

FOREIGN INTELLIGENCE.

From the Journal of Commerce.

The London Globe of the 21st, announces the death of his Grace the Archbishop of Canterbury, which took place that morning at 11 o'clock, at the Palace at Lambeth.

His Grace who was in his seventy-sixth year, had been indisposed for some time past, but he only became confined to the house for the last ten days. Immediately after the decease of his Grace, his son, the Speaker of the House of Commons, was sent for and arrived very shortly. His Grace, besides being Primate of all England, and Metropolitan, was a Lord of Trade and Plantations, an officer of the British Museum, a Governor of the Charterhouse, and Visitor of All Souls and Meriton College, Oxford.

Parliament is to be prorogued on the 20th July.

London papers of the 20th says:—The Duke of Clarence came to town unexpectedly on Thursday evening, from Portsmouth. His Royal Highness was about proceeding in the Royal yacht, from Portsmouth to Torbay, and the yacht was just putting out to sea on Thursday morning, when despatches were brought to the Duke of Wellington, from the Duke of Wellington, by a messenger, who was sent from London on Wednesday night.

The express forwarded to Portsmouth, to his Royal Highness the Duke of Clarence, requiring his immediate attendance at a Cabinet Council, is understood to relate to a determination of Government to increase the British naval force in the Mediterranean.

Mr. Hamilton rose to move for copies of the American Tariff of 1824 and the present year, with any communications from his Majesty's Ministers in the United States on the subject. It was necessary, before the close of the session, to take some notice, not of the intention, perhaps, but of the tendency of certain Acts which had been lately passed in the United States, detrimental to their own interests, but certainly calculated greatly to injure and impede the trade and manufactures of Great Britain.

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related in our regulation respecting American corn. He had no objection to the production of documents from which he gathered sufficient to prove to him, that the security of America would be long induced that country to recall the present step, as it most necessarily led to considerable suffering here; and in the meantime, he was not without the opportunity of preventing the possibility of our adopting any retaliatory system, as the only effect likely to be produced by such a course would be, its being taken wrong by the Americans, and leading to still further steps. The motion was then agreed to.

"It is stated," says the Morning Chronicle of this day (Saturday, July 5th), by a contemporary (The Globe) that Mr. Charles Butler is still convinced, after the most mature consideration, that Mr. O'Connell may sit in Parliament without being subject to any penalty. We have been told that at the House of Commons Mr. Butler's opinion was first alluded to at the meeting, he had not considered the question with the care and deliberation which a professional man would deem necessary, before delivering a serious judgment in so important a matter; and that his opinion had merely referred to a particular point of the subject. Since that time however, he has deliberately and carefully looked into the question, and the result of his examination, we are assured, is, that Mr. O'Connell cannot be prevented from sitting and voting. The real points on which the question hinges, we are told, would not be to be stated. We have heard that it hinges on the construction of the Act of the Irish Parliament called 'Yeiverton's Act,' taking the preamble and the body of the Act in conjunction, and in the meaning attached to the word 'disqualified' in the Act of the 41st of the King. It is contended that the being a Papist or Catholic is not a disqualification, that there is no law excluded by refusing to take an oath. The penalty being directed against disqualification does not, it is said, affect a Catholic, and he cannot be compelled to take the oath. However this be, we have no doubt that a professional Gentleman of Mr. Butler's character, would not lightly commit himself to a positive opinion in a question of this kind. If the House of Commons should decide in favour of Mr. O'Connell, which, if the law be in his favour may be anticipated, Emancipation is achieved without the necessity of the concurrence of the Lords. In that case, they will not persist long in their own members of their own body from Parliament."

LOWER CANADA.

From the Canadian Spectator, Sept. 3.

The King's Bench.—September Term for Criminal causes commenced on Monday last. After some routine matters were gone through, a most important question touching the subject's right to a fair trial, by jury was brought before the Court, and led to a sound constitutional and happy judgment.

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Some Cherris. These gentlemen rendered it manifest that they were thoroughly masters of the subject and possessed of ample stores; and that if either of them had to open the argument, he would have done it amply justice. But having to follow Mr. Walker who had fully developed almost every topic, little remained for them to urge that was not—and therefore, though clear, pointed, and spirited, they chose, with good taste and judgment, to be brief.

Mr. Attorney General supported his rule and the process which he followed. We leave it to his partisans to say what they please of his argument. We wish to avoid giving our opinion—we must however utter one topic of his speech. He spoke loudly of his liberty to the defendants, of his care of their interests in the course he adopted, of the opportunities he afforded them of securing an enlightened, unprejudiced and unimpaired Jury!—These observations of Mr. Attorney General, uttered with great confidence, filled almost every breast in the Court with one emotion which is unnecessary to name.

Mr. Walker replied promptly, vigorously and effectually, to every thing uttered by the Attorney General—even to sarcasms and allusions of the most delicate and epigrammatic point to his answer which we think the Attorney General felt. He trusted the Attorney General would admit that the Canadians had proved they knew well how to discharge such constitutional offices and duties as they had occasion to discharge; he must beware that he would discharge the duties of free and independent elector; that they understood the privileges secured to them by the Bill of Rights; and that they could exercise with peace and tranquility and firmness, the inestimable privilege of petitioning.

The discussion having continued till about 5 o'clock, the Court adjourned to the next morning, Tuesday.

The Court having met according to adjournment, their honors proceeded to deliver their opinions. Mr. Justice Uniacke—was decidedly of opinion, that the law must be discharged. His honor stated that much had been said, and relevantly on the subject of expediency. Their duty was to consider what was law and to pronounce it; not what was expedient and to legislate on it. In 1774, the English law and procedure criminal matters were uniformly established in this Province, and amongst the rest, the laws and practices relating to Juries. These were given and received as a happy boon and a valuable possession, and could be modified or affected only by a law of the Province expressly and unequivocally made for that purpose.

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might have said so if they intended it, did not say so. His honor also was anxious to show that the subject would be deprived of a great advantage if the Special Jury were to be chosen indifferently by the Clerk of the Court, or the freeholders at large of the district of the Sheriff and the Court—and from which the Clerk is not allowed to choose indifferently, but must take in rotation, after they have been selected and arranged by the Sheriff!

The opinion of the Court being against his honor, the order of the Court was that the Special Jury was struck against Lord and should be discharged, and it was discharged accordingly.

Thus we consider, has been gained a most important and memorable victory for the constitution, the law and the rights, liberties and safety of the subject. We owe it, in the first place, to an enlightened independent minded constitutional Bench—and in the second place to the manly zeal, the researches and the talent of Mr. Walker and his two coadjutors Messrs. Mondelet and Cherris. It is a great fortune for the country that in these gentlemen, the subject when attacked by power may have able defenders; and that they be left unprovoked and helpless. We doubt not the elevated feelings of these gentlemen acknowledge the sentiments of the illustrious Erskine: "I will for ever, at all hazards, assert the dignity, independence of the English Bar; without which impartial justice, the most valuable part of the English constitution, can have no existence. From the moment that any Advocate can be permitted to say that he will or will not stand between the crown and the subject arraigned in the Court where he sits to practise, from that moment the liberties of England are at end."

His Majesty's Ship Challenger, Capt. Fitz Clarence arrived this morning from Halifax, whence she sailed on the 23rd ult. having on board Lieutenant General Sir James Kemp, G. C. B. & G. C. H. the successor of the Earl of Dalhousie as Governor in chief in British North America. The Frigate on arriving was saluted from the Citadel, which on her anchoring, she returned. At noon His Excellency disembarked, under a salute from the frigate which also manned her yards, and landed at the King's wharf attended by Capt. Fitz Clarence. He was received by His Excellency the Governor in chief, who had been thither in his Brough, for that purpose, attended by the Officers of the General and his personal Staff and escorted by Major Guay's Troop of Volunteer Light Cavalry, "the Mercury."

A VILLAIN CAUGHT. Hamilton, alias Wilson, &c. who has acquired some notoriety in this section of the country, recently consummated his villainy by a brutal assault on a young female of Ontario county, with an intent to commit a rape. The girl was about nine years of age. Hamilton was tried before Judge Howell at Canandaigua—convicted on the fullest testimony, and sentenced to expiate his crimes by five years imprisonment at hard labour in the state prison at Auburn.

This Hamilton is the man who, under various pretexts, swindled the citizens of Rochester out of money, &c. In the spring of last year he was tried before the Court at Canandaigua—convicted on the fullest testimony, and sentenced to expiate his crimes by five years imprisonment at hard labour in the state prison at Auburn.

Mr. Editor, Having observed in your useful paper, an article headed "Singular property of figures." I am induced to send the following for publication, presuming some one of your Mathematical correspondents can give the reason of the following results.

Sept. 23, 1833. Heptagonal numbers are formed from the following Arithmetical series and have a singular property—commencing at the lowest and adding to any of the series, the sum is a heptagonal number, which being multiplied by 40 and 9 added invariably produces a square number, even if the series be carried to infinity, such each near the town, but is that any reason another person who owns a peaceable cow should suffer, if it should enter a breach, made by unlawful or unruly creatures.

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COMMUNICATIONS.

FOR THE UPPER CANADA HERALD.

Mr. Editor,—The public have been much imposed upon, within a few months past, by the conduct of a neighbouring pound-keeper, who has been in the habit of receiving and impounding cows and young cattle, that have a lawful right to run at large, under pretence of trespassing upon improved lands; to the great damage of the owners of the cows, &c. This man being only a laborer of the Sheriff, has no visible means to answer in a court of law, for his improper conduct, nor come under the habit of extortion, or swindling. Judge Sherwood, at the Assizes in 1827, in his address to the grand jury, mentioned particularly, it being their duty to present any civil officer, for extortion, or doing illegal acts to default.

The statute points out the duty of a pound-keeper to receive, & impound all horses, cattle, sheep, swine, &c. trespassing upon the lands of another, having enclosed the same, by such high and sufficient fence, as shall be agreed upon at the town meeting.

Another act passed soon after, power was given for the inhabitants at the town meeting to say what cattle and in what places, they shall run at large; and the not at liberty to run, it was lawful for the pound keeper to receive and impound.

The chief cause of complaint is, that cows, &c. have been taken from lands, not being enclosed with a lawful fence, or have entered in gaps or places, where horses or oxen were made; the same being left open by the owner, &c. thereby naturally inviting the swine, &c. to enter, as they came at them: a number of cows have been impounded, from the Sheriff's farm, where this man lives; the same not having scarcely any lawful fence about it. At the back of this farm the fence is not 4 feet high in many places, with small poles for riders, and was 4 that it might rub it down. Nearly all the farms around are in the same condition with their fences. Many people are surprised that the Sheriff allows such conduct by his labourers, and upon his farm. The Sheriff has been from home, and it is very likely he has not heard of such practices, though he is not at large, although it is expressly stated, the pound keeper is by law, not authorised to receive any horses, &c. so trespassing, except the same is enclosed with a proper fence.

Many impositions are practised by others not pound keepers. I saw three cows enter the open gateway of a person's premises, who went and shut the gate after them; the cows were regularly milked for several days, &c. A notice of such cows, coming in to the subscribers inclosure, was posted up at night, but not to be seen in the morning. The owner had spent many days looking for his cows; at the same time, it was told he had been put out of the field, they would have went home of their own accord, but he would not have done so.

It is said some cows will by their horns throw down a lawful fence: certainly such cows ought not to run at large, and there are 3 or 4 that do so near the town, but is that any reason another person who owns a peaceable cow should suffer, if it should enter a breach, made by unlawful or unruly creatures.

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THE FOLLOWING IS A COPY OF THE CHARGE DELIVERED BY MR. JUSTICE SHERWOOD TO THE GRAND JURY AT THE LAST.

GENTLEMEN OF THE GRAND INQUEST.—That part of the government which respects the execution of the laws, is an important branch of the constituted authority, and a general knowledge of it, is, in some degree, necessary to every British subject. The King is the first executive Magistrate, and the principal conservator of the peace of his Empire—under him, in regular gradations, are subordinate Magistrates, whose authority is derived from him, and who act as his assistants in supporting peace and good order in society. It is the duty of all classes of His Majesty's subjects to give their aid in the execution of the laws of the country; and I intend, at this time, to insist on the necessity of the uniform execution of private individuals, Constables, and Justices of the Peace, to preserve the peace, and to apprehend offenders. Many persons who possess good intentions, and are faithful subjects and honest men, are found to be timid and dilatory in requiring their assistance to suppress disorders, or to arrest the disorderly. They are alarmed at the idea of damages and penalties, which many have made themselves liable for passing the bounds of the law, which they were ignorant, and therefore continually temporize till disorder assumes the appearance of outrageous violence, and the promoters of it have escaped beyond the possibility of apprehension.

The former of these occurrences always attended with great detriments to society, the latter encourages vice, by holding out temptation to the vicious. Both of them should therefore, be carefully avoided, by making standing the duty which the law imposes on all the members of the community. How many serious disturbances might be prevented, and how many public prosecutions and punishments might be avoided, if private individuals would be ever so vigilantly informed, and were more attentive, and zealous, in keeping the peace? To stop a riot is more eligible than to be obliged to punish rioters. Prompt and vigorous steps are also better in the event of public commotions than indecisive and half-measures. I have not the least objection that a charge to a Grand Jury could produce any considerable benefit to a dense population, even if such charge as the production of the most efficient law, and written in a manner best calculated to secure attention. I consider it incumbent on me, however, to do all I can for the public good; and if but one individual should in consequence be excited to greater exertions for even a short period, such exertions would be a sufficient reward in the small trouble which it gives me to make the following remarks.

Every member of the community is by interest in its peace and tranquillity, as well as in its morality and loyalty, and municipal institutions of the country, and in some cases to be active in their support, and in other instances to be vigilant. If a private individual happens to be present when treason or felony is committed, of a dangerous nature is given to his duty to use his utmost endeavors to arrest the offender. Every private individual is also bound to assist in the apprehension of other Peace Offenders, when requested to do so. There are other instances where the law allows it, but does not command private persons to interfere of their own authority. If treason or felony has unquestionably been committed, a private person, although he is not present at the crime, but receives information of it from others, may lawfully arrest such persons, as he has reasonable, and probable cause to believe guilty of the offence, even if it should turn out on examination that they are innocent. If treason or felony be committed in presence of a private person, and the accused take shelter in a house, such person, who is not a party to the crime, may enter the house to arrest the offender, if he first make demand of admission, and it be refused after explanation of his purpose. The law which is founded on long experience and wise policy, will further to encourage and support private individuals who may be active in the apprehension of private persons who may be guilty of crimes, and who are not present at the crime, but receives information of it from others, may lawfully arrest such persons, as he has reasonable, and probable cause to believe guilty of the offence, even if it should turn out on examination that they are innocent.

This much is to be said, it will make them mind, who they appoint for the future as pound keepers; and be careful to nominate responsible persons to the office, who will be able to answer for their misconduct. This man in question cannot plead ignorance, for he has been frequently advised of his wrong conduct;—and on examination, said Mr. Evans had been to a lawyer but could get no redress. The truth is Mr. Evans said what can I get by going to law with such a man. AN INHABITANT.

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