

the 5 Geo. IV., c. 67; and shall exercise each jurisdiction in the manner prescribed by the several sections of that Statute.—That notice of Appeal shall be given within two days next after the day on which Judgment shall have been pronounced; and in case it shall be prayed by the party, or parties, who is, or are, directed to pay any sum of money or perform any duty, the District Judge shall direct that the Judgment shall be carried into execution or that the execution thereof shall be suspended, pending the said Appeal, as he may deem most consistent with real and substantial justice; taking care in case he shall direct the Judgment to be carried into execution, that the person or persons in whose favour the same shall be given, shall, before the execution thereof, enter into good and sufficient security, to be approved by the said District Judge, for the due performance of such judgment or Decree as the Circuit Judge shall think fit to make thereon.—That the Judgment of the District Court shall be enforced by attachment and sale of the lands, goods, debts, and effects of the person or persons against whom it shall be made; but that no Process shall in any stage of the proceedings issue from this Court against the person of any individual, except for a contempt of Court committed by him.—That upon all monies which may be levied by the Deputy Sheriff, or High Bailiff, under any writ of execution directed to him, he shall be entitled to charge a poundage, after the rate of 5 per centum upon the full amount of the Judgment, where the sum levied shall be sufficient for the entire satisfaction thereof; or upon the sum levied, where it shall fall short of the full amount of the Judgment; and such poundage shall cover all the charges attending the attachment and sale of any property, and shall also constitute the only remuneration which the Deputy Sheriff, or High Bailiff, shall be entitled to demand, or receive, for his responsibility and trouble.—That the District Judge shall also be a Justice of the Peace; and Custos Rotulorum, of the District in which he acts.—That the Governor, or Acting Governor, shall appoint some principal settlement in each District as the residence of the District Judge during four, or five, months in the winter; and where he, in conjunction with two or more, other Justices of the District, shall hold Courts of Sessions, for the trial of all offences below capital ones, at some convenient time before his departure in the spring on his visit to the other settlements, and again in the autumn very soon after his return to the place of his winter-residence.—That besides the two Courts of Sessions which are to be thus regularly holden every year at the leading settlement in each District, the Governor, or Acting Governor, may also authorize and empower the District Judge, in conjunction with two or more neighbouring Justices of the Peace, to hold, in the course of the summer a like Court of Sessions at such other settlement or settlements in the same District as the Governor or Acting Governor may think proper to appoint.—That the Judge of the District shall also be Judge of the Probate Court, and Registrar of Deeds within the limits of his District; and shall receive, for any services performed by him in either of those capacities, such moderate and reasonable fees as the Chief Judge of the Supreme Court shall direct and authorize.—That one of the Assistant Judges of the Supreme Court shall visit each District once in every two years, (limiting his Circuit for one year to the Northern, and for the succeeding year to the Southern division of the Island,) for the purpose of revising the proceedings and superintending the conduct of the District Judge, of hearing and determining all the cases in which an appeal shall be entered for his decision; and of exercising an original jurisdiction in all questions not cognizable by the District Court.—And lastly that the District Judges shall change their stations regularly at the end of three years, for the sake of preventing those partialities, and which is nearly as bad, the suspicion of them, that are too apt to grow out of local connections and attachments.

We have thus endeavoured to convey a clear idea of the most important parts of that system of Judicature which appears to us to be best adapted to the present state and condition of all the minor settlements in Newfoundland; but, as we are anxious to preserve a uniformity of system throughout the whole Island, so far as a due regard to a difference of circumstances will permit, we shall also suggest some alterations in the Judicature now established in St. John's, with a view of assimilating it as closely as possible to that which we propose for the Out-harbour before we enter on the subject of the expense with which the general adoption of our plan will probably be attended.

In order, therefore, to give the Inhabitants of St. John's who may be disposed to avail themselves of it, the same advantage of cheap and speedy Justice which the District Courts will afford to the Out-harbour, we would propose, that, during the intervals between the Terms of the Supreme Court one of the Assistant Judges thereof shall preside in a Court which shall be styled the DISTRICT COURT OF ST. JOHN'S, and shall possess precisely the same juris-

isdiction and power within twelve miles of the Court House in this Town that the other District Courts are invested with, together with a criminal jurisdiction over all crimes below capital ones; and that all the regulations which have been already pointed out as applicable to those Courts should also be enforced in it, with the single exception that no appeal* shall be allowed in any Case where the subject-matter of the Suit does not exceed Fifty Pounds Sterling, and does not directly involve any question of Title to Lands, or by which future rights may be bound. Into this Court all Cases that are now decided by the Justices of the Peace may of course be transferred with great advantage to all the parties concerned; and as all judicial power will thus be taken from the Justices of this District; we conceive that the Police of St. John's will merely require to have two stipendiary Magistrates placed at the head of it, and that a small saving may consequently be made in this branch of the service which may be applied in reduction of the increased expenditure to which the proposed alteration in the system of Judicature will give rise.—We would also suggest, that no Circuit Courts shall at any time be holden in St. John's; but that all Suits and Actions shall be tried there either in the District Court or in the Supreme Court and that, for the purpose of rendering the sittings of the latter quite equal to the discharge of all the business that can be brought before it, there shall be three fixed Terms of it regularly holden every year at these stated periods:—From the 2d Wednesday in January to the 1st Tuesday in March:—From the 3d Wednesday in April to the 1st Tuesday in June:—And from the 1st Wednesday in October to the 2d Tuesday in December. Ample opportunity will thus be given of hearing and determining in this Court all Criminal matters, together with all Civil causes which from their difficulty, or importance, may require a formal and solemn course of trial; whilst the frequent occasional sittings of the District Court, in the intervals between those Terms, will afford an easy access to a Tribunal perfectly suitable to the adjudication of that large bulk of Cases, which, from their subject-matter—the transactions that have given birth to them—and the situation in life of the parties interested—will not admit either of delay or expense in their determination. Another advantage, too, of considerable magnitude, that must result from this arrangement of the Courts, is, that by excluding from the Supreme Court all those Cases which cannot be fairly tried without great deviation from the established course of practice, and even some departure from the strict rule of Law, the proceedings of that Court will soon acquire that order, uniformity and consistency, which it is absolutely impossible they should ever attain to under its present constitution. Still further to promote this essential object, of preserving regularity in the proceedings of the Supreme Court, we deem it extremely advisable, that no Action shall be commenced in it for less than ten pounds sterling, unless the subject of it shall relate to the possession, or title, of Land, or involve some question by which rights in future may be bound.—In other respects the Jurisdiction of the Supreme Court may remain exactly on the footing upon which it is placed by the 5 Geo. IV., c. 67; excepting only, that Actions for the breach or violation of any Law relating to the Trade or Revenue of the British Colonies in America may be brought or prosecuted before the Chief Judge, or one of the Assistant Judges, instead of being brought before all of them, as directed by that Statute; and that the Chief Judge shall be solely empowered to appoint guardians for infants and lunatics throughout the Island, and to grant Administration of the effects of intestates, and probates of will, where the deceased shall have died within twelve miles of the town of St. John's; or, having died in any other part of the Island, shall have left property to the value of ten pounds sterling, in each of two, or more, separate Districts: the grant of Administration, and the probate of wills, being in all other cases committed to the District Judge, who is to be guided, in the exercise of this part of his duty, by such regulations and rules as shall, from time to time, be prescribed and settled by the Chief Judge, for the sake of maintaining a uniformity of practice in these matters in every District of the Island.

(To be continued.)

* As the Jurisdiction of this Court is confined to suits for sums not exceeding fifty pounds, sterling, the regulation by which the right of Appeal is governed, is precisely the same as the Rule prescribed on that subject in the constitution of the Circuit Courts erected under the 5 Geo. IV., c. 67.

† Under this regulation one of the Assistant Judges of the Supreme Court will be engaged every year on a Circuit for a period of three months, (from the early part of June to the middle of September,) whilst the other will be employed in holding a District Court in St. John's. The duties of the Circuit, and of presiding in the District Court of St. John's, will thus devolve on them alternately for the space of a year; and the Chief Judge will, during the intervals of the Terms of the Supreme Court, give his attention to the business of the Probate Court, and to the other matters which are exclusively confided to his management.

MILITARY TOPOGRAPHY OF OPORTO.

(From the Monthly Magazine.)

The city of Oporto, upon which the eyes of all Europe are at present fixed, is situated near the mouth of the river Douro, and contains about 70,000 inhabitants. It is built on the declivity of a mountain, the height of which is about 35 to 40 toises, and occupies the inclined plane that extends from the summit to the very edge of the water. The Douro is both deep and rapid, and about 300 yards wide. A bridge of boats connects it with the suburb of Villa Nova. The city from its locality, is extremely narrow. A convent, (de Serra), which commands the Faubourgh and the city, occupies a mountain equal in height to that on which Oporto is built. Three routes branch off from the city; one northward, to Broja; a second to Amarante, eastwards, and the third to the southward, through Coimbra, to the capital.

All these are bad, hilly, and rocky, and unfavourable to the evolutions of cavalry and artillery.

Oporto is undefended on the north and east side. On the south it is covered by the Douro, and on the west by the ocean and by the forts constructed at the mouth of the river.

The present line of defence is much more contracted than that occupied by the Portuguese in 1809. It extends from the Seminario to the Torre de Mari on the left.—There are thus a position of 50 pieces of artillery, and some mortar batteries, besides a train of 15 field-pieces, ready to move at a moment's notice. Barricades are erected at the head of each street, defended by a trench externally, with a platform for a gun on the inner side and a breastwork for infantry.—On the Villa Nova side, works have been erected, and the Convent de Serra placed in a posture of defence. Villettes on this side are thrown forward as far as St. Ovidia.—On the other hand, every thing that could cover the advance of an enemy in front of Oporto has been levelled, and the population disarmed.

Vallonga is a small villa, about three leagues from Oporto. Amarante, the headquarters of the Miguelites, is a very strong position; it is a small place, fortified in the ancient manner, but possesses a double *tete de point* from the Tamegan, a small river that disembogues itself into the Douro.

Don Pedro's position, in a military point of view, is extremely critical; for if he only execute a day's march, either to the north or to the south, he leaves Oporto uncovered, and abandons his communications with the sea, by which he draws all his supplies. His only resource would be to ascend the river, and attack the Royalist positions, but they are uncommonly strong, and it took Loison's corps of 7,000 men near an entire month to master them.

If Don Pedro is allowed to take up his winter quarters at Oporto, and to organise his resources for the next campaign, he may yet succeed; though by going to Oporto, instead of making a dash at Lisbon, where his party was in the greatest force, (for without the intimate conviction of the existence of a strong party in his favour, the enterprise was absolutely Quixotic,) he threw all his chances into the scale of his adversary. When we reflect that the success of the liberal cause depends upon the absence of only a single man of head and execution, we look with fearful anxiety to the result.

Legislature of Newfoundland.

HOUSE OF ASSEMBLY,

Thursday, Feb. 28.

The House went into Committee upon the state of the Colony. During the discussion it was announced that the Legislative Council had thrown out the Revenue Bill (which had passed the House of Assembly, and which had been sent up for the concurrence of the Council.) Among the observations which fell from Hon. Members upon so painfully interesting an occasion, we are only enabled to submit those of Mr. KENT:

Never did he rise, since he had the honor of addressing the House, under feelings of greater excitement. He felt that the determination of the Legislative Council in rejecting the Revenue Bill, affected his pride as an individual member of that House—his indignation at the attempt to deprive him of that power inherent in the people and delegated to him, and the integrity of which he was bound to preserve untouched. But he experienced, also, a consolatory feeling:—it was produced in his mind by the glowing indignation that was manifested in the countenance of every Hon. Gentleman, at the un-called-for and unexpected rejection, by the other House, of so essential a measure. He could not follow his colleague Mr. THOMAS, through all his arguments, supported as they were, not only by Acts of Parliament, but by the precedents of all his Majesty's Colonial possessions, precedents sanctioned by all the colonial law authorities (always excepting those of Newfoundland), and approved of by the Board of Trade in London, whose approval could not have been given without mature consideration. It was sufficient for him to say, that these arguments removed from his mind any doubt as to the fallacy of the position assumed by some members of the Legislative Council. When he could not find arguments to justify that position—

one which, in its consequences, if successful, would destroy the vital principle of their constitution, and one which, even though unsuccessful, would materially injure the local revenue of the country,—when he could not find arguments to warrant such an unfortunate mode of procedure, he must of necessity, look to motives. Lord Goderich, in his instructions to the Governor, adverted in no very measured terms, to the general conduct of Colonial Councils. It was in his (the hon. member's) mind, a prophetic admonition. But the pride and self-sufficiency which Lord Goderich saw in their Colonial Lords, and which produced so salutary a warning, sealed up the ears of their Legislative Counsellors. He, (the Hon. member) from the first moment that the intention of His Majesty to cede to them a Local Legislature was officially announced, and when first he learned the constitution of the Legislative Council, fearlessly avowed his want of confidence in the men who would compose it. He saw it would be composed—first, of men, who, from their education or habits in life, were either drilled into obsequiousness of opinion towards the powers that be, or would look on their proceedings with listlessness and inattention; or, secondly, of men of high literary and legal attainments, who heretofore had uncontrolled management in the affairs of the Colony, and who, owing to the absence of a Local Legislature, assumed powers rather Legislative than Executive; and who, when the searching influence of popular power divided with them the honour, blinded by a silly peevishness, would attempt to resist it; or, lastly, of those creatures who crawl into power through the dark and intricate windings of intrigue, and who flattering themselves that their power was become necessary to all order and government, considered that everything which tended to support it was sanctified, and became part of the public interest. In a Council so constituted he could have no confidence; but, much as he dreaded it—bad as were his forebodings—they did not arrive at reality. We, sir, (said the hon. mem.) assembled here as the representatives of the country—the Common's House of Newfoundland, whose peculiar province, by prescriptive right, was to originate money-bills; even the law authorities of the island admitting that, in the exercise of that power we were justified by the precedents of Canada, Nova Scotia, New Brunswick, Prince Edward's Island, and all the West India Islands, and the correctness of that opinion borne out, not only by the sophistries of lawyers, whose trade is to extort from Acts of Parliament every other meaning but the true one, but by the practical opinion of such a man as the Collector of H. M. Customs—not by the opinions of a man, who like Lord Eldon, was continually raising doubts in order to puzzle himself, and impede the public business about their solution, but by a man who carried into effect similar acts enacted by Colonial Parliaments similarly constituted with our own; we, sir, originated such an act, and passed it without a dissentient voice. Report says the Executive was in its favour—the Council reject the Bill—not in committee on its detail, but on the general principle, denying to this House the right of emanating such a measure. If the right were not denied, and if the Bill were rejected on some of the subordinate principles that were brought forward in order to give a keenness to the "Burking one!"—in order to make the knife of the guillotine more ponderous, so that it might, with more velocity, perform the duty of executioner to our constitution; if he saw it were rejected solely on the ground of expediency—the eternal argument of supporters of things as they are—if it were even to court popularity, by raising a claptrap cry against taxation, which, in order to effect covert purposes, can be the vulgar resort of courtly agitators, as well as humbler demagogues; but no! The rejection of the Revenue Bill was tantamount to the denial, on the part of the Legislative Council, of the power of the House to place an impost on the only available articles from whence a revenue could be derived. Here was an issue, the Legislative Council *versus* the House of Assembly. John Doe *versus* Richard Roe. He impugned the motives that dictated that rejection. He did not do so on mere assumption, he was borne out by the honest confession of one of the party concerned—a confession that breathed such a spirit of hostility to popular rights, as satisfied his mind that when they were on their trial a dispassionate judgment was not given. The greatest men were not free from the weakness of human nature, when under the influence of prejudice, they, with ingenious industry sought out arguments to support what they considered sound views, but what in reality was their own inclination. After a few more remarks, the Hon. Member concluded by giving his cordial assent to the resolution before the House.

CARBONAR STAR.

WEDNESDAY, MARCH 13, 1833.

St. John's Papers to the 8th inst. came to hand last evening, but at too late an hour for us to make copious extracts. They give information that the Council has thrown out the Revenue Bill; thus placing the country in a most painful situation. The House of Assembly has forwarded an address to his Excellency the Governor, requesting his assistance and advice in this exigency. The "LEDGER" further informs us, that the President of the Council has asked for leave of absence which was refused, and that His Honor is awayward enough to take French leave, and to make a regular bolt of it. The Attorney-General, also, is suddenly struck with a particular longing for home and has requested permission to visit it.

We said in our last number, that a man had immediately died from starvation. The person who gave us the information, made an incorrect statement.—The man was ill for days previous to his death.—"Want of food?" (a Medical Gentleman writes us) "was the remote but not the immediate cause of his death." The same gentleman also informs us, "that disease, produced, by want of food, exists to an alarming extent on the North Shore."

We have too much respect for ourselves, to enter into a lengthy exposition of the falsehood and illiberality contained in FOUR columns of the "Mercury" of Friday last. The public are the best judges of the manner in which we have fulfilled our engagements with them, and have given a decision in our favour by supporting us. This, no doubt raised the spleen of "Philo B." who fearing the extinction of that paragon of newspapers, the "Mercury," produced his learned and critical dissertation on the merits of our publication, thinking, by means of it, to save the god of his idolatry from the fate which awaits him, and consign us to