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ASIATIC INTELLIGENCE.

Calcutta.

LAW.

SUPREME COURT.—November 23.

In the matter of Alexander and Co.—

This was an appeal from an order made by the court for the relief of insolvent debtors in India, on the petition of A. Lingham.*

Counsel having been heard and the case fully argued during the term, the court this day pronounced its decision. There being a difference on the bench, the judges delivered their opinions *seriatim*.

Sir B. Malkin—This is an appeal from an order made on the 3d of January last, by Mr. Justice Grant, in the Insolvent Court. It is, necessarily, with some hesitation, that I come to a conclusion, especially on a question principally of fact, at variance with that formed by the judge who heard the evidence in the case; but, after having had the advantage of a full communication of the reasons given by the learned judge for the opinion he entertained, and of hearing the case argued with the utmost force and ability in support of that opinion, I cannot feel that the order ought to be supported. In its present shape, it does not appear to me to have been one which the Insolvent Court had power to make; and I cannot collect from the evidence any state of facts which calls for the substitution of any other.

The first question in the case is, whether the order made was one which the Insolvent Court had jurisdiction to make. And this must turn entirely on the construction of the 49th sec. of the stat., 9th Geo. 4. c. 74, for, except under the special provisions of that act, the Court could have no such power. The order originally applied for, or rather that part of the application which was in substance granted, was to set aside a sale, treated as actually made, on the ground of negligence or fraud; the order made departed in form from that applied for, and corresponds with that made in "*ex-parte* Bennett," 10 Ves. J. 331. But that case is an express authority to show that such an order could not be made, unless by consent, by the Lord Chancellor sitting in bankruptcy; and of course it could not be made by the Insolvent Court here, except under the express provisions of the Insolvent Act. The same principle is further recognized by the other cases cited in argument on the subject. The application, as far as this portion of it is concerned, resolves itself completely into an application to set aside the sale, or render it

inoperative. on the ground of legal or actual misconduct, and such an application, on the authority of "*Ex parte* Bennett," ought, independently of the special provisions of the Insolvent Act here, to be made to a Court of Equity. It appears to me that the Insolvent Act does not give the court the power which it has exercised. The only sections which materially bear on the question are the 49th, 50th, and 56th. The 56th is only so far important on this point, that, by giving other relief in cases of improper or improvident sales, when any actual damage has accrued, it makes it unnecessary, for the purposes of justice, to attempt to extend the operation of the other sections by any strained construction. And on the most obvious and natural construction both of the 49th and 50th sections, I think that they contemplate future sales only: that they are merely prospective in their operation.

The power of this court is not merely to confirm or dismiss the order of the Insolvent Court, but to inquire into the matter of the petition and of the proceedings petitioned against, and "to make such order thereon as to the same court shall seem meet and just." Now, the original petition was not merely to set aside the sale, or to restrain a conveyance, but it prayed that, if the court could not cancel the sale, it should be referred to the examiner of the court to inquire and report whether the factories could have been sold to any, and what greater, advantage, had they been duly advertised for sale, and exposed to sale by public auction, or that the court should grant such other order as the circumstances of the case might require. The Insolvent Court, therefore, was at liberty, under that petition, to proceed under the 56th section of the statute; and if the circumstances of the case would warrant such a proceeding, it would be the duty of this court to adopt it. It is, therefore, necessary to inquire into the circumstances of the case, and it would indeed be material to do so, even if it were not required for the actual decision of the cause, because the character of the assignees has been attacked, and they are officers whom it would be our duty, as we have the power, immediately to remove, if some of the imputations cast on them were supported. With respect to Mr. Hurry, indeed, as far as personal conduct and character are concerned, he is out of the question; having had nothing to do with the sale, he cannot have incurred any censure with respect to it. He may, indeed, be implicated with Mr. Burkinyoung in the charge of negligence, in not advertising

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* See vol. xvii. p. 79, and last vol. p. 238.

Asiat. Journ. N. S. Vol. 20. No. 77.

I shall close these remarks, which principally turn on the trade between Russia and Kabul, *viâ* Bokhara, by observing that the Russian merchants so nicely study the wants and even disposition of the people with whom they traffic, that multitudes of the inhabitants of Kabul are to be seen with chupans of nankah on their backs, actually got up and sewn at Orenberg, while all the shops in the city may be searched in vain for a single button of British or indeed any other manufacture, when one, two, three, or more, are required for the dress of every individual; as substitutes for which, they are compelled to use thread simply twisted into a spherical shape.

ZOOLOGY OF ASSAM.

Compared with those of most other jungly countries, there is scarcely any peculiarity in the animals of Assam. Wild elephants are plentiful, and move in large herds. Great numbers are caught every year, and transported to other countries; but the speculation is very precarious, as many of them die before they are domesticated. A few are shot in their wild state, merely for their ivory. They are frequently very dangerous, and many of the natives are annually killed by them. The rhinoceros inhabits the densest and most retired parts of the country. The young ones are a good deal looked after, but so difficult to be found, that a party with two or three elephants don't succeed in catching above one or two in a season, and these, when caught, frequently die in the nursing. The mode of taking them is first to shoot the mother, and then the calf is easily secured. Frequently the mother, in her dying agonies, lays hold of her young one with her teeth, and lacerates it so severely, that it dies of its wounds. In those books of natural history, of which I am in possession, the *rhinoceros indicus* is described as having no canine teeth; but on an inspection of a skull, a few days ago, I found two very stout canines, one on each side of the two incisors of the lower jaw. The upper jaw was so incomplete, that I could determine nothing respecting their existence in it. The old rhinoceroses are frequently killed for the sake of their horns alone, to which the natives attach a great deal of sanctity; so much so, that the general belief is, that there is no more certain way of insuring a place in the celestial regions, than to be tossed to death on the horn of a rhinoceros. These horns are as hard as bone, very stout and broad at the base, and seldom longer than eight or ten inches. They have a slight curvature towards the forehead, and in colour are as black as the buffalo's. The horn is not a process of the bone of the nose, but united to it by a concave surface, so as to

admit of being detached by maceration, or by a severe blow. It has no pith, but the centre is a little more cellular than the rest. Considering the wild and sequestered habit of these animals, it is surprising how very easily they are tamed. With a little training, a young one, a few months after being caught, may be turned loose to feed, and be ridden by children. They contract a strong affection for their keeper, and come at his call, and follow his steps wherever he goes.

Tigers, leopards, and bears, are numerous, but though they occasionally carry off a bullock, accidents to human life are rare. There is a reward of six rupees a-head allowed by government for their destruction; certain castes adopt this as their profession, and make a good livelihood by it. They destroy them by means of poisoned arrows. Having found out a recently frequented track, they fix a strong bamboo bow (a modification of the cross bow) horizontally, upon three forked sticks, driven firmly into the ground, and just so high as to be on a level with the tiger's shoulder. The bow being bent, and the poisoned arrow fixed, a string connected with the trigger is carried across the path in the same direction with the arrow, and secured to a peg. The tiger in passing along, comes in contact with this string, the bow is instantly let off, and the arrow is lodged in his breast. So very active is this poison that the animal, though not otherwise mortally wounded, is commonly dead within one hundred yards of the place where he was struck.

Wild buffaloes abound in all parts of Assam. They are not much sought for unless by some classes for eating. They are too fierce and formidable to be robbed of their young with impunity; and as they are seldom found solitary like the rhinoceros, the calves could not be secured even at the expense of the parent's life. It is the common practice to breed from the wild buffaloes; no males are kept by the feeders: the tame herd is driven towards the jungle, where they are joined by the wild males, who continue in the flock during the season.

Of all the animals that roam the forest, not even excepting poisonous serpents and beasts of prey, the buffalo is the most formidable, and the most to be dreaded when defenceless; and more inhabitants are destroyed by his gore than by all other animals put together. Scarcely a month passes, without some person being attacked in this district, and gored to death. A man was lately brought in to me, with the whole of his stomach protruding through a small wound in the epigastric region. The horn had entered the stomach, and a small hole existed, like the mouth of a purse, into which I could introduce my finger. He had two other

wounds in his body, both of which seemed mere scratches; but one of them entered the thorax, and the other the abdomen. He had been gored the day before I saw him, and been conveyed from a distance on a hurdle; but with all my care, he died next morning. The only thing remarkable in this case was his living so long with wounds in such vital parts.—*India Jour. Med. Science for Nov.*

Madras.

MISCELLANEOUS.

THE GOVERNOR.

The Madras papers inform us that Sir Frederick Adam left that presidency for the Nilgherries, on the 25th ult. A proclamation in the *Fort St. George Gazette*, issued upon the occasion announces, that "the administration at the presidency will, in his absence, be conducted by the remaining members of the government, and that all official correspondence is to be carried on as usual, and the resolutions of the government will continue to be passed in the name of the Governor in Council." We are particular in referring to this notice, as there has been some discussion, both at Bombay and Madras, about the propriety, and even about the legality, of a governor absenting himself from the seat of his government for purposes other than the public service, and continuing to perform the functions, and draw the salary of his office, during such absence. Undoubtedly, the prolonged residence of a governor at any place but the seat of the public offices, must be attended with so much inconvenience, that it could not have been the intention of the British legislature to allow the comfort of the individual, rather than the *salus populi* to be the *suprema lex* in this case; and whether authorised or not by the strict letter of the act, we should conceive that the controlling authorities at home would not fail to put their *veto* upon such discretionary absences, if often repeated, although they could not desire altogether to deny their governors the opportunity of visiting the hills for the renovation of their health, when enfeebled by the labours of council at a sultry presidency. But unless the word "presidency" be interpreted in its most restricted sense, we do not find in the act any such prohibition as some writers have assumed, much less any stipulation that a portion of the salary shall be forfeited during the governor's absence.

We heard of a scheme some time ago to remove the seat of government from Bombay to Poonah, and Lord William Bentinck, when he planned his first visit to Simlah, actually made arrangements for conducting the government of the Bengal provinces temporarily at that place. In-

deed, in a great measure, he did conduct it there. His lordship has since pronounced judgment against the existing seats of government of all the presidencies, and we may therefore expect, if he obtain, and for any time hold, the office of President of the Board of Control, that some Utopian scheme will be suggested by that board to turn things upside down in this matter, and give us all those *benefits of change*,—change for itself,—which, to some few tastes, produces a pleasing excitement, while the admiring multitude are apt to grumble at the trouble of moving, when they find themselves comfortable where they are, and see no particular advantages for them in the land of promise.—*Cal. Cour., Dec. 7.*

CONVERSION OF A BRAMIN.

Last Sunday morning, at the Wesleyan Chapel, a bramin was baptized by the Rev. Robert Carver, in the presence of many ladies and gentlemen and other Hindoos; a rare circumstance indeed. The conversion of this bramin was through the instrumentality of a catechist of the Wesleyan Society. The bramin and three others of his own creed set out from a village in Travancore, called Trevandrum, with a view of making a pilgrimage to Cashee (Benares). No sooner had they left Travancore and commenced their journey than the catechist came in their way, preaching and conversing with the travellers. These men out of curiosity lent their ears to the sayings of the catechist, who, after the conversation was over, put into their hands a part of the Gospel, and left them to make what good they could with it. After they journeyed for three or four days together, one of them became ill and died. On this catastrophe, they resolved with greater diligence to proceed to the place of their pilgrimage, and one manifested an anxious desire to know the Christian religion, and he therefore persuaded the other two to read the book he had with him; but they abused him for his folly, and went their own way. The man, who arrived at Madras a few months ago, put himself under the instructions of Mr. Carver, and afterwards hesitated not to become a Christian, and was baptized. This is the whole statement of his conversion. We are indeed, astonished at this brahmin's conduct, and to find that in the space of a few months he should have appreciated the Christian religion more than his own.—*Carnatic Chron., Dec. 2.*

COMPUNCTIOUS VISITINGS.

The *Fort St. George Gazette* contains the following official announcement:

"*Fort St. George, 11th December 1835.*
—The accountant General has received