wire. It is believed the work could be done in the British Provinces for less money, but the outlay might probably exceed that which the Provinces might be disposed to undertake, on their own resources, for the attainment of an object which may be regarded as scarcely less essential to the furtherance of Metropolitan than of Colonial interests. On this ground, and that Provincial capitalists may hold themselves free to support what appears to be the best Provincial line of Telegraphic communication with the sea-coast, the Board of Trade are desirous that no time should be lost in submitting the project for the consideration of both the Home and the several Provincial Governments, with the view of eliciting, previous to the ensuing Session of the Canadian Legislature, the degree of support which each may be disposed to afford to it.

I have the honor to be, Sir,
Your most obdt. humble servt.
FREDERICK A. WILLSON,
Secretary.

To the Hon. D. DALY, M.P.P.
Provincial Secretary.

PROGRESS OF FREE TRADE IN FRANCE AND ON THE CONTINENT.

(From the Paris Correspondent of the London Economist.)

PARIS, Dec. 2.—The Parisian Free Trade Association is every day obtaining new members, and among them we must mention to-day M. de Broglie and M. Mole. The society has just published a newspaper, entitled *Le Libre Echange*, which is to be edited by M. Bastiat, with articles composed by M. Blenquiaine, M. Michel Chevalier, M. Leon Faucher, M. Louis Raybaud, M. Horace Say, and M. Wolowsk. Daily lectures are made at the seat of the Society, Rue de Choiseul, where the newspaper is also published. In their last course they have examined the questions of jewellery and bronze manufacture.

In Havre the Association for the commercial reform had a second meeting on Saturday last, M. Delaunay being in the chair. M. Coninck has proposed an amendment in the statutes, but it has been lost by a large majority. After the grand banquet which was given at Cadiz to Mr. Richard Cobden, a Free Trade Association has been organized in that great city, and its first meeting has taken place on the 20th ultimo. All the most respectable merchants at Cadiz have entered the Society.

The Chamber of Commerce of Toulouse has entrusted to a Committee the care of examining the question of Free Trade, and of reporting upon their investigations before taking a resolution about it.

The Minister of Commerce has published an ordonnance, by which he lowers the import duties on several articles, as the bark of Quinquino, from beyond Cape Horn, and on the nitrate of potassium; but we understand that a second ordonnance will soon appear which will extend this reform to a large number of articles.

BELGIUM.

(From the Belgian Correspondent of the London Economist.)

Free Trade principles are gaining ground considerably. The dearness of provisions is the great promulgatory agent. One would say that the scarcity under which we are suffering is one of the means which Providence uses to incite the people to their advance. Everywhere may be perceived the signs of the pre-occupation of the minds on the subject of the high price of food, and of the reflection upon the errors of a legislation which has for its object to render it still higher. The present crisis has thrown fearful light upon this question. Everywhere, in the domestic circle, in the clubs, in the press, in the deliberative assemblies, the future work of the legislature is prepared. We mentioned, some days ago, the petition of the Municipal Council of Verviers in favor of a repeal of the Corn Laws. Since then, the Hotel de Ville, at Brussels, has resounded with strong complaints upon the subject of the duty on cattle, and it has been announced in the Chamber of Representatives, by M. Anspach, the member for Brabant, that an opposition will be raised against every measure, whether fiscal or protectionist, which may tend to maintain or place any duties upon any sort of provisions. The general feeling against such duties is becoming so strong, that even the *Messager de Gand*, the organ of the manufacturing protectionists, asks for an unlimited freedom of trade for the necessaries of life, and attacks most strongly the agricultural monopolists.

MERCANTILE LAW CASE.

PRINCIPAL AND FACTOR—CONSIGNMENT—ADVANCES—SALE.

In the Court of Common Pleas of England, June 11, and July 6, 1846. Smart v. Sand.

Where A. consigned goods to B., a factor, for "sale and return," and directed B not to sell them below a certain price, B. being in advance on account of said goods, gave notice that if the advances made by him were not repaid, he would sell the goods to repay himself, and he did sell them accordingly below the price limited by A. *Held*, in an action brought by A. to recover the amount at which the goods had been limited, that the factor had no right under the circumstances to disobey the plaintiff's orders, and that he was liable for the balance.

This was an action of assumpsit, brought to recover of the defendant, a corn factor, the value of a cargo of wheat, consigned by the plaintiff to the defendant for sale. The declaration set out the consignment, and the order of the plaintiff not to sell below a certain price, and averred the violation of the order on the part of the defendant. The defendant pleaded that he was the factor of the plaintiff; that he was under advances to a large amount with the plaintiff, on account of said cargo of wheat; that while so, he gave notice to the plaintiff that these advances must be repaid, and if this was not done, defendant would repay himself for said advances out of the proceeds of said cargo, averring that the cargo was sold at the highest market price, and produced less than the amount advanced. For a further plea, the defendant pleaded that he had a lien, as factor, on the cargo consigned to him, in respect to the advances he had made to plaintiff.

There were other pleas, not necessary to be inserted here, to show the grounds of the opinion of the court. To these pleas there was a general demurrer, assigning *inter alia* for cause, that if the defendants meant to insist that the advances gave them a subsequent authority to disobey the plaintiff's orders, such authority should have been pleaded as the result of an express agreement, and not have been left as an inference of law and also, that the plea was an argumentative traverse of the promise and amounted to the general issue.

In support of the demurrer, it was insisted, that as the factor's power of sale was not coupled with an interest, he had no right whatever to disobey the plaintiff's orders. The defendants may have a lien for their advances, yet this would not give them authority to sell.

On the other side, it was contended that, in certain cases, when the factor has made advances, after he has given notice to the principal, and those advances are not repaid, there is an implied authority in law to sell without the assent of the owner. To sustain the position, Story on Agency, 331, was cited and relied upon. The opinion of the Supreme Court of the United States; in Brown v. M'Gran, (14 Peters, 480) delivered by Mr. Justice Story, was also cited. It was contended also, that where advances had been made, the factor's power becomes enlarged, and the consignment becomes a security for the money advanced.

Coltman, *J.*, delivered the judgment of the court.

Let us first inquire, what are the relative positions of a principal and factor for sale? From the mere relation of principal and factor, the latter derives authority to sell at such time, and for such prices, as he may in the exercise of his discretion, think best for his employer; but if he receives the goods subject to any special instructions, he is bound to obey them, and the authority, whether general or special, is binding. This was not denied; but on behalf of the defendants, it was contended, that where a factor has advanced money on goods consigned to him for sale, the authority to sell is irrevocable, because it would be coupled with an interest. That may be true; but it was incumbent on the defendants to maintain also, that on the failure of the principal to pay such advances within a reasonable time after demand, the authority of the factor was enlarged; and that he had an absolute right to sell at any time for the best price that can be obtained, without regard to the interests of the principal, and without regard to the nature of the authority originally given to him. No case was cited in which this point appears to have been decided in any English court. In Warner v. M'Kay, (1 Mec. & W., 599,) it was incidentally mentioned, and, as far as any opinion of the judges can be collected, from what passed, it would seem that Parke, B., thought that a factor might sell to repay himself advances, and that Lord Abinger was of a different opinion; and certainly there is nothing there decided, that can be treated as an authority for our guidance in this case. But we were referred to a passage in Story's Law of Agency. In the chapter on the Right of Lien of Agents, he says, (s. 371,) "In certain cases, where he has made advances as a factor, it would seem to be clear, that he may sell to repay those advances without the assent of the owner (*invito domino*), if the latter, after due notice of his intention to sell for the advances, does not repay him the amount." For this, is cited a decision of the Supreme Court of Massachusetts, which refers to the case of Pothonier v. Dawson (Holt's N. P., 383). The latter was not an instance of goods placed in the hands of a factor for sale, but of a party in whose hands goods were deposited to secure the repayment, at the time agreed upon, of the money lent; in which case Gibbs, C. J., said, "Undoubtedly, as a general proposition, a right of lien gives no right to sell the goods; but when goods are deposited by way of security to indemnify a party against a loan of money, it is more than a pledge. The lender's rights are more extensive than such as accrue under an ordinary lien in the way of trade." And he proceeds to say, that "from the nature of the transaction, it might be inferred that the contract was, that if the borrower failed to repay the money, the borrower might sell to repay himself." We were also referred to Story, on Bailments, chapter v., "On Pawns and Pledges," (§ 30[illegible],) where the rule of law is said to be, that if a pledge is not redeemed within the stipulated time, by a due performance of the contract, the pawnee may sell it in order to have his debt or indemnity.

But the relation of principal and factor, where money is advanced on goods consigned for sale, is not that of pawner and pawnee, as they are delivered for sale on account, and for the benefit of the principal, and not by way of security or indemnity against the loan, though they operate as such, the factor having a lien upon them, and upon their proceeds, when sold, to the amount of the claim against the principal. The authority of factors, whether general or special, may become irrevocable where advances have been made; but there is nothing in this transaction, from which such a contract as described by Gibbs, C. J., can be inferred; and the defendants were bound to prove a contract, if at any time the goods were to be forfeited, or the authority to sell enlarged, so as to enable the factors to sell at any time for the repayment of the advances, without reference to its being for the interest of the principal to sell at that time and for that price. Nor can we give any principle in law by which, independenty of the contract, such authority is given. On these grounds, it appears to us, the third plea is bad in substance. It is unecessay to consider whether the authority thus supposed to be given to the factor, is to be construed as an enlargement of his original authority by some rule of law, or as arising from some implied condition annexed to the original contract. In either case, it would be very doubtful whether they should not be treated as identical. The contract laid in the plea, therefore, sets up a defence which amounts to the general issue. For the reasons we have above given, we think the third plea is bad, and the other special pleas are open to the same objection, and our judgment must, accordingly, be for the plaintiff.

Judgment for plaintiff.—*London Jurist.*