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✓ THE "HERALD" AND ITS PRINCIPLES.

THE stagnant pool of the *Herald's* columns was on Thursday last, to the great surprise of the worthy citizens of Sydney, disturbed by some agitating cause, and the mud which has slumbered for some time at the bottom was brought to the surface. As the *Herald* has chosen to bespatter us a little with its abuse, and as we do not choose to submit to being cudgelled without making some defence, we shall condescend to notice our very formidable opponent's attack. We cannot call it strictly a gratuitous attack, as we shrewdly guess that the rankling remembrance of certain well-merited castigations which the *Herald* has received at our hands, has prompted the present notice with which we are honored. It is very gratifying to us to find that the pungency of our remarks, confessed by this indirect manner of revenging them, has acted as a kind of moral medicine to the *Herald's* anything but healthy state of mind. Of a thorough reformation in the *Herald* we must despair, but it is something to prevent its becoming worse than it is.

The *Herald* says that "from our incompetency to discuss purely legal questions affecting the clergy and their functions, and to decide on the accuracy of statements, in the absence of any directly authorised source of information, we have thought it most consonant with our duty to the public to decline the insertion of all such communications, whether from clergy or laity." The *Herald* is defending the Bishop of Australia from some strictures which have appeared in our columns. We certainly do admire the frankness of the *Herald* in confessing its incompetency, and must record our agreement with the opinion it expresses. We think too that truth will allow us to go a little further, and express our conviction of the *Herald's* incompetency to decide accurately upon any subject. But mark the reasoning: Because the *Herald* feels incompetent to decide upon the subject, therefore it must decline to insert all communications upon it! Does the incompetency of the *Herald* extend to its correspondents? We have no doubt that it does. Of its own incompetency here is an example:—"The recent decision in the Diocesan Court in the case of Mr. Duffus has satisfied us that there is no deficiency of power to visit with suitable penalties acts of delinquency on the part of the clergy. The crime thus visited with its attendant circumstances, is revolting in the extreme, and is, we believe, but rarely exhibited. It has, however, completely served to convince us of the mildness and the very great forbearance manifested in the episcopal superintendence of this diocese, and how opposite to truth is the assertion that it is oppressive and tyrannical." Now is it not very strange that any person should publicly aver that a decision which visited "a crime revolting in the extreme" with a punishment altogether inadequate to the offence, yet satisfies him "that there is no deficiency of power to visit with suitable penalties acts of delinquency on the part of the clergy." To any reasonable person, one whose brains were not enveloped in a cloud of obscurity, the contrary would appear to be the case. Can any one assert that the punishment inflicted in this instance was adequate to the enormity of the offence. Assuredly not. The Bishop is placed in a worse light by his blundering defender than even we think is deserved. The punishment is characterised as an instance of the "mildness and very great forbearance" of the Bishop. We ascribe the leniency of the punishment to the fact that

the Bishop doubted that he had the power to inflict one more severe. The *Herald* implies that its mildness is attributable to his charitableness in a case where it would be positively a great injustice to decree so mild a judgment for so trivial a reason. Alas for the *Herald's* friendship. The Bishop was placed in comparatively a favorable light, before it was his misfortune to find a defender in the *Herald*. No sooner does this unlucky print take up the cudgels in his defence than, by a strange fatality, the Bishop's lawn ceases to boast its unsullied whiteness. We can imagine the worthy prelate in the excruciating agony which he experienced upon reading his defence in the "daily," to have indited a letter to the proprietors of that journal, begging of them if they entertained any respect for him, never more to put pen to paper in his behalf. The Bishop's case is truly a pitiable one, and we really feel for him. We have no very great opinion of him, yet he is flesh and blood, and is entitled to some sympathy. It is quite punishment enough to him, we think, to behold his true reflection in the pages of the ATLAS, without being immolated upon the altar of friendship. Oh! blundering, perverse, unlucky, stupid, wrongheaded *Herald*! How many oblations must you offer to the offended Episcopal dignity, before the light of the Bishop's countenance shall again be turned upon you! how many deprecatory prayers must you address to him before his anger is appeased! how many *peccavis* must you repeat before forgiveness is extended! your future prospects are melancholy indeed!

The *Herald* with characteristic arrogance assumes to itself the merit of being a true and consistent friend of the Church, and audaciously asserts that our lucubrations upon the Bishop and his Diocesan Court are provided for the especial purpose of ministering to a depraved taste, and are held in deserved contempt by the more respectable portion of the community. Of the *Herald's* consistent friendship for the Church, more anon. As to the taste to which our articles are presumptuously presumed to minister, let the public judge. But we would like to know to what taste are the articles of our *able* contemporary supposed to minister; or, rather, can they be said to minister to any taste at all. We never yet met the individual to whose taste they were, and can only add, that the persons who take pleasure in them must have a shocking bad taste indeed, (if there is such a thing, which we doubt!) But the *Herald* implies that the more sensible portion of the community constitutes its admirers, and that, consequently, we meet with their contempt. Without going into the merits of this statement, we shall only say, that we shall always be glad to continue to be contemned by those who admire either the principles or the productions of the *Sydney Morning Herald*.

The nature of the *Herald's* friendship is so well known, that it is unnecessary for us to expose its real worthlessness. We assert our claims to be considered as friends to the Church upon infinitely higher grounds than can our tergiversating contemporary. We do not certainly pander to the vanity and ambition of Bishop Broughton, or mouth at delectable Diocesan reunions. The Bishop is not the Church, nor can a few of his friends represent the great body of its members. Whatever savours of abuse shall always meet with our undisguised opposition, whether this abuse lurk beneath a mitre, or sit enthroned upon the seat of power. We shall never hesitate running the risk of offending the piebald *Herald*, or Puseyites hiding themselves under the garb of Episcopacy, eating the bread of the Church, and stabbing her in the dark.

We scarcely suppose that any one is so blind as to be led away by the apparent zeal of the *Herald*. Like the Vicar of Bray, the *Herald* is always the friend of those in power. Were the Pope to step into Bishop Broughton's place, the *Herald* would exclaim—

"The Church of Rome I find will fit  
Full well my constitution."

Being "in the rhyming humour," we beg leave to present our readers with a new version and adaptation of the song relating to the Vicar before named, which we doubt not will be found to be a "right merrie conceite":—

THE VICAR OF BRAY IN SYDNEY.

In good Sir Richard's golden days  
When frankness had no harm in't,  
A zealous Liberal I was,  
And so I got preferment.  
I advocated liberal views,  
I flattered well the people—  
So, all to gain, and nought to lose,  
My purse could always keep full.  
And this is law, I will maintain,  
Unto my dying day, sir,  
Whenever change shall come again,  
I'll suit the change alway, sir.

When Gipps our Governor became,  
I crouched and cringed full low,  
And swelled with servile breath his fame—  
Until he had to go.  
And then from north to south I veered,  
Revoked my old allegiance,  
And with stentorian lungs declared  
The Squatters' monster grievance.  
And this is law, &c.

Mild Fitz Roy's reign is yet but young—  
But I hate procrastination,  
His panegyric I have sung,  
And signed my declaration;  
But yet, when'er 'tis time, I'll cry  
"We're going to the dogs, sir,  
King Stork has flown up to the sky,  
And now we've got King Log, sir."  
And this is law, &c.

And from this creed I'll never veer,  
Through tyranny and oppression,  
But always shall allegiance swear—  
To him who has possession.  
My present principles I'll hold,  
Not in the least I'll falter;  
The present system I'll uphold—  
Until the times do alter.  
And this is law, I will maintain,  
Unto my dying day, sir,  
Whenever change shall come again,  
I'll suit the change alway, sir.

✓ CAPITAL PUNISHMENTS.

HAVING considered this subject in a general light, we shall now proceed to take a limited, and, in some respects, a local view of it. As we observed in our last, the belief against capital punishment is fast obtaining throughout the British nation, and, indeed, throughout other nations too. This of itself we think will soon render the law of death punishment obsolete, even if it do not effect its repeal. For although the people have not directly the power to repeal or amend a law, they have fortunately the power to sway or modify its administration. This privilege is secured to them by that glorious institution—trial by jury. And that they have largely availed themselves of this privilege in cases for capital punishment is abundantly evident by the records of recent trials, both in this colony and in the mother country. And that they will continue to do so, even still more freely, is but a natural consequence on the increase of enlightenment, and the progress of conviction against death punishment. It is not natural, nor indeed will it often occur, that judges and juries averse to capital punishment, if they can possibly act otherwise, will violate their consciences and perpetrate what they cannot but consider a gross injustice to their Maker, by directing or countenancing the infliction of death punishment. To evasion like this, in our opinion, may be attributed many of the acquittals for murder and similar offences which have recently occurred both in this colony and elsewhere. Indeed, so far have we seen this principle carried out, that we believe some juries would almost *invent* a "doubt," and some judges resort to the most trifling technicalities by which to evade the enforcement of the extreme penalty, such is their growing

abhorrence of it. Procedure like this, however, according to the present state of the law, is obviously attended with many evils, both as regards the administration of justice and those who administer it. It is a way of committing wrong to avoid wrong—a method of substituting extreme mercy for extreme severity. In short, the attempt to *ameliorate* punishment prevents it altogether. And thus not only do the ends of justice fail, but the judge and jury involve themselves in a species of dishonesty by their deliberate evasion or distortion of the law which they find it difficult to reconcile with a regular and conscientious performance of moral duty. But as there are two evils necessarily attaching, the one involved in the deprivation of life, and the other in the extension of mercy at the expense of justice—people will generally prefer the latter, as being less inimical to their moral feelings and the peculiar spirit of the times, and although it certainly cannot be regarded as tolerable in itself, may yet be considered as “leaning to Virtue’s side.” As an illustration of what we have been endeavouring to explain, we think we may refer, although guardedly, to the late trial for a murder at Lane Cove, the result of which was a verdict of manslaughter instead of wilful murder, as was confidently expected by the public. It is generally believed that in this case the jury were by no means advocates of capital punishment—on the contrary, that their verdict was dictated by a decided aversion to it under any circumstances. Whether this belief be really founded in truth or not we do not pretend to say, but we think the presumptive evidence in support of it is so clear and demonstrative as to render it almost unquestionable. But even if the jury were not averse to death punishment in cases of *palpable* guilt, it is of little consequence as to the point at issue, since their dislike to inflict it, or their disposition to be merciful, was so strong, as to render the law in the hands of such persons virtually inoperative, from the almost impossibility of establishing an *absolute* certainty of guilt. On the public mind there was not a doubt, neither before nor after the trial, as to the guilt of the murderer in the case we have referred to, and that His Honor Mr. Justice Dickinson had a slight inclination to concur in the general opinion was rather unequivocally marked by the heavy sentence he passed upon the criminal. Indeed we have no hesitation in asserting, that the amount of evidence adduced at this trial would have been regarded by ordinary juries as amply sufficient to warrant a verdict of wilful murder. The points most remarkable in the evidence were its amplitude, minuteness, disinterestedness, and a total absence of conflict. The evidence of the boy, which might naturally have been expected to be partial, was singularly conclusive and concurrent with the testimony of other witnesses; and although doubtless he did not divulge all he knew of the affair, it is only to be wondered at, considering his relationship to the criminal, that he should have revealed so much. The testimony of the other witness was equally explicit and comprehensive, not only tending to convict the criminal, but to show minutely the *manner* in which the crime was committed. We infer, therefore, from what we have considered, that the lenient verdict returned was dictated by an enlightened and merciful desire to avoid the infliction of the extreme penalty. And, as we have already stated, a like spirit is fast progressing, and will no doubt continue to progress, throughout the British nation, which eventually, if it does not effect the abolition of death punishments, will at least render their authority obsolete.

### THE NEW ZEALAND LAND QUESTION.

As we anticipated, the recent agreement between the New Zealand Company and the Colonial-office is to be the watchword for the renewal of hostilities between the natives and her Majesty’s Government. This intelligence is more particularly communicated in a letter in the shape of a protest to the Governor by a Rev. Mr. Maunsell, one of the oldest missionaries on the island, and one of the most active parties in effecting the “Treaty of Waitangi.” This last circumstance he adduces as his chief reason and authority for protesting. Having been an influential party in assisting the Government to rob the natives *partially* of their lands, he considers that he is in justice bound to prevent their being robbed *wholly* of their lands. The real ground of his protest being the fact that the late compact between the New Zealand Company and the Colonial-office involves a serious breach of the Treaty of Waitangi, inasmuch as the aboriginal right conceded by the latter, to govern and occupy certain waste lands is virtually abrogated by the former in the right (?) which it confers on the Company to govern and administer the whole of Southern waste lands irrespective of conditions.

The letter is perspicuously and energetically written, and speaks much for the humanity of its author, though not much for his discretion in the Waitangi affair. He ought to have known the British Government better, despite its reputation for honesty and honour, than to have staked his reputation on a compact, which according to history, the relationship between all colonization and aboriginal populations has proved that it would be infringed and broken at every opportunity. When was there a compact of this nature ever kept sacred by the British or any other European Government? Has not the weaker side, in every instance, been the loser? Nay, has not almost every aboriginal population, in the progress of coloni-

zation, either vanished from the earth entirely, or dwindled into a state of insignificance worse than slavery! To this fact American history bears abundant testimony, and the histories of other countries are equally concurrent. We may admire the bravery, respect the honor, and even reverence the justice of British and European Governments, but it should never be forgotten that the greater these qualities and the higher the feelings we entertain for them, the greater is our disgust and the more unpardonable the act of their violation or abandonment. It is believed by those best qualified to judge, that if a fresh war do break out—and there is at present but little doubt of it—that the results will be most disastrous to the colony; as the aborigines will for the future have an advantage which they have not had before, viz.—unanimity among themselves.

### DR. LANG’S TESTIMONIAL.

It is with much pleasure that we perceive that two meetings have been held for the purpose of raising subscriptions to present the Rev. Dr. Lang with some testimonial of the gratitude of the inhabitants of this colony, for the unwearied zeal which he has displayed in promoting the best interests of the colony, both by his writings and his personal exertions. We think that every person who is at heart a well-wisher of the colony, should come forward and show that he is willing to recognise just claims upon his gratitude. In such a case as this we think that party spirit should be forgotten, and if any one is of opinion that many of Dr. Lang’s actions have been reprehensible, let him allow for the fallibility of human nature, and let him not overlook the claims of a public philanthropist, in the errors of the private man. Admirers as we are of Dr. Lang, we are by no means blind to his faults, yet we should be ashamed not to acknowledge his claims to public gratitude because our opinions on some minor points differ. The precedent, too, would be a good one, and many might be induced to use their efforts for the advancement of the colony more readily and cheerfully when there would be some prospect of their claims to public gratitude being acknowledged. The questions which the Rev. Doctor is agitating in the mother country, are intimately connected with the prosperity of Australia, and we can scarcely expect that success should attend his exertions there, unless we ourselves show an interest in them and prove that we fully appreciate the good which is likely to result from them. We cannot help again strongly urging our fellow citizens to prove that they are not ungrateful for kindnesses received, but that they are forward in rewarding merit wherever it may be found.

### EUROPE.

By the *Sophia*, from Singapore, which has arrived at Hobart Town, we have received our files of the *Singapore Straits Times* to the 11th September, containing English news to the 24th July; and by the overland mail from Port Phillip yesterday, the Melbourne papers announce the arrival from England of the *Vanguard*, the *Thomas Hughes*, and the *Vixen*, the latter from the Downs the 25th July; from which papers we extract the following summary:—

On the 17th, the Appropriation Bill was read—a hint of the coming close. The 19th was chiefly occupied with another skirmish on the Manchester Bishopric. On the 20th, Lord Brougham gave a resume of the Session; and in the Commons, Sir J. C. Hobhouse said the Government did not know of the order issued by the Governor of Madras, discountenancing the use of the Bible in a new class of the University there. In reply to Mr. Hume he said that Scinde was tranquil, and that the very idea of the return of the Ameers was a terror to the people. Mr. S. Wortley moved for papers explanatory of the services of Lieutenant-Colonel Munro and the claims of his widow. Mr. Hume moved for papers connected with the case of the Rajah of Sattara, and then set forth the following motion:—

Mr. Hume then moved for full and detailed reports of the extent and nature of the operations and of the expenditure connected with the grand trigonometrical survey of India, and of the grand triangulations thereof for the measurements of the arcs of the meridian, from the year the first base was measured to the latest date. Also, reports of the survey, whether general revenue or military, which have hitherto been carried on, completed, or are in progress, specifying the divisions or portions of India; also, the number and what sheets of the grand atlas have been completed and engraved, with the cost thereof to the Government, and the selling price per sheet to the public, and what progress the remaining portions of the atlas are in. Of the nature of the information collected in connection with the grand survey, and the detailed survey of India, and a list of all the memoirs, and their contents, sent in. And statements to illustrate the nature of the different great divisions and the smaller districts of departments thereof, into which India within the line of the Indus is divided, for political, civil, revenue, judicial, and military purposes, exhibiting the areas, population, and nature of productions thereof; and showing the relation and the authority under which they stand in to the East India Company, whether immediately subordinate to and under the direct rule, or are tributary, protected, subsidiary, or independent.

All these papers were ordered without any hint from the mover of how many renewals he proposed of the Company’s charter to make the returns to the House. On that night, the House, on the motion of Lord George Bentinck, discussed the manifesto of Sir Robert Peel. On the 21st, the Manchester Bishopric was read a third time. On the 22nd, the House of Commons oozed out by degrees, the House of Lords sanctioning a short discussion on the Education question: and yester-

day was a royal sitting, the Queen in person proroguing Parliament, after a session of much promise, and the least possible amount of performance.

An express from Paris, received in London on the 20th instant, announced the arrival at Marseilles of the overland mails from India and China, with dates from Hongkong 25th May, and Bombay 1st, Calcutta 3rd, and Madras 9th June. Letters and papers were delivered in town on the morning of the next day.

The Chinese junk *Keying*, which has been expected to reach England about this time, was spoken with on the 16th June, by the *Urania*, Captain Schermhoff, in lat. 28 N., long. 16 W., and being short of provisions, it is expected will make for America.

July 21st.—The Queen has been graciously pleased to appoint James Brooke, Esq., to be her Majesty’s Commissioner and Consul General to the Sultan and Independent Chiefs in the Island of Borneo.

The correspondent of the *Times* at Lisbon begins, in the tone of complaint, to tell us “that Count Das Antas, Viscount Sa da Bandeira, Count Mello, and all the remaining prisoners of war from Oporto and Setubal, without exception, were restored to freedom on the 9th instant. Fort St. Julian, discharged of its captives, has been likewise restored by the allies to the Portuguese authorities, and there is not now through all Portugal a single political prisoner. The streets of Lisbon,” he proceeds to say, “present a most extraordinary aspect. Troops of the amnestied are to be seen in every direction, wearing still their regimental costumes, but without arms; and the Queen’s volunteers, on the other hand, pass and re-pass either on or off service, and generally armed, yet the scenes of disturbance witnessed have been few and trivial.”

The feeling in Spain excited by Lord Palmerston’s threat is a strong one. The *Faro* (M. Mon’s journal) observes, “that if Spain has not yet paid her England creditors, it was because she had been for many years a prey to revolutions, fomented in a great measure by Lord Palmerston. Spain,” adds the *Faro*, “will pay England what she owes her, not from any fear of her *fanfaronnades*, but because she is anxious to fulfil obligations she contracted in vain.”

The Queen was to leave for La Granja on the 17th, and is to remain in that residence until the close of August. Her Majesty was to be accompanied by the Minister of Commerce. The King drove in from the Pardo on the 13th to visit his younger brothers, who continued in the Retiro after the departure of their father.—The Royal Council had granted the *Exequatur* to Monsignor Brunelli, with whom the President of the Council and the Ministers of Justice had a long conference on the 15th.

Mr. Cobden has arrived at Vienna, where he has been presented by Lord Ponsonby, the English ambassador, to the Prince de Metternich, and Baron de Kubeek, Minister of the Interior.

The King of Holland is so much indisposed as to be compelled to travel, leaving his brother as Regent. The King of Belgium is worse in mental health than is his royal neighbour physically, and he too is bound for the South, the Queen acting as Regent.

The Emperor of Russia is also ill at ease; and of the crowned heads of Europe, few are free from heartache. The Queen of England is happily the marked exception.

A letter from Rome of the latest possible date states that Cardinal Gizzi, who had resigned, and whose office of Chief Minister had been assumed, it was stated, by Cardinal Feretti, is to continue in office.

The news from Mexico is very little in addition to what we knew when the last mail left. The American armies advance towards the capital. The people continue divided; they cease not to boast and threaten—and run away. And the Yankee army, composed nearly of naked poor, wretched starved, and fever-stricken Irish—despised, yet dreaded—are moving among the descendants of the chivalry of Spain, and the valor of the Indians, like the pestilence from which they have themselves by miracle escaped.

Amongst the deaths was the name of the O’Connor Don, one of the members for the County of Roscommon (Ireland), and a Lord of the Treasury, who died in London from a disease of the heart.

The recent (July) wool sales terminated somewhat better than they opened and prospectively the market undoubtedly looks better if the coming harvest prove but good. Wheat has experienced a further decline of fully 8s. per quarter this week.—We are, &c.,—BUCKLES & Co.

Hides—Salted have been easier, but dry qualities have sold steadily. E. I., at auction, went best dry: salted light 8½, seconds, 7d., first heavy, 7d., seconds 9½d., first brined 8d. to 9½d., inferior 6½d., seconds 6½d. to 7d., inferior 4½d. to 5½d., thirds 5d. to 5½d., fourths 3½d. to 5d., first heavy 5½d. to 6d., buffalo 1½d. to 2½d.

METALS.—A brisk demand has been experienced for Scotch pig iron, and a rise of 4s. to 5s. has been paid. The market has now a very firm appearance, and present holders look for higher prices, as there are few parcels in speculators’ hands, and the markets pretty full of orders. Bars are also held with more firmness, and a good business has been done at higher prices. Cargo in Wales is now £8 10s. to £8 16s. In the price of rails no change has taken place, but there has been rather more doing. British iron has been in good request, and as makers are only working for orders, present rates are likely to be maintained, or, if not, go higher. Foreign iron is unchanged in price, and little doing. Steel and lead remain nominally the same as last week with a quiet market. Copper continues in good request.

### PROROGATION OF PARLIAMENT.

JULY 22.

The speech delivered by her Majesty in person from the throne having been settled at the Privy Council held at Buckingham Palace on Thursday, the preparations used at the prorogation of Parliament took place on Friday at the new House of Lords, which her Majesty for the first time visited in state.

Her Majesty was received at her entrance to the House by the Great Officers of State and of the Household, and having robed and taken her seat upon the throne, having Prince Albert seated on a lower chair on her left, and having commanded the attendance of the House of Commons at the bar, proceeded to read, in her usual clear, distinct voice, the following