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Aha tentanda via est.

VIRGIL.

Now then, let other ways be tried.

In relation to the remarks made, a few numbers ago, as to the appointment of Mr. Ogilvy as high constable for the district of Montréal, I copy the following observations from the Canadian Spectator, in answer to the query proposed in the Gazette.

"We take the liberty of observing, in answer, that it would appear the justices are authorised to appoint a high constable, nor is it necessary to cite any ordinance for their possessing that authority; it seems sufficient that there should be no ordinance to deprive them of it. We believe that the criminal law of England, in all its parts, was, as it stood at that period, established in this province, subject to be altered by the provincial legislature. It is stated by good authority, to be the common law of England; that the high constable may be chosen by justices at session; and in fact, they have been so chosen. We refer, with much deference, to the following authorities.

- Comyns' Digest: No. Leet, m. 5, *Constable*. - "The high constable shall be regularly chosen by the Justices of the peace at sessions." "So the sessions may remove, if necessary," and cites authorities.

Burns' Justice, Vol. I. *Constable*; art. 3, *how chosen and sworn*. After stating the ancient practice, "But now the usual manner is, that the high constables of hundreds be chosen either at the sessions, or by warrant from sessions; which course hath been often allowed and commended by the Justices of assize." Dalton. c. 28.

Unless therefore it can be shewn that some statute-law has expressly changed the common law in this particular, we humbly submit that the Justices of Montreal have authority to appoint a high constable."

It does not appear to me that the authorities here given are decisive on the subject. The passage in Comyns' is indeed positive, but Burns only says it is *usual*, and that such a mode has often been *allowed and commended* by the Justices of assize. Generally however in the shires in England, I believe, high constables are appointed at the quarter-sessions, but not so in cities; the high constable of Westminster is an officer, holding his ap-