

THE
CARBONEAR STAR,
AND
CONCEPTION-BAY JOURNAL.

VOL. I.

WEDNESDAY, FEBRUARY 27, 1833.

No. 9.

BIOGRAPHY.

MOHAMMED ALI,
PASHA OF EGYPT.
(continued.)

It may be inferred from the statement just made that the viceroy was not deterred by the tumult at Cairo from resuming at a proper time the plan he had already matured, for introducing into his army the drill of modern Europe. Aware of the obstinacy which characterizes the Albanians, he left them to be shamed out of their awkward and inefficient system by witnessing the improvement of the other troops: resolving to put his experiment to the test on the Fellahs of Egypt, and on the still more unsophisticated natives of Sennaar and Kordofan. With this view, as well as to reduce the remoter provinces of the upper country to his obedience, he fitted out, in 1820, an expedition which he placed under the command of his son Ishmael, whom he charged with instructions for accomplishing the double purpose now stated. The success of the young general fulfilled the expectations of Mohammed Ali. Thousands of captives were sent from the conquered districts to the neighbourhood of Es Souan, where they were formed into battalions, and subjected to all the restraint and fatigue of European discipline.

We are told that these unhappy beings were in the first place vaccinated, and that, as soon as they recovered from this factitious distemper, they were put into the hands of French officers to be instructed in the manual exercise and other military arts, according to the latest institutions of the Bonaparte school. The hopes of the pasha were at first greatly disappointed in these black troops. They were indeed strong and able-bodied, and not averse from being taught; but when attacked by disease, which soon broke out in the camp, they died like sheep infected with the rot. The medical men ascribed the mortality to moral rather than to physical causes. It appeared in numerous instances that, having been snatched away from their houses and families, they were even anxious to get rid of life; and so numerous were the deaths which ensued that, out of 20,000 of these unfortunate persons, three thousand did not remain alive at the end of two years.

But nothing could shake the determination of the viceroy. He placed five hundred faithful Mamlouks under the charge of Colonel Séve, formerly aid-de-camp to Marshal Ney, who were trained to fulfil the duties of officers. As the blacks, for the reasons already mentioned, were found unfit for this laborious service, he impressed, according to the rules of a national conscription, about thirty thousand Arabs and peasants, whom he sent under a military guard to Upper Egypt. Planat informs us, that in 1827, twelve regiments were organized, tolerably well clothed in a plain uniform, and armed after the manner of European soldiers; and as it is intended that every regiment shall consist of five battalions of eight hundred men, the military establishments, in infantry alone, will amount to about fifty thousand. There are, besides, several corps of cavalry, artillery, and even marines; which last are stationed at Alexandria, to serve on board the ships of war whenever it may be necessary to meet an enemy at sea.

The colonels of regiments are extremely well paid, having allowances which amount to not less than £1500 a year. Their dress too, is very rich, consisting of red cloth, covered with gold lace, and a cluster of diamonds, in the form of a half-moon, on each breast. Over this they wear, on state occasions, a scarlet pelisse, which fastens over the body with two large clasps of gold set with emeralds. Their upper dress is closed with a sash; and the Turkish full trousers have given way to a more convenient habiliment, which is tied under the knee, and fitted to the legs like gaiters. The pay of the non-commissioned officers is likewise ample; and that of the men eighteen piasters a month, with full rations of good provisions, and their clothing. They are now content, and even attached to the service; while a considerable spirit of emulation pre-

vails among them, excited in a great measure by the impartial manner in which promotion from the ranks is bestowed, according to the merit of the candidates. It is worthy of notice, too, that the men are no longer liable to arbitrary punishment.—Every one committing a fault must be tried before he can be bastinadoed, and generally some other penalty is inflicted, such as confinement, degradation, or hard labour. The officers, again, when they forget their duty or their character, are placed under arrest: and even the viceroy himself does not pretend to decide as to their guilt, but leaves the result to the award of justice, regulated by martial law.

The superiority of troops prepared for the field according to the European method was, as we have already stated, most distinctly manifested, in the several campaigns which they served against the Wahabees,—a circumstance which afforded to the viceroy a degree of delight almost beyond expression. This first step in the improvement of an art, valuable above all others to a governor placed in the circumstances which he occupied, was due almost entirely to Colonel Séve, whose name has been already mentioned. This able officer encountered much opposition from the barbarians whom he was appointed to superintend; but, with the tact which belongs to a man who has inspected society in all its forms, he subdued the ferocity of the savage by assuming a tone more commanding than that of mere animal courage. The Mamlouks were occasionally so discontented as to threaten his life; but he never lost his firmness; and, by offering to meet single-handed those who conspired against his authority, he gained the respect which is always lavished by untutored minds upon fearless hardihood, and at length became a favourite among all classes of the military. Planat tells us that on one occasion, when a volley was fired, a ball whizzed past the ear of Séve. Without the slightest emotion, he commanded the party to reload their pieces. "You are very bad marksmen," he exclaimed;—"Make ready,—fire!" They fired, but no ball was heard: the self-possession of the Frenchman disarmed their resentment; they thought him worthy of admiration; and at length were ready to acknowledge that, in point of acquirement and professional experience, he was decidedly a better man than themselves. He afterwards fell while serving in Greece.

Great merit was unquestionably due to this officer for the reformation which he had effected in the viceroy's army; but beyond this we cannot speak of him without the strongest expressions of contempt and detestation, it being universally known that he had adopted the religion of Mohammed,—soothing and cloaking his degradation with the name of Suliman Bey, and under the title of Mir-allaï, or commander of four thousand. He received his pelisse and his advancement on the morning of Christmas-day,—as if he had expressly intended to insult the faith which he had just renounced; a sacrifice on his part which, however trifling it might appear, would not exalt him in the eyes of his new sovereign, who has never required any of his Christian servants to change their creed.

The invasion of the upper provinces, by the army under the command of Ishmael, belongs to the history of Nubia rather than to that of Egypt; for which reason we shall not enter into its details at present farther than to state that, owing to an insult inflicted upon one of the native chiefs, this favourite son of Mohammed Ali was cut off by a most miserable death. The cottage in which he and his personal attendants had taken up their quarters was surrounded with a mass of combustible materials, and burnt to the ground; no one escaping through the flames except the physician, who was reserved for more protracted suffering. Ibrahim, the conqueror of Derayah, avenged in some degree the murder of his brother, and even extended the dominion of the Egyptian arms into districts which neither the Persians nor the Romans had ventured to penetrate.—But the affairs of Greece, which began to occupy the full attention of the Porte, supplied a new theatre for the military talent of

his lieutenant, who, at the command of his father, withdrew his troops from the deserts of Dongola and Kordofan to transport them to the more sanguinary fields of the Morea.

(to be continued.)

REPORT OF HIS MAJESTY'S ATTORNEY-GENERAL OF NEWFOUNDLAND, ON THE JUDICATURE LAWS OF THAT COLONY.*

On entering upon the task that has been assigned to me, of submitting to His Majesty's Government my opinions and sentiments on the operation of the laws passed in 1824, for the Judicature of Newfoundland, and the governance of its fisheries, I unaffectedly own that the questions which the consideration of the subject involves are so important, both to the government and the community, and as respects practical remedial measures, which defects in the present system urgently call for, in my view so peculiarly difficult to apply, that I would rather escape the responsibilities that attach to the attempt at their illustration. Nor will it, I hope, be imputed that the diffidence I feel of my own ability to acquit myself effectively, and with credit to myself on the occasion, is censurable or questionable, when it is considered that, within the period of my residence in the colony, very material changes have been effected in its judicature, without promoting those ample results that were anticipated; although the more recent, and by far the most important of those changes, were understood to have been founded, in some of their prominent features, upon the suggestions of our late able Chief Justice, Mr. FORBES.

It is generally admitted that the present system of judicature has not fulfilled the reasonable expectations of the community; and it may therefore be assumed not to have accomplished the views H. M. Government entertained on entering upon that revision of the laws contained in the Act of 5th G. 4., c. 67. My own reflections on the subject, and an attentive observation during a residence of nearly a quarter of a century in the colony, sufficiently confirm me in the belief that it is much more easy to point out defects and inadaptations in laws, than to suggest proper remedies and facilities. The localities of such a colony as Newfoundland especially present, in addition, many obstacles in the adaptation of those details requisite to the promotion of an equal operation in the administration of any system of Judicature. Thus, that caution, doubt, and even reluctance with which the lessons of the wise, no less than our own experience, warn us to approach all changes that affect the bonds and obligations of communities, are urged upon us with increased force; for, in some instances, it will probably be found that a grievance complained of is not so justly ascribable to the peculiar character or defect imputed to a particular law, as to the intractable character of the material on which, or medium whereby, the law is designed to operate.

The consideration of the judicature of Newfoundland, in its present condition, necessarily involves that of its jurisprudence; for not only is there an almost substitution of the laws of police, adapted to the circumstances of St. John's, and other populous settlements, but the imperfect, vague, and inefficient character of the code of criminal justice, under the present construction of the statute law held by the Judges of the Supreme Court, seriously calls for legislative definition and settlement.

During the period that Mr. Forbes resided as Chief Justice, and sole Judge in the Supreme Court, as constituted under the Statute 49 G. 3, c. 27, he held that all the statute law of England, as far as it was found applicable to the condition and circumstances of the colony, was the law of Newfoundland.

* This Report was, in pursuance of a Message from the House of Assembly to his Excellency the Governor, requesting "that the House might be furnished with copies of the Judges' and Attorney-General's Reports on the Judicature Laws of the Colony," laid before the House of Assembly 1st February, 1833.

foundland; and, under this doctrine, recent statute laws made for the punishment of forgery, the offence of embezzlement by servants, &c. were put in force. When Chief Justice Tucker succeeded to the Bench, on the retirement of Mr. Forbes, he took a different view of this important subject, and held that only so much of the statute law of England as was in existence at the period of the first settlement of the colony, and also applicable to its condition, could be made available to the administration of criminal justice in Newfoundland. And the Supreme Court, under its now existing constitution and present administration, holds to this doctrine. But the *retroactive* period of the legal settlement of this colony involves doubts. The Act of 10 and 11 W. 3,* is by some persons regarded as recognizing a settlement to a certain extent at least. Still, *that law*, in its leading feature, was *opposed to settlement*, and under its provisions, "all persons guilty of thefts, robberies, murders, and other felonies in Newfoundland" were required to be carried to England, to be there tried in any county, by virtue of the King's Commission of Oyer and Terminer, and according to the laws of England. But previous to the enactment of this statute, such offenders were carried to England, and tried only before the Lord High Constable and Earl Marshal of England.† Thus, before any Judicature was instituted in Newfoundland, the people, whether living or only frequenting there, were subjected to the whole criminal law of England, so far, at least, as regards principal offences.

Commissions of Justices of the Peace were, under His Majesty's Commission to the Governor, and subject to particular instructions, issued by the Governor as early as the year 1729: such justices being enjoined by their commissions to proceed according to the law of England in the trial of offences *not capital*; ‡ and *not to proceed* in any cases of doubt and difficulty, such as robberies, murders, and felonies, or any other capital offences. *Commissions of Oyer and Terminer* were subsequently issued by virtue of similar authority; and the first court of this character was instituted in 1750, for the trial of all felonies, &c., according to the law of England. §

Such were the limited means progressively employed down to the year 1792, for the administration of criminal justice. In the meantime it was found that, although the efforts of the Government should prove to be successfully directed to the exclusive maintenance of a transitory fishery, still that, amid the numerous relations of master and servant, in the employment of seamen and fishermen, wrongs were committed requiring immediate redress on the spot.

It became obvious that such redress could not be administered through the agency of the Fishing-Admirals, whose limited administration of authority, under the statute of William, in matters of mere fishery police, was found to be partial and unjust, whenever themselves or their friends were interested; and in all that concerned public rights neglectful.

By the statute 15 G. 3, c. 31, || various provisions were therefore made to regulate the hiring of seamen and fishermen and their employment, payment of wages, &c.; and jurisdiction was given to Justices of the Peace in Sessions, and also to the Vice-Admiralty Court in Newfoundland, respecting these matters. Further Jurisdiction was also given to the Vice-Admiralty Court in matters touching the laws of navigation and trade.

* A. D. 1698.

† See letters patent of King Charles, A. D. 1633, for the conduct of the Newfoundland Fisheries.

‡ His Majesty's Commission to Governor Osborne, empowering him to appoint Justices of the Peace, and other necessary officers and ministers of justice, enjoined the Governor and Magistrates not to do anything contrary to the statute of 10th and 11th W. III. — Vide Reeves' History of Newfoundland, p. 72.

§ In the year 1701, Mr. Reeves, then Chief Justice, acting under the statute 31 Geo. III., c. 29, giving jurisdiction only in *civil* matters, presided in a Court of Oyer and Terminer, at St. John's, under a like commission.

|| A. D. 1776.

Eleven years afterwards, by the statute 26 G. 3, c. 26, s. 25, * the jurisdiction given to the Vice-Admiralty Court, relative to fishermen's and seamen's contracts, wages, &c. was taken away, and left altogether with the Sessions of Justices of the Peace. "But, although Parliament had thus taken away, from the Vice-Admiralty Court the authority which had been vested in it by law, it still continued to exercise that which no law had conferred on it, and both that Court and the Sessions of Justices of the Peace, were resorted to, in the absence of the Governor, and Surrogates, for the administration of justice in all civil cases whatever."† I pass over these usurpations of authority, together with the questionable expedients resorted to by Governors in erecting courts of common pleas. These irregularities manifested the necessity of establishing a Court of Judicature, on a basis not to be impugned, and directed by principles less obnoxious to error and abuse. The act of 31, Geo. III., c. 29,‡ for establishing a Court of civil jurisdiction only, was passed, as an expedient, for one year. Under its provisions, this Court was invested with the jurisdiction of holding plea, in a summary manner, of all debts, accounts, contracts respecting personal property, and all trespasses committed against the person, or goods and chattels, in the Island of Newfoundland and dependencies.

The Court to consist of a Chief Judge, appointed by His Majesty, and two Assessors, appointed by the Governor. And to be a Court of Record, with all such powers as, by the law of England, are incident thereto.

Proceedings of Court to be by complaint, in writing, and summons of defendant, when sum sued for be under £5.

And when above £5, by arrest of defendant and attachment of his goods, and debts, or effects, in the hands of any other person. Court empowered to give costs, and levy sale of goods, &c., or arrest of the person of either plaintiff or defendant, and also of the goods, debts, &c.

Appeal allowed to His Majesty in Council, under security given by appellant, to the satisfaction of the Chief Judge, against any judgment given by the said Court, for any sum exceeding £100.

During the Governor's residence in the Island, the jurisdiction of the Courts of Sessions of Justices of the Peace, in suits relating to wages of seamen and fishermen, to be suspended; and such suits to be heard only in this Supreme Court of Civil Jurisdiction, but, saving to such Courts of Sessions the said jurisdiction, at such times as the Governor shall not be resident, &c.

Limitation of actions to two years from commencement of cause of action, and the jurisdiction of court limited to holding plea only during the period of the Governor's residence within his government.

This experimental act was put upon trial by that eminent person, Mr. Reeves, who for that purpose was appointed by His Majesty Chief Justice of Newfoundland; and to his keen and accurate perceptions, sound judgment, and indefatigable application of great talent, the colony stands largely indebted for the reform of many gross abuses.

See last page.

* A.D. 1786.
† Vide Reeves' History of Newfoundland, p. 157.
‡ A.D. 1791, statute 31, Geo. III., c. 29. The first local judicature law.
§ This Court had no jurisdiction in any matters relating to lands or houses, unless such were then deemed personal property, and which construction, it seems, the government wished to support in its consideration of the rights of occupancy, derived by the occupiers of land, &c. under the fishery laws.

Legislature of Newfoundland.

**HOUSE OF ASSEMBLY,
Monday, Jan. 28.**

A Bill "to restrain any person concerned in any contract, agreement, or commission, made and entered into for the public service, or holding an office of emolument under Government, from sitting or voting as a member of the House of Assembly of this Island," was read a second time; upon which

Mr. BROWN moved that the said bill be committed to a committee of the whole House.

Mr. HOYLES moved by way of amendment, that the future consideration of the Bill be deferred to that day six months.

The House divided, when there appeared a majority for the original motion.

Mr. BROWN moved that the committee appointed to search for precedents touching the right of the House to appoint its own officers, be ordered to report thereupon tomorrow.

Adjourned.

Tuesday, Jan. 29.

Mr. THOMAS, chairman of the committee appointed to search for precedents, with regard to the appointment of the officers of the House, acquainted the House that the committee were not yet fully prepared to report to the House.

On motion, the House resolved itself into a committee on consideration of the Bill for training persons entering into contract or

agreement for the public service from sitting or voting in the House.—Mr. HOYLES in the chair.

The hon. the Speaker having resumed, the chairman reported from the committee that they had gone through the said bill, and had made several amendments thereto, which they had directed him to report.—The bill was then read a first and second time, and ordered to be engrossed.

On motion, the House then resolved itself into a committee of the whole House, on the consideration of the present state of the Judicature of the Colony.—Mr. HOYLES in the chair.

Wednesday, Jan. 30.

The Quarantine Regulation Bill was read a third time and passed.

Mr. THOMAS presented petitions from the members of the Congregation of the Wesleyan Methodist Society, and of the Congregation Chapel of St. John's, for the repeal of the Marriage Act relating to the Colony.

Mr. PACK presented a similar petition from the Inhabitants of Carbonar.

Mr. KENT presented a petition from the Right Rev. Dr. Fleming, in support of the foregoing petitions.

Mr. BROWN presented similar petitions from the Methodists of Harbour Grace, and from the Inhabitants of the North Shore of Conception Bay.

Mr. THOMAS gave notice that on an early day he would move for leave to bring in a bill to regulate the celebration of Marriages in Newfoundland.

Council.

Tuesday, Feb. 5.

The Honourable the COLLECTOR OF THE CUSTOMS gave notice of his intention, on an early day, to move for leave to bring in a "Bill for the establishment of a Savings' Bank in this Island."

The House then resolved itself into a Committee on the "Gunpowder Bill." Mr. Secretary CROWDY in the chair. Several amendments were proposed and adopted. In the course of the debate to which they gave rise, a message was announced from the House of Assembly, when the Committee adjourned. The House having resumed,

Mr. PACK and another member of the Assembly appeared with a "Bill to limit the duration of the present and all future Assemblies of this Island," which, on the motion of the PRESIDENT was read a first time.

The House went again into Committee, and proceeded with the Gunpowder Bill.

The Committee having adjourned, the House resumed, when the Chairman reported progress, and obtained leave to sit again. After which the Council adjourned until tomorrow.

Wednesday, Feb. 6.

A message was sent to the House of Assembly, requesting to be furnished with any documents relative to the magazines for gunpowder near the Crow's Nest.

The House then resolved itself into a Committee for the consideration of the Gunpowder Bill, Mr. Secretary CROWDY in the chair.

The Clerk of the Assembly brought up several papers, having reference to the Bill under consideration, which were read. Several amendments were proposed, and the House having resumed, the Chairman of the Committee reported progress.

The Council then adjourned to Monday next.

Miscellaneous.

At a meeting, held in the borough of Southwark, Mr. William Brougham, the brother of the Lord Chancellor, and who has usually been supposed to speak the latter's sentiments, declared that tithes must be abolished, and that the Bishops must resign their claim to sit in the House of Lords.

It is now certain that Mr. Stanley, Lord Uxbridge and the Marquis of Tavistock will be called up to the House of Lords.

It is stated, in the *Courier Francais*, that the Emperor of Russia has lately granted to Charles X. a pension, to be paid out of funds arising from confiscated property in Poland, lately belonging to the friends of liberty.

Accounts have been received from Canton to the 8th of April. The rebels had again defeated the imperial troops, and were making rapid progress.

WILLIAM AUSTIN.—The Brighton Gazette, in reference to a paragraph which appeared in a morning paper a few days ago, stating that Austin is now in a mad-house at Milan, "his understanding having been affected by the sufferings of his magnanimous mistress," and that Theodore Majocchi was "living in affluence on British gold," says, "We hope the public will not be cajoled by this attempt to excite a spurious humanity." The facts, as we have them from a gentleman who visited Milan in 1827, are, that Austin had then just succeeded in a law-suit against Bergami, which placed him in possession of Queen Caroline's palace at Como; that he was living a life of profligacy and drunkenness, to which his

present state of destitution (if really such as described) must be owing; and that Majocchi, instead of "living in affluence on British gold," was so reduced as to "apply for the situation of waiter in a hotel where our informant resided at Milan."

Mr. Spring Rice, Lord Grey says, is to be the new Speaker, Littleton being to be one of his pledged peers. This saying of Lord Grey's is incautious, for there is a preliminary step to being Speaker, which it will be difficult for Mr. Rice to obtain—we mean that of being a member of the House of Commons.—Sugden will beat him hollow at Cambridge.

The Austrian Government has prohibited the exportation of arms and warlike stores into Egypt, on account of "the rebellion" of the Pacha.

An Insurance Company has been formed at Dusseldorf, under the royal sanction of the King of Prussia, to underwrite cholera risks, in the Rhenish Provinces.

Letters from Petersburg state, that the house of Wm. Brandt and Son, of Archangel, has equipped two ships, at its own expense, commanded by officers of the Imperial navy, to sail on a voyage of discovery, to the great gulf of the icy Sea, between the Government of Archangel and Tobolsk, to explore the entrance of the river Jenissey. Should this undertaking succeed, the attention of our merchants will be drawn to the opening of a new, and hitherto unknown, course, nay, of a great part of the long-desired north-east passage.

The auto-biography of the late Dr. Adam Clarke, is to be forthwith put to press, with a continuation to the time of his decease, by a member of his own family.

PIRACY AND MURDER BY CONVICTS.—The following is an extract from a private letter, received from Sidney, dated the 17th May last:—"On the 31st of December last, while the *Caledonia*, a merchant brig, belonging to Messrs. Mackay and Co. merchants of Sydney, was lying at Moreton-bay, a penal settlement, it was boarded by 11 desperate convicts, who, having secured the crew, sent them all on shore, with the exception of Mr. Browning, the captain, an intelligent and respectable young man. They then hoisted sails and put to sea, commanding the captain to take charge of the vessel, and to steer for some of the islands in the South Seas, frequented by English vessels, expressing their determination to stow themselves away in some of their ships, and thus obtain a passage to their native shores. Mr. Browning denied that he was competent to undertake such a task, but the pirates said they had made themselves acquainted; not only with his character, but his competence, and threatened him with instant death if he did not comply with their wishes. Finding there was no alternative, he took charge of the vessel, and steered in a southerly direction. It was not long before he discovered the desperate characters with whom he had to deal, and in a short time six of the most atrocious entered into a conspiracy to murder the other five, a diabolical purpose which they soon carried into effect. The first four were soon despatched, but the fifth endeavoured, by every possible expedient, to escape, running round the vessel, and up the shrouds on one side and down on the other. As a last refuge he ran out on the bowsprit, where he begged for mercy, but in vain. Some of the monsters pursued him with cutlasses in their hands, and upon approaching near to him, he slung himself from a rope, banging from it with both hands, and again most piteously begged for life: but the monsters, with demoniac laughter, scoffed at his entreaties, and, cutting the rope by which he was suspended, thus consigned him to the watery deep, where, after a few struggles, he sank to rise no more. Mr. Browning, with this example before his eyes, found it necessary, by a resumption of confidence and kindness, to gain the good opinion of the remaining miscreants, and ultimately ran the vessel ashore on one of the small islands in his track, where the natives came on board, and treated them with great kindness. He then discovered that a conspiracy had been formed, by this infamous crew, to murder him, as the only means of preserving their own lives, should they by possibility be secured. Finding his danger, he threw himself upon the protection of the chief of the island, and was thus rescued from impending danger. The ruffians then broke up the vessel with crow-bars, thus cutting off the chance of escape, as they were unable themselves to take charge of the vessel, and Mr. Browning refused again to embark with them. Shortly afterwards an English whaler came to the island, to whom he related the situation in which he was placed; part of the crew went on shore, for the purpose of securing the murderers, but they fled inland, and Mr. Browning was taken on board the whaler; the chief, who had treated him in the most hospitable manner, deeply deplored his departure. He was, subsequently, put on board the *Milo*, an American vessel, on the way to Sydney, where he arrived safely on the 14th of May, the owners of the *Caledonia*, and all his friends, having given him up for lost."

THE EXPEDITION TO THE NIGER.—Extract of a letter from Mr. Richard Lander, dated Isle de Loz, coast of Africa, September 6,

1832, on board the *Quorra* steamer:—"I write merely to inform you we arrived on the 3d instant, all well, and leave for Cape Coast this evening. All the vessels have behaved very well; we have had several tornadoes; the lightning was felt more on board the *Quorra* than the iron steamer; it remained on our decks; but it merely struck the sides of the latter, and glided off into the water. This will give you an idea, that an iron vessel is even safer than one built of wood. On board the *Quorra* we suffered much from the smell of bilge-water, while the iron boat has not made one inch of water since she left Liverpool, and she is never warmer than the water she floats in. The most important part of my work will soon begin, when I hope to send you some very favourable news."—*Liverpool Times*.

Sir James Scarlett furnishes a solitary instance of legal raving not prospering; and, even should the Tories return to office, the age of those who now fill all the highest offices in the courts, leave Sir James but little prospect of preferment.

Sir Herbert Taylor, has, by command of his Majesty, written a very kind letter to the present Sir Walter Scott, informing him that a pension of £200 a year has been granted to Miss Scott from the civil list; and as this, it is supposed, required the concurrence of his ministers, we may consider it as secured to her for life.

The *Western Times* says, "Bishop Phillips has 18 children; seven sons of his are in holy orders."

SINGULAR OCCURRENCE.—A few days since an elderly lady and two young ladies, having all the appearance of fashionables, drove in an elegant carriage to the St. James's Bazaar, where they walked through the rooms, and inspected various articles on sale. At one of the counters, at which jewellery was sold they purchased a small article for 3s. 6d. Soon after their leaving the counter, the young female who attended it, missed two gold seals, two gold pins, a locket and bracelet, together of the value of £7. She communicated her loss and her suspicions to the lady who superintends the bazaar. The ladies were followed to another jeweller's counter, where they were engaged in inspecting the stock, and, in very delicate terms, informed of the disappearance of the articles from the counter at which they had been, and requested to examine their reticules, in which it was possible they might have put them by mistake. They readily made the examination; after which they assured the parties that no such mistake had been made. This was not deemed satisfactory, and the young ladies were conducted back to the counter, that a further examination might be made. Almost immediately one of them was seen placing a gold seal on the stand from which the articles had been stolen. They were then taken to the office of the bazaar, where a strict examination was made; and in a pocket, in the back part of the dress of one of the young ladies, was found a gold pin and four small doily mats, which she said she had purchased at the Western Exchange. It was observed she kept her hand closed; she was requested to open it; another gold pin appeared. The mother, who had gone to her carriage, was sent for, and, on entering the office, offered to pay for the articles, which, however, was refused. She then gave her card, and, with her two daughters, left the bazaar. An officer was employed to follow the carriage, which he did to Richmond, and saw it drive up to a magnificent mansion, which, on enquiry, he found was the ladies' residence. It appeared that they were really a family of high rank; and, in consequence of the influence used on the occasion, the matter is kept quite a secret at the bazaar.—*London Paper*.

The young ladies concerned in the above affair, are the daughters of one of the clerks in a high court of equity. He is himself a gentleman highly respected for the strictest integrity, the most unblemished honour and the sincerest politeness. The daughters are extremely fine girls; the eldest has just attained the age of 21, and has recently come into possession of £12,000, left by a relative; the youngest is about 18, and will be entitled to the same sum when she is of age. They are related—that is, they are nieces, either by the mother or father's side, to a distinguished secretary for a certain department.

The total of the fines inflicted on the absent jurors, at the Assizes of Clonmel, amounts to over £30,000.

The accounts from the frontiers of Poland confirm the reports of the Russian forces in that country being in motion, as if to sustain the Prussians, who are taking up their "precautionary" position on the eastern frontiers of Belgium. It is added, that a Russian reserve is to enter Poland, for which there can be no necessity, but on the supposition, that the regular Russian army is to march beyond the western frontiers of that country, to take an active part in support of Prussia, if those "eventful consequences" of the French invasion, to which the latter power, in her manifesto, alluded, as justifying her warlike interference, should unhappily occur. These are indications deserving of great attention at the present moment.—*Liverpool Albion*.

The latest accounts from Spain are anything but encouraging. The Queen's sincerity begins to be generally doubted by the liberals, and her last proclamation, in particular, is thought to shew the cloven foot, as by its allusions to the prerogative of the King, and silence about calling together the Cortes, or making an appeal to public opinion, her only concern is clearly a selfish one for her daughter's succession, and not for any generous amelioration of the constitution of the country. Carlism continued to be proscribed more rigorously than ever; but the cause of Spanish liberty was felt to be but little interested, whether the absolutism of Ferdinand or Don Carlos succeeded in oppressing it. The King had resumed the reins of Government, and Cafranga and the liberal ministers were on the point of retiring from the ministry. The hour of Spanish deliverance, it was thought, had not yet come, and the constitutionalists were doomed to further disappointments.

There is a cessation, a temporary one, perhaps, of the tithe-war in Ireland, the people resting on their arms, in expectation of the relief promised by Government, and, in many instances, paying up the arrears, without giving the law-officers of the crown further trouble.

The King of Holland has granted permission for the English engineers to pursue uninterruptedly, the construction of the iron rail-road, recently commenced in the vicinity of Amsterdum. The iron and other materials are from a British foundry.

It is reported that his Majesty may visit Hanover during the present year, accompanied by the Queen and a select court circle.

The registering barristers, besides finding no money in the Treasury, have had to pay considerable sums out of pocket, for the reimbursement of their expenses, for which they are also required to await the slow operation of a parliamentary grant. In this predicament the registering barristers have, naturally enough, assumed LONG FACES in addition to LONG ROBES.

Each persons house in Carrick-on-Suir has, at present, boards over the door, on which the words "repeal of the union" are painted.

Mr. Leader has been literally driven out of Kilkenny, because he would not take the pledges, and Mr. Patrick Costello, gentleman attorney, will be elected without opposition.

Summary of Members returned to serve for Boroughs in the reformed Parliament:—

Old Borough Members	276
Reformers	202
Conservatives	72
Radicals	2
New Boroughs	65
Reformers	53
Conservatives	5
Radicals	7

A placard, of which the following is a copy, has been very generally posted up through the city of London:—"No war with Holland—No new Taxes—Reform—Retrenchment and Peace."

CARBONEAR STAR.

WEDNESDAY, FEBRUARY 27, 1833.

(To the Editor of the Carbonear Star.)

MR. EDITOR.—It was not my intention to have addressed you again on the subject of the "Conversations;" but as you seemed so disinclined to undertake the wearisome task of commenting on them; and as I have broken the ice by once appearing in PRINT I will do it myself, in defiance of necessary qualifications, although, I must say, to comment upon the writings of a man who "examines almost every proposition with the keenest scrutiny weighs the pros and cons of a subject with the nicest scrupulosity;" and never THINK (I copy verbatim) "of placing a conclusion upon the shelves" (wooden ones I suppose?) "of THEIR understanding, without the strictest investigation of the PREMISES;" is certainly a fearful undertaking for a youngster at his pen, such as I am—but to proceed:—

The first part of the "Conversations" was written merely, I suppose, to shew the wit of the author, (I almost fell a sleep over it); and his remarks on the conduct of the House with regard to the choice of its own officers, is *perspective*. But respecting Mr. Power's motion—there he (of Mr. B. it's all the same) clearly exhibits, that he either willfully misrepresented to answer some base end, or was so wrapt in the "investigation of the premises" of his argument, that he committed an error, for which his *genius* alone can excuse him, (those possessed of it being frequently *non compos*). Until he can prove that a motion, having for its object the ascertainment of "the number and creed of the officers employed by government in the Island," is one to "ascertain the comparative wealth and numbers of the different sects composing the population of the Island," the whole of his arguments fall to the ground. Had the motion been what Mr. B. says it was, it would have been of some considerable utility, it being very necessary that a census of the island, of some description, should be taken. But, LOGICIAN

as Mr. B. is declared to be, I will defy him to prove the utility of the motion made by Mr. Power, if it were correctly reported in the papers I am in the habit of reading.—But suppose, by way of argument, that the motion was, as B. stated it; how, even in such a case, could it answer the end he seems to imply? I say, unqualifiedly it could not! Would it create new offices, or turn out of office old servants? God forbid! Of offices we have plenty—and the second, would be so flagrant an injustice, that no government would commit it. Mr. B. speaks of *some* barrier to the preferment of a youth of *some* particular creed: What barrier I am at a loss to discover. I know none. Disabilities, on account of religion, are removed. The only disability which now remains, and which every class feels, is the want of interest or patronage, or whatever else it may be termed. This I hope to see removed by the firmness of our representatives; when we shall hear no more of a "distinctive mark"—an expression dictated by the spleen perhaps, of a disappointed man. For a man, in a country with such a franchise as this has, to talk of a "distinctive mark" shews his views to be of that mean, despicable, and narrow description, that he amongst all his fellow freemen, ought to have the "distinctive mark" of illiberality imprinted on his forehead. But to the arguments on the fire Bill, (St. John's).

In following Mr. B. in his arguments on Mr. Power's motion, I certainly, at times, was inclined to throw down my pen, with the exclamation—"the man is mad—it is a pity to notice his misstatements and false reasoning—but as either you Mr. Editor or I were bound by your last week's promise to pass some remarks on the publication, I resumed it. Of all Bills, perhaps none was capable of being made more general than a Fire Bill, such as that introduced by Mr. HOYLES, and nothing but the very acme of selfishness could have made it so exclusive. Is it necessary I would ask, (in reference to B's arguments) to make Bread and Cheese Cove a town; or any other place of the same description, to bring the bill into general operation? Let the Bill apply to every place in which any quantity of powder is or may be kept in stores, compelling its removal to a place of safety, and what is to prevent its being so removed?

As I have now commenced an exposition of the false premises, which our friend the *weigher of pros and cons* generally argues from, I intend continuing to do so, until he writes more in accordance with the truth.

My remarks on the second "Conversation" in which Mr. B. shews his *aptness* to argue on *political economy*, will appear in your next, if you consider this as worthy a place in your columns.

I am, Mr. Editor,
Your's &c.

A FRIEND TO INDEPENDENCE.
Carbonear, Feb. 25, 1833.

[We thank our Correspondent for relieving us of the trouble of noticing the "Conversations."—We shall always be glad to hear from him.—Ed.]

Non sibi sed Patria.

(To the Editor of the Carbonear Star.)

SIR,—Some *old-logical* thread-bare-coat gentleman of Harbour Grace, has attempted to "astonish the natives," by expressing his opinion respecting the House of Assembly, the soil of this country, and political economy:—on the first of these subjects; his opinions, are indeed "thread-bare," with the exception of one; that the House of Assembly should have nothing to do with the agricultural interests of this country.—On the second; he has I suppose worn his coat thread-bare in the investigation of "the face of the country, and the nature, and quality of the soil and climate" (taken mind you in the "average"); and after all his toil and trouble in this investigation, he has found out that the subject resolves itself into one plain, simple, and pertinent question.—"Whether the natural qualities of the soil, taken in the average, be such, as would if brought under cultivation, enable the cultivators to bring to market their articles of produce, at a less price than the same articles would fetch by importation?" That is to say, if the qualities of the soil, were brought under cultivation, would they enable the cultivators to bring their articles of produce to market at a less price than that for which the same articles could be imported. Now, a person may talk about cultivating a soil, but I conceive that none, but "thread-bare," would talk about cultivating the natural qualities, particularly if those qualities were bad ones. "Tull," would tell Mr. B. that successful tillage depends more on the quantity or depth, than the quality of a soil; but I suppose Mr. B. knows nothing respecting the depth of soil in this country, his examination was superficial, he merely skimmed over the face of the country as he did over "Smith's Wealth of Nations," he did not go deep enough.

Enough of Mr. B.—'s plain, simple question. He has said that the "average quality of the soil in Newfoundland, fell far short of the degree of fertility possessed by

the most inferior cultivated soils of Europe, and America; it can never be expected to cope with them." That is to say, that, because the untillied soil of this country is not so fertile as the cultivated soils of Europe, the soil of this country should remain as it is: because it will not at present produce Wheat like the States; Rum and Molasses, like the West India Islands, or Wine like Portugal; it should not be encouraged to produce Potatoes, Oats, Vegetables, or Cattle.

The object in cultivating the soil of this country, is not that the produce in this country may compete in the market, with the produce in more favoured climes, and more highly cultivated countries. The industrious inhabitants of this Island can, at present by ploughing the Water instead of the Earth, command the produce of those climes and countries; but, the uncertainty of the fisheries: the uncertainty of trade, depending on those fisheries; should urge a wise and provident Legislature, to strain every nerve, not only to encourage, by giving facility to the cultivation of land, but to impress on the minds of their hundred thousand constituents the necessity of applying all their time not otherwise occupied, to a soil that would at least keep famine from their doors, when the ocean's furrows refused to part with their finny treasures.

As for Mr. B.—'s political economy, he has found out, somewhere, that high rent, does not enhance the price of corn, but that, high price of corn, enhances rent. Did he find out, anywhere, that an early frost, lessened the produce of potatoes, and enhanced the price of flour.

I am, Sir,
Your obt. Servant,
TERRE-NEUVE.

Carbonear, Feb. 25, 1833.

Shipping Intelligence.

PERNAMBUCO, 14th JULY.—The following is a description of a piratical vessel seen off this coast:—A brigantine of about 150 tons, appears to have been built in Baltimore, has a white streak on one side, and a yellow one on the other; mounts two guns, besides a swivel; has about 40 men, and is under Spanish colours.

NOTICES.

ALL Persons having Claims on the Estate of the Very Rev. THOMAS EWER, of the City of Dublin, but late of Harbour Grace, Newfoundland, Deceased, are requested to present the same to the Subscribers, duly attested; and all Persons indebted to the said Estate, are desired to make immediate payment to

MICHAEL A. FLEMING,
DENNIS MACKIN,
THOMAS FOLEY.

Executors.

Harbour Grace, Feb. 27, 1833.

THE Subscriber begs to inform the Inhabitants of CARBONEAR, BRIGUS, and their vicinities, that he has on hand a large and general assortment of Goods, which will be sold on

VERY MODERATE TERMS
CONSISTING OF

Blue, Black, Brown, Olive, Drab, Broad and Forest Cloths
Pilot Cloths, Blankets, Flannels
Serges, Stuffs, Plaids, Shalloons
Padding Cloths, Peruvian Cloths
Printed Chintz and Furniture Cottons
White and Grey Cottons
Shirting-Cotton and Shirting
Nankinets, Blue and Pink Stripe
Nankeen, coloured, Cotton Bed-Tick
Marseilles Quilts and Counterpanes
Coloured Counterpanes, Cotton Balls
Tapes, Pins, Needles, Silk Tabinett
Gros de Naples, Norwich Crape
Spotted, Book, Mull, and Checked Muslins
Lining Sarsnetts, Table-cloths, Carpets
Carpeting, Suspenders, Combs
Silk and Cotton Shawls, Room Paper
Hats of excellent quality
Cotton Check, Moleskins, and a variety of other Goods
Congo, Souchong, and Green Teas
Soap, Raisins, Butter, Bread
Beef, Pork, Rum, and Molasses

ALSO,

TO LET,

BY THE SUBSCRIBER,

(On Building Leases, for 20 Years),
TWO Plots of Ground, (adjoining his Premises in Carbonear), each 25 feet front, and extending back to the Water-side.

THOMAS GAMBLE,

(Executor of the late W. H. SCOTT.)

Carbonear, Jan. 2, 1833.

ON SALE.

BY

MICHAEL HOWLEY,

16 Puncheons Rum and Molasses
10 Barrels Superior Sugar
10 Chests of Souchong and Congo Teas
20 Barrels Prime Beef
20 Firkins Prime Butter
3 Cwt. Starch
5 Cwt. Leaf Tobacco

With a General Assortment of

SHOP GOODS

CONSISTING OF

Blue Half-Cloths, Blanketings
Flannels, Serges, Stuffs, Printed Cottons
Calicoes, Muslins, Lace, Edging
Moleskin, Fustians, Feather Beds
Men's Lambs-wool and Yarn Hose
Blanketing Drawers
Men's Blue and White Flannel and Cotton Shirts
Carpenters' Tools, Coopers' Tools
Horse Collars
Whip, Cross-cut, and Hand Saws
Metal Fountains, and Boilers
Quadrants, Charts, Ensigns, Union Jacks
Parrallpl Rulers, Norey's Epitome
Gunter's Scales
Sealers' Sculpting Knives
Gun Locks, Gun Lock Vices
Deck Boots
Men's Women's and Children's Shoes
Shingle and assorted Nails, from 1/2 to 8 Inches
Superfine Blue Cloth Jackets, Trowsers and Vests
Castor Oil, Honey, Bermuda Arrow-root.

The above Articles, will be Sold reasonable for CASH.

Carbonear, Jan. 16, 1833.

BY

COLLINGS & LEGG

50 Barrels American Flour
50 Barrels American Beef
30 Firkins Prime Butter
50 Boxes Raisins
And a general assortment of Dry Goods, Groceries, &c.

Carbonear, Jan. 9, 1833.

TO LET,

On Building Leases, for a Term of Years,

A Piece of LAND, the Property of the Subscriber, extending from the House of Mr. Joseph Parsons, on the East, to the House of Mrs. Ann Honell, on the West, and running back from the South Side of the Street, to the Subscriber's House.

MARY TAYLOR,
Widow.

Carbonear, Feb. 13, 1833.

NOTICES.

Dissolution of Co-partnership.

NOTICE is hereby given, that the Co-partnership heretofore existing between the Subscribers, under the Firm of PROWSE and JAQUES, Carbonear, Newfoundland, is this day, by mutual consent, dissolved. All Debts owing to and from the said Concern, will be received and paid by the undersigned GEORGE EDWARD JAQUES. Witness our Hands, at Carbonear, this 31st Day of December, 1832.

SAMUEL PROWSE, Jun.
GEORGE EDWARD JAQUES.

THE Business hitherto carried on in this Town, under the Firm of PROWSE and JAQUES, will be continued by the Subscriber, from this date, in his own Name.

GEORGE EDWARD JAQUES.

Carbonear, Dec. 31, 1832.

BLANKS of every description for sale at the Office of this Paper.

Chief Justice Reeves having returned to England after his visit of observation and experiment, the act of 32, Geo. III., c. 46,* was, under his auspices, passed, for the establishment of a Supreme Court of Criminal as well as Civil Jurisdiction; and also Surrogate Courts of Civil Jurisdiction in Newfoundland.

This act has formed the basis of all the subsequent Judicature Laws of the Colony, and empowered the Supreme Court to hold plea of all crimes and misdemeanors committed in Newfoundland, and on the islands and seas of its fisheries, in the same manner as plea is holden of crimes and misdemeanors committed in England; and also to hold plea of all suits and complaints of a civil nature, arising in Newfoundland, as aforesaid, and to determine such complaints and suits, according to the law of England, as far as the same can be applied to such suits, &c.

Such Supreme Court to be holden by a Chief Judge, to be appointed by His Majesty, with full power to hear, &c. aforesaid.

Governor empowered (with advice of Chief Justice) to institute Surrogate Courts of civil jurisdiction, as occasion shall require, to hear and determine, in a summary manner, all suits and complaints as aforesaid, according to the laws of England, as far as aforesaid; and such Surrogates to be appointed by the Governor.

The said Supreme and Surrogate Courts are respectively empowered, in all cases depending, to cause appearance, from day to day, of all persons interested in such suits, &c.; and to examine, on oath, such of them as it shall deem proper; and, after due consideration thereon, to make such order and decree, and award such damages and costs, as the case shall require.

And when cause of complaint shall not exceed £5, to proceed by summons of the defendant; and if such summons shall be disobeyed, or cause of suit exceed £5, then the party, who is to answer such suit, &c., may be caused to appear by attachment of his goods or effects, or arrest of person.

When the cause of action exceeds £10, and if the defendant shall pray a jury, Chief Justice or Surrogate, respectively, to cause twenty-four persons to be summoned, of whom twelve to be the jury; and such number having been summoned, and a sufficiency of jurors not appearing to be sworn, for such trial; then the Governor to nominate two proper persons, to be assessors to the Chief Judge or Surrogate, who shall respectively proceed to trial, in like manner as though such jury had not been prayed.

Appeal from Surrogate Court to Supreme Court allowed, under security, by appellant, when judgment exceeds forty pounds.

Appeal from Supreme Court to the King in Council, from judgment exceeding one hundred pounds.

When goods, &c. of debtor attached, are found to be insufficient to pay twenty shillings in the pound to all creditors, by reason of debts contracted, within the jurisdiction aforesaid, such debtor and the plaintiff, and all such his creditors aforesaid, to be summoned and examined by the Court; and, if the debtor be found insolvent, the said Court to declare such debtor insolvent accordingly; and to take order for collecting and selling the effects and debts of the insolvent, and distributing the proceeds thereof among such his creditors aforesaid; or appoint some fit person or persons, being a creditor or creditors, to perform the same, taking suitable recognizance for due performance thereof.

Distribution of assets of insolvent's estate prescribed in the following order of PRIORITY:—

1st.—Every fisherman and seaman for wages of the then current season, to be first paid twenty shillings in the pound, as far as the effects will go.

2d.—Every creditor for supplies (to the fishery) furnished in the then current season, to be next paid twenty shillings in the pound as far as effects go.

3d and lastly.—All other creditors twenty shillings in the pound as far as effects will go.

By consent of one-half in number and value of such creditors, Court may certify insolvent; and such certificate to be a bar to all suits, &c. for debts contracted within Newfoundland, and the jurisdiction aforesaid, prior to such insolvency.

Cause of action arising before the 1st August, 1792, no suit, &c. to be commenced beyond the period of six years, from time when cause of action arose.

Chief Justice empowered to grant Administration of Intestate Estates and Probate of Wills.

No Court in Newfoundland, except said Supreme and Surrogate Courts, to hold plea of civil causes; but saving jurisdiction to Vice-Admiralty Court in maritime causes, (excepting suits, &c. as to wages of seamen and fishermen, and revenue causes)—providing, also, that all disputes concerning wages of such seamen and fishermen, and all offences by the hirer or employer of

such, and all penalties in respect thereof, to be heard, &c. before any two or more Justices of the Peace.

Courts of Session of Justices of the Peace to have jurisdiction, in a summary way, in all suits of debt not exceeding forty shillings, if not contracted more than one year before action brought.

Chief Justice to settle forms of process, rules of practice, and amount of fees, in all pleas, suits, &c. in Supreme and Surrogate Courts, and in Courts of Sessions of Justices of the Peace.

All fines, penalties, and forfeitures, imposed by any statute then made, or to be made, relating to Newfoundland or its Fisheries, may be recovered in a summary way, in the Supreme or Surrogate Courts; and that such penalties, not exceeding, in amount, the sum of ten pounds, may be recovered in the said Courts of Sessions, or before one or more Justices of the Peace.

This act was made to endure for one year only, when, from its trial, resulted the statute 33d Geo. III., c. 36,* which differs from the preceding act, only in a few points.

1st.—Dispensing with the advice of the Chief Justice in the Governor's institution of Surrogate Courts.

2d.—Transferring from the Governor to the Surrogates the authority to appoint Assessors to sit with Surrogates in the trial of civil causes, on failure of jury appearing.

3d.—Giving to defendant in civil causes in the Supreme and Surrogate Courts, the right to claim a Jury, where the cause of action exceeds forty shillings—(ten pounds having been the limitation of the former act.) With these emendations, the Act of 33, Geo. III., c. 76,† continued to be the Judicature Law of Newfoundland until March, 1809, when the statute of 49, Geo. III., c. 27,‡ was enacted, altogether on the basis of the last expired judicature law, but differing from it in a few particulars.

1st.—Extending the civil jurisdiction of the Supreme and Surrogate Courts to all suits and complaints of a civil nature arising in Great Britain or Ireland. (But note) not to suits, &c. arising in other Colonies.

2d.—Extending to plaintiff as well as defendant in civil actions exceeding forty shillings the right of demanding a jury.

3d.—Trustees of insolvent estates to be elected by the creditors, (not nominated by the Court as theretofore used.)

4th.—Extending the discharge of insolvents under the certificate to debts contracted in Great Britain and Ireland, (co-extensively with jurisdiction).

The 49th Geo. III., c. 27, continued to be the Judicature Law of Newfoundland until the 5th Geo. IV., c. 67,§ came into operation in January, 1826, being eighteen months after its enactment.

Before I proceed further, I beg especially to observe, that the constitution of the Courts of Civil Judicature, and summary mode of proceedings prescribed by 49 Geo. 3, are, under the best opinion I have been able to form from experience and mature reflection, better adapted to the general purposes and condition of this Colony than the rules prescribed under the now-existing law of 5 Geo. 4, c. 67. It is true that, previous to the enactment of the latter statute, great complaints had reached His Majesty's Government of the defective administration of justice. But referring to the nature of those complaints, it will be found that the gist of the evil lay in the alleged deficiency of legal knowledge, and unfitness of naval officers of ships of war, and other persons, then usually appointed to execute the duties of Surrogate Judges in civil actions, and Justices of the Peace in Sessions; the latter of whom then exercised, under 15 Geo. III., c. 31, and 49 Geo. III., c. 27, a summary jurisdiction over claims of fishermen's wages, and forty shilling debts; and exercised also, under their commission of the peace, an extensive jurisdiction over criminal offences.

Under the summary proceedings prescribed by the 49th Geo. III., parties were not compelled in any civil action to submit the cause to a Jury; but either party, plaintiff or defendant, might, at their election, resort to that mode. For the dispatch and proper decision of the great mass of cases ordinarily occurring in the civil courts, I feel warranted, by more than twenty years' experience, in the opinion I have formed, that this summary mode is best adapted, is cheaper, and also more consonant to the habits and wishes of the people, who have been hitherto pretty much used to conduct their own causes of ordinary occurrence. I know that my opinion in this particular coincides with that often expressed by Mr. Forbes, while he was Chief Justice of Newfoundland; and Mr. Reeves, in his evidence before a committee of the House of Commons in 1793, on this point, concludes by saying, "Upon the whole I am of opinion, that Trial by Jury cannot and ought not to be the general practice in Newfoundland, and I do not know that it can be put upon a better foot-

ing than it stands upon in the present act"—(32 Geo. III., c. 46.) Mr. Reeves had, the two preceding years, been Chief Justice of Newfoundland; and, after reading his evidence on this occasion, no person conversant with the incidents and character of this Colony and its inhabitants, can fail to admire the sedulous industry and zeal with which he must have applied his great talents, and knowledge of law and of human nature, to ascertain the true condition and relations of that society for whose benefit he was especially chosen to digest a system of judicature.

Since that period, numerically, the inhabitants of Newfoundland are greatly increased, but except in St. John's, their condition and relations, so far as an attentive observation enables me to judge, are not essentially changed in character, nor are there, I conceive, in the capabilities of the Island at large, any means by which material change, in this respect, can be produced for many years to come, if ever. In St. John's, however, the seat of its government, great changes have been wrought, during the period of my own residence, as regards the extension and diversity of its trade, no less than the increase of its inhabitants;—and therefore, while even now the far larger portion of civil causes continue there to be still such as are suitable to summary decision, without the aid of a jury, it is equally obvious, that cases arising out of extensive mercantile transactions in foreign as well as domestic trade, and respecting title to property in lands, &c., often occur, to require the aid of that popular branch of English Judicature, and also a Court of superior character. I regret to say, that as respects the mode of administering justice, the changes made by the existing law (5 Geo. IV.,) have not appeared to me productive any where of the public benefit expected from them; and that as respects the outposts and distant places of the Island generally, the change has resulted in almost total failure.

Efficient Judges could have been supplied to administer justice under the previous law, as effectually within the attainment of the inhabitants generally, residing at a distance from St. John's, as the Naval Surrogates, in their numerous ships, carried their less perfect administration of it to remote settlements at all needful seasons, that, in my opinion, if not all that was desirable, would have proved more valuable and satisfactory to the Colony at large than all the benefits that have been conferred under the present system; which, while much more expensive to suitors, it must be acknowledged has left the widely-scattered inhabitants of the outport districts nearly destitute of available legal resource for the protection of their civil rights, and often for the due punishment of criminal injury, unless the parties had the means of repairing to St. John's, which those even whose poverty or remote distance did not preclude could rarely do, unless at the probable sacrifice of their interests then pending in the fisheries of the season.

Although the present judicature law was passed in June, 1824, it did not come into operation until January, 1826; nor in effect, until 3 months after that period; for that additional interval was required for publication of the rules of the Court under the provisions of the Charter.

By the effect of this Act, under the construction held by the Judges of the Supreme Court, in conjunction with the opinion they also entertain of the very limited application of the general statute law of England to this Colony, as noticed above, a very great change has been effected in the judicature, and it may be said also of the jurisprudence, of this Colony.

This restricted operation thus assigned to the English Statute Law, as the law of the Colony, was brought under the notice of His Majesty's Government by Chief Justice Tucker soon after he succeeded Mr. Forbes to the Bench in May, 1823, while the court subsisted under the 49, Geo. III., c. 27; and there this important consideration has rested ever since, although the same point has in the interval been several times mooted, and in two instances recently, the one as to the applicability of the Catholic Relief Bill to this Colony, and the other upon the conviction of Michael Fogarty,* under the Act of 9, Geo. IV., c. 31, for feloniously violating a female under ten years of age.

Consequently to this opinion entertained by the superior courts of this Colony, the Criminal Statute Law of England is found available but in a very limited degree for the repression and punishment of crime, and when the 5, Geo. IV., became the judicature law of the Colony, the limited criminal jurisdiction thence-before exercised by the Sessions Courts of Justices of the Peace, in St. John's and in other parts of the Island, since 1729, under commissions issued by

the Governor, ceased; so that all criminal offences are now triable only in the Supreme or the Circuit Courts.

The jurisdiction therefore of Justices of the Peace in Sessions became strictly circumscribed within the provisions of the 22d section of 5, Geo. IV., c. 67, limited to suits of debt not exceeding 40s., and to suits concerning wages of seamen and fishermen to any amount, and for bait-money, boat-hire and fish-curing to the extent of £5.

It may be essential to notice here, that, in all the outports, no inhabitants are found but such as are engaged in the trade and fisheries—merchants or their agents (chiefly the latter), planters and fishermen, occasionally a resident missionary of the Church of England or of the Wesleyan persuasion, a Catholic Priest, or a Surgeon.

The reasons that have been often urged against the propriety of appointing clerical magistrates in England, apply, I conceive, with greater force to the circumstances of this Colony. And if among those persons who are engaged in trade, persons could be found of competent education and intelligence, which in my experience has rarely occurred in the outport,—it becomes evident that, that portion of magisterial jurisdiction now remaining with Justices of the Peace in Sessions, is precisely of that species which their peculiar interest disqualifies them from exercising with propriety or satisfaction to the public. And as regards medical men or surgeons (who are not of the most intelligent order in this case), it is well known that they are so much dependant on the merchants in outports, for the collection and payment of the dues and fees they receive from planters and fishermen, that their interests, like those of the merchant, must inevitably conflict with the just exercise of such magisterial duties.

Imperfect as at all times the Sessions Courts of Justices of the Peace were in their administration, still they were not void of benefit to the public; more especially in parts remote from St. John's, where they were often found useful in opposing some check to insubordinate servants in the fisheries, and also, under public authority, in affording some protection from acts of violence and outrages of lawless people that are to be found in all communities.

But limited as the utility of such Courts of Session may have been, when constituted by the resident merchants and the visiting Naval Surrogates, it cannot, I think, be said that the Circuit Courts have proved in practice of equal public benefit. The experience afforded by a five years' trial of those Courts sufficiently demonstrates their inadequacy to accomplish the purposes for which they were instituted; nor am I able to point out how they could be rendered, with two Judges only, more efficient to meet the exigencies and reasonable wishes of the public in the northern and southern districts. An inspection of the charts of the coast will give a general notion of the extent of the shores which the Judges of the northern and southern districts must traverse, in order to hold a Court, once in the season, at some of the principal settlements; for the casualties and obstructions incident to the fogs, the winds, and the weather, rarely indeed admit of the Courts visiting all the places mentioned in the Proclamation. Moreover the situation of many locations within deep bays, renders them peculiarly difficult, and often dangerous, of access during the autumnal months, which is the period when the presence of the Circuit Court is most needed. It becomes, therefore, quite problematical whether the Court may be able to visit any place at the time appointed, or some of them at all; and the time given for their stay at most places is much too short to admit of their being of great benefit; for in numbers of instances, before process can be served on parties, disposed at all times to evade it,—and in frequent cases, before it is possible to convey it to parties living in the neighbouring harbours or coves, the Court has determined its sittings and proceeded towards the next stations.

The time when the presence of such Courts is especially required in all the districts, is, identically the same period,—from the 10th of October, until the end of November; which is the season of the discharge and payment of fishermen and servants, and of general settlement of accounts for the year. But St. John's, in the central district, and Harbour Grace, Carbonar, &c. in the northern district, require, also, the effective benefit of such court during one half of the month of April and the whole of May;—a period when much litigation occurs, in the termination of the sealing voyage, and payment of the men, and on the outfit of the Labrador cod-fishery.

One such court would be sufficient to meet the exigencies of the central district, where also the Supreme Court is held; but two Judges cannot fulfil all the duties of the other districts, where courts are every where required, at or about the same period of time, at so many populous places.

To be concluded in our next number.

* A.D. 1792. Statute 32, Geo. III., c. 46—the second judicature law.

† Semb. With intent only to save lawful colonial customs and usages.—Vide Mr. Reeves' Evidence before Committee of House of Commons in 1793.

* A.D. 1793. Statute 33d, Geo. III., c. 76, the third Colonial Judicature Law.

† A.D. 1809. Statute of 49, Geo. III., c. 27, the fourth Judicature Law.

‡ A.D. 1826. Statute 5th, Geo. IV., c. 67, being the fifth Colonial Judicature Law, came into operation though not until 18 months after its enactment.

* Since this portion of the Report was written, His Majesty's Secretary of State for the Colonies has transmitted to the Local Government, the opinions of His Majesty's Attorney and Solicitor-Generals on this case of Fogarty, who concur in considering this conviction to be good, and that, since the passing of the 5th Geo. IV., c. 67, the whole of the English Statute Law became the Law of Newfoundland.

Printed and Published by D. E. GILMOUR, at the Star Office, Carbonar, Newfoundland, to whom all Communications must be addressed.—Subscription, ONE GUINEA PER ANNUM, payable half-yearly.