

His Excellency Sir F. J. Cochrane

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## REPORT OF THE JUDGES OF THE SUPREME COURT OF NEWFOUNDLAND, TO HIS MAJESTY'S GOVERNMENT, UPON THE JUDICATURE BILL.

(Continued.)

Supported in her prayer to the mother country for assistance by pretensions like these, it seems to us next to impossible that any reasonable suit she may prefer can be denied to her.—The motives which call for the adoption of the most rigid system of PUBLIC ECONOMY that may be consistent with the eternal rules of Justice, are doubtless at this time peculiarly forcible; and were the necessity for it even less imperative than it is, we should still feel, that, as the wants of this country are greater than could conveniently be removed at once, much care and judgment ought to be exercised in the selection of the objects which are most immediately conducive to her happiness; and that even upon these not *one farthing* should be expended more than is absolutely requisite to the attainment of them upon that moderate scale of expense which, on many accounts, should be inviolably adhered to in every department of this Government.—Strictly guided, therefore, by these principles, and thoroughly convinced, not only that an improvement in the Judicature of Newfoundland would be the *first and greatest blessing* she can now expect to receive; but also that the *mode of effecting this improvement* which we have suggested is the *best and least expensive* that can be contrived, we beg leave respectfully and earnestly to recommend the foregoing observations to the favourable consideration of his Majesty's Principal Secretary of State for the Colonies.—Should his Lordship however, contrary to our ardent hopes and wishes, find himself restrained by a sense of duty from adopting the measure we have now proposed, on account of the expense that must attend it, our views of improvement in the Judicature of this Island must be confined entirely to such alterations in the existing system as will not demand any increase of the machinery to be employed in it; and as this must chiefly be effected by introducing some changes into the 5 Geo. IV., c. 67, we shall now turn to those provisions of that statute which seem to us to call for amendment in the precise order in which the several sections succeed to each other in the Act of Parliament.

5 Geo. IV., c. 67, s. 1. Under this section the Supreme Court possesses criminal jurisdiction throughout Newfoundland and its dependencies, as ample, to all intents and purposes, as His Majesty's Court of King's Bench hath in England; and it may therefore unquestionably try all misdemeanours and crimes of the same magnitude or degree, that the Courts of King's Bench can; but it does not seem to be equally clear and certain, that an act which would constitute an offence of a particular degree by the law of England, if committed there, is by this section rendered penal in the same degree if committed in Newfoundland; or, in other words, that the whole criminal Law of England is, through the operation of this section, transferred *en masse* to Newfoundland, and made as binding and obligatory here as there. From the structure of the clause, as well as from the omission to specify what parts of the criminal law of England shall be enforced in this Colony, it may be strongly inferred, that the whole was to be extended to it: whilst on the other hand, the total inapplicability of a large portion of that law to the circumstances of this country, and the absolute impossibility of carrying many penal statutes into execution here without violating that fundamental rule of literal and rigid construction which has always been observed in regard to them cannot fail to create doubts, as to the real force, meaning, and effect of this section, which ought not to exist on a subject of such vital importance. We would, therefore, recommend, that these doubts should be entirely set at rest by a clear and explicit declaration of the Legislature upon this very interesting point; and at the same time we would suggest, that only some select mem-

bers of the criminal statute law of England, and not the whole body of that law, ought to be extended to this Island. The compilation of such a code would, we are sorry to add, require much more leisure, and opportunities for calm reflection, than we are permitted to enjoy; and it would consequently, be utterly impracticable for us, situated as we now are, to enter upon an undertaking of this sort even if we could bring, what we hardly presume to suppose we can, an adequate share of talent and knowledge to the execution of it.

5 Geo. IV., c. 67, s. 3. The Chamber of Commerce of St. John's, have expressed a wish, that Juries shall only be resorted to for the trial of civil suits and actions when they are prayed for by either the Plaintiff or Defendant; but, though we are disposed to attach due weight to the suggestions of that body, upon a question like this we are yet too anxious to form the SUPREME COURT upon the model of the common law courts of Westminster Hall to consent that Issues of Fact shall be tried in it in any other way than by a JURY. We think it, indeed, of the utmost importance, that order, regularity, consistency, and a uniform course of proceeding, should be as much as possible maintained in that Court, which ought to be set apart for the most solemn criminal and civil trials, whilst questions of a less grave character may obtain a more summary adjudication in the Circuit Courts. In them, therefore, we are so far from objecting to the proposal that both the LAW and FACTS of a case should be left to the Judge, where neither of the parties to it desire to refer the latter to a JURY, that we conceive the use of a JURY in these Courts may more properly be made to depend on the wish of the suitors to have one, than to rest on the footing upon which it now stands by the 3d and 12th sections of this Statute.

5 Geo. IV., c. 67, s. 4. As long intervals must necessarily occur between the sittings, or terms, of the Supreme Court, in consequence of the absence of the Judges thereof on their several circuits, we entirely concur with the Chamber of Commerce in thinking, that the power of trying all informations and suits for the breach or violation of any law relating to the trade or revenue of the British Colonies in America, ought to be vested in each of the Judges, instead of being committed to them jointly as it now is.

5 Geo. IV., c. 67, s. 5 and 6. Upon reasons somewhat similar to those which have been expressed by us under the foregoing article, we incline to think, that the grant of the administration of the effects of Intestates and the Probate of Wills, together with the appointment of guardians for infants and lunatics, ought to be rested solely and exclusively in the Chief Judge of the Supreme Court.

5 Geo. IV., c. 67, s. 9. In addition to the jurisdiction conferred on the Circuit Courts by this section a power may be given to the Judge thereof, during its sittings of hearing and determining, according to the course of proceeding in similar instances in the Courts of Vice Admiralty in the Colonies, all informations and suits for the breach or violation of any law relating to the trade or revenue of the British Colonies or Plantations in America, in all cases where such breach or violation of any such law shall be alleged to have been committed within the limits of the District for which such Circuit Court shall be held; with a provision, that the said Judge may also defer, such trial until his return to St. John's if any circumstances should exist to render it, in his opinion, necessary, or desirable to do so.

5 Geo. IV., c. 67, s. 10 and 11. At many of the Out-harbours it is difficult, and at some of them altogether impossible, to procure a GRAND JURY; but there is no place at which the Court can sit where a PETTY JURY may not be empaneled if there shall be a real occasion for one; and we would therefore suggest the repeal of the provision which the 11th section contains for the trial of crimes and misdemeanours by the Judge and three Assessors.

5 Geo. IV., c. 67, s. 12. As we have before mentioned, a PETTY JURY may be as-

sembled at all the settlements in which a Circuit Court is held, if there be an absolute necessity for one, but as a frequent attendance upon Court is certainly inconvenient to persons in that class of life from which PETTY JURIES are drawn, and as the partial compensation which is necessarily made them for the time they lose by their attendance adds considerably to the expense of a trial, we think that it should be left to the option of the Plaintiff or Defendant to refer the case to a JURY if either of them should wish to do so; and that where neither of them is disposed to do it, the Issues of Fact shall be tried by the Circuit Judges alone, agreeably to the suggestion of the Chamber of Commerce.

5 Geo. IV., c. 67, s. 16. The provisions of this clause have always appeared to us to be dark and obscure. Its primary object certainly is, to prescribe what sort of process shall be used both for the purpose of bringing parties into Court, and also for enforcing any judgment or decree which may afterwards be given or pronounced; but together with this object it has contrived to blend some regulations respecting the MODE OF TRIAL which seem to be at direct variance with the rules previously laid down on this head in sections 3, 10, and 12. The only method, indeed, by which we could reconcile it with those sections was by supposing, that whilst they prescribed a more regular course of trial in actions for sums exceeding ten pounds, this clause was designed to confer a summary jurisdiction on the Courts over all suits below that amount; and by examining the structure of the clause very closely we thought it would well admit of such interpretation, by including the long sentence between the word "abode," in the ninth line, and the word "and," in the twenty-ninth line, in a parenthesis; so as to connect the process to be used in actions under ten pounds immediately with the power which is afterwards given of trying the case without a jury. We accordingly framed rules of practice for the Supreme and Circuit Courts in conformity to this construction; but though His Majesty was pleased to confirm the one for the Supreme Court, he yet disallowed the similar one which we had made for the Circuit Courts, on the alleged grounds that a different mode of trial in those Courts had been pointed out in section 10 and 12. So, however, had the 3d section also done in respect to the Supreme Court, and that too in a much stronger manner; for whilst the facts as well as the law of a case are submitted to the Judge of the Circuit Court, in a particular instance, by the 12th section, the trial by jury appears to be peremptorily established in the Supreme Court, by the 3d section, in all cases whatever, without a single exception. We confess, therefore, that this confirmation of one with the rejection of the other, of our rules, has exceedingly increased our perplexity in regard to the true meaning of the 16th section; and, we consequently, feel it necessary to draw Lord Goderich's attention very particularly to it, in order that it may be rendered more plain and intelligible than it now is.—We likewise consider it proper to mention here that after weighing as well as we are able, and certainly with strict impartiality, all the reasons that have presented themselves to our minds both in favour of and against the application of the Chamber of Commerce, (with whom we believe nearly all the merchants in the island agree on this point) that process of attachment may issue in all actions for sums above two pounds, we cannot bring ourselves to concur in it. In the plan of a District Court, which we have described in another part of this letter, we have indeed proposed, that an Attachment might issue where the action was brought for more than five pounds; but in doing that we took care to impose a sufficient check, or what, at least, we hoped would act as such, upon the too frequent and vexatious use of this form of process, by compelling a plaintiff to pay for it, whilst, an option is offered him of obtaining a summons gratis: and even where the use of the writ of attachment is accompanied by a restraint like this, we still feel some reluctance in recommending the ap-

plication of it to so small a sum as five pounds.

5 Geo. IV., c. 67, s. 17. By the terms of the Charter which His Majesty has been pleased to make for the Supreme Court, in pursuance of this section, the Judges thereof are authorized, in case there shall not be a sufficient number of Barristers at Law to act as such in the Colony, to admit so many other fit and proper persons to appear and act as Barristers as may be necessary; and under this authority several persons who had previously practised for many years in the Courts of this Island, together with a few others whom the Judges have since deemed worthy of the same indulgence, have been admitted to general practice in the Supreme Court. These persons, however, feeling themselves to be not real, but only quasi Barristers; and of course excluded from some important privileges—such as the succession to the Bench, and the powers of qualifying Clerks for admission to the Bar— which by the Act of Parliament, and by the Charter, are confined to an enrolled Barrister; are naturally anxious to obtain a more perfect title to the character of Barristers than it is possible for them to acquire under the present regulations; and as we think that practice in the Supreme Court may, at least, be put upon the same footing with a Clerkship to a Barrister in respect to qualification for enrollment, we would respectfully suggest, that authority should be given to the Judges to enrol as Barristers so many of the persons who may already have practised, or shall hereafter practise in the Supreme Court for the term of five years, as they may deem to be fit and qualified, both by professional knowledge and moral character, to discharge the duties, and to sustain the respectability, of a regular Colonial Barrister.

5 Geo. IV., c. 67, s. 18. As we do not possess any information respecting the LABRADOR, derived from personal observation and experience, we shall entirely refrain from offering any opinion upon the Judicature now established there; but we think it right to notice, that the 51, Geo. III., c. 45, has been erroneously referred to in this section as the statute by which the Labrador is re-annexed to the Government of Newfoundland, such re-annexation having really been effected by the 49, Geo. III., c. 67.

5 Geo. IV., c. 67, s. 22. Among the various relations which spring from the social compact there is none which more loudly calls for regulation in this country than that of master and servant in all the different departments of life in which it can exist; and we would therefore very urgently recommend that the jurisdiction which by this section is given to the courts of session over all disputes concerning the wages of servants in the fisheries should be extended to all other sorts of servants, that the summary jurisdiction over all complaints and disputes between master and servant which, by numerous statutes, is confined to the justices of the peace in England, should also be granted to the courts of session in Newfoundland: or, should the plan of district courts be adopted, to the Judges of those courts. It is impossible for us, by any language we can command the use of, to convey an adequate idea of the inconvenience now felt and loudly complained of by the members of this community from the want of some tribunal to which they can resort for a speedy adjustment of the differences which almost daily occur between masters and their servants of every class; but most especially apprentices. It would be useful too, we conceive, that the Courts of Session should be invested with authority to compel the putative father of a bastard to make some allowance for the maintenance of it; or to inflict some corporal punishment upon him in the event of his refusing, or being unable to do so. As the provisions to that effect which prevail in England seem to rest altogether on the poor laws; and as those laws do not extend to this country; we have been obliged to hold, that those provisions cannot be enforced here, although we are exceedingly anxious, that some similar restraints should be opposed to an evil of very

frequent occurrence in this town.\* It can scarcely be necessary for us to add, that any powers which may be given to the justices for this purpose ought to be qualified by a right of appeal from their decision to the Supreme Court.

\* Instances likewise so often occur of the desertion of their wives and families by dissolute and unprincipled men, that some legislative check, to such a pernicious practice seems also to be exceedingly necessary.

### IMPORTANT!!!

#### UNITED KINGDOM. IMPERIAL PARLIAMENT.

HOUSE OF LORDS.—TUESDAY, JAN. 29.

Parliament was opened to-day, by Commission, with the usual formalities; the Commissioners being the Lord Chancellor, the Duke of Richmond, the Marquis of Lansdowne, Earl Grey, and Lord Auckland.

Shortly after two o'clock the Lords Commissioners, and the Lord Chancellor, with about half-a-dozen Peers, arrived.

The LORD CHANCELLOR, addressing their Lordships, said that his Majesty, not thinking fit to be present in person, had directed a Commission under the Great Seal to be prepared for the opening of Parliament, which Commission would shortly be read.

The Noble and Learned Lord and the Commissioners then took their seats: upon which the Lord Chancellor directed Sir Augustus Clifford, the Usher of the Black Rod, to summon the Members of the House of Commons to their Lordships' Bar, to hear the Commission read.

In the course of a few minutes the Usher of the Black Rod returned, accompanied by upwards of a hundred Members; among whom were Lord Althorp, Lord John Russell, Sir James Graham, the Attorney-General, Mr. Hume, Lord Morpeth and Sir F. Burdett.

The Commission was then read by the Clerk at the table; after which

The LORD CHANCELLOR said that as soon as a sufficient number of Members of both Houses should be sworn, his Majesty would declare in person the cause of both Houses of Parliament being assembled. It being necessary that a Speaker of the House of Commons should be elected, the Members of the Commons would repair to the place where they usually sat, and there proceed to the choice of such fit and proper person to be Speaker of that House, and present him at the Bar of the House of Lords, on Thursday, at two o'clock, for his Majesty's Royal approbation.

The Members of the Commons withdrew, and the Lords Commissioners quitted their seats.

Strangers were then excluded, and prayers were read by the Bishop of Hereford.

The oaths were then administered to the Lord Chancellor, who took his seat on the woolsack.

The Lords Commissioners likewise took the oaths in the course of the morning, the following Peers, among others, also took the oaths, and subscribed their names on the rolls of Parliament:—The Earl of Eldon, the Bishops of Chichester, Hereford, Llandaff, and London; Viscount Clifden, the Earl of Rosslyn, the Marquis of Salisbury, Viscount Strangford, the Earl of Albemarle, the Marquis of Thomond, and Lord Stuart de Rothsay.

At four o'clock the House adjourned to Thursday, at two o'clock.

#### HOUSE OF COMMONS.

The gallery of the House was thrown open at half-past one o'clock, and long before two a great number of Members had entered the House. Amongst others we noticed Mr. Cobbett, who took his seat upon the Treasury bench, close to the Chancellor of the Exchequer. The old Members who have been re-elected took possession, for the most part, of the seats they had previously occupied.

The House immediately proceeded to choose a Speaker. The Right Hon. Charles Manners Sutton was proposed by Lord Morpeth, and Edward John Littleton, Esq., Member for Staffordshire, by J. Hume, Esq., after a very long discussion the House divided, and the numbers were

For the Right Hon. C. M. Sutton 241  
For Edward John Littleton, Esq. 31  
Majority for Mr. Sutton—210

#### KING'S SPEECH.

##### OPENING OF PARLIAMENT. Tuesday, February 5.

This day his Majesty, accompanied by the usual great Officers of state, proceeded from the palace of St. James's, to open in person the first reformed parliament. The crowd assembled was more than ordinarily great, and their conduct was most respectful and decorous. His Majesty, on his way to the House of Lords, was everywhere received in the most flattering manner. The passage from the Palace to the Palace-yard, was kept by a guard of honor of the Royal Horse Guards. His Majesty was received, at the entrance of the House of Lords, where he

arrived shortly after two, amid the customary Royal salute from the guns in the Speaker's garden, by the Lord Chancellor, the Lord Chamberlain, Earl Grey bearing the Sword of State, and proceeded through the Painted Chamber, which was nearly filled with ladies in full dress, who applauded his Majesty on his passage to the Robing-room, when, having put on the Crown, he entered the House of Lords, and taking his seat on the Throne, the Usher of the Black Rod was sent to the House of Commons to notify to them that His Majesty desired the presence of his faithful Commons, at the bar of the Lords.

The House of Commons, preceded by the Speaker, then entered the House, making their obeisances as they advanced to the bar which having reached, his Majesty read the following

#### SPEECH FROM THE THRONE.

"My Lords and Gentlemen,

"The period having now arrived at which the business of the parliament is usually resumed, I have called you together for the discharge of the important duties with which you are entrusted.

"Never, at any time, did subjects of greater interest and magnitude call for your attention.

"I have still to lament the continuance of the civil war in Portugal, which has for some months existed between the Princes of the House of Braganza. From the commencement of this contest, I have abstained from all interference, except such as was required for the protection of British subjects resident in Portugal, but you may be assured that I shall not fail to avail myself of any opportunity that may be afforded me, to assist in restoring peace to a country with which the interests of my dominions are so intimately connected.

"I have also to regret that my anxious endeavours to effect a definitive arrangement between Holland and Belgium have hitherto been unsuccessful. I found myself at length compelled, in conjunction with the King of the French, to take measures for the execution of the Treaty of the 15th of Nov., 1831.

"The capture of the Citadel of Antwerp has in part accomplished that object, but the Dutch government still refusing to evacuate the rest of the territories assigned to Belgium by that treaty, the embargo which I had directed to be imposed on the Dutch commerce has been continued. Negotiations are again commenced, and you may rely on their being conducted, on my part, as they have uniformly been, with the single view of insuring to Holland and Belgium a separate existence, on principles of national security and independence. The good faith and honour with which the French government has acted in these transactions, and the assurances which I continue to receive from the chief Powers of Europe of their friendly dispositions, give me confidence in the success of my endeavours to preserve the general peace. I have given directions that the foreign papers, which are necessary for your information, on the affairs of Holland and Belgium, should be laid before you.

"The approaching termination of the Charter of the Bank of England, and of the East India Company, will require a revision of these Establishments; and I rely on your wisdom for making such provision for the important interests connected with them as may appear, from experience and full consideration, to be best calculated to ensure public credit, to improve and extend our commerce, and to promote the general prosperity and power of the British Empire.

"Your attention will also be directed to the state of the Church, more particularly as regards its temporalities, and the maintenance of the clergy. The complaints which have arisen from the collection of tithes appear to require a change of system, which, without diminishing the means of maintaining the established clergy in respectability and usefulness, may prevent the collision of interests, and the consequent disagreements and dissatisfaction which have too frequently prevailed between the Ministers of the Church and their parishioners.

"It may also be necessary for you to consider what remedies may be applied for the correction of acknowledged abuses, and whether the revenues of the church may not admit of a more equitable and judicious distribution.

"In your deliberations on these important subjects it cannot be necessary for me to impress upon you the duty of carefully attending to the security of the church established by law in these realms, as to the true interests of religion.

"In relation to Ireland, with a view of removing the causes of complaint which had been so generally felt, and which had been attended with such unfortunate consequences, an act was passed during the last session of parliament for carrying into effect a general composition for tithes. To complete that salutary work, I recommend to you, in conjunction with such other amendments of the law as may be found applicable to that part of my dominions, the adoption of a measure by which, upon the principles of a just commutation, the possessors of land may be enabled to free themselves from the burthen of an annual payment.

"In the further reforms that may be ne-

cessary, you will probably find that, although the Established Church of Ireland is, by law, permanently united with that of England, the peculiarities of the respective circumstances will require a separate consideration. There are other subjects hardly less important to the general peace and welfare of Ireland as affecting the administration of justice, and the local taxation of that country, to which your attention will be also required.

"Gentlemen of the House of Commons, I have directed the estimates for the service of the year to be laid before you. They will be framed with the most anxious attention to all useful economy. Notwithstanding the large reduction in the estimates of the last year, I am happy to inform you that all the extraordinary services which the exigencies of the times required have been amply provided for.

"The state of the Revenue, as compared with the public expenditure, has hitherto fully realised the expectations that were formed at the close of the last session.

"My Lords and Gentlemen, In this part of the United Kingdom, with very few exceptions, the public peace has been preserved; and it will be your anxious but grateful duty to promote by all practicable means, habits of industry and good order amongst the labouring classes of the community.

"On my part I shall be ready to co-operate to the utmost of my power in obviating all just causes of complaint, and in promoting all well considered measures of improvement. But it is my painful duty to observe that the disturbances in Ireland to which I adverted at the close of the last session have greatly increased.

"A spirit of insubordination and violence has risen to the most fearful height, rendering life and property insecure, defying the authority of the law, and threatening the most fatal consequences if not promptly and effectually repressed.

"I feel confident that to your loyalty and patriotism I shall not resort in vain for assistance in these afflicting circumstances, and that you will be ready to adopt such measures of salutary precautions, and to entrust to me such additional powers as may be found necessary for controuling and punishing the disturbers of the public peace; and for preserving and strengthening the legislative union between the two countries, which with your support, and under the blessings of Divine Providence, I am determined to maintain, by all the measures in my power, as indissolubly connected with the peace, security, and well being of my people.

#### From *Merrill's Weekly Register.*

The Ministry have nobly redeemed their pledge to the public on the subject of Reform. Earl Grey said that he considered the Reform Bill only as a means to an end, and he has kept his word. Oh, the poor Bishops! How prophetic was the article which we published on the year 1833!—that Radical destructive article, as the Tories called it, in which we spoke of the dismay of the Church, and described the consternation of the Bishops flying before Reform. Ten Bishops extinguished out of twenty-two—two fat Bishops cut down one-third—the highly benefited Clergy made to pay a tax upon their revenues, and a total reformation effected in the Irish Church! This for Ireland—England will come next. Old Canterbury already sees his revenue reduced, and dreads the return of those simple times when the ministers of God were content with the honor of preaching his holy word—when the head and founder of our religion rode meekly and humbly before men upon an ass, and addressed assembled multitudes from a mount. Well does he know that the reign of priestly pomp approaches to its end and hard has he struggled to avert his fall. But the day of reformation is at hand. The Millennium of Reformers is near, and the aristocracy of the priesthood will soon cease to exercise an influence over the temporal affairs of their flocks. But if we rejoice that Church Reformation has begun, it is not because we desire injury to the Church.—We loathe and detest the worldly pomp of some of the superior clergy; we abhor the grinding and grasping conduct of many of the heads of the Church; we condemn the abuses of the Establishment, and ardently desire to see them lopped off; but we admire and profess the creed of the Established Church, and desire its welfare. We are not among those who would reform in order to effectually destroy it. Fools and rogues may wish for the overthrow of the Church—the first, because they are incapable of appreciating its value to the community at large; the second, because they know that the anarchy which they desire can only be the result of the destruction of the Church. This class, however, is not large, and even among the fools there are many who are not quite so witless as not to know that, if the Church should fall, there would be little protection even for themselves. Society is held together by links, one of which is Church dominion—take that away, and society, as it is now established, will fall to the ground.

There is now a more general opinion entertained than ever, that a proposition will

be made by ministers to parliament, for an extension of the Charters to the Bank and East India Companies for a short period, until further time is allowed for the discussion on these most important subjects. The multifarious questions before parliament would, but for this arrangement protract the session to the very end of the year. The mercantile interest seems fully prepared for the announcement as far as regards the East India Company.—*Chronicle.*

It is understood that the first proceedings in the Upper House of Parliament contemplated by the Opposition Peers, will be a notice of motion on the foreign policy adopted by Government.

#### Portugal.

##### OPORTO, FEB. 4.

Now for the few facts that have occurred since my last of the 29th. Admiral Sortorius has not come on shore, but there are accounts from him. It is denied that the fleet did not obey the signal to them when made, but that, on the contrary, they bore down on the instant. The fact of mutiny is, however, indisputable, and 15,000 dollars are in readiness to be sent out to appease the discontent, but the weather has been so bad as not to allow the transmission of the money. The army has been newly organized, as you will perceive by the *Cronica*, No. 29. The Duke of Terceira is to command the 1st division, consisting of three brigades with the Queen's Lancers, and a brigade of light artillery of 4 guns, 2 howitzers, and 3 hill guns. The 2d division, under Count Saldanha, to consist also of three brigades of infantry, with the 10th cavalry (about 50 horses), and the same proportion of artillery as the first. The 3d division, to be commanded by Gen. Stubbs, to consist of two brigades, the first consisting of British, the second of the 1st and 2d regiments Queen's Light Infantry, with the 11th cavalry (about 50 horses), and a brigade of artillery, with the reserve park of field artillery. The Queen's Light Infantry consists of French and other foreigners. The 1st is composed chiefly of French, the 2d of Belgians, Germans, and people of almost every nation, save English, Portuguese and French. This latter regiment does not seem likely to prove very beneficial, as several desertions have taken place from it, whole pickets having gone over together. Telles Jordao had a flag fixed near Lordello as the point at which all the British and French were to present themselves; at least so he made his people believe. This was discovered, and means taken to prevent any mischievous consequences, but some, I regret to confess, have resulted. The enemy must have agents, both active and daring in the neighbourhood of the Foz and Lordello, but none, I fear, so injurious as the want of pay, and the quality of provisions within our lines. This will be manifest when you learn that the contagion has spread to the British battalions, from which parties of four, three, and six, have deserted on Thursday, Friday, and Saturday nights. On the other hand, while some of the enemy were amusing themselves on Wednesday plundering a house at Lordello, they were surprised by a picket of French and driven off, leaving three of their number dead. Captain George, of the navy with a feeling which does him credit, has volunteered, in consideration of the present exigencies, to serve without pay. He is to have the command of the gunboats now preparing, the first of which is called the *Solignac*. Captain Warner, of whose new artillery great hopes are entertained, has made a similar offer, with the gratuitous expenditure of all his *matériel*, provided he is allowed the proper means of carrying his plans in execution; if not, he goes home. I much wish that some of the vessels with fodder, which are off, could land even part of their cargoes, as that brought from England is exhausted, and Indian grass, with oats damaged by sea-water, produce a bad effect upon the horses. Fresh decrees have been published against forestallers, and no one is now allowed to purchase aught that may be landed, until it arrives within the city. I mentioned, some time ago, that a subscription for the poor was on foot, and am happy now to say that means have been taken to supply them with food, an object most desirable, especially when cholera has begun to commit its ravages. The Government has given the Carmelite Convent as a depot, and the preparations are now nearly complete for the distribution of soup, &c. Speaking of cholera, I must observe that the Consul will not give clean bills of health any longer, and this has caused some murmurs; but of course he must do his duty. Admiral Parker having heard of the distress of the poor, sent 100 cruzados as his subscription towards their relief. The officers of the squadron here did not wait for his example to come forward in the same good cause. As to provisions, they continue extremely high, and of inferior quality: poor beef cannot be had under 15 or 16 vintems the pound; it has not been, for some time, except very rarely, served out in rations; the substitute is bacalao. There has been a small rise in the price of this latter article, but nothing to indicate approaching scarcity, which would

not be the case were the reports well-founded, that there is not more than three weeks' consumption in the town. No doubt the feeding exclusively upon this food and rice must cause a great inroad upon the stock in hand, but I trust there still remains enough for the subsistence of the army and the population to last a considerable time yet.—There is almost a fleet of ships with stores off the coast; and as the weather has moderated this morning, we may soon hope for a supply. The enemy will, I know, take every pains to prevent this, and mortars have been placed in both the Cabodello batteries with this view. There are, as nearly as may be, three-quarters of a mile from the landing place under the light-house, the Sampayo rather more than mile, and the Castel do Quejo at the other side on the beach three-quarters of a mile. There are no guns upon the Castro hill, the summit of which is about a third of a mile from the shore, nor do the enemy seem disposed to erect any works there, although they have a great number of men digging intrenchments to flank the valley, that must be crossed, to attack it, or the Quejo. Miguel's troops, in every respect save that of provisions, are infinitely worse off than those of Don Pedro. Except a few pet regiments, they are in a wretched plight as to clothes and shoes, while the troops here are well and warmly secured from the weather; and as to pay, the Miguelites have not received any for five months. They were, I have the best reason for believing, on the eve of open revolt, on this account, but I much fear the desertions, particularly of the English, and the evil reports which runways always give of their last quarters, may prevent any explosion from taking place.

On Saturday another and nearly a fatal mistake, to give it the mildest term, occurred. Captain Belcher, with one of the *Etna's* boats, landed at the Foz, and crossed to the light-house, for the purpose of endeavouring to put the officer, with his despatches, on board the *Rhadamanthus*, and to bring in, if possible, the mails left by the *Savage*. Having in vain attempted to effect their object, the party returned to their boat near the Foz, and were not agreeably surprised by three shots from the Sampayo battery, one of which went very close to the boat, and another barely cleared the heads of the men a midships. They stood immediately over to the battery, where Captain Belcher landed, and reproached the officer in command with the outrage which had been committed. A remonstrance was sent by the senior officer to General Lemos, but Santa Martha, although at the north side, anticipated the arrival of the complaint, as he sent a letter of apology, with a copy of the officers report from the battery, before he could have had Captain Glasscock's letter.—The sum of it was this—that a Brazilian boat had shortly before gone to the same place, at which they fired; that soon afterwards a boat under sail, and without any flags visible to them, came from the spot, and they fired to bring her to. This was reiterated by General Lemos the same evening, with the assurance that exclusive of good feeling there was nothing his King's Government took such pains to prevent as in any way compromising themselves with the British Government, and that it was not possible to distinguish whether there were any flags when they were rolled up or covered by a sail. The General went farther, in which, however, I don't agree with him, though I am sure he was sincere as to the policy, namely, that they had suffered rebel vessels to pass both in and out of the river sooner than hazard any species of dispute with the British Government. The real state of the matter I believe to have been pretty nearly as they gave it: a Brazilian boat did go down; the bar boat had not before carried sail, the flags were fasted to the leeches of the sails, and that they might not be perceptible to the people on the batteries, I can only say it was very lucky that there was no loss of life.

The list of sequestrations for the month of January amount to 158, and, with those in December, make in all 254. The English 1st battalion has mutinied again to-day.

Feb. 5.—Desertion again from the English, and to a greater extent than on any previous occasion. So far has the practice gone, that the men openly tell their officers that they will go over. I suppose, in consequence of this, that the British are now on guard along the quay walls. The officers of the Scotch battalion have volunteered their services without pay. From the constant repetition of these mutinies the Government are at length exerting themselves seriously to clear off the arrears.—*Times*.

The *Montreal Herald*, in a paragraph mysteriously worded, says that an attempt of an extraordinary character is about to be made in the House of Assembly by a party there, who are carrying measures forward with a headstrong recklessness, that will produce the most alarming consequences.—The real question at issue, it is added, is, whether this party shall govern the province, or whether it shall be governed by the mother country, and that such an alteration in the constitution is contemplated.

Mr. Gulley, respecting whose probable retirement from parliament so much has been said, yesterday took the oath and his seat; with no disposition to shrink from the honour which was so unexpectedly conferred upon him.

**CARBONEAR STAB.**

WEDNESDAY, APRIL 3, 1833.

NOTICE TO CORRESPONDENTS.—Several communications have been received, but are excluded for want of room.

By the kindness of Captain Ford of the brig Apollo, from Jersey to this place, we have been supplied with London Papers to the 19th February.

They contain information of a very interesting description; among the rest, an account of the opening of the Reformed Parliament by Commission, on the 29th of January. After the ceremony, the Commons proceeded to choose a Speaker—two gentlemen were proposed—the Right Hon. Charles Manners Sutton, the late Speaker, and Mr. Littleton member for Staffordshire; after a lengthy discussion the former was elected by a large majority. During the debate the Right Hon. gentleman (to whom, on his retirement, at the death of the last Parliament, a grant of £4000 per ann. was made) declared that, in the event of his being again chosen to fill the chair, he would not accept the pension, believing that he had no claim to it until his *bona fide* retirement. The election of Mr. Manners Sutton was strongly opposed by the extreme reformers, headed by Mr. Hume, the proposer of Mr. Littleton, who declared that a supporter of principles opposed to a majority of the members of the House, and consequently to the majority of the people, was not a fitting person to preside over the debates of the House. The moderate reformers thought otherwise, and the Right Hon. gentleman was elected.

On the 5th of Feb. his Majesty opened the business of the Session in person. The whole of the speech is given in another part of our paper. Its principal features are, a determination, if possible, to maintain the peace of Europe; a desire to bring about a settlement of the Dutch and Belgian, and Portuguese differences; church reform; and a request to the Commons for means to use coercive measures for the maintenance of the laws in Ireland. In accordance with this request, Earl Grey introduced into the House of Lords, on the 15th, a bill, under the title of the "Ireland Coercive Bill," which, up to the 19th, had passed two readings, without a dissenting voice. The object of this Bill is to place the insubordinate districts, without the pale of the Constitution, by erecting *Courts-Martial*, for the trial of all offences not punishable with death. These Courts are to be composed of from 5 to 9 officers of not less than two years standing in the army, with a Serjeant-at-law Council, as Judge-Advocate; and the opinion of the majority to be the decision of the Court. Of the policy of pursuing the measures proposed to be enforced in the the above-named bill, towards this oppressed country, it may be considered presumption in us to hazard an opinion, we being too far removed from the seat of the evils, to be correctly informed of the circumstances which gave rise to it. This thing is however evident—coercive measures—military tyranny—have been tried, and in vain, to make the people of Ireland content, under the load of oppression heaped upon them by the British Government; how cruel and futile is it then to follow up a system so replete with misery, and destructive to all social ties; and which has been a disgrace to the nation and a precedent to be cited by the Russian Autocrat as an excuse for his conduct towards the Poles. Here we have a ministry, the professed champions of *liberty*—the contemners of despotism—about to deprive a portion of their fellow subjects of the benefits of a Constitution (the boast of all who live under it) because they will not tamely submit to be trodden to the dust—because they retaliate on their masters for injuries received. And what does Earl Grey advance as an excuse for the Bill?—"That lawless and violent associations, by night and by day, threaten and intimidate all loyal and peaceable men; they are directed not to public purposes only, but are also made the engines of private vengeance. They have not risen solely out of the tithe question—though no doubt the feeling in Ireland is strong enough against tithes, and unfortunate consequences have been produced by them, which consequences, had they been foreseen, might have led sooner to salutary regulations—but the disturbances are directed to other objects. The disturbers prescribe the terms on which land should be let, and any who disobey their orders are subject to have their property destroyed, and even their lives sacrificed. They dictate what persons should be employed, and by whom; forbidding labourers to work for obnoxious masters, and preventing masters from employing such as are obedient to their orders. They enforce their commands by acts of cruelty and outrage—by spoilation—

by murder—by attacks on houses, in the dead of night—by dragging the inmates out of their beds—by beating them sometimes to such an extent as to cause death—by inflicting evils scarcely inferior to death itself. This is the extent to which the system of outrage and violence prevails in the disturbed districts. The disturbances are conducted on a principle of organization, which is manifested by the manner in which the people assemble, and from the combined objects which they pursue. They assemble by signals—make concerted movements—watch the route of the military, and, by intelligence received, avoid them, so that they cannot be put down by the army.—All this is true—but what drove the people to resort to means, which no one can excuse—but which circumstance palliate? We answer mis-government. The *Times* says "we must allowed that the primary cause of all the mischief remains untouched," and every man must respond to the expression. The primary cause is untouched and until that cause be removed its effects will be produced. Instead of attempting to do this—the cause is to be exaggerated—mis-rule is to be upheld by coercion; but by coercion will the victory over a determined and united people never be obtained. We must not be understood by our above remarks, as defending murder, incendiarism and all its concomitants, but as contemning that blinded policy, which produced the crisis now at hand. The Bill it is expected will meet with very determined opposition in the Commons, and that the Ministers will find some trouble in passing it.

The Reformed House appears to be going on rapidly in its labour of clearing the Augean Stable of its manifold impurities.—Among the Bills already brought in, are—one for an Investigation into the Abuses of Corporate Bodies; one for a Revision of the Law of Real Property; and another for Re-forming the Irish Church Establishment.

A motion made by Mr. Wynn, that Mr. Pease, a quaker, Member for South Durham, be allowed to take his seat in that House, was carried unanimously, with continued cheering. The hon. Gentleman "affirmed" and took his seat on the 15th Feb. This is the first quaker, that ever sat as a Member in the English House of Commons.

We see, by the "NEWFOUNDLANDER," of the 28th ult. That "An Act to establish and regulate Fire Companies in Harbour Grace," and "An Act to regulate the Streets of Harbour Grace," have been read a first time in the Council. The Marriage Bill passed the Assembly on the 20th ult.

The average temperature for the month of March, was 27.49, the highest degree observed, was on the morning of the 10th, when the mercury stood at 48, the lowest on the evening of the 7th when it sunk to 1½.

DEPARTURES.—Omitted in our last. In the *Mercury*, for London, the late Chief Justice R. A. Tucker, Esq., and the Right Rev. Dr. Fleming.

**Shipping Intelligence.**

**HARBOUR GRACE.**

ENTERED.  
March 27.—Brig Caroline, Gyles, Lisbon.

**CARBONEAR.**

ENTERED.  
March 30.—Brig Apollo, Ford, Jersey, 800 bls. potatoes, 400 cwt. bread.  
31.—Brig Dewsbury, Hardy, Lisbon; 110 moys salt 20 boxes oranges, 1 cask wine.

**ST. JOHNS.**

ENTERED.  
March 19.—Brig Ambassador, Newton, Halifax, prov.  
22.—Brig Abeona, Kelly, Sydney, coals.  
25.—Sch. Creole, Pickford, Halifax; rum, flour, &c.  
American Schooner Live Oak, Humphreys, New-York; provisions.  
Schooner Dove, White, Halifax; flour, molasses, &c.  
26.—Schooner Caraboo, Doane, Halifax; pork, flour, and rice.  
Brig London, Ball, Dantzic; bread, flour, and bricks  
American Brig Columbo, Smith, Boston; flour, tobacco, pork, &c.  
Brig Balclutha, Dick, Greenock; coals, potatoes, oatmeal, and sundries.  
American Schooner Rice Plant, Selew, Boston; flour, pork, beef, &c.  
27.—Brig Norval, Puntun, New York; flour, bread, pork, &c.  
Brig Funchal, Picken, Greenock.  
CLEARED.  
March 18.—Brig Piscator, Kydd, Oporto.

**WANTED,**

As an Apprentice to the  
**PRINTING BUSINESS,**  
an intelligent YOUTH.—He will be treated as one of the Family.  
Apply at the STAR Office.  
Carbonear, April 3, 1833.

**ON SALE.**

BY  
**COLLINGS & LEGG**  
50 Barrels American Flour  
50 Barrels American Beef  
30 Firkins Prime Butter  
50 Boxes Raisins  
And a general Assortment of Dry Goods, Groceries, &c.  
Carbonear, Jan. 9, 1833.

**TO LET,**

On Building Leases, for a Term of Years  
A Piece of LAND, the Property of the Subscriber, extending from the House of Mr. Joseph Parsons, on the East, to the House of Mrs. Anna Howell, on the West, and running back from the South Side of the Street, to the Subscriber's House.  
MARY TAYLOR,  
Widow.  
Carbonear, Feb. 13, 1833.

**NOTICES.**

"Tis Education forms the tender mind  
Just as the twig is bent the tree's inclined."

THE Inhabitants of CARBONEAR and its Vicinity, are respectfully informed, that the Subscriber has opened a SCHOOL in the House in which the late Mr. HENRY PARSONS resided, where he trusts by the most unremitting attention to the Pupils who may be intrusted to his care, to give satisfaction to their Parents and Friends.

**TERMS**

For Reading, Writing, Arithmetic, English Grammar, History, Geography, and Astronomy,—£4 4s annum, and 10s. Entrance. Terms, for Children commencing, to be learned at the School.  
Mathematics, and the Languages an extra Charge.  
N. B.—A separate apartment for Girls.  
JOHN PHELAN.  
Carbonear, April 3, 1833.

**BOOTS and SHOES!**

BENJAMIN REES begs leave to inform the Inhabitants of Carbonear, Harbour Grace, and their Vicinities, that he has taken the Shop, attached to Mr. McKee's House, where he intends carrying on

**BOOT AND SHOE-MAKING,**  
(Both Pegged and Sewed).

In all its various Branches, and, by strict attention to business, hopes to merit a share of public patronage. As none but the best Workmen will be employed, those favouring him with their custom, may depend on having their orders executed in the neatest manner and at the shortest notice.

PRICES:  
Gentlemen's Wellington Boots @ 25s. 4s pair  
Ditto Blucher or laced ditto 15s. ..  
Men's Shoes ..... 10s to 11s. ..

LADIES' BOOTS AND SHOES.  
Boots ..... @ 10s. 4s pair  
Shoes ..... 8s. ..  
And all other work in proportion.

Mending and repairing Boots and Shoes will be strictly attended to.

Carbonear, April 3, 1833.

**Dissolution of Co-partnership.**

NOTICE is hereby given, that the Co-partnership heretofore existing between the Subscribers, under the Firm of PROWSE and JAKUES, Carbonear, Newfoundland, is this day, by mutual consent, dissolved. All Debts owing to and from the said Concern, will be received and paid by the undersigned GEORGE EDWARD JAKUES. Witness our Hands, at Carbonear, this 31st Day of December, 1832.

SAMUEL PROWSE, JUN.  
GEORGE EDWARD JAKUES.

THE Business hitherto carried on in this Town, under the Firm of PROWSE and JAKUES, will be continued by the Subscriber, from this date, in his own Name.  
GEORGE EDWARD JAKUES.  
Carbonear, Dec. 31, 1832.

BLANKS of every description for sale at the Office of this Paper.

## POETRY.

## MOTHER, WHAT IS DEATH?

"Mother, how still the baby lies,—  
I cannot hear his breath;  
I cannot see his languid eye—  
They tell me this is death.

My little work I thought to bring,  
And sat down by his bed,  
And pleasantly I tried to sing—  
They hushed me—he is dead.

They say that he again will rise,  
More beautiful than now,—  
That God will bless him in the skies—  
Oh, mother, tell me how?"

"Daughter, do you remember, dear,  
The cold, dark thing you brought  
And laid upon the easement here,—  
A withered worm you thought?"

I tell you that Almighty power  
Could break that withered shell,  
And show you, in a future hour,  
Something would please you well.

Look at the chrysalis, my love,—  
An empty shell it lies;  
Now raise your wandering thoughts above,  
To where you insect flies?"

"Oh, yes, mamma! how very gay  
Its wings of starry gold,  
And see! it lightly flies away  
Beyond my gentle hold!

Oh, mother now I know, full well,—  
If God that worm can change,  
And draw it from this broken cell,  
On golden wings to range,

How beautiful will brother be,  
When God shall give him wings,  
Above this dying world to flee,  
And live with heavenly things."

## FOREIGN INTELLIGENCE.

Extracted from the latest English Papers

## Holland.

## AMSTERDAM.

(Private Correspondence of the *Handelsblad*, dated London.)

The following is the project of treaty that the Cabinet of the Hague has remitted to the Plenipotentiaries of France and Great Britain:—

## "PROJECT OF TREATY.

"Art. 1. His Majesty the King of the Netherlands consents that his troops shall evacuate the fortresses of Lillo and Liefkenshoek in the period of—days after the ratification of the present convention.

"Their Majesties the Kings of France and England shall equally consent, in the period of—after the ratification of the present treaty, to guarantee that the Belgian troops shall evacuate Venloo, the Dutch part of Limburg, and the German part of Luxemburg, according to the demarcation agreed to in the treaty of the 15th November, between the five Powers and Belgium, and the places above-mentioned shall be delivered up to the King of the Netherlands.

"Art. 2. His Majesty the King of the Netherlands consents, after the ratification of the present treaty, to free the navigation of the Meuse, in conformity with the regulation decreed in 1831 at Mentz.

"Art. 3. Until a definitive treaty between Holland and Belgium shall be agreed to, the Dutch government shall raise upon the Scheldt one duty under the name of *tolregt*. This will be—, by tons, for vessels coming from the sea up the Scheldt, and a duty—, by tons, for vessels going down the river. This duty shall be levied at Flushing without any visiting or administrative form, and shall be the same for all vessels, whatever be their cargo or colours.

"Art. 4. His Majesty the King of the Netherlands consents that commercial communications shall be established between Germany & Belgium by Maestricht and Sittard; they shall be perfectly free and protected from all obstacles. The employment of the two roads, which divide the two towns, to arrive at the frontiers of Germany, shall only be subjected to a moderate duty on the expense of the toll, so that the transit may not be impeded.

"The rates of transit for Limburg shall be equally moderate, and shall not exceed the actual rate. If this rate exceed one per cent. of the value of the merchandise, it shall be reduced to the rate of one per cent.

"Art. 5. His Majesty the King of the French, and His Majesty the King of Great Britain, consent to obtain from Belgium the payment from the 1st of January, 1833, of 8,400,000 florins, payable yearly to the Dutch treasury.

"Art. 6. His Majesty the King of the Netherlands consents, that in the provinces that shall be allotted to him, none shall be prosecuted or annoyed for any political cause."

## Ireland.

## ITINERANT PREACHERS—THE POLICE.

To the Editor of the *Morning Register*.  
Corofin, Feb. 8, 1833.

Dear Sir,—I transmitted a few weeks since a memorial to the Irish Government, signed by myself and my parishioners, complaining of itinerant preachers, who stop with a party of police at the residence of Mr. Edward Synge, and who constantly annoy the Catholic inhabitants, enter their houses, preach in public meetings and at public funerals. At one funeral these men were severely beaten, and their lives were with difficulty protected from the fury of an exasperated people, by the interference of influential persons.

I received, I think, a satisfactory reply, a copy of which I beg to give you on the other side. I think the publication of it might be useful. It will direct others, suffering similar annoyance in other quarters of Ireland, how to obtain redress.

I am, dear Sir, with great respect, your faithful and obedient servant,

PATRICK GORMAN,  
Parish Priest of Rath and Kilnaboy.

Dublin Castle, Feb. 4, 1833.

Sir,—Having caused an inquiry to be made into the circumstances stated in the memorial signed by you and the Roman Catholic parishioners of Rath, with respect to the interference with the religious feelings of the people by two itinerant preachers, who, it is alleged, are living in Mr. Synge's house under the protection of the police, the Lords Justices desire me to acquaint you, that it appears from the result, that the conduct of the persons alluded to seems to have been highly improper, and Mr. Brew, chief magistrate, has been directed to express to them the sense entertained of it by government, and that, if persevered in, the police guard at the house they occupy will be withdrawn.

I am, Sir, your obdt. humble servant,  
Wm. GOSSETT.  
Rev. P. O'Gorman, R. C. Rector of Rath.

## TITHE TRIALS.

DEFEAT ON PROSECUTIONS FOR TITHES IN THE COUNTY OF WATERFORD.

At the Quarter Sessions on Friday, held in the city of Waterford, the Attorney-General's list of tithe prosecutions amounted to 820. The first called on was at the suit of the Rev. Mr. Mounsell, against a farmer named Halfpenny, the proclamation of which appeared in the *Gazette* on Nov. 21.

Mr. Dominick Ronayne, M.P., on the part of the defendant, argued that this proceeding was informal, and should be quashed, inasmuch as the notice that had been posted through the parish was dated the 8th of December, which did not allow the month of grace between the proclamation and execution, provided and ordered in the late tithe act.

Mr. Hamilton, for the prosecution, contended that the posting did not amount to the legal execution contemplated in the act; but

The Assistant Barrister thought otherwise, and decided in favour of the defendant.—He then inquired if the remaining cases were similarly circumstanced, and finding that they were, ordered the entire 820 applications to be nonsuited.

The country people are in raptures at the defeat of the Attorney-General, who must begin *de novo*, if the legislature permit him.—*Globe*.

## IMPORTANT TO MERCHANTS.

Court of King's Bench.

HAWES v. FOSTER.

This was an action tried before the Lord Chief Justice at the last sittings at Guildhall and a verdict found for the plaintiff, with leave to move for a new trial. The Solicitor-General now moved the Court accordingly. The action was on a warranty contained in a contract for the sale of oil, which the defendants had warranted to arrive on a certain day, but which was not so delivered to the plaintiffs. The damages consisted in the loss sustained by the plaintiffs from a rise in the price of oil, which obliged them to buy at a higher rate. It appeared the defendants had employed a broker, named Wright, to sell the oil in question on its arrival, and the custom is that if the goods in such cases do not arrive on the day stipulated, the contract is void. In the present case the broker concluded the sale with the plaintiffs, and entered in his book that the oil was to be sold to them on its arrival; but, in the "sold book," which was handed over as usual to the plaintiffs, the oil was warranted to arrive on a certain day. The question, therefore, on the trial was, whether the case should be decided by the entry in the broker's book, or by the sold book, and the above verdict was given, that the point might be discussed. The learned Solicitor-General now submitted, in support of his motion for a new trial, that the broker's book was the proper authority, and cited the opinion of Lord Ellenborough in support of his view, as well as that of Lord Tenterden against it.

The Lord Chief Justice.—As this is a point, the decision of which will affect the custom among merchants and brokers, we are of opinion that it should be discussed. Rule nisi granted.

GRAPHIC SKETCH OF THE STORMING OF CUIDAD RODRIGO.—A writer in the United Service Journal, gives the following highly graphic sketch of a scene, which has been described by, at least, 100 pens:—

The situation in which we were now placed was one of extreme danger and embarrassment. Instead of falling into the rear of a column, supposed to have, already, carried the breach, we stood alone, at its base, exposed to a tremendous fire of grape and musketry, from its defences, whilst we were in danger of being assaulted in the rear, by a sortie through the sally-port, in the ditch already mentioned. For a minute we seemed destined to be sacrificed to some mistake as to the hour of attack, but suddenly we heard a cheer from a body of men who, crowning the summit of the counter-scarp, flung down bags filled with heather, to break their fall, and leaped on them into the ditch. It was the old Scotch Brigade, which, like us, having been intended as a support, was true to its time, and was, consequently, placed in the same predicament with ourselves. On the appearance of the 94th, the fire of the garrison was redoubled; and, after a moment's consultation between the seniors, it was decided to die like men on the breach, than like dogs in the ditch, and, instantly, with a wild hurrah, all sprung upwards, absolutely eating fire. I think the breach must have been seventy or eighty feet wide: the 94th took it on the right, we on the left, extremity, as you look to the country; and I affirm, it would have been a work of no small labour to have achieved the ascent under any circumstances, consisting, as it did, of a nearly perpendicular mass of loose rubbish, in which it was extremely difficult to obtain a footing. As our serious intentions were now evident to them, the enemy developed and employed their entire means of defence. Two guns pointed downwards from the flank, and had time to fire several rounds of grape, working fearful destruction, particularly in the 94th. On the margin of the breach were ranged a quantity of shells, which were lighted and rolled down amongst us, acting rather as a stimulus to push up and avoid their explosion. The top of the breach was defended by a strong body of the garrison, who maintained a heavy fire of musketry, and shewed, for some time, an undaunted countenance. Hand-grenades and fireballs were not wanting, nor yet the agreeable accompaniment of a heavy fire from a distant flanking demi-bastion, which bore on the foot of the breach and crest of the glacis, where the 45th and 88th, who were just arrived in time to do good service, suffered very severely by it. As we struggled up the resistance, though not, perhaps, as determined as it might have been, was still sufficiently formidable to have daunted the bravest. However, with all its defects, a night attack has the advantage of concealing from the view much of danger and difficulty, that, if seen, might shake the nerves. But there was no time then for hesitation, no choice for the timid; the front ranks were forced onwards by the pressure from the rear; and, as men fell wounded on the breach, there they found their (living) grave, being trodden into and covered by the shifting rubbish displaced by the feet of their comrades. Some few, more lucky, when wounded, rolled down the slope into the ditch, where they called, in vain, for that assistance which could not then be afforded them; and they added, by their outcries, to the wildness of the scene. Such a struggle could not be of long duration; and the effort of our men, reinforced, as we were, by the two last-named regiments, were, in a few minutes, crowned with success. The enemy's resistance slackened, and they suddenly fled from before us, escaping to right and to left, by boards laid across cuts through the terre-pleine, by which cuts the breach was isolated; the boards they left behind in their panic. It was now seven o'clock, the breach was carried, and the town virtually ours. A voice was heard to shout above the uproar, "They run, they run!" All crowded on the summit of the breach, and some spoke of forming the men on the rampart; but on that spot there was no safety, for we had scarcely attained it, when a deadly fire was opened upon us from a breast-work, at about twenty yards distance and beneath, formed from the ruins of some houses, of loose stones, and lined with men. Many of our people threw themselves on their faces, and, in that position, returned the fire with good effect, as I observed, on the following morning, more than forty of the garrison lying dead behind the breast-work, shot through their heads—the only part exposed to our fire. One portion of our fellows, led by Gen. McKinnon, proceeded to the left along the rampart, and turned the right flank of the breast-work, (which was appuieed against the walls) and there, firing on them, dispersed the enemy. About that time, the expense magazine blew up on the rampart, destroying the general and many with him, as well as such of the garrison as were at that end of the breast-work; behind

which I saw, the next day, a number of mutilated and blackened corpses, hideous and shapeless, friends and foes, mingled in one common destruction. I distinctly remember the moment of explosion, and the short pause occasioned in our proceedings,—a pause which enabled us to distinguish the noise of the attack still going forward in the direction of the little breach. I accompanied a party which pushed across a board to our right, for the purpose of clearing the rampart (on that side) of the enemy, who still fired at us, but fled on the first demonstration of attack. Then it was that a gigantic young Irish volunteer, attached to our regiment, was said to have uttered that exclamation of surprise at the facility with which he could deprive a human being of life that became celebrated afterwards throughout the division. Observing a gallant artilleryman still lingering near his gun, he dashed at him with bayonet fixed, and at the charge. The man stepped backwards, facing his foe, but, his foot slipping, he fell against the gun, and, in a moment, the young fellow's bayonet was through his heart. The yell with which he gave up the ghost so terrified B— that he started back the implement of death in his hands, and, apostrophizing it, was heard to say, "Holy Moses! how easy you went into him!" As the first taste of blood rouses the latent fierceness of the tiger's whelp, so this event seemed to have altered B—'s nature, and, doubtless, led to his subsequent misfortunes and premature death. No enemy being now visible on the ramparts, and the men who lined the breast-work having fled, we advanced in pursuit, dropping from the wall into the town. At first we were among ruins; but, having extricated ourselves from them, we made our way into a large street, leading nearly in a straight line from the principal breach to the plaza of square. Up this street we fought our way, the enemy slowly retiring before us. At about half the length of the street was a large open space on our left hand, where was deposited the immense battering train of "the army of Portugal," and its materiel. Amongst this crowd of carriages, a number of men had ensconced themselves, firing on us as we passed, and it required no small exertion on our part, to dislodge them. Such of them as were caught suffered for their temerity. In the mean time, those of the enemy ahead of us were lost to sight, having entered the square, for which place we pushed on with as many men as we could lay hands on, formed, without distinction to regiments, into two or three platoons; for the greater proportion of those who had started with us had gradually sneaked off into the bye-streets for the purpose of plundering, which business was already going on merrily. As we reached the head of the street, (which entered the square at an angle,) and wheeled to the left into the open space, we received a shattering volley from the enemy, which quickly spoiled our array. They were drawn up in force in the square and under the colonnade of the cathedral, and we were, for the moment, checked by their fire, which we returned from the head of the street waiting for a reinforcement. At length, when we were meditating a dash at the fellows, we heard a fire opened from another quarter which seemed to strike them with a panic, for, on giving a cheer and moving forward, they, to a man, threw away their arms, as if by word of command, and disappeared in the gloom like magic. It was the light division, who entered the square by a street leading from the little breach, and their opportune arrival had frightened the game which we had brought to bay, leaving the pavement covered with arms and accoutrements. Resistance had ceased, and the town was captured.

EFFECTS OF DIFFERENT TEMPERATURES ON THE BODY.—When the air is warm and dry it excites a most agreeable sensation in the lungs and in every part of the body. It increases the power or function of every organ, and health is perfect; this is observed in a dry spring after a cold and moist winter; but when the weather is intensely hot, and persons exposed to the burning sun in the tropics, they often drop dead suddenly from apoplexy: this has happened even in France and Spain during very hot summers. All the functions, as breathing, digestion, &c., are diminished and oppressed. There is danger of mortification of wounds and ulcers, bowel complaints, fevers, hysteria, epilepsy, &c. Persons labouring under consumption have been advised to live in warm climates; but many physicians suppose that the acceleration of the breathing and pulse caused by hot air in summer, only hurry the sufferers to a more speedy death. The change of habitation from a cold climate to a warm one in winter is highly advisable, though it is now believed that the southern coasts of this country are as eligible as foreign climes for our consumptive patients. A cold and moist atmosphere produces debilitating effects on man and animals; a cold and dry air is not so injurious; it braces the nerves and is favourable to health, although it sometimes induces determinations of blood to the head, chest, and abdomen, and causes inflammations in the organs of their cavities.

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