

to form a judgment of it. But though it should be just, and, in consequence of it, the use of *lettres de cachet* should not be legal yet I cannot help thinking that, if they were used, the subjects against whom they were employed would be without any legal remedy against them; for, if a motion was made on the behalf of a person imprisoned by one of them in the Court of King's Bench in the province, for a writ of *habeas corpus*, or any other relief against such imprisonment, the Judges would probably think themselves bound to declare that, as this was a question concerning personal liberty, which is a civil right, and in all matters of property and civil rights they are directed, by this Act of Parliament, to have resort to the laws of Canada, and not to the laws of England, they could not award the writ of *habeas corpus*, or any other remedy prescribed by the English law, but could only use such methods for the relief of the prisoner as were used by the French courts of justice in the province during the time of the French government, for the relief of a person imprisoned by the Intendant or Governor, by a *lettre de cachet* signed by the King of France. And such relief would, I imagine, be found to be none at all. Therefore, if it is intended that the King's subjects in Canada should have the benefit of the *Habeas Corpus* Act, I apprehend it would be most adviseable, in order to remove all doubts and difficulties upon the subject, to insert a short clause for that purpose in this Act.

Lord North. I desire to know of Mr. Maseres, whether he does not think it would be criminal in a Governor to make use of any such *lettres de cachet*, and in a Minister of State to advise the King to sign them; and whether they would not

be punishable here in England for doing so?

Mr. Maseres. If the *lettres de cachet* should not be in themselves illegal, I do not see how the Governor could be punished in the courts of law for making use of them, nor the ministers of State for advising the King to sign them. The use of legal powers is in general no crime. Indeed if legal powers are employed to bad purposes, there is one method of proceeding against the persons concerned in such abuse of them, and but one, and that is by impeachment by this House before the House of Lords. But this is an operose way of proceeding, and out of the common course of things. So that if the issuing *lettres de cachet* should not be absolutely illegal when this Bill shall be passed into an Act (and I am still inclined to think they will not be so,) the poor objects of them may linger a long time in prison, indeed one may say indefinitely, without any legal method of redress; therefore a short clause to establish the *Habeas Corpus* Act in the province seems to be highly expedient.

Lord North. I would ask the witness one question more before I sit down. Does he think it probable that, if this Bill should pass into a law, such *lettres de cachet* would be made use of?

Mr. Maseres. I do not think it probable that they would be used.

(to be continued)

#### PUBLIC PAPERS.

*Message of the President of the United States of America to the Senate and House of Representatives of the United States.*

When we assemble together, fellow-citizens, to consider the state of our beloved country, our just attentions are first drawn to those pleasing circumstances which mark the goodness of that being from whose favor they flow, and the huge measure of thankfulness we owe for his bounty. Another year has come around, and