SUPPLEMENT TO THE MADRAS COURIER.

TUESDAY, AUGUST 3, 1813.

LAW INTELLIGENCE.

Calcutta Supreme Court of Judicature.

MONDAY, JUNE 14, 1813.

THE KING v. WILLIAM BLACK.

CHALLENGE.

The Defendant in this case stood indicted for a Misdemeanour, in having sent a challenge to Mr. Edward Brightman, with the intention of provoking him to fight a duel. Mr. Heming opened the pleadings on the part of the Crown, and was followed by Mr. Fergusson, who stated "[illegible] at some length, dwelling particularly on the circumstances of aggravation, arising out of the peculiar situation of Mr. Brightman, (the prosecutor,) who, at the time of receiving the challenge, stood in the relation of an arbitrator between the Defendant and Mr. Charles Blaney, and had just passed an award, which was not satisfactory to the former, and which Mr. Fergusson represented as the provocation which had induced him to send the challenge. The details of the case will, however, best appear from the evidence; which we accordingly proceed to report.

The first Witness called, was Mr. Edward Brightman. He stated, that he is a merchant in Calcutta, and has been so for ten years past. He knows the Defendant, who about two months ago, was in command of a ship named the Arabella, belonging to Mr. Charles Blaney. The Witness, at the request of Mr. Maitland, had consented, about the beginning of May last, to act as an Arbitrator in some differences which then subsisted between the Defendant Captain Black, and Mr. Blaney. The differences in question related to matters of account, ship's disbursements, usages of ports, &c. Mr. Antonio Lourence Barretto, was joint arbitrator with the Witness; and they agreed on the 11th of May, to an award against the Defendant. This award, the Witness believes, was delivered on the 13th. He delivered it himself, one copy to Mr. Brightman and one to the Defendant, who were both present in the Witness's office.

Here the challenge, dated the 14th of May, was produced and shewn to the Witness, who proved it to be in Captain Black's hand-writing. It was delivered on the day on which it bears date, to the Witness himself, at his office in Calcutta, by a bearer, who said he was a servant of Captain Black's. The challenge was then read by the Clerk of the Crown, as follows.

"To EDWARD BRIGHTMAN, Esq.

"Sir,

"At your particular request, I waited on you yesterday to settle the unpleasant business between me and Charles Blaney, when, in the most mild and gentlemanly manner, I objected to giving your worthy friend, Mr. Blaney, a receipt in full for my property, detained by him at the Custom House; and stated as my reason for so doing, a considerable deficiency, which, I believe, to any conscientious man, would have been ground sufficient;—however, you, in the plenitude of power, no doubt weighing your consequence by the weight of your purse, were pleased to think differently, and, for my assurance in not coinciding with your ideas of the business, in the most rude and most ungentlemanlike manner, turned me out of your office; for which gross and unprovoked insult, I now demand of you a public apology, or insist on your giving me satisfaction to-morrow morning, at 8 A. M. on the Esplanade.

"I am, Sir,

"Your injured Servant,

"W. BLACK.

"Calcutta, May 14, 11 A. M."

The Advocate General, as Counsel for the Defendant, then put in three letters, two written by Mr. Brightman, and the other by Captain Black. Neither of them, however, were read. Mr. Strettell then proceeded, in cross examination.

Mr. Strettell. "Pray, did not Mr. Black go to "your office on the 13th, by your desire?"

Witness. "Yes. He came by my desire."

Mr. Strettell. "Was it on that day that you delivered the award to him and Mr. Blaney at your "office?"

Witness. "It was."

Mr. Strettell. "Pray, did you on that occasion ask "Mr. Black to sign a receipt for certain goods, that "were then on board the ship?"

Witness. "I desired him to sign a receipt for some "goods, that were at the Custom house."

Mr. Strettell. "On that day?"

Witness. "On that day."

Mr. Strettell. "Before, or after you delivered your "award?"

Witness. "Before."

Sir William Burroughs. "Did the Defendant at "that time know the purport of the award?"

Witness. "I believe, not."

Mr Strettell. "Had not you shewn him the award "on the day before?"

Witness. "I told him, I think, on the 12th, that "the award had been signed, and that I would deliver "it to him next day in presence of Mr. Blaney."

Mr. Strettell. "And did not the Defendant, Sir, "object to signing a receipt for more goods than had "been delivered to him?"

Witness. "He did."

Mr. Strettell. "Assigning as his reason, that the "goods had not been delivered to him?"

Witness. "Yes."

Mr. Strettell. "Pray, sir, did not you express "some warmth, on that refusal?"

Witness. "Not till after I had asked him, if he "could prove that there was any deficiency."

Mr Strettell. "You did express some warmth in "your behaviour then, however?"

Witness. "I don't think there was."

Mr. Strettell. "You displayed a little indignation, "did not you, at the resistance of Mr Black?"

Witness. "I felt annoyed a good deal, as I had "had trouble enough."

Sir William Burroughs. "Do you mean trouble "from the Defendant, or from both parties?"

Witness. "[illegible] annoyed by both parties, my "Lord."

Mr. Strettell. "You say, you had signed the award "on the day before?"

Witness. "I had."

Mr. Strettell. "And you said to Captain Black on "that day, that you would deliver it to him on the day "following?"

Witness. "I did."

Mr. Strettell. "Did the delivery of these goods, or "the granting a receipt for them, form any part of the "award?"

Witness. "No, they did not. The goods and some "other transactions, were left out of the account."

Sir William Burroughs. "And they were left entirely out of your consideration, and that of the "other arbitrator?"

Witness. "Entirely; they had settled that in their "own manner."

Mr. Strettell. "Then, after the Defendant refused "to sign the receipt, did you deliver the award?"

Witness. "No, not immediately."

On desiring the Defendant to give a receipt, the Defendant answered, that he would not, alledging that a box of Silk was deficient. The Witness then said, "Will you hear reason?" The Defendant on that tossed up his head, and said, "He would not hear reason;—he did not care, there was a deficiency, and he would not sign the receipt." The Witness then asked him, if he could prove the deficiency,—if he had any bill of lading or other document for the property? Captain Black still said, "He did not care; there was a deficiency, and he would not sign a receipt till it was made good." This was said by him in a very curious way, with his hat on in the Witness's office:—the Witness thought it was said in an impertinent manner. Mr. Blaney had not his hat on; neither had the Witness, nor any one else in the office. Besides, from a person who had been long in his employ, the Witness thought such a freedom rather offensive. The Witness then gave him his award, saying, "There is your award; go out of my "office, and never let me see you here again; "I have had trouble enough with you." In saying so, he delivered the award to the Defendant, and at the same time delivered the other copy of the award to Mr. Blaney, whom he addressed in a similar manner.

Mr. Strettell. "Now, Sir, you have told the Court "and Jury that you don't like too much trouble; why "then did you take all this trouble to get the receipt "signed?"

Witness. "Because a draft of the Defendant's had been deposited in my hands by Messrs. Palmer and Co. which was not to be delivered until he signed a "receipt for the goods; and I did not like to remain it "in my hands."

This draft was drawn by the Defendant, and accepted by Messrs. Palmer and Co. in favor of Charles Blaney. It was for a sum of about 7000 Dollars. The Witness supposes, it had been deposited in his hands, in consequence of his being an arbitrator between the parties. He does not think it would have been deposited with him, had he not been an arbitrator. He was to keep it, till the goods at the Custom-house should be delivered, and, on a receipt for those goods being brought, was to deliver it to Mr. Blaney. The Witness did not deliver up the note before he got the receipt. He has not given it up yet. He never delivered it to Mr. Blaney, since the occasion in question. Captain Black once commanded a ship from China, of which the Witness was partly owner. The Defendant had gone from hence as Chief Officer; but, in consequence of Captain Elliott becoming sick and remaining there, he got the command about the month of August 1811. The Defendant has commanded a ship, since leaving the Witness's service. The Witness never was Captain of a ship in the country trade; he was only Purser:—that was about 13 or 14 years ago.

Mr. Strettell. "When you desired the Defendant "to go out of your office, did you deliver the words in "a mild manner, or with anger?"

Witness. "I spoke as a man who was hurt, whose "feelings were hurt."

Mr. Strettell. "Now, recollect yourself most seriously, before you answer the question I am going to "put to you. Did you not, sir, put your hand upon "Mr Black, at the time when you used the words "which you have stated?"

Witness. "I did not."

Mr. Strettell "You are positive of that?"

Witness. "Yes."

Mr. Strettell. "That you did not touch his person "at all?"

Witness. "I am."

Neither did the Witness say any thing immediately to Captain Black about his hat being on. He did not notice it to him at all. He was hurt and felt himself hurt at it. He believes, Captain Black came into the office with his hat on. He does not recollect his ever having done so before. The Defendant had sometimes attended at the Witness's office, in the course of the arbitration; but the Witness does not recollect his wearing [illegible] on those occasions. Neither does he recollect Mr. Blaney, (who also attended,) wearing his hat. He cannot [illegible] whether the Defendant had any knowledge of the purport of the award, previous to the interview on the 13th. Mr. Blaney claimed a little more than was awarded him; and the Defendant was not allowed what he claimed. The Witness had never mentioned the result of the award, previous to the 13th, either to Black or Blaney. Seven or eight days before the award was delivered, the Witness had given it to an Attorney (Mr. Johnston) to be engrossed. The Attorney observed, that it was a curious award, and that the Witness must take out these fillip-claps. The Witness had been employed on the arbitration for ten or twelve days;—they used to meet almost every day, and it had been found necessary to extend the time limited in the bonds. The award was seven or eight days in possession of Mr. Johnston, who drew it up in the proper form. Both parties knew that the award was in Mr. Johnston's hands, for they went to his office to sign the bonds of extension. The Witness believes, they knew that the award was in Mr. Johnston's hands:—he believes, he mentioned it to Mr. Blaney,—he does not think he said any thing of it to Mr. Black.

The next Witness examined, was Mr. James Briscoe Graham, partner to Mr. Benjamin Saunders, Attorney at law. He stated, that he has seen before the letter bearing Captain Black's signature, which was produced in Court. He thinks, he first saw it in the hand of Capt. Black on the 14th ultimo, who said, he had determined to send this to Mr. Brightman. He consulted the Witness, whether he should or not. The letter, when Mr. Graham first saw it, was not exactly the same; it had an addition to it. The Defendant had previously called on the Witness on the day before the 13th: and told him, he had been turned out of Mr. Brightman's office. When he came again on the 14th, he said, "that none of his friends would speak to him in consequence of what had happened, and that, as the only way to wipe off the disgrace, he was determined to send him a challenge." The Witness advised him not to do so. But the Defendant said in reply, "that he was determined to send it, for at present he was ashamed to shew his face in public." Captain Black did not at that time shew to the Witness the letter now produced in Court, but another paper to the same effect. He shewed it to him as a challenge, and asked the Witness if he approved of it. Before this conversation, the Witness had heard, that Mr. Brightman had given an award against Captain Black; but he cannot positively say, if he heard so from Black himself previous to the 13th or 14th.

On his cross-examination, Mr. Graham was desired to read the letter; and admitted, that it was not in every respect the same with that which he had seen before in Captain Black's hand;—this was not so violent.

Here the case for the prosecution closed. No Witnesses were called by the Defendant; but Mr. Strettell addressed the Court at considerable length on his behalf. He animadverted on the variance between the statement of the case as represented by the learned Advocate on the other side, and that which appeared in evidence; the latter in his opinion incontestibly proving, that Mr. Brightman's award had no connexion whatever with the alledged challenge, which was provoked by the offensive and overbearing conduct of the prosecutor, with respect to a business which he took upon himself to settle, though it formed no part of the award. Mr. Brightman's speech to the Defendant, in turning him out of his office, was more of a challenge, he contended, than this paper produced in Court. A grosser insult was never offered to man. In Captain Black's letter, there was nothing abusive or contemptuous; and, judging at least of causes by their effects, it contained no provocation to fight a duel. The Jury were not to draw a parallel between the case of men in the situation of Mr. Brightman and Capt. Black, and that of persons in a higher rank of society. And considered in relation to the rank in life which the parties held, he endeavoured to shew, that the letter could not be considered as a challenge. The Counsel for the prosecution had felt this, and had endeavoured to supply the deficiency by extrinsic evidence; but Mr. Graham's testimony went to the purport of another letter, couched in more violent terms, which the Defendant had altered, in acquiescence no doubt with his (Mr. Graham's) suggestion and advice.

Mr. Strettell having concluded, the Jury received their charge from Sir William Burroughs. The Defendant in this case, he observed, had been indicted for sending a challenge, with the intention of provoking the prosecutor to fight a duel. His Lordship need not tell the Jury, that this offence was a high misdemeanour in the eye of the law. And though still sanctioned by custom under certain circumstances, and among certain ranks of life, he thought he might on the whole congratulate society on the diminution of the practice of duelling, which certainly did not obtain now so much as in former times. He was inclined to ascribe this change to the progress of civilization, by which a general improvement in manners had been effected, and occasions of offence and outrage had become less frequent and less dangerous. But, however this might be, there was another consideration, which was of great importance, and which most especially applied to the case before the Jury; and that was, that no man is entitled to take the law into his own hands; and that, even by the laws of honor (as they are called,) no judge, juror or arbitrator, is to be held responsible in his person for acts done in that capacity, nor is the party who submits his cause to the judgment of a person standing in either those situations, to avenge himself by challenging that person to fight, because he may not perhaps be quite satisfied with his decision. The practice of duelling was peculiar to modern times;—it was wholly unknown among the Greeks and Romans, the most military nations of antiquity; and was one of the evils flowing from the spirit of chivalry, which had been bequeathed by their ancestors to the present inhabitants of Europe. But the customs of no period would countenance the application of the practice in question, to disputes growing out of the judicial or official acts of one of the parties. And instances must be within the recollection of all the Jury, in which some of the very highest naval and military characters of our country, receiving challenges on account of matters at all flowing from their public duty, had, with the perfect approval of every right-thinking man in the country, declined to accept such challenges, and made their appeal to the laws. It was true indeed, that a consideration for the painful and difficult situation in which an individual of a certain station or profession in life, might be placed by the false laws of honor, had in many instances induced Courts and Juries to treat such offences with great indulgence. But even that indulgence was only applicable to those cases, to which the laws of honor really attached. Now, what was the situation of the parties, in the case at present before the Court? As far as regarded their situations in life, they seemed to be pretty much on a footing. The one had been a Purser of a ship, had risen by his industry, and was now a merchant; and it was allowed on all hands, that he conducted himself in that station, in a respectable and gentlemanlike manner. The other was Captain of a Country ship: and, in the course of his transactions with his employer, a difference had arisen between them on certain matters of account. They resort to by far the most desirable mode of decision in such cases; they submit the matter to arbitration: and this certainly was of all others a subject the most fit to be settled in that manner. Mr. Brightman the prosecutor, and another gentleman, were accordingly chosen arbitrators. The Jury must be well acquainted with the nature of the office of an arbitrator; they must know, that the arbitrator himself derives no benefit from it,—that it is a troublesome, and often a very thankless office, and that he not unfrequently makes enemies of both parties. It was therefore, in his Lordship's estimation, no small favor done to any man, to undertake such

a duty on his account, and with a view probably to save him from a long, expensive and painful lawsuit. This however was done by Mr. Brightman. He devotes his time (which to a merchant is generally a matter of some value, to the concerns of the Defendant; for ten or twelve different days together, he is employed on this investigation; and it really appeared to his Lordship, as the Witness had said, that he had experienced a great deal of trouble in the business. There were some transactions however between the parties at variance, which were to be exempted from the consideration of the arbitrators; and among others, there was the case of some goods at the Custom-house, which Black was to receive, and on giving a receipt for them to Blaney Mr. Brightman was to surrender to the latter, a draft of Black's which had been deposited in his hands. Now, it was quite clear from the whole evidence, and the Counsel for the Defendant appeared to feel it, that this deposit was to remain in the custody of Mr. Brightman, until the whole controversy should be settled; the Witness said that it was given to him, in consequence of his being an arbitrater between the parties. It was natural and proper therefore for Mr. Brightman to apply to Black for his receipt, in order that he might surrender the deposit to Mr. Blaney at the same time that he delivered his award. There was also a circumstance, which repelled all suspicion of any improper leaning on the part of Mr. Brightman to one of the parties; namely, Mr. Brightman to one of the parties; namely, Mr. Brightman to one of the parties; namely, probably thinking (as in such cases not unfrequently happens) both of them to be in the wrong.

His Lordship then proceeded to recapitulate the circumstances of the conversation between Mr. Brightman and Mr. Black, when the former sent for the latter to his office. The reply of the latter, on being asked for a receipt for the goods at the Custom-house, was in terms, he thought, not to have been expected by a man who had undertaken to arbitrate in a dispute — which he (the Defendant) was — Supposing Mr. Brightman and Captain Black to have been perfectly on a level, no man could well think it civil in the latter, to walk into Mr. Brightman's office with his hat on, and when there, to address him in such language. This looked like no small piece of evidence of that, which the Jury as well as his Lordship had all along suspected, namely, that there was some pique at this time subsisting in the Defendant's mind, arising from the previous knowledge which he had obtained of the result of the arbitration.

But in point of law, there was indeed no necessity for the Jury to consider any one, of these circumstances. The question, which they had to try, was as plain, and clear, and short a question, as could well be imagined. They had only to decide, whether the letter sent by the Defendant to Mr. Brightman was a challenge or not. The Counsel for the Defendant had cited a case to them, in which it was decided, that the terms "Rogue and Rascal," applied to a gentleman in a letter, were decided not to be a provocation to fight a duel. But the Jury knew well, that the laws of honor had technical language of their own, which as little admitted of any understanding as this language of any other code; and surely no man of common observation could read this letter, and say, that it was not couched in the very technical language of duelling. It certainly had raised considerable surprise in his Lordship's mind, that Mr. Strettel, with all his judgment, his experience and knowledge, (though perhaps he might be not so profoundly versed in the laws of honor as in the laws of his country, with which few men were better acquainted,) should have attempted to contend that this paper was not a challenge. It certainly did not evince that respect for their understandings, with which he was sure Mr. Strettell always meant to treat a Jury, to call upon them on their oaths, to controvert that which must be obvious to every other person,—for which gross and unprovoked "insult, I now demand of you a public apology "or insist on your giving me satisfaction to-mor- "row morning on the esplanade." Why, these were the very words, in which almost all challenges were couched. But, if there was doubt on this head, it was done away by Mr. Graham's evidence. He told the Jury, that Mr. Black had said to him, he was determined to send a challenge to Mr. Brightman, and on the following day brought a letter, and shewed it to him as a challenge. Now, it was for the Court to consider, what mitigating circumstances there might be in this case, and to award the punishment according to the degree of criminality on the part of the Defendant. But it was for the Jury merely to say, whether or not this was a challenge to fight a duel; and his Lordship could hardly think, that any man in his senses could hesitate for a moment in pronouncing it to be so. But if there was such a person, Mr. Graham's evidence, as his Lordship had before observed, must remove his doubts. Mr. Graham advised the Defendant not to send the challenge; but the latter would not take his advice,—he said, "he was determined to send it." His Lordship thought, that the purport of the award must have been known to the Defendant previous to the conversation on the 13th, and that it was rankling in his mind. For ten or twelve days successively, he had been before the arbitrators; and during that time, he must have seen how the decision was likely to turn. He was a young man, and belonged to a profession, which (fortunately for the country and for us all) led naturally to a great deal of ardour; and he did not therefore sufficiently consider the consequences of his conduct. He swaggers into Mr. Brightman's office with his hat on, and, on Mr. Brightman speaking to him, expresses himself in a manner, which, his Lordship must think, denoted anger. It was not his Lordship conceived, going too far towards a man who so conducted himself, to say, as Mr. Brightman had done, "There is your award, sir; go out of my office, and never let me see you here again." But, even if there was any provocation in the language used by Mr. Brights man, the law would not admit it as any justification of Mr. Black's offence;—it would only be received by the Court in mitigation of punishment. If therefore the Jury considered this letter as a challenge from Captain Black, as his Lordship thought they must of necessity do, they would return a verdict of Guilty.

The Jury accordingly, without retiring from the box, found a verdict of Guilty;" and the Defendant was accordingly committed.

Before the Court rose, Sir William Burroughs expressed himself in strong terms of approbation of the manly conduct of Mr. Brightman, who had performed a public duty, in bringing this case into Court.

WEDNESDAY; JUNE 16, 1813.

RAPE.

This day, a Native named Oditchurn Dutt, a man of a respectable rank in life, and connected with two other brothers to a large family, was indicted for a Rape, on the person of Connuck Dossy, a Hindoo woman, the wife of Bindrabund Ghose.

The Prisoner having been arraigned, and pleaded "Not Guilty," Connuck Dossy the prosecutrix was called, and gave her evidence as follows:

She stated, that she is a married woman; Bindra is her husban 's name; how long she has been married, she cannot say. Her husband makes ornaments of foil; and lives at Patterghauta in Calcutta, where the Witness also lives,—both in the same house. Near their house, is the house of one Chaundee, who is a married woman, but the witness does not know her husband's name. She is kept by one Neeloo, whom the Witness knows; but she has a husband besides. Kema is a tenant of Chaundee's, and also lives near the Witness's house. After mid-day, about two months ago, when only three days of Falgoon were remaining, Chaundee and Kema were standing near a private door of the compound of Chaundee's house, so that the Witness could see them from her house, which is next door to Chaundee's, with a small passage between them. There was no person at that time in the Witness's house, except herself, and an old woman her grandmother,—her husband had gone to Baraut, and the neighbours had all gone about to see a marriage procession. The Witness does not know, whose marriage it was; she never heard of Radamohun Banerjee; she is a woman, and not in the habit of going abroad. The Witness, at this time, had a stone plate at her house, belonging to Chaundee Raur. Chaundee called out, saying, "Bhao, bring me my stone plate." The Witness took the plate accordingly, and went to Chaundee's, and laid it down in the verandah. Chaundee's house is a straw hut, with a verandah, and surrounded with mats. The Witness saw no one but Chaundee and Kema, who were then sitting in the verandah. The Witness having set down the plate, Chaundee said, "Leave it in the house; to which the Witness replied, "Do you put it into the house, and I will go home." Chaundee then repeated, "Do you take it into the house" The chain of the door being at this time on the hasp, Chaundee loosened it, and pushing the door open, told the Witness to go in, and place the plate there. She entered the house accordingly, and had just advanced two paces, when Chaundee pulled the door to, and fixed the chain on the hasp, she and Kema remaining without. They locked the Witness in. The Witness called out, saying, "Chaundee and Kema, why have you locked me in? Unlock the door; let me out, and go away." They did not do so. The Witness then repeated the same words; but still they would not open the door. There was a person laying down on a wooden platform at one side of the room, under dorea musquitoe curtains. The room was dark, but there was a trifling light, by which she could see the shape of this person getting up from the platform and coming towards her. She saw him immediately after coming in: she saw him, whilst she was still calling out to them Women to open the door. She did not see him, while he was laying down; she saw him getting up. The curtains were thick, and she could not see through them: besides which, it was a dark room. When he got up, he lifted up one side of the curtains, otherwise, the Witness could not have seen him. He had a shawl on, and a chudder over his shoulders. This she perceived afterwards by the light from the aperture, as he was going out; she did not observe his dress, when he first approached. His face was uncovered, and he had no turband on. The room was too dark, for the Witness to discern, whether the person was one whom she knew or not. On getting up, and coming towards her, he threw down two women, who were on the platform. She began "crying," not "calling out for assistance"). She cried loud enough, for the women in the verandah to have heard her, had they been still sitting there. The man said, "If you cry, I will "beat you;—I will give you money." The words which the man used, as nearly as the Prisoner can recollect them, were, "Hold your "mouth; be silent; I will give you money,—Rupees, "Gold Mohurs, bushes, &c." The Witness replied, "I have no occasion for money; who are you?"

The Witness then proceeded to detail the circumstances of the Rape, which, from respect to our readers, we refrain from repeating. By succeeding in violating her person, She made resistance for a short time. She attempted to call out, after he had thrown her on the platform; but was prevented by his thrusting a cloth in her mouth;—just as she had uttered the first exclamation, her mouth was stopped by the cloth;—after that, she was only able to utter an inarticulate sound. She cried, wh le the man was throwing her on the platform; and afterwards, she called out. Her resistance was of no avail. He desisted at length of his own accord. After this, the Witness did not get out of the house immediately; she was locked up (there a long time, how long she does not know, but not so long as the time now consumed in telling her story;—she does not know, what a ghurree means. After the crime was perpetrated, the man did not say any thing to her, nor did he stay long. As he quitted her, she began to cry out, "O father, oh mother! &c. I am ruined!" At this time a person of the Koid cast, whom the Witness knew, and who happened to be passing, called out to some other pass-engers, "What is all this? the door is "locked, and there is a person crying within; let us "see what it is." He seemed to approach, as he spoke. On this, the person who was in the room with the Witness, took up an iron instrument that was there, and cut the strings on one side, which fixed the frame of the door to the matting, and got out of the house by that way. No conversation whatever had passed between him and the Witness during the interval of his cutting the strings. There was a small light sufficient for her to see his person, though not perfectly, sufficient however to discern that it was a man whom she did not know. He had by that time thrown his cloth over his head, and brought part of it over his mouth. When the Witness cried out, "Oh father, Oh mother! &c. "she cried loud enough for the two women in the compound, and for every one, to have heard her. She found them still there, when she came out; but she cannot say, whether they had heard her or not; they said nothing. The Witness heard one unlock the padlock and open the door. On coming out, the nearest person was a Koid; and there were also two other men there. The Witness said to Chaundee, Are these your "tricks; you who are persons equal to my parents. "You have shut me up in a house, and got my cast "taken away in this manner." She did not say this loud enough for the three men to hear it; she said it in a low voice, as she was passing by. Chaundee said nothing in reply. It was by the same door that had been locked, that the man went out; he forced his way through, by cutting the strings, and pressing aside the door-frame. The Witness could not have got out in that way; she tried to do it, but could not. The three men and two women in the compound saw the man go out. The Witness saw them at that time through the aperture. They spoke to him, saying, "Who are you, "that have been taking a person's cast in the house?" He answered, "Hold your tongue, sister; what is that "to you? I have given her a "Gold Mohur." He had not given the Witness a Gold Mohur, nor had he produced one to give her. The Witness has never cohabited with her husband. She is full twelve years of age; and her husband is a young man, but older than she is. The Witness's house and Chaundee's face each other. There are a number of houses on the other side of Chaundee's house, opposite to the side on which the Witness's house is. The next house, she believes, is a Bunya's; but not so close to it as the Witness's house. It is near enough, however, for a person in the house to hear one calling out from Chaundee's in a loud voice. There is also a house in front of Chaundee's door, ten paces off, occupied by an Ogrea. And at the back, there is a Gawallah's house, forming a compound with the Witness's house and that in which the Koid lives, and so near that a person calling out would be heard from Chaundee's. There is a road, by which every one may pass, at the distance of a few cubits in front of Chaundee's verandah.

After she escaped from Chaundee's, the Witness went to her own house and lay down. Her grandmother only was at home; she was in his own room. She did not through shame tell her grandmother what had happened; but the neighbours soon after came and informed it, and they told her. The neighbours knew of it, although her gran mother, who lived next door to Chaundee's, did not, because her room was the remotest of the two rooms in the house, and she was deaf and her eye-sight not good. The neighbours heard the Witness's cries, and told her grandmother on the same day. Her grandmother must have heard of it, before the Witness returned to her own house. On her return, she asked the Witness, who had taken her cast;—these were the first words she said.

Two months before the above occurrence, Chaundee, Neelon and Kema had made proposals of an improper nature to the Witness; telling her, that the person on whom both they solicited, would give her money, &c. They used to speak to the Witness, whenever they met her; but she refused to listen to them. She did not tell any one of these applications, she was afraid of being beat, and she had no idea that they would afterwards behave as they did. She did not tell her husband of what happened at Chaundee's; it was communicated to him by the neighbours, on the next day, after his return from Baraset. On hearing it, her husband menaced her, and was about to beat her But the neighbours interfered, saying, "Do not beat her; she is not "in fault; she was forced." The Witness also said to him, "Why do you beat me? "It's not my fault: I have been ravished." Witness can state, who the person was who committed the violence to her. She knows him, from having heard persons ask who he was, and others answer that it was Odit Baboo. She saw enough of his person to know him now, the Prisoner at the bar is the same man; she is sure he is the same. The next time the Witness saw him after he left the door of Chaundee's house, was when her husband preferred the complaint against her at the Police. How long after the occurrence that was, she cannot say. She was not pointed out on that occasion to the Witness; but, on seeing him, she recognized him.

Court. "Are you sure, that, on being asked who "ther you knew Oditchurn, your answer on that occasion was not, 'I do not know him, and never saw "him before?'"

Witness. "I said, if I saw the person, "I should recognize him"

Court. "Was any one then pointed out to you as "the person?"

Witness. "A person was pointed out to me; and I "said, that is the man who to my cast"

The Gentleman who examined the Witness at the Police, is now in Court. Here the Witness pointed out Mr. Fergusson, the Magistrate who took her deposition. And being reminded of a contradiction between what she now said, and the first sentence of the deposition, in which she stated, that she "did not know Oditchurn, and never saw him before," she still adhered to her present statement.

It was after the Prisoner had quitted the Witness, that she first heard the Koid's voice and not before. She knew that none of the people were at home in the adjoining houses, because she saw them going to see the marriage procession. It was a Bunya's shop, next door to Chaundee's.—There were no other shops near.

Mr. Strettell, Counsel for the Prisoner, on cross-examination. "Were you in the fhabit of going out of "the house, when your husband had gone abroad?"

Witness. "I used to go to the houses of the neighbours, whether he was at home or abroad. When he "was abroad, I used not to go to bathe in the Ganges."

Mr. Strettell. "When did you first see Chaundee on "that day?"

Witness. "Previous to calling for the plate, she had "come to my house about mid-day, and asked for it."

Mr. Strettell. "Did Chaundee go into your house "then?"

Witness. "She did not."

Mr. Strettell. "Why did you not give her the plate "then?"

Witness. "She did not come in, but was standing "near the door, and called out."

Mr. Strettell. "When had you borrowed the plate?"

Witness. "On the day before."

Mr. Strettell. "Was it heavy?"

Witness. "It was a large plate."

Mr. Strettell. "You say, that you saw the man go "out of the house, through the tatter, into the "street;—could you see him afterwards distinctly "when he was in the street?"

Witness. "I did not see him in the street."

Mr. Strettell. "While he was in the house, did you "say any thing to any one except to him?"

Witness. "No."

Mr. Strettell. "But you heard the Prisoner, after he "went out, tell the people that he had given you "Gold Mohur?"

Witness. "Yes."

Mr. Strettell. "Did you see him at the time?"

Witness. "It was in answer to a question from "Dutt, a Koid, that he said that."

Mr. Strettell. "Now did you tell him then, that he "had not given you a Gold Mohur?"

Witness. "No."

Mr. Strettell. "Why did you not?"

Witness. "Why should I have told him? I was "asked the next day, if he had given me a Gold Mohur; and I then said, that he had not."

Mr. Strettell. "When you went out of Chaundee's "house, did you see a great number of people standing there?"

Witness. "Yes."

Mr. Strettell. "Did you tell them?"

Witness. "I did not. I went away crying."

Mr. Strettell. "You know, that the Prisoner was endeavouring to make his escape, when he went through the tatter?"

Witness. "What did I know? he opened it, and went away."

Mr. Strettell. "If you had been ravished, why did you not tell the people to stop him?"

Witness. "I was a young married woman; what should I say? All the neighbours knew, what had happened"

Sir William Burroughs. "They knew what had happened to you, do you say, before you left the house?"

Witness. "Yes."

Sir William Burroughs. "By hearing your cries?"

Witness. "Yes"

Mr. Strettell. "What has become of Chaundee, Kema and Neelon?"

Witness. "They have fled."

Mr. Strettell. "Did they run away, when you were before the Magistrate?"

Witness. "They fled on the day after that on which I lost my cast."

Mr. Strettell. "Did your husband threaten them that they went away?"

Witness. "No; he said he would resort to justice."

Mr. Strettell. "Did he say so on the day that you arrived?"

Witness. "He did."

Some person recommended to the Witness's husband to apply to the Chokeydar, to take security from the people for their appearance. Her husband then said "I will apply to the house of justice, and whatever is ordered there will be carried into effect." On the day after, the Witness believes, he presented his petition to Sir John Royds. Her husband did not ask Chaundee, why she had taken the Witness into her house. He said, "What is the use of speaking to them? I will go to the house of justice." It was some of the Koids who advised the Witness to apply to the Chokeydar. Her husband did not see Chaundee.

Mr. Strettell. "Did not you think it an odd thing that you should be asked by Chaundee to take the plate into the house.

Witness. "I did not think any thing of it. We were in the habit of taking things from house to house."

Mr. Strettell, "You knew, that Chaundee was kept by Neelon?"

Witness. "I did."

Mr. Strettell. "What were the very words which you used, when you called out, as the Prisoner was quitting you?"

Witness. "Bopperre! mahre! oh father! oh mother! I am ruined!"

Gunganarain Dutt was next examined. He is a dealer in cloth, and lives at Patterganta, his house forming one compound with Bindrabund's. About P. M. on the 27th of Falgoon, he was at Bindrabund's house, to get some fire to smoke; and, as he was returning with the fire, he heard the voice either of Kema or Chaundee Raur, saying "Bhao, give me the stone plate." And, at the same time, he saw Bindrabund's wife washing a stone plate. The Witness took no notice; but went on to his house, and sat down and smoked with his relation Debsaran Dutt. About a quarter after he had been Coonuc cleaning the plate he heard her cry out, "Bopperre! mahre! &c." as a person does in distress, from the house of Chaundee. On hearing her cries, he ran to ascertain the cause. He saw the door locked, and some women of the neighbourhood collected behind the house, who had come in consequence of the cries, but went away on seeing them. Witness and the neighbours approaching the door, Oditchurn Dutt came out of the apartment by pulling aside the door-frame, & forcing his way between that and the mat, the door still continuing locked. The Witness knew him; they had learned to write together. He passed within two or four cubits of the Witness; and, immediately on his coming out, the Witness said to him, "What are these doings, Baboo? what is this improper conduct at a person's house in the middle of the day?" To which the Prisoner replied, using an abusive epithet, Hold your tongue; I have paid money, a gold mohur, and have had intercourse with a woman." On this Oditchurn went his way; and a tenant of Chaundee's coming up, unlocked the padlock, and Bindrabund's wife came out weeping, and proceeded on crying to her house. The Witness observed some blood on her cloth, after she passed. When the Witness first came to the spot on hearing the cries, he did not see Chaundee or Kema. Chaundee came afterwards, but from whence the Witness does not know; and Kema came from her own house, where she must have been all the time. It was short time after the Witness arrived, that they came

went up & unlocked the door. There was a procession on that day, on occasion of the marriage of Radhamohun Banerjee's son. The preparations for the procession Banerjee's son. The preparations for the procession itself, the Witness had begun at noon; and the procession itself, the Witness believes, was to begin about 4 P. M. Many had been collected, when the procession came. It was Shamachurn Kolis. The next person who came was Shamachurn Kolis. The next person who came was Shamachurn Ghose; and many others came afterwards. He saw Ghose; and many others came afterwards. He saw Ghose in his own house, Connuck's husband on next day, from his own house, Connuck's husband on next day, from his own house, Connuck's husband on his return from Burgeet, and Connuck crying.

Samsoondar Ghosh, another neighbour of the parties, who lives by selling milk and tyre, confirmed the testimony of the above Witness. He was passing on his way to see the procession when his attention was called by the disturbance at Chaundee's house, where the first one he saw was Gunganarrain. The Prisoner and Connuck then came out successively, in the manner already described. The Witness asked Odditchurn, "What violence is this, at poor people's houses, in the "middle of the day?" To which the Prisoner replied in the same terms stated by the former Witness. He did not hear Connuck speak to Chaundee or to any one; she went on to her house without stopping. The Witness did not see Chaundee at that time. The disturbance which first attracted the Witness's notice, was from the noise of people talking; he does not know who; he saw none whom he knew but Gunganarrain.

Debnarrain Dutt had died on the day in question at Kisno Dutt's, the father of Gunganarrain, and was going out with the latter to see the procession, when he suddenly heard a person crying from Chaundee's house "Boppere! mahre! I am dying; father! mother!" and the like. This was uttered in a loud voice, and was like the cry of one in difficulty or pain. The Witness then proceeded to detail the succeeding circumstances, nearly in the terms of Gunganarrain's statement. He saw Connuck all the way, as she went from Chaundee's to her own house; and did not hear her speak to any one. A number of the women of the neighbourhood had by that time collected in the compound. The houses there were in close together, that, the water from the roof of one used to fall on that of the other.

Mr. Lewis Namely, Clerk at the Police Office, being sworn, deposed; that, he recorded on by Mr. Fergusson as interpreter on the occasion in question, when the prosecutrix preferred her complaint. She was first asked, is she knew Odditchurn; to which she replied, that she did not. But, on the Prisoners being afterwards pointed out to her, and the prosecutrix asked who that was, she replied, "Odit Baboo."

Mr. Namely's statement was confirmed by a reference to the written deposition, which was proved by the Examination of Mr. Fergusson.

The Prisoner being called on for his defence, said, "The Witnesses who have appeared, have each of "them received 50 Rupees. I have Witnesses to "prove, that they have given false evidence; but my "Witnesses are not here,—they have all fled."

The Chief Justice then proceeded to charge the Jury, commencing his address nearly in the following terms.

"*Gentlemen of the Jury.*

"This is a case, which calls for your most serious and "deliberate attention; not only because the offence, "with which the Prisoner at the bar stands charged, is "capital by our law, but because it is a crime which, "if perpetrated, must in all human probability have "been perpetrated, in the presence of two persons "only, one of whom is the accused and the other the "accuser. Therefore every such charge is more or less "liable to this objection; either that it may have been "fabricated in its origin, such fabrication being from "the nature of the evidence peculiarly difficult of de-"tection; or, if such be not the first intention, that "that it may have been a subsequent invention, intended as a cloak to incontinence, the device of an "abandoned woman; who having gratified her own "passions, and afraid of the consequences of a discov-"ery, suddenly turns round, and charges the man with "a Rape. On the other hand, where the evidence is "so clear and conclusive as to stand above all these ex-"ceptions, I know not in the catalogue of human of-"fences, a crime of greater atrocity, or which more "calls for the interposition of the laws; for, if mo-"dest women are not to be protected from outrages of "this nature, we should not be living in a civilized "society. It is therefore a most serious offence, which "you have to try; and there are besides circumstances "in this case, which I think, call for your particular "attention."

His Lordship then proceeded to recapitulate the evidence, beginning with that of the woman. The Court, he observed, had been particular in their questions as to the situation of the adjoining houses; because, if the scene of this violence was surrounded by dwellings, especially made of straw, and if the inhabitants were at home at the time, it would have been a strange thing had such circumstances passed, without the cries of the woman being heard by the neighbourhood. And it was a fair observation to make on behalf of the prisoner, that this certainly was an odd place to chuse for the perpetration of such a crime. But if from the evidence it clearly appeared, that the facts did take place, and that cries were uttered and yet were not heard, it was in vain to say, that the circumstances did not favor that privacy, which was generally sought for in the commission of similar offences.

On the circumstance of Connuck's not having communicated to her husband or relations, the proposals which Chaundee and Kema had previously made to her but which she rejected, his Lordship observed, that, no doubt, in our society it would be accounted a strange thing and would not tell in favor of the Witness. But here, among the Natives of this country, he believed, the matter would not be considered exactly in the same light. She might be afraid of making the disclosure,—that she apprehended ill-treatment from her husband, and was ashamed to speak of it to others. The Jury would give such weig t, however, to the circumstance of her silence, as, from their acquaintance with the manners and sentiments of the Natives, it might appear to them to deserve. One thing, he thought, was clear, that it was not entitled to the same weight, as if in the case of a European woman.

With respect to the circumstances of the Rape, the Jury had heard them from the Witness; and it was not necessary for his Lordship, to repeat them, nor to observe on them further than this, that, if they believed the evidence, the crime had been perpetrated. The seeming inconsistency in that part of her statement, in which she says, that, before she came out of the house, "all the neighbours knew it," was explained by the conversation with Odditchurn, related by the other Witnesses. The neighbours were then all collected about the door; and it appeared, that what had happened was in fact perfectly known among them. And the manner of Odditchurn's coming out, as stated by the other Witnesses, corresponded with and corroborated the woman's evidence. His Lordship then concluded, his summary of Connuck's testimony, by noticing two other very material parts of it, among many, in which her statement was confirmed by that of the others; shewing, first, from the concurrence of Gunganarrain's narrative, that this story of the plate was not cooked up for the occasion, and secondly, shewing, that she did cry out, and what she cried, that she uttered words according to the description of one Witness, as from one in distress or suffering pain.

In commenting on Gunganarrain's testimony, the Chief Justice observed, that the object of the enquiry as to what became of Chaundee and Kema, was pretty plain; for, if the story told by the Witness was to be believed, there could be no doubt at all, but that they were accomplices in the crime, and it seemed rather extraordinary that they should have staid in their houses for six or seven days after the alarm was raised. But this was explained. It turned out, that the parties had mistaken their course, and applyed in the first instance to one of the Judges, who had referred them to the Magistrates, and very properly so, for the less the matter was before the Kond of went was to come before them at the Court House, or in the Court of Requests. It was probably, however, not till after the complaint came before the Magistrates, and an enquiry was set on foot, that these people became alarmed and absconded. This, his Lordship observed in continuation, was the whole of Gunganarrain's testimony; and, if the Jury believed it, every part of it was very material, because it proved, that Connuck had cried out. His Lordship owned, that he always attended to such a circumstance with very vigilant suspicion; and that, at one time in the course of the evidence on this occasion, he thought, that the woman might have heard the Kaid's voice, and thinking that she was found out, might have attempted to give this turn to her business. To cries at such a time and under such circumstances, no Jury would be disposed to pay attention. But they were told by Gunganarrain, that he was the first man who came, that he was attracted to the spot by her cries, and that he is the very Kaid of Wazm she speaks. Her cries therefore were free from all the suspicion, which would have attached to them, had they been uttered after she was discovered.

His Lordship next adverted to the proof of the Prisoner's ill nuits, which was placed beyond all doubt both by this and the succeeding Witness. In comment ting on the evidence of Debnarrain, who was an old man, and appeared to give his testimony in a very respectable manner, his Lordship thought, it would not be going too far, to press on the observation of the Jury, the manner in which the man came out of the house, not by the door, but by cutting the strings and forcing himself through the matter. Why he should have been so precipitate and eager to escape, if he was only with a woman whom he had paid, was for the Jury to consider. It was in the middle of the day however, and with a married woman, and for these reasons he might be ashamed or afraid of detection.—Lastly, his Lordship adverted to the very variance, which at first had appeared between the testimony given by the woman before the Magistrate and that which she gave here, but which was explained by a subsequent part of the deposition, and in the opinion of the other Judges as well as his Lordship left no material contradiction to be accounted for. The deposition was however laid on the table, and the Jury would make such use of it as they should think fit.

His Lordship then concluded in a very impressive charge, with a summary view of the main features of the case, and of the principles on which the Jury were to decide it. He then committed it into their hands, confident that they would deal with it according to its importance.

The Chief Justice having concluded, Sir John Royds offered a few observations in consequence of objections to some parts of the evidence, and which had not been stated in the charge having occurred to one of the judges. One of these points related to the time at which the cries were uttered; but on this head, he thought there was quite sufficient evidence for the Jury to consider. Another subject for observation, was the indifference shewn by the prosecutrix, in giving her evidence. In this however, taking in relation to the general manner of the people, there was nothing, he thought, to impeach her character or discredit her story.

Sir William Burroughs entirely concurred, as every man of common feeling must do, in all that had been said with respect to the atrocity of the crime charged against the Prisoner. It was undoubtedly one of the most heinous offences, that man could commit. But, in all cases where the life of a man was at stake, it was the duty of every judge not to omit any observation on the evidence, however inconclusive, which might occur to his mind. His Lordship therefore felt it to be his duty, to offer a few remarks on the present case. And first, he took it to be quite clear in point of law, that, if the woman was at any time assenting to the act of the Prisoner, in a case of this nature, no subsequent pain or grief, however poignant, would be of the least avail to sustain a charge of Rape. To that end, it must be proved, that she was compelled to yield by absolute brutal violence. It was therefore for the Jury to consider, whether they could take it upon themselves to say on their oaths, that there was no assent at the time on the part of the prosecutrix in this case. If they had any doubts on that head, they must acquit the Prisoner; for they could not take away the life of a man on evidence that was not to their minds satisfactory and conclusive.

His Lordship then proceeded to apply the above observations, to the circumstances of the story as detailed by the Witness. He particularly called the attention of the Jury, to the statement of a conversation between the prosecutrix and the Prisoner, when she first seized her; at which time she of course might have cried out had she so chosen, but did not cry out;—there was no "boppere!" no "mahre!" No cries are heard, until after all was over. His Lordship also pointed out another interval, during which, from circumstances detailed in the evidence, it was manifest that her mouth could not have been stopped by the man's hand, and consequently that she could have cried out, had she been so disposed. But she had been expressly questioned to that point, and acknowledged, that she did not cry out at that time,—she only wept.

His Lordship next adverted to the total want of sensibility evinced by the prosecutrix in giving her evidence, which she appeared to do, with as little shame or emotion, as if she had been relating any other the most decent story, or the least connected with herself. This observation his Lordship had thought it his duty to make, not as affecting the credit of the Witnesses' testimony, but as going to the main question at issue,—Did she resist, or not? And her demeanour in Court certainly did appear to him, indicative of a state and temper of mind, from which, coupled with the circumstances of her story above noticed, one might fairly be led to conclude, that there was not that resistance on her part, necessary to constitute the offence, with which the Prisoner was charged.

After these observations, which we regret that our time and limits permit us so imperfectly to detail the Jury retired, and, after some time, returned into Court, with a verdict of "Guilty."

MONDAY, THE 5TH JULY, 1813.

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ADJOURNED SESSIONS.

SENTENCES.

This day the several Prisoners who have been found guilty during the present Sessions, were brought up to receive the sentences of the Law. The first called was—

AMBROSE VICTORY.

His Lordship the Chief Justice passed sentence on this man in nearly the following words:

"You have been convicted of a Grand Larceny in selling a Buggy. The mode you adopted for obtaining possession of it, was, by telling a lie; you said you were deputed by a person named Walker to make the purchase, while the fact was, you were never so employed. Instead of delivering it to this man, you instantly carried it to an Auction, where you sold that for Fifty Rupees for which you agreed to pay 200 Rupees. By this transaction it is clear you meant to steal the Carriage, and for which crime you must be transported to Prince of Wales Island for seven years."

GHOLAM HOSYN,

"Except that you stole Shawls instead of a Buggy, and that the Shawls were of much greater value; your crime is of the same description as that of Ambrose Victory. You effected your purpose by fraud and lies, which in my opinion more aggravates the offence. Common care will protect men from common thieves. Locks and Bolts will secure their property by night, and servants by day; but no man can be protected from falsehood and fraud. Your crime is much aggravated by your condition in life; you are a Vakeel in one of the provincial Courts, where you ought to have learnt to practise justice."—"Sentenced to be transported for seven years".

Mr. William Black was then brought to the bar, Mr. Strettel rose and offered to the Court some mitigating circumstances in behalf of his client. The learned Counsel endeavoured to shew that the challenge was occasioned solely by Mr. Brightman's behaviour to the Defendant, and his unjust conduct in regard to the deposit, requiring Mr. Black to give a receipt for goods not delivered. The affidavit produced by the Advocate General recited two letters, one from Mr. Graham in behalf of his friend Mr. Black, and the other from Mr. Brightman's Attorney. Mr. Graham's letter stated, (of the begin ing of June) that it appearing desirable to the friends of all parties, an accommodation of the quarrel respecting the deposit, he offered on the part of his friend, that Mr. Black should appoint Arbitrators, and in the opinion of the other Judges as well as his Lordship left no material contradiction to be accounted for. The deposition was however laid on the table, and the Jury would make such use of it as they should think fit.

His Lordship then concluded in a very impressive charge, with a summary view of the main features of the case, and of the principles on which the Jury were to decide it. He then committed it into their hands, confident that they would deal with it according to its importance.

The Chief Justice having concluded, Sir John Royds offered a few observations in consequence of objections to some parts of the evidence, and which had not been stated in the charge having occurred to one of the judges. One of these points related to the time at which the cries were uttered; but on this head, he thought there was quite sufficient evidence for the Jury to consider. Another subject for observation, was the indifference shewn by the prosecutrix, in giving her evidence. In this however, taking in relation to the general manner of the people, there was nothing, he thought, to impeach her character or discredit her story.

Sir William Burroughs entirely concurred, as every man of common feeling must do, in all that had been said with respect to the atrocity of the crime charged against the Prisoner. It was undoubtedly one of the most heinous offences, that man could commit. But, in all cases where the life of a man was at stake, it was the duty of every judge not to omit any observation on the evidence, however inconclusive, which might occur to his mind. His Lordship therefore felt it to be his duty, to offer a few remarks on the present case. And first, he took it to be quite clear in point of law, that, if the woman was at any time assenting to the act of the Prisoner, in a case of this nature, no subsequent pain or grief, however poignant, would be of the least avail to sustain a charge of Rape. To that end, it must be proved, that she was compelled to yield by absolute brutal violence. It was therefore for the Jury to consider, whether they could take it upon themselves to say on their oaths, that there was no assent at the time on the part of the prosecutrix in this case. If they had any doubts on that head, they must acquit the Prisoner; for they could not take away the life of a man on evidence that was not to their minds satisfactory and conclusive.

His Lordship then proceeded to apply the above observations, to the circumstances of the story as detailed by the Witness. He particularly called the attention of the Jury, to the statement of a conversation between the prosecutrix and the Prisoner, when she first seized her; at which time she of course might have cried out had she so chosen, but did not cry out;—there was no "boppere!" no "mahre!" No cries are heard, until after all was over. His Lordship also pointed out another interval, during which, from circumstances detailed in the evidence, it was manifest that her mouth could not have been stopped by the man's hand, and consequently that she could have cried out, had she been so disposed. But she had been expressly questioned to that point, and acknowledged, that she did not cry out at that time,—she only wept.

His Lordship next adverted to the total want of sensibility evinced by the prosecutrix in giving her evidence, which she appeared to do, with as little shame or emotion, as if she had been relating any other the most decent story, or the least connected with herself. This observation his Lordship had thought it his duty to make, not as affecting the credit of the Witnesses' testimony, but as going to the main question at issue,—Did she resist, or not? And her demeanour in Court certainly did appear to him, indicative of a state and temper of mind, from which, coupled with the circumstances of her story above noticed, one might fairly be led to conclude, that there was not that resistance on her part, necessary to constitute the offence, with which the Prisoner was charged.

After these observations, which we regret that our time and limits permit us so imperfectly to detail the Jury retired, and, after some time, returned into Court, with a verdict of "Guilty."

MONDAY, THE 5TH JULY, 1813.

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ADJOURNED SESSIONS.

SENTENCES.

This day the several Prisoners who have been found guilty during the present Sessions, were brought up to receive the sentences of the Law. The first called was—

AMBROSE VICTORY.

His Lordship the Chief Justice passed sentence on this man in nearly the following words:

"You have been convicted of a Grand Larceny in selling a Buggy. The mode you adopted for obtaining possession of it, was, by telling a lie; you said you were deputed by a person named Walker to make the purchase, while the fact was, you were never so employed. Instead of delivering it to this man, you instantly carried it to an Auction, where you sold that for Fifty Rupees for which you agreed to pay 200 Rupees. By this transaction it is clear you meant to steal the Carriage, and for which crime you must be transported to Prince of Wales Island for seven years."

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Mr. William Black was then brought to the bar, Mr. Strettel rose and offered to the Court some mitigating circumstances in behalf of his client. The learned Counsel endeavoured to shew that the challenge was occasioned solely by Mr. Brightman's behaviour to the Defendant, and his unjust conduct in regard to the deposit, requiring Mr. Black to give a receipt for goods not delivered. The affidavit produced by the Advocate General recited two letters, one from Mr. Graham in behalf of his friend Mr. Black, and the other from Mr. Brightman's Attorney. Mr. Graham's letter stated, (of the begin ing of June) that it appearing desirable to the friends of all parties, an accommodation of the quarrel respecting the deposit, he offered on the part of his friend, that Mr. Black should appoint Arbitrators. The answer to this proposal was, that Mr. Brightman had directed his Attorney to inform him, all proceedings would be stopped on Mr. Black's agreeing to pay the law expences incurred by the Prosecutor, and making a handsome donation to some public charity. To these terms Mr. Black had not replied, because the learned Counsel informed the Court, that sum required was not stated, and Mr. Black could not afford to be plundered. Mr. Strettel urged in behalf of his client, that a long imprisonment would be even still more injurious than a heavy fine, and that Mr. Black desired rather the latter mode of atonement than the former. Much interlocutory matter here ensued; Sir William Burroughs the Judge before whom the prosecution was tried, recited to the Court the leading features of the case. Mr. Fergusson addressed their Lordships, and expressed his surprise at the injudicious attempt on the part of the Defendant. The learned Counsel was induced to trespass on their Lordships' attention in behalf of his client, on whose character the Defendant had, by the present motion, attempted to cast a slur. It had been decided that the matter, of the deposit had originated and grew out of the Contract as to the Agency, and the Letters Mr. Fergusson expressed his surprise that these should be offered as any indication of penitence in Mr. Black, since the atonement had been proffered many days posterior to the offence (the challenge being sent on the 14th of May) and immediately before the commencement of the Sessions.

Sir Henry Russell then addressed Mr. Black, observing that the affidavit had been extremely injurious to his cause, it left out every thing that it ought to have contained, and included every thing which could give offence. His Lordship added, it was not going too far to say, that the affidavit conveyed fresh insult to Mr. Brightman. After commenting in severe terms on the conduct of the offender, the more deserving reproof and punishment as addressed to the Prosecutor in his troublesome and responsible office of arbitrator; and observing that it was important Prisoner could be allowed to estimate the nature and extent of his atonement, concluded by passing sentence,

Mr. Black was adjudged to be imprisoned in the Common Jail of Calcutta for Six Calendar Months, and to pay a fine to the King of One Hundred Rupees.

The Chief Justice then addressed

OMAR CHUNDR DUTT,

"You have been guilty of ravishing the wife of another man, the greatest crime a man can commit against human society, murder alone excepts. Were such a crime to go unpunished, the state of man would be worse than that of the brutes. Brutes defend their mates even to the loss of Life, and if the law did not defend the chastity of women, men would be driven to the same dire necessity, and the community covered with blood and murder. Or, if they submitted quietly to such an outrage, their state though scarce less horrible, would be more degrading, and all the ties of relationship and affection of human life would be confounded; those claims upon man which call forth the best energies of the human mind, would be removed, and he would be left without a being to be kind to. A more degrading state cannot be described. To prevent such consequences, our law has interfered and punishes the violater with death.

"As to your particular case, it is attended with some circumstances of aggravation, and I am glad to say some circumstances of a mitigating nature.

"The circumstances of aggravation are, that this unfortunate woman was inveigled by two wicked woman into a house, where you were concealed, a person whom she never saw in her life; and when the victim was lured into your toils, you accomplished your crime. It has been represented to all the Judges since your conviction, that the woman was of very indifferent character. Besides that, we cannot take any thing of this nature into consideration. If she were a prostitute, why all this machinery? Why the dark room? You had sufficient time to prove such circumstances in your defence; but no such defence was attempted or suggested by your Counsel. I have much greater satisfaction in resorting to the circumstances of mitigation to which I alluded. It appears, that beyond the act of violation you committed no injury; you made use of no weapon. This is a particular in your case, which the Judges hope they may hold of, and be just fied by committing your punishment from death to transportation."

Sentence of Death was then passed on the Prisoner pro formâ, and he was remanded to the Jail.

Gour Mohun Shah, Ramchurn Shah and Cassenath Shah were then brought to the Bar. His Lordship, the Chief Justice, thus addressed them,

"You have been found guilty of a Misdemeanour of the most aggravated kind I ever heard proved in a Court of Law. A Misdemeanour too, which had like to have terminated in the murder of one man and did render another a cripple for life: one of the parties was a Peon ordered to serve you with a Summons to attend in the Court of Requests. He behaved with the utmost propriety, he merely touched you. On which you called six other persons to your assistance and dragged the man into your house where you beat him violently. You said the man had served you with a Summons, and called to a woman to bring knife; she prudently refusing you, you compelled her with threats and abuse to bring it, and with this weapon you were on the point of striking the Peon when a neighbour interfered to prevent you; that unfortunate man was thrown from the balcony and broke his hip; he was taken to the Hospital and will remain a cripple for life.

"You, Gour Mohun, as well as the principal and was the author of all this. You, Ramchurn pushed the man down into the Court and caused the accident which happened. As for the last Cassenath, (the son of one of the prisoners) he appears to have interfered only on your orders, but even a son must not obey unlawful orders. However the Court will consider his youth and station and lessen his punishment. There are two Indictments on which you are found guilty; one on the prosecution of the Government of the Country in defence of it's own Court.

"The Sentence which the Court passes on you for the first indictment is, that you Gour Mohun, be confined in one common jail of Coolcutta for the space of two years, to pay a fine of twenty rupees to the King, and at the expiration of that period find security for your good behaviour for five years—yourself in 200 Rs. and two securities in 100 each."

The Sentence of Ramchurn was, to be imprisoned one year, pay the same fine, and find the same security as above.

Cassenath was sentenced to be imprisoned for three months, and fined One Rupee.

On the second indictment Gourmohun was sentenced to one year's imprisonment, at the expiration of the former term, and fined One Rupee—Ramchurn the same.

Gour Mohun Sour and Ram mohun Soor were indicted for grand larceny, in stealing Pearls, valued at 800 Sa. and a Diamond Ring. It appeared on the evidence of Bukhtawar Singh, a jewel broker, who lives in the Tolla Bazar, that on the 18th of June last, the prisoner Gour Mohun, who is in the employ of an opulent native Goldsmith, and with whom he has been acquainted for four months, came to his house in the morning and represented that a Lady, residing in the Government House was desirous of purchasing some valuable Pearls the deponent went immediately, accompanied by Jowahir Sing, who is also a jewel broker, and carried with them a bundle of Pearls, valued at 7,800 Sa. Rs. the property of several native merchants named in the indictment. Gourmohun led them to the western gate of the Government House opposite the Treasury, and desired them to wait, as the sentinel would not allow them to pass. He shortly after returned, accompanied by the other prisoner Rammohun, whom he introduced saying "this is the Lady's Sircar, give him the Pearls." The Broker gave them to Gourmohun, saying he was unacquainted with the Ladies, they both went into the Government House and returned in a quarter of an hour; Gourmohun said, the Lady has approved of the Pearls, she will send for Mr. Hamilton the jeweller, who will ascertain their price, and you will have them returned to you to-morrow morning; on which the Jewel Brokers returned home. The next day Bukhtawar Singh waited exceeding in expectation that Gourmohun would return with the Pearls. The following day he consoled himself by reflecting that as it was Sunday, the Lady was perhaps not visible, and being a Hindoo festival, Gour-Mohun might be absent from town. On Monday morning Bukhtawar Sing went in search of the Prisoner, and met him going from his house to bathe; he desired him to return the Pearls, or pay the money. Gourmohun replied, "in the afternoon I will return them;" Bukhtawar went home, and my master has sent me on an errand." The Broker having some business at the Bank, enquired of Neel Munee Babno whether a person, named Ram Mohun was employed at the Government House; no one had heard of such a person; he then suspected the theft, and went in search of Gour-mohun, whom he found returning to his home; the Broker asked him to the T,hana where he denied any knowledge of the affair.

Jowahir Sing, the other broker, corroborated this testimony.

The T,hanadar of the 18th division deposed, that he knows the other Prisoner, whom he apprehended on the Wednesday following, at the house of a prostitute, between 11 and 12 o'clock at night. On being apprehended, he said, he knew nothing about the Pearls. When in confinement, he asserted, he had returned them.

The two women, at whose house the Prisoner Ram mohun was taken, deposed, that he had visited them on the Monday, and shewn them the Pearls and Ring, which he said were valued at 5000 Sa. Rs. and intrusted to him by a merchant for sale.

The first Witness called by the Prisoners in their defence, contrarily, they had given the Pearls, for which they had given a receipt; but had since returned them and were in possession of the receipt.

The first Witness they called to prove, that he had seen them return the Pearls to the Brokers, denied any knowledge of the transaction.

Two other Witnesses declared they had signed a receipt produced by the Prisoners in Court, which purpo ted to be receipt given to Bukhtawar Sing for 39 strings of Pearls and one Ring, valued at 7,750 Rs. and agreeing to return the same in three days if not sold. The Witnesses swore to their signatures and stated, that the receipt was given to two men, who from their appearance, they judged to be natives from the Upper Provinces; and on being confronted with the Jewel brokers, they said, these were not the men. Another Witness was called to prove the return of the Pearls, but he replied in the negative to every question he was asked.

Sir John Royds, in addressing the Jury, shortly observed on the nature of the case. His Lordship said, the only difficulty which occurred to him was, how such persons as the Prisoners could have been entrusted with property of such value, that however might partly be accounted for, by the delusion practised on the brokers in bringing them to the Government House. The testimonies of the Witnesses produced on the defence, must be fatal to the Prisoners.

The Jury immediately returned a verdict—Guilty; and his Lordship sentenced them to be transported to Prince of Wales Island for Seven Years.

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SOUTH AMERICA.

BUENOS AYRES, Sept. 18, 1812.

In consequence of a consultation on the part of the Committee of Accusation, on the question, whether the property of the persons lately executed, and who may have left heirs in the country, should be sequestrated, the Government on the 1st inst. came to the following determination:—

"The property of all the guilty, having children, shall be free; and also the shares to which their widows are legally entitled."

COMMERCE.

"The Government having taken into consideration the necessity of raising the funds requisite for covering the expences of the State, with the least possible burden to the people, have determined, that henceforward there shall be exacted a third part of the duties imposed on the provisional commerce with foreigners, by the Decree of the 24th December, 1811—that cargoes proceeding to the ports of Spain and its dependences shall be considered as foreign, and liable to the said duties: and that this measure shall only take effect on cargoes which shall arrive on our coasts posterior to the date of the present decree.

"Signed on the part of the Junta,

"FELICIANO ANTONIO CHICLANA, President.

"N COLAS DE HERRERA, Secretary."

"Buenos Ayres, Sept. 11, 1812.

With the view of affording to maritime commerce that protection which the general interests of the State demand, and of removing the obstacles which embarrass its progress, the Government has determined to publish the following:—

"All foreigners shall be allowed to sell to the best advantage their own cargoes, purchase return cargoes, and employ all the necessary means of loading their vessels; the obligation of consigning their goods to a native merchant, imposed by the first article of the Act of the 6th of November, 1811, being hereby annulled, and rendered of no effect."

"Signed on the part of the Junta,

"Feliciano Antonio Chiclana, President,

"Nicolas De Herrera, Secretary."

"Buenos Ayres, Sept. 14, 1812."

EXTRACT FROM SURINAM GAZETTE OF THE 13TH OF OCTOBER, 1812.

"Paramaribo, Oct. 12, 1812.

"Yesterday afternoon, at half-past twelve, died here Jurrien Francois Frederici: in his life time, Major-General in the service of the General States of Holland, Ex-Governor and Commander in Chief over the following of Surinam, &c.; aged 61 years. His body was buried this morning, at ten o'clock, in a most solemn manner. The garrison of Fort Z landia, commanded by Colonel Sir John Wardlaw, opened the funeral procession, followed by a detachment of the Colonial Black Chasseurs; then followed the body, carried by twelve soldiers, and accompanied by four Members of the Court of Policy and Criminal Justice, and four military Staff Officers; immediately after the body, the members of the family and friends of the deceased followed in full mourning. His Excellency Governor Pierre Bonhaan, with his Staff, and the respective Courts, Civil Officers, and Colleges, according to their rank, succeeded; and lastly, a great number of the most respectable inhabitants of this colony.

"When the funeral procession was passing through Gracie-street to the church-yard, minute guns were fired from the fort Z elandia, and when arrived there, the body was put into the grave with much solemnity, and the garrison, just within the church-yard, fired three vollies. The funeral procession then returned to the house of the deceased in the same order. Nothing evinces more the general esteem which every class of inhabitants paid to the deceased, than the numerous concourse of spectators who attended, and the general sorrow manifested on this awful occasion."

ACTION WITH THE INDIANS.

Extract of a letter from Governor Harrison to The Secretary of War, dated Head-quarters, Near the Prophet's Town, September 8, 1812.

Sir—I have the honour to inform you, that the dawn of yesterday terminated an action between the troops under my command, and the whole of the Prophet's force. Their precipitate retreat, leaving a number of the warriors dead on the field, and the subsequent abandonment of their town (which was partially fortified), attest for us a complete and decisive victory. It has, however, been dearly purchased. A number of brave and valuable men have fallen victims to their zeal for their country's service—The behaviour of the regulars and militia troops was such as would have done honour to veterans. I arrived at my present position (a mile from the town) on the evening of the 6th inst. a correspondence was immediately opened with the prophet, and there was every appearance of a successful termination of the expedition, without bloodshed. Indeed, there was an agreement for a suspension of hostilities, until a further communication should take place on the next day. Contrary however, to this engagement, he attacked me at half-past four o'clock in the morning, so suddenly, that the Indians were in the camp before many of the men could get of their tents. A little confusion for a short time prevailed, but, aided by the great exertions of the officers, I was soon enabled to form the men in order. The companies which were hard pressed were supported, several successful charges made, and, about day-light, the enemy were finally put to flight. Our killed and wounded amount to 179, of these 42 are now dead.

I have not been able to ascertain the number of Indians in the action, it must, however, have been considerable.

The principal chief of those Potawatamies who have joined the Prophet, is wounded, and in our possession. I have taken care of him, and shall send him, back to his tribe. At a more leisure moment I shall do myself the honour to transmit a more particular account of the action, and of our previous movements, and am, with the greatest respect, Sir, your humble servant,

W. H. HARRISON.

AMERICA.

INDIAN WAR.

FRANKFORT, (KEN.) Nov. 7, 1812

LETTER FROM MAJOR-GENERAL HOPKINS TO HIS EXCELLENCY GOVERNOR SHELBY, OF KENTUCKY, DATED FORT HARRISON, OCTOBER 6, 1812.

"My Dear Sir,—The expedition of the mounted riflemen has terminated. The Wabash was recrossed yesterday, and the whole corps are on their way to Busserron, where the Adjutant-General will attend in order to have them properly mustered and discharged, and where their horses may get forage during the delay necessary for this object.

"Yes, Sir, this army has returned without hardly obtaining a sight of an enemy. A simple narrative of facts, as they occurred, will best explain the reasons that have led to this state of things.

"The army having finished crossing the Wabash on the 14th inst. marched about three miles and encamped, I here requested the attendance of the General and Field Officers and Captains, to whom I imparted the objects of the expedition, and the advantages that might result from the fulfilment of them. The nearest Kickapoo villages were from 80 to 100 miles distant, and Peoria not more than 160. By breaking up these, or as many as our resources would permit, we would be rendering a service to all the territories. That, from their numbers, this tribe was more formidable than any other near us; and from their situation and hostility had it more in their power to do us mischief; of course, to chastise and destroy these would be rendering real benefit to our country.

"It was observed by some officers that they would meet the next morning, consult together, and report to me their opinion; desiring, at the same time, to be furnished with the person on whom I had relied for intelligence of the country.

"This Council was held, and all the intelligence furnished that had been requested; and I had a report highly favourable to the enterprize. This to me was more gratifying, as I had found as early as our encampment at Vincennes, discontents and murmurings that portended no wish to proceed further. At Busseron I found an evident increase of discontent, although no army was ever better or more amply supplied with rations and forage than at this place. At Fort Harrison, where we encamped on the 10th, and where we were well supplied with forage, &c. I found on the 12th and 13th many breaking off and returning, without applying to me for a discharge, and as far as I know, without any notification to their officers. Indeed, I have every reason to suppose the officers of every grade gave no countenance to such a procedure.

"Thinking myself now secure in the confidence of my brother officers and the army, we proceeded on our march early on the 15th, and continued it four days, our course near north in the prairie, until we came to an Indian house where some corn, &c. had been cultivated.

"The last day of our march to this place, I had been made acquainted with a return of that spirit of discontent that had, as I hoped subsided; and when I had ordered a halt, near sun-set, for the first time that day, on a fine piece of grass in the prairie to aid our horses, I was addressed in the most rude and dictatorial manner, requiring me immediately to resume my march, or his battalion would break from the army and return! This was a Major Singleton! I mention him in justice to the other officers of that grade. But, from every information, I began to fear the army waited but for a pretext to return! This was afforded the next day by our guides, who had thought they had discerned an Indian village on the side of a grove about ten miles from where we encamped on the fourth night of our march, and turned us about 6 or 8 miles out of our way.

"An almost universal discontent seemed to prevail, and we took our course in such a direction as we hoped would best atone for the error in the morning. About or after sun-set we came to a thin grove affording water; here we took up our camp; and about this time arose one of the most violent gusts of wind I ever remember to have seen, not proceeding from clouds. The Indians had set fire to the prairie which drove on us so furiously that we were compelled to fire around our camp to protect ourselves. This seems to have decided the army to return.

"I was informed of it so many ways, that early in the next morning (October 20) I requested the attendance of the General and Field Officers, and stated to them my apprehensions, the expectation of our country, the disgrace attending the measure, and the approbation of our own consciences. Against this, I stated the weary situation of our horses, and the want of provisions, which to me seemed only partial (six days having only passed since every part of the army as was believed, was furnished with ten days in bacon, beef, or bread-stuff, the reasons given for returning, I requested the Commandants of each regiment to convene the whole of the officers belonging to it, and to take fully the sense of the army on this measure, report to the Commandants of brigades, who were requested to report to me in writing adding, that if 500 volunteers would turn out, I would put myself at their head, and proceed in quest of the towns; and the balance of the army might retreat under the conduct of their officers in safety to Fort Harrison.

"In less than an hour the report was made almost unanimously to return. I then requested that I might dictate the course to be pursued that day only, which I pledged myself should not put them more than six miles out of the way, my object being to cover the reconnoiting parties I wished to send out for the discovery of the Indian towns. About this time the troops being, paraded, I put myself in front, took my course, and directed them to follow me; the columns moving off quite a contrary way; I sent Captain Taylor and Major Lee to apply to the officers leading the columns to turn them. They were told it was not in their power—the army had taken their course, and would pursue it. Discovering great confusion and disorder in the march, I threw myself in the rear, fearing an attack on those who were there from necessity, and continued in that position the whole day. The exhausted state of the horses, nor the hunger of the men, retarded this day's march; so swiftly was it prosecuted that it was long before the rear arrived at the encampment. The Generals Ray, Ramsay, and Allen, lent all their aid and authority in restoring our march to order, and so far succeeded as to bring on the whole with much less loss than I had learned; indeed, I have no reason to think we were either followed or menaced by an enemy.

"I think we marched at least 80 or 90 miles in the heart of the enemy's country: had he possessed a design to fight us, opportunities in abundance presented. So formidable was our appearance in the prairie, and in the country, as I am told, never trod before by hostile feet, that it must impress the bordering tribes with a sense of their danger. If it operates beneficially in this way, our labour will not be altogether in vain.

"I hope the expence attending this expedition will be found less than usual on such occasions. I have consulted economy in every instance; subject only to real necessity has been the expenditure: the forage has been the heaviest article.

"To the Officers commanding brigades, many of the Field Officers, Captains, &c. my thanks are due; many of the old Kentucky veterans, whose heads are frosted by time, are entitled to every confidence and praise their country can bestow. To the Adjutant Quarter-Master General, and the members of my own family, I feel indebted for ready, able, and manly support, in every instance.

"Let me here include our friend G Walker, our Judge-Advocate-General, who lived with me, took more than a common share of fatigue and toil, and who did all in his power to further the service in the corps of spies and guides, under the direction of Major Dubois, and the two companies of Kentucky and Gwatkin, who encamped near me, and were under my immediate orders. I experienced an alertness and attention highly honourable to them: these corps were ready to have gone on to execute any service; the whole amounted to about 120, and deserve honourable mention.

"Mr. Barron and Messrs. Lacelly and Le Plant, interpreters and guides, deserve well of me; I am certain we were not 20 miles from the India villages, when we were forced to retire, and I have many reasons to prove we were in the right way.

"I have myself (superadded to the mortification I felt at thus returning) been in a bad state of health, from first to last; and am now so weak as not to be able to keep myself on my horse.

"A violent diarrhœa has pursued me ten days past, and reduced me extremely low; I had resolved to continue with the line of march a little, if unable to ride There are yet many things of which I wish to write; they relate substantially to prospective operations. Soon again shall I have the honour to address your Excellency; in the mean time be assured of the perfect consideration and high regard of your obedient friend and servant

"SAMUEL HOPKINS.

"Governor Shelby."

GENERAL ORDERS.

"Head-Quarters, Franklinton, Nov. 19, 1812

"The Commanding General returns his thanks to Brigadier-General Tupper, and the corps which late advanced to the Miana Rapids for the perseverance, and, activity, and bravery with which they conducted themselves on that enterprize. A casual circumstance only, and one which neither the General or his men could control, prevented them from surprising and cutting to pieces a detachment of the enemy equal in numbers to their own. The measures of General Tupper appear to have been highly judicious, both in his advance to the enemy, and in resisting their attacks. The General is sorry, that any circumstance in an affair which reflects honour on almost the whole of the troops engaged in it, should deserve his censure; such, however, is merited, by the small detachment; which in the face of a positive order from their Commander, left their ranks to gather corn, and pursue a drove of hogs. But for this disorderly conduct, General Tupper would have brought back in safety his whole command. The Commander General feels, however, so much more to praise than blame in the conduct of General Tupper's detachment, that he derives no small satisfaction in exhibiting it as a worthy example of military spirit and enterprize to the rest of his army.

"NATH. F. ADAMS, Deputy-Adj.-General."

LIMA,—December 5.

"I have just time to inform you that General Smyth has had his troops several times under arms, and in his boats, in order to cross from Black Rock into Canada. On Monday last, he had them again in his boats, and ordered them back to camp. The troops were much incensed. He called a number of his Officers, and made them a statement, which satisfied them. Among them was General P. B. Porter. General Porter said that Gen Smyth had pledged his honour to go over on Tuesday morning and that all things were ready. On Tuesday the troops were accordingly ordered down to the river, and into the boats; but were soon ordered back again. Secret murmurs then broke out into loud complaints, threats, and lamentations. General P. B. Porter said publicly, that Smyth was a scoundrel and a traitor. He was at the Rock, and appointed to meet some of his Officers at twelve o'clock, at Landon's, to explain. On his way there, while riding along the beach, he (General Smyth) was fired at. The ball passed through the clothes of his Aide-de-Camp, who was by his side.

"The interview at Landon's was not satisfactory to his Officers. General Smyth had spoken to Landon for lodgings. Landon heard threats from soldiers in the streets, that they would commit violence upon his person that night, and tear down Landon's house. He then went to Smyth, and requested him to leave his house as being unsafe. The General left the house, went to his camp, double guards were set, and every precaution taken to prevent surprise. The threats were made by some of the distant volunteers. In the course of the evening, enquiries were repeatedly made for him by some suspicious persons, at his former lodgings. Nothing further occurred that night. It is now said by every one from head-quarters, that he is concealed somewhere, and dare not appear in public.

"The Volunteers who have been drawn out by his Proclamation are dismissed, and are continually passing here, much enraged at the noble Smyth, who was to lead them to victory or death. With them he is now considered as a traitor and a coward.

"From what motives General Smyth has acted, I know not; but I am confident that by omitting to go over, he has saved his army.

"The general opinion of those who are now on the return is, that General S. if found, will be torn to pieces. At any rate there will be no invasion of Canada from this quarter at present, unless by the Volunteers, which is talked of."

SAVANNAH, Nov. 10.—Within the last three or four days some serious disturbances have taken place between the American seamen and the crews of the French privateers La Vengeance and L' Agile (or La Francaise), which had been lying in this port for some time past.

On Wednesday night last, a quarrel originated, at a house in the upper part of the city, between some seamen and a party of the privateer's men. A rencounter ensued, in which three American sailors were stabbed, and their opponents much bruised by bludgeons. The three wounded seamen, we understand, are since dead; one of them, belonging to the brig Henry, Captain Fountain, from Philadelphia, named Taylor. The names of the others, or of the vessels to which they belonged, could not be ascertained.

The seamen, yesterday, became so exasperated, that they determined on being avenged by destroying the privateers. They accordingly embodied themselves last evening, and before the civil or military authority had the knowledge or opportunity of interfering in the transaction, set fire to L' Agile, and burnt her to the water's edge.

La Vengeance was then taken possession of by a detachment of the Savannah Volunteer Guards, conveyed to the upper part of the town, and remained in their custody until between eleven and twelve at night, when the seamen procured a lighter-boat, and a parcel of tar, and other combustibles, which were put into the boat, towed towards the vessel, and obliged the guard to abandon her for their own safety, as well as to avoid the painful task of firing on their fellow citizens. The fire soon communicated, and La Vengeance shared the same fate of L' Agile.

Previous to the assemblage of the seamen yesterday, several of the crews of the privateers had concealed themselves in a vacant store on Ancaux's wharf, where it seems they had some arms and ammunition deposited. On the seamen attempting to get on board the privateers, they were fired upon from the upper windows of the store. Captain Miller of the Champlin (New York Packet), was dangerously wounded, having one of his eyes shot out; he other much injured, bridge of his nose broken, and his life doubtful; a seamen wounded (since dead), and a coloured person wounded, were shot nearly at the same time and in like manner.

One of the privateers' crew was killed on the bluff yesterday, in the affray; and another died in the goal last night of his wounds. Several others, on both sides, are wounded, but we understand, not dangerously. Upwards of hundred of the rioters are now in goal.

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Monday, August 9, 1813. 72

This morning arrived the Honorable Company's Ships *General Stuart*, Capt. J. Jamieson, *Lord Melville*, Captain J. G. Crabb, *Hugh Inglis*, Captain J. Fairfax, *Huddart*, Captain W. Nesbitt, & *Warley*, Captain J. Collins, under convoy of His Majesty's Ship *Salsette*, J. Bowen, Esq. Captain, left England, the 25th March, 1813.

Passengers per General Stuart.

Mrs. Macleod, Mrs. Phillips, Miss J. Morton, Miss Blenkinsop, Miss Maxtone, Major D. Macleod, Captain Thomas Hall, Lieutenant Thomas Hyan, Lieut. A. Stock, Lieutenant M. J. Harris, Mr. R. W. Maxwell, Mr. J. T. Croft, Mr. R. Tate, Mr. M. Lyons, Mr. J. T. Anstey, Mr. D. Macleod, and Mr. J. Maxtone, Cadets.— Mr. George Gibson, Lord Moira's Groom.

Passengers per Hugh Inglis.

Mrs. Gowan, Mrs. Fraser, Miss Fraser, G. Gowan, Esq. Captain Thomas Fraser, Captain W. Pearse, Lieut. R. Jefferies, Captain C. Ferrier, Mr. J. Hutt, Mr. Cameron, Mr. George Ogilvie, Writer, Mr. A. Sinclair, Mr. R. Sewell, Cadets: Mr. Rose, Free Merchant, Mr. H. Gordon, Messrs. G. Bains and John Braddock, Gunpowder Manufacturers,—*for Madras.*

Mrs. Davison, Captain H. P. Davison, Captain Stanhope, Captain J. M. Roe, L. Barretto, Esq. Mr. Montague, and Mr. C. Penrose,—*for Bengal.*

Passengers per Huddart.

Mrs. Luxmoore, Miss H. Shakespear, Miss E. Shakespear, Major Forrestein, T. Luxmore, Esq. Mr. Saldwell, Mr. George Bowen, Mr. J. Healy, Mr. J. Nash, Mr. Warrand, Mr. Bushly, and Mr. Hudson.

No List of the Passengers by the *Warley* and *Lord Melville* had been received.

The China Fleet under convoy of the *Doris* frigate, parted company from the above fleet off Teneriffe.

The *Amelia*, frigate of 38 guns, Hon'ble Captain Irby, beat off two frigates under French colours, off the coast of South America.—The *Amelia* lost 130 men killed and wounded. The Captain and Lieutenant of Marines are severely wounded—the former it is feared mortally.—all the Lieutenants, and two Pursers are said to have been killed in the action, and that the Master assumed the command. An English gun-brig had been previously driven on shore by the enemy, and her officers, purser, and crew marched overland and joined the *Amelia* before the action.

No actions at Sea had taken place with the Americans since the capture of the *Java*.

Heads of News, 12th March, 1813

A Petition was presented to the House of Commons by the East India Company for a renewal of their Charter.—Petitions from all parts of the Country are presented against the renewal. Ministry have appeared disposed to grant the Public liberty to bring goods from *India* directly to certain ports in England, Scotland and Ireland, besides the port of London, and they have given notice that the propositions on the part of Government will be laid before the House next Friday.- Petitions from the Country as well as from certain descriptions of persons in London were presented in favor of the Renewal of the Charter.

Official advices from Russia mention the fall of Koningsburgh, Elbeng, Marienwarder, Marienberg, and the blockade of Dantzick.

Advices have been received of the friendly occupation of Berlin by the Russians, and of the junction of the Prussian forces under Gen. D'York, by order of their Sovereign, in carrying on the seige of Dantzick together with the Russians. It is also stated with the same confidence that Warsaw has been occupied by the Russians, in consequence of a capitulation concluded with the Commander of the Austrian Corps late under Prince Schwartzenberg, in virtue of which the Austrian possessions in Poland, are guaranteed to that Power.

It is understood that a Treaty of Peace and Amity with Denmark is far advanced and likely to be completed, but that His Danish Majesty is not inclined to take any part in the War against France—A person charged with an important pacific communication is arrived from Denmark. The French Ambassador at Sweden was ordered to depart the Kingdom in 24 hours.

Mr. Grattan's motion in the House of Commons for taking into consideration the Catholic Claims was carried by a majority of 40.

Lord Minto is created an English Earl by the Titles of Earl Minto and Viscount Melgund.

Bonaparte has accommodated all differences with the Pope.

Lord Wellington is at Freynada but no movement of any importance has occurred.

The Danes have called in their ships that were annoying our Trade, and have shut out of their ports all the French privateers.

Earl Moira would sail shortly in the Stirling Castle, Commodore Sir Home Popham. She sails a single Ship.

The Princess of Wales wrote a letter to the Prince complaining that the visits from her daughter which had been restricted to once a week were further restricted to once a fortnight, and according to appearances she apprehended [illegible] still less frequent, and that as such a treatment implied some misconduct on her part, she desired that a full investigation might be instituted into her whole behaviour ever since she entered this Country. The Prince submitted the case to his Counsel who reported their opinion, that the visits of the Princess and her Daughter should be subject to restriction. Mr. Cochrane Johnstone brought the matter before the House of Commons, and the discussion which took place ended in a compleat acquittal of the Princess.—Sir John and Lady Douglas were reprobated by Lord Castlereagh and Mr. Whitbread, in a most animated Speech in favor of the Princess, expressed his surprise at the Douglas's not being prosecuted as he conceived that their Crime was little short of Treason. Copies of the reports and letters are published in the News papers.

Died.—Joel Barlow, the American Minister to France—Countess Dowager of Chichester—Countess Carnarvon—Sir William Erskine—Richard Ramsbottom, Esq. late Member for New Windsor—Marquis of Buckingham—Countess of Portarlington, sister to the Marquis of Bute—Lord Heathfield, of Gibraltar—W. Hussey, Esq. many years Member for Salisbury—Viscount Cremorne—Colonel Alexander Wynch, of the East India Company's service—Lord Viscount Molesworth.

LONDON GAZETTE,—March 16.

FOREIGN OFFICE, March 16.

A Dispach of which the following is a copy, has been received by Viscount Castlereagh, his Majesty's Principal Secretary of State for Foreign Affairs, from his Excellency General Viscount Cathcart, K. T. his Majesty's Ambassador Extraordinary and Plenipotentiary to the Court of Russia, dated

St. Petersburgh, Feb. 6.

My Lord,

By the continuation of the journal of military operations from the 20th to the 28th of Jan. it appears, that on the 20th of Jan. Prince Schwartzenberg's head-quarters were at Pultusk, and his advanced posts, which had been drawn in from Suyacloff and Novogrodek, were established in Ostrolenka.

I have no details of the movements of General Sachen's column on the left, but I have reason to believe that it advanced near the line of the Bug upon Warsaw, observing Regnier's corps on the left bank of that river, which corps, in a former report, was stated to have formed a support to the right of the Austrian auxiliary force.

General Miloradowitch's column has continued to move from Augustoff by Radziloff & Little Plonk, in the direction of Hudek, a small village west of Novogrodek, meeting near Lomsa, with General Vassizchikoff's corps which had continued to follow the Austrian advanced posts; and this movement obliged the latter to retire to Ostrolenka.

The Field Marshal's column, with which the Emperor was present in person, moved from Ligne to Johannisberg, and from thence to Willenbourg, combining its movements so as to reach the last named place by the time General Miloradowitch's corps could arrive near Pyatnitz, on the 27th of January.

General Winzingerode, with a strong corps of light troops, formed an advanced-guard to both these columns, marching by Muschinitz upon Corchell, and covering the country round that place. These movements have driven in the advanced posts of the Austrians.

As the Russian army was expected again to move on the 30th, apparently in the direction of the Vistula, it seems probable that the Austrian corps will continue its march, and pass that river.

General Regnier was on the 19th at Okunieff, to the eastward of Warsaw.

The French head quarters being established at Posen, it is possible that Regnier, since that date, may have marched down the Vistula in that direction, passing behind the rear of the Austrians; but if he should have united with Prince Schwartzenberg, the reinforcement would not place their united force in a situation to resist the troops opposed to them.

Meanwhile the advanced corps on the right, which [illegible] the Elbing, from Marienbourg, Elbing, and Dorschau, have continued their operations, and have invested Dantzic; General Count Platoff's head-quarters being within a few English miles of that city, in a western direction. General Count Wittgenstein has resumed the command of the right column; & as part, at least, of the ordnance intended for the siege of Riga has been secured, it is probable his usual success may attend him in reducing Dantzic.

Count Michael Woronzow has succeeded in taking possession of Bromberg, with its valuable magazines on the left bank of the Vistula, between Thorn and Graudentz; and Admiral Teinchagoff is moving in that direction, with the remainder of the force under his command.

The garrison of Graudentz is exclusively Prussian; and it appears by these reports, that upon the next movement of the head-quarters, every thing on the right bank of the Vistula will be in the occupation of the Russian forces, except the garrisons of Graudentz and Thorn, no mention being made of any garrison left by the enemy at any other post on the Vistula.

I have the honour to be, &c.

(Signed) CATHCART.

LONDON—March 18.

Corunna Papers to the 3d inst. arrived yesterday. It seems certain that all the enemy's troops which can be spared from the service of the Peninsula, are on their return to France. The *Corunna Diary* positively states, that up to the 23d ult. 15,000 men had been sent off in that direction. Frequent convoys were also passing through Burgos, on their way to the frontiers.—Two companies of Spanish hussars had been surprised in Benevente, and them made prisoners.—When the p[illegible] the *Iris* and *Medusa* frigates, the *P[illegible]* and the *Queen Charlotte* packet, were Corunna.

*** *Our Ordinary Paper will be issued tomorrow afternoon.*

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