

little crooked friend is so abominably ugly, he naturally felt, that had he trusted himself in the public streets on such a day as this, Sir, "he must have been smuggled for a Guy."

Boz.

## MIRABILE DICTU!

Don Felix—On which side lies the wonder, Madam?

In our worthy old friend, and (cracked?) pitcher, the *Herald* of last week, we remark a something like an expression of surprise that two Judges should actually have sat to dispose of Insolvent's Estates, "and that nothing should have been brought forward;" surely it were more wonderful if any thing had been brought forward, with the exception of the Insolvents themselves, who are always well behind.

## DISTINCTIONS WITH A (SLIGHT) DIFFERENCE.

Did you ever live in Prussia? No: but I eat a deal of German sausage.

Were you ever in Holland? No: but I sold a man a boat which went there.

Do you draw well? No: but I have a bucket which does—uncommon.

When were you last in Guernsey? when I wore a striped wool-len frock.

## CONS.

How would you train a child for a bishop? Dress him in lawn. Why is a shopkeeper who has but one article for sale like a man in a shop? Because he's out of sorts.

Which was the first beacon after the flood? The Nore light. Why is a husband who threatens to cut his wife in two like a person travelling to a French sea-port? Because he's going to "halve her." (Havre).

What part of the West Indies would an individual name who had fallen down an old maid's kitchen steps? Damn-her-area. (Demerara.)

## RATHER DISTASTEFUL.

"I'll be blown if you come;" as the leg of mutton said to the flies.

"I'll be shot if I stay;" as the pigeon said to the double-barrel.

"You're very snappish;" as the black boy said to the shark.

"I've a bone to pick with you;" as the tiger said to the Coolie.

## SONGS FOR ALL SEASONS.—No. 2.

## SENTIMENT AND SIMILE

OH! ask me not my lute to tune,  
Its strings but echo tones of sorrow;  
For ever fed is life's bright noon—  
"Like umbrellas which people borrow!"

I stand amid youth's joys and hours  
When all are gay, a lonely weeper,  
A sombre ruin wreathed with flowers—  
"Like baker hugging chimney sweeper!"

I've seen Hope's rainbow fade away;  
(All earthly dreams as swiftly fleeting;)  
Affection's strong stem meet decay—  
"Like Cheshire cheese by mites half eaten!"

Deem not this aching heart finds rest;  
Although my lip a moment's smiling;  
For passion boils within my breast—  
"Like ale in casks which want a spiling!"

SHRIBBS.

## OFFICIAL MINUTIÆ.

Mr. James Macarthur, in his famous speech at Camden, on the 7th of May last, very emphatically observed "One great defect in the policy of Sir George Gipps was his indisposition to repose confidence in the talent and exertions of others. The consequence was that the most trifling details of official business passed under his own hands—the merest record or document bore signs of the labour of his hands—he was, in truth, what he had been called, 'the hardest worked man in the Colony;' but he unfortunately worked hard to no account, for his working was productive of little else than mischief." Punch allows Mr. Macarthur to be an acute critic in the matter of trifling details, and he is enabled to adduce a recent instance when Sir George illustrated the proposition of his friend Mr. James à merveille. On the Monday preceding the execution of the miserable Videlle, His Excellency (*the Representative, as his friends delight to call him, of Her most Gracious Majesty*) proceeded to the gaol at Darlinghurst, where he ascended the fatal platform, and examined the machinery, making the attendants work the drop, in order that he might see with his own Vice-Regal eyes that "it was all right." Whether in this case the result proved that, to use Mr. Macarthur's words, "his working was productive of little else than mischief," is a question Punch will not at present resolve. But as the hangman was shamefully drunk on the morning of execution, Punch thinks it was a pity His Excellency did not personally attend still further to the official minutiæ. Having so long done execution on the body politic, he might have done so much on the body corporeal.

## Music and Musicians.

SOME movements are at last discernible amongst our friends the musicians. *La Cenerentola* is promised at the Victoria, with its original cast—Mrs. Bushelle as *Cinderella*, Mrs. Gibbs as the 'love-o'erladen' *Prince*, Mr. Lazar as the pompous *Baron*, Mr. J. Simmons as the impudent *Dandini*, and Mrs. Wallace as the kind *Fairy*. This judicious and most welcome revival is the result of Mr. Wallace's desire to cater for the *dilettanti* on the occasion of his benefit; but we have little doubt, from the general approbation already manifested at so agreeable a choice, that Mr. Wyatt will see the expediency of once more allowing Euterpe to preside at the Victoria. We hear that the Howsons, who are said to be tolerable singers, may be daily expected from Hobart Town, so we can look forward to a few *soirées musicales* with some hope.

## FASHIONS FOR NOVEMBER.

(From the London and Paris Ladies' Magazine of Fashion.)

THE *manteaux*, *bournous*, and *pelisses*, do not differ very materially from those of last winter; the autumnal *manteaux* of black satin, lined with white silk, have sleeves almost concealed by the frills that encircle the arm-hole; and *surtouts* of satin à la reine, enriched by *dentelle de velours*, laid on flat, are very distinguished; they are of a very comfortable make, almost always with *pelerine*, which is rather pointed than round; the *paletot Grecque* is made of the same material as the dress it is worn with, and in make bears some resemblance to the gentleman's *paletot*. *Pelisses* of

velvet trimmed with fur, which will be much used this season, not only on out-door *toilettes*, but satin and velvet dresses will be ornamented by two and three rows of fur. Ermine, for dress, and marten *en negligé*, will be the most in request; the *palatine Polonoise* is an improvement on the *camail* of last winter; and the *palatine Russe* is also fashionable, uniting the scarf and *pelerine*.

The *capotes* and bonnets of this season, are rather small, and continue low in the crowns, the colours worn are deep blue, emerald green, violet, with feathers and ribbons shaded in the same tints. Velvet *capotes* of gray beaver colour are made, ornamented inside with *ponceau* ribbon; the *marabout* drooping, feather shaded grey and *ponceau*. Velvet bonnets, of *vert-de-gris* colour, are very elegant. *Capotes* of black velvet are lined with pink, and the feathers are shaded pink and black.

Caps for *demi-toilette* are of *tulle bouillons*, with a quantity of gauze or narrow velvet ribbon, in two shades of colour. Pretty little caps are made with double head-piece, on which is a wreath of delicate flowers falling at the sides in bunches. Caps that are quite flat in front, are only trimmed on the crowns with ribbon.

One of the prettiest *coiffures* of dress, is the Egyptian; the Mogador is also admired, forming a union of ribbon, in all the shades from *ponceau* to pink: in *coques*, ribbon is very much used in four and five shades of the same colour.

The turban *Africain*, the *nœud fontange*, and the *toque Espagne* are the favourites. Wreaths are preferred to detached flowers.

The make of *corsages* will undergo little change; for dress they will still be *busque*, often with *revers* or open *berthes*, but the short sleeve will be both fuller and longer; in thin materials, the skirt will be double, and fringes of silk, mixed with silver or gold, will be worn on crape dresses, instead of flounces, with *berthe* of the same. Morning dresses will be open, with *revers* on trimming, the *chemisette* embroidered in front; and *ceintures*, with buckles, are gradually gaining ground; buttons are also very fashionable, in enamel, *mercurite* stone, &c. Velvet is much used for trimming dresses, and lace is universally worn; the *Amazon* make of dress has its admirers, in which style cloth has been used. Sleeves are of every variety; but in thick material, as in velvet,—tight ones are preferred.

## Memoranda of Men and Things.

## THE GREAT ADVENTURERS.

We want parallels in the manner of Plutarch between Mr. Warner and Sir Robert Peel, Mr. O'Connell and Mr. Barry.

And who is Mr. Barry? some one asks. Mr. Barry is not the Mr. Barry, the architect of his own fortune, who is building Houses of Parliament *ad libitum*. Who and what Mr. Barry is, the paragraph will explain—

"A most singular feat was on Monday successfully performed on the river between Vauxhall to Westminster bridges. Mr. Barry, one of the clowns of Astley's Theatre, had announced his intention of sailing from Vauxhall to Westminster in a washing-tub drawn by two geese. The crowd assembled to witness this strange undertaking was very large, and would have been greater had not the affair 'come off' before the appointed time. The road from the new Houses of Parliament to the Thames bank was almost impassable, and an immense number of persons stationed themselves upon the wharfs and barges. The opposite shore, particularly Bishop's walk, was also thronged, and for long before the hour fixed upon a number of boats filled with anxious spectators rowed up to Vauxhall bridge, and took up favourable positions. At about half-past 3 o'clock Mr. Barry, in his clown's dress, and accompanied by several of his friends, arrived at the bridge, and all things being prepared, he stepped into his tub and proceeded on his 'voyage.' The tide being in his favour, he went along smoothly enough, and he had but little difficulty in making the geese swim in their proper course. An immense number of boats accompanied this strange water party, so that the intrepid *voyageur* was in no danger of drowning. Mr. Barry disembarked at Westminster bridge, and amidst loud cheers proceeded to the theatre."

Mr. O'Connell offered the leadership of the Repeal agitation to Mr. Porter, saying, with admirable self-denial, 'I do not want to be a leader—I am content to be driver.'

And so too Mr. Barry gave the leadership to his goose, content, like his prototype, to be driver. We are not without our suspicions that horses would make the same choice too of being drivers rather than leaders, if the option were offered.

Mr. O'Connell, when he appears on State occasions before his admirers, and promises repeal in six months, wears the robes of an alderman; Mr. Barry, when setting about his exploit, exhibited himself in his clown's dress, the less grotesque probably of the two.

Mr. Barry performed what he promised, and in doing so showed what could be done with geese. Has Mr. O'Connell done as much yet with his flock?

Between Mr. Warner and Sir Robert Peel there are points of close comparison.

Mr. Warner offered his pig in a poke—he said, you shall not know my secret till you have bought it.

So too said Sir Robert Peel, refusing to write the prescription till he had got the fee.

Mr. Warner asked £400,000 for his secret.

Sir Robert Peel asked the larger price of the power and patronage of Prime Minister, the money value of which incalculably exceeds £400,000.

Sir Robert Peel promised to blow up O'Connell, but has succeeded only in destroying the Irish Court of Queen's Bench. Here the comparison becomes greatly in favour of Mr. Warner, who, without having had his price, has shown that he could do something; while the Premier, having had his price, has shown that he can do nothing, unless indeed the mine he sprung under the confiding agricultural boat may be deemed similar to Mr. Warner's destruction of the friendly bark which he had in tow.—*Examiner*.

## Port Phillip.

The Melbourne papers are barren of local news, but in the *Port Phillip Herald* we find the following interesting memorandum which will be perused with interest by our agricultural readers:—

"NECESSITY IS THE MOTHER OF INVENTION."

The son of an old friend dropped in upon us the other day, and after learning that he was last from Adelaide and settled there, we began to inquire both into his own prosperity and that of his adopted country. He told us that he was farming rather largely, and to our astonishment added, that *wheat at half-a-crown a bushel paid him very well*. Our country readers will perhaps be as much puzzled to understand this as we were; we will, therefore,

give them the explanation we received from our young friend, and in his own words, for their satisfaction and use.

"I am a tenant farmer; my farm is thirty miles from the port; the land is rich and not difficult to work, as you may suppose when I tell you that I do not use a plough, but a machine called a 'tormentor,' the nature of which the farmer will understand sufficiently from its name. With my tormentor and ten bullocks I put in eight acres a day. Myself and brother and two men, with very little occasional help, manage three hundred acres of cultivation up to harvest time, an operation which the scarcity of labour has taught us to simplify even more than the ploughing. We reap and thrash at one operation *by machinery*. The implement, which is an Adelaide invention, is propelled by a pair of horses; it *combs* off the ears of wheat, beats the grains from the chaff, and after going the round of a small field, deposits its load of about ten bushels on a sheet in the field where it is winnowed and cleared away before the machine returns with a second load. The charge for this is seven shillings and six pence per acre, half of which is profit to the owner of the machine, and there are twenty such machines now at work in South Australia. When harvest is over, I either mow my straw, which you will understand the machine leaves standing, or set fire to it. My road to the port is so good that my drays take for a load seventy bushels of wheat, and if you will calculate, you will find that if I have an average crop of twenty-five bushels to the acre it does not cost me one shilling and three pence per bushel. The cost of a reaping machine is about sixty pounds!"

These facts open up another bright prospect for these colonies; for where we can grow wheat profitably at half-a-crown a bushel, we have half the civilized world for our customers.

Since the above was in type, in connexion with this important subject we find the following article in the *Southern Australian*:—

THE REAPING MACHINES.—We lately mentioned that Mr. Coutts' machine, which was constructed upon the cutting principle, was understood to have failed, and that he intended to alter it according to Mr. Ridley's plan. Having recently seen this excellent machine at work, we are enabled to give particulars regarding it which we doubt not will be interesting to our readers. This machine is of unusually large size, being about six feet and a half in width. The row of teeth in front is six feet four inches in length. Beneath the teeth was originally placed a knife, to which was given an oscillating movement to cut the ears when seized by the teeth, and a small drum is placed immediately over the teeth to drive the ears into the body of the machine. The power is applied by leather belts with the aid of a fly-wheel. The machine is propelled by two horses. There were two principal difficulties, besides the inexperience of both drivers and horses, with which Mr. Coutts had to contend. The first was, that the oscillating knife was found to be inefficient, and was the cause of a waste of power in producing the movement. The knife is now fixed close above the teeth upon the frame to which they are attached, and acts quite as well as when in movement. The corn is thus seized, the ears cut off and driven back into the body of the machine by three different processes, almost at the same instant of time. We have said that the ears are driven back by the drum, and we should explain that this drum is of too small dimensions to thrash the grain, that operation being performed by a separate machine. Mr. Coutts estimates that the disadvantage of not immediately thrashing is fully compensated by the great quantity of additional reaping that can be performed with ease by the horses, and he pointed to the two noble animals in the machine which had worked all day without having a hair turned. The other difficulty to which we have alluded was, that there was no good leather to be got for belts, so that the powerful sun soon rendered them useless. This has been obviated by making them double. This machine can be depressed so as to cut within a foot of the ground, and raised so as to reap a crop six feet high. The crop which it is now cutting is a very excellent self-sown one, about five feet high, on a field next to Unley, which we doubt not will yield thirty bushels per acre. Except in patches, where the corn is below the range of the teeth, the crop is reaped much cleaner than by the scythe or sickle, and it is intended to go back upon these patches, after the rest is finished, with the teeth depressed. It could be all taken at once, but the intention is to take as little straw as possible, for the convenience of carting and thrashing. Allowing an average breadth of 6 feet to be cut down in the progress of this machine, it is computed that it will travel 5½ miles in order to cut four acres. We should say that the horses travel fully three miles an hour, so that at this rate the machine would reap at two acres in an hour. This, however, does not include stoppages, the time consumed by which would probably reduce the work performed to 1½ acres per hour. And it is to be observed, that as the crop is cut, not thrashed, the state of the atmosphere is of little consequence, and the operations may be carried on during both night and day. This machine requires the attendance of three men—one to guide the machine, one for the horses, and a man inside to distribute the grain. It is a matter of some importance to consider what is to be done with the straw. Generally speaking, it will probably be burned this year; but this, evidently, is a very wasteful, dangerous, and hurtful practice. If a proper system was established, it could easily be converted into manure, and there are, even now, various ways of making use of it extensively without altogether destroying it. Experiments have been made of fattening sheep and pigs upon the stubble land, the former of which we know to have been quite successful. Could not this plan be generally adopted? We hope some of our agricultural readers will take the subject into consideration, and if an improvement can be made, we shall be happy to become the medium of communicating the same to the public.

## South Australia.

The following account of the chief mines of this province is taken from a recent number of the *South Australian Register*:—

The *Wheat Gawler Lead Mine* was first discovered, and was partially worked in 1841, when about three tons of ore were raised, and on being shipped to England realized £12 per ton. It is now leased to practical miners, and its working has been resumed with every prospect of success.

The *Glen Osmond Lead Mine* is the next in order of time, and is the joint property of Osmond Gilles, Esq., and his brother, Lewis Gilles, Esq. Upwards of two hundred tons of ore have been raised at this mine, and a large portion of it has been shipped to England. From ten to five and twenty men are employed on an average at this mine, and some of its ore is reported very rich in silver.

The *Kapunda Copper Mine*, so called by its proprietors, Messrs. C. H. Bagot, and F. H. Dutton, has been worked since February, 1844, and up to this time upwards of 350 tons of ore have been raised, about 250 of which have been shipped to England. The first lot of this ore sold in Swansea at £21 per ton.

The *Montacute Copper Mine*, the property of Messrs. Hagen, Hart, Baker, F. Dutton, and others, commenced working about the same time with the *Kapunda Mine*, and up to this time upwards of 400 tons have been raised, 250 of which have already been shipped to England. The ore averages 22½ per cent. of copper, and from its contiguity to the surface is worked at a very trifling cost.

The *Yattagoliny Copper and Lead Mine* is the property of Messrs. Phillips, and the quality of the *Glen Osmond*. About fifty tons have been raised, eight of which have been shipped to England as a specimen.

The *Wheat Watkins Lead Mine* was first worked by Mr. Peachey, in May last, and about 150 tons of ore have already been shipped to England. From twelve to eighteen hands are employed at this mine.

To the above list may be added Mr. Anstey's *Copper Mine*, Mr. Macfarlane's *Lead Mine*, and Mr. Angus's *Mine at the Barossa*, with many others, the particulars of which may prove equally interesting with some of the foregoing, but which we have not yet been able to collect.

#### SUPREME COURT.—CIVIL SIDE.

SATURDAY, FEB. 8.

(Before their Honors the three Judges, in Banco.)

##### NEW ATTORNEYS.

John Stockton Fletcher, and Thomas Icton, Gentlemen, were this day admitted Attorneys, Proctors, and Solicitors of the Supreme Court of New South Wales, and took the customary oaths.

##### SEGURSON V. HEALY.

This case was tried at the last *nisi prius* sittings; the defendant was sued as the executrix of her late husband's estate. The Jury found that the defendant's husband in his lifetime was indebted to the plaintiff, and found upon this issue for the plaintiff, with £72 damages; but on the other hand they found that the defendant never was executrix.

Mr. Windeyer now moved that a rule *nisi* granted herein, and calling upon the defendant to show cause why the Prothonotary should not tax the plaintiff's general costs, and enter up final judgment for the plaintiff, be made absolute; and submitted that, the jury having awarded damages to the plaintiff upon two of the issues raised by the defendant, the former was entitled to judgment.

Mr. Darvall, *contra*.

The Court directed that the rule be discharged with costs.

##### THE BANK OF AUSTRALASIA V. BREILLAT.

Mr. Windeyer, with whom were Messrs. Darvall, Fisher, and Lowe, moved for a commission to examine witnesses in England *de bene esse*, whose evidence was sworn to be material to the defence of the action. By the affidavits filed in support of this motion, it appeared that the ground of defence being, that the directors had no authority to draw and endorse bills for the purpose of binding the rest of the shareholders, it was judged expedient to examine a number of the London bankers as to the custom of banks in this particular. It was sworn in addition, that all the Bank Directors of this Colony were more or less interested in the result of the cause, and therefore objectionable; while it was alleged that there was a good defence upon the merits, that the application was not made for delay, and that the objects of the commission might be effected within the period of twelve months.

The Solicitor-General, with Messrs. Foster and Broadhurst, opposed the application, upon the ground that the notice given by the other side was too short, the period of such notice having been but little over twenty-two hours; so that no time had been afforded for preparing affidavits to answer those filed in support of the application, and it was submitted that the proper course for the movers to have pursued would have been to procure a rule *nisi* in the usual form, instead of forcing the plaintiff to appear and show cause in the first instance.

The Court decided that the proceeding by rule *nisi* was the proper one, and granted a rule returnable in Chambers, at nine o'clock on Wednesday, on which day, after hearing the arguments of Counsel, Judgment was reserved.

##### THE BANK OF AUSTRALASIA V. SMITH AND ANOTHER.

This was an action brought by the Bank of Australasia against Andrew Blower Smith and Thomas Chapman Breillat, as members of a certain firm or co-partnership trading under the style of the Sydney Flour Company, to recover the principal and interest of three promissory notes, one for £2000 and two for £500 each. The first of such notes having been drawn by Messrs. Robert Scott and A. B. Smith, upon Mr. T. C. Breillat, and the two last having been drawn upon the same gentlemen by Messrs. A. B. Smith and Francis Mitchell.

This case was tried during the last *nisi prius* sittings, before his Honor the Chief Justice and a Special Jury of twelve, when Mr. Falconer, the Manager of the Bank, was called to prove that two guarantees were given by gentlemen supposed to be members of the Company, whereby they agreed to pay all bills, &c., drawn in a particular manner. It was admitted, however, by this witness, that there were other shareholders besides those who signed the guarantees; but a great mass of evidence was gone into to show that notes and cheques, drawn after the manner of those declared upon, had been paid by the Company, and that Mr. Breillat had acted as the Managing Director of the Company. After the plaintiff's case had terminated, a nonsuit was moved for and refused; and the Jury, under his Honor's direction, found for the defendant upon the counts as to the guarantee and the account stated, on the ground that the former was not shown to be a guarantee of the Company, and that no evidence had been given in support of the latter count. Upon the rest of the declaration, however, a verdict was found for the plaintiff, with £3061 7s. 3d. damages.

Messrs. Foster, Windeyer, and Darvall now moved for a new trial, upon the following grounds: First, upon the several points and leave reserved at the trial; second, that the verdict was against law; third, that the verdict was against evidence; fourth, that there was no legal evidence in support of the plaintiff's case to go to the Jury; fifth, that the learned Judge, who tried the cause, improperly received in evidence Mr. Falconer's statements of supposed conversation and admissions of the supposed Secretary, and supposed shareholders in the Flour Company; sixth, that the learned Judge had improperly received in evidence certain verbal statements and conversation to contradict the written contract, guarantee, promissory notes, pass books, and other writings declared on and given in evidence; seventhly, that the learned Judge improperly directed the Jury, that as between the Flour Company and the Bank, the former being the customers of the latter, the proceeds of promissory notes discounted and carried to the credit of the Flour Company, less the discount, might be treated by the Bank as money lent to the Company, although a single discount could not be so treated, and that when these proceeds were applied for the purpose of taking up other bills in the

hands of the Bank, the money thus applied might be regarded as money paid to the use of the Bank, although a balance might appear in favour of the Company by the Bank pass book; eighth, that the learned Judge improperly directed the Jury to consider the Company as being bound by the sayings and doings of Mr. Breillat, with respect to the notes and guarantee; ninth, that the learned Judge improperly directed the Jury that they might find for the plaintiffs on the counts for money lent and money paid, without regard to the plaintiff's particulars of demand which were before the Court, and without regard to date generally; tenth, that the learned Judge improperly left it to the Jury, to say whether the notes were discounted or given as a collateral security for a loan; whereas he should have directed them that it was proved to be in law a discount only; eleventh, that the learned Judge did not direct the Jury, that if the Company was a joint-stock company, the admission or statements of mere shareholders could not be taken to bind the Company, and should have pointed out to the Jury the legal distinction between private partnership and joint-stock companies; twelfth, that the learned Judge should have directed the Jury, that a promissory note is a contract by the custom of merchants—that the whole of such contract must appear in writing, and that the mere statements of the plaintiffs as to what they understand, were not admissible to contradict the written evidence in the case, and could not in anywise affect the defendants, unless assented to by the Company; thirteenth, that the verdict was improperly taken upon the several counts of the declaration, instead of having been taken upon the several issues; and that the Jury had not really returned any verdict upon the issues which they were sworn to try; fourteenth, that the learned Judge misdirected the Jury, and improperly interpreted letters of Mr. Breillat to mean that notes therein specified were notes made by the Company, and not merely notes belonging to, or put in discount by, the Company; and told the Jury that the two letters of Breillat were good evidence to show that all notes similarly drawn were notes of the Company, and that the Bank might recover for money paid to their use, although it should appear to be paid to themselves; and that although the bills sued upon appeared not to have been paid, still it was clear they paid others of equal amount.

The Solicitor General and Mr. Broadhurst *contra*.

The arguments commenced on Tuesday, when it was adjourned till Thursday, continuing that and the following day, the whole of which time was occupied in hearing the arguments of Messrs. Foster and Windeyer, and the case was not proceeded with any further.

MONDAY, FEBRUARY 10.

(Before His Honor Mr. Justice Dickenson and a Jury of four.)

##### JURORS FINED.

The following gentlemen were each fined in the sum of £2 for non-attendance as jurors, viz.:—Thomas Sutcliffe Mort, James Martyr, and Lawrence Myles, Esquires.

##### HOPKINS V. MANN.

This was an action for goods sold and delivered, being a quantity of tea alleged to have been sold to the defendant on the plaintiff's account, by John Manwaring. The defendant pleaded the general issue.

The only question for the decision of the Jury was, whether the defendant purchased the tea from Manwaring on his own account, or from him as the agent of the plaintiff.

After hearing the evidence and the arguments of Counsel, the Jury found a verdict for plaintiff.—Damages, £18 2s. 6d.

Mr. Windeyer Counsel for the plaintiff.

Mr. Foster for the defence.

##### HOSKING AND ANOTHER V. NORTON AND OTHERS.

This was an action by John Hosking and Samuel Furneaux Mann against the executors of Samuel Terry, deceased, to recover certain arrears alleged to be due upon an annuity bond, made by the latter in his life time. The defendants pleaded payment, but admitted the bond.

Messrs. Windeyer and Michie appeared for the plaintiffs, and Messrs. Foster and Fisher for the defendants.

After some argument between the Counsel, the Jury were directed by His Honor to find a special verdict upon the facts of the case, leaving the matter of law, as to whether the set-off amounted to a payment or not, to be finally determined by the Court.

The Jury, after retiring for a few minutes, found, that the payment or deduction was made on the individual account of the defendant, John Hosking, and not on account of the bond, or of his character as trustee of such bond. They, therefore, returned a verdict for the plaintiff, subject to the opinion of the Court upon this point.

##### LAST V. EALES.

This was an action by Robert Warner Last, against John Eales, to recover payment for work and labour alleged to have been done and performed by the plaintiff, for and at the request of the defendant, in the capacity of a superintendent, the said defendant being an extensive sheepowner. The plea was, that the defendant was never indebted to the plaintiff, as stated in the declaration.

Messrs. Windeyer and Broadhurst appeared for the plaintiff; and Messrs. Foster and Michie for the defendant.

After examining the first witness, the case was adjourned till the following day.

TUESDAY, FEB. 11.

(Before His Honor Mr. Justice Dickinson and a Jury of four.)

##### PALMER V. THE SHERIFF.

This was an action of trespass by a tenant against a landlord, in which the defendant had pleaded the general issue.

Mr. Windeyer, on the part of the defendant, moved upon notice for leave to amend the plea by inserting in the margin a reference to the statute under which the defendant had acted, and produced an affidavit in support of this application, by which it appeared that the omission had been made through error.

Mr. Foster, on the part of the plaintiff, opposed the motion, upon the ground that it came too late, the case having been set down for trial that day; and also upon the ground that by altogether varying the nature of the defence, it would be the means of entailing a great expense. An affidavit was also produced, from which it appeared that briefs had been delivered and witnesses summoned for the trial, and that any alteration in the record would be productive of great additional expense and inconvenience.

His Honor allowed the amendment applied for, upon the condition that the defendant should pay all costs occasioned by the delay.

##### LAST V. EALES.

This case, which commenced on Monday, was now proceeded with, and a number of witnesses were called for the plaintiff, from whose evidence the following facts were shown.

In the month of April, 1842, Mr. Eales, who appeared to be a very extensive sheepholder, had engaged with the plaintiff as a superintendent, and despatched him to take charge of a large

number of sheep, depasturing at Liverpool Plains. He, the plaintiff, by Mr. Eales's direction, proceeded subsequently to take charge of about 24,000 or 26,000 sheep, at Wide Bay, a place which was said by some of the witnesses to be 150 miles, and by others 250 miles beyond Moreton Bay. He remained in charge of the establishment until April, 1844; but during this period an attack was made by the aborigines upon one of the out stations, about twenty-four miles from the head quarters, where four men were killed, and a number of sheep destroyed. Owing to these misfortunes, and to the feed in this quarter turning out bad, the defendant, who had visited the stations there, determined upon once more removing the sheep to Liverpool Plains, and sent directions to Mr. Last for that purpose, by a gentleman named Nichols, who acted as his (Mr. Eales's) principal superintendent. As soon as the shearing was over, the removal of the sheep took place; but in their course overland about 4000 of the sheep were lost, some by drowning, and others in consequence of wet and cold, or from their poverty of condition. It was shown that the defendant had on several occasions expressed himself highly satisfied with the manner in which the plaintiff had performed his duties up to the time he heard of the sheep being lost on the journey, at which he expressed himself dissatisfied, attributing the loss in some degree to the plaintiff's mismanagement. Mr. Nichols stated, that when he went up to the establishment he saw some men unemployed, while at the out-station the sheep were being depastured in unusually large flocks, owing to the scarcity of shepherds; he could not, however, say anything as to the nature of the plaintiff's management at the station, the latter having been absent until some time after his (witness's) arrival, at which period everything was already prepared for starting on the return to Liverpool Plains. This witness stated likewise, that upon the road the plaintiff appeared to use his best exertions in the performance of his duty; although it was possible that the poverty of some of the sheep by which their loss was occasioned, might have arisen from neglect at the station. The plaintiff, and one of the principal witnesses called in support of his case, appeared to have been stopping of late with Messrs. Pite and Preston, the witness, whose name was Glanfield, being in the employment of that firm; and it was stated that the defendant upon being applied to by those gentlemen to sign a promissory note for £300 on account of the plaintiff, had promised to do so. The plaintiff's claim for salary was at the rate of £150 for the first year, and of £250 per annum, for the remainder of the time in which he remained in defendant's employment; but no evidence was given as to any agreement for a particular rate of remuneration; some of the witnesses however who appeared conversant with the subject, were asked as to the proper rate of the salary for a gentleman holding such a situation as that held by the plaintiff at Wide Bay, and it appeared to be conceived, that assuming him to be a thoroughly competent person, he was fairly entitled to about £300 a-year, inasmuch as a proper person could scarcely in the opinion of the witnesses be obtained for less.

In addition to these facts, some letters of the defendant's were put in, which, while giving some general directions as to the management of the station, he expressed himself satisfied with the plaintiff, and wondered how he could get on at all among such a set of disorderly men as he had around him.

The plaintiff's case having closed.

Mr. Foster addressed the Jury at considerable length for the defendant, commenting upon the evidence which had been adduced in support of the plaintiff's claim, and dwelling strongly upon the fact that no proof had been given as to what the particular services were that the plaintiff was in the habit of performing at this station. In a place so remote as this from the residence of the defendant, it was impossible for the latter to understand how matters were going on, and his knowledge would not be materially increased by the kind of flying visit he appeared to have paid to it on one occasion. It was quite possible, therefore, that Mr. Eales, being of a sanguine temperament, and deprived of all opportunity of obtaining a correct knowledge as to how matters were proceeding at the station, might be under a belief for a long time that the plaintiff was doing him the most ample justice, and might have expressed himself to that effect, as was said by the witnesses; although he might soon afterwards find out how much he had been deceived on this point. He should be able, however, to give evidence as to various actings of the plaintiff, which showed that he was totally unfit to control men at a place so remote, and that by his negligence and unfitness the defendant had been subjected to losses ten times greater than the amount of the plaintiff's claim.

Several witnesses were then called, from whose testimony it appeared that 4000 scabby sheep had been allowed to run in one flock without the plaintiff using any medicine to cure them, although provided with plenty for that purpose; that the shearing had been badly managed; that casks of fat had been seen uncovered, by which some of the fat might have been wasted; that skins had been suffered to lay about; that the plaintiff had admitted his inability to count sheep; and that he had injudiciously drafted a number of young sheep for slaughter, when there was a number of older and better conditioned animals which would have served better. It was also shown that some of the men had been seen idle; but these it appeared were such as had been employed at shearing, who, it was said, were paid by the score; and it also appeared that some of these said men had been in the frequent habit of playing at cards, upon which occasion the plaintiff had often looked at them; but it was not shown that he had ever so far departed from discipline as to treat these men as equals. During the shearing, it appeared that a number of sheep were killed, and upon the making up of the accounts after it was over, it appeared that there were about ten or eleven hundred short; but it did not appear that the plaintiff had had the whole control of the shearing, having been absent at Brisbane some time during its continuance.

Mr. Windeyer having replied, His Honor addressed the Jury and commented upon the evidence that had been given.

The Jury retired for a short time, and returned a verdict for the plaintiff.—Damages, £433 6s. 8d.

The Court then adjourned till the following day.

WEDNESDAY, FEB. 12.

(Before His Honor the Chief Justice, and a Jury of four.)

##### TAGGART V. HOLMES.

This was an action of debt, brought to recover the sum of £100, for money lent and advanced to the defendant, who pleaded the general issue.

Mr. Michie appeared for the plaintiff.

From the evidence of Mr. Smith, Solicitor, O'Connell-street, it appeared that in September, 1841, he advanced to the defendant a sum of £50, and in the month of December following made another advance of a similar sum, both having been made at the request of the plaintiff, and on his account. At the time the first advance was made, the defendant gave Mr. Smith a promissory note for the amount, payable on demand, which Mr. Smith, after keeping it in his possession for about eighteen months, endorsed