

EUROPE.

ENGLAND.

From the Liverpool Albion.

AWFUL AND DESTRUCTIVE STORM.

On Monday last a storm suddenly swept over this town and port, which injured several buildings, wrecked several ships and destroyed a number of valuable lives.

This morning was extremely fine. At daylight the wind was S. E. but it afterwards veered round to the N. N. W. accompanied by a sudden fall of the barometer, but the weather appearing propitious, the outward bound vessels prepared to proceed to sea. We were on the Prince's pierhead at the top of high water. Nothing could exceed the beauty of the day. The river was crowded with vessels, several of which were towed out by steamers, while the majority were swept along by the wind and the tide. At eleven o'clock the outward bound in Bootle Bay were observed to yield to the breeze, as it caught their sails on coming in a line with the Rock Channel. The carry was also observed to be strong from the N. N. W. while dense clouds were careered swiftly over Cheshire from the sea. These indications of a coming squall were observed by the persons on the pierhead, one of whom remarked in our hearing, that the afternoon would be wet and dirty. The same indications were also observed by the persons in charge of some of the vessels under way, several of which actually came to anchor, rather than run any risk by proceeding to sea with an increasing gale from the N. N. W. The ship William Neilson, Captain Platt, bound for New Orleans, which had been lying at anchor in Bootle Bay, proceeded to sea shortly after eight o'clock, and, consequently, reached the floating light ship by the time of high water. The bulk of the outward bound did not reach the Rock-light till that time, while the packet ship Algonquin only left the Prince's Basin as the tide began to ebb. It was now eleven o'clock, and, though the wind blew fresh from the N. N. W. the vessels, particularly those towed out by steamers, proceeded onwards, the persons in charge of them never for a moment dreaming that swift destruction would suddenly overtake the gallant fleet.

About twelve o'clock a heavy shower of rain fell. This lulled, for a short time, the wind. The calm was, however, but momentary. A fresh breeze succeeded by a stiff gale, which by one o'clock, increased to a complete hurricane. The outward bound were now in a most perilous situation. With the exception of the William Neilson, which was far to the westward of the floating light, they were all within the Banks, the narrow channels between which leave vessels little room to work. The Algonquin, which was in tow of a steamer, was driven on the main, near the Red Noses. The brig Vigilant, for Havana, was about the same place, driven on the main, near the same place. The ship Grecian, for Boston, put about, and attempted to return for the river. Unfortunately, however, she struck on the edge of Burbo Bank, where she stuck fast. The packet ship Virginia, which was in tow of a large steamer, was rapidly approaching the floating light when the pilot observing the fate of the other vessels wisely put about ship and ran into port, with the loss merely of an anchor and cable. Had these vessels proceeded further on their voyage ere the storm commenced or had the hurricane begun an hour later than it did, every one of them must have been inevitably wrecked.

The only vessel that did not return to port was the William Neilson. She had got a good offing before the hurricane came on, and it was hoped, that she would, by keeping to the northward weather the storm. Its violence was, however, too great for her to contend against. She was driven back towards the Banks, on which she struck during the afternoon. She was observed in a state of great peril, with a signal of distress flying, by one of the Glasgow steam packets, which was prevented from rendering assistance by the imminence of the peril in which she herself was involved. The unfortunate ship struck on the edge of the Bank, near to Formby Channel. How long she stuck together will never be known, all hands on board having perished. It is probable, however, that she did not remain together long, and that she broke up before night set in. Next morning, at daybreak, part of her was washed up on the north shore. Her letter bag was found on the strand near Bootle. When opened, the bag was found to have been stuffed with chaff, which Captain Platt, who knew it contained letters of importance belonging to his owners, is supposed to have put in to render it buoyant. So much presence of mind had the unfortunate man when certain and instant death stared him in the face! Fragments of wreck and packages of goods covered the shore, while several articles were picked up floating in the river and in the basins. The southeast corner of the Prince's Dock basin, besides several large spars belonging to the unfortunate ship, was filled with innumerable fragments of wreck, which, by the action of the wind and the waves, had been rendered so minute that they might have been made so by the skill of the carpenter. The sight was truly melancholy. The owner identified several panels as those which had belonged to the ill-fated ship. Besides the captain and crew, all of whom have perished, there were on board the Wm. Neilson three passengers, viz: Mr. Somerville and his daughters. Mr. S. was an Englishman by birth, but bad, for many years, been attached to the theatrical profession in the United States. His daughters who

were both under twenty years of age, had been educated in England, and he had come hither for the purpose of conveying them to New Orleans. Alas! the hapless father and his poor children were doomed to perish in a few hours after leaving a port which they had left in the fullness of hope and confidence! It is worthy of remark, that Mr. Somerville, after putting his luggage and theatrical dresses on board the David Cannon, for New Orleans, was left behind by that vessel, which sailed twelve days ago. The Wm. Neilson was the first ship destined for the same port, and in her he and his children unfortunately embarked. Not less than twenty six persons, it is estimated, perished by the wreck of this vessel. It is supposed that there was on board a young boy who had taken a fancy for the sea, and ran away from his parents in the neighbourhood of Oldhall street. From the enquiries of his friends, and from some hints which he threw out to one of his playmates before he disappeared, it is believed, that he must have concealed himself in the vessel, with the intention of not discovering himself to the captain until out at sea.

The storm continued to rage during the afternoon. Its violence abated somewhat towards evening, and continued comparatively moderate until ten o'clock. From that hour until near midnight the hurricane raged as furiously as it had done during the day. The vessels on shore felt its effects. The Grecian which had remained on Burbo Bank till the return of the tide, then beat over the Banks. An attempt was made to navigate her into the river, but she had received so much damage in her bottom, it was found she made water fast. When her danger became imminent, the captain (Capt. Eldridge) ordered the boats to be in readiness. On hearing this order, two of the crew got into one of the boats under the lee bow without being perceived, and made the best of their way to the shore, leaving their companions to shift for themselves as they best could. The vessel soon after went down, when the rest of the crew effected their escape with the other boat, which was large enough to contain them. The steward and woman and her boy, who were passengers, were drowned, the eldest boy and an infant of the same woman were saved by the exertions of the sailors. The boy who was drowned was five years old. The crew and passengers consisted in all of twenty-nine persons, and the survivors, in their passage to the shore, were in the most imminent danger of being swamped. It was a most melancholy, as well as a novel, sight, at day break, on the next morning, to behold the topmasts of the unfortunate ship above water, within half a mile of the shore.

The Grecian was not the only vessel which suffered by the revival of the storm. Two boats—the first the John Clinton, from Preston to Drougheda; the other, the Holly Oak, from Whitehaven to Dublin; and another small coasting brig, were driven on shore to the northward of Formby Point; while the sloop Queen Adelaide, with tin platters, from Cardiff, was driven on Mockbeggar wharf. The crews of these vessels fortunately escaped.

The north shore, from the northern extremity of the Docks to Formby Point, presented a melancholy scene on Tuesday morning. It was strewn four miles, with fragments of wreck and articles of merchandise. Here large portions of the ribs, planks, yards, and masts, of various sizes, snapped off like bulrushes, were strewn about; parts of the flooring and rigging broken up and separated, were carried into the sandhill; vegetables, casks, punchons, crates, &c. had collected in other places; while distant groups of people might be seen eagerly and busily employed in breaking up the largest portions of wreck that had been cast up by the morning's tide, presenting a novel and picturesque contrast to the dotted appearance which the shore exhibited from the hundreds of single individuals who covered the beach for miles, in search of the treasures which might, by chance, have been ejected by the mighty deep. But those in search of treasure were not the only persons who paced the melancholy strand. Here might be seen a mother in search for the body of her son, who had belonged to the crew of the William Neilson; there might be seen a wife, anxiously inquiring whether any of the bodies had been washed up; and there the child in search of the mortal remains of its unfortunate parent. The poor creatures paced the shore as far as Formby Point, but their painful search was unavailing; the deep has not yet given up its victims.

The only man who lost his life, through the violence of the storm, in the Morsey, was a man named Crooke, a porter in the employ of Messrs. W. and J. Brown & Co. He had been to the Algonquin, previous to her being wrecked, and was intending to cross the river in a steamer. By some means, however, he got entangled in a rope which carried him overboard, and he sank before the least assistance could be afforded him. He has left a wife and four orphan children to deplore his untimely fate.

The storm was felt indifferent parts of the town and its vicinity by the partial unroofing of houses, and the destruction of some unfinished erections. The gable end of a new house, in Prince Edwin-street, Everton, was completely blown down and the house itself rendered a ruin. Several other new erections, in the town and its environs, sustained damage.

It is feared from some fragments of wreck which have been washed up on the shore, that more than one vessel was totally wrecked in the gale on Monday. It is not improbable, that a timber vessel, perhaps a foreigner, was wrecked on the

Banks. Part of the hull of a vessel, and some new balks, have been washed up near Formby.

We have heard loud complaints of the manner in which people have been allowed to commit depredations on the property with which the shore has been strewed, and very little of which has been secured on behalf of the owners or the underwriters.

COLONIAL.

LOWER CANADA.

PROVINCIAL PARLIAMENT.

MONDAY, 26th Nov. 1832.

Lieutenant Colonel Craig, Civil Secretary, was admitted within the Bar, and delivered the following Messages from His Excellency, which were read as follows, the Members being uncovered:

AYLMER,

GOVERNOR IN CHIEF.

In communicating to the House of Assembly a copy of a despatch addressed to him by Viscount Goderich, dated 10th April 1832, respecting the Bill passed on the 20th January last, intitled, "A Bill to incapacitate the Judges in this Province from sitting or voting in the Executive and Legislative Councils, to secure the independence of the Judges in this Province, and for other purposes therein mentioned."

The Governor in Chief has been commanded to acquaint the House of Assembly, that His Majesty is not only prepared, but is most desirous to co-operate with them in the enactment of a law, which should render the tenure of the judicial office dependant on the good behaviour of the Judges, and their salaries independent on the future votes of the House of Assembly; and that His Majesty does not object to the erection of the Legislative Council into a tribunal for trial of any offences which the Judges may be charged with committing in the execution of their offices. But that His Majesty cannot authorize the Governor in Chief to assent to any Act for establishing judicial independence, containing any enactment, or declaratory of any principle of law foreign to that subject.

Castle of St. Lewis,

Quebec, 26th Nov. 1832.

Downing Street, 10th April, 1832.

My Lord,—I have received your Lordship's despatch, dated 26th January last, inclosing the copy of a Bill passed by the Legislative Council and House of General Assembly of the Province of Lower Canada, on the 20th of that month, intitled, "A Bill to incapacitate the Judges in this Province sitting or voting in the Executive and Legislative Councils, to secure the independence of the Judges in this Province, and for other purposes therein mentioned."

In my Despatch of the 8th of February, 1831, No. 22, I directed your Lordship's attention to the advantages to be anticipated from transferring to Lower Canada, that part of the law of England by which the tenure of the judicial office is made to depend, not upon His Majesty's pleasure, but upon the conduct of the Judges; and I authorized you in the name and on the behalf of His Majesty, to assent to the Bill, which I anticipated would be passed for that purpose: observing that it was an essential condition of this arrangement, that an adequate and permanent provision should be made for the maintenance of the Judges; and I expressed my satisfaction that the repeated assurances of the House of Assembly precluded the possibility of any objection being made to this part of the proposal. I had the honour to convey to your Lordship His Majesty's further commands, that you should communicate to the Legislative Council and Assembly His Majesty's settled purpose to nominate, on no future occasion, any Judge as a Member either of the Executive or of the Legislative Councils of the Province; the single exception to that general rule being, that the Chief Justice for the time being, would be a member of the Legislative Council.

The Bill which your Lordship has transmitted, renders the tenure of the judicial office dependant on the good behaviour of the Judge; and if passed into a law, would therefore to that extent accomplish His Majesty's wishes. But it does not make a fixed and permanent provision for the maintenance of the Judges. It enacts that their salaries and retiring pensions, "shall be taken and paid out of the proceeds of the casual and territorial revenue, and the revenue now appropriated by Acts of the Provincial Parliament for defraying the charges of the Administration of Justice, and out of any other public revenue of the Province which may be or come into the hands of the Receiver General." Passing over for the moment, the question of the right of the House of Assembly to dispose of the funds of which a specific mention is made in this passage, I observe that the enactment itself amounts to nothing more than a declaration that the Judges shall be paid out of those collective funds of which the House of Assembly have, or claim to themselves, the right of appropriation. Such provision will not supercede the necessity of an annual vote of the House to sanction the payment of the Judges' salaries, nor authorize the Governor to issue his warrant to the Receiver General for those sums in the event of such a vote being withheld. The popular branch of the Legislature, would, therefore retain the power of diminishing the official incomes of the Judges or of stopping the payment of them altogether, and would exercise an influence over the bench subversive of that sense of independence on all parties in the state, so requisite in the Members of a body whose high office it is to ascertain, and protect the rights of all with strict impartiality. The British Parliament have studiously directed themselves of all such means of controuling the freedom of the Judges. During the last two reigns and in the reign of His present Majesty, six Acts of Parliament have been passed augmenting the salaries of the Judges of England. I refer to the 49th Geo. III. cap. 127; the 53d Geo. III. cap. 253; the 6th Geo. IV. c. 82, 83, 84; and the 1st William IV. cap. 70. By each of these Acts the grants made for the maintenance of the Judges are declared to be "chargeable upon the consolidated fund next in order of payment," to certain specified charges, "but with preference to all other payments whatever."

It is only over the surplus of the consolidated fund, which remains after the Judges' salaries have been paid in full, that the House of Commons exercises its privilege of making an annual appropriation; and that surplus of such amount that no contingency which it is of any practical importance to calculate, could endanger the security of the pledge thus given for the independence of the Judges on the popular branch of the Legislature. If this entire exemption from all dependence of the House of Commons be a necessary security for the partial discharge of their duty by the Judges of England, a corresponding security is certainly not less necessary in Lower Canada.

The population there being divided into two classes, differing from each other in natural origin, language, religion, and legal customs, and one of those classes enjoying in the House of Assembly, a preponderating influence, which is regarded by the other (with whatever reason) with habitual jealousy, it is indispensable that the judges should feel themselves absolved from any risk in the uprightly interpreting, and resolutely enforcing the law, even in those critical cases in which the two great parties in the Province may be opposed to each other.—The Province cannot be advised to decline the His Majesty cannot be discharged of it may be, of duty, painful as assent from a law, which a withholding of his assent from a law, which a large majority of his subject in Lower Canada might, with reason, regard as placing the very sources of justice itself, under the virtual control of a single and distinct party, however numerous and however much entitled to renumeration that party may be. The passage which I have already quoted from the Bill under consideration assumes that it belongs to the two Houses of Provincial Legislature to appropriate, according to their own discretion, the whole of His Majesty's casual and territorial revenue, and all those funds which have formerly been granted to His Majesty by the Provincial Acts. Whatever may be the ground on which this assumption rests, it must at least be admitted to be now distinctly advanced, for the first time, in the form of a solid Legislative act; and it can scarcely be denied that the consequences it involves are of the utmost importance. His Majesty was at least entitled to expect that such innovation would not have been attempted in any other form than that of a distinct and substantive measure. It is equally at variance with the usage of Parliament, and with the respect due to His Majesty, thus to embody demands of a financial nature in an Act of which the whole scope and object are entirely foreign to any question of finance. In the Imperial Parliament it has long been a settled maxim, that the Commons are not entitled to "adopt" the familiar but expressive phrase) to "tack" to any Bill containing a grant of money, any enactments foreign to its expressed scope and object. The Journals of the House of Lords abound in examples of the strict enforcement of this principle; and from the first settlement of Colonial Assemblies, it appears to have been a standing instruction to the Governors to enforce the observance of it by refusing their assent to any bill, in which it might be infringed. Such was the object of the general instruction No. 11, accompanying Lord Dalhousie's commission and adopted in the commission subsequently addressed to your Lordship. In the importance which I attach to the maintenance of this rule of Legislative proceeding, I am therefore supported by the highest possible authority, and am acting upon an instruction laid down for the guidance of your Lordship and your predecessors long before the agitation of the present question. On a fitting occasion, should it arise, I shall be prepared to discuss the claims thus incidentally advanced in the present Bill. His Majesty cannot entertain the consideration of that question in the manner in which it has now been presented to his notice. As one of the three branches of the Legislature, His Majesty is not merely entitled, but bound to exercise an independent judgment upon every act to the validity of which his assent is necessary. But if the course which has been pursued in this Bill be not steadily resisted, this right must either become altogether nugatory, or the exercise of it must be, in the highest degree, invidious. It is not fitting that His Majesty should thus be reduced to the dilemma of rejecting the law embracing an object recommended by himself, and to which the public at large justly attach the highest importance, or of accepting it on conditions wholly unconnected with its general design, and to which the most reasonable objections might perhaps be made. By consulting what is justly due to the dignity of the Crown, and other branches of the Legislature would be in no danger of impairing their own authority or their undoubted claims to the attachment and respect of the people at large.

Your Lordship has stated that the proceeds of the Crown Lands and the timber Fund, have never been considered as forming part of the Casual and Territorial Revenue. I am bound, however, to understand the language of the Bill not in any arbitrary or conventional sense, but according to the legal and proper meaning of the words employed by the Legislature. It cannot admit of question that the proceeds of the sales of land and timber were included in an expression so comprehensive as that of the "Territorial Revenue." Had the Assembly really contemplated a more narrow construction, I am bound to suppose that they would have adopted terms of a more limited meaning.

The subject of judicial independence was very properly, perhaps unavoidably, connected with that of the method of proceeding for the trial of offences, with which any judge may be charged in the execution of his office. The objections to investing the Legislative Council with such a jurisdiction, are neither few nor inconsiderable. His Majesty, however, is not disposed to insist upon them. Considering how deeply all persons, and especially the two Houses of General Assembly, are interested in the reputation of the judges, and how urgent are the motives for proceeding against them with the utmost reserve and circumspection, His Majesty is contented that they should abide the judgment of that tribunal to which the Bill would render them amenable.

His Majesty's decisions on this part of the subject, has not been framed without reference to the despatch, addressed by Lord Bathurst to Sir John Sherbrooke, by command of His Royal Highness the Prince Regent, on the 7th July, 1817.—His Lordship, in that communication, admitted the propriety of delegating in the Legislative Council, the right of trying impeachments which might be preferred by the House of Assembly; and that admission was certainly made in terms which if detached from the context, might seem to justify the claim to bring civil officers of every class to trial in this mode. Considering however the despatch in connexion with the correspondence of which it forms a part, and adverting to the whole of that document, it becomes evident that Lord Bathurst is to be understood as referring only to the impeachment of judges; and I presume his Lordship to have been guided in the advice submitted by him to the Prince Regent on that occasion, by motives similar to those which I have already explained.

In pursuance of the policy which I have had occasion to lament, the two Houses have connected with the subject of the impeachment of Judges a question still more comprehensive and of still greater importance. The Bill provides that the Legislative Council shall be a tribunal for the trial of all impeachments which may be preferred not only against the Judges, but "against any person; or persons for any crime, misdemeanour, or malversation in office committed in this Province."

I carefully abstain from expressing any opinion on the propriety of this measure. If the

question of delegating to the Legislative Council a jurisdiction for the trial of impeachments against all public officers should ever be brought under His Majesty's consideration, in an Act confined to that single subject, it will then become the duty of His Majesty's servants to devote their most serious attention to the advice which they will, in that event, be bound to submit to His Majesty. But until the question shall be presented in that form, it cannot but be proof of His Majesty's earnest desire to gratify to the utmost possible extent the wishes of his Canadian subjects, and that proposals made in the unreserved spirit of conciliation, would have been received in the same temper. It is with proportionate disappointment that I find them met with novel pretensions, urged in a form which I am unable to reconcile, either with parliamentary usages, or with respect due to His Majesty by the other branches of the Provincial Legislature. If any former despatches have failed to induce the conviction that His Majesty is anxious to co-operate in every measure calculated to promote the welfare of Lower Canada, and to assert His prerogatives, only with a view to the benefit of His subjects in that Province, I despair of finding any language which would convey that impression. But while the King studiously maintains and freely acknowledges the right of the two Houses of General Assembly, His Majesty is not less bound by His regard for the general good of His people, to assert his own, and especially when encroachments are attempted in formal manner derogatory to the dignity of his exalted station. Your Lordship will transmit to each of the two Houses of the Provincial Legislature, a copy of this despatch, acquainting them that His Majesty is not only prepared, but is most desirous to co-operate with them in the enactment of a Law, which should render the tenure of the judicial office, dependant on the good behaviour of the Judges and their salaries independent on the future votes of the House of Assembly; and that His Majesty does not object to receive a decision.

It is with no ordinary feelings of regret that I announce to your Lordship that His Majesty will not be advised to assent to the present Bill. I had indulged, and not without great apparent reason, the hope, that the communications which I have had the honour to convey through your Lordship, to the Provincial Legislature, would have been received by them as a satisfactory reason for the erection of the Legislative Council into a Tribunal for the trial of any offences, which the Judges may be charged with committing in the execution of their office; that His Majesty cannot authorize you to assent to any Act for establishing judicial independence, containing any enactment, or declaratory of any principle of Law foreign to that subject.

I have the honour to be, my Lord,
Your Lordship's most obedt. Servt.
(Signed) GODERICH.
A true Copy,
(Signed) H. CRAIG, Civil Sec.

POST OFFICE FREDERICTON.

NOVEMBER, 12th 1832.

THE Postmaster of Fredericton has received directions from the Deputy Postmaster General to cause the following section of an Act of Parliament, passed in the ninth year of the Reign of Queen Anne, to be published,—and to give Public Notice that all violations of it will be rigidly prosecuted.

"And be it further enacted, by the authority aforesaid, That no person or persons whatsoever, or body politic or corporate, in any part of these Kingdoms of Great Britain and Ireland, or other Her Majesty's Plantation or Colonies in the West Indies and America, other than such Postmaster General as shall, from time to time, be nominated and appointed by Her Majesty, Her Heirs and Successors, and constituted by letters Patent under the Great Seal of Great Britain as aforesaid; and Her Deputy and Deputies, or Assigns, shall presume to receive, take up, order, despatch, convey, carry, recarry, or deliver any Letter or Letters, Packet or Packets of Letters, or make any collection of Letters, or set up or employ any foot Post, horse Post, or Packet Boat, or other vessel or boat, or other person or persons, conveyance or conveyances whatsoever, for the receiving, taking up, ordering, dispatching, conveying, carrying, recarrying, or delivering any letters, packet or packets of letters, by sea or land, or on any river within Her Majesty's dominions, or by means whereof any letter or letters, packet or packets of letters, shall be collected, received, taken up, ordered, dispatched, conveyed, carried, recarried, or delivered, by sea or by land, or on any river within Her Majesty's dominions, or shall presume to keep, provide and maintain, horses or furniture, for the horsing of any person or persons riding post; That is to say, riding several stages upon a Post road, and changing horses; or shall let to hire, or furnish any person or persons whatsoever with horses or furniture for riding Post, as aforesaid; any of the Post roads or stages now on hereafter to be appointed, with or without a guide or horse, for hire or reward, or on any agreement or promise of reward, or whereby he or they may have any profit or advantage, on pain of forfeiting the sum of five pounds of British money for every several offence against the tenor of the present act: and also, of the sum of one hundred pounds of like British money for every week that any offender against this act shall collect, receive, take up, order, despatch, convey, carry, recarry, or deliver, any letter or letters, packet or packets of letters, by sea or land, or on any river within Her Majesty's dominions, or that shall presume to set up, continue, or employ, any foot post, horse post, or packet boat, or other vessel or boat, or any other person or persons, conveyance, or conveyances whatsoever, for the receiving, taking up, ordering, dispatching, conveying, carrying, recarrying, or delivering, of any letter or letters, packet or packets of letters, by sea or land, or on any river within Her Majesty's dominions as aforesaid."

THE Way Courier between Fredericton and Miramichi, via the Nashuack, has been discontinued by order of the Deputy Postmaster General.