

mode of investigating the truth so utterly inconsistent with the constitution and laws of Great Britain, and with the habits of its people, is virtually abrogated, and whether His Majesty, in continuing the former laws of the conquered country, must not be considered as doing so with an exception of the power to inflict torture," and notwithstanding the strong language he held on the first trial, he would not intimate his opinion on this matter, stating it to be a subject of great doubt, and referred to the expression of Lord Chief Justice de Grey in *Fabrigas vs. Mostyn*. A special verdict was agreed to. The argument on the special verdict was heard, but the Judgment was never given—the case being withdrawn. Howell, in his "State Trials," says: "that it was thought by the bar that, had the opinion of the Court been given it would have been *against* General Picton. In the case of *Fabrigas vs. Mostyn*, which was an action for false imprisonment, Mr. Mostyn had banished Fabrigas without trial, as his predecessors the Governors of Minorca had the power to do, yet Chief Justice De Grey said: "I do believe Mr. Mostyn was led into this under the old practice of the Island of Minorca, by which it was usual to banish. I suppose the old Minorquins thought fit to advise him to this measure. But the Governor knew that he could no more imprison him for a twelve month than he could inflict the torture; yet, the torture as well as banishment was the old law of Minorca, which fell *of course* when it came into our possession. Every English Governor knew he could not inflict the torture; the constitution of this country put an end to this idea, (30 Howell S. T. 181.)

If the old Law of France be in force here, the Governor of this Colony could summarily dispose of any newspaper. It is in that light that the question raised in these two cases are important to the inhabitants of this Island in the absence of any order emanating from Her Majesty's predecessors, and in the absence of all colonial legislation on the subject, Chief Justice Marshall says: "the law which is denominated political is necessarily changed, although that which regulates the intercourse and general conduct of individuals, remains in force until altered by the newly created power of the state." Lord Stowell remarked, in *Ruding vs. Smith*, "that even with respect to the ancient inhabitants, no small portion of the ancient law is unavoidably superseded by the revolution of government that has taken place." Halleck in his work on International Law says "it is equally true that some of the laws of the new