

PACKETS
Race Packets

being new
undergone such
in her accom-
the safety, com-
engers can pos-
suggest, a care-
aving also been
me her usual
ving Harbour
NSEDAY, and
lock, and Por-
ays.

... 7s. 6d.
... 5s.
... 6d.
... 1s.

tion
ll be careful-
counts can be
nor will the
any specie or
veance.

YSDALE,
RROUR GRACE
& BOAG,
s, St. JOHN'S
35 E.

poncar and

ing his beat
the patronage
received, begs
the same fa-

il further no-
the mornings
FRIDAY, posi-
Packet Man
Mornings of
aturday, at 9
may sail from
each of these

7s. 6d.
to 2s. 6d.

will hold
LETTERS

ROSE

most respect-
ble, that he
odious Boat
e, he has fit-
ARONEAR
a PACKET-
art of the after
two sleeping
9). The fore-
p for Gentle-
which will
ion. Hence
of this respect
ures them it
to give them

CARBONAR,
ardays, and
the Morning,
on Mondays,
the Packet-
lock on these

6d.

6d.

1s.

their size or
countable for

, &c., &c.
onear, and in
Mr. Patrick,
cern) and at

a Term of

uated on the
ounded on
late captain
subscriber's.

TAYLOR,
Widow.

the Office of



THE

STAR,

AND CONCEPTION BAY JOURNAL.

Vol. IV.

WEDNESDAY AUGUST 29, 1838.

No. 216.

HARBOUR GRACE, Conception Bay, Newfoundland:—Printed and Published by JOHN THOMAS BURTON, at his Office, opposite Mess. W. DIXON & Co'

(From the Liverpool Courier, July 4.)

By the recent arrivals from the United States we have accounts of the first acts of Lord Durham in Canada. His Excellency has formally assumed the administration of affairs, has issued proclamations, and has made certain appointments. Amongst the latter our readers will have seen, no doubt with considerable surprise, the name of Mr. Thomas Edward Michael Turton, whom Lord Durham has made one of the Secretaries to the General Government. It will, doubtless, be remembered that, in consequence of some occurrences to which it is not necessary more particularly to allude, a member of the House of Lords, on the 20th of May last, asked Lord Melbourne some questions relative to a prevalent report, that Mr. Turton was to be appointed to an official situation in Canada. Lord Melbourne denied that Mr. Turton had received, or was to receive, any appointment whatever in Canada, and averred, that he did not even know that such a person had accompanied Lord Durham. Yet, one of the first acts of the latter is to appoint this very person to an important office! On Monday night Lord Wharnclyffe brought the subject under the notice of the House, and requested from Lord Melbourne to explain the matter to their Lordships. This request the noble Premier was unable to comply with, as it seems Lord Durham has not thought fit to mention the appointment in any of his official despatches. But for the announcement of the fact in the *Quebec Gazette*, the government and the nation would have been ignorant of the circumstance. Lord Melbourne said, "he viewed the appointment with suspicion and concern, and he could not but lament that it had taken place." Lord Brougham, while he bore testimony to Mr. Turton's talents, begged their Lordships not to suppose that he was an advocate for the description of offence charged against that gentleman. The discussion, on the subject it appears, was abruptly discontinued. Certainly this is an extraordinary procedure on the part of Lord Durham. If he knew of the statements and wishes of the Prime Minister, it is strange that he should have made the appointment without consulting him, and endeavouring to alter his determination; and it is still more strange, that he should have omitted to communicate the fact to Lord Melbourne in his official despatches.

IRISH TITHES.—THE DIVISION.—The grand battle of the session has at length been fought, and it is not too much to say that the minister came off second best in the struggle. We have not at present the means for entering into a minute analysis of the division, but we find the following very apposite remarks furnished by a correspondent of the *London Standard* of Wednesday evening:—

"On the division last night the Conservatives mustered 298 besides tellers. Mr. Halse's death and Mr. Hope's absence account for a real total of 300. On the great division of 1835, on which the existence of Sir Robert Peel's ministry depended, they could muster but 289. Here is a clear increase of 11.

"But the case yet stronger as against the ministry. The majority of last night, after allowing for Mr. Halse and Mr. Hope, was seventeen. But six gentlemen—to wit, Mr. Fleetwood, Mr. Posey, Sir R. Ferguson, Sir C. Lemon, Mr. Townley, and Mr. Bennett, voted with ministers last night merely to save them from a defeat, who would not have voted in favour of the appropriation clause, but against it. They object to the clause, but they will not inflict on ministers the ignominy of rescinding it. But were the clause proposed, they

have voted and would vote against it. Deduct these six votes from the one side, and transfer them to the other, and the famous resolution of April, 1835, would now be carried by a majority of five.

"The progress of appropriation, *alias robbery*, therefore, is as follows:—
Majority in 1835 37
" 1836 26
" 1838 5!!

"Is not this something like coming to the last gasp?"
In addition to the vacancies alluded to above, it is right to mention that the conservatives have lost one vote through the compromise recently entered into in reference to the Norwich election petition. Had not Mr. Scarlett resigned his seat in favour of Mr. Smith, the ministerial majority would have been smaller by two than it proved.

After this very close division, it is improbable that the House of Lords will yield their acquiescence to any of the measures of the present government affecting the questions of Irish Tithes or Irish Corporations; so that the Crim-Connellite cabinet will be under the necessity of holding office without being able to carry out any of their destructive schemes. Their condition is the most pitiable in which any ministry was ever placed.

ROYAL WILLIAM STEAMER.—An experimental trial was yesterday made in the river, of this fine vessel, with a view of testing her consuming of fuel, and the result was sufficient to satisfy all on board, that she carries a supply adequate to above 1,000 miles further than her destined port of New York. One feature in the construction of this vessel's boilers, merits attention. For two hours she was steamed with one of her three boilers lying idle, thus proving her capability for all that can be requisite in the way of cleaning out, &c.; and during the time she was thus working, the engines had abundance of steam, without any of that black volume of smoke, which usually accompanies the firing of large engines. Another feature merits attention; by a new process, above twenty gallons of fresh water were distilled, thus causing a supply of that necessary article. The appearance of this fine vessel on the water excited much admiration.

BAHIA.—Accounts have reached London by the *Dublin* man of war that the imperial troops have got possession of Bahia. The capture is said to have taken place on the 16th of March.

By the *Cabotia*, which arrived here on Tuesday, we have intelligence from Bahia to the 5th of March. Private accounts received by this vessel describe Bahia as being still the scene of internal discord. The revolutionary faction are becoming bolder in their aggressions, since they have not scrupled to detain the crew of the *Alice Crowther* in prison for four days. Of the circumstances which issued in their rescue or release we are yet ignorant. The commander of the *Cabotia* reports, that the force of the rebels is so strong as to render it impossible to predict the result of the disorders with which the province has lately been distracted.

Further particulars are looked for with much interest.

Letters and Papers from Madrid of the 23d ult. have been received. All sorts of intrigues were on foot to oust the O'falla Cabinet. It was rumoured that Mendizabal was at the bottom of them. Colonel Wylde had reached the Spanish capital on the 20th, to communicate with the government on the subject of Munagorri's expedition. Don Carlos, finding that the loyalty of the frontier troops was not to be depended upon; had ordered them to be changed—a necessary proceeding, which had given

great offence to his partisans. The advices from the provinces were rather favourable to the constitutional cause.—*Sun.*

The whole of the Paris Journals of Friday and Saturday have been received. The British residents in Paris celebrated the Coronation of Queen Victoria by two public dinners on Thursday. After a debate of five hours duration the Chamber of Peers voted its competency to try M. Laity for a treasonable libel, by a majority of 133 votes against 19. The trial is fixed for the 9th, when it is rumoured that Prince Louis Napoleon will suddenly make his appearance and demand to be tried as the real author of the pamphlet published in the name of M. Laity. It is known that he was escaped the vigilance of the police, and is at present concealed in Paris in order to be present at the trial.

St. John's, August 14

(From the Public Ledger.)

On Friday last Dr. KIELLEY, who had been lodged in the common gaol for an alleged breach of the privileges of the House of Assembly, was had up, upon a writ of *habeas corpus*, before the hon. Judge LILLY in Chambers, when his discharge was most ably and eloquently moved by BRYAN ROBINSON, Esq., in a speech of considerable length, which was listened to with all that interest which became the vast importance of the subject.

We annex a report of the arguments.
SUPREME COURT, 10th Aug., 1838.
Before the Hon. GEORGE LILLY, Assistant Judge of Supreme Court.

In the matter of the Imprisonment of EDWARD KIELLEY, Esq., for alleged breach of Privilege of House of Assembly.

The Sheriff was called upon to make return to the writ of *Habeas Corpus*, issued yesterday, commanding him to bring up the body of the said EDWARD KIELLEY, Esq.,—which he did in the following terms:—

I, BENJAMIN GREER GARRETT, High Sheriff of the Island of Newfoundland, Esquire, in the writ hereunto annexed, named.—Do certify and return to the Honorable GEORGE LILLY, Assistant Judge of the Supreme Court of the Island of Newfoundland, that before the coming to me of the said writ, that is to say, on the ninth day of August, instant, EDWARD KIELLEY, Esq., in the said writ also named, was committed to my custody by virtue of a certain writ or warrant, tenor of which is as follows:—

House of Assembly, 9th August, 1838.
By virtue of an order of the House of Assembly this day made, these are to require and command you to receive into your custody, and safely keep in Her Majesty's Gaol, at St. John's, EDWARD KIELLEY, Esquire, "for a breach of privilege of the House of Assembly, by making use of threatening language and gestures to JOHN KENT, Esquire, a member of this House, and for contemptuous language and conduct before this House, and for so doing this shall be your sufficient warrant.

Given under my hand the Ninth day of August, in the year of Our Lord One Thousand Eight Hundred and Thirty Eight.
(Signed,) WILLIAM CARSON, Speaker.

To The High Sheriff of Newfoundland.
And these are the causes for detaining the said EDWARD KIELLEY, whose body I have here ready as by the said writ I am commanded.

Dated at St. John's, in the Island of Newfoundland, this ninth day of August, 1838.
(Signed,) B. G. GARRETT, High Sheriff.

Mr. ROBINSON, of Counsel for Mr. KIELLEY, moved that the said Return be filed—which was granted.

He then moved that the said Mr. KIELLEY be forthwith discharged from confinement—his imprisonment being illegal—and addressed his Lordship in substance nearly as follows:—

"With your Lordship's leave I shall read to you the Affidavit of the Prisoner, on which this Writ was granted, for the purpose of succinctly laying before you the circumstances of this case, and the origin of the proceedings, under colour of which Mr. KIELLEY has been deprived of his freedom, and imprisoned in the Common Gaol of this District. The affidavit is as follows:—

NEWFOUNDLAND.
IN THE SUPREME COURT.

"EDWARD KIELLEY, of St. John's, Surgeon but now a Prisoner in the Gaol of St. John's, in the Island aforesaid—maketh oath and saith, that on Monday, the Sixth day of August, instant, this deponent was taken into custody in his own residence, by one THOMAS BECK—who then and there stated that he had a warrant to arrest him from the SPEAKER of the House of Assembly, of the island aforesaid. That deponent demanded on the same day, from the said THOMAS BECK, a

copy of the warrant under which he had arrested him, which the said THOMAS BECK refused to give to deponent, and has not yet given to him or any one on his behalf. That on Tuesday following this deponent was brought by the said THOMAS BECK, before the said House of Assembly, to be heard in explanation touching an alleged breach of Privilege said to have been committed by this deponent, by offending a member of the said House out of the House. That deponent having explained the transaction, and justified his conduct, was ordered to withdraw,—and was still kept in confinement by an order under the custody of the said THOMAS BECK until this day, when deponent was brought again to the Bar of the said House of Assembly,—and the proceedings of the said House on Monday, the Sixth day August, inst. were read as deponent understood and believed, and a paper purporting to be a general apology to the House of Assembly was put into his hands, and he was required to make the said apology;—that deponent wished to ask for what alleged offence he was asked to apologize, when he was instantaneously stopped by the SPEAKER and some Members, and desired simply to say "yes" or "no." That deponent had liberty to withdraw for a few moments, when deponent was again brought to the Bar of the said House—and anxious to apologize for any offence he might have by any means committed against the Privileges of the said House of Assembly, again requested, or was about to request, to be distinctly informed what the alleged offence was wherewith he was then charged, and for which he was required to make an apology,—and was proceeding to say that if he had in any thing offended against the Privileges of the House he would freely apologise,—when deponent was again instantly stopped by the SPEAKER and some Members, and peremptorily required to say 'Yes' or 'No,' as to his signing or making the said general apology, and "nothing more"—that deponent feeling it was utterly impossible to make a general apology without knowing for what, respectfully declined giving that required. That deponent was afterwards ordered to withdraw from the said Bar, and was conveyed to the Common Gaol of St. John's, aforesaid, in the Island aforesaid. That deponent demanded of the Sheriff of Newfoundland a copy of the warrant of commitment; when this deponent received the paper writing hereunto annexed, from BENJAMIN GREER GARRETT, Esq., Sheriff of the Island aforesaid, at the said Gaol. And this deponent further saith, that on Monday last deponent saw Mr. JOHN KENT, one of the Members of the said House of Assembly, in the public street of St. John's,—when he, this deponent, civilly asked the said Mr. KENT if any relief could be afforded to a poor person to whom this deponent was then speaking, or words to that effect,—showing at the same time to Mr. KENT a written paper, wherein deponent had recommended the pauper to the protection of the Magistrates. That Mr. KENT then said to this deponent, is this all you can do 'you cormorant and robber of the poor;' and that he, this deponent, should relieve the pauper,—and then and there used other and most abusive language towards this deponent.—That deponent being exasperated by the conduct and abusive language of the said Mr. KENT, was led into the use of strong language towards him; but deponent solemnly swears he did not name, or allude in any way, to the House of Assembly—or any manner or way refer to the fact of Mr. KENT being a Member of the said House—or use the 'privilege'—or allude to any act or word of the said Mr. KENT in the said House; nor did deponent intend to infringe the privileges of the said House of Assembly, and is not conscious of having done so, throughout the whole altercation; nor did deponent lay hands on the said JOHN KENT, or obstruct, or in any manner retard his going whithersoever he wished. That deponent understood the above has been construed by the House of Assembly into a Breach of their Privileges, and is that for which he was given to understand he was required to apologize. That deponent expressed to the SPEAKER of the said House of Assembly, by letter, his extreme regret if his heat of temper led him, when before the House on Tuesday, to say any thing offensive to the House, and expressed his desire to apologize for any breach of Privilege he might then and there have committed; but deponent said, that in making such observation before the said House on Tuesday last, he was not attempted to be stopped by the said House, but on the contrary, the SPEAKER said, when some Member wished to make some observation, 'Let Mr. Kielley go on,' Nor was any fault found by the said House in deponent's presence or hearing, with any observation he then and there made.

EDWARD KIELLEY.

"Sworn before me at St. John's, this 9th August, 1838.

"E. M. ARCHBOLD.

"Com. for taking affidavit."

"Your Lordship is now called upon to exercise one of the most important and certainly one of the most gratifying duties of your high office—that of stepping between a fellow subject and the prison—of discharging an individual from confinement, and restoring to him his liberty.

"I do not attempt to conceal from your Lordship, no more than I could

from myself, that the proceedings now pending excite a deep interest in the public mind—that your Lordship's decision is looked for with an anxiety seldom equalled in this community; and well may such excitement and anxiety prevail, for upon your judgment, in a great measure, hangs the question.—Is there, or is there not a body of men in this colony who are above all law—who can, by their simple vote, make any thing they please an offence—who can condemn without trial, and consign to the dungeon, by their own fiat, whomsoever they will?

"In discussing this grave and important subject, and one which is of a novel character, I feel the responsibility of my situation, and my inability to do justice to my client's cause—his cause is the cause of the public. It is a sense of what is due to that public, and the high feeling of honour and independence which actuates my client, that has placed him in a situation to require your Lordship's aid. He might, by apologizing for an offence of which he says he is not guilty, have released himself; and established a precedent dangerous to the liberties of all of us. He now stands upon his right as a British subject under which, praised be God! we live—he demands the judgment of your Lordship on the legality of his imprisonment.

"I wish time had permitted me to have gone more deeply into this interesting subject, than it has;—circumstances had allowed me but a few hours of last night to prepare for this argument. I possess, however, the advantage of bringing to the consideration of the question, a mind free from personal interest—my reasonings and observations are applied to the constitution of the Assembly, not to its members, and the objections which I shall urge, I should do so equally were that body composed of my most respected friends.

"The House of Assembly claim all the Privileges and powers of the House of Commons—have exercised them—and in their exercise have imprisoned Dr. KIELLEY.

"In considering whether the Prisoner is entitled now to be discharged, the argument resolves itself in two heads.—1st. Have the House of Assembly any authority to commit for contempt, and punish by their own authority, what they may consider breaches of their privilege? 2nd. If the Assembly possess such a power, are not their proceedings in this cause irregular, and insufficient to warrant the confinement of Mr. KIELLEY?

"Until within the last five or six years, Newfoundland was governed by those Laws and rules which apply to a Colony of Great Britain, belonging to her by right of occupancy. The Laws still continue in force, and are the safeguard of the subject. In 1832, His late Majesty authorized the Governor, by his Commission, to convene from amongst the inhabitants of the Colonies a House of Assembly, for the purpose—in conjunction with the Governor and Council—of 'making Laws' for the internal management of the Colony;—and for no other purpose.

"By the authority, then, under which it was called into existence, the business of the Assembly was to 'make laws' in conjunction with the other two branches of the Legislature; nor was even this power unlimited, they could only make such laws as are not repugnant, but as nearly as may be, agreeable to the laws and statutes of Great Britain.

"There are but three lawful modes, by virtue of which any man, or body of men can acquire civil powers or jurisdiction superior to his fellow-men. 1st.—By the common Law, and the powers conferred thereby.—2ndly.—By Statute which can speak for itself.—3dly.—By Prescription.

"I apprehend it is an unquestioned and unquestionable principle of Law, that every Act of Parliament and public document is to be construed most strictly in favour of liberty—1 Co. Litt. 18—and according to the reason and rule of the common Law; 5 Co. Di. 250. In construing therefore the Governor's Commission, by which the Assembly was created, no power against the liberty of the subject will pass by it, and no infringement of the common law allowed under it, further than the expressed words, and the legal and necessary consequence of these words, will clearly authorize. Now it does not appear to me that the words of that commission, enabling the Assembly to assist in making some Laws for this Island, give in any manner or way, to that body, the unbounded power they assume. No Act of Parliament has given it—Prescription has not given it. How then is it claimed an exercised?—Under what colour do they assume the right of being Party, Judge, Jury, and Gaoler in the same cause?—by analogy, say they, to the House of Commons of Great Britain! The Supreme Council possess it—so

(it is said) must the House of Assembly of Newfoundland!! That august body deem it due to their dignity to protect themselves, and assert and vindicate their own privileges by their own mere motion and power; so the House of Assembly of Newfoundland deem it due to their dignity to act in like manner!!

"Now what is the nature, the extent of the power, the House of Assembly claim? That full power of adopting the like proceedings, in cases of contempt, as both Houses of British parliament exercise. Hear the opinion of the celebrated Mr. Hargrave on that point; a man whom the Judges of England were not ashamed to consult, and whose learning and research have seldom been surpassed.

"Proceedings in either house of Parliament for contempt and breach of privilege, more especially where as in the present case the charge is for a libel, are in their nature very contrariant to the ordinary rules and course of administering justice in England.—The offended parties act as judges. The court is not an open one.—The witnesses against the accused party are generally examined in his absence.—The accused party is called upon to defend himself, without the opportunity of cross examining the witnesses against him.—He is not in general allowed to have the benefit of counsel.—He is in some degree interrogated against himself. He loses the benefit of trial by jury; and if the imputation is for a contempt against the House of Lords, and the accused is a commoner, he is tried, not by persons of his own order, but by those of a distinct and a higher one. The judgment is said to be, not only unappealable, but wholly unexamined, except by those who pronounce it.—All this variety of hardship upon the party accused, I understand to be at least incident to the ordinary proceeding for contempt against either House of Parliament.—But if the contempt be publishing a libel, which is now the case before me, there is a still further hardship: for in the first instance, and before hearing of the accused party, it is sometimes adjudged, as it appears to have been in the present case, that the offence has been committed; and so it is only left to the accused to controvert his having committed it. This seems a very severe deviation from the common course of criminal justice. Surely it is essential to the defence of the party accused, that he should have the opportunity of shewing, not only that the fact charged was not done by him, but such fact is not an offence; and denying the latter to him appears like adjudging one half of the case without a hearing; and though the paragraph which constituted the charge in question, was too grossly libellous on the house of Lords to admit of any satisfactory explanation, yet cases of a very different kind, such as might give large scope for argument, may be easily supposed."—1 Har. Ju. Ex. 278.

"See my Lord, what is the *reasonness* of the power claimed by the Assembly. The same learned authority says—'I am struck with the vastness of this power; as I understand the precedent, it entitles the Lords [the Assembly claim equal power], for breach of their privileges to impose pecuniary fine any extent—to award perpetual imprisonment,—to award perpetual labor, and to stigmatize by the pillory.'!!

"Are these my Lord, powers lightly to be admitted in a new country, without statute, without law? "The great objection to the Star Chamber was the exercise of an arbitrary power of fining, imprisoning, and stigmatizing, without trial by jury; and that Court was exterminated as an unbearable grievance. Is it to be conceived that similar powers are extended to every Colonial Assembly by implication or analogy? The same author from whom I have already copiously extracted, says—'As the power thus claimed to be exercised by the Lords over the fortunes and persons of the King's subjects, seems to clash with some of their most favourite and fundamental rights and liberties—namely, *trial by Jury*—right to an open Court—right to have justice administered to them by the King's Judges, and according to the forms and principles by which those Judges are bound to act—and their right to the benefit of appeal—SO THE LEGAL EXISTENCE OF SUCH POWER SHOULD BE MADE TO APPEAR BY PROOFS AND SANCTIONS OF THE MOST IRREFRAGABLE KIND.' And so say I, my Lord, with respect to the House of Assembly.—We know that Magna Charta says, 'No man shall be imprisoned but by the judgment of his Peers, or the Law of the land; that law must come by one of the three ways I have mentioned, and it is for your Lordship to say whether it has.

"It is a maxim in Law, that upon those who would take a case out of the general rule of law, does the *onus* rest of shewing the exception;—where is the IRREFRAGABLE PROOF of the legality of the power now claimed? Not even is the current of common repute in favor of it; (not, my Lord, that I would confine the liberty of the subject to common repute or to anything else beside the strong arm of the law), for it is only within the last few years that when one of the Superior Courts of this Island in vindicating its dignity, and exercising a power which no lawyer or well-informed person could deny to it, deemed it necessary to commit a Printer to Gaol for contempt, the legality of those proceedings was arraigned by the very Body who now arrogate to themselves a similar power, though upon somewhat (!) more questionable authority.

"But, my Lord, the Assembly claims this power by analogy with the British House of Commons, consisting of between five and six hundred of the elite of the wealth, rank, wisdom, and learning of the Commoners of Great Britain, and the Assembly of Newfoundland, consisting of fifteen inhabitants who need not be able to read or write, who need not possess one farthing, and whose only qualification need be the occupancy of a hotel for two years!! Can any analogy exist between the Parliament of Great Britain, the Supreme Council of the Empire, existing from time immemorial, and having omnipotent control over every corner of the dominions of Her Majesty,—and the Assembly of Newfoundland, which has not supreme power even within its own narrow limits—whose being grows out of a parchment Charter, and was dated only six years back, and whose very existence could be extinguished in an instant by that body to which it compares itself? I leave that for your lordship to decide. So much for analogy.

"I would now ask it is *convenient* that such enormous powers should be vested in the Assembly or the Council of Newfoundland, as that claimed for both by the Assembly, I do not my Lord insult your understanding by waiting for an answer, but reply, it is not. And what says

Lord Lyttleton on this point—"Argumentum ab inconvenienti plurimum valet in lege—non solum quod licet sed quod est *conveniens* est considerandum. Nihil quod est *inconveniens*, est *licitum*." (Co. Litt. 18.) And Lord Coke in his commentary upon this text, says—"An argument drawn from inconvenience is forcible in law; and the law, which is the perfection of reason, cannot suffer that which is *inconvenient*," (that is, generally inconvenient); thus the very inconvenience and unsuitableness of such a power furnishes a powerful argument against its existence here.

Is such a power necessary? I submit that it is not."

By the Judge.—Do you admit that the Assembly have any privilege?

"Yes, my Lord; I admit that they have the same privilege that I have, or any body of men who are engaged in any lawful business have,—the privilege of expelling from their presence any one who molests them, and handing the offending party over to the law to be punished; and, my Lord, I say, and my humble judgment, they have no 'vindictive' privileges. If any corporation (and the Legislature more closely resembles a corporation than anything else) were sitting in their chamber or hall, and a libel were published against them, or a member of the Society was abused, either in the face of the Society or out of doors, was it ever heard that the offending party was committed by the Corporation for a contempt? No, my Lord; neither House of Legislature can be interrupted without a violation of the general law of the country, and under that law the offending parties are resistible not only by the power of the Magistracy but are punishable in the Queen's Courts according to the degree of their offence; such is the proper and constitutional protection, I think, they are entitled to, and to no other; and since those Courts are ample for their protection, where is the necessity for the House of Assembly assuming a power repugnant to the law of the land?

"But when we examine into the sources whence the imperial Parliament derive their power of commitment, we shall discover stronger reasons for denying the analogy sought for. 'Parliament is the highest and most honourable COURT of justice in the Kingdom,' saith Lord Coke, 1 Co., Lit. 55 'and every Court of Record has by law the power of punishing contempt summarily,' 1 Wils. 299. In the celebrated case of Mr. Crosby, Lord Mayor of London, 3 Wils. 188, Lord Chief Justice De Grey said, 'The House of Commons can commit for any crime because they can impeach for any crime. When the House of Commons adjudge any thing to be a Breach of Privilege, their adjudication is a conviction, and their commitment in consequence is in execution, and no Court can discharge, on bail, a person that is in execution by the judgment of another Court.' But the House of Assembly is not a Court—it has not pretended to be one. So much to shew that the House of Commons have their power of commitment, as incident to their being a Court, I shall endeavour to shew that, in addition, they have the sanction of *immemorial* usage, supposed to be founded on *Act of Parliament*, for the support of their Privileges, and that its being the *Supreme* Council of the nation, renders such Privileges inherent in it.

"In the case of Sir Francis Burdett vs Mr. Abbot, (now Lord Canterbury,) 14 East, 137, Lord Ellenborough says, 'When the two Houses of Parliament, which originally sat together, first ceased to do so, and began to have a separate existence, is a matter more of antiquarian curiosity than of legal research. The Privileges which have since been enjoyed, and the functions which have been since uniformly exercised by each branch of the Legislature, with the knowledge and acquiescence of the other House, and of the King, must be presumed to be the privileges and functions which then—that is, at the very period of their original separation—were *statutably* assigned to each. The privileges which belong to them seem at all times to have been, and necessarily must be inherent in them this is an essential power necessarily inherent in the *Supreme* Legislature of the Kingdom. On this ground it is admitted that the House of Commons must be, and is authorized to remove any immediate obstructions to the due course of its own proceedings.' Lord Ellenborough goes on to answer the argument that the separation of the two Houses of Parliament happened since the return of Richard the First from the Holy Land, and consequently within legal memory; 'the answer to this objection is, that some *Statute* or *Act of Supreme National Authority*, whichever it was, by which the Houses began to exist and act, and have since continued to act separately, invested the House of Commons with the antecedent essential privilege which belonged to the aggregate body of Parliament.' Does any statute, does any usage extend this power to Newfoundland? or is the Legislature of Newfoundland the supreme authority of the nation?

"Thus, my Lord, I trust I have shewn you, that the privileges of the House of Commons, great as they are were given to that House by statute applying to themselves, and they have exercised it time out of mind; that it is the *Lex Parliamenti*, and not applicable by mere assumption to any other body on earth, except the House of Lords? And will your Lordship as a British Judge, admit,

without 'irrefragable proof, of its legal existence, the power of the House of Assembly to assume and exercise these enormous and dangerous privileges and to pass their judgment against whomsoever they will, under whatsoever pretence they please, and then assert that that judgment is *unappealable, unexamminable, and unredressable*? But how monstrous is it, my lord, to pretend that such powers, such infringement on the law of the land, pass by inference, by analogy!! Every lawyer knows that nothing but a clear, negative statute can toll the right of the subject, or take away the Common Law, Plonder 112—13; an affirmative statute could not do it; could then inference or analogy, supposing in this case and inference could be drawn, or any analogy existed? It must be no trifling, shallow, or arbitrary pretence, which should deprive a subject of his liberty; and we would be to this, or to any other country, where the upright, fearless administration of the law were wanting to protect the innocent and redress the injured. The term 'liberty,' is seldom heard on my tongue, because I venerate it too deeply to desecrate it by brawling it. I am thankful that until this time, I never found occasion to be alarmed for public liberty and freedom. New attempts are made, and deeds are perpetrated under the most dangerous of all pretences the pretence of *right*, which it behoves the community to resist steadfastly and steadily. '*Nemo fuit repente turpissimus*,' applies as well to the body politic, as to individuals, and now on this the first occasion of its exercise is the time to ascertain whether such a power as the Assembly claim, does legally exist, in order that if it *does*, instant and constitutional measures may be taken to get rid of it, as a burden too grievous to be borne—and if it *does not*, that the most energetic measures may be adopted to obtain ample compensation for an unprecedented outrage.

"It may be asked, how have other Colonial Legislatures been suffered to exercise the powers of commitment for contempt, if it were not legal? I cannot well say how such a practice *was* suffered; but because it was *suffered* and for a series of years was quietly and generally acquiesced in, that which was at first a *wrong*, may have become, by usage, a *right*;—"communis error facit jus," in the same way as if A wrongfully entered upon the land of B, and for a long series of years exercised uninterrupted and adverse acts of ownership over it, A would at last acquire a right and title which could not be questioned. We however draw no precedents from our neighbours—not because they are bad, but because we have better. We have our own country, our mother land to guide us. We draw our protection and rights from the law of England, and by that law my client will stand or fall.

"There are many more authorities than those which I have cited that might be adduced by me, had time permitted me to extend my search; but sufficient, I trust, has been shewn to your Lordship. I have endeavoured to ground my arguments mainly on great fundamental principles of law, which are generally more satisfactory, and safer to proceed upon, than the mere dicta of adjudicated cases, in the application of which doubts might arise.

"Upon all these grounds, considerations, and authorities I submit that, as the power which the House of Assembly claim is clearly an infringement of the Common Law as no authority under which they have obtained the right of so departing from the Law of the Land, appears—as it would be exceedingly dangerous to the liberty of the subject, and contrary to *Magna Charta*, to admit of such a departure—as the exercise of such authority is not incident to, necessary, or convenient for the performance of those duties assigned them by the Constitution of the House—that the commitment of Mr. KIELLEY was illegal, and that he is entitled to his discharge.

"As to the second point, the informality of the warrant, it is too apparent to require any argument. Without stopping to inquire whether this document would or would not be sufficient if emanating from the House of Commons, I would merely state that it does not issue for that or any such Body, and therefore stands upon the footing of any warrant, commitment or execution—and as such it is void for want of a seal; for that it states no adjudication—no conviction—for that it does not state that the Speaker was ordered to issue any such warrant—and because the period of imprisonment is 'indefinite.' (The learned Council here cited several authorities, which supported his position, and continued) 'But although this warrant is worthless, and on that ground Dr. Kielley is entitled to be immediately discharged, the informality of the proceeding it is not what I am most desirous of proving; that indeed, would be merely a salve

for present be suffered loathsome of the vitals of "One ever the dischar

The Judge question of Assembly to contempt, give his judgment that the cause those essential legal, and a prisoner.

On the first Assembly and the Speaker, proceed Dr. KIELLEY from custody who had liberty the mandate against the Serjeant repaired to they found two of the they laid forcibly pulled WALSH, the bly, seizing him in the manner from the tom, and the Speaker ed to the of that officer ers were amidst a m to the resid in whose cu was the save fellow WAL the Judge's attempt to thrown head Dr. KIEL find shelter and succeed new indigni

Yesterday, a Governor, attended Legislative Co Assembly with

Mr. President men of

Mr. Speaker House

"I having a sistant Judge d rested by orderd sequence of a al capacity; a been arrested f superior, the s sion, I feel my Prorogation fo proceedings wh as to their lega character and d lated to subver which is highl ily should ren Law in the exc "Some incon sent measure, f for the avoidan a short recess, tion, may hav councils for th It was then a Prorogued until

WEDNES

To

"A LOVER of we give him see dogs runn Divine Service the present in of mentioning course will b the Owners a be prevented An Address of Mr. JOHN in the mean view with the "EXAMINER'S" ter in the la greatly modifi tion; there a comes the pa recourse to the son he ought cases; and th irritate but t tune of some ductions must expressions be pibroch, "an

In our p found the p in the case as our re brought up Corpus bel Chambers instant.

We are n manner in has handled

for present relief, while the cancer would be suffered still to continue its fatal, loathsome career of destruction towards the vitals of our liberties.

"One every ground I humbly move for the discharge of the prisoner."

The Judge, without entering upon the question of the authority of the House of Assembly to commit for the alleged contempt, upon which point he would give his judgment on an early day ruled that the commitment was deficient in those essentials necessary to constitute it legal, and therefore DISCHARGED the prisoner.

On the following day the House of Assembly met, pursuant to adjournment, and the Speaker, (Dr. CARSON,) on motion, proceeded to issue warrants against Dr. KIELLEY, who had been discharged from custody; against the HIGH SHERIFF, who had liberated him in obedience to the mandate of the Judge; and finally against the Judge himself! whereupon the Serjeant-at-arms, with several others, repaired to the Judges' Chambers, where they found Judge LILLY, engaged with two of the barristers of the Court, when they laid violent hands upon the Judge, forcibly pulled him from the room, and WALSH, the door keeper of the Assembly, seizing him by the collar, dragged him in the most brutal and savage manner from the top of the stairs to the bottom, and thence through the lobby into the Speaker's room!! They then proceeded to the office of the Sheriff, and placed that officer under arrest, and both prisoners were paraded through the streets, amidst a mob of people, and taken out to the residence of the Serjeant-at-arms, in whose custody they remained. Such was the savage violence with which the fellow WALSH conducted himself, that the Judge's hand was much hurt in the attempt to save himself from being thrown headlong over the stairs.

Dr. KIELLEY was fortunate enough to find shelter in the House of a friend, and succeeded, therefore, in escaping the new indignity intended for him.

Yesterday, at two o'clock, his Excellency the Governor, attended by his suite, proceeded to the Legislative Council Chamber, and prorogued the Assembly with the following Speech:—

Mr. President, and Honorable Gentlemen of the Council,

Mr. Speaker, and Gentlemen of the House of Assembly,

"It having been represented to me that an Assistant Judge of the Supreme Court has been arrested by order of the House of Assembly, in consequence of a decision made by him in his judicial capacity; and that the Sheriff has also been arrested for having obeyed a mandate of his superior, the said Judge, founded upon that decision, I feel myself compelled to have recourse to a Prorogation for the purpose of putting a stop to proceedings which, independently of any question as to their legality, seem wholly unsuited to the character and condition of the Colony, and calculated to subvert that respect which is due, and which is highly expedient that all classes of society should render, to the administrators of the Law in the exercise of their functions.

"Some inconvenience must result from the present measure, but to this it behoves us to submit for the avoidance of greater evil; and I trust that a short recess, by affording opportunity for reflection, may have the effect of producing calmer councils for the future."

It was then announced that the Legislature was prorogued until Monday next, the 20th inst.

THE STAR

WEDNESDAY, AUGUST 22, 1838.

To Correspondents

"A LOVER OF DECENCY" must not be offended if we give him a word of advice: We dislike to see dogs running about a place of worship during Divine Service, as much as any body; but in the present instance we do not see the necessity of mentioning it in the Newspaper: the better course will be just to hint the circumstance to the Owners and we dare say the annoyance will be prevented in future.

An Address "to the Real and Pretended Friends of Mr. JOHN KENT," shall appear in our next; in the mean time however, we request an interview with the author.

"EXAMINER'S" REMARKS on Doctor Carson's Letter in the last "Newfoundlander," must be greatly modified before we can give them insertion: there are times, it is true, in which it becomes the painful duty of the Critic to have recourse to the cauteries, but like a skilful surgeon he ought to apply them only in extreme cases; and then, not with a view to fret and irritate but to effect a cure. It is the misfortune of some people to suppose that their productions must be totally ineffective unless their expressions be poured forth, like the Highland pibroch, "savage and shrill."

In our present number will be found the pleadings of Mr. ROBINSON in the case of Dr. KIELLEY who as our readers are aware was brought up by a writ of Habeas Corpus before Judge LILLY in Chambers on Friday the 10th instant.

We are much pleased with the manner in which Mr. ROBINSON has handled his subject; the argu-

ments, from beginning to end, are conducted temperately and methodically; there is no low invective, nor calling of ugly names, nothing of the littleness of the special pleading: the whole is just what it should be, generous and gentlemanly, displaying throughout much talent and no inconsiderable research. The Judge took a similar view, and adduced many authorities in support of his opinion, —this will appear in our next.

But what shall we say to the immediate consequences of Dr. Kielley's release? What say we to that rash and unprecedented act of the Assembly—the arrest of the Judge—the arrest of the Judge upon the Bench! What shall we say to the Speaker of that House who caused the Queen's Judge and the High Sheriff to be dragged like malefactors through the public streets, and, after suffering various indignities, finally to be imprisoned! What can we say to such audacious proceedings more than we have already said.—THE DAYS OF CROMWELL ARE RETURNED!!

And these are your guardians of "Civil Liberty;" these are the gentlemen who abhor oppression, who all along have been declaiming against our arbitrary Fishing Admirals, our despotic Governors, our tyrannical Judges, our absolute Surrogates, our grinding and exaction Merchants and snarling Officials; these are they who for years past have been stunning us with an incessant clatter about *Bashaws and Sultans and Sastraps!!* What a mighty and miraculous change! Oh! Ovid, what are all your metamorphoses to this!

"His arms turn thigs—his cloths are shaggy hair His features, now a wolf, some likeness bear, So haug his hoary hairs with gristly grace, And such the meagre horror of his face, His eye-balls glaring with their wonted flame His form all terrible, and still the same."

See Ovid's Metam. Book 1st. —all this however, is a mere nothing compared with the more than supernatural change which to all appearance has been effected in our Colonial Legislators within the past week!

Now what, under such circumstances, becomes the bounden duty of every real lover of his country? What is the line of conduct which he ought to pursue? Adverse as we are to political strife, advocates as we fervently pray we ever shall be for the peace and concord of society, we nevertheless feel ourselves called upon to recommend a FIRM AND STEADY RESISTANCE—that lawful and constitutional resistance which a man feels himself compelled to make when his person and property are unwarrantably assailed. Let us not be misunderstood; on a point of such extreme importance it is well to be plain and explicit: we deprecate all violence whether in word or deed; nay, we pronounce that man, whoever he may be, an enemy to Newfoundland who would openly or covertly recommend it; but we maintain the necessity for a FIRM AND STEADY RESISTANCE; for the exertion of an antagonist power, acting in accordance with the laws of the land—the broad principles of Justice, and with that sound and healthy constitution which admits of no wrong without a remedy. In such a course as this, the supporters of real Freedom and legitimate authority have nothing to fear; their cause must eventually triumph.

The river may be checked by a dam but it will rise and rise, till it bursts the puny barrier; and then, after a momentary commotion, it will return to its wonted level, continuing to flow on in its accustomed style majestically and moderately.

We have received no intelligence by the Packet as what has occurred in the House—we have not been able to ascertain whether His Excellency has again "cut the painter" or whether the celebrated "Stone of Sisyphus" has had the effect of keeping "all things in their places."

We are at length enabled to state for the information of our numerous readers that Judge Boulton's case has been decided; but in what manner, it is impossible (unless we had the faculty of reconciling absolute contradictions) for us to say. The Ledger tells us that Mr. Boulton is acquitted, and the Patriot that he is condemned: now one or the other of our metropolitan contemporaries must be in the wrong—and we fear voluntarily in the wrong; at all events a gross insult has been offered to subscribers on one side or the other. If Mr. B. is condemned in part and acquitted in part, or condemned or acquitted in toto, why not say so? Why twist and distort the truth for base party purposes? In Whig or Tory such conduct is unpardonable and we are sorry to say that too much of this kind of work is practised in both.

The following is an extract from His Excellency the Governor's Proclamation in the Royal Gazette of the 14th inst. :—

And that our Circuit Court for the Northern District of our said Island shall be opened and holden at TWILLINGATE, on Monday the seventeenth of SEPTEMBER inst and there continue until Saturday the twenty-second day of the same month, both days inclusive:

And that our said Northern Circuit Court shall further be holden at the times and places undermentioned, respectively—

Viz.
At FOGO on Tuesday the twenty fifth day of SEPTEMBER, and until Saturday the twenty-ninth day of the same month:

At GREENSPOND, on Wednesday the third day of OCTOBER, and until Tuesday the ninth day of the same month:
At BONAVIDA on Friday the twelfth day of OCTOBER, and until Friday the nineteenth day of the same month:
At TRINITY on Tuesday the twenty-third day of OCTOBER, and until Saturday the twenty-seventh day of the same month:

And, At HARBOUR GRACE on Wednesday the thirty first day of OCTOBER, and until Saturday the eighth day of DECEMBER following.

Died
On Saturday last, Mary, wife of Mr. Wm. Parsons of this town, after some years of painful illness aged 64. Mrs. Parsons has for a long time past been connected with the Wesleyan Body, of which she formed a consistent and exemplary member; her loss will be severely felt by her family and deeply lamented by a numerous circle of friends. Her funeral takes place to-day at 1 o'clock.

SHIP NEWS

Port of St. John's.
ENTERED.
Aug. 9.—Packet, Graham, Antigonish, cattle butter.
Eadenvour, M'Donald, Arichat, cattle.
Christiana, Harris, Liverpool, coal.
10.—Spanish brig Norma, Baca, Havannah, sugar, coffee.
11.—Southampton, Maxwell, Quebec, flour.
Sovereign, Wood, P. E. Island, cattle.
Spanish brig Fama, De Larrinaga, Havannah, coffee.
13.—Charlotte, Goldsworthy, Bay Verte, shingles.
Jane, Doane, P. E. Island, shingles, and sundries.
Eliza Bunting, Burke, Cape Breton, coal.
Emma, Lamed, Cardiff, coal.
Harriet Elizabeth, Butler, Boston, tobacco, potatoes.

Notices

CONCEPTION BAY PACKETS
St John's and Harbor Grace Packet

THE EXPRESS Packet being now completed, having undergone such alterations and improvements in her accommodations, and otherwise, as the safety, comfort and convenience of Passengers can possibly require or experience suggest, a careful and experienced Master having also been engaged, will forthwith resume her usual Trips across the BAY, leaving Harbour Grace on MONDAY, WEDNESDAY, and FRIDAY Mornings at 9 o'clock, and Portugal Cove on the following days.

FARES.
Ordinary Passengers 7s. 6d.
Servants & Children 5s.
Single Letters 6d.
Double Do. 1s.
and Packages in proportion
All Letters and Packages will be carefully attended to; but no accounts can be kept or Postages or Passages, nor will the Proprietors be responsible for any Specie or other monies sent by this conveyance.
ANDREW DRYSDALE,
Agent, HARBOUR GRACE
PERCHARD & BOAG,
Agents, St. JOHN'S
Harbour Grace, May 4, 1835

Nora Creina

Packet-Boat between Carbonear and Portugal-Cove.

JAMES DOYLE, in returning his best thanks to the Public for the patronage and support he has uniformly received, begs to solicit a continuance of the same favours.

The NORA CREINA will, until further notice, start from Carbonear on the mornings of MONDAY, WEDNESDAY and FRIDAY, positively at 9 o'clock; and the Packet Man will leave St. John's on the Mornings of TUESDAY, THURSDAY, and SATURDAY, at 9 o'clock in order that the Boat may sail from the cove at 12 o'clock on each of those days.

TERMS.

Ladies & Gentlemen 7s. 6d.
Other Persons, from 5s. to 3s. 6d.
Single Letters
Double do.
And PACKAGES in proportion
N.B.—JAMES DOYLE will hold himself accountable for all LETTERS and PACKAGES given him.
Carbonear, June, 1836.

THE ST. PATRICK

EDMOND PHELAN, begs most respectfully to acquaint the Public, that he has purchased a new and commodious Boat which at a considerable expence, he has fitted out, to ply between CARONEAR and PORTUGAL COVE, as a PACKET-BOAT; having two cabins, (part of the after cabin adapted for Ladies, with two sleeping berths separated from the rest). The fore-cabin is conveniently fitted up for Gentlemen with sleeping-berths, which will he trusts give every satisfaction. He now begs to solicit the patronage of this respectable community; and he assures them it will be his utmost endeavour to give them every gratification possible.

The St. PATRICK will leave CARBONEAR, for the COVE, Tuesdays, Thursdays, and Saturdays, at 9 o'clock in the Morning, and the COVE at 12 o'clock, on Mondays, Wednesdays, and Fridays, the Packet-Man leaving St. John's at 8 o'clock on those Mornings.

TERMS.

After abin Passengers 7s. 6d.
Fore ditto, ditto, 5s.
Letters, Single 6d
Double, Do. 1s.
Parcels in proportion to their size or weight.
The owner will not be accountable for any Specie.
N.B.—Letters for St. John's, &c., &c. received at his House in Carbonear, and in St. John's for Carbonear, &c. at Mr. Patrick, Kieley's (Newfoundland Tavern) and at Mr. John Cruet's.
Carbonear,
June 4, 1836.

TO BE LET

On Building Lease, for a Term of Years.

A PIECE of GROUND, situated on the North side of the Street, bounded on East by the House of the late captain STABB, and on the east by the Subscriber's.

MARY TAYLOR,
Widow.

Carbonear, Feb. 9, 1838.

Blanks

Of Various kinds for SALE at the Office of this Paper.

We copy the following remarks upon the proceedings of the House of Assembly towards Dr. KIELLEY from the ROYAL GAZETTE of the 14th inst.:-

On Friday morning, the Prisoner (Dr. KIELLEY) was brought up in Chambers, and upon a very lengthy argument by Mr. Robinson, his counsel, was discharged from jail by order of Judge Lilly, upon the ground that the committal was on general ground, illegal, and the warrant, especially, deficient in the necessary requisites.

On Saturday the House of Assembly formed itself into a Committee of Privileges, and, on motion of Mr. Kent, it was resolved, that the Serjeant-at-Arms be directed to take into his custody George Lilly, Esq., Acting Assistant Judge of the Supreme Court, and Benjamin G. Garrett Esq., High Sheriff of the Island, for a breach of the privilege of that House, in having released from jail Edward Kielly Esq., confined there under a warrant from the Speaker of the Assembly that he (the Serjeant-at-arms) do arrest, and again lodge in jail, the said Edward Kielly, Esq.—and that for the better carrying into effect the said resolution, several persons (who were named) holding offices in and about the House of Assembly, should be appointed assistants to the Serjeant-at-arms,—with power to call on any other person to aid and assist them in the arrest of the before-mentioned individuals.

The Serjeant-at-Arms, and his posse, accordingly proceeded on their mission, and forthwith arrested the Assistant Judge and Sheriff. The former was in Chambers at the time, engaged in his judicial capacity; and we are ashamed to state, he was literally dragged, with the most brutal violence, from the very sanctuary of Justice, and together with the High Sheriff, marched through the Town to the residence of the Serjeant-at-Arms, accompanied by hundreds of the rabble.—Dr. Kielley was "not at home," when called on by the officers of the Assembly.

On Sale

BY
THORNE, HOOPER & CO.
Just Received per EMILY, Turner,
100 Barrels Flour
185 Bags Bread
10 Hbds. Building Lime
7000 Brick
And
150 Hogsheads Best House
Coals.
Harbor Grace,
August 15, 1838.

TOBACCO.

15 Barrels } Prime LEAF
2 Hogsheads }
For Labrador Fish payment.
BY
WM. DIXON & Co.
Harbor Grace,
August 1, 1838.

Notices

WE, the undersigned, being appointed by PETER GUIGNETTE, Watchmaker, of Harbor Grace, as his lawful Attorneys, to collect and dispose of his Goods and Effects for his own benefit

NOTICE

ALL Persons having WATCHES in possession of the said PETER GUIGNETTE, are hereby Notified, and required to make application for the same to the Subscribers, on or before the last day of this Month, otherwise the same will be SOLD by PUBLIC AUCTION. All Persons indebted to the said PETER GUIGNETTE, are required to pay into our hands, the amount of their Accounts due, otherwise Legal proceedings will be taken against them.

JAMES SHARP,
J. E. CHURCHWELL.
Harbor Grace,
July 19, 1838.

On Sale

G. P. Jillard

HAS RECENTLY RECEIVED FROM ENGLAND, And just opened a handsome assortment of

PATENT LEVER and other WATCHES With a great variety of Watch Chains and Ribbons
Gilt, Silver, and Steel Guard Chains
Seals and Keys
Women's Silver Thimbles
Silver Pencil Cases
German Silver Table and Tea Spoons
Gold Wedding Rings
Lady's Ear Rings and Finger Rings
Very Superior Single and Double Bladed Pen Knives
With a variety of other Articles, which he will Sell very Low for Cash.

Harbour Grace,
July 4, 1838.

FOR SALE

By Private Bargain,

An excellent Dwelling House and a quantity of Land attached thereto, situate on the South side of Carbonear, and lately occupied by William Thistle, Junr,

AND,

A large piece of cleared Land, at the Water-side of Musquitto, late the Property of Mr. Dennis Thomey deceased, being one half that extensive Plantation formerly belonging to his Father, the late Mr. Roger Thomey.

For further particulars apply to Thomas Ridley & Co. or to ALFRED MAYNE, Their Attorney.

Harbor Grace,
June 6,

BY

MICHAEL HOWLEY

Sealers' Scalping Knives
Men's Great and Pea Coats
Hour, Half-hour and Log Glasses
Blanketings, Serges
Flannels, Yarn Stockings
Gun Locks and Gun Lock Vices
American Coasting Pilots
Nails, from 1 1/2 to 5 inches
Scupper Nails, Pump and Tin Tax
Men's Boots and Shoes
Waist Belts
Canvas Frocks & Trowsers
Iron Pots & Kettles
Hatchets, Shovels
Saws, Claw Hammers, Lanthorns

ALSO, ON HAND,

Rum, Brandy, White Wine
Molasses, Sugar
Green and Black Teas
Coffee, Pepper
Pork, Tobacco, Dip Candles
Leather, &c. &c.
Carbonear,

TO LET

For a Term of Twenty-six Years, or the Interest SOLD,

OF those Extensive WATER-SIDE PREMISES, at Harbor Grace, lately in the occupancy of the Subscriber, admeasuring on the South side of the Street about One Hundred and Sixty-seven Feet front, on which there is erected a WHARF, and STORE 30 by 28 Feet, and the use of a VAT if required, that will contain about 7000 Seals. The situation is in a Central part of the Town, and well adapted for a Coal and Lumber Yard. ALSO, about Forty-three Feet front to LET on BUILDING LEASES, on the North side of the Street, East of Mr. POWELL'S House.

As HARBOR GRACE has now all the advantages of St. JOHN'S, being a FREE PORT, this PROPERTY may be worth the attention of a Capitalist.

For further particulars apply to Mr ANDREW DRYSDALE, Harbor Grace or at St. John's, to

PETER ROGERSON.

St. John's,
Oct. 5, 1837.

Notices

ALL Persons having any Claim on the Estate of ROBERT DOBIE, of Kirkaldy, (North Britain), but late of Brigus, Surgeon, Deceased, are requested to present the same to the subscriber; and all Persons indebted to the said Estate, are required to make immediate payment to

JULIA DOBIE,
Brigus. Administratrix.

Michael McLean Little

THANKFUL for the encouragement and support he has received from his Friends and the Public, in his line of business, has to assure them he will endeavour to merit a continuance of their favours. He has now on hand a fresh supply of

Garden Seeds, Shoop Goods,
Groceries, &c. &c.

With a neat Assortment of
LONDON TOYS

Which are now open for the inspection of his Friends, Orders for which will be thankfully received and punctually attended to.

St. John's,
April 24, 1838.

NEWFOUNDLAND

Northern District, }
Brigus, to wit. }

COURT OF SESSIONS,
JANUARY 9TH, 1838.

THE Justices in Sessions, have this day, under the Colonial Act 4, Wm. 4th, cap. 9. Sess. 2, intitled "An Act to regulate the Standard of Weights and Measures in this Colony, and to provide for the Surveying of Lumber," appointed Mr. SAMUEL WILLIAM COZENS, of BRIGUS, to be an Assayer of Weights and Measures for the aforesaid Northern District.

ROBERT JOHN PINSENT, J. P.

Chairman of the Court.

I hereby give Public Notice pursuant to the Act abovementioned, that my Office containing the Standard Weights and Measures is situated at my Store in BRIGUS aforesaid, where I shall be in daily attendance.

SAMUEL W. COZENS.

Assayer of Weights and Measures.
Brigus,
January 9, 1838.

PORTUGAL COVE ROAD.

Stage Coaches, 'Victoria,' 'Velocity,' and 'Catch.'

THE Proprietors of these Coaches having made arrangements conducive to the greater comfort and convenience of Passengers by having Luggage-Carts &c. &c. to accompany them, beg leave to inform the Public that they have now commenced running. Starting from the Commercial Hotel for the Cove every Morning at 9 o'clock, and for St. John's immediately after the arrival of the Packets.

TERMS

Passengers 5s.
Luggage over 20lb weight cannot be carried without a reasonable charge.

N.B.—All Letters, Parcels, Luggage, &c. &c. intended for onception Bay to be left at the Commercial Hotel, where Passengers will please apply to secure the Coaches.

St. John's,
May 13, 1838.

Indentures

FOR SALE at this Office.
Harbour Grace.

Dr Arnott's Stove

DRIVER and METFORD beg to inform the Nobility and Gentry, that they Manufacture the celebrated Dr. Arnott's Stove. This invention combines the greatest economy, safety and cleanliness, with the most effective operation of any mode of heating yet discovered, and is adapted to places of Public Worship, public establishments, halls, vestibules &c. May be seen in operation at their Stove Grate Manufactory and Iron Works.

Southampton, March 9, 1838.
[Dr. Arnott's Stove.—We see by advertisement that this useful and economical Stove is now manufactured to any

size, by Driver & Metford, of this town. The article has been so highly approved of by all who have seen or used it, that it is quite unnecessary for us to say a syllable in its favor.—Hampshire Telegraph, March 12, 1838.]

[From the contiguity of Southampton to Poole, orders from hence may readily be executed for this celebrated Stove.—Ed. STAR.]

In the Northern Circuit Court, (L.S.) Harbor Grace, April Term, 1st Victoria.

In the matter of Robert Slade, senr., Mark Seager, Robert Major, and Rolles Biddle, of Carbonear, in the Northern District, Merchants Insolvents.

WHEREAS it hath been made to appear to this Honorable Court, (at the return of a Writ against them by EDWARD PIKE) that Robert Slade, senr., Mark Seager, Robert Major, and Rolles Biddle, of Carbonear, Merchants, and Co-partners, are unable to pay to all their Creditors Twenty Shillings in the Pound, this Court doth this day declare them Insolvent. It also appearing that a considerable part in value of the said Creditors are resident in England, and have no legal representatives in this Country;—and it likewise appearing, that it is necessary to appoint Provisional Trustees, until a meeting of the Creditors can conveniently be held for the purpose of nominating Trustees to the Estate of the said Insolvents. It is this day ordered by this Honorable Court, that Robert Slade, senr., Mark Seager, Robert Major, and Rolles Biddle, and all Persons their Creditors, whose Debts amount respectively, to the sum of Twenty Pounds and upwards, do either in Person, or by their Lawful Agent, assemble at the Court House, at Harbor Grace, on the First day of next Term, at Eleven o'Clock in the forenoon, in order to choose two or more Creditors to be Trustees to the Estate of the said Insolvents:—And in the interim this Honorable Court appoints ROBERT PACK, Esq., JOHN WILLS MARTIN, Esq., and WILLIAM HARRISON, Esq., Merchants, residing at Carbonear, Provisional Trustees, of the Insolvent Estate of the said Robert Slade, senr., Mark Seager, Robert Major, and Rolles Biddle; and the said Robert Pack, John Wills Martin, and William Harrison, are hereby authorised to Discover, Collect, and Receive the Estate and Effects of the said Insolvents, subject to such Orders and directions, as this Honorable Court shall from time to time make herein.

By the Court,

JOHN STARK,

Chief Clerk and Registrar.

Harbor Grace,
30th April, 1838.

THE Co-partnership Trade hitherto carried on by us under the firm of BENNETT, MORGAN & Co. is this day Dissolved by mutual consent.

All Persons having claims on said Trade are requested to present the same for payment, and all Persons indebted thereto are requested to make payment to C. F. BENNETT, who alone is authorized to receive the assets of said Co-partnership Trade.

C. F. BENNETT,
GEORGE MORGAN.

Witness,
GEORGE BEADY BECK,
THOMAS BENNETT,

St. John's Newfoundland,
1st February, 1838.

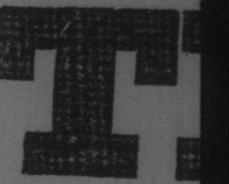
The Business for the future will be carried on by C. F. BENNETT.

THE Public are hereby notified, that my signature to the Advertisement contained in the Gazette of Tuesday last, announcing the Dissolution of Co-partnership of BENNETT, MORGAN & Co. was obtained from me under a misconception of the term of its duration, not having in my possession at the time the Deed of Co-partnership between us:—I now find by reference to a copy of the Deed of Co-partnership, which I have since obtained, that the Co-partnership does not terminate until the first day of January, 1841.

GEORGE MORGAN.

Feb. 10, 1838.

WANTED, a PERSON to act as an Assistant at the Harbor Grace Island Light House.—Application to be made at the Office of this Paper.
Harbor Grace.



Vol. IV.

HARBOUR GRACE

St. John

By the Hon. Edw

In Cham

Having upon a counsel at great research into this time between *Albana Corpus* opinion upon severment of the party duty in such case, liberty—intending, possible to give at which I had arrived pronounced. Having opportunity to upon the subject, information which very able arguments I shall now enter mention of the grounds of the community at more nearly interested and understand that I rashly or unadvisedly to my own mind who will take them.

This was an application discharged, under a writ of this town, to which virtue of a warrant of the House of Assembly of the House of Assembly alleged breach of the The questions, therefore to my mind are,—First of the House of Assembly the power of punishing their privileges by imprisonment if it cannot be clearly power, whether the law a legal and valid do the prisoner?

As to the first question stand that the House themselves the prison Commons, and obtain of punishment for a fact upon this plea of of punishing the prison This, therefore, leads examine briefly into the privileges and powers more especially those before enquiring for those privileges and House of Assembly.

Every one who has of our mother country the two Houses of Parliament what then and still is called the Court of the remotest dignity, and of the authority within the and usages, which Sir old writers style the were from the earliest to be part of the law respect a part of the time of the separation of was an early as the 4 enjoyed and the function each branch of the Legislature of Lord Ellenborough, time of their separation each.

If not whole, the great laws, customs, and usages Common Law. They have been expressly altered by Legislature for that purpose in the "rolls of Parliament and records," and "customs of Parliament," that the Law of Parliament uniform code, but has been amended from time to powers and privileges of Legislature have, at various resisted, and debated, and upon their being clear part of the ancient and custom of Parliament. mons have never claimed, hardy enough on their behalf by their own resolution, which before was no privileges arbitrary and uncertain, but when doubt by "examining the records enquiring "what was of similar instances in former same manner as the Commons first convicted of nature of a breach of privilege mentions that up to the Commons had never process privileges upon their own a

* Lord Coke, 4 Inst. 50.