

A very interesting legal question in connection with juries has just been decided, according to our latest English papers, by the Lord Chief Justice, and Justices Blackburne Mellor and Lush. It will be remembered, no doubt, by many of our readers, that a woman named Winsor was tried and convicted of murder at the last summer Assizes for the county of Devon. The convict had made a trade of infanticide and had got along successfully in her fiendish occupation until arrested, in connection with a young woman named Harris, for the murder of Harris's infant. She was first tried on Friday the 17th of March, but the case continued till Saturday evening when the judge summed up the evidence and the jury retired. At 12 o'clock the jury were called into court and, as there was no probability of their agreeing to a verdict, were discharged, the judge declaring the commission had terminated that day. The prisoners were however taken back to goal and brought up for trial again at the summer assizes. At this trial Winsor's companion, Harris, was brought up to testify against her, and it was on her evidence that she was convicted. The prisoner's counsel obtained the Attorney General's fiat for a writ of error on the ground that the prisoner had previously been tried, and the jury, without coming to a verdict, discharged by the judge. It was contended that the judge had no power to discharge the jury under the circumstances—that it was done without the consent or motion of the prisoner, and when there was neither illness nor incapacity among the jurors. The counsel further contended that it was the judge's place under the circumstances to ask for a verdict of "not guilty." There was also an objection taken to Harris's evidence, on the ground that she was imprisoned on the same charge as Winsor. When the case came up before the Lord Chief Justice, the Solicitor General argued that an abortive trial was no bar to a second trial for the same offence, and that Harris's evidence was perfectly legal, inasmuch as a prisoner indicted with another could be called as a witness, provided he was not at the time upon his trial. On the part of the prisoner it was contended that the jury were interrupted in their deliberations and called into court and discharged, when a few moments later they might have acquitted the prisoner. By this the prisoner had been prejudiced.

The Lord Chief Justice went into the early history of English jurisprudence, and showed that it had been held at one time by the most eminent judges that when the jury were once discharged the prisoner could not be again brought to trial on the same offence. But the ruling of judges in more recent times was different. Blackstone asserted the right of judges to discharge juries in cases of evident necessity; when, for instance, the jurymen or the prisoner takes ill; and since his time this discretionary power had been frequently exercised. The Lord Chief Justice considered it essential that this discretionary power should be protected to the utmost, and thus comments upon the jury system generally: "Our ancestors insisted on unanimity as the essence of the verdict; but they were unscrupulous who they obtained it. Whether the minority gave way to the majority or the reverse appeared to be a matter of indifference to them. It was a contest between the strong and the weak, the able-bodied and the infirm, as to who could best suffer hunger and thirst, and all the miseries incidental to such a state of things. It was also said that it was equally incumbent, or was the duty of the judge, to take a jury who could not agree on a verdict to the confines of the county. It is very much doubted if that was the law, and there is nothing extant on record to show that such was the fact. Assuming so, I hope we look upon trial by jury and the principle upon which they ought to act in a different light. We do not desire unanimity otherwise than unanimity of conviction. It is very true that a small minority—one or two jurymen—may have a conviction, but not so strongly or deeply rooted as not to feel justified in giving way to the majority. And if jurymen only adopt a weak conviction on given points, they might yield to the stronger and more determined views of the others; but I hold it to be the essence of a jurymen's duty, if he has a firm, deeply rooted conviction (either in the affirmative or negative of the issue), not to give it up although the majority are against him, to purchase his freedom and get rid of the inconvenience. That being so, and when a judge is perfectly convinced that a reasonable time has elapsed, and the judge is perfectly convinced the unanimity of the jury can only be attained through the sacrifice of honest, conscientious convictions, why is he to subject them to the terrors of all the miseries of men shut up without meat, drink, or fire, in order that the minority might give way, or the majority, who could not purchase their liberty without a sacrifice of conscientious duty?" The Lord Chief Justice then comments on the peculiar position in which the judge in the first trial of Winsor was placed. It was

twelve o'clock on Saturday night, and the judge could not accept a verdict on Sunday. It was therefore his duty to confine the jury all day on Sunday in the hope of getting a verdict on Monday morning. But to keep them the whole of Sunday without meat, drink or fire would be inhuman, and yet to allow of refreshments of any kind would be to make the proceedings illegal; "because," as the Lord Chief Justice remarks, "there is no authority for saying—but, indeed, they rather point the other way—that after the jury have retired to consider their verdict refreshments can be supplied to them, and the oath administered to the bailiff in charge of the jury prevented his letting them have refreshments or allowing any one to speak to them (except himself, in asking them if they were agreed to a verdict) without leave of the Court—the latter having reference to the speaking to the jury only. I question whether, inasmuch as this system of coercion has been handed down to us by our ancestors, if a judge is not to take upon himself the exercise of this discretion, the sooner the Legislature interferes in the matter the better it will be for the administration of justice."

On the question of allowing the companion in crime of Winsor to give evidence against her, the Lord Chief Justice thinks it wrong. "They were both joined," he says, "in one indictment on the first occasion, and they were tried together. On the second trial one was allowed to give evidence against the other and there is no doubt that her evidence has brought about the present state of things, and in this particular it has placed the prisoner at a great and grievous disadvantage. I must say I felt the force of the prisoner's counsel's observation with reference to a fellow prisoner coming forward to give evidence without first being convicted and sentenced or acquitted. I think that much to be lamented, because such a witness ought to be in such a position as to be able to come forward and give evidence with a mind free from all corrupting influence of what the effect of her evidence might be upon her own fate." This was a matter, however, with which the court had nothing to do. They were there to hear a writ of error—to decide whether the judge used proper discretionary power in discharging the jury and whether the prisoner could be tried again for the same offence. On both points the Lord Chief Justice decided against the prisoner, who had wept continuously from the first drift of the judgment, and who was taken back to Newgate and from thence conveyed to Exeter to undergo the sentence of death, having remained nearly a year in prison from her first trial.

LETTER FROM LILLOET. To the Editor of the British Colonist. Lilloet, March 25th, 1866. Sir, At one o'clock on the morning of the 19th, a fire broke out in the two story house of Jean De Foe, the building called the French Hotel, it was a bakery and Siwash restaurant, the flames quickly spread, Cabean & Martin's licensed house, a bakery likewise soon succumbed to the devouring element, communicating next to the Cariboo Saloon, owned by Bailey and Sprout, from that to the Lilloet Bakery carried on by Kasper Herber. The whole completely demolished. The dry goods store of Edward Tynon had been moved a few weeks before some forty feet on a lot he purchased, this incident alone saved the town from total destruction. Tynon would however have saved his stock, everyone rallied round his place, the goods were in a short time on the bank of the river, the roof covered with blankets and all the stores on that side of the street were stripped of contents, the town looked like an illuminated ant bed invaded by a hoof, so lively did things go for two hours. The space burnt out on the street front is 160 feet, of goods destroyed \$3000, on the worth of the houses it is impossible to set value. How little one half of the world knows how the other half live, three bakeries in full work in this one horse town, turning out regular batches; there is an undertone in most sees and society assimilates, at the charcoal heap of De Foe are cellars and excavations large as cloisters of a cathedral; we noticed during the blaze an occasional quiet explosion like subdued chain lightning or tangle leg entangled, many a greyback here met his timely end—their head quarter in this province gone—alas poor Yorrick—Writer is not acquainted Mr. Editor, 'pon honor' but has friends in the comb and brush business who will suffer from stagnation of trade. The enterprising firm of Bailey and Sprout opened at a house opposite, the following evening with a dance. The owner of the Lilloet bakery Geo. Happort has been to Europe and is on his way out with a wife—his all is gone in smoke, barring this there will be no particular hardship, the burnt-out ones are jolly bachelors, they may consider themselves fortunate in escaping a personal roast or toast. We are in receipt of news from Cadawala—respectable miners who went up in February, der creek Bridge river, the men are they say plenty of ground prospects \$10 per day, slinging, clear of all expenses, their exertions were confined to prospecting only, the ground being frozen and covered with snow, they had thirty dollars worth of gold between the three, they return to work as soon as a thaw sets in. Mr. Dredney is here making preparations for immediately cutting a trail to the new Creeks—the trail will run up on the north side of Bridge river—this way of making it gives general satisfaction to those miners who have been on the ground by the other way via the portages, the river which is very wide above the catarons would have to be crossed twice either by ferry or bridges and the snow lies on the mountains till nearly the end of summer.

In the specification for tenders for the Bridge River trail, supplies you will see 17 pounds of Mustard is thought requisite by the Government, what is it for? Is it for a 'draw' from Big Bend attractions, to draw blisters, to draw out stumps or to season the climate hot and spicy on the sixty miles. F. W. F.

THE SHENANDOAH. Capt. Waddell's on Account.

The following extracts from a private letter from Capt. Waddell, the commander of the famous Southern cruiser Shenandoah, gives some interesting details of his doings not hitherto published. After denying that he destroyed the helpless whaling fleet after he knew peace was declared, Capt. Waddell goes on as follows:—

After reaching Behring's Sea I captured the ship William Thomson and Susan Abigail; both had left San Francisco in April last, these captures were made about the 23d of June, and from each I received San Francisco papers. These papers professed to have the correspondence between Generals Lee and Grant concerning the surrender of Lee's army. They also stated that Davis and Cabinet were in Danville, to which the Confederate Government had been removed, and that Davis had issued a proclamation informing the Southern people that the war would be carried on with renewed vigor. I was made possessor of as late news by these two captures as any the whalers had, and I continued my work until it was completed in the Arctic Ocean on the 28th of June, when I had succeeded in destroying or dispersing the New England whaling fleet. I left the Arctic on the 29th of June, and shipped from some of the whalers eight men on that very day—men of intelligence, all trained soldiers. It is not to be believed that these men would take service in the Shenandoah if they believed the war was ended. After leaving Behring's Sea I fell in with no vessels until I communicated with the British bark Barracouta, from San Francisco, August 3d, fourteen days, bound for Liverpool.

She informed me of the capture of Davis and a part of his Cabinet; also, of the surrender of Generals Johnston's Smith's and Magruder's armies. The Barracouta furnished that news the first time I heard it, and I instantly ceased to cruise, and steered for Cape Horn. Before speaking the Barracouta, I intended to look into the Gulf of Lower California, and then to wait the arrival of a California steamer bound for Panama. The Barracouta's news surprised us, and among some of the officers I witnessed a terror which mortified me. I was implored to take the vessel to Australia; that to try and reach a European port would be fatal to all concerned; petitions were signed by three-fourths of the officers asking to be taken to Cape Town, arguing and picturing the horrors of capture, and all that sort of stuff. I called the officers and crew to the quarterdeck and said calmly to them: "I intend taking this ship to Liverpool. I know there is risk to be run; but that has been our associate all the time. We will be sought after in the Pacific and not in the Atlantic." They supported my views, and then followed a letter from the crew—signed by 71 out of 110—saying they had confidence in me, and were willing, nay desired to go with me wherever I thought best to take the vessel. I had, of course, a very anxious time, painfully anxious, because the officers had set a bad example to the crew. Their conduct was nothing less than mutiny. I was very decided with some of them; I had to tell one officer I would be Captain or die on the deck, and the vessel should go to no other port than Liverpool. So ended my troubles with the officers. The men behaved nobly and stood firmly to their decision. When the ship was about one hundred miles from Azores, a suspicious looking vessel was seen ahead, and apparently lying to, waiting for us to come up with her. It was sunset, the wind very light, and my suspicions being aroused I steered my course steadily until darkness closed upon us, and then I wore ship and stood south-west till steam could be gotten up, for I had not even banked fires since parting with the Barracouta. It took twelve hours to get up steam; when it was ready I furled sails, steered due east sixteen miles, and hauled on my course steaming for one hundred miles. I believe she was a Yankee cruiser. She was only six miles off when night came on, and I evaded her successfully. The Shenandoah, under sail, is a sixteen knot vessel; under steam, nine knots; a fine sea craft. She ran from the Arctic to Liverpool in one hundred and thirty days; from the line on the Pacific side to the Cape in twenty six days; from the Cape to the line on the Atlantic in twenty-six days, and from the line to Liverpool in twenty-four days. Two of my crew died from disease when near Liverpool; otherwise nothing happened to mar our cruise. So ends my naval career and I am called a "pirate." I made New England suffer, and I do not regret it. I cannot be condemned by any honest, thinking man. I surrendered my vessel to the English Government, and all are unconditionally released. My obduracy made enemies among some of the officers, but they now inwardly regret their action in the Cape Town affair.



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Table with 3 columns: Disease, Cause, and Remedy. Diseases include Ague, Asthma, Biliousness, Dropsy, Erysipelas, Gout, Headache, Indigestion, Irritability of Skin, Jaundice, Liver Complaints, Lumbago, Rheumatism, Retention of Urine, Scalding of the Face, Scurvy, Spasms, Stomachic Disorders, Syphilis, Tetter, Typhoid Fever, Ulcers, Venereal Disease, Wounds, and Worms. Causes include Impure Blood, Stagnation of the Liver, and Obstruction of the Bowels. Remedies include Holloway's Pills, Ointment, and various other treatments.

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THE HOUSE OF ASSEMBLY was called yesterday, the Speaker and Messrs. Mos and McClure being alone in at Dr. Trimble, Dr. Powell and Mr. were outside, but declined attending. THE GUNBOAT FORWARD yesterday proceeded to the British camp at S Island. LITTLE NELL, with her mother, night by the Enterprise for Cariboo. SAILED.—The brig W. F. Lucas on San Francisco on the 28th ult. for

NAVAL THEATRICALS.—The given in the theatre last evening by the Amateur Dramatic Club of coming the night after the last of the previous evening, was not tended by the citizens as it ought have been. The gallant blue jacket in full force and had possession entire house. The curtain well known Scotch tragedy of rather a heavy undertaking for but with the exception of a hit attitude and an occasional "Cockneyisms," it passed off ably. The female characters sent by men belonging to the character of Lady Randolph being an able representative in the vocal interlude was excellent songs "Young Man from the 'Kitty O'Shaughnessy," by King being particularly good. The "Arae Belle" Towner, the poet Picher and the poetess, the poetess, being ably personated and Ellis. Dixon as Mrs. C. Honey as Penelope, were also very mark. The entertainment seemed infinite gratification to the number of the actors present. The was in the orchestra and played

OFF TO THE DIGGINGS.—The steamer left last night at ten o'clock Westminster with a considerable passenger, mostly bound to Cariboo. A large party of Frenching M. Casson, who came last night, left for French Creek, the son and some friends intend brewery and a billiard saloon. large freight.

MUSICAL.—We make known for those who wish to avail themselves of opportunity of learning to sing. Tonic Sol Fah Class meet for weekly practice this evening, open to all free of charge, and to impede the general progress, no new member will be admitted on the 18th proximo. Everybody for music should join this class.

THE SING YEAREN SOBER.—The winter series of those most reunions given under the auspices of German citizens took place in Verian Hall last evening. The was very good, and all seemed thoroughly into the enjoyment. Dancing was kept up with spirit until a late hour.

FROM NAINAIMO.—The steamer Douglas, Capt. Clarke, arrived from Nainaimo to which port she ship Heloise, and left her discharge yesterday morning but the weather too stormy to venture out she was moderated. She brought no passengers.

THE SOH FAH CONCERT.—We Mr. Spencer that the total receipts entertainment were \$178 37, and bursements \$76 50, leaving a favor of the Society of \$101 87 for instruction books, about \$200 of been ordered and will probably about four months.

THE MAIL STEAMER.—No further news, so far as we can learn, has been in town respecting the movement of mail steamers. A telegram from cisco, dated the 30th, to a person about to proceed to British Columbia to await the arrival of the but does not give the date of her

EXPECTED.—We understand the steamer Casarewicz is expected daily from Honolulu, S.I., to be made the run from Sitka to space of thirteen days. Messrs Green & Rhodes have a cargo away arrival for shipment to the Russian sions.

THE PRINCESS ROYAL from Puget Sound to England, lies in Royal where she awaits the shipment of difficult matter to accomplish just gold excitement raging in several It is said that the Labouchere will hands for her from San Francisco.

FOR THE NORTHERN COAL Mine understand that the steamer Diana to leave for the North, calling Charlotte Island, taking as passenger gentleman who goes up for the reporting to capitalists at San Francisco the prospects of our coal fields.