

your Lordship states that an essential part of the information necessary to enable your Lordship to form a conclusion as to the propriety of the conduct pursued by the Governor, will consist of ascertaining how far the proceedings of the House of Assembly, of the Sheriff, of the acting Assistant Judge, and of the Governor, respectively, were in accordance with Law—and upon that question your Lordship desires us to report our opinion.

We have taken these papers into our consideration, and have to report that in our opinion the House of Assembly has not the power of commitment for which it contends, and consequently that the acts of the Speaker and the Sergeant-at-Arms and his Assistants were contrary to Law.—The Assistant Judge and the Sheriff did right in discharging Dr. Kieley, and the Governor had the legal power of proroguing the Assembly.

We think it impossible to contend that the Crown can, by constituting or calling together a General Assembly in a Colony, with power to assist in making laws for the Colony not repugnant to the laws of the Mother Country, thereby give implicitly to that body the undivided and extensive privileges possessed by the House of Commons as a branch of the High Court of Parliament.

The power of committing for contempt or breach of privilege is possessed by the House of Commons as part of the Lex et Consuetudo Parliamenti; and has been immemorially so treated and enjoyed—and therefore a person so committed, is not imprisoned in violation of Magna Charta, which says that no one shall be imprisoned unless by judgment of his Peers vel per Legem Terræ.—He is imprisoned by virtue of the Law of Parliament, which is part of the Lex Terræ.

But there is no Lex et Consuetudo of the Assembly of Newfoundland, constituting part of the Common Law, and we are of opinion therefore that no such power as that which is contended for exists.

We give this opinion however with great diffidence and hesitation, on account of its differing materially from that attributed to Mr. Baron Parke when delivering the judgment of the Privy Council in the case of Beaumont v. Barrett (1 Moore P. C. cases 73)—in that case the Jamaica House of Assembly had committed the Appellant Beaumont to custody for a breach of privilege in having published in a Colonial paper what the Assembly had resolved to be a libel on their body.—Beaumont brought his action in the Island against Barrett the Speaker; and the Colonial Courts decided in favor of the privilege of the Assembly.—From that decision Beaumont appealed to the King in Council, and the Judicial Committee affirmed the judgment of the Court below, thus establishing the right of the Jamaica House of Assembly to commit for contempt.

It must be observed that Jamaica was not, like Newfoundland, a Colony acquired by settlement, the inhabitants of which are entitled to the benefits of British Law, but a possession which the Crown acquired by conquest, and over which therefore it had a clear right of Legislation. In the reign of Charles the 2nd an Assembly was constituted by authority of the Crown, with the power of making laws for the Colony, agreeable to the laws of the Mother Country, and subject to the sanction of the Crown.—Between the time when the Assembly was constituted (about the year 1680) and the reign of Geo. the 2nd, repeated instances occurred in which the Assembly, no doubt supposing itself to possess the rights enjoyed by the British House of Commons, voted different publications to be breaches of their privileges, and committed their authors as for contempt. This part of the Law of England had thus (whether rightly or wrongly) been accepted and used, as the law of the Island, previously to the reign of Geo. the 2nd, in the 1st year of whose reign a Colonial Act was passed (1 Geo. 2. c. 1) which enacts that "all such laws and statutes of England as have been at any time esteemed introduced, used, accepted or received as laws in the Island should and were thereby declared to be and continue laws of His Majesty's Island of Jamaica for ever." This was a statute recognising the right which the Assembly had in fact exercised and appears to us fully to warrant the Colonial Courts and the Judicial Committee in the decision to which they came in the case of Beaumont v. Barrett.

It is further to be observed, that the Courts in Jamaica had all decided in favour of the power contended for by the Assembly, as being consistent with the laws and usages of the Island, the contrary of which is the case in Newfoundland.

We are however quite aware that Mr. Baron Parke, in delivering his judgment, though he refers to the above mentioned statute as what would be sufficient to justify the course pursued by the Assembly, and though he adverts to the weight due to the decision of the Colonial Courts, yet taken pains to state, that even independently of the statute and the Colonial decisions, he considered the right of the Assembly to be indisputable—"it would appear," he says "to be inherent in every Assembly that possesses a Supreme Legislative Authority to have the power of punishing contempts, and not merely such as are a direct obstruction to its due course of proceeding, but such also as have a tendency indirectly to produce such an obstruction"—and the same sentiment is expressed in "other parts of his judgment."

It is obvious from the context that by an Assembly possessing Supreme Legislative Authority, Mr. Baron Parke meant to designate a Colonial Assembly, constituted in the ordinary form, having power with the concurrence of a Governor and Council to make Laws for the Colony, subject to the approbation of the Crown.—To the proposition in this unqualified form, we feel it impossible to give our assent, until it has been established, by decision of the Privy Council, in some case free from the special circumstances connected with the Island of Jamaica. If such a power is necessarily inherent in the House of Assembly, the body analogous to the House of Commons, it must, by a parity of reasoning, also belong to the Council, the branch of the Colonial Legislature intended to resemble the House of Lords—moreover, if such a power is a necessary incident to one of two or more bodies constituting the Supreme Colonial Legislature, a fortiori it must belong to a single body, where the Legislative functions have not been divided—and yet we believe such a power has never been claimed by the Councils or other bodies having power of making Laws with the concurrence of the Governor, in the different Australian settlements, and in other colonies where there is no Elective Assembly.

respectfully suggest whether the case is not of sufficient importance to render such a course expedient.

We have, &c. &c.
(Signed)
J. CAMPBELL,
R. M. ROLFE.

The Lord GLENELG,
&c. &c. &c.

COUNCIL OFFICE,
White Hall, 24th December, 1838.

Sir,
I am directed to state to you, for the information of Lord Glenelg, that the Lord President of the Council is of opinion that it would not be advisable to recommend to Her Majesty to refer the documents transmitted to me with Lord Glenelg's letter of the 15th December, to the Judicial Committee of the Privy Council, and I therefore return all the papers relating to that matter to you.

I have, &c.
(Signed)
C. C. GREVILLE.

J. STEPHENS, Esq.,
&c. &c.

SHIP NEWS

Port of Carbonear.

ENTERED
April 10.—Brig Flora, Shaddock, Poole, ballast.

CLEARED
April 19.—Flora, Shaddock, Lisbon, 3,500 qts. fish.

Port of St John's.

ENTERED
March 4.—Isabella, Meagher, Bristol, coal.

March 9.—Mary, Ryan, Cork, potatoes.

March 9.—Olinda, Scott, Greenock, pork, sugar, coal.

March 12.—Douglstown, Henderson, Viana, salt.

March 18.—Earl Grey, Thornton, Gibraltar, salt.

March 19.—St. John's, Percy, Glasgow, coal.

March 30.—Sophia, Campbell, St. Jago de Cuba, rum, molasses.

Ann Johnston, Corbin, Oporto, salt & sundries.

Notices

THE SUBSCRIBERS

WILL SELL BY PRIVATE

BARGAIN,

Their FISHING ROOMS at

INDIAN FIDDLE.

(Labrador.)

With the whole or any part of the

Property thereon—in such Lots

as may suit Purchasers.

The plans of the Premises may

be seen, and all other particulars

known, on application to

CODNER & JENNINGS.

St. John's, }
April 23, 1839. }

ALL Persons having Demands on or

against the late Firm of THOMAS

CHANCEY & Co. of this place,

(which was Dissolved on the 13th Octo-

ber last, as then announced) are request-

ed to furnish the particulars of their

Claims, to the undersigned, that the same

may be examined and forthwith liqui-

dated. And all Persons Indebted to the

said late Firm, are hereby required to

make immediate settlement, or proceed-

ings will be instituted against them.

EDWARD WALMSLEY,

For, and on behalf of

WILLIAM WILKING BULLEY.

Carbonear,
April 10, 1839.

WE, the undersigned, Trustees of

the Insolvent Estate of SLADE,

BIDDLE & Co. of Carbonear, in the

Island of Newfoundland, Merchants,

have appointed, and by these presents do

appoint Mr. JOHN WILLS MARTIN

of Carbonear, Gentleman, to be our

AGENT, to transact and manage all

matters connected with, and relating to

the said Insolvent Estate.

As witness our Hand, this 10th day

of November, 1838.

(Signed)
JOHN MCCARTHY,
WILLIAM RENDELL,
JAMES SLADE.

Carbonear.

For Portugal Cove.

The fine first-class Packet Boat

NATIVE LASS,

James Doyle, Master,

Burthen 23 tons; coppered and copper fastened,

The following days of sailing have been deter-

mined on:—from CARBONEAR, every MONDAY,

WEDNESDAY and FRIDAY morning, precisely at 9

o'clock; and PORTUGAL COVE on the mornings of

TUESDAY, THURSDAY and SATURDAY, at 12.

She is completely new, and of the largest class, and

built of the best materials, and with such improve-

ments as to combine great speed with unusual

comfort for passengers, with sleeping berths, and

commanded by a man of character and experience.

The character of the NATIVE LASS for speed and

safety is already well established. She is con-

structed on the safest principle of being divided

into separate compartments by water tight bulk-

head, and which has given such security and

confidence to the public. Her cabins are super

to or any in the Island.

Select Books and Newspapers will be kept on

board for the accommodation of passengers

FARES:—

First Cabin Passengers 7s 6d

Second Ditto 5s 0d

Single Letters 0s 0d

Double Ditto 1s 0d

N. B.—James Doyle will hold himself responsi-

ble for any Parcel that may be given in charge to

him.

TENDERS will be received at my

Residence until

MONDAY,

The 6th MAY at Noon,

from Persons willing to CONTRACT

for the erection of a

Fence

around the SESSIONS HOUSE of this

Town.

A Specification of the WORK may be

seen on application to me

JAMES POWER, J. P.

Carbonear,
April 8, 1839.

THE PUBLIC ADVERTISEMENT

under date the 13th of Octo-

ber last was not fully sanctioned by me;

the terms of that Advertisement have

not been fulfilled by the Representa-

tive of my Partner, Mr. WILLIAM

WILKING BULLEY, of LIVERPOOL; and

no settlement has been made with me

for a full transfer of the Trade.

Any further information may be ob-

tained on application to Mr. THOMAS

NEWELL, Carbonear, whom I have ap-

pointed as my Agent.

THOMAS CHANCEY.

Witness,

THOMAS GAMBLE,

DONALD BETHUNE,

Carbonear,
17th April, 1839.

In the Honorable the Circuit

Court for the Northern District

of Newfoundland, Harbour

Grace, October Term, Second

Victoria.

In the master of Robert Slade,

senr., Mark Seager, Robert

Major, and Rolles Biddle,

late of Carbonear, Mer-

chants, Copartners.

WHEREAS the said Robert Slade,

senr., Mark Seager, Robert

Major, and Rolles Biddle, were on the

Thirtieth day of April last past, in due

form of Law, declared Insolvents by the

said Court of our Sovereign Lady the

Queen. And whereas JOHN MCCAR-

THY, of Carbonear, Merchant, WIL-

LIAM RENDELL, of St. John's, Mer-

chant, and JAMES SLADE, of Trinity,

Merchant, Creditors of the said Insol-

vents, have by the major part in value of

the Creditors of the said Insolvents,

been in due form chosen and appointed

Trustees of the Estate of the said Insol-

On Sale

SEALERS

Agreements

For Sale at this Office.

Just Landed

Ex Jane Elizabeth, Nathaniel Mun

den, Master,

FROM HAMBURG,

Prime Mess PORK

Bread

Flour

Oatmeal

Peas

Butter.

Also,

15 Tuns BLUBBER.

For Sale by

THOMAS GAMBLE.

Carbonear,
Jan. 9, 1839.

The following Valuable Mer-

cantile and Fishing Establishments

situate at St. Mary's, belonging

to the Insolvent Estate of Slade,

Biddle & Co., of Carbonear.

Will be offered For Sale

By Public Auction,

On WEDNESDAY the 8th day

of May next

At 12 o'Clock,

AT THE

COMMERCIAL ROOM

(St. John's.)

THAT Eligible Room, known as RI-

DOULT'S ROOM—consisting of a

Large DWELLING-HOUSE, with COUNTING

HOUSE adjoining; Three STORES, One

SHOP One COOK-ROOM, Two STAGES, One

BEACH, FLAKES, MEADOW, and GAR-

DEN.

That Eligible Room known as PHIP-

PARD'S ROOM—consisting of one,

DWELLING-HOUSE, One STAGE, One STORN,

Extensive MEADOW GROUND with right

and privilege of Piscary at Great Salmo-

nier.

That Eligible Room known as CHRIS-

TOPHER'S ROOM—consisting of a

DWELLING-HOUSE, FISH STORE, STAGE,

FLAKES, BEACH, GARDEN, and MEADOWS.

Also,

10 FISHING BOATS, carrying from 15

to 30 qts Round Fish.

At St. Mary's.

Together with sundry SKIFFS, PUNTS,

CRAFT, CASES, &c.

Particulars of the Rooms may be made

known on application to Mr LUSH, at St.

Mary's; Mr. J. B. Wood, at St. John's or

at Carbonear, to

J. W. MARTIN,

Agent.

Carbonear,
9th Jan., 1839.

TWENTY GUINEAS

REWARD!

Cow Stolen.

WHEREAS some evil disposed Per-

son or persons did on the night

of the 12th instant, or early on the

morning of the 13th Instant, break open

the door of the STABLE on the Premises

of SLADE, BIDDLE & Co. and STOLE

herefrom a

MILCH COW,

Any Person giving information of the

offender or offenders, so that he or they

may be brought to Justice, shall receive

the above Reward

There is also a further Reward of

10 Guineas

offered to any person who will give

information of the Persons by whom the

Meadow and other FENCES belonging

to said Estate, have been destroyed

JOHN W. MARTIN,

Agent.

Carbonear,

interesting account of

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