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THE
MEMORIAL

OF

THOMAS EARL OF SELKIRK.

TO

HIS GRACE CHARLES DUKE OF RICHMOND, KNIGHT OF THE MOST NOBLE ORDER OF THE GARTER, CAPTAIN GENERAL AND GOVERNOR IN CHIEF IN AND OVER THE PROVINCES OF LOWER CANADA, UPPER CANADA, NOVA-SCOTIA, NEW-BRUNSWICK AND THEIR SEVERAL DEPENDENCIES, VICE ADMIRAL OF THE SAME, GENERAL AND COMMANDER OF ALL HIS MAJESTY'S FORCES IN THE SAID PROVINCES OF LOWER CANADA AND UPPER CANADA, NOVASCO-
TIA AND NEW-BRUNSWICK AND THEIR SEVERAL DEPENDENCIES, AND IN THE ISLANDS OF NEW-FOUDLAND, PRINCE EDWARD, CAPE BRETON AND BERMUDA,
&c. &c. &c.

MONTREAL:

PRINTED BY NAHUM MOWER,

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RECORDED

THE
MEMORIAL
OF
THOMAS EARL OF SELKIRK.

To His Grace CHARLES DUKE of RICHMOND, Knight of the Most Noble Order of the Garter, Captain General and Governor in Chief in and over the Provinces of Lower Canada, Upper Canada, Novascotia, New-Brunswick and their several Dependencies, Vice Admiral of the same, General and Commander of all His Majesty's Forces in the said Provinces of Lower Canada and Upper Canada, Novascotia and New-Brunswick and their several Dependencies, and in the Islands of New-Foundland, Prince Edward, Cape Breton and Bermuda, &c. &c. &c.

The Memorial of Thomas Earl of Selkirk,

RESPECTFULLY SHEWETH,

THAT in the year 1811, your memorialist obtained from the Hudson's Bay Company for a valuable consideration a conveyance of a tract of land situated on Red River, being a part of the Territory granted to that Company by Royal Charter: your memorialist had previously consulted several of the most eminent Counsel in London, who concurred in opinion, that the title was unquestionably valid; and he has good reason to believe that a similar opinion has been expressed to His Majesty's Government by the Attorney and Solicitor General of England.

By the terms of the conveyance, your memorialist was bound to settle a specified number of families on the tract of land conveyed to him: and your memorialist as well as all persons holding lands under him were debarred from interfering in the fur trade. Notwithstanding this restriction, your memorialist was early apprized that any plan for settling the country in question, would be opposed with the most determined hostility by the North West Company of Montreal; and threats were held out by the principal partners of that association in London, that they would excite the native Indians to destroy the settlement. In order to obviate this danger, your memorialist instructed his agents to use their utmost endeavours to conciliate the good will of the native Indians, to make a purchase from them of the land requisite for the settlement, and also to abstain from all interference with the servants of the North West Company, except in so far as it should be unavoidable in self-defence. But as it was probable that the influence of the North West Company might be sufficient to mislead the native Indians, it

was thought necessary to provide the settlers with the most effectual means of defence, which the local situation of the country would admit.

In pursuance of the condition of his grant, your memorialist sent out a small party of men to commence a settlement. They reached the Red River in autumn of the year 1812, and were followed shortly after, by several families of emigrants. These people were under the direction of Miles Macdonell, Esq. who had been appointed Governor of the District under a provision of the Charter of the Hudson's Bay Company. From the circumstances under which the settlement had been undertaken, an intercourse of mutual accommodation naturally arose between the settlers and the traders of the Hudson's Bay Company; but the establishment was in every respect, completely distinct from the trade of that Company.

During the first two years after the arrival of the settlers, various clandestine machinations were carried on by the partners and clerks of the North West Company to excite the jealousy of the Indians, to debauch the servants employed on the establishment, to stir up discontent among the settlers, and to prevent them from obtaining supplies of provisions from the natural produce of the country. There can be no doubt that this was done by desire of the partnership, not only from the continued and systematic manner in which the intrigues were carried on, but also from direct evidence of these instructions given by some of the partners, and from a letter of one individual of the greatest influence among them then residing in London, pointing out to his associates in the interior of this Continent, the absolute necessity of preventing the colonization of Red River — The obstructions thus superadded to all the usual difficulties of an infant settlement, would have been sufficient to defeat the undertaking entirely, if the natural advantages of the country had not been very great. But in spite of every obstacle, the establishment was on the point of taking firm root.

Within a few months after the arrival of Mr. Miles Macdonell, the jealousy which had been instilled into the minds of the Indians, was entirely removed, and they became zealously attached to the settlement. In the second year after the arrival of the settlers, their crops (though sown under very unfavorable circumstances) were so abundant as to leave no probability of their being forced to abandon the country from want of provisions—another year of uninterrupted industry would have rendered them independent of any resources except the produce of their own farms. At the same time the favorable reports which they had sent home to their friends as to the fertility and salubrity of the country, the abundance of game, and the facility of cultivation, had operated to attract other settlers, and in the course of the ensuing year, there was reason to expect a considerable increase of numbers, so that the establishment would have become too strong to be attacked by open violence with any prospect of success.

It was in these circumstances that the partners of the North West Company at their annual meeting in the year 1814, determined to adopt more effectual measures for destroying the settlement, before it should be too late to make the attempt. For this purpose they sent instructions to collect from various quarters a set of men whom they judged fit instruments for acts of violence, viz: the sons of their Canadian, and other servants by Indian women, a great number of whom are reared about their trading posts. These men are bred up in the most entire dependence on the Company, and had been always employed in their service in the same manner as their Canadian servants from whom they were never distinguished till the period alluded to. It was then for the first time that they

were taught to consider themselves a separate tribe of men, and distinguished by a separate name, with the view of ascribing their violences to the native Indians. These half-breeds (or Bois Brulés as they were now to be called) have been described as a Nation of independent Indians: but they are in fact with very few exceptions in the regular employment and pay of the North West Company, mostly as canoemen, some as interpreters and guides, and a few of better education as clerks. The latter are the progeny of partners of the Company, at whose expence most of them have been brought up, and through whose influence they may look to be themselves partners. These are the chiefs of this "New Nation."

These men being accustomed to live at a distance from the restraints of civilized society, were ignorant of any law but that of the strongest: or, if they had any idea of the punishments denounced by law against robbers and murderers, the mode of life to which they were habituated, led them to feel confident of escaping from the hand of justice. But they were not allowed to entertain any apprehension on this head, as their superiors constantly inculcated on their minds, that the North West Company had sufficient influence with his Majesty's Government, to screen from punishment any persons who might commit crimes by their direction. They have even been led to believe, that the Company had authority for all that they did, and were actually identified with the Government.

A great number of these half-breeds were collected at Red River in the spring of the year 1815, and were led on from one act of violence to another, till they ended in hostile attacks, openly and regularly carried on against the colonists, and repeated until they succeeded in driving them away from the place, and effecting the destruction of the settlement. As a preparatory step to these measures, Mr. Duncan Cameron, the partner of the North West Company in charge of their affairs on Red River, took his station in the immediate vicinity of the settlement, and laboured assiduously through the whole of the winter, to seduce the settlers to desert their engagements and go to Canada, where they were assured that the North West Company would procure for them gratuitously, not only lands, but also provisions, tools, cattle and every other accommodation they could desire. He gained over some leading individuals by the promise of direct pecuniary rewards, and used every artifice to gain popularity with the others, and to excite discontent against the gentlemen in charge of the settlers. When bribery and flattery would not prevail, intimidation was resorted to. Stories were invented and circulated to terrify the ignorant strangers, with the idea that the Indians had expressed the most vehement hostility, and were determined to assemble in the spring to massacre all those who should not avail themselves of the opportunity of escaping in the canoes of the North West Company.

By the assiduous use of these means of corruption and intimidation, a majority of the settlers were gained over to enter into the views of the North West Company, and their ringleaders were then secretly instructed to avail themselves of a favourable opportunity, to carry off some swivels and other small pieces of artillery. By this robbery the settlement was deprived of the only means of defence by which superior numbers could have been repelled, and the North West Company, being then confident in the indisputable superiority of their force, commenced a train of undisguised violence, which continued without interruption for nearly three months, directed against all the settlers who did not chuse to

join their party, and which ended in driving them away from Red River, burning their houses, and laying waste their fields.

Among the pretexts for these violences, it has been alleged that they were justifiable on the principle of retaliation, because the Governor of the settlement had, in the preceding year, seized a quantity of provisions belonging to the North West Company. Though it can hardly require any argument to demonstrate the injustice of retaliating upon the innocent settlers, for any act of their Governor, yet, as the seizure in question has been much misrepresented, and great importance has been ascribed to the occurrence, it may be proper to explain the circumstances under which it took place.

In all the British Colonies, Governors have occasionally exercised the power of laying an embargo on the exportation of provisions, in cases of urgent necessity, in order to obviate the danger of famine. In the month of January 1814, Mr. Miles Macdonell deemed it necessary to adopt this measure, and to prohibit, for a period of twelve months, the exportation of provisions from the District over which he had been appointed Governor. He had reason to believe that, in addition to the settlers then under his charge, a considerable number of emigrants were to arrive from Europe in the course of the ensuing season, and he had ascertained that the people, then at the place, had not the means of raising a crop sufficiently abundant for the wants of all these additional inhabitants. It was therefore evident that it would be necessary still to have recourse to the natural resources of the country, and of these, the North West Company were endeavouring to deprive the settlers. For the purpose of distressing them and creating an artificial scarcity, the servants of the North West Company, being well supplied with fleet horses, were ordered to drive away the Buffaloe from the hunters of the settlers, who not being well mounted were in the habit of hunting these animals on foot, by cautiously approaching them unobserved. These orders were given soon after the canoes of the North West Company arrived from Fort William in autumn, and were acted upon through the whole course of the winter. The settlers had experienced these obstructions continually for several months before Mr. Macdonell resolved upon the embargo.

When he issued his Proclamation on the subject, in the month of January 1814, the North West Company avowed their determination to disregard it, and to carry out their provisions by force, treating the authority of the Governor with derision. The latter had no alternative but to enforce his orders, and to seize the provisions which their servants were employed in carrying out of his district. As soon however as the partners in the country had adopted a more becoming language, he evinced in the clearest manner that he had no view to distress them, or to injure their trade; for, upon the proposal of a conciliatory arrangement made by some of the partners, and on their agreeing to acquiesce in his authority, even under protest, he consented to do every thing necessary for their accommodation, and in fact restored, and allowed them to export out of the district, as much of the provisions which had been seized, as they considered necessary for their trade for twelve months, engaging at the same time to pay for the remainder. Whether Mr. Macdonell's conduct was right or wrong, he alone was responsible for it. The seizure was made under regular warrants issued in his official capacity as Governor of the district, and if he acted wrong, those who were injured had a legal remedy open to them, and might have obtained his removal by Petition to the King in Council. Instead of resorting to this plain

and obvious course of proceeding, the only legal and constitutional mode of bringing the question to issue, they availed themselves of their superiority of numbers, to which they attempted to give a shew of legal authority by the help of a warrant issued by one of their own partners, a Magistrate for the Indian Territories, for the arrest of Mr. Macdonell. The sole purpose of this arrest was to remove him from the establishment under his charge, and to leave the settlers a more easy prey to the violence which was meditated against them. This warrant, originally issued by Archibald Norman Macleod, did not even profess to be grounded on the seizure, or (as it has since been called) the robbery of provisions belonging to the North West Company, but was simply for having worn arms, and this too, in a country where it is not only the general custom to wear arms, but where the partners and clerks of the North West Company in particular, are never seen without them. Such was the warrant under which Mr. Macdonell was taken, and removed from the district over which he had been appointed Governor under the authority of a Royal Charter. He was brought down a prisoner to Montreal, after having been purposely detained at Fort William for several months, so as not to arrive till after the close of the criminal term of the Court of Kings Bench in September. Mr. Alexander McKenzie of the North West Company, who had brought him down from Red River, and kept him during the whole passage in rigorous confinement, then set him at liberty, and had the effrontery to pretend that he had never been a prisoner. As he was now removed from the place where they dreaded his influence, the North West Company would willingly have waived any further proceedings, but as Mr. Macdonell shewed a determination not to allow the business to drop in silence, they had recourse again to their Justice of Peace, and it was not till then that Mr. Macleod thought of making the seizure of the provisions the ground of a warrant for felony, which was issued and executed at Montreal. At the ensuing session of Oyer and Terminer, held in place of the criminal term of the Court of King's Bench in March 1816, Mr. Macdonell was present and demanded his trial, but the prosecutors were not ready to proceed. He was put under recognizance to appear at the subsequent term, though the total absence of any legal ground of accusation must have been evident to the law officers of the Crown. The North West Company themselves, in a pamphlet published by their agents in England, admitted that by the advice of eminent counsel, they had abandoned the prosecution. Nevertheless, they continued at Montreal to carry on vexatious proceedings against Mr. Macdonell, and it was not till the month of May last, that the law officers of the Crown declared their intention of finally dropping the prosecution.

While the North West Company were congratulating themselves on the idea of having finally destroyed the settlement of Red River, the people, who had been driven away, were joined in their place of refuge by some other settlers, with whose assistance they returned and re-occupied their farms. In this undertaking they put themselves under the guidance of Mr. Colin Robertson, a gentleman who had been employed by the Hudson's Bay Company for other objects, but who, in this case of unforeseen exigency, undertook the arduous charge of re-establishing the settlement. The circumstances did not admit of his waiting for instructions from your memorialist, who did not receive any information of the state of affairs, till many months afterwards. Mr. Robertson was joined in the beginning of winter, by a considerable number of families who had sailed from Scotland before any intelligence of these disturbances. At the

same time Mr. Robert Semple arrived in the country, having been recently appointed by the Hudson's Bay Company, Governor of their Territories, and invested with all the authority which their charter confers.

Notwithstanding the devastation which had been effected the preceding spring, Mr. Robertson found means of procuring subsistence for the people of whom he had taken charge, and of putting the settlement in a respectable state of defence. He was welcomed with the strongest demonstrations of joy by the Indian natives, and found no difficulty in conciliating the good will of the Canadians, of whom several reside in the country in a wandering manner, and, from not being in the regular service of any traders, are called free Canadians. Among these people were several half-breeds, who, not being in the immediate employment of the North West Company, did not express the slightest disinclination to the colonization of the country.

At the time of Mr. Robertson's arrival, there were but few of the servants of that Company in the neighbourhood, as their canoes had not yet returned from Fort William, and during this interval there was every appearance of peace and harmony. But on the arrival of Mr. Duncan Cameron and Mr. Alexander Macdonell, by whom the outrages of the preceding spring had been conducted, a great change was immediately observed, and it soon appeared that new preparations had been set on foot, to accomplish in a more effectual manner the extermination of the settlement.

The crimes, which had been committed by Duncan Cameron during the preceding season, had been of the most flagrant description. On evidence of these transactions, bills of indictment have been found against him in the Courts of Montreal for three capital felonies, besides other crimes and misdemeanours. These crimes were of sufficient notoriety, to justify any individual, who might think fit to incur the responsibility, in arresting and sending him in custody to this Province. The gentlemen in charge of the settlement were desirous to avoid carrying matters to extremity, but the arrogant and lawless conduct adopted by Alexander Macdonell immediately, upon his arrival at his wintering ground, on River Qu'appelle, and the open violence with which he treated the servants of the Hudson's Bay Company at a neighbouring post, where they were inferior in numbers, proved that some strong measure was necessary to preserve any semblance of peace in the country. Cameron was accordingly arrested in the month of October, but, on his engaging to put a stop to all hostile proceedings on the part of his associate at River Qu'appelle, and agreeing also to restore the arms of which the settlement had been robbed the preceding spring, he was set at liberty, without the smallest interruption to his trade, or interference with the property under his charge.

By this measure the hostile attempts of the North West Company against the settlement, were checked for a time. The arms of which Mr. Robertson recovered possession, were of great consequence in putting the settlement in a more respectable state of defence, but several of the most valuable pieces of artillery had been removed to other posts of the North West Company, some to River Qu'appelle, and others to River Winnipic. Notwithstanding the professions and promises of Cameron, his associates evaded or refused to deliver up these arms, and, during the whole course of the winter, they were diligently employed in preparing to strike a decisive blow against the settlement in the ensuing spring.

They took their measures not only to engage all the half-breeds at Red River, who were not previously engaged in their service, but also to collect at River Qu'appelle, as many as could be assembled from the more remote posts of the North West Company, even at the distance of seven or eight hundred miles. Though these preparations were carried on with all possible secrecy, and though Cameron and Macdonnell attempted to disguise their views under the most earnest professions of a peaceable disposition; yet in the month of March, their intentions became so evident, that Governor Semple and Mr. Robertson could no longer shut their eyes to the danger which menaced the settlement. It was therefore determined again to arrest Duncan Cameron, and to take effectual measures to bring him to trial for his crimes, for which purpose Mr. Robertson entered his fort on the 17th March, and effected his arrest. He found on his table an unfinished letter to one of his partners in an adjoining district, explaining his plans for the destruction of the settlement, and desiring his partner to send some of his Indians to assist him, assuring them that they "might make a very good booty if they went cunningly to work."

The information thus obtained, determined Mr. Robertson to adopt a further measure, in order to acquire a more complete knowledge of the plans in agitation against the settlement. A messenger was daily expected, conveying letters from the partners of the North West Company in the interior, to their associates, and particularly to the agents at Fort William. Mr. Robertson caused the messenger to be stopped, and in presence of one of the clerks of the North West Company, desired the bag to be opened, and the letters from Alexander Macdonnell at Qu'appelle to be produced, declaring that if these did not disclose any criminal purpose, none of the other letters should be touched; and the messenger should be allowed to proceed. These letters, however, contained distinct and unequivocal evidence, of the violent and sanguinary designs which were about to be carried into execution for the destruction of the settlement; and Mr. Robertson being thus led to examine the other letters, discovered that the partners of the North West Company in the more distant posts, were contributing their aid to these schemes of destruction. The whole dispatches were therefore detained, and it was determined by Governor Semple, to send them to England for the information of his Majesty's Government, and of the Parliament of Great Britain.

At this time the greatest part of the settlers, and particularly the women and children, were passing the winter at an outpost called Pambina, where they were under the charge of a gentleman (also of the name of Macdonnell,) who had arrived with Governor Semple, and had been appointed Sheriff of the District. He had observed that recently after the arrival of Alexander Fraser and Charles Hesse, two clerks of the North West Company, from River Qu'appelle, the half-breeds in the Neighbourhood had exhibited unusual marks of a hostile disposition; and distinct information had been obtained that Fraser and Hesse, together with Peter Pangman, had been using the most violent ~~means~~ *measures* to deter the free Canadians from hunting for the supply of the settlers. The intelligence obtained from the intercepted letters, having been communicated to him, Mr. Macdonnell thought it necessary to arrest Pangman, Fraser, and Hesse, ~~all~~ *two* of whom had been concerned in the outrages and crimes committed by the servants of the North West Company, the preceding spring.

Pangman being in charge of their trading post, was desired to name some of his men to take charge of their property. Mr. Macdonell declared that for the security of the people under his charge, he must put the arms and ammunition in safe custody, till the disturbances should be at an end; but that no other property should be touched, and that no obstruction should be given to the servants of the North West Company, in carrying on their trade. Pangman, however, refused to appoint any person to act in his place, and desired his men to abandon the post and provide for themselves. Mr. Macdonell seeing a quantity of valuable property thus left exposed to pillage, ordered it to be removed into a place of security in his own fort.

In like manner Duncan Cameron, after his arrest, was desired to name one of his clerks to conduct the trade, and to receive the debts due by the Indians to the North-West Company, and he was assured that none of their property should be removed, except that the arms and ammunition were to be placed in safe custody. But in consequence of the information which the intercepted letters had disclosed, Governor Semple deemed it necessary to station a few men as a guard to prevent any improper use being made of the fort. This interference Cameron pretended to consider as an insult to the North-West Company, and gave directions that his clerks and men should join Alexander Macdonell at Qu'appelle, abandoning the property under their charge. Governor Semple soon after ordered Cameron to be taken in custody to a post of the Hudson's Bay Company, where he might be more in security; and also ordered the property which had been abandoned at Pambina, and at the fort where Cameron had been arrested, to be conveyed to the same place, expressing his intention of delivering it to the North-West Company, whenever they should restore some property belonging to the Hudson's Bay Company, of which they had taken possession in Athabasca.

About the same time he liberated Pangman, Fraser, and Hesse, who had been arrested at Pambina, contenting himself with merely requiring from them as security for their good behaviour, an engagement not to take part in any measures of hostility against the settlement. The crimes of which they had previously been guilty, were much more than sufficient to justify their detention; and, in consenting to their liberation, Governor Semple acted with ill judged lenity. He expected that the forbearance and mercy with which he treated these men, would excite in them some feelings of gratitude, and shew to the half-breeds in general, the moderation with which he was disposed to act: But he knew not the men in whose favor his lenity was exercised, these individuals were among the most active in all the scenes of violence which succeeded. They went immediately to join Alexander Macdonell at Qu'appelle, and their influence among the other half-breeds, was of material service in enabling him to execute his sanguinary designs.

Upon this occasion Governor Semple wrote to Macdonell to explain, that the measures he had taken were dictated solely by the necessity of self defence, and that if Macdonell and his associates did not offer any further violence to the servants of the Hudson's Bay Company at Qu'appelle, or elsewhere, no obstruction should be given to the passage of the North-West Company's boats or canoes in going out of Red River; a declaration which was repeated on other occasions, both by Governor Semple and Mr. Robertson. But proposals of a conciliatory nature were offered to Macdonell in vain; his half-breeds were assembling from the most distant posts of the North-West Company, and he was assured of being able

to overwhelm the settlement by superior force. He did not trust to this alone. He knew that the settlers depended for the means of subsistence, during the ensuing summer, on the provisions which had been collected in his immediate vicinity at Qu'appelle, and that the Hudson's Bay Company also depended, in a great measure, on these for the supply of their servants. They had a great quantity of provisions in store at their post where there were very few men; and though Governor Semple sent up some additional men, to assist in conveying these provisions down the River, yet their numbers were altogether inadequate to oppose the army of half-breeds, which had been assembled at the post of the North-West Company. Macdonell, however, continued to the last, his hypocritical professions, and about the beginning of May, addressed to Mr. Robertson, a letter full of plausible expressions of friendly views. Three days after the date of this letter, his half-breeds attacked the servants of the Hudson's Bay Company by force of arms, took them prisoners, and seized the whole of the property under their charge, and in particular, the provisions on which the subsistence of the settlers depended.

After this blow, Macdonell no longer disguised his intentions to destroy the settlement. He invited the Indians to join his expedition, and declared that if the Settlers dared to resist, the ground should be drenched with their blood. He encouraged his men by the prospect of plunder, and even promised to give up the women of the settlement to gratify their brutal lusts. His whole force being assembled, he proceeded in military array from Qu'appelle towards the settlement. The half-breeds on horseback, passed through the plains along the rivers, escorting the boats which conveyed the provisions, and other property of which he had robbed the Hudson's Bay Company, as well as that which he had obtained by trade from the Indians. On the 1st June, he arrived at Brandon House, a post of the Hudson's Bay Company, where he sent a party of his men to force their way into the fort, to seize the property it contained, and carry it to a neighbouring post, occupied by one of his clerks. Of this plunder, some trifles were distributed among his men, but all the most valuable articles were deposited in the stores of the North-West Company. From thence Macdonell proceeded on his march to a place called Portage des Prairies, where he remained with most of the Canadians in his service; while he sent forward sixty or seventy half-breeds on horseback to the settlement, under the command of Cuthbert Grant, a clerk of the North-West Company who had acted a conspicuous part in all the violences of the preceding year, and who was now brought forward in the character of the "great Chief of the new Nation."

Before the taking and plundering of Brandon House, Governor Semple could hardly be induced to believe, that the North-West Company would venture to set the laws of their country so completely at defiance, as to make an open attack on the settlement; but after receiving that intelligence, he could no longer doubt that such an attack was determined on: and in order that his attention might not be distracted, and his force divided by the necessity of maintaining two separate posts, he resolved to demolish that which had lately been occupied by the North-West Company, and to employ the materials in rendering his own more tenable. This work was but partially effected when intelligence was brought by an Indian, that Grant and his party were on their way, and would attack him in the course of two days. A considerable body of native Indians of the Sauteux or Chippawa tribe, who were encamped in the neighbourhood, on hearing this intelligence came and offered to take up arms in defence of the settlement; but Governor

Semple declined their services, being unwilling under any circumstances to employ Savages against his countrymen.

The intelligence brought by the Indian proved to be correct, and at the time that he had predicted in the afternoon of the 19th June, a party of horsemen were observed marching directly towards the middle of the settlers' habitations, which began at the distance of a mile from the fort and extended two or three miles along the river. Most of the families had removed to the fort upon the alarm given by the Indian; but many of the men were averse to quit their agricultural labours, and still remained on their farms. The Governor having expressed his anxiety about these people, took his fowling piece and was preparing to go out. All the men in the fort, by a spontaneous movement, and without any orders, were taking their arms to follow him, when he desired them to remain, telling them that he was not going to fight, but merely to see what were the intentions of these horsemen, and that it would be sufficient that twenty men should follow him. Twenty five was the number that actually went out with him, including seven of the gentlemen who usually messed at his own table. They had not gone far, when they met some of the settlers flying in terror towards the fort, and learnt that the half-breeds had taken some of their friends prisoners. In their alarm they said that the half-breeds had carts and cannon, and at the suggestion of one of the settlers, the Governor sent to the fort for a field piece. Anxious however to come to a parley with the half-breeds, and to enable the rest of the settlers to escape, he continued to advance, still under the unfortunate mistake of supposing that these people might listen to reason.

Grant in the mean time perceiving this small party, collected his men, and dividing them into two bodies, galloped up with one division directly against Semple; while he ordered the other to make a circuit in the plain, so as to cut off his retreat to the fort. The two parties of horsemen closing in from opposite sides, surrounded him in the form of a semicircle, leaving no opening except towards the river. At this moment Grant sent a Canadian of the name of Boucher to summon the Governor to surrender, Boucher accosted him with the most insulting language and gestures, which even in that perilous situation, Semple could not brook. With an expression of indignation, he took hold of the bridle of Boucher's horse: the latter leaped down, and ran off towards his comrades, who immediately commenced firing, by which Semple himself and a great proportion of his party were wounded, and several killed on the spot. A few straggling shots only were returned, and as the half-breeds still continued to keep up a constant fire, Semple called out to his men to provide for their own safety: three only succeeded in making their escape, some others made the attempt, but were shot in their flight. The wounded men were lying on the field incapable of resistance, and calling out for mercy, when the half-breeds came up, and butchered them with the most horrid imprecations, stripping them of their bloody clothing, and in several instances, mangling the bodies in wanton cruelty. The half-breeds were not the only men engaged in this massacre: a Canadian of the name of François Deschamps was among the most active, and collected a large booty from the persons of those he had despatched. One gentleman only, of the name of Pritchard, who had formerly been in the service of the North West Company, was saved through the interference of a Canadian, who had great difficulty in protecting him. This was the scene which has been called "a battle," "an affray," "an unfortunate occurrence."

In the course of the same evening, Mr. Pritchard was sent by Grant, to summon the settlers at the fort to surrender. With no small difficulty he had obtained a promise that their lives should be spared, and that they should be allowed to leave the country, provided they would give up all the property belonging to your memorialist, or to the Hudson's Bay Company. The settlers saw that resistance would be unavailing, and on the day following the massacre, Grant, at the head of the murderers, took possession of the fort and the property it contained, in the name of the North West Company. It was not long before his masters arrived to sanction his proceedings, and appropriate the plunder to their own use.

The news of the victory obtained by Grant, with the slaughter of more than twenty of the "English," was speedily communicated to Macdonell, at Portage des Prairies, and was received by him, and the clerks under his command, with shouts of joy and exultation. Having thus "cleared the way," as he termed it, Macdonell proceeded with the remainder of his men, to receive possession of his conquest, and was soon after joined at the fort, lately occupied by the settlers, by an assemblage of partners and clerks of the North West Company, coming from various and distant quarters, with great numbers of armed men. At their head, was Mr. Archibald Norman Macleod, who is not only a partner, but one of the agents, or (as their own publications have lately announced, as the more proper appellation,) directors of the North West Company of Montreal; and being deputed by Mr. William McGillivray, and the other heads of the "concern," had set off at the first opening of the navigation, and travelled with the utmost possible expedition, with the view of ~~completing~~ the work of destruction, before any intelligence could reach the settlers, of the arrival of your memorialist in Canada, or of his intention to visit Red River.

In the course of the preceding winter, one Lagimonière had been sent by Mr. Robertson with letters to your memorialist, informing him of the re-establishment of the settlement. He had set out in the month of October, and brought intelligence of the arrest of Duncan Cameron, and of the conditions on which he had been liberated. This intelligence transpired at Montreal, and was received with expressions of indignation by the agents, or directors of the North West Company, who, as usual, again resolved to punish this violation of what they were pleased to call the "honor of their concern." The sum of the information brought by Lagimonière, amounted simply to this, that Cameron had been arrested on account of the crimes he had committed the preceding spring; (those crimes, on account of which, three bills of indictment have since been found against him by the Grand Jury of Montreal,) but that he had been liberated on a promise of good behaviour, after having given up the stolen property in his possession. It is evident that this proceeding could not affect the interests of any fair traders, or the honor of any set of men, except Cameron's associates in crime. But, in pursuance of their accustomed policy, it was necessary to adopt prompt measures, to put down every attempt at resistance.

On the arrival of Macleod, at Fort William, he sent orders to intercept Lagimonière, who was on his return to Red River, with letters from your memorialist for the gentlemen who had undertaken the charge of the settlement, and by the persons hired to execute these orders, Lagimonière was robbed of his personal property, as well as of his dispatches. The letters were conveyed to Fort William, where they were opened and perused by the agents and partners, and

accomplishing

afterwards found by your memorialist the place where they were deposited, having been pointed out by Mr. Daniel Mackenzie one of the partners.

At the same time that Macleod issued his orders for the robbery of Lagimodière, he transmitted instructions to the persons in charge of the North West Company's trading posts, in the district of Fond du Lac, to raise as many Indians as they could prevail on, to meet him at the rendezvous at Red River, promising that their services should be amply rewarded. These were the same Indians of whom Duncan Cameron was writing at the time he was arrested, and to whom he was assuring abundance of plunder, provided they went "cunningly to work." In the same spirit, Macleod assembled the Indians of Lake La Pluie, and promised them ample rewards to induce them to accompany him to war, against the enemies of the North West Company on Red River.

At a fort of the North West Company, near the mouth of Winipic River, Macleod armed his party with some of the artillery, of which the settlement had been robbed the preceding year, and proceeding onwards to Red River, he was joined at the appointed rendezvous, near the mouth of that River, by eight or ten of his partners, who assembled from their trading posts, in various distant quarters, each of them bringing his quota of men. Macleod and his associates remained some days at their place of rendezvous, to arrange their preparations for storming the fort of the settlement: but the success of Macdonell's measures, spared them this danger. They were met in Red River by the settlers, who, after the massacre of the 19th of June, had experienced the usual humanity of the North West Company, in being compelled to abandon their farms, and to withdraw towards Hudson's Bay, and had been allowed, out of their own stores, a sufficiency of provisions for five or six days only. On their approach, Macleod's party took to their arms and set up the war-whoop. They found, however, that their enemy consisted chiefly of women, children, and helpless old men, unarmed, and totally destitute of the means of defence. In the most brutal language, Macleod ordered them to go on shore, where their baggage was again rifled. The principal object was to recover the intercepted letters: these could not be found; but every paper that could be discovered, was seized, and even the account books of the settlement, were detained, for the avowed purpose of creating inconvenience to those who had the management of its affairs.

Macleod, under pretext of his commission as a Magistrate for the Indian Territories, aggravated his tyrannical proceedings, by a mockery of the forms of justice, and confined as prisoners, several of the settlers, against whom no offence could be alleged. Mr. Pritchard was served with a subpoena to appear as a witness at Montreal, in virtue of which, he was put under rigorous confinement as a prisoner. Mr. Bourke, who had been severely wounded, was put in irons and treated with insult as well as cruelty: his irons were put on so as to prevent him from dressing his wound, and no assistance was given to him. The prisoners were left in the custody of some of the half-breeds, who had massacred their friends, and from whom, they themselves had narrowly escaped with their lives; and, under a guard of this description, they were sent off towards Fort William. The remainder of the settlers were allowed to proceed towards Hudson's Bay, with only a small remnant of provisions, not sufficient for their subsistence during one fourth of their route to the nearest post, where they could expect to obtain any supplies. Before dismissing them, Macleod required that they should take an oath, never to return to Red River; but this the gentleman in charge,

indignantly refused. After this, Macleod proceeded to the fort of the settlement, where he was received triumphantly by the half-breeds under Grant, to whom in the name of the North West Company, and in presence of a numerous assemblage of his co-partners, he returned thanks for the important services which they had rendered, and promised them suitable rewards: part of these were immediately distributed, but, as he had not sufficient supplies at the time, he assured them that the rest should be sent by the canoes of the company in the autumn. After this, Macleod and his associates proceeded to view, what they called, "the field of battle," accompanied by the men who had achieved the massacre, each of whom described the deeds of blood which he had individually committed, and was rewarded by expressions of approbation. The blood-thirsty Deschamps was presented to Macleod by Macdonell, and extolled as a fine, vigorous, old man. The Indians of the neighbourhood, whose attachment to the settlers remained steady and unaltered in every reverse of fortune, had buried the unfortunate victims on the spot where they had fallen; but this had been imperfectly done, and the corpses being torn up by the dogs, lay mangled and half-devoured on the field, where they afforded matter of exultation and laughter to the partners of an association, who, at a distance from the scene of their crimes, have obtained the reputation of respectable merchants.

The property of your memorialist was appropriated to the use of the North West Company, by Macleod and his partners; several articles of value, which were not adapted to their purposes, they carefully destroyed, particularly a schooner, which had been built for the navigation of Lake Winipic. Some sheep, of the finest breed of Merinos, which had been brought from England at a great expence, were killed, and served up at their table: most of the breeding cattle shared the same fate. Many valuable tools, and implements of agriculture, were broken up, and employed as old iron. Several articles were distributed as gratuities to their followers: but all which could be of value as trading goods, or as stores for the service of their trading posts, were reserved for the use of the North West Company, and entered among the inventories of their property.

Having thus secured the plunder of the settlement, Macleod and his associates, returned to Fort William, leaving Grant and the half-breeds to keep guard during the summer at Red River, with instructions to fire upon the settlers or traders of the Hudson's Bay Company, if any of them should presume to return. They also stationed a strong party at the mouth of Winipic River, composed in general of half-breeds. This party was under the command of Charles De Reinhart, too well known for the murder of Keveny, who was instructed to prepare the pieces of artillery which they had brought from the settlement, and to point them so as to sink any canoe or boat which should attempt to pass. Your memorialist being expected to arrive in person, a party of half-breeds were instructed to lie in ambush near the River Winipic, to fire upon his canoes when they should be embarrassed in the rapids, and to aim particularly at the guides and steersmen, so as to set the canoes adrift, by which means, the whole of the crews and passengers must have perished.

Having taken these precautions, to prevent the work of destruction from being again repaired, Macleod returned to Fort William, along with the other partners of the North West Company, who had joined him at Red River. At Fort William, they met with Mr. William M'Gillivray, and other agents of the Company, from Montreal. In order to obviate the discontent, which the Indians on Red River

were likely to feel, at the expulsion of the settlers, an uncommonly large assortment of goods was prepared for that department. This contained, not only the gratuities which Macleod had promised to the half-breeds, in addition to those which he had distributed, but also, an unusually liberal allowance of various articles for each of the men who had assisted in the massacre of the 19th of June. The supplies for the trade were more than double of the amount usually sent to Red River, by the North West Company, and far beyond the value of any returns that could be expected.

Having thus provided for the department which they considered as the key to their dominion, the North West Company turned their attention to that of which the monopoly was most valuable. In the preceding year, the Hudson's Bay Company had resumed the plan of forming establishments in Athabasca, which they had attempted on many former occasions, but had always been prevented by the lawless violence of the North West Company. The means which had been used to obstruct them on this last occasion, were such as to make humanity shudder. A brigade of canoes proceeding up Peace River, had fallen short of provisions: they had expected to procure a supply from the Indians, but all the natives had been carefully removed to a distance by the North West Company. When threats had not proved sufficient, actual violence had been employed to drive them away from the route of the canoes. Disappointed in this expectation, the servants of the Hudson's Bay Company had attempted to procure food for themselves, by hunting the buffaloe in the adjacent plains; but they had been watched by a party of men, always on the alert, to drive off the animals, and prevent them from approaching within gun-shot. By these means a party of eighteen men had been reduced to perish by famine; and a much larger number had been obliged to surrender all the property in their charge, as the only condition, upon which they could obtain a supply of food.

Notwithstanding this misfortune, the servants of the Hudson's Bay Company had succeeded in some other parts of Athabasca, and apprehensions were entertained of their gaining a firm footing. Macleod was therefore dispatched to expel them in an effectual manner. On his arrival he declared that the conduct of his associates, the preceding year, had been too lenient and timid, and gave orders, that none of the native Indians should be permitted, in any part of the district, to approach the posts of the Hudson's Bay Company. Under the pretext of his authority, as a magistrate, he compelled their servants to submit to the most cruel tyranny. On different occasions, he took prisoners nearly a hundred men, detained them in custody for months without intermission, often exposed to distress for want of provisions; and at length, as the price of their liberty, required them to sign an engagement and to take an oath, not to return into that country, except in the service of the North West Company. When they refused to comply with this demand, he kept them three days without food, till hunger compelled them to submit.

Mr. Clarke, who had the principal charge of the Hudson's Bay Company's establishment in Athabasca, was repeatedly arrested, and compelled to deliver up the property of his employers, as the price of his liberation; and after he had been despoiled of all he had in charge, he was kept in rigorous confinement for a period of eight months. This was done under the pretext of a warrant from Macleod, but no attempt has ever been made to substantiate any charge of criminal conduct against him. At the time that Macleod was about to leave the

country, Mr. Clarke demanded that he should be taken to Canada, and brought before the proper tribunal; but, instead of this, he was sent away with one of his clerks in the opposite direction towards the remotest establishments of the North West Company, so as to be out of sight of any other British subjects. He was forced to embark in a canoe, among the crew of which were two half-breeds, of whom, one was known to entertain a personal animosity against him. He had good reason to believe that a plan had been arranged for murdering him and his fellow prisoner, and this would probably have been effected if they had not shewn an extraordinary degree of vigilance, as well as determination.

The conduct of Macleod was imitated by his partners in the other parts of Athabasca, where undisguised acts of robbery and arson were committed, all under pretext of retaliation, a pretext for which the North West Company are never at a loss, when a crime is to be committed. It is an established maxim among them, that they have a right to take redress at their own hands for any act of which they think fit to complain, and this principle is not only acted upon by the subordinate partners, but systematically prescribed as their rule of conduct, by the head of the "concern," a member of the Legislative Council of this Province. It certainly cannot require much comment, to shew the consequences which are to be expected, when a body, so powerful as the North West Company, are allowed to determine at their own pleasure, the proper measure of compensation for any injury which they may suppose, or alledge to have been committed against them, and to give the name of retaliation to any crime, which they may find it for their interest to perpetrate: to devastation, to robbery, to arson, and to murder.

The outrages which have been detailed, are so extraordinary, that some hesitation may naturally be felt, in supposing them possible. It may seem incredible, that such a tissue of atrocities, should be the work of men professing the christian religion, and enjoying the respectable character of British merchants. The Indian trade, as it has been hitherto carried on from Canada, though certainly contemptible as a national object, is the whole fortune of those who are engaged in it, and among those who profit the most by the present system, are several individuals of the highest station in this Province. But the impressions which have been diffused, as to the extent and importance of the trade of the North West Company, and their services to the British Government, are extremely mistaken. It is only by a constant use of the arts of deception, and much arrogance of pretension, that they preserve an external appearance, calculated to impose upon strangers. If, however, the North West Company were all they wish to be thought, no one would put them in comparison with the East-India Company of Amsterdam, under whose auspices, and for whose benefit, the massacre of Amboyna was perpetrated. The motives for the massacre of Red River were precisely the same; to maintain by means of violence and intimidation, a monopoly which is not secured by law, yet a monopoly by which the native Indians are held in worse than Turkish slavery, and an extensive and valuable country is condemned to endless sterility. The North West Company, though invested with no right but those common to every British subject, have succeeded for more than thirty years past, in excluding all others from the extensive countries to the North and West of Lake Superior. All the Indian countries, the North West Company arrogate to themselves as their own territories, and consider the entrance of any others of His Majesty's subjects, from whatsoever quarter, as an invasion of their rights. In order to repress such attempts, open violence is systematically employed against every intruder, with no other reserve than the caution necessary to avoid committing the principals of the "concern."

From the immense distance of any courts of justice, the subordinate agents in these acts of violence have hitherto been assured of impunity, but it is evident, that as soon as agricultural settlements shall be firmly established in these countries, together with those institutions of religion, law, and police, which must accompany a civilized population, such a system of ferocious violence will no longer be practicable.

By the arrival of Lagimonière at Montreal, early in the year 1816, information had been received of the re-establishment of the settlement at Red River after its first destruction, and the expulsion of the settlers in summer 1815 : but your memorialist was sufficiently acquainted with the views and principles of the North West Company to be aware that their machinations were not at an end ; and, in these circumstances, he renewed the application, which he had already frequently made, to Government for protection to the settlers. It is demonstrable that the mere appearance of His Majesty's troops, even a serjeant and ten men, stationed at Red River, would have been sufficient to prevent all the sanguinary outrages, which have been described. But, notwithstanding the assurances which your memorialist had received, from the Secretary of State for the Colonial department, as far back as the month of March 1815, that orders had been sent to Canada for granting the protection which he had desired, no attention was paid to the applications which he made to the commander of the forces in this Province, to carry these orders into effect. Your memorialist however, being compelled by every principle of humanity, as well as duty, not to abandon his people to their fate, and being unable to obtain any protection from the public force of Government, was under the necessity of taking measures to guard against the impending danger, and to enable the settlers to provide for their own defence. Under these circumstances, an opportunity presented itself of adding to the population of the settlement a number of men, upon whom the North West Company and their half-breeds could have no chance of making any impression. Among the troops disbanded on the conclusion of the war, were two Swiss Regiments, in which were several officers, who were desirous to settle in America, but who did not consider it advantageous to remain in Canada, on the conditions proposed by Government. Many of the men also had no desire to return to Europe, but were averse to undertake the laborious task of opening a farm in the midst of the woods. The offer of lands cleared by the hand of nature, and ready for immediate cultivation, determined a number of them to give a preference to Red River. The other encouragements, offered to them by your memorialist, were to be as nearly as possible the same as those, which should be allowed by Government to the men of the same corps, who established themselves at the settlements in Upper or Lower Canada. The only difference was, that they were to receive monthly wages for the time occupied by the voyage to Red River, and until they should be put in possession of their lands.

In the beginning of summer 1816, your memorialist set out for Red River, with a number of these settlers, accompanied by four officers of the late Regiment de Meuron, who proposed also to settle at Red River. Only one of these gentlemen was under engagement to your memorialist, for any permanent services : the others wished to see the country, before they would determine to establish themselves as settlers. Your memorialist had arranged his plans, with a view of passing to the west of Fort William, by the River St. Louis, to Red Lake, where, in pursuance of the directions which he had sent by Lagimonière, to the gentlemen in charge of the settlement, he expected to find a supply of provisions, and other accommodations for the continuance of his route. On his way your memorialist touched at Drummond's Island, and while he was there, a

Council was held by the officers of the Indian department, at which Lieut. Col. Maule of the 104th Regt. Lieut. Col. M'Kay, superintendant of Indian affairs, and others were present. A Chippewa Chief of Sandy Lake, declared before the Council, that he had been offered rewards by some of the North West Company, to make war against the settlers at Red River. He also stated, that he had been offered a reward to cause some persons conveying letters to Red River, to be pillaged of their dispatches, or killed in case of resistance : but that he had refused the rewards, offered in both cases : that nevertheless, a man named Lagimoniere had shortly after, been brought in a prisoner, by some Ottawa Indians and a Negro. Your memorialist had not had any previous intimation, of the robbery of Lagimoniere, and this circumstance, added to the other disclosures of the Indian Chief, gave rise to very serious apprehensions. A short time afterwards, your memorialist reached the outlet of the Lake Superior, where he first received information of the deplorable fate of governer Semple, and of the new destruction of the settlement at Red River, and also, a confirmation of the intelligence of the Indian Chief, with respect to the messenger Lagimoniere. By these events, his plans were necessarily much deranged, but he determined to persevere in his attempt to reach Red River, so as to bring relief, if possible, to the settlers, and to develope the true history of their calamities.

The River St. Louis still appeared to be the easiest route for your memorialist to arrive at Red River, and he therefore sent forward a few canoes to that quarter, with a view of obtaining a supply of provisions, and other necessaries from the Indians ; but he determined to go himself, in the first place, to Fort William, with the rest of the people who accompanied him, in order to obtain more accurate information as to the events which had taken place at Red River. He understood that several persons connected with the settlement, had been brought out as prisoners, and he had no doubt that from them and other persons, then at Fort William, much important evidence might be obtained. To every one who understood the character of the North West Company, it was evident, that no effort would be spared to suppress the truth, and to deter their servants from making any disclosures. It seemed probable, however, that these obstructions might be overcome, if the authority of a magistrate were vigorously interposed, and effectually supported. The settlers, who accompanied your memorialist, were in sufficient numbers to repress any open resistance to the execution of the law. But your memorialist, tho' qualified as a Magistrate for Upper Canada, as well as for the Indian territories, was averse to act in a case in which he might be supposed to be biassed : and therefore anxiously entreated two very respectable magistrates, for the Western District of Upper Canada, Mr. Askin of Drummond's Island, and Mr. Ermatinger of the Falls of St. Mary, to accompany him to Fort William. Their avocations did not permit them to undertake this duty. Mr. Johnston, who also resided at the Falls of St. Mary, was a Magistrate for the Indian territories, but not being qualified for the Western district, it was not supposed that he could legally act : and there was no other Magistrate within the distance of several hundred miles, except one, whose age and habits would have disqualified him from the voyage, even if his character had been of sufficient respectability, to render his assistance desirable.

Your memorialist had thus no alternative, but to act upon his own responsibility, or to lose the only opportunity which was likely to present itself, for detecting the real authors of a conspiracy, the object of which had been accomplished, in the destruction of an infant settlement, and the massacre of its governer with twenty of its inhabitants. He accordingly proceeded to Fort William, where he obtained the liberation of Messrs. Pritchard and Pambrun, who had been brought away from Red River as prisoners, though without any accusation against

them. From these gentlemen and others, he obtained a distinct and connected narrative of the occurrences of the preceding season. The facts related by them, were corroborated by the testimony of two half-breeds, in the service of the North West Company, who gave information that in the course of the preceding winter, they had been solicited to assist in the attacks meditated against the settlement, which they had refused at the risk of their master's severe displeasure; they knew also, of rewards having been promised to those who did consent, and of these rewards having been in fact distributed to them, with many other circumstances, which shewed that the partners of the North West Company then at Fort William, as well as several others had been privy to the designs of Alexander Macdonell, and had concurred in rewarding and protecting those, who, under his instructions, had perpetrated the massacre of the 19th of June.

With this evidence before him, your memorialist could not hesitate, as to the propriety of issuing his warrants, for the arrest of these partners, and for securing their papers. An effort was made to oppose the arrest, but, on the call of the peace officers for support, Captain D'Orsonnens of the late Regiment de Meuron interposed, and soon repressed this attempt at resistance. His conduct, upon this occasion, exhibited much coolness and moderation. If a little more time had elapsed, there is every probability, that the intended measures of resistance, would have been more effectually organized, and that the warrants could not have been executed without bloodshed. But while the promptness of Capt. D'Orsonnens prevented this result, he allowed no unnecessary violence to be committed, and the men who assisted, behaved with the most exemplary regularity.

Your memorialist incautiously consented, that the gentlemen who had been thus arrested, should return to their respective rooms in the fort, the same evening, without taking adequate precautions for watching their proceedings. In consequence of this misplaced indulgence, it was found the next morning, that the seals which had been put on their papers, were in several instances broken, and that many papers had been burned. Information was also received, that a large quantity of arms, and ammunition had been taken out of the ware-houses, and concealed. Upon a search, there were found in a barn, eighty stand of arms, covered with hay, most of them newly loaded with ball, and ready for immediate use. Several barrels of gun-powder were also found, concealed in an adjacent meadow, so that no doubt could be entertained, of the existence of a design, to arm the servants of the North West Company, to rescue the partners who had been arrested, and in all probability to commit new atrocities. Your memorialist, on this evidence, felt it necessary to take effectual precautions, for the immediate safety of his people, which could only be done by securing the Fort.

Upon the examination of the prisoners, they all agreed in denying the charges; but the evidence which had been obtained from other quarters, left no doubt of the propriety of sending them in custody under warrants of commitment. That your memorialist did not act on light grounds in taking this step, is sufficiently evident from the fact, that indictments for crimes of the highest order, have been found by a grand Jury, against every individual of those who were committed by him on that occasion, and also against many more of their associates. Along with the prisoners, evidence was transmitted of their participation in these crimes, substantiated by such affidavits, as in England, would certainly have been deemed sufficient for detaining them in custody, and corroborated by strong documentary evidence. Nevertheless, they were all admitted to bail, under recognizances of trifling amount. That this was not the result of a fair examination, into the nature and extent of the evidence against them, may be collected from the fact, that bail was accepted for the appearance of the prisoners from day to day, before there had been time for any examination into the

evidence. A Writ of Habeas Corpus had been sued out before the prisoners arrived in Montreal, and they conveyed directly to the house of the Chief Justice, to be bailed in this unusual manner, before even a return had been made to the Writ. *were*

Among the partners who had been arrested at Fort William, was Mr. Daniel Mackenzie. This partner had sent to inform your memorialist, that he was the last person from Red River, and could give information of consequence, respecting the transactions at that place. The numerous other examinations which your memorialist was engaged in taking, were more than sufficient to occupy his attention; and, as there seemed reason to suppose Mr. Mackenzie less deeply implicated in criminal transactions than his associates, his examination with respect to the information which he had declared himself to possess, was deferred until after their departure. Mr. Mackenzie then gave information of several important circumstances. Mr. James Grant, another of the partners, who was afterwards arrested at Fond du Lac, and brought to Fort William, together with William Morrison, a confidential clerk of the North West Company, also made important disclosures. With the exception of Mackenzie and Grant, the examination of the partners had taken place, while they were completely under the inspection of the agents or directors from Montreal. These agents or directors of the North West Company, are not only partners entitled to a large share of the profits, but have the command of all the pecuniary resources of the Company, and possess the means of exercising an unbounded influence and controul over the other partners; so that under their eye, no disclosure, prejudicial to the interest of the "concern," could possibly be expected. The conspiracy which had now come to light, had been carried on in such a manner, that none, but the partners of the Company, could be privy to many of the most material transactions; and the disclosures of Mackenzie and Grant, afforded a sufficient proof that further information might have been obtained, if the law officers of the Crown had taken the proper means for that purpose; or had treated those connected with the North West Company, in the same manner as any other individuals, against whom, evidence of the same weight had been obtained. But the precipitate liberation of these persons, when brought to Montreal, effectually prevented any disclosures on their part. Many of these individuals were so conscious of their own guilt, that they had no expectation of such lenity, and could only ascribe it to the influence of their principals with Government. The liberation of men, whose criminality was well known to their associates, seemed to afford a practical proof of the influence, to which the leading partners of the North West Company pretended. Confiding in this, all who had been engaged in the same criminal conduct, were relieved from apprehensions, as to the legal consequences of their crimes; and taught that they had only to dread the vengeance of the North West Company, which would follow any disclosure of the truth.

The information obtained at Fort William, and communicated to the Governor in Chief, appeared to your memorialist, to mark in so distinct a manner, the character of the North West Company, that he could entertain no doubt of some decisive interposition on the part of Government, effectually to check the perpetration of crimes by an association, which, under the disguise of trade, had for so many years carried on a system of piracy.

The representations of your memorialist on this subject, and his urgent solicitations for the interposition of Government, appear to have had some weight in

determining the Governor in Chief, to appoint commissioners to enquire into the disturbances in the Indian territories. But, in order to give due effect to this measure, it ought to have been accompanied by others, of a more decisive character. The whole trade of the North West Company has been carried on, for a long series of years, in disregard of the Royal Proclamation of 1763, and they have also fortified their establishments and armed their people, in a manner which is prohibited by many acts of Parliament, to any British subject not authorized by Government. The facts which had been communicated by your memorialist, pointed out the necessity of enforcing these laws, and of putting an end to the habitual infringement of them, by an association, who are so constituted as to evade all responsibility, for the acts committed under their direction. It was well known in particular that Fort William had been established by the North West Company on Crown lands, without any grant or title, and fortified without licence or authority. Your memorialist confidently expected, that a party of troops would have been ordered to take possession of the place in the King's name, and could never have supposed that His Majesty's Government would acquiesce in the restitution of a place of strength, to men who had made use of it as a harbour for incendiaries and assassins, and a receptacle for their plunder.

The information which your memorialist had obtained at Fort William, though of great importance, led him to feel confident that in the interior, evidence still more decisive might be obtained. For this reason, he was anxious to proceed as soon as possible; and not less so on account of the settlers, as to whose safety, after they were driven from their homes at Red River, he felt extreme anxiety. In order to obtain intelligence with regard to them, he sent Mr. Pritchard in a light canoe, to proceed, with all possible expedition, to their intended place of refuge. Mr. Pritchard had received at the same time for distribution, the proclamation issued by Sir John Sherbrooke, of the 16th of July, 1816, which it was supposed would have operated as a protection against any violence; but his canoe was stopped by the servants of the North West Company at Lake La Pluie, and he was forced to return, after being detained a prisoner for several days. Information had in the mean time been received, of the preparations of the half-breeds, under the command of Macdonell and his associates, to intercept your memorialist and the new settlers, by lying in ambush at the rapids. It was evident therefore, that the greatest caution was necessary in prosecuting their journey, and that these men, who thus continued to set at defiance the authority of the proclamation, could not be considered in any other light, than as rebels in open insurrection against the laws and government of their country. In this view, your memorialist considered it as the duty of every good subject, to prevent their receiving any supplies of arms or ammunition, to be employed against the lives of their fellow subjects: and he, therefore, did not hesitate to stop the canoes of the North West Company; from proceeding to Red River, whither they were prepared to carry, not only the usual supplies for the Indian trade, but a large assortment of goods, set apart to redeem the promises, which had been made to the half-breeds, by Macleod and his copartners.

Though anxious to arrive without delay at Red River, your memorialist was under great embarrassment as to the means of conveyance. The new settlers though tolerably well accustomed to boat navigation, were unpractised in the management of canoes, and could not proceed without a considerable proportion of experienced canoemen. With this description of men, your memorialist was

ill provided, as a great proportion of those who had been engaged for his service, as well as others in the service of the Hudson's Bay Company, had been enticed to desert at an early period of the season : or, being terrified by the intelligence of the bloody transactions at Red River, had refused to proceed according to their engagements : so that even upon his arrival at the Falls of St. Mary, your memorialist had been exposed to unexpected difficulties in this respect. By information received from Fond du Lac, of the obstacles now to be expected on that route, he was led to prefer the ordinary one by Lake La Pluie, notwithstanding the preparations of the North West Company, for obstructing the passage of the River Winipic. He sent forward under the direction of Captain D'Orsonnens, as many of the people as he could provide with means of conveyance ; and with the remainder he was under the necessity of remaining at Fort William, till farther means could be procured.

Capt. D'Orsonnens proceeded without obstruction as far as Lake La Pluie, when he was again warned by the Indians of the hostile preparations of the North West Company on River Winipic, and where he also received information of the murder of Owen Keveny ; an earnest of the fate, which was to be expected by any one, who should presume to enter the Indian territories, unprotected, or without the approbation of the North West Company. At this place Capt. D'Orsonnens arrested Charles de Reinhart, who confessed himself the most active, though perhaps he was not the most criminal, of the murderers of Keveny, and sent him to Fort William, with two of the principal witnesses against him and his accomplices. Though he had evidence that the clerks of the North West Company at Lake La Pluie, had used their endeavours to conceal this murder, he did not arrest them, as he might have done with propriety. With their consent he put in safe custody, the arms and ammunition which they had at the place, and which were sent for by Macdonell, as a supply for the half-breeds.

The season was so far advanced, that the people with Capt. D'Orsonnens could not proceed any farther by water, and he was preparing to erect buildings for his winter quarters ; but the clerk in charge of the North West Company's fort, being warned, that it was built on lands belonging to the Hudson's Bay Company, and that legal steps would be taken to eject him from the possession, so that he might be under the necessity of removing, thought it more expedient to give it up at once, and made a proposal to dispose of the property at the place. This was accepted, and he accordingly delivered whatever he had not the means of taking away, and removed with his men, leaving the place to be occupied by those who accompanied Capt. D'Orsonnens.

In the beginning of winter, that Gentleman was joined by Mr. Miles Macdonell, who still held his commission as Governor from the Hudson's Bay Company, and with him a plan was concerted for proceeding by land to the settlement. The fort, from whence the settlers had been driven after the massacre of the 19th of June, was occupied by Mr. Archibald Maclellan, a partner of the North West Company, together with several other persons concerned in the murder of Owen Keveny. They were aware of Capt. D'Orsonnens' arrival at Lake La Pluie, but they thought it impossible that he should attempt a winter journey on foot, some hundred miles through a woody country, where no supplies of provisions were to be found. However, Capt. D'Orsonnens and Mr. Macdonell found means of passing through this wilderness. Guided by friendly In-

dians, they reached and entered the fort of the settlement, before any alarm of their approach had been given, when Maclellan and other persons concerned in the murder of Keveny, or in those of the 19th of June, were taken into custody.

Mr. Macdonell immediately sent a messenger, to obtain intelligence as to the fate of the settlers, and to apprize the survivors that they might return in safety to Red River. From the circumstances in which they had set out, almost destitute of provisions, and the inhospitable nature of the country, in which they had been obliged to take refuge, the greatest apprehensions were entertained that they might have fallen a prey to famine: but in this extremity, they had not been abandoned by Providence. Though none of them had been previously acquainted with the business of fishing, their nets afforded them a sufficient supply of food. Mr. Macdonell, the Sheriff of the district, who had continued to take charge of the colonists, set out on receiving the message, and arrived soon after at Red River, with a few young men. They had come three hundred miles over the ice of Lake Winipic, leaving the women and families to follow, after the navigation should open. Early in the spring, these men again applied themselves assiduously to the cultivation of their fields, and several of those who had arrived with Capt. D'Orsonnens, were equally intent upon that object: but their industry was exerted under great disadvantages, in consequence of the necessity of a constant watch against the incursions of the half-breeds. On two different occasions, Cuthbert Grant was sent down from Qu'appelle with a strong party, for the purpose of surprising the fort, or of cutting off the supply of provisions. By unremitted vigilance these malicious intentions were defeated, and the only mischief which Grant could effect, was to kill two out of the small number of breeding cows that still remained, and to carry off two or three men, who had been sent from the fort to bring in provisions. The zealous attachment of the native Indians, prevented any inconvenience from scarcity. The gentleman in charge of the settlement had no goods to pay them for their labour, yet they continued to hunt for the supply of their friends; and, on one occasion when the half-breeds were expected to arrive in great force, they were so apprehensive, lest the fort should be in danger from want, that they hauled the meat on sledges from a considerable distance, a species of labour to which the Indians of that nation had never before been known to submit.

Your memorialist was informed toward the end of winter, of the success of the settlers, in regaining possession of the lands on Red River, and of their having secured several of the persons, concerned in the outrages of the preceding year. He was at the same time, informed of the critical situation in which the settlement still continued, in consequence of the settlers not being in sufficient numbers to repel the violence, threatened by the half-breeds in the service of the North West Company. Your memorialist was, therefore, extremely anxious to remove the rest of his people to Red River. A part of them had gone on snow shoes from Fort William in the middle of Winter, and waited at Lake La Pluie till spring: for the remainder your memorialist, with some difficulty, found means of conveyance, so as to set out on the first opening of the navigation, and in the month of June, he arrived with them at Red River.

The settlement was now in sufficient strength, to bid defiance to all the half-breeds, whom the North West Company could possibly bring against it: Alexander Macdonell of the North West Company, had set out from Qu'appelle, apparently with the intention of acting over again the scenes of the preceding year.

but, on his arrival at Portage des Prairies, he did not think it prudent to make the attack. He therefore took an unfrequented route with a single canoe, to the rendezvous of his partners, leaving the half-breed servants of the North West Company to proceed down the River, with the boats in which the provisions which he had collected at Qu'Appelle were embarked. These men encamped near the settlement, where they remained quiet, finding their numbers too weak at the moment to have again recourse to violence, with any prospect of success. One hundred and forty of the native Indians had actually assembled in the neighbourhood, for the express purpose of protecting the settlers.

Such was the state of affairs in the interior at the time of the arrival of Mr. Coltman as commissioner of special enquiry, and Magistrate for the Indian Territories. Of the appointment of that gentleman, your memorialist had heard only a short time before he left Fort William, and he looked for his arrival in the interior, with sanguine expectations, that his exertions would effectually put an end to the existing disturbances, and provide for the future security of the persecuted settlers of Red River. No one could be more sensible than your memorialist, of the necessity of some interference on the part of Government. No individual on this side of the Atlantic, had so deep an interest in the re-establishment of peace and respect for the laws in these territories, and he had seen enough of the state of the country, to be assured how small an effort would be sufficient to effect that object, provided the authority of Government were properly interposed.

It was known, that Mr. Coltman was on a footing of intimacy with several of the leading partners of the North West Company, but the reputation which he enjoyed, did not allow it to be supposed, that he would be biassed by motives of private friendship, to disregard the duties of the office which he had undertaken. It was generally understood, that Mr. Coltman insisted on the revocation of the commissions of all other Magistrates for the Indian Territories, as an indispensable condition of his acceptance of the appointment, and that he also insisted on the nomination of Mr. Fletcher as his colleague and legal adviser. These appointments took place about the end of October, 1816. On leaving Quebec, the commissioners professed great anxiety to proceed as speedily as possible, on their journey; but notwithstanding the advanced season, they delayed several days at Montreal.

From Montreal, Mr. Coltman and his colleague proceeded to York, in a canoe of the North West Company, constantly accompanied by one of the partners as agent for that Company, tho' no agent for your memorialist accompanied the mission. At Nottuasaga on Lake Huron, they were stopped by the ice, and returned to York, where they remained for a considerable time, in the society of three or four partners of the North West Company. Their clerks and dependants were brought forward to make affidavits, in order to shew, that the conduct of your memorialist at Fort William, had been illegal and improper. Among the witnesses who made depositions, were to be found the clerks, who, in the year 1815, had been employed to distribute rewards among those who had burned the houses of the settlers, and driven them away from Red River; to arrange the accounts current between the Company and the deserters from the settlement, and to pay these men for the stolen goods which they had delivered into the stores of the North West Company: those also, who, in the year 1816, had entered in the books of the North West Company, the invento-

ries of the property of your memorialist, of which, Cuthbert Grant had taken possession after the massacre of the 19th of June, who had distributed to its perpetrators, rewards for the blood shed on that occasion, and who had made up the bales of goods, that were to have been sent for the further encouragement of these faithful servants. The Commissioners could hardly fail to discover, that the evidence, thus brought before them, was of a most suspicious character, and required a very strict scrutiny, before it could be properly taken as the ground of any practical determination. They neglected, however, the most obvious methods of obtaining information from other sources.

During their stay at York, Mr. Pritchard passed through that place, on his way from Fort William to Montreal. The Commissioners conversed with him at great length, about the ice, and the Lakes, and the Rivers, and occupied two days in taking down his answers, in writing. But they questioned him on no other subject, tho' well aware that he had narrowly escaped on the 19th of June, and that he had also been at Fort William during the transactions concerning which they were then occupied in taking depositions. Mr. Pritchard seeing the Commissioners surrounded by agents, and dependants of the North West Company, with every appearance of the most confidential intimacy, gave credit to the reports in circulation, of their having been appointed solely at the desire of that Company, at their expence, and for the purpose of promoting their interest; and he did not feel any encouragement to obtrude his testimony upon these gentlemen, unasked. But if the Commissioners had wished to scrutinize the evidence brought before them, and to investigate the real state of the facts, it is inconceivable how they should have missed the opportunity, of obtaining the extensive and important information, of which Mr. Pritchard was possessed. They acted as if they had had no duty to perform, except to receive the statements of the clerks and dependants of the North West Company, and to give them the appearance of authenticity, by attesting them as sworn to before the Special Commissioners. It would seem that this *exparte* testimony was transmitted without delay to England, and formed the groundwork of the only proceedings, in which his Majesty's government at home, has yet interfered in the affairs of the Indian Territories, viz: the orders given for the proclamation of the 3d of May, 1817. The date of the dispatches on that subject, is a sufficient proof, that no report could have been received from Quebec, after the return of Mr. Coltman, or after the communication of his proceedings in Upper Canada, to the Governor in Chief. His Majesty's Government must therefore, have acted upon some report, transmitted directly from York, by Mr. Coltman, or with his concurrence, which must have been founded entirely on *exparte* statements, as, at that period, he had abstained from examining any witnesses, except the creatures of the North West Company. It is consequently evident, that he is responsible for the misinformation, upon which His Majesty's Ministers were induced to order the Proclamation of the 3d of May, and at the same time, to give other instructions, highly injurious to your memorialist, not warranted by any part of his conduct, and extremely questionable in a constitutional point of view.

Before Mr. Coltman returned to Lower Canada, he resolved to send a notification of his appointment to the Indian countries, charging all parties to keep the peace until his arrival. Every person who knew the characters of the respective parties, must have been aware, that such men as Alexander Macdonell of the North West Company, and his associates, would attend to these injunctions, on-

ly so far as it should be found for their interests to do so ; and that where it did not suit their purposes, the partners of the North West Company would evade any compliance. It was also evident, that this notification could not possibly reach the remote districts of Athabasca, early enough to be of any use, in checking the violent proceedings of Archibald Norman Macleod, even if that person could have been supposed to pay any attention to its injunctions. With respect to your memorialist, his conduct had always been in strict conformity to the principles inculcated in this notification. But by announcing the recall of his commission as a Magistrate, the notification served effectually to frustrate the measures, which were necessary for the detection and apprehension of those, who had been concerned in the outrages of the preceding years ; while no other authority was substituted, and a long interval of time was unavoidably to elapse, before the arrival of the Commissioners could enable them, to give their attention to the same object. A striking example of the consequences of this step, occurred immediately after the notification was issued. Among the persons who arrived at Fort William, along with the bearer of that document, was Mr. John Duncan Campbell, a partner of the North West Company, as to whom your memorialist had received information on oath, of his having, in the most unqualified terms, advised and ordered the half-breed servants of the North West Company, to kill Governor Semple, if they could not succeed in taking him alive. Campbell, who had fled from the execution of a warrant against him, at Montreal, might have been arrested without difficulty, but there was no Magistrate to authorise it, and every act of magistracy was strictly forbidden by the Commissioners' notification. This suborner of murder, consequently, has not been called to account, and remains at large.

The mode, which Mr. Coltman adopted for transmitting this notification to the interior, also served to promote deception, and afforded an opportunity for the North West Company, to represent the recal of your memorialist's commission as a Magistrate, as being a censure pronounced on his conduct by the Governor in Chief. The persons who were selected to convey the notification, were all in the employment of the North West Company : at the head of the deputation was a partner, who had been arrested at Michipicoton, for the robbery of an Indian messenger, who was conveying a packet of letters to the officers of the Hudson's Bay Company in the interior. Having been admitted to bail, he was entrusted by Mr. Coltman, with his despatches, and his instructions were conveyed in a letter couched in the terms of familiar friendship. Another of the messengers was a clerk of the North West Company, whose evidence was of material importance in the legal proceedings, which were expected to come on in Lower Canada, and who had been accordingly sent down by your memorialist, as a witness. But this circumstance did not prevent Mr. Coltman from sending him away. Other persons connected with the North West Company, were added to the party, at their posts adjacent to Lake Superior ; and a selection was made, of fit persons, to convey to the interior, not only the notification of the Commissioners, but also such further instructions to the servants of the North West Company, as might serve the purposes of their employers. It has been ascertained, that one of the persons thus selected by Mr. Coltman, was, in the course of the ensuing spring, actively engaged at Red River, in persuading the half-breeds to act in direct opposition, to the ostensible orders of Mr. Coltman himself.

The messengers entrusted to convey the notification, being of this description, afforded an opportunity to give an appearance of the sanction of the Commissioners, to a proceeding of a most infamous character. Mr. Henry Mackenzie, a partner of the North West Company, had been sent to Upper Canada, with two of their clerks, as convenient witnesses, to procure a warrant for the arrest of your memorialist. They applied in vain, to the proper authorities at York. Their affidavits were laid first, before one of the Puisne Judges, and then before the Chief Justice, both of whom, on the facts alledged, declined granting such a warrant as was desired. Upon this disappointment, they proceeded to Sandwich, and finding no other mode of accomplishing their purpose, the two clerks, Vandersluys and Mactavish, were made to swear, that eighty three fusils had been feloniously stolen by your memorialist, and others, at Fort William. Vandersluys and Mactavish, were perfectly aware that the arms in question, had been discovered in a place of concealment, had been secured under a legal warrant, and had been put in safe custody, for the purpose of preventing an attack, which was proved by evidence on the spot, to have been intended. By this perjury, a Magistrate for the western district, was induced to put his name to the warrant; and in order to get it executed, Mr. Mackenzie, by the offer of a considerable sum, engaged a person as Sheriff's Officer, who was sent in company with the bearer of the Commissioners' notification, so as to obtain access into Fort William, among those who gave themselves out as the servants of Government, and the messengers of peace.

Your memorialist may be here allowed to notice the extraordinary manner, in which his commission, as a Magistrate for the western district of Upper Canada, was recalled. He was informed, that this was done at the desire of the Governor in Chief, to prevent any collision of interests, upon the same principle, on which the commissions of all the Magistrates for the Indian territories, had been recalled in Lower Canada. That measure, as it was adopted on a general principle, did not appear objectionable, and the explanations which your memorialist received from Lieut. Governor Gore, led him to believe that the corresponding measure in Upper Canada, was of the same description. This belief was confirmed by the public notification of the Commissioners, from which it appeared, that Messrs. Coltman and Fletcher, had been appointed Justices of the peace, for the western District of Upper Canada, and that the commissions of all Magistrates, for that District beyond the Falls of St. Mary, had been recalled. From these explanations, your memorialist understood it to be the intention of the Government of Upper Canada, that during the continuance of the investigations, which had been referred to Mr. Coltman and his colleague, the country westward of the Falls of St. Mary, should be considered, as if it had been in the Indian territories, so as to vest the authority of Magistrates, in these gentlemen exclusively, upon the same principle, on which the Government of Lower Canada had recalled all other Commissions of Magistrates for the Indian territories, at the time that Messrs. Coltman and Fletcher were appointed to that office. This was, in fact, the only manner in which the general principle, adopted by the Governor in Chief, could be applied by the Government of Upper Canada. If Governor Gore, had considered the conduct of your memorialist, as improper, or such as to require the recal of his authority, as a Magistrate, he would undoubtedly have said so explicitly; and would neither have expressed himself, nor would have led Mr. Coltman to represent the measure, as grounded upon general principles

if in effect it had been dictated by personal motives. Your memorialist therefore did not entertain a doubt, that the Commissioners were exclusively entitled to act for the Country to the west of the Falls of St. Mary. It would be disrespectful to Sir John Sherbrooke, and to Governor Gore, to suppose that this was not their intention.

The fact is, however, that the ordinary Magistrates for the Western District, with the exception of your memorialist, were allowed to retain a concurrent jurisdiction, calculated to interfere with the authority of the Commissioners: and, as in the intended operation of the Sandwich warrant, to afford opportunities for prostituting the forms of law, to the basest purposes of private interest, and personal malice.

After the above mentioned proceedings in Upper Canada, Mr. Coltman returned immediately to Quebec. Mr. Fletcher, on his way down, remained for some time at Montreal, to receive such information as might be tendered to him by the Counsel of your memorialist. They were in some embarrassment how to proceed. Mr. Fletcher did not call for information upon any specific point, but merely intimated that he was ready to take the affidavits of any witness whom they had to bring forward. - It was not easy to understand from this, the principle upon which the Commissioners were acting. If they were merely to receive the affidavits of the witnesses who offered to swear to any facts, it did not appear for what purpose it was necessary to repeat the affidavits of those who had already been examined and sworn, before the ordinary Magistrates of the place. With a view to proceedings in the Courts of law, these affidavits were as valid as any which could be taken by Mr. Fletcher; and a general disclosure of all the evidence which had been obtained against the North West Company, could only serve to guide the proceedings of the accused, and to frustrate the purposes of justice. On the other hand, if Mr. Fletcher was acting as a Commissioner of enquiry, if it was his object to ascertain the truth of the averments which had been previously made before him, or of circumstances which were publicly reported, it was his province to specify the points upon which he wished to be satisfied, and to call before him, the witnesses who were capable of giving him information. The Counsel of your memorialist could easily have produced witnesses capable of refuting in a satisfactory manner, the calumnious accusations which had been brought forward with so much pains by the North West Company, in Upper Canada; but Mr. Fletcher never gave them the least intimation of any of the points which were to be cleared up. On the contrary, when some of the witnesses whom your memorialist had sent down, were brought before him, he abstained from putting any question to them, respecting the transactions, which had been the chief subject of his enquiries at York, and Nottuasaga. It was not till some months afterwards, that a pamphlet published by the agents of the North West Company, at London, disclosed the nature of these calumnies. No small surprise was excited, when in that pamphlet, copies were observed of affidavits taken before Messrs. Coltman and Fletcher, at York, and Nottuasaga, in the month of December: for in the month of March following, Mr. Fletcher would not permit the Counsel of your memorialist, to take copies of the affidavits made by the witnesses whom they had brought forward, and declared that the Commissioners had followed the same rule as to all the examinations already taken before them.

In the mean time, the exparte evidence which had been sent, as it would ap-

pear, by Mr. Coltman, from Upper Canada to England, before it could be counteracted by any evidence on the other side, had produced the desired effect on His Majesty's ministers. Instructions were sent to the Governor in Chief, to issue the Proclamation of the 3d of May. The Preamble to that Proclamation, contained allusions to the conduct of persons not particularly named, but so described, that they were generally understood, as applying to your memorialist and his friends, coupling them with those whose hands were imbrued in the blood of their fellow subjects, as alike guilty of acts of lawless violence. The conduct described in the Proclamation, was so remote from that which your memorialist and his friends had actually pursued, that they might very well have thrown it aside as not applicable to them, but as the public prints had been previously filled with the calumnies of the North West Company, the allusions in the Proclamation could not fail to be understood as a confirmation of their accusations. Thus, without any investigation or inquiry, except the exparte evidence brought before Messrs. Coltman and Fletcher, the name of Government has been lent to create an impression that the outrages at Red River, and other places in the Indian territories, have not been the result of a deliberate conspiracy against a peaceable agricultural settlement, but of mutual provocation, and of mutual violence between contending parties of traders. In this way, the authors of the Proclamation did, in effect, prejudge the whole question between your memorialist and the North West Company: for the most partial advocate of that association, cannot venture to deny, that they have been guilty of lawless violence to a tremendous extent. The only justification which they pretend to set up, is by recrimination, and the allegation that their adversaries have been equally guilty; and this allegation has been credited without proof, in the face of the undeniable fact, that more than forty British subjects have been put to death in the space of two years, by the weapons of the North West Company at Red River, and through their machinations at Athabasca, while on the other side, (unless we take into account, that one of the aggressors lost his life in the murderous attack of the 19th of June,) not a drop of blood can be laid to the charge, either of the servants of the Hudson's Bay Company, or of the settlers of Red River.

Of the specific injunctions of the Proclamation, a great part would have been unobjectionable, if they had been fairly and equitably carried into effect. But there is one point on which the Proclamation is at least unjust and unreasonable, if not illegal and unconstitutional. It directs that all forts and trading posts, are to be restored to the party in whose possession they were at the commencement of the existing disturbances, tho' it is a matter of notoriety, that several of these posts were, at the date of the Proclamation, in the possession of persons who have a legal title; while those, to whom they have been restored, cannot pretend to a title, and cannot hold the possession of any fort whatever, except in defiance of the Royal Proclamation, issued in the year 1763. The Proclamation of the 3d of May, 1817, contains, indeed, a declaration that it shall not be held to prejudge the legal rights of any parties, but it does not appear that any investigation has been instituted with a view to ascertain what those rights are, and to put those in possession who have a valid title. If those who had been dispossessed, had been left to their regular and constitutional remedy, by petition to the King in Council, the rights of the Hudson's Bay Company, under their charter, would have been brought to the test of legal determination, in a manner for which, there is now no opportunity. Thus, through the interference of the executive Government, the Hudson's Bay

Company, and those who hold lands under them, find their rights of property suspended, in an arbitrary manner, and for an indefinite period of time, in favor of men whose claims are founded only on the robust title of occupancy.

As the Commissioners had been prevented from proceeding into the interior, only by the state of the season, it was naturally expected that they would take advantage of the earliest opportunity in spring, and would be among the first, if not the very first, to arrive in the interior. If they had intimated their wish, that no other canoe should precede theirs, no one would have thought of acting in opposition to their desire, and the circumstances of the case might well have justified such a request. It was a matter of public notoriety, that the North West Company had prepared a number of canoes, chiefly manned by Iroquois Indians, whom they intended to arm and to send up, on the first opening of the navigation, to capture Fort William, in direct contravention of the injunctions of the notification sent to the interior by the Commissioners in the preceding winter. Entertaining the idea, that your memorialist could not have found means to proceed from thence, to Red River, before their arrival, the leading partners uttered the most violent threats of the revenge they were to take for the insult, which had been offered to the "concern," the preceding year. Yet was the expedition allowed to set out before the Commissioners, without even, the precaution of a recognizance to keep the peace.

After a sufficient interval of time, to allow the canoes of the North West Company to precede them, the Commissioners set out from Montreal, with every demonstration of anxiety to proceed with all practicable expedition. Mr. Gale, a barrister in Lower Canada, had consented to accompany the Commissioners as legal agent on the part of your memorialist, and of the Hudson's Bay Company; but Mr. Coltman now expressed his doubts, as to the propriety of being accompanied by an agent for one party only; and tho' he had made no objection the preceding autumn, to be accompanied by the agents of the North West Company, for weeks, and even for months, without any agent on the other side, he now declined the company of Mr. Gale, lest motives of partiality should be imputed to him. That gentleman, however, followed the same route, and came up with the Commissioners at York, from whence, they were accompanied by Mr. Henry Mackenzie, as agent for the North West Company. His presence appeared to remove Mr. Coltman's scruples, and he now intimated, that Mr. Gale might be allowed to accompany the mission.

The Commissioners then proceeded by Drummond's Island, to the Falls of St. Mary. At this place, was a man of the name of Mackay, who had escaped from the massacre of the 19th of June. His deposition was taken, but Mr. Gale was not allowed to suggest any question, Mr. Fletcher objecting to it as improper, on the ground that there was no advocate on the other side. The deposition was taken in a most imperfect manner, and the Commissioners even declined to insert some facts, which Mackay stated to them of his own accord, shewing the unprincipled manner in which Mr. Archibald Norman Macleod, and Mr. William M'Gillivray had abused their authority as Magistrates. It appeared that the Commissioners considered themselves as bound to give the most unlimited support to the measures of these gentlemen; for Mackay having stated, that he had been taken prisoner by Macleod, and sent to Fort William, it was proposed by Mr. Fletcher to send him directly to Montreal, in custody as a criminal. No charge, however, had been brought before the Commissioners against Mac-

kay, nor had any warrant been exhibited for his arrest : but Mr. Fletcher averred that since Mr. Macleod, a Magistrate, had sent him down a prisoner, it must be supposed that he had good grounds for what he had done. Mr. Coltman did not carry the matter quite so far as his colleague proposed ; but though it was pointed out to him, that no offence had been laid to the charge of Mackay, and that no criminal matter appeared against him, he was put under recognizance to appear at Montreal, to answer any criminal charges which might be brought against him.

The Commissioners had been joined at Drummond's Island by an escort of the 70th Regiment, with which they had proceeded to the Falls of St. Mary. They had already consumed more time, than is usually employed by light canoes, for the whole voyage to Fort William. The expedition of the North West Company, had passed more than a fortnight before ; and notwithstanding the anxiety which had been expressed by the Commissioners before they left Montreal, to arrive early, in the interior, they passed several days on the portage at St. Mary's, without any apparent reason. Some clue to the motives of this delay, may perhaps be afforded by the circumstances which soon after took place.

About the same time that the Commissioners set out from Montreal, a number of canoes were despatched on account of the Hudson's Bay Company, loaded with goods for their trade, and manned in part, by Canadians, destined for their trading posts in Athabasca. The crews were filled up by men of the late Regiment De Meuron, who being desirous of joining their countrymen as settlers, at Red River, were sent forward by that opportunity. Their engagements were made out on the same principle, as those of the men who had accompanied your memorialist the preceding season ; and as some anxiety had been expressed concerning the objects of this expedition, the agents of the Hudson's Bay Company at Montreal, offered to lay the engagements of the men, and invoices of the cargoes, before the Commissioners, to satisfy them that these men were not engaged for any purpose, or in any manner, inconsistent with the spirit or the letter of the Proclamation. The Commissioners declined to enter into the enquiry while at Montreal, where it might have been made without inconvenience, but afterwards at Lachine, they stopped the departure of the canoes, in order to read the Proclamation to the men, and spent two days in examining the engagements, and other documents, before they allowed them to proceed.

These people went by the usual route of the canoes up the Utawas River, under the direction of Messrs. Archibald Macdonald and J. B. Lemoine, who in the course of their voyage, heard frequent reports, that they were to be stopped at the Falls of St. Mary, and not allowed to proceed into the interior. This was traced to have been announced by Mr. Angus Shaw, and other partners of the North West Company. At the falls of St. Mary, they found Mr. Gale, who had been there a few days. Mr. Fletcher was still there with the escort of the 70th regiment : Mr. Coltman had set out for Fort William. Mr. Gale upon being informed of the intention of Mr. Coltman, to proceed forward, and to leave his colleague to follow with the military escort, had also been on the point of setting out, under the idea that his professional services, would be most requisite with the Commissioner who was in advance. But he was induced to alter this determination, in consequence of an unexpected piece of information. Some persons reported to him a conversation which had taken place, between the two commissioners in their tent, respecting their intention of stopping the canoes of the

Hudson's Bay Company, which were daily expected, under Mr. Macdonald. Mr. Fletcher also, whose habitual excess in drinking, had suffered little diminution on his voyage, had repeatedly said after dinner, that he expected these Meurons would oppose his authority, and that he desired nothing better than opposition: he also said, that Mr. Coltman was induced to go forward, because he did not wish to be implicated in the business, which was about to take place, and that he was left to get through it as he best could.

Mr. Gale was much surprised by this information, as Mr. Coltman had assured him the very day before, that Mr. Fletcher was to follow without delay, with the troops, at the rate of a military forced march. He had even spoken of sending the troops forward before him, and warmly pressed Mr. Gale to accompany him. Mr. Gale thought this rather a singular contrast to the reserve with which he had been treated, when he first set out from Montreal; and his surprise was not diminished, by the circumstance, that this invitation was first communicated to him, immediately after Mr. Coltman had been closeted for several hours with Mr. Henry Mackenzie. For many reasons, Mr. Gale was desirous to be present with Mr. Coltman, on his arrival in the interior: nevertheless, he deemed it necessary to wait at the Falls of St. Mary, till the arrival of the canoes under Mr. Macdonald, lest the measure said to be in contemplation, might be so executed as to frustrate their voyage.

A very short space of time after Mr. Coltman had left the place, these canoes appeared. Immediately on their arrival at the Portage, Mr. Fletcher came forward at the head of his military escort, and ordered Mr. Macdonald to bring to him all the arms in his possession, upon which, eight cases were produced containing fowling pieces, of the description usually sold to the Indians, packed up with other merchandise, for the trade of the Hudson's Bay Company. Mr. Fletcher having learned that the men had no arms in their own possession, ordered his soldiers to carry away these cases, which they did forcibly, in opposition to Mr. Macdonald's prohibition. Mr. Gale remonstrated on the illegality of this proceeding, and enquired the reasons for it, but received for answer from Mr. Fletcher, that he had no reason to give, that he had nothing to say as to the law, that he acted "*en militaire*," and obeyed orders, adding "*silent leges inter arma*." He then ordered the men who arrived under the charge of Mr. Macdonald to be called before him, and forbade them to proceed on their voyage, unless in his company, and under his command. Mr. Gale again enquired as to his authority, and was again informed by Mr. Fletcher, that he did not act as a Magistrate, but under his military authority. After two or three days, finding that this unwarrantable interruption to his progress was still continued, Macdonald presented a protest against the seizure of the cases, containing the fowling pieces, declaring in the same protest, his intention to proceed on his voyage in a peaceable and lawful manner, adding that if any violence were offered to impede him and his people, they would use none in return, but that Mr. Fletcher must answer for it at his peril. At the same time he represented to Mr. Fletcher that, unless his canoes were allowed to proceed without delay, their provisions would not be sufficient to accomplish their voyage. On the same day Mr. Macdonald attempted to proceed across the Portage. Though Mr. Fletcher had refused to restore the cases of fusils, and the men were therefore totally unprovided with arms, Mr. Macdonald resolved to prosecute his voyage in that defenceless state, rather than to remain consuming the provisions on which he de-

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pended for the whole voyage, and wasting them at an important season of the year. But Mr. Fletcher stationed his troops at the head of the Portage, and having ordered them to load with ball cartridges, he forcibly compelled Mr. Macdonald's men to stop and lay down their loads, though consisting only of provisions, cloth, and other ordinary goods for the Indian trade. Mr. Fletcher soon after, harrangued these men, and told them that there were some persons among them, who were advising them to be guilty of high treason, by the conduct they were told to pursue. He also ordered Mr. Macdonald to be taken into custody, and kept him in confinement for the rest of the day, declaring that he would send him a prisoner in irons to Quebec. At a late hour at night, however, he was discharged without any reason having been given, either for his arrest or discharge.

After the lapse of two more days, Mr. Macdonald again protested against Mr. Fletcher's conduct, and Mr. Gale also delivered to him a written representation, stating, that the consequence of any farther detention of the canoes, would be the total failure of the just and lawful object of their outfit. He observed that large bodies of men, in the service of the North West Company, amounting to at least four times the number of this brigade had been allowed to pass in arms, towards the interior, without hindrance or molestation, while the servants of the Hudson's Bay Company were not allowed to proceed, even without arms. He remonstrated against the power of Government being thus exerted, to sacrifice the interests of one set of people, and to advance the purposes of another, instead of executing justice against criminals, and giving equal protection to all British subjects. To this remonstrance, Mr. Fletcher sent an answer, which was brought to Mr. Gale at midnight, by two clerks of the North West Company, in arms, announcing his determination to persist in the same conduct, pretending, that the measures which he had adopted were necessary, to prevent a violation of the peace in the interior, and declaring that the only modification to which he could agree, would be to permit the crew of one canoe to proceed unarmed. In answer to this, Mr. Gale stated, that the conduct of the men, under the charge of Mr. Macdonald, had been uniformly peaceable. That no ground whatever, could be alleged for suspecting them of any improper design, or of any disposition to take a part in lawless or turbulent proceedings; that if any ground for such a suspicion existed, Mr. Fletcher, as a Magistrate, might legally compel them to give adequate security to keep the peace; and, that if the mere circumstance of some of the men having been formerly in His Majesty's military service were sufficient ground for preventing them from going into the interior, it would have been more proper to have stopped them at Montreal or Lachine, than after they had advanced eleven hundred miles on their journey, and had arrived at a place where no supplies of provisions could be obtained for them. But from Mr. Fletcher's arbitrary determination, there was no appeal at the Falls of St. Mary, as there would have been at Lachine, had he there ventured to pursue the same course of conduct.

Some canoes of the North West Company happened to arrive at this time, and Mr. Fletcher made a shew of stopping them also, with a view, no doubt, of having it to say, that he acted in the same manner towards both parties. But these canoes were stopped at their own post, where ample supplies of provisions were in store. Many other canoes of the North West Company had already passed, and those which Mr. Fletcher stopped, carried only a part of their sup-

plies, while on the other hand, those under Macdonald, formed the only brigade that was to go up, for the Hudson's Bay Company.

No remonstrance appeared, but at length, after detaining the canoes a fortnight, he was pleased to declare that they might proceed. On their arrival near Fort William, new difficulties were started, and with the same shameless disregard of law or justice, Mr. Fletcher again prohibited them from proceeding on their voyage; again put Mr. Macdonald in close confinement, without the slightest shadow of reason, and even gave orders that he should be shot. He did not find men disposed to obey such an outrageous order: but his extravagant proceedings occasioned, altogether, the loss of nearly a month's time, before the canoes were finally allowed to continue their voyage.

In consequence of this unwarrantable interference, the settlers destined for Red River, lost a valuable period of the season, in which they might have made very considerable progress in the construction of their houses, and in other preparations for the winter. To the Hudson's Bay Company, the loss was still more serious. The men engaged for their service, arrived at their factory on Lake Winipic, at so advanced a period of the season, that it was impossible for them to reach their ultimate destination, so that the salaries, equipments, and maintenance of upwards of fifty men for an entire year, were absolutely thrown away.

While Mr. Fletcher was thus occupied, his colleague proceeded to the interior. Your memorialist had left Fort William in charge of two gentlemen, with directions to deliver up the fort to the Commissioners as the property of the Crown. Mr. Coltman however, had allowed the canoes of the North West Company, to precede him by several weeks, and Mr. M'Gillivray on his arrival at Fort William, had forcibly taken possession of the place. Mr. Coltman took no notice whatever of the disrespect, thus shewn by the North West Company, to the injunctions of the Proclamation. At an establishment which had been formed at Point Meuron, a few miles distant from Fort William, was Mr. J. Bourke, who had been wounded by the half-breeds at Red River on the 19th of June. He had given most important information, in an affidavit taken at Montreal, previously to the appointment of the Commissioners. Mr. Coltman saw him, but did not put any questions to him relative to the events which he had witnessed.

Mr. Coltman next proceeded to Lake La Pluie, where the North West Company had also preceded him, and in the same manner as at Fort William, had taken possession of the fort without any authority, by forcible and violent means, in defiance of the Proclamation. Mr. Michael Macdonell, who had been in charge of the post for the Hudson's Bay Company, complained to Mr. Coltman of this aggression, and stated that the partners of the North West Company, who had been guilty of it, had seized the property, not only which had been delivered up by inventories the preceding autumn, by the clerk then in charge, as before stated, but also many articles belonging to the Hudson's Bay Company, goods brought from Montreal, and provisions purchased from the Indians in the neighbourhood. These articles were not only of considerable intrinsic value, but of incalculable importance for the immediate subsistence of the men employed at the post, and for the supply of canoes which were expected in the course of the season. Mr. Coltman gave an evasive answer, and paid no attention to the complaint, though a few days before, when at Fort William, he had spent a day in making a search at Point Meuron, on a complaint of the North West Com-

*to make any im-
-sion on Mr. Fletcher*

pany, that some articles which they claimed as their property were to be found there.

From Lake la Pluie, Mr. Coltman proceeded to the post at the mouth of the river Winipic. Here he found Archibald Norman Macleod, Alexander Macdonell, John Duncan Campbell and others of the North West Company, (who had been active in the atrocious scenes of the preceding year,) on the point of setting out for Red River, at the head of a hundred armed men, breathing defiance and revenge. At the moment Mr. Coltman appeared, Macleod disregarding both the Proclamation of the Prince Regent, and the notification of the Commissioners, by which he knew that his own commission had been recalled, was in the act of issuing a pretended warrant for the imprisonment of a servant of the Hudson's Bay Company, who had been accused of no offence. This man complained that Macleod and Macdonell had also used personal violence towards him, furiously attacking him with kicks and blows, but he could obtain no redress from Mr. Coltman.

The conduct of Macleod, Macdonell, Campbell and their associates, the preceding year, could not be unknown to Mr. Coltman. If indeed at this period, eight months after his appointment as Commissioner of enquiry, he could possibly be uninformed on the subject, this, of itself, would be a severe satire on his conduct: but in fact, it is known that such evidence had been laid before him, as rendered it his duty to arrest at least two of these men. Independently of other information, Mr. Pritchard had made an affidavit before him at the Falls of St. Mary, against Macleod, as accessory to the murder of Governor Semple. At Lake la Pluie, an affidavit had been made before him, stating that Alexander Macdonell had given orders for the arsons committed at Red River, in the year 1815. With respect to John Duncan Campbell, tho' he had made his escape from the peace officers at Montreal, who had a warrant for his arrest, your memorialist, in compliance with the notification of the Commissioners, had abstained, as already mentioned, from securing him, when he arrived in company with the couriers bearing that document, at Fort William, and had contented himself with stating in a letter to the Commissioners, the circumstances and nature of the evidence against him. Nevertheless, Mr. Coltman, instead of taking any steps to prevent the escape of either Macleod, Macdonell, or Campbell, proceeded on his voyage, after passing some time in their company, without even requiring any security for their future appearance. Mr. Macleod, after parting from Mr. Coltman went to Fort William, from whence, after passing a considerable time in daily intercourse with Mr. Fletcher, he was allowed to depart to Europe. Besides the evidence against Macleod, previously in the hands of the Commissioners, Mr. Bourke, who was on the spot, tendered information against him, but Mr. Fletcher refused to notice his complaint. Macdonell and John Duncan Campbell on parting with Mr. Coltman, hastened to a remote district in the north, where they might easily evade the execution of any legal process.

Mr. Coltman, in company with four or five canoes of the North West Company, under the command of Mr. Simon M'Gillivray, one of their principal agents or directors, pursued his voyage to Red River. Near the mouth of that River, in Lake Winipic, they saw a canoe of the Hudson's Bay Company, which was engaged in conveying letters to your memorialist. Mr. M'Gillivray went in pursuit of this canoe, and having overtaken it, ordered the clerk in charge, in a menacing tone, to stop and come before the Commissioner. The manner in which he was proceeding to enforce this command, appeared more like the usual vio-

lence of the North West Company, than the impartial justice to be expected from a gentleman delegated on the part of His Majesty's Government. Conceiving therefore, that the Commissioner could not be in company, and that his name had been used only as an artifice to induce a more ready surrender, the clerk sunk his letters, before he allowed himself to be taken. When brought before Mr. Coltman, he complained of the treatment he had received, but that gentleman did not think this indecent assault, committed in his presence, and even in his name, a matter deserving of any attention.

Your memorialist at this time, had not received any distinct information, as to the previous conduct of the Commissioners, and was still impressed with the same confidence in their ability, integrity and impartiality, which the Governor in Chief had expressed when he intimated their appointment, and under the influence of which, your memorialist in answer to that communication, had pledged himself to give the most unreserved support to all their measures. In expectation of their immediate arrival, he had addressed a letter to the Commissioners, repeating to them the assurance, not only of the most prompt obedience to their authority, on the part of all persons connected with the settlement, but also of their active assistance in carrying into effect, the measures which they might have in view for the preservation of the peace, and the restoration of good order. He, at the same time, thought it necessary to inform them of the representations which the North West Company had been labouring to diffuse for several months past, viz. that the Commissioners were their devoted friends, who had been appointed for the sole purpose of promoting their interest, and to caution them of the pernicious consequences of any circumstance which, however unintentionally, might tend to give credit to this idea, as it would inevitably have the effect of suppressing important evidence, and deterring witnesses from giving information against the partners of the North West Company. In answer to this letter, Mr. Coltman assured your memorialist of the attention which he should pay to its suggestions: yet he immediately proceeded up the River in a kind of procession, at the head of a brigade of canoes of the North West Company, encamped in company with Mr. Simon M'Gillivray and his partners, about half way between the Fort of the settlement, and the camp then occupied by Mr. Shaw, and the half-breed servants of the North West Company, and went to dine with Mr. Shaw the same day, in the midst of the men, who had been engaged in the massacre of Governor Semple and his people.

The next day Mr. Coltman visited the Fort of the settlement, when Captain D'Orsonnens renewed to him the offer of his services, and assured him, that with the assistance of the settlers, he could secure any of the individuals whom the Commissioners might think proper to take into custody.

Mr. Coltman was at the same time informed, that the half-breeds who were in Shaw's camp were, with hardly an exception, the same individuals who had committed the massacre of the 19th of June. Several persons were brought to him, capable of giving evidence of their guilt, and it was suggested, that if all the persons concerned in the murders of the preceding year, were immediately arrested, it was probable that, many of those who had been misled, by the instigation of their employers, would be anxious to be received as witnesses for the Crown, and might be expected to give information of material consequence.

Mr. Coltman, however, declined receiving any evidence against the individuals concerned in the massacre, and in place of securing the persons of those who

were on the spot, invited them to come to him, to give their own account of the matter, promising that none of them should be arrested, and that he would take no information against them till after a certain space of time, in which they might give their voluntary declarations. Ten days were occupied in this way, to the exclusion of all witnesses, in listening to the tales which the murderers were prepared to relate in exculpation of themselves and of their employers, and taking them down in writing, as examinations or affidavits. These people were living all the time in unrestrained intercourse with the partners and clerks of the North West Company, who had every opportunity of tutoring them how to shape their relations to the best advantage, and who would not fail to caution them against saying any thing to criminate their masters. They had more particularly the assistance of Mr. Angus Shaw, to whose advice they could not fail to show attention, as his own son is one of the principal chiefs "of the *new Nation*." After Mr. Coltman had committed to writing, all that these people chose to say in their own justification, they were allowed to betake themselves to the plains, where the fleetness of their horses ~~allowed~~ no chance of overtaking them: and then Mr. Coltman was ready to receive evidence against them.

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To any person who had no object in view, except the establishment of peace and good order in the Indian country, it must have been evident, that some striking example of punishment was indispensably necessary, to check the audacity of a set of men, who had been so long accustomed to think themselves beyond the reach of the law, and to show them that they could no longer expect to put their fellow subjects to death with impunity. When an individual had been exclusively invested with the authority of Magistrate, for the express purpose of restoring order and respect for the laws, it cannot be doubted, that it was among his first duties, to select the most fit objects to be made examples, to use every exertion to effect their arrest, and to collect the witnesses necessary for their conviction, but no such idea seems ever to have come into the mind of Mr. Coltman. With the exception of the murder of Keveny, in which case the Government of Lower Canada had offered a reward by public Proclamation, for the arrest of the offenders, he seemed to consider himself at liberty to dispense with the performance of his duty as a Magistrate, whenever it was likely to affect the interest of the North West Company. Even with respect to the murder of Keveny, tho' Mr. Coltman professed to consider the investigation of that matter as of the greatest consequence, he neglected to secure the attendance of witnesses, whose evidence was of material importance. Among others, the personal servant of Archibald MacLellan, who had stated circumstances, clearly demonstrating the participation of his master in the crime, was, with his consent, sent away by the North West Company, and conveyed to some of their remotest establishments. Notwithstanding the paramount importance of investigating the circumstances, relative to the massacre of Mr. Semple and his people, that enquiry was systematically deferred on the ground, that Mr. Coltman could not proceed without the professional aid of his learned colleague, Mr. Fletcher, who was at this time at Fort William, and never shewed any intention of proceeding farther into the interior. At that place, his disgusting intemperance and extravagant excesses, reflected disgrace on the Government which he represented, while his absence served as an excuse to his colleague, for neglecting the most essential duties of their appointment. The examination of witnesses, and the investigation of crimes, being thus laid aside, the object which chiefly occupied Mr. Coltman's

attention, was to carry into effect the injunctions of the Proclamation, relative to the restitution of property.

At the period when Mr. Coltman instituted an enquiry into this subject, the North West Company had forcibly taken possession of an immense amount of property belonging to your memorialist at Red River, and to the Hudson's Bay Company, both at Red River and in Athabasca, and other districts in the north. There was reason to believe that the property in Athabasca, still remained in the storehouses of the North West Company, but most of that which they had taken at Red River had been destroyed, disposed of, or removed to a distance, expressly in order that it might not be recognized or reclaimed.

On the other hand, the North West Company claimed a few articles which were in possession of your memorialist, at the settlement on Red River. Tho' they pretended to justify their robberies in Athabasca, on the ground of retaliation, they could not pretend to advance any claim whatever against the Hudson's Bay Company, except for the property which had been abandoned by their clerks at Pambina, and at the forks of the Red River, as already mentioned. The articles in possession of your memorialist, had been sold at Fort William, and at Lake La Pluie, in the one case, by a partner of the Company, and in the other, by the clerk in charge of the post. To the validity of these sales, the North West Company objected, and as their canoes had been allowed to precede the Commissioners, they had taken possession by the strong hand of the greatest part of the disputed property, without waiting for any decision upon their claims. Nothing remained but some articles of inconsiderable amount, which had been brought to Red River. On these however, the agents of the North West Company affected to put great importance. The discussion of their claims afforded an opportunity of occupying the time of Mr. Coltman, to the exclusion of those investigations which ought to have been his first object; and besides this, those acting for the North West Company, calculated that if they could obtain the restitution of any article, however trifling, thro' the interference of the Commissioner, this might be quoted as a proof, that spoliations had been committed on their property, so as to gain credit in England for all their misrepresentations. At the same time, a restitution effected in their favor only, without any compensation of injuries which they had committed, would tend to confirm the idea generally entertained in the Indian countries, that they alone enjoy the countenance and protection of His Majesty's Government.

In answer to the claims of the North West Company, Mr. Coltman was referred to the sales under which the property had been transferred, and which had not been set aside by the decision of any Court of justice. Your memorialist offered to abide by the decision of Mr. Coltman himself, provided he would investigate the matter as a judge, and hear evidence as to the facts alledged on both sides, before pronouncing as to the validity of the sales. But he declined to enter into this investigation, because he said, "it was notorious that the proclamation had been issued on the application of the North West Company, and under the impression that the sales in question, were not valid." Your memorialist remonstrated against his thus ascribing to his Majesty's Ministers, the intention of arrogating to the Executive Government, the province of the Courts of law; and of setting aside the civil rights of British subjects, in an arbitrary manner: Mr. Coltman however, insisted on enforcing the restitution which he construed the proclamation to direct, and on this principle, he ordered that, every article

which could be proved to have once been the property of the North West Company, should be delivered to them.

that quattu Mr. Coltman not only gave this order, but made a point of seeing it carried into effect immediately, and without reserve. He met no difficulty in doing so, as all the articles in question were on the spot; but while he was thus attentive, to enforce in the most summary manner, the claims of the North West Company, the only means which he thought proper to adopt for the restitution of the property, of which the Hudson's Bay Company had been robbed in Athabasca, was to give his friendly advice to the gentlemen who might be in possession of it. Even this he would not give in any ostensible document, except in general terms, and in his usual way of speaking addressed to both parties. He had previously received information, not only that several posts of the Hudson's Bay Company in Athabasca and other northern districts, had been plundered of property to an immense amount, but, also that about a hundred men, constituting nearly all their servants in ~~these parts~~, had been made prisoners, deprived of their property, and were still detained in rigorous confinement, by partners and servants of the North West Company: while it was notorious, that the latter Company, did not even pretend that their property in the northern districts had been violated, in a single instance. Nevertheless, Mr. Coltman wrote a circular letter, addressed equally to the officers of the Hudson's Bay Company in the Northern districts, and to the partners of the North West Company, recommending mutual restitution, where the spoliations had been committed only on one side. He also produced a paper to the same effect, and required the signature of the principal officers of the Hudson's Bay Company, and of your memorialist, in concurrence with that of the agents of the North West Company, as an indispensable condition, before they could obtain his interference to prove the liberation of the people who were kept prisoners, and who were in imminent danger of perishing by famine. In the hope of affording them relief, your memorialist was induced to acquiesce in signing this paper without sufficiently considering the insidious purposes which it was intended to serve. After the lapse of some months, he saw it quoted at full length in the English Newspapers, as an acknowledgement that he had authorised spoliations on the property of the North West Company. This deception is the only purpose, which this paper, or the circular letter of Mr. Coltman, has yet served, or is likely to serve. The North West Company made a shew of complying with the order, by restoring some articles of trifling consequence, while all that were important and valuable, have been appropriated to the use of the "concern."

It was observed to Mr. Coltman at the time, that, to require only the specific restitution of articles, that could be immediately found and identified, without making the parties account for the whole amount of which they had obtained possession, must give a decided advantage to the party that was in bad faith. The articles claimed by the North West Company, had been acquired by fair purchase, and were avowedly in possession of your memorialist, without any attempt at concealment; but his property which had been plundered at Red River, by the North West Company, had been disposed of, disguised or removed to a distance, so that it could not be traced or recognized. Mr. Coltman answered that the parties might have their remedy by an action at law, for the damages they had sustained. But if the parties were to be left to their remedy at law, Mr. Coltman's interference in this matter must have been improper throughout. It may fair-

ly be presumed, that the determination of the Governor in Chief to make such an appointment, had been grounded in a great measure, on a consideration of the difficulty of bringing proof, with all the rigorous accuracy required in Courts of law, respecting transactions which have occurred, at the distance of two or three thousand miles from the place of trial. On this account, if men of real impartiality had been selected, much benefit must have arisen from the appointment of extraordinary Magistrates, enabled by the influence of their situation, to promote many equitable arrangements, that could not come within the competency of a regular Court of law. Mr. Coltman felt all the advantage which the nature of his appointment gave him, for extorting concessions in favor of the North West Company; but it was only in their favor, that his influence was thus exerted, tho' it must have been evident, that a remedy was most particularly proper and requisite, in the case of wrongs, committed by such an association as the North West Company: an association so constituted, that the responsibility of their combined proceedings, can hardly in any case, be legally fixed upon individuals, whose property can afford a compensation for the damages they occasion. Besides this, many of the injuries which the North West Company had done to the settlement, were of such a nature, that nothing but an immediate restitution in kind, could afford any adequate compensation. Breeding cattle, or sheep, were not to be purchased in the country, and were of incalculable value, in the destitute condition to which the settlement had been reduced. Almost all the live stock belonging to it, had been slaughtered for the use of the partners and clerks of the North West Company. The identical animals could not be restored, but those who had consumed them, had the means of making restitution in kind. Mr. Coltman however, did not consider such an equitable arrangement, as coming within the scope of the Proclamation, and interfered on the contrary, to add to the distress of the settlement. Among the articles claimed by the North West Company, were three horses, and a pair of draught oxen, which had been sold by their clerk at Lake La Pluie, and these Mr. Coltman ordered to be restored, tho' proof was offered to him, that upwards of eighty horses belonging to the settlement, had been taken, and appropriated by the North West Company. Proof was also offered, that a number of milch cows had been given up to Culbert Grant, after the massacre of the 19th of June, and that Macleod and his associates, had slaughtered and appropriated them to their own use; nevertheless, Mr. Coltman decided, that two cows which had been purchased and brought from Lake La Pluie, should be restored to the North West Company. As if they had been anxious to mark their antipathy to agricultural improvement, the agents of the North West Company, ordered one of these animals to be killed the next day. By this wanton act of destruction, added to the devastations which had been previously effected, the breeding cattle belonging to the settlement, were reduced to one male, and one female, and in the course of the subsequent winter, one of these was shot at and dangerously wounded, by a partner of the North West Company.

With the same disposition, Mr. Coltman gave his sanction to the North West Company, in establishing a post at the forks of Red River, on the site of that which had formerly been occupied by Duncan Cameron, and which had been the focus of so many crimes. This post had been demolished by Governor Semple, as being incompatible with the safety of the settlers. It had served as a strong hold for those who had conspired to ruin the settlement, where they had

trained and prepared their dependents for the perpetration of crimes, and whence they had frequently sent them forth to strike terror into the families of the settlers, to interrupt their agricultural labors, to kill or drive away their cattle, to lay waste their fields, and to burn their houses. In lending his aid to the re-establishment of a post, which had been so employed, Mr. Coltman still professed that his leading object was to provide for the peace of the country, by following out the injunctions of the Proclamation. It was pointed out to him, that this situation had no peculiar advantage as a trading post, nor any recommendation, except the opportunities which it afforded of carrying on intrigues, and exciting discontent among the settlers, and (whenever the circumstances of the times would admit) of attacking them again, in a more open manner. Your memorialist offered, that if the North West Company should build a trading post, at a reasonable distance from the settlement, either up the river or down, he would give no obstruction on the ground of his rights of landed property. But he remonstrated against those rights being invaded, in order to place in the heart of his settlement, a set of men who were bent on its destruction. He ~~agreed~~, that even admitting the power of the Executive Government, to suspend his rights of property by Proclamation; the words of the Proclamation, certainly could not be understood as applying to cultivated lands: yet did Mr. Coltman support the North West Company on the ground of former occupancy, in taking possession of the site of the former post, and also of a field, which the servants of your memorialist had sown with barley, and which then promised a most productive crop, estimated at several hundred barrels. In this place, the agents of the North West Company, under the eye of the Commissioner himself, pitched their tents, and turned their horses to graze. Your memorialist remonstrated against allowing this wanton devastation, but Mr. Coltman maintained that the North West Company had a right to the field, and of course a right to destroy the crop if they thought fit, and that he would support them in their occupancy. In another instance, he ordered the servants of your memorialist to be interrupted in cutting hay in an open meadow, upon a complaint from the North West Company, that their servants had formerly cut hay there: and upon this ground, Mr. Coltman declared that he considered them as having an unquestionable right to the meadow. The intrinsic value of the spot in question was of no consequence, but the occurrence afforded an opportunity to the North West Company to excite doubts in the minds of the settlers, as to the validity of their title to the lands which had been allotted to them, and to quote the authority of His Majesty's Commissioner, in support of the doctrine that your memorialist had no better right than any other person.

Such matters as these, occupied the attention of Mr. Coltman almost entirely, for several weeks, and the agents of the North West Company were indefatigable in starting questions to afford him sufficient employment, without any portion of his attention being directed to the primary objects of his mission. Complaints were brought against a number of men, who had quitted the service of the North West Company, and the authority of the Commissioner was called in, to compel them to fulfil their contracts. With the exception of a few, these men peremptorily refused to return to their service, and declared that they would rather submit to any punishment which the law could inflict. Many of them stated, that they had been ordered to commit crimes, which would have subjected them to the penalties of the law: and that upon their refusal, they had been exposed to the

most dreadful vengeance on the part of their masters; others had seen the greatest severities exercised on their fellow servants, in consequence of their refusal to comply with unlawful commands; and all declared that they could not consider their lives as in safety, in the service of the North West Company, unless they should submit to be the instruments of crime, whenever their masters should require it. These men were arrested upon the complaint of the agents of the North West Company, and some of them were kept in custody two days, before the Commissioner could decide on their case. His determination was, to bind them over in recognizances, to appear at Montreal before the Quarter Sessions of the Peace, to answer the complaints of their masters: a proceeding altogether illegal. It is well known, that to leave the service of a master, is not at common law, a crime, but a mere civil injury, of which, Mr. Coltman, as a Magistrate for the Indian territories, had no right to take cognizance. By a Provincial Statute indeed, particular regulations are made, respecting men who are engaged as voyageurs for the Indian countries, and the Justices of Peace in Canada, are empowered to punish them in a summary manner, for leaving their master's service. This Statute, could be of no avail in any country that is not under the authority of the Legislature of Canada; and if it had been in force at Red River, it would only have authorised Mr. Coltman to inflict a summary punishment, by imprisonment for a few weeks on the spot, instead of which, he condemned these men to quit their occupation, for the greatest part of a twelve month, some of them leaving their families at a distance of more than two thousand miles without any certain means of subsistence, and this, under pretence of being tried before the Court of Quarter Sessions, which had no jurisdiction over the offence imputed to them. It appears from this, and several other instances, that when it was necessary to support the power, or to serve the interests of the North West Company, Mr. Coltman was not very scrupulous in keeping within the exact bounds of the authority legally vested in him, and did not hesitate to proceed without the assistance of his colleague and legal adviser, tho' the want of that assistance afforded an excuse for delaying any proceedings against those who had destroyed the settlement, and put to death so many of its inhabitants.

When at length Mr. Coltman could no longer delay the investigation of the subject, he declared that he should make it a principle, in taking the evidence that all the affidavits relating to the 19th of June, should be drawn out by himself. If this rule was proposed with the view of having these affidavits taken in a more complete manner, the precaution appears to have totally failed in its' desired effect. Among other witnesses, who were examined on this subject, was a man of the name of Peltier a half-breed, who had been one of the party under Cuthbert Grant on the 19th of June, but having afterwards quitted the service of the North West Company, had given his testimony on the subject in a more unreserved manner, than could be expected from the half-breeds who had been tutored by Mr. Angus Shaw. This man had been twice examined by Mr. Coltman, and his affidavit being taken each time, it was not supposed that any farther information was to be expected from him. But when he was afterwards questioned by Mr. Gale, he disclosed many important facts, which had not been noticed in either of the affidavits taken by Mr. Coltman. Among the facts which that gentleman had overlooked, was this, that on the 19th of June, when Cuthbert Grant was on the point of attacking Semple's party, and had collected his own for that purpose, he told them, that if the English surrendered at once, they

should spare their lives, but that if any resistance was offered, they were to fire without hesitation. He also mentioned, that a part of Grant's men, before Governor Semple had come up to them, had ridden to one of the houses in the settlement, and had there made some of the settlers prisoners. Peltier is not the only one in which similar omissions may be marked; but with all these omissions, there was no want of care on the part of Mr. Coltman, in cross examining the witnesses brought before him, when it was necessary to scrutinize any assertion which they made against the North West Company.

The affidavit of

Among the crimes, which were brought under the notice of Mr. Coltman, was a murder, accompanied by circumstances of extraordinary barbarity, committed on the person of an Indian by P. S. Ogden, a clerk of the North West Company, and several of his men at Green Lake, near Churchill River. A person who had been an eye witness to the murder, and upon whose evidence, a bill of indictment has since been found, stated on oath before Mr. Coltman, that the Indian being pursued by Ogden and others, had taken refuge in the trading post of the Hudson's Bay Company, that Ogden and a number of his men in arms, had surrounded the post, and demanded that the fugitive should be given up to them, that the clerk in charge of the post, terrified by their menaces, had refused to shelter the Indian, that Ogden and his men having got him into their power, and taken his arms from him, dragged him on the ice, towards the middle of the Lake, where they stabbed him, and with brutal ferocity, mangled the corpse. Mr. Coltman however, refused to issue a warrant against Ogden, and did not take any steps for his arrest, assigning as his principal reason, that he did not know whether the government intended to consider the killing an Indian as murder or not! In this omission, Mr. Coltman appears also, to have acted on a general principle and determination, not to give any authority for securing a single individual of the criminals of the North West Company, with the exception of the murderers of Keveny, who were in custody before he arrived. He issued warrants indeed against Archd. N. Macleod and Alexr. Macdonell, but not till after he had been repeatedly pressed upon the subject, and not till it was almost a matter of certainty that they were out of reach. Among the witnesses against them was F. D. Huerter, whose testimony was so clear and decisive, that it would have left no excuse for any delay in issuing warrants, against Macleod and Macdonell, as well as many others. Huerter was brought to Mr. Coltman the day after his arrival at Red River, the importance of the information he could give, was particularly pointed out, and in order to save trouble, he presented a narrative which he was ready to have attested upon oath. But Mr. Coltman affected to doubt, whether the witness, having quitted the North West Company's service, and being therefore liable to an action for breach of contract, could be received as an evidence against them in a criminal case: upon this question, he desired to have the advice of Mr. Fletcher, and delayed for several weeks to take the affidavit of Huerter, in the mean time excusing himself from taking any legal steps upon his information.

After a great number of witnesses had been brought before Mr. Coltman on the part of your memorialist and of the Hudson's Bay Company, a demand was made of warrants against those who were charged with crimes by their testimony, and a list was produced of about sixty persons, partners, clerks, and servants of the North West Company, against whom there was sufficient evidence to render it his duty as a magistrate to issue warrants, of arrest, for capital felonies. Mr.

Mr. Coltman did not comply, excusing himself, on the ground of the inadequacy of his means of effecting the arrest, or of conveying the accused to Lower Canada. He might at least however have issued warrants against a few of the most culpable, and most deserving of punishment. But Mr. Coltman had laid it down as a general principle, not to put warrants into the hands of the one party against the other. As he also took it for granted, that every individual in the country, must belong to one party or the other, it is evident that on this principle the law could not be executed at all.

With respect to the individuals against whom warrants were thus demanded, a few who were on the spot, or who afterwards, were met in person, Mr. Coltman was induced to put under recognizance to appear at Montreal, to answer the charges brought against them. From persons implicated in murder upon such evidence, that bills of indictment have since been found against them, he took bail in the sum of five hundred pounds. This extreme lenity and disposition to accommodate the North West Company, may be contrasted with the conduct which Mr. Coltman adopted towards others.

Charges had been brought by the agents of the North West Company, against your memorialist, and also against Captain Matthey, Captain D'Orsonnens, and Mr. Allen. Tho' their allegations, even as stated by Mr. Coltman, would not have proved more than a simple misdemeanor, yet he bound each of these gentlemen in recognizances of several thousand pounds, your memorialist in the sum of six thousand pounds, and two securities in three thousand pounds each. It is impossible to suppose, that he could imagine such excessive bail to be necessary for securing the attendance of the persons in question, but it served the purpose of the North West Company to create an impression, that your memorialist and his friends, must have been guilty of very heinous offences, when bail was required to such an extraordinary amount, by the same Magistrate who considered five hundred pounds as sufficient in cases of murder. These recognizances were in fact taken illegally, and Mr. Coltman was warned at the time, that in requiring them, he set at nought, all the principles of the law of England, as to the separation to be observed between the authority of different jurisdictions. This stretch of authority, he ventured upon evidence so defective, that no one bill of indictment has been found against any of the gentlemen in question, tho' the prosecutors have had ample opportunities for substantiating their charges, tho' they have made the greatest efforts to produce something like evidence, and have had very unusual assistance from the law officers of the Crown, in making the most of their materials. One insignificant charge of false imprisonment, brought before the Quarter Sessions, and already partly disposed of, by the acquittal of one of the accused, can hardly be reckoned an exception:

Accusations were trumped up, in this manner, against every individual capable of taking charge of the settlement, and all were bound in recognizances of large amount, but on a representation of the dangerous consequences which would arise, if the settlement were left without any person qualified to direct the conduct of the inferior settlers, Mr. Coltman agreed that the recognizances of two of these gentlemen, though nominally given for March, should be allowed to stand over till another term. Your memorialist proposed that Captain Matthey should be one of these, and was given to understand by Mr. Coltman, that no practical impediment should be given to this arrangement, tho' from particular circumstances, he could not give his formal and official sanction. Upon this un-

derstanding, Captain Matthey made his arrangements for remaining at Red River. But after the lapse of several weeks, and at the moment of your memorialist's departure, Mr. Coltman declared that he had been entirely misunderstood, and that the only officer whom he could agree to leave, was Mr. De Graffinreid. This gentleman was anxious to return to Canada on account of urgent business, and as he was not on the spot, it could not be ascertained whether he could be induced to remain; nevertheless, Mr. Coltman was so peremptory in his determination, as to declare that unless a pledge were given, that Captain Matthey should come down to Montreal without delay, he would issue a warrant against him, and put it into the hands of the North West Company, notwithstanding his general determination not to put warrants against one party into the hands of the other. Not many days had then passed, since Mr. Coltman had refused to grant warrants against any of the servants or partners of the North West Company, tho' thirty or forty had been charged before him, as implicated in murder, by the same evidence upon which bills of indictment have been found against them, and in that number were several who had distinguished themselves by the most brutal cruelty. Leaving murderers undisturbed, Mr. Coltman thought it becoming, even to exceed the full extent of his authority, against a gentleman who was charged with a misdemeanor.

Though Mr. Coltman declared to your memorialist that he had never entertained the intention of leaving Capt. Matthey at Red River, yet upon other occasions, he explained his conduct in a manner quite inconsistent with that declaration, acknowledging that he had actually written to the Governor in Chief, to propose that Captain Matthey should be allowed to remain, but that before his letter was closed, Smith, the Sheriff's officer, had remonstrated against making this exception, and that in compliance with the wishes of that person he had altered his letter, and expressed to the Governor in Chief, his intention of leaving one of the officers of the late Regiment De Meuron, without specifying whom. Mr. Coltman did indeed, assign as another reason for not acquiescing in Captain Matthey's remaining at Red River, that he was particularly obnoxious to the North West Company, and that the best way of restoring the peace of the country, would be to bring away all those who were most obnoxious to the opposite party. From the general conduct and views of the North West Company, it must be evident that every individual will be obnoxious to them, in exact proportion to his capacity, for resisting their lawless aggressions. But were this otherwise, it is a very singular principle, that the vindictive passions of any party, should be allowed to influence the conduct of any Magistrate.

During Mr. Coltman's stay in the Indian country, the canoes of the North West Company destined for Athabasca, passed down the River Winipic. Information had been given to him, not only as to the immense spoliations committed under the directions of Archd. N. Macleod, on the property of the Hudson's Bay Company, but also as before mentioned, that their servants to the amount of nearly a hundred men, were detained in the most rigorous confinement without the slightest legal pretext. One of these men who had made his escape, gave information, that he had left his companions on a small Island, where they had no supply of provisions, except the fish which were daily brought to them by some fishermen of the North West Company; that in the event of any accident happening to them, or a failure in the success of their fishing, the whole party must perish, and that in fact they had been frequently left for one or two days

without any thing to eat. The urgent necessity of an effectual interposition of the Commissioners' authority, to put an end to such a disgraceful outrage was evident, and it was accordingly proposed to Mr. Coltman, to visit the post at the mouth of the River Winipic, and to investigate this subject. But that investigation led to no conclusion, and these canoes proceeded to Athabasca, without any measures being taken for securing the liberation of the servants of the Hudson's Bay Company, without even the precaution of any measures for the future preservation of the peace, notwithstanding the cruelties of which partners and servants of the North West Company had been guilty the two preceding seasons. Among the people who were thus allowed to pass by the Commissioner, were a number of men who had been guilty of robbery and arson. A few of these took the precaution of disguising themselves, and of assuming false names. The deception used in this case, must have been a matter of notoriety to more than a hundred men who were on the spot, yet it was sufficient to defeat the efforts of Mr. Coltman to detect the criminals.

A short time before Mr. Coltman quitted Red River, the agents of the North West Company gave him a practical proof of their influence over the half-breeds, by prevailing upon some of those to appear, for whose arrest the Government of Lower Canada had offered rewards by Proclamation. Some of these men had been in Mr. Coltman's power, when he first arrived in Red River, and if he had then thought fit to accept the proffered services of Captain D'Orsonnens, their persons might have been secured without any pledge, direct or indirect, that they should be treated differently from other criminals. They now claimed the indulgence due to men who had surrendered voluntarily. Among their number was Cuthbert Grant, who had been guilty of such a tissue of crimes, that he would never have put himself within the reach of the law, unless he had received very strong assurances of protection. In what manner, or by whom, these assurances were given, can only be matter of conjecture; but Mr. Coltman himself, acknowledged that he considered the faith of Government as pledged to him, and treated him in a very different manner from that which was due to a man, who, during a series of years, had been engaged in the continual commission of atrocious crimes. With the evidence before him, on which six bills of indictment for capital offences, have since been found against this man, Mr. Coltman acting as Commissioner for His Majesty, and representing the British Government in the Indian territories, conferred on him the distinction of messing daily at his table, and of sleeping in his tent during the whole of his voyage from Red River.

On his arrival in Lower Canada, Mr. Coltman left Grant at one of the first villages, in custody of a clerk of the North West Company, and came forward to Montreal, to ascertain in what manner he could be disposed of, without being subject to arrest or imprisonment. The Counsel of your memorialist understanding that it was in contemplation to admit him to bail, remonstrated with Mr. Coltman, but could not convince him of the impropriety of such a step. They brought forward evidence against Grant for other crimes, but Mr. Coltman refused to issue any warrants against him. After some delay, he gave up one of several warrants which had been signed by the Chief Justice the preceding spring; but before this could be executed, Grant had been allowed to withdraw, and could not be found. Sufficient information, however, was obtained, that Mr. Henry Mackenzie had assisted in his escape, and that gentleman was brought before the Magistrates of Police, and being put under recognizance to answer for this ob-

struction of justice, he again exerted his influence, and Grant was once more induced to surrender himself.

Along with Mr. Coltman and Mr. Mackenzie, an Indian of the name of Joseph, who had been present at, and concurred in the murder of Keveny, arrived at Montreal, but completely at large. The counsel for the Hudson's Bay Company applied to have him arrested, but though evidence was produced, that Joseph had been present aiding in the murder, Mr. Coltman absolutely refused to grant a warrant against him, on the ground that he had brought him down as a witness. In the Court of Oyer and Terminer, in February, a bill of indictment was found against this man, as a principal in the murder of Keveny, but nevertheless, Mr. Coltman proposed to the Attorney General, to admit him as a King's evidence, for the ostensible purpose of convicting De Reinhard, against whom there was already a super-abundance of testimony. Joseph had been left in the mean time in the hands of the North West Company, so as to afford them every opportunity of tutoring him as to the testimony which he should give, and after he had been three Months in their care, about a fortnight before the trial of the murderers was expected to commence, Mr. Coltman directed him to be put under the care of the Missionaries, at an Indian village, near Montreal, in order that he might be instructed in the principles of religion and the obligations of an oath.

Prisoners

Another of the murderers of Keveny, Mainville a half-breed had been taken into custody at Red River, at the same time with MacLellan, and declared that he had committed the murder by MacLellan's orders, Mainville was sent off for Montreal, by orders of Mr. Coltman, in company with MacLellan, Pangman and Lamarre. Your memorialist had recommended a person to have the custody of these ~~persons~~ in whose vigilance and determination, implicit confidence might have been reposed. Some vague charge had however been brought against him by the North West Company, and the accusation was considered by Mr. Coltman, as rendering him ineligible. That determination being given, another person was sworn in as a constable, to whom Mr. Coltman conveyed his instructions in a letter, which was to be, and was in fact, delivered to him at Drummond's Island, at which place, he was directed to take charge of the prisoners, and convey them to Montreal. From Red River to Drummond's Island, they were in charge of Lt. Austin of the 70th Regiment, who had the command of the whole party, among whom, were a few soldiers of the 37th Regiment, and also some men of the late Regiment De Meuron, who having declined to settle at Red River, had taken their passage to Canada and were employed simply as canoe men. At Fort William, the canoes stopped a few days, during which, MacLellan and the other prisoners were allowed unrestrained liberty: Mainville alone was kept in close confinement, his mother was then at the place, and it has been ascertained, that he left the greatest part of his baggage in her charge. The party was here increased by the addition of a serjeant and about twenty men of the 70th Regiment, part of the escort which had attended Mr. Fletcher during the summer at Fort William, and who on their departure, were supplied with a liberal donation of liquor. At the first point where they landed after leaving the Fort, Mainville escaped into the woods, and has been heard of no more.

It is understood that upon Mr. Coltman's arrival at Quebec, he was informed that Mr. Fletcher's conduct had not met with the approbation of the governor in chief, and that he was therefore to hold no further intercourse with him on

the business of his Mission; though it does not appear that the commission of Mr. Fletcher, as a Magistrate for the Indian Territories, has been formally recalled. It appears that Mr. Coltman having represented the necessity of legal advice, was referred to the Advocate General Mr. Pyke, and soon after, in the Month of December 1817, having obtained from the Attorney General, full authority for him to act on the part of the Crown, they proceeded together to Montreal.

Shortly after their arrival, the counsel for your memorialist, and for the Hudson's Bay Company, were informed that an application on behalf of the servants of the North West Company to be liberated on bail, was to be made to the Chief Justice. This intimation was given, only the day before the matter was to be taken into consideration, without any communication of the Affidavits, upon which the application was grounded, so that no opportunity was afforded of shewing the falsehood, or insufficiency of the allegations. Of these Affidavits, one was by Mr. Coltman himself, who was present on the occasion, and Mr. Ross, one of the counsel for the North West Company, referred also to Mr. Coltman's report, as affording grounds for the application. The particulars on which he built this conclusion were not stated; and it deserves attention that several Months after this, it was stated by Mr. Coltman, that the report alluded to, had not been given in to the Governor in Chief, so that it could only be a partial communication of an intended report, that Mr. Ross could refer to. On what grounds, that communication should have been made to the advocate of the North West Company, when the report has been scrupulously kept secret from others, remains to be explained; but even if it had been completed and published, it is not easy to understand, how such a report should be taken as the ground of a judicial proceeding.

Most of the persons, for whom this application was made, had been indicted for robbery, for arson, or for maliciously shooting at the settlers on Red River. Some were also under indictment for the murder of Keveny. These indictments were suggested as a bar to the liberation of the prisoners: but Mr. Ross referred the Advocate General to the arrangement that had been agreed upon at Quebec, where he said "assurances had been given by the government, that the indictments were to be waived;" and as the Advocate General still hesitated, Mr. Ross proceeded to observe that "if this was not to be done, it was useless for Mr. Coltman and Mr. Pyke to have come up from Quebec." The Advocate General at length consented to waive the indictments, with the exception only of that for the murder of Keveny, so that Cuthbert Grant remained in custody.

The counsel for your memorialist attempted to represent that the individuals whom the Advocate General was about to admit to bail, had been guilty of many other crimes, besides those for which they had been committed and asked for a delay of the proceedings till the next day, in order to produce affidavits, as well to substantiate the other crimes of which those individuals had been guilty, as to rebut the affidavits on which the application for bail were grounded, and it was urged that by the affidavits so to be produced, it would be made evident that none of the applications for bail ought to be granted. But it was observed by the Chief Justice, that he could not recognize any private prosecutors, that the entire and exclusive management of all criminal prosecutions, belonged to the law-officers of the Crown, and that he could not, therefore, on this occasion, receive any suggestions from the counsel of your memorialist. It was then represented to him, that

Lurkish

if he would not listen to the suggestion that had been made, as proceeding from the private prosecutor, it might be considered as addressed to the Crown officer, who, it was to be presumed, would avail himself of the offer then made to ~~present~~ him with additional affidavits to resist the application for bail, and would himself solicit the proposed delay 'till the next day. The Crown officer however, it would appear, was not anxious to be put in possession of more grounds, for the detention of the prisoners in custody, and proceeded without soliciting any delay. The bailing of the prisoners, therefore took place without further difficulty, the Advocate General giving an express consent to the bailing of several of them. It was not without surprize that the counsel for your memorialist, and the Hudson's Bay Company, found themselves excluded from any participation in this proceeding, as they had been admitted on all former occasions, in the absence of the Attorney General, to support the prosecutions in question, and when he was present, had taken part in all the discussions that had any relation to them. But it was plain that a different course of proceeding had been resolved on, before the departure of Messrs. Coltman and Pyke on their mission, and that for the success of the applications for bail, it was deemed expedient that no co-operation on the part of the private prosecutors should be admitted. There were, no doubt, urgent considerations, making it the interest of the North West Company, that the principal criminals in custody, should be liberated. The prosecutions against them had assumed a serious aspect, the witnesses necessary for their conviction, were then collected, and if the criminals had remained in custody, trials at Montreal could not easily have been evaded.

Among the persons who were liberated in this manner, were Peter Pangman, commonly called Bostonois, Seraphim Lamarre, Louis Perrault, and Joseph Brisbois. Pangman, a half-breed clerk of the North West Company, had been one of the most active leaders, in all the outrages committed against the settlement in the year 1815. At the time when he was liberated, bills of indictment had been found against him for robbery and arson, and bills have since been found for conspiracy and murder. Lamarre had also been an active leader in the outrages of the year 1815, and two bills of indictment had been found against him, one for robbery, and another for maliciously shooting at the settlers, in one of the attacks made on them by the North West Company. Other indictments have since been found against him, for robbery and conspiracy. Perrault had been committed for the part he had taken in the murders of the 19th of June, for which he has since been indicted. Upon his examination, he had admitted that he had fired on the settlers, and seemed to suppose, that the orders of his employers afforded a complete justification. Brisbois had been committed for the robbery of the Hudson's Bay Company's boats, in the river Qu'Appelle, and has since been indicted for that offence, as well as for conspiracy. Among the persons bailed, were also three of the settlers, who had joined the party of the North West Company in the spring of the year 1815, and assisted in the violences committed against their own countrymen, particularly in robbing them of their means of defence, and afterwards in open attacks with fire-arms, against those who had refused to join them. Most of the individuals who were thus liberated, have since proceeded to the Indian countries, where they have been heard to boast of the protection afforded to them by Mr. Coltman, and to deride the feeble efforts of the adversaries of the North West Company to bring them to justice. Their recognizances have been generally taken in so loose a manner, that it is very doubtful whether

they are valid, and for sums of inconsiderable amount, which the North West Company would not hesitate to pay, in order to procure immunity for the crimes of their dependants.

Another criminal of distinguished notoriety, was liberated some time afterwards, in a manner not only improper, but altogether illegal. One George Campbell had been among the most active tools of the North West Company, in the violences committed against the settlers in the year 1815. By the offer of a bribe, which was promised to him by Duncan Cameron, and paid by the Company, he had been induced to abandon his farm, and to exert all his influence to lead his fellow ~~subjects~~ ^{settlers} to turn against their countrymen. It was by his contrivance, that the plan had been effected for robbing the settlement of the arms provided for its defence. He had afterwards been a leader in almost all the attacks which had been made against the settlement, and after the settlers had been at length driven away, he had taken an active part in burning their houses. Upon these matters, four bills of indictment had been found against him for capital crimes; for robbery, for maliciously shooting, and for arson. Notwithstanding the enormity of the offences with which Campbell was charged, several applications had been made for admitting him to bail, which had been unsuccessful. The last occasion when such an attempt was made, was that on which Messrs. Coltman and Pyke had lent their good offices, to the bailing of the persons above mentioned. Campbell was one of those who, it was then insisted on, ought to be bailed, and as to him also the Advocate General consented to waive the indictments which had been found against him. But the Chief Justice considered his case as one for which an application for bail could not be entertained, and in refusing to bail him, he had noticed the great enormity of his offences, and said it was inconsistent with public justice that he should be bailed; he had also noticed the danger to be apprehended from affording him an opportunity to return to the country where his crimes had been committed, using these emphatic terms, "Can I send this man back to do the like;" and he had also observed that a great way had been gone by Government in waiving the indictments against any.

To have admitted a man to bail, while under indictments for such a tissue of the most aggravated crimes, would have been under any circumstances, a very extraordinary proceeding, involving high responsibility in the Judge who might hazard such an exercise of his authority. But in the case of this individual, two Puisne Justices of the Court of King's Bench, who, except in some cases of casual incapacity of the Chief Justice, had no power even to entertain before them, in a regular judicial form, an application for bailing him, ventured to discharge him from custody, without form or ceremony of any kind. By the laws of Lower Canada, the power of admitting persons to bail in vacation, under charges of felony, is vested in the Chief Justice exclusively, the Puisne Justices having no authority whatever in this respect. Yet, Mr. Justice Ogden and Mr. Justice Reid, with a full knowledge of their own legal incapacity to bail this man, in the forms of law, arrogated to themselves the power of discharging him without any formality whatever, and in a manner that could be deemed very little consistent with the dignity of their office. They went, it appears in person to the gaol, and delivered to the gaoler a written order, signed by them, to release this man, with which the gaoler complied. And this irregular interposition of power, contrary to law, in favor of a culprit enjoying the protection of the North-West Company, was the act of the

same two Justices, whose scrupulous delicacy, a few months before, had induced them to decline the exercise of their judicial functions, when necessary for the ends of justice, upon the ground of connection with the North West Company. Some days after Campbell had been liberated by the two Puisne Justices in this summary manner, a writ of Habeas Corpus, bearing date before his liberation, and signed by the Chief Justice, was presented to the gaoler, with a request that he would make a return to it, to be antedated, and give up the written order of the two Justices for his discharge. The gaoler, however, had too much regard for his duty to comply. The liberation of Campbell was excused, under the pretext of his life being in danger in the prison. He was stated by a Physician to be in a high fever, and removed to the hospital. In the space of forty eight hours, however, he was well enough to walk out unobserved, and is not known to have since made his appearance within the jurisdiction of Lower Canada. He is said now to be living near Detroit, within the limits of the United States.

No comment can be necessary on the tendency of such proceedings, to encourage among the servants of the North West Company, the idea of the unbounded influence of their masters' with Government, and of the impunity with which any crime may be committed for their benefit. Till lately this extraordinary libel on the British government, had only been promulgated in the remote Indian countries, but in the course of the last year, the same doctrine has been openly maintained in the streets of Montreal, and even within the walls of the prison. Among the prisoners who had been brought down from the interior, were several who might have been expected to make disclosures of great importance, and much additional evidence might undoubtedly have been obtained, if these men had been treated as ~~prisoners~~ in similar circumstances, usually are in England; or in any country where it is intended to bring criminals to condign punishment. But it is evident that no disclosure can be expected from a criminal, unless he is made to feel that, otherwise, he is likely to suffer for his conduct: and so long as the servants of the North West Company, continue to believe in the all powerful influence of their masters, they will scorn the idea of becoming King's evidence, as a base and cowardly desertion. No pains have been spared to keep up this confidence among those who were detained in prison at Montreal. They were treated with a degree of attention to which they had never before been accustomed, pampered with a profusion of luxuries and with every indulgence which could help to drown reflection, amidst the ebullition of turbulent mirth; so that their apartment in the gaol, was more like a place of entertainment, than of confinement. They received daily visits from the partners of the Company, and the interference of these gentlemen, many of whom, were invested with the authority of magistrates, baffled every attempt to preserve order and decorum in the prison. To such a pitch of insolence were these prisoners elevated by the protection they received, that the refusal of the Sheriff to allow a billiard table, to be placed in their apartment, was made a subject of bitter complaint. At an early period in the Month of March, these abuses were pointed out verbally to the Attorney General, and by letter to the Governor in Chief, but no effectual interposition of their authority was obtained, nor did any change take place. The treatment of the prisoners at Montreal, was yet improved upon at Quebec, when after sentence of death, had been passed upon Charles De Reinhard, for the murder of Owen Keveny, an entertainment was given to him in the gaol, at which several partners of the North West Company, were present.

Persons

It is not merely in an indirect manner, that the partners of the North West Company, have succeeded in preventing any disclosure on the part of their servants. On several occasions, they have insisted on being present at their examination before the Magistrates, and have unblushingly prompted them, what questions to answer, and what to decline. Among the individuals who have interfered in this extraordinary manner, to impede the course of justice, is the Honourable John Richardson, a member of the executive council of Lower Canada. Mr. Henry MacKenzie, a justice of the peace for the district of Montreal, has been repeatedly detected in giving money, and otherwise attempting to corrupt the witnesses for the Crown. One marked instance of this occurred at Quebec, during the trial of MacLellan and De Reinhard, for the murder of Keveny. The circumstance was communicated to the Attorney General, with a request that he would bring the matter before the grand jury, but he did not take any notice of the subject.

Previously to these proceedings, a measure had been adopted by the Government of Lower Canada, calculated in the most essential manner to defeat the purposes of justice. The bills of indictment already alluded to, against George Campbell, which included also two partners, and several clerks of the North West Company, had been found in the Court of King's Bench, at Montreal, in the Month of March, 1817. At the ensuing term in September, the counsel for your memorialist, and the Hudson's bay Company, had collected witnesses at great expence and trouble, and were ready to proceed to trial, without the smallest doubt of obtaining the conviction of Campbell and his accomplices, and in full confidence that the evidence which would be brought before the public on his trial, would lay open the true character of the proceedings of the North West Company against the settlement. At this moment, the Attorney General intimated that the Governor in Chief, had ordered these trials to be transferred to Upper Canada. This measure was determined upon, by the advice of the Executive Council, without any previous communication with the counsel of your memorialist, or any opportunity being afforded to them of stating their objections. These were afterwards stated in a letter to the civil secretary of the Governor in Chief, who returned for answer, that the measure had been definitively settled, and could not be recalled.

Independently of all other objections to such a transfer, it had the immediate effect of preventing the trial from coming on, when all the witnesses were on the spot, and putting it off to an indefinite distance of time, when there was every probability that some of them might be absent. In fact several of the most material, have since left the Province.

With a view to the fair and impartial administration of justice, it was evidently desirable that the whole of the charges, relative to crimes committed in the Indian territories, should be brought to trial as far as possible, at the same place, and at the same time: and if they were to be brought to trial in Canada at all, Montreal was the least objectionable place. It was the ordinary residence of most of the parties, and at the period in question, the temporary abode of others. It was the only place in the two Provinces, where the character of the witnesses could be appreciated; a great proportion being natives of the District, and from their connections and occasional visits to it, better known there than in any other parts of the Provinces. The jurymen also being better informed as to the general mode of conducting business in the Indian Territories, would be better able to

judge of the intrinsic probability of the facts, which might be stated in evidence, and less liable to be imposed upon by suborned witnesses; nevertheless, the law officers of the Crown appear not only to have advised the transfers to Upper Canada, but also of their own authority, transferred the trial of the murderers of Keveny to Quebec.

They stated as a reason for this, that the spirit of party ran so high at Montreal, on the subject of the differences between the Hudson's Bay and the North West Companies, that it was impossible to find an impartial jury. If this was not a designed misrepresentation, it betrayed a total ignorance of the real state of the fact. A number of the inhabitants of Montreal, are indeed connected with the North West Company in pecuniary interest, act together as a party, and exhibit the most rancorous animosity, against all who interfere with the views of that association: these people however, form but a very small proportion of the inhabitants. Those who have any interest in opposition to the North West Company are so few, that it would be ridiculous to speak of them as a party. The great body of the City and District have no interest whatever in the Fur trade, or in any of the transactions of the Indian territories, and it would be a libel on half the population of the Province which is contained in the District of Montreal, to suppose that out of so many who have no direct interest in the subject, it could be difficult to find jurymen sufficiently acquainted with their duty, to lay aside any preconceived notions, when they are put on oath to give a true verdict according to the evidence. But the Attorney General did not disguise that he adopted this opinion from Mr. Coltman, and that gentleman had found that the grand jury of Montreal, could not be induced to concur in his opinion, that all the crimes committed in the Indian territories, were mere venial irregularities. The juries at Quebec being less acquainted with the state of the Indian countries, might be supposed more likely to place implicit reliance on the report of an officer of Government who had travelled as far as Red River.

The transfers to Upper Canada were still more objectionable than those to Quebec. The capital of that Province is a mere village; and without any disparagement to the character of its inhabitants, it would be unreasonable to expect that it can furnish pannels of jurymen equal in point of education and intelligence, to those which may be found in a wealthy commercial Town, of a population fifteen or twenty times as great. It is also of material consequence that of the small population of York, a very considerable proportion consists of persons in employment under Government, and others immediately connected with them, or under their influence; so that there is not a place perhaps in the two Canadas, where there is so great an opportunity of creating an undue bias in the minds of that class of men, from whom the juries are to be selected. The effect of all these transfers has been an incalculable loss of time, rendering it quite impossible to keep the witnesses together, and to prevent them leaving the country, harrassing them with repeated journeys from place to place, and affording to the guilty parties every opportunity of tampering with them. It served also to distract the attention of the prosecutors, by the necessity of carrying on legal proceedings at the same time, in different places remote from each other. Proceedings had been commenced by the North West Company at Sandwich, in the western District of Upper Canada: in consequence of the transfers ordered by the Governor in Chief upon their petition, other trials were to take place at York: others remained to be conducted at Montreal: and as if this were not a sufficient

degree of complication, the Attorney General chose to have the murderers of Kenney tried at Quebec, so that questions, arising out of the same subject, between the same parties, and depending for the most part upon the testimony of the same witnesses, were to be tried in four different places, at the distance of eight hundred miles asunder, communicating for the greatest part of that distance by roads barely passable, and so ill accommodated with means of intercourse, that even a letter cannot receive an answer, till after an interval of six or seven weeks. It is an easy matter for the numerous partners of the North West Company, to divide among themselves the task of attending at all these different places; but on the other side, the whole burden devolved on your memorialist, with no assistance except that of his professional counsel, who cannot without the greatest inconvenience, absent themselves from their ordinary place of residence. No method could have been contrived more effectually to defeat the purposes of justice, by harrassing and tiring out the prosecutors.

In the criminal term of the Court of King's Bench, at Montreal, in September 1817, at the same time that the Counsel of your memorialist were ready to proceed to the trial of Campbell and his accomplices, they were no less desirous to bring on the trial of several persons connected with the settlement on Red River, against whom the North West Company had brought groundless accusations, from which the individuals concerned were anxious to clear their characters. Among these was Mr. Spencer, who had been arrested in September 1814, on a warrant of Archibald Norman Macleod, and after being kept more than twelve months in the private custody of the North West Company, had been conveyed to Montreal in the year 1815, but was not brought to trial that autumn. At the ensuing term in March 1816, he had been ready to take his trial, but the prosecutors were not ready, and the business was delayed. He now again presented himself, and there could have been no pretext for further delay, but Mr. Justice Ogden and Mr. Justice Reid, thought fit to retire from the Bench, declaring in open Court, that on account of their intimate connection with the North West Company, they could not with propriety, take a part in any judicial proceedings, in which the interests of that association were involved, or that related to their differences with your memorialist, or with the Hudson's Bay Company. At this time, there were only three Judges competent to sit on the Bench of Montreal, so that this secession did not leave a quorum, and the trials could not proceed. It was in vain that the prisoners or their counsel entreated the Judges to waive their scruples, and even urged that it was their duty not to leave their places on the Bench. But it was not for the interest of the North West Company, that these trials should come on, and expose the futility of the charges, by which they had so long been playing on the credulity of the public: So far did these Judges carry their scruples, that they could hardly be persuaded to concur with the Chief Justice in taking the recognizances of the partners of the North West Company, who were charged with crimes committed in the Indian Territories.

In consequence of this conduct, by which the Court of King's Bench at Montreal, had become incompetent to the trial of any cases in which the North West Company were concerned, the Governor in Chief, issued a Commission of Oyer and Terminer which was opened at Montreal, on the 20th of February, 1818. In this Court, independantly of the bills of indictment, which had been previously found in the Court of King's Bench, against George Campbell and his accom-

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plices, including Duncan Cameron and several other persons connected with the North West Company, Bills of indictment were found against fifteen partners, twelve clerks or interpreters, and fifteen inferior servants of the North West Company, as principals, or accessaries in the crime of murder :—against two partners, six clerks or interpreters, and eight others, for Arson : and against six partners, and eleven clerks or interpreters, and sixteen other servants of the Company, for various descriptions of robbery : a bill of indictment was also found, against twenty partners, eleven clerks or interpreters, and twelve other persons connected with the North West Company, for a conspiracy to destroy the settlement on Red River, most of the overt acts stated in this indictment, were acts of Arson, robbery, malicious shooting, and murder : and among the persons against whom the bill was found, are almost all the leading partners of the Company, including a member of the Legislative Council of Lower Canada, and five Magistrates for Indian Territories, of whom, three were also indicted as accessaries to murder. This indictment, included every individual, who had been brought to Lower Canada, under warrants of commitment from your memorialist, most of whom, were charged in separate indictments, with other crimes of the deepest dye. Several bills of indictment, were at the same time preferred, on the part of the North West Company, of which only one was found by the Grand Jury for a riot. A presentment was also made by the Grand Jury, against Mr. Coltman for misdemeanor in office, upon which, the law officers of the Crown, have never preferred an indictment.

On the first of March, this Court was under the necessity of adjourning, on account of the intervention of the criminal term, of the Court of Kings' Bench, and from the interference of other business, it was impossible to fix an earlier period, than the 4th of May, for the adjourned session. During the short period which the Court had been enabled to sit, no trials were brought on, but, if an earlier day had been named, for the opening of this commission, if the ill advised references to Upper Canada had not been made, and if the prisoners who were liberated through the interposition of Mr. Coltman, had still been in custody, there can be no doubt, that a great proportion of the crimes, which had been committed in the Indian Territories, might have been brought to trial before this Court. Witnesses were then upon the spot, sufficient to substantiate all the charges which had been brought forward, on the part of the Hudson's Bay Company, and of your memorialist. Those from the interior had all arrived early in the Month of December, and it was evident, that any delay in bringing on the trials, would not only occasion a waste of valuable time, but also be attended by the loss of many essential witnesses. Nevertheless, the opening of the Commission of Oyer and Terminer, was deferred till a period when the session could not possibly exceed ten days.

Before the Court could meet again for their adjourned session, the Navigation was open, and the canoes were ready to set out for the interior ; many of the witnesses who had been brought from the Indian countries at great expence, had left their families in the interior, and being naturally anxious to return to them, were with great difficulty, prevailed upon to remain. Great efforts however were made, by your memorialist to prevent them from dispersing, in hopes that the business might be brought to a decision in the adjourned session of the Court in May. At that period of the year, several weeks might have been devoted to the business without interruption ; but on the meeting of the Court, there were no prisoners

in custody, except a few whose cases had been referred to Upper Canada. At the time when the bills of indictment were found in February, many of the accused were on the spot, or in the immediate neighbourhood of Montreal, and with a moderate degree of activity, might have been secured. But so far from taking the requisite steps for this purpose, the Attorney General kept back the process of Court, which had been ordered upon the indictments, and did not put it into the hands of the sheriff, till within ten days of the commencement of the adjourned session of the Court. By this time, all these persons had had opportunities to remove out of the way, and were not to be found: and of those who had been admitted to bail through Mr. Coltman's intervention in January, not one appeared.

The Session of the Court of Oyer and Terminer in the month of May, was accordingly closed about ten days after it had opened, without having brought to trial any case of offences in the Indian territories, excepting one charge of riot against Mr. Colin Robertson and some persons belonging to the settlement of Red River who were acquitted: without even an attempt to bring to trial any one of the numerous and important charges for which indictments had been found against the partners and servants of the North West Company, the Court adjourned sine die. The witnesses from the interior had remained at Montreal for six months, and seeing no prospect of the proceedings being followed up in an effectual manner, became urgent to return to their families. Only a small proportion could by any persuasion be induced to remain, and thus an immense expence in which the prosecutors had been involved in bringing them to Canada, and supporting them while there, has been incurred in vain. But tho' no progress could be made in these trials, some other circumstances occurred, both in the course of this Session of Oyer and Terminer in May, and in the preceding term of the Court of King's Bench, which may serve to characterise the conduct of the law officers of the Crown, and to mark the spirit which has directed it, throughout the whole course of the proceedings relative to the North West Company.

As the Commission of Oyer and Terminer had been granted on the petition of Messrs. Macdonell, Robertson, Spencer and others, upon whose trials the two Puisne Judges had declined to sit, and who for that reason could not be tried in the Court of King's Bench, it was evidently the duty of the law officers of the Crown to enter a Nolle Prosequi upon the indictments which had been found against these gentlemen in the Court of King's Bench, and to prefer new bills of indictment upon the same charges in the Court of Oyer and Terminer. On these cases some bills of indictment were indeed laid before the Grand Jury by the Attorney General, in the first Session of the Court of Oyer and Terminer, but he reserved other bills until after the first adjournment of that Court. Between the first adjournment and the resumed Session of the Court of Oyer and Terminer, the Court of King's Bench intervened, and the Attorney General presented new bills of indictment on the same or similar charges, against the same gentlemen and others before the latter Court, notwithstanding the notorious fact, that by the act of its own Judges, it had become disqualified to take cognizance of any matters of the kind, and that the Governor in Chief had appointed another Court to remedy the defect arising from their voluntary disqualification.

It had been the universal impression at Montreal, that the Court of Oyer and Terminer alone was to take cognizance of the matters which had arisen in the

Indian territories, and it was probably in consequence of this impression, that while no person immediately connected either with the North West Company, or with those whom they describe as their antagonists, was to be found upon the list of Grand Jurors for the Court of Oyer and Terminer, several of their partners and other persons connected with them in pecuniary interest, were put upon the Grand Jury for the Court of King's Bench. It was before a Court thus disqualified, and a Grand Jury thus composed of parties interested, that the law officers of the Crown succeeded in obtaining bills of indictment against a few of the servants of the Hudson's Bay Company, and some individuals connected with the settlement on Red River. These indictments served to keep up, particularly at a distance, the impression that the atrocities which had been committed in the Indian Countries, had been merely the result of reciprocal provocation, and mutual aggression.

In the Session of Oyer and Terminer in May, the Attorney General found himself under the necessity of admitting the impropriety of this conduct, by abandoning the prosecution of all the indictments which he had thus preferred but two months before. The Attorney General also abandoned the prosecutions against Mr. Miles Macdonell, Mr. Spencer, and other persons who had been under accusation for three or four years, and had not been able to obtain a trial. This tardy act of justice was reluctantly extorted from the law officers of the Crown, by the firmness of several of the gentlemen concerned, who being arrested under the process of the Court of King's Bench, on the indictments found in March, refused to give bail for their appearance in the September-term, demanded their trial, and declared that they preferred remaining in prison till the law officers of the Crown should be ready to proceed, rather than enter into repeated recognizances from September to March, and from March to September again, without any prospect of a termination. These gentlemen were in fact committed to prison, and remained there several days before the Attorney General made up his mind whether he had grounds to proceed against them or not, and were at last released; the Attorney General professing that the whole matter was a mistake, and that he had supposed them to have been committed on process from the Court of Oyer and Terminer.

In the same spirit, the law officers of the Crown brought forward, and the Court of King's Bench at Montreal, sanctioned and enforced a most extraordinary proposal for binding a number of gentlemen to appear at places not within their jurisdiction. In pursuance of the recognizances exacted by Mr. Coltman at Red River, your memorialist and several of his friends had attended the Term of the Court of King's Bench at Montreal, in March, and were ready to answer to any complaints against them, but by this time Mr. Coltman had been advised to say that the matters in question could only be brought to trial in Upper Canada, and on this principle the Attorney General moved, that instead of discharging the recognizances taken by Mr. Coltman, they should be renewed under the authority of the Court, binding the parties to appear in Upper Canada. Against this application, it was urged, that the recognizances had been illegally taken in the Indian territories, to secure the appearance of the parties accused to answer in Lower Canada, for offences supposed to have been committed in Upper Canada: that the Magistrate by whom they had been taken, had evidently no authority to exact recognizances of any kind from the persons accused, and had erred egregiously in mistaking the tribunal before which the supposed offences were cognizable. That these recognizances must be therefore considered as mere

waste paper, and could not possibly be the foundation of any proceeding in the Court in which they were then produced. The recognizances being nullities, there was no ground for the exercise of authority by the Court. If it were even imagined that the charges mentioned in the recognizances could justify the arrest and commitment of the individuals in this Province, it was the proper office of a justice of the Peace, at the instance of the prosecutor to receive evidence on the charges, and grant such warrants as might be permitted by law: The Court in the present case, could not exercise such function without a departure from the line of its duty. But there could be no pretext for the exercise of authority in Lower Canada, in respect of the supposed offences, either by the Court or by a justice of the Peace. If the matters charged in the recognizances, could constitute an indictable offence, (which might be contested) they could only amount to a misdemeanor committed in a foreign jurisdiction, and the power of commitment by any Court in Lower Canada, for an offence committed in Upper Canada, could not be exercised for an offence below the degree of a capital felony. It was indeed, admitted that in cases of capital felonies, such power, not that of binding by recognizance, might be exercised: but there was neither authority nor reason to warrant it in cases of inferior offences. In the latter cases, there was not only an absence of authority in the Court for the exercise of any such power, but there were direct provisions of law against it. In the Provincial ordinance introductory of the English law of Habeas Corpus, all restraint on the liberty of the subjects in this Province for the purpose of conveying them prisoners to other parts of the King's dominions, is prohibited, with an exception in cases of capital offences committed in other parts of those dominions, for which imprisonment in this Province may take place. It was also stated that the proposed measure was not only illegal, but was unnecessary and oppressive, as the individuals against whom it was to operate, had already, of their own accord, appeared before the Magistrates of the jurisdiction (the western district of Upper Canada) in which the supposed offences were alledged to have been committed, and had given bail for their appearance in the proper Court there at a future day, in every case in which they had thought proper to require it. There the agent of the prosecutors the acting Solicitor General of Upper Canada, had been present with a number of witnesses on the occasion, so that no doubt could be entertained that the bail had been taken with due consideration. It was nevertheless worthy of remark, that these Magistrates had been satisfied with recognizances to the amount of three hundred and fifty pounds, in the same cases, in which Mr. Coltman had exacted bail to the amount of six thousand pounds. Notwithstanding these reasons, the Attorney and Solicitor General, who appear to have thought it their duty in all cases, and at all hazards to justify and enforce the measures of Mr. Coltman, and who, on this occasion, were aided by the Counsel of the North West Company (the private prosecutors) persisted in requiring the renewal of the recognizances. And your memorialist saw with astonishment this illegal, unwarrantable, and oppressive measure, sanctioned by a Court sitting to administer justice under the criminal laws of England. Without referring to any principle of law to justify or palliate this stretch of authority, the Court determined that the recognizances should be renewed, and required from your memorialist a recognizance in the sum of six thousand pounds for his appearance in another Province, to answer charges which, if they could be the sub-

ject's of criminal prosecution, amounted barely to a misdemeanor. The terms of the recognizance were as little reconcileable with law, as the authority under which it was taken. It required your memorialist to appear before a Court of Oyer and Terminer in Upper Canada, without specifying the time or place where it was to be held. Similar recognizances were exacted from several of your memorialist's friends, and it was ordered that they should stand committed, if the recognizances required were not entered into. On the illegal and oppressive character of this proceeding, your memorialist need not enlarge: it is certainly without precedent in any part of His Majesty's dominions, and its ill consequences not limited to the persons immediately affected by it. It is obvious that the principle adopted by the Court in the case of your memorialist, would enable them on a charge of misdemeanor, alledged to have been committed in the East or West Indies, or other remote parts of the British dominions, to compel the individual accused, by imprisonment of his person to submit to a removal thither, to answer the charge whether true or false, and thus in effect to inflict the punishment of transportation or banishment for a time at their own pleasure. It is not indeed likely that the Court at Montreal would readily venture on such a stretch of authority in other cases: but their having done so in the case of your memorialist, would imply that they must have been actuated by very peculiar motives, and a precedent for it in that case has certainly been established.

Among the Judges, who issued these orders was Mr. Justice Reid, one of those who in the month of September preceding, had declared that in consequence of his near connection with the North West Company, he could not take a part in any Judicial proceedings in which the interests of that association were involved, or which related to their disputes with the Hudson's Bay Company. Upon another occasion, in the term of the Court of King's Bench in March, this gentleman declared his intention of sitting upon the trial of Archibald Maclellan, a partner of the North West Company, for a murder perpetrated upon Owen Keveny, a servant of the Hudson's Bay Company.

During the session of the Court of Oyer and Terminer at Montreal in May, another most oppressive imprisonment took place, of one Joseph Parisien, who had been formerly in the service of the North West Company, and had been employed to commit a multitude of crimes, of which he had recently made a full disclosure, giving information against his accomplices, and against those by whose instigation, and even compulsion, these crimes had been committed. This man had been brought to Montreal as a witness, on a remarkable trial which took place in the year 1810, when John Mowat, was accused by the North West Company, of the murder of Æneas Macdonell. But one of the servants of the Hudson's Bay Company, having given information against Parisien, a bill of indictment had been found, in consequence of which, his employers had thought it advisable to change his name, and send him to the United States, and from that time forward, he had been carefully kept out of sight. Attempts had been made to induce him to return into the Indian countries, but as he would not agree to this, he was sent from place to place, to prevent his appearing at Montreal, or in any part of the Province where he might be recognized. Harrassed by this mode of proceeding, and feeling severely the exile from his native place, Parisien had at length been led to reflect seriously on the criminality of his former conduct, and resolved to make his peace with his own conscience as well as with society,

by a full confession and disclosure. He had sworn to a most important and copious affidavit, and upon his evidence, bills of indictment for robbery and arson, had been found against several of his accomplices, and among the rest, against John Haldane, a partner of the North West Company. The agents of that Company, however, who had previously endeavored to screen him, recollecting the old indictment, which had been found in the year 1810, made use of it to procure the arrest of Parisien. Evidence was offered, that the prosecutor on whose testimony this indictment had been found, had left the Province, and that there was no probability of his returning, or following out the prosecution. Nevertheless, the Attorney General, for reasons which he did not condescend to explain, refused his consent for the liberation upon bail of this witness for the Crown, till after he had remained in prison several weeks. It was no doubt, very agreeable to the North West Company, to have the means of punishing Parisien in this manner for the crime of informing against his masters, and the circumstance might help to convince others of their servants, who were in a similar predicament, that the safest course for them, was to trust to the power of the North West Company, and their influence with Government, rather than to the regular course of justice, and the laws of the land. It was, however, a singular spectacle, which was exhibited, when the Attorney General lent his aid, to punish a man for having turned King's evidence.

The close of the session of Oyer and Terminer at Montreal, was followed by the trials of Charles De Reinhart and Archibald MacLellan at Quebec. These persons had been conveyed thither, in the month of March, along with Cuthbert Grant and Joseph Cadotte, who had been indicted as accessaries, to the murder of Keveny. Two attempts were made at Quebec, to try De Reinhard and MacLellan, for the crime with which they were charged. The first attempt was before the Court of King's Bench for the district of Quebec, in March ~~1817~~ ¹⁸¹⁸, near the period fixed by law, for the end of the session of that Court. On this occasion, the two prisoners did not sever in their defence, but allowed themselves to be put upon their trial together. The second attempt, was before a special Court of Oyer and Terminer, for the same district, in May of the same year, on which latter occasion, an acquaintance with the evidence of the Crown, disclosed upon the first attempted trial, induced De Reinhard and MacLellan to sever in their defence.

The management of their trials, was of a most singular character. On the first attempt in March, when MacLellan and De Reinhart were arraigned together, the Jury was impannelled only about 48 hours before the close of the term, and through the unexampled prolixity, with which the examinations were conducted, no more was done, than to examine some of the principal witnesses for the prosecution, when the trial was unavoidably broken off, by the termination of the legal powers of the Court. By this means, the accused obtained the advantage of hearing all the most material evidence against them, as well as ample time to prepare any sort of testimony they might think fit to counteract it, and were thus also, allowed an opportunity of adopting a new course of defence, of which they availed themselves in May and June following, by severing in their trials.

It was in the course of these ineffectual proceedings, about the end of March, that the law officers of the Crown, announced their determination to take into their own hands, exclusively, the management of all the trials, relative to offences

committed in the Indian Territories, without allowing any participation to the Counsel of your memorialist and of the Hudson's Bay Company. This was so far from their previous practice or views, (except in the cases of the liberation upon bail, of the servants of the North West Company, about the month of December 1817, under the auspices of Mr. Coltman,) that at Montreal, but a few weeks before, the Attorney General explicitly agreed, that on the trial of De Reinhart and MacLellan at Quebec, the examination of the principal witnesses for the Crown, and the cross examination of those for the defence, should be conducted by the Counsel for the prosecutors; and upon that understanding, two professional gentlemen from Montreal, had gone to Quebec, for the purpose of assisting in this trial: upon this unaccountable change in the determination of the Attorney General, one of these gentlemen immediately returned home; the Attorney General caused a subpoena to be served upon the other to attend as a witness.

Your memorialist may be permitted to observe that this assumption on the part of the Attorney and Solicitor General, of the power of excluding private prosecutors from any share in the management of criminal prosecutions, in which they have an interest, is an innovation incompatible with that equal distribution of justice, heretofore considered as the highest privilege of British subjects. In the practice of the mother Country, the greatest proportion of criminal prosecutions, are entirely managed by private prosecutors; and it must be evident, that if no individual be allowed to prosecute, without the good pleasure of the Attorney General, that officer will be invested with power to screen from justice, any criminal whom he may chuse to favor. He will have greater power, than even the Crown itself: for the prerogative of pardoning after conviction, is necessarily restrained, by a regard to the opinion formed from the evidence disclosed upon the trial. But if the Attorney General is to judge without appeal, whether or not to bring on the prosecution of a crime, if no other person be allowed to take up the cases which he may wish to overlook, or to enforce the laws where he may have motives to be negligent, the most enormous crimes may pass unnoticed; the public may never have an opportunity of ascertaining the real state of the facts, and the favourites of a corrupt officer, may violate the laws with impunity. If the law officers of the Crown in this province, are to be invested with a power of such tremendous extent, and so inconsistent with the law and practice of the mother country, at least it would seem reasonable that every precaution should be taken against their contracting a bias of partiality towards any individuals. But so far is this from being the case, that it is just as usual for the law officers of the Crown in these Provinces, not only to act in the Courts of civil judicature as advocates for individual litigants, but even to accept general retaining fees, as it is in England, where they neither claim nor exercise such exclusive power of prosecution in criminal cases. Of the four principal law officers of the Crown in the Provinces of Lower and Upper Canada, three were lately the retained Counsel of the North West Company.

This assumption on the part of the law officers of the Crown, of the exclusive management of all criminal prosecutions, bears peculiarly hard upon the particular case of your memorialist. Questions of a general nature, in which he is deeply interested, have been brought under the consideration of His Majesty's Ministers, and their determination has been withheld, on the ground that it must be materially affected by the result of the expected trials, for offences in the Indian

territories. In adopting this resolution, His Majesty's Ministers certainly could not suppose that the cause, which they considered as that of your memorialist, was to be taken out of his hands, and conducted without his participation, by the retained Counsel of his adversaries.

In the cases which have occurred of criminal offences in the Indian territories, it would never be supposed that the law officers of the Crown could be as fully masters of the facts and of the evidence, as the Counsel of the private prosecutors. Their assistance and participation therefore was necessary to the successful prosecution of the offences. With respect to the murder of Keveny, the Attorney and Solicitor General bestowed upon it so divided an attention, that in the course of the trial, they betrayed their ignorance of the most material circumstances. In addition to this, they were imperfectly acquainted with the language in which the trial was to be conducted, not ready in the use even of classical French, and not at all acquainted with the Provincial idiom of the Canadian peasantry, and the technical phraseology used by the voyageurs. Hence on the trial, a number of ridiculous mistakes occurred: a question was often repeated three or four times, before an intelligible answer could be obtained, or was answered by the witness in a total different sense from that in which it was put: so that much confusion was the unavoidable consequence. This unseemly mode of conducting the examination, was no doubt the cause that some of the witnesses were kept for the extraordinary space of five or six hours in the witness box, so as to fatigue their attention, and even put their physical strength to a severe trial.

After the first abortive attempt to try the murderers of Keveny in March, the law officers of the Crown consented to liberate, on bail, all the prisoners except Charles De Reinhart, including Archibald MacLellan, against whom, there were not only the most pointed affidavits, but very strong evidence had come out in the course of the examination which had just taken place. To accept of bail in such a case, and under such circumstances, was a proceeding unprecedented in a British Court of justice, and betrayed the determination already taken, to throw the whole guilt of the murder on De Reinhart, a foreigner, in order to screen his accomplice, a partner of the North West Company. But even this was not the most extraordinary part of the conduct of the Attorney and Solicitor General. They agreed at the same time to liberate Cuthbert Grant, under a recognizance in the sum of five hundred pounds only, to appear again at Quebec, at the time appointed for resuming the trials for the murder of Keveny, without even a recognizance to answer for any other matter, tho' six bills of Indictment for capital offences had been found against him at Montreal, from whence, without giving bail, the Attorney General had caused him to be brought to Quebec, and tho' among the crimes with which he was charged, was a murder exceeding in atrocity, even that of Keveny. A short time before this, Grant while yet in prison, declared that the troubles of Red River were not at an end, that he would soon recover his liberty, and take vengeance on the settlers for his sufferings and imprisonment. He did not appear in pursuance of his recognizance; and it is known that in fact he was conveyed back to Red River; thus a notorious and determined murderer has been let loose on society, while his associates in guilt, have received another and a striking proof of the impunity with which any crime may be committed for the benefit of the North West Company.

After this example of the manner in which the law officers of the Crown have

let loose the most notorious criminals when actually in custody, it will not appear surprising that they have taken no pains to obtain the arrest of those who were at large. Your memorialist has already adverted to the manner in which the process of Court, issued upon the indictments found in the month of February, was kept back by the Attorney General, so that it was not till the end of April that the Sheriff was authorised to arrest even those who might be found in the district of Montreal. Most of the accused however, were in the Indian countries. If the law officers of the Crown had been disposed to do what they assumed as their exclusive duty, and had felt properly for the honor of His Majesty's Government, they must have been sensible how disgraceful it would be, if men who had committed such a tissue of crimes, should be allowed to remain at large, in a country where they would still have opportunities of making a prey of their fellow subjects; at the same time, it must have been evident, that the peculiarity of the local circumstances required extraordinary means, in order to effect their arrest. Nevertheless, in the month of May, your memorialist learned that no steps whatever had been taken for that purpose. If any person was to be employed to arrest the criminals in the Indian countries, it was already full time that he should have set out. It was not till then, that on the urgent remonstrances of your memorialist, the Attorney General undertook to procure the necessary warrants, and to advise the Governor in Chief to send an officer to the interior, specially charged to execute them. At the end of June, however, the Attorney General stated that his proposal was still before the Council of Quebec; and no determination had then been taken upon it, though every person acquainted with that country must have been aware that by such delay, the opportunity of bringing down the culprits before winter, would inevitably be lost.

In the end of June, the Counsel for your memorialist and for the Hudson's Bay company, finding that the proposal of the Attorney General to send an officer to the interior, had served no purpose, but to occasion delay in the adoption of other methods for arresting the criminals, applied to the Chief Justice of Montreal to issue warrants to the Sheriff, and at the same time, required that officer to nominate such persons as he thought fit to execute them. The indictments were lying in the proper office at Montreal, but the clerk of the Crown was at Quebec, and the Chief Justice, previous to issuing any warrants, required certificates of the indictments under the hand of that officer. Before these could be obtained, with all the formalities which were required, several weeks had been consumed, and it was not till the 23d of July, that the warrants could be dispatched from Montreal; at so advanced a period of the season, that it was barely possible for a messenger to return from the interior before the close of the navigation, but without the smallest chance of securing any of the culprits in time to be brought down for trial the same season.

From the circumstances which have been stated, no doubt can be entertained of the disposition of the law officers of the Crown, to evade altogether, the prosecution of the offences committed in the Indian territories, by the partners and servants of the North West Company; and indeed the expressions which they have made use of, in presence of respectable witnesses, plainly implied a wish that the prosecutions should be dropped on both sides. It is needless to comment upon the affectation which these officers display, when they pretend to believe in the existence of any charges of serious magnitude on the other side, to counter balance the enormous mass of criminality which has been brought forward,

against the North West Company. As little will your memorialist permit himself to enlarge upon the insult which is implied in this language, as if his conduct, or that of his friends, had been such as to put them on a level with robbers, and murderers, and incendiaries. But if it were so, is it for the law officers of the Crown to countenance the principle, that the crimes of one set of men are to be a reason for not prosecuting, or punishing the crimes of another? Or lest the proceedings should be more effectually carried on by others, is it for the law officers of the Crown, unwarrantably to assume to themselves, the sole power of conducting criminal prosecutions? This extraordinary conduct, can only be partially accounted for, even by supposing that the law officers of the Crown, coincide in the singular doctrine brought forward by Mr. Coltman, that all the atrocities which have been committed at Red River and in Athabasca, are to be excused as venial offences, because they have occurred in the course of a private war, between two contending parties. True it is, that the North West Company declared war against the settlement on Red River : that in 1812, a principal partner in the "concern," in a letter sent from London to his associates at Fort William, declared that they must drive your memorialist to abandon his project of establishing a Colony : and that in August 1814, Alexander Macdonell, another partner announced to his friends, that in pursuance of the instructions of his associates, he was proceeding to commence "open hostilities against the enemy." The settlers had no alternative, but to defend themselves ; and if in the contest, thus forced upon them, they at any time adopted measures of defence that were not strictly regular, the extraordinary circumstances of their case, and the absence of all prospect of assistance from the public force of the Empire, may be fairly pleaded in justification of their conduct. But, that the allegation of mutual hostilities arising, even upon the most lenient supposition, from the determination of the North West Company, to avenge their own supposed wrongs, instead of seeking redress from the laws of their country, that this should be pleaded in extenuation of the robberies, the arsons, and the murders committed in the prosecution of their plans of extermination, is a doctrine which never could have been expected from an English magistrate, appointed to the important trust, which has been confided to Mr. Coltman.

Even according to the indulgent principles laid down by Mr. Coltman in his circular letter, written in July 1817, the conduct of the North West Company, in disregarding the injunctions of the Proclamation, and evading the restitution of the property they had seized, "by shewing an original felonious intention, "would render the parties liable to conviction and legal punishment for these offences," and prove that they were "robberies, felonies and murders, in the usual acceptation of these words." But Mr. Coltman did not act with consistency, even upon the singular doctrine which he had laid down. After pointing out in this circular letter, the criterion by which, in his apprehension, a judgment was to be formed, whether the parties had been carrying on private war, or had committed "robberies, felonies and murders, in the usual acceptation of these words," he did not wait to see the effect of his touchstone ; but proceeded as if he had ascertained that the North West Company were at once entitled to all the benefit of the amnesty which he offered to them. Though he proceeded with rigour against others, who by his own admission, had done all that the Proclamation required, he took no steps against these men, who had merely promised

obedience, without having given any practical proof of their intention to comply bona fide with its injunctions.

Mr. Coltman indeed, appears to have acted under the idea that his office as Commissioner of Special Inquiry, invested him with some sort of undefined and unlimited authority, as an immediate representative of the Crown. But his Commission of inquiry, if it was not altogether illegal, could do nothing more than impose upon him, the duty of making a report to His Majesty's Government, of all the facts which he could ascertain, relative to the subject of his investigation: it could neither add to the rights, nor relieve him from the duties, of his office as a Magistrate for the Indian territories, in which capacity alone he had any title to assume authority, or to interfere with the administration of justice. Any further deference to his opinion could only be the result of courtesy: and it was not for him to presume, and to act on the presumption, that not only the law officers of the Crown, but also Judges and Juries, must adopt his opinion as to the validity of the excuses, which he was disposed to admit, for the crimes of the North West Company. But the motives of Mr. Coltman's conduct, may perhaps be appreciated by joining to the consideration of his proceedings, the suggestions which he made to your memorialist, for a compromise of his differences with the North West Company. In the month of February, a short time before the period appointed for the opening of the Commission of Oyer and Terminer, Mr. Coltman availed himself of an indirect channel, to open a negotiation on this subject, and to propose that your memorialist should withdraw his support from the causes then pending, in consideration of which, he was given to understand, that the North West Company would be willing to pay for the damages which he had sustained by the repeated destruction of the settlement, and to make other sacrifices of a pecuniary nature. From a regard to the personal feelings of your memorialist, Mr. Coltman added, that a reference might be made, upon a statement from each of the parties, and a third from himself, as Commissioner, for His Majesty's Government, to determine which of the cases of criminal offences, committed in the Indian territories should be prosecuted, if prosecution should be thought necessary as to any, besides the murder of Keveny. It must have been evident, that from a regard to constitutional propriety, His Majesty's Ministers could not accept such a reference; but before their answer could have been received, the witnesses for the Crown would have dispersed, so that the form of a reference, could only have served as a cloak to the entire dropping of the prosecution, and as a salvo to the guilt of compounding felony.

In bringing forward these suggestions, Mr. Coltman broadly stated, that if your memorialist should not accede to them, he would not have another opportunity of making so advantageous an adjustment. In fact, if he had been disposed to enter into a corrupt transaction, he could not have looked for a more favourable concurrence of circumstances. At that moment, there could be no doubt that the leaders of the North West Company would have been willing to make great sacrifices, in order to avoid the disgrace of those disclosures which were on the point of being made before the Court of Oyer and Terminer, and your memorialist was well aware that after the evidence of their crimes had once been laid before a grand Jury, it would no longer rest with him to screen or to expose them. The period was also a critical one for Mr. Coltman himself, for a great proportion of the witnesses who had been brought before him at Red River, and upon whose evidence, he ought to have issued warrants against a long list of rob-

bers, incendiaries and murderers, had been brought to Montreal, and were there ready to give the same testimony before the grand Jury. If the proceedings had been dropt at that period, it would have operated not only to gloss over the crimes of the North West Company, but also to prevent any stictures upon the official conduct of Mr. Coltman.

In order that no chance of obtaining this accommodation might be lost, other motives were held out to induce your memorialist to comply. Observations were thrown out as to the endless delays, and enormous expences of proceedings at law. Hints were given, that an amicable adjustment would be agreeable to His Majesty's Government, and as Mr. Coltman held his usual language about contending parties, and proposed that the legal proceedings should be dropped on both sides, it might be inferred that a refusal on the part of your memorialist to comply, would be followed by measures of vindictive persecution, not only on the part of the North West Company, but also as far as Mr. Coltman's influence could have any effect, on the part of the law officers of the Crown.

The proposal thus brought forward by Mr. Coltman, afforded an explanation of other circumstances in his conduct which had previously appeared ambiguous, but now plainly indicated, that in the whole course of his mission, he had been actuated by the desire of bringing about an arrangement of pecuniary interests, rather than that of investigating the crimes which had been committed in the Indian territories, and of bringing to condign punishment, the real authors of these atrocities. At Red River, he had repeatedly suggested in a more or less direct manner, the idea of an amicable arrangement, and even avowed that the hope of effecting a reconciliation had been one of the principal motives for accepting his appointment: and at a still earlier date, shortly after his return from Upper Canada in the month of January 1817, when there had been recently transmitted to His Majesty's Government, the most calumnious and distorted representations of the conduct of your memorialist, it was suggested to his agents at Montreal by the Commissioner, that an adjustment of all differences might be obtained, if any person were authorised on the part of your memorialist, to enter into such an arrangement. The influence of such motives may serve to account for the exertions which Mr. Coltman has used not only to palliate the crimes of the North West Company, but also to augment and raise into importance every trespass, however inconsiderable, which he could find any pretext for imputing to their accusers. In order to extort concessions, it was necessary to make the most of every charge against those with whom he wished to traffic: in order to lay the foundation for a compromise, it was necessary to find out, or to conjure up something like a balance of mutual injuries: and as the balance could not otherwise be brought to an equilibrium, the name of Government was thrown, like the sword of Brennus, into the scales. Tho' it was in consequence of Mr. Coltman's own conduct, and the misrepresentations to which he had given currency, that the Proclamation of the 3d of May, 1817, had been ordered, he did not hesitate to state among other reasons for a compliance with his wishes, that from a regard to consistency, His Majesty's Ministers must continue to support the North West Company, however much they might be convinced of the injustice of that line of conduct. Under the same impression, no doubt, the Attorney and Solicitor General avowed without a blush, that the responsibility of their official situations, was in their estimation a mere "watch word!"

The situation in which your memorialist found himself, was a difficult, and a hard one. To contend alone and unsupported, not only against a powerful association of individuals, but also against all those whose official duty, it should have been, to assist in the prosecution of their crimes, was at the best an arduous task: and however confident he might be, of the intrinsic strength of his cause, it was impossible to feel a very sanguine expectation, that this alone would be sufficient to bear him up, against the swollen tide of corruption, which threatened to overwhelm him. Even though no direct advantage had been held out, to induce him to abandon the prosecutions, yet he knew that in persevering under the existing circumstances, he must necessarily submit to a heavy sacrifice of personal comfort incur an expence of ruinous amount, and possibly render himself the object of harassing and relentless persecution. But what was the alternative proposed to him by Mr. Coltman. That he should lend himself to throw the veil of obscurity, over a tissue of unparalleled crimes: that he should assist in procuring impunity for incendiaries, and murderers: that he should become the instrument of establishing the right of the strongest, as the only law of all the northern territories of this continent, fencing them out, as beyond the pale of legal protection, and destined to remain for ever a haunt of banditti:—That he should adopt a line of conduct, which could not fail to be interpreted as an admission, that he had brought forward charges destitute of foundation, and had been actuated by corrupt motives, to abuse his authority as a Magistrate. These feelings, Mr. Coltman thought fit to characterize, as vindictive; but your Memorialist is confident, that they will not be stigmatized as such, by any one who has a just sense, either of honor, or of public duty.

However unpromising the first suggestions upon the subject appeared, yet as the overture was repeated a second time, through the same channel, with the expression of an earnest desire, that it should be taken into serious consideration, your memorialist thought it incumbent upon him, from respect to the Commission with which Mr. Coltman was invested, to ask for a written explanation. This he received, expressed in a more guarded manner, than in the previous verbal communications: and some of the more indelicate parts of the proposals were softened or glossed over, but the proposal still continued so substantially objectionable, so irreconcilable to every principle of *rectitude*, that your memorialist could not look upon it, as in any degree admissible.

Among the more powerful of the inducements to a compliance, it was held out that the North West Company would be willing to withdraw their trading post, from the immediate vicinity of the settlement, and Mr. Coltman expatiated on the advantages in point of security, which would arise from the removal of a bad neighbour,—from the removal of that post, at the Forks of Red River, which he himself had lent his aid, and his sanction to re-establish.

However insensible Mr. Coltman may be to the dangers to which his conduct has exposed the lives of His Majesty's subjects, however little aware the law officers of the Crown in this Province, may be to the tendency of their conduct, also to encourage a repetition of sanguinary crimes, your memorialist feels confident, that your Grace's attention cannot fail to be arrested by these considerations. New violences against the settlement at Red River, appear to be in contemplation, and threats to that effect have been uttered, not merely by such men as Pangman and Grant,

but also by those who are in the intimate confidence of the directors of the North West Company, and whose predictions on former occasions have been too well verified. It is openly avowed that instructions have been sent to their servants, to resist the warrants which have been transmitted to the interior, under the authority of the Chief Justice and Sheriff of Montreal, for the arrest of the culprits against whom, indictments have been found.

After the experience they have had of impunity, for all their crimes, it is not wonderful that the North West Company, should consider themselves altogether above the law : and when they foretell that violence and bloodshed, will be the consequence of attempting to enforce legal warrants against them, the audacity they exhibit is no greater than might be expected after so much encouragement. All former experience, shows that the North West Company are never at a loss for a pretext, to justify, or to excuse any crime which it is for their interest to perpetrate ; and where they have resolved upon a course of criminal conduct, it is their policy to prepare the public, as early as possible for the misrepresentations by which it is to be cloaked. Thus in the winter of 1814 and 15, after Duncan Cameron and Alexander Macdonell, had received instructions to destroy the settlement, and had written to their friends, that they were "so far on their way, to commence open hostilities against the enemy in Red River," and while they were assembling their half-breed servants, to carry those instructions into effect, the agents and directors of the North West Company at Quebec and Montreal, were busy in spreading reports of the hostility of the native Indians of Red River, against the settlers, and affecting to deplore the sanguinary scenes that were likely to ensue. Such prognostications cannot be despised, when they come from men who have power to bring about the accomplishment of their own predictions. We now see them renewed, at a period when the experience of impunity for past crimes, has given every possible encouragement, for the perpetration of new atrocities, and when the return of Grant and Pangman, and other bailed murderers into the Indian Countries, has furnished to the North West Company, a supply of fit tools for any sanguinary design.

The North West Company, though well aware that the settlement at Red River, has always been an undertaking completely separate from the trade of the Hudson's Bay Company, yet in order to give greater scope to their detestable principle of retaliation, have attempted to identify these establishments. Even his Majesty's Government, by lending too ready an ear to these misrepresentations, has been induced to believe, that all the crimes which have been committed in the Indian countries, have only been the result of mutual violence between contending parties of traders. But from the statement which is now submitted to your Grace, it cannot but be evident, that this opinion is completely erroneous. The question now at issue is not whether this or that Company shall engross the fur trade :—But whether the British Government, does or does not afford protection to its subjects : Whether the strong may be permitted to trample upon the weak without restraint, to expel the tillers of the earth from their habitations, to lay waste their fields, to reduce their cottages to ashes, to drive their helpless wives and children into the desert, and to commit every species of enormity, in furtherance of their criminal views : Whether this extensive and valuable Province is to have a system of judicature, calculated only to crush obnoxious men, while those who are in favor, may commit the most atrocious crimes, with impunity : Whether to promote the sordid purposes of individual gain or illegal

monopoly, murder may be systematically organized, and the blood of British subjects remain unatoned, because some of those who profit by it, are members of the Executive and Legislative Councils of Lower Canada, and reputed to be under the special protection of His Majesty's Government.

Independently of the grievances which your memorialist and others, have suffered from the conduct of the Commissioners of special enquiry, and of the law officers of the Crown in this Province, it must be evident that the honor of his Majesty's Government, requires some signal and decisive proof, of a determination to put a stop to such disgraceful partiality. Confident of the sentiments which your Grace must entertain on this point, your memorialist respectfully submits the facts to your attention, and at the same time, begs leave to suggest the propriety of an interposition of the executive authority, to repress the audacity of the culprits, who now set the law at defiance, and openly profess their determination to resist legal process, in the Indian Countries.

May it therefore please your Grace, that these matters be taken into your consideration, and your authority exercised thereon in such manner, as may be best calculated for the purpose of rendering amenable to justice, and of prosecuting with effect, the persons guilty of the crimes herein before referred to; that a competent and impartial tribunal, under a commission of Oyer and Terminer and general Gaol delivery, be constituted in the Province of Lower Canada, for the trial of such persons, to continue in the exercise of its powers, till the prosecutions for the said crimes be brought to a conclusion, and for the more effectual attainment of this object, that the conduct of those prosecutions be left to the Counsel of your memorialist, to be carried on by them, as permitted by law: and may it also please your Grace to take such measures as the circumstances may require, respecting the acts of official misconduct herein before complained of, and afford such further redress in the premises, as in your wisdom may appear just.

SELKIRK.

OCTR. 1818.

