

Court might not substitute another warrant. No precedent has been cited in support of such a right. In *Bissett's case*, the Court of Queen's Bench denied the right. On this, however, we pronounce no opinion. The magistrate was fully aware that he had a right to substitute another warrant, and not having done so, it would be wrong for this Court to take an initiatory proceeding in the matter. Therefore the Court, while it reserved any decision on its powers in this respect, would not interfere. Nor would it pronounce any opinion upon the power of a Judge in vacation to substitute his own warrant. The case of the Chesapeake fully confirmed the view taken by the Court in this case. But without reference to precedents, he believed a careful attention to the general principles of law would satisfy any one, though not a lawyer, that the rule laid down by the Court was reasonable, and regard for the liberty of the subject imperatively called upon the Court to enforce that rule. The Court, then, being clearly of opinion that the warrant of commitment was bad and insufficient to detain the prisoner, would order his discharge.

AYLWIN, J., entirely concurred in the opinion of the Chief Justice.

MEREDITH, J., said it was with regret he concurred in the judgment about to be rendered, but he was of opinion that the case did not admit of doubt. The magistrate acted under a special authority, and his commitment ought to show upon the face of it that at least in all matters of importance, he had followed the directions of the statute. In the present case it does not appear, upon the face of the commitment, that the prisoner heard the evidence against him, or even that he was before the magistrate. And were we to hold such a commitment valid, we would in effect say that a person may be surrendered under the Treaty without having had any opportunity of offering an explanation respecting the charge brought against him or knowing even by what evidence that charge was supported.

MONDELET, J., said it was to be regretted that the case should fail; but the responsibility was not upon the judges. They were anxious to carry out the Treaty to the fullest

extent; but it must be done according to law. A special power given by a special law must be exercised with much greater caution than powers conferred by the common law. He fully concurred in the remarks of the other judges.

Drunmond, J., concurred.

Prisoner ordered to be discharged.

B. Devlin for Petitioner; *T. K. Ramsay* for the Crown.

RECENT ENGLISH DECISIONS.

[Collated from THE LAW REPORTS.]

Negligence—Railway—Level Crossing.—There is no general duty on railway companies to place watchmen at public footways crossing the railway on a level; but it depends upon the circumstances of each case whether the omission of such a precaution amounts to negligence on the part of the company.

A railway was crossed by a public footway on a level, and was protected by gates on each side of the line, and caution boards were placed near the gates. The view of the line from one of the gates was obstructed by the pier of a railway bridge crossing the line; but on the level of the line it could be seen for 300 yards each way. A woman approaching the line by that gate was detained by a luggage train on her side, and immediately on its having passed, crossed the line, and was run down and killed by a train coming along the other line of rails. There was no evidence of negligence in the mode of running the trains:—*Held*, that there was no evidence of negligence on the part of the company, but that there was evidence of negligence on the part of the deceased. *Stubley v. The London and North Western Railway Co.* Ex. p. 13. Baron Bramwell observed: "In crossing the rails at all, this woman was, as people often do, heedlessly going on at the rear of a passing vehicle on her side, without waiting to see whether the other line was clear."—[*To be Continued.*]

PRIVATE EXECUTIONS.—The measure for substituting private for public executions in England has been approved of by a majority of the House of Lords, and probably will soon become law.