

Nieuwe Goederen.

HOME, EGAN & Co.

LANDEN NU UIT DE "ELIZABETH".

EEN UITGEBRIDE FAKTOUR.

BRITSCHE MANOF-ACTIONEN.

BRITSCHE SAVATTIERS.

VOERCHITS, blauwe patronen, 10 groote verschillende.

Gedrukte Cambric en Kledens.

Blauw en witte Punjund en Satijn.

Molleton, Velours, Katoenen Geklopt, Milline Duck.

Drieling, Stoere en grote Galan.

Woolen, Duct, Bedrukt.

Twee, Katoen, Laken, Dukkin, Oudebroek.

Zomerlaken, Calimereet, gespand, Katoenen.

Honden, in Regatta, patroon, 10 groote

blauwe Patronen, Heren Corsetten.

Kombazien, Flannel, Fluul in Vol en Katoen.

Duch Prokken en Broeken, Cottouc Kortjes en Bro-

ken.

Meuel-Groen, Oude, Bruinzel, Bodenhuizen,

Djener, Dekens en Sreyen.

Chapman, Geruit, Katoen, Geperd,

Bardarins en Alpacas.

Een assortiment Rouwdrachten in Mollecrayen,

Blucher Laarsen, Damek Motting Laarsen en Schoden

Manco Slipper, Katoen Schoenen,

Katoen Dekens, geschilderde Wandtapijten,

Wolstapeten, Koestallen.

Landsche Zep, Styfels, Blauwvel, Verw, Wit,

Koeldeel, gekookte, en rawne Olie, smarante Olie, witte

Koeldeel, en compotee Kaasen, Zaden en Zuur,

Gele, Groene, Rode, Zaden van Hulste, etc.

G. KILIAN & Co.,

Ontvangen per "LADY FLORA".

EEN GROOT FAKTUUR.

Britysche en Ethermische Goederen,

Bestaande in:

MEUBELGEBRUIK: 80 dms. gehakte Long-

cloth, Jacent, Vleutene, Molekine, gestreepte

Frokken, Hemdenlaken, Mans wolle, Henden, witte katoenen Krushanden, Damet en Kinder Laken, Damet Schoenen, Gros de Naples, alle kleuren, zwarte en gekleurde

satynen Turk, Linten, Kant, enz. enz.

ATSMEDA,

Een groot assortiment Yarn, Blik en Platedwerk,

te weten: enz. enz.

Koppe Kindelen van alle soorten, een groot assortiment

Woonbedden, Broekbukken, Matras en Vorlen, Wirsone's,

Ringert Messen, Haakken en Oogjes, verlaate Guldskisten,

Krijghuizen, ysterd Vissels en Stampers, Sauspannen, Bak-

patijen, Blanke Couvertures, Brachonnet, koperen Ketsels

icht, overige bengels, verlaate Sulkerbasjes, koperen Hol-

luchts, Toufdochten, koperen Hollandse Kreuz, uit

Hofworf, Hangsloten, Pikkels, Matlocks, breede Bylen,

Klaaghe Schoffels, Hollandsche Bylen, Koe-nakers, Bylen, 10,

14, en 16 dms. Trek Messen, Knapsche Graven No. 4,

Hollandse Metalen Tiere en Kofsvissen, een groot

assortiment Platedwerk, te veel om te noemen.

Nieuwe Goederen ex "Elizabeth."

Een Ondergetekende landen nu uit bovenge-

maart, een algemeen Assortiment stapei en fancy

Goederen, welke sy tegen hoge prisen zullen van de hand

zetten.

G. KILIAN & Co.

COMMISSARIAAT.

BRANDHOUT

IN DE KAAPSTAD EN SIMON'S-STAD.

TENDERS zullen dat dit Bureau worden

ontvangen, tot 12 ure, op WOENSDAG, 17 De-

cembe, aannemende, van zoodanige Personen, die geaange-

mogen sva te kontrakteeren voor de leveranie van

DROOG BRANDHOUT.

In zoodanige kwantiteit als voor dit Departement gedurende

het aant. jar, beginnende met den 1 Januari 1846, in de

Kaapstad en de Zuiden, verecht zullen worden.

De Tender zullen moeten inhouden den pris in Sterling

per 200 lbs. Engelsch Gewicht.

Elke Tender zal moeten vergezeld gaan van een Instru-

ment in Duplicat, (copien waaren te bekomen, syn op aan-

zaek aan dit Bureau) da party onder eenne boete verbied-

de, tot nakoming der bepalingen in den Tender verrat,

Inde deselve wordt Middenomen.

CHARLES PALMER, Adj. Com. Gen.

Commissarisat Bureau, Kaapstad, 26 Nov. 1845.

COMMISSARIAAT.

AAN KAARZENMAKERS,

IN DE KAAPSTAD EN SIMON'S-STAD.

TENDERS met monaters zullen aan dit Bu-

reau, worden ontvangen, tot 12 ure, op

WOENSDAG, 17 Decembe, aant, van zoodanig Personen

die geaange mocht te contractieren voor de leveranie

van zoodanig, kwaliteitsche KAARZEN, als verecht mogen

worden, voor de leeft. van dit Departement, gedurende het

volgend jar, beginnende met den 1 Januari 1846.

De monater te syn van vorm, en getrokken Kaarsen,

da pris te worden vermeld in Sterling Geld, per pond Engelsch

Gewicht.

Afsonderlyke Tenders voor de leveranie aan de Simon's-

stad, zullen worden ontvangen.

Elik Tender sal moet vergeseld gaan van een Instrument

in Duplicat, (copien waaren te bekomen, syn op aan-

zaek aan dit Bureau) da party onder eenne boete verbied-

de, tot nakoming der bepalingen in den Tender verrat,

Inde deselve wordt Middenomen.

CHARLES PALMER, Adj. Com. Gen.

Commissarisat Bureau, Kaapstad, 26 Nov. 1845.

DE JAARLYKSCHE LEERREDE

TE DE GEMEENDEKOMING VAN DE FONDSEN

TOT DEN OORBWIJN DER NIEUWEWAARDEN

ROOMSCH KATHOLIEKE KERK.

Op het Koepelplein, zet. indeca, worden in de Roomsch

Katholieke Kerk, Boekhuis, de GEMEENDEKOMING, ZONDAG,

den 30ste November, ten 3 ure, g. m. door den Hoog. Kerk.

Dr. WILHELMUS ZEILINGER Apostolisch Vicaris, en de Roomsch

Kapelaan den 28 November 1846.

TE HUUR.

EEN HUIS in de St. Jan's-strat, baas den

Ein Nieuw Bloemendaal, te aldaar te bewagen.

JOHN FRANCIS, Vooritter.

12, Heerengracht, 17 July 1845.

DIT GENOOTSCAP ZAL OUD VOORLEIDING

ONDER EERSTE VERBAND OP VASTGOED, OP

ANDELEN-IN-PUBLIQUE MAATSCHAPPIJEN, en

op andere goede Securiteiten.

Anno 1845, terwijl de geschrevene Documenten,

vergeseid door de bekoorlyke Documenten.

Alle Briefen moeten Postvry syn.

STAED SEED

Nieuwe Goederen.

1000 ducats per 12.12.1845.

De Ondergetekende landen nu uit bovenge-

maart, een algemeen Assortiment stapei en fancy

Goederen.

BRITSCHE, FRANSCHÉ en DUITSCHE

GENOOTSCAPEN.

1000 ducats per 12.12.1845.

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Goederen.

BRITSCHE, FRANSCHÉ en DUITSCHE

GENOOTSCAPEN.

1000 ducats per 12.12.1845.

De Ondergetekende landen nu uit bovenge-

maart

In the Intestate Estate of JACOBUS ANDRIES HOLTMAN
of Cape Town, deceased.

ON MONDAY,

The 1st of December next.

THE elegant HOUSEHOLD FURNITURE
consisting of the usual description of Mahogany and Walnut Tables, Chairs, Sofas, Wardrobes, Large Looking Glasses in gilt frames, &c., &c., a House Clock, Cut and Plain Glass, Crockeryware, and many other Articles too numerous to mention.

ON THE SPOT.

AT 12 o'CLOCK PRECISELY.

1. The well-known substantial Dwelling House of the Insolvent, with Store, large Stable, loft and other very large and extensive Back Premises, situate No. 67 Broad-street, opposite the Boerpoort, measuring about 30 square rods. In complete repair, and too well known as a first rate Property in every respect to require further description.

2. A neat and comfortable Dwelling House, with Back Premises, situate in Church-street, between Broad-street and Loop-street, in extent about 15 square rods.

3. The Movable Property will be sold at

10 o'Clock precisely, and under the following

order of precedence:

4. A small Garden, with Cottage, and another large Out-Building, at present used as a Dwelling House, situated towards the foot of the Lion's Head, and

5. A Dwelling House in Loop-street, adjoining the above.

6. Two large single storied Dwelling Houses, with extensive Yards and Out-buildings, in Bulwer-street, East of and adjoining the above Garden.

7. A Dwelling House in Waleberg-street, North of and adjoining the above.

8. The whole of the above Garden and Property adjoining is about 100 square rods in extent, and the greatest part of the Buildings were newly erected by the Insolvent.

9. A Dwelling House, corner of Walberg and Chapman-streets, marked No. 29, measuring about 50 rods, 71 cu. feet.

The Conditions of Sale of the above Property may be seen at the Master's Office, and the Office of the Board of Assessors (Intervent Branch) S. A. Book Building, Nov. 20, 1845.

P. A. BRAND, Joint
GEO. L. STEYLER, Trustees!

In the Estate of the late W. A. VAN NIEKERK, of Cape Town, deceased.

THE Furniture and other Movables Effects of the said Estate as previously advertised, will be sold on MONDAY, the 1st December next, at the House and along with the furniture &c. of JACOBUS ANDRIES HOLTMAN, (Inventor) No. 67 Broad-street.

P. A. BRAND, Joint
G. L. STEYLER, Trustees!

PUBLIC SALE OF HOUSE AND PREMISES.

In the Insolvent Estate of SYBRE FREDRIK DORMONT.

ON FRIDAY,

The 6th Day of December next,

WILL BE SOLD,

Peremptorily to the Highest Bidder,

ON THE PREMISES,

AT ELEVEN O'CLOCK PRECISELY,

CERTAIN House and Premises, situated in this Valley, in Shortmarket street, in Block X, being Lot No. 5.

The above Property comprises a Shop with Shop Front, a large Hall, 5 good sized Rooms, Kitchen fitted up with Hot Plates & Rooms and a Workshop, and fitted up with Apparatus for Hat Making; Servants' Rooms, Store, Stable, and large Yard with Water laid on.

The Insolvent has recently expended a large sum of Money in improving this Property, which is in the most eligible part of Cape Town, for carrying on business.

Conditions of Sale may be seen at the Master's Office, and at the Office of the Equitable Assurance and Trust Company, P. A. THOMPSON, Joint, G. L. STEYLER, Trustees.

EMIGRATION.

WESTERN DISTRICTS.

A DVERTISING to the Notice of the Hon. Collector of Customs, respecting the introduction of Emigrants (under the New System) into this Colony, and with reference to the necessity of appointing a Town Agent by parties desirous of obtaining Artizans, Domestic Servants, &c., the Undersigned respectfully offers his services to the Landed Proprietors, Families, and others, for the more effectually carrying out their wishes.

Printed Forms of Application, with further Particulars, may be had (gratis) at the Office of

W. N. FRUSHARD,

House, Estate, and Commission Agent.

22, Long market street, Cape Town.

COMMISSARIAT.

Transport by Land and Water.

TENDERS will be received at this Office, until 12 o'clock on WEDNESDAY, the 17th December, from such Persons as may be willing to supply

TRANSPORT BY HORSE WAGON

on Cape Town, & from Simon's Town, Wynberg, and Bond-bach, and for return Loads; also for

BOATS ON TABLE BAY.

According to particulars to be seen at this Office, and for Books to and from Robben Island at per Trip.

The price to be stated in Writing.

Such Tenders to be accompanied by an Instrument in Duplicate, copies of which may be had at this Office, binding the party whose penalty, well and duly to perform the stipulations contained in the Tender, should it be accepted.

CHARLES PALMER, Dep. Com. Gen.
Commissioner Office, Cape Town, Nov. 20, 1845.

COMMISSARIAT.

OAT HAY.

Required at Cape Town and Simon's Town.

TENDERS will be received at this Office, until 12 o'clock on WEDNESDAY the 17th December next, from such Persons as may be willing to supply

150,000 lbs. or part thereof, English Weight, of OAT HAY, of the best quality.

To be delivered into Her Majesty's Magazine, Cape Town, in Trusses of 150 lbs. each, during the months of January, February, and March next. Also for

9,000 lbs. OAT HAY, of the best quality, to be delivered at SIMON'S TOWN, at such periods as may be agreed upon.

The Tenders to express the Price in Sterling per 100 lbs. net English Weight; and Samples of the Hay offered to be sent therewith, not less than 20 lbs. weight.

Payment for the above, when the amount may be £50 or upwards, will be made by Bills at Par on the Right Honourable the Lords Commissioners of Her Majesty's Treasury.

Such Tender to be accompanied by an Instrument in Duplicate, copies of which may be had at this Office, binding the party under penalty well and duly to perform the stipulations contained in the Tender, should it be accepted.

CHARLES PALMER, Dep. Com. Gen.

Commissioner Office, Cape Town, Nov. 20, 1845.

PRIVATE FASHIONABLE COATS, FOR THE APPROACHING SEASON.

Amateur Theatre

will be given at the following Hall, on the 17th December, at 8 o'clock, and on the 21st December, at 10 o'clock.

THE PRIVATE DUCHESS AMATEUR COMPANY

will give a Comedy, entitled "The Frenchman," at the following Hall, on the 17th December, at 8 o'clock.

WEDNESDAY EVENING.

LOON DERN THEATRE

will give a Comedy, entitled "Follow my Leader," on the 17th December, at 8 o'clock.

WEDNESDAY EVENING.

JUDICIAL ESTABLISHMENT.

REPORT OF THE MINORITY OF THE COMMITTEE.

Your Committee appointed "To consider whether arrangements might not be made whereby an Administration of Justice of equal or greater efficiency would be obtained at a smaller cost than is at present incurred,"—have inquired into the several matters to them referred, and have agreed to the following Report:—

(Concluded from our last.)

Should the recommendations of your committee, in regard to the office of clerk of the peace, be carried into effect, the course which will be pursued with respect to the tracing and marking of criminals will, in its main features, be as follows:

The clerk will be the chief of the district police, who, besides directing his energies to the prevention of crime, will be bound to make every exertion when crime is committed to secure the perpetrators. Acting under the orders of the magistrate, and when practicable, in conjunction with the said clerk, he will cause the prisoner, with the necessary witnesses, and if possible, both the necessary witnesses, to be brought to the district town. Arrived there the magistrate will proceed, should the case be one above his summary jurisdiction, to take a preparatory examination. When this shall have been completed and the prisoner committed for trial, the magistrate will transmit the depositions to the attorney general. Should this office consider that the evidence is, in any respect, defective, he will communicate with the magistrate upon the subject, pointing out what is defective, and suggesting the best mode of supplying the deficiency. When the case is one which the public prosecutor feels it his duty to indict, he will, in due time, transmit the indictment to the magistrate, in order that it may be served upon the prisoner, and that the witnesses may be summoned. The manner in which such service and summoning are to be made will be referred to in another part of this Report. In the meantime, the circuit prosecutor will have read and considered the depositions and communicated with the attorney general in regard to any difficulties which may be presented by the case. When the circuit prosecutor reaches the circuit town, the magistrate, through his clerk, will hand him, as before, a copy of the depositions, and the magistrate's clerk and the chief constable will confer with the circuit prosecutor regarding any matter connected with any of the cases which may appear to any of the parties to be important. In court the circuit prosecutor will, as counsel, conduct the case. The duty of having the witnesses in readiness, and of afterwards paying their expenses will be divided between the chief of police and the magistrate's clerk. When the circuit has closed, or sooner if convenient, the circuit prosecutor will furnish to the attorney-general's office a report of the cases tried, exhibiting the result of each, and offering such remarks upon any errors which may have been committed, either in the preparation of the indictment or any other part of the setting up of the case, as may serve to improve the practice of the office.

Your committee are of opinion that according to the system now described the functions of the public prosecuting and those of the magistrate are in no way unconstitutionally blended; that under it the magistrate cannot in any event be liable to criminal responsibility for the state of his district in regard to the prevention and prosecution of crime, it is preferable to a system which divides the responsibility between the magistrate and the clerk of the peace, in proportions not clearly defined either by law or common opinion.

Grand Jury.

The existing grand jury system in the Cape Division may be regarded as a part of the present system of prosecution of crime. Your committee, without saying that this is insufficient, is necessarily mischievous, I do upon it as a useless anomaly which ought to be abolished. It is calculated to co-in the petit jury can do well. It prevents no check upon the public prosecutor which the petit jury, in an open trial, could not more effectually present. It decides in secret upon evidence taken in secret, where there is neither judge to expound the law, nor public audience to witness their proceedings, and judge their judgment. It has no sense of responsibility sufficient to control any prejudice or prepossession which may exist among the members. It was introduced into this colony from England, where its ancient function was that of public prosecutor,—namely, to enquire into remunerated offences, and determine what parties should be prosecuted against, and where, in all probability, it never would have been known had another efficient and responsible public prosecutor been provided.

It was established in the mother country long before the practice of committing criminal cases by a preparatory examination before judges of the peace was known, and in the opinion of eminent authorities might well have sunk into disuse when that practice became universal, inasmuch as it then ceased to be, what it had been before, a preliminary inquiry. It never existed in Scotland, where the office of public prosecutor is established; and has not been adopted in France, which borrowed from England her system of petty juries in criminal cases. It is found in the metropolis of the colony, where the abuse of the authority of the public prosecutor is most likely to pass unnoticed or unobserved; and is not found in the country districts, where there is no weight of public opinion to control the public prosecutor, and where if there were such, the public prosecutor is too distant to regard it. It deprives the petit jury list of the Cape Division of a number of gentlemen who would constitute its best members.

Abolishing the grand jury system should, for the sake of consistency, be either extended or abolished, your committee for the reasons given, recommend its abolition.

Execution of Process.

All summonses of the supreme and circuit courts in civil and criminal cases, and all writs of execution in civil cases are served and executed by the sheriff of the colony, or his deputies.

The sheriff receives a fixed salary, but his deputies in the cap. distr. districts are paid by fees.

By a return which has been obtained from the sheriff's office, and which will be found amongst the proceedings of your committee, it will be seen that the amounts received by the deputy sheriff's vary considerably, and that, in the aggregate, they amount to £ 4,840 17 4 per annum.

Circumstanced as this colony is, we must seek the means of providing for new officers by consolidating the districts, and so reducing the number of the old.

It may therefore become worthy of the consideration of His Excellency and the Council, whether the clerks of the resident magistrates who are at present very poorly paid in the various districts, might not get an extra sheriff, whose salary, a fixed but increased salary, and paying over all fees into the treasury.

The time will probably come when trial by jury in civil cases may with safety be introduced into the circuit courts, and county districts. But your committee are not prepared to recommend any such sweeping measure.

It is in the supreme advantage of the implement, which most conveniently be effected by the clerk of the Cape Town and its neighbourhoods, and the other districts of the colony, which others appear to go to committee to warrant the belief that jury-trial in civil cases may be introduced in the supreme court, with a reasonable prospect of success.

As the matter now referred to was not made the subject of any examination of witnesses in the course of our enquiry, and as your committee do not feel that they have sufficient information before them to entitle them to form any positive opinion, they wish to be understood as merely suggesting for further consideration, the plan which has now been indicated.

Your committee are of opinion that the day of summoning jurors and witnesses in criminal cases should be distinguished by the police of the district. By this means it is conceived that the work will be at least as efficiently performed as at present, and that a saving will thereby be effected, whilst in the extraction of some fact or facts directly asserted on the one side and directly denied upon the other, will render some prudence necessary for determining clearly the question to be tried.

For this purpose, your committee consider that the parties, under the direction of the court, should settle between them the issues for the jury.

The jury list in regard to civil suits should comprise only such persons as were by education and intelligence presumed to be qualified to act, and the principles upon which special juries are tried in England should, in all cases, be applied.

Your committee conceive that under the circumstances now set forth, no trial by jury should be reasonably apprehended from the introduction of trial by jury in civil cases; and they are of opinion, that in a certain class of cases the introduction of that form of trial would be of public benefit. If this is irreconcileable, the measure may be abandoned. Should it work well in Cape Town it may gradually be extended to other parts of the colony.

It is conceived that competent inspectors could be found

who, providing and keeping their own horses, serve for £ 100 per annum. Constables might be had for £ 40 per annum. The inspector, it is believed, would provide and keep horses for such of these constables as were to be mounted for an annual allowance of £ 25 for each horse.

If such a police were placed in each district it might be worthy of consideration, whether the number of field constables and assistant field constables might not be reduced, with advantage to the public service.

Your committee are of opinion that the Inspector of Police might also act as messenger of the magistrate's court, so as to effect a saving; should no change be made by which the duties of messenger should be consolidated with those of deputy sheriff, and the whole be then performed by the resident magistrate's clerks, or by some other salaried officer.

Trial by Jury in Civil Cases.

Your committee have now reached the last point to which, in the outset, they proposed to advert. It is one of great importance and acknowledged difficulty.

The benefit of trial by jury in criminal cases is almost universally admitted. Your committee consider that it has in this Colony worked well. Cases very rarely occur here involving strong popular excitement amongst the classes of which the juries are composed, and, consequently, there are no rarely witnessed those blind convictions and those equally blind acquittals which, now and then, in other countries have tended to bring trial by jury into disrepute among impartial men. It is believed that the instances in this colony in which the preceding judge have been cause to be dissatisfied with the finding of the jury have been very few indeed.

The advantages of the system are not confined to the delivery of true verdicts. Its indirect influence is very beneficial. It may be admitted that a judge whose education has been diverted to legal objects; whose long practice has taught the art of eliciting evidence, and the mode of estimating its weight; is more likely to come to a right conclusion than an ordinary magistrate taken from his former business. But no judge, however able or clever, is likely to be a criminal magistrate so completely as a number of such judges of opposite political bias of thinking, who are destined by the profession of "Wise of the Judge" but, as, at least, in some cases, can correct that tendency to become too technical, which professional views occasion by exhibit, and who bring to the determination of the question "guilty or not guilty" more knowledge of the sentiments of the society, to which they are independently taken, than could be secured in any other way.

When to this are added the protection which, in general, the accused enjoys from trial by jury, the advantage of exercising the intellect, and increasing the information of the jurors; and the importance of giving to our upper and middle classes themselves, some knowledge of the laws which they are privileged to administer, it will not appear surprising that trial by jury should be popular in this colony, and that an extension to civil cases of that mode of deciding questions of fact, should number many advocates.

It might, at first sight, appear, that if trial by jury is criminal cases be desirable, trial by jury in civil cases must be desirable too.

It may be urged, and with truth, that the questions of fact occurring in the one class of cases are not, in general, more difficult than those occurring in the other; and that the consequences of error are, for the most part, more serious in the cases which we try by a jury than in those in which we try without it. But your committee, while favorable to the plan of introducing trial by jury in civil cases, cautiously and as an experiment, are yet of opinion that its fitness for criminal cases does not necessarily prove its fitness for civil cases; and that to introduce it generally, and at once throughout the whole colony, might be productive of serious inconvenience, not to say of positive injustice.

One very obvious difference between criminal and civil cases in regard to trial arises from the difference in the principles by which, in each case, respectively, the finding should be governed. When the public prosecutor is plaintiff, and the prisoner is defendant,—the law requires that the plaintiff should not have a finding in his favor so long as there exists a reasonable doubt of the defendant's guilt. In civil actions the rule is otherwise. There the plaintiff is entitled to a verdict upon the bare preponderance of proof, and cannot, without injustice, be put out of court upon a mere doubt, however reasonable, of the defendant's liability. If Jurors in civil cases were always to find for the defendant when the evidence is in that state in which a criminal case, they would properly find for the prisoner—the consequences would be disastrous. Under these circumstances it is conceived that, in general, much less sum is necessary to act as a bar to the admission of a witness than in the criminal case, and that the consequences of error are, for the most part, more serious in the cases which we try by a jury than in those in which we try without it. But your committee, while favorable to the plan of introducing trial by jury in civil cases, cautiously and as an experiment, are yet of opinion that its fitness for criminal cases does not necessarily prove its fitness for civil cases; and that to introduce it generally, and at once throughout the whole colony, might be productive of serious inconvenience, not to say of positive injustice.

Having thus briefly, given my reasons for dissenting from the evidence before the committee, they appear to me of such importance as clearly to call for remedy and provision, and in fact, with the single exception of the question of additional magistrates, they appear to me to embrace the most important topics to which the attention of the Council has been called during the present inquiry.

These results appear to me to have been clearly established upon the evidence before the committee. They appear to me of such importance as clearly to call for remedy and provision, and in fact, with the single exception of the question of additional magistrates, they appear to me to embrace the most important topics to which the attention of the Council has been called during the present inquiry.

If I am correct in these deductions as resulting from the evidence before the committee, it will be necessary to amend the amendment presented by the majority of the committee.

I shall proceed to state my grounds for so dissenting from the majority, whose suggestions, I admit, go to the full length of providing a remedy for the evils which were brought to the notice of the committee; and the question for consideration therefore is, Whether they do not, on the other hand,

fall into an opposite extreme, and whether their suggestions would not tend entirely to subvert the present system of judicature, the value of which, in abstract principle and usefulness, has never been questioned.

My reasons then for dissenting from the majority of the committee on this point are the following viz.—

1. That by the appointment of five judges throughout various parts of the colony, a far more expensive administration of justice than the present will be created; for the salaries of these judges with their registrars, masters, clerks, and various other officers of the court, together with the expense of providing suitable buildings for courts and offices, will entail a far heavier expenditure than it appears to me has been contemplated or provided for by the calculations made for these establishments.

2. That the several districts within which the colony would be judicially subdivided, would still be of great extent to render periodical circuits necessary. That these circuits are limited to two a year, the judges would have to travel over at least 1,800 miles more of road than they now already have to go over, thereby adding to the present expense of transport for the judges; while the limited number of cases at the seats of magistracy where the sessions are to be held may render it questionable whether such an outlay and expense would be justified.

3. That the colony would be entirely deprived of an efficient "bar," which is essential to society in the protection of the rights and liberties of the people.

That an all along as the business of a supreme court is concentrated in one place, there will ever be found a sufficient number of qualified persons to maintain a bar in an efficient state, so as to form an adequate protection for the rights of the people, and a check upon arbitrary dispensation of justice; but by the suggested division of these courts, it will be difficult to expect that any number of barristers will devote themselves to the business before any one of these courts.

The learned counsel wound up a very eloquent and forcible speech by saying that "the case had been removed from the town and district of Colesberg concerning this case, caused by statements which had appeared in the 'Grenoble,' a newspaper published in Graham's Town, in the Dutch language, and in extensive circulation amongst the Boers. That much enmity existed against the prisoners in the minds of the Boers beyond the colonial boundary, which feeling was shared by those immediately within the boundary, a majority of whom were family connections of the others." Mr. Nelson also stated that he resided in the "Fletchery" of New Haven, from whence the majority of the present jurors had been called, and with whose opinions and prejudices on this case he was well acquainted. Upon these facts, said the learned gentleman, I think that your Lordship would be justified in changing the venue, and proceeded to quote from the following:

"Boerish Criminal Evidence, page 230

Townshend, Original Law, page 23

Chitty, page 230, note 1, 2, 3, 4, & 5

Blackstone, 3d vol., page 333

Rose's Criminal Digest, page 212

Chart, page 64

The learned counsel wound up a very eloquent and forcible speech by saying that "the case had been removed from the town and district of Colesberg solely with a view to economy; and were then the lives of these two men to be sacrificed to another, without giving notice of such removal or intent to remove?" He held in his hand, he said, authority made by several respectable persons, who were an impressed with the belief that a fair and impartial trial could not be obtained for the prisoners here. An affidavit of the following persons, viz., J. E. Nelson, J. C. Chase, A. H. Bon, F. Blake, and P. Krause, were put in and read. The substance of these affidavits was that great excitement and prejudice prevailed in the town and district of Colesberg concerning this case, caused by statements which had appeared in the "Grenoble," a newspaper published in Graham's Town, in the Dutch language, and in extensive circulation amongst the Boers. That much enmity existed against the prisoners in the minds of the Boers beyond the colonial boundary, which feeling was shared by those immediately within the boundary, a majority of whom were family connections of the others." Mr. Nelson also stated that he resided in the "Fletchery" of New Haven, from whence the majority of the present jurors had been called, and with whose opinions and prejudices on this case he was well acquainted. Upon these facts, said the learned gentleman, I think that your Lordship would be justified in changing the venue, and proceeded to quote from the following:

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