

# The Head Quarters, <sup>1</sup>/<sub>2</sub> [Series.]

## LITERARY, POLITICAL, AND COMMERCIAL JOURNAL.

WILLIAM GRIGOR, Editor.

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FREDERICTON, N. B., FEBRUARY 23, 1846.

[WHOLE No. 140]

## PUBLIC INSTITUTIONS.

## Bank of British North America.

FREDERICTON BRANCH.

GEORGE TAYLOR, Esq., Manager.

DISCOUNT DAYS, Wednesday and Saturday.

Bills intended for Discount must be left at the Office on

Tuesdays and Fridays.

N. B.—The Notes of this Branch are redeemed

at par, at all the Branches and Agencies of the Bank of

British North America in CANADA.

## Central Bank of New Brunswick.

W. J. BEDELL, President.

SAM. W. BASSITT, Cashier.

DISCOUNT DAYS, Tuesdays and Fridays.

Bills or Notes for Discount must be left at the Bank on

Mondays and Thursdays.

N. B.—The Notes of this Bank are redeemed at

the CITY BANK, Quebec, at par.

## Central Fire Insurance Company of N. Brunswick.

MONTHLY COMMITTEES.

DIRECTORS FOR FEBRUARY 1846.—John S. Coy, and

Thomas Stewart.

## Protection Insurance Company.

HARTFORD, CONNECTICUT.

F. W. HATHEWAY, Agent, Fredericton.

At a Meeting of the Board of New Brunswick held

at the City of Fredericton, in the Province Build-

ing, on Saturday the seventh day of February, A

D. 1846.

PRESENT.—The Honorable the Attorney General,

William Tynng Peters, the Hon. William B.

Kinross, Q. C., Daniel Ludlow Robinson, the Hon.

Edward B. Chandler, Q. C., William End, Q. C.

Charles Peters Wetmore, Hon. John W. Weidon,

William Wright, William Curran, Jr., John M.

Robinson, Andrew Barrie, James W. Chandler,

Hon. Robert L. Hazen, Hon. Lemuel A. Wilson,

Charles Fisher, Charles A. Harding, Richard M.

Andrews, William Jack, Alexander Campbell,

George P. H. Munchie, Geo. D. Street, David S.

Kerr, John H. Gray, William J. Ritchie, G. C.

Thompson, George Lee, Jr., John C. Allen, Theophilus

Desbrisay, James F. Barton, James J. Kaye,

Colin J. Allan, Andrew R. Wetmore, Humphrey

T. Gilbert.

The Hon. the Attorney General in the Chair.

Read the draft of an Address from the Members

of the Bar to the Honorable William Botsford, late

senior Justice of the Supreme Court.

Upon motion of the Hon. William B. Kinross,

seconded by Mr. Wright—

Resolved unanimously, That the same be adopted,

and presented to His Honor.

Resolved, That Messrs the Hon. William B.

Kinross, William Wright, John M. R. Robinson, John

H. Gray, and William J. Ritchie, be appointed a

Committee to present the Address.

CHARLES I. PETERS, Attorney General.

JAMES J. KATZ, Secretary.

To the Honorable WILLIAM BOTSFORD, late senior

Justice of the Supreme Court of the Province of

New Brunswick.

The Members of the New Brunswick Bar embrace

this, the first occasion of their assembling

together since your Honor's retirement from the

Bench, to convey to your Honor a cordial and

united expression of their respect; and while they

deeply regret that retirement, they cannot but

prize the high and honorable feelings which

prompted an act so generous and disinterested.

The Bar recall with pride and satisfaction your

long and honorable career as a distinguished Mem-

ber of their Body,—a Speaker for many years of

the House of Assembly of this Province, and as a

bright ornament of that Bench which so justly

commands the esteem and veneration of all classes.

Nor can they, in thus noticing your Honor's just

claims to the public gratitude, forget the unvarying

urbanity and kindness which have ever marked

your private intercourse with the Members of the

Bar, and which, added to the active benevolence

of your whole life, have secured an attachment

to your part which previous years have only served

to strengthen, and which future years cannot dis-

solve.

Tuesday, the 17th instant, being the day ap-

pointed by Judge Botsford to receive the foregoing

Address, the Committee, together with a large

body of the other Members of the Bar, assembled

at the St. John Hotel, where his Honor had re-

quested their attendance, at 2 o'clock in the af-

ternoon, and the Address having been read and

presented by Mr. Kinross, his Honor was pleased

to make the following

REPLY:

GENTLEMEN OF THE COMMITTEE.—I feel grati-

fied for this Address, and gratified, that the motives

which induced my resignation, have been ap-

preciated by the members of the New-Brunswick Bar.

To retire from the Bench, where the harmony

was uninterrupted, and attached as I was, to my

Brethren not merely from the ties formed by official

duties, but by the bond of friendship and profound

esteem—to interrupt, I will not say to sever, the

associations and friendships which in my inter-

course with the members of the Bar, had been the

growth of half a century—to commence life as it

were anew—were subjects for painful considera-

tion and reflection. A sense of public duty com-

pelled me to make the sacrifice; and I rejoice that

the public good will be promoted by the ability,

knowledge and integrity of my successors.

In my intercourse with the Members of the Bar,

I ever wish to be considered as one who was

deeply interested in their honor and prosperity.

From them I have always received the kindest

attention and indulgence.

My fervent wishes are, that in the pursuit

of my honorable profession, so mixed up, as it is, with

the affairs of men, and so necessary for the protection

and defence of the injured and oppressed, the

Members of the New-Brunswick Bar may ever be

distinguished for that moral fortitude which is de-

rived from religion.

Having passed the age allotted to man, my life

must be drawing to a close;—whatever the

continuance may be, it will be cheered by the recol-

lection that when I retired from the Bench, I car-

ried with me the esteem and attachment of the

Members of the New-Brunswick Bar.

W. BOTSFORD.

His Honor delivered this reply with great feel-

ing, and all present were deeply affected by the

noble sentiments it contains.—New-Brunswick.

## Provincial Parliament.

## Legislative Council Chamber.

Monday, February 23, 1846.

## CONVEYANCES BY FEMES COVERT.

The House went into Committee, in con-

sideration of the Bill, relating to convey-

ances by Femes Covert, for the barring of

Dower.

Hon. Mr. Botsford in the Chair.

The object of the Bill was, to enable mar-

ried women to acknowledge their execu-

tion of conveyances, in which they had

joined for the purpose of barring Dower,

and wherein the consideration money ex-

ceeded £200, before any Justice of the

Peace, instead of only before a Judge of the

Supreme Court or Justice of the Inferior

Court of Common Pleas, as under the ex-

isting Law.

Hon. Mr. KINNEAR objected to the Bill,

as he thought that, in the present state of

the Province, the House could hardly be pre-

pared to go so far; and without intending

to cast the least slight on any of the Magis-

trates of the country, he thought they ought

not to interfere with the wholesome provi-

sion of the present Law. There might per-

haps be some little inconvenience felt, in

certain parts of the country, from the dis-

tance to be travelled to go before a Judge,

or a Justice of the C. P.; but he thought

that much greater inconvenience and even

injustice might be caused by passing this

Bill. It was a Bill to affect the barring

of Dower; to enable married women more

easily to convey away their rights in their

husbands' property, which perhaps might

be their whole provision for the remainder

of life. It was therefore a very important

Bill, and required serious consideration.

Such a Bill might lead to many evil conse-

quences; breaches of faith reposed in par-

ties by the law might occur, in various ways,

Justices might be so lax and easy in their

mode of taking such acknowledgments, that

they might not require the husband to leave

the room, while they asked the wife the

necessary questions as to her having freely

and voluntarily executed the deed; deeds

might be drawn by persons incompetent to

draw them properly and effectually, and the

Justices might not be qualified to detect the

deficiencies; acknowledgments might be in-

formally taken, or informally certified on the

Deeds; the thing intended to be done might

be so carelessly and badly done, that even

where in truth the wife had freely and vol-

untarily executed the conveyance, yet from

some informality or deficiency in the ac-

knowledgment, a purchaser might, after the

death of the husband, be subject to a claim

of Dower, and be put to all the delay and

expense of a suit in Chancery, to defeat the

claim and to maintain his just title. For

these reasons, and because he [Hon. Mr. K.]

thought that Justices of the C. P. were

generally persons of such acquirements and

habits, as to have a sufficiently clear percep-

tion of what the law required, and that they

would take care to see the law properly com-

plied with; while the same acquirements

and perception could not always be expected

in Justices of the Peace, he thought that

in such an important matter, the Province

was not yet prepared to make such an al-

teration as this Bill proposed; and he should

therefore be against passing it at present.

Hon. Mr. CHANDLER said that he had

opposed this Bill last year, and he had seen

nothing since to induce him to alter his mind.

If such a Bill were required at all, it ought

to go further, and apply the same provision

to conveyances made by married women in

their own right, as was proposed merely for

the barring of Dower. But he objected to

the Bill altogether. The provision in the

existing Law, allowing married women to

acknowledge deeds, where the value was

less than £200, before an ordinary Justice

of the Peace, was only an exception to a

general rule. The general principle was,

that acknowledgments by Femes Covert

must be before a Judge of the Supreme

Court or a Justice of C. P.; and if the Le-

gislation were now called upon to commence

de novo, to begin to legislate on this sub-

ject, he [Hon. Mr. C.] would be disposed

to go against even that exception, and to

allow of no acknowledgments: whatever be-

fore an ordinary J. P.; but certainly he

would not be for altering the present Law

as proposed by this Bill. The present re-

gistry law was also open to other objections;

it was an anomaly in our Law, that a re-

gistered deed, purporting on its face to be

signed by a Magistrate on the endorsement

of an acknowledgments, though leaving no-

thing to shew whether that Magistrate's sig-

nature was genuine or a forgery, yet must

be taken to be correct; the Register of

Deeds must record that instrument; he had

no power to question its validity, to make

any investigation or enquiry as to the ge-

nuineness of signatures; and when once

recorded, that Deed was always evidence in

every Court of Justice in the country. This

was certainly a most dangerous anomaly in

the law of evidence; and the evils to arise

from it might hereafter be experienced, to

the dismay and ruin of many who now little

dreamed of the danger. Therefore he [Hon.

Mr. C.] was not disposed to go any further

in facilitating such conveyances. Again,

women might come before Magistrates and

acknowledge Deeds as married women; but

they might not be the real parties; the real

persons interested might be personated by

others; the Magistrate might be ignorant of

all the parties, and unable to detect the

fraud; and this was another mischief un-

provided against by the present Law. But

he [Hon. Mr. C.] thought, that before long

there must be a Law enacted, to require

the Magistrate or Judge, taking these ac-

knowledgments, to make enquiry respect-

ing the parties, and to satisfy himself as to

their being truly what they represented

themselves to be, before certifying their ac-

knowledgments. At any rate, while the

Law was such as it is, by confining the tak-

ing of such acknowledgments to fewer in-

dividuals, there would be much less danger

of mischief, of fraud and deception, and the

Registers of Deeds would run less risk of re-

cording forgeries, than if this Bill were al-

lowed to pass. For these reasons, as well

as for those urged by the Hon. and learned

Member opposite, he [Hon. Mr. C.] should

oppose this Bill. There might be similar

inconveniences at present existing; but

the danger to arise from the proposed re-

medy would be very much greater. There

was another reason for not passing any such

Bill at present: Lawyers were now obliged

to hunt all through the first volume of the

Statutes, to ascertain what really was the

Registry Law, there being so many

Acts relating to the subject; before long

those Laws must be consolidated and simpli-

fied; and to create an additional Act now

would only be to increase the difficulty and

confusion. The Hon. Member concerned by

moving the postponement of the Bill for

three months, which was seconded by Hon.

Mr. WYER.

Hon. Mr. JOHNSTON would not be in

such haste to postpone the Bill. He thought

all the difficulties suggested by the Hon.

Member who had just spoken, might arise















