

THE NEW ZEALAND ADVERTISER,

AND
Bay of Islands Gazette.

No. VII.]

KORORARIKA, THURSDAY, JULY 23, 1840

[Vol. I.]

THE GAZETTE.

GOVERNMENT NOTICE.

Colonial Secretary's Office, Russell,
17th July, 1840.

HIS EXCELLENCY THE LIEUTENANT GOVERNOR has been pleased to appoint Michael Murphy, Esq., J. P., to be Acting Treasurer for the Southern District of the Northern Island of New Zealand.

By His Excellency's Command,
(For the Colonial Secretary.)

JAS. STUART FREEMAN.

GOVERNMENT NOTICE.

Colonial Secretary's Office, Russell,
17th July, 1840.

HIS EXCELLENCY THE LIEUTENANT GOVERNOR is pleased to appoint the Acting Treasurer for the Southern District of the Northern Island of New Zealand, to grant Licenses in the said District, under the Provisions of the Act of the Governor and Council of New South Wales, 2nd Victoria, No. 18, intitled, "An Act for consolidating and amending the Laws relating to the Licensing of Public Houses, and for further regulating the sale and consumption of fermented and spirituous liquors."

By His Excellency's Command,
(For the Colonial Secretary.)

JAS. STUART FREEMAN.

GOVERNMENT NOTICE.

Colonial Secretary's Office, Russell,
17th July, 1840.

HIS EXCELLENCY THE LIEUTENANT GOVERNOR is pleased to direct it to be notified, that Michael Murphy, Esquire, J. P., has been appointed to sanction the discharge of seamen in the Southern District of the Northern Island of New Zealand, as required by the 41st section of the Act of the Governor and Council of New South Wales, 5th and 6th of William the Fourth, chap. 19, entitled, "An Act to amend and consolidate the Laws relating to the Merchant Service of the United Kingdom, and for forming and maintaining a Register of all men engaged in that service, and all persons connected are hereby required to apply to that Officer accordingly.

By His Excellency's Command,
(For the Colonial Secretary.)

JAS. STUART FREEMAN.

Sales by Auction.

FOR SALE BY AUCTION,
TO CLOSE ACCOUNTS.

MESSRS. SPICER & WEAVELL will sell by Auction, on Saturday, 25th July, at 11 o'clock precisely, positively without reserve, an assortment of **MERCHANDIZE**, comprising,—

Doek	muskets
Knives & forks	prills
Fowling pieces	beds end
Great coats	Port wine
Chests	jackets
Claret	blankets
Trowsers	cotton bks.
Ironmongery	don erve
Hats, and various other Articles.	

Terms at sale.

To be Sold by Public Auction,

By **W. Wilson.**

On the Premises at the Pa. on **FRIDAY**, the 24th July, at 12 o'clock.

THAT well known House and Premises, the **WHALER'S ARMS**, now in full trade, well adapted either for the public line or a private residence. The House contains 4 Rooms; there are a carpenter's shop and other out-buildings; also an excellent Wharf.

AFTER WHICH,

Two Allotments of Ground,
Terms at sale.

A boat will leave Kororarika at ten o'clock on the day of sale for the convenience of intending purchasers.

TO BE SOLD BY PUBLIC AUCTION,

By **W. Wilson.**

At his Rooms, Kororarika, on **Friday**, July 31st, 1840,

(If not previously disposed of by Private Contract.)

SIXTEEN beautiful alluvial and Kaori timbered Farms of 120 Acres each, situated on the magnificent and navigable River Wairua, on the West coast of this, the Northern Island. Four of these Farms have a frontage to the above-named River, whilst the remainder are situated in their immediate rear. The soil has been pronounced by recent Tourists in New Zealand, of the richest agricultural description, being of a deep rich alluvial deposit. These Farms, on this river, have the double advantage of two Ports for shipment, one where the *Mongakia* disembogues itself into the ocean on the West coast, the other at the Port of Wangaree on the east coast, equidistant between the Thames and Bay of Islands, with a level portage of twelve miles, between the head of Navigation of the Wairua and the newly discovered port storeship of Wangaree, a port in every way suited for vessels of any draught of water.

TITLE UNEXCEPTIONABLE.—For further particulars and a sight of the Plan, apply to **C. B. BREWER, Esq., Kororarika.**

SALE BY AUCTION.

WILLIAM WILSON, has the honor to inform the Heads of Families, Hotel Keepers and others, that he has received instructions from **Mr. HARRINGTON** to bring to the hammer,

At his Rooms, on **Friday**, 31st July, at 11 o'clock,

NINE Couches
Nine ditto with mattresses
One French polished superior dining table
Six ditto ditto
Three round tables
Eighteen cedar chairs
One child's ditto
Six cedar sofas
300 Feet cedar
A quantity of pickles
Watches, &c., &c.

Just landing from the *Giraffe*, and may be seen at the Rooms two days prior to the day of sale.

Terms at time of sale.

FOR SALE BY AUCTION,

By **W. Wilson.**

At his Rooms, on **Tuesday** 28th July, at 11 o'clock.

A SPLENDID ASSORTMENT OF

JEWELLERY, consisting of watch

books, gilt bands, bracelets,
Bed hooks
Wheel seals, buckles
Brouches, watch keys
Seal tassels
Musical boxes
Painted boxes
Powder flasks
Pocket knives
Tag cups
Block seals
Chains, razors
Augurs, gimlets, hammers, shingle knives, towels, &c., &c. &c.
Terms at sale.

FOR SALE BY PUBLIC AUCTION,

By **W. Wilson.**

On **THURSDAY**, 18th AUGUST, At his Rooms, at 11 o'clock,

SEVERAL

ALLOTMENTS in the Township of **NEW BRISTOL**, on the Hokianga River. The Plan to be seen at **Mr. W. E. Auction Rooms.**

TITLE GUARANTEED.

Terms at time of sale.

N. B.—Applications for other Allotments situate in the above Township, to be made to **C. B. BREWER, Esq.** or to **W. WILSON.**

LAND SALE.

MESSRS. SPICER & WEAVELL have much pleasure in announcing that they are instructed to offer for Public competition, at the **VICTORIA HOTEL**, at 11 o'clock on Monday and Tuesday, 27th and 28th July, several very desirable Properties from 200 to 500 Acres, with number of valuable Building Allotments in Kororarika. An excellent House and Store, &c., particulars of which will be given at the time of sale.
Terms at sale.

FOR SHIP SERVICE.

THE SPLENDID A. I. BRITISH

BUILT SHIP *CHELYDRA*.

349 TONS Register. This ship is only two years old, has superior accommodations for Passengers, and will have immediate despatch. For Freight or Passage apply to the Commander on board, or to

HENRY THOMPSON & Co.

ALL orders drawn on the Undersigned by **CAPTAIN SMALK**, the Commander of the *Chelydra*, must be presented for payment previous to the sailing of the ship.

HENRY THOMPSON & Co.

JUST received ex *Giraffe*, and on sale at the Stores of the undersigned, a great variety of **STATIONERY**, consisting of Account Books, Bill books, paper, and blotting ditto, and a few miscellaneous Works, consisting of

Johnson's Dictionaries
Life of Nelson
Ditto Hannah More
Ditto Pitt
Bonn's Works, &c., &c.

W. WILSON.

July 23.

CAUTION.
THE UNDERSIGNED,
CAUTIONS the public against giving credit to the Crew of the Bark *Albatross* under *Henry*, as he will not hold himself responsible for the payment of the same.
JOHN EVANS,
 COMMANDER.

Kororarika, July 21.

ON SALE,
 BY the Undersigned, on board the store ship *Tuacan*, off Russell, ex *Giraffe*—

240 Half cases gin
 77 Hhls. rum
 18 Pieces tobacco
 41 Bales of do.

ANDERSON, SCOTT & Co.

July, 22.

ON SALE,
 BY the undersigned, ex *Giraffe*, on board the store ship *Tuacan*, off Russell—

Brazil tobacco, in baskets
 Negrohead ditto in kegs
 Port wine, in hhds. and qr. casks
 London bottled-ale and porter
 Port wine in 1 and 2 dozen cases
 Sherry do. in 3 dozen cases
 Bloom Muscatel raisins
 Champagne
 Cider, in 1 dozen cases
 Lined great coats
 RUM in barrels.

JOHN J. MONTEFIORE.

July 22.

THE LANDOWNERS
 OF New Zealand resident in the Bay of Islands, are earnestly requested to attend at a **PUBLIC MEETING** which will be held on Friday, the 24th July, 1840, at 12 o'clock, A. M., at the Office of the *New Zealand Banking Company*, for the purpose of forming in New Zealand a Branch of the **NEW ZEALAND ASSOCIATION**, for the protection of their rights and property in that Colony.

CHAS. B. BREWER,

Agent of "The New Zealand Association" for New Zealand.

July 22.

KORORARIKALAND COMPANY
GENERAL MEETING of PROPRIETORS will be held on Wednesday next, July 29th, at Twelve o'clock.

DAN. POLLEN,

SECRETARY.

July 22.

WANTED, a pair of Brickmakers to whom constant employment will be given.—Apply to **W. WILSON**, Auctioneer.

July 15, 1840.

WANTED, a Servant Woman to make herself generally useful in a family. Apply before 9 o'clock in the morning to **W. WILSON**, Auctioneer.

WANTED—one pair of Sawyers and two Fencers to work within ten miles of the Bay of Islands—Apply to **W. WILSON,**

AUCTIONEER

PAPER, pens, ink, account and memorandum books, pencils, slates, inkstands, copy-books, and other stationery, on sale at the Office of this Paper.

WANTED, three good Shoemakers. Liberal wages will be given to steady men. Apply to **Mr. M'GUIER**, Boot and Shoemaker and Leather Dealer, at Mr. Cook's, near the Beach.

Kororarika, July 7, 1840.

JUST Received, and on sale at **W. WILSON'S** Rooms, a few Copies of the latest **WORK** on **NEW ZEALAND**.—Price 6s.

July 15.

SYDNEY STORE,

KORORARIKA BEACH.

D. NATHAN,

RESPECTFULLY announces to the Inhabitants of the Bay of Islands and its vicinity, that he has opened the above Store with a new and extensive stock of Merchandise, which he has just received, ex *Diana*, amongst which will be found

Ready-made Clothing

Consisting of—Gentlemen's frock and dress Coats, pilot cloth Coats, Jackets, and Trowsers, moleskin's coating coats, ditto trowsers, buckskin, Bath fitted and flushing ditto, canvas ditto, drab and olive cloth great coats, pea and monkey jackets, silk, Valencia, buff and quilting waistcoats, gentlemen's white shirts with lawn fronts and linen collars, regatta shirts, stripe do., red and blue serge shirts, southwester's, silk and cotton handkerchiefs, Manilla Hats,

200 pieces Print,

100 pair blankets, 100 pieces sheeting, 100 pieces shirting, 50 pieces unbleached calico, 40 pieces glazed calico, diaper checks, bed tick, flunzeer, jaco, nett, edging, buff and teal cotton, thread, needles, mixed pins, hooks and eyes, shirt buttons, tapes,

TABLE AND TEA SPOONS,

Pen and pocket knives, tea boards, porcelain caps, shot belts, playing cards, foolscap paper, **SPIRITS**, consisting of superior

Jamaica Rum,

Over proof, draught and case Gin, Wines in wood and bottle, bottled Ale and Porter, of augh ditto; salad oil, mustard, pickles, tea, sugar, flour, butter, soap, pipes, Negrohead and Cavendish tobacco, frying pans, chisels, plane irons, thumb latches, hammers & crates

CROCKERYWARE,

Consisting of—Cups and Saucers, Plates, Dishes, Tureens, Jugs, Wash hand Basins and Ewers, and a

variety of other Articles too numerous to mention.

D. N. Nathan also to announce, that it is his intention to conduct the business of his Establishment upon principles that will meet with general approbation.

Having effected arrangements with Wholesale Houses of the first standing in Sydney and Hobart Town,

D. NATHAN,

Will be constantly receiving fresh supplies of **GOODS** in the various branches. In soliciting a share of public patronage, he begs to assure the Inhabitants, that the most scrupulous and unremitting attention will be paid to **any commands** with which he may be honoured.

WHALEBONE, OIL, MAIZE

And all kinds of Produce purchased FOR CASH.

Kororarika, July 13, 1840.

ACCOMMODATION

FOR respectable Persons may be obtained at the **RUSSELL FAMILY HOTEL**, Wai Kerri Pu.

15th July, 1840.

NOTICE—Tenders will be received for Fencing the Burial Ground at Kororarika, on or before the 25th inst. Extent say 72 by 42 yards.

Post 8 feet 5 x 5
 Rails 9 do. 4 x 3
 Battens 5 do. 3 x 1

To be submitted to **GEO. THOS CLAYTON & Co.**

Kororarika, 15th July, 1840.

For Coronander Harbour, River Thames.

(To sail on Monday next.)

THE PACKET SHIP

DIANA, burthen 298 tons, Captain **ROBERT MILNE**.—Has superior cabin and steerage accommodations for passengers. For freight or passage, apply to the Captain on board, to **GILBERT MAIR, Esq.**, Waiapu, or to **W. WILSON.**

WANTED a respectable sober Man and his Wife as general Servants in a Gentleman's family; liberal wages will be given. Application to be made to **W. WILSON**, Auctioneer, Kororarika.

THE Undersigned are now Landing, and have for SALE, (by Wholesale) the principal part of the ship *Chelydra's* Cargo; also, Merchandize *ex Transfer* and *Diana*, viz: Black and green Tea, sugar, arrack, gin in cases and hhd's., and porter in bottle. Port and sherry wines, in bottle, 1st and 2nd quality Flour, brown and fine biscuits, square fig Neurohead tobacco, sheet lead, 9, 10 and 11 quarter blankets, buckskins, cloths, gingham, duff, ducks, canvas, Van-uta checks, hats, coarse and fine clothing, boots and shoes, glass, paints, oils, glass-ware, earthenware, iron pots, carpenter's tools, 1-4th motion and 1 6th motion bar or spirit engine, complete, in mahogany cases, nails, cutlery, butter, great coats, striped cotton shirts, oilcloths for flooring, fine oil cloth tube covers, tin ware, metal ware, ivory handled knives and forks, in sets of 50 pieces, Lucifer matches, worsted and cotton stockings and socks, silk Bandanas, carpeting, muslin dresses, trifolium seeds, stocks, 3-bushel bags, cheese, ham, fine salt, in orange y, canvas ten's, lined.

Two four-roomed saw-wood houses, 18 feet by 18 feet, made in New South Wales, and every thing complete; Six four-roomed houses in frame, 30 feet by 24 feet, made in New South Wales, with shingles, glass, red rollers, cedar window frames and sashes, locks, keys and hinges; six two-room houses in frame, 20 feet by 16 feet, made in New South Wales, with shingles, &c. same as a one.

HENRY THOMPSON & Co.

ON SALE,

By the Undersigned, on board the store ship *Tuscan* off Russell. Bottled ale and porter in 6 and 3 doz. casks
Brown stout, pale and strong ales
Real Jamaica rum, 5 o. p. in barrels
Rum in hhd's. 2 o. p.
Square fig tobacco in tins, 18 to the lb.
Sugar, rice, flour, bread
Preserved meats, pickles
Ladies' gentlemen's and racing saddles
Large bowl pipes
New Zealand cured pork
Double barrel guns
Tents, lined and unlined

ANDERSON, SCOTT & Co.

July 1, 1840.

The New Zealand Advertiser, AND BAY OF ISLANDS GAZETTE.

KORORARIKA: JULY 23, 1840.

We promised a few words last week on one or two points in connexion with the Land Question, introduced by our correspondent "AN INTENDING SETTLER." It is said that Government assumes the previous purchase of land to have been illegal, and that the illegality is denied by two eminent Barristers of Sydney. Now, the term "illegal" does not appear to be the proper word to express the actual state of the case. It supposes the existence of a Law when a thing is contrary to it. The illegality of any point in the British application of the word, would imply the presence of British Law. Now this there was not when the purchases were made — the custom of the country or the power of the Chiefs or Tribes was the only Law. If the purchases were made in accordance with established or recognized practice, they were legal at the time, and must continue so till a different law intervenes. But legality is not always right, especially where laws regarding property are not of such a nature as to secure parties against injustice on every side. In the present case the very supposition that the British Government felt it necessary to interpose by the establishment of its own authority,

implies, that they perceived that strict justice could not be done in all parties on any other ground. If, then, the persons who occupy land, being British subjects, resist the establishment of the British authority, or oppose it when established, by refusing to hold their lands from the Crown, their purchase and possession becomes illegal; and when the Crown resumes the lands, if parties purchase lands irrespective of that resumption, their purchase is illegal; but not otherwise. The resumption of lands on the part of the Crown is professedly intended to bring all Europeans under British control, for the simple purpose of doing justice both to the Natives and all other parties. If the Crown maintains that resumption, it must become the source of all titles; and whatever titles are not traceable to this source must be illegal. In many instances the very same lands may be held and enjoyed by the very same persons, but their tenure will be different, and if they take care to have the right tenure established, their possession will be as legal as it now is. The resumption of the lands does not imply the deprivation of the occupants of its use, but only of its sovereignty. If their possession be found to be contrary to the principle of equity, such possession will be not merely declared to be, but will be rendered illegal, by the refusal on the part of the recognized authorities to confirm the title.

But in other cases there may be, as far as the NEGATIVE of the case is concerned, no dispossession, and no presumed illegality at all.

It is contended by some of our Contemporaries at Sydney, that Englishmen cannot constitutionally colonize savage countries, without the sanction of the Government. Of course, if this opinion be correct, it implies illegality. But we do not we neither ourselves see that this opinion is strictly demeritable, nor do we think that this is the exact ground on which the British Government professes to colonize this country. The constitution is rather an indefinite thing where its limits are not expressly marked by statutes. We hold the right of the British Government to interpose its authority wherever its subjects choose to place themselves in such countries as have not already the proper guardianship of express Laws, and when it does interpose, those subjects are bound to yield submission, but we do not think it is maintained on the part of Government, that the purchase of land is illegal previous to the establishment of its authority.

The claim which is set up by the Government on "the grounds of discovery" may, indeed, be construed to imply the illegality supposed, but that claim is not urged with regard to the Northern Island, as some of the Sydney papers erroneously infer from the Proclamation. The NORTHERN Island is claimed from the cession of the Natives, and, therefore, British authority did not extend here till that cession was effected.

We have now stated what our opinion is of this difficult matter in a legal or constitutional point of view. Another time we shall state our sentiments with regard to the moral aspect of the matter, and also with regard to what, under all the circumstances, may be most expedient and just.

Last Sunday, our attention was called to an unusual derangement of public order on various parts of the Beach. On one side a considerable party of French sailors were making use of their liberty in such a manner as most seriously to annoy the more quiet and orderly part of the inhabitants. On the other side we observed Englishmen fighting, — an even the Mauries were excited to take some part, we know not what, in the contest. Such things ought not to be permitted for one moment. We urge the respect on people of this place to take immediate steps for the prevention of this sort of indecency; and we

urge the Government to see what can be done for the preservation of order and propriety.

While writing this, it occurs to us to mention another subject, by no means unconnected with the above. It is not unimportant that a better and larger Lock-up House should be speedily erected at Kororarika. It may be questioned whether a general Gaol should be placed here or not; but some sort of prison different from that already in existence, must soon be built. There is not room for any number of rioters such as we witnessed on Sunday, if they were taken into custody. Nor is the health of the prisoners a matter of small consideration — 10 or 12 persons in so small a place is too much. If it were air tight it would be suffocating.

We wish our readers to pay attention to a letter in our column, signed X. Y. Z. Before it was set up, we were personally charged with neglect, in reference to the delivery of our papers for Paitia and elsewhere. We may fairly say that this charge has been a matter of serious annoyance to us. There is nothing to do at present but to leave such papers as we have no direct opportunity of sending to their destination, at the recognized post-office, but in the absence of the persons whose proper charge it is to forward them, we have no possible means of insuring their delivery. We acquit all parties of blame under the present want of system, but an immediate remedy is most imperatively required.

We will take the present opportunity of assuring our friends that every Subscriber had his papers sent out of our Office last week, and that several duplicates were sent when we found that the first had not been duly received. From this our Readers may infer, that the non-reception of the papers is not owing to our fault. The papers we are not expressly ordered to send by other means, or for the transmission of which we have no sure conveyance, we have left at Clayton and Co's store, that being the place publicly authorized to receive them. We wish notice to be taken of this fact. We cannot undertake the cost of boats for this purpose.

By the *Giraffe* we have the COMMERCIAL JOURNAL and the AUSTRALIAN of the 4th instant, in answer to the copies of our Paper we forwarded by the *Susan Ann*. We cannot of course but feel highly gratified at the kind manner in which our Contemporaries speak of our endeavours. Glad shall we be when the present comparative suspension of Commercial and Agricultural enterprise is removed by the settlement of the Land Question, and when, unsequently, we may find free scope for our labours. We may venture to give the public of other Colonies the assurance, that we will most earnestly, as circumstances enable us, endeavour to justify their good opinion. It is, however, no title at present to conduct a Newspaper in New Zealand.

The Bill regarding New Zealand had not passed the Legislative Council when the *Giraffe* left Sydney. Mr. Bosby and other persons aggrieved by the resumption of lands by the Crown, and Messrs. A. Beckett and Darvall were heard in support of the claims of several persons.

In our Police Report last week the name of M. Murphy, Esq. J. P., was inadvertently omitted.

C. B. Robinson and M. Murphy, Esqs. Police Magistrates, are about to proceed to Port Nicholson, and we understand that when they arrive, Mr. Sheehan will return to his post.

HIS EXCELLENCY THE LIEUTENANT GOVERNOR had, we are informed, a public order Party on Tuesday.

Shipping Intelligence.

ARRIVED.

July 22—The bark *Giraffe*, Captain Wright, from Sydney in 16 days. Passengers, Mr. Wright, Mr. Weston, Mr. Hobson, Mr. and Mrs. Parnett, Mr. Layton, Captain Anwyll, and three in the steerage.

July 22—The schooner *Ariel* belonging to Captain Clayton, from a coasting expedition southward.

SAILED.

July 20—The brig *Transfer*, for Sydney.

July 22—The brig *Dea* for Sydney.

DEPARTURES IMMEDIATELY EXPECTED
The ship *Diana*, for the Thames with passengers.

H. M. brig *Britomart* for Port Nicholson this day.

The ship *Chelidon* for Sydney.

To the Editor of "The New Zealand Advertiser & Bay of Islands Gazette."

SIR,—Will you permit me a line or two in your columns to express my wishes on a subject which appears to me to be of considerable consequence to the People of the Bay of Islands generally?

You called attention two or three weeks ago to the subject of the Post-office, and I, with many others, was glad to see that your remarks produced the desired effect. There are still more considerations, however, on that matter, which deserve to be submitted to notice. It is exceedingly obliging of Messrs. Clayton and Co. to allow the letters and papers to be left at, and to be sent from their store, and, in so a measure, to undertake the sorting of them, without charge. I do not see that Mr. Hayes is to blame in any over-sight that may occur, as he cannot be "here and there and everywhere." But this does not alter the necessity there is for the public-convenience to be consulted.

The *paid and unpaid* Postmaster being absent, no one else can legally undertake his business, or can feel inclined to bear its responsibility. When mails arrive there is sometimes no authorized person to receive them, and when they are received, there is no one who can safely open them. The Postmaster ought to be where the post-office is, and no where else.

There is another point of consequence to which I claim to advert. We may send letters by ordinary boatmen to Russell, or elsewhere. But who is to secure the certain and safe delivery of those letters? Again, in certain important directions there is no regular communication at all. Now, every person entrusted to convey or to receive letters should be under the surveillance of the Government, in order that there may be a due security for their safe delivery. Some system for this end ought to be immediately adopted.

I am, Sir, yours, &c.

X. Y. Z.

July 20, 1840.

POLICE REPORT.

SATURDAY, JULY 16.

Before C. B. Robinson, M. Murphy, and John Johnson, Esqs.

Captain Brand, of the *Narwhal* whaler, was charged by Mr. Jelly, Surgeon of the same vessel, with various violent treatment on the 9th April, and subsequently, so as to put him in bodily fear. Mr. C. B. Brewer was engaged for the prosecution, and Mr. Whitaker for the defence. The evidence produced was by agreement on the part of the Counsel chiefly confined to the transactions of the 9th April.

Mr. Jelly's statement was, that without any just cause, Captain B. on that day used personal violence towards him, and ordered his officers to do the same, in attempting to force him to leave his cabin, the object being on the part of the Captain to secure possession of the Surgeon's chest, and to break it open. It was also stated that the Steward prevented the Captain from dragging Jelly out. Various

threats were then made use of to induce the Surgeon to quit his berth. Subsequently he was induced by the officers to go on deck, and was never afterwards permitted to return to occupy his berth, or to take his meals at the cabin table, but was forced to live among the sailors, and to eat on deck such food as he could get. In answer to some questions by Mr. Murphy, he said he signed Articles in London as Surgeon, and being considered as an officer of the ship, he was entitled to a share of the produce of the voyage, which, of course, he would forfeit, if he left the ship without permission. He knew nothing of the duties of a seaman. The Articles did not require him to go to the mast head, and he never understood it to be his duty. He did it, however, before the quarrel, but refused to do it then, though ordered so to do. He had not been within the reach of Magistrates since the affair, till now.

William Smart, Steward, could not swear to dates. He said he had heard the Captain threaten to turn Jelly out, who declared he would not go unless carried; he also said that he was ordered to break Jelly's chest open; the Captain might have been somewhat overheated at the time; as he kept no journal he could not recollect much of what took place; he was ordered to fetch pistols, but there was no danger of mischief from them as there were no ball's fit for them; he did not fetch them; he never heard the Captain threaten personal violence, and never saw any used, but the officers were ordered to get Jelly out of the berth; the officers who were present persuaded the Captain to return to the after cabin; he thought Jelly slept in his own cabin that night, and that he saw him leave it in the morning; the cause of the Captain's dislike to Jelly was, that he detected him writing in his private log-book respecting his (the Captain's) affairs. [Again being closely questioned, witness said he would swear positively that the Captain did not attempt to take Jelly by the throat; he came to day to give evidence because the Captain ordered it, although he was not summoned, but he had no conversation with the Captain on the affair; he did not feel partial to either side. Being cross-examined he again said, that the quarrel was attributable to the affair of the log-book; previously the Captain had made Jelly his companion; he never considered Jelly's life in danger; he did not think that Jelly's conduct towards the Captain had been so disrespectful as that of the other officers had been.

The next witness called was Edward Baker, chief officer, who stated, that he was at supper in the cabin when the Captain gently pushed Jelly's elbow off the table; Jelly was ordered out of the cabin; no violence was used; the steward was in the pantry; the door was ordered to be broken; he did not think the Captain's order was justifiable; he himself used persuasion; he did not hear any order for pistols; the Captain was not very violent; witness persuaded Mr. Jelly to go up stairs, and also persuaded the Captain to go; he declared he would not; heard nothing of pistols; witness did not give the order to the cabin boy, nor did he go into the after cabin; he sat down with the Captain and staid the whole time; he was quite positive as to this fact; if he went at all it was on deck, but he had no recollection of it; he did not touch pistols; witness had a conversation some time after with Jelly, but recollected nothing but advising peace and quietness; could not call to mind that he said the Captain threatened Jelly with violence; he said he thought he might break open the door; he thought Jelly slept in the sail cabin; the fourth mate slept with him; he never heard any thing disrespectful to the Captain said by Jelly; he did not see the steward prevent the Captain from doing violence; could not

swear whether he would or would not have done violence; recollects no bad language on the part of Jelly in the presence of Mrs. B.; the steward was shipped in London; witness had never been asked a question.

Cross-examined—saw no violence, assault, or pistol on the occasion; never considered the Surgeon's life in danger; part of the time he was in bed; in our ships it is customary to order officers out of the cabins when they displease; witness never sailed but with Captain B.; did not recollect desiring the Captain not to send Jelly out of the cabin; the Captain and Jelly had a quarrel in this Port; Mr. J. did not go to the mast head after this affair, but he did before; the boy was ordered to fetch the carpenter and tell him to bring a hammer.

Mr. C. Brewer said he would call no further witnesses, as it must be evident that they did not give their testimony willingly.

For the defence Mr. Whitaker contended, that the evidence went fully to show, that Jelly's life was never in danger from violence on the part of the Captain, and that on all other points the evidence was irrelevant. He left the matter now to the decision of the Court.

The case was afterwards deferred till Saturday, when it was compromised by the consent of the Magistrates.

SATURDAY, JULY 16.

There being no quorum, the principal business of the day was deferred till Monday. Captain Beckham being present, Dr. Ford appeared in consequence of a summons by a man named McNeil, who charged him with a breach of agreement respecting wages and employment. Dr. F. produced one witness who swore, that McNeil had admitted that Dr. F. had made no agreement with him. Witness did not know whether any agreement had been made with Mrs. Ford. McNeil said he believed Dr. F. would have fulfilled his contract if he had made one.—The case was dismissed.

MONDAY, JULY 20.

Before Captain Beckham.—The chief constable, Mr. Woods, charged John Benson and David Gilward with violent conduct on their apprehension. They were drunk, scrippid and violent, and struck several blows at him. Owing to some difficulty in treating the case, the men were merely fined 5s. each for drunkenness and dismissed.

The Magistrate put a question to Mr. Woods respecting the discharge of a prisoner without a Magistrate's order. It was admitted that it had been done, and a general direction from Mr. Sturmant was alleged as the authority. Captain Beckham, however, gave express orders to the contrary.

(To be Continued.)

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