DEMOCRAT & BALANCE, *Extra.*

LOCKPORT, THURSDAY, FEBRUARY 4, 1841.

TO THE PUBLIC.

LOCKPORT, FEB. 1, 1841.

The undersigned, the counsel of Alexander McLeod, now a prisoner in this County on a charge of murder,—in view of the very exaggerated and erroneous statements concerning the objects of the attempt to procure his discharge upon bail,—and actuated by a belief that these statements tend, though they may not be designed, to prejudice the cause of our client before the People from whom a jury, in case he is indicted, must be obtained, feel called upon to submit to the Public an unvarnished history of the transaction.

Mr. McLeod was committed to the jail of this county about the 13th of November last. But the *mittimus* being void on its face, we procured the allowance of a *habeas corpus* with a view to his discharge. At the hearing before Judge Bowen, the District Attorney conceded the nullity of the process, but suggested, nevertheless, that the Judge had jurisdiction to hear proofs anew, and to recommit if probable cause should be shown. To this Mr. McLeod did not object, but desired such an examination as would satisfy all of his innocence and save him from a harassing repetition of arrests—he having several weeks before been arrested for the same charge, committed to jail and finally discharged on *habeas corpus*. In accordance with this desire, it was suggested that he give bail to appear at the next court competent to try him, and, if indicted, to have the matter passed upon by a jury of the country. To this Mr. McLeod readily assented, and the Judge, of his own motion, fixed the bail at five thousand dollars; an amount which the undersigned then believed, and now believe, amply sufficient to ensure his appearance at trial.

The prisoner then returned into custody, there to remain until his friends in Canada should give an indemnity to some persons residing here, to become his bail. Not being able to effect this however, as soon as he expected, he determined to be again brought before the Judge, and there underwent another examination. That officer, however, for reasons, doubtless satisfactory to himself, saw fit to remand him, unless he gave the bail before required.

He was accordingly remanded. Being closely imprisoned, he did not succeed in providing indomnity to his bail, until the 27 ult., when two gentleman, residing in or near Chippewa U. C., gave William Buel and P. C. H. Brotherson of this county, their bond to save them harmless, and the latter entered into the necessary recognizances, and an order was made by Judge Bowen, discharging Mr. McLeod from imprisonment.

This order was not obtained until nearly nightfall, and owing to a rumor, that there were persons about this county, prepared to commit upon Mr. McLeod personal violence, in case he should be discharged on bail, and owing to an appearance of agitation among some persons here, it was deemed prudent that he should remain in the jail, until the next morning, and then make his appearance in the day-time, publicly among our citizens.

Soon after, there were appearances of a state of high excitement. Bodies of men were seen moving towards the Court House. Drums beat, bugles sounded. About nine o'clock, a body of men, armed with muskets and bayonets, took possession of the hall communicating with the jail. At midnight or later, a cannon, a twelve pounder, having been procured, and placed directly opposite McLeod's cell, was repeatedly discharged, demolishing at every peal, a portion of the glass in the Court House windows.

While these proceedings were going on below, a meeting of several hundred men was organized in the Court Room above. About 12 o'clock at midnight, committees were appointed to wait upon the Judge, who had granted the order, and upon the gentlemen who had become McLeod's bail, and to request their immediate appearance. The Judge we understand, deemed it most prudent for him to get out of his bed, and obey the summons. The bail did not appear.—One of them being told that it had been stated by some of those among the crowd, that if he did not come, they would bring him at the point of the bayonet, and believing that this indicated a state of feeling, which might endanger his personal safety, he declined going that night, but sent word to the assembly, that if they would adjourn until the next morning, he would appear before them.

The assembly finally, at about half past one o'clock adjourned until nine in the morning, leaving however a body of armed men, in and about the jail, the remainder of the night. In the morning accordingly, was presented the novel spectacle of an armed guard, marching with measured tread in front of the Court House door, and this too, in a time of peace and a government of law, and with no other assignable motive, than to deprive an individual of rights, which that law, through its own proper officer had conferred.

In the meantime, an express had been dispatched to Buffalo, to advise a Mr. Wells, that McLeod was about to be discharged, and to procure a writ, whereon he might be again arrested in an action for the damages, arising from his alledged agency in the destruction of the Caroline. At the re-opening of the meeting in the morning, the messenger having now returned, announced that he had accomplished the purpose of his mission. Whereupon, he exhibited to the assembly, a *Capias*, at the suit of Wells, with a Judge's order to hold McLeod to bail, in the sum of seven thousand dollars. This process, after being examined by several individuals, and pronounced to be in due form, was put into the hands of one of the Sheriff's Deputies, and soon afterwards served.

After the Captain of the watch had formally reported the occurrences subsequent to the adjournment, a great variety of motions and propositions were made and discussed. Among them was one, whether, the suit commenced by the *Capias* might not be settled by the plaintiff and defendant? An affirmative answer being given, it was followed by a motion, that "the bail surrender McLeod immediately." But it being suggested, and given the assembly to understand, that one of the bail had exhibited satisfactory evidences of his willingness to do so, that motion was withdrawn. Whereupon, another, "that the meeting do not adjourn, until a surrender have been completed," was adopted, without a dissenting voice. Various legal questions, involving the power of the Judge to re-commit, of the bail to surrender, the effect of an unexecuted order for a prisoner's discharge, and the requisite formalities to make a surrender effectual, were mooted, and after the Judge and District Attorney (who had been brought up again by a fresh committee) as well as other individuals had been heard, were satisfactorily to the meeting, disposed of.

One of the bail has a large amount of property and materials, provided for the construction of the Canal Locks at this place, and particularly exposed to serious injury with hardly a possibility of detection. During these agitations he was repeatedly warned that his property would be injured or destroyed, unless he surrendered Mr. McLeod into custody. Feeling the force which the unparalleled state of things gave to these admonitions, he at length concluded to follow the *advice* of the meeting. At about half past one o'clock in the afternoon by a singular coincidence the same Judge who had been the cause of this great commotion by letting Mr. McLeod to bail, announced that a surrender in due form of law had been made. Whereupon the Assembly formaly resolved that its object was accomplished, and then adjourned.

In submitting the foregoing detail of facts, our purpose is not to cast censure upon any one. For whatever may be our own opinions of these transactions, this is not the time or place to express them. Our sole object is to protect the interest of our client. We are advised that an effort is already in progress to pursuade the public that the object of bailing Mr. McLeod was to avoid a trial. Knowing that no such design existed for a moment, we feel called upon to repel the charge at once, that the conviction of its truth may not settle upon the public, and operate to his prejudice on trial.

For ourselves we not only believe, but have no doubt, of Mr. McLeod's entire innocence of the charge. And it is painful to us to witness the effort now making to procure universal condemnation of him by the public press, and through that by the whole body of the People without having heard one particle of the evidence on either side. Not content with fanning, to his prejudice, the excitement already existing on the subject of the Caroline, a portion of the press has recently been gleaning on the other side of the River for materials (whether true or false is alike unimportant,) for further attacks upon this defenceless individual, and that too, upon subjects having no connection whatever with the matter which he is charged. Attacks, the only possible effects of which must be to render it more difficult than it has already become, to find among those who are to be his triers, that strict impartiality which the law guaranties to every one, no matter how slight may be the offence for which he may be arraigned.

In these circumstances, it seems to us, that it is not only our right, but our duty, to appeal not to the sympathies, but to the sense of justice of our fellow citizens, and ask them, until they shall have heard his cause, to suspend their judgment as to the guilt or innocence of this man, a foreigner, in prison, and beset so recently by a power which places itself above the law, and arraigns before it those very officers by whom that law has declared its own decree shall be pronounced. In making this appeal to American citizens,—whose pride it is to administer to all evenhanded justice, we are confident we shall not appeal in vain.

H. GARDNER,
A. C. BRADLEY.