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WEEKLY ENTERTAINER.

For MONDAY, July 16, 1792.

*Some interesting Particulars respecting Tippoo Sultan, and
the Seat of the late War :*

[From Mr. Alexander Dalrymple's Oriental Repertory.]

M Y S O R E.

AT the time of the first war in this part of India, rendered memorable by the victories of Laurence, the Myforeans were rabble, and their chief, Hyder Alli, an unpractised soldier. But such are the mutations in human affairs, that a handful of British troops, then in the capacity of auxiliaries to the Nabob of Arcot, became, in the course of a few years after, the arbiters of empire in India; and the usurper, Hyder Ali, their most powerful and determined enemy! It is an unpleasant reflection, that a necessity should have existed, for a progressive increase of our military force in India. But it is a necessary consequence of our wars, to make better soldiers of those we contend with. An army of 7000 in the field established our power; 27,000 only support it.

The range of ascents, usually denominated ghauts, which presents a stupendous rampart towards the Carnatic, and a vast terrace towards Myfore, is so elevated as to influence the seasons as well as the military operations in both countries. The level of this terrace, supported by the ghauts, must necessarily rise as it extends westward, for all the rivers come from that quarter; the edge therefore of the table land fronting the Malabar coast is several hundred feet higher than the other, and on that

side it falls with so abrupt a descent, that it merits the term of a wall.

S E R I N G A P A T A M.

The island is surrounded by an intrenchment, and batteries, seemingly well constructed, raised to defend the passage of the river. The fort is large and irregular. Several out-works in the European stile are on the land side, but those parts washed by the river appear to be in the old Indian manner of fortification. It is surrounded by a double wall, and contains many handsome buildings. The rest of the island is taken up with some neat gardens, and an extensive pittah (or suburb) in the open parts of which, and on the glacis of the fort, Tippoo encamped part of his army; the rest were on the south side of the river. The island was so full of men and cattle, that shot thrown into it at random could not fail to do serious mischief.

T I P P O O S U L T A N.

He is about forty-four years of age, his constitution much impaired. He is five feet eight or nine inches high; now rather inclining to fat; there is much fire in his countenance; he wears whiskers, but no beard; is very active, and sometimes takes long walks. He has eleven children, of whom only two are married. His disposition is cruel, his temper passionate and revengeful. His policy has been ruinous to his revenues, and hurtful to his government.

He sometimes rises at seven o'clock, but more commonly at eight or nine. On halting days he washes and takes medicine; the barber then begins to shave him, during which the news-writer comes in with the letters, that have arrived by the tappauls, and relates the news of the several countries, as he has received it. The officer commanding his guard then comes in, and makes his report; after which the adjutants of corps come and make a report of their respective corps.

About twelve o'clock he goes to dinner, which is over in about an hour; he then holds his *darbar*, and transacts all business, civil and military, until five o'clock; he then gives out the parole, which he takes from the planets or signs of the zodiac, writing it himself in a book, which is deposited with his own guard; where the Adjutant-generals come and take it: After which he lies down, and sleeps about an hour, rises and makes his second meal. The Secretaries are then called in; they read the letters that have been received during the day,
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and he gives his orders for answering them; all this done, and the letters prepared for dispatch, about two or three in the morning he goes to rest.

On marching days when there is no immediate exigency, the army seldom moves before eight o'clock, after Tippoo has taken his breakfast; he goes in his palanquin, on the march, and if any thing particular occurs, he immediately mounts his horse.

ANECDOTES of MARSHAL LUCKNER.

AS this gentleman is a principal actor on the great political theatre of France at this moment, a few traits of his origin and character may be acceptable to our readers.

There was nothing in the original circumstances of Luckner's family that presented any omen of the distinguished part which fortune had ordained for him in the subsequent events of his life.

Luckner was by birth a Bavarian, his father was a brewer in very indifferent circumstances. Luckner himself chose a military life at a very juvenile period, and served among the Austrian forces as a common hussar. The assiduity, activity, and spirit, which were conspicuous in his conduct, attracted the notice of his superiors, and he was raised merely by the prevalence of his own merit to the rank of Captain from this subordinate and unpromising condition.

Peace being made in 1741, and the regiment disbanded, Luckner retired to Breda, where, as heroes are always susceptible of the tender passion, he conceived a violent attachment to the daughter of a vintner, whom he married; and having very little property of his own and obtaining no addition by his wife, lived some time upon scanty means. Low as his fortunes however were, he always seemed governed by a punctilious sense of the honour of a soldier, and maintained a character of unimpeached integrity.

About the year 1757, when this country was in strict alliance with the King of Prussia, Luckner went to Hanover, and tendered his services to Prince Ferdinand as a soldier of fortune. Ferdinand was not unacquainted with the military reputation of Luckner, or disposed to treat a man of acknowledged talents with neglect; he therefore willingly accepted his overtures. Under the protection of Ferdinand, Luckner raised a regiment of hussars, and conducted himself with so much pro-

priety and zeal upon all occasions, that he became a considerable favourite with Prince Ferdinand, who entrusted him with the command of 20,000 men, and the present Hereditary Duke of Brunswick was under his direction.

Luckner signalized his talents in many contests with the French, whom he, on all such occasions defeated. On a subsequent peace, he purchased an estate at Holstein with the profits of his appointments and martial enterprizes.

He was invited about the year 1763 to the French service, in which he was invested with the command of all the light troops, and preserving a laudable uniformity in his conduct, he was highly respected in France, and tempted to remain in that service, little, however, supposing, that amidst the strange revolutions which have happened in that country, it was possible that all order would be confounded, and himself raised to the dignity of Field Marshal and Commander in Chief of the French army.

The private life of Luckner has been distinguished for a partiality to the fair, as well as a disposition for convivial enjoyments. In his military character, it has been generally said of Luckner, that he was truly brave and honourable; and that when he commanded a small body, he was always successful; but that upon more important allotments his fortune was by no means proportionate.

Some Account of the hazardous Escape of eleven Convicts from the Settlement of Sydney Cove.

ON Saturday, June 30, 1792, James Martin, John Butcher, William Allen, Nathaniel Lilley, and Mary Briant, were brought up to the Public Office, in Bow-street, Westminster, from on board the Gorgon frigate, which arrived at Portsmouth on Monday, June 18, 1792.

The first evidence who was examined was Captain Edwards, who deposed that he left England, in the Pandora frigate of 20 guns, of which he was commander. On his arriving off the coast of New South Wales, she struck on a reef of rocks, and went to pieces; previous to which, they hoisted out their two boats, and taking what provisions they could save out of the wreck, committed themselves to the mercies of the sea; and after various hardships and fatigue, arrived at Timor, in the island of Batavia, on the 29th of August, 1791; the boat, which the rest of his crew embarked in, it is imagined went to
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the bottom, as they have heard no tidings of them since they left each other on the coast of New South Wales.

On his landing the Governor gave him to understand he had in custody upon the island, eight men convicts, one woman and two children, and suggested to him, as having escaped from the colony at Botany-Bay, and arrived in his territories in June, 1791, very much distressed, in an open six-oared boat: their narrative to him (the Governor) was, that they had been shipwrecked on board a vessel on the coast of New Holland, of which they were part of the crew, they daily expected in another boat.

On the 6th of October following, Captain Edwards took passage in a Dutch vessel from Batavia, to the Cape of Good Hope, having previously paid the Governor of Timor, the expences incurred by the maintenance and support of the convicts, whilst on the island, and taking them under his care to bring them to England. On his arrival at the Cape, he delivered them into the custody of Captain Parker, of the Gorgon man of war, then about to sail to England. The following died on their passage from Batavia to the Cape of Good Hope, viz. Samuel Bird, Wm. Marton, Wm. Briant, James Cox (this man fell overboard and perished), and two children belonging to the prisoner Mary Briant.

Mr. Bond then examined the respective prisoners.

The account they gave was, that seeing no chance of their ever regaining their liberty, or again visiting their native country, even after the expiration of the term for which they were transported, and being in great danger of starving—having at times but four ounces of flour, and four of salt beef, with a very small quantity of rice, allowed them per day, and one half that quantity, if, from illness, or other causes, they were unable to work—they chose rather to risk their lives on the sea than to starve in this desolate place, which being a barren sandy soil, and having no manure to enrich it, did not produce even half the quantity of grain that was sown on it—the cabbage tree and turnips being almost the only things that would grow there, and even the latter did not apple well. Fish of all sorts was very scarce, and the young kangaroos were almost the only fresh provisions of which they tasted, and even these very seldom; for the Governor had properly prohibited the prisoners or others from going up the country to shoot them, on account of the natives, who not only killed, but those to the northward of the settlement would eat the people, as appeared from the fate of Lieutenant Hill, of the Ceres, a promising young officer,

ficer, who was universally beloved and regretted, who was killed by the natives, and no remains of him were to be found: from the account of a girl and boy (natives) which the Governor afterwards seized, he was eat up—they declaring they had eat a part of him.

But to return.—These considerations determined them to attempt an escape, let the risk be what it might, and Briant was throughout the principal in this undertaking. A Dutch schooner, under the command of a Captain Smyth, having bought a small supply of provisions, Briant purchased a quadrant and compasses of the Captain for 15 dollars; (it should be noticed, that the convicts having no use for their money on the settlement, had all by them that they took out from this country;) and he procured the six-oared boat belonging to the vessel, with an old lug main-sail and fore-sail, but without any covering; and then communicated his success to the above four men, and to Samuel Bird, William Martin, and James Cox.

Captain Smyth gave Briant 100lb. weight of rice, and among them they bought of Robert Siddaway, a transport, who was appointed baker to the colony, 100lb. weight of flour, at the rate of 2s. 6d. and 1s. 6d. per pound, which, with 14lb. of pork, that they believe was given to Briant, by Captain Smyth, and 10 gallons of water, was all the provisions they had to undertake a voyage to Timor, which at the shortest was a run of 1300 miles, but by the course which they were forced to take, was upwards of 5000. This Captain also supplied them with two musquets, a small quantity of powder, and a few pieces of old lead.

Every thing now being ready, Briant acquainted his wife with his determination, and she resolved with her two infant children, to risque their lives with her husband; and at ten o'clock at night, on the 28th of March, 1791, these eleven wretched people embarked on board the six-oared boat.

To add to the horrors that were before them the wind was against them—the monsoon was now set in—they had five weeks incessant rain, out of the ten weeks all but one day which they were on their passage, and had not a dry thread on them; for all the clothes, except those they had on, which they had taken with them, they were forced to throw overboard, in order to lighten the boat. They were forced to keep along the coast, and occasionally to land, for the purpose of procuring fresh water; and on all these occasions the natives came towards them in a hostile manner, in great multitudes; then they discharged their musquets, loaded with powder only, and the natives immediately

mediately disappeared; but if they ever slept on shore, they were forced to keep a very strict watch.

In three degrees to the northward of Sydney Cove they found great quantities of remarkable fine coal. In lat. 26 and 27 they discovered a small island, which we do not find in any chart we have seen—it was uninhabited, and they here found a great quantity of turtles, some of which they dried, and took as much to sea with them as lasted ten days. Here in landing, their boat was swamped, and they had near lost her and their lives together; but Providence protected them, and they all landed safe, hawling their boat high and dry after them:—they were at one time eight days out of sight of land. To enumerate the sufferings of these poor creatures would shock the feelings of even the most obdurate.

On the 5th of June following, they landed at Cupang, a Dutch settlement on the island of Timor, where they told the Governor they had belonged to an English vessel, bound for New South Wales, which had been wrecked; they were here kindly treated.—What followed will be found by the testimony of Capt. Edwards.

These poor creatures spoke in very high terms of Governor Phillips, and added, that had they not been in danger of starving, and seen any probability of returning (at the expiration of their sentence) to England, they would not have escaped.

Capt. Edwards took all these poor creatures with him to Batavia, where Briant and his son Emanuel Briant died: from Batavia, he took a passage with them in a Dutch ship, called the Rambang, to the Cape of Good Hope.—In the passage Bird, Martin, and Cox died.—The survivors he delivered to Capt. Parker, of the Gorgon, and he brought them home, but in the passage Charlotte Briant died.—To the credit of Captains Edwards and Parker these ill-fated people were never treated as prisoners, but mustered with the crews of the vessels they were in.

The sufferings of these poor creatures almost drew tears from those who saw them, and heard their tale; and Mr. Bond declared, that in the course of his long practice, he never had a case before him which affected him so much; he lamented that he was obliged to do his duty by committing them to Newgate, but expressed his sincere wishes, that the sufferings they had undergone, and the evident signs of repentance that they had exhibited, might operate upon the Court, and induce it to discharge them: and in this wish we sincerely join them.

Mary

Mary Briant, about 28 years old, was convicted by the name of Broad, at the Exeter assizes, six years and a half ago, for a street robbery committed at Plymouth. William Briant was convicted at the same time at Bodmin, in Cornwall, for resisting the revenue officers, who attempted to seize some smuggled property he had, and sentenced to be transported for seven years.

James Martin, about 32 years of age, was convicted at the same assizes with Mary Briant, of stealing old lead and iron, weighing 20lb. the property of Lord Courtenay, and was sentenced to be transported for seven years.

Nathaniel Lilley, aged 39, was at the March assizes held at Bury St. Edmunds, five years back, capitally convicted.

John Butcher, 50 years of age, was convicted at Shrewsbury, five years ago, of stealing three small pigs, was sentenced to be transported for seven years.

William Allen, aged 55, was convicted at Norwich six years ago, of stealing twenty-nine handkerchiefs in the shop of Messrs. Lewis and Haywood, in that city, and sentenced to seven years transportation.

The ERROR of a GOOD FATHER:

A T A L E.

By M. MARMONTEL.

(Continued from Page 33.)

THE following day, the young man, while walking with me, took up the history of his flight, where his father had left off.

“Sir,” said he, “if my father has spoken to you of my childhood, you cannot be ignorant of my faults; my passions are naturally violent; my sensibility was put to severe trials; I could not keep it within bounds, and that was the source of my misfortunes. I had no longer a mother, and my father was every thing to me. I loved him to the bottom of my heart, and was jealous of his affection. My jealousy rendered me sad, impatient and gloomy; and my father, despairing of my amendment, removed me from his house. In this exile, where I stood in need of nothing, I was severely treated, and thinking I could never be more wretched, I made my escape. I had made an exchange of my coat for the dress of a young peasant, and,
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under this disguise, left the country. I trudged along the by-
paths during the night, taking care to avoid the villages, and
seeking some lone farm-house where a shepherd might be want-
ing. At length I found the object of my ambition in a soli-
tary hamlet between Fleury and Aumale.

In this free and quiet condition, with bread and milk in abun-
dance, sleeping on clean straw, and getting up at the dawn of
day to take the command of the docile animals I led forth to
feed, my situation would not have been so pitiable, if, to the re-
collection of my sorrows, the remembrance of a father had not
been joined, whom I figured to myself irritated, threatened, and
inexorable, and preparing chastisements for me as soon as I
should fall into his hands.

"At the expiration of a few months, this uneasiness wore
off, and I had the cruel assurance of being either forgotten or
abandoned. My affliction, though it then became more calm,
was but the deeper; the silence of the country, and the wilds which
were spread so wide around me, and over which I wandered,
serving only to plunge me farther in my gloomy melancholy.
Whenever I fixed my thoughts upon the abyss that separated
me from my father, and repeated to myself, 'I shall see him no
more,' I fell into the deepest despondency. My weak brain
would never have borne it, but for the pleasing source of di-
version I had brought with me; for, less an enemy to study
than to constraint, I had not been able to part with my favou-
rite book; Virgil and I were never asunder. The *Eclogues*
made me the associate of Tityrus and Moelibeus; and accord-
ingly, when I disguised myself, I had taken the name of Alexis.
The *Georgics* gave my new condition a degree of lustre in my
eyes: I there saw rural occupations honoured by the poet,
and I read him with a sentiment of pride.

"One day, when sitting at the foot of an old willow, after
going deeply into this pleasing study, I fell asleep, and during
my slumber was noticed by a person who happened to pass by.
It was a man who lived retired from the world, and whom just
resentment had rendered a misanthropist: in a word, it was
this very M. de Nelcour. He perceived a book open by the
side of a young shepherd. Astonished at this novelty, and de-
sirous to know what book it might be, he stooped down, and
found it to be Virgil. He would not wake me, but continuing
his walk, and loitering about the willow, he contrived to keep
me in sight, and stepped up to me as soon as I awoke."

"Young man," said he, "I have just seen something very
extraordinary lying beside you; an open book, which I find to

be Virgil ! Do you read Virgil ? And if such has been your education, by what misfortune are you reduced to the condition of a shepherd ?”

“ It is not impossible,” said I, “ that an orphan, well brought up, should be reduced to poverty : such a one am I.” He then desired to know what place I came from, what was my name, and what my family ? “ My name is Alexis,” said I. “ I come from yonder farm-house ; it is quite unnecessary that you should know any thing farther.” And as he seemed astonished at my reserve, I, in my turn, expressed my astonishment that a passer-by should be so curious. The pride of my answer did not hurt me in his opinion.

“ I do not blame you,” said he, “ for being prudent, although so young. Ah ! why like you, did I not earlier know how to be upon my guard against passers-by ; however, my curiosity is so natural, and so just,” added he, “ that you ought at least to think it innocent ; and the concern inspired by your misfortune and your age, is sufficient for its justification.”

“ I made an apology for having been so little sensible of this mark of kindness. “ But, Sir,” said I, “ what purpose does it answer to remember in adversity, what we have been, and what we are no longer ? It is, at the best, but heaping care on care. I wish only to be known for a shepherd, as I am. It is neither in your eyes nor my own that I blush at my being so. Virgil tell us, that the gods have been shepherds ; but every body does not know how much the pastoral life has been honoured, and how much it ought to be so still. I therefore dare, without knowing who you are, to supplicate you not to betray me. I am a friendless youth ; and earn my livelihood by making myself of use ; and you would disturb this innocent life, if you made an improper use of the secret you have stolen from me during my slumber. In the name of all you hold most dear,” added I, “ promise me not to divulge it.”

“ I promise you,” said he ; “ but on condition that I may be allowed to come and spend a few hours with you while you feed your sheep. Like you, young man, I am familiar with misfortune ; like you, I have a turn for study. I am fond of Virgil ; we will read him together ; and when we shall be better acquainted, and can better trust one another, a mutual confidence shall mingle its effusions with the pleasure of our conversation.

“ This worthy man,” continued Alexis (for he still retained his name) “ came frequently to join us in the pasturage ; we there spent together a part of the fine days of the autumnal

autumnal season, nor did those days pass unpleasantly away.—Virgil, Horace, with whom he had made me acquainted, and for whose beauties I began to have a relish as well as he, and some French books he brought for my reading, such as Montaigne, La Fontaine, Racine, and Fenelon, contended for the employment of our leisure.

“But in the intervals of readings, M. de Nelcour tried to come at the secret of my misfortunes. “It is impossible,” said he, one day, “that a child like you should not at least have met with somebody in his family, or in the world, to take pity on him?” “I have implored the pity of nobody,” said I; “young as I am, I well know, that, in the world, the wretched are ever looked upon as importunate.”

“Ah! you are rauch in the right,” said he, (for without knowing it, I had touched his sensible part) and then he related to me that he had been in his youth what is called an agreeable man; that he had ruined himself by his liberality; that out of a hundred good friends who had partaken of his entertainments, not a single one had offered him assistance in the decay of his fortune; that the women, who used to cry him up as the pattern of gallantry and accomplishments, had found him horribly altered as soon as they knew he was ruined; and that, grown wiser at his own expence, he had taken without hesitation the resolution of selling his estates to pay his debts, and of retiring to a little farm, the only remains of his property.

“I heard him with concern relate his follies, his idle credulity, his illusions, and his errors; but his confidence did not call forth mine. Perceiving that my secret thus eluded all his attempts to lay hold of it, he came to the wise resolution of leaving me to the dictates of my own discretion.

“Well, my dear Alexis,” said he one day, “the winter will soon be here, and we shall no longer be able to see one another; do you know that the idea afflicts me?” “It afflicts me too,” said I, with a sigh. “Why then,” said he, “afflict one another? Why should we part? I lead a quiet and solitary life at the village of Fleury, in the vicinity of your farmhouse; and I have still enough of the ruins of my fortune to make my old age happy; come hither, and partake of my happiness. The dearest object of my cares is a young female orphan, whom I am bringing up, and whom I love with the greatest tenderness; if you partake of her asylum, I have two children instead of one.”

“Sir,” said I, “your kindness wears such an appearance of frankness, that it is incumbent on me to speak without disguise.

My ruling passion is the love of liberty; and I know no man free, but he, who dependent on himself and nature alone, forces the earth by his labour to afford him food. I am determined to be such a man; I am determined to be either the farmer or gardener of Virgil."

"With me," said he, "you will be both: a good farm to manage, and a handsome garden to cultivate; this is what I propose to you. As to the farming business, I am as yet but a novice myself, and we will learn it together; but in the cultivation of a garden, I think I do not want lessons from any one." This hope brought me to a decision; and after taking leave of the farmer, I followed M. de Nelcours,

(To be continued.)

INTERESTING TRIALS.

COURT of KING's BENCH,

FRIDAY, June 22.

ELLIOT *versus* his Grace the DUKE of NORFOLK.

THIS was an action brought by Mr. Elliot against his Grace the Duke of Norfolk, as bailiff of the liberty of Hollinghall, to recover a sum of money that had been lost by the escape of a prisoner charged in execution.

To this declaration the defendant pleaded that before the escape mentioned in the declaration, divers persons unlawfully, tumultuously, and in a riotous manner, assembled together, and feloniously, and with force, (which the Noble Duke could not resist) demolished the prison, whereby the prisoners escaped.

The plaintiff demurred to this plea.

Mr. Wood, in support of the demurrer, apprehended that it was a clear and settled point that no circumstance whatever could excuse a gaoler, except the act of God or the King's enemies.

Lord Kenyon asked what they had to say on the other side.

Mr. Lamb did not mean to dispute the proposition laid down by his learned friend, as it seemed to be supported by innumerable cases, and therefore was at rest. The only question he had to submit to the consideration of the Court was, 1st Geo. I. cap. 5. sect. 4. commonly called, The Riot Act. The learned Counsel said he had looked into Southcote's case, which was to
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be found in 4th Report 84; and it was there laid down as a principle, that if any persons pulled down the gaol, the gaoler had his remedy against them. But the Riot Act having magnified the offence into a felony, the civil remedy was merged in that felony. Before the statute, it was admitted that the gaoler had his remedy against the rioters, who were then only guilty of a civil trespass; but the statute had taken away that remedy. It could not be supposed that the Legislature meant to do so much wrong, as to take away from gaolers that remedy which they had before, and still to leave them liable.

The learned Counsel submitted, that in this case it would be extremely hard to subject the gaoler to the payment of this money, when the plaintiff himself could retake the prisoner. This escape was made with great and irresistible force, and therefore could not, in any sense of the word, be called a voluntary escape. If the party could retake the prisoner, no harm was done to him, as he stood precisely in the same situation he would have done supposing no escape had taken place.—If the Noble Duke was made liable to this action, he would be subjected to a great variety of other actions which stood in the same situation. The party might perhaps see the prisoner make his escape without the smallest opposition, as he knew if he recovered against his Grace he should certainly be paid his money.

Lord Kenyon asked the learned Counsel if he had looked into the statute about rioters made subsequent to the year 1780. His Lordship apprehended it was competent for his Grace to bring an action against the hundred, in order to indemnify himself.

The Counsel for the defendant said his Grace could not sue the hundred, as he was barred by the statute of limitations.

The noble and learned Judge said his Grace had not used due diligence. The Noble Duke had this office and burden thrown upon him in consequence of his vast possessions; and he was afraid it would be impossible to get over the authorities, which were so many and so strong on the other side.

Judgment for the plaintiff.

C O U R T of K I N G ' s B E N C H.

WEDNESDAY, June 27.

A. versus B.

AN action was brought by A. who was the holder of a bill of exchange, for a full and valuable consideration against B. who

who was the acceptor. B. not being able to satisfy that bill, was obliged to go to gaol. The plaintiff A. next brought an action against C. from whom he received it as indorser, and recovered against C. The indorser C. then brought an action against the acceptor to recover back this money.

It was contended on the part of the acceptor that two actions could not be brought against him for the same thing; that when he was sent to gaol that was to be considered as a satisfaction, and equal to the payment of the money.

Lord Kenyon said that A. the plaintiff had a right to go against the acceptor B. and that if he could not pay he must go to gaol. That however was only a formal and not a real satisfaction, and therefore the plaintiff A. might proceed next against C. the indorser, and if the indorser paid him he had no farther demand on B. the acceptor. But C. the indorser, in consequence of having satisfied the bill, come into the situation of A. the plaintiff, and had a right to sue the acceptor, who was both primarily and ultimately liable. If that was not the case, the moment that C. the indorser paid the money, B. the acceptor would be discharged out of custody, without having paid one penny of the debt. That was most evidently unjust.

The Lord Chief Justice observed, that it was the constant practice on the other side of the Hall, when commissions of bankruptcy were taken out against the acceptors, indorsers, and drawers of bills of exchange, for the holders of those bills to prove under all the commissions; till they obtained full satisfaction by receiving 20s. in the pound.

THURSDAY, June 28.

Sittings before Lord Kenyon.

ROBSON *versus* HALL.

THIS was an action upon a 'wager upon the following agreement, in writing stamped, as the act of Parliament directs:

28th of October, 1791.

"Mr. James Hall, of the New Inn, Old Bailey, betts Mr. John Robson, of the Black Horse, Little Britain, one hundred and fifty pounds to one hundred, that Mr. Robson does not find two geldings that will trot thirty-two miles in two successive hours, and carry Mr. Robson and no one else."

This was attested by witnesses.

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The same parties agreed to double this wager, three hundred to two hundred, and for that purpose made an indorsement to that effect, which was attested by other witnesses.

Mr. Robson rode two geldings thirty-two miles upon the Huntingdon road. First he rode a gelding 12 miles, then another gelding he rode eight miles, and then rode the first for the remaining 12 miles. The whole he did within the time, and had a minute and a half to spare.

On the part of the defendant, every advantage was eagerly taken which the law gives against wagers. It was objected that Mr. Robson had not rode the geldings 16 miles each. That was over-ruled. It was then objected, that the distance altogether could be proved to be 15 yards short of the 32 miles, as admeasured by a person employed by the defendant, although the plaintiff did ride the 32 miles, as marked upon the mile-stones upon the road. This objection was over ruled. It was then objected, that although the agreement was regularly stamped, yet the indorsement on it was not, and consequently there was an end of it.

Lord Kenyon was of this opinion, and therefore directed the parties to confine themselves to the 150l. to 100l.

It was then observed, that the declaration confined itself solely to the case of the 300l. to 200l. As there was no count in the declaration applicable specifically to the case of the 150l. to 100l. there was no application to the legal part of the case, and therefore the plaintiff was nonsuited.

IT was determined by the Court, that an attorney might sue his client in the superior Courts of Westminster-hall, for a sum below forty shillings; because it was necessary that bills of costs should be taxed by the officers of Court. But if an attorney sued another for a debt below forty shillings, which arose upon any other account, than for business done in the way of his profession, it was within the Court of Conscience Act, and it must be sued for there, and not in the Courts at Westminster.

POOLE, MILLER, and others, against ROPER.

THE defendant, a publican, had purchased the interest of a licensed alehouse, on advantageous terms, from the plaintiff, on condition, that he should have all his malt-liquors from them,
and

and no others. He did continue to do so ; but finding the beer he got so exceedingly bad that no person would deal with him, he was obliged to get his beer from another person. To compel the defendant, therefore, to observe his covenant, the plaintiffs brought this action.

Several witnesses were called, who alledged that they never found the plaintiffs to have any other beer except that of the first quality ; and that the defendant neglected to take proper care of that which had been sent him ; besides that, he had it in his power to return what was not good.

On behalf of the defendant, appeared several witnesses, whose testimony was more in point to the question under consideration. They declared that they had been in the habit of frequenting the defendant's house, and that they could not drink the beer which he had ; and that they repeatedly saw quantities of it returned by others. One person heard him remonstrate with Mr. Poole, and say, that he would not deal with him any more ; upon which Mr. Poole replied, that he would lose 500*l.* at law before he suffered him to break his contract. It was also proved to be necessary, that the beer should be kept a whole year before it could be used.

Lord Kenyon said, that it would be a most pernicious thing if alehouse-keepers were bound to adhere to contracts of this kind ; one bad cargo would ruin the whole business of the retailer ; but it appeared that almost every cargo which the defendant received, was bad. As to the necessity of keeping beer untapped for one year, that was the business of the plaintiffs ; for it could not be supposed that a poor publican should be able to keep it on hands so long.

The Jury found a verdict for the defendant.

EVANS *versus* PRESTON.

THE plaintiff brought this action to recover a satisfaction in damages for a violent assault. The circumstances of this case were shortly these :—A poor fellow of the name of Davies, whose business it is to stick up hand-bills in different quarters of the town, was going to put up a bill on the premises of the defendant, who lives in Tottenham Court Road ; the defendant, on seeing this, took the stick with which Davies was going to put up the bill, and struck him over the head, which brought him to the ground, and he was instantly covered with blood.

blood. The plaintiff seeing this barbarous behaviour, ran up and collared the defendant, who struck him several blows.

Lord Kenyon was of opinion, that what the plaintiff did was not only justifiable, but extremely laudable; and the language he used at the time shewed the intention with which he did it: "It is right, Sir," said the plaintiff to the defendant, "that you should be taken care of, to see whether this man will die." The plaintiff had not gone beyond the bounds of law. He was not to wait till another blow was given. His Lordship did not wish for large, outrageous damages, but for those that were moderate, and such as would bring the defendant to a sense of his reason, and convince him that it would not be convenient either for his purse or his person, to act in so outrageous a manner.—Verdict for plaintiff,—damages 60*l*.

COURT of COMMON PLEAS.

BESFORD *versus* SAUNDERS.

THIS was a motion for a new trial which involved a new and important question upon the bankrupt laws.

The circumstances of the case were these:—The defendant, after he became a bankrupt, promised to pay the plaintiff a debt of 30*l*. 10*s*. which had been contracted prior to the bankruptcy. The promise was conditional. It was to this effect: "I will pay him the debt when I am able; he shall lose nothing by me." The defendant afterwards obtained his certificate, and is now a waiter at Bath.

Upon this promise, the plaintiff lately brought his action to recover the debt, and the Jury, under the direction of Lord Loughborough, gave him a verdict.

Mr. Serjeant Le Blanc, obtained a rule for a new trial, and on Tuesday Mr. Serjeant Cockell shewed cause against such rule. He contended, that the subsequent promise of payment was a new contract, and rendered the defendant liable to the action. The bankrupt's certificate was no bar to the action, because, as the debt was just, the subsequent promise was founded in conscience, which the law expected the party to perform.

Mr. Serjeant Le Blanc supported the rule for a new trial upon two grounds; the first was, that the debt was discharged by the bankruptcy and certificate; the second, that the promise was conditional, namely, to pay *as soon as the defendant was able*,

It ought at least to have been proved on the trial, that he was of sufficient ability to pay.

The Judges Gould and Heath were of opinion, that, as the promise was purely voluntary on the part of the defendant, he had a right to annex any condition to it he thought proper. As he had annexed a condition, it ought to have been proved that he was able to pay.

Lord Loughborough was of a different opinion; his Lordship conceived it lay with the defendant to prove his inability.

A new trial was granted.

OLD BAILEY, JULY 5.

WILLIAM FURNICE was indicted for stealing a pair of buckles privately, from the person of Arnold Hawker.

The prosecutor stated, that he was in a public-house with the prisoner; the prosecutor being intoxicated, fell asleep; when he awoke, the prisoner was gone, and he missed his buckles, and concluded that the prisoner must have taken them, no other person being in the room when he fell asleep.

The buckles were produced by a pawnbroker, they having been pawned at his shop, but not by the prisoner.

Mr. Justice Buller told the Jury, that two cases had occurred of stealing from persons asleep, which had been held to come within the meaning of the act under which the prisoner was indicted; but in one of those cases, the person robbed, was taking his natural rest; and in the other, the man had been made drunk, and put to sleep by the persons who meant to commit the robbery, in order that they might the more easily accomplish their purpose. But the present case did not appear to him to come under the principle upon which these cases were determined, because the present prosecutor had acted improperly, by getting himself intoxicated, and falling asleep in the middle of the day. A case something similar to the present had been decided some time ago in that Court—and that was, where a clergyman, who had been at Vauxhall, and had drank more than was proper for a man of his profession, in his way home he fell asleep on Westminster-Bridge, and was robbed. The Court held, that that case did not come within the meaning of this act.—The Jury acquitted the prisoner.

IRELAND.

I R E L A N D.

EARL OF WESTMORLAND AND NAPPER TANDY.

AN application having been made to the Chief Baron, to issue Letters Missive in the cause of J. N. Tandy against John Earl of Westmorland, the learned Judge was pleased to refuse, on the ground, that his Excellency was neither Peer nor Privy Counsellor of the kingdom, and could not be recognized in any other capacity than that of a private gentleman.

A *subpœna* was consequently served on the 28th of June on John Fane, of the city of Dublin; and the four days given for his appearance expiring on the 3d day of July, the Attorney General on that day stated in Court, that his client, John Fane, *was on his keeping constrained thereto by his fears of an arrest and imprisonment.* He therefore moved, that the Chief Justice should issue an order of Court to stop proceedings, which was granted.

Mr. Dowling, the attorney, attended; but, by the advice of Mr. Tandy's Counsel, refused to disclose the cause of the *subpœna*.

The Hon. Simon Butler on this moved, that the Attorney General should either stand security himself, or find security for John Fane; which the learned gentleman refused. This curious affair stands over till next term.

*Epitaph on a Monument in the Church of Fordingbridge,
in Hampshire.*

CAROLINE ELIZABETH,

The second daughter

of

JOHN and JANE DERBY,

Died February 17, 1770,

Aged 9 years.

JOHN DERBY,

Their only son,

Died March 10, 1779,

Aged 8 years.

READER, how many hopes lie buried here!
A much lov'd daughter, and a son most dear!
Like two fair flow'rets in the spring they grew,
Sweet to the sense, and lovely to the view;

But death's cold hand soon nipp'd their early bloom,
 And all their beauties wither'd in the tomb!
 Grieve then—Ah! no—be every tear suppress'd:
 Or rather weep for joy that they are blest;
 Landed in safety on that happy shore,
 Where grief, and pain, and death shall be no more.

Answer, by Fidelio, of Bath, to the Enigma copied from the Ladies' Memorandum Book, and inserted in the Weekly Entertainer of January 16.

LONG time my fancy rov'd about,
 This dark enigma to find out,
 And long perus'd in vain;
 Now conn'd the book of knowledge o'er,
 Replete with scientific lore,
 The meaning to explain.

What can it be that's fond of praise,
 That loves the young, yet's full of days,
 And with the learned dwells always,
 Tho' seen with the untaught;
 These contrarieties appear'd,
 Yet still, ye bards, I persever'd,
 Untill the muse at length declar'd,
 A DIPTHONG 'twas I sought.

Answer, by J. Collins, of Uffculm, to R. Vinning's Anagram, inserted April 30.

BLEAT if right transpos'd I know,
 That TABLE it will surely show.

††† We have received the like answer from Alphonso and J. B. Chivers, of St. Austell; W. Brewer, and A. Apsey, of Taunton; T. Gill jun. Stythians; R. Hawkey, Creed; J. H. Lyme; Amico Crewkerniensis; J. Rogers, Exon; T. K. of Gulvall; Jane Mitchell, Polruan, near Fowey; J. Arthur, of Egloshayle; P. Lyttleton, of Tywardreath; and T. Scadding, of Wellington.

A REBUS,

A REBUS, by J. Chivers, of St. Austell.

A Bird, ye gents, you'll first descry ;
 A science next to that apply ;
 A gentle beast in England found ;
 The next a poet once renown'd ;
 And then a muse's name expound ;
 A hero's name you'll then define ;
 The next a grain to that combine ;
 A place for learning much admir'd ;
 And last a town in Wiltshire is requir'd :
 The initials join'd will soon explain,
 What never should within us reign.

An ENIGMA, by J. Collins, of Uffculm.

ADMIT a youth with his theme to begin,
 Tho' perhaps you will say I tell lies ;
 But to you now I tell that I like truth so well,
 That deception I greatly despise.

For nights and for days I've laid at my ease,
 In possession of numbers of people ;
 My trade is to bind, as soon you may find,
 By Gripus not notic'd a little.

Such tortures I feel before I'm laid still,
 You'd think it would prove a disgrace ;
 They pierce my hands thro', and cut my head too,
 And scratch me all over my face.

Two masters I have whose rights I'm to save,
 And keep them from going astray ;
 If by chance either should I'd do what I could,
 To lead them again the right way.

Or if him whom I bind should be badly inclin'd,
 From bondage I'm instantly taken ;
 Like the sages of old, the truth to unfold,
 By neither my masters forsaken.

Such hints I have given as ten or eleven,
 For you to discover my name ;
 I'll give you one more—read forward I'm sure,
 Or backward—you'll find me the same.

POETRY.

P O E T R Y.

W H I T S U N T I D E.

*Written at Winchester College on the immediate Approach of the
Holidays.*

[From a Publication entitled "Salmagundi."]

HENCE, thou fur-clad winter, fly;
Sire of shivering poverty!
Who, as thou creep'st with chilblains lame
To the crowded charcoal flame,
With chattering teeth and ague cold,
Scarce thy shaking sides canst hold
While thou draw'st the deep cough out;
God of foot-ball's noisy rout,
Tumult loud and boist'rous play,
The dangerous slide, the snow-ball fray.

But come, thou genial son of spring,
Whitsuntide, and with thee bring,
Cricket, nimble boy and light,
In slippers red and drawers white,
Who o'er the nicely measur'd land
Ranges around his comely band,
Alert to intercept each blow,
Each motion of the wary foe.

Or patient take thy quiet stand,
The angle trembling in thy hand,
And mark, with penetrative eye,
Kissing the wave, the frequent fly;
Where the trout with eager spring
Forms the many-circled ring,
And, leaping from the silver tide,
Turns to the sun his speckled side.

Or lead where health, a naiad fair,
With rosy cheek and dropping hair,

From

From the sultry noon-tide beam,
 Dives in Itchin's chrystal stream.
 Thy votaries, rang'd in order due,
 To morrow's with'd-for dawn shall view
 Greeting the radiant star of light
 With matin hymn and early rite :
 Ev'n now, these hallow'd haunts among,
 To thee we raise the choral song*;
 And swell with echoing minstrelsy
 The strain of joy and liberty.

If pleasures such as these await
 Thy genial reign, with heart elate
 For thee I throw my gown aside,
 And hail thy coming, Whitsuntide.

* A Latin song called "*Domum*", sung, with musical accompaniments, on the day before the commencement of their Whitsuntide vacation, by the scholars of Winchester College. The words "matin hymn, &c." in the preceding couplet, refer to other ancient customs of that venerable seminary.

VERSES *written at* MIDSUMMER.

OH hide me from the solar ray
 Which flames intolerable day;
 Lead me to cool and quiet groves,
 To haunts, which meditation loves;
 Where trees, with foliage thick array'd,
 Combine to form a shelter'd shade;
 And spread profusely 'round is seen
 Nature's most beauteous mantle, green;
 Where all is silence, save the breeze
 That softly whispers thro' the trees;
 Save tinkling streams that slowly creep,
 And bees, whose murmurs lull to sleep.
 And while at careless ease I'm laid,
 There let me court the cooling shade,
 Gaze on the scene with heedless eye,
 And half dissolv'd in slumber lie.
 Nor then shall the indulgent muse
 To crown the vacant hour refuse;
 Ideas swift shall croud the mind,
 And fancy gaily unconfin'd

To the half extinguish'd eyes
 Shall sport her thousand varied dyes.
 Then too the breast with passion fraught,
 Shall chuse the hour of tender thought;
 Then ever charming, ever dear,
 Shall Delia's well known form appear;
 Mem'ry each softer scene restore,
 And raptur'd fancy act it o'er;
 The tide of tenderness shall rise,
 And the full breast o'erflow the eyes.
 Oh should my steps by chance invade
 The haunt that hides the sleeping maid;
 Where loose her modest tresses flow,
 And veil the fair cheek's ardent glow,
 In the soft arms of downy rest,
 Where heaves her bosom to be prest,
 And slumber sheds peculiar grace
 On her bright form and beauteous face;
 Be mine the task, from rude alarms
 To guard that heav'n of sleeping charms;
 And from her slumbers far detain
 The roving step and eye profane.

ALBERT.

 SONNET.—By *Mrs. ROBINSON*.

WHERE thro' the starry curtains of the night,
 Soft whisp'ring breezes wake the ruddy morn,
 Whose sparkling eye darts forth returning light,
 Whose golden brows refulgent beams adorn:

Where gaudy blossoms o'er the tufted vale
 Fling their soft breathings on the spicy gale,
 From the lorn nightingale on yonder spray,
 In melting murmurs steals the love-fraught lay.

Stranger to joy, and hopeless of relief,
 At morn's proud glow, and twilight's penfive hour,
 Her widow'd breast its plaintive song shall pour,
 In all the luxury of tender grief.

For ah! nor morn, nor fragrant gales can move,
 The faithful heart that mourns a truant love!