

From the Indiana Journal.
DECISIONS OF SUPREME COURT.

MAY TERM, 1827.

Harrington vs Withrow. Appeal from Gibson. Judgment reversed. Before the assignee of a note is entitled to recover of the assignor, he must shew that he has used due diligence to recover the amount of the maker of the note. Due diligence in the prosecution of a suit, is a matter of law arising out of the facts of the case, and these facts should be set forth, that the court may determine whether they shew due diligence or not. The time when, and the place where the suit was instituted, should be set forth, as well as the time the judgment was obtained, the nature of the process that issued on the judgment, the time it issued, and the sheriff's return.

Reno & Moore vs Hollowell. Error from Jackson. Judgment reversed. Declaration in covenant to pay money. Plea of payment of principal and interest, and that plaintiff executed and delivered a release, which he afterwards forcibly arrested and tore in pieces. Plaintiff replied, that he did not forcibly arrest, tear in pieces, the supposed release, as alleged. Demurrer and judgment for the plaintiff below. The plaintiff might have demurred specially to the plea for duplicity, but not having done so, he was bound to answer all its parts.

Harper vs Regan, Agent, &c. Error from Fayette. Judgment reversed. The County agent is not the proper person to sue on a subscription paper, by which the defendant promised in writing to pay \$75 towards defraying the expense of erecting public buildings for the county, on condition of obtaining a seat of justice, and to be paid into the hands of any person authorized by the commissioners to receive it.

Harvey vs Crawford. Error from Wayne. Reversed in part. Whenever a payment is made on a demand bearing interest, the interest must be discharged first. But if a sum less than the interest due is paid, the balance of the interest does not thereby become principal.

Mills & others, Admirals vs Kaylevald Admr. A draft payable out of a particular fund cannot be discharged on, as a bill of exchange. The promise of an administrator on a consideration originating subsequently to his intestate's death cannot sustain an action to charge the estate of the deceased.

Hall, Associate Judges vs Benfield and Watson. Appeal from Sullivan. Judgment affirmed. Before suit is commenced on an administration bond, the plaintiff must first establish his claim against the estate of the intestate by due course of law.

Patley vs Farquhar & Collins. Error from Washington. Judgment affirmed. The omission of the return day of an execution does not render it void. Return by sheriff, "that execution was not levied because the plaintiff would not give him an indemnifying bond," is not sufficient. Where a deputy acts with the knowledge and consent of principal, he is liable, though he had never given express authority.

Haris vs M. Fadden. Appeal from Vigo. Judgment affirmed. The warrant to distrain, justifies the officer independent of the landlord's claim.

Lutz & Lutz vs Ross. Error from Clark. Judgment affirmed. The clause "all household goods and chattles," in a will embraces money and obligations of the testator, he having declared his intention of disposing of his whole estate.

Maguire vs Newland. Error from Marion. Dismissed for want of jurisdiction. The act of the legislature giving the Supreme Court jurisdiction in certain cases from justices' courts was not intended to embrace cases when the condition of judgment was prior to the taking effect of the statute.

[From the Boston Daily Advertiser.]

Letter from Dr. Howe to a gentleman in this vicinity, twenty five days later than that which was published on Tuesday last.

STEAM SHIP KATERINA, SIERRA, Dec. 33 1827. Sir: My last was from Samos, dated November 22.—This vessel having been left there to cruise about for some days, after performing this, without falling in with any enemy, returned here on the 25th.

I am now able to inform you of many of which I was then ignorant, or have occurred since. Athens holds

well hold out; the rainy season commenced, and must every day make the condition of the enemy worse. The well supplied with all necessary

are under no apprehension.

Cutuokis Pacha met with

the other day, in an affair

as. This commander, as

had changed his plan from

sacking the enemy upon

the plan of Athens, to that of cutting off his supplies from a distance. He had taken a post for this purpose, when a body of 1500 Turks sent out by Cutuokis, had advanced almost to Salona. He followed them up, attacked them in a defile, killed eight hundred, and forced the remainder to shut themselves up in a Venetian chateau, almost without provisions; and he now holds them in blockade.

Ibrahim Pacha remains with his remnant of an army at Tripolizza, entirely inactive and probably very weak; though I learn with sorrow, that twenty transport vessels laden with provisions and supplies have arrived safely at Navarin. No troops, however, have been brought him, and this confirms what has been for a long time suspected, that the Pacha of Egypt is hardly in a state to support the troops he now has in the Morea, much less to send fresh ones.

The expedition of Colletti to Euboea has failed; hoping to find the Turks of their guard, he landed and attacked them. But it appears he was perfectly prepared for and expected;—they fought; the Turks beat them back, and drove them on board their ships. Thus ends the expedition of Colletti from which I had hoped something, for he is decidedly a man of talent, & his plan was a good one; but he was miserably supplied with funds, and too crippled in means to enable a general to execute a design with secrecy and despatch. His failure will much diminish his influence, which until now, has been very great especially over the Roumelotes. Colletti is a man hard to fathom;—that he has talents none can doubt; else how, without money, without family influence, without any striking military success, could he have risen from the place of a simple physician, to the enjoyment of an extraordinary influence which he has kept undiminished from the very commencement of the revolution?

The regular troops, now diminished to a small number, are at Methina; entirely deprived of the means of supporting this body Government would have been obliged to abandon it, had it not been for French philanthropy;—their committee having placed at the disposal of Colonel Fabvier, thirty thousand francs per month.

The conduct of the French people towards Greece has been really noble and generous; neither have the Germans nor Swiss been behind. The safety of the country now, as in the days of Themistocles, lies in her wooden walls. Mistress of the sea, she is secure upon the continent. This leads me to mention the arrival of the frigate built in America, and which has diffused joy among the Greeks. I learn that Mavilis has gone on board, and taken her to Egina, where the National Assembly is now sitting. How she will be disposed of I know not; the general wish is that she may be commanded and manned by Americans; but this seems hardly probable. Government have received letters from Cochrane, dated Marseilles, where he is making arrangements with the European committees, for the purchase of a large corvette of thirty two guns, built for the Pacha of Egypt, but which he has not the means of paying for.

Lord Cochrane's expedition is the sheet anchor of Greece; and hope brightens now into certainty. Something will be done in the spring; the Greeks have already two of the most powerful vessels that swim in their service; I speak of this one, and the sixty-four gun ship. More will probably arrive this winter; and if they have been able with their little fleet of merchant brigs, to meet with the Turkish line of battle ships, what may not be hoped from an equal force. Give us the sea, and Turkey may pour in upon us as many hordes as ever did Persia, & Greece will be as little harmed by them.

In my next I hope to give you an account of the operations of the National Assembly, which have just been convened at Egina. Meanwhile, I remain yours sincerely.

S. G. HOWE.

Address to a Bear.—A Delaware hunter once shot a huge bear, and broke his back bone. The animal fell and set up a most plaintive cry, something like that of the panther when he is hungry. The hunter instead of giving him another shot, came up close to him, and addressed him in these words: "Hark ye! bear; you are a coward and no warrior, as ye pretend to be. Were you a warrior, you would shew it by your firmness, and not cry and whimper like an old woman. You know bear, that our tribes are at war with each other, and you are the aggressor. You have found the Indians too powerful for you, and you have gone sneaking about in the woods stealing their hogs; perhaps at this time you have hogs flesh in your belly. Had you conquered me, I would have borne it with courage, and died like a brave warrior; but you bear, sit there and cry, and disgrace your tribe by your cow-

ardly conduct." I was present at the delivery of this curious invective. When the hunter had despatched the bear, I asked him how the poor animal could understand what he had said to it! "Oh," said he in answer, "the bear understood me very well; did you not observe how a shamed he looked while I was upbraiding him?"—*Heckwelder's Narrative.*

From the *New York American*, May 7.

Since our previous remarks on the foreign news, we have received exclusively, from a commercial friend, the Paris Etoile of the 5th April, which furnished the following highly IMPORTANT INTELLIGENCE.

Paris, April 14.—We have just received by express the English papers of the 12th, which announce the following change of Ministry:—

Resignation of Seven Ministers.

Mr. CANNING is appointed PREMIER—in consequence thereof, the following seven members of the Cabinet have resigned:

The Lord Chancellor Eldon, the Duke of Wellington, Lord Sidmouth, Lord Bathurst, Lord Westmoreland, Lord Bexley, Mr. Peel. Lord Lowther, son of Lord Londale, also resigned as one of the Lords of the Treasury.

House of commons, 5 o'clock, 12th April. Mr. Wynn, president of the India Board, moved that a writ of election issue to the borough of Newport, to elect a member in the room of the Hon. Geo. Canning, who had accepted the place of first Lord of the Treasury.—[Great cheering from all parts of the House.] Mr. Wynn then moved an adjournment to the 1st May, in order to afford time to Mr. Canning to frame his new cabinet. Mr. Tierney objected saying that time enough had been taken to form a new cabinet, and as was understood that seven of the old members had run away and nobody knew when they would return, it was not worth while to wait. The adjournment, however, was carried.

It is impossible for us, at this distance, to conjecture who will be Mr. Canning's associates. The Times of April 11 says—that he, Mr. Canning, having refused to accept the station of Premier unless with unrestrained authority to form a Cabinet, had carried his point, and was perfectly free.

Lord Granville, the British ambassador at Paris, is mentioned for the foreign Secretary, and Mr. Scarlet as the successor of the Lord Chancellor.

LATEST FROM ENGLAND.

The *Globe* of the 14th, has published a second edition at half past 5 o'clock, announcing the resignation of seven Ministers, in consequence of the appointment of Mr. Canning as Premier.

The *London Free Press* of the 15th of April says there is little foreign intelligence. The elevation of Mr. Canning will be a terrible blow to the apostolicals and absolutists of the continent. We scarcely think they will venture to make any head against the moral and united force that will be arrayed on the side of constitutional liberty.

The changes in the cabinet, have caused many conflicting opinions among the London journalists.

Mr. Canning on the meeting of Parliament on the 14th, was unable to arrange matters with his colleagues a *l'amiable*, was left with his premiership and empty seats.

The *Morning Herald* says, "the friendship which the king entertained for the countess of Conyngham, has on this occasion, done more for Mr. Canning than any talent which he has ever exercised, or any interest he possesses could possibly accomplish."

It is doubtful whether Lord Melville will remain in the Cabinet and head of the Admiralty—this will leave nine vacancies to fill; Mr. Robinson, Mr. Huskisson and Mr. Wynn, only remaining with Mr. Canning.

Some say, that a dissolution of Parliament is by no means unlikely, while others entertain a different opinion.

The *Times* says, "we believe there will be great difficulty in preventing some public expression of joy on the retirement of the Chancellor. An illumination is hinted at."

The Duke of Wellington remains at the head of the Army.

On the 15th the new cabinet was not formed, various conjectures were afoot, and the merits of several men canvassed, but nothing definite seems to be known.

Items from English Papers.

Sir Geo. Collyer describing the pestilential climate of Sierra Leone, says, that after a heavy fall of rain, and the sun striking on the ground with vertical power, the vapour from the vegetable matter overrunning the streets is so perceptible, that in drawing breath, he could feel he was

holding a vapour which he could compare to gas from coal.

There were present, at the division on the Catholic Question, 420 English members, 21 Irish, and 37 Scotch. The number absent was 110—being 93 English, 9 Irish, and 8 Scotch. 57 Irish members voted for, and 34 against, Sir Francis Burdett's motion; Scotch, 22 for and 17 against; English, 193 for and 227 against, leaving a majority of 34 English against the motion.

The dress of a Lapland priest is very grotesque, wearing a long black cloak hanging to his heels—his long hair, or rather mane, uncombed—broad brimmed old slatted hat upon his head, a black stock about his neck, and buskins on his feet.

The following story rivals the law case of *Bullus vs. Boatem*. It occurred at Nismes, in Languedoc, 1763.—A gardener's ass having brought some goods to market, while the master was away, went into an adjoining church, and satisfied his thirst from a basin of holy water; he was detected, seized and formally tried, for sacrilege. His counsel could not resist the weight of evidence, and judgment was pronounced against the wilful animal, that he should be hanged and then burnt, and the owner to pay costs.

A friar once preaching to a convent of nuns, on Easter, assured them that our Saviour when he arose, appeared first to a woman, that the news of the resurrection might be sooner spread abroad.

[From the *Boston Patriot*]

Nicaragua Canal.—We have seen a letter from a distinguished individual in Guatemala, dated March 7, which mentions with regret the failure of the contractors for opening the proposed canal between Lake Nicaragua and the Pacific Ocean. It will be recollect that this contract was taken by the Messrs. Powers of New York, whose embarrassments have obliged them to relinquish the undertaking. To those who feel an interest in the great cause of internal improvement, especially where oceans are to be united and great facilities thus given to commerce, will learn with satisfaction that this good project is not to be given up, but that a French Baron is about to negotiate with the government for opening this canal.

The writer regrets, and so may well, that the advantages promised by this undertaking have been lost to the United States, "our natural friend and ally," as he terms this country, by the failure of the contractors. He seems to have timed the completion of this contract and the opening of the canal by citizens of the United States as peculiarly desirable and from the productiveness of the soil of Guatemala, and its favorable situation for trade, he thinks the undertaker could not fail of realizing great profits. The distance between the lake and the Pacific requiring but the short cutting of 5 to 6 leagues; the superiority of the port of either extremity of the proposed communication; and the shores of the lake being peopled with two hundred thousand souls, are considered by the writer as so many advantages of the Nicaragua canal route over that of Tehuantepec, Panama, for opening a communication between the Atlantic and Pacific.

We learn from the same source, that every thing was going on well at Guatemala. The talents of the state were in great demand to consolidate the government, advance the interests, and promote the prosperity of the people. The importance of establishing a good circulating medium appears to have met with proper attention and the advantages of a national bank were under discussion at the date of intelligence. Juan Manuel Rodriguez, who was one of the commissioners from Guatemala to the United States, charged with negotiating for the introduction of that state into our Union, and who, we believe, is now at the head of the treasury department in Guatemala, has written to the bank question, favorably to its establishment. Every indication from this republic is auspicious to its continued prosperity, and of the advancement of the people to a high state of moral and political intelligence.

Extract of a letter from Constantinople. "On Friday last, the 23d, the Grand Seignior having gone to perform his noon day prayers at the Mosque of the bombardiers, two vessels of war, anchored in the neighborhood, saluted him as he passed. A ball, discharged from one of the rows of the boat which followed immediately behind that of the Sultan. The event gave rise to many conjectures. It is not known whether it was the result of accident or of criminal intention. The captain of the vessel has been strangled with the crew."