and Lord Kingston could be examined. COURT OF QUEEN'S BENCH-DUBLIN, THURSDAY. TITHE RENT CHARGE-CORN AVERAGES. The Queen v. the Magistrates of Mayo. Mr. Napier, Q.C. (with him was Mr. McKey), moved, on the part of the Archdeacon of Tuam, to make absolute a conditional order for a writ of certiorari to remove the proceedings had before the justices of Mayo at a sessions held at Westport in October last, when they granted a certificate reducing the amount of the tithe rent charge payable to the prosecutor. The persons who applied to have the corn averages taken, in order to reduce the income of the clergyman, were the Earl of Lucan, the Marquess of Sligo, and G. O'Flaherty, Esq., and they instituted the proceeding upon the ground of the difference of the average of the seven years ending in 1821, and that for the seven years antecedent to the application in question, which was brought forward in October last. The question at issue depended upon the construction of the Tithe Rent Charge Act, the 1st and 2d Vic., cap. 109, and it provided that three or more landowners, charged with tithe rent charge to the amount of £3 each, might, at certain periods, apply to have the corn averages taken, so that when corn rose to an amount exceeding by ten per cent. its price at another fixed period a reduction should redressing what would be an obvious wrong. It had been urged by the prosecutors, among other grounds of interference, take place in the rent charge; and by a very simple mode that the last act did not import any attention to take away the price of corn from 1814 to 1821, the standard of time, the writ of certiorari; and that the provisions of the previous was ascertained and determined. The jurisdiction of the statute were not applicable upon this point. It became, howmagistrates only attached when the difference in value of the ever, unnecessary to go into a consideration of such topics, as corn amounted to ten per cent. The Archdeacon opposed the application below on the ground that the average price of oats from 1814 to 1821 was 15s. 2d. per barrel, Irish cur- | where there was not a difference of ten per cent. between the rency; and the difference between that and the seven years | respective averages of seven years ending in 1821, and the ending October, 1856, did not amount to 10 per cent. The seven years immediately antecedent to the application in quesmagistrates however held that by taking the 15s. 2d., as \ tion. The former certificate which, although signed in 1828 being British currency, the difference of 10 per cent. did was declining with the average up to 1821, necessarily imreally exist, and they were of opinion that the certificate signed | ported Irish currency, for none other existed in this country, in 1828, being after the assimilation of the currency between and the average of 151 must mean 151 Irish. The fluctuating the two countries, that British currency was meant. They | incomes of the clergy were after the statute passed to be realso refused to have evidence to show that by the Dublin | gulated by a given standard, by means of which the averages Gazette the corn averages were under the amount at which were to be ascertained, and the Dublin Gazette was to show at in Westport be valid, that those interested for the they estimated them. The result of their proceedings was what the averages actually were. The justices had assumed what the averages actually were. The justices had assumed what the averages actually were. The justices had assumed what the averages actually were. The justices had assumed what the averages actually were. The justices had assumed what the averages actually were. The justices had assumed what the averages actually were. The justices had assumed what the averages actually were. to reduce the income of the Archdeacon one-sixth, from £300 | that English currency was meant, at a period when no such Beamish, and Jonas Travers, Esqrs. to £250, and he (Mr. N.) was surprised how noblemen of the rank of the parties in the present case could have instituted | conclude a great public right, so deeply affecting the parish of Timoleague, the present amount payable being Rev. BENJAMIN J. CLARKE, Deputy Registrar of the clearly meant Irish currency, and could not be read in oppo-Gazette showed the price of oats to be 15s. 2d. Irish, and not English money. With reference to the objection that might be urged as to the certiorari being removed by Goulburn's Act, he replied that this provision was not incorporated into the 1st and 2nd of the Queen; and even if it had, the court still had the power to interpose, because the magistrates had no jurisdiction where there was not between the averages a ifference of 10 per cent., and they could not confer a jurisdiction upon themselves by a statement which was not correct old in point of fact. Messrs. Brewster, Q.C., and Deasy, Q.C., (with Mr. Buchanan) submitted that the court would have very little difficulty in dealing with the case. The certificate in the Tithe Rent Charge Act was the document which was to show what bi the averages were at a particular time. It was made in so very clear and explicit terms, and the certificate of 1828 being given at a time when the currency was all in British in money, the natural presumption must be that the price of oats was then described as being 15s. 2d. British. But even assuming that the magistrates had made a mistake in this respect, that would give the court a right to issue the certiorari; and counsel insisted that the provision for taking away the writ of certiorari by the following act was necessarily to be inferred as adopted into the last act, dealing as it

did upon the same subject matter. The King v. the Justices

the proceedings in question. Counsel proceeded to refer to the statute of the 1st and 2nd Victoria, and the antecedent to be settled between the incumbent and his parishioners. The January, 1828, the average price of wheat being given as £1 act of Mr. Goulburn, and argued that the certificate of 1828 | Chief Justice adverted to the argument of Mr. Hickey, which 18s. 81d. Irish per barrel, equal to £1 15s. 7d. English. sition to the truth, namely, that the averages in the Dublin | composition, and not as to the averages. The act altering liter, appeared on behalf of the applicants, and Mr. GREGO The Lord PLUNKET, Bishop of Tuam ... 110 0 sumption where the habitual dealings of parties showed that they were treating on the bisis of Irish currency. The Chief Justice concluded by expressing his opinion that the certiorari

haps, great injustice might have been done if the court could not interfere. He thought the real question in the case was as to the true construction of the certificate, which stated the average of acts during seven years. If 15s. 2d. in point of law should be late Irish currency, then the magistrates had no jurisdiction. The argument of Mr. Hickey showed the grounds upon which the Queen's Bench would interfere, namely, where there was a want of jurisdiction, or an excess of jurisdiction on the part of the magistrate below. His lordship, however, expressed it as his present view, that the certificate was the document to state the averages, and that it would have been improper to have admitted parole evidence to show what were the averages by any other means of information. A very serious question was raised, which could be discussed when the facts were all on the record and the proceedings were returned.

Judge Perrin concurred in opinion with the Chief Justice,

Tuesday Fel 3/5/

MORNING, FEBRUARY 3, 1857.

of the West Riding of Yorkshire (Ardl. and Ellis, 562), and other authorities, were referred to on this point. Mr. Hickey replied, and contended that the direction as to the certificate containing the price of corn was as a mere memorandum, and not a part of the instrument, and he forcibly urged that where there was either no jurisdiction or an excess of jurisdiction, the Queen's Bench could interpose; and as to the taking away of the certiorari by Goulburn's Act, that might be a wise step in a temporary measure, but it was not contained, when the 1st and 2d Vict. was passed, as a perma-

nent act of the legislature. The Chief Justice in delivering judgment said that a great variety of points had been discussed, some of them quite correct in point of law and of fact. Where there was an excess of jurisdiction or a want of jurisdiction in an inferior tribunal, although the certiorari should be taken away by express word, the Court of Queen's Bench had the power of interfering and there was another satisfactory ground upon which to grant the certiocari. The justices had no jurisdiction in any case showed that the certificate only applied to the amount of the Mr. JUSTIN M'CARTY, barrister, with Mr. WRIGHT, solithe currency prima facis imported that every document after appeared for the clergyman. it came into force had relation, where money was stated, Mr. J. R. BULL, deputy clerk of the peace, produced and Ven. the Archdeacon of Killala to English currency; but even that statute qualified the pre-

His Worship granted an order for the reduction. Judge Crampton said he felt great difficulty as to the pro- The other business of the sessions was light, and contained to J. Callanan, LL.D. priety of granting the certiorari, although glad that the other no case of importance. members of the court thought it right to issue, because, perin Westport Parish Ss. 34d. in £1.

and that 15s. 2d. a barrel meant Irish currency in the certi-

place in 1826; but 15s. 2d. was the average price from 1814 to 1821, when Irish currency was in force. 2 .- The Certificate of the contiguous parish of Kiimeena states-" And we do further certify, that the average price of Oats, being the corn principally grown in such county, for the period of seven years, ending the 1st day of November, 1821, is 14s, per barrel, being equivalent to 15s. 4d. late currency." Were the averages of the two contiguous parishes different, for the same seven years ?

3.-The Act 4 Geo. IV. c. 29, directs that the average price of grain for seven years preceding Nevember 1st, 1821, shall be calculated upon the returns advertised in the Dublin Gazette during such seven years. A certified copy of the Dublin Gazette for the seven years, from 1814 to 1821, produced in Court, showed that the average price for these seven years was 1. a. 2d.; proving, demonstratively, that the 15s. 2d. was Irish money in the Certificate of Westport Parish, and that it could legally be nothing else. [Certified copies of the Certificate of Kilmerna Parish, and of the prices from the Dublin Gazette from

1814 to 1821, were tendered as evidence and rejected.) 4 - In the case of a neighbouring parish, brought by the same Plaintiffs before the same Court in 1851. the average price of 15s. 21d. for the seven years, from 1814 to 1821, was admitted to be Irish money, and an application similar to that made in Westport Parish was therefore, unsuccessful 5 - A surviving Commissioner, who fixed the Tithe

Composition in another parish in this county, in the Certificate of which there is no mention of Ir sh currency, writes-" I have no hesitation in saying that the intention of the Commissioners was to give the average price of grain from the Dublin Gazette in n Itish currency. Taking the average for the years previous to 1821, it would have been absurd to have a expressed that average in a currency different from that in which it was printed in the Gazette The effect of the decision in Westport, if not set

ashie, is to make four-fifths of the Parishes in this all Diocese subject to the like deduction-one-fifth of , them only having "Irish currency" stated in their - Certificates. The Court of Queen's Bench, on the application of it the hight Hon. Joseph Napier, has granted a " cont ditional order" that the Justices shall hear evidence as to the las 2d, being British or Irish money, The Bishop and the CLERGY of this Diocese have

felt it right that the expense of the further legal proceedings should in part be borne by them. As the question raised is one which equally affects every Diocese in Ireland, it seems to be of importance that the Law on it should be determined by a Court of competent jurisdiction; and, if the decision arrived The Rev. James Anderson, the Glebe, Ballinrobe.

Subscribers : I Roy Benjamin J. Clarke 1 0 0 hn Lees 1 0 0 Her Hotnas A. Lyons 1 0 0

That the 15s, 2d. or trish money, there are, however, the following, among other president street; and Printed Printed Printed 1 Barealer, 42, 1 .- The change from Irish to British correner conk Mabbot street.

CLONAKILTY SESSIONS -- MONDAY.

November, 1821, is 15s. 2d. per barrel."

in the Rentcharge could have been ordered.

TUAM, DECEMBER, 1856. | ward Nangle d AT the WESTPORT QUARTER | Lev. W. B. Stoney ... 1 0 0 SESSIONS, in October last, the Assistant- Rev. Robert Blundell ... g Barrister made a decision, reducing the Rentcharge Rev. R. Goodisson . The Certificate of that Parish contains the clause- Rev. Robert Mollan " And we do further certify, that the average price of Rev. Brownlow Lynch O Oats, being the corn principally grown in such county. Rev. W. Disney Roe for the period of seven years, ending the 1st day of Robert Henry, Esq. G. Scott, Esq., Register Smagh Dio, 1 0 D The Assistant-Barrister held that this 15s. 2d.—the average price from 1814 to 1821 - was British money; had it been recognized as Irish money no reduction