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THE WATCHMAN.

"CONSTITUTIONAL RIGHTS."

VOLUME 1.

FREDERICTON, N. B. AUGUST 26, 1833.

NUMBER 16

ENGLAND.

IMPERIAL PARLIAMENT.

HOUSE OF LORDS—June 20.

QUAKER'S AND MORAVIANS' AFFIRMATION BILL.

The Duke of RICHMOND moved the second reading of the above bill.

Lord WYNFORD was understood to express an opinion that, from scruples of conscience, the sects who were sought to be relieved by this bill would dislike to act upon juries in criminal cases.

The Bishop of LONDON wished to offer a few observations on the subject of oaths in general as they were administered in this country. A bill had been brought in about two years ago by the Lord President of the Council, which in some degree lessened the evil to which he was alluding. He did not think that he was going too far when he said, that there was no country in the world in which this most solemn and sacred obligation was administered with less gravity, with less impressiveness, with less decorousness, than it was in this country. There were two species of oaths—assertory oaths and promissory oaths. Assertory oaths were necessary for the discovery and punishment of offences; whilst promissory oaths were not only necessary, but were, in truth, productive of the worst effects. To this subject Dr. Paley had called the attention of the public more than 40 years ago. The bill brought in by the Noble Marquis had done away with the necessity for taking 10,000 oaths in a year, but still much of the evil remained. The municipal oaths ought to be revised; nine-tenths of them might, he was of opinion, be done away with, and a simple declaration introduced in their place. This very serious question had been pressed on the attention of the British people long before the time of Dr. Paley. It had been forcibly taken up by one of the most virtuous, learned, and eloquent men, that ever adorned the Protestant church—he alluded to Bishop Jeremy Taylor. It was a subject well worthy of grave consideration, and in the next session of Parliament he would call the attention of the House to it, unless it were taken up by some Noble Lord more competent than he was to undertake the task.—He would here refer to another class of oaths, which appeared to him to be liable to great objection—he alluded to the oaths taken in universities and schools. He felt that, to administer an oath to a young man not of full age, except in cases where truth was judicially sought, was very objectionable. He now publicly expressed a hope that, as this subject had been taken up in their universities, it would as soon as possible be entertained by the legislature, who ought to inquire how far it was consistent with sound religion and right principles to enforce on young men, not of age, an obligation for the observance of duties the performance of which might be exacted by easier means. [Hear, hear.]

The LORD CHANCELLOR said he only spoke the sense of those persons who had turned their attention to this subject, when he expressed his opinion that a thorough revision of the present system ought to take place. There was another description of oaths which, in his opinion, ought to be discouraged; he meant voluntary oaths or affidavits. A penalty should be inflicted for administering such oaths, or a penalty should be levied on the individual taking them, if it appeared that he had been guilty of false swearing. As the law at present stood it did not meet those cases.

The Bishop of LONDON said that he had not mentioned the class of oaths noticed by the Noble and Learned Lord, because he had on a former occasion called the attention of their Lordships at some length to that branch of the subject.

Lord BEXLEY expressed himself in favor of a diminution of the number of oaths which individuals were now, under a variety of circumstances, compelled to take.

The Duke of RICHMOND, in order to show that the persons intended to be relieved by this bill would not scruple to do their duty, instanced the case of a Quaker, who, being on a jury, did not hesitate to find a man guilty of felony.

Lord SUFFIELD said the Noble and Learned Lord (Wynford) seemed to think that from some religious scruple a large body of men would violate their affirmations. Now, he thought that the parties alluded to were as incapable of violating their affirmations as any Noble Lord was incapable of violating his oath.

Lord WYNFORD said he was unwilling to place the Quakers in the situation in which that bill would place them.

The Marquis of LONDONDERRY made an observation which did not reach the gallery, but it called up.

The Duke of RICHMOND, who said that the Noble Marquis had on this, as on other occasions, acted as a skirmisher. If he thought proper to attack him, he was ready at all times and in all places to answer the Noble Marquis with the same perfect good humor which he felt at that moment. He would however say, that if the Noble Marquis at the head of his troop of Hussars had always behaved so so irregularly as he had done on this occasion, he would not have obtained so much honor and distinction as he had done. [Hear.]

The Marquis of LONDONDERRY said he was no skirmisher, but he would make observations on the proceedings of the Noble Duke whenever he thought fit, although he was a Cabinet Minister.

The Duke of RICHMOND.—It is very true that I am a Cabinet Minister; and I should not be at all surprised if the Noble Marquis wishes for my place. [Laughter.]

The bill was then read a second time.

THE EAST INDIA QUESTION.

In the House of Commons, Mr. Charles Grant, in a long and able speech, developed the plan which Ministers recommended should be pursued in arranging the affairs of the East India Company for the future, and concluded by moving a series of resolutions which, it will be observed, were carried without a division. The plan proposes—

1. To separate the union which at present exists between the trading and sovereign character of the East India Company.

2. To abolish altogether the Company, as a trading company, and to throw the trade entirely open to general competition; but,

3. To allow the company to exercise at present, authority in India, for 20 years.

4. To legalize the holding of lands by Europeans in the East Indies.

5. To allow the natives of India, notwithstanding their colour, birth, or religion, to be equally eligible to all offices as Europeans.

And by way of compensation to the company for the surrender of their existing rights and privileges—

6. That the present dividends, to the amount of £610,000 which the Proprietors are in the annual receipt of, should be secured to them by an annuity, to be charged on the territorial revenues of India, and on the territorial revenues of India only.

7. That at the end of the 20 years of government to be administered by the East India company, the Proprietors shall have the right, if then deprived of the government of India, to demand the payment of their capital; but,

8. If at the end of that period of twenty years they should not demand the payment of their capital, then, that the payment of the said annuity of £630,000 should be continued for forty years.

9. At the end of the forty years, it is to be at the option of Parliament, on giving three years' notice, to redeem the said annuity at the rate of £100 for every £5 5s. of annuity.

10. That there shall be a guarantee fund of two millions; the said fund to be allowed to accumulate until, with interest it shall increase to the sum of twelve millions; the object of the said fund being to secure the regular payment of the annuity, and ultimately to be applied to the paying off the capital stock of the company.

Such are the terms agreed upon between Government and the East India Company; in which it will be observed, that the property of the company is amply secured. There are one or two minor points of detail in respect to the future imposition of duties on teas, among which it is proposed that in future, this country shall proceed on the American plan of apportioning the duty according to the quality of the tea, so that the taxation on that article may not fall disproportionately on the consumers of the inferior sorts of tea; and with respect to the tea now held in hand by the East India Company, which is calculated at about two year's consumption, the company is to be allowed a reasonable time to dispose of it, before the private trader is permitted to come in competition with it. With respect to the silk establishments kept up by the company at India, it is proposed, in order to secure the certain supply of silk to this country, that the company should be allowed to go on with them, until capitalists be found to take the trade out of their hands.—In a future stage of the bill, Mr. Grant intimated that he should have to propose some alterations in the Ecclesiastical Establishment of India, which is to comprise additional Episcopal appointments.

UNITED STATES.

IMPORTANT TRIAL TO EMIGRANTS.

From the N. Y. Daily Advertiser.

COURT OF COMMON PLEAS, NEW YORK.

Wm. Malony vs. Ed. Macomber.

This was one of a class of actions brought by the plaintiff, who is an emigrant, and others, against the defendant, who is the agent of the Liverpool Line of Packets, for the recovery back of his passage money, in consequence of the non-fulfilment of the agreement to carry him from Liverpool to the city.

From the evidence adduced, it appeared that the plaintiff with numerous others, took passage in the steerage of the ship Governor Strong at Liverpool for New York, and paid passage accordingly, at the rate of \$16 each; the passengers to provision themselves, but to be furnished with water, fuel, &c. agreeable to the custom in those cases. The ship with her cargo and passengers proceeded to sea, and when 4 or 5 days out experienced a violent gale of wind, by which she was so essentially injured in her hull and rigging, that it became unsafe to prosecute the voyage, more especially as she had sprung a leak. At the instance of the passengers, Capt. Farnum, (whose skillful and energetic measures for the safety of the ship, and whose kind offices to the passengers were fully appreciated by all), determined to put back, which he did, and arrived at Liverpool in safety; where the ship underwent a strict and impartial survey by the proper authorities, and was pronounced unseaworthy, and unfit and unsafe to prosecute the intended voyage.

In consequence of this involuntary termination of the voyage, in which no blame appeared to attach to any one, the plaintiff with the other steerage passengers, were necessarily compelled to remain at Liverpool, subjected to expenses which they could ill afford, until another vessel could be provided or procured to carry them to New York. The Consignees, however, in Liverpool, with the agent of the Line, promised them a passage in the ship Dalmatia, which had not yet arrived from New York, and which did not arrive in three or four weeks thereafter; but the Plaintiff and others demanded the return of their passage money, which they did not however receive, and they were then offered a passage in the ship Jay, not of the same line, but which the plaintiff and others declined; and taking passage for themselves, after some weeks detention, arrived in safety in this city. Here, in consequence of the non-payment of their passage money, and expenses of detention at Liverpool, they were instructed to bring suit for the recovery back of the amount paid, as also of the many extraordinary expenses incurred. The case being one of considerable interest to ship owners, citizens, and emigrants, called forth on the part of the defence, able and energetic efforts to defeat the claim. The defendant proved that no negligence had occurred on his part, or on the part of the Captain, consignee or agent, that although the passage money was not paid back, yet passage was offered to plaintiff and others without any additional consideration.

That the refusal of the plaintiff to take the passage offered, in lieu of the one lost by an act of God, would probably preclude the recovery back of the amount of the passage money; that by a principle of maritime law the party paying his passage, and

losing it by virtue of an accident of the bond described, could only recover back *pro rata iternis*, on the part of the passage that was not complete. It was also contended by defendant's counsel, that the counsel for the prosecution had mistaken his plaintiff in his cause, that in as much as the ticket or certificate to a right to a passage on board the Governor Strong, was made out in the names of Wm. Maloney and Bridget Bayer, conjointly, that the suit should have been brought in the names of them both; that, although for conveying freight to a certain place in which attempt to carry failed, freight money could be recovered back, yet there was a material difference between freight and passengers, the latter not being entitled to receive back, except *pro rata iternis*, and therefore moved for a nonsuit. This motion the Court denied, and permitted the cause to go to the jury. After an able summing up on both sides, the Court charge the Jury on the Law and the facts, and laid it down as law, that in cases of the payment of the passage money, and the consideration not being rendered, nor the passage completed, those contracting to carry the passengers, as common carriers, were bound to execute their agreement, which if not done, they were liable for the amount paid them. That there was no distinction in law between freight and passage, both being alike in the same principle of maritime law, which requires the carrying of the freight and passage money as agreed. That when a vessel starts with freight, and returns to the place whence she started without fulfilling her contract, there is no freight carried; and the same is the case in relation to passage. The voyage is not completed, and they are therefore liable to the passage money. They may furnish another vessel, and offer to carry the passengers to the port of their destination; they are bound to provide the earliest possible conveyance in that or some other vessel without delay, and if so done, they would be absolved from the payment of the passage money; that the cases cited by the defendant's counsel, rest on the particular circumstances characterizing each of them, that prove freight was carried by usage, in consequence of leaving it at an extraordinary part of the voyage, and that freight money paid on a consideration, that happens to fail, is always recoverable back the same as in any other contract, the consideration of which fails. It was the duty of the defendant in this case, when the vessel put back, to have furnished another as speedily as possible, and he should have shewn that he found a passage for the plaintiff in the first vessel that sailed to the port of his destination. The offer was made, but whether followed or not, is not in proof. The defendant must show that he did all he could to furnish the earliest possible passage, and as he has not proved that, he is liable for the passage money, unless he show, that he did offer this, and that it was refused.

The jury returned a verdict for plaintiff of \$16, with 5 cents costs.

Council for plaintiff, J. D. Delaney; for defendant John In Jackson.

EXECUTION OF CLOUGH.

Mount Holly, New Jersey.—Yesterday, 26th July, was the day appointed by the authorities of New Jersey, for the execution of Joel Clough for the murder of Mrs. Mary Hamilton. The extraordinary atrocity of the act, and the circumstances attending the trial, and the recent escape of the murderer, had given more than common interest to the execution; and at an early hour in the morning of yesterday, the streets of Mount Holly, were crowded with persons who had come to witness the end of the unfortunate man.

The Rev. Mr. Wilmer, and one or two religious laymen were with Clough all the night previous to his death. He attended to their instructions until about midnight, and then lay down and slept composed for about three hours. About 27 minutes past (noon) the Sheriff brought the culprit from the prison. He was attended by the Rt. Rev. Bishop Doane, Rev. Mr. Wilmer, and several other clergymen. He was placed in an open dearborn, in which were the sheriff and clergymen, and conveyed to the place of execution, about 2 & 1/2 miles from Mount Holly, near Hancock bridge. The prisoner was dressed in a white roundabout vest and pantaloons; his breast was open, and in going to the place of execution, he requested one of the clergymen to place a handkerchief over his neck and breast; to protect it from the sun.

Five volunteer companies of infantry were stationed round the gallows, and a company of cavalry attended the culprit from the prison to the place of execution. Clough seemed through the whole of the painful ceremony, to be calm and collected; he had manifested a spirit of repentance while in prison, and had received the right of baptism, administered by Bishop Doane.

About 20 minutes past one o'clock, the prisoner arrived at the place of execution; he descended from the dearborn without assistance, and having taken leave of several persons whom he recognized, he ascended the platform and sat down in a chair. Bishop Doane and Mr. Wilmer, of the Episcopal Church; and Mr. Ashton of Philadelphia, and Mr. Shepherd of Mount Holly, of the Baptist Church; and the Methodist clergyman of Pemberton, also went upon the platform. The appropriate service was read by Bishop Doane, and a prayer was made by Mr. Wilmer.—Bishop Doane then read a letter from Clough to his mother, and also the confession of the prisoner. Several hymns were sung, and subsequently there was sung the hymn commencing,

When I can read my title clear,

To mansions in the skies,

I'll bid farewell to every fear,

And wipe my weeping eyes.

During the whole of these solemn performances, Clough evinced much agitation, frequently arising from his chair, moving about, ringing his hands, &c. He took a solemn and affectionate leave of the clergymen who attended him, about a quarter past two o'clock. The Sheriff then adjusted the rope, in which he was aided by Clough. After the rope was placed over the gallows, Clough desired that it

might be taken down—he then measured with his arm the length of the rope necessary to allow him sufficient fall, and after some other regulations, in all of which, the prisoner seemed to take an active part, his arms were pinioned, and the white cap placed on his head, and drawn over his face. In this position he stood a few minutes, when the Sheriff struck down the support of the platform, and Joel Clough was launched into eternity. A slight muscular convulsion was all the movement visible in the body while he was suspended. In about 30 minutes after the execution, the body was taken down and placed in a coffin.

Notwithstanding the immense number of persons assembled, nearly twelve thousand, there was no disorder to mar the solemnities of the occasion.

The CONFESSION of Clough, written by himself, and read from the scaffold, to the surrounding multitude, in a remarkably distinct and expressive manner, by Bishop Doane, embodied a brief outline of his life, from his infancy, to the period of his imprisonment. In reference to the crime for which he has suffered, he made some disclosures which place the subject in a different light from that, in which it has been heretofore viewed. He states, after appealing to that God before whom he was to appear, for the sincerity of his story, that Mrs. Hamilton had made an engagement of marriage with him. She subsequently manifested a change and eventually declared it impossible for her to fulfil her promise, and in various ways showed that her affections had cooled. He was exceedingly hurt and irritated by her conduct, and declares that his object in visiting New York, was to withdraw himself from her society; that after having been, while there, led into some discreditable scenes, which he looked upon as completing his disgrace, he returned to Berdendown, saw Mrs. Hamilton, and informed her of his misfortunes. On learning that he had lost his money, she offered to give him all she had in her possession, and in addition, to give him her gold watch. The offers he declined, but renewed the subject of their engagement, and told her that if she would consent to be his wife, all would be well, and they should be happy. She refused he says, to give him any encouragement, and in a manner calculated to wound his feelings.

From that time he observes the idea of destroying her entered his mind. He acknowledges that her death was premeditated; that his intention was to destroy her and then to commit suicide. From the declarations which he had made to Mrs. Hamilton, she had reason to suppose, that he intended, to destroy himself, and it was from a feeling of anxiety arising from her apprehensions on his account, that she probably entered his room on the day of the fatal order. He says he did not call her. She came in of her own accord.

When he saw her he advised her for her own safety to leave the room. She did so, but immediately returned. On her second entrance he had left the bed on which he had been lying, and was on the opposite side of the room. He faintly, and she observing he looked ill, went to him and offered to assist him to the bed. While doing this, and while his left hand rested upon her shoulder, he drew the dagger which was concealed about his person, and gave her a severe stab. At this instant consciousness forsook him and he repeated the stabs with great violence. He was actuated by jealousy, pride, and revenge.

It was his determination that if she would not be his, she should never be another's. The love which was at first pure and ardent became changed at times to a feeling of hatred.

The trial he says was fair and impartially conducted, and he is aware that the verdict and sentence were perfectly just.—U. S. Gazette.

FROM THE VIRGINIAN.

A Murder foul! most foul and horrid! A Brother's hand imbrued in the blood of a Brother!

A friend in Pittsylvania, Virginia, furnishes us with the following narrative of a murder recently perpetrated in that county:—

"We have read in Shakspeare of a second Daniel; but it was reserved for the present era of murders, to be presented with a second Cain, in the person of ARMISTEAD CRAFT, of the county of Pittsylvania; who, on the 10th inst, committed a most wanton and diabolical murder on the person of his brother, George Craft, at the house of his father, Philip Craft—and then immediately fled. His father, being suspected of aiding his escape, contrary to the act of Assembly, and thereby becoming an accessory after the fact, was arrested on the 13th inst, and on the 15th was brought before S. Coleman, D. H. Clark, V. Dickerson, W. L. Pannill and L. Dillard, Esqrs. justices of the peace, who, after a patient and impartial examination of a number of witnesses, pronounced that the testimony would not bear them out in pronouncing the prisoner guilty, and he was therefore discharged. A synopsis of the testimony may not prove uninteresting, viz: "That passing by the house, heard considerable noise—had curiosity to ascertain the cause—turned in direction of the house—saw Armistead Craft running at full speed across the field—reached the house and understood from the father that Armistead had killed his brother George.—The father sent for his neighbours, a number of whom soon assembled—to whom he stated, that on that morning, Armistead arose and fed his horse, rode out, returned to breakfast, and fed his horse again—the family, composed of the father and two sons, sat down to breakfast—when George remarked to Armistead that it was unnecessary to feed his horse so often, when corn was scarce, for which rebuke he received a slap on the mouth—George being a mild, orderly, well disposed member of the Baptist Church, requested his brother not to repeat it, which he did, by inflicting a severe blow with his clenched hand. A rencounter ensued, which resulted in George's throwing Armistead on the bed. The father taking him away, Armistead took advantage of his circumstances, seized George and threw him on the floor—when the father again interposed, and separated them—ran Armistead (the eldest of the two) into a corner—bearing something fall behind him, exclaimed, Sir you have killed your brother—raised him up—when the fatal dirk fell from the bosom of the expiring boy, having entered between two ribs and penetrated deeply into the heart—Armistead asked his father's forgiveness, who ordered him from his presence.

The neighbours sat up with the corpse that night. After midnight, the father came down stairs with