

JAS. CROWDY,
Secretary.

Public—I consider that person who attends either a theatre or a race-course to be an enemy to his God."

We regret to observe that there has been a great increase in the mortality of London during the past week, the bills presenting an increase of 524, principally occasioned by consumption, age and debility, convulsions, and typhus fever. The number of deaths from consumption last week twenty-six—this week, seventy-eight; from age and debility, twenty-four—this week, fifty, three; from convulsions, twenty-eight—this, forty-two; from typhus, one—this week, fifteen.—*Medical Gazette.*

The earl of Dundonald having completed his steam apparatus, and got the sanction of the Board of Admiralty, intends to bring it into operation next month. His lordship goes in the vessel to the Cape of Good Hope, and thence to India.

A Belgian journal states that in the seven ecclesiastical districts into which Holland is divided, there are nearly 900,000 Catholics or rather more than one-third of the whole population.

THE STAR

WEDNESDAY, DECEMBER 6, 1837.

Two Indictments were preferred in the Northern Circuit Court, before the Grand Jury, of which R. PACK, Esq. was chosen Foreman, on Monday the 27th ult., and found true bills, one against PETER DALTON who has been some time confined in the Gaol of this place as an insane person, for an Assault on the Gaoler, the other against RICHARD DEANE alias RICHARD CLARKE for an attempt at Rape, alleged to have been committed on the person of ANN WHITE. His Honor Judge LILLY, in his address to the Grand Jury, congratulated them and the people of this Bay on the paucity of crime, but we are inclined to think, that although few crimes are committed of aggravated character, yet that it is more from a want of a diligent and efficient police than from absence of crime, that more offences of a minor criminal character are not brought before the Courts of Justice. This is well known to many who are suffering from petty theft daily. It is notorious that any loose firewood or lumber of any kind cannot be kept safely on the wharfs of the Merchant. It is notorious that garden fences are being torn down and stolen continually. It is notorious that trees cannot be kept growing within any enclosure without being cut down, and carried away for firewood. To be sure the passing of a recent Colonial Act applying the Criminal Law of England to this country, will provide a better remedy than was heretofore provided by the Law, for such offences; but how are the offenders to be brought before the Courts of Justice. Reward may be offered by the individual sufferers, but informers cannot be had, indeed this is more than such individuals are called upon to do, the prosecution for such offences ought to be paid out of the public purse, and the public ought to have their property protected by an efficient and diligent Police, so that information given the Magistrates of a crime having been committed, may send the beagle of the Law in pursuit of the offender.

The Legislature was prorogued on Saturday the 18th ult. without the passing of any Bill for providing the necessary supplies for the Civil Government of the Colony.

His Excellency in His Speech on that occasion, although he regrets the "general distress which must be consequent upon the absence of an Appropriation Act," does not give any sort of opinion with respect to "the subject in dispute between the different branches of the Legislature;" but we do not think that "it is vain to look back upon the events of the past Session." They contain the germe from which to be developed the future destinies of this Country. The Council, as we have before observed, charge the Assembly with being governed by "considerations of a personal nature growing out of political hostility;" and with "personal antipathy and private feelings;" and the Assembly consider that the Council, in some of its acts has "evinced presumptive evidence of strong political leaning and party bias," so that it appears as if politics and party had been the governing principles, instead of the prosperity of the Country, and the welfare and happiness of its people. We fear that the real cause of dif-

ference between the two Houses, has not yet met the public eye. If the House of Assembly consists of the real Representatives of the People, there can be no doubt of their constitutional right to appropriate in any manner they may think fit, the public funds of the Country, and this right they certainly exercise by an authority as indisputable as that by which they lay taxation on the country. The latter authority, is one a thousand times more dangerous to be exercised by an irresponsible body than the former one, because without the latter, the former could not exist.

If the present House does not contain a fair representation of the people, it should be dissolved; but while it continues to be recognised, as wielding the representative branch of the Government, its power of raising and appropriating the Revenue cannot be doubted. The Council, or the Executive has certainly the power of rejecting a Revenue, or a Supply Bill, but we should as soon expect that the Council would alter the taxation on importations from two and a half, to one per cent., as that they would raise the salary of a Constable, from Ten Pounds to Twenty.

LAW OF LIEN.

SPECIAL PLEADING.

A. vs. B. This was an action of damages alleged to have been sustained by the Plaintiff A. in consequence of B. the Defendant, who is a Tailor, having retained as a security for the making a suit of Clothes, the materials of which had been furnished by the Plaintiff. A written agreement was produced, in which the Defendant engaged to make the suit, and the Plaintiff agreed to furnish the materials, and pay the Defendant thirty shillings for making, two-thirds of which amount, to be paid on delivery of the Coat, and the other third on a right delivery of the remainder of the suit. The Coat was made, paid for, and delivered; but the Defendant would not deliver the nether garments before the Plaintiff paid him the remaining ten shillings, insisting on his right of lien, in consequence of having had some previous disagreement with the Plaintiff, which made the Defendant suspicious that if he were to deliver the property, Plaintiff would not pay him for the making. Council for the Plaintiff called several witnesses to prove the extent of damages. The first witness proved that he was employed by Plaintiff, had made a formal demand on Defendant for the property, who refused to deliver it until he had security for his making, Defendant had written a note to the Plaintiff expressing the same determination; witness was of opinion that Plaintiff had sustained heavy damages by the detention of his property. The next witness proved that he had also demanded the property of the Defendant, who told witness that Plaintiff was aware of the reason why he the Defendant would not deliver the garments. The next witness proved that he had delivered a written notice to Defendant from Plaintiff. Defendant told witness that he was afraid Plaintiff would not pay him for making, if he delivered the garments, and said he would as soon Plaintiff should sue him, as that he should sue Plaintiff. The Council for Plaintiff cited several cases on the law of lien, intending to show that under the terms of the written agreement, Defendant had no lien on the property, and that in consequence of the detention of it, his client could sustain an action of damages.

Council for the Defendant would addressed himself principally to the Court. In the first place, he considered that the Declaration filed by his learned friend, Council for the Plaintiff, was one, for which no precedent could be found in the Law books, he had spent several days in looking over his library, which was not a small one, and the only declaration he could find at all like his learned friends was one which he supposed his learned friend had copied from, but one that had been intended for a very different purpose, and had been used in an action where the Customer sued his Tailor for refusing to receive the quantity of materials specified in the contract, he also cited many cases to show that his client had a right of lien on the property, and that the Plaintiff could not therefore sustain an action of damages. The Judge in addressing the Jury stated that the Court would reserve its opinion of the formality of the declaration, and would also reserve its opinion of the Law on the case and would let the facts go to the Jury but did not think that the Jury could give a verdict for any specific damages seeing that one had been proven. The Jury returned a Verdict for Defendant.

The foregoing is an imaginary case, that suggested itself to our mind from a consideration that the forms of Special Pleading as practised in the Courts of England, have been lately introduced in-

to the Courts of this Country; and that what we looked upon at the Common Law of this Country, being founded on the decisions of the Judges in our Courts during the last fifty years, has been set aside; and the Common and Statute Law of England referred to as the only guide to the decisions of our Judges.—With regard to the first circumstance, we can readily conceive that out-of about one dozen persons who have been employed as Attorneys in the Courts, there would be only two or three who had ever practised in any Courts but those of this Island; the remainder were men who had not, either by previous habits of life, or education, been fitted to perform the new and onerous duties of the new system; they had therefore to learn all the difficulties of special pleading, and unlearn all the knowledge they had gained under the former system; fitted as it was, to the peculiar state of the country, and the local wants of its people. This was not all, the Local Legislature had scarcely come into operation, before an Act was passed, incorporating those practitioners at the bar into a Law Society; creating them all Barristers; and restricting the Native youthful aspirant for Law honors, to the necessity of getting his education as a Lawyer, from one of those who had thus monopolised the practice of the bar to themselves.

The sudden introduction of the English Law, without any reference to the decisions of former Judges, may easily be conceived to be, and has been, the cause of a good deal of inconvenience and dissatisfaction. The protection that had been given to the current supplier, had a manifest tendency to support that system of credit, on which the business of the country was founded; and the lien that had been given to the servant for his wages on the voyage; even in the hands of the supplying merchant, had a tendency to make the servant faithful, and the planter honest.

On the subject of lien we can readily conceive in many cases cited by Abbot, that these, may not, under many circumstances, be as applicable to this country, newly settled and simple in its commercial transactions; as they would be, to Great Britain, whose commerce had become a science that required a system of laws, founded on the immemorial custom of merchants, for its peculiar government. With regard to the lien that owners of ships have on the cargo for freight; there are many places in this country where the cargo cannot be landed at all except on the wharf of the consignee, and no place that we know of, where it can be landed in a public warehouse, so as to enable the owner, after landing the cargo, to serve notice for its detention, so that "the delivery of a cargo and the payment of freight," cannot be made "concomitant acts," without depriving the owner of his right of lien, if he should see it necessary to exercise such right.—Some persons in this country think that the hiring of a vessel for a certain sum for the voyage, or by the month, constitutes for the time being, a sort of ownership in the hirer, that in some measure deprives the owner of his right of lien on the cargo. Abbot says, page 178, edition of 1827, "The cases also shew, that the goods of the charterer may be detained, not only for freight properly so called, but also for a sum agreed to be paid for the use and hire of the ship, and that the bankruptcy of the charterer, or any assignment or pledge made by him of his goods, does not deprive the owner of his right."

(From the Royal Gazette.)

BY AUTHORITY.

HIS Excellency the Governor has been pleased (in pursuance of the Act 6 Wm. cap. 15.) to nominate and appoint the undermentioned persons to form a Board of Commissioners for the district of Ferryland, for "the direction and management of all Roads between Bay Bulls and Renew's inclusive."

- Viz.
- Robert Carter, Esq. (H. M. Customs)
 - Thomas Congdon, Esq.
 - Thomas Wright, Esq.
 - John L. McKie, Esq.
 - Arthur Carter, Esq.
 - Mr. Matthew Morry, Jr.
 - Michael Coady
 - Allan Goodridge, Esq.
 - John W. Saunders, Esq.
 - Reverend James Duffy
 - Mr. Owen O'Neill
 - Henry Winsler
 - Thomas Meager
 - Michael Devereux
 - John Power
 - Henry Soryear
 - Walter Shelley
 - Edward Power
 - James Doyl
 - Reverend Patrick Cleary
 - Mr. Patrick Avery
 - Thomas Blackler.

Secretary's Office.
21st November, 1837.

BY AUTHORITY.

His Excellency the Government, in pursuance of an Act passed in the last session of the Colonial Legislature intitled "An Act for granting to Her Majesty a Supply of Money for the Making and Repairing of roads and bridges in this Colony, and to regulate the expenditure of the same," has been pleased to issue a Warrant constituting and appointing the undermentioned Gentlemen to be a Board of Control, for the purposes, and with the several powers and authorities, in the said Act specified:

- Viz.
- Thomas Bennett, Esq.
 - John Butler Bulley, Esq.
 - Henry Phillips Thomas, Esq.
 - James Fergus, Esq.
 - and
 - George Henry Emerson, Esq.
- JAS. CROWDY,
Secretary.
- Secretary's Office,
24th November, 1837.

The result of the Devis' Straits fishery was ascertained—all the ships having returned—it is almost a total failure, as the whole quantity of oil produced from it will not exceed 700 tuns.

English dates to 10th Oct. furnish afflicting accounts from Spain. It is stated that after the disastrous battle of Andoain, about 500 men—nearly all that remained of the British Legion—were taken prisoners by the Carlists, after defending themselves with undaunted bravery; and of this number 132 officers and privates were afterwards drawn up, and in cold blood shot!—The order for this inhuman massacre of the unfortunate Englishmen were given by Don Sebastian.

Don Carlos had been forced to retreat from before Madrid—his troops having been defeated in several engagements.

The insurrection in Portugal has been brought to an end by the defeat of Saldanha and the Charterists, near the Douro. Saldanha and Terceira surrendered after the battle, and were to leave Portugal.

The Queen of Portugal gave birth to an heir to the Throne on the 19th Sept.

The damage done to the Thames Tunnel has been repaired.

Her Majesty's sloop Racer put into Havana on 10th October with loss of masts, and guns thrown overboard.

Her Majesty's ship Rainbow, Captain Bennett, arrived at Halifax 5th November—14 days from Bermuda.

Married

At Carbonear, on the 23d ult. by the Rev. J. Pickavant, Wesleyan Missionary, Mr. John Pike, sail-maker, to Miss Mary Ann Best, both of that town.

SHIP NEWS

Port of Harbor Grace.
CLEARED
Dec. 4.—Blackaler, Harvey, 3000 qtls. fish.

Port of Carbonear.
ENTERED.
Nov. 15.—Experiment, Tucker, Oporto, 70 tons salt, 2 1-2 qr-casks wine, 14 cwt. onions, 24 boxes oranges, 10 frails figs.
17.—Mary Ann & Marther, Major, Miramichi, 1 tons birch timber, 28 spars, 29 M. shingles, 31 M. feet board & plank.
Lark, Hearder, Sydney, 39 pieces timber, 54 chaldrons coal, 5 spars, 9 crooked timbers.

CLEARED.
Oct. 28.—Cornhill, Meadus, Poole, 14,850 gals. train oil, 433 gals. seal dregs, 4 cow & calf skins, 11 bdls. fish, 2 bls. caplin.
Nov. 4. Sir John Byng, Cram, Oporto,

3268 qtls. fish.

Port of St. JOHN'S
ENTERED
Nov. 23.—Ringwood coal.

Britannia, Wells, St. British Queen, Coffin
LOAN
Nov. 22.—John Fult 23.—Argue, Boden, Sophia, Humphries, Elizabeth, Hicks, B. Eliza, Nowlan, Irela Pictou, Knox, Water Palmetto, Pearman, Sisters, Hall, Liverp 25.—Fame, Figet, 29.—Hebe, Sinclair, Devon, Dench, Opo

Nov. 22.—Ann Pet deira, fish. Carteretta, Warren, Samuel, Walters, L. George Robinson, Belfast, Burns Jam American Brig hami fish.

Garyone, Stevenson Albion, Whiteway, mouth, fish, oil. Alexander, Keating 23. Ann, Clarke, Marnhull, White, 24.—Concord, Su blubber. Louisa Marta, Har whale oil.

25.—Trusty, Goss plin. George Robinson, seal skins. Egyptian, Drumme wine. Pillehad, Welsfor ber, oil 28.—French schr Peter's, bread.

JOHN S

The Cargo of the from

CON
45,000 Feet Merc 5,000 Feet Deal 13,000 Shingles Spars from 6 to 4 Tons Har 13,00 Ash Bille

Harbour Grace, December 6, 1837.

SEA AGREEMENT

At the Office of Harbor Grace December 6, 1837.

FOUND in C turday la the FEATHER P by the EXPRES

P The Owner can have her, U plication at the AN

Harbour Grace, ADV

TO M

NOTICE powerfu exhibited from after TUESDAY inst., on HAR Conception Bay or Seaward, in from North to

W. J. A. T. H. W. T. H.

Harbour Grace November 2

ALL Per on th DOBIE, of B but late of B are requested Subscriber; a the said Estab immediate pay

Brigus,