

ors of Forbes are not all extinct, nor are the documents relative to that affair lost; but may be forthcoming whenever required. I will only add, in further illustration of that business, that it was, I believe, at the moment of Mr. Gerrard's embarkation for England, that he was arrested, upon the prosecution instituted against him, but afterwards dropped, by Mr. Stuart, for perjury; that he was held to bail in the sum of £1000 to appear at a certain time; that he did not so appear, and was too good a judge to return to the country till afterwards, when the matter was blown over, and, as appears to be the case now, entirely hushed up. I would ask what became of the bail-bond, and why has not the forfeiture been sued for?

### CONSISTENCY.

In reply to the last query, I beg to state that, if the bail bond in question, bound the party over to appear at any specified court or term, to answer to the complaints alleged against him; and those complaints were not prosecuted at that particular court or term, then the bond would become void, and would, upon motion, at any subsequent time in that court, be cancelled, or at least ought to be, although I know that in these matters, the Judges in Canada, exercise a species of caprice, that is irreconcilable, both with law and justice. But if, as is sometimes, and most erroneously, and improperly, the case in Canada, the tenor of such bail-bond be, that the party shall be bound to appear at such court, or any other subsequent court, that may be held for the trial of such offences, the bond would remain in force, until it was cancelled, by cause being shewn to that effect. It is, however, a very immaterial matter in Canada, as far as regards the pecuniary liability of the parties, whether bail-bonds in criminal cases, are cancelled or not. For as the law now stands, there never was, nor ever will be, any bail-bond of that kind put in suit; since there exists no court in Canada, that can take cognizance of them, it being necessary that defaulters to such bonds, should be prosecuted in the King's court of Exchequer, at Westminster, and no where else; consequently the parties could not be attacked unless they were personally in England, nor the recovery effected without carrying all the documents, and all the witnesses, namely the constables, sheriffs, lawyers, and judges themselves, all to London. Hence, bail in criminal cases, is, in Canada, nothing but a farce, and until the law is amended in that respect, both judges and magistrates in requiring any bail, are merely acting a part to blind the vulgar. In offences that are bailable *de jure*, they dare not, both by magna charta and by the habeas corpus act, require excessive bail, and as the matter now stands, except for form's sake, they might just as well be content with