

BEFORE HIS MAJESTY IN COUNCIL.

ON APPEAL FROM PRINCE EDWARD ISLAND,

BETWEEN

EDMUND WATERS, Appellant,

AND

JOHN YOUNG and WILLIAM YOUNG, . Respondents.

CASE OF THE RESPONDENTS.

THE appellant was, at the time when the transactions in question in this cause occurred, and for several years before had been, a merchant in London, carrying on trade in copartnership with one Alexander Birnie, under the firm of Alexander Birnie and Co.; and he also carried on trade in Charlotte Town, Prince Edward Island, in North America, in copartnership with the said Alexander Birnie, under the firm of Waters and Birnie. The trade of the firm in Prince Edward Island, for several years immediately preceding the year 1813, was carried on by Mr. George Birnie, son of the said Alexander Birnie, and now carrying on business in London together with him, in copartnership. The said George Birnie, during his residence in Prince Edward Island, transacted business as the general agent of Messrs. Waters and Birnie to a great extent, in buying and selling, drawing bills, contracting debts, consigning British and other goods for sale to Quebec and Halifax and other distant markets, and settling accounts in all respects as merchants are used to do in the said island.

In the year 1813, Mr. William Pleave came out from London to Prince Edward Island to succeed Mr. George Birnie (on his return to England) as the agent of Messrs. Waters and Birnie. He was furnished with a power of attorney from Messrs. Waters and Birnie, and also a separate power of attorney from the said appellant Edmund Waters; and from that time until the year 1816, he conducted the affairs of the said Messrs. Waters and Birnie in the island in the same way as the said George Birnie had done before. The said William Pleave, during the period of his agency, imported from Halifax property to the amount of 6000*l.* and upwards upon the account of the said Messrs. Waters and Birnie, and his conduct in so doing was fully sanctioned by the said Messrs. Waters and Birnie, as appears from the communications with Mr. Fade Goff, their agent, hereinafter mentioned.

The appellant and also the said Messrs. Waters and Birnie afterwards, in the year 1816, determined on appointing Mr. Fade Goff of Charlotte Town, Prince Edward Island, to succeed Mr. Pleave in the management of the business in the Island, and accordingly they executed a power of attorney to the said Fade Goff; and the said appellant Edmund Waters executed a separate power of attorney to the said Fade Goff, and they transmitted the same, together with a letter, of which the following is an extract, to the said Fade Goff.

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