THE QUEBEC TRANSCRIPT,

AND GENERAL ADVERTISER.

VOL. II.—No. 65.] MONDAY, 22ND JULY, 1839. [PRICE ONE PENNY.

THE WITNESS BOX.

BY T. S. FAY.

The nominal purpose of a Court of Justice is to seek the TRUTH; but I question whether the truth is ever in other places more attacked, scouted at, browbeaten, ridiculed, and put out of countenance. It is the truth which every one of his turn finds it his interest to conceal. The truth that every one is afraid of. Even the party most unequivocally in the right, is anxious to exclude the truth from the other side, lest it may seem to contradict his own; while all the lawyers and even the judge, seem on the watch to stop the witness's mouth every two minutes as they have been to make him come there to open it. To me, one of the most ridiculous things in the world is a witness in the box, trying (poor fellow) to give in his testimony. He is, we will suppose, not in the slightest degree interested in either of the parties, and, doubtless, wishes them both tied together by the neck, and at the bottom of the Thames. He comes into court not voluntarily, but dragged, it he resists, by two or three scowling ministers of the law, who, from the mere fact of his being presumed to know something about the pending suit, think themselves entitled to treat him as if he had been caught up for robbing a hen-roost. He is forced from his business or his amusements for the purpose of speaking the truth, and instantly resolves to tell the whole story as soon as possible, and get rid of the business. He thinks he knows the worst. He thinks the loss of time, and the awkwardness of speaking for the first time of his life in public, are the extent of his sufferings. Unsuspecting victim! He no sooner enters the box than he finds himself almost the centre of a circle of enemies, and occupies a position not greatly unlike that of a deer in an Indian war dance. He tries to tell his story.

"Witness—I was going down Maiden lane—

Mr. Sergeant Bowwow—Stop, Sir.

Mr. Councellor Botherall—Don't interrupt the witness.

Mr. Councellor Badger—The witness is ours.

Mr. Councellor Bluster (fiercely and indignantly) We want the fact.

Judge—Let the witness tell his story.

Witness—I was going down Maiden lane, when I live.

Mr. Bowwow—We don't want to know where you live, Sir.

Mr. Botherall—That is a part of his testimony.

Judge—You can take the witness into your hands when we have done with him; at present he is ours.

Mr. Bluster (sarcastically)—Very well, Sir.

Judge—Gentlemen I beg you will sit down.

Voice of the Aldermen—Officer keep order

Officer (in a tone of thunder, and with a more than oriental despotism upon the mob, who were not making any noise that I were aware of)—Silence! Witness was going down Maiden lane, where he has I said before, when— Bowwow—Don't come here, Sir, to repeat what you have before. Botherall—I beg— Badger (kicking to his feet)—I demand Bluster—I appeal to you to protect me from the impertinence of this witness. All the lawyers and Judge together—The witness Officer (looking at the audience again, with a voice of thunder)—Silence! Judge—Gentlemen, it seems to me that the best way to get at the truth is to let the witness go on, and I call him to order if he wanders from the point—Witness! Witness—My Lord I will tell the plain fact of this assault—tell them what you know about it. Remember you are here to speak the truth, the whole truth, and nothing but the truth. Raise your head and turn your face to the jury. What do you know of this affair?

The witness commences, and the lawyers continue to skirmish around him all the time like a parcel of wild Arabs fighting for the scalps of some unhappy prisoner. So far from having a chance to say the truth, the witness cannot get a chance to say anything. He, bewildered out of his recollection—he, insulted, and indignant—however desirous of telling the truth, he stumbles into inconsistency—some trifling or not trifling paradox—accounted for at once, and to every one's entire satisfaction, by the idea that he has forgotten. But then comes the cross examination; then the scientific artillery of a cool, able lawyer, sharpened by thirty years of similar practices, is brought to bear upon one trembling, and already nervous stranger—perhaps ignorant, perhaps a boy. Then comes the laugh of judge and jury, the murmur of astonishment from the crowd, that a person could be found base and degraded enough to say that "the defendant wore a little rimmed hat," when he acknowledged subsequently, off his guard, that the hat had "a tolerably large rim." Then the poor fellow, sore all over, and not quite sure that he will not be sent to prison and hard labour, for perjury, before the week has rolled, although he is the only person in the court who does not in a greater or less degree merit that punishment, is dismissed to a bench a few yards off, where he is obliged to hear the lawyers, in their address to the jury, tear his character to pieces with fine turns of rhetoric, and yet finer gesticulations.

"What, gentlemen of the jury," says Mr. Sergeant Bowwow, in a tone of the deepest contempt, "what does the next witness, this Mr. John Raw, say? Gentlemen, he comes forward under the most peculiar circumstances. A dark mystery shrouds his motives, which I shall not endeavour altogether to dissolve; but he comes forward, and he takes his place in that witness box with the open, undisguised, the unaffected, the determined resolution, to fix upon my client, the injured Mr. Savage, this foul and unnatural assault and battery. You saw him, gentlemen, when I cross examined him, tremble under my eye—you saw him hesitate and turn pale at my voice." (Sergeant Bowwow, very probably, has a voice that would intimidate a bear.) You heard him stammer and take back his words, and say he did 'not recollect.' Is this, gentlemen of the Jury, an honest witness? The language of truth is plain and simple; it requires no previous calculation. If I ask you if you saw the sun set, you answer yes or no; you do not hesitate, you do not tremble. You do not say, 'yes I did,' and in the very next breath, 'no, I did not.' You do not at first tell me, 'I walked ten miles yesterday,' and afterwards say, 'yesterday I was all day ill in bed.' [Here one of the jurors puts his nose by that of another, and utters something in approbation of this argument, and the other one nods his head, and looks at the speaker, as much as to say, 'there is no trying to elude the sagacity of this keen-sighted lawyer. The witness had much better have told the truth.']

'Now, gentlemen, what does this witness say? He commenced by telling you, gentlemen, that he lived in Maiden Lane, that he was going home on the day when this ridiculous and unnatural assault is said to have taken place; that he saw a crowd; that he approached; that he saw Mr. Savage, my client, the defendant in this action, come up to the plaintiff, Mr. Wiggins, and give him, Wiggins, the said plaintiff, a blow with a bludgeon. But gentlemen, when I came to sift this plausible story, you heard him equivocate, and contradict himself. 'What sort of a hat had Mr. Savage?' 'A black one.' Of what breadth was the rim?' 'About an inch.' He thought doubtless, he was to have everything his own way, till I brought into the witness box to confront him the hatter who made and sold the hat, and who proves to you that the rim was broad. You cannot morally doubt that the hat worn on that day by Savage was a broad rimmed hat; all the witnesses for the defendant swear it, and even Mr. John Raw himself, when closely questioned, acknowledged that it might have been a broad rimmed hat. Next, gentlemen, the pantaloons. 'What colour were Mr. Savage's pantaloons?' 'Black,' said this Mr. John Raw. Gentlemen, I have produced these pantaloons in court. They have been identified beyond the possibility of doubt. What was the result? You saw yourselves gentlemen, the pantaloons were pepper and salt.'

A cry of admiration throughout the court. The officer cries order.

The poor witness unfortunately occupies a conspicuous seat, and all eyes are fixed upon him with the most virtuous indignation.

Furthermore, I asked this witness to describe the bludgeon. He could not. 'Had it ivory or gold upon the handle?' He could not tell. 'Was there a ferule upon the end?' Did not know. 'Was it heavy?' 'Yes.' 'Had he ever handled it?' 'No.' 'Had he ever seen him before?' 'No.' Since?' 'No.' Could he tell whether he had an aquiline nose or not?' 'No.' 'Was he not a friend of Mr. Wiggins?' 'Yes.' Had he not expressed an opinion upon this case?' 'Yes; he had said the scoundrel ought to be ashamed of himself.' 'Was Mr. Wiggin's hat knocked off?' 'No.' But, before he left the witness box, he said he saw the blood on the top of the plaintiff's head. How could he see the top of his head unless the hat had been knocked off?'

Another Buzz. The witness here rose, and said, Mr. Wiggins took it off to show me.' Officer—silence there! Judge—Witness, you must not interrupt the counsel. You have had the opportunity of saying whatever you pleased. If you are again guilty of so great an indecorum, I shall be obliged to commit you. Witness stands stupid. Officer—Sit down! (in a tone of indignant command.) Witness sits down. Officer scowls at him as if he would snap his head off.

I shall not follow the learned gentleman further. I only appeal to every witness that has ever been brought to a court of justice, whether he has not found it often the most difficult place in the world to tell the truth in, and whether, when the truth was at length told, there ever were so many attempts made to mystify it! Whether so much of what every one present knew in his heart to be truth, could any where else be so deliberately rejected, and whether, when this poor, mutilated, belabboured, unhappy truth, so much demanded, was at length produced, it did not have such an aspect so disguised, that its own mother might not have known it!

MODERN REFINEMENT.

The following amusing and sensible letter has been addressed to the editor of a clever and apparently well got-up publication, entitled "The Literary World," the first number of which is now before us.

OAKGLADE, March 5.

It is with great alarm and sorrow that I received the other day a prospectus of your new periodical. I have written off to you directly, and trust my endeavor to turn you from such an undertaking will be successful.

We do not want any more literature—we are getting learned, sir—headlong, dangerously learned, and what is worse than all is, that my greatest favorites, they whom I had marked out for their wit, and cherished for their superiority of talent, have been the very first to adopt the *new lights*, and the most eager to undermine my theories, and annihilate my opinions. There is Miss Rose Myrtle, sister to a charming woman you have heard about, and the prettiest girl, too, in our village. She has turned botanist, forsooth, and if I present her with a "Forget me not," a flower which I consider of all others the most proper to be presented to a lady, she begins to examine the pistil and stamens; and when I tell her in a neat impromptu, that it is an emblem of love, and consecrated to the tenderest emotions of the heart, she produces a little kickshaw book, bound in green silk, with gilt edges, and after some searching she declares it as a *Hexandria Monogynia*; and immediately enters into a long dispute about the nectarium and the corolla, the receptaculum and the pericarpium.

Her cousin Mary is a confirmed mineralogist, and puzzles you by calling the most common things by the most uncommon names. If you admire her diamond ring, or her pearl necklace, she assures you that the one is nothing but a bit of crystallized charcoal, and the other neither more nor less than the wen of a certain kind of oyster! These things are too bad, Mr. Editor: they are subversive of our most pleasurable feelings, and inimical to all poetical conception; they are generally useless, frequently injurious, always impertinent, and often disgusting.

In my younger days, sir, there was not a more gallant man than me in the universe; and the verses I wrote, and the civil speeches I made, were copied by the beaux for miles round. But now, alas! the age of civility is past; and though I see beautiful forms rising around me, and feel beautiful thoughts glowing within me, I am obliged to admire the one in silence, and suppress the other in sorrow; for I cannot call a Rose an Hexandria Monogynia, nor assure the lovely Mary that her beautiful eyes are lamps of levigated charcoal. There are the languages, too. Formerly, it was deemed sufficient if a lady could speak good English grammar, interlarded with a few "pardonnez mois," and "je vous remercies;" but now she must warble Italian and jabber German, or else she will be set down for an antediluvian. All our sweet ballads are quite forgotten in parties now, for every body tries to sing Italian;—and the best of the joke is, that there are not two of twenty of these vocalists who know what they are singing about. Nay, their very mother-tongue has not escaped the contagion, and I have known the pronunciation of a plain word change as frequently as the fashion of a lady's sleeve.

Then, there are albums, those rat-traps of the drawing-room, "full of wise saws and modern instances," (and, in the instances that have come before my notice, I never saw any thing wise yet,) which no gentleman dares even peep into without being in danger of paying a visit to his eminence Mount Parnassus. Oh! these light pink, and light green, and light and blue, and buff, and tea-coloured pages, and their embellishments; their blue butterflies and orientally-tinted birds; their eccentric shells, and more eccentric sea-weeds; their shilling Byron beauties, and their half-a-crown "Flowers of Loveliness." Give me the good old-fashioned scrap-book, with a portrait of Lady Howe stuck on the top of the page, and all the most popular jests of the last half century, cut out of some hundred comical comers lying around him; together with accounts of the murder of Mr. Steele, the accidents at the execution of Haggerty and Halloway, the jubilee and temple in the Park, and a thousand other diverting matters You might read and reflect for hours there; but to seek reason or reflection in the crow-quill poetry of a gilt album is as sheer madness as to attempt to boil water without making steam.

Talking of steam, what is it now that is not done by steam? We shoot, and cook, and weave, and travel by a little hot water; nay, I hear there is about to be a railroad formed to our antipodes, and when I asked a scientific neighbour how the difficulty was to be obviated of going into it feet fotemost, and of course coming out feet first, he said it was of no consequence, as we should travel so fast we should not know whether we were on our heads or feet. And then the railways—why it is dreadful to think of being whirled along upon them. How much better is the old-fashioned stage-coach and four horses, driving briskly along a good hard turnpike road, than flying like a rocket along two pieces of iron. Imagine being in the carriage next the tender, and the engine bursting, and your finding yourself going up aloft instead of down to Birmingham. Ah! Mr. Editor, all these dangers will be found out in time, and then people will see I am right. The pitch of learning at which every body is arriving is worse than—: but I won't go on. People call me a querolous old man; But I do not care. All the age is the same; and to save it from total ruin and destruction is the wish of —Your's very truly.

P. S.—I cannot get a goose-quil or a sheet of common fools-cap all over the village; so I write this epistle upon hydro-pneumatic paper, with anti-corrosive limpidum ink, and a holychronographic platino-zinc cold pen, which seems to be a difficult name for steel.