

also been told, that blank *lettres de cachet*, ready signed by the King, are sometimes given to Governors and Intendants of provinces, to be used by them as occasion shall require.

Mr. Dunning. I desire then to know, whether if *lettres de cachet*, signed by the King, were to be delivered to the Governor of Canada, after this Bill shall be passed into a law, these *lettres de cachet* might not, in Mr. Maseres' opinion, be lawfully made use of by the Governor, to imprison the King's subjects in that Province?

Mr. Maseres. [After some pause.] I think they might.

Mr. Solicitor General. I desire to know of Mr. Maseres, upon what principle of the French law he supposes the authority of issuing *lettres de cachet* to be founded?

Mr. Maseres. I do not know. It seems probable, that it was at first an usurped authority. But it is now constantly practised, and acquiesced in throughout the French dominions, and is therefore now understood to be the legal prerogative of the Crown of France, whatever might be its origin.

Mr. Solicitor. Mr. Maseres does not rightly apprehend my question. I will explain myself. I want to know in what capacity the French King is supposed, by writers upon French laws and government, to act, when he issues a *lettre de cachet*?

Mr. Maseres. I do not yet thoroughly comprehend the question.

Mr. Solicitor General. I mean to ask whether Mr. Maseres does not understand the King of France to act in his legislative capacity, when he issues one of those letters?

Mr. Maseres. I have never yet considered the relation between a *lettre de cachet* and the legislative authority. It may perhaps be on that authority that the right of issuing those letters is grounded, or said to be

grounded. I cannot say to the contrary. Yet there seems, at first sight, to be a considerable difference between a law and a *lettre de cachet*; since a law is generally understood to be a previous declaration of the will of the lawgiver, or lawgivers, whether one or many, upon a particular subject, with penalties annexed to the breach of it, when so previously declared; whereas a *lettre de cachet* is a sudden exercise of power without such a previous declaration of the will of the legislator.

Mr. Solicitor General. Though Mr. Maseres has not considered it in that light, yet it is certain, that the French King's power of issuing *lettres de cachet* is generally understood by the writers on the French laws and government to be a part of his legislative authority, by which he provides for the sudden emergencies that occur in government, as he does by the more formal kind of laws for the usual business of the state. And, consequently, as the King of Great-Britain has not in himself alone the legislative authority over this kingdom, and the other dominions of the Crown, but this authority belongs to the King and the two Houses of Parliament conjointly, this power of issuing *lettres de cachet*, in the province of Quebec, which had formerly belonged to the French King, by reason of his being the sole legislator of that country, cannot, by this revival of the laws of Canada, accrue to the King of Great-Britain, who is not the sole legislator of it, but only to the King and the two Houses of Parliament, who are so. I dare say Mr. Maseres must now see this matter in the same light that I do, and be convinced, that no *lettres de cachet* can legally be used in Canada, by virtue of this Act.

Mr. Maseres. This reasoning may perhaps be just. It is so new to me that I cannot undertake just at present