

Ferdinand, who, since the birth of his son, has been dignified with the title of King, received the news in silence. It is also asserted, with what truth we know not, that Donna Maria shed tears when informed of the conditions in the capitulation which stipulated that the two commanders of the insurgents were to leave the kingdom. We are not surprised that the Queen should have wished a different termination to the late brief struggle. Considering the means by which the present constitution was extorted, it is not to be supposed that she could regard it with much favour. The entrance of an armed party of mutinous soldiers into the private chamber of a female in the middle of the night, was not a circumstance likely to endear the object of the intrusion to her from whose fears it was forced. The state of the Royal feelings in this respect is well known, and the probability therefore is, that other attempts will be made to restore the character of Don Pedro, and in all likelihood some one of them will ultimately be successful.

The rumours of the serious illness of Don Carlos, to which we alluded in our last, are still continued, and the *Courier Francais* states that he is now conscious that his end is at hand, and devotes all his time to devotional exercises. There is no other news of the slightest importance from the Peninsula.

Awful Mortality.—From the 7th June to 6th August, no less than twenty-three thousand six hundred and forty-six persons fell victims to the cholera at Palermo.

Capture of a Slaver—excitement against the English.—Much excitement we learn by an arrival at Baltimore, has been produced at Havana, by the British cruisers having taken possession of the Islands of Key Sal and Aguilla, and transported the natives to that city. They had also captured a Spanish government packet with slaves on board, bound from Porto Rico to Havana, and taking her to Havana, hoisted the British flag on her. The Governor ordered it to be lowered and the Spanish hoisted in its place, which was alternately done four times, which produced much excitement.—They had also stationed a large ship of the line as a receiving ship (for slaves) with a black crew which also created a deep sensation.

The new Spanish Ministry have made an order that there shall be an additional duty of 800 reals per barrel on all barreled codfish coming from England. This extra duty will act as a prohibition to the English merchants, and will make the duty amount to 1,600 reals of £16 13s 4d besides a charge of five percent made by the officers who collect the duty. This extortionate impost had not been protested against by the British Minister when our informant wrote just.

THE STAR

WEDNESDAY, DECEMBER 13, 1837.

We have been favoured with Greenock Papers to the 16th Oct. from which we have taken such extracts as appear to be most interesting. Don Carlos was dangerously ill; he is conscious his end is at hand and devotes all his time to devotional exercises.

LAUNCH.—At Heart's Content on the 9th instant, a Brig called the Three Brothers, 104 tons bur-

then, (James Rowe builder) owned by Messrs. Slade & Kelson of Trinity. She is a handsome and well built vessel, and went off the stocks in a gallant manner.

[FOR THE STAR.]

TO THE MEMORY OF A RELATIVE.

Thou art gone! but not with thy breath
The stainless truth through thy life hath
And to all its course a pure lustre gave,
As the gem-sands life some fairy wave.

Thou art gone! but thy virtues yet remain
To brighten our hearts in the midst of pain,
As the sun-beams rest on the mountain snow,
When night has shadow'd the vales below.

We will think of thee, and thy memory still
Shall flow through our hearts like a sacred rill,
Which hallows the shore as its waves go by,
And though borne from earth, reflects the sky.

Thou art gone! but the thought of all thou hast been
Survives the grave, that has lately been seen;
And thy spirit with us out-lives life's close,
As the perfume breathes o'er the faded rose.

Thy task is done, and thy star-wreath twined—
We are yet in the world thou hast left behind,
To walk by the twilight of Time's dim sky,
To the burning dawn of Eternity.

Farewell—but not for ever—farewell!
There's a golden world where the pure shall dwell:
All tears will be wip'd on that radiant shore,
And the mourn'd and the mourner will part no more!

St. John's, Nov. 28, 1837. R. R. H.

The autumnal session of the Supreme Court opened at St. John's on the 4th inst., when the Hon. the Chief Justice delivered the following charge to the Grand Jury:—

Mr. Foreman, and Gentlemen of the Grand Jury.—It is my painful duty to acquaint you that although the calendar presents but two cases for our consideration, yet these are of the most serious character, deeply affecting the life of each person accused. The prisoners are severally charged with wilful murder; the one, a female, upon a coroner's inquest, for destroying her own offspring; the other, a middle aged man, upon informations taken before a magistrate, for shooting a child not more than five or six years old.

From the depositions which have been returned to the Court, the charges, although of a very heinous character, do not appear to involve any question of much difficulty. The only point upon which there can be any doubt in the case of the female prisoner, is whether her infant was born alive. If you shall be of opinion, from the evidence of the surgeon who attended the inquest and examined the child, as well as from the other circumstances which will be detailed to you by other witnesses, that the child was born alive, you can, I apprehend, have no difficulty in finding the bill which the Attorney-General will lay before you. The other case, I regret to say, seems to present no circumstance upon which I can suggest a reasonable doubt which could warrant you in finding not a true bill, although it is to be hoped that the unhappy man who has committed the rash act with which he stands charged, will be enabled to adduce some evidence in his defence which shall in some measure account for what must otherwise appear to have been a wanton act of reckless cruelty.

It appears from the depositions taken before his commitment, that the Prisoner was sitting, with one or two others, near the fire, in his own house, after dark, though not at a late hour of the evening, and that while they were conversing together, a stone was cast (whether by accident or design does not appear) from the outside of the house, against the top of the chimney, which caused some of the plaster to fall down upon the hearth; whereupon the Prisoner jumped up, and seizing his gun, which was loaded, in the room, ran out of the door, and fired it off in the direction of a group of children who were playing near a neighbour's house, 50 or 60 yards off, one of whom

was mortally wounded, and two or three others were much hurt. It is true that every man's house is his castle, the privacy of which is not to be wantonly invaded, but then he must wait until it be assailed in such a manner as to lead him to believe that a felony is intended to be committed by the assaillant, before he will be warranted in using a deadly weapon to repel the aggressor; and it is not every petty trespass which will justify his taking away the life of a fellow creature, even in defence of his possession, and much less can he be excused for firing upon the first person he sees in the road, upon going out of his house, without so much as inquiring whether he were the assaillant or no. These are the only observations which I deem it necessary to address to you upon the charges appearing upon the Sheriff's calendar. I shall, however, avail myself of this opportunity to point out, for the information of the public, and more especially of the magistrates, the duty of the latter, upon persons being brought up and charged before them, either with felonies or misdemeanours.

As I have lately had occasion to observe, the English Criminal Statute Law, as it stood on the 20th June last, has, by the Local Legislature, been extended to this Colony, and, amongst others, an Act passed in the 7th year of the Reign of his late Majesty George IV, cap. 64, entitled "An Act for improving the Administration of Criminal Justice in England," whereby it is enacted, that where any person shall be taken on a charge of felony, or suspicion of felony, before one or more Justice or Justices of the Peace, and the charge shall be supported by positive and credible evidence of the fact, or such evidence as, if not explained or contradicted, shall, in the opinion of the Justice or Justices, raise a strong presumption of the guilt of the person charged, such person shall be committed to prison by such Justice or Justices in the manner thereinafter mentioned. But if there shall be only one Justice present, and the whole evidence given before him shall be such as neither to raise a strong presumption of the guilt, nor to warrant the dismissal such Justice shall order the person charged to be detained in custody until taken before two Justices, at least, and where any person so taken, or any person in the first instance taken before two Justices, shall be charged with felony, or on suspicion of felony, and the evidence given in support of the charge shall, in their opinion, not be such as to raise a strong presumption of the guilt of the person charged, and to require his or her committal; or such evidence shall be adduced on behalf of the prisoner charged as shall, in their opinion, weaken the presumption of his or her guilt; but there shall, notwithstanding, appear to them, in either of such cases, to be sufficient ground for judicial inquiry into his or her guilt—the person charged shall be admitted to bail by such two Justices, provided always that nothing therein contained shall be construed to require any such Justice or Justices to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to him or them to be meet and conducive to the ends of justice to hear the same.

Before the Prisoner be committed or bailed, the Justices shall take the examination of such person, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same or so much thereof as shall be material into writing, and shall certify such bailment in writing, binding all the witnesses in a recognizance to appear at the Court where the Prisoner is to be tried; and such Justices shall subscribe all such examinations, informations, bailments, and recognizances, and deliver or cause the same to be delivered to the proper officer of the Court in which the trial is to be, before or at the opening of the Court. By the same Statute, every Justice of the Peace before whom any person shall be taken on a charge of misdemeanour or suspicion thereof, shall take the examination of the person charged, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing before he shall commit to prison or require bail from the person so charged; and in every case of bailment shall certify the bailment in writing, and bind the witnesses to appear and give evidence, and return all the papers to the Court as in cases of felonies. By a subsequent clause in this Act, the same course is prescribed to Coroners upon their inquests; and if either Justices or Coroners shall offend in any thing contrary to the true intent and meaning of the Act, the court to whose officer any such examination, information, evidence, bailment, recognizance or inquisition ought to have been delivered, shall, upon examination and proof of the offence in a summary manner, set such fine upon every such Justice or Coroner

as the court shall think meet.

These provisions are most important, and deserve the careful examination of all Magistrates and Coroners, and in the performance of their duty, which is sometimes a very nice and difficult one, in taking the evidence, especial care should be taken to put the testimony down in the very words of the witnesses, avoiding all technical phraseology, and leaving out no circumstance, however trivial, which has any reference to charge.—After the examination in chief has been gone through, the prisoner is to be invited to cross-examine the witnesses, and equal care is to be used in taking down the answers, and as nearly as practicable in the language of the witnesses, noting where the cross-examination begins. As these depositions and examinations may be read in evidence in case of the death of the witnesses, it is essential that they should be in every respect as full as if taken in open Court upon the trial, and any wilful deviation from this course would no doubt be severely reprehended. When a prisoner is called upon to say whether he desires to make any statement in explanation of his conduct, he should neither be persuaded nor dissuaded from doing so—his mind should be left entirely free to exercise his own judgment; he should be informed, however, that whatever he says will be given in evidence against him on his trial. If any threats or persuasions have been resorted to in order to procure a statement from him, the Magistrate should caution the prisoner not to be influenced by them, but now that the opportunity is offered, to use his own discretion in saying any thing or remaining silent.

If it shall appear that any means have been used to induce the prisoner to confess, such means should be stated on the examination, as well as the caution of the Magistrate, not to be influenced by them.

Should the prisoner refuse to sign his examination, what he says upon such refusal should be added at the foot of the examination.

Before I conclude, I think it right to make a few observations upon the state of the Highways, Lanes, and Streets in and about this town, which, for want of needful and necessary repairs, are rapidly falling into a ruinous and dangerous condition. There have been, for several days past, large heles in the middle of one of the principal streets and thoroughfares, rendering it quite dangerous for passengers going thither in the night and difficult to be shunned by carts and carriages in the daytime.

If the laws made for keeping the streets in repair were enforced in a very reasonable degree, these evils would not exist; and it is your duty, as the Grand Inquest to inquire by whose delinquency it is that this law is becoming a dead letter.—Nothing can be more prejudicial than allowing any law to be disregarded and set at naught; if it be inconvenient in any of its provisions, it should be amended, but it should not be permitted to any man to say—I will not act upon it or obey it.

By the 5th sec. of the 5th Wm. IV., cap. 5, the Boards of Commissioners in their respective districts are required during the first week in the month of June, in each year, to nominate and appoint such and so many Persons as they shall deem necessary for Road Surveyors for such divisions, settlements, or places as they shall prescribe within their divisions, and shall from time to time give them such directions as they shall think proper, touching the time and place and manner of performing any part of their duty and laying out the labour to be performed under their superintendance.

If the Road Commissioners for this district have abstained from appointing Road Surveyors and giving their directions, they are liable to be indicted for not performing that duty which the Act requires; and upon so important a matter being presented to your notice you should inquire into the subject and present them for a breach of duty. If they have done their duty, and the Road Surveyor shall have neglected his, he may be indicted for neglecting to do anything which the act requires him to do, for which there is no specific penalty in the clause imposing the duty.

If proper lists of the persons liable to perform statute labour were prepared, immense convenience to the public would accrue by employing them to clear away the snow and open the roads after drift which in the principal thoroughfares is absolutely necessary for the safety of passengers.

Persons heaping up the snow opposite their own doors so as to obstruct the carriage way, are guilty of nuisance, and should be prosecuted if the habit be persevered in.

SHIP NEWS

Port of Harbor Grace. CLEARED Dec. 8.—Caroline, Coombs, Spain,

2500 qtls. fish. 12.—St. Patrick, Esq. 18660 gals. train of cow and calf hides junk.

Port of St. J. ENTERED. Nov. 30.—Victory, Betton, cattle. Amity, Meagher, Miram. Sarah, Walsh, P. E. Island. Jane, Anderson, P. E. sheep. Lady of the Lake, Po. coal. Gipsey, Gowans, Green candles. Dec. 2.—Stork, Grills, ter, bread. Vestal, Wright, St. Vincent. 6.—Eliza Bunting, De. lumber. Anastasia, Power, Hallett, cider. Adelaide, Morris, British merchandise.

LOADS. Dec. 2.—Devonshire, Canada. Gipsey, Gowans, West. Hape, Cooper, Water. Sarah, Sharp, Cork. 5.—Hugh, Mathewson. 6.—Bernuda, Small. CLEAR. Nov. 30.—American, chings, Pernambuco. Sophia, Humphries, E. Eliza, Nowlan, Cork. Palmetto, Pearman, Dec. 1.—Spanish, Santander, fish.

For Sale. For such a term of agree.

ALL that Value cultivated Property of the late and now the Fee-simple Subscriber. Situate Widow Cawley's part of the Property will be One to Three Lots, parties, and possess day of May next.

Further particulars applying to the Sub.

Harbour Grace, De.

On

JOHN ST. The Cargo of the from

CONS. 45,000 Feet Merc. 5,000 Feet Deals 13,000 Shingles. Spars from 6 to 14 4 Tons Hart 13,000 Ash Billet Harbour Grace, December 6, 1837.

SEA. Agree. FO.

At the Office of the

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The Owner can have her, by plication at the

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Harbour Grace, N

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TO M.

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

W. JAM TH. WI. TH.

Harbour Grace November 28