

rules prescribed by this clause for the distribution of the estates of persons who may die insolvent.

5. *Geo. IV., c. 67, s. 27, to s. 33.* Much difficulty has been experienced in carrying into effect the several provisions of this Act relative to the registration of deeds and wills. The 28th section directs that where any interest in lands is affected by them, they shall be respectively registered within a certain time from the passing of the Act; and the 32d section declares that all such deeds as require registration, and shall not have been registered within the time, and in the mode prescribed, shall be null and void to all intents and purposes. But it most unluckily happened that, through the delay which took place in preparing the Royal Charter, no office of Registration could be established until long after the period in which many deeds and wills were required to be registered by the terms of the law; and attempts have accordingly been made to avoid several deeds on account of their non-registration, under colour of the enactment of the 32d section. In these instances the Judges have resorted to the rule, that "Acts of Parliament that are impossible to be performed are of no validity;" and in conformity to it have decided, that an instrument which absolutely could not have been registered within the time directed by the Act, because there was then neither office of registration nor registrar in existence, was not avoided by the want of such registration provided due diligence had been used in procuring the registration of it so soon as the appointment of a registrar, and the establishment of his office within the district, would admit of its being done. The question as to them seems, therefore, to be pretty nearly set at rest; but it may, notwithstanding, be expedient, in order to silence every doubt upon so interesting a subject, that the validity of all conveyances falling under the circumstances we have here described, be confirmed by an express enactment of the legislature. It will also, we apprehend, be necessary to make some alterations in the rules respecting registration: as it is extremely difficult, and indeed, in some cases, very nearly impossible, to deposit a deed, which may have been executed at a settlement in a very remote part of the island, about the beginning of winter in the proper District registration office within six months from the execution thereof; and it is likewise attended with great inconvenience and expense to parties to be obliged to proceed from those distant quarters to acknowledge the execution of deeds before the registrar of the District. For the correction, therefore, of these evils we would recommend, that where a party executing an instrument by which lands may be affected, shall reside at a greater distance than twelve miles from the proper office of registration, the execution thereof may be verified before the registrar by the oath of a subscribing witness thereto, or the party executing the same may acknowledge the execution thereof before some neighbouring magistrate; by whom such acknowledgement shall be duly certified in a form prescribed by the Act: that every deed affecting lands, whether verified by a witness, or acknowledged by the party executing the same, shall be deposited within nine calendar months of the time of its execution in the office of the registrar of the District who shall enter, in a book of registry, a memorial of the deed, and indorse on it a certificate of such registry; and that every conveyance which shall not be so deposited in the office of registration within nine calendar months, at furthest, from the execution and delivery thereof, shall, as against purchasers for a valuable consideration, be altogether null and void. From the report of the *Chamber of Commerce of St. John's*, we observe, that it is the wish of that body that there should be but one office of registration for the whole Island, and that it should, of course, be kept in this Town; but this proposal has, we know, encountered violent opposition in some of the out-harbours; and, though there may be good reasons why all those instruments, under which an interest in land transferred from one person to another, should be registered in St. John's, which may be considered as the focus of the whole trade of the Island, it still seems hard that those persons, who, from the proximity of their residence, may be supposed to be most immediately, and most strongly interested in those transfers, should be compelled to go out of their own District, to obtain authentic information respecting them.—We would therefore propose, in the hope of meeting the wishes of both parties, that these instruments shall continue to be registered in the District in which they were executed; and that the Registrar of each District shall be required to transmit, quarterly, to the registrars of the two other Districts, an abstract of all the deeds and wills which may have been recorded by him in the preceding three months; which abstract shall be carefully preserved by the registrar to whom it was sent, and entered in a book, kept by him for that purpose. In the report of the *Chamber of Commerce*, we also notice a suggestion that leases for a term not exceeding thirty-

one years, should be exempted from a liability to registration: and though this is a matter which can hardly be brought within the limits to which we proposed to confine our observations, we yet cannot refrain from mentioning, that, as the bare reversion of a term of thirty-one years, would be worth very little in this market, the power which would thus be afforded, of making secret conveyances of the most valuable interests, in lands, by means of long leases at a very trifling, or mere nominal, rent, would, in a great measure, emasculate the spirit, and defeat the object of the provision for registration. If, therefore, a privilege of exemption is to be granted to any leases, we would certainly recommend that it should be confined to short terms of three, or, at the most seven years.

We have now gone through all the clauses of the 5th *Geo. IV., c. 67*, upon which we feel ourselves, at present, prepared to offer any remarks; and it accordingly only remains for us to touch upon those parts of our FISHERY and MARRIAGE ACTS, which appear to call for alteration, and to be susceptible of improvement.

5. *Geo. IV., c. 51 s. 7.* There is a class of persons employed in the cod fishery termed "*Shoremens*," whose duty consists in making and curing the fish; and as doubts have arisen whether they are included under the designation of "*Seamen* and "*Fishermen*," it may be well to remove all uncertainty on that point, by mentioning them specifically in this clause of the act, or by introducing into it some expression which will certainly embrace them.

5. *Geo. IV., c. 51, s. 8.* The regulation which prohibited the master from advancing more than a certain proportion of wages to his servant, before the expiration of the period of his service, was intended to secure a provision for the latter during the winter which he was required by the law to spend in Great Britain or Ireland, and formed a part of the system under which it was attempted to compel an annual return of the servants from this country. Upon the abandonment, therefore, of the policy upon which that system was founded it might very well have been permitted to expire.—"*CÆSANTE RATIONE CESSAT ET IPSA LEX*,"—and, indeed, even as a member of that system it was, we believe, very nearly, if not altogether, inoperative and useless—"VOX ET PRÆTEREA NIHIL." At all events it has proved, as far as our experience of it extends, as a perfect dead letter; and ought, consequently, we think, to be expunged from the statute; for as a dead branch encumbers and injures the healthy limbs of a tree, so an useless, or impertinent, enactment must impair the vigour of all the other rules which are associated with it. "Obsolete laws," says Lord Bacon, should be cancelled: for, as an express statute is not regularly abrogated by disuse, it happens, that, from a contempt of such as are obsolete, the others also lose part of their authority. Whence follows the *torture of mentibus*, whereby the living laws are killed in the embraces of the 'dead ones'."

5. *Geo. IV., c. 51, s. 10.* We beg leave to refer here to the arguments we have already urged in favour of the prospective abolition of the servants' lien upon fish and oil; and to the additional observations upon the same subject which will incidentally be advanced by us in the following article.

5. *Geo. IV., c. 51, s. 11.* It is both curious and instructive to trace the law of *lien* in this country through some of its principal effects and consequences. That law having provided the fisherman with an ample security for the payment of his wages, the desire to obtain a certain reward for his labours, rather than trust to the precarious success of the fishery, induced him to prefer a contract for wages to an engagement for shares: and at the same time the planters, lured by the hope of profit—forgetful of the changes which had taken place in the condition of these fisheries—and falsely persuading themselves that men might be made to work for wages as industriously as if their exertions were stimulated by shares—were even more inclined to propose contracts for wages to the servants than they were disposed to enter into them. A practice of prosecuting the fishery with hired servants instead of *shoremens*, having thus become pretty general, it was soon discovered, that when a divorce has taken place between interest and duty mankind are too prone to neglect the latter; and therefore the terrors of pecuniary mulcts and corporal punishments were resorted to by the Legislature in order to check that propensity to neglect their duty which quickly displayed itself on the part of the hired servants in the fishery. The futility, however, of every attempt that has hitherto been made to render those servants industrious and sober through the coercion of fines and penalties is strongly attested by the changes which have at different times taken place in the mode of inflicting those fines and penalties, and by the necessity which is now admitted to exist for further alterations in it.—Nor is it in the least likely that human ingenuity will ever contrive a method by which such an object can be accomplished by such

means. But whilst these enactments have wholly failed in imposing a wholesome restraint upon idleness and drunkenness, as they were designed to do, they have proved a cause of strife between master and servant, and have even sometimes unfairly been resorted to by the former as a means of reducing his liability to pay high wages when the voyage has turned out a losing one. We doubt, therefore, whether their entire repeal, by removing one of the false props upon which the system of hiring servants now rests, would not, in the long run, prove more beneficial to the fisheries than the modifications of the existing enactments proposed by the *Chamber of Commerce*; and we are quite confident, that, if it be necessary that servants should continue liable to fines and imprisonment for neglect of duty, the power of imposing these punishments should not be confined to persons, who, like the magistrates in the out-harbours have close connection with the fishery, and are consequently either directly or indirectly interested in every case that can be brought before them. If the servant is to be fined, let him at any rate have the benefit of a fair trial under a strictly impartial Judge.

5. *Geo. IV., c. 68.* By the provisions of this statute the right of celebrating marriage in Newfoundland and its dependencies is confined to persons in holy orders, and to such teachers of religion, unconnected with any employment except that of a schoolmaster, as shall be licensed for that purpose by one of his Majesty's Principal Secretaries of State, or by the Governor of the Colony; and as a large proportion of the inhabitants reside in situations which place them, for a large portion of the year, entirely beyond the reach of either of those descriptions of persons to whom the right of celebrating marriage is confined, a compliance with the provisions of this act must in numerous instances have proved so impracticable, or at least, so inconvenient, as to have occasioned a total disregard to it. It seems, therefore, to be a question worthy of serious consideration, whether a state of concubinage, under a total absence of all matrimonial rites, both civil and religious, which the present marriage act necessarily gives rise to in some parts of the Island, or a general permission to contract marriage by the observance merely of certain civil forms, unaccompanied by any religious ceremonies, is most to be deprecated. For ourselves we trust we shall have fully discharged our duty by bringing this important subject under Lord Goderich's notice without presuming to offer any opinion of our own upon the propriety of adopting either of the two alternatives which alone offer themselves to his option; satisfied as we are that when his Lordship shall have once been put in possession of the facts of the case his own superior discrimination and judgment will enable him to take a correct view of it, in all its various relations, and easily to determine which is the best course for him to pursue in regard to it.

Before we close these our crude suggestions on the present Judicature and Jurisprudence of Newfoundland, we must take the liberty of respectfully repeating, what we have frequently urged on other occasions, that the applicability, or inapplicability of the law of England to the circumstances of this Country, furnishes a most vague and unsatisfactory rule for the decision of suits affecting either life or property; and that the *Jurisprudence* of this Colony must, consequently, continue very defective and imperfect until a code of laws shall have been formed expressly for it, by a selection of such parts of the law of England, both criminal and civil, as are suitable to it, with the addition of those peculiar regulations which its peculiar condition calls for.—The compilation of such a code, we may add, would certainly be a laborious and difficult undertaking; but by no means an impracticable one.

As we commenced with an enumeration of some of the difficulties attending the preparation of this Report, and a candid avowal of the insufficiency of our powers for the performance of such a task, so we must now close our letter with an expression of our sincere and deep regret, that any expectation which his Majesty's Principal Secretary of State may have entertained of deriving much useful information and assistance from us will too probably, be disappointed.

We have the honor to be,
&c. &c. &c.

R. A. TUCKER.
A. W. DES BARRES.
E. B. BRENTON.

Judges' Chamber, }
August, 1831. }
To
His Excellency THE GOVERNOR.

UNITED KINGDOM.

Earl Grey, according to the report of his personal friends, will take a very determined position in the House of Lords, when the Irish Church Bill is sent up, as it will be by a vast majority of the Commons. Their Lordships, of course, heartily hate the measure; if, however, they attempt to practise

on this occasion, the tactics by which they obstructed the Reform Bill last year, the premier will, at once, resign.—*Sun.*

THE LORD CHANCELLOR'S SALARY.

The following is an official account of the Income of the Lord Chancellor from the 1st day of January, 1831, to the 1st day of January, 1832, with the sources whence such income is derived.

	£	s.	d.
Salary received by his Lordship at the Exchequer, after deductions	4829	5	0
From Secretary of Bankrupts	4250	11	0
From the Pursebearer, for Fees arising in Bankruptcy and other matters	2127	2	3
From Secretary of Fines	693	0	6
From Clerk of the Crown	309	16	6
From Clerk of the Letters Patent	305	14	10
From Clerk of the Hanaper ..	1125	19	6
From Fees at the House of Lords	4089	15	0
DEDUCTIONS.	£17,731	5	7
Paid Vice-Chancellor £2500			
Paid Land tax	450		
Paid Writ Duty	75		
			5025 0 0

Net Income... £14,706 5 7

LEONARD EDMONDS,
Pursebearer to the Lord Chancellor.

CAPTAIN ROSS.—Mr. G. Ross, the brother of Captain Ross, and the father of Commander J. C. Ross, has, in a long, but very clear and reasonable letter, published his intention of proceeding to sea with two small vessels, to aid in endeavouring to ascertain the fate of the missing steamer, the *Victory*. Mr. Ross's suggestion will require £6000, and it is to charter two whalers, of 143 and 102 tons, with a crew of 35 men, one of them to be fitted for fishing, which employment she will follow if it does not interfere with the principal object of the expedition, at Port Cowen, while Mr. Ross proceeds to the wreck of the *Fury* only 50 miles distant. He thinks it probable he shall winter out, in which case he will send the fishing vessel home, with what oil she may have collected, and she will then return to him in the spring 1834, when he contemplates he shall meet Captain Back.—Another object Mr. Ross has in view, is to discover or rather recover, the lost Christian settlement in old Greenland, founded by the Norwegians, and which has been lost sight of for 300 years; it was the see of a bishop, containing two convents; and in nineteen bays or inlets, comprehended twelve parishes with 190 farms or hamlets. Mr. Ross is anxious to proceed this season, consequently the subscription must be notified immediately—we wish him every success.—*Hampshire Telegraph.*

We understand that the dissenters of the different denominations in this town, are about to co-operate with the committees in London, in conjunction with all the respectable congregations throughout the United Kingdom, to petition the new parliament and legislature to procure the privilege of having the marriage ceremony performed in their own respective places of worship, and by their own ministers, as well as to obtain freedom from their other disabilities and restoration to equal rights, laws, and immunities with their fellow subjects. Their increasing wealth, numbers, and intelligence will make it impossible for any government, based on the principles of equity and justice, to withhold these reasonable claims from the dissenters.—*Birmingham Journal.*

The Marquis of Conyngham died a short time since, at his residence in Hamilton-place. His Lordship's death will leave vacancies, in the number of Irish representative peers, in the Order of the Knights of St. Patrick, and in the Constableness and Lieutenancy of Windsor Castle. He is succeeded in his titles and estates, which are considerable in Ireland, by his eldest son Lord Mountcharles, who is now in his 35th year. The Marquis will have a seat in the House of Peers as Baron (British) of Minster. It is scarcely a week since the youngest daughter of the late Marquis was married to Sir Meredyth Somerville, Bart.

CHOLERA, (England).—In the last weekly bills of mortality there is not a single case of cholera returned, nor either one death by dysentery.—*Globe of Jan. last.*

The election of a member for the city of London, in place of Alderman Waltham deceased, terminated in the return of Mr. Lyall, an anti-reformer, by a majority of 1,100 votes—his opponent was Alderman Venables, a staunch reformer.

DUBLIN, FEB. 28.

(By a Correspondent of the Globe.)

The hope which you express in the *Globe* which arrived this day, in reference to the measures of Lord Grey, that "the very temporary power granted may never be enforced," appears likely to be realized. The accounts from the country this morning continue to represent the rapid return to tranquillity. A conflict took place between the police and the Whitefeet, last week, near