

LONDON.

From the Globe, Aug. 10.

Viscount Goderich has been directed by his Majesty to fill up the void in the Administration occasioned by the lamented death of Mr. Canning, and has received assurances from his colleagues of their most cordial support. The promptness of His Majesty in his choice, can only have been dictated by the necessity which he felt in giving at once a pledge that the system of Mr. Canning should not be departed from. Lord Goderich is one of those, among the members of the highest standing in the Ministry, on whose friendship and accordance in all his political views, Mr. Canning had the greatest reliance. His long experience and high character as a Chancellor of the Exchequer will give him peculiar advantages as First Lord of the Treasury, while the favour which he has been happy enough to conciliate, of all classes of men, makes him a proper head of a mixed, moderate, and improving government.

The character of Lord Goderich is so well known, that it is unnecessary to dwell upon it; his administration as Chancellor of the Exchequer has kept him more before the public than almost any other member of the Administration; and no man has been so uniformly acceptable to the public, and personally so little obnoxious to party rage. He afforded one of the most marked instances in the House of Commons, of a happy management of business, by the desire not to refute an antagonist, but to obviate his objections to adopt improvements, from no matter how hostile a source. The *fas est ab hoste doceri* was adopted by him in the best spirit and with the best results. His candour is unimpeached, his talents for business unquestioned, and his oratory clear and persuasive;—not overpowering, but all that is wanted by an honest man, among honest men, and in an honest cause.

Some anxiety, of course, is felt as to the description of persons with whom the two places in the Administration which will become vacant—the Secretaryship for the Colonies, and the office of Chancellor of the Exchequer, will be filled up. It is impossible that Mr. Peel, who refused to take office under Mr. Canning...not on personal grounds—can take office under Lord Goderich, whose opinions are similar to those of Mr. Canning. The same objection will be felt by the other Ex-Ministers. Nor is it probable that their aid will be at all wanted.

There is already in the Cabinet one member—the Duke of Portland—who does not hold any office, and there are two of the Commoners, members of the Cabinet, either of whom, by his experience and habits is fitted for the office of Chancellor of the Exchequer—Mr. Tierney and Mr. Huskisson. It may happen, therefore, that the only addition to be made to the Cabinet may be a President of the Board of Trade or a Master of the Mint; and when we look either at the rising Members of the Administration not now of the Cabinet, or the other public men who support the present Administration, we are persuaded that the difficulty of filling up one of those offices, or even that of the Chancellor of the Exchequer, will not be so great as to induce Lord Goderich to beg in any very humble manner the aid of the old seceders.

One consequence of the change is not unlikely to be, that the Duke of Wellington will be called on to resume the command of the army, or at least, that if called upon, he will gladly accept it without any office in the Cabinet. It has been always understood that his Grace's objection to serve in an

office, which had never been supposed in any degree to implicate the holder of it with the politics of the Administration, arose from his personal feelings towards Mr. Canning, at whose conduct towards him he had taken offence.

It has been said, in well informed quarters, that the Office of Chancellor of the Exchequer will be offered to Mr. Herries; but it is feared his health will not allow him to accept it.

Coombe Wood, July 16.

THE EARL OF LIVERPOOL.—Lord Liverpool was able to sit up yesterday the greater part of the day, which he did nearly as comfortably as previous to the spasmodic attack, and has passed a tranquil night with a good deal of sleep.

(Signed) "T. D."

We find that Dr. Drever considered the attack so much of a spasmodic nature, that he immediately gave His Lordship a very large dose of laudanum, of from 90 to 100 drops, after which there was no further return of the spasm.

The following is the Bulletin of this morning:—

Coombe Wood, July 12.

Lord Liverpool has passed a good night, and continues to go on favourably.

(Signed) "T. D."

We are happy to hear that the Earl of Liverpool continues to go on favourably.—*Courier* July 14.

LOSS OF THE ORION AND HER CREW. The *Melona*, Capt. Brown, has arrived at Dundee, bringing the melancholy intelligence of the loss of the brig *Orion* of this place, all on board having perished with her. She was commanded by Mr. J. Ogilvie, shipowner here...the number of her crew eight, five of whom left families. Mr. Ogilvie, the Captain, was married about two years ago; but has left no family. She was on a voyage from Bigs, with a cargo of oats for Leith, on Sunday the 31 ult., when she was observed by the *Melona*, about eight in the morning, in the Sleeve, on the coast of Norway. It began to blow a very heavy gale, and both vessels were shortening sail. Shortly afterwards, one of the crew of the *Melona* called out that the *Orion* had upset. Capt. Brown on looking around, saw only part of the *Orion's* wales above water; in which state she continued for a few minutes and then disappeared. At this time the *Melona* was about a quarter of a mile to the leeward of the *Orion*; but as the gale was blowing strong, and the *Melona* driving to leeward, no assistance could be rendered by her to the unhappy crew of the *Orion*. In the autumn of 1820, Mr. Ogilvie lost another son on the same coast. He was in command of the *Cornbro* of Dundee; which like the *Orion*, was on a homeward voyage from Riga, with a cargo of grain. She was seen for the last time in the Sleeve. Neither her Captain nor crew were ever more heard of. Both the young men were much respected. In addition to these dreadful calamities, Mr. Ogilvie has to deplore the loss of his only son, who died at Dundee on the 20th ult.—*Dundee Paper*.

TRIAL OF MRS. WHIPPLE.

From the Albany Argus of Friday.

ALBANY OYER & TERMINER.

The People, vs. Elsie D. Whipple, } Murder—accessary before the fact.

On the Opening of the Court this morning, Judge DUBER pronounced the opinion of the Court upon the question raised and argued last night, whether Strang, the principal in the felony, and therewith accused

stood charged as an accessory, should be admitted to testify against the accused. The Judge stated, that upon examination of the authorities, the Court had come to the conclusion that there was no doubt but that a person, though convicted of a crime, is a competent witness in all cases until the judgment upon that conviction is pronounced against him. It has been said that the common opinion was, that a conviction alone rendered him incompetent; but that, the Court said, was not the law: It is not the conviction, but the judgment, that creates the disabilities in such cases.

As an accomplice, Strang is a competent witness, unless the conviction and judgment are proved. A witness is not incompetent from infamy of character, though he may confess himself guilty of an infamous crime. Nor is it a sufficient objection to his competency that he has been an accomplice in going with the prisoner at the bar. The evidence of accomplices has been at all times admitted, from a principle of public policy, and from necessity, as it is scarcely possible to detect many of the worst crimes without their information. It is not however a matter of course to admit an offender as a witness on the trial of his accomplice; but the Court will either admit or disallow such evidence, as in their discretion way most effectually answer the purposes of justice.

This case then addresses itself to the discretion of the Court; not to their judgment as to the competency of the witness, but to their discretion whether on a principle of public policy and in furtherance of public justice, the person convicted shall be permitted to testify against the accused. A case has arisen in this State where a principal was admitted as a witness against his accessories. I refer, said the Judge, to the case of Jack Hodges, a negro man, who testified against Conckling and another, at an Oyer and Terminer in the county of Orange. The question of the competency of the witness was not discussed in that case, but he was admitted in the sound discretion of the Court under the circumstances of that case. [The Judge here stated the circumstances of that case going to show that though Jack was technically the principal, the accessories against whom he testified, in a moral point of view were more guilty than the witness, as they had seduced and bribed him with the hope of freedom, he being a slave, to perpetrate the crime.] After he had testified, he was pardoned by a special act of the Legislature, and it is now insisted, that if Strang, the principal in the felony which has been committed, is permitted to testify, he also will be entitled to a pardon on the implied promise, that if he makes a full and fair confession of the whole truth, he shall have the benefit of a pardon. The Judge here discussed at some length the principle governing the granting of pardons in such cases, and came to the conclusion, that if the convict strictly and amply performed the condition of the implied promise, viz. that he told the whole truth to the satisfaction of the Court, whether the person against whom he testified was convicted or acquitted he had an equitable claim upon the Court to a recommendation for mercy, and a legal claim upon the government for pardon, upon which principle, he as a member of the Legislature, voted for a pardon to Jack Hodges, though in that case Jack Hodges had been expressly told by the presiding Judge that he must not expect or hope for pardon, though he should disclose all the circumstances of the case; still supposing that it was not in the power of the Court to limit the operation of the law, and the person convicted having performed the condition upon which an implied promise on the part of the government is raised, he thought him entitled to a pardon.

These being the general rules applicable to cases of this kind, it only remained to apply them to the case at the bar. From the evidence before the Court, it appeared that Strang, the principal in this case, meditated the murder he committed for the space of six months; that he had an illicit intercourse with the prisoner at the bar; that he had expressed his determination to have her if it cost him his life, and proposed to take her with him to Canada. He is a man of about 30 years of age, not deficient in experience, on the contrary ardent and deceptive, passing himself off an unmarried man, and under a false and assumed name. The character in which he appears before the Court as to his participation in the crime which has been committed, is not that of a technical but of a real principal, not as an instrument used by the prisoner to get rid of the husband, but as the seducer of the prisoner to obtain possession of her person and property. The prisoner at the bar appears as a young woman, now about 25 years of age, married at the early age of 14 or 15 to her late husband, possessed of property to a considerable amount, of a character light, frivolous, weak, vain, imprudent and wicked, and guilty, to a certain extent; a fit instrument in the hands of a designing man, but destitute of those qualities which might be supposed to have swayed the mind or controlled the actions of the person with whom she had had an illicit intercourse. Had the case been reversed and she presented as a woman of experience, of strength of mind and energy of character, who had lived unhappily with her husband and expressed a determination to get rid of him, who had selected as her paramour a youth of inexperience, and by the seductions of her person and fortune had induced him to commit the murder, in the exercise of their discretion the Court would not have hesitated to admit him as a witness, and on a full disclosure of the fact to have recommended him to mercy.

The case however rests on very different grounds; and the court must now say whether public policy and the advancement of justice requires that Strang, the principal shall be admitted to testify to produce the conviction of the accused at the hazard of entitling him to a pardon from the punishment which awaits him for the crime he has committed. If he is admitted and makes a full disclosure, whether the prisoner is convicted or not, he has an equitable title to the interposition of the Court, which, upon their oaths they are bound to allow; it will not then be a matter of discretion with them, but a ground of claim which will be irresistible; and to recommend him to mercy is not what the court feels disposed to do. The conclusion, therefore, is, that Jesse Strang cannot be admitted as a witness.

The Judge here added some remarks as to the responsibility which had been thrown upon the Court, and their willingness to assume it, notwithstanding the excitement which these trials had excited. They trusted they could not be influenced by any consideration other than to see the laws faithfully and impartially administered; and if in the decision they had erred, they would have the satisfaction of knowing that they had erred on the side of mercy.

When the Judge sat down, an expression of approbation, not only of the eloquent and feeling manner in which the opinion was pronounced, but probably also of the conclusions at which it arrived, manifested itself throughout the crowded auditory, but was immediately repressed by the court and the officers.

After a few moments, the district attorney, (Mr. LIVINGSTON) arose and For remainder, see Page 550.