

REPORTS.

[Concluded from Fourth Page.]

2d. That it could not be considered a Record of the Proceedings in the Criminal Prosecution.

Berton contra. As to first objection, cited *Leggatt v. Tollervey*, 14 East. 302, and urged that the Record being properly authenticated, could not be questioned.

The learned Judge supported the objection, and ordered a non-suit.

In Michaelmas Term, a rule nisi was obtained to set aside the non-suit and grant a new Trial upon the grounds taken at Nisi Prius.

J. A. Street at this Term showed cause.

Chapman, Chief Justice:

This is an Action for a Malicious Prosecution for Felony, in which the Plaintiff was acquitted. A Record was offered in Evidence, produced by the Deputy Clerk, in whose custody it was. I am of opinion that the Record, however improperly made up, could not be questioned at the Trial. The Rule as to affording copies of Records in such cases was made by the twelve Judges, and is a wholesome restraint upon Actions which might tend to prevent the prosecution of public offenders. The Clerk acted improperly in authenticating a Record made up by the Attorney for the purposes of this Action. It is upon his signature the Record depends, and a Record produced from his custody, and with his signature, cannot be questioned. A copy of the Indictment should not have been furnished, except upon the order of the Judge, and I think the application for such an order should have been made in open Court—nevertheless these matters cannot be looked into at Nisi Prius. The case of *Leggatt v. Tollervey* is conclusive.

Botsford, J.:

There should be an application in Court when the circumstances are fresh in the mind of the Judge, for a copy of the Indictment; but I am now satisfied that the Record should not have been refused.

Carter, J.:

However culpable the Clerk of the Court may have been in producing the Record, it should have been received, and could not be questioned when produced.

Parker, J.:

The same case as this came up in *Leggatt v. Tollervey*, and clearly settles that the Record cannot be refused. No copy of the Indictment should have been furnished, without the order of the Judge or the fiat of the Attorney General.

The Executors of Grosvenor, v. Charlotte Agnew. Assumpsit.

The Declaration in this Cause contained Counts on promises to Testator, and also on promises to the Executors, and a Count on an account stated with the Plaintiffs as Executors. The Plaintiffs were non-suited. The Master having refused to tax the Defendants costs—1st. Because as Executors they were not liable to pay costs, and 2d. Because he was a party Plaintiff. Berton at this Term moved for a rule nisi, to allow the Defendant her costs, and that the same should be taxed by one of the Judges of the Court, and cited 2 Chit. Pl. 102, 110, and 9 Bar. & Cres. 686, *Dowbiggin Adm. v. Harrison*. Robinson for Plaintiffs, showed cause, and urged that the case cited in Bar. & Cres. was directly contrary to all the other cases.

Per Curiam.

This case is precisely the same as the one cited at the Bar, and as the latest decision the Court must be bound by it.

Carter, J. mentioned, that since the case of *Dowbiggin v. Harrison*, it was very unusual in England to insert a Count on an account stated with Executors.

Rule absolute.

EUROPE.

ENGLAND.

On Tuesday the 28th December, the Lord Mayor gave a splendid entertainment at the Mansion House, at which all the new Ministers were present. Accommodation was afforded to 255 guests, of whom twenty were ladies. The Ministers present were Sir R. Peel, Lord Lyndhurst, Lord Wharfedale, the Duke of Wellington, the Earl of Aberdeen, Mr. Goulburn, Mr. Baring, Lord Ellenborough, Mr. J. C. Herries, Sir E. Knatchbull, Sir H. Hardinge, Sir G. Murray, Sir E. Sugden, and Mr. Pollock. The Archbishop of Canterbury was also present. We give extracts from the proceedings, for the purpose of furnishing the Speeches of Sir Robert Peel and the Duke of Wellington on the occasion. The proceedings on the whole appear to be as loyal and Conservative as the most ardent supporters of that party could desire.

The Lord Mayor assured the company

that he had never risen on any occasion under greater feelings of embarrassment than he now did. He had felt it his duty on this very extraordinary occasion, to call his fellow citizens together for the purpose of meeting His Majesty's Ministers—[cheers.] He had no personal object in view in doing so, his only motive being to do suit and service to the Crown, as every good citizen ought at such a time.—[Hear, hear.] He wished to offer a tribute of respect and regard to our gracious Monarch for his late memorable appointments, which he was sure his fellow citizens contemplated with satisfaction. [Hear, hear.] We had lately witnessed a change of Ministers—he would not refer to those who were gone—[hear]—but to the individuals now before them.—[Hear, hear.] He congratulated his fellow citizens on the appointment of a set of men who, from their long experience and high character, might be expected to conduct the Government with success and on sound constitutional principles. He trusted and believed that our venerable institutions would be carefully preserved by His Majesty's Ministers, and that the ravages of time in those institutions would be carefully corrected. Sure he was that if they took that course, Ministers would obtain the confidence of his fellow citizens and of the country at large. Government would do well to improve as far as improvement seemed safe and practicable, but not to destroy what could not be replaced.—[Hear.] He was no exclusive partisan, but had invited to his table gentlemen of all shades of political opinion. He should have been ashamed of himself had he pursued a different course on the present occasion. He was only anxious that Ministers should have a fair trial, and they might obtain an opportunity of showing the country what they meant to do.—[Hear, hear.] He felt assured that when the country had experience of their wise and excellent measures it would be satisfied with the choice of the Crown. [Cheers.] The citizens should support Ministers in all measures tending to the benefit of the country at large. He felt happy at seeing at his table the Prime Minister of the King, and without further preface he should introduce to the notice of the company the health of the Right Hon. Sir Robert Peel and His Majesty's Ministers.—[General and protracted cheering.]

The toast was drunk with the utmost enthusiasm. The Ministers all rose to acknowledge the compliment, and continued standing while Sir Robert Peel addressed the company.

Sir R. Peel rose, and spoke to the following effect. Although the Lord Mayor has mentioned my name in particular, in conjunction with the rest of His Majesty's Ministers, I am convinced I should greatly mistake the object and underrate the importance of this meeting, if I thought it was intended merely for the purpose of paying a compliment to any individual, or that it was to be regarded as being controlled by any personal feelings or considerations. I cannot pretend, therefore, that I am overwhelmed by the force of personal feelings. I believe your object to be, in a crisis of great importance, to convey to the country an assurance, that the King, having acted in the exercise of a constitutional prerogative—[cheers]—acting according to the forms and the spirit of the constitution—that in such a state of things, there is a great body of the King's subjects, remarkable for their intelligence, and remarkable for the deep interest they take in the welfare of the country, who are prepared to give the Sovereign a constitutional support, and at the same time to animate and encourage the individual objects of his choice in the performance of an arduous duty.—[Loud cheers.] I neither consider that we are met here for the purpose of paying compliments to individuals, nor for the purpose of celebrating the triumph of any party.—[Hear, hear.] I believe that your feelings, if I correctly interpreted them, are in strict consonance with the feelings entertained by a great proportion of the intelligence of this country.—[Cheers.] It is impossible to deny that, since the important events which have taken place within the last six weeks, there has been a state of calm and tranquillity in the country—a calm and tranquillity, which, after the political excitement that had prevailed, could not well have been anticipated.—I do not mistake the character of that state of calm and tranquillity. I do not construe it into an indifference to public affairs, nor into a lazy acquiescence and confidence in any Government that the King may be pleased to form, or any measures that may be adopted; on the contrary, I feel convinced that this calm and tranquillity is perfectly consistent with the utmost vigilance and if necessary, the most determined resolution.—[Hear, hear.] The present condition of the public mind is no more inconsistent with active motion than the serenity of the ocean is inconsistent with occasional displays of resistless and overwhelming force.—[Cheers.] I believe that if the public feeling of this country found expression in words, it would speak in these or similar terms.—[We are tired of agitation—[great cheering]—we are tired of that state of continued excitement, the effect of which in private life is to withdraw men from their proper business, and the result of which in public life is to exercise the energies of public men in other matters than those which their duty most requires. We hate the pressure from without—[loud and protracted cheering, which drowned the conclusion of the sentence.] "We are content (continued the Right Hon. Baronet,) that the public will should be expressed through the agency of its authorized organs, but at the same time we believe the tendency of the public opinion to be this—we require the King's Government to be administered for the sole purpose of promoting the true interests of this country—[cheers]—that in future there should be a full and patient consideration of every thing that can be fairly suspected as

partaking of the character of abuse, and if after such patient consideration the matter be proved to require correction, let the cause of complaint be removed, first on the ground of hatred of all abuses, and next for the sake of our love and veneration for ancient institutions, which abuses have direct tendency to disfigure and impair."—[Cheers.] I believe that to be not an incorrect representation of the public feeling, and I also believe that no Government can maintain itself in the public estimation, which is not prepared deliberately to act on such principles.—[Hear, hear.] I am convinced, notwithstanding the manner in which the exercise of the prerogative of the Crown has been received, although it is the duty of public men to co-operate with the Sovereign, when they have it in their power to enter into his service without sacrifice of principle, yet that no Government can stand unless it be supported by public opinion, unless its members possess the public confidence.—[Hear, hear.] I do not agree with the views of some persons, who are supposed to support the Government on the ground that we should look at the measures to be proposed, and not at the men who offer them. I do not believe that any Government can be stable or permanent which does not possess public confidence. I do not believe that a cold approbation of measures, after previous scrutiny, will avail for the support of a Government, without reference to the heads which conceived and the hands which are to execute those measures. In every department of private life, it is upon the confidence we feel in certain individuals that we proceed; it is not this particular act or that, though we may approve its grounds and principles, that insures our confidence in men, but it is our general reliance in their known integrity and honor that induces us to trust them. In the public service the same principles prevail. In the profession of the law you do not rely upon such eminent individuals as Lord Lyndhurst or Sir James Scarlett, merely in reference to some particular of theirs, which you know to be right, but because you feel convinced by their distinguished eminence and unimpeachable characters, that their decisions will be dictated by judgment, and governed by a sincere determination to do that which they conscientiously believe and know to be right. The same is the case with respect to acts of military enterprise. I ask you what brought this country to the pinnacle of military glory which it occupied during the last war—what preserved us from all the usual vicissitudes of fortune? It was not the numbers of our army—it was not the lines established here, or the fortifications erected there—it was not mere military skill and conduct that gained us those advantages, but it was in conjunction with the native valour of British troops—the confidence reposed in one magic and immortal name.—[Enthusiastic cheering.] It was that feeling influenced the lowest soldier, which inspired into his heart a new energy, and nerved his arm with new vigor.—[cheers.] Recently when the government of this country was suddenly changed, what was it that made the whole community acquiesce with silent confidence in the decision of one man, to obey the appeal of his Sovereign, and to fill for a time so many offices of the state? What inspired the public with reliance upon the name of the great Captain? It was not a simple reference to this or that particular act which he might have performed, but it was an irresistible and spontaneous confidence in his undoubted resolution, and in that pure and disinterested singleness of purpose—[cheers]—which led the same man who had shown himself ready in a crisis of extraordinary difficulty to assume power at the command of his Sovereign, which led him to be the first to request His Majesty, acting solely upon his own suggestion and advice, to permit him to relinquish that authority.—[cheers.] Without confidence in public men—without confidence in their good intentions—without confidence in their determination to fulfil any promises they make—and without reliance upon their wish to consult the real and permanent interests of the country no Government can proceed with success. Appeals to individual acts, mere details, are not enough. I may undertake to say, on the part of His Majesty's Ministers, that it will be our object to attain, and if necessary, to confirm, the confidence of the people, not by rash and precipitate pledges for the removal of every thing that may appear at the first superficial and imperfect view to be an evil—not by undertaking to make every concession hastily demanded by popular feeling nor by rashly promising relief, with respect to every thing that may be complained of as burdensome—not I say, by giving rash and hasty pledges, which, in fact, would be the way to forfeit confidence, instead of obtaining it by the well judging—but by candidly admitting it to be our duty narrowly to examine every allegation of grievance, every suspected abuse, and when the existence of grievance is proved, and when abuses cannot be denied to attempt a remedy, but only after mature consideration, and looking at every question in all its complicated bearings upon the interest of the country. That course is necessary, in order to afford relief, and apply remedies with effect. If I am asked why I offer no particular pledge as to specific measures, my answer is, "a month has not yet elapsed since I left Rome; and having travelled from the south of Europe within that period, the Government is only just formed, and such being the case, could any thing be more absurd than to pledge the Government to details and particulars which there has as yet been no time to consider, and in reference to which, if pledges were now offered, we might find ourselves unable to carry them into effect?" [Hear, hear.] I think it would be neither politic nor just to pursue that course. I think the public opinion to be gained by it scarcely worth having. I have already intimated in a public address to my late constituents, the

tone and spirit of our Government, and I now repeat that the Ministry, of which I am one, will maintain no abuse, under the mistaken notion that it can be for the interest of the Government to support it; we will not resist the application of a remedy to any grievance, under the mistaken impression that is not for the interest of the Government to conciliate the public good by redress of grievances and correction of abuses as far as possible.—[hear, hear.] But I will not, by pledging myself to relieve particular burdens or hastily to adopt particular remedies, debar the Government from affording that fair consideration which is due to the claims of all interests, or put out of our power a deliberate application of the most efficacious remedies.—[Hear, hear.] I repeat, possessed as the Ministry are of the entire confidence of the Crown, our main object will be to conciliate the good will and secure the confidence of the community that is most capable of exercising an enlightened judgment on public affairs.—[hear, hear.]—convinced as we are that they do require the correction of abuses, but wish to proceed consistently with a respectable maintenance of the integrity and independence of all the institutions of the country, those institutions being corrected in order to maintain them.—[Hear, hear.] But sure I am that they do not wish our institutions to be corrected at the expense of collision with or a destruction of the independence of any of the established orders of the state.—[Hear, hear.] If we, in concurrence with those whose good will and acquiescence it is desirable to obtain, and consistently with the maintenance of the independent action of Lords and Commons, can apply a remedy to existing abuses, such a course will, to say the least, be more likely to afford satisfaction and produce beneficial effects, than if we adopted forcible measures, at the expense of a collision or destruction such as I have referred to.—[Hear, hear.] I conclude by again declaring, that in the execution of our public trust, our object will be to conciliate and confirm public confidence—first, as the highest reward of public men, and next, as the most efficacious means of good government; it will be our most earnest hope and desire to obtain that degree of confidence; and our next most earnest trust, which I think it cannot be unbecoming in any public Minister to express, is that God may direct our consultations to the advantage of true religion, and the safety, honor, and welfare of this great country.—[Enthusiastic and protracted cheering marked the conclusion of the Right Honorable Baronet's address.]

The Lord Mayor said that he had now to introduce to the company the name of an individual not less distinguished than the Right Hon. Gentleman whose health they had just drunk, he meant the great Captain—[cheers]—who had fought the battles of his country with so much glory to himself and advantage to the nation—the man who had defended on foreign shores the liberty of England.—[Cheers.] That distinguished person was not only a great warrior but a great statesman.—[hear, hear.]—on whose firmness and integrity the country relied, as was evinced recently when his assumption of the reins of Government inspired so much confidence. Had it not been for the perseverance of the Duke of Wellington, the citizens would not have had an opportunity of admiring the great metropolitan improvements which that noble person had labored to carry into effect, and he hoped he would see shortly perfected.—[Hear, hear.] He gave the health of His Grace the Duke of Wellington, the great Captain of the age, and long life and prosperity to him.—[Loud and continued applause.]

The Duke of Wellington rose and said—Often as I have received the approbation of the inhabitants of the city of London, their kind reception of me never made a more deep impression on my mind than upon this occasion. The Lord Mayor has been pleased to remind you of the military services which I have performed. You are now surrounded by those who enabled me to perform those services—[hear, hear.]—and I feel that I never can sufficiently repay the debt of gratitude which I owe to the officers who commanded, and to the soldiers under our command. The Lord Mayor has likewise been pleased to call your attention to those services which I was enabled to render the city when I held office, in respect of various useful ornaments to the city carried on more especially during the construction of London bridge. On that occasion I did no more than my duty to the public, and I feel most happy to be able to co-operate in any way with the members of the Corporation who undertook that great work.—[Hear, hear.] The Lord Mayor was likewise pleased to advert to certain transactions in which I was engaged previously to the formation of the present Government. I must say that in the whole course of my life I never can show myself sufficiently grateful for those marks of confidence which I received from the banking, commercial, mercantile, and other branches of this great city during that period. It was my duty to undertake the public service which my Right Honorable Friend [Sir R. Peel] has so eloquently described; and I can only say that I hope and trust the country received no injury during the period they were committed to my charge; and if I venture to entertain that hope and trust, it is because I enjoyed at that time the confidence of the great interests of the city.—[Hear, hear.] Once more, I beg to return to my sincere thanks for the manner in which you have received my health.—[Loud cheering.]

Sir R. Peel said that he gladly availed himself of the permission granted him by the Lord Mayor, to propose to them a toast which he was confident would receive their utmost attention. He would beg leave to propose "the health of the Lord Mayor of the city of London."—[Applause.] His [Sir R. Peel's] long intercourse with the

corporate authorities of the city of London, during which he met with nothing but the utmost cordiality and the most zealous mutual co-operation on their part, enabled him to pronounce some judgment as to the qualifications required for the office of the Lord Mayor; and having that experience, and possessing that knowledge, he had now to congratulate them that the office was at present filled by a gentleman already known for his great experience in public life—a gentleman who had shown himself most anxious in the discharge of all his public duties, and one, moreover, who had had the courage and resolution to act upon the dictates of his own judgment when he felt himself that he was in the right.—[Applause.] He had great satisfaction, therefore, in proposing the Lord Mayor's health. **

FRANCE AND THE UNITED STATES.

IMPORTANT NEWS.

Private Correspondence.

WASHINGTON, Feb. 7.—This day, of right, belongs to private claims, but the claims of the nation shut them out. The President sent a Message to the House, in obedience to a call from Mr. Adams some time ago for such further communications with France, in relation to the treaty of indemnity, as in his opinion might be communicated without prejudice to the public interests.

The Communication consisted of extracts from Letters from Mr. Livingston, of Dec. 6, and another about 15 days later. The first details conversations with the King, in which he gives Mr. Livingston his word and honor, not only as a King but as a man, to do every thing which his power and influence could accomplish to obtain a speedy fulfillment of the indemnity treaty. He assured him that it was, and should be, a cabinet measure. Mr. Livingston's hopes were revived—though he still intimates a doubt of the extent of the King's influence and power, though none of his sincerity.

But the next letter is in a tone of far less confidence. Indeed, it presents the subject in an aspect, which, to my understanding, proves the conviction of Mr. Livingston, that the indemnity would not be ratified by the Chambers. The Ministry would not venture to make it a test of their influence in the Chambers, [having ascertained, I presume, that they would be defeated.]

They dare not assume the responsibility. The treaty is therefore considered an open question; which the Chambers might ratify or not, without being considered as making war upon the Ministry. A most extraordinary attitude surely for the King and the Ministry to take.

Mr. Livingston is manifestly of the opinion that the Chamber of Deputies may be intimidated by the course which the Government may determine to pursue—the President's Message has therefore met his wishes.

The message and communication having been read, Mr. Adams moved their reference to the Committee on Foreign Affairs, with instructions to report forthwith upon our relations with France.

Documents referred accordingly—Report to be made on the 20th.

New York, 11th Feb. 1835.

"We have been surprised to find one of the most decided opponents of General Jackson, come out in Congress in support of the proposition contained in his message, and urging a report in favour of granting him power to issue letters of marque and reprisal, and yesterday the general feeling showed more idea of War with France than any thing I have yet seen; still I cannot readily believe that such is to be the result, though the full confidence I once had on the subject has been somewhat shaken. We hourly expect the packet from France, and look forward anxiously to the intelligence she may bring—much will depend upon that."

From another Letter of same date.

"We have severe weather here, and little business doing in consequence. A great sensation was produced among the Mercantile interests here two days since by one of the leading Members of the opposition having come out in favour of the Government measures against France should the Treaty granting \$5000,000 to this country for unsettled claims, not be ratified. The value of property of all kinds will be very much deteriorated should the power be given to General Jackson to make reprisals on the French."

Extract from New York Shipping and Commercial List, Feb. 11.

"Considerable excitement has prevailed for the last two days in consequence of the proceedings in Congress touching our relations with France, and some of the Insurance Companies yesterday, refused to take French Risks."

Boston, Feb. 21.

IMPORTANT NEWS FROM FRANCE. It will be perceived from the following communication in the Paris Moniteur of Jan. 14, the French official paper, that the French Minister in this country is recalled, and that our Minister in Paris has been notified that his passports are at his disposal, to enable him to quit that country. All further negotiations, therefore, in relation to the treaty of indemnity are at an end, until some measures shall be devised for restoring a diplomatic intercourse between the two countries.

Morning Chronicle Office, London, Friday morning, January 16.

The following important announcement appeared in the Moniteur of Wednesday:—"The King has recalled M. Surruier, his minister at Washington. The Minister of Foreign Affairs has made known this resolve to the Minister of the United States in Paris, informing him at the same time the passports which he might require in consequence of this communication are at his disposal."

In consequence of the engagements enter-