The Colonist.

FRIDAY, JULY 22, 1892.

"NO PARTY TUNES."

The Times, while it does not attempt to justify Dr. Milne's action, accuses us of having a political object in view when we wrote the article headed "A walking case of smallpox," which appeared in yesterday's issue. Our contemporary does us a very great injustice, and we question very much if itself believes the charge it makes against us. In that article we dealt with Dr. Milne's defence as it appeared in the Times. Our object was to defend our reporters from the charge of untruthfulness and exaggeration, and to show what Dr. Milne's "flat denial" was worth. We kept that object steadily in view, from the first line of our article to the last, and did not deviate in the slightest degree with a political or any other intent. We think that the Times is doing what is both foolish and wrong to drag politics into the discussion of health matters. We have no desire whatever to injure the City Health Officer politically. Let him do his duty in his official capacity energetically and efficiently, and we will praise him so highly and so heartily that he will hardly know himself. Politics are the last thing we are thinking of just now. As for the rest of the Times' article, it is sad rubbish, and we are quite sure that our contemporary does not need to be reminded of the fact.

CO-OPERATION NECESSARY.

It is cheering to see that Dr. Davie, the Provincial Health Officer, is acting with energy and determination. Such action on the part of the authorities is required at the present juncture. The remedies which he prescribes are, without doubt, the best that can be devised, and if they are intelligently and honestly applied the smallpox will very soon disappear from the city and its vicinity.

There does not, it would appear, exist a very good understanding between the Mayor and the Provincial Health Officer. Important suggestions made by the latter official have not been deemed worthy of even the slightest notice by His Worship the Mayor. This is greatly to be regretted. It is absolutely necessary that the most complete harmony should exist among the municipal and provincial authorities. Their co-operation should be perfect. To get the smallpox under control should be the great object of every citizen, official and unofficial, and it is for men in authority to set the example of zeal and self-sacrifice in their efforts to accomplish this object.

We trust that the Mayor will, with the whole weight of his authority, assist the Provincial Health Officer. The matter is a purely professional one, and there can be no less of dignity in acting upon the suggestions of the professional adviser of the Government in matters relating to the preservation of the public health. Doctors from the very nature of their duties must, at times, be arbitrary, and the highest in the land are often obliged submissively and promptly to obey their commands.

The measures prescribed by the Provincial Health Officer are so reasonable and so certain to prove effectual that every intelligent and public spirited man in the city should cheerfully aid in carrying them into effect. Dr. Davie appears to be peremptory, but it must be admitted that his peremptoriness is beneficent, and that it is best for a man in his position at this time, if he errs at all, to err on the side of stringency and determination. Laxity and irresolution just now would be certain to be followed by the most deplorable consequences, whereas if all work together heartily and harmoniously, all cause for anxiety will very soon disappear.

WEAK GOVERNMENTS.

The weakness and the irresolution displayed by the United States authorities at Homestead, are regarded by intelligent and patriotic American citizens, as both deplorable and dangerous. It is seen that when the Government fails to protect life and property, either anarchy or despotism is not far off—either every man will do what seemeth right in his own eyes, or the lovers of order will combine to support a man strong enough to rule the country with a rod of iron. This is an extract from an article in the Argonaut, of the 11th inst., on the subject:

"The desperate and bloody struggle at the Homestead Steel Works, in Pennsylvania, in which some twenty or thirty men were killed in an armed conflict between striking workmen and a lot of men brought in by the owners of the works to guard their property, is another and a striking example of the weakness of county and state governments in the suppression of disorder. There was no interference on the part of any lawful authority until the battle was fought out. One deduction seems inevitable—it is that the Federal jurisdiction must be enlarged within the several states, so that it may, without any intervening processes, protect the life, liberty and property of its citizens when occasion demands. The weakness and inefficiency of our dual, or rather, triple form of government was never more completely exemplified than in this affair. The officer, whose duty it was to protect the lives of citizens and the property of the Homestead Company, was absolutely powerless, and when he applied to Governor Pattison to use the power of the State to stop bloodshed and prevent the loss of life which was actually taking place, that official replied that he, the sheriff, must swear in special deputies and stop the war himself. * * * * * * *

Property and property rights already have a tremenduous influence, and how long do the workingmen think it will be, if scenes like this Homestead affair are repeated, before there will be a law under which Federal soldiers will be stationed in every State in the Union for the preservation and protection of property against strikes and strikers? Such outbreaks as this accelerate the drift of this country towards centralization. Men who have millions of money invested in property will not consent to leave it at the mercy of a mob, with no protection but that of a sheriff of a county who holds the only key to the situation, and without whom no defensive machinery can be set in motion. If this country is Germanized, the workingmen will have only their own blind folly to thank for it."

It is not likely that the men who took part in the disturbance, on both sides, had any idea that they were doing their best to destroy the free institutions under which they had lived so happily, and of which they are so proud.

A FRENCH INVASION.

French Canadians have been emigrating to the United States in large numbers. The French Canadian is not readily absorbed into the great English speaking population of the States. He remains for generations a French Canadian in language, in religion, in customs and in opinions. French Canadians in New England have their own societies, and are represented in the state and general legislatures by men of their own race. There are in the New England States as many as 287 French Canadian societies, with a membership of 43,051. It is said that they own $100,000,000 worth of real estate. Their number is estimated at 800,000. There, are, indeed, almost as many French in the United States as there are in the Dominion of Canada, and the exodus is going on still.

The influx of aliens has alarmed some patriotic Yankees, who fear that in time not only New England but the whole Union will be overrun by this prolific race. A Dr. Bender has given expression to the fears of the alarmists and there are a good many in the Atlantic States who are far from believing that they are fanciful or groundless. Articles are appearing in the papers of cities very far distant from New England, the object of which is to assure the timid Yankees that they are in no danger of being crowded out of their country by the French-Canadians. A Pacific Coast paper says:

"The apprehension is unwarranted. No one estimates the number of French-Canadians in New England at over 800,000, while the six New England States contain some 4,000,000 people. The French infusion is too slight to dilute the whole. If the French-Canadians remain in the land of their adoption, they are far more likely to be absorbed and to cease after a couple of generations to retain their French characteristics than to color the community of which they form a part. The children will learn English at the public schools and will grow up English-speaking Americans with French names. The colony cannot derive important accessions of strength from immigration. There are less than 1,500,000 French-Canadians, all told, in Canada; a very slight increase in the present immigration would deplete the colony of labor, and the tide would most likely turn in consequence of the demand for workmen in the British Province."

Our American contmporary should not calculate, with too great certainty, on the New England French colony not being reinforced from the Province of Quebec. That Province has sent out streams of emigration, east, west and south, and has still kept on increasing at home. As long as the French of Lower Canada find that they can make a better living in the States than they can at home, their young men and women will keep on going south. We are, however, very far from believing that they will ever increase to such an extent as to become the dominant race in New England, or in any other section of the United States.

THAT CREMATORY.

It not time that the City Council set about getting a site for the crematory in right earnest? The furnaces are necessary to consume the city's garbage. There is no place to dump it, and the scavengers threaten to stop work if some receptacle for the rubbish of the city is not provided. The obstacles that stand in the way of erecting the crematory should not deter energetic and earnest business men for a single hour. The city wants it and must have it, let the howlers howl as they may. The consequences that are certain to ensue from the want of it are infinitely greater than any that are likely to follow its erection. We do trust that the City Fathers will go on with this necessary work which has already been delayed much too long. They need not be afraid of making enemies by doing what they must know is their duty in this matter. Their credit as councillors and their popularity will suffer a great deal more by any further postponement than they possibly can by proceeding with the erection of the furnaces at once and with energy.

EDITORIAL COMMENT.

The Vancouver correspondent of the San Francisco Examiner, is one of those space liars who are a disgrace to journalism. In his telegram of the 9th inst., he says: "The boat arriving from thence (Victoria) this morning, brought over 200 passengers, a majority being women and children, fleeing from the dread disease." This is a companion to the World's sugar fabrication, and we would not be surprised if they were both the inventions of the same lively imagination. It is no wonder that the inhabitants of the coast cities believe that Victoria is in a most dreadful condition. Such lies as the above are calculated to produce such an impression. We do not believe that one single woman or child has left Victoria by the Vancouver boat to escape the smallpox. The reason of this is very simple. There are many places on Vancouver Island that are absolutely free from the disease in which the women and children could enjoy a holiday quite as safely as they could in any part of the Mainland. The fact is that the inhabitants of this city are very far from being in a panic. Very little even of nervousness is exhibited by the women and children.

TOO MUCH FUSS.

The Chief Justice hit the nail on the head when he said, "I think too much fuss has been made over this outbreak altogether. Why, the scare is ever so much bigger than the scare-crow."

The dread of the smallpox amounts almost to a superstition. We venture to say that the mischief done by the influenza, or "la grippe," as it was the fashion to call it, was many time greater, even in this city, than will be done by the smallpox when the present outbreak becomes a thing of the past. If every case had been carefully recorded, if the deaths from the disease were made the topic of conversation in every household, and if the time lost by those who were "under the weather" while suffering from the disease was counted, the mortality, the suffering and the loss to individuals, through mere sickness, would be found to be far greater from the epidemic of grippe than from the visitation of the smallpox. And the ultimate results in enfeebled constitutions and increased liability to attacks of that and other diseases, would be seen to be greatly more serious. Yet no one became hysterically fearful about the grippe. There was no talk of instituting a quarantine to keep it out, and no public body thought of ordaining rules and regulations to prevent its spread. Yet, though as we believe, a more deadly and a more dangerous disease than the smallpox, its appearance in the province did not create a panic. It did not impress the public imagination like smallpox does.

We are very far indeed from saying that the precautions to prevent the spread of the smallpox are unnecessary, or that people should regard its advent with indifference. But we do say that it is foolish for people to allow their fear of it to make them miserable, or to impel them to do what is unkind and unneighborly.

Medical men who have had a wide experience, do not dread smallpox half as much as they do many other diseases that are apt to become epidemic. The reason of this is that they know how to treat the smallpox and exactly what precautions to take to prevent its spread. These precautions, if generally taken and honestly carried out, are as certain of producing the effect intended, as that the application of heat enough will make water boil.

THE FIRE ENGINE ORGANS.

It was with some curiosity that we read the Vancouver newspapers yesterday evening to see what they had to say in justification of the very peculiar action taken by the Corporation of that city with respect to the quarantining of vessels from Victoria. There is a good deal about the smallpox in Victoria in two of those papers, much of which is untrue, and much more very foolish, but not a sentence of rational justification of the course pursued by the City Council. Neither of the papers attempts to show that the Council had any legal ground for its action. On the contrary they seem rather troubled by the consciousness that the whole proceeding is contrary to law.

The Telegram, which is moderate in its language and courteous in its tone, says: "We do not profess to know what is the exact law of the matter. But in such cases the protection of the public health of the city is properly the *suprema lex* of the City Council, and if it had not that authority it claims, it ought to have it." This is as much as to say the law of the land is not good enough for the City Council of Vancouver, and that the gentlemen who compose it know more about sanitary matters and what is necessary to preserve the public health than the Parliament of Canada and its highest health authorities.

The Telegram will surely admit that laws and regulations which are considered good and sufficient for such cities as Montreal, Toronto, Quebec, St. John and Halifax, ought to be copious enough and stringent enough to satisfy the City Council of Vancouver, and, we may add, the newspapers of that city. When the smallpox raged in Montreal, when scores were dying of the disease daily in that city, not a seaport of the Dominion attempted to declare non-intercourse with the afflicted city. The law, which Vancouver treats with contempt, was good enough for them, and none of them attempted to supplement it by mob law or the force of either hot or cold water.

The World, which is neither decent nor courteous, and which is besides a blatant liar, says: "If the action of the city (Vancouver) in prohibiting the landing of passengers is illegal, and if it is compelled to release any arrested, the same as any one else would be if unlawfully held, the Corporation will undoubtedly yield." It will get no thanks for yielding then. It cannot, no matter how many fire engines it has at its back, maintain for any length of time a position above the law. So far, the law is supreme in this country, and the Corporations which set it at defiance must be taught that they cannot do so with impunity.

The World has, we see, slightly receded from the position which it took on Wednesday last. On that day, the heading of its leader was "They did right," and it commenced with these brave words:

"The Mayor and Aldermen of the city, having put their hand to the plough, should not turn back. They can rest assured that they are supported in their action by all the people of the city. The duty cast upon them was a painful one, for no one desires non-intercourse under happier auspices with our neighbors across the Gulf. But desperate diseases require desperate remedies, and in this instance the proper antidote has been applied."

There could hardly be a stronger incentive to illegal action than this. The Council had decided to do what was beyond its power, and, right or wrong, lawful or unlawful, the World expressed its determination to back it up. Now, when it finds its endorsement of an illegal as well as an unneighborly course is inconvenient, it is endeavoring to back out. Its crooked and unprincipled course must gain for it the contempt of manly men whatever their opinions as to the course pursued by the Vancouver City Council may be. The position of the Press of Vancouver in this matter is most discreditable to it. Not one of its members has had the moral courage to say a word in favor of acting as he law directs.

STILL DISTURBED.

The affairs of Venezuela were at the latest advices in a by no means settled condition. After the Dictator Palacio had been compelled to resign, the Vice-President Villegas took his place, and retained some of his predecessor's ministers in office. The new Government sent Commissioners to Crespo, the victorious patriot general, with offers to come to terms with him. The first embassy failed, and a second was sent, of which the Archbishop was one of the members; but Crespo would not even see the ambassadors, declaring that under no circumstances would he arrange for even a temporary cessation of hostilities or listen to a compromise which would in any way recognize the *de facto* government, which he regarded as unconstitutional.

The Government of Villegas, seeing that they had no alternative but to surrender or fight, chose to fight. The fortunes of war were, however, against them. Crespo continued on the whole to be victorious, and Villegas and his colleagues, seeing that the time in which they would have to seek safety in flight could not be distant, are said to have made preparations to leave the country without going through the painful ceremony of bidding adieu to their friends.

Crespo, when last heard from, was marching on to the capital, Caracas, which he hoped to enter without striking a blow or firing a shot. It must not be supposed, however, if he has by this time taken possession of Caracas, that the country is at peace or that his troubles are over. He has many enemies and rivals in the country who are ready to carry out their designs by secret intrigue as well as by open hostility. It is evident that the politicians of Venezuela are perfectly unscrupulous, and that they have ways of advancing their interests that cold-blooded Northern wire-pullers and schemers, bad as they are, would not dream of resorting to. The soldier politician in South America too exercises an influence unknown in the northern part of the northern continent.

THE CANADIAN STATESMAN.

The election of the Hon. Edward Blake to the Imperial Parliament, is an event interesting to Canadians of all parties and all creeds. Mr. Blake is known to be a man of great ability and high character. As a politician, his success in Canada has not been marked. This led many to believe that he does not possess the qualities of mind and temperament that are necessary to ensure success in the political arena. It may, perhaps, be that circumstances in Canada were unfavorable, or that the field he had to work in on this side of the Atlantic were not suited to his talents and capabilities. In the Imperial Parliament he will, perhaps, find himself in a more congenial atmosphere, and the material he will have to work with may be more plastic and more appreciative than were the rude, rough and democratic Canadians. It is sincerely to be hoped that the Canadian statesman will, in the British Parliament, gain credit, both for himself and for the land of his birth. His career at Westminster will be watched with the deepest interest by his countrymen, and none will rejoice more sincerely in his triumphs, should he be successful, than many who, in the Dominion of Canada, opposed him politically, but admired him personally.

THE POLITICAL CALCULATORS.

Very many in Great Britain at the present moment appear to be deeply engaged in the not altogether satisfactory business of counting their chickens before they are hatched. They are watching the election with anxious eyes, and as often as the Liberals gain a seat they go to work to calculate exactly what their majority will be in the next House of Commons. Some of the most sanguine and imaginative among them have formed a Cabinet for Mr. Gladstone. They have given this office to one member, that office to another, until every seat in the imaginative Cabinet is filled.

This work of making a Government by calculation commenced when the Conservatives were far in advance of the Liberals, and it is going on still when the election is nearly over, when Mr. Gladstone's majority is very small, indeed, and when there does not seem to be a very bright prospect of its attaining working proportions. The latest advices at the present writing show that 294 supporters of the Salisbury Government have been elected and 304 Liberals of all sections and all complexions. This gives the Liberals a majority of ten. There were, yesterday, 72 members still to be elected. Of these Mr. Gladstone must get 40 before he would have a majority that could be at all depended upon. The political calculators give him these 40 without the slightest hesitation. Doubts do not stand in their way, and they care little for probabilities. But the electors have shown already that these calculations are not to be depended upon, and it is more than likely that they will be as far astray now as they were at the beginning of the campaign. Then we were told that Mr. Gladstone would be certain to have a majority of 150 at the very least. As the election progressed, the majority diminished to 100, and now it has dwindled down to 50, or thereabouts. Well, if the calculators are as far astray now as they were at first, their majority will be too small a one to be relied upon to do effective work of any kind. But, granting them one-half of the seats that are yet unfilled, the majority, considering the material of which it is made and the subjects with which Mr. Gladstone will have to deal, is one that is not to be depended upon. There are many factors in the political problem that the calculators have not taken any account of, and it would not be at all surprising if they will not be greatly astonished and fearfully disappointed at the ultimate result when it is worked out by the rule of practice.

CABLEGRAMS CONDENSED.

Fall of the Bastile Celebrated—The Eruption of Mount Ætna Increasing.

Arrival of the Russian Relief Steamship Leo—Sensational Poisoning Case.

It is reported that Prof. Pasteur's illness is almost certain to prove fatal. He is suffering from a disease prevalent in this city which authorities call cholerine, but which is declared by many experienced physicians to be genuine cholera.

The jury which has been investigating the death of Matilda Clover, who died in England in October last, the examination of whose remains showed she had been poisoned with strychnine, has returned a verdict of willful murder against Thomas Neill, accused of attempting to blackmail Dr. Harper, showing that Dr. Harper's son had poisoned Alice Marsh and Emma Shrivell, who died in April from the effects of strychnine. It was shown that Neill practiced medicine in Chicago in 1880 under the name of Thomas Neill Cream.

The national fetes in commemoration of the fall of the Bastile, were held in France on Thursday. The houses and cafes generally, throughout Paris, were decked with French flags, mingled freely with the Russian colors. Patriotic demonstrations were held at the Gambetta, Joan of Arc and Strassburg statues. Hundreds of thousands of citizens witnessed a military review at Longchamps. President Carnot, who inspected the troops, received an ovation, and in the march past was enthusiastically applauded. Between 11 o'clock and midnight much rowdyism prevailed in the boulevards.

The Christian Herald relief steamship Leo has arrived in St. Petersburg. The Mayor and Marshal of the city presented Captain Gaines with a massive silver trumpet embossed with the royal coat-of-arms of St. Petersburg, bearing the inscription: "To Captain Gaines From the City of St. Petersburg, 1892." A large silver cup lined with gold was presented to the first mate of the Leo. Rev. Dr. Talmage responded eloquently to addresses of welcome and presentation, with several patriotic allusions that befitted the Russians.

The eruption of Mount Etna is rapidly increasing in violence. Several villages and a number of dwellings have been destroyed. All the craters are active. One is ejecting a continuous stream of lava several yards deep and very wide. The stream presents the appearance of a stream of fire and is very beautiful to look at, although it is bound to ruin much property. Another crater is hurling large incandescent rocks to an immense height, while the edges of the third crater threaten to crumble.

BEFORE THE FULL COURT.

Bell-Irving v. Evans—Appeal from judgment of Walkem J. The action was brought to recover possession from defendants of the wharf known as the C. P. R. Wharf at Vancouver, at the foot of Abbott Street, and was tried before Mr. Justice Walkem at New Westminster on May 9. The plaintiff held a lease of the wharf from the C. P. R.; terminable on a monthly notice, and on the 9th September, 1888, sublet to the defendants by indenture, wherein it was, amongst other things, agreed as follows (7) "Provided conditions of this agreement are adhered to, and rent duly paid, lessors agree not to dispossess lessees of the wharf, during the continuance of this agreement, as long as lessors hold the same from the C. P. R. Co.". (9) "That after twelve months from the date hereof, either party may cancel this agreement by giving six months notice." The plaintiffs gave the defendants a six months notice to quit ending 1st April 1892. It appeared that defendants had asked for an extension of time to quit, from 1st April 1892, which was refused. The defendants then refused to deliver up possession and plaintiffs brought this action to recover same, and mesne profits. At the trial the defendants claimed that clause 9 did not express the true agreement, which they contended was that the lessees only were to have the right to terminate by six months notice. The pleadings were amended to allow defendants to ask reformation of the lease accordingly. The decision turned upon the language of the lease. The defendants contended that clauses seven and nine were repugnant. Clause seven giving them the right of occupation as long as the plaintiffs should hold under C.P.R., while clause nine dispossessed them on six moths notice; that, of two repugnant clauses in a lease, the first governed, and that clause nine, if not reformed as asked, should be rejected. They also contended that the notice to quit was bad for not ending with the 9th of April, the term having commenced on the 9th of Sept., 1888. It was held by Mr. Justice Walkem, that there was no mutual mistake, or any mistake, in the terms of clause nine of the lease and the counterclaim was dismissed. That clauses seven and nine were not repugnant the words in clause seven "during the continuance of this agreement" being mere tautology unless inserted in view of the power in clause nine of saying how long that "continuance" should last. As to the notice to quit, the lease not being for a determinate period the rule as to notice to qvit terminating with a period of the tenancy did not apply, and that the lessors by asking an extention of the time given by the notice to quit, had adopted it. An order was accordingly made for delivery of possession of the premises and an account of *mesne* profits. The defendants appealed from this judgment except in so far as it dismissed the counterclaim.

Mr. McPhillips appeared for the appellants, and pressed the contention, advanced below—The Court sustained the judgment of Mr. Justice Walkem, and dismissed the appeal, with costs, without calling upon the defendants. Mr. C. Wilson, appeared for the defendants.

LONDON, July 13.—Excellent accounts are received of pilgrims' health, who are about to return from Mecca.

ROSS BAY HOSPITAL SITE.

The Order Restraining the City From Using the Quarantine Station Suspended.

Sir Matthew Baillie Begbie Thinks the Scare is Somewhat Larger Than the Scarecrow.

Before Sir Matthew Baillie Begbie, Chief Justice, Mr. W. J. Taylor, for the Corporation of the City of Victoria, yesterday made application to have the interim order issued by His Lordship, restraining the city from placing smallpox patients in the hospital at Ross Bay, dissolved. Mr. A. E. McPhillips appeared for the original petitioners.

Mr. Taylor said he proposed to offer argument on two distinct propositions, first on the merits of the case, and, second, on the matter of the jurisdiction of the court, as in connection with this latter phase of the question he would draw attention to the change in the law since the time the injunction was first issued.

Sir Matthew suggested that the question of jurisdiction be taken up first.

Mr. Taylor then presented to the court a copy of the official Gazette for the Province, bearing date July 11, and containing certain regulations made by His Honor the Lieut.-Governor-in-Council under authority vested in him by statute, which provided that any such regulations issued by the Lieut.-Governor-in-Council should have the full force and effect of law, and be considered by the courts as such until the next meeting of the Legislature. Under clauses 21, 32, 33, 34, 35, 36 and 37 of these regulations referred to, the power of erecting suitable buildings for hospitals, etc., was vested absolutely in the Boards of Health of the municipalities, and they were given means for the enforcement of their power without the regulations giving anyone a right to apply to the courts for an injunction to restrain the Corporation from carrying into effect what they were empowered to undertake. He referred to an appeal case which had been cited in previous argument, but held that in this one the power of the corporation against whom the injunction had been held good, was merely permissive power, whereas, in the present case, the power of the Corporation of the City of Victoria was, under the regulations, absolute, and the petitioners had no right to apply to the Courts for an injunction even though they might have a right to recourse at law by action, as was provided by the same regulations.

Sir Matthew, in looking over the regulations, noted the clauses referring to compulsory vaccination:

"I heard the other day," said the Chief Justice, "of a man who would rather take the chances of the disease than be vaccinated. I don't know whether he meant what he said or not, but certainly I should be very much inclined to vaccinate him *nolens volens*, and let him bring his action afterwards for the assault."

Continuing, Sir Mathew said he thought the regulations might have gone a little further in some respects. For instance, it would be very interesting for statistical purposes if some provision had been made for the reporting, or recording at the time a case of smallpox was reported, whether or not the patient had been vaccinated, if so, how often, how recently, and other details of the case, which could be further supplemented when the disease had run its course, so that a statement might be prepared after the whole thing was over; of how many smallpox patients had been vaccinated, how many unvaccinated, etc., and the character or nature of the disease in each case, whether mild or severe and whether milder or more severe in cases where vaccination had taken place, and otherwise.

After some desultory argument Sir Matthew drew attention to the fact that suitable hospital facilities had now been secured by the city on the Jubilee Hospital grounds, and, this being the case, why should they also use the hospital at Ross Bay?

Mr. Taylor explained that it might be found necessary to use both buildings, one for the actual patients, and one—that at Ross Bay—as a quarantine station, where suspects and those persons who were likely to become infected, could be detained.

Sir Matthew: I think too much fuss has been made over this outbreak altogether. Why, the scare is ever so much bigger than the scare-crow!

Mr. Taylor: But we want the Ross Bay Hospital in case of an emergency which we do not anticipate, but which we wish to be prepared for.

Sir Matthew: Too much has been made of this matter altogether, and a great many people have just created a bogey man to scare themselves with. Why the danger is not the least bit greater than when we have typhoid or malarial fever here when we have had much more sickness and that, too, of a long confirmed sickness, which is to be much more dreaded than the smallpox disease.

Mr. McPhillips cited a case in which the hospital authorities had had permissive power to purchase a certain specified site and yet the court granted an injunction.

Sir Matthew: But in this case the regulations issued by the Lieut.-Governor-in-Council do not give permission. They impose an absolute duty and if that duty is not performed, some one may be making an application before me for a mandamus to compel the corporation to act.

Mr. McPhillips urged that if the argument of Mr. Taylor was carried out to its legitimate conclusion, then the result would be that no private rights would be safe.

Sir Matthew: It is quite possible to conceive the board of health or corporation of a municipality turning you or me out of our houses if the law says they can do so. The only rights we enjoy are those which the law gives us, and if the law says that some one may expropriate your land or appropriate your house, you can't help it. But such a law as this, it is evident, is not lasting. There is no doubt in my mind that the Gazette containing these regulations was only issued for temporary purposes, but the fact remains, it has been issued, and, under the law, the regulations are now in force.

Mr. McPhillips urged that it would be a matter for enquiry of the court whether or not the safety of the health of the inhabitants had been duly looked after in selecting the site for a quarantine station or hospital.

Sir Matthew: That is a matter for the board of health, and for them alone. It is in their discretion. So long as they act conscientiously, the court cannot question their decision.

Mr. McPhillips: Still, the court should have power to enquire if private rights are endangered.

Sir Matthew: That seems to be sufficiently covered in Section 35, of the regulations.

Mr. McPhillips: That provides that the local Board of Health shall issue regulations under which the land shall be occupied. No such rules have been issued, and until they are, the other portion of the section does not seem to apply.

Sir Matthew: What regulations would be necessary?

Mr. McPhillips: Precautionary ones, perhaps.

Sir Matthew: The regulations cover those. This ordinance, you must understand, is a dead letter, unless an exigency arises.

Mr. McPhillips: It is putting a wide construction on the legislative authority, to say that orders in Council like these shall have the force of law.

Sir Matthew: I cant see that this ordinance travels outside the act. The regulations, as I have said, are so strong, a *mandamus* could be had to compel the Board of Health to take action, that is, in case they refused or even neglected to do so.

Mr. McPhillips—I would have thought if the Legislature had intended to give to the Lieut.-Governor-in-Council power to pass regulations providing for expropriation or appropriation of property, it would have said so in express words. I once heard it argued that an Englishman's house was his castle.

Sir Matthew—That was very old fashioned. (Laughter.)

After some more argument Sir Matthew said that in view of the fact that this was a very important point, he thought the city would be acting graciously, to say the least of it, if they did not use the Ross Bay building as a hospital until time had been allowed the petitioners to carry the matter to the full court, if they so wished.

Mr. Taylor: I don't think we will have to use it for a day or two at any rate, and then probably only as a quarantine station, not as a hospital.

Sir Matthew said that while he did not advise an appeal and was very clear on the matter himself, he thought it would be well to get the opinion of the Full Court. He gave judgment suspending the order, with the question of costs reserved.

IN THE FULL COURT.

(Present Sir Matthew Baillie Begbie, Crease, J., and Drake, J.)

Kerr & Begg, Cotton—E. V. Bodwell and A. E. McPhillips now appeared for plaintiff and notwithstanding the ruling of the court, yesterday, on the construction of the contract, asked leave to re-open the matter and contend that the reference in the written agreement to the "sample volume" therein stated to have been "submitted" to which the book to be made was "to be equal in every respect" was not a controlling term of the contract, which was, outside of that reference, certain to every intendment, as to all requirements, viz., number of pages, weight style and quality of paper, kind of binding and edging and title of book, etc. The size being deducible from the number of pages in relation to the weight of the paper. That the legal effect of the contract was that the book was to be made strictly by the specifications, in a workmanlike manner, in such luxury of style as a proper treatment, for the purpose intended, of the materials indicated, would demand. That the meaning of the agreement was not that the "sample" was to control the particulars of the contract in any way, but was merely "to enable the purchaser to form a reasonable judgment of the commodity." Gardiner & Gray, 4 Camp 144.; or, at most, was intended to furnish a criterion of general style, which intention was as well carried out by the parties by reference to two books, different to that set out and to each other as to one different book. The court said they would not reconsider that question.

On the question of the power of court, sitting as a Divisional Court, to finally dispose of the case it was held that the provisions of section 60, of the Supreme Court Act (1888) "The Divisional Court * shall * concurrently with the Full Court, have all the powers and authorities held and exercised by the Full Court in interlocutory matters, including the granting of new trials, and its judgment shall be deemed a judgment of the Full Court" gave to the Divisional Court the powers conferred on the Full court by order 58 Rule 405, to "give any judgment and make any order which ought to have been made" at the trial.

The court therefore ordered final judgment to be entered against the plaintiffs on their claim and against the defendant on his counter claim with costs in both cases.

ALEXANDRIA, July 13.—Cholera has appeared at Acre.

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