

GENERAL INTELLIGENCE

We regret to learn that the Rev. M. Pickles on his way to the lower Wesleyan Chapel last Sunday morning, was thrown down with much violence by a runaway horse, and fell under the wheels of the carriage which was attached to the horse, receiving severe bruises on the arms and legs, and only escaped more serious injury by the merciful interposition of Providence. We are happy to learn that the Rev. gentleman is rapidly recovering, and expects to resume his public duties next Sabbath—*Yarmouth Herald*.

CHINESE HABITS.—Our domestic and personal habits of cleanliness make a visit to even a gentleman's family—for such this was—very trying to flesh and blood. It is hardly possible to imagine such a state of discomfort as this family presented. The reception room, about twenty feet square, was only about three parts boarded over, the other quarters being left for the stowing away of boxes, packages, &c. In this room was a square table, which would dine four, or, at a pinch, eight; and half a dozen old chairs, too much used to be dusty, lined either side of the room. Adjoining this was the apartment for guests, which had one table, loaded with account-books, abacus, ink pallet, and tea tray, leaving a small space of two feet by one for reading or writing at. It matters not which room we are in, that in front or at the side; any member of the family, or indeed any stranger who has business with the family, has a perfect right to go in and out, to sit, stare, smoke, spit, &c.

The women of the family are not dressed nearly so neatly as a cottager's wife at home, and their habits of dirt and smoke make them look more wretched still. They may be found in the kitchen, or in some other outer room that they have access to, idling away their time. Useful needlework among the ladies of a family is almost unknown; men tailors are generally hired to do all the work that the mother and daughters, or the women servants, would, with us, easily accomplish. As to books, they are quite out of their province. A woman able to read would be a wonder, even in a place of ten thousand or twenty thousand inhabitants. The education of the masses has not yet so much as touched them. In this, as well as in many other respects, they retain the characteristics which belong to the nations of the East. We had with us some copies of a valuable work on the Evidences of Christianity. One of the sons, himself a scholar, begged a copy, and then gave it to a little nephew of six years old, who could not even read the title of the book. I knew the book would have but little chance in the young urchin's hands, and would gladly have recalled the present; but such a step would have been rude, and done more harm than good, so I could only hope that his uncle might take it from him, and put it on his bookshelf. In this family, as in all others with which, during my sojourn in China, I have become acquainted, there is an utter absence of all useful reading—reading for pleasure, to instruct the mind, awaken the right feelings of one's nature, and enlarge one's views. Books of this kind are of course rare, but the habit of reading is rarer; which is evidenced in all family arrangements where no books are seen lying about to tempt the visitor; and also in travelling arrangements, where it is a very rare thing for a scholar to take any books or implements of writing with him on his journey. There was a cousin of my host's, whom I had seen on a former occasion, who showed considerable acquaintance with geography and history, and who seemed an exception to what is stated above, reading for information, and gladly making use of such books of general science as came in his way. He had also shown some interest in the subject of religion, and had written a few lines of congratulation on the occasion of my former visit, concluding with a few stanzas of poetry expressive of his joy at hearing from my lips the way of salvation. He was supporting himself by the proceeds of a small shop, and, in the course of the afternoon, made his appearance. With him I had half an hour's sensible conversation, which was a welcome

change after the empty ceremony of the rest of the family. Unless some important business is in hand, the hour of retiring to rest is earlier than with us, and we were not sorry to be left alone about eight o'clock. The rats over our mat ceiling kept up a constant rioting; but as they did not come near us, we did not experience such annoyance from them as from the vermin the night before.—*Hunt's Merch. Mag.*

UNITED STATES.

As the period approaches for the Presidential election, the excitement seems to increase. Mr. Buchanan still occupies the highest position, chiefly in consequence of the State elections for Pennsylvania, which has twenty-seven votes in the Electoral College, being in favour of the democratic party, by a large majority. Ohio, on the other hand, which has twenty-eight votes, has gone in favour of the republican party by an equally large majority; and the Fremont journals also affect to believe that the elections in November for the State of Pennsylvania, will show a different result from those which have recently terminated; and they are sanguine of success. The Presidential election is conducted in the following manner, and our readers will see when and where the real struggle will take place. On the first Tuesday after the first Monday in November, the people in the several States elect a certain number of electors—296 in all—who meet on the first Wednesday in December, and cast their votes; whoever is elected must obtain 149 votes out of 296. The whole number of votes in the slave-holding States is 120, and in the free States 176. The slave States, therefore, it will be plainly seen, have not strength sufficient in themselves to return their candidate; but nevertheless they generally manage to succeed in their object. This year, however, the question of slavery or no slavery is placed as a distinct issue before the people, and it is impossible to define the result.

It appears that after all that the Central American question is not so completely adjusted as was generally understood. An United States Commissioner appointed to enquire into the circumstances under which the passengers of a Railway train were set upon and pillaged, on their progress across the Panama route, reports as his opinion, that the American Government ought at once to take possession of the entire isthmus. It is added that this cool proposition has found favour at Washington, but from the indignant tone of the English press—the *Times* especially—the British Government will never consent to it.

The filibuster and usurper Walker has gained another battle in Nicaragua, with a very trifling loss. It is now said that the American Minister openly sympathizes with him, and that he has publicly declared himself heart and soul in favour of his government. He expressed his belief at the same time, that Nicaragua would ultimately become a star of the North American Confederacy. The policy of the Government of the United States is pretty evident. In return for the support received from President Pierce, Walker, by a decree, has legalized slavery, although heretofore prohibited in all the Central American States.

The forgeries of Charles B. Huntington, which we reported last week, amount to over \$400,000, nearly all of which had been deposited as security for money borrowed.

Bishop Henry U. Onderdonk, who has been suspended from the exercise of episcopal functions for the last twelve years, has been restored by the House of Bishops at the General Convention. The vote for the immediate and unconditional remission of the sentence of suspension was passed after a long discussion, 21 to 8. The minority were the Bishops of Virginia, Kentucky, Ohio, Georgia, Virginia, Massachusetts, Mississippi, and South Carolina. The Bishops of Connecticut, New Jersey, Maine, Florida, and California were absent.

THE LAW OF STORMS.—The man, who, when there is a domestic storm, steps in between man and wife, is as bad as he who, when it's raining violently, walks between two dripping umbrellas, for he gets protected neither by the one or the other, but on the contrary catches it from both sides.

HASZARD'S GAZETTE.

Wednesday, November 5, 1856.

William Thompson, Complainant, and John S. Bremner, Assistant Controller of Customs, Defendant.

The Defendant in this case was taken by a warrant, issued by the Mayor of Charlottetown, who is also a Justice of the Peace for the County of Queen's County, and the matter was heard before the Mayor and Recorder on the 20th day of October last. The facts of the case as they then appeared are fully stated in the opinion given by the latter at the request of the former, which opinion we now give.

"This is a case of unlawful detention of a certificate of Registry of a vessel, and is brought under the provisions of the 50th section of the Merchant Shipping Act of 1854. The material facts of the case are as follows:—The Complainant claims to hold a vessel called the *Rapid*, under a contract of sale from John M'Fadyen, the registered owner, which contract or agreement is now produced. He has been legally appointed master, and as owner and master has been, as he states, in the quiet and undisturbed possession of the *Rapid* from that time up to the 31st Sept. last, on which day he was arrested for debt and confined in the jail of Charlottetown, where he has been ever since and now remains. On the 10th Oct. the Defendant (Bremner) accompanied by Mr. John Ings, came to Complainant in jail and demanded the Certificate of Registry, threatening him with a penalty of £100 Sterling, if he persisted in his refusal to give it up; that Complainant accordingly handed the Certificate to the Defendant with an injunction, as he says, not to let it out of his hands or have anything written on it; and after having exacted a promise that it should be returned to him. A demand has been duly made on the Defendant, who stated, that he had parted with the certificate to Mr. John Ings. Under these circumstances the Complainant insists that the Defendant has made himself liable to the penalty of £100 Sterling, under the 50th Section of the Merchant Shipping Act, of 1854." On the part of the Defendant, it is stated, and it is not denied by the Complainant, that Mr. James Yeo had a previous mortgage on the vessel, that Yeo assigned that mortgage interest to Ings, and that it was for the purpose of having this assignment legally completed, that the Certificate of Registry was demanded from the Complainant, and so far this is a complete answer on the part of the Defendant. Yeo had a right to assign, and the Defendant was the proper person to demand the Certificate, and it was the duty of the Complainant to give it up, and had he refused, he would undoubtedly have been liable to the penalty of £100 Sterling, for such detention. Then comes the question, had the Defendant (Bremner) a right to retain it after a demand for a redelivery made by the person from whom he received it, and is he liable to the penalty of £100 for having parted with it? The Complainant rests his claim to the possession of the *Rapid* upon two grounds. 1st, That he is the *bona fide* owner and the person in possession of the vessel. 2d, That he is the Master. To prove that he is the owner, he produces the agreement or contract of sale above alluded to. This, it appears, is merely an agreement to sell, provided certain conditions are previously complied with, which conditions, it is admitted, was still unfulfilled; and no transfer of ownership either legal or equitable has therefore passed from M'Fadyen to the Complainant, Thompson. He has no claim to the possession of the Certificate of Registry on the score of ownership. Is he then entitled to it as Master? The 50th Section of the Act in question states, "that the Certificate of Registry shall be used only for the navigation of the ship." Now, can a master of a ship who is in the custody of the law, closely confined in a prison, not able even to visit the ship, can he be said to have a title to demand the Certificate of Registry in order to be used by him for the navigation of the ship? The thing is absurd on the face of it. Is not this the very case or one of the cases contemplated by the Act? Here is the master incapable of navigating the ship, shall he be entitled to retain the Certificate of Registry and prevent any other person from being appointed in his place? And this leads to the question, how far the mortgagee has a right to interfere? The 70th Section states, that the mortgagee shall not be considered as the owner except as in this case, for the purpose of securing the payment of the mortgage money. The counsel for the Complainant has misunderstood the import of this clause. It is intended to protect mortgagees—to strengthen, not to weaken their claim. A mortgagee when he enters into possession, is in a different position from that where he holds the mortgage as a mere lien for money advanced, in possession he remains virtually the owner. Suppose the ship deserted by the master, the vessel abandoned by him, would it not be competent for the mortgagee to take possession

and appoint another person master? When a master is prevented by the operation of the law from performing his duties, when he is incapable of going on board the vessel and acting as master, however unfortunate it may be for him, the contract between him and the owner is dissolved, he has ceased to be the master. The mortgagee enters into possession, as he had a right to do, and he appoints a new master, and this he has a right to do. This proceeding is to punish a public officer, for a dereliction of duty, to impose upon him a penalty to the extent of £100 Sterling, and before the Court can impose this heavy penalty it must be very certain that he has done wrong. Let us see how the matter stands: The officer receives in a legal manner the Certificate of Registry from the master. The mortgagee shows that the master is not in a position to enter upon his duties as such, that the vessel is lying idle, to his great detriment; he demands to have the name of another person indorsed upon the Certificate of Registry, this is done and the vessel proceeds to sea. In all this the officer has done his duty, and no more, and I am of opinion, that he is not liable to the penalty sought to be inflicted."

The Mayor, or rather Mr. Hutchinson, for he preferred giving his conviction as Justice of the Peace, stated, that he took a different view of the case from the Recorder, his was a more equitable, and as he thought, a more legal view of the affair, and was of opinion, that Mr. Bremner was not entitled to refuse to give up the Certificate of Registry when demanded by Complainant Thompson, and that he was guilty of a breach of faith in giving it to Ings, and therefore sentenced the Defendant to pay the penalty of £100 Sterling forthwith.

The case was afterwards removed by certiorari into the Supreme Court, Mr. Hutchinson having refused to grant an appeal. It was accordingly fully gone into this last term before his Lordship the Chief Justice. The Hon. the Attorney General and John Longworth, Esq., appearing for the Plaintiff in error (Bremner) and Hon. Chas. Young, Q. C., and Theo. Stewart, Esq., for Defendant (Thompson), and after a long and patient hearing, his Lordship gave judgment. It is proper to state, that on the part of the Defendant (Thompson), a motion was made to quash the writ of certiorari on the ground that six day's notice had not been given to the magistrate as required by English statute, 13 Geo. 2, c. 18, but this was overruled, and as this part of the judgment is not likely to interest the general reader, we have omitted it. Some questions were raised as respected the variance between the summons and conviction, but the Court having made up its mind on the merits of the case, declined giving any opinion thereon. The following contains the opinion of the Court on the merits and the judgment pronounced:

"The facts, said the learned Chief Justice, are few and simple, and not disputed on either side. John M'Fadyen, the registered owner of the *Schr. Rapid*, of this port, mortgages the whole vessel to Jas. Yeo, for £190, and this mortgage is duly entered in the Book of Registry, and endorsed upon the Certificate of Registry. Yeo as sole mortgagee under the 71st section of the Merchant Shipping Act, 17 and 18 vic. cap. 104—as he legally might—sells the vessel to John Ings, who by the operation of that section became the legal and absolute owner of the vessel, and had the right to the custody of the Register. Ings produced his bill of sale to the plaintiff in error, as Assistant Controller and Keeper of the Book of Registry, makes the declaration of ownership required by the 47th Section of the Act, and requires him to endorse the Certificate of Registry. The plaintiff, as such officer, under and by virtue of the 45th Section of the Act, which authorizes him to do so, demands the Certificate of Registry from the defendant in error, Wm. Thompson, then in jail for debt, who was the master of the vessel, and who claims to hold it as such master, and by virtue of an agreement—not endorsed upon the Register, nor entered in the book of Registry—he had entered into with M'Fadyen, for the purchase of the vessel, which he alleged was verbally recognized by Yeo, the mortgagee—Thompson on demand delivers the Register, conditionally, as he alleged to be held for him, but which is positively denied by Bremner the officer and Ings, and if true, would be quite immaterial to Bremner, the officer, and which, if he had refused to do, would have rendered him liable to the penalty of £100 Sterling, under the 50th Section of the Act before mentioned, which authorizes the officer to make the demand. The officer having obtained the certificate of Registry from Thompson, had in my opinion a right to hold it against any person, except against Ings, who had alone the right to demand it from him, and if Bremner the officer had redelivered the Register to Thompson, and he Thompson, had refused to deliver it to Ings on demand, he would have been liable to a penalty of £100 Sterling, under the 50th Section of the Act, the same section in fact, under which by some extraordinary misconstruction, the convicting Magistrate in this case has conceived himself authorized to impose a fine of £100 Sterling upon the officer for refusing

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