

must be the sufferers. Suppose that she is engaged in hostilities with France or Spain; a hostile fleet blockades their ports, and either stops our commerce, or embarked in Yankee vessels, it proceeds to sea, and is captured by the enemy of our neighbor, who may be at the same moment the ally of Great Britain.

But from merchandise we come to individuals. All the passenger traffic with Europe would be turned through the States, and in time of war on the part of the States with our allies, we should either stay at home, or run the chance of being prisoners-of-war, and spending months or years in a French or Spanish prison. The consequence of either of these contingencies would be, that our produce would remain at home without a market, and all our capital vested in railways must be deteriorated to the extent of the loss of the traffic for export which would be expected to pass along them, and we should sell our stock in them at a heavy loss, or accept a lower dividend, if any were to be had at all.

But if there were war declared between America and Great Britain, how much worse would be our position. To the extent of British property at that moment in transit through the States, it would at once be forfeited, and every penny of stock held by British or Canadian proprietors in the railways of the States, would be also forfeited, without the remotest chance of ever seeing one sixpence of it again. In that contingency, we should have to make our railways to Halifax at last within British territory, and endeavor, perhaps successfully, after years upon years of toil, to bring back to our harbours the shipping and the commerce which we should, by running our traffic through the States, have so foolishly thrown away. Let Canadians, therefore, invest their money in the construction of railways which will tend to a British port for its sea terminus, and they must at all events have a safe investment; and if the same principle holds good in this country that is found in Europe, namely—that the great lines through, are the best paying lines, and the longer the more profitable, then from the length of our main trunk line from the West to Halifax, a traffic will be opened that must in time make it one of the best paying lines in any country.

Communications.

MAGISTRATE'S COURT.

Memorandum of a Case tried before John T. Williston, Esq., on the 23d instant.

William Forbes, on complaint of Donald McLaughlan, for refusing to assist the said Donald McLaughlan, a hog-reeve, to secure a hog at large on the 16th June, contrary to the Regulations of General Sessions.

The following is a copy of the Summons issued:—

To Mr William Forbes, of the Parish of Chatham, in the County of Northumberland, hog-reeve.—Whereas complaint was on the sixteenth day of June instant, laid before me, the undersigned, one of Her Majesty's Justices of the Peace in and for the County of Northumberland; for that you did on the sixteenth day of June instant, refuse to assist Donald McLaughlan, a hog-reeve of the Parish of Chatham, in the County of Northumberland, to secure a hog then at large in the Parish of Chatham, in the said County, contrary to the Regulations of the General Sessions in such case made and provided: these are therefore in Her Majesty's name to command you to be and appear before me, at my office, in the Parish of Chatham, in said County, on the twenty third day of June, in the year of our Lord one thousand eight hundred and fifty one, at the hour of eleven o'clock in the forenoon, to answer to the said complaint, and to be dealt with according to law.

Given under my hand and seal, this seventeenth day of June, in the year of our Lord one thousand eight hundred and fifty one.

J. T. WILLISTON, J. P.

SUMMARY OF EVIDENCE.

That Donald McLaughlan, the complainant, has acted as a Hog-reeve; that William Forbes was named in the Gleaner as a Hog-reeve, but had never been known to act further than when the appointments were made he, with a number of others, went to the Pound Keeper and gave orders about putting the Pound in order. That on the 16th June, instant, McLaughlan was called upon to put a hog in pound by Muirhead and Fraser, as he was passing Joseph Samuel's shop. He immediately ran into Forbes's shop, who is a Druggist, and asked him to assist him. Forbes replied he was busy, and could not go. Forbes did not see the pig, and McLaughlan got Russell and Hawbolt to assist him, and they three took the hog to pound. The complainant further proved by Wm. Letson, Esq., that Forbes qualified before him on that morning, viz. the 23d instant, the day of the hearing. The summons complains that Wm. Forbes, a hog-reeve, refused to assist Donald McLaughlan, a hog-reeve, to take a hog to pound, on the 16th instant. After complaint was closed, Mr Wilkinson moved that the matter might be discharged on the following grounds:—

1. That the complainant had not shewn that the defendant was a hog-reeve on the 16th June instant, but in truth that he had proved that Forbes was not qualified to act as such until Monday, 23d June instant, one week after the time of complaint. It is indeed enacted by article 5, section 15, in the act to consolidate and amend the laws relating to the local government of counties,

towns and parishes in this Province, that "all persons acting as Town or Parish Officers, shall *prima facie* be deemed to have taken the oath of office, without proving the same." Now the only instance in which it was pretended that he acted as hog-reeve, was in his statement to Russell, when the latter thought it advisable to have a meeting of the persons appointed, when Forbes said he would go, but did not go; and in another instance, where it is stated that he went with a number of persons who were appointed hog-reeves, and gave orders about the Pound. But surely that would not amount to his acting as a hog-reeve. No oath would be necessary for an action of that kind, and at all events the complainant cannot now rely on what possibly might have been a *prima facie* case when he himself disproves it, and shows affirmatively when the oath was taken. Therefore Forbes was not a hog-reeve till the 23d June, nor would he have been justified in interfering, but would have been subject to an action of trespass if he had interfered with the hog in question.

2. That no offence is alleged against defendant. Act above mentioned, sec. 1, art. 13, the section under which the Justice proceeds is in these words, "If any person elected or appointed to any of the said offices (among which is the office of hog-reeve) shall refuse to serve, or shall be guilty of any misbehaviour or neglect of duty, not herein-after specially provided for, such person shall forfeit and pay the sum of forty shillings." Suppose for the sake of argument it has been proved that Forbes is a hog-reeve qualified to serve, it must be from his having acted in that capacity, and therefore he is not liable under the first part of the section, viz., as refusing to serve, or as not assuming the duties of that office. That part of the section applies only to those who will not serve at all. Nor is he "guilty of any misbehaviour or neglect of duty," for the summons only complains that defendant would not assist Donald McLaughlan to secure a hog then at large in the parish of Chatham, contrary to Regulation of Sessions, &c.; and the evidence is only that Forbes said "He could not go, that he was busy—and that Forbes was in his place of business, and did not see the pig." Now the question arises here, what is the duty of a hog-reeve in such a case, and this can only be gathered from the Regulations of Sessions. Those Regulations empower the hog-reeves in the different parishes to impound hogs, &c., going at large, and to demand 6s. for the taking up and impounding; but in no part of these regulations does it say that one hog-reeve shall be at the beck and call of another, or that one hog-reeve shall be obliged to leave his business, however important, because another informs him that there is a hog at large contrary to the Regulations of the Sessions. If he can be obliged to go 100 yards, there is nothing to prevent his being called all over the parish, either bona fide or through mischief and connivance. Surely the Sessions never intended to impose any such onerous duties on any one man, or at least they have not expressed such intention. Suppose a hog-reeve had taken up a hog, and led or drove him two or three miles, and when he got near the pound, he should find it necessary to obtain the assistance of another hog-reeve, how could the fee be apportioned? If it be said that it is in some cases necessary to get the assistance of another hog-reeve, otherwise the nuisance could not be removed, it is replied that the Regulations provide against such a difficulty by subjecting the owner to a penalty of 6s., without impounding at all. Now look at the matter according to the fact that Defendant was not qualified to act until the 23rd instant, a week after the complaint alleged, and then the question stands in this way:—the Defendant is proceeded against for not doing a certain duty, viz., for not assisting to take a hog, which, if he had done, he would have been liable to be proceeded against in an action of trespass.

3. The last ground taken up was "that the Court had no jurisdiction to try the question," inasmuch as it was heard before only one Justice, instead of two, as contemplated by the Acts of Assembly. Now if this ground alone can be supported, it is no matter whether there be anything in the two former objections, viz., whether the Defendant was a hog-reeve or not, as stated in the summons; or whether, if he was, the act complained of be a dereliction of duty or no. If this alone can be substantiated, the proceedings must at all events be illegal and void *ab initio*. In determining the point whether the Court has or has not jurisdiction, we must refer again to 13 Vic. cap. 30, sec. 15, art. 6, where it is enacted that "all fines and penalties imposed under and by virtue of any authorities or provisions of this Act, shall and may be recovered and applied according to the provisions of the Act of Assembly made and passed in the 12th year of her Majesty's reign, intitled An Act &c., unless otherwise specially provided for." On reference to the last named act it provides as follows, "that every such complaint and information shall be heard, tried, determined and adjudged by one or two or more Justice or Justices of the Peace, as shall be directed by the act of Assembly or statute upon which such complaint or information shall be framed, or such other act or statutes as there may be in that behalf; and if there be no such direction in any such act or statute, then such complaint or information may be heard, tried, determined, and adjudged by any one Justice of the Peace for the county where the matter of such information shall have arisen." Now it must be observed that 13 Vic. is a consolidating and repealing statute, and amongst others repeals 26 Geo. 3, cap. 28, the former act under which hog-reeves and other officers were

annually appointed, and which contains these words—"and upon their, or any or either of their refusal to accept, or being guilty of any neglect or misbehaviour in the execution of the duty of their respective offices, they shall forfeit and pay for the use of the Poor of the said town or parish the sum of 40s. for every such refusal, neglect or misbehaviour, by the oath of one credible witness, before any two of His Majesty's Justices of the Peace for the county where such town or parish is." Now it was submitted that the last mentioned act, viz., 26 Geo. 3, cap. 28, is the act of Assembly or statute upon which this complaint or information was founded, and is the only other act or statute in that behalf, and which enacts that the matter shall be heard before two Justices, and therefore that one Justice has no jurisdiction.

Notwithstanding the above statement of facts appeared in evidence, and the above grounds of objection taken, Mr Justice Williston decided against the Defendant and fined him 40s. and costs, 2s. 3d., and when the counsel for the defendant urged upon the Justice, as it was a matter in which there was at least a good deal of doubt, that he would not hurry the matter by issuing a warrant, but give the defendant an opportunity of appealing against the decision—the Justice replied that he would not allow it to stand over unless the costs were paid. The counsel answered that if the Justice were entitled to his fees, he would get them; if not, he ought not to demand them. The Justice, however, has issued the warrant.

Chatham, June 26, 1851.

Editor's Department.

MIRAMICHI:

CHATHAM, MONDAY, JULY 7, 1851.

UNITED STATES AND THE COLONIES.—

We copy the following important information from the Boston Daily Advertiser. We are glad to perceive that our neighbors are extending to us some small amount of accommodation in return for the large measure of privileges afforded to them by the British Navigation laws: The smallest favors are thankfully received by the Colonist:—

"We published in Wednesday's paper a letter of instructions from the Secretary of the Treasury, issued by the approbation of the President, in pursuance of an act of Congress of the last session, prescribing the regulations, under which British vessels laden in the ports of Canada, New Brunswick, or Nova Scotia, with the productions of those provinces, may hereafter unlade their cargoes in the ports of the United States on payment of the same duties and custom house charges as are required to be paid on such goods when imported in vessels of the United States. Any such vessel so laden, being provided with a duly authenticated manifest of the articles comprising her cargo, arriving in the United States from sea, on due entry, and payment of the impost duties, at a port of entry, will be permitted to unlade the whole or any part of her cargo at such port of entry, and to proceed on the permit of the collector, to any other port or ports on the seaboard, and to unlade thereat. Such vessel may also lade or take in cargo at any such port on the seaboard to be carried out of the United States, but cannot be permitted to land such cargo, at any other port or place within the United States, it being distinctly understood that no foreign vessel can engage in the coasting trade of the United States, by taking in cargo at one United States port and discharging at another.

"Vessels however from ports in Nova Scotia are permitted to unlade or take in cargo at one port only of the United States, during the same voyage, American vessels not being permitted a like privilege in more than one port of that province, the act of Congress allowing that the same privileges only which are allowed in the British colonial ports to vessels of the United States, shall be reciprocated to British vessels from the same colonies."

The following liberal remarks were made by the Governor of Maine in his opening speech to the Legislature of that State. We wish the generality of American Statesmen were imbued with like sentiments:—

"The doctrine of free trade is undoubtedly the correct one, when it can be made reciprocal. Between us and our provincial neighbors there exist the utmost good feeling; they have been in most respects, liberal in their policy towards us, and we should cordially reciprocate such policy."

AMERICAN LADIES.—We admire the independent spirit manifested, and the good sense displayed in the annexed series of Resolutions passed at a public meeting of the Ladies of New York. The meeting was held in Hope Chapel. Mrs. S. Gore, Presided, and Miss Townsend acted as Secretary. All the resolutions passed unanimously.

"Whereas, The present fashion of Female Dress is detrimental to health, inconvenient, burthensome, uncomfortable, uncleanly, and less becoming than other styles that might be adopted; and

"Whereas, This fashion is of foreign ori-

gin, and with all disadvantages, is followed by our countrywomen, with a slavish subserviency, unworthy of a free people; thereupon

"Resolved, That we will recommend and adopt some style of dress which will relieve us of our present oppressive and exhausting burdens; which will allow us that freedom of motion which is indispensable to usefulness or enjoyment; which will not condemn us to the offices of street sweepers and public scavengers; and which will render us independent of the caprices of Foreign Courts and French modistes.

"Resolved, That we claim the right to wear such a dress as is decent, becoming, proper for our duties, and calculated to promote ease, comfort, and health.

"Resolved, That Fashion, having often reconciled us to costumes that are now seen to be hideous, be now appealed to, to sanction one which combines the elements of use and beauty.

"Resolved, That we call upon our sisters everywhere to declare, by words and deeds, their independence of hurtful and degrading fashions, and to adopt such style of dress as may best promote health, usefulness, comfort and real beauty.

"Resolved, That the costume we recommend is not Turkish nor Persian, but American; is the outgrowth of our own wants, the product of our skill, and the sign of our independence."

SOMETHING RIDICULOUS.—It appears that one of those absurd displays called an "affair of honor," recently came off in Prince Edward's Island. The parties concerned were Mr Palmer, late Solicitor General, and the Hon. Mr Coles. The following is the newspaper version of the matter:—

"The former had called the latter a coward at the hustings, and Mr Coles demanded a retraction of the words or a meeting. The latter alternative was accepted, and the parties met. Palmer fired sharp on the giving of the word, but did not hit his man, and Coles threw his cocked pistol, undischarged, into the air. They then shook hands and established a cessation of hostilities."

SONS OF TEMPERANCE.—The members of this body in Canada, celebrated their annual festival in Toronto on the 17th June. It is reported that 15,000 Sons were in the city, including 1,000 from Boston, and many others from other parts of the union.

NEWFOUNDLAND.—The Lieutenant Governor of this Colony, Sir Gaspard Le Marchand, leaves for England early this month. It is said he will be appointed to the Governorship of Malta or St. Helena.

CORRECTION.—It appears we made a mistake in reporting from the Head Quarters that "it is the determination of the Executive Government to push the line of Railway through the Douglas Valley, and thence to Bangor." We should have said the Executive Committee.

THE DELEGATES.—We are indebted to the New Brunswicker of Tuesday last for the following gratifying piece of news from the Railway Delegates. We sincerely trust that the hopes of a satisfactory adjustment of all matters connected with our railways, which our contemporary holds out will be eventually realised:—

"On Saturday evening, the hon. Mr Chandler, the Delegate from New Brunswick, returned in the steamer Creole, via Portland. We learn that both he and the hon Mr Howe, from Nova Scotia, were warmly received by the Governor General and the members of the Administration, and that the project of constructing a line of Railway through these Provinces to Quebec is most heartily received by them and the people generally. We also learn that the Canadian Government intend bringing a bill before the Legislature immediately, for the purpose of at once settling the matter, so far as Canada is concerned, and that a fair proportion of the expense of the line through this province will be borne by Canada. If the three provinces can agree upon the terms, which we doubt not they will, we shall have both the Halifax and Quebec Railway and the European and North American Railway commenced without delay as Colonial public works.

"The Hon. Mr Chandler left here yesterday for Fredericton, to attend a meeting of the Executive Council on Thursday next, when the result of his mission will be laid before the Council, and we trust that in a few days we shall be enabled to lay the whole matter, which is so intimately connected with the future welfare of New Brunswick, fully before the public.

"The Hon. Mr Howe did not leave Toronto with the hon Mr Chandler, but remained in order to be present at a public dinner to be given him on Saturday last. It was his intention to leave for home yesterday."

We are indebted to the Morning News for the following more detailed account of the mission entrusted to Mr Archibald, of which a brief notice was taken in last Tuesday's paper.

"Charles Archibald, Esq. of Nova Scotia and a resident of London, met the Delegates