

obtain such information and assistance as the British might be disposed to afford us.

"On our way we fortunately fell in with the British sloop of war Lilly, Capt. Campbell, who received us with much cordiality, and informed us, it was his particular instructions to serve us, at the same time advising us to put into Grenada as the governor of that Island had some particular communication to make to Gen. Miranda.

"We have already received the Governor's assurance of the most prompt co-operation. We shall probably take up one or two days at most in making the necessary arrangements here, and shall proceed immediately to Trinidad (in company with the Lilly sloop of war) where we understand the Governor of that Island will also give us every assistance that is necessary.

"The Jason frigate is now on the coast with a number of Volunteers on board; this ship is commanded by Captain Cochran, son of Admiral Cochrane, who we understand from the best authority has particular instructions to protect and forward our enterprise. I have now the happiness to observe that this new turn to our operations, has given much animation to all friends on board the Leander, and I sincerely hope my next will inform you that our glorious enterprise is fully accomplished."

From the Aurora.

### Miranda's Expedition.

At length we hear the arrival of Miranda at Barbadoes, that he has arrived there, and that those who have been the victims of his deceit are prisoners in Spanish goals, is now certain; we have the indirect authority of the ex-Spanish ambassador, Yrujo, for the latter, and we have the eulogies of the general's allies at Barbadoes, for the former, but this is not all, for at last Mr. Ogden has published some accounts of the fate of the famous expedition, of which, our readers will recollect we never once announced nor expected a better issue. We suppose Mr. Ogden may be deemed an official organ. He remarks that various ridiculous rumours have been in circulation; now we believe that a more ridiculous account of the prospects of the expedition could never be given than the official letter from Mr. Ogden's respectable gentleman on board the Leander. We believe Mr. Ogden's principles and himself have fallen victims to their partiality to their British friends, for in vain may they look for indemnification to the British government, that government is not in the habit of rewarding unsuccessful agents; witness poor Watt, the comrade of Downie, who was executed at Edinburgh: Mr. Ogden will then have to find his reward in his own breast, for his unhappy sacrifice of the unfortunate dupes and victims to the cursed Machiavelian policy of the British government.

Would to God, that many of the chattering skulking agents of the late British Robespierre could be exchanged for 58 unhappy victims now languishing in a Spanish dungeon, the riddance would be a blessing to the United States, tho' we fear that even the horrid example would not have the effect it ought.

Mr. Ogden's letter states, that after the loss of the two schooners, they determined to proceed to Trinidad for such information and assistance as the British were disposed to afford them.

On the way they fortunately fell in with the British sloop of war Lilly, Captain Campbell, who received us with much cordiality and informed us, it was his particular instructions to serve us! At the same time advising us to put into Grenada, as the governor of that Island had some particular communication to make to Gen. Miranda.

We then, says he, shall probably "take up one or two days in making the necessary arrangements, and then proceed immediately to Trinidad, where we understand the governor will give us every assistance that is necessary."

"The Jason Frigate is on the coast with

\* The following extract of a letter from Carracas, is supposed to be furnished by the Ex-Minister of Spain;

"I anticipate your impatience, and send you a list of prisoners taken on board Miranda's schooners. It has been furnished to me by a Spaniard, acquainted with our language, and some names are copied in such an incorrect manner as to oblige me to guess their true meaning. The bubble of that adventurer's expedition has burst, and this province is in such a state of defence, both by nature and by the re-union and organization of its resources, that not less than ten thousand regular troops would make any serious impression on it. The inhabitants in general have shown much loyalty and attachment to their government; forty thousand dollars have been subscribed in this country, and offered as a price for Miranda's head; but he has escaped by flight, and some of our countrymen are actually under close confinement, from which they will be released only by death.—The most intelligent among the prisoners declare the expedition received the encouragement of our administration; the news we received from the United States appears to confirm this supposition.—If this be so, our rulers have degraded themselves indeed, and will be answerable before God and their country for the blood of these imprudent and deluded men, the greatest number of whom will most assuredly be executed as pirates."

Here follows a list of prisoners amounting to 34.

volunteers, commanded by Cochran's son, who we understand from the best authority has particular instructions to protect and forward our enterprise."

After all this official going to Grenada, to Trinidad, and to the protection of the British frigate, the subsequent accounts inform us that Miranda is at last arrived at Barbadoes!!

In these, then, the most sceptical may see in all this tergiversation, the cloven foot of the late British cabinet! Treacherous designs and imbecile expeditions!

Was or was not Mr. Ogden really the dupe of Miranda? Or does he hope for indemnifications from his good friends, the British?

Or is Mr. Ogden only the mask for certain houses in New York who are not named, and who act as agents in the pecuniary transactions of Britain? For—

The expedition shews that the whole was a plan of the British cabinet to involve the government of the United States in dispute with France and Spain.

Or that, as in Europe the same as in America, a curse, a blast from Heaven attends every political connection with that faithless intriguing cabinet? Whilst we believe the latter position fully, we credit the former instance.

Had it been the serious intention of the British cabinet to assist Miranda, as represented in Ogden's semi-official letter, what necessity was there for sending him to the United States?

The expedition to the Cape of Good Hope was for months the conjecture of both British and American papers, it could almost traverse the globe without its real destination being discovered, till it had struck the blow intended.

Why not the same with Miranda's? why refer him to frigates and governors in the West-Indies, if Britain intended open assistance, or were earnest in the revolution proposed, for apparently from every motive both political and commercial, no nation can be more interested in such a revolution than Britain.

Turn it then whichever way we may, let us steer wide to sea, or only coast our thoughts along the shore, the magnet continually points to our first position.—

That the whole was a base and infamous attempt of M. Keane's "greatest statesman of the age," to involve this government into difficulties, by the fitting out in its ports of an enterprise under cover of an impolitic law then in existence, which for cowardly reasons and the anticipation of future vengeance from France, it had not the courage manfully to assert by an open force.

Britain wished the enterprise doubtless to succeed, first, because she would be commercially benefited by it.

Secondly, because it would distress her enemies.

Thirdly, because she saw in it possible difficulties to the government of the United States.

Fourthly—she comforted herself with this reflection, that if it did not succeed, yet the government of these states would be embarrassed with Spain, and at the same time her agents here (we mean the agents of the British government, her consuls and pilots) would be immediately employed to stir up amongst our own citizens, injurious suspicions against the President, and represent him as the cause of the blood which should be so imprudently shed—that is already attempted—so true are the federal papers to the hand which feeds and pays them!

The expedition to the Carracas was fitted out under the cover of the bill allowing vessels to arm and defend themselves against pirates in their passage to St. Domingo, and which the federal papers when that bill was stopped, represented as in a more arbitrary, than any ever committed under the most despotic governments.

Let our readers refer to Thomas Paine's letter, which we published on the sailing of the expedition of Miranda.

Let the relations of those victims who may be sacrificed to Spanish vengeance, place their misfortune to its true cause, to the infernal machinations of British policy, for the worst of purposes.

Let such of the federalists, who are really friends to the country, consider that the British cabinet care not who they sacrifice, whether friends or foes, whether democrats or federalists so as they can carry on one title of their views—so as they can at all embarrass the government, or stir up divisions amongst us.

The whole conduct of the British government speaks this language, it has always spoken it.

But in spite of the intriguing representation of the wily marquis, or of his coadjutors the British agents, in spite of the papers who may be born in Spanish and British pay, the people of these states will not be deluded—neither will Spain be deceived by any false representation of her ex-minister—whose notorious hostility to the government of this country, may attempt to seduce her from her true interest, Spain will see it as she ought, to be a base attempt of the mutual enemy of both nations, and indeed of the enemies of all mankind.

### CHARLESTON, July 5.

Extract of a letter from Capt. Callaghan, of the British brig Fame, which sailed from this port for Barbadoes, in March last.

ISLAND of PORTO RICO, May 2, 1804.

"I take this opportunity of acquainting you, of my being captured on the 20th of March last, in lat. 20. 47. N. long. 67 W. by the French privateer SURENA, of two long 18 pounders, two 6's, and 98 men, after a

running fight of 20 hours, in which time I had all my masting and running rigging shot away; and main-yard, main-top-gallant-yard, fore-top-gallant-yard, and jib-boom, carried away by an pound shot. The privateer made three attempts to board, but was repulsed. Unfortunately the wind at length failed, when the privateer ranged along side, and cut us comely with grape and langrage from her two eighteen pounders; my few brave officers and men around me, worn out by many exertions, were then compelled to strike the English colours, when I presume to say were we supported against such superior force (weaving only 10 men altogether, six four-powers, and no small arms.) The privateer kept up a fire of musketry at us for several minutes after we struck, but thank God no person was killed or wounded, except a small flesh wound I received in my right leg. I had the satisfaction of killing their first lieutenant, and dangerously wounded seven men. The privateer was bound off Charles Bar, where she intended to cruise for six weeks. I was most shamefully treated, the privateersmen, robbed of every thing had, even to the hat on my head. DOMINGO, the captain of the privateer, is one of the greatest scoundrels in existence—he fitted several American masters at sea almost bad as me, plundering them of cordage and other articles."

[The SURENA is a privateer that engaged the PETEREL sloop near off our bar.]

From the New York Herald.

### OPINIONS OF THE JUDGES

On a point in the case of Evidence.

The Judges, agree to the order of the House of Lords, delivered their opinions *per curiam*, on the questions referred to them by their Lordships.

Upon the motion of Lord Ellenborough, the Judges whose opinions were to commence the sooner, we heard the first.

Mr. Baron Graham, after stating the difficulties in which the question was involved, declared that, in his opinion, the general rule of law, that a witness was bound to answer every question touching the issue to be tried, with the exception only of such questions as would expose him to a criminal prosecution, or to a penalty of forfeiture, in the Courts of Equity, it was the daily practice to force parties to answer the matters alleged against them, whatever pecuniary loss such answers might subject them to. The justice and the reasons of this rule applied equally to the Courts of Law, although it was not the custom there to examine the parties, as it was in Chancery, where their customs were derived from the Civil, instead of the Common Law. Although in the Courts of Law, a party could not be made a witness, yet those persons who were brought forward as witnesses, were equally bound to declare the whole truth, as the parties would be in a Court of Equity. If it were not so, the most monstrous obstructions would be thrown in the way of justice; those persons who were best qualified to give important evidence, might generally shelter themselves under that plea. It was, however, every day seen, that pawn brokers were brought in evidence upon the prosecution of thieves, and stable keepers on the trial of horse-dealers; and in neither of these cases, would it be permitted, for the pawn broker, or the stable keeper, to refuse giving testimony on the ground of their answers obliging them to restore those things which they had improperly received. If this were the law, whatever inconveniences might result from it, witnesses would perpetually claim this privilege, either from fear, or through favor. The point had not as yet been settled by any solemn decision, after a full argument; but from all the lights that he could derive, and from the monstrous inconvenience that would result from the contrary supposition, he declared his opinion, as to the first question, that a witness is bound to answer all such questions as do not expose him, either to criminal prosecution, penalty, or forfeiture; and as to the second question, that the rule applies to the witnesses on a trial, or a suit where his Majesty is either plaintiff or prosecutor.

Mr. Justice Chambre was of the same opinion. In the Courts of Equity, not only a person might be compelled to answer questions which would severely affect their pecuniary interests, but Bills of Discovery were filed, for the express purpose of obtaining an answer upon oath, which answer might be read as evidence in the Courts of Law. The rule had been laid down by Lord Mansfield, which had been generally considered as the true one, that in all cases where a witness could be forced to answer by a Court of Equity, in order that his answer might be read as evidence in a Court of Law, in all such cases, a Court of Law should compel him to answer at the trial. The only cases where a party could refuse to answer was, where it would expose him to either criminal prosecution or a penalty or forfeiture. This was what he conceived the rule also at common law, and that it most unquestionably ought to be the rule, for he thought there could be no reason assigned why a man should conceive himself privileged to

conceal the truth, or to refuse to do justice between A. and B. on the ground that if he did, C. might have an action against him which would be to say in other words "The Public must not call upon me to give evidence, or do justice between A. and B. because such evidence might prevent me from acting unjustly by C. or D. to whom I wish to act unjustly, and from whom I should wish to withhold a just debt." As to the authorities upon the point, there were on one side a great variety of opinions expressed at Nisi Prius, and on the other, the rule so laid down by Lord Mansfield, and which he now considered to be the law with respect to evidence. There had also been a case in the Court of Exchequer, where an attachment was ordered against a witness for refusing to answer on these grounds. When he considered the practice of the Courts of Equity, and the manner in which this practice had been adopted in the Courts of Law, and also when he considered the great obstruction which would be thrown in the way of justice, the contrary practice should prevail, he would give his decided opinion, that a witness was bound to answer questions, which did not expose him to criminal prosecution, penalty or forfeiture, even although his pecuniary interests might suffer by such answer.

Mr. Justice Le Blanc agreed most decidedly with the opinions which had been delivered by the Judges who had preceded him. He considered that it would be subversive of justice, and a thing not to be endured, if agent brokers, or persons who managed assurances, were to decline being examined on the ground of their being themselves made liable to a civil action. Although he professed the highest regard for the authority of those judges who held the rule to be the other way, yet it must be recollected that the point had never been seriously argued before, or probably those great and learned Judges might have altered their opinions. He had always held that witness could be compelled to answer questions even although their answers might expose them to civil actions, and the more he considered the practice of the Courts, and the reason on which it was founded, the more he was confirmed in the opinion. He therefore, agreed with his learned brethren in the answers they had given to the questions that had been submitted to the opinions.

Mr. Justice Grose differed in opinion from the learned Judges who had preceded him. He conceived, that by the mild laws of this country, no man was bound to criminate himself, or to give evidence against his own pecuniary interest, and perhaps to his own ruin. It was allowed, that neither in Courts of Equity, or at law, was a man bound to answer what might expose him to a penalty or forfeiture.—He could not see the reason why a man should be refused from answering questions which might expose him to the penalty of five pounds for killing a hare, and it should be obliged to answer questions which might expose him to ten thousand pounds in damages, or to jail his life, if he should be unable to pay the damages. This difference, it appeared more grounded upon practice than on any principle. The practice, however, of the Courts of Equity differed materially from that of the Courts of Law. In the Courts of Equity, although the parties were liable to be compelled to answer upon oath, yet they had time for deliberation and legal advice, and their answers could not afterwards be misapplied.—It was very different, however, in a Court of Law, when a question was put by an ingenious lawyer, answered without consideration, might expose the witness to ruin. If this answer could be given against him as evidence in another trial, it would be given in without the witness having any opportunity to explain his answer. There were many other differences between the rules of evidence in the Courts of Equity, and those of Common Law. In the former, an infant could not be compelled to answer, in the latter he could. He did not consider that the principle laid down by Lord Mansfield was entitled to more weight than the opinions of many great and eminent Judges, who had determined the other way. His opinion was, therefore, contrary to the opinion expressed by his brother Judges.

Mr. Justice Lawrence said, that he had always until this session was agitated, considered that the rule of law was, that a witness was excused from answering such questions as involved his pecuniary interest, and so thinking he had concurred with other Judges in refusing a new trial moved for on that very ground. The fact was, that till the present session was started, there had been no firm argument upon the subject, and he had never turned his mind particularly to it; but upon the present occasion, having felt it his duty to consider the subject with the utmost attention he could give to it, he had changed his opinion as to the rule of law, and was now inclined to consider that it was different from that which had formerly suppo-