loyal subjects have been wantonly and grossly outraged; the peace of a populous district has been perilled; and all to obtain what, in ordinary education, would have enabled the Justices to know was impossible.

EXTRAORDINARY CASE — IMPRISONMENT OF THE REV. DANIEL M'GETTIGAN, C. C. LETTERKENNY.

(From a Correspondent of the Newry Examiner)

"Letterkenny, June 5, 1842.

"The people of this town and neighbourhood have been suddenly thrown into a state of unusual excitement, by the treatment of some of the local magistrates towards the Rev. Daniel M'Gettigan, C.C., of Letterkenny, who now lies immured in one of the cells of Lifford gaol. It will be very naturally asked, "What crime has this zealous champion of religion committed to merit 'such unseemly punishment?' Simply because he would not barter or prostitute his conscience, to please the caprice of a few presumptuous squireens. A prosecution is pending against a person for stealing a horse, and, although there was sufficient evidence to insure a conviction, without dragging the minister of God from the discharge of his sacred duties, the magistrates would prefer to give the rev. gentleman all the trouble and inconvenience in their power. For this purpose, they summoned Mr. M'Gettigan to give evidence and to disclose the full nature of a private acknowledgment made by the accused to him, under the full conviction that any thing he told the priest would never be adduced in evidence against him. Mr. M'Gettigan attended, and expostulated with the magistrates against the injustice of compelling him to reveal any thing delivered to him under the confidence and panoply of his office as a Catholic priest. He was ordered into bridewell until he would comply with the wishes of the magistrates. He was brought up again next day, but his fortitude was not to be shaken by imprisonment; and he persisted in a refusal to tender his evidence. Next morning he was committed to the tender mercies of the gaoler in Lifford, where he now remains awaiting the decision of the Court of Queen's Bench.

On reading this account there is not one of impartiality and honesty, that would not give Mr. M'Gettigan credit for his magnanimity and Christian fortitude. 'No,' said he, 'rather than thus give evidence, I would suffer my head to be chopped off on a block!'"

COURT OF QUEEN'S BENCH.

TUESDAY—LIBERATION OF THE REV. MR. M'GETTIGAN.

The Queen at the prosecution of the Attorney-General v. the Rev. Daniel M'Gettigan.

Mr. Haig (with whom was Mr. Pigot) appeared on the part of the Rev. Mr. M'Gettigan, to move that the rev. gentleman be discharged from custody, first, because an erasure took place in the warrant after it was signed and sealed by the justices; secondly, that the committing justices had no jurisdiction in the case; and thirdly, that even if they had, the forms prescribed by the law were not observed. It appeared by an affidavit made in the case that the erasure of which he complained took place after the original warrant had been signed. The rev. gentleman was arrested in Letterkenny, and was committed to custody under that warrant, which was directed not to the gaoler of the county of Donegal gaol, but to the keeper of a bridewell in the former town. It appeared by that affidavit that he was detained two days at Letterkenny, and afterwards transmitted to the gaol of Donegal, in the custody of two policemen.

Judge Crampton asked whether counsel was then moving on the insufficiency of the return to the writ of habeas corpus?

Mr. Haig intended to show that the warrant was illegal, inasmuch as he was first committed to the bridewell of Letterkenny by virtue of a warrant which was signed by four justices, and when committed to the gaol of Donegal one of these signatures was erased. It appeared that the attorney for the rev. gentleman saw the warrant the morning after he was arrested, when the four names were attached to it, and the erasure must have therefore taken place after the original execution of the warrant, and after it had been signed, which made it void on the principle of the common law, that the value of a written instrument was at an end if an alteration were permitted after it was once delivered.

Judge Perrin asked to whom the warrant was originally given?

Mr. Haig replied to the bridewell-keeper at Letterkenny. In the case of Seaton v. Herron, in 2d Shower's Report, 29, it was held that a joint bond, from which the name of one of the obligans was, erased, and subsequently executed, were held void; and that case was afterwards referred to by Judge Buller as settled—that the alteration of a material part of an instrument made the instrument itself null & void. The counsel next referred to Pigot's case, in 11th Cooke, p. 27, the case of the King v. the Inhabitants of Great Marlow, 2d East, page 244; to cases in third Term Reports, pages 38 and 331, in the latter of which it was laid down, that where two justices were directed by the statute to perform any judicial act, if that were afterwards done separately by each, the whole instrument was void. The warrant in that case received the signatures of four different justices—it began with the words "whereas it appears to us, &c, that the Rev. Mr. M'Gettigan can give material evidence," &c., and it was, therefore, quite clear that it was a joint warrant, signed and sealed by all. On this point, Lord Kenyon held it to be a settled rule of law, that it was not necessary to have the concurrence of all the justices in a case which was purely ministerial, but it was so when they acted in a judicial capacity. The warrant clearly proved that they were acting judicially, for it is stated "whereas Hugh Molloy, of Bullock, stands charged before three justices, &c., and that it appears to us the Rev. Daniel M'Gettigan can give material evidence, and having been duly summoned and appeared before us, and informed of said charge, refused to be examined, and give evidence when required." The learned counsel next referred to the cases of Magee v. Law, 15 East. 391, of Harris v. Warden, 1st Chitty, 392, which established that where a joint warrant of an attorney was made, the entry of the judgment must be for one instead of several judgments. The warrant, as he said, was signed originally by four of the justices, and no justification could be made for three of those taking on themselves to do what was done by the fourth. It was clear that if the warrant had any validity it must be made the statute law, although no statute was referred to on the face of it. In the case of Petton, v. Addington, in Peat's Nisi Prius Cases, 330, Lord Kenyon said that justices of the peace had no power whatever to commit persons for contempt, and from that to the present no instance of committal took place of persons who refused to give evidence.

The case of the King v. Jones, 5, Barnwell & Alderson, 564, showed that where the justice of the peace committed a party for contempt, the warrant directing it should be detained until discharged in due course of law: yet the court, although giving no opinion as to the legality of the warrant, discharged the prisoner. The statute of the 9th George IV., chap. 54, sect. 13, directed two justices of the peace, before committing a person for felony, that they should take an information, on oath, which was to be in writing; that this should bind any person capable of giving evidence in the case in his recognizance, to appear at the trial in the next Court of Oyer and Terminer, or any other court to be held, and in case any person knowing material evidence should refuse to enter into such recognizances, he should be committed to prison, provided such evidence, if given, did not expose him to any prosecution or penalty. The third section stated that magistrates had no power, in cases of misdemeanour, to commit persons for contempt who refused to give evidence. He (Mr. Haig) submitted that, under that section, the magistrates had no jurisdiction to commit the prisoner, unless the crime charged was a felony, and the party so charged in actual custody for that felony, or upon a suspicion of felony. That question had been fully considered by Mr. Nunn, in his work on the duties of justices of the peace, page 330. The party should be in custody, and it was only when in such custody for the felony, or a suspicion of felony, that persons refusing to give evidence were to be committed for contempt.

Judge Perrin asked whether the party charged in the present case was in custody?

Mr. Haig replied that he was not; and there further appeared on the face of the warrant the extraordinary circumstance that the man's case had been originally heard six weeks before, and before three different magistrates, and, as the charge was not set out as pending before any tribunal, he must have been discharged. It was quite clear that no magistrate could have any jurisdiction in the matter but those only who originally heard the charge, and it was equally as clear that those who committed the rev. gentleman had no authority to do so, inasmuch as they had been given no reason to suppose he could give material evidence. The words in the warrant were, "whereas it appears to us," &c., while the statute expressly stated a committal should only take place when they had "good reason to suppose" material evidence could be given. In Bushel's case, to be found in Sir Thomas Jones's Reports, page 15, it appeared that certain jurors were committed for finding a verdict against the full and manifest evidence given in the case; and the court subsequently held that the evidence so complained of should have been set out on the face of the warrant. In the case of the King v. Walsh, 3 Neville & Manning, 632, which was a conviction under the 6th of Geo. IV. for refusing to deliver the ship's registry to the officers of customs, Lord Denman held that it ought to appear on the face of the conviction the registry which was required, and name of the officer who made the demand.

Judge Crampton asked Mr. Brewster if he meant to contend that the warrant was a legal one under the statute?

Mr. Brewster replied that such was his intention, and that it was also good at common law.

Judge Perrin—Are you in a position to prove that any person was in custody?

Mr. Brewster—I am not, my lord.

Judge Perrin—Because, from what has transpired in the case, he might, for aught we know, have been discharged.

Judge Burton—It is of no great importance for you to show whether he was in custody or not.

Judge Perrin—You cannot show that this warrant is legal under the statute, and I wish therefore to know whether there is any authority at common law which sustains it.

Mr. Brewster, Q.C.—I admit that the warrant cannot be supported under the statute, it not appearing that a party was arrested, or in custody; but at common law the magistrates have power to commit for contempt in refusing to give evidence. Bennet v. Watson, 3, Maule and Selwyn, 1. This was not a committal for contempt, but a committal necessary for the administration of justice: If magistrates are not allowed this power, it will tend to defeat administration of justice.

Judge Barton said the opinion of the court was, that, the proceedings being under the statute, the warrant was defective, for the reason alleged by Mr. Haig, it not appearing on the warrant that any person had been arrested, or was in custody for the charge. The magistrates did not say in the return that the Rev. Mr. M'Gettigan declined to state his reasons why he refused to give evidence, and if such a practice as that adopted in the present instance were allowed, it might turn out to be a very vexatious and harrassing mode of sending men to prison without knowing what evidence they could give. He thought the return defective, and for that reason it was his opinion, and that of his brethren, that the rev. gentleman ought to be discharged.

The rev. gentleman having received the congratulations of his numerous friends who were present, retired, accompanied by his venerable bishop, the Right Rev. Dr. M'Gettigan.

At a meeting of the Stockholders of the Gore Bank, held at the Bank, on Monday the 1st day of August, the Hon'ble Adam Forgusson, Samuel Street and N. C. Ford, Esquires, were appointed Scrutineers, when the following gentlemen were declared duly elected as Directors for the ensuing year:—

John Young, Edward Jackson, Samuel Street, David Thompson, Hon. Adam Fergusson, Arch. Kerr, John Weir, William Dickson, junr., Colin C. Ferrie, Edmund Ritchie, Esquires——A. Stephen, *Cashier.*

Gore Bank, Hamilton.