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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 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.

ALSO

COPIES OF THE PETITIONS OF THESE INDIVIDUALS, FOR WRITS OF *HABEAS CORPUS*,
WITH THE AFFIDAVITS IN SUPPORT OF THEM, AND OF THE
RETURNS TO THESE WRITS, &c.



No. I.

*Letter from Lieut. Col. GLEGG, Secretary, to His Excellency LORD AYLMEY,
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 honor to be, Sir,

Your most obedient humble servant,

(Signed) J. B. GLEGG, Secy.

Honble. James Stuart, Attorney General.

True Copy, J. STUART.

No. II.

*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 Honorable
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 Robt. Cowie, William Davis, and Elie Boucher, three of the agents and servants of your Petitioners, (founded upon the Ordinance 17, Geo. 3, 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 Seigniorship 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.

True Copy, (Signed) J. B. GLEGG, *Secy.*

Quebec, 22d Nov. 1830.

No. III.

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

Quebec, 25th November, 1830.

SIR,

I have been honored 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 Seigniorship 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 honor 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 seigniorship of "*Mille Vaches*," and neither the pardon, nor the license applied for, is necessary.

I have the honor to be, Sir,

Your most obedient humble servant,

(Signed) J. STUART,
Atty. General.

Lieut. Col. Glegg, Secretary, &c. &c.

True Copy, J. STUART.

* Vide copy of this Ordinance in Appendix No. 1.

† Vide copy of this Ordinance in Appendix No. 2.

No. IV.

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

CASTLE OF ST. LEWIS,
Quebec, 19th January, 1831.

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 your's, 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 honor to be, Sir,

Your most obedient humble servant,

(Signed) J. B. GLEGG, Secy.

Please return me the two enclosures.

Honble. James Stuart, Attorney General.

True Copy, J. STUART.

No. V.

Here follow the applications referred to 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 honor 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, Secy.

No VI.

Quebec, 11th 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 honor 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, Secy.

No. VII.

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

Quebec, 29th January, 1831.

SIR,

I have been honored 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 £6, 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 Inn keeper: 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 for the first, and £20 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.

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 licences 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 seigniories, 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 seigniories, have, in like manner, and as had been done by their predecessors in possession of those seigniories, 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 seignior 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. McKenzie, 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, 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 *Mill 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 24 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, Duchesnav, 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 expence.

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 expence, 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 expence.

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 expence.

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 Magistrate should have the support of the Crown Officers, at the public expence; 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 39 years ago,—provisions which have since remained a dead letter—such 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 honor to be, Sir,

Your most obedient humble servant,

(Signed) J. STUART,

Lieut. Col. Glegg, Secretary, &c. &c. &c.

Atty. General

True Copy, J. STUART.

No VIII

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

I have the honor to be, Sir,

Your most obedient humble servant,

(Signed) J. B. GLEGG, Secy.

Humble. James Stuart, Attorney General.

True Copy, J. STUART.

No IX

*Letter from Lieut Col GLEGG Secretary Sec to GEORGE VANFELSON Esqr
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 honor to be, Sir,

Your most obedient humble servant.

Signed J. B. GLEGG. Secy

The Advocate General

True Copy, J. B. GLEGG. Secy

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. I.

PROVINCE OF LOWER CANADA.

To the Honorable 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 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.

Whereupon your Petitioner humbly prays that His Majesty's Writ of *Habeas Corpus* may issue, 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, 30th November, 1830.

(Signed)

ELIE BOUCHER,

Subscribed and delivered in the presence of

(Signed)

JAMES MCKENZIE,

(Signed)

FRANCIS WARD PRIMROSE, } Witnesses.

The above Petitioner, having annexed to this Petition, and laid before me, an affidavit of James McKenzie, 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 authorised 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.

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 Seigniory 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 Seigniory 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 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 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 Seigniory 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 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 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 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 MCKENZIE.

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 & 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 MCKENZIE.

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 MCKENZIE,

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

No. III.

Affidavit of James McKenzie, Esquire.

DISTRICT OF QUEBEC, }
TO WIT: }

JAMES MCKENZIE, 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 *Tadoussac*. 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 MCKENZIE,

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.

PROVINCE OF LOWER CANADA.

To the Honorable 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.

Whereupon your Petitioner humbly prays, that His Majesty's Writ of *Habeas Corpus* may issue, returnable before your Honor *immediate*; and thereupon that, by the order of, and under the authority of, your Honor, 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 MCKENZIE,
(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 Honorable Mr. Justice Kerr, at the foot of the foregoing Petition, a Writ of *Habeas Corpus* did issue on the 1st 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. V.

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 had, 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 reigniory 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 Commor. 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 B. 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 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.

For as much 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, Esquire, 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 authorized for that purpose, by the Governor, Lieutenant Governor or Commander in Chief of this Province for the time being: for as much 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; for as much 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) JAMES M'KENZIE. (Signed) R. COWIE.

No. VII.

Affidavit of JAMES MCKENZIE, Esqr.

[This Affidavit is precisely similar to that above under No. III. and is therefore omitted.]

No. VIII.

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 Honorable 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.)

(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 Decr. 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 Superintendants 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 this Province, for the time being.

For as much 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. B. DUCHESNAY, J. P. (L. S.)

True Copy,—Certified,

(Signed) JOHN JEFFERY, Gaoler.

No. IX.

Petition of WILLIAM DAVIS.

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 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 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 honor; 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) 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. X.

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 depose 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, lessors of the Seignior of *Mille Vaches*, in the District of Quebec, within which is situated the Post of *Portneuf*, which said Seignior 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 Seignior 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 Seignior of *Mille Vaches*;—That in the latter end of the month of October, now last past, that 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 Seignior 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) THOS. WILSON.

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

A

This is the paper writing marked A, in the Affidavit of William Davis hereunto 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 goal 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.

Paper writing marked C. referred to in the foregoing Affidavit

DISTRICT OF }
QUEBEC }

To JOHN WALLEY, Constable, at Quebec.

For as much 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.

For as much 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, for as much 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, 1820.

(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 XI

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 Honorable 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 WAJRY, 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 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 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 in o 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

Affidavit of the Honorable FRANCIS WARD PRIMROSE and JAMES M'KENZIE Esq.
 PROVINCE OF LOWER-CANADA

DISTRICT OF
 QUEBEC A. T. W. H.

The Honorable Francis Ward Primrose, of the City of Quebec, in the Province of Lower Canada, Esquire, 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 Novr. 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 XIII

Certificate of WILLIAM GREEN, Esqr 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 Honorable Jonathan Sewell, Esquire, Chief Justice of the Province of Lower Canada, and the Honorable 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 that 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.

PROVINCE OF LOWER CANADA,

DISTRICT OF }
 QUEBEC. }

Certificate of WILLIAM GREEN, Esqr 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

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 Honorable Jonathan Sewell, Esquire, Chief Justice of the Province of Lower Canada, and the Honorable James Kerr, Edward Bowen, and Jean Thomas Taschereau, Esquires, Justices of 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.—Witnesses, 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 Philip, 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 Huscé.—*Ignoramus.*”

“ (Signed) “ WM. G. SHEPPARD, Foreman.

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

And that, at the same Term, a Bill of Indictment, endorsed 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.

APPENDIX.

No. I

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 cloathing, 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 cloaths 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, inkeeper, 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 cloaths, 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 herein before 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 herein after directed.

If the owner or owners of any such goods, wares, merchandizes, or provisions so seized, or the person or persons entrusted 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 condemnation, 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 intitled 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.

Ordnained 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.

APPENDIX, No II

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 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 Licence, 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 Licences 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 Licence, 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 Licence, 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 leige 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.

Ordnained 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.

