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P A P E R S

RELATIVE TO THE

RE-ANNEXATION

OF THE

ISLAND OF CAPE BRETON

TO THE

Government of Nova Scotia.

*Ordered, by The House of Commons, to be Printed,
3 June 1823.*

P A P E R S

RELATIVE TO THE

RE-ANNEXATION

OF THE

ISLAND OF CAPE BRETON

TO THE

Government of Nova Scotia.

Ordered, by The House of Commons, to be Printed;
3 June 1823.

RETURN TO AN ADDRESS OF THE HONOURABLE HOUSE OF
COMMONS TO HIS MAJESTY;—*for*,

Copies and Extracts of certain Papers relative to the re-annexation of the Island
of Cape Breton to the Government of Nova Scotia;—*viz.*

- N^o 1.—Copy of the King's Proclamation of the 7th October 1763; respecting the Colonies
acquired by the definitive Treaty of Peace, concluded at Paris the 10th February
1763 - - - - - p. 3.
- N^o 2.—Extracts of Governor Parr's Commission, dated 11th September 1784 - - - p. 6.
- N^o 3.—Extract of Governor Parr's Instructions, dated 11th September 1784 - - - p. 7.
- N^o 4.—Copy of additional Instructions to Governor Parr, dated 20th Sept. 1784 - - - p. 8.
- N^o 5.—Extract of the Commission of his Grace the Duke of Richmond, K. G. as
Governor of Nova Scotia - - - - - *ibid.*
- N^o 6.—Extract of the Instructions of his Grace the Duke of Richmond, K. G. as
Governor of Nova Scotia - - - - - p. 9.
- N^o 7.—Extracts of the Commission of the Earl of Dalhousie, as Governor of Nova
Scotia - - - - - *ibid.*
- N^o 8.—Extract of the Instructions to the Earl of Dalhousie, as Governor of Nova
Scotia - - - - - p. 10.
- N^o 9.—Extract of a Letter from Lieut. General Sir James Kempt, G. C. B. inclosing
a Copy of his Proclamation, dated 20th October 1820 - - - - - p. 11.
- N^o 10.—Copy of an Act of the Assembly, &c. of Nova Scotia, extending the Laws and
Ordinances of Nova Scotia to the Island of Cape Breton - - - - - p. 12.
- N^o 11.—Copy of an Act of the Assembly, &c. of Nova Scotia, imposing an additional duty
on Goods, &c. imported into that Province - - - - - p. 14.
- N^o 12.—Copy of a Letter from Major General Ainslie to Earl Bathurst, enclosing the Pro-
ceedings on the Trial of Messrs. Ritchie and Leaver for Colonial Revenue, dated
25th November 1816 - - - - - p. 15.
- N^o 13.—Extract of a Letter from Major General Ainslie to Henry Goulburn, Esq. dated
12th February 1820 - - - - - p. 19.
- N^o 14.—An Act passed by the Legislature of the Province of Nova Scotia in 1766, intituled,
" An Act for the more effectual Recovery of His Majesty's dues in the Islands of
" Cape Breton, St. John's, and Islands adjacent - - - - - *ibid.*
- N^o 15.—Extract of a Letter from Lieut. General Sir James Kempt, G. C. B. to the Earl
Bathurst, K. G. dated 31st October 1820 - - - - - *ibid.*
- N^o 16.—Extract of a Letter from Lieut. General Sir James Kempt, G. C. B. to Earl Bathurst,
dated 10th November 1820 - - - - - p. 20.
- N^o 17.—Extract of a Letter from Lieut. General Sir James Kempt, G. C. B. to the Earl
Bathurst, K. G. dated 26th March 1821 - - - - - p. 21.
- N^o 18.—Extract of a Letter from Lieut. General Sir James Kempt, G. C. B. to the Earl
Bathurst, K. G. dated 19th October 1821 - - - - - p. 22.

R. J. WILMOT HORTON.

Colonial Department, }
27th May 1823. }

P A P E R S

RELATIVE TO THE

RE-ANNEXATION

OF THE

Island of CAPE BRETON to the Government of NOVA SCOTIA.

N^o 1.—Copy of the King's Proclamation, of the 7th October 1763.

BY THE KING.—A PROCLAMATION.

GEORGE R.

WHEREAS, We have taken into Our royal consideration the extensive and valuable acquisition in America, secured to Our crown by the late definitive treaty of peace concluded at Paris the 10th day of February last; and being desirous that all Our loving subjects, as well of Our kingdoms as of Our colonies of America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom, to their commerce, manufactures, and navigation, We have thought fit, with the advice of Our privy council, to issue this Our royal proclamation, hereby to publish and declare to all Our loving subjects, that We have, with the advice of Our said privy council, granted Our letters patent under Our great seal of Great Britain, to erect within the countries and islands, ceded and confirmed to Us by the said treaty, four distinct and separate governments, stiled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz.

First, the government of Quebec, bounded on the Labrador coast by the river St. John, and from thence by a line drawn from the head of that river, through the lake St. John, to the south end of the lake Nipissim; from whence the said line, crossing the river St. Lawrence and the lake Champlain, in 45 degrees of north latitude, passes along the high lands, which divide the rivers that empty themselves into the said river St. Lawrence from those which fall into the sea; and also along the north coast of the Bayes des Chaleurs, and the coast of the gulph of St. Lawrence, to Cape Rosieres, and from thence crossing the mouth of the river St. Lawrence, by the west end of the island of Anticosti, terminates at the aforesaid river St. John.

Secondly, the government of East Florida, bounded to the westward by the gulph of Mexico and the Apalachicola river; to the northward by a line drawn from that part of the said river where the Catahouchee and Flint rivers meet, to the source of St. Mary's river, and by the course of the said river to the Atlantic Ocean; and to the east and south by the Atlantic Ocean and the gulph of Florida, including all islands within six leagues of the sea coast.

Thirdly, the government of West Florida, bounded to the southward by the gulph of Mexico, including all islands within six leagues of the coast from the river Apalachicola to lake Pontchartrain; to the westward by the said lake, the lake Maurepas, and the river Mississippi; to the northward by a line drawn due east from that part of the river Mississippi which lies in 31 degrees north latitude, to the river Apalachicola or Catahouchee; and to the eastward by the said river.

Fourthly, the government of Grenada, comprehending the island of that name, together with the Grenadines, and the islands of Dominica, St. Vincent, and Tobago.

And to the end that the open and free fishery of Our subjects may be extended to, and carried on, upon the coast of Labrador and the adjacent islands, We have thought fit, with the advice of Our said privy council, to put all that coast, from the river St. John's to Hudson's Streights, together with the islands of Anticosti and Madelane, and all other smaller islands lying upon the said coast, under the care and inspection of Our governor of Newfoundland.

We have also, with the advice of Our privy council, thought fit to annex the islands of St. John and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to Our government of Nova Scotia.

We have also, with the advice of Our privy council aforesaid, annexed to Our province of Georgia, all the lands lying between the rivers Attamaha and St Mary's.

And whereas it will greatly contribute to the speedy settling Our said new governments, that Our loving subjects should be informed of Our paternal care for the security of the liberty and properties of those who are and shall become inhabitants thereof, We have thought fit to publish and declare, by this Our proclamation, that We have, in the letters patent under Our great seal of Great Britain, by which the said governments are constituted, given express power and direction to Our governors of Our said colonies respectively, that so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of Our council, summon and call general assemblies within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America which are under Our immediate government; and We have also given power to the said governors, with the consent of Our said councils, and the representatives of the people, so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of Our said colonies, and of the people and inhabitants thereof, as near as may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies; and in the meantime; and until such assemblies can be called as aforesaid, all persons inhabiting or resorting to Our said colonies may confide in Our royal protection for the enjoyment of the benefit of the laws of Our realm of England; for which purpose, We have given power under Our great seal to the governors of Our said colonies respectively, to erect and constitute, with the advice of Our said councils respectively, courts of judicature and public justice within Our said colonies, for the hearing and determining all causes, as well criminal as civil, according to law and equity, and as near as may be, agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such courts, in all civil cases to appeal, under the usual limitations and restrictions, to Us in Our privy council.

We have also thought fit, with the advice of Our privy council as aforesaid, to give unto the governors and councils of our said three new colonies upon the continent, full power and authority to settle and agree with the inhabitants of Our said new colonies, or to any other person who shall resort thereto, for such lands, tenements, and hereditaments, as are now or hereafter shall be in Our power to dispose of; and them to grant to any such person or persons, upon such terms, and under such moderate quit rents, services, and acknowledgments, as have been appointed and settled in other colonies, and under such conditions as shall appear to Us to be necessary and expedient for the advantage of the grantees, and the improvement and settlement of Our said colonies.

And whereas we are desirous, upon all occasions, to testify Our royal sense and approbation of the conduct and bravery of the officers and soldiers of our armies, and to reward the same, We do hereby command and empower Our governors of Our said three new colonies, and other Our governors of Our several provinces on the continent of North America, to grant without fee or reward, to such reduced officers as have served in North America during the late war, and are actually residing there, and shall personally apply for the same, the following quantities of land, subject, at the expiration of ten years, to the same quit-rents as other lands are subject to in the province within which they are granted, as also subject to the same conditions of cultivation and improvement, viz.

To every person having the rank of a field officer, 5,000 acres.

To every captain, 3,000 acres.

To every subaltern or staff officer, 2,000 acres.

To every non-commissioned officer, 200 acres.

To every private man, 50 acres.

We do likewise authorize and require the governors and commanders in chief of all Our said colonies upon the continent of North America, to grant the like quantities of land, and upon the same conditions, to such reduced officers of Our navy of like rank, as served on board Our ships of war in North America, at the time of the reduction of Louisbourg and Quebec in the late war, and who shall personally apply to Our respective governors for such grants.

And

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And whereas it is just and reasonable, and essential to our interest, and the security of our colonies, that the several nations or tribes of Indians, with whom We are connected, and who live under Our protection, should not be molested or disturbed in the possession of such parts of Our dominions and territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their hunting grounds; We do, therefore, with the advice of Our privy council, declare it to be Our royal will and pleasure, that no governor, or commander in chief, in any of Our colonies of Quebec, East Florida, or West Florida, do presume, upon any pretence whatever, to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments, as described in their commissions; as also that no governor or commander in chief of Our other colonies or plantations in America, do presume, for the present, and until Our further pleasure be known, to grant warrant of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or north west, or upon any lands whatever, which, not having been ceded to, or purchased by Us as aforesaid, are reserved to the said Indians or any of them.

And We do further declare it to be Our royal will and pleasure, for the present, as aforesaid, to reserve under Our sovereignty, protection and dominion, for the use of the said Indians, all the land and territories not included within the limits of Our said three new governments, or within the limits of the territory granted to the Hudson's Bay Company; as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and north west as aforesaid; and We do hereby strictly forbid on pain of Our displeasure, all Our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without Our special leave and licence for that purpose first obtained.

And We do further strictly enjoin and require all persons whatever who have either wilfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands, which not having been ceded to, or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas, great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of Our interests, and to the great dissatisfaction of the said Indians; in order therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of Our justice and determined resolution to remove all reasonable cause of discontent; We do, with the advice of Our privy council, strictly enjoin and require, that no private person do presume to make any purchase from the said Indians, of any lands reserved to the said Indians, within those parts of our colonies where We have thought proper to allow settlement; but, that if at any time, any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for Us, in Our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the governor or commander in chief of Our colony respectively, within which they shall lie; and in case they shall lie within the limits of any proprietaries, conformable to such directions and instructions as We or they shall think proper to give for that purpose: and We do, by the advice of our privy council, declare and enjoin, that the trade of the said Indians shall be free and open to all Our subjects whatever, provided that every person who may incline to trade with the said Indians, do take out a licence for carrying on such trade from the governor or commander in chief of any of Our colonies respectively, where such person shall reside; and also give security to observe such regulations as We shall at any time think fit, by Ourselves or commissaries to be appointed for this purpose, to direct and appoint for the benefit of the said trade: and We do hereby authorise, enjoin, and require the governors and commanders in chief of all Our colonies respectively, as well those under Our immediate government, as those under the government and direction of proprietaries, to grant such licences without fee or reward, taking especial care to insert therein a condition that such licence shall be void, and the security forfeited, in case the person to whom the same is granted shall refuse or neglect to observe such regulations as We shall think proper to prescribe as aforesaid.

And We do further expressly enjoin and require all officers whatever, as well military as those employed in the management and direction of Indian affairs

within the territories reserved as aforesaid, for the use of the said Indians, to seize and apprehend all persons whatever, who standing charged with treasons, misprisions of treasons, murders, or other felonies or misdemeanours, shall fly from justice and take refuge in the said territory, and to send them under a proper guard to the colony where the crime was committed of which they shall stand accused, in order to take their trial for the same.

Given at Our Court at St. James's, the 7th day of October 1763, in the Third year of Our Reign.

GOD SAVE THE KING.

No. 2.—Extracts of Governor Parr's Commission, dated the 11th day of September 1784.

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth, to our trusty and well-beloved John Parr, esquire, greeting: Whereas we did, by Our letters patent, under Our great seal of Great Britain, bearing date at Westminster, 29th day of July, in the twenty-second year of Our reign, constitute and appoint you, the said John Parr, captain general and governor in chief in and over Our province of Nova Scotia in America, bounded on the westward by a line drawn from Cape Sable across the entrance of the bay of Fundy, to the mouth of the river St. Croix, by the said river to its source; and by a line drawn due north from thence to the southern boundary of Our colony of Quebec; to the northward by the said boundary, as far as the western extremity of the Bay des Chaleurs; to the eastward by the said bay and the gulph of St. Lawrence, to the cape or promontory called Cape Breton, in the island of that name, including the said island, and all other islands within six leagues of the coast, excepting Our island of St. John, which We had thought fit to erect into a separate government; and to the southward by the Atlantic Ocean from the said cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of the coast, with all the rights, members, and appurtenances whatsoever thereunto belonging, for and during Our will and pleasure, as in and by the said recited letters patent, relation being thereunto had, may more fully and at large appear: and whereas We did, by Our letters patent under Our great seal of Great Britain, bearing date at Westminster the 14th day of July, in the ninth year of Our reign, constitute and appoint Walter Paterson, esquire, to be Our captain general and governor in chief in and over Our island of St. John, and territories adjacent thereunto in America, and which then were or theretofore had been dependent thereupon, as in and by the said recited letters patent, relation being thereunto had, may more fully and at large appear: and whereas We have thought fit to erect that part of Our province of Nova Scotia, lying to the northward of the bay of Fundy, into a separate province, by the name of New Brunswick; and by Our letters patent, under Our great seal of Great Britain, bearing date at Westminster the 16th day of August last past, to constitute and appoint Thomas Carleton, esquire, to be Our captain general and governor in chief in and over Our said province of New Brunswick, as in and by the said recited letters patent, relation being thereunto had, may more fully and at large appear: and whereas We have thought fit to re-annex the island of St. John and its dependencies to Our government of Nova Scotia: now know you, that We have revoked and determined, and by these presents do revoke and determine the said recited letters patent to you, the said John Parr, and also the said recited letters patent to the said Walter Paterson, and every clause, article, and thing therein respectively mentioned and contained: and further know you, that We, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said John Parr, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you, the said John Parr, to be Our captain general and governor in chief of Our province of Nova Scotia, bounded on the westward by a line drawn from Cape Sable across the entrance to the centre of the bay of Fundy; to the northward by a line along the centre of the said bay to the mouth of the Musquat river, by the said river to its source, and from thence by a due east line across the isthmus into the Bay Verte; to the eastward by the said bay and the gulph of St. Lawrence to the cape or promontory called Cape Breton,

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in the island of that name, including the said island, the island of St. John, and all other islands within six leagues of the coast; and to the southward by the Atlantic Ocean from the said cape to Cape Sable aforesaid, including the island of that name, and all other islands, within forty leagues of the coast, with all the rights, members, and appurtenances whatsoever thereunto belonging: and We do hereby require and command you to do and execute all things, in due manner, that shall belong unto your said command, and the trust We have reposed in you, according to the several powers and authorities granted or appointed you by the present commission and instructions herewith given you, or by such further powers, instructions, and authorities as shall at any time hereafter be granted or appointed you, under Our signet and sign manual, or by Our order in Our privy council, and according to such reasonable laws and statutes as are now in force, or shall hereafter be made or agreed upon by you, with the advice and consent of Our respective councils and assemblies of Our province of Nova Scotia, and Our islands of St. John and Cape Breton under your government.

And We do hereby give and grant unto you full power and authority, with the advice and consent of Our said respective councils, from time to time, as need shall require, to summon and call general assemblies of the freeholders and planters within your government, in such manner and form as has been already appointed and used, or according to such further powers, instructions and authorities as shall at any time hereafter be granted or appointed you under Our signet and sign manual, or by Our order in Our privy council.

And Our will and pleasure is, that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places, and so returned, shall, before their sitting, take the oaths mentioned in the first recited act of parliament altered as above, as also make and subscribe the afore-mentioned declaration; which oaths and declaration you shall commissionate fit persons under Our seals of Nova Scotia, St. John, and Cape Breton respectively to tender and administer unto them; and until the same shall be so taken and subscribed, no person shall be capable of sitting though elected: And We do hereby declare, that the persons so elected and qualified shall be called and deemed the general assembly of Our province of Nova Scotia, of Our island of St. John, and of Our island of Cape Breton respectively; and that you the said John Parr, with the advice and consent of Our said councils and assemblies, or the major part of them respectively, shall have full power and authority to make, constitute and ordain, laws, statutes and ordinances for the public peace, welfare, and good government of Our said province and islands, and of the people and inhabitants thereof, and such others as shall resort thereunto, and for the benefit of Us, Our heirs and successors; which said laws, statutes and ordinances are not to be repugnant, but as near as local circumstances will admit, agreeable to the laws and statutes of this Our kingdom of Great Britain, provided that all such laws, statutes and ordinances, of what nature or duration whatever, be within three months or sooner after the making thereof, transmitted to Us under Our seal of Nova Scotia, St. John, or Cape Breton, for Our approbation or disallowance of the same, as also duplicates thereof by the next conveyance.

N^o 3.—Extract of the Instructions to John Parr, Esquire, Captain General and Governor in Chief of the Province of Nova Scotia, and the Islands of St. John and Cape Breton, dated 11th September 1784.

“AND whereas the situation and circumstances of Our island of Cape Breton will not at present admit the calling of an assembly, you or Our lieutenant governor of Our said island, shall, until it appears expedient to call such assembly, in the meantime make such rules and regulations by the advice of Our council for the said island, as shall appear to be necessary for the peace, order, and good government thereof, taking care that nothing be passed or done that shall any way tend to affect the life, limb, or liberty of the subject, or to the imposing of any duties or taxes, and that all such rules and regulations be transmitted by the first opportunity after they are passed and made for Our approbation or disallowance.”

N^o 4.--Copy of additional Instructions to Governor Parr, dated the 20th day of September 1784.

Additional Instructions to Our trusty and well-beloved John Parr, esquire, Our Captain General and Governor in Chief in and over Our Province (l. s.) of Nova Scotia, the Islands of St. John and Cape Breton, and the Territories thereunto belonging in America. Given at Our Court at St. James's, the 20th day of Sept. 1784, in the 24th year of Our Reign.

WHEREAS in and by the third article of Our general instructions to you, you are directed to administer, or cause to be administered, to all persons appointed to and holding any office or place of trust or profit in Our said province, the several oaths prescribed by law; and that besides making and subscribing the declaration mentioned in the act of the 25th year of the reign of King Charles the Second, such persons should also make and subscribe the declaration following; viz.

“ I, A. B. do promise and declare, that I will maintain and defend, to the
 “ utmost of my power, the authority of the King in his parliament, as the
 “ supreme legislature of this province.”

It is Our will and pleasure that you do not for the present, and until Our further pleasure therein shall be signified to you, or the commander in chief of Our said province for the time being, require any persons appointed to and holding any office or place of trust or profit in Our said province to make and subscribe the declaration last-mentioned; any thing in the said third article of Our general instructions to you to the contrary notwithstanding.

N^o 5.--Extract of the Commission to his Grace the Duke of Richmond, Captain General, and Governor in Chief in and over the Province of Nova Scotia, and the Islands of Prince Edward and Cape Breton.

GEORGE the Third, by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, to Our right trusty, and right entirely beloved cousin and councillor Charles Duke of Richmond, knight of the most noble order of the garter, general of Our forces, greeting: whereas We did by Our letters patent under Our great seal of Our united kingdom of Great Britain and Ireland, bearing date the 10th day of April 1816, in the 56th year of Our reign, constitute and appoint Our trusty and well-beloved Sir John Coape Sherbrooke, knight grand cross of the most honourable military order of the Bath, lieutenant-general of Our forces, to be Our captain-general and governor in chief in and over Our province of Nova Scotia in America, bounded on the westward by a line drawn from Cape Sable across the entrance to the centre of the bay of Fundy; to the northward by a line drawn along the centre of the said bay to the mouth of the Musquat river, by the said river to its source, and from thence by a due east line across the isthmus into the bay of Verte; to the eastward by the said bay, and the gulph of St. Lawrence to the cape or promontory called Cape Breton, in the island of that name, including the said island, the island of St. John, and all other islands within six leagues of the coast; and to the southward by the Atlantic Ocean from the said cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of the coast, together with Our island of Prince Edward (formerly St. John) and Our island of Cape Breton, with all the rights, members, and appurtenances whatsoever thereunto belonging: now know you, that We have revoked and determined, and by these presents do revoke and determine, the said recited letters patent, and every clause, article, and thing therein contained; and further know you, that We, reposing especial trust and confidence in the prudence, courage, and loyalty of you the said Charles Duke of Richmond, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you, the said Charles Duke of Richmond, to be Our captain general, and governor in chief of Our said province of Nova Scotia, bounded as hereinbefore described, of Our island of Prince Edward (formerly St. John), and of Our island of Cape Breton; and We do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust
 We

We have reposed in you according to the several powers and authorities granted or appointed you by this present commission, and the instructions herewith given you, or by such further powers, instructions and authorities, as shall at any time hereafter be granted, or appointed you under Our signet and sign manual, or by Our order in Our privy council, and according to such reasonable laws and statutes as are now in force, or shall hereafter be made and agreed upon by you, with the advice and consent of Our respective councils and assemblies of Our province of Nova Scotia, and Our islands of Prince Edward and Cape Breton, under your government.

And We do hereby give and grant unto you full power and authority, with the advice and consent of Our said respective councils, from time to time as need shall require, to summon and call general assemblies of the freeholders and planters within your government, in such manner and form as has been already appointed and used, or according to such further powers, instructions and authorities, as shall at any time hereafter be granted or appointed you under Our signet and sign manual, or by Our order in Our privy council: and Our will and pleasure is, that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places, and so returned, shall, before their sitting, take the oaths mentioned in the first recited Act of Parliament altered as above; and also make and subscribe the afore-mentioned declaration, which oaths and declarations you shall commissionate fit persons under Our seals of Nova Scotia, Prince Edward, and Cape Breton, respectively, to tender and administer unto them, and until the same shall be so taken and subscribed, no person shall be capable of sitting though elected: and We do hereby declare, that the persons so elected and qualified, shall be called and deemed the general assembly of Our province of Nova Scotia, and of Our island of Prince Edward, and of Our island of Cape Breton respectively; and that you, the said Charles Duke of Richmond, with the advice and consent of Our said councils and assemblies, or the major part of them respectively, shall have full power and authority to make, constitute, and ordain, laws, statutes and ordinances, for the public peace, welfare, and good government of Our said province and islands, and of the people and inhabitants thereof, and such others who shall resort thereunto, and for the benefit of Us, Our heirs and successors; which said laws, statutes and ordinances are not to be repugnant, but as near as local circumstances will admit, agreeable to the laws and statutes of this Our united kingdom of Great Britain and Ireland.

N^o 6.—Extract of the Instructions of his Grace the Duke of Richmond, Captain General and Governor in Chief in and over the Province of Nova Scotia and the Islands of Prince Edward and Cape Breton.

AND whereas the situation and circumstances of Our island of Cape Breton will not at present admit the calling of an assembly, you, or Our lieutenant governor of Our said island shall, until it appears expedient to call such assembly, in the meantime make such rules and regulations, by the advice of Our council for the said island, as shall appear to be necessary for the peace, order, and good government thereof, taking care that nothing be passed or done that shall any way tend to affect the life, limb, or liberty of the subject, or to the imposing of any duties or taxes, and that all such rules and regulations be transmitted by the first opportunity after they are passed and made, for Our approbation or disallowance.

N^o 7.—Extracts of the Commission to the Earl of Dalhousie, Captain General and Governor in Chief in and over the Province of Nova Scotia and the Island of Prince Edward, dated the 27th day of April 1820.

GEORGE the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to Our right trusty and well-beloved cousin, George Earl of Dalhousie, of that part of Our united kingdom called Scotland, knight grand cross of the most honourable military order of the Bath, lieutenant general of Our forces, greeting: Know you, that We, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said George Earl of Dalhousie,

Dalhousie, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and do by these presents constitute and appoint you, the said George Earl of Dalhousie, to be Our captain general and governor in chief in and over Our province of Nova Scotia, and in and over Our island of Prince Edward (formerly St. John), in America, the territory so placed under your government being bounded on the westward by a line drawn from Cape Sable across the entrance to the centre of the bay of Fundy; on the northward by a line drawn along the centre of the said bay to the mouth of the Musquat river, by the said river to its source, and from thence by a due east line across the isthmus, into the bay of Verte; on the eastward by the said bay and the gulph of St. Lawrence, to the cape or promontory called Cape Breton, in the island of that name, including the said island, (which we do hereby expressly direct and declare shall in future form part of Our said province of Nova Scotia), as well as including the before-mentioned island of Prince Edward (formerly St. John), and also including all other islands within six leagues of the coast; and on the southward by the Atlantic Ocean, from the said cape to Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of the coast, with all the rights, members, and appurtenances whatsoever thereunto belonging: and We do hereby require and command you to do and execute all things in due manner that shall belong unto your said command, and the trust We have reposed in you, according to the several powers and authorities granted or appointed you by this present commission, and the instructions herewith given you, or by such further powers, instructions and authorities as shall at any time hereafter be granted or appointed you under Our signet and sign manual, or by Our order in Our privy council, and according to such reasonable laws and statutes as are now in force, or shall hereafter be made and agreed upon by you, with the advice and consent of Our respective councils and assemblies of Our province of Nova Scotia and Our island of Prince Edward, under your government.

And We do hereby give and grant unto you full power and authority, with the advice and consent of Our respective councils from time to time as need shall require, to summon and call general assemblies of the freeholders and planters within your government, in such manner and form as has been already appointed and used, or according to such further powers, instructions and authorities as shall at any time hereafter be granted or appointed you under Our signet and sign manual, or by Our order in Our privy council: and Our will and pleasure is, that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places, and so returned, shall, before their sitting, take the oaths mentioned in the first recited Act of Parliament, altered as above, and also make and subscribe the afore-mentioned declaration, which oaths and declaration you shall commissionate fit persons, under Our seals of Nova Scotia and Prince Edward Island respectively, to tender and administer unto them; and until the same shall be so taken and subscribed, no person shall be capable of sitting, though elected: and We do hereby declare, that the persons so elected and qualified shall be called and deemed the general assembly of Our province of Nova Scotia, and of Our island of Prince Edward respectively; and that you, the said George Earl of Dalhousie, with the advice and consent of Our said councils or assemblies, or the major part of them respectively, shall have full power and authority to make, constitute, and ordain, laws, statutes and ordinances, for the public peace, welfare, and good government of our said province and island, and of the people and inhabitants thereof, and such others who shall resort thereunto, and for the benefit of Us, Our heirs and successors; which said laws, statutes and ordinances are not to be repugnant, but as near as local circumstances will admit, agreeable to the laws and statutes of this Our united kingdom of Great Britain and Ireland.

N^o 8.—Extract of the Instructions to the Earl of Dalhousie, Captain General and Governor in Chief in and over the Province of Nova Scotia and the Island of Prince Edward, dated the 27th day of April 1820.

WITH these Our instructions you will receive Our commission, under Our great seal of Our united kingdom of Great Britain and Ireland, constituting you Our captain general and governor in chief in and over Our province of Nova Scotia, (of which province We have, in our said commission, expressly directed and declared, that

that the island of Cape Breton shall in future form a part, it being our intention that such island shall no longer form a separate government), and in and over Our island of Prince Edward, with the islands and territories thereunto respectively belonging, bounded as is described in Our said commission; you are, therefore, to fit yourself with all convenient speed to repair to Our said province of Nova Scotia, and being arrived there, you are to take upon you the execution of the place and trust We have reposed in you, and the administration of the government, and to do and execute all things in due manner that shall belong unto your command, according to the several powers and authorities of Our said commission, under Our great seal of Our united kingdom of Great Britain and Ireland; and these Our instructions to you, or such further powers and instructions as shall hereafter be granted or appointed you, under Our signet and sign manual, or by Our order in Our privy council.

Whenever you summon general assemblies for Our province of Nova Scotia, you are to summon and call to those assemblies such a number of the freeholders and planters of the island of Cape Breton as were usually summoned to such assemblies, immediately before the time when the said island was first separated from Our province of Nova Scotia.

N^o 9.—Extract of a Letter from Lieutenant General Sir James Kempt, G. C. B. to the Earl Bathurst, K. G. dated Halifax, 10th October, 1820.

(One enclosure.)

I HAD the honour to receive on the 2d instant, your lordship's dispatch, conveying His Majesty's instructions for re-annexing the island of Cape Breton to the province of Nova Scotia.

I have, in consequence of those instructions, and by the advice of His Majesty's council, issued a proclamation, of which the enclosed is a copy; and I shall not fail to assemble the legislature at as early a period as I possibly can, that the necessary measures may be adopted for giving full effect to His Majesty's gracious intentions.

It will be necessary for me, however, to repair to Sydney, previous to my doing so, to examine into the state of the island, and to make myself acquainted with the laws and ordinances under which the government of that colony has been hitherto administered.

PROCLAMATION for re-annexing Cape Breton to Nova Scotia.
(signed) JAMES KEMPT.

By his Excellency Lieutenant General Sir James Kempt, knight grand cross of the most honourable military order of the Bath, Lieutenant-Governor and Commander in Chief in and over His Majesty's province of Nova Scotia and its Dependencies, &c. &c. &c.

Whereas His Majesty, with a view to promote the welfare and mutual interests of His faithful and loyal subjects of Nova Scotia and Cape Breton, hath been graciously pleased to direct that the island of Cape Breton should be re-annexed to the government of Nova Scotia, and the same island should from henceforth be and remain an integral part of the government of Nova Scotia:

I do therefore, in pursuance of His Majesty's instructions, and by and with the advice of His Majesty's council, declare that the island of Cape Breton is, and from henceforth shall be and remain, a several and distinct county of the province of Nova Scotia, to be called and known by the name of the county of Cape Breton, and to be represented, and the civil government thereof to be administered, in like manner as the other counties in the province are administered and governed.

And in pursuance of His Majesty's instructions, I have caused a writ in the usual form to be immediately issued, directed to the provost marshal, or his deputy-resident in the island, for the election of two members to serve in the general assembly of Nova Scotia, being the number directed to be summoned to such assembly before the time when the said island was first separated from the province of Nova Scotia.

And I do hereby, in obedience to His Majesty's commands, dissolve the council of the said island of Cape Breton.

And that the peace and good order of the said island may be preserved, and justice duly administered therein, until more effectual provision shall be made by the legislature of Nova Scotia, or until further order shall be duly made thereon, I do hereby authorise and require that all judges, justices of the peace, constables, and other civil officers in commission in the said island, do continue in the execution of their respective offices, agreeably to the several ordinances passed by the governor and council of Cape Breton, and under which that colony since its separation has been hitherto administered.

Given under my hand and seal at arms at Halifax, this 9th day of October 1820, in the first year of His Majesty's reign.

By His Excellency's command,
(signed) *Rupert D. George*, Secretary.

GOD SAVE THE KING.

N^o 10.—Copy of an Act of the Assembly, &c. of Nova Scotia, extending the Laws and Ordinances of Nova Scotia to the Island of Cape Breton.

WHEREAS His Majesty has been graciously pleased to re-annex the island of Cape Breton as an integral part of the province, and a distinct and several county thereof, to be called and known by the name of the county of Cape Breton, and to be represented in the general assembly of the province by two members, to be chosen in and for the said county :

1. Be it therefore enacted, by the lieutenant governor, council and assembly, that the civil government, and the administration of justice in the said island, shall be conformable to the usage and practice of the province of Nova Scotia; and the judges, justices, jurors, constables, and other civil officers therein, shall be appointed and commissioned as such officers are appointed and commissioned in other counties of the said province, and have the like powers and authority, and be subject to the same rules, fines and restrictions as similar officers in other counties of the said province are by law liable.

2. And be it further enacted, that the supreme court shall be held by the chief justice, or, in his absence, by two of the assistant justices, or by one of the assistant justices, and the associate circuit judge of the said court at Sydney, in the said county, on the last Tuesday of August; and at Arichat, in the said county, on the first Tuesday of September in each year, and may continue its sittings at each of the said courts for four successive days, and no longer.

3. And be it further enacted, that it shall and may be lawful for his excellency the lieutenant governor to commission and appoint five fit and proper persons to be justices of the inferior court of common pleas in the said county; which persons so commissioned and appointed shall possess all the privileges, and exercise the same jurisdiction within the said county of Cape Breton, as the justices of the several courts of common pleas, in the province of Nova Scotia, do possess and exercise in the respective counties for which they are commissioned and appointed; and whenever vacancies shall occur in the said courts by the death or removal from office of any justice or justices so appointed, it shall and may be lawful for the governor, lieutenant governor, or commander in chief for the time being, to appoint such other person or persons as he shall deem fit and proper to fill the said vacancy or vacancies: and the said inferior court of common pleas shall be opened and held at Sydney on the second Tuesday of January, and on the second Tuesday of July, in each year; and at Arichat on the second Tuesday of February, and on the second Tuesday of August, in each year; and may continue its sittings at each of the said times and places for five successive days, and no longer.

4. And be it further enacted, that for the convenience of jurors and other persons whose duty obliges them to attend the several courts, the general sessions of the peace shall be held in the said county, at the several times and places hereinbefore directed and appointed for the sittings of the inferior court of common pleas, in the same manner as the same are held in the several counties of Nova Scotia.

5. And be it further enacted, that it shall and may be lawful for the chief justice of His Majesty's supreme court, on or before the first day of January next, to nominate three fit and proper persons to fill the office of high sheriff in the said county

county of Cape Breton, a list of the names of which persons he is hereby directed to present to the lieutenant governor or commander in chief for the time being, who is hereby empowered immediately to prick one out of the said number to serve the office of high sheriff; which sheriff, being resident in the said county, and having entered, in the secretary's office at Halifax, good and sufficient security for the faithful execution of his office, shall, immediately upon receiving his patent, and upon taking the oath prescribed for all sheriffs in Nova Scotia, be fully invested with all the powers and authorities of a high sheriff, and be subject to all such laws, customs, ordinances, regulations and directions, as the high sheriffs in the several counties of Nova Scotia are subject to, and shall continue in office until another shall be sworn in his stead.

6. And be it further enacted, that it shall and may be lawful for the chief justice of the supreme court, after the said sheriff shall be nominated and appointed, to issue and direct a precept to him, commanding him to summon twenty-four persons to attend the supreme court, and the general sessions of the peace, at the first sittings of the said courts, to serve as grand jurors; and thirty-six persons to attend the said courts, and also the inferior courts of common pleas at its first sittings as petty jurors; which persons so to be summoned shall be respectively qualified to serve as grand and petty jurors, as the laws of Nova Scotia require and direct; and the said persons so summoned shall be bound to attend the said courts, and to perform the duties of grand and petty jurors thereat, and shall be liable to all the fines and penalties for non-attendance to which grand and petty jurors are liable in the province of Nova Scotia.

7. And be it further enacted, that the grand and petty jurors shall hereafter be drawn, summoned and returned, and the sheriffs, coroners, constables, and other civil officers nominated and appointed, as such officers are summoned and appointed in the said province, and be subject to the same rules and restrictions: and justices of the peace and commissioners appointed for the trial of small causes shall have the same powers and authority, and be subject to the same rule and restriction as such officers are liable to by law in the said province.

8. And be it further enacted, that it shall and may be lawful for the justices of the supreme court, and of the court of common pleas, and sessions of the peace, to excuse the inhabitants of the northern and middle parts of the said county of Cape Breton from being drawn as petty jurors to serve at the sittings of the said courts at Arichat, and in like manner to excuse the inhabitants of the southern parts of the said county from being drawn as petty jurors to serve at the said courts to be held at Sydney.

9. And be it further enacted, that such causes as may have been commenced, and are now pending in any of the courts of the said island, prior to its re-annexation, may be transferred and continued, at the instance of either party, to the respective courts by this act established, and may be there heard and determined, as if such causes had been originally commenced therein; any law or usage to the contrary notwithstanding.

10. And be it further enacted, that the court of probate of wills, and granting letters of administration, shall be held at Sydney, in the said county of Cape Breton, at such time as the judge of the said court may appoint; and the office for the registry of deeds shall be kept at Sydney, and at Arichat in the said county.

11. And be it further enacted, that it shall and may be lawful for such persons as have been heretofore admitted to practise as attornies in the supreme court of the said island, to continue to practise as attornies and barristers in the several courts established by this act, within the said island, but not elsewhere out of the said island, unless they shall be admitted as attornies of the supreme court at Halifax, under such rules and regulations as the said court shall establish: provided always, that if it shall appear to His Majesty's supreme court at Halifax, upon the representation of the circuit judges, that any of the persons now practising as attornies in the said island are not qualified to act as such, it shall be lawful for the said court to direct their names to be struck from the roll.

12. And be it further enacted, that the laws now in force, as to the militia in Nova Scotia, be and the same are hereby extended to the said county of Cape Breton.

13. And be it further enacted, that in all questions which may arise relative to the government, the administration of justice, the appointment and qualification of officers, the collection of the revenue, the management of the militia, and all other matters and things touching the good government and welfare of the said county of Cape Breton and its people, the law and usage of Nova Scotia shall be the rule and example to be followed.

14. And be it further enacted, that from and after the first day of January, all commissions which have issued under the authority of the late government of Cape Breton, shall cease to have any effect, and be utterly null and void, to all intents and purposes whatsoever.

And whereas, in and by this act it is enacted, that the supreme court shall hold its sittings at Arichat on the first Tuesday of September, on which day it has hitherto sat at Dorchester, in the county of Sydney;

15. Be it therefore enacted, by the authority aforesaid, that the supreme court shall in future commence its sittings at Dorchester, in the county of Sydney, on the second Tuesday of September in each year, instead of the said first Tuesday of September; and at Picton, in the district of Picton, on the third Tuesday in September in each year, instead of the second Tuesday; and at Truro, in the district of Colchester, on the fourth Tuesday of September in each year, instead of the third Tuesday of the said month of September: and that all writs, process, recognizances, and complaints, which are or shall be made returnable to the said court at its next sittings in the said county of Sydney, and in the districts of Picton and Colchester, shall be returned on the days herein appointed for such respective sittings of the said courts; and all parties and persons, who are bound or summoned, or who ought to appear at the said courts, or any of them, at the next sittings thereof, in any of the said counties or districts, shall be held and obliged to appear at such court at the days and times in which such sittings respectively are hereby directed to be held.

16. And be it further enacted, by the authority aforesaid, that this act may be altered or amended during the present session of assembly.

(Passed December 22d, 1820.)

N^o 11.—Copy of an Act of the Assembly, &c. of Nova Scotia, imposing an additional Duty on Goods, &c. imported into that Province (Anno sexagesimo, Georgii 3th.)

Be it enacted, by the governor, council and assembly, that from and after the publication hereof, an additional duty of excise shall be levied, collected and paid to His Majesty, His heirs and successors, on all goods, wares and merchandise, upon which a duty of two pounds and ten shillings for every hundred pounds worth of such goods is now by law charged and payable, which shall be imported or brought within this province, and which shall be sold or expended, or consumed within the same; which said duty of excise shall be levied, paid and collected, at the following rate; that is to say, a duty of excise of one pound five shillings on every hundred pounds worth of such goods which shall be imported by any person or persons whomsoever; which said duty of one pound five shillings per centum shall be calculated on the first cost of each one hundred pounds worth of such goods as aforesaid, and so in proportion for a greater or less quantity thereof; to be raised, levied, collected and paid, by the ways, means, rules, provisions and directions, and under the exemptions, regulations, forfeitures and penalties, expressed, prescribed and declared, in an act, passed in the thirty-second year of His Majesty's reign, intitled, an act for the further increase of the revenue, by raising a duty of excise on all goods, wares and merchandise, imported into this province.

And be it further enacted, that there shall be raised, levied, collected and paid to His Majesty, His heirs and successors, upon all wine, brandy, molasses, sugar, and all other articles upon which a duty, calculated and charged upon the weight or measure thereof, is now payable, and which shall be imported or brought into this province, to be paid by the importer thereof, the following additional duty; that is to say, five pounds per centum upon the amount of the duty now levied and paid thereon; and the said additional duty of excise shall be calculated at the rate of five pounds on every hundred pounds, which the said duty now levied and paid upon such articles respectively may amount to, and so in proportion for a greater or less amount; and shall be raised, levied, collected and paid, by the ways, means, rules, provisions and directions, and under the exemptions, regulations, forfeitures and penalties, expressed, prescribed and declared, in an act, passed in the fifty-fifth year of His Majesty's reign, intitled, an act for granting to His Majesty certain duties on wine, brandy, gin, rum and other distilled spirituous liquors, molasses,

molasses, coffee and brown sugar, for the support of His Majesty's government, and for promoting the agriculture, commerce and fisheries of the province.

And be it further enacted, that if any of the goods, wares and merchandise, upon which the additional duties hereby imposed shall be paid or secured, shall be exported from the province, under the limitations, regulations and provisions of the acts by which duties are already imposed and payable thereon, or under the regulations of the act relating to drawbacks, passed in the fifty-ninth year of His Majesty's reign, that then the exporter shall be entitled to a drawback of the additional duties hereby imposed.

And be it further enacted, that no fee or per centage whatsoever shall be allowed to, or retained by, the collector of impost and excise for the district of Halifax, for receiving, collecting and paying over, any monies to be raised by virtue of this act.

And be it further enacted, that this act, and every matter and thing herein contained, shall be and continue in full force and virtue until the twenty-fifth day of March, which shall be in the year of our Lord one thousand eight hundred and twenty-one, and no longer.

By his Excellency Lieut. General the Right hon. George Earl of Dalhousie, Baron Dalhousie of Dalhousie Castle, knight grand cross of the most honourable military order of the Bath, captain general and governor in chief in and over His Majesty's provinces of Lower Canada, Upper Canada, Nova Scotia and New Brunswick, and the islands of Prince Edward and Cape Breton, &c. &c. &c.

I certify the foregoing to be a true copy of an act, passed in the last session of the general assembly of the province of Nova Scotia.

Given under my hand and seal at arms, at Halifax, this 28th day of May 1820, in the first year of His Majesty's reign.

(signed) DALHOUSIE.

By his excellency's command,
(signed) *Rupert D. George.*

N^o 12.—Copy of a Letter from Major General Ainslie to Earl Bathurst, enclosing the Proceedings on the Trial of Messrs. Ritchie and Leaver, for Colonial Revenue, dated 25th November 1816.

My Lord,

Sydney, November 25th, 1816.

I do myself the honour to transmit to your lordship a detail of an important decision made by Chief Justice Dodd, in a cause tried before him at the last court, in which the collector of the provincial revenue was plaintiff, and Messrs. Ritchie and Leaver, lessees of His Majesty's coal mines, defendants.

I beg also to send to your lordship the opinion of His Majesty's attorney-general on the state of the colony intrusted to my administration, in consequence of this decision and verdict, from which it appears, that every ordinance passed for a great length of time is illegal, no impost can be laid, no statute labour (of vital importance here) enforced, militia called out, no prisoner fed in jail, and many other regulations, most necessary in an infant colony, must fall to the ground; it has struck at the root of the prosperity of the island, and, with the exception of six or seven dealers in rum, has met with the execration of the whole population; never were a people more willing to pay a tax than those of this island, that of one shilling per gallon on spirits; it was the only one imposed, and was laid out in opening the communication from one place to another, repairing roads, bridges, and supporting prisoners in jail, the rents of the public offices, &c. &c. &c. So satisfied was the public with this tax, that I am to be petitioned (now in its progress) by the inhabitants of the colony at large to procure its being again authorized. I most earnestly call your lordship's attention, at the earliest moment, to our present state.

I have the honour to be, my lord, your obedient servant,

Geo. R. Ainslie,

Lieut. governor, Breton Island, and major general.

The Right hon. Earl Bathurst,
Secretary of State, &c. &c. &c.

In the year 1801 the inhabitants of Cape Breton, by an address to Major General Despard, president of council, requested that a tax might be imposed upon all spirituous liquors imported into the island; in consequence of which, after it had been communicated to His Majesty's ministers, an ordinance passed, imposing a duty of one shilling per gallon, on all spirituous liquors, which might be brought into Cape Breton, which ordinance was approved of by His Majesty, and continued in force until the year 1808, when it was permitted by the governor and council to expire, it was again revived in the year 1809, and continued in force until the year 1812, when it expired again.

Upon the arrival of Major General Swayne in Cape Breton, in the year 1813, the same ordinance was re-established, with the consent of council, and when approved of by His Royal Highness the Prince Regent, it was again carried into effect in Cape Breton; in consequence of which, all the inhabitants were liable to the payment of one shilling per gallon upon all spirituous liquors imported, which tax was regularly paid until the year 1816, when a strong disposition was evinced, on the part of many, to resist its collection. Messrs. Ritchie and Leaver, the present lessees of His Majesty's coal mines, having imported, at different times during the year 1816, considerable quantities of rum, a large sum of money became due to government, as duties, which they absolutely refused the payment of, stating, that the tax was an illegal one, as His Majesty had given up His prerogative over the island of Cape Breton, as a conquered country, by conferring upon it a constitution under His proclamation, dated at St. James's the 7th day of October 1763. An action was immediately commenced by Ranna Cossit, esquire, collector of the rum duties, against Messrs. Ritchie and Leaver, for the recovery of the above money, under the sanction of government; in the prosecution of which Mr. Cossit declared, upon their promises repeatedly made to him for the payment of the duties.

On the 15th day of November the cause came on for trial in the supreme court at Sydney, before the honorable Archibald C. Dodd, esquire, chief justice. Upon the case being opened by Mr. Uniacke, the attorney-general, it was most satisfactorily proved, that, under the confirmed ordinance of the island, the defendants were liable to pay the duties; they were thereupon permitted to go into their defence: the counsel for the defendants produced an annual register of the year 1763, and attempted to give therefrom to the jury as evidence: "A proclamation, dated St. James's, 7th October 1763, and signed by His Majesty, wherein it appeared that the islands of Cape Breton, and St. John, with all the lesser islands adjacent thereto, were annexed to Nova Scotia;" (vide annexed document) contending, at the same time, that His Majesty had by such annexation divested himself of the prerogative of His crown, and that, consequently, the tax was illegal, and could only be established by the acknowledged legislature of the constitution.

The next ground taken was an extract from the journals of the house of assembly of the province of Nova Scotia, (vide annexed document) containing a message from his excellency Governor Wilmot, informing the house of the islands, Cape Breton and St. John, being annexed to Nova Scotia, under the royal proclamation, and also of members having been returned under His Majesty's writ, to represent the county of Breton, in general assembly, held at Halifax in Nova Scotia.

An extract was also produced from the copy of a commission to Sir James H. Craig, as captain general, (vide annexed document) wherein it was urged, an authority was given to the commander in chief in Cape Breton to call an house of assembly; and a case from Cooper's Reports (Campbell v. Hall) was quoted, wherein, in some degree, a similar question had arisen in the island of Grenada, and which had been decided by my Lord Mansfield against government.

The defence having been closed, the attorney-general contended (having previously taken an objection to the admission of the proclamation), that it could not be admitted as evidence, unsupported as it was by truth; and that if the defendants intended to show that His Majesty had divested himself of His prerogative over Cape Breton, copies of the proclamation (if there were any) should be procured under seal, and marked by such line of truth as could leave no doubt as to its authenticity. The chief justice, upon this argument, declared that a proclamation from an annual register was so vague an evidence, that it could not go to the jury. It was then contended, that as the whole strength of this action depended upon the defendants showing that the King's prerogative had been given up in the year 1763, and as they had failed in their proof, they must also fail in a verdict. It was also argued, that as the extracts of the journals of the house of assembly were founded
upon

upon the proclamation, that they could not carry any authenticity, unless the proclamation, which was the ground work of the defence, were fully substantiated.

In respect of the evidence adduced from the copy of Sir James Craig's commission, it was contended as by no means correct, being the extract of a mere copy. The instructions, which are positive, state in the fifteenth section, "that such is the situation and circumstances of Cape Breton, that at present, it will not admit of an house of assembly being called." It is therefore manifest that no such instructions, as the defendants wish to make out, were ever given.

The case quoted, was in some measure in point, Grenada was a conquered island, a proclamation issued, conferring upon it a constitution, and my Lord Mansfield's opinion is to be seen thereon; but prior to any decision, the proclamation was most fully proved in the most authentic manner, being the basis of the whole action.

The chief justice charged the jury, stating that the proclamation could not be given from the annual register as evidence, yet still, the message from his excellency Governor Wilmot, accompanied with the proof of members having been chosen for Breton county, was quite sufficient to show that such a proclamation as had been referred to was issued and that consequently, the prerogative over this island was given up.

Jury retired and delivered their verdict for the defendants.

Extract of a Letter from Mr. Chief Justice Dodd, to His Excellency Major General Ainslie, Lieutenant Governor of Cape Breton, dated 22d November 1816.

"Your excellency having been pleased through your private secretary, to require my reasons in writing, which influenced my opinions so decidedly in the charge to the jury in the colonial revenue cause tried before me,

"I readily furnish your excellency with the reason which influenced every part of my official conduct on the trial mentioned.

"The trial was brought to recover a sum of money, said to be due by the defendants, Ritchie and Leaver, for so much duty on spirits imported by them, and imposed by an ordinance made and passed by the president and council of this island. The ordinance imposing this duty, and the importation of the spirits, were admitted by the defendants, and here the attorney-general rested his case.

"The defence set up was, that the law which imposed this duty is illegal and unconstitutional, and has been made without lawful authority; to establish this defence, the counsel for the defendants insisted that His Majesty had given up His kingly prerogative to make laws in Cape Breton, to levy a tax on the inhabitants, by His proclamation of the 7th of October 1763, in which he annexed this island to the province of Nova Scotia. To establish this proclamation, a copy of it as inserted in a volume of the Annual Register was produced, but this I rejected as not of sufficient authority; the defendants then produced a transcript from the minute of the records of the house of assembly of Nova Scotia, authenticated in the usual way by the proper officer of that body; wherein Governor Wilmot is said to have recognized His Majesty's proclamation of the 7th October 1763, and says "that the King by that proclamation, annexed the island of Cape Breton to the province of Nova Scotia." This I admitted as evidence of such a proclamation, and on this I founded my decided opinion and reasons, that His Majesty had given up His kingly power to legislate in Cape Breton, without a house of assembly, or interference of the British Parliament, and such I stated to the jury; in this opinion I find myself clearly justified by many circumstances, and particularly by the Grenada case, which was decided on the same principles by the Lord Chief Justice Mansfield, whose opinions I read to the jury from a MSS. copy taken from his elaborate discussion of that important question.

"I lament that this action has been brought forward; it originated and took rise during my late absence in England, and although I have from the first commencement of this impost been a strenuous advocate for its continuance; yet there is a duty which I owe to my King, my country, my official situation, and to my conscience, which cannot be superseded, and which calls upon me most emphatically to declare that my opinion is with the verdict. I have in my possession an act of the governor, council, and assembly of Nova Scotia, passed in the 6th year of the present reign, establishing the annexation of Cape Breton to that province, and enforcing the collection of duties in this island."

Extract of the Journals of the House of Assembly for the Province of
Nova Scotia.

Saturday, March 24, 1764.

A quorum of the house having met, a message came from his excellency the governor, that he was in the chair, and required their attendance; and the house having attended accordingly, his excellency was pleased to make the following speech:

Gentlemen of the council and house of assembly,

The islands of Cape Breton and St. John's having been annexed to this government by the royal proclamation, I shall consider what profits and advantages may be derived to the province in general as soon as I shall receive His Majesty's instructions and know his further pleasure relating to that acquisition.

(signed) *M. Wilmot.*

Thursday, June 5, 1766.

A return having been made to this house that Mr. Gregory Townsend and John Grant, Esq. have, in virtue of His Majesty's writ, dated the 16th December 1765, been chosen to represent the county of Breton in general assembly; and it appearing to this house that the said return varies from the tenor of the writ, which directs that the choice shall be made by freeholders, and the return specified that the same has been made by the inhabitants;

Resolved and ordered, that Mr. Butler, Mr. Morris, Mr. Smith, Mr. Brenton, and Mr. Benbridge, be a committee to examine into the validity of the said election, and report thereon.

A true extract from the journals.

(signed) *James B. Franklin, Clerk H. Assembly.*

Extract from King's Instructions, 15th section.

"And whereas the situation and circumstances of Our island of Cape Breton will not at present admit the calling an house of assembly, you and Our lieutenant governor of Our said island shall, until it appears expedient to call such assembly, in the meantime make such rules and regulations, by the advice of Our council for the said island, as shall appear to be necessary for the peace, order, and good government thereof, taking care that nothing be passed or done that shall any way tend to affect the life, limb, or liberty of the subject, or to the imposing of any duties or taxes; and that all such rules and regulations be transmitted by the first opportunity after they are passed and made, for Our approbation or disallowance."

Mr. Bruce to R. J. Uniacke, Esq. relative to the decision in the late revenue cause.

Sir,

Sydney, Nov. 23, 1816.

I am directed by his excellency the lieutenant governor, to require your opinion in writing as to the situation this colony is placed, in consequence of the late decision in the colonial revenue cause tried before Mr. Chief Justice Dodd, and to state whether the ordinances which have heretofore been acted upon are legal or not.

I am, sir, your obedient servant,

(signed) *W^m Bruce, Sec^r.*Richard J. Uniacke, Esq. Attorney General,
Cape Breton.

Mr. Attorney General Uniacke's opinion of the state of the Island, in consequence of the decision in the revenue cause.—(In General Ainslie's, 25th November 1816.)

Sir,

Sydney, Cape Breton, Nov. 23d, 1816.

I have just had the honour to receive your Excellency's commands through your private secretary, desiring I would report in writing my opinion as to the situation this colony is placed, in consequence of the late decision in the colonial revenue cause tried before Mr. Chief Justice Dodd, and to state whether the ordinances which have heretofore been acted upon are legal or not: in obedience thereto I beg leave to state, that I am of opinion, as it has been decided by Mr. Chief Justice Dodd,

Dodd, that His Majesty had relinquished his prerogative over this island, that all ordinances at present in force are illegal upon such decision, and that the situation of this island is in a disorganized state as it regards its public revenue, and the execution of the provincial laws, which I humbly conceive calls for the immediate interference of His Majesty's government.

I have the honour to be, with respect,
 your excellency's most obedient humble servant,
 (signed) *R. J. Uniacke*, Attorney General.

To his Excellency Major General Ainslie.

N^o 13.—Extract of a Letter from Major General Ainslie to Henry Goulburn, Esq. dated 12th February 1820.

WITH regard to the measure of re-annexing Cape Breton to Nova Scotia, insofar as an unwearied attention to the capability and advantages of this island, as well as being perhaps better fitted by inclination for this sort of study, enables me to judge, I can conscientiously declare it to be the wisest plan Lord Bathurst could have adopted, and the only one capable of doing justice to its great resources: this is the universal opinion of the colony, a few persons in Sydney only excepted, whose petty importance will be lessened. Above every thing, it will contribute to the pure administration of justice. The inhabitants of this island, by the union, derive immediate and great advantages; the participation in the Nova Scotia colonial bounty of 2s. 6d. a quintal on cured fish, something a barrel on mackerel, and are relieved from a duty of 2½ per cent they paid on produce and articles of every description from hence (coals excepted) in the harbours of the Nova Scotia government; roads will be opened through tracks of the island, the produce of which, for want of an outlet, has been consumed by the settlers themselves; a striking instance of this has been illustrated by a merchant from Halifax, who, on hearing of the proposed union, came here, got a small lot of thirty acres, which he cleared and built a store on, and shipped 4,000 weight of cured butter in three months, from a part of the country where, from want of vent, a single pound was never before brought into the market; in that time he disposed of 3,500l. of British goods; this is a flattering earnest of the wisdom of the plan.

N^o 14.—An Act passed by the Legislature for the province of Nova Scotia in 1766, intituled, "An Act for the more effectual Recovery of his Majesty's Dues in the Islands of Cape Breton, St. John's, and Islands adjacent."—(Anno sexto, Geo. III. c. 3.)

WHEREAS, His Majesty by His royal proclamation given at St. James's, the seventh day of October 1763, in the third year of His reign, has thought fit to annex the islands of St. John's and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to the government of Nova Scotia: and whereas some doubts have arisen, whether the laws of this province, antecedent to the said proclamation, are in force there; and as sundry persons have since refused to pay His Majesty's dues: in order, therefore, to remedy the same, it is hereby declared and enacted by the commander in chief, the council, and assembly, that by virtue of His Majesty's royal proclamation, the said islands of St. John's, Cape Breton, or Isle Royale, with the lesser islands adjacent, were and shall accordingly be adjudged to have been and be under the government, authority, and jurisdiction, of His Majesty's province, and that the inhabitants thereof were and are subject to all the laws of the same.

N^o 15.—Extract of a Letter from Lieutenant General Sir James Kempt, G. C. B. to the Earl Bathurst, K. G. dated Halifax, 31st October 1820.

IN my dispatch of the 10th instant, N^o 7, I had the honour to transmit for your lordship's information, a copy of the proclamation issued by me here on the 9th, with the advice of His Majesty's council, declaring the re-annexation of the island of Cape Breton to the province of Nova Scotia, and to acquaint your lordship that I meant to visit that island without loss of time, for the purpose of collecting the information required

required by your lordship, and making such arrangements on the spot as might appear to me to be necessary.

I am just returned from thence, after an absence of sixteen days, having visited in that time Sydney, Louisbourg, and Arichat, the principal places in the island.

The re-annexation of Cape Breton to the province of Nova Scotia was officially proclaimed at Sydney on the 16th instant; and I have great satisfaction in reporting to your lordship, that the government appears to have been administered with great prudence and discretion by Captain Stewart, from the period of General Ainslie's departure to the re-annexation taking place.

When at Sydney, I made myself acquainted with the several ordinances passed by the governor and council of Cape Breton, for the government of that colony, and there will be no difficulty I think in applying to that island the laws actually applicable to the other parts of Nova Scotia. The legislature will meet on the 12th of December next, and I shall not fail to recommend to their immediate attention the measures necessary to be adopted on the occasion.

When the Nova Scotia laws are put in operation in Cape Breton, the services of the chief justice, and all the other subordinate officers of justice, may be altogether dispensed with.

N^o 16. —Extract of a Letter from Lieutenant General Sir James Kempt, G. C. B. to the Earl Bathurst, K. G. dated Halifax, 10th November 1820.

(One Enclosure.)

With reference to my dispatch dated the 31st of last month, I have now the honour to transmit, for your Lordship's information, a copy of the instructions given by me to the surveyor general of Cape Breton, of which I trust your Lordship will approve. The authority given him to locate emigrants and other poor settlers under the conditions specified in the instructions, is an arrangement similar to that made by my predecessor Lord Dalhousie in this province, and continued by me, and the extension of it to Cape Breton will give great satisfaction, I have reason to believe, by affording facilities to real settlers in acquiring lands, and promote thereby the speedy settlement of that island.

Instructions for Captain Crawley, Surveyor General of Cape Breton.

1st. Captain Crawley will continue to fill the office of surveyor general of Cape Breton, reporting either direct to the governor, or to the surveyor general of the province, as he may be instructed.

2d. He will appoint one deputy in each district of the island, selecting for this important trust men of good character, who are sufficiently qualified for the situation, and upon whose integrity he can place a reliance.

3d. He will take measures for laying off into lots of 100 acres and 200 acres, tracts of land in the situations most sought after by settlers, so as to have always a sufficient number of lots ready prepared for immediate settlement.

4th. In all lands laid out on lakes and shores, he will take care that a reservation is made for a road of sufficient breadth to pass along the front of the lots bordering on the lakes in the direction that may be found the most convenient for a public road; he will also take care that a due reservation for public roads is made in all other situations, so that good and convenient communications may be established throughout the different settlements in the country.

5th. The lots are invariably to be laid off according to the King's instructions, and with their narrowest part on all roads, rivers and lakes.

6th. That emigrants arriving from the United Kingdom, and other poor persons (being the subjects of His Majesty), who are desirous of obtaining lands in Cape Breton may have every facility afforded them of obtaining an immediate settlement, with the least possible trouble and expense, Captain Crawley is authorized to grant tickets of location to such persons as upon a careful inquiry into their character and circumstances he shall consider as likely to make good settlers, and to be faithful and loyal subjects of His Majesty. He is vested with this important and extensive authority, in the entire confidence that he will exercise it with prudence and discretion, and strict impartiality; in acting under it, he will particularly observe the following instructions; before granting a ticket of location, he must be certain that

that the person to whom it is to be given has not previously received any land from government, and that he does not possess any by purchase or otherwise. Those persons whose applications he shall approve of shall be entitled to receive tickets according to the following scale : viz.

Unmarried men for	-	-	-	-	100 acres.
Married men for	-	-	-	-	200 -

He will acquaint all persons to whom he may grant these tickets, that they must proceed forthwith to the cultivation of the land allotted to them ; and that they will on no account be confirmed in the possession of their respective lots by grant, until they shall be fairly settled, and have erected houses thereon.

7th. He will transmit on the 1st of every month to the provincial secretary, to be laid before the governor, a list of the persons to whom he may grant tickets under this authority. Upon which warrants will issue, and grants follow in due course, if government be satisfied that the original possessors of such tickets are absolutely cultivating their lands, and living on their respective lots.

8th. He will particularly make known the above conditions to all persons who may apply to him for lands, and further explain to them, that to make the taking out of grants as easy as possible to poor settlers, three, four, or even five of them may be included in one grant (should they be disposed to join together) by which means the fees will be but trifling, and the titles to their respective lots will be equally good and valid in law, as if they had each a separate grant.

9th. All petitions from persons, whose circumstances and situations in life do not require an immediate settlement, must be transmitted to the provincial secretary at Halifax, for the governor and council to decide upon, with a certificate from Mr. Crawley attached to each petition, stating that the lands applied for are ungranted, and at the disposal of the crown.

10th. In all petitions the lots of land applied for must be particularly specified, or as nearly so as possible, as no general warrant of survey will be granted to any person ; and the invariable condition will be immediate settlement on the lands.

11th. While every possible protection and encouragement will be thus extended to real settlers, and every facility afforded them of acquiring titles to their lands by grant,, at no great expense government is at the same time determined to discourage, and if possible to put an end to land jobbing of every description ; and Mr. Crawley is especially charged to report every transaction of the kind that comes to his knowledge.

12th. No warrant of survey will be renewed at the expiration of six months, unless it is clearly proved by a certificate from the surveyor general, that their non-completion has not arisen from any neglect or inattention of the persons that received them.

(signed) *James Kempt.*

N° 17.—Extract of a Letter from Lieutenant General Sir James Kempt, G. C. B. to the Earl Bathurst, K. G. dated Halifax, 26th March 1821.

It will afford your lordship satisfaction to hear that every thing is going on well in Cape Breton. A weekly post communication is established with Sydney, and the public business is transacted with regularity and dispatch. The legislature, in the present session, have voted 1,000*l.* for roads and bridges in the island, a boon which is duly appreciated by the inhabitants, as well as the arrangement formerly communicated to your lordship of inserting five persons in one grant of land. In addition to these benefits, no fees have been charged for the many new commissions that it became necessary to issue for the appointment of magistrates, militia officers, and other local situations, on the re-annexation of the island to this province. In short, the people, though generally poor, are represented to me as being contented, thriving, and happy, with the exception of a few individuals resident about Sydney.

N^o 18.—Extract of a Letter from Lieutenant General Sir James Kempt, G. C. B. to the Earl Bathurst, K. G. dated Halifax, Nova Scotia, 19th October 1821.

I HAVE the honour to acquaint your lordship, that I paid my annual visit to Cape Breton in the month of August, and that I was there during the sitting of the supreme court of justice, the first since its re-annexation to the province of Nova Scotia.

The little business that came before the court went on in the usual way; and, with the exception of a few individuals resident in and about Sydney, the people of Cape Breton express the highest satisfaction at their re-annexation with this province, and appear already to feel the advantages resulting from it. A very strong address to this effect was presented to me at Arichat by the principal inhabitants of that district, by far the most populous and important in the island.

There being a great many old claims and controversies of various kinds to settle and adjust, I remained in Cape Breton for nearly three weeks. It was impossible, as your lordship may believe, to satisfy all the applicants that came to me for relief, but I did not fail in every case to do what appeared to me to be just and right, diligently seeking the best information to be obtained, and hearing all the parties concerned before I came to any decision.

Many of the claims and disputes were of long standing, and they occasioned me a great deal of trouble; but I trust the public business will be so conducted in future that nothing of the kind will again occur.

In the course of the summer I also visited almost every part of this province; and I have great satisfaction in reporting to your lordship that it appears to be rapidly increasing in political and agricultural importance.

