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FROM PAPERS BY THE CALEDONIA.

LONDON, Oct. 24.

At the opening of the Central Criminal Court on Monday, the Recorder, in his address to the Grand Jury, alluded at some length to the duel between Lord Cardigan and Captain Tuckett, who, with their seconds, were charged in the calendar with felony—

Up to the present time it has never occurred, where fatal consequences did not ensue, that the parties were charged with felony. Consequently the matter had never, under any circumstances, been made the subject of a criminal prosecution in a court of justice. The offence was laid under the 1st Victoria, c. 85; and he would refer particularly to the sections 2, 3, 4, and 7, as bearing more immediately upon the subject. By the second section it was enacted, "That whoever should administer poison, or stab, cut or wound, or by any means whatever cause any bodily injury to any person with intent to commit murder, shall be guilty of felony, and suffer death." That was the first class of offences under the statute. By the word "wound" in that section, a shot or injury producted by a bullet was meant, as well as a cut or other description of injury. It was a very comprehensive term; and the question here was, whether that particular case could be brought within the letter, spirit, and intention of the Legislature in framing the statute.

The next section to which he would call their attention comprehended the case where no wound had been received, but where there was still an attempt to commit murder by pulling the trigger of a pistol, or endeavoring to strangle or suffocate any person: and here the party was guilty of felony, and subject to transportation for life, or for a period of not less than fifteen years, or imprisonment for any period not exceeding three years. In drawing attention to these clauses, he would observe, that the penalties were all of the most severe description; and they would be required to consider, with great caution, whether the present case came within the meaning of the act. The seventh section referred to principals in the second degree. Accessories before the fact were punishable in the same manner as the principals, and accessories after the fact were liable to a term of imprisonment. Lord Hale seemed to entertain a doubt whether the second of a party injured in a hostile meeting was liable to punishment in the same manner as the second of his opponent; and he had some valuable remarks upon the subject. The matter would therefore require to be considered with extreme caution: still, however, if the facts which would be laid before them clearly brought the case within the spirit and meaning of the sections of the act he had referred to, it would be their duty to give effect to the law, and leave the consideration of the consequences entirely out of the question.

The Recorder adverted to the statute of stabbing, as bearing somewhat on the case in point; and also referred to Mr Serjeant Russell's work on Crimes and indictable Misdemeanours, for the purpose of establishing, by analogy, some precedent for the present case, none exactly similar to which had before appeared—

It was laid down, that if one party should seek the death of another in a private quarrel, he should be guilty of the crime of murder; if, however, two parties should meet casually and a quarrel ensued, and they fought upon the instant, or went into a field and fought at once, the crime, in the event of the death of either of them, would be only manslaughter. In many cases, where parties had fought a duel and fatal consequences had ensued, the Jury had not found the party guilty of murder, but either of the lesser offence or entirely acquitted him. In such cases it was always of the utmost importance to consider whether the duelling was deliberate or took place before the blood had cooled. In the present instance, the parties measured the distance, stood opposite to each other, deliberately fired, and one of them was injured. If it were proved distinctly to them that the intention of the parties was to murder, or to do each other some grievous bodily harm, it would then be their duty to return a bill in conformity with such evidence; but, on the other hand, if the purpose of the parties was not clearly made out, they would then be justified in ignoring the bill.

One of the persons indicted was a Peer of the realm, and he was therefore entitled to remove the case from that court, and be tried by his Peers: but that fact would not at all interfere with the Grand Jury's duties; they would have to make their presentment, and if they considered it their duty to return a true bill, it would then become the duty of the Lord High Steward to summon him to be tried by his Peers. With regard to accessories, he was of opinion that the second of the party injured was equally as liable as the second of the party causing the injury. It might be suggested, also, that the party injured had not any intention of wounding his adversary; and it was well known that many persons, although they went out in order to give their opponents what according to the usual phraseology was termed "satisfaction," had no intention of injuring them. He did not wish to draw his observations too fine, but it was not of unfrequent occurrence that such parties, instead of firing at their opponents, discharged their pistols in the air. With reference merely to an exchange of shots, he questioned whether in a meeting of that sort, which was not attended with injurious consequences, a felony was committed. In the case under consideration, however, it was different, inasmuch as one of the shots had taken effect. In arriving at a conclusion upon the subject, it would be necessary for the Jury to consider the spirit as well as the letter of the act of Parliament. If, from the evidence which would be laid before them, they did not feel fully justified in sending the case for further investigation, he should not wish them to set the example of prosecuting in such cases; because every nobleman, gentleman, and private individual, who had ever been engaged in a transaction of the sort, would still be liable to a criminal prosecution, as the act did not impose any restriction as to the period when such offences might have been committed.

During the delivery of this charge, Captain Tuckett, accompanied by his second, Captain Wainwright, and several friends, entered the court, and remained till the Recorder concluded.

On Tuesday, the Grand Jury found a true bill against Lord Cardigan and his second, Captain John Douglas; and ignored the bill against Captain Tuckett and his second, Mr. Wainwright.

From the Brighton Herald of this morning—"Yesterday, about twelve, the Adjutant General, Sir John Macdonald, arrived at our Cavalry Barracks; and, as soon as Major Rotton and Captains Forrest and John W. Reynolds had arrived from Chichester, the whole of the officers of the regiment were ordered to be assembled; and Sir John addressed them to the following effect. He began by requesting their serious attention to the communication, of which he was the bearer from the General Commanding-in-Chief, and trusted that a due attention to the admonitions of that officer would tend to promote their welfare and happiness.—Sir John then told them, that it was perfectly useless for any of them to make any further complaints against the Earl of Cardigan; for that Lord Hill had determined to listen to nothing which had *heretofore* occurred—that on this point Lord Hill was peremptory: but that any complaint of any *future* conduct of the Lieutenant Colonel of the regiment should be promptly and duly inquired into and redressed. The Adjutant General then pointed out to the officers the impossibility of any regiment, if called into active service, efficiently performing its duty, unless there subsisted a cordial feeling and good understanding between the Lieutenant Colonel and his officers; and he hoped most sincerely to see a perfectly friendly feeling re-established, and unanimity again prevail throughout the corps.

After some further remarks, Sir John turned to the Earl of Cardigan, and stated that Lord Hill trusted that, in the command of the regiment, he (the noble Earl) would exercise moderation and forbearance; and added, it was Lord Hill's opinion, that the numerous complaints which had been made to him as Commander-in-Chief would never have occurred, if the Lieutenant Colonel of the Eleventh Hussars had evinced a proper degree of temper and discretion in the exercise of his command. Here ended the Adjutant General's remarks. And we are informed that when the Earl of Cardigan found that he was to come off scot-free a second time in his life, and be white-washed from his offences—offences which would have cashiered any officer in the service not protected and sheltered by overwhelming influence—he was delighted beyond measure; but when he found himself reproved and reprimanded before those officers whom he had so frequently treated with arrogance, oppression, and insult, his countenance changed, and the agony of his soul was perceptible to all."

On Saturday Vice Admiral Sir Charles Adam, K. C. B., Rear Admiral Sir Wm. Parker, K. C. B., Lords Commissioners of the Admiralty; Captain Sir William Symonds, Knight, Surveyor of the Navy; and R. More O'Ferrall, Esq. M. P. First Secretary, arrived at the Woolwich Dockyard; and after viewing the progress of the works, commenced inspecting the workmen, who were mustered for the occasion, and each man had to perform some portion of his labours to show that he was qualified for his duties.

The workmen of the large gun department in the Woolwich Arsenal are actively employed in completing an order which has been received, to have in readiness 120 thirty-two pounder guns for batteries, with carriages and platforms. They are intended for the West Indies.

Captain Palmer's company, 9th battalion of Royal Artillery, marched into the garrison at Woolwich on Saturday afternoon from Dublin. They were minutely inspected at the hospital on Sunday morning, preparatory to being completed for foreign service at Barbadoes. The colonel-commandant of the garrison, Sir H. D. Ross, K. C. B. made an inspection of this company in heavy marching order to-day, on the guard mounting parade.

Her Majesty's packet Cuckoo, which arrived on Thursday morning at Guernsey, brought information that government have issued orders for the immediate arming of the Post-office steamers. The Dasher is to go to Portsmouth on Friday for this purpose. We understand the packets on this station will each be armed with two thirty-two pounders, and that their crews will be adequately increased.

The Emerald, Sylph and Vulcan, all reached Plymouth on Tuesday with men from various quarters; and the Gipsy came in on the following day with volunteers for the Britannia and Howe. These ships are now quite complete, and, without fuss or noise, have been manned, with more than ordinarily good crews, in a very short time, and in spite of the higher wages given by merchant ships. Notwithstanding the strength of the Mediterranean fleet, seventeen sail of the line, seventeen steamers, &c. &c., we have for a home service a squadron of reserve as it is called, the Caledonia, 120, commissioned last week, for the flag of the Commander-in-chief (Sir G. More,) at Plymouth, in lieu of the Impregnable, 104, which is ordered to be manned for sea; the Nile, 92, and Bombay, 84, preparing at the same port; at Portsmouth the Indus, 84, partially rigged, and the Vengeance, 84, nearly ready, and both expected to be put in commission early next month; the Neptune, 120, the London, 92, Monarch, 84, Formidable, 84, when ready will also be commissioned; the Vindictive, Warspite, Vernon, America, Eagle, and Gloucester, are all under estimate for commission.

BUDE LIGHT.

This light is, we understand, about to be introduced into more general use with every prospect of benefit to the public, who have been heretofore deprived of its advantages by the cost of its production. In the early experiments made by order of the House of Commons with this light, its expence was such as to prevent its competing, in point of economy, with the other lights of inferior power then in use. But economy was not so much the object of the committee appointed by that House to investigate the subject as the development of a system of lighting bearing such an approximation as this did to solar light. Having attained this object, together with the power of regulating the light itself to any required degree of intensity, from the brilliancy of the sun to the comparative softness of moonlight, attention was next directed to the question of economy, in which (from an important improvement in the mode of producing oxygen during the series of experiments which have been just completed) we have reason to believe the greatest success has been obtained.

From the evidence of the eminent scientific characters taken before this committee, which has been already laid before the public, this light has been found not only to be free from all the objections to coal gas, on account of its offensive qualities and explosive nature, but to be more powerful than any artificial light yet discovered. Being moreover fed with pure oxygen in a lamp, totally isolated from the air we breathe, it cannot be productive of the injuries to health so frequently occasioned by the noxious products of combustion in close apartments; neither can it occasion such injuries to furniture or articles of dress, as are caused by the droppings of wax from chandeliers, or their discolouration by smoke, sulphuretted hydrogen, and the deposits of the floating particles of carbon produced by coal gas. Even this coal gas is now used, as we are informed, in the insulated Bude lamps at much less expense, with a greatly increased effect, and without any of the disadvantages caused by its combustion in the open air, which must be the means of introducing it into apartments where it had been hitherto found objectionable. This has been already proved by its use during the last session in the House of Commons, and the unanimous determination of that House, at the close of the session, to have it not only continued, but introduced into all the apartments of that House.

On reperusing the evidence taken before this committee on the subject of the power of this light, we find that Professor Faraday stated that the Bude lamp he used was equal to twenty Argands, and that such was its power he could increase it almost to any extent; that the testimony of Professor Wheatstone and of Dr. Ure showed that a burner of three-eights of an inch in diameter was equal to thirty wax lights: and one of two inches, to 400 wax candles, or 105 gas lights; while the evidence of Sir David Brewster, Drs. Lardner, Reid, and other men of scientific eminence, showed that in addition to the advantages of this concentrated power over a multiplicity of separate lights, it was not productive of that fatigue and ultimate injury to the retina, occasioned by a multitude of scattered luminous foci, while it was perfectly free from all those dangers of explosion so frequently destructive of life and property. If in addition to all these advantages, supported by such high authorities, we can add the fact, in proof of the economy of this light, that the House of Commons can be now lighted with it at one fourth of the sum previously paid for candles, and one half of that paid for coal gas—a fact which we have no reason to doubt—we cannot hesitate to pronounce this as one of the most important discoveries of the age.

LONDON, Oct. 31.

We give under the head of "France" a list of the ministry, which the latest of this morning's arrivals serve only to confirm. If there be any alteration, it will be in the portfolios of Justice and Public Works, as Martin (Du Nord) has been named for one and Teste for the other. Messrs. Passy and Dufaure retire from the Ministry: they differ from Thiers and Soult, their objection being to the fortification of Paris as an absurd waste of the public money, a mistrust of the national strength, and a design upon the national liberty. The Constitutionnel however, makes the matter personal. According to that print both these gentlemen persisted in their objections to the two most important offices—Foreign Affairs and the Interior—being given to Doctrinaires. M. Dufaure also expressed his doubts whether he could ever take a seat in the same cabinet with M. Martin (Du Nord.)

"It appears," says the Commerce, "that M. Guizot has insisted that very nearly the same words as those dictated by M. Thiers should be inserted in the speech from the throne, and that several members of the future cabinet hesitate about taking upon themselves the responsibility of the fortification of Paris." However this may be, M. Guizot has submitted to the King a draught of the speech proposed to be delivered by his Majesty on opening the Chamber next Thursday and the king accepted and fully approved of it.

On the Bourse the new cabinet was viewed with high favour, as is proved by the *Cours Authentiques*.

It is said by a Leipsic paper that the cabinet of St. Petersborough had demanded leave of the Danish Government for a Russian fleet of 12 or 18 ships of the line, with 12,000 troops on board, to winter in the harbour of Copenhagen.

A great anti-corn law meeting took place at Manchester on Thursday; 850 ladies sat down to tea, and this was followed by a desert and wine. M. Philips, Esq. took the chair, and Mr. Brotherton, M. P. Mr. Gregg, M. P. and Messrs. Brooks, Cobden, and Potter addressed the meeting, which separated at 11 o'clock at night.

FRANCE.

The meeting of the Chambers is postponed by royal ordonance to the 5th of November, to give time for the arrangement of the ministerial crisis.

THE MINISTRY.

The Thiers ministry, it appears, had been on bad terms with the Kieg since the discussion of the note of the 8th, which was modified in obedience to his wishes. When ministers came with the royal speech, Louis Phillippe thought he might modify it in the same sense and the same proportion that the note had been modified; but he now met with a degree of resistance which had not been shown on the occasion of the note; and the affair ended in the resignation of the cabinet. The King declares that he wants no ministry less firm or less warlike than the one just resigned, nor more inclined to stoop to the foreigner. He does not want any minister to shrink from the programme or the casus belli laid down in M. Thiers' last note; but he does object to calling out all the young men of nineteen or twenty years of age under arms, and going to an enormous additiobal expense, in order merely to increase the difficulties of a speedy settlement.

The King has not sent away ministers, but ministers abandoned the King. The whole secret of the Thiers cabinet was to keep threatening war continually, but never to make war. They never had a serious intention of attacking Europe. But though not prepared to make war as minister, M. Thiers may censure his successor for not making war. The theme cannot but be popular, and favourable for displays of eloquence.

The Present Ministry.—M. Guizot reached Paris on Monday, and, after interviews with the King, Soult, Mole, and De Broglie, accepted office with Soult.

The following is the ministry:—

Marshal Soult, President of the Council and Minister of War; M. Guizot, Minister for Foreign Affairs; M. Duchatel, Minister of the Interior; M. Teste, Minister of Justice; M. Humann, Minister of Finance; Admiral Perre, Minister of Marine; M. Cunin, Gridaine, Minister of Commerce; M. Martin (Du Nord), Minister for Public Works; M. Villemain, Minister for Public Instruction.

General Sebastiani is officially gazetted as Marshal of France. The Chamber limited the number of Marshals to six in time of peace, but allowed a nomination for every three extinctions.

The Soult and Guizot Cabinet—War.

From the very first there were few difficulties, neither Marshal Soult nor M. Guizot making any, and the King not offering any opposition to their demand of continuing warlike preparations no less actively than M. Thiers. The determination of M. Thiers was to raise 150,000 men from the class of 1841, and at the same time to decree the prolongation of the period of service, so that the soldiers who might have quitted the army in 1841 should be still retained under arms. Soult and Guizot insist on doing, or having the faculty of doing the same thing. The King says he never resisted any wish of M. Thiers to accomplish this. All he objected to was the putting this foremost in the royal speech; for the Chambers, being bound to reply, would feel it their duty to reply in a tone still more warlike, the tone of Parliament being always more warm and more devoid of diplomatic meekness than that of either ministry or Crown. The warlike note, thus seconded by the king, re-echoed more strongly by the Chambers, would have roused the country beyond what the necessities of the moment demanded. Such was the objection of the King to M. Thiers' proposed speech. Messrs. Soult and Guizot consent to be silent as to their intentions in the royal speech, though not consenting to abate any of their warlike tendencies.—*Morning Chronicle.*

If M. Thiers had remained Minister, the government would have been of the party which is interested in preserving the error and delusion of the French people, concerning the policy of England and her allies. But we entertain the hope, and almost the confidence, that the new government in France will do all it can to remove the wrong impression which has so much excited a great many even of the well disposed in France. For this the first grand step is to tell the truth frankly and fully, and in an authoritative manner. But believing, as we do, that nothing injurious or offensive to the French nation was intended by the treaty of the 15th of July, or is likely to arise from that treaty being carried into effect, we also believe that this will sufficiently appear, if the whole affair be related with honesty and simplicity. That we could not expect while M. Thiers was Minister for Foreign Affairs. Upon the supposition that M. Guizot will have his place, we are very sanguine in our hope that a fair representation will be made of the matters in dispute between France and the allied powers.

HIGH COURT OF CHANCERY.

Discussion of an Important Question relating to the extent of the power and jurisdiction of the Master of the Rolls, and to the Rules governing Appeals from his Decisions.

CAUSE:—CRAIG VS. ROSS.

Continued from the Sentinel, November 21.

THE Honble. Alexander Stewart continued:—The powers and authority of the Court of Chancery, although it had no action in criminal cases, were, as regards the subject of its jurisdiction greater and more extensive than those of the other Courts in Westminster Hall. By its decrees the property of the subject was bound; no man could go into or remain in the Courts of common Law with the view of trying his cause before a Jury, if the Judge of the Court of Chancery enjoined him not to do so; and for whatever he might consider to be a libel upon his proceedings, however innocent the publication; or a contempt to his Court, however justifiable the act; the Judge, by his own sole judgment and process, can fine or imprison at his own descretion; and to that discretion, without appeal or further enquiry, the offender or victim as it might be, must submit. But to no one man were all these powers implicitly intrusted without appeal. From the Lord High Chancellor of England (the presiding Judge of the Court) to the House of Lords, the subject had an appeal; and from the Master of the Rolls to the Chancellor he was entitled to his appeal.—(Here the learned Counsel referred to legal authorities, but as these will not be interesting to the general reader we shall omit them as interrupting the course of our report of the substance of Mr. Stewart's arguments and mention them at its conclusion.) The proceedings of both these high officers were vigilantly watched by the enlightened and independent bar of England, controlled and kept within their proper sphere by both Houses of Parliament, jealously scanned and scrutinized by the ability, impartiality, and knowledge of the English Press, and all upheld by the spirit of English liberty. And is it the fact that in this Province and its small community, the uncontrolled powers of its high Court of Chancery are without a domestic appeal, intrusted to the judgment and discretion of one man? The Master of the Rolls in England can make all orders and decisions which the Lord Chancellor can, but he cannot sign any, nor has he any common law jurisdiction, nor any in bankruptcy, nor even in lunacy. If a cause is heard before him he can if either of the parties desire *re-hear* it, and this is sometimes done, but most frequently upon a new view of the case or upon the proposed consideration of evidence not heard at the original hearing; generally however the party dissatisfied with his decision *appeals* to the Lord Chancellor, who of late years, from his numerous avocations, rarely hears causes originally. This is, technically, *a re-hearing*, because the Master of the Rolls is only one of the Officers of the Court; he is in point of law considered to sit for the Lord Chancellor, as the Court of Chancery in all its departments is in law but one Court. But though technically denominated a re-hearing by way of appeal, it is a real substantial appeal from one mind to another, a substance, not a shadow; a reality, not a mockery. The Lord Chancellor reviews, and varies or reverses the decision of the Master of the Rolls as in his judgement it seems right, and because in a point of law it is a rehearing of the same cause, he also may and does frequently hear new evidence not read on the hearing before the Master of the Rolls, but only such as ought to have been received if it had been tendered to him. In the year 1828, Commissioners among whom was Lord Eldon, made one of those reports upon the administration of the laws of England, which were produced by the magnificent speech of Lord Brougham on that subject. The rights of parties to appeal are by them described to be from every decision of the Master of the Rolls and the Vice Chancellor; by appeal motion, by appeal petition, and by petition of rehearing by way of appeal and which latter applies especially to a decree or decretal order. As regards the two former no deposit was required by the Appellant, nor any certificate of counsel. If the decisions complained of, originated in a motion only, then an appeal motion was as of course made to the Lord Chancellor. If again it originated on a petition, then as of course also an appeal petition, could be preferred to the Lord Chancellor. If however the appeal was from a decree or decretal order upon hearing, then a deposit of £10 (increased to £20 by a general order of the Court made in 1831, and no English Order made since 20th April, 1833, is in force in this Province by the operation of the act of assembly which passed on that day,) was required, and the signature and recommendation of two cousel before it was granted. But immediately that this was done, the jurisdiction of the Master of the Rolls, by the practice ceases, and an appeal being no stay of proceedings thus causes no injustice. To the Lord Chancellor the party addresses his petition of appeal: by his Lordship the order allowing it is made; to his Secretary the petition is delivered; by him it is handed to the Registrar; it is set down in the ordinary course for a hearing before the Lord Chancellor; he hears the appeal; before his Lordships motions then are made; his officers ascertain the regularity of the party's proceedings to obtain the appeal; if they are erroneous, the appeal is dismissed, all appeals tranfer to the appellate the jurisdiction over the subject, and until very recently it was held to be most advisable to make before that Court a motion to stay proceedings on the decree in the Court below; and now, although by a recent order, a motion for stay of proceedings must be made before the Court below; yet the decree of the Court in that particular may be reviewed and reversed on appeal. And such is the practice on appeals from the Lord Chancellor to the House of Lords, from the Supreme Court of Scotland, and from Lord Chief Baron of the Exchequer to the same august assembly. Suppose the Master of the Rolls in England were to make an order directing that the Lord Chancellor should be advised by himself and prohibit him from consulting with the Judges of the Courts of Westminster Hall; or that his Lordship should, as Lord Chancellor, make some similar order in his Court in that Hall, directing the peers of England to consult himself, or that the fifteen Scotch judges should so prescribe to the Lords Cottenham and Langdale, and Brougham and Lyndhurst?

Whatever the law of this Colony may be, that propounded is at least not English. We have not imported it and he (Mr. S.) would not willingly believe it to be indigenous, for our soil is favourable to the cultivation of the principles of British freedom. By and by he would