's Bench the convictions which they had undergone before the Magistrates, applications were made by the latter to His Excellency the Administrator of the Government, || that he would be pleased to direct Mr. Vanfelson, the Advocate General, who had advised and assisted in prosecuting the *qui tam* actions, to appear on their behalf, on the return of the Writs, and sustain the convictions, at the public expense. These applications were referred to me by His Excellency, ¶ who required me to state “my opinion as to the course it would be advisable to adopt, in regard to these applications for the assistance of the Advocate-General, instead of mine, on the ground of my having already delivered an opinion, in opposition to the decisions given by the applicants, in the cases in question.” Upon this reference, I had the honour of reporting my opinion, ** with reasons in detail, in support of it, that the Magistrates had no claim to, nor was it fit or expedient they should receive, the assistance for which they had applied, from any of His Majesty's law servants, at the public expense.—Notwithstanding this opinion, and, it would appear, without any other reference on the subject, His Excellency was pleased to comply with the application of the Magistrates, †† by directing Mr. Vanfelson, the Advocate General, who was the retained counsel of the private prosecutor, as already mentioned, to support the convictions in question, at the public expense. Here terminated my official duties with respect to the *qui tam* actions; and no other official duty was discharged by me, in relation to the differences between the Hudson's Bay Company and Mr. Lampson.

Having thus explained the instances in which I acted officially in these matters, it remains, that I should explain the professional duty that I have been called upon to discharge, in civil suits between the same parties. In the Spring of the year 1830, an Action of Detinue, or “*Revendication*,” as it is called in the Law of Lower Canada, was brought by Mr. Lampson, against William Davis and Robert Cowie, the former being a clerk, and the latter the chief factor of the Hudson's Bay Company, at *Mille Vaches*.—By this action, Mr. Lampson sought to recover thirteen packs of furs, of the alledged value of one thousand pounds, which he stated to belong to him, and to be wrongfully withheld from him by the defendants; and, on his affidavit of these facts, he obtained an attachment, as permitted by the Law of Lower Canada, under which he caused to be seized and attached the furs thus demanded. The declaration in this action, in the course of my professional practice, was put into my hands by the defendants, with a request that I would charge myself with the defence of it.—I did not hesitate to comply with this request; not having the slightest idea, that, in doing so, I was to become criminal in the eyes of a Committee of Grievances of the Assembly of Lower Canada, for an act which I then considered, and must still be permitted to consider, as one of the most innocent of my life. The next call on me for professional services occurred in the course of the last Autumn. The agent of the Hudson's Bay Company then applied to me for my advice, as to the civil remedy to be taken, on behalf of that Company, in order to cause them to be reinstated in the possession of part of the Seigniorship of *Mille Vaches*, of which Mr. Lampson then recently before, by force and violence, had dispossessed them, and recover damages for the injury thus sustained by the Company. The facts of this case, as stated to me, were, that after the postponement of the criminal trials, and the giving of security by the defendants to keep the peace, as above-mentioned, one of the defendants, Peter M'Leod, under the orders of Mr. Lampson, had proceeded with a party of men to the number of twenty-five or thirty, supplied with arms and stores, to the Seigniorship of *Mille Vaches*, and had there forcibly taken possession of a tract of land of which the Company had been quietly possessed, as making part of that Seigniorship, from the period of the lease of it;—that this party of men had, under the same orders, and by force and against the will of the servants of the Hudson's Bay Company, proceeded to erect, and had erected a house, buildings, fence, &c. on the same tract of land, of which they continued to retain possession.—I could have no difficulty in pointing out to the agent of the Company the civil remedy provided for such a wrong, namely, the French Action of “*Reintegrande*,” which singly and alone affords the redress, that, under the English Law

* Vide Appendix, No. 16 (1), 16 (2), p. 22. 25.

† Vide Appendix, No. 16 (5).

‡ Vide Appendix, No. 15 (5), 15 (6), p. 14, 15.

** Vide Appendix, No. 15 (7), p. 15.

† Vide Appendix, No. 16 (1), p. 22.

§ Vide Appendix, No. 16 (6), 16 (9), p. 28. 33.

¶ Vide Appendix, No. 15 (4), p. 14.

†† Vide Appendix, No. 15 (8), 15 (9), and No. 14.

would be obtained by an Action of Trespass, and an indictment for a forcible entry and detainer, and in which, as in the latter remedy, the title to the land claimed cannot be brought in question; the whole litigation in such cases turning exclusively on two facts, possession and forcible disseisin.—At the request of the agent of the Company, I consented to institute, and did institute, this action of “*Réintégrande*,” to obtain the legal redress which was sought; and I did so, with as little consciousness of guilt, as in charging myself with the defence of the action of detinue above mentioned.

At this stage of his differences with the Hudson’s Bay Company, Mr. Lampson seems to have deemed it prudent and necessary, to transfer the cognizance of them, from His Majesty’s Courts of Justice, in which the parties might and ought to expect justice, to other branches of the Government. His first object appears to have been to implicate the Crown in the litigation in which he had involved himself; and, under the false pretence that its rights and interests were concerned, to induce the colonial Government to countenance, and assume the defence of his illegal acts.—Incidentally to this course of proceeding, it was found expedient to assail me personally, by false allegations affecting my character, and, as in some other proceedings which have recently occurred in Lower Canada, to nullify the office of attorney-general, by giving to that officer the character of an accused, or suspected person. A convenient diversion is thus made in favour of the guilty who are under accusation, and the prosecutions against them, which it is the duty of the Attorney-General to carry on, are thereby either defeated, or injuriously delayed; while private resentments are gratified, at the expense of public justice.

With these views, it would appear, Mr. Lampson, on the 21st December, 1830, presented a Petition to His Excellency Lord Aylmer, Administrator of the Government, to which some attention is due, as having been the precursor of that which he afterwards presented, with amplification, to the House of Assembly, and as having, by its success, it is probable, given occasion to the latter. In this Petition Mr. Lampson, among various unfounded statements, calls the attention of His Excellency, in an especial manner, to the action of “*Réintégrande*” above mentioned, as being “*a subject of vast importance to the just rights of the Crown, and worthy of His Excellency’s most serious consideration.*” An action, he proceeds to state, “has lately been instituted by the Hudson’s Bay Company, as lessees of *Mille Vaches*, by the ministry of the Attorney-General, against your Petitioner and his servants, for supposed trespasses, near the River Portneuf (the scite in dispute), to which both the *Hudson’s Bay Company and your Petitioner*, as lessee of the King’s Posts, lay claim: A copy of the Writ and Declaration served on your Petitioner, is herewith submitted, and your Petitioner, at the same time prays, most humbly for the interference of the crown, to afford him the necessary assistance to defend the said action.” He proceeds further to state, “The result of this action must be of the utmost importance to the Crown in this particular, that an extensive tract of valuable land will be wrested from the Crown, without title, should the lessees of *Mille Vaches*, countenanced by the Attorney-General, succeed in the said action.” The Petition concludes with the following remarkable paragraph:—“*That your Petitioner, in laying his claims before your Excellency, for mature consideration, cannot pass over in silence, but must be permitted to express his regret, that the leading Crown Officer (the Attorney-General) should be found zealously engaged in advocating an interest so adverse to the true interests of the Crown, as that set up by the owners of Mille Vaches, and their lessees, and that your Excellency will therefore give mature consideration to whom this Petition is to be referred, to afford such relief and impartial justice, as your Petitioner is so fully entitled to. Wherefore, &c.*”

It would have been most desirable, and I apprehend was to have been expected, that His Excellency Lord Aylmer, as well from a considerate regard for the public and private interests involved in this Petition, as with a view to the immediate investigation of the injurious imputation it contains, on the character and honour of a public officer of high trust in the Colony, would have unhesitatingly referred this Petition to His Majesty’s law servants, including the Attorney General, the inculpated officer, for their report on the allegations of the Petitioner.—The concluding paragraph of the Petition, it might have been expected, would, in the opinion of His Excellency, have rendered this reasonable course urgently necessary and proper. That this course was not adopted appears the more extraordinary, as in a letter to me from Lieutenant Colonel Glegg, Secretary to His Excellency, dated the 30th December, 1830, upon the subject of Mr. Lampson’s Petition, and with reference to my request* that if any imputation against me had been made or insinuated, it might undergo immediate investigation, His Excellency was pleased to give the most positive assurances that “no malicious insinuations regarding my character had reached his ears;—that he was an entire stranger to any such insinuations, and had they been conveyed to him, he would have imparted them to me †.”—It is fit that your Lordship should be informed, that not only were the contents of this Petition withheld from me, at the time it was acted upon by his Excellency; but, in fact, I did not become informed of them, till the Petition was published in the month of April last, among other papers laid before the House of Assembly, by his Excellency.

* Vide Append. No. 17 (4), p. 40.

† Vide Append. No. 17 (5), p. 40.

Omitting to require the report of the Attorney General, or of any other of the law servants of the Crown, on the Petition of Mr. Lampson, his Excellency was pleased to adopt the statements contained in that Petition, as the ground of his determination *, by which the Attorney General was peremptorily ordered to institute an action for the establishment of boundaries between the King's Posts and *Mille-Vaches*, without having been afforded any opportunity for ascertaining the sufficiency of the grounds on which such an action was to be instituted, and without having been previously required to give any opinion respecting them, or in any manner consulted on the subject †. In compliance with his Excellency's peremptory order, excluding the exercise of any judgment or discretion on my part, this action was instituted by me, on the 16th of February last. And I beg leave to refer your Lordship to the correspondence ‡ hereunto annexed, which preceded the institution of it, by which your Lordship will become accurately informed of the peculiar and unusual circumstances under which that measure was adopted.

It appears that subsequently, on the 1st March, a Petition was presented by Mr. Lampson, to the House of Assembly. Of the proceedings had on this Petition, as well as of the transmission of them to this country, for your Lordship's consideration, I remained ignorant, until I observed in the Newspapers of the colony, an answer of his Excellency Lord Aylmer, to an address of the Assembly, by which his Excellency assured the House he would transmit them; but his Excellency did not make me acquainted with the address or his answer to it, till after a letter was written by me to his Excellency's Secretary, requesting to be informed, whether such proceedings had, or had not, come under his Excellency's notice §.

In his Petition ¶ to the Assembly, Mr. Lampson, after a partial and untrue statement of facts, representing him to be an unoffending and much injured party, ascribes the prosecutions which he states to be pending on the criminal and civil side of the Court of King's Bench, being those above-mentioned, "to the aggressions of the agents and servants of the "Hudson's Bay Company," and then proceeds to advance specific causes of complaint against me, as Attorney General, which, being divested of injurious terms and gross misrepresentation, resolve themselves into the acts of official and professional duty performed by me, as above stated.

This Petition was referred by the House of Assembly to the Committee of Grievances; and, upon it, is grounded the third Report of that Committee, to which your Lordship's attention is now solicited. The Report was preceded by an investigation, in which Mr. Lampson, his counsel and attorney, were the only witnesses examined, to substantiate the alleged rights of Mr. Lampson, and justify the conduct of himself and of his servants (these being subjects which were then under the cognizance of His Majesty's Courts of Justice), and also to prove his alleged grounds of complaint against me. Two other witnesses, the Hon. Mr. Primrose, and Captain Bayfield, were, indeed, examined before the Committee, but as to immaterial points; the former, as to his professional engagements to the Hudson's Bay Company, and the instances in which I acted professionally for that Company, and the latter, as to the geographical situation and extent of the Bay of *Mille Vaches*. Upon the information thus obtained, the Committee has taken a wide range in its Report, embracing all the subjects of litigation between the Hudson's Bay Company and Mr. Lampson, and their servants respectively, as well in criminal as civil Courts of Justice. As was to be expected from the sources of information exclusively referred to, the Committee has found no difficulty in deciding, summarily, in the most unqualified terms, in favour of Mr. Lampson, upon all these subjects. The criminal prosecutions against his servants, in one of which a conviction on confession has been obtained, and in others of which Indictments have been found by a Grand Jury, are held by the Committee, without any evidence whatever before it, to have been frivolous and vexatious, while those which Mr. Lampson instituted, and in which bills of indictment were ignored by the same constitutional authority, are, with like easy acquiescence in his statements, and equally without any evidence to enable the Committee to form any opinion on the subject, declared to have had the best foundation. With the *same* facility, the Committee has pronounced Mr. Lampson's alleged civil rights and claims to be, all of them, well-founded, and seems to have perceived nothing reprehensible in his manner of enforcing them, by taking the law into his own hands; the forcible entry and detainer committed by him on the seignory of *Mille Vaches*, it would appear, has been held by the Committee to have been an innocent act; he is clearly also, according to the opinion of the Committee, entitled to all the land he has forcibly wrested from the proprietors of *Mille Vaches*, and from the Hudson's Bay Company, and to all he has claimed; he has an equally just right, in their opinion, to the furs, which he demands in his action of detainue, still undetermined, the latter action, according to the judgment of the Committee, being well founded, while the action of *Réintégrande*, against Mr. Lampson, has received their marked disapprobation. In a word, the Committee, having adopted the statements and legal opinions of Mr. Lampson, his counsel and attorney, as the foundation of its decisions, without further inquiry, and having virtually made Mr. Lampson a judge in his own cause, has decided on all the subjects in dispute between him and his adverse parties, precisely as Mr. Lampson himself would have done, and, I may also be permitted to add, in

* Vide Append. No. 17 (1. 3. 5. 12), p. 37, et seq.

† Vide Append. No. 17, p. 37.

‡ Vide Append. No. 19, p. 54.

§ Vide Append. No. 17 (13), p. 44.

¶ Vide Append. No. 20, p. 56.

the same sweeping manner. Upon such an exercise of power by a Committee of the Assembly of Lower Canada, and the effect of it in overawing, obstructing, and influencing the administration of justice, it does not belong to me to offer any remark. In what respects myself, a corresponding facility has been displayed in finding me guilty, upon all the heads of complaint which Mr. Lampson, his counsel and Attorney, have found it convenient to fasten on me; and this has been done, in terms not usually employed in parliamentary reports, but strikingly indicative of the spirit in which the proceedings of the Committee have been conducted. That I may, with becoming brevity and distinctness, answer the animadversions or charges of the Committee, conveyed in these terms, I shall now leave to class them under certain heads.

First—I am charged, in the Report of the Committee, with official misconduct, in having, professionally, taken upon myself the defence of an action of detinue, brought by Mr. Lampson, whereof mention is above made, and which, it is said, was grounded “on the illegal and forcible “aggressions” of the servants of the Hudson’s Bay Company.

The Attorney General of Lower Canada, for the time being, as well as the other law servants of His Majesty in that Province, has always been engaged in private practice, as an advocate, to an extent corresponding with his professional character and industry.—In the adjoining provinces, and in other parts of His Majesty’s Dominions, the same right of practising as a private advocate is exercised by the Attorney General. This right is of course limited to cases in which His Majesty’s interests are not involved. Subject to this limitation, within which I have always acted, it was, I presume, perfectly competent to me, to institute or defend actions for individuals. In the action of detinue in question, His Majesty had, and could have no interest whatever. The defendants being in possession of certain furs, Mr. Lampson instituted this action, to recover them, as being his. The action, therefore, involved merely a question of private right between him and the defendants, from the determination of which neither profit nor loss, benefit nor injury, could accrue to the Crown. Mr. Lampson, it is to be observed, also, did not apply to me to institute the action, or consult me respecting it, but, as he had a right to do, made choice, for that purpose, of a professional gentleman, in whom, it is to be presumed, he reposed confidence; and with him he associated, as counsel, Mr. Vanfelson, who holds the office of Advocate General in the Province. I am, therefore, charged as being culpable, in a high degree, by the Committee of Grievances, for having withheld from Mr. Lampson professional services which he never solicited, and which, by the employment of other advocates, he precluded me from affording. But it is also perfectly plain that the defendants had the same right to choose their advocate, which Mr. Lampson had himself exercised, and that their choice might fall on me, as well as on any other individual, not retained by him. I have, therefore, incurred the animadversion of the Committee on this head, expressed in terms highly injurious to my character, without the slightest reason.

Secondly, I am charged by the Committee of Grievances with official misconduct, in having instituted an action of *Réintégrande*, for and in the name of the lessees of *Millc Vaches*, against William Lampson, “to compel him to remove from the banks of the River “Portneuf;” and with being, by this professional act, guilty “of a direct and positive violation of my duty to the Crown, the interests whereof,” it is alledged, “have been culpably “abandoned by me, either from an inordinate love of lucre, or from (what would be as bad) a “strong desire to render service to my clients, even to the prejudice of the Crown, which,” it is said, is “eminently interested in the success of its lessee, in his disputes with his adversaries, “the partners and servants of the Hudson’s Bay Company.”

This is strong language, indeed: that it should have been adopted, and applied to me, cannot but excite great surprise, when the alleged cause for it is explained. The action of “*Réintégrande*” referred to by the Committee, as having been instituted by me against Mr. Lampson, is the same action of *Réintégrande* whereof mention is above made. The action known in Lower Canada, under this French name, is the *Interdictum unde vi* of the Roman law. It is a possessory action, by which persons, forcibly dispossessed of lands or houses, are enabled to obtain restitution of them, and recover damages for the injury thus sustained, on the ground of possession alone, without any reference whatever to title; the maxim applicable to this action being “*spoliatus ante omnia restituendus est.*” In the English law, no corresponding civil action is to be found. The violence complained of in such cases, by that law, is dealt with as a breach of the peace, as a crime; and an equally efficacious, and more prompt, remedy is afforded by indictment for a forcible entry and detainer, or by resort to the power of Justices of the Peace, who are authorized, on complaint of the party aggrieved, to go upon the spot, and immediately reinstate him in possession.—The action thus brought against Mr. Lampson was, therefore, grounded on an alleged illegal, criminal act: in it, the title to the land of which the Hudson’s Bay Company had been forcibly disseised, could not be brought in question, nor could any ground of defence be derived to Mr. Lampson from a right of property in the Crown, if such right had existed; nor even from an absolute and unquestionable right of property in himself. The decision, therefore, to be given in this action, could not, in the smallest degree, affect the rights of the Crown, which, if they existed, could not have been pleaded or urged in it, and, after a decision against Mr. Lampson, might have been enforced in the same manner, and to the same extent, as if no such decision had been given. It is plain, therefore, that the Crown had no interest whatever in the action in

question; and that, in bringing it, I did not, as erroneously and injuriously alleged by the Committee, “culpably *abandon* its interests.” But it is alleged by the Committee, that the support of the Government was due to Mr. Lampson, as lessee of the Crown, “which,” it is said, “was eminently interested in the success of its lessee, in his disputes with his adversaries, “the partners and servants of the Hudson’s Bay Company.” It was certainly incumbent on the Government, and its officers, to protect Mr. Lampson, in all legal rights derived under his lease:—but, as lessee of the Crown, he could have no claim to its protection or support, in any illegal act whatever; nor could the Crown, which owes and extends equal justice to all its subjects, be supposed, without unheard of derogation from its character, to be “interested “in the success of its lessee in his disputes” occasioned by any such act.—If Mr. Lampson forcibly wrested property from his neighbour, as being within his lease, it was *fit* that the laws should receive execution as to him, as they would, with respect to any other person; and it is singular, indeed, that the Committee of Grievances should have thought special protection and support due to him in such a case. Under the circumstances complained of by the Hudson’s Bay Company, it might have been the duty of the Attorney General, if proper affidavits had been laid before him, to have indicted Mr. Lampson and the twenty-five or thirty men in his service, by whom the dispossession of the Hudson’s Bay Company was effected *vi et armis*, for a riot and forcible entry and detainer; and it is certainly rather unreasonable, that he should be held in a high degree culpable by the Committee of Grievances, for having adopted, professionally, the more lenient remedy of a civil action.—But it is palpably manifest, that inasmuch as the ground of the action, of which the institution by me is complained of, was a criminal breach of the peace, and even an indictable offence of considerable magnitude, protection and support, in relation to it, were due from His Majesty’s Governor, his Courts of Justice, and Law Servants, within their respective spheres of duty, and in execution of the laws—not to Mr. Lampson (though a lessee of the Crown), to afford him impunity, for a criminal aggression on his neighbour—but to the parties complaining of injury from his unlawful violence, to enable them to obtain justice.—In the institution of this action, therefore, I have not acted inconsistently with my official duty, as erroneously and injuriously represented by the Committee of Grievances, but in perfect conformity with it; and I may confidently conclude, that I have incurred this, as other of the animadversions of the Committee, without the slightest reason.

It has been immaterial to my justification, under this head of charge, I beg leave to state, to inquire whether the land claimed by Mr. Lampson, as being within his lease, belongs to the Crown, or to the Seigniors of *Mille-Vaches*. The Committee of Grievances has decided very positively, that it belongs to the Crown.—Without professing to have any formed opinion on this point, I would only observe, that the Committee, in coming to this conclusion, has by no means been put in possession of the whole case, and has laboured under a disadvantage peculiarly unfavourable to the investigation of truth, in having heard only one of the parties concerned.—In their Petition* to His Excellency Lord Aylmer, representing the institution of an action for the establishment of boundaries to be unnecessary, the Seigniors of *Mille Vaches* brought under His Excellency’s notice, a *Procès Verbal* of survey, dated in 1675, by which, as they allege, the land in question was included within the limits of *Mille Vaches*, as making part of that Seignior: they also produced an “*acte de souffrance*” of the Intendant of Canada, dated in 1676, referring to this survey as having determined the limits of that Seignior, and they likewise alleged a continued, uninterrupted possession in themselves and their ancestors, in conformity with the said *Procès Verbal* of survey, from the date of it, down to the present time, that is, during one hundred and fifty years. These grounds of alleged right in the Seigniors of *Mille Vaches*, it would of course be most necessary to investigate, before adopting any opinion on the point which has been decided by the Committee.—I would also beg leave to observe, that the Committee appears to have attached an undue weight, to the condition of cultivation or settlement, in the original grant of *Mille Vaches*. This condition is found in all grants of land, in Canada, both before and since the conquest; but it does not abridge the right of property conferred by the grant; and hitherto no measure has been taken for the revocation of such grants, on the ground of the non-fulfilment of the condition. Until such revocation shall have taken place, all rights incident to ownership, including the right of trading with Indians or other persons, may, therefore, be exercised within the limits of *Mille Vaches*, as freely and absolutely, as in any other part of the province, and in the same plenitude, as in the city of Quebec itself.

Thirdly—I am charged by the Committee of Grievances with having delayed, “for a long time,” the institution of the action for the establishment of boundaries between the King’s Posts and the seignior of *Mille Vaches*, “from a desire to shield the parties in possession of “the encroachments on the King’s Posts.”

The direction of his Excellency Lord Aylmer, that an action, for the establishment of boundaries between the King’s Posts and *Mille Vaches* should be instituted, was conveyed to me in a letter from his secretary † on the 29th December last, and the action was instituted on the 16th February following ‡.—If the whole of this period of delay were referable to me, I venture to think, that it could not reasonably be called “a long time,” nor afford cause for

* Vide Append. No. 17 (15), p. 45.

† Vide Append. No. 17 (3), p. 39.

‡ Vide Append. No. 17 (24 a.), p. 50.

the censure of the Committee, nor for the imputation of the improper motive gratuitously ascribed to me. I do not perceive in the circumstances of the case, apart from the feelings and views of Mr. Lampson, any cause for the extreme haste, which the Committee seems to have deemed necessary. But, in reality, a very small part of this delay is ascribable to me; and however unimportant in itself the retrospect of the causes of the delay may be, I hope I may be allowed to state them, in order to my complete justification.—To enable me to carry into execution the direction of His Excellency to institute an action, it was obviously necessary that I should be put in possession of, and I expected to receive, the titles and documents relating to the subject to be brought into litigation. I remained, during part of the month of January, in expectation that His Excellency would cause them to be transmitted to me, or refer me to some public office where they were to be found. But not receiving any communication on this head, I resolved on addressing a letter to His Excellency's secretary, to request that the Inspector of the King's Domain and Clerk of the Land Roll might be directed, to make me acquainted with any titles or documents that his office could furnish, relative to the boundaries between the King's Posts and *Mille Vaches*. The transmission of this letter was delayed for some days, in consequence of the severe illness of His Excellency Lord Aylmer, in the latter part of January, so that it was not actually sent till the 31st January*. No answer to this letter was received by me till the 12th February; though a renewed injunction to institute the action was conveyed to me in a letter from His Excellency's secretary on the 10th February †, which must have been written without adverting to the circumstance of my letter of the 31st January remaining unanswered ‡. On the 12th February I was put in possession, by the proper officer §, of the titles and documents which I had applied for. Immediately after, and without losing a moment, I set about preparing the information to ground the proposed action; and while thus engaged, I received a letter from his Excellency's Secretary ||, transmitting, by order of his Excellency, a Petition from the Proprietors of *Mille Vaches*, dated 5th February ¶, complaining of the proposed institution of an action for the establishment of boundaries, as being unnecessary, and calculated to subject them to great expense and trouble; and this Petition was transmitted to me "for such observations as I might judge necessary, to guide his Excellency in any further proceedings in this business." I found it difficult to reconcile the two orders of his Excellency, by one of which I was required to institute an action, and by the other, according to my interpretation of it, to report whether the action ought to be instituted. In this dilemma, I addressed myself to his Excellency **, to be informed, "whether it was his Excellency's intention, that I should persist in the immediate execution of his order of the 10th February: or whether I was to suspend the execution of that order, till after my report on the Petition of the Proprietors of *Mille Vaches*, and till I might be honoured with the further directions of his Excellency on the subject." On the 15th February, I was relieved from my embarrassment, by a letter from his Excellency's Secretary ††, informing me, that "with the view of preventing all misconceptions," his Excellency was pleased to desire, "that the suit '*en bornage*' of the Seigniorship of *Mille Vaches* might proceed, without loss of time," and adding that "with reference to the Petition of the Proprietors of *Mille Vaches*, and the mode of defraying the expenses connected therewith, his Excellency was of opinion, "that it was a point for future consideration." This order of his Excellency, not having reached me till after office hours ††† on the 15th February, I could not sue out process on that day; but the very next day this was done, and the action instituted §§. From this statement of facts, it is plain that I was not enabled to institute the action in question till the 12th February; that the institution of it was necessarily suspended between that day and the 15th, till I could learn which of two apparently contradictory orders I was to execute; and that the action was instituted, the day after this cause of embarrassment was removed, and at the first possible moment. So that I may assert that the action was instituted within two days, after I was enabled, by His Excellency Lord Aylmer, to institute it. This period is called, by the Committee of Grievances, "a delay for a long time," for which an improper motive is arbitrarily assigned by the Committee; and, in order to aggravate the singular offence thus imputed to me, it is alleged by the Committee, "that it required nothing less than the repeated and positive orders of the Governor-in-Chief to make me undertake the proceeding."—Such a charge, grounded on such facts, need not be enlarged upon, and cannot, I presume, but be thought, by your Lordship, to be very extraordinary.

Fourthly,—I am charged by the Committee with having, in November last, given an erroneous opinion "respecting a Petition presented on behalf of the Hudson's Bay Company, "praying to be authorized to sell and distribute liquors to the Indians, and soliciting pardons for those of their servants who had done so;" and in giving this opinion, it is alleged, that I was "instigated by a desire to be of service to my clients, whose interests were opposed to those of the lessee of the King's Posts, and by a necessary consequence to those of the Crown "itself."

This animadversion involves two imputations:—1st. Error in giving an official opinion. 2nd. A corrupt motive for having given the opinion. Both these imputations are destitute of

* Vide Append. No. 17 (10), p. 43.

† Vide Append. No. 17 (13), p. 44.

‡ Vide Append. No. 17 (14), p. 45.

• Vide Append. No. 17 (22), p. 50.

†† Vide Append. No. 17 (24 a.), p. 50.

† Vide Append. No. 17 (12).

§ Vide Append. No. 17 (26), p. 48.

¶ Vide Append. No. 17 (15), p. 45.

†† Vide Append. No. 17 (14), p. 45.

§§ Vide Append. No. 17 (24 a.), p. 50.

any foundation; and the latter, as in other instances, has been *gratuitously applied to my conduct*.—Without admitting, as seems to be implied in this animadversion of the Committee, that error in the opinions of an Advocate, or Law Officer of the Crown, constitutes an offence, I am most willing, on this occasion, that it should be so considered, and to rest my justification, on the validity and correctness of the opinion, which has subjected me to the censure of the Committee. The opinion referred to is that contained in my Report above-mentioned, to His Excellency Lord Aylmer, on the Petition of the Hudson's Bay Company, for a licence to sell and distribute liquors to Indians, and a pardon for past offences, supposed to have been incurred, for the want of such a licence. This opinion was given by me on a question of public law, not affecting merely the interests of the individuals immediately concerned in it, but those of the province at large, and was formed under the most perfect conviction of its being legal and correct; which conviction I still retain. The difference between the Committee and myself, on this point, fortunately does not depend on facts, as to which the parties might be at variance, but on the construction of a provincial law, as it appears to me, of the plainest and most unequivocal import, and respecting which an opinion may as easily be formed in London, as in Quebec. Without trespassing, therefore, on your Lordship's patience, by offering reasons in support of my construction of the law, I will merely beg leave to solicit your Lordship's attention to the two ordinances to which my opinion refers, which will be found under No. 15 (10), and No. 15 (11), in the annexed Appendix, and also to my Report to His Excellency Lord Aylmer, of the 29th January last, which will be found under No. 15 (7), in the same Appendix; in which Report are contained the grounds of the opinion that I am held culpable for having given. The opinion charged on me as an offence, so far from being censurable, is, I apprehend, entitled to the approbation of His Majesty's government, not only as being legally correct, but as having been calculated when given, to arrest and prevent much mischief, injustice, and disorder in the Colony. A short explanation will suffice to establish the latter position. By the provision of the Ordinance, which the Committee holds to be in force, and which, I am of opinion, has been repealed, the sale and distribution of spirituous liquors to Indians is prohibited, "without a special licence for that purpose first had and obtained from the Governor, Lieutenant-Governor, or Commander-in-Chief of the Province, or from His Majesty's Agents or Superintendents for Indian Affairs, or from His Majesty's Commandants of the differents forts in this Province, or from such other person or persons as the Governor, &c. shall authorise for that purpose." This provision of the Ordinance, which was applicable to a state and condition of the colony, which have long ceased to exist, vests in the Governor, and the subordinate officers which it specifies, a power, involving in it a monopoly of the Indian trade, throughout the Province. At the time at which my opinion was given, on the Petition of the Hudson's Bay Company, traders in different parts of the Province carried on their trade with the Indians, and sold and distributed spirituous liquors to them (as had been done for forty years before), without any licence whatever. All these traders, with their numerous clerks and servants, were equally, with the servants of the Hudson's Bay Company, obnoxious to *qui tam* actions, such as those brought by Linton, at the instigation of Lampson. If the opinion of the Committee and not mine, were correct, and had been acted upon, these different traders, or persons desirous of supplanting them in their trade, from rivalry, conflicting interests, personal resentments, or other such motives, following the example of Mr. Lampson, could not have failed to harass and annoy each other, by vexatious *qui tam* actions, similar to those now referred to. Mr. Lampson, not having a licence to sell and distribute spirituous liquors to Indians, as required by the Ordinance, must himself, as well as his servants, have been liable to such actions; and it is not to be supposed, that the servants of the Hudson's Bay Company, smarting under the actions of Linton, and with the ruin of their trade in prospect, would have omitted to retaliate on him the same means of annoyance and vexation, which he had directed against the trade of that Company. Hence actions of this vexatious description must have been multiplied without number; and all parties must at last, to avoid a common ruin, have resorted to the Governor, for that protection and support in their trade, which were solicited by the Hudson's Bay Company, from His Excellency Lord Aylmer. It cannot be imagined, that His Excellency, in the discreet exercise of his authority, could have granted licences to some persons, and have refused them to others. If he refused them, the subordinate officers above-mentioned might have been referred to for licences, as having the same power, as the Governor, to grant them. In this state of things, one or other of two consequences must have occurred. Either licences would have been granted, indiscriminately, to all applicants for them, or they would have been confined to a few favoured individuals, with Mr. Lampson at their head. In the former case, the provision of the Ordinance would have been virtually, and as to all practical purposes, nullified, and Mr. Lampson, and other Indian traders, seeking an exclusive right of trading with the Indians, could have acquired no advantage, from a partial exercise of the Governor's power. In the latter, the Governor's monopoly of the Indian trade would have been so invidious in its exercise, so ruinous to individuals, so inconsistent with public policy, and so injurious to the general interests of the Province, that an immediate repeal of the Ordinance in question must have been solicited from the Provincial Legislature, and if refused by it, must have been sought, and would, it is to be presumed, have been obtained, from the Imperial Parliament. Now, it is for having, by a correct discharge of my official duty, in giving the opinion complained of, arrested *in limine* the train of injurious consequences which I have described, and which must have resulted from the success of Mr. Lampson's pretensions, which have been since supported by the Committee of Grievances; and it would appear, also, by the House of Assembly itself, that I have become obnoxious to

the animadversion at present under consideration. Entertaining the fullest persuasion that the opinion complained of is legal and correct, and was calculated to be eminently useful when given, and conscious that it was dictated by no other consideration than a sense of duty; I confidently submit myself to your Lordship's judgment, on this animadversion of the Committee of Grievances of the Assembly of Lower Canada.

Fifthly,—I am charged by the Committee of Grievances, with “having, in suits wherein a partner and two of the agents of the Hudson's Bay Company were sentenced to fines and to twenty-four hours imprisonment, for having repeatedly sold strong liquors to the Indians, and made them drunk, constituted myself as their advocate, and exerted myself to procure them to be exempted from the payment of the fines imposed; although I well knew that the moiety of those fines would fall to the profit of the Government, and be paid into its chest.”

The suits referred to in this animadversion are the *qui tam* actions of Linton; though there is some inaccuracy and amplification in the description of them.—My answer to this animadversion is very brief. Upon the return of the Writs of Habeas Corpus sued out by the Defendants as above stated, I appeared as Counsel for them, and insisted on their right to be discharged.—This exercise of professional duty on my part, in favour of the liberty of the subject, I apprehend to have been perfectly unexceptionable. I did not, as erroneously alleged by the Committee, constitute myself the advocate of the Defendants, nor exert myself, to procure them to be exempted from the payment of the fines imposed on them. When the Writs of Certiorari, which had been sued out by the attorney of the Defendants, were returned, he appeared for them in Court. Afterwards, on motions which were made to quash the convictions, and when a hearing was about to be had upon them, I intimated to the Court my intention, in the course of the hearing, to state the grounds of the opinion I entertained, as Attorney General, with respect to the convictions; but the hearing being postponed to another term, I had no opportunity of fulfilling this intention; and nothing else was done by me, in relation to this matter. Considering the question involved in the convictions, to be of great importance to the Government, and to the Province at large, I felt it to be my duty, as Attorney General, not to be silent while the discussion took place; and, if an opportunity had been afforded, I should have availed myself of it, to state to the Court the grounds on which I held the convictions to have been illegal. In the latter part of the animadversion of the Committee, an opinion seems to be implied, that it was the imperative duty of the Attorney General, on a public question, affecting the interests of the Government, and of the people, to maintain that to be law, which he held and knew not to be law, because, by making it law, the Government would have a share of fines, to the amount of seven pounds ten shillings! I am free to declare, that this pecuniary consideration did not affect my sense of duty; which, on this point, was entirely at variance with the opinion of the Committee.

Sixthly,—I am charged with having, in my argument on the Writs of Habeas Corpus, “made use of expressions which were indecorous and even offensive, towards the Magistrates who had pronounced the sentences.”

This charge I must deny to be true.—I used no expressions that were indecorous, or personally offensive to the Magistrates. The convictions under their authority I maintained, as I still consider them, to be illegal; and I represented in strong terms, such as the case seemed to require, the vexatious and oppressive character of the whole proceeding. In this I merely exercised, and I think discharged, the duty of an advocate.

Seventhly,—I am charged with having, “when in contempt of the King's peace, and without any sufficient cause, the servants of the lessee of the King's Posts were ‘torn’ from their residence at their Posts, and ‘dragged’ to Quebec as prisoners, brought bills of indictment against them which were frivolous, and not justifiable by the circumstances attending them; while, by a still more culpable neglect of duty, and of the impartiality which ought at all times to be my guide, I favoured my clients, and granted to them impunity.”

The Committee of Grievances in this, as in other of its animadversions, has fallen into great error, as to matters of fact, being deceived, it is to be presumed, by the false statements of interested individuals; but, in none of them, has it been betrayed into errors more inconsistent with truth, than in this. The servants of the lessee of the King's Posts were not “torn,” or “dragged,” or otherwise removed from their residence, as prisoners, though some of them, without a “contempt of the King's peace,” and for very “sufficient cause,” might have been subject to the inconvenience of arrest, if they had not eluded the search of a peace officer. The members of the Committee cannot have been aware of the resistance to the execution of Mr. Christie's warrant above-mentioned: if they had, it is impossible they could have expressed themselves in the language of this animadversion. In reality, Mr. Lampson's servants, after setting at defiance the public authority of the province, as above stated, escaped arrest altogether.—They afterwards, and at their own convenience, found their way to Quebec, about the time at which the Criminal Court was opened, and there entered into recognizances, without having, I believe, been subject to any arrest or imprisonment whatever.—With the measures adopted for enforcing the magistrate's warrant against M'Leod and his associates, I had nothing to do, except in having given the opinion required from me by His Excellency

Sir James Kempt, as above-mentioned. But, it is very certain that the vigorous exercise of authority, suggested in that opinion, in execution of the laws, was urgently necessary; and I can entertain no doubt that serious outrages, and probably bloodshed, were prevented by it.—The indictments, which it was my duty to prefer against these individuals, are stated by the Committee, to have been “*frivolous and not justifiable*.” This decision, as in other instances, has been pronounced by the Committee, without any evidence whatever before it, as to the nature or grounds of these indictments.—The Committee was, therefore, absolutely, without any means of forming any opinion on the subject; and the weight due to decisions thus given cannot be dubious. But to disprove this allegation of the Committee, it is sufficient for me to refer to the bills of indictment laid before the Grand Jury of the district, and to those found by them, whereof mention is above made, by which it is ascertained, that the offences charged against Mr. Lampson’s servants, in these indictments, on grounds found by the Grand Jury to be “justifiable,” far from being “frivolous,” were of a serious nature and grave character, without the repression of which neither the security of person or property, nor the peace and good order of society, could be maintained. To ground a charge of partiality on my part, in favour, as it is said, of my clients, a falsehood has been imposed on the Committee, the particulars of which it is necessary to explain. It is said, “that the attornies of Mr. Lampson, who were employed by the lessee of the King’s Posts, to maintain his rights, with respect to the charges brought against a number of the servants or agents of the Hudson’s Bay Company, for having robbed the Indians of the interior, and having fired, with guns and pieces of artillery, upon the servants and clerks of William Lampson, being desirous of ascertaining whether the said Attorney General intended to proceed against them, in the criminal term of September last, *wrote officially to him*, in order that in case he had determined to proceed, they might send for the witnesses required from the Indian country. That gentleman, however, not having thought fit to give them any answer, they, as they ought to do, considered his silence to indicate his intention of not proceeding in those suits; but how much were they not surprised, when they found that the said Attorney General, as soon as he knew that there were no witnesses, came forward with Bills of Indictment, which he submitted to the Grand Jury, who threw them out, as was naturally to be expected. To the remonstrances which the attornies of the lessee of the King’s Posts made to him on this subject, who maintained that they were not bound to send for witnesses from such a distance, without being sure of the cases being brought on, he answered, ‘It is not my fault—I have done my duty—here are the Bills.’” This statement is entirely untrue, and without any the slightest foundation: the proof of its being inconsistent and at variance with truth in every particular is easily established.—The servants of Mr. Lampson were complainants or private prosecutors on some charges, and on others they were parties accused. In the former capacity, they were bound to be prepared with their evidence, to sustain the indictments to be preferred on their charges: if not, the accused, whether in jail, or under bail, were entitled to be discharged.—The practice in conformity with this principle has always been, to prepare and lay before the Grand Jury, at the opening of the Court, the indictments on the charges of the private prosecutors, when sustained by sufficient depositions. Mr. Lampson and his attornies were, therefore, perfectly aware of the obligation under which he was, to be ready with evidence to support the indictments to be preferred, at the instance of his servants. No communication from the Attorney General on this head was necessary, or could be expected; nor was any solicited *by letter* or otherwise; and it is absolutely and entirely untrue, that the attornies of Mr. Lampson, as above stated, “*wrote to me officially*” for information, whether I meant to proceed or not on the charges of Mr. Lampson’s servants, as complainants or private prosecutors. A letter was, indeed, written to me while I was at Montreal, by Mr. Gogy, one of Mr. Lampson’s counsel, *but for a totally different purpose*; and it is peculiarly fortunate for me, that having preserved this letter, I am enabled, by the production of it, to falsify most conclusively this unfounded imputation on my character and honour. The letter of Mr. Gogy will be found in the annexed Appendix, under No. 23, p. 57: it relates *exclusively* to the charges made not *by*, but *against* “the agents and servants of the King’s Posts,” for “certain trespasses upon the persons and property of the agents of the Hudson’s Bay Company,” and as to these, Mr. Gogy desires to know, “whether it was my intention to *try* them at the next ensuing term.” The object, therefore, of this letter was not, as untruly stated in the report of the Committee, to learn whether the charges brought against the servants of the Hudson’s Bay Company would be proceeded upon, Mr. Gogy requiring no information on this point, and being perfectly aware that these charges must be proceeded upon by indictment, or be abandoned; but to learn, whether I would consent to try the indictments, which it was expected would be found, against the servants of Mr. Lampson, in the then next term; it being implied by Mr. Gogy’s letter that, in that case, the Defendants would waive their right to *traverse*. This letter from Mr. Gogy I did not answer, and my reasons were these.—The private prosecutor, to be consulted on the charges against Mr. Lampson’s servants, was the agent of the Hudson’s Bay Company, who resides at Quebec. I had left that place, to attend the criminal Court at Montreal, about ten days before the receipt of the letter of Mr. Gogy, who was perfectly aware of the time of my departure, and might most readily have obtained the desired information from me, while on the same spot with the private prosecutor and himself. If he had communicated with me personally, or in writing, while I was still at Quebec, I should immediately have sent for the private prosecutor, and have ascertained, whether he would be ready for trial in the course of the term, or not, and have informed Mr. Gogy accordingly: but, being at the distance of two hundred miles from the private prosecutor, I could hold no such communication with him, and therefore could

give no answer to Mr. Gogy, in the affirmative or negative, on the subject of his letter. I was indeed equally ignorant, whether the witnesses of the one or the other of the parties concerned in these prosecutions would or would not be forthcoming, having no other information whatever, than what was furnished by the written depositions in my hands. Under the circumstances to which I have adverted, I thought my inability to give the desired information might be sufficiently inferred from facts within the knowledge of Mr. Gogy, and from my silence, and did not, therefore, answer Mr. Gogy's letter. Subsequently, at the opening of the criminal court at Quebec, Mr. Gogy inquired of me, whether I had received his letter. I told him I had, and had not answered it, for reasons of which he must have been sufficiently aware; and nothing further was said respecting the letter. No injury was, or could be, sustained by Mr. Lampson, from the circumstance of no answer having been given to this letter, as his servants were not ready to take their trial, and insisted on their right to traverse, which was permitted by the court. Having, as my duty required, prepared indictments on the depositions in my hands, against the servants of the Hudson's Bay Company, as well as against those of Mr. Lampson, I laid both before the grand jury. When, in the act of preferring the former, it is perfectly true, that Mr. Lampson's counsel remarked, that some of his witnesses were not in attendance; and it is also true, that I answered, that it was not my fault, and that I had prepared indictments, as it was my duty to do; referring, by these words, to the practice above explained, which made it incumbent on me, to prepare indictments on the depositions, which had been put into my hands. If I had not laid indictments before the grand jury, at the instance of Mr. Lampson's servants, the omission to do so would, no doubt, have been urged as evidence of partiality. Having discharged my duty in this respect, I have, nevertheless, not escaped that imputation; and, indeed, from this as well as other parts of the proceedings of the Committee, it must be sufficiently evident, that no purity of intention, no correctness of conduct, could shield me against accusation. On the grounds which I have now stated, I am justified, I apprehend, in concluding that the seventh animadversion, contained in the Report of the Committee, is entirely without foundation.

Eighthly and lastly,—I am charged by the Committee of Grievances with culpable conduct in having “with the view of prejudicing the Judges of the Court of King's Bench, against Mr. Lampson, plaintiff in the action ‘*en revendication*’ above mentioned, caused him, by my advice and direction, to be arrested for perjury, and *that* upon the sole accusation of the same individuals who had forcibly carried off his peltries;” and who, it is said “solely escaped from being overtaken by public vengeance, because their protector, the Attorney General, had recourse to expedients, which were repugnant to honour, to duty, and to the due administration of justice.”

Divested of a colouring which does not belong to them, but which is found throughout the report, the facts, referred to in this charge are of ordinary occurrence, involving no cause for imputation of any kind, and affording not the slightest reason for the injurious terms of which a prodigal use, I may be permitted to state, has been made by the Committee. These facts are few and simple.—In the institution of an action of detinue, Mr. Lampson resorted to an extraordinary remedy, that of attachment before judgment, which is not permitted in Lower Canada except on affidavit, that the goods demanded in such an action belong to, and are the property of, the plaintiff. Every man, who makes such an affidavit, becomes responsible for its truth, and is liable to a prosecution for perjury, if he be guilty of wilful falsehood, in making it.—The defendants in the action, it would appear, deemed themselves warranted, in charging Mr. Lampson with perjury, in having made this affidavit, and proceeded against him accordingly, with the assistance of a professional gentleman, employed for that purpose. Their affidavits before a magistrate, drawn by that professional gentleman, it would appear, were held sufficient to hold Mr. Lampson to bail, on a charge of perjury, which is still pending against him; and it is this proceeding that, without any evidence whatever, is ascribed to me, and that is called an “expedient which is repugnant to honour, to duty, and to the due administration of justice.” Such terms were certainly never before applied to the exercise of a strictly legal remedy, already under the cognisance of a Court of Justice, and in the course of judicial investigation. If the charge adverted to had been improperly made, it was obviously, by the rejection of a bill of indictment by a Grand Jury, or by a verdict of acquittal by a Petty Jury, that the party was to be exonerated from it; and his ulterior recourse for damages, for a malicious prosecution is well known. The whole course of justice, by this proceeding of the Committee, is virtually obstructed, and the arbitrary determination of a Committee of the Assembly, upon the mere statements of the party accused, substituted for the decisions of grand and petty juries. In thus absolving Mr. Lampson from the charge of perjury, the Committee also seems to convey, by implication, a similar charge, proceeding from itself, against the private prosecutors, for if he was guiltless, they could not be innocent, in swearing that he committed that offence. But, whatever may be the merits or demerits of the parties respectively, in the transactions referred to by the Committee, on which it was competent to His Majesty's courts of justice alone to determine, and respecting which the Committee had no means of forming any opinion; it is most strange that I should be held criminal or culpable, for a remedy not adopted by me, but by other persons, over which I could exercise no control, and for which I am in no respect responsible. I can, therefore, only express surprise, that I should have been implicated, by the Committee of Grievances, in such a charge, conveyed in such terms.

I have thus, not without trespassing largely, but unavoidably, on your Lordship's attention, extracted from the Third Report of the Committee of Grievances of Lower Canada, all the animadversions and imputations to be found in that document, to my prejudice, and to each successively have submitted a specific answer. I must now beg leave to advert to the resolutions subjoined to the Report, of which a brief notice will suffice, as they necessarily depend, for support, on the Report itself, which has been refuted in all its parts.

The first and second of these resolutions are intended to establish a proposition of unquestionable truth, namely, that the Attorney General, in his private practice, ought not to place himself in opposition to the interests of the crown and of the public.

By the third resolution, it is declared, that the Attorney General, by reason of his salary and fees, "has no need of practising as an Attorney in the Courts, in behalf of individuals." The salary and fees of the Attorney General, I beg leave to state, are now the same which they have been for thirty years past, and, indeed, for a much longer period; and, in the persons of my predecessors, they were not found to be too large, or incompatible with private practice. The annual amount of fees, received by my immediate predecessor, was more considerable, than that which I have received; although professional assistance was afforded to him, at the public expense; whereas the duties of the office have been discharged by me, without any assistance whatever. The labour performed by me officially, it is to be observed also, would be compensated by a larger amount of income, if performed for private individuals. There are not, therefore, any considerations, that I am aware of, that would require, that the office should now be put on a different footing, from that on which it has always subsisted in the colony, and which corresponds with the established rights of the office of Attorney General, throughout His Majesty's dominions. This resolution seems to have been grounded, exclusively, on the statements and opinions of the counsel and attorney of Mr. Lampson, which could not have derived any particular recommendation from their disinterestedness or accuracy.

By the fourth and fifth resolutions, it is declared that I became counsel, in certain matters, for the Hudson's Bay Company, their agents and servants; and that I thereby placed myself in opposition to the interests of the lessee of the crown, and, by a necessary consequence, in opposition also to the interests of the crown itself. I have already shown, most conclusively, that the Committee of Grievances was led into error upon this head, and that I never placed myself in opposition to the interests of the crown. In this resolution, two very different interests have obviously been confounded, as being the same. In stating that, by placing myself in opposition to Mr. Lampson's interests, I placed myself, "by a necessary consequence," in opposition to those of the crown, a *non sequitur* has evidently been adopted, as being a "necessary consequence;" and it is plain that, on this fallacy, suggested by Mr. Lampson, the whole Report of the Committee, and the resolutions appended to it, have been constructed.

By the sixth resolution it is stated, "That my conduct on the occasion of the disputes pending between the Hudson's Bay Company and the lessee of the Crown for the King's Posts, has been exceedingly unjust, vexatious, and equally injurious to the rights and interests of the Crown, and those of its lessee, in the enjoyment of the Posts known by the name of the King's Posts."—By the word "disputes" are to be understood, no doubt, the criminal and civil remedies, of which an account has been given. In the former, my conduct consisted in acts of official duty, by which the laws, in a strictly legal course, were enforced, against persons charged with crimes; in the latter, in which the rights and interests of the Crown were not in the smallest degree involved, my conduct consisted in lending my professional assistance, in the administration of justice, between private individuals:—In neither, therefore, have I been guilty of the misconduct imputed to me by this resolution.

By the seventh resolution, His Majesty's Government, for the misconduct imputed to me by the sixth, is solicited to dismiss me from the office of Attorney General. This resolution, being predicated on the preceding resolution, and on the statements contained in the report of the Committee of Grievances, both of which have been shown to be wholly groundless, is deprived of the foundation on which it was adopted, and amounts, therefore, to a prayer of punishment, where there has been no offence.

It only remains, that I should briefly notice some misrepresentations of my conduct, contained in detached statements of individuals, unconnected with any subject before the Committee, which are too trivial to be adverted to, if not found incorporated in the evidence transmitted, through the Governor of the Colony, for the consideration of His Majesty's Government. Of this description is a statement to be found, among other falsehoods, in the evidence of one Pierre Deligalle, a bailiff, in the second report of the Committee of Grievances, by which he represented to the Committee, that I had not paid him for arresting three of the persons who were apprehended on charges of perjury at Sorel, and had assigned as a reason for my refusal, that he had not supported me at the election. It has so happened, that this man's receipt, together with that of one Triganne, for similar services, has been preserved among other papers relating to disbursements at the Sorel election; and I beg leave to refer to both these receipts in the annexed Appendix, under the Nos. 26 and

27, by which the falsehood of this man's assertion on this head, and the payment of such charges by me, is established. He also states, that he was not paid for apprehending some individuals, under warrants of Justices of the Peace, and conveying them to Jail; and this is ascribed to a vindictive exercise of my influence, to his prejudice. The charges to which he refers, according to the rules which govern such matters in Lower Canada, were payable by the private prosecutors, at whose instance his services were performed; and it was on this ground, that I could not certify his accounts, against the Government, for these services. Another very trivial matter, entirely of a personal nature, has been magnified into sufficient importance to find a place in the proceedings of the Committee of Grievances; being merely an expostulation on my part with the agent for the Seignior of Sorel, for not affording me his services at the election there, by giving me the requisite information, as to the qualification of the voters, of which, being a stranger at the place, I was wholly ignorant; and it is alleged that, in the course of this expostulation, it was stated by me, that I would report his conduct to the Governor. This fact, as in other instances, is misrepresented, and is complained of, as the exercise of a culpable official influence, on my part.

Having thus submitted to your Lordship a justification of my conduct, in all the particulars in which it has been inculpated, I have to apologise for the length of the statements, and the minuteness of the details, into which I have been compelled to enter. This, however, will not, I apprehend, be thought chargeable on me, but to be a necessary consequence of the form in which the accusations against me have been made. If reports of Committees, in the composition of which much latitude has been, and will be taken, are substituted *in globo* for specific charges, proceeding from, and sanctioned by the Assembly itself, the defence will unavoidably partake of the character of the accusation, in its diffusiveness and prolixity; and the uncertainty of the imputed offences, to be collected from voluminous documents, must be productive of embarrassment to the accused, as well as to the high authority, under whose cognizance they are brought.—How far this mode of proceeding, against public colonial officers, may or may not be just, fit, or expedient, it does not belong to me to inquire, but may be deserving of the consideration of His Majesty's Government. In what respects myself, individually, the injustice of such a proceeding, in its practical application, has been consummated, as is sufficiently exemplified, in the situation in which I have been placed, on this occasion; and I am, therefore, without personal interest in adverting to it, as being, on many grounds, in a high degree objectionable, and of pernicious and dangerous tendency. Waving all objections as to form, it has been my anxious desire, in this particular instance, to meet the charges of the Assembly, or of individuals, in whatever form, and through whatever channels, they may be conveyed; and I have thought it incumbent on me, to render my answers to the animadversions, which are the subject of this letter, the more minute and satisfactory, as the agent of the Assembly of Lower Canada has specially called the attention of your Lordship* to the first and third reports of the Committee of Grievances, as containing “*les plaintes de l'Assemblée.*” Conscious of purity of intention, and rectitude of conduct, in all the particulars which have been made the alleged causes of unfounded animadversion and imputation, I submit myself to the justice of His Majesty's Government.

I have the honour to be,

with the greatest respect, my Lord,

your Lordship's most obedient, humble servant,

J. STUART.

* Vide Append., Nos. 28, 29, p. 60.

APPENDIX

TO A

LETTER

FROM

JAMES STUART, ESQ.

TO THE

RIGHT HON. LORD VISCOUNT GODERICH, &c. &c. &c.

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APPENDIX.

No. 1.

Circular Letter from LIEUT. COLONEL GLEGG, Secretary to his Excellency the Administrator of the Government, to the Judges and Law Officers of the Crown in Lower Canada.

Castle of St. Lewis, Quebec, 7th December, 1830.

SIR,

I am commanded by his Excellency the Administrator of the Government, to request you will report, with all practicable despatch, for his Lordship's information, what effect (in your opinion) the demise of His late Majesty George the Fourth will have on the Commissions of Public Officers in the Province, after the lapse of six months from that event, and whether the renewal of such Commissions will be of indispensable necessity before the expiration of the said period of six months.

I have the honour to be, Sir,

your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

To the Judges and Law Officers of the Crown in Lower Canada.

True Copy, J. B. GLEGG.

No. 2.

Report of the Hon. JONATHAN SEWELL, Esq. Chief Justice of Lower Canada, to his Excellency the Administrator of the Government, in a Letter to his Secretary.

Quebec, 7th December, 1830.

SIR,

I have had the honour to receive your letter of this day, respecting the effect of the demise of His late Majesty, upon the Commissions of Officers in the Colonies, and in answer, beg leave to state, for his Lordship's information, that, in my opinion, every Commission issued in this Province, in the name of the late King, will be determined at the expiration of six months from his death, and that the same rule must obtain, in the instances of Commissions issued in the name of His Royal Predecessor, George the Third.

By the common law, all Commissions were determined by the death of the King; and to remedy the inconvenience, which this principle produced in practice, it was enacted, by the eighth section of the statute 6th Anne, cap. 7, that every person and persons in any office, place, or employment, in any of Her Majesty's Plantations, shall continue in their respective offices, places and employments, "for the space of six months, next after the death or demise of Her Majesty, her heirs or successors, unless sooner removed or discharged;" and this is the law of Canada in consequence of the last clause of the 14th Geo. III. c. 83, and the 33d section of 31st Geo. III. c. 31.

A statute (57 Geo. III. c. 45), was passed in the year 1817, to continue in the Colonies all persons in their respective offices, unless they should be removed or discharged by His Majesty George the Fourth; and by this Act, upon his accession to the throne the operation of the statute of Anne was prevented; but no provision was made by the 57th Geo. III. c. 45, as to the accession of any subsequent sovereign, nor was any statute upon this subject passed in the reign of George the Fourth.

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From the facts stated, it must be obvious that the statute of Anne will take effect at the expiration of six months from the demise of His late Majesty, and, as it must of course be obeyed, new Commissions in the name of His present Majesty will be of indispensable necessity.

I have the honour to be, Sir,

your most obedient, humble servant,

Colonel GLEGG, Secretary, &c. &c.

(Signed) J. SEWELL.

True Copy, J. B. GLEGG.

No. 3.

Report of the Honourable JAMES REID, Esquire, Chief Justice of His Majesty's Court of King's Bench, for the District of Montreal in Lower Canada, to His Excellency the Administrator of the Government, in a letter to his Secretary.

Montreal, 11th December, 1830.

SIR,

In obedience to the reference made to me by your letter of the 7th instant, requesting that I would report for the information of his lordship, what effect, in my opinion, the demise of His late Majesty George the Fourth, will have on the Commissions of public officers in this Province, after the lapse of six months from that event, and whether a renewal of such Commissions will be necessary from and after the expiration of that period of six months, I have the honour to report, as my opinion, in this respect, that, by the common law of England, all Commissions issued in the name of the King, ceased and determined by his death, and all writs and process in the Courts of Justice, abated or discontinued. To remedy this inconvenience, the statute 7 and 8 W. III. c. 27, was passed, by which these Commissions, writs and processes, were continued for six months after the death of the King. The provisions of this statute were afterwards extended to the colonies, by the statute 1 Anne, c. 8; rendering it thereby a general law throughout the several dominions of the Empire. These Commissions, being from matter of convenience extended and continued for six months after the demise of the King, must therefore necessarily cease and determine from and after the expiration of that period, as the common law principle will then take effect. If any exception could be made to this principle, it would be in regard of the Commissions of the judges, as by the statute 1 Geo. III. c. 23, it is enacted, that their Commissions shall continue and remain in full force, notwithstanding the demise of His Majesty, or any of his heirs or successors; but, in my opinion, this statute does not extend to the Colonies, not only from the particular provisions it contains which are applicable in England only, but also from the similar necessity there appears, that to give effect to this statute in the Colonies it ought to have been expressly extended thereto, on the same principle that it was found necessary to extend the above statute of the 7 and 8 W. III., to the Colonies, by the statute 1 Anne, c. 8.

I am, therefore, of opinion, that six months after the demise of His late Majesty King George the Fourth, all the Commissions of the public officers in this Province will cease to have effect, and ought to be renewed.

All which is, however, humbly submitted to the consideration of His Excellency Lord Aylmer, by,

Sir, your most obedient servant,

(Signed) J. REID, C. J. K. B. Montreal.

Lieutenant Colonel GLEGG, Secretary, &c. Quebec.

True Copy, J. B. GLEGG.

No. 4.

Report of JAMES STUART, Esquire, His Majesty's Attorney General for the Province of Lower Canada, to His Excellency the Administrator of the Government of that Province, in a letter to his Secretary.

Quebec, 8th December, 1830.

SIR,

I have been honoured with the commands of His Excellency the Administrator of the Government, signified in your letter of the 7th instant, requiring me to report, with all practicable despatch, for his Lordship's information, what effect, in my opinion, the

demise of His late Majesty George the Fourth, will have on Commissions of public officers in this Province, after the lapse of six months from that event, and whether a renewal of such Commissions will be of indispensable necessity, before the expiration of the said period of six months.

In obedience to His Excellency's commands, I have the honour to state, that, according to the strict rule of the common law, the Commissions of Public Officers in this Province, which were in force at the time of the demise of His late Majesty George the Fourth, would have been determined by that event. But this rule of the common law has been modified by the statute, 6 Anne, c. 7, according to the provisions of which all such commissions will continue in force for six months from the period of his late Majesty's demise. At the expiration of this period, the rule of the common law will have the same effect, in determining the Commissions of Public Officers, which it would have had at His late Majesty's demise, if the legislative enactment now referred to had not been made. I am, therefore, humbly of opinion that, in the absence of any legislative provision for a further or permanent continuance of officers in their respective offices, the Commissions of Public Officers in this Province, by the demise of his late Majesty, will be determined at the expiration of six months from that event; and that a renewal of them before this period elapses, will be of indispensable necessity to prevent any interruption, or supposed interruption, in the continued legal exercise of their functions.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Lieutenant Colonel GLEGG, Secretary, &c. &c. &c.

True Copy, J. B. GLEGG.

No. 5.

Copy of a Notice published by the Secretary of the Province, respecting the renewal of the Commissions of Public Officers, in pursuance of an Order in Council of His Excellency the Administrator of the Government.

NOTICE.

Secretary's Office, Quebec, 15th December, 1830.

Persons in this Province holding Commissions during pleasure, under His Majesty's Provincial Government, which at the time of the demise of His late Majesty George the Fourth, were in force, and will continue to be so, under the statute in this behalf provided, till the 26th instant, are notified, that their new Commissions, rendered necessary thenceforward by His late Majesty's demise, will be delivered to them, on application at this office.

By command.

(Signed) D. DALY.

True Copy, J. STUART.

No. 6.

Letter from Lieutenant Colonel GLEGG, Secretary to His Excellency the Administrator of the Government, to JAMES STUART, Esquire, His Majesty's Attorney General.

Castle of St. Lewis, Quebec, 9th December, 1830.

SIR,

I am commanded by His Excellency the administrator of the government to request you will prepare, with all practicable despatch, the necessary draughts of such Commissions as will cease to be of legal effect, at the expiration of six months after the

APPENDIX.

demise of His late Majesty George the Fourth, commencing with such as in your superior wisdom may be considered the most essential for the exigencies of the public service.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Hon. J. STUART, Attorney General.

True Copy, J. STUART.

No. 7.

Copy of the Form of a Commission of a Public Notary, in Lower Canada, in use prior to the 9th December, 1830.

HIS EXCELLENCY, &c. &c. &c.

To all to whom these presents shall come, or may in any wise concern, greeting.

Whereas A. B. of in the district of in the province of Lower Canada, gentleman, hath preferred a Petition to obtain a Commission of Notary Public, and the same having been referred to the Honourable Justices of, &c. for the district of in the said province, and they having in consequence certified to me by their certificate, bearing date the day of that the said A. B. underwent the necessary examination in their (or his) presence, and that they (or he) found him capable of exercising the aforesaid trust and charge: Now know ye, that having taken into consideration the loyalty and integrity of the said A. B. and his learning and capacity so certified, I have nominated and appointed, and by these presents do nominate and appoint the said A. B. to execute and perform the trust and duties of a Public Notary, for the province aforesaid, and the same office and the duties thereof to fulfil and perform, according to law; to have and to hold, exercise and enjoy, the said office of Public Notary during pleasure. Given under my hand and seal at arms, at the Castle of St. Lewis, &c.

True Copy, J. STUART.

No. 8.

Draught of a Commission of a Public Notary in the Province of Lower Canada, prepared by JAMES STUART, Esq. His Majesty's Attorney-General for that Province, under the orders of his Excellency the Administrator of the Government.

WILLIAM the FOURTH, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to all to whom these presents shall come, or whom the same may concern, greeting.

Whereas it hath been duly certified unto us, as required by the ordinance or law in this behalf made and provided, that our beloved and faithful A. B. of in our district of gentleman, hath served a regular and continued clerkship, for and during the space of five years, under a contract in writing for that purpose made and entered into with a Notary duly commissioned and appointed, and practising as such, to entitle him the said A. B. to be commissioned and appointed a Notary in and for the province of Lower Canada; and that the said A. B. hath been examined by some of the oldest Notaries and practitioners, in the science of a Notary, in the presence of the Honourable of our Court of King's Bench in and for our district of being the district wherein the said A. B. served his clerkship as aforesaid, and hath by the said been approved as being a person of fit capacity and character to be commissioned and appointed to act and practise as a Notary in our said province of Lower Canada: Now know ye that, reposing trust and confidence in the loyalty, integrity, skill, and knowledge of the said A. B., and at his especial instance, We, of our especial grace, certain knowledge, and mere motion, have constituted and appointed, and by these

presents do constitute and appoint the said A. B. to be a public notary in and for our said province of Lower Canada; to have, hold, exercise, and enjoy the said office of public notary as aforesaid, together with all and every the powers, rights, privileges, fees, profits, emoluments, and advantages to the said office appertaining, and which of right ought to appertain to the same, unto him the said A. B., for and during our royal pleasure. In testimony whereof, we have caused these our letters to be made patent, and the great seal of our said province of Lower Canada to be hereunto affixed. Witness, our trusty and well-beloved Matthew Lord Aylmer, &c. &c.

No. 9.

Report of JAMES STUART, Esquire, His Majesty's Attorney-General for Lower Canada, to His Excellency Sir JAMES KEMPT, in a Letter to His Excellency's Secretary.

Quebec, 5th Aug. 1830.

SIR,

I have been honoured with the commands of His Excellency Sir James Kempt, signified in your letter of this day, transmitting a letter, with its inclosures, from the agent of the Hudson's Bay Company, requesting the interference of His Majesty's Government to procure the arrest of certain persons charged with obstructing the execution of a warrant on Mr. Peter M'Leod on a charge of felony, at the post of Islet Jeremie, on the 20th ultimo; upon which His Excellency has been pleased to require me to report my opinion, whether the conduct of the persons in question, as shown by the affidavits, amounted to such an actual resistance to the authority which the constable possessed for the apprehension of Mr. M'Leod, as to require that warrants should be issued against them.

In obedience to His Excellency's commands I have perused the papers which His Excellency has been pleased to refer to me, and among these the affidavits of Charles Prévost, Joseph Barras, and John Schilling. From these it appears, that Charles Prévost was specially charged with the execution of a warrant, under the hand and seal of a justice of the peace, for the arrest of one Peter M'Leod on a charge of felony;—that, with his assistants he proceeded to a trading post, called Islet à Jeremie for the purpose of executing his warrant;—that he there found M'Leod with a drawn sword in his hand, at the head of a hundred men, or more, consisting of Indians and white men, supplied with arms, and, it is sufficiently evident, assembled for the purpose of preventing the execution of the warrant with which Prévost was charged;—that M'Leod and the persons with him were made acquainted with the authority under which Prévost acted, and the purpose for which he came;—that, in defiance of this authority, M'Leod, at the head of his party, forbade the officer, at the peril of his life, to advance towards him for the purpose of arresting him, declaring "*qu'il se laisseroit couper en morceaux plutôt que d'être pris, que lui et ses assistants étoient armés de fusils, de haches, et de bâtons, et prêts à se défendre;*"—that immediately after Peter M'Leod, the younger, son of the person accused, forcibly took possession of the canoe in which Prévost, the constable, had reached the shore;—thus preventing him from returning, except on the terms which they might prescribe;—That, by these means, the constable was prevented from executing the warrant against M'Leod, and was compelled to return to Quebec.

I cannot but express my extreme surprise that Mr. Christie, the police magistrate, on such facts, substantiated by affidavit, should have refused, or even hesitated an instant, to issue his warrant for the arrest of the two M'Leods and the principal ringleaders in this outrageous and presumptuous resistance of public authority, which must constitute a grave offence under every system of law, by which the rights and security of individuals are protected. Under the law of this province it is a well settled principle, that the obstruction of lawful process is an indictable offence; and stronger circumstances than in this case to aggravate such an offence have seldom occurred. A hundred men assembled with arms, for the avowed purpose of preventing the execution of a legal warrant on an accusation of felony, and actually accomplishing this purpose by intimidation and violence, is such a defiance and contempt of public authority, such an alarming obstruction of public justice, as can but rarely occur under any established, well administered government. When such an outrageous offence is committed, it is most important in all cases, for the security of men's lives and property, that it should be visited with exemplary punishment. But, in this particular case, there are peculiar considerations, arising from the remoteness of the country in which the offence was committed, the absence of all local authority, and the consequent facility of infringing and evading the laws with impunity, which enhance the serious character of the offence, and render it urgent that effectual steps should be taken to render amenable to justice the persons who have been guilty of it, and inspire, in the remote parts of the provinces, where these transactions have occurred, a proper respect for the laws and for public authority.

I will only beg leave further to add, that by the Affidavits taken before Mr. Christie, and above referred to, the persons therein named stand legally charged with the offence of a riot, and obstructing, by force and violence, the execution of the warrant of a Justice of the Peace in a case of felony; and, on this charge, it was the duty of Mr. Christie to have issued, and it is now the duty of any other magistrate, to whom the same affidavits may be submitted, to issue a warrant for the arrest of the said persons.

It is fit to observe that, by opposing the execution of the warrant of the Justice of the Peace, these same persons may have become *participes criminis* with M'Leod, the elder, and have incurred the guilt of accessaries after the fact.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. STUART,
Attorney-General.

True Copy, J. STUART.

No. 10.

Copy of the Record of Conviction of MOISE VILLENEUVE, a hired man in the service of MR. WILLIAM LAMPSON, of a riot, assault, and false imprisonment of ANTOINE HAMEL, a Clerk, and others, hired men in the service of the Hudson's Bay Company, and employed in their trade.

PROVINCE OF LOWER CANADA.

DISTRICT OF }
THREE RIVERS. }

Be it remembered, that at the Court of King's Bench, of our Sovereign Lord the King, begun and holden in the town of Three Rivers, in the county of Saint Maurice, in the said district of Three Rivers, on Monday the fourteenth day of March, in the first year of the reign of our Sovereign Lord William the Fourth, King of the United Kingdom of Great Britain and Ireland, before the Honourable James Reid, Esquire, Chief Justice of the Court of King's Bench, of our said Lord the King, in and for the district of Montreal, James Kerr, Esquire, one of the Justices of our said Lord the King for the district of Quebec, Jean Roch Rolland, Esquire, one of the Justices of the Court of King's Bench of our said Lord the King in and for the district of Montreal, and Joseph Remi Vallieres de St. Réal, Esquire, resident Judge for the said district of Three Rivers, assigned to inquire more fully, the truth by the oath of good and lawful men of the said district of Three Rivers, the truth of all crimes and criminal offences within the district of Three Rivers aforesaid, by whomsoever, and in what manner soever done, committed, or perpetrated, and the said crimes and criminal offences to hear and determine upon the oath of Benedict P. Wagner, foreman, Kenelm C. Chandler, Jean E. Dumoulin, Erastus Woolworth, François Dessins, Joseph Boucher de Niverville, Antoine P. de Courval, Senior, Etienne Mayrand, Charles Fortier, Louis Guillet, Jean Baptiste Hebert, Joseph Dionne, and Pierre Défosses, good and lawful men of the said district of Three Rivers, then and there sworn and charged to enquire for our said Lord the King for the body of the said district of Three Rivers; it is presented in manner and form as followeth, to wit: Three Rivers, to wit.—The Jurors for our Lord the King upon their oath present, that Charles M'Carthy, late of a certain extra-parochial place, to wit, of a place called Lake Kaos-kis-ka-gamac, situated in the county of Saint Maurice, in the district of Three Rivers, gentleman, Ambroise Traversie, late of the same place, labourer, Pierre Perrier, late of the same place, labourer, Moïse Villeneuve, late of the same place, labourer, and François, an Indian of the tribe of Indians commonly called *Têtes de Boule*, late of the same place, labourer, and Pierre, an Indian, of the tribe of Indians commonly called *Montagnois*, late of the same place, labourer, being wicked, malicious, and evil disposed persons, on the twenty-eighth day of August, in the first year of the reign of our Sovereign Lord William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, with force and arms, at the said extra-parochial place, in the county aforesaid, in the district aforesaid, unlawfully, riotously, routously, and injuriously did assemble and gather together to disturb the peace of our said Lord the King, and so being then and there assembled, and gathered together, in and upon one Antoine Hamel, the younger, one Joseph Laplante, one Gabriel Houle, and one Paschal Chouinard, in the peace of God and our said Lord the King, then and there being, unlawfully, riotously, routously and injuriously, did then and there make a violent assault, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there riot-

ously and routously did beat, bruise, wound, and ill treat, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there with force and arms, unlawfully, riotously, routously, and injuriously against the will of them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, and contrary to the laws of this Province, without any legal warrant, authority, or justifiable or probable cause whatsoever, did imprison, and detain in prison there, for a long space of time, to wit, for the space of twenty-four days, then next following; and other wrongs to the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there unlawfully, violently, maliciously, riotously, routously, and injuriously did, to the great damage of the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, in contempt of our said Lord the King and his laws, to the evil example of all others, and against the peace of our said Lord the King, his crown and dignity.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Charles M'Carthy, Ambroise Traversie, Pierre Perrier, Moïse Villeneuve, François, an Indian, and Pierre, an Indian, being wicked, malicious, and evil-disposed persons, on the said twenty-eighth day of August, in the first year aforesaid, with force and arms, at a certain extra-parochial place, to wit, at a place called Lake Kaos-kis-ka-gamac, situated in the district of Three Rivers, unlawfully, riotously, routously, and injuriously did assemble and gather together, to disturb the peace of our said Lord the King, and so being then and there assembled, and gathered together, in and upon the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, in the peace of God, and of our said Lord the King, then and there being unlawfully, riotously, routously, and injuriously did, then and there, make a violent assault, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there riotously, and routously, did beat, bruise, wound, and ill treat, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there, with force and arms, unlawfully, riotously, routously, and injuriously, against the will of them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, and contrary to the laws of this Province, without any legal warrant, authority, or justifiable or probable cause whatsoever, did imprison, and detain in prison there, for a long space of time, to wit, for the space of twenty-four days, then next following, and other wrongs to the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there, unlawfully, violently, maliciously, riotously, routously, and injuriously did, to the great damage of the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, in contempt of our said Lord the King, and his laws, to the evil example of all others, and against the peace of our said Lord the King, his crown and dignity.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Charles M'Carthy, Ambroise Traversie, Pierre Verrier, Moïse Villeneuve, François, an Indian, and Pierre, an Indian, being wicked, malicious, and evil-disposed persons, on the said twenty-eighth day of August, in the first year aforesaid, with force and arms, at a certain place called Lake Kaos-kis-ka-gamac, not comprehended within any parish, county, or district, being situated in the Indian territories, or parts of America not within the limits of either of the Provinces of Upper or Lower Canada, or of any civil government of the United States of America, and being within the jurisdiction of the Court of King's Bench of our said Lord the King, of and for the said District of Three Rivers, unlawfully, riotously, routously, and injuriously did assemble and gather together to disturb the peace of our said Lord the King, and so being then and there assembled and gathered together, in and upon the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, in the peace of God and our said Lord the King then and there being unlawfully, riotously, routously, and injuriously, did then and there make a violent assault, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there riotously and routously did beat, bruise, wound, and ill treat, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there with force and arms, unlawfully, riotously, routously, and injuriously, against the will of them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, and contrary to the Laws of this Province, without any legal warrant, authority, or justifiable or probable cause whatsoever, did imprison, and detain in prison there, for a long space of time, to wit, for the space of twenty-four days, then next following, and other wrongs to the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there unlawfully, violently, maliciously, riotously, routously, and injuriously did, to the great damage of the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, in contempt of our said Lord the King and his Laws, to the evil example of all others, and against the peace of our said Lord the King, his crown and dignity.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Charles M'Carthy, Ambroise Traversie, Pierre Perrier, Moïse Villeneuve, François, an Indian, and Pierre, an Indian, being wicked, malicious, and evil-disposed persons, on the said twenty-eighth day of August, in the first year aforesaid, with force and arms, at a cer-

tain place called Lake Kaos-kis-ka-gamac, not comprehended within any parish, county, or district, being situated in the territories heretofore granted to the Governor and Company of Adventurers of England, trading into Hudson's Bay, and being within the jurisdiction of the Court of King's Bench of our said Lord the King for the said District of Three Rivers, unlawfully, riotously, routously, and injuriously did assemble and gather together to disturb the peace of our said Lord the King, and so being then and there assembled and gathered together, in and upon the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, in the peace of God and our said Lord the King, then and there being unlawfully, riotously, routously, and injuriously, did then and there make a violent assault, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there riotously and routously did beat, bruise, wound, and ill treat, and them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there with force and arms, unlawfully, riotously, routously, and injuriously, against the will of them the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, and contrary to the laws of this Province, without any legal warrant, authority, or justifiable or probable cause whatsoever, did imprison and detain in prison there, for a long space of time, to wit, for the space of twenty-four days, then next following, and other wrongs to the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, then and there unlawfully, violently, maliciously, riotously, routously, and injuriously did to the great damage of the said Antoine Hamel the younger, Joseph Laplante, Gabriel Houle, and Paschal Chouinard, in contempt of our said Lord the King and his laws, to the evil example of all others, and against the peace of our said Lord the King, his crown and dignity.

Whereupon Moïse Villeneuve, one of the persons charged with the offence specified in the said indictment on Wednesday, the sixteenth day of the said month of March, in the said first year of the reign of our sovereign Lord the King, before the said Chief Justice and Justices of our said Lord the King last above-named, here cometh to the bar in his proper person, and forthwith being demanded concerning the premises in the said indictment above specified, and charged upon him, how he will acquit himself thereof; he saith that he is not guilty thereof; and thereof for good and evil he puts himself upon the country, and will be ready for his trial on Thursday the seventeenth day of the said month of March and year last aforesaid, and James Stuart, Esquire, Attorney General of the said Province of Lower Canada, who prosecutes for our said Lord the King in this behalf does the like.— And on the said seventeenth day of March and year last aforesaid, on the motion of the said Moïse Villeneuve, he is by the said Justices allowed to withdraw his plea of not guilty, and to plead guilty: whereupon the said Moïse Villeneuve saith that he is guilty of the offence aforesaid on him above charged in the form aforesaid, as by the indictment aforesaid, is above supposed against him.

Whereupon all and singular the premises being seen, and by the said Justices here fully understood, it is on the said seventeenth day of March and year last above-mentioned considered by the Court here, and adjudged that the said Moïse Villeneuve be confined in the common gaol of the said district of Three Rivers for the space of one month, and that he give security for his good behaviour for one year, himself in the sum of one hundred pounds currency, and two securities in the sum of fifty pounds currency each; and that after the expiration of the said imprisonment, and after the said security be given, be discharged.

W. F. H. COFFIN, Clk. Cr.

No. 11.

Certificate of WILLIAM GREEN, Esquire, Clerk of the Crown, for the District of Quebec, containing a specification of Indictments preferred in the Court of King's Bench at Quebec, in September Term, 1830, at the instance of Servants of the Hudson's Bay Company, against Servants of William Lampson.

PROVINCE OF LOWER CANADA.

DISTRICT OF }
 QUEBEC. }

I certify that at His Majesty's Court of King's Bench for the District of Quebec, begun and holden at the Court House, in the City of Quebec, for the cognizance of all crimes and criminal offences, on Tuesday the twenty-first day of September, in the year of our Lord one thousand eight hundred and thirty, and in the first year of the Reign of our Sovereign Lord William the Fourth, by the Grace of God, of the United Kingdom of

Great Britain and Ireland, King, Defender of the Faith, before the Honourable Jonathan Sewell, Esquire, Chief Justice of the Province of Lower Canada, and the Honourable James Kerr, Edward Bowen, Jean Thomas Taschereau, Esquires, Justices of His Majesty's said Court of King's Bench, a Bill of Indictment was preferred, indorsed as follows, that is to say:

“ Court of King's Bench, Quebec, September Term, 1830.—The King against Louis Hupé and Joseph Martineau. Indictment for maliciously and feloniously shooting at one Mark, an Indian. Witnesses, Mark, an Indian, Philip, an Indian.—No Bill.

(Signed) “ W. G. SHEPPARD, Foreman.”

And was returned no Bill.

And at the same term a Bill of Indictment indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830.—The King against Peter M'Leod, the elder, Peter M'Leod, the younger, Jacob Trubshaw, Michel Simard, and François Desbiens.—Indictment for a riot, and forcibly opposing and preventing the execution of a Warrant of a Justice of the Peace.—Witnesses, Chas. Prevost, Joseph Barras, John Schilling.—True Bill.

(Signed) “ W. G. SHEPPARD, Foreman.”

Was returned and found a True Bill.

And at the same Term a Bill of Indictment indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830.—The King against Peter M'Leod, Robert Martin Brownson, Peter M'Leod, the younger, Michel Simard, Joseph Plamondon, Alexander Schmidt, Oxibie Bergeron, and Jacques Sylvester.—Indictment for Robbery.—Witnesses, Robert Cowie, Noel Marcoux, Jean Baptiste Rouillard, William Davis.—No Bill.

(Signed) “ W. G. SHEPPARD, Foreman.”

Was preferred before the Grand Jury, and returned—no Bill.

And at the same Term a Bill of Indictment indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830.—The King against Peter M'Leod, the elder, Robert Martin Brownson, Peter M'Leod, the younger, Michel Simard, Jacques Sylvester, Oxibie Bergeron, Jean Baptiste Schmidt, Alexander Schmidt and Joseph Plamondon.—Indictment for a Riot, assaulting and beating one Robert Cowie, and others, and forcibly taking from and out of the lawful custody and possession of the said Robert Cowie, divers goods and chattels, and converting the same to their own use.—Witnesses, Robert Cowie, Elie Bouchard, J. Bte. Rouillard, Elie Boucher.—True Bill.

(Signed) “ W. G. SHEPPARD, Foreman.”

Was preferred before the Grand Jury and returned and found a True Bill.

And that at the same Term a Bill of Indictment indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830.—The King against Michel Simard.—Indictment for Assault and Battery.—Witness, Wm. Davis.—True Bill.

(Signed) “ W. G. SHEPPARD, Foreman.”

Was preferred before the Grand Jury, and found and returned True Bill.

W. GREEN, Clerk of the Crown.

No. 12.

Certificate of WILLIAM GREEN, Esq. Clerk of the Crown for the District of Quebec, containing a specification of Indictments preferred in the Court of King's Bench at Quebec, in September Term, 1830, at the instance of Servants of William Lampson, against Servants of the Hudson's Bay Company.

PROVINCE OF LOWER CANADA.

DISTRICT OF }
QUEBEC. }

I certify, that at His Majesty's Court of King's Bench for the District of Quebec, begun and holden at the Court House in the City of Quebec, for the cognizance of all crimes and criminal offences, on Tuesday the twenty-first day of September, in the year of our Lord one thousand eight hundred and thirty, and in the first year of the Reign of our Sovereign Lord William the Fourth, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, before the Honourable Jonathan Sewell, Esquire, Chief Justice of the Province of Lower Canada, and the Honourable James Kerr, Edward Bowen, and Jean Thomas Taschereau, Esquires, Justices of His Majesty's said Court of King's Bench;—A Bill of Indictment was preferred before the Grand Jury, indorsed as follows, that is to say:—

“ Court of King's Bench, Quebec, September Term, 1830, the King against William Davis.—Indictment for maliciously and feloniously shooting at one Robert Martin Brownson.—Witnesses, R. M. Brownson, John Savard.—*Ignoramus.*”

(Signed) “ W. G. SHEPPARD, Foreman.”

Was returned *Ignoramus.*

And that at the same Term a Bill of Indictment indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830.—The King against William Davis, François Delorier, and John Benson,—Indictment for maliciously and feloniously shooting at one Robert Martin Brownson.—Witness, R. M. Brownson.—No Bill.

(Signed) “ W. G. SHEPPARD, Foreman.”

Was returned no Bill.

And that at the same Term a Bill of Indictment indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830, the King against Phillip, an Indian, François, an Indian, Andreole, an Indian, and Laurent Denis, an Indian.—Indictment for maliciously and feloniously shooting at one Louis Hupé.—Witnesses, Louis Hupé and Joseph Martineau.—*Ignoramus.*”

(Signed) “ W. G. SHEPPARD, Foreman.”

Was preferred before the Grand Jury, and was returned *Ignoramus.*

And that at the same Term a Bill of Indictment indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830.—The King against Philip, an Indian, François, an Indian, Andreole, an Indian, and Laurent Denis, an Indian.—Indictment for maliciously and feloniously shooting at one Joseph Martineau and Louis Hupé.—*Ignoramus.*”

(Signed) “ W. G. SHEPPARD, Foreman.”

Was preferred before the Grand Jury and returned *Ignoramus.*

And that, at the same Term, a Bill of Indictment, indorsed as follows:—

“ Court of King's Bench, Quebec, September Term, 1830.—The King against Elie Boucher.—Indictment for Robbery.—Witnesses, Pecotlegun, an Indian.—*Ignoramus.*”

(Signed) “ W. G. SHEPPARD, Foreman.”

Was preferred before the Grand Jury and returned *Ignoramus.*

W. GREEN, Clerk of the Crown.

No. 13.

Letter from Lieutenant-Colonel GLEGG, Secretary to His Excellency the Administrator of the Government, to JAMES STUART, Esquire, His Majesty's Attorney-General.

Castle of St. Lewis, Quebec, 8th December, 1830.

SIR,

I am commanded by His Excellency the Administrator of the Government to transmit the accompanying letter from Mr. Davidson, with a case connected therewith, and to request you will give an opinion and report on the latter, for his Lordship's information, and for the guidance of Mr. Davidson.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed)

J. B. GLEGG, Secretary.

The Hon. J. STUART, Attorney-General.

No. 14.

Report from JAMES STUART, Esquire, His Majesty's Attorney-General, to His Excellency the Administrator of the Government, containing his opinion required by the preceding letter.

Quebec, 10th December, 1830.

SIR,

I have been honoured with the commands of His Excellency the Administrator of the Government, signified in your letter of the 7th instant, transmitting a letter from Mr. Davidson, with a case therein referred to, and requiring my opinion on it, for the information of his Lordship, and the guidance of Mr. Davidson.

In obedience to his Lordship's commands I have perused Mr. Davidson's letter, and the case which his Lordship has been pleased to refer to me. By this case only one question is submitted, viz.: Whether, by the 52nd section of the provincial statute 10 and 11 Geo. IV. c. 1., the penalties imposed by that statute can be recovered, after the lapse of one month from the periods of the commission of the offences by which they have been incurred.

By the 52nd section it is enacted, "That all fines, penalties, and confiscations incurred under that act, may be sued for and recovered within one month after the offence may have been committed, and not afterwards." Prosecutions for fines and penalties incurred under this statute, it is stated in the case, have been instituted within one month from the commission of certain offences, and remain undetermined since the lapse of that period. It is in relation to these prosecutions that the above question has been submitted.

Limitations of time affecting prosecutions of suits for penalties generally apply to the inception, and not to the conclusion of them. In some instances, however, the legislature has made it necessary, not only that the prosecutions should be commenced, but that convictions also should be obtained within a prescribed time. By the clause above recited the Provincial Legislature, having adopted the latter limitation, has required not only that suits under the statute in question shall be commenced, but that they shall be terminated by a recovery of the penalties, that is, by convictions, within one month from the commission of the offences. This injunction of the Legislature must be complied with; and it is only within the period thus limited that justices of the peace can exercise jurisdiction over the offences to which penalties have been annexed by the statute. I am, therefore, of opinion, that the penalties referred to by Mr. Davidson cannot be recovered, after the lapse of one month from the periods of the commission of the offences by which they have been incurred. It may be satisfactory to Mr. Davidson to be informed, that, if any other authority than the words of the statute were desired, in support of this opinion, it will be found in the case of the King against Tolley, reported in 3 East, p. 466, in which the same construction was put on words of similar import in an English statute.

I have the honour to be, sir,

Your most obedient, humble servant,

J. STUART,
Attorney-General.

Lieutenant-Colonel GLEGG, Secretary, &c. &c.

No. 15.

Correspondence between LIEUTENANT COLONEL GLEGG, *Secretary to His Excellency Lord Aylmer, Governor in Chief of Lower Canada, and* JAMES STUART, *Esquire, His Majesty's Attorney General for the said Province, relating to certain qui tam actions brought against Mr. Robert Cowie, Chief Factor, William Davis, and Elie Boucher, Clerks, in the service of the Hudson's Bay Company.*

No. 15. (1.)

Letter from LIEUT. COL. GLEGG, *Secretary to His Excellency LORD AYLMER, Administrator of the Government of Lower Canada, to* JAMES STUART, *Esq. Attorney General.*

Castle of St. Lewis, Quebec, 22d November, 1830.

SIR,

I am directed by His Excellency Lord Aylmer, to transmit to you the enclosed copy of a petition from the Hudson's Bay Company, praying that a licence may be granted to them, their Agents and Servants, to distribute Spirituous Liquors to Indians within the seigniory of *Mille Vaches*, and at all other posts and places occupied by the said Company, for the purpose of trade, within this Province, and I am to request that you will be pleased to state to me, for His Excellency's information, whether he is empowered, by the laws now in force, to grant the licence prayed for, and whether it is expedient that the said prayer should be granted.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Hon. JAMES STUART, Attorney General.

True Copy, J. STUART.

No. 15. (2.)

Petition from the Hudson's Bay Company to His Excellency the Administrator of the Government, referred to in the foregoing Letter.

To His Excellency Lord Aylmer, Knight Commander of the Most Honourable Military Order of the Bath, &c. &c. &c.

The Humble Petition of the Hudson's Bay Company

RESPECTFULLY REPRESENTS,

That your Petitioners are Lessees of the Seigniory of "*Mille Vaches*," in the District of Quebec, under a lease from the proprietors thereof, granted in the year 1822, with an exclusive right of trading with the Indians within its limits; and carry on their trade with the Indians there, at the Post of Portneuf, situated within the said seigniory.

That your Petitioners as a commercial company, more particularly engaged in the fur trade, and having establishments at Portneuf and other places within this Province, for the purpose of carrying it on, in the course of their transactions and intercourse with the Indians, have by their agents and servants necessarily been the channel by which rum and other spirituous liquors have come into their hands.

That it never entered into the contemplation of your Petitioners, that such a circumstance could be considered as illegal, nor do they conceive that they have in any manner offended the laws in this particular. But Mr. Lampson, the present Lessee of the King's Posts, having lately attempted by every means in his power to drive the Hudson's Bay Company from the possession of the Post of Portneuf and the Seigniory of *Mille Vaches*, for his own private purposes, has by the means of one George Linton laid informations against Robert Cowie, William Davis, and Elie Boucher, three of the agents and servants of your Petitioners (founded upon the Ordinance 17 Geo. III. c. 7, made to prevent the selling of strong liquors to the Indians without License from the Governor, &c. of the Province of Quebec), for selling and distributing liquors to Indians at Portneuf aforesaid; and although your Petitioners are fully convinced that the said ordinance was never intended to apply to trading companies having a right to traffic with the Indians, and although it is apparent

that these proceedings are vexatious, and carried on for the purpose of private gain, without any view to the interests of the public;—yet your Petitioners, for greater security in preventing the vexatious and oppressive application of the said ordinance for the past, and guarding against the same misapplication of it to their future dealings and intercourse with the Indians, are desirous of obtaining for themselves and their aforesaid agents and servants, a pardon for any acts of this nature done in past time, and full authority to them for the future, to distribute liquors to the Indians, without which they could not carry on their lawful trade.

Wherefore your Petitioners humbly pray, that your Excellency will be graciously pleased to grant to your Petitioners, their agents and servants, and particularly to the said Robert Cowie, William Davis, and Elie Boucher, His Majesty's free pardon for all offences of like nature for the past (always excepting any right that may be found to have accrued to the said George Linton, in the penalties sued for,) and that your Excellency will also be graciously pleased to grant the said Hudson's Bay Company, their agents and servants, a license to distribute spirituous liquors to the Indians within the Seigniory of Mille Vaches, and at all other posts and places occupied by the said Company for the purposes of trade, within this province.

And your Petitioners shall ever pray, &c. &c.

(Signed) JAMES M'KENZIE,

Agent for the Hudson's Bay Company.

Quebec, 20th November, 1830.

A True Copy, (Signed) J. B. GLEGG, Secretary.

Quebec, 22d November, 1830.

No. 15. (3.)

Letter from J. STUART, Esq. Attorney-General to Lieut.-Col. GLEGG, Secretary, &c.

Quebec, 25th November, 1830.

SIR,

I have been honoured with the commands of His Excellency Lord Aylmer, transmitting a copy of a Petition from the Hudson's Bay Company, in which they pray that a License may be granted to them, their agents and servants, to distribute spirituous liquors to Indians, within the Seigniory of "Mille Vaches," and at all other posts and places occupied by the said Company, for the purpose of trade, within this Province; and requiring me to state, for His Excellency's information, whether he is empowered by the laws now in force, to grant the license prayed for, and whether it is expedient that the said prayer should be granted.

In obedience to His Excellency's commands, I have perused the Petition which His Excellency has been pleased to refer to me, and have the honour to state, that this petition has evidently been preferred, in consequence of the opinion entertained by the agent of the Hudson's Bay Company, that the provisions of the Provincial Ordinance, 17 Geo. III. c. 7*, prohibiting the sale of strong liquors to Indians, without license, are still in force, and applicable to that company.—But this opinion is erroneous. The provisions referred to, by a subsequent Provincial Ordinance (31 Geo. III. c. 1 †,) have been repealed, as to all traders, except those at a fixed residence, in a settled part of the Province, who are required to have a license for keeping a house of public entertainment. They are, therefore, inapplicable to the dealings of the Hudson's Bay Company, in their Seigniory of "Mille Vaches," and neither the pardon, nor the license applied for, is necessary.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. STUART,

Attorney-General.

Lieut.-Col. GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

* Vide copy of this Ordinance in Appendix, Post, No. 15. (10.)

† Vide copy of this Ordinance in Appendix, Post, No. 15. (11.)

No. 15. (4)

Letter from Licut.-Col. GLEGG, Secretary, &c. to J. STUART, Esq. Attorney-General.

Castle of St. Lewis, Quebec, 19th January, 1830.

SIR,

I am directed by His Excellency the Administrator of the Government, to transmit to you the accompanying two applications from Messrs. Neilson, Duchesnay, and Wilson, Justices of the Peace, soliciting the professional assistance of the Advocate-General in certain suits or actions, tried before them, the decisions in which are about to be removed to the Court of King's Bench, by writs of "*Certiorari*;" and I am to request, that you will state your opinion, as to the course it would be advisable to adopt, in regard to these applications for the assistance of the Advocate-General, instead of yours, on the ground of your having already delivered an opinion in opposition to the decisions given by the applicants in the cases in question.

I have the honour to be, Sir,

Your most humble, obedient servant,

(Signed) J. B. GLEGG, Secretary.

Please return me the two enclosures.

Honourable JAMES STUART, Attorney-General.

True Copy, J. STUART.

No. 15. (5.)

Here follow the applications in the foregoing Letter.

Quebec, 14th January, 1831.

SIR,

We beg leave to acquaint you that we have been served, some weeks ago, with a notice, informing us, that a certain conviction at the suit of George Linton, *qui tam*, against Elie Boucher, rendered on or about the 30th of November last, is about being removed in the Court of King's Bench by virtue of a Writ of *Certiorari* prayed for on behalf of the Defendant. This conviction took place on information filed against the Defendant, for distributing Liquors to Indians without Licence, at a place called Portneuf, in the County of Saguenay, in the District of Quebec. We are, therefore, desirous to secure the assistance of one of the Law Officers of the Crown on our behalf (as convicting Magistrates) not only to support the judgment by us rendered, but also to afford us the necessary legal assistance, to make out such conviction in due form of law;—and as we are aware, from an opinion given by the Attorney General, that he differs materially with us, in the matter in question, we, therefore, respectfully solicit the professional assistance of the Advocate General, whose opinion on the question accords perfectly with our own.

We have the honour to be, &c. &c. &c.

(Signed) J. NEILSON, J. P.
J. B. DUCHESNAY, J. P.
THOS. WILSON, J. P.

Lieut.-Col. GLEGG, Civil Secretary.

True Copy, (Signed) J. B. GLEGG, Secretary.

No. 15. (6.)

Quebec, 14th January, 1831.

SIR,

We beg leave to acquaint you that we have been served, some weeks ago, with two several notices, informing us that two certain convictions, the one at the suit of George Linton, *qui tam*, against Robert Cowie, and the other against William Davis, rendered on or about the 30th November last, are about being removed in the Court of King's Bench by virtue of two Writs of *Certiorari* prayed for on behalf of the Defendants. These convictions took place on information filed against the Defendants, for distributing Liquors

to Indians, without Licence, at a place called Portneuf, in the County of Saguenay, in the District of Quebec;—we are, therefore, desirous to secure the assistance of one of the Law Officers of the Crown on our behalf, as convicting Magistrates, not only to support the judgments by us rendered, but also to afford us the necessary legal assistance to make out such convictions in due form of law. And as we are aware, from an opinion given by the Attorney General, that he differs materially with us in the matter in question, we, therefore, respectfully solicit the professional assistance of the Advocate General, whose opinion accords on the question with our own.

We have the honour to be, &c. &c. &c.

(Signed) J. NEILSON, J. P.
J. B. DUCHESNAY, J. P.
THOS. WILSON, J. P.

Lieut.-Col. GLEGG, Civil Secretary.

True Copy, (Signed) J. B. GLEGG, Secretary.

No. 15. (7.)

Letter from JAMES STUART, Esquire, His Majesty's Attorney General, to LIEUT.-COLONEL GLEGG, Secretary, &c.

Quebec, 29th January, 1831.

SIR,

I have been honoured with the commands of His Excellency the Administrator of the Government, signified in your letter of the 19th inst. transmitting two applications from Messrs. Neilson, Duchesnay, and Wilson, soliciting the professional assistance of the Advocate General, in certain suits or actions tried before them, the decisions in which are about to be removed into the Court of King's Bench, by *certiorari*; upon which His Excellency has been pleased to require my opinion, as to the course it would be advisable to adopt, in regard to these applications for the assistance of the Advocate General, instead of mine, on the ground of my having already delivered an opinion in opposition to the decisions given by the applicants in the cases in question.

In order that His Excellency may be made acquainted with the nature of the applications referred to in your letter, and the considerations on which they rest, it seems necessary to explain some particulars, for the information of His Excellency.

By the Provincial Ordinance 17 Geo. III. c. 7, four distinct legislative provisions were enacted, restrictive of trade and intercourse with the Indians. By the first a special licence in writing was required, from the Governor, or from His Majesty's agents or superintendents for Indian affairs, or from the commandants of the different forts, or from such person as the Governor might empower to grant it, to authorize the sale of spirituous liquors to Indians, and the sale of liquors to them, without a licence, was prohibited, under a penalty, for the first offence, of 5*l.*, imprisonment for a period not exceeding a month, and the forfeiture of his licence to keep a tavern, if the liquors should be sold by an innkeeper: for a second and subsequent offence the penalty and imprisonment were doubled: by the second of the said enactments, the purchase of clothes or arms from Indians was prohibited, under like penalties: by the third all persons were prohibited from settling in any Indian Village or in any Indian Country, within the Province, without a license from the Governor, under a penalty of 10*l.* for the first, and 20*l.* for every subsequent offence: By the fourth all persons were prohibited from carrying goods, for the purpose of trade, beyond certain limits on the Rivers Ottawa and Iroquois, or into any other parts of the Province upon lands not granted by His Majesty, without a pass or permit in writing, from the Governor, under a penalty of 50*l.*

These regulations requiring licenses, which established a monopoly of the Indian trade in the hands of the Colonial Government, and even of its subordinate officers, to be exercised only subject to its pleasure, were derived from the policy by which the Indian trade had been regulated under the French Government, previous to the conquest, and might, perhaps, be justified by the then state of the country, and of the neighbouring Provinces, which were at that time in open rebellion,—by the expediency of preventing foreign influence and treasonable practices among the Indian tribes,—and by considerations of public policy, which some years after ceased to exist. In the altered circumstances of the country, in 1791, very different views suggested themselves to the Government, and instead of shackling trade, by the inconvenient restrictions above-mentioned, it was deemed wise and proper to free it from such restraints, and throw it open to the King's subjects, without distinction. This was effected by the Provincial Ordinance 31 Geo. III. c. 1, in the preamble to which it was stated to be expedient to the prosperity of commerce, that it should be unclogged with unnecessary impediments. With this view the Legislature, in the 3d

section of the latter Ordinance, declared its intentions and will in the following words—
 “ And to the end that the trade to the Western Districts, and Indian Countries, may be free
 “ and open to all His Majesty’s subjects, *in every part of His Majesty’s Inland Dominions*
 “ *and Territories whatsoever*, Be it enacted, that from and after the publication of this
 “ Act, it shall not be necessary, for any of His Majesty’s subjects carrying on trade, or
 “ other stated residents of this Province, *to take out any where*, or from any person or
 “ persons, *any license*, pass, permit, or other writing whatsoever, *for going into*, or trading
 “ with the Indians or other inhabitants of the Western Countries, *Districts or Counties* of
 “ this Province, or *Territories whatsoever*, or for the carrying or conveying thither, or
 “ elsewhere, in boats, batteaux, or canoes, any goods, wares or merchandizes, or provisions,
 “ or other effects, not specifically prohibited, or for returning with the same, or any part
 “ thereof, &c., *nor to subject traders to take out licenses for the sale of spirituous liquors to*
 “ *Indians*, except at a fixed residence in a *settled part* of the Province, *for keeping a house*
 “ *of public entertainment*, as is required by an Act of Parliament passed in the 14th year of
 “ His Majesty’s Reign,” &c.

By the 6th section, the third enactment above-mentioned, by which it was made penal to settle in Indian villages, or countries, without a license, was repealed, except as to such persons only, as not being His Majesty’s subjects should arrive at any fort, post, or place, where any magistrate might reside, and should not within twenty-four hours thereafter, take the oath of allegiance to the British Crown, &c.

By the two sections now cited, the regulations above-mentioned, by which licenses were required, for trading with, and selling liquors to, the Indians, were repealed, in the most unequivocal terms; and the necessity of a license for settling among them was dispensed with, not only as to the King’s subjects, but even as to aliens, who might take the oath of allegiance.

Upon the passing of this last ordinance, the inconvenient shackles on the Indian trade which had previously existed, ceased; and, from that period to the present, no license for trading with, or settling among the Indians, within the limits of this province, has been issued; nor was it ever attempted, within my knowledge, till the institution of the *qui tam* actions referred to in your letter, to render it penal to trade with Indians, or sell liquors to them, without a license, in the unsettled parts of the country.

The trade with the Indians in the unsettled seignories, contiguous to the King’s posts, as well as in all other parts of the province, has been carried on, without licenses. While Mr. Lampson under an assignment of a lease of the King’s posts, has for several years carried on trade there with the Indians, the Hudson’s Bay Company, as lessees of contiguous unsettled seignories, have, in like manner, and as had been done by their predecessors in possession of those seignories, carried on trade with the Indians, without licenses.

It is under these circumstances, that one George Linton, a constable of this place, at the instigation and expense, there is no doubt, of Mr. Lampson, and for the purpose of harassing and annoying the Hudson’s Bay Company, in their Trade, caused *qui tam* actions to be brought, in his name, towards the close of last autumn, against Robert Cowie, a Chief Factor of the Hudson’s Bay Company, having the charge and management of their trade within the seignory of Mille Vaches, and against William Davis, a Clerk, and Elie Boucher, a hired Servant, acting under the orders of Mr. Cowie, for penalties supposed to have been incurred by them, by the sale of Spirituous Liquors, to Indians, without a License, contrary to the provisions of the above-mentioned Ordinance of 17 Geo. III. c. 7.

After the institution of these actions Mr. M’Kenzie, the Agent of the Hudson’s Bay Company, not aware, it would appear, that there had been an express repeal of the provisions of this Ordinance, requiring Licenses, and considering the actions to be vexatious and malicious, applied to His Excellency, for a pardon for the past, and a License for the future, in order to obviate the abuse which had been and was likely in future to be made, of the provisions of the Ordinance. This application having been referred to me, by order of His Excellency, I had the honour, in my report of the 25th November last, of stating, for His Excellency’s information, that the provision of the Ordinance, on which these actions had been grounded, was repealed, by the above-mentioned Ordinance of the 31st Geo. III. c. 1. and that neither pardon, nor license, as prayed for, on the part of the Hudson’s Bay Company, was necessary.—These actions, it would appear, were afterwards brought under the cognizance of John Neilson, J. B. Duchesnay, and Thomas Wilson, Esquires, as Justices of the Peace, before whom it was urged that the provisions of the Ordinance in question had been repealed, and, it would also appear, that my report and opinion to His Excellency to this effect was produced and read to these magistrates, who preferring the conclusion to which they were led by their own legal knowledge, to the opinion of the Attorney-General, held the provision of the ordinance to be in force, and imposed a fine of 5*l.* and an imprisonment of twenty-four hours, on each of the Defendants. Although all the circumstances connected with these prosecutions were fully disclosed to the Magistrates, including the application to His Excellency for a pardon, they, notwithstanding, immediately issued their warrants against Messrs. Cowie and Davis, who were then at Mille Vaches, distant upwards

of one hundred and fifty miles from Quebec, to bring them up, at the then most inclement season of the year, to undergo an imprisonment of twenty-four hours at the latter place.

It is to induce the Government of this Province to sustain these proceedings, as being legal and justifiable, that Messrs. Neilson, Duchesnay, and Wilson have addressed to His Excellency the applications mentioned in your letter.

On these applications I have, in the first place, to observe, that after the report and opinion above referred to, which I have given on the subject of these actions, I cannot, of course, contrary to the conviction of my understanding, and my sense of official duty, afford to the Magistrates the assistance they desire. But I deem it also to be my duty, respectfully to submit, for the consideration of His Excellency, that the Magistrates above named, in my humble opinion, have no claim, nor is it fit or expedient that they should receive, the assistance for which they apply, from any of His Majesty's law servants, at the public expense.

The reasons for this opinion, I beg leave respectfully to state, are the following:—

1st.—Magistrates have not, and cannot be supposed to have, any interest in sustaining the validity of their judgments, when carried before a superior tribunal, by a writ of *certiorari*. The person interested in this object is the private prosecutor, or informer, by whom these judgments have been solicited, and on whom it is incumbent, for his own interest, and at his own expense, to take such steps as he may be advised, to maintain and render effectual the judgments or convictions which he has obtained. In these particular cases, therefore, it is the proper duty of Linton, the informer, to maintain the validity of the convictions in question, at his own expense.

2d.—If there be any deviation from the principle now expressed, such deviation, I humbly apprehend, ought only to take place, in cases where, on the grounds of public policy or interest, it might be expedient that the convictions and judgments of Magistrates should be sustained; in which cases, it would be reasonable and proper, that the services of Counsel for the Crown should be afforded, in support of the decisions of the Magistrates, at the public expense.

3d.—In these particular cases there are, in my humble opinion, no grounds of public policy or interest, to make it fit or expedient, that the Magistrates should have the support of the Crown Officers, at the public expense; on the contrary, considerations of this nature militate, conclusively, against any such support. In the cases referred to, the Magistrates have taken upon themselves to enforce the provisions of a law which, it is most manifest, were repealed thirty-nine years ago,—provisions which have since remained a dead letter—which are wholly inapplicable to the present state and condition of the Province,—and which, if now in force, it would be the first care of the Legislature to repeal, without delay; and these provisions have been so enforced, at the instance of a party, not actuated by fair motives, under circumstances of peculiar hardship to the persons affected by them, and in direct opposition to the opinion of the first law officer of the Crown.

These being the reasons on which my opinion is grounded, I have only further respectfully to observe, that if they do not afford satisfaction, the subject admits of being referred to other of His Majesty's law servants.

I have the honour to be, sir,

Your most obedient, humble servant,

(Signed) J. STUART,
Attorney-General.

Lieut.-Col. GLEGG, Secretary, &c. &c. &c.

True Copy, J. STUART.

No. 15. (8).

Letter from Lieut.-Col. GLEGG, Secretary, &c. to J. STUART, Esq., Attorney-General.

Castle of St. Lewis, Quebec, 12th February, 1831.

SIR,

With reference to the concluding paragraph of your official communication, of the 29th ultimo, I am commanded by His Excellency the Governor in Chief, to transmit for

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your information, a copy of an instruction I have this day written, by His Lordship's orders, to the Advocate-General.

I have the honour to be, sir,

Your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Honble. JAMES STUART, Attorney-General.

True Copy, J. STUART.

No. 15. (9).

Letter from Lieut.-Col. GLEGG, Secretary, &c. to GEORGE VANFELSON, Esq., Advocate-General, referred to in the foregoing Letter.

Castle of St. Lewis, Quebec, 12th February, 1831.

SIR,

I am commanded by His Excellency the Governor in Chief, to desire you will afford your professional assistance in defending the Magistrates, Messrs. Wilson, Neilson, and Duchesnay, in an action removed from the Quarter Sessions of the Peace, at Quebec, to the Court of King's Bench, which will be brought before that court in the present term.

I have to request you will immediately put yourself in communication with the said Magistrates on the subject of this instruction.

I have the honour to be, sir,

Your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

The Advocate-General.

True Copy, J. B. GLEGG, Secretary.

No. 15. (10).

Anno Decimo Septimo Geo. III.

CHAP. VII.

AN ORDINANCE.

To prevent the selling of strong liquors to the Indians in the Province of Quebec, as also to deter persons from buying their arms or clothing, and for other purposes relative to the trade and intercourse with the said Indians.

Whereas many mischiefs may be occasioned by the practice of selling rum and other strong liquors to the Indians, and of buying their clothes and arms, and also by trading with the said Indians, or settling amongst them, without a licence, It is ordained and enacted by his Excellency the Captain General and Governor in Chief of this Province, by and with the advice and consent of the Legislative Council of the same, That

I. From and after the publication of this Ordinance, no person or persons whatsoever shall sell, distribute, or otherwise dispose of, to any Indian or Indians within this Province, or to any other person or persons for their use, any rum or other strong liquors, of what kind or quality soever, or shall knowingly or willingly suffer the same, in any manner, to come to the hands of any Indian or Indians, without a special licence in writing, for that purpose first had and obtained, from the Governor, Lieutenant Governor, or Commander in Chief of this Province for the time being, or from His Majesty's agents or superintendents for Indian affairs, or from His Majesty's Commandants of the different forts in this Province, or from such other person or persons as the Governor, Lieutenant Governor, or Commander in Chief of the Province, for the time being, shall authorize for that purpose.

Every person offending herein shall, for the first offence, forfeit the sum of five pounds, and suffer an imprisonment for any time not exceeding one month, and for the second, and every subsequent offence, shall forfeit ten pounds, and suffer an imprisonment for any time not exceeding two months.

If the person so offending be a publican, innkeeper, or retailer of strong liquors, he shall over and above the said penalty and imprisonment, be rendered incapable, from the day of his conviction, of selling or retailing liquors to any person whatsoever, notwithstanding any licence that he may have for that purpose, which licence is hereby declared to be null and void, from the day of his conviction.

II. From and after the publication of this Ordinance, no person or persons whatsoever shall purchase or receive in pledge, or in exchange, any clothes, blankets, fire-arms, or ammunition belonging to any Indian or Indians within this Province, under a penalty of five pounds, and imprisonment for any time not exceeding one month, for the first offence, and ten pounds and imprisonment for any time not exceeding two months, for the second, and every other subsequent offence.

III. From and after the publication of this Ordinance, it shall not be lawful for any person to settle in any Indian village, or in any Indian country within this Province, without a licence in writing from the Governor, Lieutenant Governor, or Commander in Chief of the Province for the time being, under a penalty of ten pounds for the first offence, and twenty pounds for the second, and every other subsequent offence.

IV. It shall and may be lawful for any person or persons whatsoever, to sue for the penalties and forfeitures aforesaid, by information before one or more of the Commissioners of the Peace of the District in which any offence against any of the above articles of this Ordinance shall have been committed; who is, and are hereby authorized and required to hear and determine such information, in a summary manner, and upon the oath of one credible witness (being some other than the informer himself) and to inflict the said imprisonment, and to levy the said penalties or forfeitures, together with the costs of suing for the same, by a warrant to seize and sell the goods or lands of the offenders. Provided always that such informations shall be brought within six calendar months from the time that the offence shall have been committed, and not after.

V. From and after the publication of this Ordinance, no person shall, under any pretence whatever, send or carry any goods, wares, merchandize, or provisions, for the purpose of trading, above the foot of the Long Falls on the River Outawais, or than St. Regis on the Iroquois River, or into any other parts of the Province upon lands not granted by His Majesty, without a pass or permit in writing for the same, to be signed by the Governor, Lieutenant Governor, or Commander in Chief of the Province for the time being, under a penalty of fifty pounds; which shall and may be sued for, at any time within the space of twelve calendar months from the time of committing the offence, but not after, by information before any two or more Commissioners of the Peace, who are hereby authorized and required to hear and determine such information, in a summary manner, and upon the oath of one credible witness (being some other than the informer himself) and to levy the said penalty, and the costs of suing for the same, by a warrant to seize and sell the goods and lands of the offenders, and for want of goods or lands whereon to levy the same, to commit the offender or offenders to the common gaol, there to remain, without bail or mainprize, until the said penalty and costs shall be paid and satisfied, or the party otherwise discharged by due course of law.

And further it shall and may be lawful for any person, having a warrant for that purpose under the hand and seal of any one Commissioner of the Peace, or of any of His Majesty's Commandants of the different posts or forts in this Province, at present established, or hereafter to be established, who are hereby authorized and required to issue such warrant or warrants, to seize all such goods, wares, merchandize, or provisions as may be carried beyond the said limits, contrary to the directions of this Ordinance, and all and every the boats, battoes, canoes, or other carriages whatsoever made use of in the transporting or conveyance of such goods, wares, merchandize, or provisions, together with the apparel and furniture of such boats, battoes, or canoes, and the horses or cattle belonging to such carriages; and to proceed against the same by information, within the space of six months, in manner hereinbefore mentioned, before any two or more Commissioners of the Peace, who are hereby authorized and required to determine the same in manner aforesaid: and in case of condemnation, where no appeal shall be made from the same, or where no security shall be given for prosecuting any appeal in the manner hereinafter directed, or where, on such appeal, the said sentence of condemnation shall be confirmed, to cause the whole of the said seizure to be sold, and the moneys arising therefrom, after deducting all reasonable charges, to be divided as hereinafter directed.

If the owner or owners of any such goods, wares, merchandizes, or provisions so seized, or the person or persons intrusted with the same, shall give good and sufficient security for producing the same, or paying or accounting for the value of them, in case of condemna-

tion, such owner or owners, person or persons intrusted as aforesaid, shall recover the possession of all such goods so seized.

All commandants of posts, not being commissioners of the peace, are hereby required to send such security, together with all informations and papers relative to such seizure, and for want of such security, to send the goods, wares, merchandizes, provisions, boats, battoes, canoes, or other carriages so seized, together with a certificate of the cause of seizure, to the commissioners of the peace residing nearest the place where such seizure shall be made, who shall proceed therein in manner herein before mentioned.

VI. If any person or persons shall think him or themselves aggrieved by the judgment or determination of the said commissioners of the peace, it shall and may be lawful for such person or persons to appeal therefrom, at any time within twelve months from the time of giving such judgment or determination, to the Governor and Council of this Province, any five or more of whom (the commissioners of the peace who shall have given such judgment or determination only excepted) with the Governor, Lieutenant Governor, or Chief Justice, shall constitute a Court of Appeals for that purpose; who are hereby authorized fully to examine into the grounds and nature of the appeal, and the judgment or determination of the said commissioners of the peace to reverse, or affirm, according to the opinion of the major part of the said court of appeals:—and in case the same shall be reversed, the appellant shall be restored to all that he has lost by such seizure and condemnation, and be allowed such costs and charges as the said court shall award and adjudge.

But no person shall be entitled to such appeal, unless he shall have first given good and sufficient security for prosecuting the same, and paying all such condemnation money and costs, as shall be awarded by the court of appeals, in case the judgment and determination of the commissioners of the peace shall be affirmed.

Upon such security so given, the levying of the penalty, and the sale of the goods, wares, merchandizes, boats, battoes, canoes, or other carriages seized, shall be suspended, and be made to abide the final determination and judgment of the court of appeals.

VII. All penalties and forfeitures recovered by virtue of this ordinance, shall be divided and applied in the manner following, that is to say, after deducting the charges of prosecution from the gross produce thereof, one moiety of the net proceeds shall be paid into the hands of the receiver general of this province, for the use of the king's majesty, and the other moiety to the person or persons who shall seize, inform, and sue for the same.

GUY CARLETON.

Ordained and enacted by the authority aforesaid, and passed in council under the Great Seal of the Province, at the Council Chamber in the Castle of St. Lewis, in the City of Quebec, the twenty-ninth day of March, in the seventeenth year of the Reign of our Sovereign Lord George the Third, by the grace of God of Great Britain, France, and Ireland, King, defender of the faith, and so forth, and in the year of our Lord one thousand seven hundred and seventy-seven.

By His Excellency's Command,

J. WILLIAMS, C. L. C.

No. 15. (11.)

Anno tricesimo primo Geo. III.

CHAP. I.

An Act to explain and amend the Act intituled "An Act or Ordinance for promoting the Inland Navigation," and to promote the Trade to the Western Country.

Whereas it is expedient to the prosperity of the commerce which it was the intention of the said Ordinance to encourage, that it be unclogged with any unnecessary impediments, be it therefore enacted by His Excellency the Governor and the Legislative Council, and it is hereby enacted by the authority of the same, that the oath to the manifest of the cargo of such vessels, trading to the Western Countries, which by the said Act are required to have registers, shall suffice as to such articles as are not shipped upon the private account of the chief navigator, if he shall swear that the quantities and qualities are in his manifest stated according to his bills of lading, and that the manifest doth express the whole thereof, according to the best of his knowledge and belief, and likewise every article of trade on his private account or on account of any person whatsoever.

II. And be it further enacted by the same authority, that, as often as the vessel may be

seized for not being documented as by the Act is required, it shall not expose to confiscation either the vessel or her apparel and furniture, or the property therein, of any of the shippers not being privy thereto or concerned therein, provided they shall respectively be His Majesty's good and faithful subjects residing within his dominions; but for the prevention of frauds in the navigation and commerce aforesaid, be it further enacted by the same authority, that, as often as any vessel shall be found sailing on the interior lakes or rivers, from any part of His Majesty's territories, not documented as by law directed, the captain or chief navigator shall not only be answerable to all and every person and persons who may receive loss and damage thereby, but shall incur a penalty of two hundred pounds to His Majesty, to be sued for and recovered in any court of justice within this Province, one third of which forfeiture shall belong to the person or persons suing for the same; and for the more secure recovery thereof, such captain or chief navigator shall be detained and imprisoned until he shall have entered into recognizance in double the said penalty, with two sufficient sureties in the judgment of one of the judges of the Common Pleas of the District of the port, post, or place to which he may be brought, personally to appear in the Court of King's Bench, within one year of the date of such recognizance, there to answer to any suit to be brought against him for the said penalty, and to abide the judgment of the said court.

III. And be it also enacted by the same authority, that whenever the Court, before which any proceedings may be had for any such seizure or penalty, shall give judgment for the acquittal of the property seized, or the discharge of the party prosecuted, but shall at the same time cause to be entered in the minutes of the Court, that the prosecutor had reasonable cause for making the seizure or commencing the same suit, the owner or defendant shall not recover any damages or costs against any persons concerned in such seizure or prosecution; and to the end that the trade to the Western Districts and Indian Countries may be free and open to all His Majesty's faithful subjects in every part of His Majesty's inland dominions and territories whatsoever, be it enacted by the same authority, that from and after the publication of this Act, it shall not be necessary for any of His Majesty's subjects, carrying on trade or other stated residents of this Province, to take out any where or from any person or persons any license, pass, permit, or other writing whatsoever, for going into or trading with the Indians or other inhabitants of the Western Countries, Districts or Counties of this Province, or territories whatsoever, or for the carrying or conveying thither or elsewhere, in boats, battoes, or canoes, any goods, wares, or merchandize, or provisions or other effects not specifically prohibited, or for returning with the same or any part thereof, or with the produce in beaver furs or skins, or such other effects as may be legally carried, transported, or imported, nor to subject traders to take licenses for the sale of strong liquors to Indians, except at a fixed residence in a settled part of the Province for keeping a house of public entertainment, as is required by an Act of Parliament passed in the fourteenth year of His Majesty's reign, intituled "An Act to establish a Fund towards further defraying the Charges of the administration of Justice and support of the Civil Government within the Province of Quebec in America," any law, ordinance, or regulation of this Province; heretofore made or passed, to the contrary notwithstanding.

IV. Provided always nevertheless, and be it enacted by the same authority, that it shall and may be lawful for His Excellency the Governor or Commander-in-chief for the time being, by and with the advice and consent of His Majesty's council, to restrain the trade and commerce to any part or place of the said Western Countries and inland territories, and regulate the same with any of the Indian tribes or nations, or other inhabitants thereof, and likewise to restrain and regulate the sale and distribution of spirituous liquors in all forts and garrisons, and other places where Indians resort, and of arms, ammunition, or other warlike or naval stores, when and so often as the public safety and peace may require, declaring the same from time to time by proclamation under the great seal.

V. And in order to prevent the accidents that happen to canoes, the property therein, and the navigators thereof, in the dangerous passage down the Rapids, of the Outawais or Great River, between the lower carrying place of the Chaudiere and the Allumets, by reason of persons selling spirituous liquors to the canoe-men, thereby intoxicating them, and rendering them incapable to conduct and manage the canoes in the said Rapids, to the great injury of the trade, and the risk of the lives of the navigators; be it enacted by the authority aforesaid, that every person who shall be convicted before any one or more justices of the peace, upon the oath of the informer and one more credible witness, of having sold or given any spirituous liquors to any canoe-man in his passage down the Outawais or Great River, between the lower carrying-place of the Chaudiere and the place called the Allumets, shall forfeit and pay the sum of twenty pounds, and lose the benefit of his license, if any he has, for selling spirituous liquors, which penalty may be sued and recovered summarily before one or more justices of the peace and applied as aforesaid.

VI. And whereas it is made penal to settle in the Indian villages without license, by an Act or Ordinance of this Province, passed in the seventeenth year of His Majesty's reign, intituled, "An Ordinance to prevent the selling of strong liquors to Indians in the Province of Quebec, as also to deter persons from buying their arms or clothing, and for other purposes relative to the Trade and Intercourse with the said Indians;" Be it further

enacted by the same authority, that nothing in the said Act shall be deemed to affect such as are lawfully employed in the inland commerce, or such as resort to this Province with the intention *bona fide* of settling the waste lands of the crown, and who are in the course to conform to the regulations by the government for that purpose made and established, and shall so declare upon oath, when thereunto required, or to any other His Majesty's liege subjects, but to such only as not being His Majesty's subjects shall arrive at any port, post or place where any magistrate may reside, and shall not within twenty-four hours thereafter take the oath of allegiance to the British crown, being required, and shall refuse to take the oath in this clause first aforementioned, such defaulter shall incur a penalty of ten pounds, and may be committed and proceeded against as concerned in illicit trade.

VII. Provided always nevertheless, that it shall be lawful to all persons to pass and repass any part of this Province, with a permission under the signature of such person as shall be authorized to grant the same, by any instrument to be issued by the governor or commander-in-chief for the time being, under his hand and seal at arms, such person conforming to the conditions, regulations and terms in his permission prescribed or expressed.

VIII. Provided also, that nothing in this or the aforementioned Act shall be construed to extend to any vessel navigating without a manifest, pass, or clearance, from the head of the Bay of Quinty, or any other part of the District of Lunenburg, and not passing beyond the islands called the Grande Isle, and Isle of Tonty, to the southward and eastward.

DORCHESTER.

Ordained and enacted by the authority aforesaid, and passed in council, under the great seal of the Province, at the Council-chamber in the Castle of St. Lewis, in the city of Quebec, the eleventh day of April, in the thirty-first year of the reign of our Sovereign Lord George the Third, by the grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth, and in the year of our Lord one thousand seven hundred and ninety-one.

By His Excellency's command,

J. WILLIAMS, C. L. C.

No. 16.

Copies of the Petitions of ELIE BOUCHER, ROBERT COWIE, and WILLIAM DAVIS, for Writs of Habeas Corpus; and the Affidavits in support thereof, &c. Also of the Writs of Habeas Corpus, issued at their instance, and of the Returns to the same.

No. 16. (1.)

PROVINCE OF LOWER CANADA.

To the Honourable Jonathan Sewell, Esquire, His Majesty's Chief Justice for the Province of Lower Canada.

The Petition of Elie Boucher, of the City of Quebec, in the Province of Lower Canada, Mariner,

Respectfully represents,

That your Petitioner is now confined, as a prisoner, in the Common Gaol of the District of Quebec, under a certain paper writing, whereof the following is a true copy, viz. :—

“ To the Gaoler.

“ Take charge of Mr. Boucher, and keep him twenty-four hours from this date.

(Signed) “ W. S. SEWELL, Sheriff.

“ 1 o'clock, 30th November, 1830.”

That your Petitioner conceives that he has been, and continues to be illegally, unwarrantably, and oppressively deprived of his liberty, under the said paper writing.

Wherefore your Petitioner humbly prays that His Majesty's Writ of Habeas Corpus

may issue, returnable before your Honour *immediate*; and thereupon that, by the order and under the authority, of your Honour, he may be forthwith discharged from and out of custody, and go at large.

Quebec, 30th November, 1830.

(Signed) ELIE BOUCHER.

Subscribed and delivered in the presence of

(Signed) JAMES M'KENZIE,
(Signed) FRANCIS WARD PRIMROSE, } Witnesses.

The above Petitioner, having annexed to this Petition, and laid before me, an Affidavit of James M'Kenzie, and a certificate of the Clerks of the Peace, by which it appears that on the 30th day of November last, he the Petitioner, by and before John Neilson, Esquire, Jean Baptiste Duchesnay, Esquire, and others Justices of the Peace for the District of Quebec, was convicted of having distributed to divers Indians within this Province certain rum and strong liquors, without a license,—and that it was thereupon considered and adjudged, that the said Elie Boucher, do pay a fine of five pounds, and be imprisoned for and during the space of twenty-four hours next ensuing, I consider this adjudication to be a conviction, and that the order of commitment contained therein, is in execution thereof. Elie Boucher, being therefore convicted, and also in Execution by judgment of the above-mentioned Magistrates, and no Judge having authority in vacation to discharge or bail a person that is a person convict or in execution by judgment, I do not conceive myself authorized to issue the Habeas Corpus which the Petitioner requires.

Quebec, 1st December, 1830.

(Signed) J. SEWELL, Chief Justice.

True Copy, W. GREEN, Clerk of the Crown.

No. 16. (2.)

Affidavit of Circumstances.

DISTRICT OF }
QUEBEC. }

To wit:

ELIE BOUCHER, of the city of Quebec, in the district of Quebec, mariner, being duly sworn upon the Holy Evangelists, maketh oath, and saith, that he this Deponent, in or about the month of February, in the year of our Lord one thousand eight hundred and thirty, entered into the service of the Hudson's Bay Company, at a place called Portneuf, in the Seigniorship of Mille Vaches, in the District of Quebec, in the capacity of under Clerk and store-keeper.—That the said Hudson's Bay Company, long before the time last-mentioned, then and from thence hitherto, have been lessees of the said Seigniorship of Mille Vaches, which has been and is held by them for the purpose of carrying on trade there with the Indians.—That, in the carrying on of their trade with the Indians, the said Hudson's Bay Company, as all other persons engaged in such trade, necessarily distribute spirituous liquors in presents, and in moderate quantities, to and among the Indians, as occasion may require.—That the said Seigniorship of Mille Vaches is an unsettled part of the Province of Lower Canada, where no white persons reside, except such as are in the service of the said Hudson's Bay Company, and employed in carrying on their trade there; and the Deponent, as one of the servants of the said Hudson's Bay Company, has, at different times, distributed spirituous liquors in presents, and in moderate quantities among the Indians, at the said Seigniorship of Mille Vaches. That in the latter end of the month of October now last past, the Deponent was served with a certain summons hereunto annexed, marked A. And this Deponent further saith, that the extra-parochial place in the said summons mentioned, and therein said to be called Portneuf, in the County of Saguenay, in the District of Quebec, is a trading post of the said Hudson's Bay Company, held, possessed, and occupied by them as being included in, and making part of, the said Seigniorship of Mille Vaches, and is not a settled part of the Province of Lower Canada, but is merely used and resorted to for the purpose of trade with the Indians.—And the Deponent further saith, that he this Deponent, in obedience to the said summons, appeared at the Court House, on the twenty-seventh day of the present month of November, to answer to the charge, therein contained; and, after hearing the said charge, judgment was given by John Neilson and Jean Baptiste Duchesnay, Esquires, two of His Majesty's Justices of the Peace for the District of Quebec, against him this Deponent.—And he the Deponent was thereupon taken into custody, and conveyed to the common Gaol of this District, where he has since been, and continues to be,

confined as a prisoner.—And this Deponent further saith, that having demanded a copy of the said judgment, the paper writing hereunto annexed marked B. was delivered to him by Messrs. Green and Perrault, Clerks of the Peace for this District, as being such copy, or a certificate of such judgment.—And the Deponent further saith, that, having demanded from the keeper of the said common Gaol a copy of the warrant or other written authority under which he was and is confined in the said Gaol, he received from the keeper of the said common Gaol, the paper writing hereunto annexed, marked C. And the Deponent further saith, that he is not conscious of having been guilty of any offence, or breach of the laws, for which he could or ought to be confined as a prisoner in the said common Gaol, as he has been as aforesaid, and continues to be.

(Signed) ELIE BOUCHER.

*Sworn in the Common Gaol of the City of Quebec,
this 30th day of November, 1830, before me,*

(Signed) JAMES M'KENZIE, J. P.

True Copy, W. GREEN, Clerk of the Crown.

Summons marked A, referred to in the foregoing Affidavit.

LOWER CANADA.

DISTRICT OF }
QUEBEC. }

THOMAS WILSON, Esquire, one of His Majesty's Justices of the Peace for the District of Quebec.

To Elie Boucher, of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec.

You are hereby in His Majesty's name, enjoined and strictly commanded to be and appear at the Court House in the City of Quebec, on Saturday, the twenty-seventh day of November next, before me, or before such other of my fellow Justices, as shall be then and there, to answer to the complaint against you, made before me by George Linton, of the parish of Quebec, yeoman, who as well for our Sovereign Lord the King, as for himself, in this behalf prosecutes, for having, between the first day of May, in the present year, one thousand eight hundred and thirty, and the twentieth day of October, in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, sold, distributed, and otherwise disposed of to divers Indians, within this Province, certain rum and other strong liquors, and then and there knowingly and willingly suffered other rum and other strong liquors, to come to the hands of divers other Indians, within this Province without a special license in writing for that purpose first had and obtained from the Governor, Lieutenant-Governor, or Commander-in-Chief of this Province, for the time being, or from His Majesty's Agents or Superintendents of Indian affairs, or from any of his Majesty's Commandants of any Forts in this Province, or from any other person or persons authorized for that purpose by the Governor, Lieutenant-Governor, or Commander-in-Chief of the Province for the time being.

Whereby you have become liable to the forfeiture of a penalty of five pounds, of which the said George Linton prays that he may have one half, and to imprisonment for any time not exceeding one month.

Whereof fail not at your peril.

Given under my hand and seal, at the City of Quebec, in the said District, this twenty-second day of October, 1830.

(Signed) THOS. WILSON, J. P. (L. S.)

True Copy, W. GREEN, Clerk of the Crown.

A.

This is the summons or paper writing marked A, referred to in the affidavit of Elie Boucher.

Quebec, 30th November, 1831.

(Signed) ELIE BOUCHER,
(Signed) JAMES M'KENZIE.

True Copy, W. GREEN, Clerk of the Crown.

Certificate marked B, referred to in the foregoing Affidavit.

Quebec (S. S.)

We certify that before John Neilson, Jean Baptiste Duchesnay, Esquires, Justices of the Peace for the District of Quebec, and others their fellow Justices of the Peace for the said District, Elie Boucher, of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, was on this 30th day of November, 1830, convicted of having, at the said extra-parochial place called Portneuf, distributed to divers Indians, within this Province, certain rum and strong liquors, without a special license in writing for that purpose first had and obtained from the Governor, Lieutenant-Governor, or Commander in Chief of this Province for the time being, or from his Majesty's Agents or Superintendents of Indian affairs, or from any of His Majesty's Commandants of any Forts in this Province, or from any other person or persons authorized for that purpose by the Governor, Lieutenant-Governor, or Commander in Chief of the Province for the time being;—and that it was thereupon considered and adjudged that the said Elie Boucher do pay a fine of five pounds, whereof one-half to our Lord the King and one-half to the Informer, and be imprisoned for and during the space of twenty-four hours next ensuing.

Quebec, 30th November, 1830.

(Signed) GREEN and PERRAULT, Clerks of the Peace.

True Copy, W. GREEN, Clerk of the Crown.

B.

This is the copy of the judgment marked B, referred to in the Affidavit of Elie Boucher.

Quebec, 30th November, 1830.

(Signed) ELIE BOUCHER,
(Signed) JAMES M'KENZIE.

True Copy, W. GREEN, Clerk of the Crown.

Paper writing marked C, referred to in the foregoing Affidavit.

“ To the Gaoler,
“ Take charge of Mr. Boucher, and keep him 24 hours from this date.

(Signed) “ W. SEWELL, Sheriff.

“ 1 o'clock, 30th November, 1830.”

True Copy,—Certified.

(Signed) JOHN JEFFERY, Gaoler.

C.

This is the paper writing marked C, referred to in the Affidavit of Elie Boucher.

(Signed) ELIE BOUCHER,
(Signed) JAMES M'KENZIE.

True Copy, W. GREEN, Clerk of the Crown.

H

No. 16. (3.)

*Affidavit of JAMES M'KENZIE, Esquire.*DISTRICT OF } To wit:
QUEBEC. }

JAMES M'KENZIE, of the City of Quebec, in the District of Quebec, Esquire, being duly sworn upon the Holy Evangelists, maketh oath and saith, that he this Deponent, being one of the partners in the late firm of the North West Company, in the year of our Lord one thousand eight hundred and seven, was employed in superintending the trade carried on by the said North West Company, within the territories known by the name of the King's Posts, and also with the Indians of the seigniories of Mille Vaches and Mingan, in the District of Quebec, the said North West Company being then lessees of the said King's Posts, and also of the said seigniories of Mille Vaches and Mingan.—That the Deponent, as such partner as aforesaid, continued to superintend the trade carried on by the said North West Company, as well within the territory known by the name of the King's Posts, as with the Indians of the said seigniories of Mille Vaches and Mingan, from the year last aforesaid, till in or about the year of our Lord one thousand eight hundred and twenty-one; during which time the Deponent, in the summer seasons, visited the different trading Posts within the territory and seigniories aforesaid, and during the winter seasons resided at Tadousac. That, during all the period aforesaid, the said North West Company, as lessees as aforesaid, as well of the said territory called the King's Posts, as of the said seigniories, carried on trade with the Indians of the said territory and seigniories, and distributed spirituous liquors to and amongst them, without any authority, right, or title, other than that derived from the lease of the King's Posts granted to them by the Crown, and from the lease of the said seigniories granted to them by the proprietors thereof. That the said trade was so carried on, without any license to sell or distribute spirituous liquors, to or among the Indians, and no license to that effect was ever considered to be necessary, or thought of. That, after the dissolution of the said firm of the North West Company, the Deponent entered the service of the Hudson's Bay Company, as their Agent at Quebec, and has been, and continues to be, familiar with the conduct of their trade and business at the seignior of Mille Vaches. That the trade of the said Hudson's Bay Company, at the said seignior of Mille Vaches has been, and continues to be, carried on, by them, as it previously was, by the said North West Company as above mentioned, as Lessees of the said seignior, without any license from the Crown, or any Officer of His Majesty's Government, to trade with the Indians, or to sell, or distribute, spirituous liquors to and among them, and no such license has ever been deemed necessary.

(Signed) JAMES M'KENZIE.

*Sworn at the City of Quebec, this 1st day
of December, 1830, before me,*

(Signed) J. SEWELL, Chief Justice.

True Copy, W. GREEN, Clerk of the Crown.

No. 16. (4.)

Affidavit of the Honorable FRANCIS WARD PRIMROSE and JAMES M'KENZIE, Esq.

PROVINCE OF LOWER CANADA.

DISTRICT OF } To wit:
QUEBEC. }

The Honorable Francis Ward Primrose, of the City of Quebec, in the Province of Lower Canada, Advocate, and James M'Kenzie, of the said City of Quebec, Esquire, agent there for the Hudson's Bay Company, severally and respectively make oath, that on the first day of December, now last past, about the hour of eight in the morning, at the said City of Quebec, they, the said Francis Ward Primrose and James M'Kenzie, went together to the house of the Honorable Jonathan Sewell, Esquire, Chief Justice of the Province of Lower Canada, for the purpose of presenting to him, and the said Chief Justice, then and there received into his hands and read, the Petition of one Elie Boucher, a clerk, in the service of the said Hudson's Bay Company, then confined in the common gaol of the District of Quebec, under an order in writing of William Smith Sewell, of the

said City of Quebec, Esquire, Sheriff of the said District of Quebec, whereof the following is a true copy, to wit,—

“ To the Gaoler,
“ Take charge of Mr. Boucher, and keep him 24 hours from this date.

“ W. S. SEWELL, Sheriff.

“ 30th November, 1830.”

By which said Petition, the said Elie Boucher set forth and made known to the said Chief Justice that he was then confined in the said common gaol as aforesaid, under the said order in writing, and was illegally, unwarrantably, and oppressively deprived of his liberty under the said order, and prayed that His Majesty's writ of Habeas Corpus might issue, returnable before the said Chief Justice *immediate*, and that thereupon the said Elie Boucher might be forthwith discharged from and out of custody and go at large.—And the said Deponents severally and respectively further depose and say, that, together with the said Petition, there were presented to the said Chief Justice and read by him, two Affidavits of circumstances in support of the said Petition, and the said Francis Ward Primrose, then and there moved the said Chief Justice (after the perusal by him of the said Petition and Affidavits as aforesaid) that he the said Chief Justice would be pleased to grant the prayer of the said Petition.—And the said Deponents further severally and respectively depose and say, that the said Chief Justice thereupon declared, that he could not form a Court in his own house, and must consult Mr. Justice Bowen and Mr. Justice Kerr, and that he would give a specific answer to the said application on the part of the said Elie Boucher at ten o'clock.—And the said Deponents do further severally and respectively depose and say, that having returned to the house of the said Jonathan Sewell, at ten o'clock of the same day, they were then and there informed by the said Chief Justice that he could not grant a writ of Habeas Corpus for the said Elie Boucher as applied for.—And the said Deponents do further severally and respectively depose and say, that they the said Deponents thereupon presented to the Honorable James Kerr, Esquire, one of the Justices of His Majesty's Court of King's Bench for the District of Quebec, a similar Petition to that presented as aforesaid, to the said Chief Justice, for the issuing of a writ of Habeas Corpus for the said Elie Boucher, as aforesaid, together with the same Affidavits which had been previously presented to the said Chief Justice, as aforesaid, and the said Justice Kerr, then and there granted the prayer of the said last mentioned Petition, and issued His Majesty's writ of Habeas Corpus for the said Elie Boucher as prayed for.—And further the Deponents say not.

(Signed) FRANCIS WARD PRIMROSE.
(Signed) JAMES M'KENZIE.

*Sworn at the City of Quebec, this 6th
day of April, 1831, before me,*

J. KERR, J. B. R.

No. 16. (5.)

PROVINCE OF LOWER CANADA.

To the Honourable James Kerr, one of His Majesty's Justices of the Court of King's Bench for the District of Quebec.

The Petition of Elie Boucher, of the City of Quebec, in the Province of Lower Canada, Mariner,

RESPECTFULLY REPRESENTS,

That your Petitioner is now confined as a prisoner in the Common Gaol of the District of Quebec, under a certain paper writing, whereof the following is a true copy, viz:—

“ To the Gaoler,
“ Take charge of Mr. Boucher, and keep him 24 hours from this date.

(Signed) “ W. S. SEWELL, Sheriff.

“ 1 o'clock, 30th November, 1830.”

That your Petitioner conceives that he has been, and continues to be, illegally, unwarrantably, and oppressively deprived of his liberty, under the said paper writing.

Wherefore your Petitioner humbly prays, that His Majesty's Writ of Habeas Corpus may issue, returnable before your Honour *immediate*; and thereupon that, by the order of, and under the authority of your Honour, he may be forthwith discharged from and out of custody, and go at large.

Quebec, 1st December, 1830.

(Signed) ELIE BOUCHER.

Subscribed and delivered in the presence of

(Signed) JAMES M'KENZIE,
(Signed) FRANCIS WARD PRIMROSE, } Witnesses.

Let a Writ of Habeas Corpus issue as prayed for, directed to the Gaoler of the Common Gaol of the District of Quebec, returnable before me at the Judges' Chambers, at the Court House, in the City of Quebec, immediately.

Quebec, December 1st, 1830.

(Signed) J. KERR, J. B. R.

True Copy, W. GREEN, Clerk of the Crown.

I certify that in pursuance of the Fiat of the Honourable Mr. Justice Kerr, at the foot of the foregoing Petition, a Writ of Habeas Corpus did issue on the first day of December, 1830, as prayed for by the said Petition, and a return to the said Writ was made on the same day by the Keeper of the Common Gaol for the District of Quebec; but on search made in my office in which the same ought to be, for the said Writ and Return, I have been unable to find the said Writ and Return, and cannot therefore at this moment furnish copies thereof.

Quebec, 7th April, 1831.

W. GREEN, Clerk of the Crown.

No. 16. (6.)

Copy of the Petition of ROBERT COWIE, Esquire.

PROVINCE OF LOWER CANADA.

DISTRICT OF }
QUEBEC. }

To the Honorable James Kerr, Esquire, one of His Majesty's Justices of the Court of King's Bench for the District of Quebec.

The Petition of Robert Cowie, of the City, County, and District of Quebec, Esquire,

Respectfully represents,

That your Petitioner is now confined, as a prisoner, in the Common Gaol of the District of Quebec, under a certain warrant, or order, of Thos. Wilson, and J. Bte. Duchesnay, Esquires, whereof a true copy, being the paper writing marked C. annexed to the affidavit of your Petitioner, accompanies this Petition.

That your Petitioner conceives he has been, and continues to be, illegally, unwarrantably, and oppressively, deprived of his liberty, under the said warrant, or order.

Wherefore your Petitioner humbly prays, that His Majesty's writ of Habeas Corpus may issue, directed to the keeper of the said Common Gaol, returnable before your honor *immediate*; and thereupon that by the order, and under the authority of your honor, he may be forthwith discharged from and out of custody, and go at large.

Quebec, 14th December, 1830.

(Signed) R. COWIE.

Subscribed and delivered in the presence of

JAMES M'KENZIE,
FRANCIS WARD PRIMROSE. } Witnesses.

Let a writ of Habeas Corpus issue as prayed for, returnable *immediate* before me at the Judges' Chambers in the City of Quebec.

Quebec, 14th December, 1830.

(Signed) J. KERR.

PROVINCE OF LOWER CANADA.

Quebec, to wit :

ROBERT COWIE, of the City, County, and District of Quebec, Esquire, one of the chief traders of the Hudson's Bay Company, being duly sworn upon the Holy Evangelists, maketh oath and saith, that the said Hudson's Bay Company, long before the first day of May, one thousand eight hundred and thirty, were, and from thence hitherto have been, lessees of the seigniory of Mille Vaches, in the district of Quebec, within which is situated the post of Portneuf, which said seigniory has been, and is, held by them, for the purpose of carrying on trade there with the Indians.—That in carrying on their trade there with the Indians, the said Hudson's Bay Company, as all other persons engaged in such trade, necessarily distribute spirituous liquors in presents, and in moderate quantities, to and among the Indians, as occasion may require.—That the said seigniory of Mille Vaches is an unsettled part of the Province of Lower Canada, where no white persons reside, except such as are in the service of the said Hudson's Bay Company, and employed in carrying on trade there.—That this Deponent, as one of the chief traders, and one of the agents of the said Hudson's Bay Company, resided at Portneuf, within the said seigniory, during part of the spring, summer, and autumn of this present year, for the purpose of superintending the said Hudson's Bay Company's establishments, at the said seigniory of Mille Vaches, and of carrying on their trade there, and has, by himself, or by the servants of the said Hudson's Bay Company, at different times, in the course of their intercourse with the said Indians, at the said seigniory of Mille Vaches, distributed spirituous liquors, as presents, and in moderate quantities, among the said Indians, of the said seigniory of Mille Vaches.—That in the latter end of the month of October, now last past, this Deponent was served with a certain summons, hereunto annexed, marked A;—And this Deponent further saith, that the extra-parochial place, in the said summons mentioned, and therein said to be called Portneuf, in the county of Saguenay, in the District of Quebec, is a trading post of the said Hudson's Bay Company, held, possessed, and occupied by them, as being included in, and making part of the said seigniory of Mille Vaches, and is not a settled part of the Province of Lower Canada, but is merely used and resorted to for the purposes of trade with the Indians.—And this Deponent further saith, that he, this Deponent, in obedience to the said summons, instructed counsel to appear in the Court House, at the city of Quebec, on the twenty-seventh day of November, now last past, to answer to the charge in the said summons contained; and, as this Deponent has been informed, which information he, this Deponent, verily believes to be true, after hearing the said charge judgment was given by two of His Majesty's Justices of the Peace for the District of Quebec against him, this Deponent.—And this Deponent further saith, that he, this Deponent, hath been taken into custody upon process, purporting to be founded upon the said judgment, and conveyed to the common gaol of this District, where he has since been, and continues to be, confined as a prisoner.—And this Deponent further saith, that having demanded a copy of the said judgment, the paper writing hereunto annexed, marked B, was delivered to him by Messrs. Green and Perrault, Clerks of the Peace for this District, as being such copy, or a certificate of such judgment.—And this Deponent further saith, that having demanded from the keeper of the common gaol a copy of the warrant, or other written authority, under which he was, and is, confined in the said gaol, he received from the keeper of the said common gaol the paper writing hereunto annexed, marked C.—And this Deponent further saith, that he is not conscious of having been guilty of any offence, or breach of the laws, for which he could, or ought to be, confined as a prisoner, in the said common gaol, as he has been as aforesaid, and continues to be.

(Signed) R. COWIE.

*Sworn at the Common Gaol of the City of Quebec,
this 14th day of December, 1830, before me,*

(Signed) JAMES M'KENZIE, J. P.

A.

Paper writing marked A, referred to in the foregoing Affidavit.

PROVINCE OF LOWER CANADA.

DISTRICT OF }
QUEBEC. }

THOMAS WILSON, Esquire, one of His Majesty's Justices of the Peace for the District of Quebec.

To Robert Cowie, of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, Gentleman.

You are hereby, in His Majesty's name, enjoined and strictly commanded, to be and appear at the Court House in the City of Quebec, on Saturday, the twenty-seventh day of November next, before me, or before such other my fellow Justices, as shall be then and there, to answer to the complaint against you made before me by George Linton, of the parish of Quebec, yeoman, who, as well for our Sovereign Lord the King, as for himself in this behalf, prosecutes for having, between the first day of May in the present year one thousand eight hundred and thirty, and the twentieth day of October in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, sold, distributed, and otherwise disposed of to divers Indians within this Province, certain rum and other strong liquors, and then and there knowingly and willingly suffered other rum, and other strong liquors, to come to the hands of divers other Indians within this Province, without a Special Licence in writing, for that purpose first had and obtained from the Governor, Lieutenant-Governor, or Commander in Chief of this Province for the time being, or from His Majesty's Agents and Superintendents of Indian affairs, or from any of His Majesty's Commandants of any Forts in this Province, or from any other person or persons, authorized for that purpose by the Governor, Lieutenant-Governor, or Commander in Chief for the Province for the time being.

Whereby you have become liable to the forfeiture of a penalty of five pounds, of which the said George Linton prays he may have one-half, and to imprisonment for any time not exceeding one month.

Whereof fail not at your peril.

Given under my hand and seal at the City of Quebec, in the said District, this twenty-second day of October, 1830.

(Signed) THOS. WILSON, J. P.

A.

This is the paper writing marked A, in the Affidavit of Robert Cowie, hereunto annexed mentioned.

(Signed) JAMES M'KENZIE,
(Signed) R. COWIE.

B.

Paper writing marked A, referred to in the foregoing Affidavit.

Quebec.

We certify, that at the City of Quebec, in the District of Quebec, on the thirtieth day of November one thousand eight hundred and thirty, before Thomas Wilson and Jean Baptiste Duchesnay, Esquires, two of His Majesty's Justices of the Peace for the District of Quebec, Robert Cowie, of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, Gentleman, was convicted of having, between the first day of May, in the present year one thousand eight hundred and thirty, and the twentieth day of October in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, distributed certain rum and other strong liquors to divers Indians within this Province, without a special license in writing for that purpose first had and obtained, from the Governor, Lieutenant Governor, or Commander in Chief for this Province for the time being, or from His Majesty's agents or superintendents of Indian affairs, or from any of His Majesty's commandants of any forts in this Province, or from any other person or persons, authorized for that purpose by the Governor, Lieutenant Governor, or Commander in Chief of the Province for the time being; and that upon the conviction it was considered and adjudged that the said Robert Cowie do pay a fine of five pounds, whereof one half to the use of our Sovereign Lord the King, and one half to the informer, and that the said Robert Cowie be imprisoned in the Common Gaol during the space of twenty-four hours.

(Signed) GREEN & PERRAULT, Clerks of the Peace.

B.

This is the paper writing marked B, in the Affidavit of Robert Cowie hereunto annexed mentioned.

(Signed) JAMES M'KENZIE,
(Signed) R. COWIE.

C.

Paper writing C, referred to in the foregoing Affidavit.

DISTRICT OF }
QUEBEC. }

To JOHN WALLEY, Constable of Quebec.

Forasmuch as Robert Cowie, of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, Gentleman, stands convicted before us John Neilson and Jean Baptiste Duchesnay, Esquires, two of His Majesty's Justices of the Peace for the District of Quebec, and others our fellow Justices of the Peace for the said District of Quebec, of having, between the first day of May of the present year one thousand eight hundred and thirty, and the twentieth day of October in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, distributed certain rum and strong liquors, to divers Indians within this Province, without a special license in writing for that purpose first had and obtained from the Governor, Lieutenant Governor, or Commander in Chief for this Province, for the time being, or from His Majesty's agents or superintendents of Indian affairs, or from any of His Majesty's commandants of any forts in this Province, or from any other person or persons authorised for that purpose, by the Governor, Lieutenant Governor, or Commander in Chief of this Province for the time being: forasmuch also as upon the said conviction, it hath been considered and adjudged by us the said Justices, and others our fellow Justices, that, for the offence whereof the said Robert Cowie stands convicted as aforesaid, he do pay a fine of five pounds, whereof one half to the use of our Lord the King, and one half to the informer, that the said Robert Cowie be imprisoned in the Common Gaol, during the space of twenty-four hours; forasmuch also as the said Robert Cowie doth not personally appear, to undergo the imprisonment to which he is so adjudged and condemned;—these are, therefore, to all Officers of Militia, Constables, and all others His Majesty's Officers, and Ministers in the said District, or such of you into whose hands this Warrant may come, in His Majesty's name, to charge and command you forthwith to apprehend the said Robert Cowie, and convey him to the Common Gaol of the said District of Quebec, there to undergo the imprisonment so adjudged against him; and these are also to the Keeper of the Common Gaol of the said District of Quebec, in His Majesty's name, to command you, into your custody, in the Common Gaol of the said District, to receive the said Robert Cowie, and him there safely to keep, in execution of the said adjudication, during the space of twenty-four hours; hereof fail not at your peril.

Given at the City of Quebec, in the said District, this thirtieth day of November, 1830.

(Signed) THOMAS WILSON, J. P. (L. S.)
(Signed) J. B. DUCHESNAY, J. P. (L. S.)

True Copy.—Certified, JOHN JEFFERY, Gaoler.

This is the paper writing marked C, in the Affidavit of Robert Cowie, hereunto annexed mentioned.

(Signed) R. COWIE.

(Signed) JAMES M'KENZIE.

No. 16. (7.)

Affidavit of JAMES M'KENZIE, Esquire.

[This Affidavit is precisely similar to that above, under No. (3), and is therefore omitted.]

No. 16. (8.)

PROVINCE OF LOWER CANADA.

DISTRICT OF }
QUEBEC. }

WILLIAM THE FOURTH, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith:

To the Keeper of the Common Gaol of the District of Quebec, greeting.

We command you that you have before us, at the Judges' Chamber, in the Court House, in the City of Quebec, immediately after the receipt of this Writ, the body of

Robert Cowie, in your custody (as it is said), together with the day and cause of the taking and detaining of the said Robert Cowie, by whatsoever name the said Robert Cowie may be called in the same, to undergo and receive all and singular such things as the honourable James Kerr, one of the Justices of our Court of King's Bench for the District of Quebec, in our Province of Lower Canada, shall then and there consider of him in that behalf—and that you have then and there this Writ.

Witness the Honourable Jonathan Sewell, our Chief Justice, of and for our said Province of Lower Canada, and one of the Justices of our said Court of King's Bench, at our city of Quebec, the fourteenth day of December, in the year of our Lord Christ, one thousand eight hundred and thirty, and of our reign the first.

(Signed) J. KERR, J. B. R. (L. S.)

(Signed) W. GREEN, Clerk of the Crown.

By Virtue of an Ordinance passed in the twenty-fourth year of the reign of His late Majesty King George the Third.

(Signed) J. KERR, J. B. R.

The within named Robert Cowie was committed into my custody, on this fourteenth day of December instant, at half-past 9 o'clock, A. M. for distributing certain rum and other strong liquors, to divers Indians, at an extra-parochial place called Portneuf, as will appear by the Schedule hereunto annexed, and I further answer that I have the body of the within named Robert Cowie here present, as by this Writ I am commanded.

Quebec, 14th December, 1831.

(Signed) JOHN JEFFERY, Gaoler.

Schedule referred to in the foregoing Return.

DISTRICT OF }
QUEBEC. }

To JOHN WALLEY, Constable of Quebec.

Forasmuch as Robert Cowie, of a certain extra-parochial place, called Portneuf, in the County of Saguenay, in the District of Quebec, gentleman, stands convicted before us, John Neilson and Jean Baptiste Duchesnay, Esquires, two of His Majesty's Justices of the Peace, for the District of Quebec, and others, our fellow Justices of the Peace for the said District of Quebec, of having between the first day of May of the present year, one thousand eight hundred and thirty, and the twentieth day of October in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, distributed certain rum and other strong liquors to divers Indians within this Province, without a special license in writing for that purpose, first had and obtained from the Governor, Lieutenant-Governor, or Commander-in-Chief for this Province, for the time being, or from His Majesty's Agents or Superintendents of Indian affairs, or from any of his Majesty's Commandants of any Forts in this Province, or from any other person or persons authorised for that purpose by the Governor, Lieutenant-Governor, or Commander-in-Chief of this Province, for the time being.

Forasmuch also, as upon the said conviction, it hath been considered and adjudged by us the said Justices, and others, our fellow Justices, that for the offence whereof the said Robert Cowie stands convicted as aforesaid, he do pay a fine of five pounds, whereof one half to the use of our Lord the King, and one half to the informer, and that the said Robert Cowie be imprisoned in the Common Gaol, during the space of twenty-four hours, forasmuch also as the said Robert Cowie doth not personally appear, to undergo the imprisonment to which he is so adjudged and condemned.

These are therefore, to all officers of militia, constables, and all others, His Majesty's officers and ministers, in the said district, or such of you, into whose hands this warrant may come, in His Majesty's name, to charge and command you forthwith to apprehend the said Robert Cowie, and convey him to the Common Gaol of the said District of Quebec, there to undergo the imprisonment so adjudged against him; and these are also to the keeper of the Common Gaol of the said District of Quebec, in His Majesty's name, to command you, into your custody in the Common Gaol of the said District, to receive the

said Robert Cowie, and him there safely to keep, in execution of the said adjudication, during the space of twenty-four hours.

Hereof fail not at your peril.

Given at the City of Quebec, in the said District, this thirtieth day of November, 1830.

(Signed) THOS. WILSON, J. P. (L. S.)
(Signed) J. P. DUCHESNAY, J. P. (L. S.)

True Copy,—Certified, JOHN JEFFERY, Gaoler.

No. 16. (9.)

Petition of WILLIAM DAVIS

PROVINCE OF LOWER CANADA.

DISTRICT OF }
QUEBEC. }

To the Honourable James Kerr, Esquire, one of His Majesty's Justices of the Court of King's Bench for the District of Quebec.

The Petition of William Davis, of the City, County, and District of Quebec, Clerk in the service of the Hudson's Bay Company.

Respectfully represents,

That your Petitioner is now confined as a prisoner, in the Common Gaol of the District of Quebec, under a certain warrant or order of Thos. Wilson, and J. Bte. Duchesnay, whereof a true copy, being the paper writing marked C. annexed to the affidavit of your Petitioner, accompanies this Petition.

That your Petitioner conceives that he has been, and continues to be, illegally, unwarrantably, and oppressively deprived of his liberty, under the said warrant or order.

Wherefore your Petitioner humbly prays, that His Majesty's writ of Habeas Corpus may issue, directed to the keeper of the said Common Gaol, returnable *immediate* before your honour: and thereupon that, by the order and under the authority of your honour, he may be forthwith discharged from and out of custody, and go at large.

Quebec, 14th December, 1830.

(Signed) WM. DAVIS.

Subscribed and delivered in the presence of

(Signed) JAMES M'KENZIE,
(Signed) FRANCIS WARD PRIMROSE. } Witnesses.

Let a writ of Habeas Corpus issue as prayed for, returnable *immediate* before me at the Judges' Chambers in the Court House in the City of Quebec.

Quebec, 14th December, 1830.

(Signed) J. KERR, J. B. R.

True copy, W. GREEN, Clerk of the Crown.

No. 16. (10).

Affidavit of WILLIAM DAVIS.

PROVINCE OF LOWER CANADA.

Quebec, to wit:

WILLIAM DAVIS, of the City, County, and District of Quebec, a clerk in the service of the Hudson's Bay Company, being duly sworn upon the Holy Evangelists, doth de-
K

pose and say, that the said Hudson's Bay Company, long before the first day of May, one thousand eight hundred and thirty, were, and from thence hitherto have been, lessees of the seigniorship of Mille Vaches, in the District of Quebec, within which is situated the Post of Portneuf, which said seigniorship has been and is held by them for the purpose of carrying on trade there with the Indians. That, in the carrying on of their trade with the Indians the said Hudson's Bay Company, as all other persons engaged in such trade, necessarily distribute spirituous liquors in presents, and in moderate quantities, to and among the Indians, as occasion may require.—That the said seigniorship of Mille Vaches is an unsettled part of the Province of Lower Canada, where no white persons reside, except such as are in the service of the said Hudson's Bay Company, and employed in carrying on their trade there; and this Deponent, as one of the servants of the said Hudson's Bay Company, has at different times distributed spirituous liquors, as presents, and in moderate quantities, among the said Indians, at the said seigniorship of Mille Vaches;—That in the latter end of the month of October, now last past, the Deponent was served with a certain summons hereunto annexed, marked A; and this Deponent further saith that the extra-parochial place in the said summons mentioned, and therein said to be called Portneuf, in the County of Saguenay, in the District of Quebec, is a trading post of the said Hudson's Bay Company, held, possessed, and occupied by them as being included in, and making part of, the seigniorship of Mille Vaches aforesaid, and is not a settled part of the Province of Lower Canada, but is merely used and resorted to for the purpose of trade with the Indians;—And this Deponent further saith that he, this Deponent, in obedience to the said summons, instructed counsel to appear for him at the Court House in the City of Quebec, on the twenty-seventh day of November last past, to answer to the charge in the said summons contained, and (as this Deponent has been informed, which information he this Deponent verily believes to be true) after hearing the said charge judgment was given by two of His Majesty's Justices of the Peace for the District of Quebec against him, this Deponent, and this Deponent further saith that he, this Deponent, has been taken into custody in virtue of process, purporting to be founded upon the said judgment, and conveyed to the Common Gaol of this District, where he has since been, and continues to be, confined as a prisoner. And this Deponent further saith that, having demanded a copy of the said judgment, the paper writing hereunto annexed, marked B, was delivered to him by Messrs. Green and Perrault, Clerks of the Peace for this District, as being such copy, or a certificate of such judgment;—and this Deponent further saith, that having demanded from the keeper of the Common Gaol a copy of the warrant, or other written authority, under which he was or is confined in the said gaol, he received from the said Keeper of the said Common Gaol the paper writing hereunto annexed, marked C; and this Deponent further saith that he is not conscious of having been guilty of any offence or breach of the laws, for which he could or ought to be confined as a prisoner in the Common Gaol, as he has been as aforesaid, and continues to be.

(Signed) WM. DAVIS.

Sworn at the City of Quebec, in the Common Gaol there, this 14th December, 1830, before me,

(Signed) JAMES M'KENZIE, J. P.

True Copy, W. GREEN, Clerk of the Crown.

A.

Paper writing marked A, referred to in the foregoing Affidavit.

DISTRICT OF }
QUEBEC. }

THOMAS WILSON, Esquire, one of His Majesty's Justices of the Peace for the District of Quebec.

To William Davis, of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, Gentleman.

You are hereby, in His Majesty's name, enjoined and strictly commanded to be and appear at the Court House, in the City of Quebec, on Saturday, the twenty-seventh day of November next, before me, or before such other my fellow Justices as shall be then and there, to answer to the complaint against you made, before me, by George Linton, of the Parish of Quebec, Yeoman, who as well for our Sovereign Lord the King, as for himself, in this behalf, prosecutes, for having between the first day of May in the present year one thousand eight hundred and thirty, and the twentieth day of October in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, sold, distributed, and otherwise disposed of to divers Indians within this Province, certain rum and strong liquors and then and there knowingly and willingly suffered other rum and other strong liquors to come to the hands of divers other Indians within this Province, without a special license in writing for that purpose first had and obtained from the Governor, Lieutenant Governor, or Commander in

Chief of this Province for the time being, or from His Majesty's agents or superintendents of Indian affairs, or from any of His Majesty's commandants of any forts in this Province, or from any other person or persons authorized for that purpose, by the Governor, Lieutenant Governor, or Commander in Chief for the time being.

Whereby you have become liable to the forfeiture of a penalty of five pounds, of which the said George Linton prays that he may have one half, and to imprisonment for any time not exceeding one month.

Whereof you fail not at your peril.

Given under my hand and seal at the City of Quebec, in the said District, this twenty second day of October, 1830.

(Signed) THOMAS WILSON.

True Copy, W. GREEN, Clerk of the Crown.

A.

This is the paper writing marked A, in the Affidavit of William Davis, hereto annexed mentioned.

WM. DAVIS.
JAMES M'KENZIE.

B.

Paper writing marked B, referred to in the foregoing Affidavit.

Quebec, S. S.

We certify that, at the City of Quebec, in the District of Quebec, on the thirtieth day of November, one thousand eight hundred and thirty, before Thomas Wilson and Jean Baptiste Duchesnay, Esquires, two of His Majesty's Justices of the Peace for the District of Quebec, William Davis of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, Gentleman, was convicted of having, between the first day of May, in the present year, one thousand eight hundred and thirty, and the twentieth day of October, in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, distributed certain rum and other strong liquors, to divers Indians within this Province, without a special license, in writing, for that purpose, first had and obtained, from the Governor, Lieutenant Governor, or Commander in Chief of the Province for the time being, and that upon the said conviction it was considered and adjudged that the said William Davis do pay a fine of five pounds, whereof one half to the use of our Lord the King, and one half to the informer, and that the said William Davis be imprisoned in the Common Gaol of this District, during the space of twenty-four hours.

(Signed) GREEN & PERRAULT, Clerks of the Peace.

True Copy, W. GREEN, Clerk of the Crown.

C.

Paper writing marked C, referred to in the foregoing Affidavit.

DISTRICT OF }
QUEBEC. }

To JOHN WALLEY, Constable, at Quebec.

Forasmuch as William Davis, of a certain extra-parochial place called Portneuf, in the county of Saguenay, in the district of Quebec, gentleman, stands convicted before us John Neilson and Jean Baptiste Duchesnay, Esquires, two of His Majesty's Justices of the Peace for the district of Quebec, and others our fellow Justices of the Peace for the said district of Quebec, having between the first day of May in the present year, one thousand eight hundred and thirty, and the twentieth day of October, in the year aforesaid, at a certain extra-parochial place called Portneuf, in the county of Saguenay, in the district of Quebec, in the Province of Lower Canada, distributed certain rum and other strong liquors, to divers Indians within this Province, without a special license in writing for that purpose, first had and obtained from the Governor, Lieutenant Governor, or Commander in Chief of the Province for the time being.

Forasmuch also as, upon the said conviction, it hath been considered and adjudged by us the said Justices and others our fellow Justices, that for the offence whereof the said William Davis stands convicted as aforesaid, he do pay a fine of five pounds, whereof one-half to the use of our Lord the King, and one-half to the informer, and that the said William Davis be imprisoned in the Common Gaol of this District during the space of twenty-four hours, forasmuch also as the said William Davis doth not personally appear to undergo the imprisonment to which he is so adjudged and condemned.

These are therefore to all Officers of Militia, Constables, and others His Majesty's Officers and Ministers in the said district, or such of you into whose hands this Warrant may come, in his Majesty's name, to charge and command you forthwith to apprehend the said William Davis, and convey him to the Common Gaol of the said district, there to undergo the imprisonment so adjudged against him, and these are also to the Keeper of the Common Gaol, in the said district of Quebec, in his Majesty's name, to command you into your custody in the Common Gaol of the said district, to retain the said William Davis, and him there safely to keep in execution of the said adjudication during the space of twenty-four hours: hereof fail not at your peril.

Given at the city of Quebec, in the said district, this thirtieth day of November, 1830.

(Signed) THOMAS WILSON, J. P. (L. S.)
(Signed) J. B. DUCHESNAY, J. P. (L. S.)

True Copy,—Certified, JOHN JEFFERY, Gaoler.

True Copy, W. GREEN, Clerk of the Crown.

No. 16. (11).

Copy of Writ of Habeas Corpus.

PROVINCE OF LOWER CANADA.

DISTRICT OF }
QUEBEC. }

WILLIAM THE FOURTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To the Keeper of the Common Gaol of the city of Quebec, greeting:

We command you that you have before us, at the Judges' Chambers in the Court House, in the city of Quebec, immediately after the receipt of this Writ, the body of William Davis in your custody (as it is said), together with the day and cause of the taking and detaining of the said William Davis, by whatsoever name the said William Davis may be called in the same, to undergo and receive all and singular such things as the honourable James Kerr, one of the Justices of our Court of King's Bench for the district of Quebec, in our Province of Lower Canada, shall then and there consider of him in that behalf—and that you have then and there this Writ.

Witness the Honorable Jonathan Sewell, our Chief Justice of and for our said Province of Lower Canada, and one of the Justices of our said Court of King's Bench, at our City of Quebec, the fourteenth day of December, in the year of our Lord Christ, one thousand eight hundred and thirty, and of our reign the first.

(Signed) J. KERR, J. B. R. (L. S.)

W. GREEN, Clerk of the Crown.

True copy, W. GREEN, Clerk of the Crown.

By virtue of an ordinance passed in the twenty-fourth year of the Reign of His late Majesty King George the Third.

(Signed) J. KERR.

The within named William Davis was committed into my custody on this fourteenth day of December instant, at half past 8 o'clock, A. M. for distributing certain rum and other strong liquors to divers Indians, at an extra-parochial place called Portneuf, as will appear

by the Schedule hereunto annexed, and I further answer that I have the body of the within named William Davis here present, as by this writ I am commanded.

Quebec, 14th December, 1830.

(Signed) JOHN JEFFERY, Gaoler.

Filed 14th December, 1830.

Certified, W. GREEN, Clerk of the Crown

Schedule referred to in the foregoing return.

DISTRICT OF }
QUEBEC. }

To JOHN WALLEY, Constable of Quebec.

Forasmuch as William Davis, of a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, Gentleman, stands convicted before us, John Neilson and Jean Baptiste Duchesnay, Esquires, two of His Majesty's Justices of the Peace for the District of Quebec, and others our fellow Justices of the Peace for the said District, of having between the first day of May in the present year one thousand eight hundred and thirty, and the twentieth day of October in the year aforesaid, at a certain extra-parochial place called Portneuf, in the County of Saguenay, in the District of Quebec, in the Province of Lower Canada, distributed certain rum and other strong liquors, to divers Indians within the Province without a special licence in writing for that purpose first had and obtained from the Governor, Lieutenant Governor, or Commander in Chief of the Province for the time being; forasmuch also as upon the said conviction it hath been considered and adjudged by us the said Justices and others our fellow Justices, that for the offence whereof the said William Davis stands convicted as aforesaid, he do pay a fine of Five Pounds, whereof one half to the use of our Lord the King and one half to the Informer, and that the said William Davis be imprisoned in the Common Gaol of this District during the space of twenty-four hours; forasmuch also as the said William Davis doth not personally appear to undergo the imprisonment to which he is so adjudged and condemned;

These are therefore, to all Officers of Militia, Constables, and all others His Majesty's Officers and Ministers in the said District, or such of you into whose hands this warrant may come, in His Majesty's name, to charge and command you forthwith to apprehend the said William Davis, and convey him to the Common Gaol of the said District, there to undergo the imprisonment so adjudged against him, and these are also to the Keeper of the Common Gaol, in the said District of Quebec, in His Majesty's name, to command you into your custody, in the Common Gaol of the said District, to receive the said William Davis, and him there safely to keep in execution of the said adjudication during the space of twenty-four hours.

Hereof fail not at your peril.

Given at the City of Quebec, in the said District, this thirtieth day of November, 1830.

(Signed) THOMAS WILSON, J. P. (L. S.)
(Signed) J. B. DUCHESNAY, J. P. (L. S.)

True Copy, W. GREEN, Clerk of the Crown.

No. 17.

Correspondence between Lieutenant-Colonel GLEGG, Secretary of his Excellency Lord AYLMER, Governor in Chief of Lower Canada, and JAMES STUART, Esquire, his Majesty's Attorney-General for that Province, respecting the Establishment of Boundaries between the Territory called the King's Posts and the Seigniority of Mille Vaches.

No. 17. (1.)

Letter from Lieutenant-Colonel GLEGG, Secretary to His Excellency Lord AYLMER, Administrator of the Government, to JAMES STUART, Esquire, His Majesty's Attorney-General.

Castle of St. Lewis, Quebec, 23d December, 1830.

SIR,
I have received the commands of His Excellency the Administrator of the Government, to acquaint you, that he has received a Petition from William Lampson, Esquire, in which

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it is stated, he is engaged in a law-suit respecting the boundary of the Seigniory of Mille Vaches, adjoining the territory of the King's Posts, of which he is the lessee, in which law-suit, as he states, the interests of the Crown are identified with his own.

His Lordship desires me to observe, that he would naturally have referred this Petition to you for your opinion, in regard to certain questions of law, which it involves; but Mr. Lampson having stated, that you are retained as Counsel to the party opposed to him in this cause, His Lordship, before referring to you the Petition in question, requests to be informed, whether the assertion of Mr. Lampson, of your being retained by the opposite party is correct, and whether in your opinion the interests of the Crown are identified with those of Mr. Lampson, as stated by him in his Petition.

I have the honour to be, Sir,

Your obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Honourable JAMES STUART, Attorney-General.

True copy, J. STUART.

No. 17. (2.)

Letter from JAMES STUART, Esquire, His Majesty's Attorney-General, to Lieutenant-Colonel GLEGG, Secretary, &c.

Quebec, 24th December, 1831.

SIR,

I have been honoured with the commands of His Excellency the Administrator of the Government, signified in your letter of the 23d instant, in which His Lordship refers to a Petition from Mr. Lampson, wherein it is stated, that he is engaged in a law-suit respecting the boundary of the Seigniory of Mille Vaches, in which law-suit, as he states, the interests of the Crown are identified with his own, and wherein it is also stated, that I am retained as Counsel by the party opposed to him; whereupon His Lordship has been pleased to require me to report, for his information, whether the assertion of Mr. Lampson, of my being retained by the opposite party is correct, and whether, in my opinion, the interests of the Crown are identified with those of Mr. Lampson, as stated by him in his Petition.

In obedience to His Lordship's commands, I have the honour to state, that the duty of the office of Attorney-General, which I have the honour of holding, necessarily precludes me from taking any retainer to support the interests of individuals, in opposition to, or inconsistent with those of the Crown; and I have not therefore become, nor could be, retained by any party adverse to Mr. Lampson, to oppose, or question interests in him, which are identified with those of the Crown.

The case to which Mr. Lampson, I presume, refers, and which it has been erroneously supposed by him furnishes ground for his assertion, is a possessory action, called in the French law an action "de Réintégrande" (being the "Interdictum unde vi" of the Roman law) recently brought by me for the Hudson's Bay Company against Mr. Lampson and his servants, for having with force and arms entered upon a piece of land which then was, and during a long period previously had been, in the peaceable possession of the Hudson's Bay Company, as lessees of the Seigniory of "Mille Vaches,"—for having expelled therefrom the servants of that Company,—for having commenced the erection of, and erected a house, buildings, and fence thereon,—and for having since forcibly retained possession thereof, &c. This action turns exclusively on the alleged fact of possession in the Hudson's Bay Company, at the time of the trespass complained of, without reference to boundaries, or right of property. In this action, the boundaries between "Mille Vaches" and the adjoining waste lands of the Crown, of which Mr. Lampson is lessee, cannot come in question, or be litigated; nor can any right, or interest, of the crown be, in the smallest degree, promoted, injured, or affected, by the proceedings to be had, or the decision to be given, in this action. The ground on which this action rests is that of unjust spoliation by force and violence, and the rule of law applicable to it is—*Spoliatus ante omnia restituendus est*.

If, as alleged by the Hudson's Bay Company, they have been by force dispossessed by Mr. Lampson, of land which was in their peaceable possession, they must recover judgment against him in this action, even though he were the lawful proprietor of the land. The law in such case requires that the despoiled party be re-instated in possession, before the question of right can be litigated; and this can only be done, in a *petitory* action, to be brought by the party which claims the right of property. It is manifest, therefore, that Mr. Lampson

could derive no benefit in this action, from a right of property in His Majesty, even if such right existed; and it is equally manifest, therefore, that the interests of the crown are in no respect identified with those of Mr. Lampson, in this matter. He has chosen to incur the high responsibility of taking the law into his own hands, and he must abide the result:—The crown is a stranger to the illegal acts complained of by the Hudson's Bay Company, and cannot, and ought not, to be implicated in the consequences of them.

I will only beg leave further to add, that if it be supposed that any part of the waste lands of the crown are included within limits improperly ascribed to the seignior of Mille Vaches, the remedy for the recovery of it would be found, not in any interference on the part of the crown in the differences between Mr. Lampson and the Hudson's Bay Company (as Mr. Lampson would seem to desire), nor in any action against that company, but in an action against the lessors of the Hudson's Bay Company, proprietors of the seignior of Mille Vaches, for the establishment of boundaries between that seignior and the adjoining lands of the crown.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed) J. STUART,
Attorney General.

Lieut. Col. GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

No. 17. (3.)

Letter from Lieut. Col. GLEGG, Secretary, to J. STUART, Esquire, Attorney General.

Castle of St. Lewis, Quebec, 29th December, 1830.

SIR,

His Excellency the administrator of the government has directed me to signify to you, in reply to your letter of the 24th instant (received by me on the 27th), that his mind is much relieved by the assurance which that letter conveys, viz. that the interests of the crown are not involved in the case of Mr. Lampson, to whom it appears you stand professionally opposed as counsel, in a cause pending between him and the Hudson's Bay Company; more especially as this assurance enables His Excellency to call without scruple, for your professional services as Attorney General, in a matter arising out of the statement contained in the petition of Mr. Lampson, alluded to in my letter of the 23d instant. It appears by the petition of Mr. Lampson, that he is sub-lessee of the lands known by the name of the King's Posts, which are held under the crown, and he complains that he is incommoded in the enjoyment of the same, owing to the circumstance of the boundary of a seignior called Mille Vaches (which seignior touches on the lands called the King's Posts), not being accurately defined; and he appeals to the justice of the crown, as possessor of the King's Posts, to put an end to this state of uncertainty, by causing the metes and boundaries of Mille Vaches, to be accurately surveyed and defined. Applying to the present case the principle which would naturally guide individuals, in private life, under similar circumstances, the administrator of the government is clearly of opinion, that the appeal of Mr. Lampson to the crown is founded in justice and equity, and that it is incumbent on the crown, as possessor, and not on Mr. Lampson, as sub-lessee, to establish the boundary in question. His Excellency has, therefore, come to the decision, to comply with the prayer of Mr. Lampson's petition, by directing the necessary legal steps to be taken towards establishing the boundaries and metes of the seignior of Mille Vaches. With the view of giving due effect to these intentions, His Lordship has thought proper to associate yourself and the Advocate General, to act together on behalf of the crown; and His Excellency therefore desires, that you will be pleased to communicate with Mr. Vanfelson, on the subject, and concert with him the measures necessary to be adopted, in order to give effect to his Lordship's intentions, reporting to me, for his information, the result of such communication, with the least possible delay.

I have the honour to be, Sir,

your obedient, humble servant,

J. B. GLEGG, Secretary.

Honourable J. STUART, Attorney General.

True Copy, J. STUART.

No. 17. (4.)

Letter from JAMES STUART, Esquire, Attorney General, to Lieut. Colonel GLEGG, Secretary, &c.

Quebec, 30th December, 1830.

SIR,

I have been honoured with your letter of the 29th instant, in which, with reference to legal steps which it is therein stated, his Excellency the Administrator of the Government has come to the decision of directing to be taken, towards establishing the boundaries and metes of the Seignory of Mille Vaches, it is intimated that his Excellency has thought proper to associate me and the Advocate General, to act together on behalf of the Crown, and that his Excellency therefore desires me to communicate with Mr. Vanfelson on the subject, and to concert with him the measures necessary to be adopted, in order to give effect to his Lordship's intentions, reporting to you for his information, the result of such communications with the least possible delay.

From the nature of this communication, as well as that which preceded it, on the same subject, it seems indispensable, that I should respectfully submit to his Excellency's consideration, that it belongs to the office of Attorney General, to advise, institute, defend, and conduct all suits of the Crown, which are carried on in His Majesty's Courts of Justice, in which that officer acts professionally. These duties are by law inherent in the office, and cannot be severed from it:—for the faithful, skilful, and honest discharge of them the officer is responsible; and this responsibility constitutes the security of the public and of individuals, in so far as their respective interests are concerned. Not being conscious of any inability to fulfil the duties of the office I hold, and not having learnt that my honour or integrity has been impeached, I must beg leave to claim from his Excellency the undisturbed and unrestricted exercise of the rights vested in me by His Majesty's Commission, appointing me his Attorney General for Lower Canada. If, however, any charge or report calculated to impair the confidence of His Majesty's Government in the upright discharge of my duties has reached his Excellency, instead of sustaining any abridgment of the rights now referred to, I must solicit from his Excellency's justice an immediate investigation of the imputation, whatever it may be, that no disparagement may be suffered by the honourable service in which I am engaged, from malignant insinuation, or unfounded suspicion. But, in the absence of any such cause for withholding the confidence which is due to the office, with which His Majesty has honoured me, and while I continue to hold this office, I cannot acquiesce in any transfer of the duties legally incident to it, to another person; nor can I submit to become the auxiliary of Mr. Vanfelson, or of any other professional gentleman, in matters in which it belongs to me to act as principal.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Lieutenant Colonel GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

No. 17. (5.)

Letter from Lieut. Col. GLEGG, Secretary, &c. to J. STUART, Esq. Attorney General.

Castle of St. Lewis, Quebec, 30th December, 1830.

SIR,

I am directed by His Excellency the administrator of the government, to lose no time in assuring you, in answer to your letter of this date (which his Lordship has just perused), that his decision regarding the mode to be adopted in the case of Mr. Lampson, does not in the remotest degree arise from any doubt existing in his mind of either your integrity and honour, or of your professional ability.—To the existence of these qualities in your person, His Excellency is disposed to give full and entire belief:—neither have his decisions been caused by any malicious insinuations regarding your character that have reached his ears.

His Lordship commands me to assure you, he is altogether a stranger to any such insinuations, and had they been conveyed to him, he would not have hesitated for one moment candidly, and honestly, to have imparted them to you.

A due regard to your official character as well as to his own, would have rendered such a communication an important duty on his part, and perhaps he may have some right to add, that his silence on the subject might have been assumed as conclusive of the fact of his mind being entirely free from any such impression.—Having disposed of this part of the subject, which His Excellency has most at heart to do, in a way that may be entirely satisfactory to your feelings, he has directed me to add, that unless he has formed very erroneous notions of the functions of the office which he has the honour of filling as Administrator of this Province, he may be permitted to judge for himself, whether he shall associate one or more of the Law Officers of the Crown, in the conduct and management of any particular proceeding.

His Lordship still thinks, that he is invested with such discretionary power, and acting upon that assumption, his Lordship has directed me to request, you will have the goodness to acquaint me, for his information, whether it be your intention to persist in refusing to act in conjunction with the Advocate General, in the matter of determining the metes and boundary of the Seignory of Mille Vaches, as directed in my letter of the 29th instant.

I have the honour to be, Sir,

your obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Honble. J. STUART, Attorney General.

True Copy, J. STUART.

No. 17. (6.)

Note from His Excellency Lord AYLMEER to J. STUART, Esq. Attorney General.

(Private.)

Castle of St. Lewis, Quebec, 30th December, 1830.

MY DEAR SIR,

An official correspondence is now going forward between us through the medium of Lieut. Col. Glegg, which I do assure you is very painful to me; but I hope and trust, it will not have the effect of producing any change in the social intercourse, and those personal feelings of regard between us, which it is very much my desire to cherish and cultivate to the utmost. An assurance, on your part, that you participate in these feelings, would be highly gratifying to, my dear Sir,

Your very faithful servant,

(Signed) AYLMEER.

True Copy, J. STUART.

No. 17. (7.)

Letter from J. STUART, Esq. Attorney General, to Lieut. Col. GLEGG, Secretary, &c.

Quebec, 31st December, 1830.

SIR,

I have been honoured with your letter of the 30th inst, and beg leave to state, that I have derived the greatest satisfaction from the assurances His Excellency the Administrator of the Government has been pleased to convey to me, that, in his directions respecting the suit to settle the boundaries of "Mille Vaches," he was not influenced by any doubt of my integrity or honour, and my most respectful acknowledgments are due for the terms in which these assurances have been conveyed. In stating, in my last letter, the rights which I apprehend to be inherent in the office of Attorney General, it was not my intention to call in question the discretionary power of His Excellency, to authorise any number of Counsel he may think fit, to give their assistance in the conducting of the suits of the Crown, but respectfully to assert, that they cannot act as principals, or direct, or control the Attorney General, in the management of such suits; the responsibility for the proper and efficient conducting of the suits of the Crown resting entirely upon him.—I beg leave, therefore, respectfully to mention, that there is no objection on my part, that the Advocate General, or any other professional gentleman, be authorised to act as Counsel, in conjunction with me, in the legal measures which it may be proper to adopt, for determining the metes and

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boundaries of the Seignior of Mille Vaches: and, on this head, there is the most ready and willing acquiescence on my part in whatever may be the pleasure of His Lordship.

I have the honour to be, Sir,

your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Lieut. Col. GLEGG, Secretary, &c.

True Copy, J. STUART.

No. 17. (8.)

Note from J. STUART, Esq., Attorney General, to His Excellency Lord AYLMER.

(Private.)

Friday Morning, 31st December.

MY LORD,

It was with extreme satisfaction that I perused your Lordship's very friendly and condescending note of last evening, by which the painful feelings necessarily produced by the recent correspondence to which your Lordship refers, were made immediately to yield to those of a very different character. The impressions of respect for your Lordship which I had previously entertained, have received an indelible confirmation from your Lordship's frankness, kindness, and condescension on the present occasion; and I beg leave respectfully to assure your Lordship, that it will be my most anxious desire, both in my official and private conduct, to merit a continuance of your Lordship's favourable opinion, and of the social intercourse by which I have been honoured by your Lordship.

I have the honour to be, my Lord, with the greatest respect,

Your Lordship's most faithful and

Obliged humble servant,

(Signed) J. STUART.

Lieut. Col. GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

No. 17. (9.)

Letter from J. STUART, Esq. Attorney General, to the Honourable J. STEWART, Esq.

Quebec, 31st January, 1831.

SIR,

I beg leave to recall to your recollection a conversation which took place between us some days since, in which, with reference to an action I have received instructions from His Excellency the Administrator of the Government to institute against the Proprietors of the Seignior of "Mille Vaches," for establishing the boundaries between that Seignior and the King's Posts, I expressed a desire to know whether, upon the institution of such an action, an appearance would be entered for all the Proprietors, as well those absent from this District, as those resident elsewhere; or whether the formality of electing Curators to the absent Proprietors would be rendered necessary and insisted upon, for the valid service of process in the action.

Allow me to renew in this form my request to receive an answer, on this point.

I have the honour to be, Sir,

your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

The Honble. JOHN STEWART, Esq.

True Copy, J. STUART.

No. 17. (10.)

Letter from JAMES STUART, Esq. Attorney General to Lieut.-Col. GLEGG, Secretary, &c.

Quebec, January 31st, 1831.

SIR,

In order the better to enable me to take such legal measures as may be found necessary for establishing the boundaries between the King's Posts and the Seignior of "Mille Vaches," in conformity with the directions of His Excellency the Administrator of the Government, on this head, I beg leave to submit to the consideration of His Excellency, that it would be expedient that the Inspector General of the King's Domain and Clerk of the Land Roll should receive orders to make me acquainted with all such titles and documents as may be recorded, or be found, in his office, relative to the boundaries in question, and which may be useful in support of such legal measures as may be adopted, in execution of His Excellency's directions.

I have the honour to be, Sir,

your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Lieut.-Col. GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

No. 17. (11.)

Letter from the Hon. J. STEWART, Esq. to J. STUART, Esq. Attorney General.

Quebec, 5th February, 1831.

SIR,

I reply to your letter of the 31st ult. respecting the action contemplated to be brought against the Proprietors of the Seignior of "Mille Vaches," I have the honour to inform you that should the intention of bringing that action be persisted in, I shall instruct counsel to appear for the heirs of the late Peter Stuart, whom I represent as agent; and having communicated with the agents of the other absentee co-proprietors of the said Seignior, I am authorized to state that appearances will likewise be entered for them, without the necessity of electing Curators to their absence. I at the same time have to request that you would have the goodness to postpone the commencement of proceeding in this cause, until the result of an application which the proprietors are about to make to His Excellency the Governor-in-Chief shall be known.

I have the honour to be, Sir,

your most obedient servant,

(Signed) J. STEWART.

To the Honourable the Attorney General.

True Copy, J. STUART.

No. 17. (12.)

Letter from Lieutenant-Colonel GLEGG, Secretary, &c. to J. STUART, Esq. Attorney-General.

Castle of St. Lewis, Quebec, 10th February, 1831.

SIR,

His Excellency the Governor-in-Chief has been, for some time past, in expectation of receiving, from yourself and the Advocate-General, a report of your proceedings respecting the suit "en Bornage" of the Seignior of "Mille Vaches," directed by my letter of the 29th December last, to be instituted on the part of the Crown; but, having been disappointed in this expectation, he conceives that he can no longer remain silent on this subject;—and His Excellency has directed me to impress upon your mind the importance which he attaches to the proceedings in question.—His Excellency considers it in a point of view far more important than any that result from the extent, more or less, of the boundaries of the King's Posts; for, it is a question in which the good faith of the Crown

is concerned, as regards Mr. Lampson, the lessee of that property, under the Crown.—Such being the view taken of this affair by the Governor-in-Chief, he hopes it is unnecessary for him to say more, in order to induce you and the Advocate-General to use your utmost diligence in bringing it to a speedy conclusion; and in order that His Excellency may be kept duly informed, from time to time, on a subject in which he takes so deep an interest, he desires that you will (jointly) report weekly, that is to say, on every Saturday, (beginning with Saturday the 12th inst.) whether any, and what progress has been made in the business during the past week.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Honourable JAMES STUART, Attorney-General.

True Copy, J. STUART.

No. 17. (13.)

Letter from J. STUART, Esquire, to Lieutenant-Colonel GLEGG, Secretary of the Governor-in-Chief.

Quebec, 11th February, 1831.

SIR,

Upon the subject of your letter of the 10th instant, with which I have been honoured, I beg leave to remark, that there is perfect readiness and willingness on my part to institute whatever action may be legally instituted, for the establishment of boundaries between the Seigniories of "Mille Vaches," and the adjoining lands of the Crown. But I do also humbly apprehend, that it is incumbent on me, in this, as in all other cases, to become distinctly acquainted with the grounds on which an action for the Crown is to be brought by me, and the means by which it is to be supported. In cases where the rights of His Majesty, there is reason to believe, are affected by ancient French grants, the best source of information is supplied by the office of the Inspector-General of the King's domain, and Clerk of the Land Roll; in which the old French titles, and various documents determining the rights of His Majesty to lands are recorded, and to be found. I had, therefore, the honour, in my letter to you of the 31st January last, to suggest it to be expedient, that this officer should receive His Excellency's orders to make me acquainted with all such titles and documents as might be recorded or found in his office, relating to the boundaries in question. To this application I have received no answer.

Considering the terms of your letter to import a peremptory order to institute an action immediately against the proprietors of the Seigniorie of "Mille Vaches," for the establishment of boundaries between that Seigniorie and the adjoining lands of the Crown, I shall institute this action, as thus required. But I must at the same time observe, that I shall take this step, without having been afforded the exercise of any official discretion in relation to it,—without having been required to submit, for His Excellency's consideration, my opinion whether there be legal and sufficient grounds for the proposed measure,—and without having been put in possession of any documents, or information, to enable me to judge whether there be such grounds, or not.

I have the honour to be, Sir,

Your most obedient, humble servant,

J. STUART,

Attorney-General.

Lieutenant-Colonel GLEGG, Secretary, &c. &c. &c.

True Copy, J. STUART.

No. 17. (14.)

Letter from Lieut. Col. GLEGG, Secretary, &c. to JAMES STUART, Esq. Attorney General.

Castle of St. Lewis, Quebec, 12th February, 1831.

Sir,

With reference to the instructions you have received regarding a suit *en bornage* of the seigniorship of Mille Vaches to be instituted on the part of the crown, I am directed by His Excellency the governor in chief, to transmit to you the enclosed petition of the proprietors of the seigniorship of Mille Vaches, together with the accompanying copy of a Procès Verbal of that seigniorship, praying that the prosecution against them be stopped, or that the expense of it be paid by the crown; and I am to refer the same to you, for your information, and for such observations thereon as you may judge necessary, to guide His Excellency, in any further proceedings in this business.

I have the honor to be, Sir,

Your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Honble. JAMES STUART, Attorney General.

True Copy, J. STUART.

No. 17. (15.)

To His Excellency Matthew Lord Aylmer, Knight Commander of the most honorable military Order of the Bath, Captain-general and governor in chief in and over the Provinces of Lower and Upper Canada, &c. &c. &c.

The Memorial of the undersigned Proprietors of the Seigniorship of Mille Vaches in the District of Quebec.

Respectfully represents,

That by a communication lately made to your petitioners, by His Majesty's Attorney General, they have learned with surprise, that he has received instructions from your Excellency to institute an action against your petitioners, for establishing the boundaries of the said seigniorship of Mille Vaches and the King's Posts.

That your petitioners are persuaded that such instructions have been given by your Excellency, under the impression of *ex parte* statements made by Mr. W. Lampson, the present lessee of the King's Posts, and which your petitioners have had no opportunity of answering or explaining.

That your petitioners are confident, that when your Excellency shall be informed of the true state of the case, your Excellency will not put your petitioners to the trouble and expense incident to an action of this nature; and it is, therefore, with a view of enabling your Excellency to judge impartially upon this subject, that your petitioners are induced to make the following statement; fully relying on the justice of your Excellency, and that if your Excellency shall be convinced that you have been deceived, by the false and imperfect statements of those interested on the other side of this question, that you will be graciously pleased to recall the instructions which may have been given.

The seigniorship of Mille Vaches was originally granted on the 15th Nov. 1653, to Robert Giffard, Esquire, under the description of "Trois lieues de front sur le fleuve St. Laurent, du côté du nord, audessous de Tadusac, et des grandes et petites Bergerons, au lieu dit Mille Vaches, avec quatre lieues de profondeur, tenant pardevant sur le dit fleuve, et des autres côtés aux terres non concédées;" and by a Procès Verbal of Boucher, surveyor, dated the 19th June, 1675 (of which a copy is herewith transmitted), the said seigniorship was regularly surveyed and bounded. By this survey it appears that the boundary mark to the north-east is "demie lieue audessous la rivière de Portneuf," and that to the south-west "audessus de la Baye de Mille Vaches au cap proche le Sault au Mouton." According to this title and survey, recognized by successive governments before and since the conquest, the present proprietors and their predecessors have enjoyed the said Seigniorship, and have made establishments on the river Portneuf, called the Post of Portneuf, which river and post are indisputably within the limits of the said Seigniorship. Their property and right was never called in question till 1823, when the late Mr. Goudie, then a new lessee of the King's Posts, first put forth a claim to the possession of Portneuf. This matter was then thoroughly inves-

tigated by the Government, and although the report of the Officers of the Crown was at the outset unfavourable, having been made without having called for or seen the titles of the proprietors, the then Governor in Chief ultimately decided, upon the production of those titles, that the King's lessee had no right whatever, and that it would be unjust to require a survey to be made of the seigniory, when the proprietors enjoyed it under one already in existence, and according to their titles. The action *en bornage* then prayed for by the lessee of the King's Posts was refused, and your petitioners know of no circumstance which can justly change that determination. Mr. William Lampson, the person now enjoying the lease of the King's Posts under assignment from Mr. Goudie, or his assigns, has indeed lately endeavoured, by force, to take possession of part of the seigniory, and has done other acts of violence and oppression towards your Petitioners and the Hudson's Bay Company, their lessees, in respect of which actions and indictments are pending in the Courts of King's Bench, civil and criminal, from which the injured parties hope to obtain redress; but your Petitioners deprecate with great humility, but at the same time with earnestness, the interference of the Crown in favour of the offending party against your Petitioners, who are the innocent and injured party.

Your Petitioners are fully sensible, that neither your Excellency, nor the Government, have or can have such intention; but they humbly submit that the institution of the action in question must necessarily have that appearance and effect, and has a direct tendency to call in question a title and possession which is in fact indisputable.

Your Petitioners therefore humbly pray that your Excellency will be graciously pleased to take all these circumstances into your consideration, and recall the instructions given to His Majesty's Attorney General, for the prosecution of the said suit, or in the event of the same being prosecuted, that your Excellency will be pleased to direct that the expenses incident thereto may be borne by the Crown.

And your Petitioners shall ever pray, &c. &c. &c.

Quebec, 5th February, 1831.

(Signed)	For the heirs of the late Peter Stuart, by
	J. STEWART.
(Signed)	JOHN RICHARDSON.
(Signed)	JAS. WEIR.
(Signed)	MARGARET DUNN.

True Copy, J. STUART.

No 17. (16.)

Procès Verbal of Survey referred to in the preceding Letter.

Je soubs signé Louis Marin Boucher, Arpenteur Royal en la Nouvelle France, certifie qu'à la Requête du Sieur Charles Bazire, Marchand a Quebecq, associé avec le Sieur Charles Aubert de la Chenaye, stipulant pour le Sieur François Auber, son fils, Me suis expres transporté à La Baye de Mille Vaches, ou estant en presence de Charles Cadieux, Sieur de Courville, Elie du Seau, Sieur de la fleur, et Nicolas Le Febvre, icelui portant la Chaisne nous avons mesuré et arpenté au dit Sieur François Auber une concession de deux cents cinquante deux arpents, qui fait trois lieus de front sur le Fleuve St. Laurent, de chaque costé d'icelle planté une Borne d'unne pierre longue, soubs les quelles est enterré brique et mache fer, une du costé du nord est *demi lieue au de soubs la Rivière de Portneuf* à une petite pointe bien un quart de lieue ou peu plus au dessus de l'Islet de Roches quy est à la mer, la quelle borne est bien une perche et demi en montant dans la costé, et avons marqué pres d'icelle un petit bouleau en forme de croix, et un peu au dessus placqué un autre bouleau sec et un sapin, l'autre du costé du sud ouest au dessus de la dite baye au Cap proche le sault au mouton, quinze à seize arpents au dessous la quelle est plantée environ deux toises en montant dans la coste, et aupres d'icelle avons marqué deux trembles et planté au pied de chacune des dites bornes un piquet, et un autre au dessus au nord ouest pour servir de marques et separassion, et continuer quant besoin sera dont et de ce que dessus jay dressé le present procès Verbal pour valloir et servir en temps et lieu ce que de raison le dit Sieur Bazire, le requerant fait ce dix neufyesme Juin, mil six cent soixante quinze, en presence des dits Sieurs Cadieux et du Seau, les quels ont avec moy signé, et a le dit Lefebvre déclaré ne scavoir Ecrire ne signer de ce enquis suivant l'ordonnance.

(Signé)	Courville, avec paraphe.	(Signé)	Du Seau de la fleur.
		(Signé)	BOUCHER, avec paraphe. BOISBUISSON, Arpenteur.

I certify the above to be a true copy of an original minute of a Procès Verbal of the Seigniorship of Mille Vaches, exhibited to me by Mrs. Margaret Bell, widow of the late Robert Dunn, Esquire, in her quality of Tutrice to her minor children, and part proprietors of the said Seigniorship of Mille Vaches.

F. W. PRIMROSE, G. P. T.

Quebec, 5th February, 1831.

No. 17. (17.)

Report required by His Excellency the Governor-in-Chief, to be made jointly and weekly by the Attorney and Advocate-General.

To His Excellency the Right Honourable Matthew Lord Aylmer, Knight Commander of the Most Honourable Military Order of the Bath, Captain-General and Governor-in-Chief in and over the Province of Lower Canada, Upper Canada, Nova Scotia, New Brunswick, and their several dependencies, Vice Admiral of and in the same, and Commander of all His Majesty's Forces in the said Provinces, and their dependencies, and in the islands of Newfoundland, Prince Edward, Cape Breton, and Bermuda, &c. &c. &c.

May it please your Excellency,

In obedience to your Excellency's order, signified to us in Mr. Secretary Glegg's letter of the 10th instant, that we do (jointly) report weekly, that is to say, on every Saturday (beginning with Saturday the 12th instant), whether any, and what, progress has been made, in the business of the suit "en bornage" of the seigniorship of "Mille Vaches," directed by the letter of Mr. Secretary Glegg, of the 29th December last, to be instituted on the part of the Crown; we have the honour to report, for your Excellency's information, that a letter was written by the Attorney General, on the 31st day of January last, to Mr. Secretary Glegg, suggesting it to be expedient that the inspector General of the King's Domain and Clerk of the Land Roll should receive orders from your Excellency to make him acquainted with all such titles and documents as might be recorded, or be found in his office, relative to the boundaries of the said seigniorship, and which might be useful in support of such legal measures as might be adopted in execution of your Excellency's directions; of which letter a copy is sent herewith.

We have also the honour to report, that, on the same day, the Attorney General wrote a letter to the Honourable John Stewart, attorney for several of the proprietors of the seigniorship of Mille Vaches, informing him of the instructions he had received to institute an action against them as above-mentioned, and expressing a desire to know whether, upon the institution of such an action, an appearance would be entered for all the proprietors, as well those absent from this district, as those resident elsewhere, or whether the formality of electing curators to the absent proprietors would be rendered necessary and insisted upon, for the valid service of process in the action. Of this letter a copy is also sent herewith.

We have also the honour to report that in answer to the last letter, the Attorney General received from Mr. Stewart a letter dated 5th February instant, in which he intimates the acquiescence of the proprietors of Mille Vaches in the Attorney General's proposal.

All which, nevertheless, is respectfully submitted to your Excellency's wisdom, by

Your Excellency's most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Quebec, 12th February, 1831.

True Copy, J. STUART.

No. 17. (18.)

Letter from J. STUART, Esq. Attorney General, to GEORGE VANFELSON, Esq. Advocate General.

Quebec, 12th February, 1831.

SIR,
I send herewith, a Report to His Excellency the governor in chief, on the subject of the boundaries of Mille Vaches, for your signature, if you concur in it; if not, I have to request

you will write your dissent at the bottom of it; and in either case, have the goodness to return it to me without delay, in order that I may transmit it to His Excellency.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

GEORGE VANFELSON, Esq. His Majesty's Advocate General.

True Copy, J. STUART.

No. 17. (19.)

Letter from Licut. Col. GLEGG, Secretary, &c. to J. STUART, Esq. Attorney General.

Castle of St. Lewis, 12th February, 1831.

SIR,

With reference to your letter of the 11th instant, I have been directed by His Excellency the governor in chief to desire that you will require from the head of any public department in this Province to which you may have occasion to refer, such documents as you may conceive to be necessary for the due prosecution of the contemplated suit en bornage of the seigneurie of Mille Vaches, producing this letter as your authority for such requisition.

I have been further directed to desire that, as the former instructions conveyed to you in my letter of the 29th December last, required the Advocate General to act in conjunction with you, in the prosecution of the contemplated suit, His Excellency desires that the weekly report of progress, required by my letter of the 10th instant, may be a joint report, to be signed by yourself and the Advocate General.

Referring to the concluding part of your letter of the 11th instant, I have been directed to observe, that the governor in chief does not stop to consider, whether there be or be not sufficient legal grounds for the proposed measure. According to His Excellency's view of the subject, Mr. Lampson has right on his side, when he calls upon the King's government, as sub-lessee of the King's Posts, to determine for him the boundary of the seigneurie of Mille Vaches;—and His Excellency would, as he thinks, but ill deserve the confidence of his sovereign, were he to leave any effort untried, whatever might be the prospect of success, where the good faith of His Majesty's government is concerned.

I have the honour to be, Sir,

Your most obedient humble servant,

(Signed) J. B. GLEGG, Secretary.

P. S.—A copy of this letter will be communicated to the Advocate General for his information and guidance.

(Signed) J. B. G.

Honble. J. STUART, Attorney General.

True copy, J. STUART.

No. 17. (20.)

Letter from the Hon. F. W. PRIMROSE, Inspector General of the King's Domain, &c. to J. STUART, Esq. Attorney General.

Quebec, 12th February, 1831.

SIR,

In obedience to the commands of His Excellency Lord Aylmer, to make you acquainted with all such titles and documents as may be recorded, or found, in my office, relative to the boundaries of the seigniory of Mille Vaches, I have the honour to transmit to you herewith:—

1—Copy of the survey of the seigniory of Mille Vaches, made by Martin Boucher the 19th June, 1675.

2—Copy of the ordinance of the Intendant, for changing the tenure of the said seigniory from the Coutume of Vexin le François to that of Paris, and the declaration of

Charles Bazin, in the name of François Aubert de la Chenaie, fils, made before the said Intendant, for the said seignior, and acte of souffrance dated the 25th Sept. 1676.

N. B.—In this acte the seignior is stated to have been surveyed by Boucher on the 19th June, 1675.

3—Copy of an acte of fealty and homage for the said seignior, rendered by Messrs. Dunn and Stuart, 14th June, 1786.

The two former documents are copied from the originals belonging to the representatives of the late Honble. Thomas Dunn.—The last is copied from the original register in my office.

I believe the above to be all that I can furnish you from my office on this subject.

I have the honour to be, Sir,

Your most obedient and faithful servant,

F. W. PRIMROSE,
I. G. D. R. and C. L. R.

Honble J. STUART, Attorney General.

True Copy, J. STUART.

No. 17. (21.)

Letter from J. STUART, Esquire, Attorney General, to Lieut.-Col. GLEGG, Secretary, &c.

Quebec, 14th February, 1831.

SIR,

Adverting to the renewed injunction of His Excellency the Governor-in-Chief, contained in your letter of the 12th instant, by which His Excellency is pleased to desire, that the *weekly* report of progress in the affair of Mille Vaches, required by your letter of the 10th inst. may be a *joint* report, to be signed by myself, and the Advocate General; it would seem to be necessary, to prevent any misconception, that I should respectfully, for His Excellency's information, account for the absence of the signature of the Advocate General, to the report of the 12th instant, bearing my signature only. This report, together with the documents referred to in it, was sent to the Advocate General, accompanied by a letter from me, of which a copy is herewith sent, requesting him, if he concurred in the report, to sign it; if not, to note his dissent at the bottom of it; and, in either case, to return the report to me, that I might transmit it to His Excellency. The report and documents were returned to me, by the Advocate General, with a somewhat singular letter addressed to myself, intimating his dissent from the report, and his refusal to sign it. Under these circumstances, the report was necessarily transmitted by me to His Excellency, with my signature only.

I beg leave to state, that I am unaware of any better course than that above adopted, for satisfying His Excellency's particular desire, to have a joint report; and, with His Excellency's permission, I shall pursue the same course in future, unless I receive His Excellency's orders to the contrary.

I have the honour to be, Sir,

your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Lieut.-Col. GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

No. 17. (22.)

Letter from JAMES STUART, Esquire, His Majesty's Attorney General, to Lieut.-Col. GLEGG, Secretary, &c.

Quebec, 14th February, 1831.

SIR,

I have been honoured with your letter of the 12th inst. transmitting a Petition of the proprietors of the Seignior of Mille Vaches, together with a Procès Verbal of survey of that

Seignior, in which Petition they pray, that the prosecution against them be stopped, or that the expense of it be paid by the Crown, which documents His Excellency has been pleased to refer to me, for my information, and for such observations thereon, as I may judge necessary, to guide His Excellency in any further proceedings in this business.

Upon these commands of His Excellency, I beg leave respectfully to state, for His Excellency's information, that the prosecution (that is the action, for the establishment of boundaries) referred to in this Petition, and which the petitioners pray may be stopped, has not yet been instituted; but, in obedience to His Excellency's order contained in your letter of the 10th inst. my attention has been directed to the immediate institution of the action,—the information to be filed by me has been prepared—and my clerks are now employed in copying it, in order that process may be immediately sued out upon it, returnable in the present Term of His Majesty's Court of King's Bench for the District of Quebec, which will close on Saturday next the 19th inst. From the terms of your letter of the 12th inst. above referred to, however, I am led to doubt, whether it be His Excellency's intention, that I should persist in the immediate execution of his order of the 10th instant, or whether I am to suspend the execution of that order, till after my report on the Petition of the proprietors of "Mille Vaches," and till I may be honoured with the further directions of His Excellency on this subject.

I beg you will do me the favour to take His Excellency's pleasure on this head for my guidance.

I have the honour to be, Sir,

your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Lieut.-Col. GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

No. 17. (23.)

Letter from Lieut.-Col. GLEGG, Secretary, &c. to J. STUART, Esq. Attorney General.

Castle of St. Lewis, Quebec, 19th February, 1830.

SIR,

With the view of preventing all misconceptions on the subject of the latter part of your letter of yesterday's date, I am commanded by His Excellency the Governor-in-Chief, to desire, that the suit *en bornage* of the seignior of Mille Vaches may proceed, without loss of time. I am further directed to add, that, with reference to the petition of the proprietors of Mille Vaches, and the mode of defraying the expenses connected therewith, His Lordship is of opinion that it is a point for future consideration.

I have the honour to be, Sir,

your most obedient, humble servant,

(Signed) J. B. GLEGG, Secretary.

Honble. J. STUART, Attorney General.

True Copy, J. STUART.

No. 17. (24a.)

To His Excellency the Right Honorable Matthew Lord Aylmer, Knight Commander of the Most Honorable Military Order of the Bath, Captain-General and Governor-in-Chief in and over the Provinces of Lower Canada, Upper Canada, Nova Scotia, New Brunswick, and their several dependencies, Vice Admiral of and in the same and Commander of all His Majesty's Forces in the said Provinces, and their dependencies, and in the Islands of Newfoundland, Prince Edward, Cape Breton, and Bermuda, &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

In obedience to your Excellency's order, signified to us in Mr. Secretary Glegg's letter of the 10th inst., requiring that we do (*jointly*) report *weekly*, that is to say, on every Saturday (beginning with Saturday the 12th inst.) whether any and what progress has been made in the business of the suit *en bornage* of the Seignior of Mille Vaches, directed by the letter of Mr. Secretary Glegg, of the 29th December last, to be instituted on the part of the

Crown;—We have the honour to report for your Excellency's information, that the letter of Mr. Secretary Glegg of the 15th instant, in answer to that of the Attorney General of the 14th inst. by which, notwithstanding, the Petition of the proprietors of Mille Vaches, referred to in these letters, your Excellency was pleased to desire, that the said suit *en boynage* should proceed, without loss of time, did not reach the Attorney General till after four o'clock in the afternoon of the 15th inst., at which period, it was not practicable, consistently with the rules of practice of the Court, in which the suit was to be instituted, to cause process to be sued out and served in time to be made returnable in the present term, which ends to-day.—Process was, therefore, sued out by the Attorney General the next day, that is the 16th day of February instant, returnable on the 2d day of April next, being the earliest day on which it could be made returnable; till which period no further progress in the suit in question can be made; and we presume, therefore, that it is consistent with the *spirit*, if not the *letter* of your Excellency's order of the 10th inst., that we do abstain from making any further reports to your Excellency, till after the process has been returned into Court; and, on this presumption, we shall take the liberty of acting, unless we receive your Excellency's orders to the contrary.

All which, nevertheless, is respectfully submitted to your Excellency's wisdom, by

Your Excellency's most obedient,

humble servants,

(Signed) J. STUART,
Attorney General.

Quebec, Saturday, 19th Feb. 1831.

Lieut. Col. GLEGG, Secretary, &c. &c.

True Copy, J. STUART.

No. 17. (24.)

Letter from JAMES STUART, Esq., Attorney General, to Lieut. Col. GLEGG, Secretary, &c.

Quebec, 15th February, 1831.

SIR,

Upon the subject of your letter of the 12th instant, transmitting to me a petition of the proprietors of the Seigniory of Mille Vaches, together with a copy of a *procès verbal* of that Seigniory, in which Petition they pray that the prosecution against them may be stopped, or that the expense of it be paid by the Crown; I beg leave respectfully to state, for the information of His Excellency the Governor-in-Chief, that I have, in obedience to His Excellency's commands, perused the Petition and the *procès verbal* above referred to, by which a case *prima facie* is made out in favour of the Petitioners; but it is impossible for me to report any absolute opinion on the alleged rights of the Petitioners, without further information on the point in dispute. This information, it has been impossible for me to obtain, in the short interval which has elapsed since the reference of the said Petition to me, and with the multitude of avocations which press on me at this moment. But, on my return from Montreal, to which place I am now going on public duty, I shall not omit to institute such inquiries as may put me in possession of the information that may be necessary to enable me to report for His Excellency's consideration, my humble opinion on the merits of the application of the proprietors of Mille Vaches, contained in their said Petition.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) J. STUART,
Attorney General.

Lieut. Col. GLEGG, Secretary, &c.

True Copy, J. STUART.

No. 18.

Copy of a Petition of Mr. WILLIAM LAMPSON, to His Excellency the Administrator of the Government.

To His Excellency Matthew Lord Aylmer, Knight Commander of the Most Honourable Military Order of the Bath, Lieutenant General and Commander of His Majesty's Forces in the Province of Lower Canada and Upper Canada, Nova Scotia, New Brunswick, and their several Dependencies, and Administrator of the Government of the said Province of Lower Canada, &c. &c. &c.

The humble Petition of William Lampson, Esquire, of the City of Quebec, Merchant, respectfully sheweth,

MAY IT PLEASE YOUR EXCELLENCY,

That from the first day of April, one thousand eight hundred and twenty-eight, your Petitioner has been the sub-lessee of His Majesty's domain lands, known by the name of the King's Posts, and as such acknowledged by His Majesty's Government, to whom your Petitioner has paid semi-annually the rent stipulated by the lease, entered into by the late Governor-in-Chief, for and on behalf of His Majesty, with the late John Goudie, Esquire, a copy of which lease is herewith submitted.

That from the commencement of this lease, and ever since your Petitioner has held the same, he has, on many occasions, and by various means, been interrupted in the quiet enjoyment, and peaceable possession of the said domain lands, to which is attached the exclusive right of trading with the Indians. That the evil arising from such interruption, is so detrimental to the King's Posts, and injurious to your Petitioner, as sub-lessee thereof, that he can no longer forbear bringing the matter under the consideration of His Majesty's Government; your Petitioner indulging a hope, that the Crown, whose interest is closely connected with that of the lessee of the King's Posts, will support and protect him in the exclusive trade with the Indians, according to his lease. To enable your Excellency the more easily to understand the case, your Petitioner begs leave most respectfully to lay before your Excellency, a short sketch or account of the King's domain lands, as a post of exclusive trade, from the very first establishment.

The first point submitted by your Petitioner, to the consideration of your Excellency, is the absolute and immediate necessity of causing a survey of the Seigniory of Mille Vaches, to be had. This Seigniory was granted in the year 1653, to an individual of the name of Giffard, as appears by a certified copy of the grant, herewith submitted. The grant is of the extent of three leagues in front, on the River St. Lawrence, and four leagues in depth, below Tadousac, and the great and little Bergeronnes at the place called Mille Vaches (a Bay of that name within the King's Posts); on reference to the grant, it will be seen that it is the usual and ordinary grant made in the Colony, before the conquest, for the purpose of agricultural settlement. This tract of land, however, was never settled but left in a state of nature, and having never been surveyed by order of Government, nor with its assent, and no boundaries set, to divide it from the domain lands, the proprietors of Mille Vaches and their lessees have, from time to time, as it suited their convenience, encroached upon the domain lands, and have not only extended the front of that Seigniory to nearly five leagues, but have even gone the length of changing the scite or front of Mille Vaches, so as to take in a river called Portneuf (an inlet into the interior); on the bank of this river, they have established a trading post, where they systematically carry on a traffic with the Indians of the King's Posts, injurious to the rights of the Crown, and to the prejudice of your Petitioner, who holds that exclusive right of trade by his lease.

That, owing to the want of metes and bounds between Mille Vaches, and the domain lands, your Petitioners, agents, and servants, and those of the lessees of Mille Vaches, residing at Portneuf, have had frequent disputes and altercations on the subject of the limits of Mille Vaches, which have ever led to breaches of the peace, and this circumstance alone makes it important to all concerned, that the lines should be drawn and boundaries set, to prevent similar occurrences in future, in a place so remote. That no Justice of the Peace or other Peace Officer can be resorted to (next to the questions of Bornage); your Petitioner presumes to call your Excellency's attention to another matter also of importance, for the legal exercise of the rights of the lessee of the King's Posts. Previous to the lease granted by the late Governor-in-Chief to J. Goudie in 1822, such leases were made and granted by Letters Patent under the Great Seal, as your Petitioner is advised, ought to have been done in the present instance. However, for some reason for which your Petitioner cannot account, the lease executed in favour of the late John Goudie, instead of being by Letters Patent under the Great Seal, is a simple Notarial Act, which although sufficient of itself to pledge the faith and honour of His Majesty's Government, is not in law a document of such authenticity or validity

as would ensure success to your Petitioner, were he to institute legal proceedings against these persons who might molest him or intrude on his rights as the lessee of the Crown.

It is, therefore, a matter of moment to him, that Letters Patent should without delay issue under the Great Seal, for the rest and residue of the term of his lease, on the same conditions as those stipulated in the lease recorded by the King's Notary, and to this subject your Petitioner most respectfully solicits your Excellency's immediate orders and directions.

That at the same time, your Petitioner brings under the consideration of your Excellency's notice, the necessity of ordering Letters Patent to issue as above, he also takes the liberty of praying that a proclamation in the usual and ordinary form, may issue, strictly enjoining and forbidding all persons (those authorised by the lessee of the King's Posts only excepted,) from trading with the Indians of the King's Posts; such a proclamation issued by the late Governor-in-Chief, in March, 1823, and another by the Administrator of the Government of the Province in August, 1815.

From the disturbances that have lately taken place, within the King's domain lands, between the servants of the lessee, and the people of Portneuf, and others who have at various times made incursions into the interior, this proclamation would be calculated to afford your Petitioner that support from the Crown which he has a right to expect, and prevent a recurrence of excesses which have taken place.

That the subject which your Petitioner craves lastly to bring under the notice of your Excellency is one of vast importance to the just rights of the Crown, and worthy of the most serious consideration. An action has lately been instituted by the Hudson's Bay Company, as lessees of Mille Vaches, by the ministry of the Attorney-General, against your Petitioner and his servants, for supposed trespasses near the river Portneuf (the site in dispute), to which both the Hudson's Bay Company and your Petitioner, as lessee of the King's Posts, lay claim; a copy of the writ and declaration served on your Petitioner is herewith submitted, and your Petitioner, at the same time, prays most humbly for the interference of the Crown, to afford him the necessary assistance to defend the said action.

The result of this action must be of the utmost importance to the Crown in this particular, that an extensive tract of valuable land will be wrested from the Crown without title, should the lessees of Mille Vaches, countenanced by the Attorney-General, succeed in the said action.

Again, if they retain possession of the river Portneuf, and the post establishment on the bank of that river, there is an end to the exclusive trade with the Indians of the King's Posts, the river Portneuf being an inlet into the interior, through which all the Indians of the King's domain can be enticed away from the lessee, without any possibility of preventing the evil, the country round being a complete wilderness, over which it is impossible at all times to watch; under these circumstances the large sum received by His Majesty's Government annually, and the advances and comforts to the Indians, for whom the lessee of the King's Posts is bound to provide, can no longer be expected.

That your Petitioner, in laying his claims before your Excellency for mature consideration, cannot pass over in silence, but must be permitted to express his regret, that the leading Crown Officer (the Attorney-General) should be found zealously engaged in advocating an interest so adverse to the true interests of the Crown, as that set up by the owners of Mille Vaches, and their lessees, and that your Excellency will therefore give mature consideration, to whom this Petition is to be referred, to afford such relief and impartial justice, as your Petitioner is so justly entitled to.

Wherefore your Petitioner humbly prays that your Excellency will be pleased to take the premises in your immediate and most serious consideration, and thereupon grant your Petitioner the relief prayed for.

And as in duty bound your Petitioner will ever pray.

(Signed) WM. LAMPSON.

Quebec, 21st December, 1830.

True Copy, J. B. GLEGG, Secretary.

No. 19.

Copy of a Petition of Mr. WILLIAM LAMPSON, to the House of Assembly of Lower Canada.

To the Honourable Knights, Citizens and Burgesses of Lower Canada, in Provincial Parliament assembled.

WILLIAM LAMPSON, of Quebec, Esquire, Merchant, by this his Petition,

Most humbly represents,

That your Petitioner is lessee of that part of the domain lands of the Crown, called the King's Posts, and of the exclusive trade with the Indians thereof, under a lease from the Crown.

That in consideration of the said lease, your Petitioner pays an annual rent of 1,200*l.* and that upon the faith of the promises therein contained, your Petitioner has invested a capital of about 40,000*l.* in that branch of commerce.

That of late years, a rich and powerful association, under the name of the Merchants Adventurers of England, trading to Hudson's Bay, have for the avowed purpose of trading in Pelletries, secured the lease of a small strip of land called Mille Vaches, of three leagues in front on the River St. Lawrence, by four in depth, conceded en Fief and Seigneurie by His Most Christian Majesty, in the year 1653.

That this Fief and Seigneurie is bounded on all sides, except the front, by the said King's Posts.

That the said Fief and Seigneurie was so granted, for the purpose, not of trade, but of settlement only, and that there is not a single settler on the said Fief and Seigneurie nor any habitation.

That the said Fief and Seigneurie is generally understood and believed not to contain animals of the chase, and that even if it did, furs, the *bonâ fide* produce of so small a space of ground, could not, considering the outlays and expenses of the said Company, become any source of profit.

Yet that your Petitioner is informed the said Hudson's Bay Company have consented to pay a rent of about 300*l.* for the lease of the said Fief and Seigneurie, in as much as they have thus obtained the means of trespassing upon the limits of the King's Posts, and of trading with the Indians, although the tenure upon which the said Seigneurie was granted confers no right so to do, and that the proprietors and inhabitants thereof, if any there were, are excluded therefrom, in common with all the King's subjects.

That the said Hudson's Bay Company, relying on the incapacity of any single individual to cope with them, and with the intention of ruining your Petitioner, in order to engross the whole trade, have openly violated the rights and privileges of your Petitioner, guaranteed to your Petitioner by the said lease, and have seduced and demoralized the Indians, by the distribution (among other means), of immoderate quantities of strong liquors; and that the said Hudson's Bay Company have possessed themselves of furs, the *bonâ fide* property of your Petitioner, to an immense amount. That they have also committed actual violence on the agents and servants of your Petitioner, and threatened to take their lives.

That, with the view of occupying the river Portneuf, as being calculated to facilitate their incursions into the interior of the King's Posts, the said Hudson's Bay Company have exceeded the limits of the said Fief and Seigneurie, and have unlawfully appropriated to themselves a large and valuable tract of land, the property of the Crown, to which tract your Petitioner, under his said lease, is justly entitled.

That it is of incalculable importance to your Petitioner, that he should enjoy the said tract, and that the said Hudson's Bay Company should be ejected, your Petitioner having found his profits diminished one-half, by the means of injuring him, which the occupation of the said tract and river have afforded the said Hudson's Bay Company.

That it is the right of the Crown, as well as the interest of your Petitioner, to resume the said tract of land, and a right which your Petitioner humbly submits the Crown is bound to exercise, and which it is the duty of the Attorney General to assert by supporting the lessee of the Crown.

That as a consequence of the aggressions of the agents and servants of the Hudson's Bay

Company, collisions have taken place between the servants of your Petitioner and those of the Hudson's Bay Company, which have led to several prosecutions, as well on the criminal as on the civil side of the Court of King's Bench for the district of Quebec, in which your Petitioner is interested.

That, under an impartial administration of justice, it would not be difficult to prove that these breaches of the peace and other injuries were committed and excited by the arts and for the benefit of the said Hudson's Bay Company, and by the instrumentality of their agents and servants.

That your Petitioner, having set forth the premises to enable your Honourable House fully to comprehend the causes which have led to this Petition, presumes to inform your Honourable House, that the private Counsel and Attorney of the said Hudson's Bay Company is the honourable James Stuart, His Majesty's Attorney General for this Province, and an Executive Councillor.

That, in an action of Revendication brought by your Petitioner in the Court of King's Bench under the No. 1212, against a partner and an agent of the said Company, who took and converted to their own use a lot of furs of the value of 1500*l.* belonging to your Petitioner, the said James Stuart has appeared as the private Attorney for the Defendants.

That in another action "en réintégrand" under the No. 642, brought before the said Court by the said Hudson's Bay Company against your Petitioner, the said Attorney General appears as Attorney for the said Hudson's Bay Company, the Plaintiffs, and that inasmuch as the said action "en réintégrand" relates to the above-named valuable tract of land belonging to the Crown, the said Attorney General has there lent his ministry to persons whose interests were and are adverse to the King's Government.

That, actuated by a natural bias in favour of his clients, the said Attorney General has perverted the administration of justice, by preferring numerous frivolous indictments against the agents and servants of your Petitioner, by repeatedly causing them to be hurried away in custody from the several places at which they were stationed, and by lending himself to facilitate the escape of his clients (the aggressors) when complaints were preferred against them, on which he, as Attorney General, ought to have prosecuted them criminally with effect.

That the said Attorney General has even gone the length of appearing for the Defendants, a partner and two agents of the Hudson's Bay Company, in three several cases in which our Sovereign Lord the King is Plaintiff, wherein the said partner and two agents or servants had been condemned to pay three several fines for distributing liquors to Indians, and that he so appeared, knowing that the Crown was interested in recovering a moiety of the said several penalties which the said several parties were condemned to pay.

That the Attorney General has abused his power as Attorney General to favour the said Hudson's Bay Company his clients, the commercial rivals of your Petitioner, to the great damage of your Petitioner, and has deprived your Petitioner of that support from the Crown which your Petitioner had a right to expect, and that the Attorney General has acted in direct opposition to the interests of Government.

That your Petitioner, having found it necessary to apply for relief on certain subjects growing out of the contests between your Petitioner and the said Hudson's Bay Company, to his Excellency the Governor in Chief, your Petitioner has found his Excellency disposed to do him justice to the full extent of his Excellency's power, a disposition of which your Petitioner has had frequent experience, and in which he feels the most unbounded confidence.

But that the matters submitted to his Excellency were of a nature requiring the advice and interference of the Law Officers of the Crown, and that your Petitioner has been deprived of the benefit which he must have derived from the unbiassed opinion and authority of His Majesty's Attorney General, from the circumstances above related.

That your Petitioner has the more reason to complain of the position in which the said Attorney General has placed himself with respect to the Crown, in so much as of the honourable Members of the Executive Council (the constitutional advisers of his Excellency), one is a partner of the said Hudson's Bay Company, and another the agent of the Proprietors of Mille Vaches.

Wherefore your Petitioner complains of the conduct of the said Attorney General, and prays that it may please this Honourable House to grant to your Petitioner the benefit of an investigation, that justice may be done in the premises, as the wisdom of this Honourable House may prescribe.

And your Petitioner as in duty bound will ever pray.

(Signed) WM. LAMPSON.

No. 20.

Letter from JAMES STUART, Esquire, Attorney General, to LIEUT.-COLONEL GLEGG, Secretary, &c.

Quebec, 18th April, 1831.

SIR,

In the course of a cursory perusal of Newspapers published in this Province, I have observed that, among the reported proceedings of the House of Assembly, is the adoption by that House, on the 23d March last, of certain resolutions criminating me, for alleged misconduct as Attorney General, in relation to certain disputes between the Hudson's Bay Company and William Lampson, lessee of the King's Posts. I have also observed, that it is therein stated, that a copy of these resolutions, by order of the House, was to be presented to His Excellency the Governor-in-Chief, with a request that he would be pleased to transmit the same to be laid at the foot of the throne.

Not having received from His Excellency the Governor-in-chief any information, or intimation, that any such criminatory resolutions had been laid before His Excellency, or that any Address had been presented to His Excellency, to transmit any such resolutions to His Majesty's Secretary of State, or any communication whatever from His Excellency, in relation to any such Resolutions, I am led to suppose, that the statements now referred to, in the newspapers, must necessarily be erroneous.

That I may be relieved from all uncertainty on this head, I request you will submit to His Excellency my respectful application to be informed, whether any Resolutions, of the nature of those above mentioned, have been laid before His Excellency; and, if they have, that I may be made acquainted with the nature of them, as well as with the proceedings which have been had on them, in so far as the authority of His Excellency may have been referred to, or interposed.

I have the honour to be, sir,

Your most obedient, humble servant,

J. STUART,
Attorney-General.

Lieutenant-Colonel GLEGG, Secretary, &c. &c.

No. 21.

Letter from Lieut.-Col. GLEGG, Secretary, &c. to J. STUART, Esq. Attorney-General.

Quebec, 19th April, 1831.

SIR,

Having submitted your letter of the 18th inst. to His Excellency the Governor-in-Chief, I am commanded to transmit you a copy of the Resolutions of the House of Assembly, dated the 28th March, with His Excellency's answer thereto, dated the day following.

I have also received directions to inclose you a copy of His Excellency's Message to the House of Assembly, dated the twenty-eighth March, in which you will see that His Excellency relies on the justice of that House, to furnish you with copies of the various Documents upon which the Charges against you are founded.

Having by direction of his Excellency made application to the Clerk of the House of Assembly for copies of the documents in relation to certain disputes between the Hudson's Bay Company and Wm. Lampson, lessee of the King's Posts, I have been informed, that they are now printing, and will be transmitted to you, the moment they are ready, which, it is hoped, will take place in about ten days.

I have the honour to be, Sir,

Your most humble, obedient servant,

(Signed) J. B. GLEGG, Secretary.

Honourable the Attorney General.

True Copy, J. STUART.

No. 22.

Copy of the Resolutions of the Assembly of Lower Canada of the 28th March, 1831, and of the Answer of his Excellency the Governor in Chief, referred to in the foregoing Letter.

House of Assembly, Monday, 28th March, 1831.

Resolved—That the Attorney General of this Province is, both by law and custom, the officer who is specially charged with the duty of maintaining the rights of the Crown, as well as those of the public, as the present Attorney General, James Stuart, Esquire, expresses himself in his letter addressed to the Civil Secretary, and dated on the 24th day of December, 1830.

Resolved—That the Attorney General of this Province ought not to practise as a private Attorney, in any case where he might be placed in opposition to the interest of the Crown and of the public, who are exclusively entitled to his services.

Resolved—That the said James Stuart, Esquire, Attorney General as aforesaid, did, in the matters relating to the complaints made by the Petitioner William Lampson, become Counsel and Attorney for the partners, servants, or agents of the Hudson's Bay Company.

Resolved—That by thus becoming Counsel and Attorney for the above-mentioned individuals, the said James Stuart, Esquire, placed himself in opposition to the interests of the lessee of the Crown, and by a necessary consequence also in opposition to the interests of the Crown itself.

Resolved—That the conduct of the said James Stuart, Esquire, on the occasion of the disputes pending between the Hudson's Bay Company, and the lessee of the Crown for the King's Posts, has been exceedingly unjust, vexatious, and equally injurious to the rights and interests of the Crown and those of its lessee, in the enjoyment of the Posts known by the name of the King's Posts.

Resolved—That the House perceive, in this conduct of the said James Stuart, a new motive to solicit His Majesty's Government to dismiss him from his situation of Attorney General of this Province.

Resolved—That a copy of the said resolutions be presented to His Excellency the Governor-in-Chief, as well as a copy of the report and evidence upon which the said resolutions are founded, with a request that he will be pleased to transmit the same to be laid at the foot of the throne.

ANSWER.

GENTLEMEN,

Upon receiving the documents adverted to in this address, the same shall be transmitted by me to the Secretary of State for the Colonial Department, for the purpose of being laid at the foot of the throne, in compliance with the desire of the House of Assembly.

(Signed) AYLMER, Governor-in-Chief.

Castle of St. Lewis, Quebec, 29th March, 1831.

True Copy. (Signed) J. B. GLEGG, Secretary.

No. 23.

Letter from B. C. A. GUGY, Esquire, to JAMES STUART, Esquire, His Majesty's Attorney-General.

Quebec, 30th Aug. 1830.

SIR,

I am retained to defend the agents and servants of the lessees of the King's Posts, who are accused of certain trespasses upon the persons and property of the agents of the Hudson's Bay Company; and I therefore hope it will not prove offensive to you, that I should inquire whether or not it be your intention to try those cases the next ensuing

Q

Term.—I beg you will have the goodness to make me acquainted with your determination, as not only the accused, but their witnesses and others interested, would govern themselves accordingly, and thus abide by the result with the least possible expense and vexation.

I have the honour to be, Sir,

Your most obedient servant,

(Signed) A. GLEGG.

Honourable the Attorney General.

True Copy, J. STUART.

No. 24.

Affidavit of ANTHONY VON IFFLAND, Esquire, Doctor of Physic, residing at Sorel, in Lower Canada.

PROVINCE OF LOWER CANADA.

DISTRICT OF } To wit:
QUEBEC. }

ANTHONY VON IFFLAND, of the Borough of William Henry, in the Province of Lower Canada, Esquire, Doctor of Physic, maketh oath, that he has known upwards of eight years, one Pierre Louis Deligalle, of the said Borough, being the same person who was examined as a witness before a Committee of Grievances of the House of Assembly of Lower Canada, on the first day of March now last past.—And the Deponent further saith, that the said Pierre Louis Deligalle has been, for a considerable time, and continues to be, a confirmed drunkard, in indigent circumstances, and of bad character, to whose statements, even on oath, the Deponent would not give credit. And further the Deponent saith not.

(Signed) A. VON IFFLAND, M. D.

*Sworn at the City of Quebec, this 2d day
of May, 1831, before me,
(Signed) J. KERR, J. B. R., Quebec.*

True Copy, J. STUART.

No. 25.

Affidavit of ROBERT JONES, Esquire.

PROVINCE OF LOWER CANADA.

DISTRICT OF }
MONTREAL. }

ROBERT JONES, of the borough of William Henry, in the said district, Esquire, Lieutenant-Colonel in the Militia in the said Province, commanding the third battalion of the Richelieu Militia, and one of His Majesty's Justices of the Peace for the said district, maketh oath and saith, that he hath resided for upwards of fifty years in the said Borough. That he is well acquainted with the character of one Pierre Louis Deligalle, Bailiff, who resides at William Henry aforesaid.—That he has known the said Pierre Louis Deligalle for these six or seven years:—that his general character has been such, and is so worthless, that he, this Deponent, would not believe any statement or assertion made by him, although it were under the obligation of an oath.

(Signed) R. JONES.

*Sworn before me at Montreal, in the said District,
this 3rd day of August, 1831.*

(Signed) JOS. SHUTER, J. P.

True Copy, J. STUART.

No. 26.

Copy of an Account of PIERRE LOUIS DELIGALLE against JAMES STUART, Esq., for having apprehended, under a Warrant of a Justice of the Peace, certain Voters at the Election held at Sorel in July, 1827, on a charge of Perjury.

JAMES STUART, Esq.,
Etorney General for the Province,

Dr. to PETER LS DELLIGALL, H. B. R.

	£	s.	d.
July 28, 1827, For apprehending the body of Nicolas Buckner, in vertue of a Warrant signed by A. Von Iffland, Esq.	0	5	0
Record Denis Capplet	0	2	6
For apprehending the body of R. St. Michel	0	5	0
Record Denis Capplet	0	2	6
Aug. 6, 1827, For apprehending the body of Antoine Paulet Hus dit Counoyer	0	5	0
Record Denis Capl	0	2	6
	1	2	6

Received payment,

P. L. DELLIGALL, H. B. R.

Willim Henry, 8th August, 1827.

True Copy, J. STUART.

No. 27.

Copy of an Account of PETER TRIGANNE against JAMES STUART, Esq. for having apprehended, under a Warrant of a Justice of the Peace, certain Voters at the Election held at Sorel in July, 1827, on a charge of Perjury.

JAMES STUART, Esq.,
His Majesty's Attorney General for the Province of Lower Canada,

Dr. to PETER TRIGANNE, H. B. R.

	£	s.	d.
July 27, 1827, To service and apprehending, by virtue of a Warrant issued by A. V. Iffland, Esq. one of His Majesty's Justices of the Peace for the District of Montreal, the body of Louis Allard	0	10	0
To Record	0	5	0
Distance one league	0	2	0
July 28, 1827, To apprehending the body of M. Neveu in virtue of a Warrant issued by A. V. Iffland, Esq., J. P.	0	10	0
To Record	0	5	0
Distance six leagues, at 2s. per league	0	12	0
To carriage to convey the said M. Neveu	0	6	0
Aug. 3, 1827, To apprehending the body of Antoine Ausant, in virtue of a Warrant issued by A. V. Iffland, Esq., J. P.	0	10	0
To Record	0	5	0
Distance one league	0	2	0
Aug. 4, 1827, To apprehending the body of Jean Baptiste Cantara, in virtue of a Warrant issued by A. V. Iffland, J. P.	0	10	0
To Record	0	5	0
Distance one league	0	2	0
Aug. 7, 1827, To apprehending the body of Joseph Claprood, in virtue of a Warrant issued by A. V. Iffland, Esq., J. P.	0	10	0
To Record	0	5	0
Distance one league	0	2	0
	5	1	0

I hereby certify that Pierre Triganne has served the above-mentioned Warrants, and that I believe the charges are according to the tarif of bailiffs submitted to me.

(Signed) A. V. IFFLAND, J. P.

(Signé) Reçu le Montant du present compte,
PIERRE TRIGANNE, H.

True Copy, J. STUART.

No. 28.

Letter from ROBERT W. HAY, Esquire, Under Secretary of State, to JAMES STUART, Esq.

Downing-street, 26th August, 1831.

SIR,

I have received the directions of Lord Goderich to transmit to you the inclosed copy of an Extract of a Letter addressed by Mr. Viger to myself, and to request that you will, at your earliest convenience, enable me to reply to the question proposed by Mr. Viger.

I have the honour to be, Sir,

Your most obedient, humble servant,

(Signed) R. W. HAY.

J. STUART, Esquire.

No. 29.

Extract of a Letter from MR. VIGER to ROBERT W. HAY, Esquire, Under Secretary of State, dated 23d August, 1831, referred to in the preceding Letter.

“ J’ai donné à l’examen de ces papiers autant d’attention que ce court espace de tems me l’a permis ; je n’y vois d’observations que relativement aux second et troisième rapports de l’Assemblée, et rien du tout quant au premier. Je vous prierais de vouloir bien m’informer si j’en dois conclure que Mr. Stuart ne se croit pas dans la nécessité de répondre à cet article des plaintes de l’Assemblée contre lui. Si au contraire, on avoit omis, par hazard, d’inclure les observations relativement à cet objet dans la liasse des papiers que j’ai reçus hier, je vous prierais de me les faire parvenir, à fin que je puisse traiter ces différens sujets dans l’ordre dans lequel ils ont été présentés, et doivent naturellement être discutés.”

No. 30.

Letter from JAMES STUART, Esquire, to ROBERT W. HAY, Esquire, Under Secretary of State.

London, 8, Dover-street, 27th Aug. 1831.

SIR,

I have been honoured with your Letter of the 26th instant, transmitting an Extract of a Letter from Mr. Viger, relating to the papers which I have lately had the honour to submit to His Majesty’s government, on the subject of an Address of the Assembly, for my dismissal from office.

To obviate some misapprehension which appears to exist in Mr. Viger’s mind, in relation to this matter, it seems to be proper, that I should explain to what papers Mr. Viger’s attention is now exclusively called. By the Address of the Assembly, they have prayed that His Majesty would inflict on me the punishment of dismissal from office, for certain alledged offences, of which they have adjudged me to be guilty ; and Mr. Viger has been deputed by the Assembly to sustain this Address. On my part, I have had the honour to represent, by my humble Petition to His Majesty, and the Memoir in support of it, that I have been thus convicted and condemned by the Assembly, on *ex parte* proceedings, without defence or hearing, or an opportunity for either, and that I am wholly guiltless of the offences imputed to me by the Assembly :—On these grounds I pray that, before punishment is inflicted, I may be let in to prove my innocence. In substance, therefore, my Petition and Memoir are to be considered as an answer to the charges and address of the Assembly ; and Mr. Viger, I presume, it is now expected, will furnish such reply as he may deem necessary, to sustain these charges and address. This, and this only, is the subject to which Mr. Viger’s attention is now called.

In the extract you have done me the honour to transmit, Mr. Viger remarks, that my “ observations,” by which he means, I presume, my Petition and Memoir, apply to the

second and third Reports only, and that nothing is said of the first.—The charges and address of the Assembly were founded solely on what is called the second Report of the Committee of Grievances; and my Petition and Memoir, therefore, have relation to this only, and do not touch at all on the other two Reports. It has been my intention, in justification of myself to His Majesty's Government, to give a satisfactory answer, in detail, to each and every statement and allegation, affecting my official conduct or character, which is to be found in the first and third Reports; and I am now employed in preparing this answer, which I purpose to submit, in the form of a letter, to be addressed to His Majesty's Secretary of State for the Colonies. But I did not conceive I could, without impropriety, notice the subject matter of either of these Reports in my Petition and Memoir; which, from considerations of fitness and propriety, are necessarily restricted to the Address of the Assembly, and the charges therein specified. Mr. Viger seems to confound the Reports of a Committee with charges preferred by the Assembly, and adverts to both under the denomination of "*Plaintes de l'Assemblée.*"—They are, I apprehend, very different in their nature; and it is one of the singularities in the proceedings adopted against me, that I am called upon to defend myself against "*Charges,*" and also against Reports of a Committee of the Assembly. These Reports, in the opinion of the House of Assembly, either contained sufficient grounds for imputing to me official misconduct, or they did not; if they did, charges founded on them ought, I apprehend, to have been exhibited against me, to be embodied with the other charges which have been preferred: if they did not, the statements they contain injurious to my character, it appears to me, ought not to have been brought under the consideration of His Majesty's Government at all, or put into public circulation to my prejudice. But I am not come hither, I beg leave to mention, to oppose objections of form to the investigation of any complaint against me, in whatever manner and by whomsoever it may be made. I have, within the colony, for some time past, been most unjustly assailed by unfounded imputations, and misrepresentations of my conduct, without having it in my power to refute them there.—This opportunity I am happy is now afforded to me here; and I shall most gladly avail myself of it, not only to answer whatever imputations are to be found in the two Reports referred to by Mr. Viger, but also any and every complaint, or imputation, which he may think proper, if so instructed, to add to them.—In the mean time, and in order to avoid unnecessary delay, which is personally injurious to me, I hope Mr. Viger will find it convenient, within a short time, to furnish his reply on the only subject to which his attention is at present called, viz. my answer to the charges and address of the Assembly.

I have the honour to be, Sir,

Your most obedient, humble servant,

J. STUART.

ROBERT W. HAY, Esquire,
Under Secretary of State, &c. &c. &c.

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