

FOREIGN NEWS.

IRELAND.

Mr. O'Connell has again taken the field in support of Repeal. He attended the regular weekly meetings of the Repeal Association at Dublin, and made addresses to encourage his friends to persevere in "the one great paramount object."

The Paris dates are to the 1st instant. Two Chambers are convoked for the 26th. The Revue des Deux Mondes announces that the different sections of the Opposition intend to take a more united and moderate course next session, and to avow themselves as much as Mr. Guizot in favor of the *actes cordiaux* with England;

"Our warehouses are overloaded with produce, and our manufacturers have arrived at that point that they cannot find a market for their manufactures. In a word, regarded in every point of view and in all its bearings, the deficiency of our exports compared with our imports is the characteristic sign of a sort of decline, or at least of marked weakness, in our commercial existence."

At a dinner given at Marseilles to Marshal Bugeaud, on occasion of his return from Algiers, he took occasion to give the following description of the progress made by the colony of Algeria within the last four years:

"The conquest of Algiers is completed; peace reigns every where; from the frontiers of Tunis to those of Morocco every place has submitted, with the exception of some Kabyle tribes of the provinces of Bougie and Giggeli. The most complete security reigns every where. An immense progress and improvement is to be perceived. The revenues of the colony, which in 1840 were only four millions, amounted to-day to twenty millions. These are 20 millions which come to lighten the burdens of the mother country."

"The Arab population extends to a depth of two hundred leagues towards the desert, by a length of two hundred and fifty leagues; that is to say, over a surface as large as that of all France.—The Arab population is 5,000,000 of inhabitants and perhaps 6,000,000. This is the field which opens before us, and which brings 20,000,000 to the treasury. There are immense prospects here which I shall not see realized. I repeat it, peace is established every where. Our enemies, driven out of our territory, have taken refuge in Morocco; and I have just received news, which I regard as almost certain, although I have not yet received it officially, that Abd-el-Kader has recently dismissed the few persons that remained with him, and that he has retired into the interior of the empire."

SPAIN.

We have accounts from Madrid to the 25th ultimo. Earlier dates give the particulars of a new insurrection in Old Castile, at the head of which Martin Zurbarán, an old Guerilla chief, had placed himself. His son and brother-in-law had also raised the standard of revolt, but the latter were subsequently captured and executed at Logroño. Many towns had risen in favor of the constitutional cause.

The demand made by the British Minister (Mr. Bulwer) that General O'Connell be recalled from Cuba, had, it was said, given considerable umbrage to the Spanish Government.

General Prim has been sentenced to six years imprisonment in a fortress, but he is not to be degraded of his honors.

CIRCISSIA.

The lying reports which, during the last few months, have successively reached Constantinople from Daghestan authorize us to believe that the disasters of the Russians and the triumphs of Shamil Bey have during this campaign been to an extent hitherto unknown. An individual from that country, just arrived from Daghestan, says that during the spring and summer no less than seven or eight severe battles have been fought, in which the Russians lost, besides an immense number of men, no less than forty-five places or positions. A letter from that part of the world states that the losses of the Russians, between killed, wounded, and missing, amount to 60,000; whilst those of the mounted to 12,000.—This may possibly be true; but had the numbers been more moderate, one would

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have been more likely to give credit to the assertion. Certain it is, that the forces of Russia have been concentrated in the neighborhood of Daghestan. In fact, the lines of the Koubar are constantly crossing the borders, attacking the Russian villages, and bearing off rich spoils in slaves, horses, cattle, sheep, and other property.

DEBATE

IN THE SENATE OF N. CAROLINA, ON THE RESOLUTIONS, To expel the Senator from Onslow.

REMARKS OF MR. BOYDEN.

MR. SPEAKER: After what has transpired in the Senate Chamber, upon the pending question in relation to the seat of the member from Onslow; and after what has appeared in one of the public journals in this City, edited by a person, who has been permitted, and still occupies as a reporter, a place on the floor of the Senate, I feel called upon by a sense of duty to the country and the Senate, and a due regard to my own character as a citizen and a member of this body, to give a brief exposition of the humble part I am called upon to perform in this matter, together with the principles and the motives which have thus far influenced my conduct, and which will continue to operate upon me, until the conclusion of this distressing question.

In the first place, then, Mr. Speaker, I desire to state, what is well known to the Senate, but may not be to the country, that the position I occupied upon the committee, was not of my seeking, but was devolved upon me, I believe, by the unanimous vote of the Senate, after the most sincere and earnest request to be discharged from acting as a member of your committee.

It will be recollected by the Senate, that after a statement of the duties already imposed upon me as a member of the committee on Internal Improvements, and the Select committee upon so much of the Governor's Message as relates to Asylums, I was at first kindly excused, by a vote of the Senate, from the discharge of a duty which I regarded the most painful, that this body could devolve upon one of its members. But, Mr. Speaker, in the very moment of exultation, the bitter draught was again presented to my lips, and I was forced to swallow it, however disagreeable. The vote excusing me, was immediately reconsidered, and, by a unanimous vote of the Senate, I was compelled to act as a member of the committee. Now, one whose heart is not steeled to all the kindly feelings of our nature, can doubt my sincerity, when I declare that I most earnestly desired to be discharged from the painful duty imposed upon me by the Senate.

From my knowledge of the principles of law involved in the inquiry, and from the written statement of the Senator from Onslow who had requested the investigation, I was led to fear, that, though the Senator himself might be exculpated, yet, the painful and distressing duty of criminalizing some other person would, in all probability, devolve on the committee.

Your committee, without any aid whatever from the Senator from Onslow, devoted themselves assiduously to the investigation of the subject matter referred to them, until they became satisfied, that without some assistance from the gentleman that asked the investigation, your committee could neither exculpate him, nor fix the slightest suspicion of criminality upon any other person. It is but justice to the witnesses summoned before your committee, to remark, that they were not summoned before the committee on account of any supposed connection or participation in the transaction under the consideration of the committee, but with a very faint hope, that by a knowledge of the hand writing of the body of the forged certificate, or by casual conversation in the city, they might be able to present the committee with some clue to point out the person who wrote the body of the certificate, which appeared to be in a fair and undisguised hand.

Two days before the committee closed their labors, at my special instance and request, and with the concurrence of the other members of the majority of the committee, Mr. Ennet was informed of the unfavorable conclusion, to which two, at least, of the committee, would be compelled to come, unless he would furnish some testimony to rebut the strong presumption of law raised against him, by producing the certificate drawn in his favor, and taking benefit under it by qualifying and holding his seat as a member of the Senate: he was also informed, that the committee would sit any length of time he might desire, and that they would summon all such witnesses as he wished to appear before the committee.

At the next sitting of the committee, the Senator from Onslow appeared, and requested that Mr. Etheridge should be examined. Mr. Etheridge was accordingly examined, and his testimony written down, and has been reported to the Senate; and the Senator was asked if he had any other witnesses that he desired to be examined before the committee; he replied that he had no more testimony to offer, and on motion of one of the minority of the committee, the evidence was closed with the entire approbation, as your committee

believe, of Mr. Ennet himself. This being done, the committee adjourned, and at their next sitting, unanimously resolved that the certificate was a forgery, and the majority of the committee adopted the other resolutions, and directed their chairman to draw up their report in accordance with the resolutions; which he did, and after submitting it to the committee, the same, with the accompanying resolutions, was reported to the Senate.

Mr. Speaker, I claim for myself no exemption from the feelings and passions common to our race. I admit, that in support of those political principles, which my judgement, after the most mature deliberation has approved, I am a warm and zealous advocate. But I hope I may be permitted to say, that after the severest scrutiny, into the motives and reasons that have governed me in this whole matter, I declare here in the Senate, and before High Heaven, as the solemn result of that examination, that towards the Senator from Onslow, not one unkind feeling has ever entered my breast, not one unholly thought or unworthy motive has been permitted, in the slightest degree, to influence my judgement in relation to his case. I feel conscious, that towards the Senator from Onslow, I have acted with the same liberality and courtesy; that I have extended to him every favor and indulgence that I could have done, had he been my warmest political or personal friend. I voted that he should be allowed counsel to address the Senate; that he should have the privilege of examining any witness he might desire at the bar of the Senate, and that his affidavit as to what his absent witnesses would prove, should be received as the depositions of those witnesses.—From the foregoing brief history of this investigation, thus far, I believe that all fair minded men of whatever political party, who are willing to accord to others that degree of charity which they would ask for themselves; nay, that men except those who know no higher motive of action than the advancement of party, or the acquisition of filthy lucre will agree, that if I have erred at all, it has been on the side of mercy.

The only remaining duty now left for me to perform in this painful and trying investigation, is, very briefly, to make a calm and deliberate review of the principles of law laid down in the report of the committee and the chain of reasoning, and the authority by which they are supported, and then with some degree of minuteness, to call the attention of Senators to the testimonies reported by the committee together with that delivered orally on yesterday at the bar of the Senate.

In the first place, then, I would call the attention of Senators to the exact wording of the main principle of law applicable to this case, as laid down by your committee, in the third paragraph of the report, in which your committee say, "they conceive it to be a clear and well established rule of law, that where an instrument has been forged by some one, a strong presumption necessarily arises against the party in whose favor the forgery is made, or who has possession of it, and seeks to derive benefit under it. This rule of evidence, says the report, adopted by the courts of law upon trials involving the personal character of the citizen and exposing him to the severest corporeal punishment, is applicable to every case wherein a similar question arises; because it is dictated by the necessity of the case, required for the public security, and with a sufficient degree of certainty points to the real offender."

It will be found, Mr. Speaker, upon an examination of the authorities, that your committee have been careful not to give any additional stringency to this ancient and well established rule of laws; but on the contrary, they are in favor of the Senate's somewhat mitigating its force.—In Slackers, on Evidence, the rule will be found laid down in the very words of the report. But in the case of the State against Brit, 3 vol., Dev. page 125, Chief Justice Ruffin lays down the rule in the following pungent language; "Being in possession of the forged order, drawn in his own favor, were facts constituting complete proof, that either by himself, or by false conspiracy with others, he forged, or assented to the forgery of the instrument; that he either did the act, or caused it to be done—until he showed the actual perpetrator, and that he himself was privy. It is very different from having a counterfeit bank note. That is an instrument current in its nature and use, and may well come innocently to one's hands. But it is next to impossible, that the defendant could get possession of such an instrument as this, purporting to be for his own benefit, without having fabricated, or aided in the fabrication of it. If the instrument is a forgery, he, who holds it under such circumstances, is taken to be the forger, unless he shows the contrary." Again, in the case of the State vs. Morgan, 2 vol. Dev. and Batt. the Chief Justice says:—"In larceny, for instance, the possession of stolen goods is evidence, that the possessor was the thief. It is the usual evidence. It is deemed cogent, because no more can be expected; being the best that is admitted by the nature of the case." The recent possession of stolen property, which the accused fails to give any reasonable account of, is the common and satisfactory evidence of his guilt. Whether this

conclusion be one of law or of fact, seems to be hardly worth inquiring; for it is one of common sense, which every sound mind will draw, with the slightest acquaintance with mankind. The same principles and reason apply, with equal force, to every act done in secret, and with which, when it becomes known to the world, the accused is found to be the first and only person connected. Forgery is not an exception." In Russell on Crimes, vol. 2, page 667, it is said: "In the case of the King vs. Sheppard, uttering a forged stock receipt to a person who employed the prisoner to buy stock to that amount, and advanced the money, held sufficient evidence of an intent to defraud that person; and it was further held, that the oath of the person to whom the receipt was uttered that he believed the prisoner had no such intent, would not rebut the presumption of an intention to defraud." The cases above referred to clearly establish the principle mentioned in the report of the committee, to be the settled law of the land. They shew indeed, that the principle might have been laid down with more severity, to wit: that the production of the certificate drawn in his own favor, and taking benefit under it by qualifying and taking his seat, constituted complete proof until his innocence should be established by proof offered by himself.

I will now proceed to rehearse the testimony in the case as far as the same is material to the discussion of this case. In the first place, it is clearly proven by several witnesses, and admitted by the Senator from Onslow himself, that late on Sunday evening before the commencement of the session of the Legislature on the following day, he was in Raleigh, without any certificate of his election.

Mr. Edward W. Sanders, the Comptroller from Onslow, proves, that he arrived in Raleigh late on Sunday evening. He thinks he saw Mr. Ennet for the first time on Monday, the day of the commencement of the session of the Legislature: As to the exact time, Mr. Sanders is uncertain whether it was on Sunday or Monday:—has had a conversation with Mr. Ennet since his examination before the committee, and is still uncertain whether he first saw Mr. Ennet on Sunday evening or Monday morning. Mr. Ennet asked Mr. Sanders if he had brought him his certificate from the Sheriff of Onslow? Mr. Sanders replied, that he had not brought his certificate. Mr. Ennet then stated that he had no certificate. Mr. Sanders replied, that made no difference. Nothing more passed between them.

General Marsteller told Mr. Sanders on Monday that he, as a member, must give Mr. Ennet a certificate. Mr. Sanders bowed, and thereupon some one in the company remarked that Mr. Ennet had his certificate. I think the person making the remark was Mr. J. Nixon, of New Hanover.

Mr. Sanders states, that upon examining the certificate first presented by the Senator of Onslow, that he does not know who wrote the body of the certificate, nor does he know in whose hand writing the signature is. Mr. Sanders states he knows of no person whose hand writing resembles the body of the certificate. Nor has he any knowledge or idea who wrote the certificate—states that he knows nothing at all about it.

Mr. Sanders stated in his testimony, at the bar of the House, that after his arrival in Raleigh on Sunday evening before the commencement of the session, he took out his certificate of election with some letters, and laid it on the table, where, as he knew, it remained until just before the House met on Monday.

MR. BUSBEE PROVES NOTHING MATERIAL.

MR. JACKSON'S EXAMINATION.

Do you know the hand writing of the certificate? and state all you know on the subject.

Answer. I know nothing of the subject; nor do I know the hand writing. Do not know of his having Mr. Sander's certificate on Sunday or Monday previous to the meeting of the Legislature. I heard on Monday, for the first time, that he had the certificate, about 10 o'clock in the morning. On Sunday evening returned from church about 9 o'clock. I room with Mr. Ennet, who was sitting by the fire when I returned; heard him say nothing about it that evening, nor until 10 o'clock next day; he did not then state, how or when he got it. I had a conversation with Mr. Ennet the next morning before 10 o'clock, but not on that subject. When Mr. Ennet told me he had no certificate, I told him as his colleague knew of his election, I presumed there would be no difficulty in his taking his seat. I never heard him say any thing of the certificate after I returned on Sunday evening from Church. I left Mr. Ennet's room about 6 o'clock on Sunday evening, and returned about nine as I believe.

I would ask Senators, if it is not very remarkable that Mr. Ennet did not disclose to Mr. Jackson on his return from Church, the sudden and mysterious appearance of the much desired certificate, during his absence; that in his first conversation with him on Monday morning, he never mentioned that he had received his certificate, and even in the conversation at 10 o'clock, when he spoke of having his certificate, is it not very strange, that he should not have informed his room

mate, one of his political friends, of the manner in which he received this suspicious paper?

MR. PASTEUR EXAMINED.

Do you know any thing about the certificate said to be forged, or on the subject matter now before the committee?

Answer. I do not know. I have had no conversation with Mr. Ennet on the matter; nor [did] I know any thing of the matter in any way whatever, until I heard from Mr. Ennet about the amount of the statement made to the Senate, after the whole matter was stirred up. I believe the certificate, though an imitation, not to be genuine.

MR. NIXON EXAMINED.

When did witness first learn that Mr. Ennet had got a certificate? Witness states he heard it first on Monday in the forenoon of the day, as he believes, the session commenced, from Mr. Ennet, who stated he had got his certificate since he arrived here. The members were then on their way to the House.

Does witness know any thing of the certificate first presented by Mr. Ennet, or of the hand writing of said certificate?

Answer. Witness says he does not know who is the writer of said certificate, nor does he believe the signature to be that of the Sheriff of Onslow, though he thinks the body somewhat resembles the writing of Mr. Averett; and the signature, though it only slightly resembles Mr. Averett's hand writing, still witness thought it was such as Mr. Averett might have written on his knee for want of the proper convenience for writing.

Did witness hear any one say whose hand writing the certificate was?

Witness answers he did not; and if he had, he should have felt it his duty, as a member of the General Assembly, to have informed the committee immediately on hearing it, knowing that said committee were in session for the investigation of the matter. Witness objected to the above question as believing it cast an imputation upon him, as he considered it his duty to communicate such information immediately, if he had heard any such thing.

Mr. Nixon, on his first examination before the committee, proves that the certificate is a forgery; that he heard Mr. Ennet say, on Monday in the forenoon, that he had received his certificate since his arrival in Raleigh. Mr. Nixon, re-examined at the bar of the House, states, that he has known Mr. Ennet some ten years or more; states that he knows his general character, that it is good; never heard aught against it; is a kind, good hearted man.

MR. HOLDEN PROVES NOTHING MATERIAL.

Mr. Etheridge proves the good character of Mr. Ennet, and that the certificate is a forgery. Mr. Washington examined at the bar of the House for Mr. Ennet, states that he is acquainted with the general character of the defendant; that his character is good; states that he is a very ignorant man; also proves the forgery.—Mr. Prentiss examined for Mr. Ennet, states that he does not know the general character of the Senator from Onslow, but heard a gentleman of respectability, and in whom Mr. Prentiss had the utmost confidence, say, that Mr. Ennet's character was good.

Mr. Melvin, examined for Mr. Ennet, states that he arrived in Raleigh some time before day on Monday the 18th ultimo.—After breakfast, at Mr. Yarbrough's, heard Mr. Marsteller say, that he had told Mr. Ennet that he could take his seat without his certificate; it had been done often.—Between eight and nine o'clock in the morning, called upon Mr. Ennet, when he made substantially the same statement as to the reception of his certificate, as his written statement offered to the Senate, as follows:

The Senator from Onslow, William Ennet, swears that he expects to prove by Mr. Marsteller that he had informed him, Mr. Ennet, on the Sunday next before the meeting of the Legislature, in the day time, that it was his opinion that the Senator from Onslow could take his seat in the Senate, without the Sheriff's certificate, making other-proof of his title to his seat; and also, that he expects to prove by the Sheriff, John A. Averett, that he had promised him, Mr. Ennet, to make out his Certificate of election and send it to him before the organization of the Senate, also, that Mr. Marable, of Onslow, had promised to procure said Certificate, from the Sheriff aforesaid, and send it to him in time before the sitting of the Legislature; and also, by Mrs. Bradley, that Mr. Ennet sent to her father's house (Averett's) for the Certificate, and the answer brought by the messenger was, that her father was from home, but would attend to it in time.

[Signed] WM. ENNETT.

Mr. Melvin also proved the good character of Mr. Ennet; did not know the time of the arrival of the mail from Newbern, although he had been a member of the Legislature for the last sixteen or eighteen years. Mr. Ennet also stated to Mr. Melvin, that Mr. Marsteller had informed him that he could take his seat without his certificate, but Mr. Ennet said he had rather have his certificate; that he had applied to the Sheriff for his certificate; that

he was sick and could not give it to him, but promised to send it to him.

General Marsteller proves that he informed Mr. Ennet that he could take his seat without his certificate, it had been often done. Two other witnesses prove an application for the certificate; that the Sheriff was from home; that his family promised that it should be sent to him, and if not he would send it to Raleigh. Mr. Stone being called for Mr. Ennet proved, that on the day Mr. Ennet presented his certificate, he placed the initials of his name upon the certificate, and that several other members of the Senate did likewise for the purpose of identifying it.—That on the next morning, Mr. Ennet called to examine the certificate, and expressed his doubts as to its being genuine.

The foregoing testimony is all that was offered on the part of the Senator from Onslow, to rebut the complete proof of his guilt, as declared by Chief Justice Ruffin, in the case of the State against Brit. In the first place, it is to be remarked, that nearly the whole of the testimony given by Ennet's own witnesses examined at the bar of the House, is incompetent, and ought to have no weight with Senators in coming to a proper decision of the case, being the acts and declarations of Mr. Ennet himself subsequent to the time of his being proved to be in possession of the forged certificate. The case of the State against Tilly, 3d Reddell, page 444; and the case of Waul vs. Hatch, 4th Reddell's Law, page 282, have clearly settled, that neither the acts or declarations of a party in the absence of the other party can be given in evidence in his favor.

So that upon a review of all the testimony offered by the Senator from Onslow, to rebut the strong presumption of his guilt, arising from his possession of the forged certificate drawn in his own favor, is that of good character alone. I ask Senators is that sufficient to rebut that presumption which the Chief Justice terms complete proof until the contrary be shown.—In the first place every man's character, and more especially that of a Senator from a respectable County is presumed to be good until the contrary appears; and it will be remembered that no evidence can be given to rebut this presumption of good character, until the defendant has himself first opened the door by offering testimony as to his character. This being the state of the law, what would this strong presumption of guilt amount to, if proof of good character alone be sufficient to rebut it.

But, it is said, the Senator is not guilty of the forgery, for the reason, that he had no motive to commit the offence, having been informed by several gentlemen that he could take his seat without a certificate. That man never acts without a motive.

To this I reply, the forgery is clearly established; the corpus delicti is indeed admitted; no other person is shown to have been connected with the transaction; no other person could have had any possible interest in the matter as far as we know; the deed has been done; the offence has been committed; no other human being could have had any motive for the commission of the crime, save the Senator from Onslow; he must, therefore from this reasoning as far as we know, be guilty of the forgery.—But, this case, Mr. Speaker, does not rest alone upon this strong presumption of law termed complete proof, until the contrary is made to appear.

There is other testimony in this case which cannot lie; which fixes the crime of forgery upon the Senator from Onslow, beyond the hope of escape. I call this proof to the attention of the Senate. I ask every Senator, before he pronounces his judgement in this case, to examine carefully the written statement of the Senator presented to the Senate at the time he asked for this investigation, which was admitted by the Senator before your committee, to be in his own proper hand writing. I call upon Senators to examine said written statement minutely, especially the name of John A. Averett where it occurs in said writing. Then examine his name as signed to the forged certificate, and if you can then doubt, you would still do so though one should rise from the dead; it is manifestly written by the same hand, with the same pen and ink. There is one other circumstance which I desire to call to the attention of Senators, and that is, the remarkable similarity between the certificate of the Senator from Onslow, and that of the Comptroller, Mr. Edward W. Sanders. I call the attention of Senators particularly to the punctuation to the two first short lines at the top of the certificates, John A., forming the first, and Averett, Sheriff, the second line in the certificates.

I have but a few more remarks to make, Mr. Speaker, before I shall have done with this painful investigation. I am sorry, Mr. Speaker, that the talented gentlemen composing the minority of the committee, did not make a report, setting forth the chain of reasoning by which they arrived to the conclusion that the Senator was blameless in this transaction.

It would give me great pleasure now to hear those gentlemen or any of the Senators who maintain the negative of the propositions before the Senate, point out the mode of reasoning by which they arrive at the conclusion of the innocence of Mr. Ennet. I am still open to conviction, and would most cheerfully find out the way to discharge my duty to the country, and acquit the Senator. But, Mr. Speaker, I am free to state, that unless some such reasoning is pointed out by those who maintain his innocence, I shall be compelled, however reluctantly, to pronounce him guilty. I will take this occasion further to state, that I would be glad to hear the suggestion of any Senator, as to the proper measure of punishment to be imposed upon the Senator, in case the Senate should find him to have criminally participated in imposing a fraudulent and forged certificate upon the Senate. Your committee have recommended expulsion, but in consequence of the good character established at the bar of the House, together with his extreme ignorance, I would cheerfully listen to the suggestion of any Senator in relation to a modification of the punishment.

I repeat, Mr. Speaker, I have reviewed the principles of law maintained in the report of the committee. I have examined the books of authority, and find that the principles laid down in the report are fully sustained, and that our own courts have given additional stringency to the rule. I have briefly examined the testimony; I have once more scanned my own heart to see if there could possibly be found lurking there any unkind feeling, or unholly passion to influence or bias my judgment, and I again declare, that if I know myself I never entertained any unkind feeling towards the Senator from Onslow; to me he is a stranger; the only emo-