

Corrupt & Inefficient Magistrates.

A gentleman whose position in this Colony, and character, both as a public and private man, gives weight to his opinions, speaking of the most effectual means to obtain redress of grievances said—let the public press candidly and fairly expose the abuses, &c., under which this colony groans. To this end, we beg to call His Excellency's attention to the subjoined letter from George Underwood Alley, Esquire, a settler in the Illawarra district; Mr. Alley, scorning to attack any man or set of men, under the cloak of an assumed signature, honestly and honorably gives the names of the offending party, and his own as their accuser; and it is indeed much to be regretted that there are not more men of equal independence of mind, and of equal moral courage with Mr. Alley. Were this the case, we feel convinced the stream of magisterial justice would be considerably purged, if not altogether purified. Our columns shall ever be open to those who will (after Mr. Alley's example,) come forward with specific charges against public men, giving place, name and date; such a mode of procedure may be considered discourteous to the Governor; we most distinctly affirm, that such is not our motive in recommending such a course. Our motive for desiring to give the utmost publicity to all well grounded charges, is that Her Majesty's Ministers and the Imperial Parliament may learn how this Colony is practically governed, and how essential it is to its interests that it should be invested with a Representative Legislature. Is it just, is it commonly decent, that in so circumscribed a district, THREE brothers should have seats on the magisterial bench? is it proper that gentlemen should be allowed to hold the commission of the peace, who (if common report be true), are in the habit of retailing rum and gin to their employers as part payment of wages—not only to those ac-

payment of wages—not only to those actually employed, but to others not in their employ.

We trust that His Excellency will at once see the propriety of instituting an enquiry into the charges brought against Captain PLUNKETT, the Police Magistrate of the Illawarra district; in fact, we cannot see how His Excellency can avoid such a step, without incurring suspicion.

We do not hesitate to say that such an observation as that made by Doctor OSBORNE, ought to subject him to removal from the list of Magistrates, and His Excellency will not do his duty, if he does not cancel the Doctor's commission, provided Mr. ALLEY's statement proves to be correct. As a hint to the Illawarra Magistrates, we beg to assure them that from this time forward, we shall look after them very closely.

*To His Excellency Sir George Gipps,
 &c., &c., &c.*

SIR,

The duty which every man owes himself to seek redress against injustice, places me under the painful necessity of laying before your Excellency the following statement

In adopting this public medium of communication, I do so from a belief that it is the best calculated to induce prompt and full redress, as I am too well aware of the fate of merely private letters to trust to that source alone.

Two men, Dennis M'Carthy and Patrick Daley emigrants, were hired in Sydney by my agent as farm labourers, and sent to me with the understanding that if they did not suit my purposes I was at liberty to return them to his employ. The first named gave me considerable and repeated trouble, and consequently both I and my superintendent were frequently obliged to admonish him; upon two of these occasions he told me with much insolence that "he would not work another stroke for me," but for each offence I forgave him, upon resuming his work, and expressing regret for his bad conduct, as I wished to reclaim him by mild means rather than by harsh

Upon the first day of reaping I sent to the field a can of three-water grog, and I myself gave to each of the men then at work one draught, and concealed the remainder amongst the wheat. On returning in about two hours, I at once perceived that they had discovered the hiding place, and made free with the drink; one man however was drunk, although he continued to do his work and hold his place; some dispute arose between this man and Dennis M'Carthy, the latter of whom, being perfectly sober, I repeatedly ordered to leave the field or to go to some other part of it, as his language was calculated to lead to disturbance; this he refused, until at length he so aggravated the other that

refused, until at length he so aggravated the other that a quarrel ensued; Dennis M'Carthy jumped upon the inebriated man, seized him by his teeth, and attempted to gouge his eyes out; with much difficulty I succeeded in dragging him off, and as an Irish means of quelling the riot promised them they should fight it out next day.

Before evening I completely restored order and made all parties shake hands.

In the evening Dennis M'Carthy came to me, and with much insolence announced his intention of not working another stroke for me; I replied, that that this being his third similar offence I should punish him, and desired him to go to his hut.

The next morning he did not resume his work, but shortly after breakfast came to my parlour window, with his hat on his head, and bag on his back demanded his wages, and told me he was going away; I immediately called my superintendent, in order to be present, when I told him that he (D. M'Carthy) was acting in direct opposition to my orders and wishes and that if he persisted he certainly should be punished; he however defied me, and added he did not care a damn for me or the magistrates. He went away, and I immediately wrote to the Bench at Wollongong enclosing the statement to Captain Plunkett, and forwarded it by my superintendent, in order that he might substantiate the facts by affidavit.

Captain Plunkett at once issued a warrant, which was without delay placed in the hand of chief constable Seales, and by him forwarded to Sydney.

Three days after, Dennis M'Carthy not being able to get a passage from Shell Harbour to Sydney, returned, and asked me should he return to his work, I replied that I did not feel myself justified in interfering until the law had taken its course, and that until then I should neither say yes or nay; he worked with the other men for about two hours, and

acquainted with magisterial jurisdiction; but, at the same time I was surprised at the silence observed towards me upon the subject. However, upon the evening of the 27th of December, about four o'clock, a man called Davey the flogger, handed me the much talked of summons, requiring my attendance as a witness at Kiama next day, "to give evidence in a case then depending and undetermined." It may be necessary to remark, that if the offence upon which the warrant was issued was committed upon Saturday, 14th December, the summons was issued at the instance of the offender, on or about the 20th, and delivered to me by a man who can neither read nor write upon the 27th, late in the evening previous to the intended hearing. Next day I attended at Kiama at the appointed hour, and in about three hours after Captain Plunkett and Collins formed a bench. Upon being called upon I addressed Captain Plunkett, saying, previous to this enquiry I beg leave to know the meaning of this written summons being issued, as although I might be unacquainted with the general law of New South Wales, yet the common law and common practice I thought was sufficiently known to all to preclude the issuing of a summons to a complainant, at the instance of the offender against whom a warrant was issued, and then remained unexecuted.

Captain Collins very courteously replied that it was for my convenience that the case was appointed for trial at Kiama, I thanked them for their expressed intention, and stated that I did not require it, as it was much more inconvenient and very annoying to have the man boarding upon my own grounds for upwards of ten days until it suited the convenience of others to try the case, at all events, said I the simple law of the case is, the warrant should have been executed, and notice to that effect sent me, when, as a matter of course, I should have attended without there being any occasion for a summons.

Captain Plunkett then intimated that the warrant had been duly executed, upon which assertion, I immediately stated that I had then received my answer, at the same time, remarking that if the warrant had been executed, common courtesy might have induced the bench to have sent me intelligence, when I should have at once attended, and thereby saved all this trouble and unnecessary delay.

The case was then proceeded with, the man, Dennis M'Carthy being allowed to make what statement he pleased, and every word carefully taken down by Captain Plunkett.

I frequently cautioned the bench that he and his witness—namely, his brother-in-law, were perjuring themselves, but it was of no use, the statement appeared too acceptable to be thrown aside.

Notwithstanding my affidavit, and that of my superintendent also, a gentleman, and a son of a respected Protestant clergyman, Captain Plunkett dismissed the case, pronouncing my farm to be the most disorderly, and at the same time freed the man from his contract, desiring him to work where he pleased.

In this case I have more especially to complain of a willful suppression of rebutting evidence, upon the part of Captain Plunkett, in order that an infamous statement of Dennis M'Carthy might appear upon the face of the evidence uncontradicted—it is as follows:—

Dennis M'Carthy finding that it was too evident he was to have every thing his own way, enlarged his matter of complaint, by stating that the master was always harder upon him than upon any other of the men since the time he (D. M'Carthy) was

subsequently went to neighbouring farms and continued to work there.

I immediately sent a written notice to Costello, the constable, of the man's living upon my ground, and requesting that the warrant should be forthwith executed. Costello very promptly came to me, but declined acting as he had not the warrant; I then desired him to forward the notice to Wollongong. Two days following Dennis M'Carthy wended his way to Wollongong, and no doubt receiving hints and instructions on the road called upon Dr. John Osborn, told to him what tale he pleased; the Doctor in his overflowing generosity proceeded to the Bench, there the story was again told, and Captain Plunkett, no doubt yielding assent to the superior wisdom of the Colonel of the Bench issued a summons, the Doctor appeared to enjoy the matter, and he subsequently remarked to Dr. Menzies, "I will teach you young settlers a lesson."

The man returned to my farm, exulting and in triumph, and amongst a certain class boasting of his success, stating that Captain Plunkett had issued a summons against me.

I did not believe that a course so preposterous, so contrary to common law and common sense could have been followed by any supposed to be acquainted with magisterial jurisdiction; but, at the same time I was surprised at the silence observed

was always harder upon him than upon any other of the men since the time, he (D. M'Carthy) refused to lend him money—this barefaced assertion was so monstrous, that I refused to give my contradiction to it, until the evidence of Mr. Cummin, my superintendent, should be heard. Upon being again sworn, he stated, that a short time after, D. M'Carthy coming to the town, it was reported about the neighbourhood that he had money; there was some talk of bushrangers being then out, and D. M'Carthy became afraid of the money, as an attempt was made or said to have been made upon the hut in which he lived, and next day he offered to lend all to Mr. Alley, if he would give him Mr. Hyam's security. Mr. Alley refused to have any thing to do with it, telling him he was exceedingly impertinent, as he was not in the habit of associating with publicans and at the same time, advised him (D. M'Carthy) to transmit the money to Sydney, to be taken care of by his agent.

The above contains the sum and substance of the facts as sworn to by Mr. Cummin and myself.

Seeing that Captain Plunkett was not taking any notice of it, I called upon him three times to note it down. Captain Collins also called upon him to do so, and told him it was necessary he should, but he (Captain Plunkett) did not take any heed of either of us. I remarked that I considered the decision unjust, partial, and contrary to evidence, and that it was rather strange, that the oaths of two men, whose class in life, and whose course of education and habit, made it a matter of course their swearing falsely should be heard and decided upon against the affidavits of two gentlemen.

One of the points upon which Captain Plunkett gave the man his freedom from his contract, was, that there were 15lb. of back rations of flour due to him, this I admitted. Captain Collins himself allowed that at the time alluded to, there was not an ounce of flour in all the district, not even at his flour mills, and that his men were also without any at the same time. He remarked that I should have sent a man and horse to Sydney for it.

Of his want of flour, the man never complained; he knew that it was not to be had, and that I and my family were without any during all the time; but it was considered a good point, and as such, it was seized upon by the bench. They had plenty of meal, rice, and milk, and more was not to be had in the country.

Immediately after the hearing, I dismissed from my service, the brother-in law, Pat Daley. And on returning home, paid him all wages due up to the moment, for which I obtained his receipt.

After three or four days trying to get employment in the neighbourhood, this man (Pat Daley) acting under the impression conveyed by the previous decision, that every thing he should swear to, would receive unbounded credence, went to Captain Collins and made affidavit of rations to a great extent being due him.

I heard the affidavit read, to which the man added more matter, and signed all. My reply was simple, bringing the man's own receipt for every thing in full, wages and rations.

Captain Collins at once remarked to the man, that he was either a very great rogue or a fool, and was about committing the man for gross perjury but for my intercession in behalf of his wife and children.

Captain Plunkett stated in the commencement of the case, that the warrant had been executed. I since applied to Chief Constable Scales upon the subject, when he assured me that it never had been

subject, when he assured me that it never had been executed, and that it could not have been, as he had forwarded it to Sydney.

I remarked to the Bench that unless the respectable settlers received the just support of the Magistrates it will be better for them to throw the farms into the hands of their servants, and themselves become the labourers or return home; and that even if the young settlers should be in error, it was the duty of the old settlers, and a Magistrate, to point out his error rather than set as in this case.

I have now performed my painful duty, I feel it due to myself, as well as to those who may seek for justice; and I beg here to add, that others with myself have determined never to address a complaint to the Wollongong Bench, constituted as it is at present, but at once to dismise from our service any who may require to be complained of.

Trusting that your Excellency will take the necessary steps to afford me redress.

I have the honour to remain,

your Excellency's
most obedient humble servant,
GEORGE UNDERWOOD ALLEY.

February 10, 1847. }
Jambarn, Illawarra. }