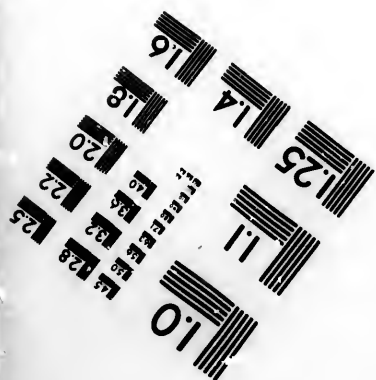
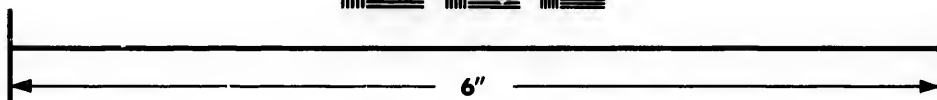
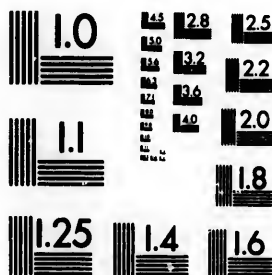


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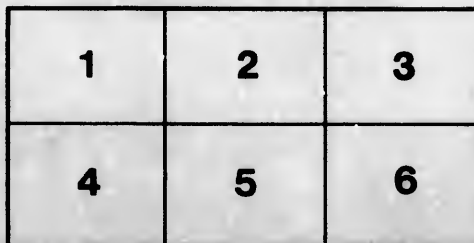
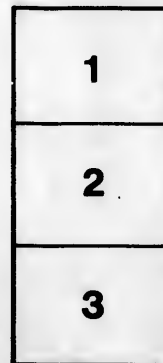
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REPORTS AND EVIDENCE

OF THE

SPECIAL COMMITTEE

OF THE

HOUSE OF ASSEMBLY

OF

LOWER-CANADA.

To whom were referred

The petition of the inhabitants of the County of York,
that of the inhabitants of the City of Mon-
treal, and other

**PETITIONS PRAYING THE REDRESS
OF GRIEVANCES.**

[Ordered by the Assembly to be printed.]

1829.

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again

HOUSE OF ASSEMBLY,

Friday, 28th November 1828.

Petitions,
against grievan-
ces.

Resolved, That the petitions of the inhabitants of the County of York be referred to a Committee of seven Members, to examine the contents thereof and to report thereon with all convenient speed with power to send for persons, papers and records.

Ordered, That Mr. Labrie, Mr. Heney, Mr. Cuvillier, Mr. Neilson, Mr. Lefebvre, Mr. Leslie and Mr. Bourdages, do compose the said Committee.

Ordered, That the petition of divers inhabitants of the City of Montreal be referred to the said Committee.

(Attest,)

W. B. LINDSAY,
Depy. Clk. House of Assembly.

Tuesday, 2nd December 1828.

Ordered, That the said Committee have leave to report from time to time.

(Attest,)

W. B. LINDSAY,
Depy. Clk. House of Assembly.

Friday, 5th December 1828.

Ordered, That Mr. Viger be added to the said Committee.

(Attest,)

W. B. LINDSAY,
Depy. Clk. House of Assembly.

Monday, 15th December 1828.

Ordered, That the petition from the inhabitants of the District of Three Rivers, be referred to the said Committee.

(Attest,)

W. B. LINDSAY,
Depy. Clk. House of Assembly.

Wednesday, 24th December 1828.

Ordered, That the petition from the inhabitants of the District of Three Rivers presented this day, be referred to the said Committee.

(Attest,)

W. B. LINDSAY,
Depy. Clk. House of Assembly.

Monday, 26th January 1829.

Ordered, That the petition of Paul Brazeau, and others of the Parish of St. Benoit, be referred to the said Committee.

(Attest,)

W. B. LINDSAY,
Depy. Clk. House of Assembly.

Tuesday, 10th February 1829.

Ordered, That six hundred copies of the Report of the Special Committee, to whom were referred several petitions complaining of grievances, be printed for the use of the Members of this House.

(Attest,)

**W. B. LINDSAY,
Depty. Clk. House of Assembly.**

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HOUSE OF ASSEMBLY,

COMMITTEE ROOM,

Saturday, 29th November 1828.

In Committee on the petitions of the inhabitants of the County of York ^{29th Nov. 1828} and of the City of Montreal, complaining of certain grievances.

PRESENT,—Messrs. *Bourdages, Leslie, Cuvillier, Neilson, Heney, Lefebvre* and *Labrie*.

Mr. *Labrie* called to the Chair.

Read the order of reference,

Adjourned to the call of the Chairman.

Monday, 1st December 1828.

PRESENT,—Messrs. *Cuvillier, Heney, Bourdages, Leslie* and *Labrie*.

1st Decemb
1818.

Mr. *Labrie* in the Chair,

Read the petition of the inhabitants of the County of York, and that of the inhabitants of the Town and City of Montreal, referred to this Committee.

Ordered, That Thomas Douglas, Esquire, one of the Clerks of the Crown in Chancery, do appear before this Committee to-morrow at the hour of ten in the forenoon, with the return of the writ of election from the West Ward of Montreal, for the late election, and other papers respecting the said election.

[Adjourned until to-morrow at the hour of ten in the forenoon.

Tuesday, 2nd December 1828.

PRESENT,—Messrs. *Labrie, Heney, Cuvillier, Leslie* and *Bourdages*.

2nd Decemb
1828.

Mr. *Labrie* in the Chair,

Thomas Douglas, Esquire, one of the Clerks of the Crown in Chancery, *Thos. Douglas* appeared before your Committee, and was examined as follows :—
Esquire.

Q.—Is it within your knowledge that Mr. Griffin did himself request to be appointed Returning Officer for the late election for the West Ward of the City of Montreal ?

A.—I know nothing of that.

Q.—

Reports of the Special Committee on the petitions against grievances.

has. Douglass,
Esquire.

Q.—Do you know by whom he was recommended ?

A.—I cannot now say, probably I have papers which might ascertain the fact.

Q.—Did Mr. Griffin, (being appointed,) raise any objection to his qualification as such Returning Officer ?

A.—I cannot say.

Q.—Will you produce the documents in your possession respecting the said election ?

A.—I produce the writ and return of the said election, whereby it appears that the writ bears date 6th July 1827; and was not received by Mr. Griffin, at Montreal, until the 20th of that month. The affidavit of the qualification of the said H. Griffin, and various certificates of publications of the notices for the said election, are annexed to the said writ.

Q.—Could you state to the Committee the reason why a delay of fourteen days elapsed between the issuing of the writ and its receipt by the said H. Griffin ?

A.—All I can say, is, that as soon as the name of the person who was appointed to be Returning Officer was sent to me, I think I forthwith forwarded the writ in question to Montreal by the post.

Q.—The Committee request to have an authentic copy of the oath of qualification of the said H. Griffin, as now produced by you.

A.—I now produce such authentic copy.

(For said oath see appendix II of this Report.)

Ordered, That A. W. Cochran, Esquire, do appear before this Committee to-morrow at the hour of ten in the forenoon.

[Adjourned.]

Wednesday, 3rd December 1828.

PRESENT,—Messrs. *Leslie, Bourdages, Heney, Leslie and Lefebvre.*

d Decr. 1828.

Mr. *Labrie* in the Chair.

The Chairman received from A. W. Cochran, Esquire, a letter informing him that being an officer of the Legislative Council, it is necessary that he should have the leave of that body to attend this Committee.

Ordered, That the Chairman do accordingly apply to the House.

Messrs. *Quesnel* and *Valois* two of the Members of this House appeared before the Committee.

A. Quesnel
and Joseph Va-
is, Esquires.

They were asked whether they think the liberty of voting was restrained at the late election for the West Ward of the Town and City of Montreal.

They stated that to the best of their knowledge, and every time they attended the said election, they saw that the electors had full liberty of giving their votes, and it has not come to their knowledge that the freedom of suffrage was at any time restrained during the said election.

FIRST REPORT.

Your Committee taking into consideration the number of grievances, set forth in the petitions from York and Montreal, began by enquiring into that part

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Reports of the Special Committee on the petitions against grievances.

part of the petition from Montreal which relates to the want of qualification in H. Griffin, Esquire, the Returning Officer at the late election for the West Ward of the said Town and City. Having examined Messrs. Quesnel and Valois, two of the Members of this House, and Thomas Douglass, Esquire, one of the Clerks of the Crown in Chancery, and having taken cognizance of the oath taken by the said Henry Griffin, to qualify himself as Returning Officer.

First Report.

Your Committee are of opinion :

1°. That the said oath is not in the form required by the formula laid down in the Act 4th Geo. IV. cap. 33.

2°. That the said Henry Griffin, the Returning Officer as aforesaid, by taking that oath which is not that prescribed, was essentially wanting to his duty ; and that Robert Froste, Esquire, one of the Justices of the Peace for the District of Montreal, who administered the oath taken on that occasion by the said Henry Griffin, was equally wanting to his duty by administering a different oath from that prescribed in the formula above mentioned.

3°. That however censurable those two persons may be, your Committee do not nevertheless think their fault ought in any thing to affect or vitiate, or can in any thing affect or vitiate, the return of the two Members elected to represent the said West Ward, the electors having according to Law had full and perfect liberty to vote for the persons they chose to elect, and your Committee deem themselves the better entitled to express this opinion, as, by maintaining contrary principles an extremely dangerous doctrine would be established, by means of which an evil intentioned Returning Officer or Government might render null the election of unwelcome Members of the Legislature.

The whole nevertheless humbly submitted.

J. LABRIE, President.

SECOND REPORT.

Thursday, 4th December 1828.

In Committee on the petitions of the inhabitants of the County of York and of divers inhabitants of the City of Montreal.

Second Report
4th Decr. 1828.

PRESENT,—Messrs. *Labrie, Bourdages, Heney, Cuvillier, Lefebvre* and *Leslie.*

Mr. *Labrie* called to the Chair.

Denis Benjamin Viger, Esquire, a Member of the Assembly, appeared before your Committee and being asked by the Committee if he had in his possession a copy of the Report from the select Committee of the House of Commons of the Imperial Parliament, appointed to enquire into the state of the Civil Government of Canada, and if he had such a copy to deliver the same to the Committee, answered that he had procured a copy of the said Report which he delivered to this Committee.

D. B. Viger,
Esquire.

(For the said Report see appendix A at the end of the present Report.)

It

Reports of the Special Committee on the petitions against grievances.

Second Report.

It was then,

Ordered, That the said Report do form the subject of of a second Report from this Committee, and that the Chairman do lay the same before the House with all due diligence.

Ordered, That the Chairman do leave the Chair and report. The whole nevertheless humbly submitted ;

J. LABRIE, Chairman.

THIRD REPORT.

Tuesday, 10th February 1829.

PRESENT,—Messrs. *Viger, Lefebvre, Hency, Neilson* and *Leslie*.

Mr. *Viger* in the Chair.

Third Report ;
received, Tues-
day 10th Feby.
1829.

THE Special Committee, to whom the petitions from the County of York, and the City of Montreal, those received from the District of Three-Rivers, and that of Paul Brazeau and others, containing complaints of grievances, have been referred, after having maturely considered the evidence hereunto annexed, have agreed to the following report.

PRELIMINARY OBSERVATIONS :

Your Committee, upon whom the task of enquiring into the administration of the late Governor, Lord Dalbousie, was devolved in the midst of the session, which the interruption of public business during the preceding years, has unavoidably rendered laborious and troublesome, have not been enabled to enter into the consideration of all the subjects to which the petitions to them referred, have relation ; the task was beyond their powers. Your Committee found themselves compelled to contract the scale of their operations, and to select from among the multitude of grievances to which that administration has given birth, and which have become so notorious, those to which it appeared necessary under the existing circumstances more particularly to call the attention of your Honorable House.

Your Committee do not conceive it necessary, at the present time, to lay before your Honorable House, any remarks upon the circumstances which attended the prorogation of the Parliament, on the seventh March 1827, in the middle of a session, during the course of which the application of the Assembly to the dispatch of public business had been zealous and unremitting, but was rendered fruitless by this sudden and unexpected prorogation. Your Committee will not remind your Honorable House, of the insulting language then addressed to the Commons of Lower-Canada by the Governor, Lord Dalhousie, whose conduct on this occasion was as repugnant to the principles of the Constitution and Government, as the bitter reproaches and unjust accusations contained in his speech were devoid of foundation. Lastly, your Committee think it right, to observe the same conduct with respect to

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Reports of the Special Committee on the petitions against Grievances.

the dissolution of the Parliament which followed, and with respect to a crowd of circumstances connected with these subjects, of too recent date, too notorious and on which the public opinion is too well formed, for it to be necessary to enter into any comment or discussion concerning them. 3rd Report.

Neither do your Committee think it their duty to revert to the repeated refusal on the part of the late Governor Lord Dalhousie, to communicate to the House of Assembly the dispatches by which he pretended to be authorized in his various and frequently contradictory claims; and particularly in the vacillation and contradiction apparent from one year to another, during the whole course of his administration, in his manner of asking the Assembly to provide for the public expenses; or in his claims on this subject, whether it be in the estimates of the expenses themselves, or in the classification of the objects thereof.

Nor will your Committee recall to your Honorable House the subject of complaint constantly given by that administration, with regard to the unauthorized and illegal application of the public monies up to the very time when the Governor, Lord Dalhousie left this Province; the enormous losses which the Province has sustained and the effects of which are still felt; and a crowd of other facts which are unfortunately but too well known, and the effects of which are too deeply felt, for it to be necessary to call them to remembrance.

Feeling the impossibility of unfolding at length the list of grievances and subjects of complaint, to which the petitions referred to your Committee might have relation, your Committee have thought it their duty to confine themselves to laying before your Honorable House, with regard to the late administration, a small number of facts over which a veil had been thrown, which the Assembly had up to the present time endeavoured in vain to elucidate; and which appear to your Committee to call for some remarks not hitherto made. Your Committee has above all, thought it right to set a mark upon certain measures of the late administration which were of a nature to create the most lively alarm in this Province, to produce the most disastrous effects, and which have gone near to entail upon the inhabitants of this Province, the loss of all that should be most dear to a people, even to the form of its Government, and the Constitution itself, and which in short must have tended to weaken and in time break the ties which bind them to the Mother Country. Lastly, your Committee, has thought it right that this general outline should be followed by a representation of some of the effects and acts of injustice which the conduct of the late administration has occasioned, and which demanded and still demand more particular attention for the purpose of preventing the recurrence of the one and remedying the other.

Conduct of the Governor, Lord Dalhousie, with respect to the proceedings of the House of Assembly and Legislative Council in Upper-Canada in 1822, and with respect to the complaints by them made on the difficulties between the Provinces on the subject of the Duties collected at the Port of Quebec.

Among those subjects of which your Committee have thought it their duty to make choice, for the purpose of laying before your Honorable House, there is

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Reports of the Special Committee on the petitions against Grievances,

3rd Re. rt.

which, deserves in the first instance, to be particularly distinguished. When the two Houses of the Legislature of Upper-Canada, resolved upon addressing His Majesty on the subject of the difficulties which had arisen between the Provinces, with respect to the duties collected at the Port of Quebec, they presented an address to the Lieutenant Governor, Sir Peregrine Maitland, praying him to transmit to the Governor of Lower-Canada, an account of their proceedings on this subject, for the information of the Legislative Council and Assembly of Lower-Canada. This step was an act of justice. They felt the impropriety of praying for a decision, by which the interests of Lower-Canada must be affected, without having placed the people of that Province in a condition to defend their rights. It is not necessary that your Committee should, at this time, examine the subjects of discussion between the two Provinces. They are only called upon to consider the conduct of the person who, at that time, held the reins of Government here.

Your Committee have, in the first place, to remark that the House of Assembly received no intimation of these proceedings, until the following year, 1823: and the communication was then made, in consequence of an address of the House to Lord Dalhousie, during the Session of the Provincial Parliament. Your Committee perceive, from the documents which were then laid before this House, that the address of the Assembly and Legislative Council of Upper-Canada, was presented to Sir Peregrine Maitland, on the eighth January 1822. The Parliament of Lower-Canada was at that time in session. The accounts of the proceedings in Upper-Canada were transmitted to the Governor of this Province; as appears by a note on the back of one those documents laid before the Assembly of Lower-Canada, with this single remark, *that they were received too late to be communicated to the Assembly and Legislative Council*, but without any intimation of the time at which they were received. Your Committee have used every endeavour to ascertain the time of their receipt, and it must excite astonishment, to learn that their enquiries have been fruitless. According to the information, which in the course of their enquiries they obtained from the Civil Secretary of His Excellency, the Administrator of the Government, the letter from Sir Peregrine Maitland which accompanied the documents in question, is dated on the twenty second January 1822; but nothing could be found in his office from which the time of their arrival at Quebec could be ascertained: a week only was required, for their conveyance by post from York; and the Parliament of Lower-Canada continued their session, to the eighteenth of February, that is to say, twenty-seven days after the date of Sir Peregrine Maitland's letter, which contains a sort of apology, for not having sooner forwarded them.

Your Committee have to observe, that although this subject was, for a long time, warmly and publicly discussed, and although the Editors of Public Newspapers in the interest of the administration took a very active part in the discussion, it has never been known at what precise time the documents above alluded to, reached Quebec; and that the inhabitants of this Province, have, like your Committee, been left to form their conjectures upon a point so important and essential, and upon which the administration could so easily have thrown light.

From that period, the conduct of the Governor, Lord Dalhousie, becomes an impenetrable mystery. It is the more so, because the Journals of the Assembly shew that when the Parliament of this Province was on the eve of

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Reports of the Special Committee on the petitions against Grievances.

3rd Report.

being prorogued, on the motion of Mr. Taschereau a Member of the House, then known to have been for many years (as he continued to be up to the time of his promotion to a seat in the Court of King's Bench) the organ of the administration in the Assembly, the House went into a Committee of the whole, to consider the report of the Commissioners appointed to treat on the part of this Province, with those appointed on the part of Upper-Canada, concerning the duties collected at the Port of Quebec; and that resolutions were passed by the said Committee, which were on the same day laid before the House, and agreed to without any discussion, at a moment when the time for debates on subjects of great public interest had gone by, and when in fact it appears that there were not above twenty four members with the Speaker in Quebec.

These resolutions were passed on Saturday the sixteenth of February 1822, and the Provincial Parliament was prorogued on the Mouday following, the eighteenth of the same month. A feeling of confidence in their Government which is general among the inhabitants of this country, and which was not at that time entirely destroyed with respect to Lord Dalhousie, might induce the Assembly, particularly on a subject of external relation, to adopt, upon what might be looked upon as the suggestion of the Governor himself, resolutions of some of which advantage has since been taken by the friends of the late administration.

The Legislature of Upper-Canada would of course, be persuaded that the documents above mentioned had been communicated to the Assembly and Legislative Council of this Province; and accordingly the agent sent to England to support the claims of Upper-Canada, found in these circumstances a plausible pretext for asserting, that the Province of Lower-Canada had been wilfully remiss. On the other hand, His Majesty's Government could not suppose it possible that the two Houses of our Provincial Parliament, had not been made acquainted with the proceedings of the Legislature of Upper-Canada, and that they had not been guilty of intentional neglect.

Under those circumstances, the representations made by the inhabitants of Upper-Canada, became the pretext in the Imperial Parliament, of a scheme for the union of the Legislatures of the two Provinces, (the effect of which would have been to make both unhappy,) and ended in producing the act, known by the name of "The Canada Trade Act," against which the country has remonstrated.

It is unnecessary that your Committee should remind your Honorable House of the conduct of a small number of men among us, at a time, when, from the news of the scheme then agitation in the Imperial Parliament, they had worked themselves into a belief that they were about to become the arbiters of our destiny. The Canadians were to be proscribed, to become strangers to the land of their birth, for which their blood had been so lately shed, and which had been defended by their valour against the attacks of a neighbouring nation, whose schemes of invasion they had defeated. The Mother Country had called upon them to defend their rights, the institutions which they enjoyed under her protection, and all that can attach a people to its Government. In 1822, during the course of the summer following, the session of our Provincial Parliament under the eye of the Governor, Lord Dalhousie, the men who flattered themselves with the hope of despoiling us, talked loudly of the approaching consummation of their schemes of destruction. They spoke continually of the conquest of the Province, as giving them

Reports of the Special Committees on the petitions against Grievances.

3rd Report.

them a legal right to treat its inhabitants as slaves. Never was a more brutal tone of language assumed towards a people; and by this treatment, the fidelity which the people of this Province had shewn in the day of trial, was said to be more than required.

Your Committee would willingly have persuaded themselves, that the Governor, Lord Dalhousie, had used his best endeavours to secure His Majesty's Government from those mistakes, with regard to facts, which were followed by such unfortuante effects, and went near to produce the most fatal consequences. But, on the contrary, they find themselves compelled to add, that they have found no trace of any steps taken by that Governor for laying before His Majesty's Government any information of this subject, and particularly of the fact, that it had not been in his power, or that he had not thought it his duty to communicate to the two Houses of the Provincial Legislature, documents upon which the Assembly might have adopted measures for the defence and support of the rights of the people whose Representatives they were.

There is a consideration belonging to this subject, which incases its importance; the Assembly had made many fruitless efforts, for the appointment of an agent for the Province who should be resident in England; and this should have been an additional motive with the Governor, for watching with a more constant attention over the interests of a people, whose fate had been intrusted to his care, and who placed their trust in his honor. Your Committee have to add, that on a more recent occasion, when in the year 1826 the Assembly communicated to the Legislative Council their Resolutions, with regard to the necessity of having an agent resident in England on the part of the Province; that Honorable House refused to concur therein, and gave it, at the same time, as their opinion *that the Governor was the proper and constitutional channel of communication between the Legislative bodies and His Majesty's Government.*

Your Committee think it their duty to refrain from making any addition to the remarks they have already laid before your Honorable House on this subject.

They think it right to take this opportunity, however, to remark, that the act of the Imperial Parliament, called the "Tenures' Act," which is well known to have produced the most serious inconvenience in this Province, was passed in the year 1825. After the events of the three years previous to the period alluded to, the inhabitants of this country had a right to expect that the Governor, Lord Dalhousie, would use every endeavour, to prevent the evils to which this Province was exposed by measures of this nature.

Your Committee can, besides, scarcely understand the total ignorance of Lord Dalhousie with respect to the schemes of those with whom an act like this originated; nor in what manner it happened that no steps were taken on his part, to inform the inhabitants of this country, and more particularly the Legislature, that a measure of so great importance was in contemplation. Your Committee will be satisfied with observing that in the City of Quebec (to speak of no other part of the Province) many families were and still are exposed to the overthrow of fortune, and ruinous losses from the construction put upon the provisions of the "Tenures' Act;" and there can evidently be little doubt, that independently of all consideration of the justice, or policy of the exercise of this power of internal Legislation for the Province

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Province of Lower Canada, His Majesty's Government would have shrunk from the consequences of the law which it was about to sanction, if these consequences had been pressed upon its attention. But there remains still another circumstance connected with this subject, which deserves the most serious attention. 3rd Report.

Your Committee have seen, that far from laying before His Majesty's Government those documents by which it might have been guided in its measures, the persons by whom that bill was conducted in the Imperial Parliament, were persuaded to insert therein, certain provisions with regard to the New Quebec Gazette, established by the Governor, Lord Dalhousie, in 1823; a step which could only have been suggested, by persons connected with the administration of Lower-Canada. Your Committee will not, at this moment, press a subject to which they will have occasion to revert, when they come to lay before your Honorable House some facts with respect to the establishment of this New Gazette, which have been the subjects of formal complaints set forth, in one of the petitions referred to your Committee.

Establishment of The New Quebec Gazette by the Governor, Lord Dalhousie.

One of the petitions from the District of Three-Rivers referred to your Committee, contains particular complaints against the conduct of the Governor, Lord Dalhousie, in establishing a New Quebec Gazette, and obliging the Sheriff to insert their advertisements therein; *a measure*, as the petitioners observe, *which may be justly characterized, as an invasion of private property.* The attention of your Committee was of course arrested by an object of this importance.

Your Committee have to remark, that The Quebec Gazette, to which the name of "The Old Quebec Gazette," was given by the public in the year 1823, to distinguish it from the New Gazette of the same name, established by order of the Governor, Lord Dalhousie, was established in the 1764, by private individuals, who employed their own capital for the purpose, and who, or whose successors or assigns, have been and still are its proprietors.

During the interval between the years 1764 and 1823, the law required that all advertisements relating to matters of public interest, should be inserted in the Gazette last mentioned. And more particularly, by an ordinance made in the year 1785, it is commanded that all notices relating to judicial sales, or sales of immoveable property or inheritances made by the Sheriff, in execution of the Judgments of any Court of Justice, shall be published in "The Quebec Gazette."

Things were in this state, when the Governor, Lord Dalhousie, formed the scheme of placing this establishment under his own control. On the sixth of April 1822, he caused the proprietor of that Gazette to be informed by his Secretary, Lieutenant Colonel Ready, that he was dissatisfied with the conduct of the person who was charged with the editorial department. The latter in answer, observed among other things, that this Gazette was his property, but that he was about to resign it to his son, Samuel Neilson, who was therefore the proper person to treat with on the subject.

Your Committee have here to remark, that upon the Governor's offer,
Mr.

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Mr. Samuel Neilson determined to accept the commission of King's Printer, which was in fact given him on the third of July following; and that he then added to the title of his Gazette the words "Published by Authority." On the thirtieth of April 1823, Mr. Cochran, who had become the Governor's Secretary, intimated to Mr. Samuel Neilson, that the Governor had determined to entrust the conduct of the Quebec Gazette to Mr. J. C. Fisher. Mr. Samuel Neilson not having thought proper to accede to the arrangements proposed on this subject, Mr. Secretary Cochran, wrote to him again, that the Governor was about to recall the commission of King's Printer, and to entrust the publication of the Gazette to Dr. Fisher, as Editor and King's Printer.

This proceeding was followed by another no less extraordinary; on the third of October 1823, the Governor issued a proclamation, announcing that he had recalled the commission of King's Printer given to Samuel Neilson, and that he had given the commission of King's Printer to J. C. Fisher, and had besides established him as *Editor of The Quebec Gazette*.

This proclamation further enjoins all Sheriffs and servants of the Crown to take notice thereof, and to conform themselves thereto; requiring them to insert in this Gazette *all official communications and notices whatsoever* relating to their offices, and the functions thereunto attached.

This proclamation was preceded by a notice of nearly the same tenor, inserted in the Mercury, another newspaper published at Quebec, and dated the seventeenth October 1823, giving at the same time "*public notice, that for the present time, and until further arrangements shall be made, The Quebec Gazette would be published by authority at the Office of the Quebec Mercury; and of this all Officers and Departments of the Civil Government, were required to take notice and to act accordingly.*"

Your Committee are really at a loss to comprehend, in what manner the Governor, Lord Dalhousie, could suppose himself authorized to dispose of The Quebec Gazette, as if it had been the property of the Executive, because the proprietor of this Gazette had consented to accept the commission of King's Printer, and had subjoined the words "Published by Authority," to his Gazette.

Nor can your Committee conceive how the laws by which it is directed that certain advertisements shall be inserted in The Quebec Gazette, which had then been many years in existence, could be considered as having reference to a Gazette, which was to be printed nearly half a century afterwards, in case it should appear adviseable to a Governor to establish a Gazette under the same title and with the same name: nor, lastly, how a Governor could take upon himself to use his authority for the purpose of doing that, which as it appears to your Committee nothing could, in the eye of the law, have justified in a private individual.

Lastly, your Committee find themselves at a loss to comprehend, how he could resolve to use these means and these pretexts, for the purpose of depriving the possessor of the profits attached to his establishment, which, as well as The Gazette itself were his property, and which, like all other rights of this nature, should have been secure from all encroachments.

Your Committee cannot help remarking on this subject, that it is enacted in the seventh clause of the act respecting the tenures in this Country, passed in the Imperial Parliament in the sixth year of His Majesty's reign, chapter fifty nine, that certain advertisements, required by law, in case where the

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right of commutation is claimed, shall be inserted in *The Quebec Gazette published by Authority*. Your Committee dare to think, that if His Majesty's Government had been in possession of the facts which your Committee have just laid before your Honorable House, it would never have permitted its authority to be employed in this manner, more than in any other, to furnish even an indirect pretext on this side the Atlantic, for supporting the establishment of the New Gazette under these circumstances; and lastly, that the Parliament of Great Britain would not have thought it advisable, to render itself, in some sort, a party to an act of this nature on the part of Lord Dalhousie.

These considerations acquire much greater weight when we reflect, that no opportunity was offered to the Country of remonstrating against the scheme of this act; that the provisions above mentioned, could only have been suggested (as your Committee have already remarked) by persons connected with the administration of this Country; that the establishment of the New Quebec Gazette, was the act of Lord Dalhousie himself, who gave the Country no notice whatever of the lot appointed for it in this respect; and lastly, that at the time of the passing of the "Tenures' Act," in the Imperial Parliament, the Governor's Secretary, Mr. Cochran, was in England, and has since been paid the expenses of his mission out of the monies belonging to the Province, by order of the Governor, Lord Dalhousie.

Dismissal of the Chairman of the Quarter Sessions at Montreal: Ascendancy of the new Chairman over the other Justices of the Peace: Many Justices of the Peace struck out of the Commission.

Your Committee see that under the administration of Lord Dalhousie, recourse was frequently had to the extraordinary measure of dismissing those Justices of the Peace whose conduct was not in accordance with the views of the Executive; and that a desire was at last shown, to use this power of dismissal as a political engine for the purpose of forcing the people of this Country, as well as the Magistrates themselves, to crouch and bend to the pleasure of the executive.

There are, in the first place, some facts respecting the dismissal of certain Magistrates at Montreal, which your Committee considered too important not to be pointed out. The Justices of the Peace at Montreal, had in the year 1823, appointed a High Constable according to custom and received his oaths. It has been made apparent to your Committee, that the Governor, Lord Dalhousie, pressed upon the said Justices the dismissal of this person, for the purpose of substituting another person chosen by himself, whom he pointed out to them. The Justices of the Peace thought it their duty to persist in an appointment which they had lawfully made, of an officer against whom there existed no grounds of complaint, and against whom none had been alleged; and the resolution of maintaining him in his situation was adopted almost unanimously. Your Committee regret, that they are obliged to add, that the two Justices of the Peace who presided at the Sessions, and who with their fellow Magistrates, had refused to lend their support to the scheme of dismissing the officer in question, were themselves dismissed, and deprived of the salary attached to their office. This dismissal, which was at the

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the time attributed to resentment against these two Magistrates, could besides have no other effect than that of undermining the confidence of the public in the government, and particularly in those who are at the head of this branch of the administration of justice, in the District of Montreal and in the City in particular.

Some circumstances, among others, have, from their nature, particularly struck the attention of your Committee. On the one hand, the Governor on the 3rd May 1824, caused the Magistrates to be informed by his Secretary, A. W. Cochran, that, reckoning from the ninth of April, the day on which the Governor had made known to the Magistrates his intention not to confirm their choice, no salary would be allowed to the High Constable, who had, up to that time, received yearly a sum charged in the account of public expenses; and on the other hand, it appears by a deposition under oath at the time, that a man of the name of M'Culloch, who was recommended by the Governor for the office of High Constable, had, from the month of April in the same year spoken like a man who knew beforehand the lot that awaited certain of the Magistrates who were afterwards deprived of their offices; not to mention his appearing at that time acquainted with all that passed in the meetings of Magistrates, in which this subject had been deliberated on.

Your Committee have again to remark, that after the dismissal of Messrs. M'Cord and Mondelet, Mr. Gale who was appointed in their stead, by the Governor, as sole Chairman of the Quarter Sessions of the Peace, made it his object to acquire, and appears in fact to have acquired a decided ascendancy over the other Justices of the Peace at Montreal; making use of the Governor's name and employing it for the purpose of inspiring fears which were but too well justified by the preceding dismissals, by those which followed, and by so many other proceedings of the same sort; the effect of conduct like this, was, and must necessarily be, to make them passive tools in his hands, and through his means in the hands of the Executive, whose organ he appears to have been, as he professed himself to be for the purpose of controlling them in their deliberations, and ensuring the triumph of his own private opinions. One of the consequences of this system appears, among others, to have been the dismissal of many Magistrates of Montreal, whose conduct had been above reproach, because they had not partaken in his sentiments upon a subject of discussion open to all the Justices of the Peace in the City of Montreal.

Your Committee have to add that in the month of June 1827, the Justices of the Peace at Montreal, gave orders to the Road Surveyor of the said City, to throw down a fence and a building on a lot of ground in the possession of a person of the name of Stanley Bagg, as being upon a public way. Some of these Magistrates, to the number of four, thought it right upon reflection to issue an order or writ of *supersedeas*, to suspend the execution of the former order on this subject; and the effect of this *supersedeas* was to stop the proceedings of the Road Surveyor to whom it was addressed. The Justices of the Peace acted by virtue of a right which it appears to your Committee is acknowledged by the laws, and before exercising this jurisdiction, took all the precautions which prudence required, not to overstep the bounds of their authority. The other Justices of the Peace by whom the former order had been given, instead of taking steps to obtain a legal decision by bringing the matter before a competent tribunal, came to the resolution of making a representation to the Governor, with respect to the four Magistrates by whom the order

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der of *supersedeas* had been given. They entrusted the conduct of this measure at the Castle of St. Louis, to Mr. Gale the Chairman of the Quarter Sessions of the Peace; who, in fact, laid before His Excellency a long memorial alledging the illegality of the order of *supersedeas* given by the four Magistrates, to whom this memorial was not communicated. This proceeding took place on the fourth of August 1827; the four Magistrates on their side thought it right to represent to the Governor that they had acted by virtue of a right with which they believed the law had invested them, and prayed that the examination of the question might be submitted to a tribunal of competent Jurisdiction. 3rd Report.

It was immediately after these proceedings that the names of these four Magistrates were struck out of or omitted in the last Commission of the Peace, instead of proceeding to obtain the decision of a Court of Law on this subject. Your Committee have been unable to discover any other cause for this extraordinary step on the part of the Governor, Lord Dalhousie, than their having given the said order of *supersedeas*; unless it be found in their opinions on the affairs of this Province, which might have contributed to their dismissal, as well as to that of another Magistrate, also residing at Montreal; a lot which they have shared with many other Justices of the Peace throughout the rest of the Province.

Your Committee cannot pass in silence over some of the circumstances connected with this subject. One of the Magistrates who were present at the meeting which was held and at which it was resolved to entrust to Mr. Gale the charge of making these representations to the Governor, moved that copies of all the proceedings relative to this subject should be placed in the hands of the Officer of the Crown, with instructions to adopt measures for obtaining a legal decision of the question. His fellow Magistrates were not satisfied with rejecting this motion, but went so far as to refuse to allow it to be entered in the register of their deliberations. Proceedings of this nature need no comment; if this motion was afterwards laid before the Governor, it was because this Magistrate was led by an imperious sense of justice to cause it to reach him.

Your Committee need not descant upon considerations of public order, to make evident the danger of any interposition on the part of the person who holds the reins of government, in matters exclusively within the jurisdiction of the Courts or of the Judges, for the purposes of making their decisions fluctuate according to the wishes or ideas of him who is invested with the Executive authority. A sense of the obligations under which they lie, a respect for the laws and for the oath they take, should be the only rule of their decisions as of their conduct. These maxims which are the safeguard of the lives, honor and liberty of the citizens, as they are the foundation of authority itself, and are acknowledged and respected by the most despotic governments; they were disregarded on this occasion in this country. If it were possible that such an influence over the judges and the magistrates could be obtained and continue to be exercised, it would, by planting the seeds and developing the germ of the most profound immortality, have the effect of relaxing all the ties that hold society together.

It remains to be remarked that the road surveyor of the city of Montreal, has since been criminally prosecuted by means of a bill of indictment preferred to the grand jury, and by them found at a special court of oyer and terminer, held at Montreal in November 1827, (of which mention will be

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made hereafter,) under a pretext that he had neglected his duty, at a time previous to the order of the Magistrates which gave occasion to the supersedeas, with respect to the subject of the two orders given by the Magistrates, and that on this occasion, recourse was had to a writ of *certiorari*, from the Court of King's Bench addressed to the Commissioners of the then extinct Court of Oyer and Terminer, of which the Justices of the Court of King's Bench had formed an essential part, for the purpose of reviving this prosecution, and causing it to be brought before the said Court of King's Bench in which it is still pending.

Your Committee have to remark that the names of a great number of Justices of the Peace, whose reputation was untouched, and who, moreover, enjoyed the merited confidence of their fellow citizens, were omitted in the last Commission which issued in March last, 1828; this omission appears to have had no other cause than their opinions and sentiments on public affairs, and on the measures of the person who then held the reins of administration. Your Committee do not think it their duty to point out the reflections to which a step of this nature is adapted to give birth. They will be satisfied with remarking that it is to be lamented, that any administration should conceive itself interested in removing from the magistracy, men who enjoy public esteem and are likely to cherish confidence in the Government. But there is one circumstance connected with this subject, too striking not to require to be pointed out.

The number of Justices of the Peace born in the Country, whose names are found in the last Commission, bears a very slender proportion to the number of the inhabitants of the several districts born also in the Country; the greater number consists of persons born out of the Country. In the District of Montreal, where the Canadian population, is in the proportion of at least eight to one, to the number of those who established themselves therein though born elsewhere, the number of these last invested with the magistracy is in the proportion of two to one; and in the City of Montreal, out of forty Justices of the Peace, there are but ten born in the Country, whilst in that City the number of the inhabitants born in the Country is at least double that of those born elsewhere.

If the whole population of the County be considered, the disparity of number in the magistracy will be still greater; while the number of the inhabitants born in the Country will be to that of the others, in the proportion of at least three to one. Neither do your Committee need on this subject to point out the reflections to which this strange distinction, and, as it may be called selection, is adapted to give birth; or the causes by which the public confidence in the magistracy has been destroyed.

Despatch of the 30th September 1825.—Conduct of the Governor, Lord Dalhousie, on this subject, and with regard to the Lieutenant Governor, Sir Francis Burton.

Your Committee passing now to another subject of at least equal importance, have to remark to your Honorable House, that after the protracted discussions occasioned by unusual claims and demands, varying from one year to another and occasionally contradictory, with respect to the application of the public monies under the administration of Lord Dalhousie, the three

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branches of the Legislature at last in 1825 agreed upon a bill which passed into a law, for the purpose of meeting the expenses of the Civil Government of the Province. This act re-established a good understanding between the several branches of the Legislature, after many years, not only of differences on but of interruption to public business, the course of which was arrested of those differences, which at the same time opposed insurmountable obstacles to any systematic plan of amelioration in the Province. This measure reconciled all parties without compromising the interests of any; this event took place under the auspices of Sir Francis Burton, who then held the reins of the administration as Lieutenant Governor, in the absence of the Governor in Chief, Lord Dalhousie, who had gone to England in the course of the preceding summer.

The Province could at last look forward with confidence to the continuance of tranquility and indulge the hope of reaping the fruits of the unity which this measure had re-established. But in the following year 1826, after the return of the Governor, Lord Dalhousie, during the Session of the Provincial Parliament the former difficulties were renewed. Your Committee before laying before your Honorable House a representation of what passed in the Province on this subject, have to remark that the British Ministers on the news of the passing of this bill of supply, were induced by persons interested in renewing and perpetuating the dissensions in this Country to look upon this bill in an unfavorable point of view. The Colonial Secretary thought it his duty to blame Sir Francis Burton for having sanctioned this bill of supply, and gave as the reasons of his dissatisfaction the instructions to the contrary addressed to the Governor of Lower-Canada. This censure is to be found in a despatch of the fourth of June 1825; the Governor, Lord Dalhousie, was at that time in England, and could without difficulty have exculpated the Lieutenant Governor. In the first place, and without entering into the discussion of the merits of the question, he had himself subsequently to these instructions sanctioned two bills of supply, in which much less attention had been paid to the integrity and even to the discrimination of the revenues claimed as being at the disposal of the executive than in the act passed in 1825. The acts alluded to are those of the third year of his majesty's reign, chaps. 37 and 38: With regard to the instructions to the contrary, he knew that they were no longer in the province, where they ought to have remained of record in the civil secretary's office, and where they were not to be found. It was easy for Sir Francis Burton to exculpate himself. He obtained without difficulty from the justice of the ministers a revocation of the censure contained in the despatch of the 4th of June; and this by another despatch of the thirtieth of September of the same year, by which the former was revoked, and at the end of which the minister *confirmed the expression of his regret to the circumstance of an arrangement of so important a nature having been effected without previous direct communication with his Majesty's government.*

Under these circumstances the House of Assembly were not led in 1826 to anticipate any difficulties to the passing of a bill of supply founded on the same principles as that of 1825; when after sitting nearly two months and when they were on the point of passing a similar bill, they received on the 14th of March by message from Lord Dalhousie, a copy of the despatch of the 4th June, censuring Sir Francis Burton for having sanctioned the act of 1825, and informing him that the ministers would give instructions to his majesty's representative in the province of Lower-Canada not to sanction any measure of a similar nature.

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On the same day the house voted an address to the Governor in Chief, praying him "to lay before them copies of the despatches which had been received by the colonial government, since the return of his Excellency to the government of this province, concerning that part of Sir Francis Burton's administration which related to the bill of supply passed during the then last session of the provincial parliament." The messengers who carried this address reported on the 16th of the same month, that Lord Dalhousie had answered, "that he had received from his Majesty's secretary of state, no despatch relating to the bill of supply passed in the then last session of the provincial parliament, of a later date than that communicated by message."

It must naturally be inferred from this answer, that the despatch of the thirtieth September 1825, had not at that time been received by his Excellency, Lord Dalhousie.

He nevertheless thought it advisable in the following year, to send, on the 31st January 1827, a message to the house relating to this very despatch, without however mentioning its date. On the 3d of February following, this message was referred to a special committee, whose report will be found in the journals of this house under the date 5th March 1827.

On the same day, the 3d February 1827, the house voted an address to the Governor in Chief, praying that he would be pleased to cause a copy of the despatch referred to in his message, to be laid before it.

The answer was in the negative: the Governor in Chief alleging that he thought it his duty to decline laying before the public the correspondence of his majesty's ministers with the executive government of the Province.

In consequence of this refusal, the house found itself unable to proceed to the passing of a bill of supply, with that full knowledge of the sentiments of his majesty's government, which it was necessary it should have, in order to make such a grant as should be at once consistent with the duty it owed to the crown and to its constituents, and in conformity with its constitutional privileges.

To resume: Under the administration of Sir Francis Burton in 1825, a bill of supply was passed; on the 14th of March 1826, Lord Dalhousie acquainted the house that he had received a despatch from the minister dated the 4th June 1825, in which Sir Francis Burton was blamed for having given the royal assent to that bill of supply; at the same time he declared solemnly that he had received from the minister no despatch relating to the bill of supply passed in 1825, of a later date than that communicated by message; that is to say, that of the 4th of June.

The enquiries of your committee, have, however, elicited the fact, that notwithstanding the public and official assertion of his Excellency the Earl of Dalhousie, a despatch from the Secretary of State, dated the 30th September 1825, addressed to Sir Francis Burton, referring to that of the 4th of June, had been placed in the hands of the Governor's civil secretary, A. W. Cochran, on the 23d of January 1826, and that in the presence of Lord Dalhousie, who was in the secretary's office at the time.

That the civil secretary declared to the person by whom it was placed in his hands, that his Excellency would pay no attention to this despatch; and that he had himself so advised him.

That this despatch which required so much secrecy, and which it was impossible to communicate to the House of Assembly, became, nevertheless, the subject of long articles in the newspapers; and that through the intervention of his Excellency's confidential secretary, and under his Excellency's authority.

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That these newspaper articles drawn up by the editor of the Quebec Official Gazette, from notes published by the confidential servant of His Excellency, and under his authority, contain remarks as unjust as they are insulting to the House of Assembly.

That his Excellency the Governor, the Earl of Dalhousie, refused to communicate officially to the house, documents which ought not to have remained secret, and which were necessary to the despatch of business; while he condescended through his secretary to enter into anonymous discussions in the newspapers with regard to these very documents, in opposition to the House of Assembly, which he did not think it beneath him to insult.

Your committee are of opinion that the act of his Excellency the Earl of Dalhousie in declaring that he had not in his possession this important document, which not only tended to clear Sir Francis Burton from an unmerited reproach, but which was besides necessary for the despatch of public business, was one of those steps which nothing can justify, and becomes still more serious when the elevated rank, the relative situation of the persons it concerned, and the importance of the business to which it had reference, are taken into consideration; it was an act which went to destroy all confidence on the part of the people of this province, in his majesty's representative in this country.

It appears to your committee that the particular instructions given to the Governor in Chief by order of his majesty in two despatches from the minister of state, dated respectively 11th September 1820, and the 13th September 1821, were no longer to be found in the secretary's office when Sir Francis Burton assumed the reins of the government in this province, and had not been entered of record in the said office.

That the censure directed against Sir Francis Burton with respect to the bill of supply passed in 1825, was founded on the presumption that he had acted in opposition to their instructions, of which however, it was impossible he could have any knowledge.

That the despatch of the 4th of June 1825, was not entered of record towards the close of the year 1828, and perhaps is not at this time.

That the despatch of the thirtieth September 1825, is not only not entered of record in the civil secretary's office, but does not exist there at all.

Your committee cannot refrain from remarking the danger that must arise from exposing a document of this importance to the risk of being lost or mislaid by the carelessness or design of the civil secretary.

It appears further to your committee from the evidence of the former civil secretary, A. W. Cochran, that the civil secretary receives no commission and takes no oath; that he is (according to the opinion of Mr. Cochran) the private servant or officer of the Governor, and that his duties and his office are subject to no other rule than the will and pleasure of the Governor, which in the opinion of your committee would be alike subversive of the principles of our government, and in opposition to those of universal justice.

Election for York and William Henry; Dismissals of Officers of the Militia, and appointment of others in their stead.

Your committee have received evidence of, and now lay before your honorable House, certain facts which prove that lieutenant colonel Dumont, a violent

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violent partizan of the administration of the Governor, lord Dalhousie, made his authority as commandant of the first battalion of the county of York, subservient to the success of his scheme for causing himself to be re-elected as representative of that county by exciting fears among the electors, and to his design of punishing those who had supported an interest opposite to his own. To accomplish this double purpose, he caused a great number of respectable officers of this battalion to be dismissed; both before and after the election for the county of York. Lieutenant colonel Dumont made use of the same means in his endeavours to intimidate, or for the purpose of punishing such of the officers of his battalion as had attended the public meetings and borne a part in the deliberations which had taken place in the county, and in the steps which had been adopted for presenting petitions to his majesty and the two houses of the imperial parliament, and for laying before them complaints against the administration of this country.

As far as regards the latter of these motives, it is recorded in a general order of militia dismissing several of these officers, for having attended public meetings, *tending* (to use the terms of the general order published in English in the *Quebec Gazette by authority*, and dated the 12th July 1827,) *to excite discontent among the people*; whereas the assemblies which had taken place in the county, and their deliberations, had no other object than that of laying before the king and parliament the petitions just spoken of.

Lieutenant colonel Dumont at the said time procured commissions in his battalion for those who had seconded his endeavours to secure his election; or who had acted in opposition to those who had taken part in the petitions in question.

It appears to your committee that the officers thus dismissed, were all of them persons who enjoyed the esteem and confidence of the public; who had all deserved them by their conduct, and almost all by the zeal and activity they had shown in the service, particularly in the late war with the United States.

Almost all these officers were dismissed or placed on the retired list, or thought it their duty to retire of themselves, on account of the disgust with which this conduct inspired them. Their places in this battalion were filled by mere boys, or by men who do not even reside within the county, or who are without property and devoid of influence and credit in the place, and have none of the qualifications necessary for ensuring the welfare of the service. These abuses have been carried so far, that there remain only two or three of the officers who had commissions in this battalion before the last election, and the battalion is now composed of elements absolutely heterogeneous, and is totally unfit to answer the end which ought to be kept in view in the formation of a corps of officers of militia.

Your committee have to remark that this is not the only place in which recourse has been had to the dismissal of officers of the militia for reasons totally unconnected with the service, as it appears to your committee from the evidence they have received, and which they lay before your honorable house.

Your committee cannot conceal their conviction that the object of a large proportion of these dismissals was to punish a great number of his Majesty's subjects in this province for having openly complained of some of the acts of the administration, and for having held constitutional meetings for their discussion, with the view of afterwards addressing his majesty's government; a line of conduct which Lord Dalhousie has not been afraid to characterize as *hostile to his majesty's government*.

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Your committee think it their duty to set a mark upon this act of lord Dalhousie, and to point it out to your honorable house as a serious attack upon one of the most sacred rights of British subjects, and as one which could tend to nothing less than to consummate the unhappiness and ruin of his majesty's faithful subjects, by forbidding every, even the most legitimate complaint, by cutting them off from all recourse to the justice of their sovereign, and by leaving them from that time forward exposed without defence and without hope, to revenge and oppression.

All these facts, serious as they are both in their objects and in their consequences, appear, nevertheless, to your committee of diminished importance when compared with the fact they are now about to submit to the consideration of your honorable house.

Independently of these measures and many others of a similar nature adopted in the province, it appears to your committee, that his Excellency the Earl of Dalhousie, not satisfied with the share of authority with which he was invested by the constitution, dared to violate the rights and privileges of the people of this province, their dearest rights, their most incontestable privileges, in a word, the elective franchise.

In addition to the other means employed by his Excellency to influence the elections, such as the unjust reproaches addressed to your honorable house on the eve of the dissolution of parliament; in addition to the numerous dismissals at the time when the general election was at hand; in addition to the avowal made by the Attorney-general to the reverend M. Kelly, curate of Sorel; of the interest taken by his Excellency in his (Mr. Attorney-general's) election for the borough of William Henry, upon which Mr. Attorney-general laid great stress in soliciting the interest of M. Kelly; in addition to all these means, your committee have recorded in the minutes of evidence given before them, the proof of the facts, that lord Dalhousie resided near the borough of William Henry, during the term of the election; that the Attorney-general was one of the candidates, and Mr. Wolfred Nelson the other; that the Governor's aides-de-camps in concert with him, were active in supporting the candidate first mentioned; that the father of M. Kelly, the curate of the place, interested himself at the said election against the Attorney-general; that on this occasion lord Dalhousie conceived it his duty to order his aide-de-camp to write, and afterwards to write himself to the reverend M. Kelly, and to address him in terms of menace and warm reproach on the subject of the said election; that lord Dalhousie carried his warmth on this occasion so far as to threaten the said reverend M. Kelly, to represent his conduct, not only to his bishop, but to his majesty's Secretary of state.

Your committee do not think that after this there can be any hesitation to declare that on this occasion the Earl of Dalhousie infringed constitutional privileges and violated the elective franchise of the people of this province.

Your committee have to add that Mr. Gale, chairman of the quartersessions at Montreal, who had played so distinguished a part under the administration of the Governor Lord Dalhousie, figured also at this election as a partizan of the candidate in whose success the Governor took so warm an interest; he went so far as to solicit the vote of an elector, by offering him money to vote in favour of the Attorney-general. Your committee have further to remark that the same Mr. Gale has since that time been deputed to England by the Governor, who caused him to be paid out of the public monies of the province, a sum of three hundred pounds sterling, on account of the expenses of his mission.

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Of the use made of the Militia Ordinances of the old Legislative Council.

Among the grievances set forth in one of the petitions from the county of York, are certain complaints of the use which was made, under the late administration of certain old ordinances of the Legislative Council, long since repealed by provincial statutes, for the purpose of authorizing the arbitrary proceedings which have called forth the remonstrances of the petitioners. The duty of enquiring into the state of the militia having devolved upon another committee, your committee have not thought it right to enter deeply into this subject, or to examine the question which has been raised as to the existence of these ordinances. They will confine themselves to a few remarks upon what has been done in the province on this subject.

These ordinances of the old legislative council were made in the 27th and 29th years of the reign of his late majesty Geo. 3. They had been repealed by a clause in the provincial statute of the 34th year of the same reign, the provisions of which are again found in a subsequent act passed in the year 1803. These acts were, it is true, temporary, but each of them substitutes provisions, which in the first mentioned act, differ from those of the ordinances, and in the second from those of the act of the 34th Geo. 3 itself. It seems to your committee that these circumstances ought to have furnished sufficient reason for considering those old laws as repealed for ever.

These ordinances were, moreover, the work of a legislature whose powers were very limited, yet they subjected the inhabitants of this country, even in time of peace, to a power entirely military, to which by the principles of our government they could only be subjected by the authority of parliament. If no other reason could be alledged against the existence of these ordinances, it would be difficult to suppose that it was not the intention of the provincial parliament to repeal them for ever, as the language of the statutes implies. The Governor, Lord Dalhousie thought differently. In a general order of the month of September 1827, the following passage occurs: "It is well known that the laws under which the militia force has been regulated for many years, have been enacted for short periods, and have been repeatedly renewed as a substitute for the permanent laws passed in 1787 and 1789. These temporary acts, however, not having been renewed in the last session of the provincial parliament, expired on the 1st May; and it was notified to the militia, by his Excellency's directions, that under existing circumstances, the old permanent ordinances came into force."

Your committee will make no remark on many of the expressions found in the body, and particularly towards the conclusion of this passage, they will be satisfied with adding, in the first place, that the provisions of the act of 1823, which replaced those of the act of the 34th Geo. 3, had themselves been successively modified, changed, altered and replaced in great part by others of more recent date, by virtue of other temporary acts which expired in 1814, and were revived in 1815 by an act of the provincial legislature. These acts having undergone the same fate in 1816, no person thought of reviving the said ordinances without the authority of the provincial parliament; in 1817 the Governor confined himself to asking the renewal of the militia act, and his recommendation was in fact followed by an act for reviving that of 1803.

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It is easy to be convinced by reading the speech of his Grace the Duke of Richmond, at the time of the prorogation of the provincial parliament in 1819, how little idea was then entertained of reviving these ordinances without the sanction of the provincial parliament.

Indictments for Libel, and Prosecutions for Misdemeanors alleged to have been committed at the late Elections : Special Courts of Oyer and Termiver : Selection of Jurors, &c. : Returning Officer for the West Ward of Montreal.

Your committee to whom it has been given in charge to enquire concerning certain prosecutions which may be justly characterized as political, brought in the criminal courts of Quebec and Montreal since the prorogation of the provincial parliament, and following its subsequent dissolution in the year 1827, against individuals charged with having published abusive libels, or with offences alleged to have been committed at the time of the last general election, (the election at Montreal and that for the borough of William Henry,) would have been desirous of bestowing on this subject that undivided attention which it so well deserved to engage. The multiplicity of the subjects upon which they have been compelled to institute enquiries, has necessarily put it out of their power to carry those which they have made upon this subject to the extent they could have wished. Trusting that a more favorable opportunity will occur, they have at least been enabled to collect and notice some facts and important considerations which are attached to this subject.

Your committee have to remark upon the prosecutions instituted in the criminal courts by the attorney-general, for abusive libels relating to the administration of the Governor, the Earl of Dalhousie, against divers printers or editors of newspapers and other persons; that both before and after the time when the productions complained of were published, the grossest libels and abuse of the people of this country, of the House of Assembly, of the Commons by whom the people were represented in provincial parliament, and of public men and others who opposed the administration of the Governor, Lord Dalhousie, were circulated within the province and elsewhere, by means of the two Gazettes published, at Quebec and Montreal, to use the terms of the papers themselves, *by authority*. Some of these abusive libels were also found in the Quebec Mercury and the Montreal Herald, papers notoriously in the interest of the late administration.

No one of the Editors, printers, or writers of these Gazettes was in any way whatever troubled on this account, however insulting the language there held might be, and although in many instances, it went so far as to accuse the persons attacked of the most atrocious crimes, not excepting even that of High Treason.—Your committee do not intend to turn this into a reproach against the Attorney General, by whom alone in this Country, all Criminal Prosecutions of whatsoever nature are conducted. It might appear to him that the abuse of the Liberty of the Press, is an evil attended with much less danger than the constraint occasioned by Criminal accusations, he might believe, and perhaps he was right in believing, that these productions

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brought with them their own antidote, in the disgust which they must inspire. He might even feel the same contempt for these Calumnies which was felt by those against whom they were directed. But your Committee, could not help reflecting seriously on this subject, when they considered that it was thought right to prosecute those to whom the intention of insulting or defaming the then administration was imputed, while the unbridled licence of its partisans, some of whom were at the same time loaded with favors, was in some sort authorised; and your Committee have even to observe that a Quebec Grand Jury, after having found some of these indictments, made during the same term a representation against the licence which at that time reigned among the Public Papers in the interest of the administration.

Before entering upon the consideration of the particular circumstances attending these indictments, as regards the Courts, before which they were brought and the manner in which they were conducted; Your Committee must remark, that one of the persons indicted for Libel, (M. Charles Mondelet) resides in the Town of Three Rivers, nearly ninety miles from Quebec, at which latter place he was brought before the Court of King's Bench, for the District of Quebec, although it is beyond a doubt that he could have been prosecuted without difficulty in the District in which he resided. This single circumstance would, from its nature, call for the most earnest remonstrances, but it acquires fresh importance when we consider the abuse which exists in the District of Quebec with regard to the selection, of Grand and Petty Juries, before whom it was of course necessary that the said Indictments should be laid.

It has in fact appeared to your Committee, that in the District of Quebec, the Canadian population or the number of persons born in the Country, is to that of those who being born elsewhere have established themselves here, in the proportion of at least eight to one. Whereas on the one hand, only half of the Grand Jurors summoned are Canadians: The greater number, three fourths are commonly from the city of Quebec; and on the other, the Petty Jurors are summoned almost exclusively from the City; that is to say with the exception of about one eighth, who are summoned from the County of Quebec alone, although the jurisdiction of the sheriff of Quebec, extends over eight Counties.

Your Committee have to make, with respect to the Criminal Prosecutions instituted within the District of Montreal, for offences alleged to have been committed during the elections at Montreal, the same observations they have laid before your Honorable House, with regard to the Indictments for Libel. No one of these prosecutions was directed against the partizans of those Candidates, who were themselves the partizans of the late administration, although it was notorious that acts of the same nature as those imputed to the persons attached to the opposite party, might have been proved against them.

Your Committee have in this place to observe that the general Election was immediately followed by a great number of Indictments for Perjuries alleged to have been committed by the Partizans of a Member of this House then elected at William Henry, which Indictments were laid before the Grand Jury at the Court of King's Bench, holden at Montréal for the cognizance of criminal matters in the September term of 1827. Similar proceedings were instituted with respect to the other offences before spoken of, charged upon

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upon persons who had voted in favor of the members elected for the West Ward of the City of Montreal, in opposition to the Candidates who were partizans of the administration.

The majority of these Indictments were thrown out by the Grand Juries, at the said Court.

The Attorney General there considered it his duty to have recourse to a very extraordinary proceeding, (to say no more of it), that of filing an *Ex-Officio* information against some of those persons against whom the Grand Jury had maintained no charge.

Proceedings of a far more extraordinary character were adopted. The Governor Lord Dalhousie very shortly afterwards recurred to the exercise of the prerogative of the Crown, and ordered that a special Court of Oyer and Terminer should be holden at Montreal in the Month of November 1827.

Your Committee, before submitting to your Honorable House, their remarks on the nature of this species of Court of Oyer and Terminer, have to notice some particular facts respecting that which was holden at Montreal, at the period just spoken of.

The Grand Jurors at this special Court of Oyer and Terminer, were not even all capable of exercising the rights appertaining to the quality of active Citizens, their being some among them who possessed no Real Property whatever.

Among the members of the Grand Jury, by which Bills of Indictment for the offences alledged to have been committed during the last Election for the west Ward of the City of Montreal, and previously thrown out by the Grand Jury, at the Court of King's Bench were found; your Committee have seen with profound regret that the Foreman of that Grand Jury, was one of the very persons alledged to have been attacked by some of the persons so indicted. This person had himself been a warm Partizan of the unsuccessful Candidates, and with his associates, returned as true bills, Indictments for misdemeanors imputed to those who had acted in a manner contrary to his wishes and to the interest of the party to which he was attached at that Election, which had been hotly contested.

This Grand Jury appears to have been partly composed of persons who had also borne a zealous and active part in the Election, which had been place at the City of Montreal the Summer before, during and with regard to which the offences charged upon the persons indicted were alledged to have been Committed.

The same things may be said independently of the abuses in the mode, in which they were returned and selected of the special jurors summoned to attend the Court of King's Bench in September 1828, by whom it was illegally attempted to try the persons indicted. Many of these Jurors had been, at the time of the Election attached to the party opposed to that supported by the persons indicted, and from circumstances which are even within the knowledge of your Committee, and of public notoriety at the place, could not be otherwise then violently prejudiced against them.

Your Committee cannot help remarking on this occasion, how little the selection of Grand Jurors has been governed by the Rules consecrated by the principles of Constitutional Law, and of the Government under which we live; this abuse is yet more striking in the selection of Petty Jurors, chosen, as they always are, from the Town of Montreal and its suburbs without exception;

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exception; as if all the Citizens of the District of Montreal had not the same right to the exercise of the precious and inalienable privilege of being tried by their Peers and fellow Citizens, taken from the body of the Country and from among those who are called by the law to the fulfilment of this duty: As if, in short by some unprecedented Law, a few hundreds of the Inhabitants of a particular spot, had alone the power of life and Death over the rest of their fellow Citizens.

Your Committee think it their duty to observe at the same time, that the practice of summoning Grand Jurors exclusively, (or at least most frequently and in the greater number,) from the Town of Montreal, must give occasion to well founded remonstrances, in as much as this practice is manifestly contrary to the Laws, and to the principles of impartiality which should form the essence of all legal proceedings, and more especially of the Trial by Jury; and that this abuse is also to be found more or less at the Tribunals of Quebec and Three Rivers.

These circumstances render still more worthy of attention, the fact, in itself extremely important, that the Indictments laid before the Grand Jury at the special Court of Oyer and Terminer held in November 1827, had been previously laid before the Grand Jury at the ordinary Criminal Term of the Court of King's Bench, and by them thrown out.

Neither can your committee refrain from again adverting to the attempt made to form a list of special jurors containing the names of persons selected exclusively from the town of Montreal, and from a list made by virtue of an ordinance peculiar to this province concerning civil causes and civil courts; which courts have no identity, nor any thing in common with, or having the slightest relation to courts of criminal jurisdiction. This single circumstance even if it stood isolate and alone, would be in itself sufficient to give birth to just complaints and to the most lively alarm, respecting the manner in which prosecutions against persons indicted before the courts of criminal jurisdiction are conducted.

Your committee have above all to remark that one of the candidates who had been unsuccessful at that election, was among the number of the special jurors, and that the list of these jurors had been made by the other candidate who had been unsuccessful; both candidates having had a common interest in the said election.

A mode of selecting jurors, by which instead, of being taken from the mass of the population or from among those whom the law calls without distinction to the fulfilment of this duty, they might be selected, or as it were, packed—summoned exclusively from among the inhabitants of a particular place, or from a particular class—cannot be more compatible with liberty, than it is with the rules of impartial justice. It is repugnant to every principle of our government, and can tend only to the overthrow of the constitution of the country.

Your committee have to express their profound regret that principles directly opposite to these on which alone the security of the citizen and that of the authority of the government itself depend, should have been so long and so constantly acted upon, more especially in the conduct of prosecutions arising out of the last general election.

Your committee do not think it necessary to enter into the discussion or examination of the legality or of the propriety of renewing a prosecution of the

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the same nature and for the same offence, against a person who has already been discharged; and more particularly of bringing it afresh before a special court of oyer and terminer, under the circumstances above mentioned, when the accused has been discharged by the grand jury at the court of king's bench. Your committee cannot refrain from observing that the exercise of a right of this nature should be confined within the strictest bounds, and should be permitted under such circumstances only of imperious necessity as were by no means attendant upon the case in question.

Your committee feel it impossible to pass in silence over another fact, which among many others has come to their knowledge. The same means were resorted to for the purpose of renewing the prosecution against Paul Brazeau and others, whose petition was referred to your committee: on this occasion the proceedings were of a nature still more extraordinary; the attorney-general had presented a bill of indictment against these persons to the grand jury at the court of oyer and terminer held at Montreal in August 1828, by whom it had been thrown out.

The attorney general again brought the same bill of indictment (or one of the same nature and founded upon the same facts) and laid it on the first day of the criminal term of the court of king's bench held in September 1828, before the grand jury at that court, by whom it was once more thrown out. It would have been supposed no doubt that the attorney general had already passed the strict bounds of his duty: on this occasion he went still further: Your committee have had before them documents which show that a fresh bill of indictment was in the course of the same term laid before the grand jury, and by them returned as a true bill on the 5th of the same month of September; This indictment is still pending in the court of King's bench. Your committee have at the same time to observe that these circumstances are the more remarkable, since the facts upon which this indictment was founded, relates to the unfortunate business respecting the militia of the county of York.

Your committee have to remark even upon the indictments for abusive libels returned as true bills at the court of King's bench in March 1828, that the indictments were in the first instance laid before the grand jury on a day when the judges then sitting were incompetent to hold the court. The same indictments for the same act, were laid before the court two days afterwards, and the witnesses were again heard in the absence of some of the jurors by whom the bill was found the first time, and before one juror who was not present on that occasion.

Independently of the important considerations already mentioned, and of those which were peculiar to the question of elections, your committee cannot but observe in proceedings of this nature an uncertainty which is foreign and even contrary to the true principles of the administration of criminal justice; and aboveall a mode of harrassing and persecuting his majesty's subjects, of filling them with apprehension, and of ruining and destroying all confidence in the administration of justice and in public officers.

Your committee have now to make some remarks upon the extraordinary and too frequent exercise of the prerogative in the district of Montreal, for the purposes of causing criminal justice to be there administered by means of special courts of oyer and terminer, which may be closed by rising without adjournment, and have no connection with the ordinary courts, the terms

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of which and the periods at which they must be holden are fixed and established by law.

Your committee further perceive from the evidence they have received, that the holding of these courts is a mode of depriving persons indicted for misdemeanors of their right of traversing, which was in fact denied in these courts.

Special courts of oyer and terminer of this nature, were designed to supply the place of the ordinary courts, upon rare extraordinary occasions, when from the distance of their next regular terms, the tranquility and safety of the state might be endangered by delay. And besides, nothing but the necessity of emptying the gaols if they had been crowded with prisoners under prosecution, could have justified proceedings of this nature: it seems as if the motives on the occasion alluded to had been directly opposite to this: instead of making use of these special courts for the trial of persons imprisoned under prosecution for crimes, a great number of indictments for mere misdemeanors were laid before them; and more particularly as your committee have already observed, at the special court of oyer and terminer holden in November 1827, which was made use of for the purpose of renewing indictments of this nature, which had been thrown out by the grand jury at the court of King's bench, in the preceding September; and that since the close of the said court of oyer and terminer, it has been found necessary to revive by certiorari, the proceedings which were followed by those already noticed, and among others by the attempt to have these indictments decided upon by the verdict of a jury, such as was established only for civil causes and for courts of a nature purely civil.

With regard to the complaints set forth in the petition from Montreal, respecting the returning officer at the last election for the west ward of that city, your committee have to observe that he did not reside within the ward over the election for which he presided, and this is without doubt the reason that the oath he took is not in conformity with the terms required by the law. It appears also that he was only joint proprietor of the freehold by which he believed himself qualified as an elector. A fact still more extraordinary remains to be mentioned. It was the intention of the returning officer, and he took steps, the tendency of which was to cause the military force to interfere in the election, and that at a time also, when by his own avowal, the public quiet which had been disturbed on the third day of the election, had been (according to his own evidence) re-established with the greatest ease. An attempt of this nature could not fail to alarm the citizens who might be exposed by mistakes of this kind, (if indeed we can be satisfied to give this name to those of the returning officer in question,) to experience the horrors of war, on occasions when they are called upon to exercise their rights as citizens.

Ordered:—That the Chairman do leave the chair and report.

The whole nevertheless humbly submitted.

D. B. VIGER, CH'N.

FOURTH

FOURTH REPORT.

COMMITTEE ROOM.

Thursday, 12th February 1829.

PRESENT:—Messrs. *Viger, Heney, Lefebvre, Leshe, and Neilson.* 12th Feby 1829.

Mr. *Viger* in the Chair.

THE Special Committee to whom have been referred the petitions from the County of York and the City of Montreal, those from the District of Three Rivers, and of Paul Brazeau and others, containing complaints of grievances, have agreed, to make their remarks upon the manner in which the Magistracy has been composed at Montreal, and other grievances peculiar to that City, the subject of a fourth report.

4th Report.

Manner in which the Magistracy of Montreal is composed, and other Grievances peculiar to that City.

Your Committee, occupied, as they have been, in enquiring into so great a number of important grievances and subjects of complaints, common to the whole Province, could with difficulty enter into minute details with respect to the complaints made by individuals, of which they have already spoken, or of those which more immediately concern the citizens of Montreal, set forth in the petitions referred to your committee.

With regard to these last, your committee have to remark that the subjects of grievances peculiar to Montreal, which they contain, relate principally to the employment of the monies raised from the citizens for maintaining and keeping in repair the streets and highways, and other matters of the Police of that City, which are by the statutes of this Province placed under the control of the Justices of the Peace. A law which should place in the hands of the citizens themselves the conduct of such of their affairs as are purely municipal, and the administration and employment of the revenues arising from the assessments paid by them, would at once take away every pretext for the complaints and reiterated petitions brought before the Legislature upon matters of a nature purely local, which should be left to the management of those whom they immediately concern.

But there are certain facts connected with this subject, of an importance which will not permit your committee to dispense with laying some of them, at least, before your Honorable House. Independently of the considerations of general interest to the whole Province relative to the commission of the peace, issued in March last, which have been already mentioned, your committee have not been able to see without astonishment the materials of which the Magistracy of the City of Montreal is now composed.

Your Committee have already laid before your Honorable House, as far as regards the small number of the Magistrates in Montreal born in the country, compared with that of the persons coming from other places to settle among

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Reports of the Special Committee on the petitions against Grievances.

4th Report.

among us who are included in the commission, certain remarks to which they do not think it necessary at this moment to revert, any more than to several others concerning the issuing of that commission, which relate equally to the Justices of the Peace in the City of Montreal and those in every other part of the Province.

Laying aside these considerations, and others of the same nature, your committee have first to remark with respect to the Magistracy of Montreal, that many Justices of the Peace appointed for that City, appear to have been destitute of all landed property. Others were known to be in a state of bankruptcy at the time the last commission issued: and some of them do not even pay assessments in the City the affairs of which they administer, and the revenues of which are applied under their authority.

Two of the Justices of the Peace in the city of Montreal, are among the proprietors of the water works established in that city. They are daily obliged to break up the pavements of the streets, to dig in them to prevent or interrupt public communication, in order to construct or repair the canals, to lay down or to take up the pipes which serve to conduct the water with which they supply the town. They are directly interested in all questions which may be raised, and which are in fact daily raised with respect to this important branch of the police of the city, the administration of which is placed in the hands of the Justices of the Peace.

These persons have been seen to sit with their fellow Magistrates, whilst they were deliberating on measures adopted with regard to works which these very Magistrates, proprietors of the water works had caused to be carried on; and when the means of obviating the inconveniencies arising from them, or of compelling the discontinuance of those by which the public were incommoded, were the subject of discussion; by which means, these proprietors of water works became in fact, judges in their own cause, and the abuse was carried still further, when one of them was appointed a member of the committee for overseeing the work to be done in the streets of Montreal.

One of the Justices of the Peace for the District of Montreal, and acting as such in the city itself, was at the same time and still is one of the Clerks of the Market for that city. He has been seen to sit on the Bench with his fellow Magistrates, at the very time they were discussing the formation of a tariff of fees to be allowed to the Clerks of the Markets, and did not leave the Bench till the anomaly was remarked to him. He lives upon an allowance granted him out of these fees which are regulated by the Magistrates of the City of Montreal, and which are in this city paid by those who sell provisions on the markets.

Lastly and above all the present Chairman of the Quarter Sessions of the Peace, is at the same time, by his own avowal, an advocate and King's Counsel in all the Courts of this Province, and head of the office called the Police Office in the City of Montreal.

Your Committee cannot refrain from observing how much contradiction and incompatibility of things repugnant to each other, there must be, in this union of different offices functions and interests; with what dangers such a state of things must be attended, what dreadful consequences it may, and must bring with it; and lastly, how hurtful it must be to the true interests of the citizens of Montreal as well as to those of the Government itself. The concentration in the same person of the functions divided between two persons

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Reports of the Special Committee on the Petition against Grievances.

before the appointment of Mr. Gale, appears also to have been followed by disadvantageous efforts in retarding the despatch of business.

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These and other circumstances have had the unfortunate effect of cooling the zeal of many of the Justices of the Peace, so that it is frequently difficult to find Magistrates to hold the Sessions, and the late Chairmen of the Sessions have at times been respectively under the necessity of paying a Magistrate at their own expense when they were compelled to be absent.

Passing over several subjects relating to these complaints of the citizens of Montreal, your Committee have to remark, (as an example,) that the salaries of the Clerks of the Markets (which are paid out of the fees collected as before mentioned, from those who sell provisions in the markets,) are in fact paid to three persons; now one of these persons is, as has been before remarked, a Justice of the Peace and lives in the country at the distance of twelve or fourteen leagues from the town; a second receives an allowance out of these fees, and one person alone performs the duties of the office.

One proof of the little regard paid in this country to the most express provisions of the law, is, that the Justices of the Peace of Montreal, omitted, in the year 1828, to hold on the first Monday in every month, general meetings for the regulation of the work to be done in the course of the month to the streets, and other things mentioned in the first section of an act of the Legislature of this Province passed in the fourth year of His Majesty's Reign, chapter four, by virtue of which these general meetings ought to be held. The proceedings adopted in respect to the Justices of the Peace, are contrary to the provisions of this Act. It appears, moreover, from the evidence received by your Committee that the Justices of the Peace at Montreal have taken upon themselves to lend out the monies raised by assessment, although they have no other controul over the said monies than that of regulating and directing their application to the roads and certain other purposes expressly mentioned by the law. They had no right to make use of them in any other way, and particularly in that just mentioned.

As regards the complaints made by the Petitioners of the refusal of the Magistrates of Montreal, to accept a certain market, your Committee have not on this subject any more than on several others, received such information as would enable them to form a correct judgment, or to report any decided opinion.

Your Committee have to remark, however, with regard to another subject, that it is to be regretted, that no means have been found for changing the course of the Little River, which runs behind the City of Montreal; since the thing appears, according to the information received by your Committee to be practicable, and since by leaving the river in the state in which it now is, the citizens suffer much from the insalubrity of the air arising from it.

Your Committee will go no further into these remarks, relating to complaints upon matters of an interest purely local.

They will be satisfied with adding, that they believe they have laid before your Honorable House facts and considerations fully sufficient to show that the Petitioners had just cause for dissatisfaction, and to point the true source of this dissatisfaction, and the means of remedying it.

Ordered, That the Chairman leave the Chair and report.

The whole nevertheless humbly submitted.

(Signed,)

D. B. VIGER
Chairman.

E

HOUSE OF ASSEMBLY,

COMMITTEE ROOM,

Friday, 5th December 1828.

5th Decr. 1828.

In Committee on divers Petitions complaining of Grievances.

PRESENT :—Messrs. *Viger, Heney, Neilson, Leslie, Labrie* and *Bourdages*.

Mr. *Viger* called to the Chair.

Ordered, That Andrew William Cochran, Esquire, be required to appear before the Committee to-morrow at 10 o'clock, A. M.

[Adjourned till to-morrow at 10 o'clock, A. M.]

Saturday, 6th December 1828.

6th Decr 1828.

PRESENT :—Messrs. *Viger, Bourdages, Heney, Lefebvre, Cuvillier, Leslie* and *Neilson*.

Mr. *Viger* in the Chair.

The Honorable *Andrew William Cochran* appeared before the Committee, and was examined.

A. W. Cochran,
Esquire.

Were you Civil Secretary when the writs for the last general election issued ?

Yes.

At what time was Henry Griffin, Esquire, appointed Returning Officer for the West Ward of Montreal ?

I cannot exactly say

What is the mode of selecting Returning Officers ordinarily adopted ?

They are appointed indifferently, sometimes at their own request and sometimes at the recommendation of other persons. On some occasions they are appointed on the suggestion of the Clerk of the Crown in Chancery when he happens to be personally acquainted with them.

According to which of these modes was Mr. Henry Griffin appointed ?

When I left the office, I tore up, among others, the paper containing the list of those persons who had been proposed as Returning Officers, or who had made application to be appointed as such ; so that it is impossible for me to say according to which mode Mr. Henry Griffin was appointed :—this paper was only a sort of memorandum for my own private use.

Do you remember that Mr. Griffin made any objection to his appointment as Returning Officer ?

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Not to my knowledge; it appears to me, however, that some delay took place in the appointment of one of the Returning Officers for Montreal; but I cannot now recollect for what part of Montreal; nor from what cause the delay arose. 6th Decr. 1828.

The writ of election for the West Ward of Montreal, which issued on the 5th of July, did not come into the hands of the Returning Officer before the 20th of the same month; can you point out the cause for so long a delay?

I cannot now exactly say; being unable to call the circumstances to my recollection after so long a space of time.

Did Mr. Henry Griffin write to you on the subject of this appointment, and had you any correspondence with him on this subject?

There was none.

Do you know whether any delay took place in the appointment of any Returning Officer, other than the one you have mentioned at Montreal?

I think I remember that delays took place in the appointment of other Returning Officers.

Can you say for what county or place in particular?

I cannot; but I believe it was for some part of the country, (la campagne.)

Ordered, That Thomas Douglas, Esquire, Clerk of the Crown in Chancery, be required to produce the Commission of Henry Griffin, as Returning Officer for the West Ward of Montreal, on Tuesday next.

[Adjourned until Tuesday next at 10 o'clock, A. M.]

Tuesday, 9th December 1828.

PRESENT:—Messrs. *Bourdages, Leslie, Cuvillier, Lefebvre* and *Viger*. 9th Decr. 1828.

Mr. *Viger* in the Chair.

[Adjourned until to-morrow at 10 o'clock, A. M.]

Saturday, 13th December 1828.

PRESENT:—Messrs. *Viger, Heney, Cuvillier* and *Lefebvre*. 13th Dec. 1828.

Mr. *Viger* in the Chair.

Ordered, That John Delisle, Esquire, Clerk of the Crown, Mr. Jacques Viger, Road Surveyor, and Pierre de Boucherville, Esquire, of Montreal, be required to appear before the Committee, on Monday the 22d December, and that John Delisle be required to bring with him:

1.—A copy of the list of Grand Jurors at the Criminal Terms of the Court of King's Bench, and the Courts of Oyer and Terminer, held in the District of Montreal during the last five years.

2.—A list of the Bills found or thrown out by the Grand Jurors at the said Courts during the last three years.

3.—

Minutes of Evidence.

15th Dec. 1828. 3.—A list of the Special Jurors summoned to attend at the last Criminal Term of the Court of King's Bench, for the District of Montreal, held in September last.

4.—A list of the Magistrates for the Town of Montreal.
[Adjourned to the call of the Chair.]

Monday, 15th December 1828.

15th Dec. 1828. PRESENT :—Messrs. *Heney, Cuvillier, Neilson, Lefebvre, Leslie* and *Bourdages*.

Mr. *Viger* in the Chair.

Ordered, That David Ross, Henry Griffin, and R. Froste, of Montreal, Esquires, be required to appear before the Committee, on Friday the 26th December instant, at 10 o'clock in the morning.

[Adjourned to the call of the Chair.]

Monday, 22nd December 1828.

22nd Dec. 1828. PRESENT :—Messrs. *Viger, Lefebvre, Bourdages, Heney* and *Cuvillier*.

Mr. *Viger* in the Chair.

J. Delisle, Esq. *John Delisle*, Esquire, Clerk of the Crown and of the Peace, for the District of Montreal, appeared before the Committee, and was examined :—

1.—What is your age ?

I am forty eight.

2.—Have you always resided in the City of Montreal ?

Yes.

3.—How long have you been Clerk of the Peace ?

About fourteen years.

4.—Were you employed in the Peace Office before that time ?

I have been employed there since the year 1800.

5.—How long have you been Clerk of the Crown ?

Three years ; I was deputy for several years before, at least eight years.

6.—Have you brought with you the list of the Grand Jurors summoned at the Criminal Term of the Court of King's Bench, and at the Courts of Oyer and Terminer, held at Montreal during the last five years ?

I have ; and I now produce them. (*see the file marked A in the Appendix to this Report.*) The figures marked in red ink before the names of the Grand Jurors in these lists, point out those who were sworn, and the order in which they were so.

7.—Have you a list of the Bills found or thrown out by the Grand Juries attending the said Courts, for the last three years ?

Yes ; I now produce it. (*see the marks B. C. and D. in the Appendix to the present Report.*)

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8.—Have you a list of the Special Jurors summoned to attend at the last Criminal Term of the Court of King's Bench for the District of Montreal, held in September last ? *J. Dalisle, Esq.*
22nd Dec. 1828.

Yes; and I now produce it, together with the Precept, (see under the mark *E*, in the Appendix to this Report.)

9.—Have you a list of the Magistrates for the Town of Montreal ?

Yes; I now produce it. (see under the mark *F*, to the Appendix to this Report.)

10.—What is the place of residence of the Grand Jurors whose names are formed in the list marked A, from February and March 1824, to May 1827, exclusively ?

They are all resident in the Town or Suburbs of Montreal, with the exception of one only, who resides out of the City, but within the limits of the Parish of Montreal.

11.—From what place were the Grand Jurors summoned for the September Term of 1827 ?

From the City of Montreal, with the exception of ten.

12.—From what place were the Grand Jurors summoned for the Court of Oyer and Terminer held in November 1827 ?

From the Town of Montreal, with the exception of nine, of whom seven were sworn.

13.—From what place were the Grand Jurors summoned for the March Term in 1828 ?

Thirteen were from the Country, one of whom was not sworn; the others were from the Town.

14.—From what place were the Grand Jurors summoned for the Courts of Oyer and Terminer held in August 1828 ?

Twelve, of whom two were not sworn, were from the Country; the others were from the Town.

15.—From what place were the Grand Jurors sworn for the September Term of 1828.

Nine, of whom one was not sworn, from the Country, the others from the Town.

16.—Do you know from what place the Grand Jurors for these Courts, were summoned prior to the year 1824 ?

I cannot recollect.

17.—From what place have the Petty Jurors for the same Courts, been summoned, during the period of time of which you have been speaking ?

In general, all from the Town, it is possible some might be from the Parish, but I doubt it.

18.—Have they always been taken from the same place since you have been Clerk or Deputy Clerk of the Crown ?

Yes.

19.—Can you say in what manner the list of Special Jurors for the September Term of which you have before spoken, was made ?

It was taken from the list of Special Jurors for Civil causes brought before the Court of King's Bench.

20.—By whom was this list of Special Jurors drawn up ?

By the Attorney General and myself from the list which was shewn us by the Prothonotaries of the Civil side of the Court of King's Bench.

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Minutes of Evidence.

J. Delisle, Esq. I acted on this occasion in the place of the persons indicted, who refused to strike a Jury.

22nd Dec. 1828. Ordered, That Charles Mondelét, Esquire, of Three-Rivers, Advocate be required to appear before the Committee with all convenient speed.

[Adjourned until to-morrow.]

Tuesday, 23rd December 1828.

23rd Dec. 1828. PRESENT :—Messrs. Viger, Heney, Cuvillier, Lefebvre, Leslie and Bourdages.

Mr. Viger in the Chair.

John Delisle, Esquire, appeared again, and his examination was continued.

21.—Was an indictment laid before the Grand Jury in the last September Term of 1827, against Joseph Constantineau and others for having assaulted and beaten a Magistrate in the execution of his duties, and who were the persons indicted?

Yes, this indictment was brought against Joseph Constantineau, Eloi Benêche dit Lavictoire, Augustin Lauriau and John Woolscamp.

22.—What was the opinion of the Grand Jury with respect to this indictment?

The indictment contained two Counts: the Grand Jury threw out the first altogether, and found a bill against Constantineau on the second Count.

23.—Were any other proceedings instituted against the same persons during the same Term, and for what?

Yes, another indictment was laid before the Grand Jury, during the same Term, against Joseph Constantineau, Eloi Benêche dit Lavictoire, Etienne Benêche dit Lavictoire, Augustin Lauriau, John Woolscamp, Louis Picard, Louis Dechantal, John McDonell, and Joseph Barsaloue, for a riot, and for having, with force and arms, impeded an election, and assaulted and beaten the Returning Officer; this bill was thrown out by the Grand Jury. In the same Term the Attorney General filed an *ex officio* information, against the persons I have just named and for the same offence.

24.—Were any proceedings instituted against the same persons or some of them, and with reference to the same indictments at the Court of Oyer and Terminer held at Montreal in November 1827?

Yes, a bill of indictment was laid before the Grand Jury against the same persons last mentioned, and for the same offence; the Grand Jury on this occasion found a true bill against Constantineau, Eloi Lavictoire, Lauriau, Woolscamp, Dechantal, and McDonell; and threw out the indictment as far as it related to Etienne Benêche, Barsaloue and Picard.

25.—What proceedings afterwards took place relative to these indictments.

On motion of the Attorney General at the same Court of Oyer and Terminer, the trial on this last indictment was fixed to take place in September ast, before a Special Jury.

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Minutes of Evidence.

26.—Were you a Candidate at the election for the West Ward of the Town of Montreal, with respect to which Constantineau and the others were indicted for riot and for an assault and battery on the Returning Officer? J. Delisle, Esq.,
23rd Dec. 1828.

Yes.

27.—Who was the Magistrate alluded to in this indictment?

Mr. Henry McKenzie.

28.—Was not the same Mr. McKenzie one of the Grand Jury before whom the indictment against Constantineau and others were laid in November 1827?

Yes, Mr. Henry McKenzie was Foreman of the Grand Jury at that court.

29.—Who was the Returning Officer at the said Election, and on whom the assault and battery mentioned in the said indictments were alleged to have been committed?

Henry Griffin, Esquire.

30.—Was this the same Henry Griffin whose name is found in the list of the Special Jurors before whom the trial of Constantineau and others was held to take place in September last?

He was one of those who were summoned.

31.—Did not Mr. Peter McGill also offer himself as a Candidate at the same occasion, and did he not lose his election?

Yes.

32.—Was he not one of the Grand Jurors summoned and sworn at the Criminal Term in September 1827, during which indictments were laid before the Grand Jury against Constantineau and others?

Yes.

33.—Is the same Mr. McGill whose name appears in the list of Special Jurors before whom the trial of Constantineau and others, was appointed to take place in September last?

Yes, Mr. McGill was one of those who were summoned.

34.—Was not Mr. McKenzie considered by you and by Mr. Gill, as being present at the said election more in the quality of a partizan than in that of a Magistrate?

I believe so.

35.—At what time did the last Commission of the Peace for the District of Montreal issue?

To the best of my knowledge, in March last.

36.—Did this Commission produce much alteration in the number of Justices of the Peace for the District?

Much alteration; the names of a great number of respectable Magistrates who had been included in the preceding Commission were not to be found in the list.

37.—Was it not notorious, that the striking out the names of some Magistrates and the insertion of others who had not before been included in the Commission, were owing to their respective political opinions?

I believe so.

[Adjourned till to-morrow at 10 A. M.
Wednesday,

Minutes of Evidence.

Wednesday, 24th December 1828.

J. Delisle, Esq. PRESENT:—Messrs. *Viger, Hency, Lefebvre, Cuvillier and Bourdages.*

24th Dec. 1828. Mr. *Viger* in the Chair.

John Delisle, Esquire, again appeared and his examination was continued.

38.—Were there many indictments for perjury laid before the Grand Jury at the Criminal Term of September 1827?

There were five, of which four were thrown out and one found.

39.—What were the names of the persons indicted?

The four first indictments were against Antoine Paul Cournoyer, Nicholas Buckner, Antoine Aussant, and Joseph Claprood; the one that was found was against Joseph Allard.

40.—Did not these indictments relate to perjuries alleged to have been committed at the election which took place in the course of the summer for the Borough of William Henry?

Yes.

41.—Was it not publicly notorious that the Attorney General had been a Candidate at the said election?

Yes.

42.—Was it not equally notorious that he had lost his election?

Yes.

43.—Were fresh indictments brought against the same persons and for the same offences, at the Court of Oyer and Terminer held in the month of November of the same year?

Yes, against the same persons; and also against Jean Baptiste Cantara, Rosalie Saint Michel and Louis Allard, for perjury alleged to have been committed at the same election, and these eight bills were found. An indictment was also brought against Louis Marcoux for subornation of perjury, and this bill was also found.

44.—Were the persons so indicted tried during the sitting of the said Court of Oyer and Terminer?

Not one of them.

45.—Were all the persons so indicted compelled to give security for their appearance at March Term following?

To the best of my knowledge they were all obliged to find security for their appearance at the Criminal Term in March following.

46.—Were they brought to trial during the said term in March?

No.

47.—Were they again obliged to give security?

I think they were, for the September Term following. (1828.)

48.—Were they brought to trial during the last September Term, (1828.)?

Only one of them was tried, Joseph Claprood, and he was convicted.

49.—Were the other persons so indicted put under bail?

I believe so, to the best of my knowledge.

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50.—In what manner did these indictments come before the Court of King's Bench?

They were removed from the court of Oyer and Terminer, by a Writ of *Certiorari* addressed to the commissioners of the said court of Oyer and Terminer. J. Delisle, Esq.

51.—Were not all the Judges of the court of King's Bench included in the number of the commissioners of the said court of Oyer and Terminer?

Yes; and according to the terms of the commission, the court could not be held without the presence of one of them.

52.—Were you clerk of these said courts of Oyer and Terminer?

Yes, by virtue of a special commission for each of the said courts.

53.—Were indictments for Libel brought against certain Editors or Printers of public newspapers during the sitting of the said Court of Oyer and Terminer held in November 1827?

During the sitting of the said Court of Oyer and Terminer in November 1827, the Grand Jury found three indictments; one against Jocelyn Waller and Ludger Duvernay; another against the same person, and a third against James Lane.

54.—Were the persons so indicted Editors or Printers of public newspapers?

Yes.

55.—Were further proceedings taken against the said persons before the said Court?

No.

56.—Were they put under bail, and what was the amount of the bail?

They were put under bail for their appearance in the March Term following, (1828) and as far as I can recollect the amount of the bail, was £500 for the principal, and £250, for the two securities on each indictment.

57.—Were they not, at the same time, obliged to give security for their good behaviour?

Yes, that was included in the bond.

58.—Were proceedings taken against the said persons, in the Criminal Term of the Court of King's Bench, held in March?

No proceedings were taken against them, but they were compelled to give fresh security for the month of September following, (1828) and during the course of this Term it was ordered, on the motion of the Attorney General, that they should be brought to trial before a Special Jury, in the September Term following.

59.—How did these indictments come before the Court of King's Bench?

They were removed from the Court of Oyer and Terminer to the Court of King's Bench in March, by a writ of *Certiorari*, in the same manner as the others of which I have before spoken.

60.—Were any further proceedings taken on these indictments, or on any of them, in the September Term following?

Special Jurors had been had in all the cases of which I have before spoken; return had been made by the Sheriff of the Special Jurors summoned on the indictments found against Joseph Constantineau, Eloi Benéche, Augustin Loriau, John Woolscamp, Louis Dechantal and John McDonell. This Jury

Minutes of Evidence.

J. Delisle, Esqr.
24th Dec. 1823.

was dismissed at the instance of the persons indicted, and no other proceedings took place on any of the indictments of which I have spoken.

61.—Were not the list of Jurors, (of which that made by yourself and the Attorney General was one) taken from the list drawn up for the Courts of Civil Jurisdiction ?

Yes.

62.—Had a Special Jury ever been moved for in the Courts of Criminal Jurisdiction before the period of which you spoke ?

No.

63.—By whom were you required to strike the Special Jury ?

By the Attorney General.

64.—What is the duration of the March Criminal Term at Montreal as fixed by the Law ?

From the first to the tenth inclusively.

65.—Did it not happen that there were two Sundays in the Criminal Term held at Montreal in March last ?

Yes.

66.—Is it not true that no trial commonly takes place on the first and last days of the Criminal Terms at Montreal ?

Yes.

67.—Is it not true that during the said Criminal Term in March last, the Court sat two days at Montreal without being competent, and that several trials took place on these days ?

I remember only the 8th, the day on which the trial of Edmund Burke and Jean Baptiste Onellet, indicted for capital crimes, took place before a Petty Jury who brought in a verdict against them; no judgments were pronounced in consequence of this verdict, because the Court was not competent on that day.

68.—Is it not true that the incompetence of the Court was produced by the absence of the Chief Justice, who did not preside in the Court on that day ?

Yes.

69.—Do you know Messrs. Henry McKenzie, Alexander McKenzie and Geo. D. Arnoldi, who were among the number of Grand Jurors who attended the Court of Oyer and Terminer, in November 1827 ?

I do know them.

70.—Do you know whether they have any real property ?

I do not know any which they possess.

71.—Do you know whether any other person than the Attorney General ever conducted the trial of persons indicted at the Courts you have spoken of either for alleged felonies or for mere misdemeanors ?

I never knew it done by any other person.

72.—Is it common to proceed without distinction before the Courts of Oyer and Terminer and in the Term; on indictments for mere misdemeanors as well as for felonies ?

Yes.

73.—Are indictments often prosecuted in these courts for misdemeanors which might have been brought before the Court of Quarter Sessions ?

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Minutes of Evidence.

Yes.

74.—Do not these prosecutions in the Courts of King's Bench and of Oyer and Terminer occasion much greater expense to the Province, than if they were brought before the Court of Quarter Sessions? J. Delisle, Esq.
24th Dec. 1828.

Much greater: in the Court of Quarter Sessions sub-prosecutions cost the Province twenty shillings.

75. Does it not often happen in the Courts of which you have spoken that indictments are thrown out by the Grand Jury, and again brought at subsequent Terms of the Court; and can you mention any?

There are several; besides those of which I have spoken.

76.—Can you mention any; and what was the nature of these indictments?

In February and March 1827, a bill was found by the Grand Jury, against Olivier Bedard for Grand Larceny, and against André Jobin for assaulting a Bailiff in the execution of his duty. In the Court of Oyer and Terminer held in May 1827, indictments were again laid against the same persons for the same offences, which indictments were thrown out by the Grand Jury; and in the Court of Oyer and Terminer held in November 1827, an indictment was laid against the same André Jobin for the same offence; which indictment was also thrown out by the Grand Jury.

77.—Have there been several Criminal Terms of the Court during which the said André Jobin might have been tried, since February and March Terms of 1827?

Yes.

[Adjourned until Friday next.]

Friday, 26th December 1828.

PRESENT:—Messrs. *Viger, Cuvillier, Heney, Lefebvre, Bourdages* and *Leslie*. 26th Dec. 1828.

Mr. *Viger* in the chair.

John Delisle, Esquire, again appeared.

78.—What was the number of Grand Jurors attending the Court of Oyer and Terminer held in November 1827, who were residents in the Town of Montreal?

Fifteen.

79.—How many of the Grand Jurors attending the Court of King's Bench during the Criminal Term of September 1827, were resident in the Town of Montreal?

There were fourteen.

David Ross, Esquire, Chairman of the Quarter Sessions, for the District of Montreal, appeared.

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D. Ross, Esq.

3th Dec. 1828.

80.—Are you one of the Justices of the Peace for the City of Montreal, and since what time ?

I have been a Justice of the Peace since March last.

81.—Are you of the City of Montreal, and how long have you lived there ?

I am of the City of Montreal, and have lived there upwards of 40 years.

82.—Are you an advocate practising in the Courts of Justice, and how long have you been so ?

I have been a practising Advocate since the year 1792.

83.—When did the last Commission of the Peace for the District of Montreal issue ?

I think it was about the month of March last.

84.—In what place was your name inserted in said Commission ?

I was named at the head of that Commission.

85.—Have you any other Commission relative to the Magistracy of the Justices of the Peace ?

Having been named at the head of the Commission, I was immediately afterwards appointed Chairman of the Quarter Sessions, in March last, by Letters Patent issued under the Great Seal of the Province.

86.—Did the new Commissions for the District of Montreal, make any great change as to the number of the Justices of the Peace, or the persons appointed to that office ?

The new Commissions made no great change in the Town, as to the number or person of Justices of the Peace—I do not recollect that any new Justices were appointed except myself; four or five of the old ones were left out—several Justices were left out in different Parishes in the District, I do not recollect their names.

87.—Can you say who were the Magistrates that were left out, and where they resided ?

They all resided in Montreal, and their names were Messrs. *Larocque*, *Baron*, *Heney*, *Mondelét*, and *Leslie*.

88.—Do you know what were the motives which induced the omission of their names in the new Commission ?

I do not.

89.—Do you know the motives to which their omission was generally ascribed by the public ?

There were many reports and surmises abroad about the reasons which had occasioned their being struck out of the Commission; I cannot tell which of them was the true one; it was however generally supposed in Montreal, that four of the Justices had been left out of the Commission for having signed a *Supersedeas* with regard to a matter in which they had previously agreed with their brother Justices, met in Special Session: This applies to the four first named Justices; as to Mr. *Leslie*, I never knew the reason of his being left out of the Commission, and I know as little about the reasons for which the gentlemen residing in the Country Parishes were left out.

90.—Do you know by whom the list of Justices of the Peace to be submitted to the Governor, before the last Commission of the Peace was issued, was drawn out ?

I do not know.

Minutes of Evidence.

91.—By whom was the List generally made before this time, when it was intended to issue a new Commission of the Peace ?

I do not know.

D. Ross, Esqr.

26th Dec. 1828.

92.—It is not to your knowledge, that these lists were generally made under the direction of the Judges of the Court of King's Bench, or were not sent down to Quebec previous to the issuing of such Commission, before they had approved of them ?

Not having any knowledge of what is done by the Judges of the Court of King's Bench, I cannot say how this is managed.

93.—Have you not known of several instances where, after General Commissions had been issued for the District or for the Province, Commissions of the Peace have been issued for the appointment of one, two, or even of several individuals ?

On several occasions after the issuing of general Commissions, association Commissions of the Peace have issued for the appointment of one, two, or even several individuals.

94.—By whom were these new appointments recommended ?

I cannot say.

95.—Besides the motives that were assigned by the public for the omission of the names of the four Justices of the Peace you have mentioned, in the new Commission of the Peace, was it not generally supposed that the said Justices had been left out of the Commission of the Peace on account of their opinions on the Public affairs of the Province ?

I meddle but little with political matters or motives ; I know there were several reports abroad, and I cannot say to what the omission of the names of these Justices in the new Commission was attributed : I have however heard report abroad in the public, that the Country Justices had been left out of the Commission of the Peace, because it was said they had used the influence as possessed as Justices, to get up petitions against the measures of Government, and the then Governor.

96.—Are you personally acquainted with all the Justices of the Peace for the City of Montreal ?

I am.

97.—Can you say whether they are all, to your knowledge, possessed of real property ?

I cannot say that they have all real property, to my knowledge. Having looked over the list it appears to me there are three who have no real property, they may however have such property without my knowing it.

98.—What are their names ?

Henry M'Kenzie, whose real property has lately been sold. The Hon. Captain Byng of the Royal Navy, stationed at the Isle-aux-noix, has no real property to my knowledge in this Province ; William Parly has not any real property in the Province to my knowledge ; though it is possible they may have real property without my knowing it.

99.—Do you know the five Justices of the Peace whom you have mentioned and whose names were left out of the last Commission issued for the District of Montreal, and how long have you known them ?

I have known them for several years past.

100.—

Minutes of Evidence.

D. Ross, Esqr. as you know ?

26th Dec. 1828. They enjoy a good reputation among their fellow citizens, and I know nothing to the contrary.

101.—Did not several partial or general Commissions of the Peace, issued a short time before the Commission of March last ?

I am not certain, but I think that some time before the month of March last a Commission of association issued appointing one or two individuals, residing in the Upper part of the District of Montreal, Justices of the Peace.

102.—In these Commissions, were not the names of many persons, who were not previously in the Commission, included ?

If such Commissions issued they must of necessity, it appears to me, have included the names of individuals, as Justices of the Peace, who were not included in the preceding Commissions of the Peace.

103.—Are you a King's Counsel in the Court of King's Bench, for the District of Montreal, and since what time ?

I had the honor to be appointed King's Counsel for the Province of Lower Canada, in the year 1811; and since that time, I have resided and now reside in the city of Montreal ?

104.—Did not several of the present Justices of the Peace hold employments in the military or other public departments at the time the last general commission of the Peace issued ?

In looking over the list of the names therein inserted, I find those of several persons who, at the time the last general commission of the Peace issued held situations in the military or other public departments (if they can be considered such.) The persons I allude to are, Mr. De Boucherville, who is Inspector for preventing accidents by fire—Mr. Leprohon, Commissary of Transport—and Mr. Bouthillier, Principal Inspector of Pot Ashes—the Hon. Henry Byng, of the Royal Navy, stationed at Isle-aux-noix—William Pardy, Staff Surgeon—William M'Kay, Colonel in the Indian Department—William Lunn, Naval Storekeeper, and D. C. Napier, of the Indian Department: I may add that, to my knowledge, for upwards of forty years, the gentlemen holding the public situations above mentioned, have always been in the Commission of the Peace; I also know that Deputy Commissary General Clarke, of Montreal, was a Justice of the Peace during that period, and a more useful and active Magistrate was not in the Commission; I may also add that it has been the custom to appoint as Justices of the Peace Military men stationed at the outposts to act there as such in case of need.

105.—Do you know whether the Justices appointed by the Commission of the Peace, which issued in March last, have taken the oath of office ?

I am myself one of those named in the Commission to administer the same oath to the Justices, and I know that the Justices who had not taken the oath or had not qualified themselves before the issuing of the new Commissions, or at least some of them, were sworn in by myself after the oath had been previously administered to me by Mr. Leveque. All the Justices, that is the old Justices, who had been named in previous Commissions, and included in the Commission of March last, and who had qualified themselves by having taken the oath, did not again take it after the issuing of the Commission of

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PRESENT:

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March last, it having been deemed unnecessary. Several of the old Justices attended at my office when I administered the oath by virtue of a *dedimus potestatem*, and they said that they had taken the oath and qualified themselves as Justices since the accession of the present King, and that they considered it unnecessary to repeat their oath, and declined doing so. This was the opinion which then prevailed.

D. Ross, Esq.

26th Dec. 1828.

Saturday, 27th December 1828.

PRESENT:—Messrs. *Viger, Heney, Leslie, Cu villier, Lefebvre* and *Bour-* 27th Dec. 1828.
days.

Mr. *Viger* in the Chair.

David Ross, Esquire, appeared again.

106.—Was not the situation of Chairman of the Quarter Sessions, which you hold, formerly held by two Justices, and when was it so held?

I succeeded in the situation of Chairman of the Quarter Sessions at Montreal, to Samuel Gale, Esquire, who had held that situation for several years. Before his appointment the duties attendant on this office were performed by two Magistrates, namely: Mr. M'Cord and Mr. Mondelèt, but how they were appointed, or whether they held that situation by Letters Patent under the Great Seal of the Province, I know not.

107.—Why was the situation given to one Magistrate?

I do not know.

108.—What salary is attached to the situation of Chairman of the Quarter Sessions?

Five hundred pounds sterling.

109.—Did those two Magistrates jointly receive the salary which is now paid to one Chairman of the Quarter Sessions?

I do not know.

110.—Do the other Magistrates willingly assist you in holding the weekly Quarter Sessions?

I could wish to obtain their assistance more easily than I do; but I have never known any thing left undone for want of assistance on the part of the Justices.

111.—Are there any Justices of the Peace, other than yourself, who receive out of the public revenue or from other funds any allowance for their assistance either of the said Courts?

I know of none who do.

112.—Do the other Justices who assist you do so gratuitously?

I understand it so.

113.—Do you mean to say that no Justice of the Peace other than yourself, has received any allowance either out of the public revenue or other funds, for his attendance at the said Courts?

When I have obtained leave to be absent for a few days on account of my private

Minutes of Evidence.

D. Ross, Esqr. private affairs, in order that the office might not be without a competent person to do the duties thereof, and to be constantly in readiness to answer the calls of the public, I have made an allowance out of my own pocket to indemnify the Justice who attended constantly, and did my duty in the office during my absence.

27th Dec. 1828.

114.—Has that often happened ?

No ; and only in the interval between the Terms.

115.—From whom did you obtain leave of absence ?

From the Governor in Chief, upon application in writing.

116.—Are there not among the present Magistrates persons who are proprietors of the water-works and who frequently have occasion to break up the pavement of the streets for the purpose of repairing or laying down pipes for conducting the water, if so, name them ?

I believe that Thomas Porteous and Henry Griffin, Esquires, two of the Justices appointed by the Commission, are two of the proprietors of the Montreal water-works, and to carry on those works they have frequently occasion to break up the pavement to repair or lay down the water pipes, and I understand they do so under a public law made with respect to the said water works.

117.—Is there not a sum of one hundred pounds out of the monies raised by assessment appropriated by Law to the purposes of the Police at Montreal ?

Yes, that sum is under the immediate control of the Justices, and paid by the Road Treasurer on the order of the Justices.

118.—Has it ever happened that the whole or any part of this sum, has been withdrawn from the hands of the Road Treasurer on the order of one Justice of the Peace ?

I have no knowledge that any part of the said sum has been permanently withdrawn from the hands of the Road Treasurer on the order of one Justice. The Law says that one hundred pounds are appropriated to the purposes of the Police ; and I had conceived that as Police Magistrate, it was payable to my order. I therefore drew on the Road Treasurer for part of the said sum ; but a doubt arising on the subject, I submitted the question to a Special meeting of the Magistrates, and they were of opinion that the said hundred pounds was at their disposal, and I agreed to return the money I had received from the Road Treasurer.

119.—Are you one of the Members of the Watch and Night-Light Committee of the City of Montreal ?

I am.

120.—Have the funds appropriated for those purposes been exclusively employed to the purposes for which they are appropriated by Law during the present year ?

Yes.

121.—Was there no sum whatever proceeding from those funds, paid to any individual not connected with this establishment ?

In May last, soon after I was appointed one of the Watch and Night-Light Committee, I heard various reports spread against the Watchmen employed in the City of Montreal, that some of them left their Posts, and that others went to sleep thereon, and got drunk. I used every endeavour to find out

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the persons so misbehaving in vain. Finding that they would not inform one against another, I took another method to obtain the necessary information; I employed a man of the name of William Moon, who was unconnected with the Watchmen, had been recommended to me as a trusty person, and had belonged to the Police at Dublin, to make the rounds at different hours from those at which they were usually made by the Officers of the Watch; and this Check had the desired effect;—the drunken Watchmen, and those who were in the habit of sleeping, neglecting their duty and leaving their posts, were found out. The whole of the Watchmen were summoned to attend, and these men dismissed after a reprimand, and other men more trustworthy were employed in their stead. This measure had the most salutary effect, for it is known that since that time the Watchmen have been more on the alert in doing their duty; the said William Moon was paid for the services, so rendered, out of the Watch fund.

D. Ross, Esqr.
27th Decr 1828.

122.—Who recommended Moon as a proper person to be employed in the manner you say you employed him?

I happened to be in Quebec last May, and in a conversation with Mr. Christie, the Police Magistrate at Quebec, he recommended the said individual to me as a trustworthy man; in consequence of this I desired him to proceed to Montreal, and telling him that I might perhaps employ him; he did so, and I did employ him; I found him a good peaceable and intelligent man, answering in every respect the recommendation made of him to me.

123.—Is he still employed by you and in what capacity?

He is not employed by the Police at present.

124.—Will you explain your answer so that it may extend to the whole question?

He is not employed by me.

125.—Was the said Moon long employed for the purpose you have mentioned, and what sum did he receive for his services?

He was employed, I think, from the beginning of June to within three weeks or a month since, and was paid at the rate of half a dollar a day, which amounted, during the time that he was employed, to about twenty pounds, which he received in small payments from time to time.

Pierre de Boucherville, Esquire, appeared before the Committee, and was examined as follows:

P. de Boucherville, Esquire.

126.—Are you one of the Magistrates of the Town and City of Montreal, and how long have you been so?

27th Dec. 1828.

I have been a Magistrate for the District of Montreal since the year 1817, and I have resided in the city of Montreal since the year 1819.

127.—When did the last Commission of the Peace for the district of Montreal issue?

In March last.

128.—Did you take the oath anew in consequence of this Commission?

No.

129.—Did this Commission produce many changes in the number of the Justices of the Peace for the District?

There were many changes made, I dont know how many; but I know that many of my colleagues in the Town were left out of the last Commission .viz :

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Messrs.

Minutes of Evidence.

P. de Boucherville, Esquire.
27th Decr. 1828.

Messrs. Mondelêt, Heney, Larocque, Leslie and Baron.

130.—Was it not notorious that the names of many Magistrates were struck out of, and those of many others who had not before been Magistrates inserted in, the Commission of the Peace, on account of their respective political opinions ?

Such was the public report.

131.—Do you know that any Magistrates were left out of the Commission for any particular reason besides the general one above mentioned ?

I have no personal knowledge to this effect, but the general opinion was that Messrs. Mondelêt, Heney, Larocque and Baron, had been left out of the Commission because they had made a certain order of *supersedeas*, the effect of which was to suspend the execution of an order given by these four gentlemen, conjointly with several other Justices of the Peace, with respect to a nuisance which was said to have been committed by Mr. Stanley Bagg.

132.—Were you present at the meeting of the Magistrates held on the subject of the said Stanley Bagg's business, and which gave rise to the said order of *supersedeas* ?

Yes.

133.—Were you at the meeting held subsequently to the issuing of the order of said *supersedeas*, and called for the purpose of taking the said order into consideration ?

Yes, to the best of my recollection.

134.—Who was it that presided at the said Meeting and explained the object thereof ?

Samuel Gale, Esquire.

135.—In what manner was the sitting then opened by the said Samuel Gale, Esquire ?

Mr. Gale in opening the sitting, stated that he had a painful duty to perform, but that he was religiously bound by his oath of office, and that he should be under the necessity of reporting to the Executive Government the opinion and Resolutions of the Meeting, whatever they might be.

136.—Had you yourself occasion to make any proposal or motion at the said meeting, with respect to the subject under consideration ; what was the motion you made, and what was its result ?

After many adjournments, a definitive meeting was held on the 4th of August, 1827, the object of which was to punish the four Magistrates who had signed the *supersedeas*: five Resolutions were read by Mr. Gale; two were almost unanimously rejected—I cannot lay these before the Committee, they have disappeared ; three were agreed to after a division—they are entered in the Register of the Special Sessions, and are as follows :—

“ Court of Special Sessions of the Peace,
Saturday, 4th August, 1827.

“ Present :—Samuel Gale, Hon. C. W. Grant, Jean M. Mondelêt, Louis Guy, Jean Bouthillier, Thomas Porteous, Henry M'Kenzie, Pierre de Boucherville, F. A. Larocque, George Gardin, Pierre de Rocheblave, James Millar, George Moffatt, George Auldjo, Hóratio Gates, William Lunn, Robert

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 McKay, and Thomas A. Turner.

27th Dec. 1828.

This Meeting met, in consequence of the adjournment of the second instant, for the purpose of taking into consideration the Report of the Inspector of Roads made on the 14th July instant, in relation to the encroachments of Stanley Bagg, and the *supersedeas* of Jean M. Mondelêt, Hugues Heney, Thomas Baron and François Antoine Larocque, Esquires, forbidding the execution of the order given by the body of Magistrates on the 30th June last, and for the purpose of determining the ulterior proceedings to be adopted in consequence, when, after statements on the part of divers Magistrates in relation to the subject of the meeting, and after hearing the said Jean M. Mondelêt, and others in answer, it was, by a majority of sixteen against three, Mr. Larocque not voting—(Messrs Mondelêt and Baron, having withdrawn from the Meeting:

Resolved 1st.—That on Saturday the 19th May 1827, at a certain Special Session of the Peace held by the Magistrates at the Court House, in the City of Montreal, whereat were present, Samuel Gale, the Hon. Charles William Grant, J. P. Léprohon, Thomas Porteous and Thomas A. Turner, Esquires, then and still Justices of our Lord the King, assigned to keep the peace for the District of Montreal, it was ordered by the said Session, in substance and to t' effect following:—"That the Surveyor of Roads should forthwith, bring to the 58th section of the 36th Geo. 3, cause notice to be given for removal, within seven days, of certain nuisances and encroachments made, as therein alleged, upon a certain public street and place in the City of Montreal, by Stanley Bagg, and that in default of such removal by the party concerned, he, the said Surveyor, should cause the said encroachment and nuisances to be removed, subject to the payment of the charges, expenses, and legal penalty against the person offending." That at subsequent Sessions of the said Magistrates, certain papers and petitions from the said Stanley Bagg in opposition to the execution of the aforesaid order were laid before the Magistrates, and the said Stanley Bagg having desired to give his reasons in justification of the said encroachment, and to be heard by Counsel hereon, his request was granted to him; and in consequence, the said Stanley Bagg having been fully heard by Counsel, at a Special Session of the Magistrates, for that purpose held at the Court House after various adjournments, on the 30th day of June last, at which were present Samuel Gale, Honorable Charles William Grant, Jean M. Mondelêt, J. P. Léprohon, Jean Bouthillier, Thos. Porteous, Wm. Robertson, Thos. A. Turner, Pierre de Boucherville, Charles Fremont, Hugues Heney, François Antoine Larocque, Pierre De Rochelave, James Leslie, George Auldjo, Horatio Gates, Peter McGill, Wm. Lunn, Robert Froste, Henry Griffin, Thomas Baron and John Molson, Senior, Esquires, then and still Justices of our Lord the King, assigned to keep the Peace for the said District, it was thereupon again ordered by the said Magistrates aforesaid at the said last mentioned Sessions, (Pierre de Boucherville *solo dissentiente*) that the Surveyor of Roads do proceed to the execution of the said order of the 19th May last without delay, according to Law. That nevertheless it appears by two certain documents, copies of each

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P. De Boucherville, Esqr.
27th Dec. 1828.

each other, and called *Supersedeas*, bearing date at Montreal, the seventh day of July past, whereof one is produced, with the Report of the Surveyor of Roads assigning his reasons for not having executed the said order, was under the hands and seals of the said Jean M. Mondelêt, Hugues Heney and Thomas Baron aforesaid, and the other produced by the Clerk of the Peace, was under the hands and seals of the said Jean M. Mondelêt, Hugues Heney, Thos. Baron and François Antoine Larocque, aforesaid, that they the said Jean M. Mondelêt, Hugues Heney, Thomas Baron and François A. Larocque, without calling a meeting or giving notice to the body of the Magistrates of the said City of Montreal, either previously or subsequently, having assumed and taken upon themselves of their own private motion, and out of Sessions, to declare in their Magisterial capacity, that various proceedings, verdicts of Juries, and determination of the Sessions, some whereof bear date so long ago as the year 1825, were contrary to law, and have further presumed, and taken upon themselves, by the said documents, to prohibit the accomplishment of, and to command and require the Surveyor of Roads to abstain from, the performance and execution of the said order, twice solemnly given, at regular Sessions of the Magistrates, the last whereof was upon notice given to the entire body of the Magistrates held and convened for the sole and special purpose of final hearing and determination after the audition of Counsel upon the objections of the said Stanley Bagg, and of the Crown Officer in reply.

Resolved 2nd.—That it was in the power of the said four last mentioned Magistrates, according to custom and usage, to have called a Session or to have given notice and to have taken the sense of their associate Justices resident in the said City with themselves, before they assumed the extraordinary and unprecedented authority which they have exercised, declaring the official acts of the Magistrates of former years to be illegal, and of prohibiting the execution of the recent decisions of that body twice deliberately given, and that their deviation from the accustomed course was a violation of propriety and of the respect and deference, to which that body was entitled.

Resolved 3rd.—That, in consequence, the Chairman of the Quarter Sessions be desired to lay before His Excellency the Governor in Chief, a humble representation of the facts above mentioned, and praying that His Excellency will be pleased to take such course in the premises as in his wisdom may seem meet."

I opposed the whole of these Resolutions and proposed one of which the following is a copy :

" That an authentic copy of all the proceedings which have taken place in August, September and October, 1825, together with all the proceedings had in May and June last, relating to a certain street laid out behind the General Hospital, and a certain document commonly called a *Supersedeas*, signed by Jean Marie Mondelêt, Hugues Heney, Thomas Baron and François Antoine Larocque, be placed in the hands of the Crown Officer, with instructions to him to adopt such as he shall deem expedient to obtain a speedy and legal decision concerning the same.

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Minutes of Evidence.

This Resolution was negatived :—I requested that it might be enregistered, but the majority decided against it. P. De Boucherville, Esqr.

137.—What was the consequence of this meeting ?

The gentlemen who had signed the *Supersedeas*, addressed His Excellency the Governor in Chief, complaining of the proceedings of the Magistrates with respect to them, and praying that justice might be done them. They asked me for a copy of the motion made by me at the Special Session on the 4th of August, which they inserted in the statement they made: this request was made to me in consequence of the refusal they had met with from the Clerk of the Peace, to furnish them with a copy. This last named person acted in pursuance of Mr. Gale's orders.

27th Dec. 1828.

138.—Do the Justices of the Peace at Montreal generally enjoy the confidence of the public ?

No; on the contrary, their irritation appears to be at its height; we have lost the confidence of the public.

139.—To what can this want of confidence be attributed ?

When, in 1819, I went to reside in Montreal, I thought I perceived that the Magistracy did not enjoy that consideration and that moral influence which is so necessary in the administration of municipal affairs: I sought for the cause of this, and thought I perceived it in the first place, in the establishment of the Police Office. The rank given to the person at the head of this establishment is that of Chairman of the Quarter Sessions. Before this office was established, the Magistrates were brought into daily communication; the correspondence was general; their ideas and their researches became the joint property of all; with regard to such works as were calculated to add to the beauty or convenience of the Town, the Magistrates with one consent, consulted the wishes of the public. Now the correspondence is secret, or communicated to certain individuals, public opinion is neglected, and thence arises that carelessness which disunites instead of uniting us. The public, a severe but always an impartial judge, perceived that the municipal powers were concentrated in a small number; the power, therefore, was in the hands of a part, and not in those of the whole. This concentrated power produced suspicion and alarm; many among us, believing that a crisis was at hand, made and still make efforts to repossess themselves of the power that has been abandoned, which must necessarily be followed by the restoration of public confidence; but the struggle has been too severe: it is only by the exertion of a superior power that the Magistracy of Montreal can be re-constituted in a manner conformable to the wishes of the public. I ought on this occasion to do justice to Messrs. M'Cord and Mondelêt, and to state that these gentlemen always yielded to public opinion when it was clearly expressed, and that they are supposed to have been the *victims* of an independent action. Secondly, at our public elections, several Magistrates instead of remaining quiet spectators, espoused warmly, under the pretext of loyalty, an interest opposite to the wishes of the people; pretended interest under which was concealed a hatred of every thing Canadian. Thirdly, instead of conforming to the ideas of the 19th century, it seems as if we desired to see the absurd opinions of the 17th re-established.

140.—You have, in what you have just said, given your opinion as to the causes

Minutes of Evidence.

P. De Boucher-ville, Esqr. causes of the discredit into which the Magistracy of Montreal has fallen; could you now suggest any means by which, in your opinion, this body could be restored to its former place in the estimation of the public, and be again invested with that respectability and production of that utility, with which it ought to be attended?

27th Dec. 1828

For great evils, whether physical or moral, I believe the most efficacious remedy lies in the extremes; a superior power alone is capable of applying the remedy, and it would be rashness in me to wish to suggest it.

Monday, 29th December 1828.

PRESENT:—Messrs. *Viger, Cuwillier, Heney, Bourdages, Lefebvre, Leslie and Neilson.*

D. Ross, Esqr.

Mr. *Viger* in the Chair.

29th Dec. 1828.

David Ross, Esquire, appeared, and his examination was continued:—

141.—Do you know that one Cameron was accused of murder, and that an indictment was found against him by the Grand Jury at one of the Courts of Criminal Jurisdiction at Montreal?

Yes.

142.—Was he admitted to bail and when?

He was confined to Gaol for a length of time, and afterwards, as I understood, that no positive evidence could be procured against him, he was admitted to bail; I cannot say when, but it was some months ago.

143.—What was the amount of bail required?

I do not recollect it.

144.—Were not proclamations issued for the apprehension of the murderer of Watson, offering a considerable reward to any person who should discover him?

Yes.

145.—You have mentioned that the business never remained undone for want of attendance on the part of the Justices of the Peace; did it never happen that the Court, of which you are Chairman, was adjourned because the Justice or Justices of the Peace who were sitting with you wished to attend to their private business?

That never happened.

146.—Who is the Clerk of the Market at Montreal?

There are two, Mr. Louis M. Marchand and Mr. B. Leprohon.

147.—Does Mr. Marchand live in the City of Montreal?

No; I understand he lives on the Chambly River.

148.—Has he not lived in the country for several years past?

Yes.

149.—Do you know whether he receives the emoluments attached to that situation?

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Minutes of Evidence.

I know nothing about his emoluments; but I understand he has some arrangement with Mr. Leprohon who performs the duty, and I have no doubt that such is the case. D. Ross, Esqr.

150.—Is there any other person who receives a compensation or sum of money out of the salary attached to the situation of Clerk of the Market? 29th Dec. 1828.

I do not know.

151.—Have the Courts of Oyer and Terminer held, from time to time, in the District of Montreal, any connexion with the Court of King's Bench?

The Courts of Oyer and Terminer are Special Courts appointed at the King's pleasure, as occasion may require, and have no connexion with the Court of King's Bench, except when the proceedings are removed from the Court of Oyer and Terminer to the Court of King's Bench.

152.—Did not the Court of King's Bench for Criminal matters sit one or more days in March last without being competent; and what was the cause of the incompetence of the said Court?

The Court of Criminal Jurisdiction was established in this Province by the Judicature Act. By that Act it was made necessary for the holding of the Court of King's Bench for the cognizance of criminal matters, that the Chief Justice of the District should be one of the Judges present on the Bench. This was found inconvenient, and an Act was passed authorizing two Puisne Judges to hold the said Court, which continued for some time to be the practice. The last mentioned Act being a temporary Act, expired; and I believe that inadvertently and without considering the expiration of that Act, two of the Puisne Judges held the Criminal Court in March last, for one day, in the absence of the Chief Justice, and it was afterwards considered, as soon as the inadvertency was observed, that the Court had on that day been held *Coram non Judice*.

153.—Was the Chief Justice of Montreal, at that time, indisposed or absent?

I believe that the Chief Justice, who is very seldom absent from the sittings of the Court, was indisposed on the day alluded to in my preceding answer.

154.—Were any of the persons who had been indicted, tried on the day you have spoken of, and on which the Court was incompetent, and for capital offences.

To the best of my recollection, I believe a man of the name of Burke was tried for returning to the Province from transportation, whereby he was accused of breaking the condition of a Pardon which had been granted to him, after he had been, as I believe, convicted of a capital offence.

155.—Did the Petty Jury find a verdict against him on that day?

Yes.

156.—Did the Court pass a sentence on the said Burke on that occasion, if not, what proceedings were adopted with respect to him?

The trial of the said Burke on the day above alluded to, as well as the verdict, were held to be null, and were considered as not having legally taken place, and he was on a subsequent period tried again (as if the former trial had never taken place) and was again convicted.

157.—Do you recollect whether on the day the Court was incompetent, other trials, for capital offences, took place? 158.—

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Minutes of Evidence.

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B. Ross, Esqr.

29th Dec. 1828.

158.—Did the Grand Jury find any bills of indictment on that day ?

I had no duty to perform which required my continual attendance in the Court. The business was conducted by the Attorney General, I cannot therefore say whether any bills were brought in by the Grand Jury or not.

159.—Are not the Justices of the Peace obliged by the Act 5th Geo. IV. Chapter 3, to meet together every month during a certain part of the year, and make out a statement of the works, &c. which ought to be performed in the Town and City of Montreal, and to name a Committee of their body to superintend the said works ?

The Magistrates are authorized by the said Act to meet on the first Monday of every month during the whole year, and give such directions as may then be required and necessary; and they are also authorized to name a Committee of from three to five Justices of the Peace, to superintend the said works.

160.—Was that Law carried into execution at Montreal during the present year ?

That law was carried into execution at Montreal, during the present year. The Justices however did not give orders respecting the works on the first Monday of every month; this was deemed unnecessary, as they had given general directions to the Committee in the month of April or early in May last, to carry into execution and effect a general plan which had been submitted by the Road Committee, and approved of by the Justices; the execution and accomplishment of which would have required much greater funds than those at the disposal of the Committee.

161.—Was the Committee of three or five appointed for one month or for the whole year ?

I believe they were appointed for the whole year; and such has been the practice at Montreal.

162.—Is not the Inspector of Roads bound to make, every month, a report of the labour to be performed in the Town ?

Yes; that officer was not, however, called upon to do so last summer, except in one or two urgent cases, which were reserved in the general report just alluded to, on account of his having made the general report which had been approved, and which is alluded to in my former answer.

163.—Are the Justices of the Peace at Montreal, authorized to lend any person the public monies of the Town; and under what circumstances ?

They certainly are not.

164.—Was not an order given to the Road Treasurer at any time, and by whom, to advance or lend one hundred pounds, or any other and what sum, to the persons appointed to establish a new market-place near the General Hospital ?

I have not the least knowledge of such a thing. No such order was given since my appointment.

Mr. Ross withdrew.

Ordered, That Jean Philippe Leprohon, and Lewis Guy, Esquires, be required to appear before the Committee on Monday, the fifth January next.

[Adjourned to the call of the Chair.]

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Minutes of Evidence.

Tuesday, 30th December 1828.

PRESENT :—Messrs. *Viger, Heney, Leslie, Lefebvre, Cuvillier, and Bourdages.*

Mr. *Viger* in the Chair.

John Delisle, Esquire, appeared, and his examination was continued.

165.—Are you Treasurer of the Roads at Montreal ?

Yes.

166.—Did you lend any sum out of the public monies in your hands to any individuals, or corporation, by the order of the Magistrates; and when ?

It was ordered, at a Special Session of the Magistrates, that there should be advanced or lent to the Trustees of the proposed Market near the General Hospital at Montreal, the sum of one hundred pounds, on account of which, as well as I can recollect, I paid between twenty and twenty five pounds, in consequence of the order I had received from the Magistrates.

167.—Were the Trustees of the Market also Magistrates ?

Yes.

168.—Is there among the Justices of the Peace any one who pays only the capitation rate of half a dollar, and does not consequently pay any assessment ?

There is one.

169.—Who was Chairman of the Quarter Sessions before Mr. Gale ?

Thomas M'Cord and J. Marie Mondelèt, Esquires.

170.—Did they fill that situation for a long time ?

For several years.

171.—Did those Gentlemen resign or were they dismissed from office ?

They were dismissed.

172.—To what was their dismissal generally attributed ?

The public supposed that they had been dismissed, because, together with other Magistrates, they had insisted on their right of appointing the High Constable.

173.—Did not the High Constable you have spoken of, act before as such, during the absence or sickness of the High Constable, and with the approbation of the administration ?

He had done the duty of High Constable for several months during the suspension of the former High Constable.

174.—You have already mentioned that the Criminal Court of March 1828, sat one day without being competent, can you now state whether the Grand Jury returned any bills of indictment on that day, and against whom ?

A bill of indictment was returned by the Grand Jury, on the eighth day of March, against Jocelyn Waller and Ludger Duvernay, for libel.

175.—Did you thereupon enter this bill of indictment in the list or record of the Criminal Court, in which you register all the bills of indictment returned by the Grand Jury; and under what number ?

It thereupon entered and filed it under the No. 32.

176.—Did the same bill go out of your hands, when, and for what purpose ?

H

J. Delisle, Esq.

30th Dec. 1828.

Minutes of Evidence.

Delisle, Esqr. I returned this same bill to the Attorney General at his request, and he again preferred it the same day to the Grand Jury, on the tenth of March (the last day of the Term) and it was found by the Grand Jury as it had before been.
30th Dec. 1823.

177.—Did you enter it again as found on that day, the tenth of March; and under what number?

I entered it under the same number, and wrote underneath, "filed the tenth."

178.—Do not the Precepts addressed to the Sheriff during the last five years, issued out of the Courts of Criminal Jurisdiction for Montreal, of which you have spoken of during your examination, enjoin him to summon the Jurors from the body of the said District?

Yes; from the body of the District.

179.—Is it true that several partial Commissions of the Peace issued, before the last general Commission issued in March last, and after the last preceding general Commission for the District of Montreal?

I believe there were several.

180.—Were not the persons against whom bills of indictment were preferred, and whom you have already mentioned, that is to say, Constantineau, Eloi, and Etienne Lavicatoire, Lauriau, Woolscamp, Picard, Déchantal, McDonell and Barsalou, publicly known to be partizans of the candidates who were elected at the last general election for the West Ward of Montreal?

It appeared so to me.

181.—Are there, in this Country, Courts of Assize or other Courts which have any connexion with the Courts of King's Bench for Criminal matters?

No.

182.—Was not a correspondence entered into between the Secretary of His Excellency Lord Dalhousie, and Messrs. M'Cord and Mondelêt, then Chairmen of the Quarter Sessions, respecting the appointment of a High Constable at Montreal, during, 1823 and 1824?

Yes.

183.—Was that correspondence entered into the Register of the Special Sessions of the Peace at Montreal, of which you are the keeper?

I believe so.

184.—Can you lay before the Committee the correspondence which took place between the Civil Secretary, Mr. Cochran, and the Justices of the Peace of Montreal, respecting the appointment of a High Constable at Montreal between the month of October 1823, and the end of the year 1824?

No; because I have not the Register with me.

185.—When shall you be able to produce the said papers to the Committee.

I could send them immediately after my return to Montreal.

Ordered, That Mr. *Delisle* do transmit the said papers to the Committee without delay.

D. Ross, Esqr. *David Ross, Esquire*, was again called before the Committee, and examined. 186.

Minutes of Evidence.

186.—How can persons against whom indictments have been returned for misdemeanors in the Special Courts of Oyer and Terminer which you have spoken of, exercise the right of traversing the indictment which the law gives them? D. Ross, Esqr.
30th Dec. 1828.

The Courts of Oyer and Terminer are continued by omitting to adjourn them, and as far as I can understand, I do not see how an offender or defendant could exercise the right of traversing. I take it that he could not traverse to the next Court of King's Bench, and I cannot see how he could give notice of such traverse; it is, I believe, on account of this inconvenience that the Court of Oyer and Terminer have refused to allow the traverse.

187.—Do you know whether an indictment for libel was ever preferred against any person, at a Special Court of Oyer and Terminer, except in Lower Canada?

This question takes a very wide range, and I am not prepared to answer it.

188.—Have not persons, indicted for libel, a right, by law, to traverse?

I take it that the general rule of law is, that all persons indicted for misdemeanors have a right to traverse, but this general rule has its exceptions.

189.—Are not the Courts of King's Bench and of Criminal Jurisdiction, and those which take cognizance of Civil Pleas, entirely different from each other, in this country?

They are distinct; although the Criminal and Civil Law are administered by the same Judges in different Terms and Sessions.

190.—Are there in this Country, Courts of Assize or others that have any connexion with the Courts of King's Bench for Criminal matters?

No.

191.—Was there ever, to your knowledge, a Special Jury summoned in this Country, for the trial of an indicted person at a Criminal Court, before this year?

I recollect that some years ago a bill of indictment for a misdemeanor was preferred against Mr. Reid, the then Prothonotary of the Court of King's Bench, for matters relating to his office; and his trial, as far as I can recollect, was by a Special Jury, by whose verdict Mr. Reid was acquitted.

192.—How long is it since that prosecution took place?

I cannot exactly recollect, but I think it must be about thirty years.

193.—In what Court was the bill of indictment preferred?

Not having had previous notice of this question, I am not prepared to say in what Court the indictment was found or trial took place, and whether it was during one of the Terms of the Court of King's Bench or in a Court of Oyer and Terminer.

194.—Did Messrs. M'Cord and Mondelét hold the situation of Chairmen of the Quarter Sessions at Montreal for a long time?

Messrs M'Cord and Mondelét did the duty of the Police Office at Montreal for several years, but I do not know how they could both be Chairmen of the Quarter Sessions at one and the same time.

195.—Did not one of them always preside at the Quarter Sessions of the Peace?

It has always been the practice at Montreal, in the absence of a Chairman appointed by Commission, for the oldest Magistrate present to preside at the Quarter

Minutes of Evidence.

D. Ross, Esqr. Quarter Sessions. Mr. M'Cord and Mr. Mondelêt were both Justices of long standing, and I have often seen them preside thereat.

196.—Do you intend to say that the situation they held had no other object than the Police, and ought to be known by the name of the Police Office ?

I never knew that the said gentlemen, or either of them, had a Commission by Letters Patent under the Great Seal of the Province, appointing them or either of them Chairmen of the Quarter Sessions or as Police Magistrates. In the apartment occupied by them in the Court House, matters of the Police and all other business connected with the Criminal Law was transacted; it generally went by the name of the Police Office.

197.—Is it not true that one or the other of them always presided at the Quarter Sessions of the Peace ?

That was the case generally, but I think I have seen others preside in their absence.

198.—Do you know that any other than one of them ever presided at the said Courts, when either of them was absent ?

No.

199.—Do you mean to say that it was their seniority which entitled them to preside at the Quarter Sessions ?

I never knew any thing to the contrary; because I never knew of any Commission being given to them or either of them.

200.—Did they not preside even when there were Legislative Councillors on the Bench ?

I think I have seen the Honorable C. W. Grant on the Bench of Justices, at the Quarter Sessions, when either Mr. M'Cord or Mr. Mondelêt presided.

201.—Did those gentlemen resign or were they dismissed from office ?

I do not know whether Mr. M'Cord or Mr. Mondelêt resigned or not, but I know the fact that they ceased doing the business, in the manner just stated, in the above mentioned Office; and the said business was afterwards conducted by Samuel Gale, Esquire, until my own appointment as Chairman of the Quarter Sessions, as mentioned in the beginning of my examination.

202.—Was it not a matter of notoriety at Montreal that they had been dismissed, at at least was there not a public report to that effect ?

I understood that it was considered by Government that the duties of the said office and the office of Chairman of the Quarter Sessions would be better filled by one person than by two, and in consequence it was publicly supposed that the said gentlemen had been dismissed, and Mr. Gale appointed to the office of Chairman of the Quarter Sessions.

203.—Was not their dismissal generally attributed by the public to another cause ?

I do not know that it was attributed to any other cause.

204.—Did you never hear it said that it was attributed to the appointment of a High Constable by the Magistrates ?

No.

205.—Did Messrs. M'Cord and Mondelêt receive the salaries attached to the situation you have spoken of ?

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Minutes of Evidence.

I have no personal knowledge on the subject. I heard they did.

206.—Can you say who moved for the Special Jury in the prosecution against Mr. Reid, which you have already mentioned in the course of your examination? D. Ross, Esqr.
30th Dec. 1828.

I cannot take upon myself to say, because it is so long ago; but I rather think it was ordered at the instance of the Defendant.

Pierre De Boucherville, appeared again, and was examined :—

207.—By whom is the duty of Clerk of the Montreal Market performed? By Mr. Bernard Léprohon.

P. de Boucherville, Esquire.

208.—Was not Mr. L. M. Marchand, one of the Clerks of the Market at Montreal; and is he not so still?

I believe that Mr. L. M. Marchand, is one of the Clerks of the Market at Montreal, but he is absent with the permission, I believe, of the Governor in Chief.

209.—Is he not also one of the Justices of the Peace for the District of Montreal; and did he not reside and sit at Montreal as such for a long time, and while he performed the duties of Clerk of the market?

Since Mr. Marchand has been one of the Clerks of the Market at Montreal, he has sat and done the duties of Magistrate at Montreal.

210.—The Clerks of the Market being obliged to make reports almost every day to the Justices of the Peace, and being under their immediate control, and subject to the rules made by the Magistrates for regulating their duties and the salaries, do you think it proper that Clerks of the Market should be at the same time. Justices of the Peace?

The Clerks of the Market act by virtue of a commission granted to them by the Governor in Chief, and if they find themselves brought into daily communication with the Magistrates, it is only by virtue of existing Laws. Mr. L. M. Marchand is a Justice of the Peace for the whole District and not specially for the City of Montreal; inconveniencies may however arise, supposing the person last mentioned sit daily with the Magistrates, more particularly when business relating to the Markets is to be discussed.

211.—Are not some of the Justices of the Peace at Montreal proprietors of the Montreal Water Works?

I believe that Messrs. Thomas Porteous and Henry Griffin have shares in the Water Works at Montreal.

212.—Do not discussions sometimes arise between them and the other Justices of the Peace with respect to the Streets of the Town, the pavement of which they are obliged to break up from time to time in order to lay down pipes connected with the Water Works.

Yes.

213.—Are not the Magistrates obliged by the Act of the 5th Geo. 4, chap. 3, to meet every month, and to draw up a statement of the works, &c. to be executed in the Town and City of Montreal, and to appoint a Committee out of their body to superintend the execution of the said works?

By the Act 5th Geo. 4, chap. 3, it is lawful for the Justices of the Peace to hold general meetings on the first Monday of every month, and to appoint one

Minutes of Evidence.

one or more Committees of superintendence. At these meetings the Justices of the Peace are to order what works are to be executed.

P. De Boucher—*ville. E.-qr.* 214.—Was that Law carried into execution in Montreal during the present year ?

30th Dec. 1828.

On the 5th of May last, the Justices of the Peace held a meeting, for the purpose of proceeding to appoint different Committees—Messrs. Guy, Molson and Griffin, were appointed to superintend the public works; not for that month but for the whole year; this last mode of proceeding was established last year, after a division.

215.—Are the Justices of the Peace at Montreal authorized to lend any part of the public monies of the Town ?

I know of no Law authorizing them to lend any part of the public monies of the Town.

216.—Was not the Treasurer of the Roads authorized last year to advance or lend a certain sum, (and what sum) to the Trustees appointed to erect a new Market behind the General Hospital; and by whom was he so authorized ?

At a Special meeting of the Justices of the Peace held last year, on application of the Trustees (who were themselves Justices of the Peace) it was decided, after a division, that a sum not exceeding one hundred pounds currency, should be lent them out of the Road Fund, which sum was to be reimbursed out of the first monies at their disposal.

217.—Were you appointed a Member of the Watch and Night-Light Committee of the City of Montreal; and when ?

In April 1825, I was appointed under the Act 5th Geo. 4, chap. 1st, a Member of the Watch and Night-Light Committee for one year. I was again appointed in April 1827, for the year ending the first of May 1828.

218.—Is this Institution conducted as it ought to be, for the advantage and safety of the public ?

This Institution may and must become greatly conducive to the public safety; but the funds at the disposal of the Committee being insufficient, no improvement can be effected in the said establishment. The Officers of the Watch are intelligent and active, and appear to me determined to oversee with the most scrupulous attention the persons under their charge.

219.—Have there been any serious complaints against the watch during the present year, (1828) ?

Not to my knowledge.

220.—Are not the Justices of the Peace at Montreal, and more especially the Watch and Night-Light Committee, the proper superintendants of this establishment; or is it necessary to employ any person as a spy upon the conduct of the officers and watchmen; and, in fact, have such persons ever been employed by the Justices of the Peace ?

At the time of the establishment of the Watch and the Night-Lights, this establishment was under the general superintendence of the Magistrates since the year 1825, the superintendence has especially belonged to a Committee. I do not believe that since the reorganization in 1827, there has been any necessity for placing overseers or spies over the watchmen; the Committee alone are sufficient for their immediate superintendence. I am ashamed to acknowledge

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Minutes of Evidence.

knowledge that one *Moon* was employed from June until November last, by Mr. Ross, without the knowledge of his fellow Justices who composed the Committee, to oversee or be a spy upon the conduct of both officers and watchmen.

P. de Boucherville, Esquire.

30th Dec. 1824.

221.—Is this *Moon* still employed for the same purpose ?

I do not know ; but still I see him very often at the Police Office.

222.—Who was Chairman of the Quarter Sessions before Mr. Gale ?

Messrs. M'Cord and Mondelêt.

223.—Did those gentlemen resign or where they dismissed from office ?

They were dismissed from office.

224.—To what cause was their dismissal generally attributed by the public ?

Their dismissal was attributed to several causes ; different opinions were entertained ; the most general, however, was that these gentlemen had been sacrificed for having acted independently in maintaining (with their colleagues) that the appointment of the High Constable for the District of Montreal, belonged to the Justices of the Peace, and that the approval of the person appointed belonged to the Governor in Chief *pro forma* only.

225.—Did the public derive much benefit from this change ?

The public opinion was divided on this question, and it is difficult to say on which side the majority lay ; Mr. Mondelêt is my friend, I might be taxed with partiality, and I wish to avoid it.

226.—What is the name of the High Constable whom the Justices of the Peace thought proper to appoint ?

Adolphe Delisle.

Had he not already fulfilled the duties of this office, *pro tempore*, to the satisfaction of the Justices of the Peace ? Had this temporary appointment been approved by the administration ?

Yes.

228.—Do you know whether Messrs. M'Cord and Mondelêt communicated to their brother Magistrates a letter from Mr. Secretary Cochran, informing them, that if the Justices of the Peace would recommend Mr. McCulloch, His Excellency the Governor in Chief would approve their choice ?

I recollect perfectly well that such a letter was laid before the Justices of the Peace by Messrs. M'Cord and Mondelêt ; and the correspondence which took place respecting the appointment of the High Constable, is entered into the Register of the Special Sessions of the Peace at Montreal.

229.—Did the Magistrates persist, notwithstanding this recommendation, in the appointment of Mr. Delisle to the situation of High Constable ?

Yes.

230.—Do you know the new Market erected at *Pres-à-Ville*, at Montreal ?

Yes.

231.—Is it situated in such a place as to be useful, and to meet the wants of a great portion of the Inhabitants of the City and Suburbs of Montreal ?

It may be useful and meet the wants of a great part of the citizens of the Suburbs of St. Laurent and St. Antoine ; other places better situated might have been chosen.

Minutes of Evidence.

P. De Boucherville, Esqr.

30th Decr. 1828.

232.—Do you know whether the proprietors of this market have offered to allow the Justices of the Peace to become the purchasers, for the use of the City, of this market and of ground on which they have erected a market house?

Yes; but I do not recollect what offers they made.

233.—Do you think it would have been advantageous to the City to have made the purchase, supposing the conditions to have been reasonable?

The want of a public market in a populous suburb might have made the offer of the proprietors advantageous to the St. Laurent and St. Antoine Suburbs, had it been accepted.

[Adjourned until to-morrow.]

Wednesday, 31st December 1828.

PRESENT:—Messrs. Viger, Heney, Cuvillier, Leslie, Lefebvre, and Bourdages.

Mr. Viger in the chair.

Chs. Mondelét, Esqr.

31st Dec. 1828.

Charles Mondelét, Esquire, appeared before the Committee and was examined as follows:—

234.—Are you not an Advocate and a resident at Three Rivers, and how long have you been so?

Yes; I have resided there for six years, and have exercised the profession of an Advocate there during that time.

238.—Have you taken active parts in public affairs since you have resided at Three Rivers?

Since 1826, I have taken an active and public part in the political affairs, and particularly since the prorogation of the Parliament in 1827. I have done all in my power to make the people acquainted with the public conduct of Lord Dalhousie and his administration.

236.—Did you in consequence of your political opinions incur disgrace with the administration; if so, when and in what manner was the fact made known to you?

I did certainly incur disgrace (if it can be called disgrace) with Lord Dalhousie's administration.

The first act by which I learnt that Lord Dalhousie did not regard with indifference, the active part I had taken against his administration, was my dismissal from the Militia as Captain in the heretofore Boucherville Division. The general order of Militia dated the 5th October 1827, was published in the Quebec Official Gazette of the 8th of the same month, in the 2nd number of the 6th volume. It assigns as the reason, my then residence at Three Rivers and my non residence in the division of Boucherville; an assertion is added that I perform no duty in the Militia; yet the same order Commissions Messrs. Charles Panet, Pierre Elzéard Taschereau and Charles Turgeon, (all three resident at Quebec.) in Divisions at a distance from that City, and at a considerable distance from their homes.

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Minutes of Evidence.

237.—Are you the only Officer of Militia in the District of Three Rivers who was dismissed on account of his political conduct or opinions with regard to the late administration ?

C. *Mondelst,*
Esqr.

31st Dec. 1828.

No; there are several others: Messrs. François Legendre, of Gentilly, and Antoine Poulin de Courval, of Three Rivers, both Lieutenant Colonels, and in two considerable Divisions, were deprived of their rank as such, by a general order of Militia of the 21st February 1828, in which order they were charged with having shewn themselves *the active agents of a party hostile to His Majesty's Government.* These two respectable gentlemen had been the deputy Chairmen of a meeting of the District of Three Rivers, held at the Town of Three Rivers, on the 22nd November last, for the purpose of adopting and transmitting to England certain resolutions, and a petition, against Lord Dalhousie's administration. The proceedings of this meeting have been made public by the press, as well as the names of the gentlemen named as Members of the Committee appointed at the said meeting for the purposes above mentioned. Mr. Legendre enjoys great consideration and influence at Gentilly, and throughout the County of Buckinghamshire in general. Mr. Courval had not, any more than Mr. Legendre, to my knowledge, any other title to the ill will of Lord Dalhousie's administration than his political conduct, both gentlemen having taken an active part against the late administration. Mr. Pronlx, a Member of the Provincial Parliament residing at Nicolet, was also dismissed; a circumstance which was then attributed to the knowledge he had diffused among people of the country, respecting the acts of Lord Dalhousie's administration.

238.—Was it not notorious in the District of Three Rivers that you had been deprived of your rank in the Militia solely on account of your political conduct and opinions ?

The reasons assigned in the general order of Militia of the 5th November 1827; the appointment, by the same order, of persons residing out of the Divisions to which they were, by that order, attached; and the prediction of the Official Journals "that all those who did not favor all the views of Lord Dalhousie's administration would be dismissed," convinced me as they did many others, that my political conduct and not the distance of my residence from the Division of Boucherville (the reason assigned in the order) was the cause of my dismissal. It was notorious that we had all been dismissed on account of our political conduct.

239.—Did not a new Commission of the Peace for the District of Three Rivers issue during the present year ?

Yes; two commissions issued; one in April last, and the other in September last; this last was only a Commission of association to that first mentioned.

240.—Did the one first mentioned produce many changes ?

Yes; Messrs. René Kimber, Jean Emanuel Dumoulin and Joseph Badaux, the elder, residing in Town, Messrs. François Legendre and Joseph Turcot, of Gentilly, Louis Landry, of Bécancour, Jean Baptiste Hébert, of St. Grégoire, Etienne Côté, of Nicolet, Joseph Lozeau, of la Baie du Febvre, and Pierre Joseph Chevretils, of St. Michel d'Yamaska, were struck out of the Commission. The names of Messrs. Pierre Panet, the Grand Voyer, David

Minutes of Evidence.

C. Mondelét,
Ear
31st Decr. 1828.

David Grant, David Belhouse, Edward Cartwright and Francis Henry Hughes, residing in the Town, and some others in the Country, were inserted in the Commission. The gentlemen who were dismissed, with the exception of Mr. Badeaux, the elder, were appointed, at the meeting of the District of Three Rivers, on the 22nd December 1827, Members of the Constitutional Committee of the said District. The proceedings of this meeting were rendered public through the medium of the press, as well as the names of these gentlemen; they could not fail to come to the knowledge of the late administration.

241.—Was it not notorious that the names of many of the old Magistrates were struck out and those of others inserted, in consequence of their respective political opinions?

The gentlemen who were dismissed having for many years held the office of Magistrates, and having, to my knowledge, enjoyed the general confidence of the public, could only have been dismissed (with the exception of Mr. Badeaux, who, himself, assigned other reasons than his political conduct for his dismissal;) they could, I say, only have been dismissed on account of their political actions and opinions. There is indeed but one way of thinking on this subject in the District of Three Rivers; it is well known that Lord Dalhousie's partizans in the District of Three Rivers think in the same way. With respect to the persons substituted for them, the *turn out* system recommended and predicted at the time by the Official Gazette, and the devotedness evinced by those gentlemen with regard to the measures of the late administration, have convinced the public that the administration had no other motive than the desire of punishing or recommending people for their political conduct. Messrs. Heney, of St. François, and Michel Caron, of Yamaska, are, to my knowledge, the only two persons who took an active part in the deliberations of the people who did not feel the arm of authority; the public has indeed been much astonished that they were not treated in the same way as others.

242.—Do the Magistrates of Three Rivers who were appointed by the last Commission generally enjoy the confidence of the public?

Speaking of them as individuals, many of these gentlemen are respected and deserve to be so. But they do not, as Magistrates, enjoy the confidence of the District; the reason of this is, that the people considering them with respect to their political principles and their conduct under the late administration, attribute their appointment to their devotion to Lord Dalhousie, and finding themselves deprived of those who possessed their confidence, they think lightly of the present Magistrates, and even turn them into ridicule. I ought to except the Grand Voyer, Mr. Panet.

243.—What was the object of the second Commission, namely, that which issued in September last?

Its object was the association of three other Magistrates; Messrs. Joseph Boucher de Niverville, of the Indian Department, who receives a considerable salary from government, Joseph Michel Badeaux, the younger, to whom was entrusted the making of the *Papier Terrier* for the King's Domain in the Town of Three Rivers, and Charles Hubert Lassisseraye, trader, (and, as is said, a Notary's Clerk,) all resident in the Town, and all three partizans of the

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Minutes of Evidence.

the late administration, were associated with those named in the former Commission.

244.—Did this second Commission add considerably to the confidence of the public in the body of the Magistracy of Three-Rivers?

Far from it. Mr. Niverville has not, I believe, taken the oaths, and does not sit. But the two other new Magistrates having nothing to recommend them but a conduct of which the distinguishing mark was a blind devotedness to all the measures of Lord Dalhousie, the public attributed their elevation to this cause, and showed much dissatisfaction at the appointment. They are in general lightly considered by the public when sitting on the bench, for the reasons I have before stated.

245.—Among the Magistrates appointed in these two Commissions, are there not some who have no property within the district, who therefore offer no responsibility, and who were known to possess none at the time they were placed among the number of the Justices of the Peace?

Yes, Mr. Panet, the Grand Voyer, has not, to my knowledge, any real property in the District of Three-Rivers. Mr. Hughes and Mr. Badeaux, the younger, are I believe in the same situation, I consider this as a great evil, since on this account they afford no resource against them in case they should be guilty of malversation. It was known at the time of their appointment that such was the case. They *may* have property, but I know of none belonging to them. With respect to Mr. Lassisseraye, I have been told that he has some property at Three-Rivers, it might be so, but, as regards myself, I have no knowledge of the fact.

246.—Did not some of the Magistrates, at the time the Commission issued, and do they not still, reside out of the District of Three-Rivers?

I omitted to mention that the Commission of the month of April, contains the name of Mr. James Hastings Kerr, who, at the time the Commission issued, was living at Quebec, and was, I believe, as he still is, a Clerk in the Civil Secretary's Office, or perhaps at that time in the Custom-House Department, and who has not, at least to my knowledge, any property in the District of Three-Rivers.

247.—Do you know for what reason this gentleman was continued in the Commission, although he did not reside in the District?

I have no personal knowledge on the subject; but the public opinion is that the late administration had its views in leaving him in the Commission. The uncalled for warmth and activity for which his conduct during the late Election was remarkable, when he went so far as to say, on the Hustings, *that it was not allowable to speak against the Governor*, gave reason to think that the Government was willing to preserve the influence which this gentleman was enabled in this manner to exercise at Three-Rivers.

248.—Are not entire Parishes in some instances left without Magistrates, in consequence of the names of many Justices of the Peace having been struck out of the Commission; and does not this circumstance occasion some inconvenience?

Yes; Gentilly, Bécancour and St. Grégoire, are without Magistrates, and are deprived of the services of very respectable and useful men, such as Messrs.

Legendre,

C. Mondelét,
Esqr.

31st Dec. 1822.

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C. Mondelét, Esqr. Legendre, Landry, and Hébert. Great evils result from this. The striking out of the name of Mr. Lozeau, was deservedly felt at La Baie du Febvre, last summer. I was at La Baie du Febvre on the circuit, as an Advocate, in July last. There was a general battle among a number of the country people, who were in a Tavern ; they went out, and the fight became still more general and bloody. As Mr. Cottrell, the Magistrate who was not dismissed, lives in the Concessions at a distance from the village, and as there was no Magistrate in the village, there was no means of putting an immediate stop to this public disorder. It was said at the time, among the crowd "there is the effect of Lord Dalhousie's administration ; he dismisses honest men, and now people are left to cut each others throats."

31st Dec. 1828.

249.—Were any prosecutions for libel instituted in the District of Three-Rivers ?

There were no prosecutions at Three-Rivers ; but there were at Quebec, against myself, although I was constantly resident at Three Rivers.

250.—Between the publication of the libel imputed to you, and the time when the bill of indictment against you was preferred at Quebec, was no Criminal Court held at Three-Rivers, at which such bill might have been preferred and prosecuted as effectually as in the capital ;—and was there any thing remarkable in the manner in which these prosecutions were commenced and carried on against you ?

The Bills of Indictment preferred against me by the Attorney-General, were so preferred in the month of March last. The two articles attributed to me, were published in the Quebec Gazette, the one (a letter to Lord Dalhousie,) in November 1827, and the other, (the proceedings of the Constitutional Committee of the District of Three-Rivers, on the 25th February last) on the 28th of the same month. A Criminal Court was held at Three-Rivers, which commenced on the 13th March last, and which by law take Cognizance of criminal matters on the first four juridical days of the Term of the Court of King's Bench. The Attorney-General might have prosecuted me there, and I remember that the public of Three-Rivers were much astonished that the Attorney General had not preferred a Bill of Indictment against me at Three-Rivers, seeing that Mr. Vezina, one of the King's Counsel, had openly said that we (the Committee of the 28th February, of which I have before spoken,) would be there indicted for having held a seditious meeting at Mr. Kimber's house. It is true that in public, another reason was assigned for the Attorney General's silence, that the respectability of the Grand Jury, which I believe, (though I am not very certain of it) had been summoned before the appearance of the proceedings of the 25th February, offered, as it was said, no very flattering prospect to the Attorney-General. Such at least were the opinions expressed in public. The circumstances which gave rise to these prosecutions were as follows: I have already said that by the General Order of Militia, dated the 5th November, 1827, and published in the Quebec Official Gazette, on the 8th of the same month, I was deprived of my rank of Captain Aide-Major of the heretofore division of Boucherville. On the 12th of the same month, a letter addressed to Lord Dalhousie, appeared in the Quebec Gazette: This letter was at the time attributed to me ; I was then at Quebec ; I remained there

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C. Mondelét.
Esqr.
31st Dec. 1828.

here from the 9th until the 17th November, inclusively; I was every day in the Court of Appeals: the Attorney-General and the Councillors saw me there; I even pleaded before the said Court. The Attorney General did not cause me to be detained; there were at that time no proceedings against me. In January following I went down to Quebec; I was in the Court of Appeals; I saw the Attorney-General, and was seen by him there; I pleaded before the said Court; no information was given me that the letter to Lord Dalhousie, attributed to me, was looked upon as a libel. After the prorogation of Parliament in November 1827, a General Meeting of the inhabitants of the District, was held in the Town of Three-Rivers, for the purpose of adopting and laying before the King and the Imperial Parliament, Resolutions and Petitions against Lord Dalhousie's Administration. Messrs. Legendre and De Courval, of whom I have before spoken, were the Deputy Chairmen. Since that time, they have zealously co-operated with their Countrymen, and have continued to encourage the people in their just remonstrances. The Quebec Official Gazette announced to the public that they had been deprived of their rank as Lieutenant-Colonels, and charged by Lord Dalhousie with "having shewn themselves the active agents of a party hostile to His Majesty's Government."

As these gentlemen had always been remarkable for their loyalty, the public believed, that their *crime* was that of having taken part in the deliberations of the people against Lord Dalhousie's administration. It was resolved that the public opinion on this subject should be expressed. A meeting was in consequence held at Mr. Kimber's, at which resolutions and addresses to these two gentlemen were adopted; and to these they returned answers. These proceedings, which were treated as crimes by the Attorney General, are to be found in the No. 3,830, of the Quebec Gazette, and were published on the 28th February 1828. I have already said that a Criminal Court was held at Three Rivers on the 13th March 1828; I was there; I acted as an Advocate; I was seen by the Attorney General; I had even occasion to come in contact with him in the discussion of a point of Law; but the Attorney General did not stop there. On the 23rd of March, five citizens of Three Rivers, Mr. Kimber, the late Dr. Talbot, and Messrs. P. E. Dumoulin, A. Z. Leblanc, and Wm. Vondenvelden, received *subpoenas* commanding their attendance before the Grand Jury at Quebec, on the 28th of the same month, "to prove evidence against me for a misdemeanor."

On the 2nd April 1828, I was arrested in my office at Three Rivers. The Provincial Court, which sits from the 1st to the 10th April, was then sitting. The High Constable, Mr. Aylwin, shewed me two warrants, by which I learnt that two indictments, for *libel*, had been found against me by the Grand Jury at Quebec; after an hour's preparation I was obliged to leave my family, and my business of which I had a great deal in the April Term, and go down to Quebec. The roads were very bad, and the ice worse, the sun having at that time much power. I arrived at Quebec on the 3rd April, at eleven at night. The next day (Good Friday) I was obliged to give bail before the Chief Justice in £500 on each of the indictments, myself in £250, and each of my securities in £125, on each of the indictments, for my appearance at the Criminal Term of September following, and for *good behaviour* in the *mean time*. I made no opposition to those proceedings, because I knew the Court

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C. Mondelôt,
Esqr.

31st Dec. 1828.

Court had required bail from the other persons indicted for libel; I considered it useless to try the question. I left Quebec on the following day; travelling was then dangerous, the ice being bad. In compliance with the conditions of the bail bond, I was obliged to leave Three Rivers on the 30th of September last. The Court of King's Bench was then sitting, I was obliged to leave my business and my clients and go down to Quebec. On the 1st day of the Criminal Term at Quebec, I was called into Court by the Clerk of the Crown, but was not called upon to plead to the indictments. I was in Court from day to day, (with the exception of two or three days of sickness;) I shewed myself to the Attorney General; I asked him if he intended to proceed against me; he answered that he had informed my Counsel, that if he wished to proceed against me he would inform me of it. In this manner I was detained in Quebec for nine days without any proceedings. On the last day of the Term the Attorney General addressed the Court, stating that the multiplicity of business had prevented his proceeding against the persons indicted for libels, and requiring that we should give fresh bail for our appearance at the next March Term, and I was obliged to do so, notwithstanding the opposition I had made. Before I gave bail I wished to except to the jurisdiction of the Court, the Attorney General in opposing this said that I ought to plead in writing; the majority of the Court decided that I should plead in writing. I am now under bail for *good behaviour* and for my appearance at the next March Term; the bail was given for the same amount as in April last. I have since sent my plea to the Jurisdiction of the Court to Quebec, after having in September obtained leave to file it.

251.—What is the nature of the indictments brought against you?

I took communication of the indictments brought against me, at the Office of the Clerk of the Crown. I am therein indicted for *sedition libels*, as being *the enemy of the Government*, and other expressions of nearly the same nature, with relation to the misdemeanors with which I am charged. In one of those indictments a letter to Lord Dalhousie, of the 10th November 1827, published as I have before said in the Quebec Gazette on the 12th of the same month, and which has been attributed to me, is inserted at full length and styled a *Libel*. The other indictment is founded on the proceedings of the Constitutional Committee of the District of Three Rivers, on the 25th of February 1828, the remarks, which were attributed to me, included. I have already mentioned that the whole may be found in No. 3830 of the Quebec Gazette published on the 28th February 1828.

252.—Have you paid any attention to the newspapers which have been published in this Province for nearly two years past, and which were in the interest of the administration during the time Lord Dalhousie was Governor of this Province?

Yes; I have been in the habit of paying very close attention to the affairs of the Country, and to the papers in the interest of Lord Dalhousie's administration as well as the others.

253.—Have you observed whether in the papers in the interest of the said administration, productions were inserted in which the people and the Representatives of the Country, or the public men who opposed the said administration were insulted?

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254.—Could you point out some instances ?

Yes; and I now produce the following extracts from the " Quebec Mercury," " The Quebec Official Gazette," and the " Montreal Official Gazette." C. Mondelét,
Esqr.
These writings extend from the 4th November 1827, to the 8th September 1828, inclusively. I might have produced many others; but I confined myself to the most striking. There have been many others at the time the Parliament was prorogued on the 7th March 1827, and since that time 31st Dec. 1828.

Extract from the *Quebec Mercury*, speaking of the debates in the Assembly, on the question respecting the Speaker, (No. 96.—24th November 1827.

" The present Provincial Parliament is now prorogued, and the *Knights, Citizens and Burgesses*, in the Proclamation misnamed *faithful*, have forty days to reflect on their *misdeeds*."

" What good can be expected from a body who have exhibited such a perfect ignorance of their duty, such an utter contempt for all constitutional authority, and such blind obedience to an unprincipled leader, as have been shewn by the majority of the Assembly of the Provincial Parliament of Lower Canada, on their memorable Session of three days duration."

" The Commons of Lower Canada succeeded to the full, in rendering themselves contemptible and ridiculous."

Extract from the *Montreal Official Gazette* of the 26th November 1827, vol. 4, No. 86.—Editorial Paragraph.

" We are perfectly astonished at the phrenzy and delusion which characterize the first acts of the House of Assembly."

Extract from the *Quebec Official Gazette* of the 29th November 1827.—Editorial Paragraph. Speaking of the conduct of the House, in persisting in the election of Mr. Papineau, as Speaker, and of the prorogation of the Parliament.

" Such for the present has been the winding up of a scene that nothing could justify, and which, without the firmness shewn by the head of the administration, would undoubtedly have been followed by a revolution in this Province."

The same Gazette under the same head :

" We should not render justice to the small number of his Majesty's faithful and loyal subjects who formed the minority in this scandalous scene if we did not make them known to our readers."

Extract from the *Montreal Official Gazette* of the 29th November 1827, vol. 4, No. 86.—Editorial Paragraph. Speaking of a meeting held at Quebec,

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C. Mondelét, Esqr. bee, on the subject of the territory in dispute between the United States and New Brunswick, it supposes in the House of Assembly, the view which it attributes to the said meeting held at Quebec, those of revolutionizing the country: the paragraph is as follows, word for word.

31st Dec. 1825.

“ We think we can conjecture the object of those who convened the Quebec meeting, and who are so anxiously awake to the dignity and interests of this Province. If we are not mistaken, they fancy they see, in the present position of the United States, a favorable opportunity for the accomplishment of their daring schemes. They imagine that the election of General Jackson to the Presidency is certain, and conceive from that event assistance may be derived to carry into execution, schemes of national independence, and personal aggrandizement. The probability of this event may also have determined the obstinacy of the House of Assembly, and encouraged them to persist in their strange resistance. By alarming the British Government on this point, by keeping up a high toned remonstrance, and by using all the common topics of, *oppression, tyranny, &c.* they flatter themselves that their object will receive a more ready accomplishment, and that they may wrest from alarm and apprehension, what a sense of justice would never concede to them. If these motives are the mainsprings which influence the conduct of the future dignities of the “*Nation Canadienne*,” we humbly conjecture that they read the signs of the times very badly. We hardly conceive the possibility of the General’s success, and still less the chance of his entertaining the wild idea of Canadian conquest; and that there is an infinitely less proportion of probability in the idea of the British Government being influenced by such speculations to yield any point, the concession of which could be attributed to any thing but a sense of justice. In such a case, the claims of the Assembly must ever be resisted, as neither justice, reason or propriety have any relation or connexion with them.”

Extract from the *Montreal Official Gazette* of the 29th November 1827.
In a communication signed “*An Anglo Canadian*.”

“ But our political declaimers would be definers of the British Constitution, would have it understood that British Liberty is also concentrated within the walls of the House, which by its late measures has evinced itself to be the *Forum of Republicanism*.”

Quebec Official Gazette, 13th December 1827.—In a Communication signed C. D. E. Speaking of the House of Assembly, and comparing it to Judas (on the subject of the question respecting the Speaker.)

[“ It has no palliative to attenuate the baseness of its treason” * * * * * and further this obstinacy in evil, which sacrifices every thing to the accomplishment

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riminal designs." * * * * * " If such a conduct on their part does not justify the charge I bring against them of *rebellion* against the Mother Country, and of *treason* against their constituents, I do not understand those words, and according to me they have no longer any meaning."

C. Mondclét.
Esqr.

31st Dec. 1828.

Quebec Official Gazette of the 10th January 1828, vol. 5.—No. 11.

(Editorial Paragraph.)

" All the aggressions to be traced to the former (speaking of the House of Assembly) " the late measures of the popular branch of the Legislature, are of that unequivocal description * * * * * after so many years of gradual assumption, of secret hostility, and undermining, it is rather an improvement in the method of aggression so long acted on by the factious and discontented to find that they now openly attack what before they covertly sought to subvert."

Montreal Official Gazette of the 21st January 1828, vol. 33.—No. 6.

(Editorial Paragraph.)

Speaking of the meeting called for the 25th January 1828, at Montreal, for the choice of agents; this paragraph is too long to be copied at full length, presents some remarkable passages, I extract a few. " At the period of political excitements when we perceive the object of a faction which a long course of successful ambition has urged to still more extensive projects than those at which they have hitherto aimed; when we see this same faction endeavouring to excite and inflame the Country into sedition, and arranging preparations and preliminaries which might serve to be called into treasonable exercise in times of open rebellion." * * * * * " In this Assembly of Deputies, we see the embryo of a NATIONAL CONVENTION; we see a meeting of departmental Delegates from the different Seignèuries, and elected in no constitutional form and for the purpose of treating of matters which are not of trifling importance, or more local improvements; for their avowed objects are to dictate to the British Government to subvert the power of the Executive * * * * * The NATIONAL CONVENTION, once met, will not easily dissolve itself after having named their agents; but will continue its deliberations upon subjects of more importance, to the future peace and tranquility of this Province. New objects for their ambition will be pointed out, new plans adopted, new campaigns arranged, and new difficulties devised, to impede the Government of the Province, and render nugatory the intentions of the Mother Country."

Quebec Official Gazette of the 31st January 1828.

(Editorial Paragraph.)

" The contents of the Resolutions forming the basis of the charges which
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Minutes of Evidence.

C. Mondelét, Esqr. " the Montreal faction intend to lay at the foot of the Throne and before the Imperial Parliament against His Excellency the Governor in Chief, have also reached us. These charges.....they are a mere tissue of falsehood and calumnies engendered by the malice of the factions which are victoriously answered by the contents of contrary addresses signed, and not "marked with the seal † of ignorance."

31st Dec. 1828.

Extract from the addresses to Lord Dalhousie, and his answers thereto.

Quebec Official Gazette of the 10th January 1828, vol. 5.—No. 11.

Address from Three Rivers.

In speaking of the claims of the House of Assembly :—

" That it is principally to the groundless pretensions and unparalleled usurpations on this subject, (meaning the 14 Geo. III. chap. 88,) the civil miseries of this Province are originally to be attributed; and that unless speedily checked by the firm arm of the supreme authority of the Mother Country, we may yet live to record and to lament transactions the most dangerous to the welfare of our Civil Government and society, and scenes the most disgraceful to virtuous and loyal citizens."

Answer.

Among other things—

" I acknowledge that you have spoken in them (the Resolutions) the language of truth, with the boldness which becomes British subjects, when claiming their rights."

Answer to the Quebec Address.

Quebec Official Gazette.

The following words are there to be read :

" In resisting the encroachment of a faction."

Answer to the Montreal Address.

Quebec Official Gazette of the 10th January 1828.

" In this address you have traced most justly the mischievous tendency of the measures pursued, for past years, in the Provincial House of Assembly."....." When compared with the recent more daring attempt to deny the Royal Prerogative, indubitably and invariably recognized."

Address from the County of Warwick.

Quebec Mercury, 26th January 1828.

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" We would likewise beg leave to state to your Excellency, that if the many advantages that ought to have accrued in this Province from the wisdom of your Excellency's administration have not been realized, it may be attributed to the unwarrantable pretensions of the House of Assembly and their adherence to a line of conduct opposed to the Prerogative of the Crown, and to the character and dignity of their own body."

C. Mondelét,
Esqr.
31st Dec. 1828.

Answer.—Extract.

" I have had great satisfaction in seeing by the language of the address, as well as of many recently received, that the conduct of these factious leaders is generally condemned and reprobated by every loyal and respectable man in Canada."

Address from the Inferior District of St. Francis.

Quebec Official Gazette, 21st February 1828, (on the subject of the conduct of the House of Assembly and the prorogation.)

After having spoken of the hostility and pretended insults received from Mr. Papineau, and after having lauded the conduct of Lord Dalhousie in reasing him, the address contains the following language :

" Your Excellency's energetic decision has most providently furnished the occasion for the display and detection of the real principles which influence the factious and their resistance to your Excellency's Government; in their violence they have betrayed the enormity of their unconstitutional pretensions, and in their resolutions they have exposed the character and tendency of the revolutionary propensities by which they are animated.

" His Majesty's faithful subjects in this Province, must endure the mortification of seeing the popular branch of the Legislature, made the tool of the unhallowed ambitious of designing *Demagogues*, who, under the mask of loyalty, cherish the deepest hatred of the English name, and the most active animosity to His Majesty's Government."

Answer by A. W. Cochran, Secretary, 10th February 1828.—Official Gazette 28th February 1828.

" I am directed by His Excellency, &c. to acknowledge, &c. and to convey to you His Excellency's assurance that the sentiments they have expressed in their address, are in the highest degree gratifying to His Excellency personally."

To Wm. Henry, Esqr., Sherbrooke.

Address from the Inhabitants of the Townships of Leeds, Ireland, Inverness, and Seignior of St. Giles, in the County of Buckingham.

" We have seen with the deepest regret the conduct of the House of Assembly

Minutes of Evidence.

C. Mondelét,
Esqr.
51st Decr. 1828.

“ assembly in endeavouring to subvert the blessings of our constitution, by repeatedly frustrating the liberal views of your Excellency, for the improvement of the institutions and good government of the Province; and by assuming rights not vested in them, attempting to set aside the authority of our beloved and most gracious Sovereign, and the Imperial Parliament, over this portion of the British Empire.

“ Deeply as we deplore the attempts of the late Assembly, we have to felicitate ourselves and the country, on the energy and wisdom which your Excellency has shewn, in supporting the just Prerogative of the Crown, by recently rejecting as Speaker of the present House of Assembly, a person whose public conduct rendered him unfit for that high office; and we pledge our lives and properties to defend those rights which your Excellency has so ably and constitutionally supported.”

January 8th, 1828.

Answer (by Mr. Cochran, 27th February 1828.)

“ And I am to request that you will assure them, that His Excellency feels much gratified by their approbation of the conduct of government during the period of his administration.”

To H. M. Blaiklock, Esqr.

Address from the Townships of Lochaber and Buckingham.

Quebec Official Gazette, 21st February 1828.

“ It is with deep regret mingled with indignation we contemplate the systematic and continued opposition made to all your measures by a faction, who at once arrogate to themselves the power of Legislation, and the rights of the Crown.” “ We deprecate the attempts of these individuals, under the specious mask of patriotism, to excite discontent and distrust of the Justice of His Majesty’s Government among a portion of the Canadian people, and we sincerely hope that their evil designs will soon recoil upon themselves with merited disgrace.”

“ We applaud your Excellency for the firmness with which you have opposed their ambitious schemes.”

11th February 1828.

Answer (by Mr. Secretary Cochran, 18th February 1828.)

Quebec Official Gazette, 28th February 1828.

Among other things :

“ His Excellency requests that you will assure the Inhabitants of the Townships, that he feels highly gratified by this address.”

To Wm. McLean, Esqr., Lochaber.

Address from Compton.

Quebec Official Gazette, 21st February 1828.

“ A want of respect to your Excellency, shewn by a party acting un-

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“ under the influence of a few factious men.....and to declare our un-
 “ qualified approbation of the firm and temperate measures which your Ex-
 “ cellency has pursued in resisting the attempts which have been made to en-
 “ croach on the rights of the Crown.....Residing in a remote part of the
 “ Province, and virtually unrepresented in the Provincial Parliament, we
 “ have been forced to remain almost silent spectators of what has been pass-
 “ ing in public affairs, till a faction has, by its violent proceedings and most
 “ unjustifiable conduct, developed its views and principles, step by step.....
 “ We attribute the withholding of our just and lawful rights to no other cause
 “ than the selfish views and narrow minded policy of a few persons who lead
 “ the majority of the Lower House.

C. Mondello,
Esqr.

31st Dec. 1828.

“ We beg leave to assure your Excellency that all we have it in our power
 “ to assure your Excellency, may be relied upon in every exigency.”
 Compton, 1st February 1828.

Answer (by Mr. Cochran,) 8th February 1828.

“ I am directed, &c. that you will convey his thanks to the Inhabitants of
 “ the Township of Compton, for the expression of their sentiments contained
 “ in their address.....and that you will assure them that His Excellency
 “ is much gratified in finding that their loyal and constitutional feelings are
 “ so general and so decided in that part of the Province.”
 To A. D. Bostwick, Esqr.

Address from William Henry.

Quebec Official Gazette, 8th September 1828.

“ But we should be wanting in the knowledge we have obtained of the
 “ political state of the Province, were we to fail in attributing the existing
 “ difference to men, misled by private passions and views, and who with a
 “ warm desire for personal popularity and aggrandizement, subvert and satiate
 “ the minds of an uneducated people, by pretensions and assumptions not
 “ only inconsistent and in direct opposition to constitutional principles, but
 “ (what is of great importance) to the very happiness and prosperity of this
 “ promising appendage of the British Empire.”
 30th August 1828.

Answer.

“ The sentiments now expressed from them, in approbation of my conduct
 “ in this government, are highly acceptable.”
 3rd September 1828.

Address from the Magistrates and Inhabitants of Quebec.

Quebec Official Gazette, 8th September 1828.

Alludes generally to the “differences in the Legislature” and adds, that “His
 “ Excellency could not accede to the claims of the House of Assembly.”

Answer.

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Answer.

Chs. Mondelét,
Esq.

31st Dec. 1828.

" This address conveys their sentiments in terms highly acceptable and honorable to me, and I shall retain it, as the best answer to be made to all the calumnies and slanders which have proceeded from a few malicious agitators, scarcely deserving of notice."

Address from Montreal.

Quebec Official Gazette, 8th September 1828.

" The Province owes it to your Lordship that, a dissolution of the government with consequent anarchy and ruin had not taken place, which must have happened from the popular branch proceeding to extremes, in order to enforce submission to its will, without caring for the evil, which such a course of conduct must necessarily have produced, had not your Excellency, to avert such a calamity.....and the Assembly in direct violation of the Royal Prerogative, persisted in the choice of a Speaker, after his approval by the King's Representative had been refused; one step more, and the Royal right of Prorogation may be questioned and the concurrence of the Council, and the Royal assent to Bills, be considered as empty forms.all who prefer a mixed government, administered upon British constitutional principles, to the doctrines of those who deceive the unthinking, by false pretensions, in order to promote their individual purposes."

14th August 1828.

Answer.

" For myself I return the most grateful thanks for the open and steady support I have received from Montreal. The opinions entertained there, have given me confidence in my path: and with the sentiments which you now express on my departure, I shall go forward, with the same firm purpose, unto the end.....and possessed with such testimonials, as I carry with me from the enlightened and educated population of Canada."

Address from the Magistrates and Inhabitants of the Town of Three Rivers.

Quebec Official Gazette, 8th September 1828.

" Your Excellency has fought the good fight of the constitution..... If you have not been able to preserve it from insult and inroad, your Excellency has at least defended it from injury and destruction. Your Excellency has had to contend with the most powerful opponents in a free state, " popular clamour, ignorance and prejudice"....."the predominancy of which without that check, which your Excellency by a constitutional exercise of your powers, so resolutely and seasonably applied to it in this Province, has ever been followed by perpetual and irremediable anarchy." (The sequel to this address is the grossest flattery.)

Answer.

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PRESENT

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C. Mondelès,
Esqr.

31st Dec. 1828.

" The most flattering tribute of approbation from the Magistrates and Inhabitants of the Town of Three Rivers, would have been acceptable to me on any occasion, but it is infinitely more acceptable on the eve of my departure from this Country, in all probability for ever.....I have disregarded popular clamour, and the slander of wandering scribblers..... My sense of duty has never been influenced by such common weapons, and I leave them behind me as utterly inoffensive.....I can leave no better record to guide the young to a close as honorable as this which you now testify to me."

Friday, 2nd January 1829.

PRESENT :—Messrs. Viger, Heney, Cuvillier, Leslie, Bourdages and Lejevre.

Mr. Viger in the chair.

David Ross Esquire, again appeared before the Committee.

255.—Do you know that several prosecutions for libel, were instituted last year, at Montreal, in the Criminal Courts, or in the Courts of Oyer and Terminer ?

D. Ross, Esqr.

2d Jan'y. 1829.

Yes.

256.—Were not those prosecutions occasioned by certain writings published in the " Canadian Spectator," " La Minerve," or the " Spectateur Canadien," at Montreal ?

I believe so.

257.—Were those newspapers generally considered as favorable to Lord Dalhousie's administration ?

As I understood it, the public impression was that they were quite the reverse.

258.—Have you some times had occasion to read, since March 1827, the Montreal Herald, the Montreal Official Gazette, the Quebec Official Gazette, or the Mercury of the same City ?

I generally read the three first papers, since the time alluded to. The Mercury I did not take ; only saw it occasionally.

259.—Did you never remark in any of the said papers, writings or paragraphs extremely violent against the inhabitants of this Country, their Representatives, or the House of Assembly ?

I think I remember having seen paragraphs in those papers which, in my opinion, would have been better suppressed.

260.—Do you know whether any of the Editors or Printers of the said Gazettes were prosecuted for libel ?

No.

261.—Were those papers in favor of Lord Dalhousie's administration ?

I believe the Editors conceived they were.

262.—

Answer.

Minutes of Evidence.

262.—Can you say whether those Gazettes have never furnished, in your opinion, as legitimate matter for prosecutions for libel, as the papers first mentioned?

D. Ross, Esqr. 2d Jany. 1829. I never considered them sufficiently to form an opinion on that subject.

PRESENT :—The same Members.

Henry Griffin, Esquire, of the City of Montreal, was called in and examined as follows :—

H. Griffin, Esqr. 263.—Do you reside in the City of Montreal, and how long have you done so?

I was born in Montreal, and have always resided there.

264.—Are you a Justice of the Peace for Montreal, and how long have you been so?

I am; I believe since the year 1826.

265.—At what time did the last Commission of the Peace for the District of Montreal issue?

Some time last winter.

266.—Did the said Commission produce many changes?

There were a few of the Magistrates of the City of Montreal, of the former Commission, who were left out in the new Commission; of the Country parts of the District I know nothing.

267.—Were several new Justices of the Peace added?

I am not aware of any at present, except the Chairman of the Quarter Sessions.

268.—Was it not notorious that the names of several of the Justices of the Peace who were included in the former Commission of the Peace, were struck out on account of their opinions on the public affairs in this Province?

I do not know.

269.—Were not some of the Justices of the Peace for Montreal excluded from the last Commission for the same particular reason, in addition to the more general causes previously mentioned?

I know not the cause for which they were omitted.

270.—Was it not generally known at Montreal that some of them had been struck out, on account of a certain *supersedeas* by them granted in Mr. Stanley Bagg's affair?

It was after that *supersedeas*, that the omission took place, but I cannot say whether it was for that reason or not.

271.—Is it not true that some of the Justices of the Peace included in the last Commission have no property, and consequently afford no responsibility, and were known to have none when the Commission was issued?

There are but very few.

272.—How many are there to your knowledge, and who are they?

There are three; the Honorable Mr. Byng, Mr. Turner and Mr. Pardy. I am not aware that they have any fixed property.

273.—Are there any others who were then reputed to be in an insolvent state, and how many were there?

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Minutes of Evidence.

There were three reputed insolvents and who were so at the time of the new H. Griffin, Esq. Commission.

274.—Do the Justices of the Peace at Montreal, generally enjoy public confidence? 2d Jany. 1829.

I do not know that they are otherwise than deserving of the public confidence.

275.—Have they not within a short period caused one or several meetings of the citizens of Montreal to be held?

Yes; they lately caused one assembly to be held.

276.—Are the Justices of the Peace at Montreal authorized in any, and in what case, to lend any of the public monies of the City?

I should think not.

277.—Was the Road Treasurer at any time, and at what time, authorized to lend any of the money belonging to the City, to any person?

I should think not.

278.—Did he not receive an order from a Special Session, to advance or lend a certain sum of money to the Trustees appointed for the execution of a new market-place near the General Hospital?

I know nothing about it.

279.—To whom is the Road Treasurer bound to render an account for his receipts and expenditure?

To the Magistrates.

280.—Are the Justices themselves accountable; in what manner, and to whom?

I should suppose that the Justices of the Peace are accountable to those from whom they have received their Commission.

281.—Do they account for the application of the public funds, and to whom do they account?

No account has been rendered to my knowledge.

282.—On whom are the monies, of which they have the management, levied in the City of Montreal?

On the Landed proprietors of the City; except a small poll tax on those who have no property.

283.—Are not the Magistrates obliged by Law to meet once every month, to draw out a statement of the works necessary to be done in the Town and City, and to appoint a Committee from their body for causing the said works to be executed?

Yes; they are authorized by law to meet once every month, and to appoint Committees for carrying on the public works, which Committees have generally been appointed yearly in the month of May.

284.—In the month of May last, was the Committee of three or five, appointed for a month, or for the whole year?

They were named for the whole year.

285.—Did the meetings required by the act 5th Geo. IV. chap. 3, take place every month?

I do not know; but meetings have been frequently held since the first May st. on the general business of the Town.

286.—Have you been a Member of the Watch and Night-Light Committee at Montreal, and when?

I have acted as such.

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287.—

Minutes of Evidence.

287.—Are not the Justices of the Peace at Montreal, and more especially H. Griffin, Esq. the Watch and Night-Light Committee, the proper inspectors of this establishment ?

2d Jan'y. 1829. They are.

288.—Is it necessary to employ any person as a spy upon the conduct of the officers, and watchmen, and have such persons in fact ever been employed, when and by whom ?

I conceive it very necessary that a person should be employed, as the duties of the Watch and Light are done in the night ; but I am not aware, except from common report, that such a person has been employed ; it cannot be expected that the Magistrates or the Committee are to become night-walkers, for the purpose of superintending the watch.

289.—Who chooses and appoints the officers and watchmen ?

I have never paid any attention to it.

290.—Do you believe that they are chosen by any other person than the Justices of the Peace ?

I do not know.

291.—Do you know the new market erected at Près-de-Ville, at Montreal ?

I do.

292.—Is it so situated as to be useful, and to meet the wants of a great portion of the Inhabitants of the City and Suburbs of Montreal ?

I do not think it is.

293.—Do you know whether the proprietors of this market have offered to place it in the hands of the Justices of the Peace ?

They have.

294.—Do you think it would have been advantageous to the City to make the purchase ; supposing the conditions to have been reasonable ?

My opinion has always been, and still is, that it is not advantageous.

295.—Is the Little River which runs in the rear of the Town of Montreal, considered as unfavorable to the healthiness of the Town ?

It is.

296.—Do you think that it would be practicable to give it another course, and what course ?

I do think it is practicable to divert the waters at or near the foot of the Quebec Suburbs.

297.—Do you know whether several prosecutions for libel were instituted last year, at Montreal, in the Criminal Courts, or the Courts of Oyer and Terminer ?

I have understood so.

298.—Was it not a thing of public notoriety ?

It was.

299.—Were not the said prosecutions occasioned by certain writings published in the " Canadian Spectator," " La Minerve," or the Spectateur Canadien."

I believe they were.

300.—Were those papers generally favorable to Lord Dalhousie's administration ?

They have never been considered so.

301.—Have you had occasion sometimes to read the Montreal Herald, the Montreal

Montreal Mercury, I have h 302.—D graphs ext tatives, or I have re doubt aros Spectator a 303.—D papers, the Official G I am not 304.—W ministrat Yes. 305.—C n your opi rst mentio I have fd 306.—D gnied the ose who I believe Chief, th 307.—W f the super I know 308.—Y ors duly q I am in b 309.—W ther of th As a pro 310.—W ight have It is at th 311.—W ithin the 312.—D It is held 313.—D Frederic Yes. 314.—D Yes. 315.—Y hich of th I reside i

Minutes of Evidence.

Montreal Official Gazette, the *Quebec Official Gazette*, or the *Quebec Mercury*, since March 1827 ?

H. Griffin, Esq

I have had occasion to read them all, except the *Quebec Mercury*.

2d Jany. 1829.

302.—Did you never observe in any of the said papers, writings or paragraphs extremely violent against the people of this country, the Representatives, or the House of Assembly ?

I have remarked some violent paragraphs of that description, which no doubt arose from similar paragraphs in the *Spectateur Canadien*, *Canadian Spectator* and *Minerve*, against the administration and its supporters.

303.—Do you know whether any of the Editors or Printers of the said papers, the *Montreal Herald*, the *Montreal Official Gazette*, or the *Quebec Official Gazette*, were prosecuted for libel ?

I am not aware of it.

304.—Were the said papers last mentioned, favorable to Lord Dalhousie's administration ?

Yes.

305.—Can you say whether the last mentioned papers have ever afforded, in your opinion, as legitimate grounds for prosecution for libel, as the papers first mentioned ?

I have formed no opinion on that subject.

306.—Did the Justices of the Peace for the City of Montreal, who had not signed the *supersedeas* of which you have spoken, adopt proceedings against those who had signed.

I believe the subject of the *supersedeas* was represented to the Governor in Chief, through the Chairman of the Quarter Sessions.

307.—Was it with a view of having a decision on the legality or illegality of the *supersedeas* ?

I know not.

308.—You have said that you resided at Montreal, are you one of the electors duly qualified in one or other of the wards of the City ?

I am in both.

309.—Were you so qualified as a proprietor, or as a tenant, in one or the other of the said wards, at the time of the last general election ?

As a proprietor in both.

310.—What is the designation of the property as proprietor of which you might have voted in the West Ward, at the said general election ?

It is at the extremity of the Banlieu on the Lachine Road.

311.—Was there a house erected on this property, and were they both within the limits of the City and of the West Ward ?

There is a house, barns and stables, and stores thereon.

312.—Does the said property belong to you alone ?

It is held by me jointly with Mr. Thomas Porteous.

313.—Does the ground in question form part of a lot formerly belonging to Frederiek Auguste Quesnel ?

Yes.

314.—Did he sell it to you jointly with Mr. Thomas Porteous ?

Yes.

315.—You have just said that you are a proprietor in both Wards ; in which of the two have you for a long time past resided ?

I reside in the East Ward.

316.—

Minutes of Evidence.

H. Griffin, Esq. 316.—Were you appointed Returning Officer for the West Ward of Montreal during the last general election?

2d Jany. 1829.

I was.

317.—Were you appointed Returning Officer on your own application, or had you been asked long before the said election, (and when,) whether you would accept of this office?

I knew nothing of my appointment until I received my Commission, I did not apply for it, nor was I spoken to on the subject.

318.—Was it not known at Montreal several days before you received your Commission, that you were to be the Returning Officer?

It was mentioned in one of the Montreal newspapers that it was understood I was the Returning Officer; and *that* a few days before I received my Commission.

319.—Were not the two other Returning Officers for the East Ward and the County of Montreal, also known at the same time and in the same manner?

I do not remember.

320.—Could you say on what day you received the writ for the election for the West Ward?

I do not remember the day, but I endorsed the writ the day on which I received it.

321.—Was there any correspondence between you and Mr. Secretary Cochran, relative to the appointment of a Returning Officer for the West Ward of Montreal, for the said general election?

None.

322.—Was the election of the West Ward carried on with much warmth, or with more warmth than the general elections ordinarily create?

Yes it was.

323.—Did you not find during the time the poll remained open, that the authority vested in you by Law was quite sufficient to permit the election to be carried on without the intervention of armed or military force?

The authority is quite sufficient; but finding it difficult to enforce, I did conceive at one time that it would be necessary to call a military force.

324.—Did you conceive it necessary at any time to call it in?

I did conceive it necessary at one time.

325.—Did you call it in at any time?

I remember speaking to the Sheriff and to Mr. Gale, on the subject, it was on my speaking to them that an application was made by one of them to keep the military in readiness.

326.—Was this application made in your name as Returning Officer, and by whom?

I think the application was made by Mr. Gale, as Police Magistrate.

327.—Did you request Mr. Gale to make that application for you?

I applied to Mr. Gale to assist me, and I requested him to keep the military force in readiness.

328.—Was it during the time the election was going on, or after the adjournment of the poll that you so applied to Mr. Gale?

It was after one of the adjournments of the poll in the afternoon, preparatory to the following day.

329.—Have you since that time found it necessary to call in the military force at any time?

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Minutes of Evidence.

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330.—Were all other means of preserving order employed by you, and found insufficient, previously to your application for a military force? *H. Griffin, Esq.*

I did what I could to restore tranquility by every mild means in my power; and my desire of having the military in readiness, was merely in the event of other means failing. 2d Jany. 1829.

[Adjourned to to-morrow.

Saturday, 3rd January 1829.

PRESENT :—Messrs. *Viger, Heney, Cuvillier, Leslie, Lefebvre, and Bourdages.*

Mr. *Viger* in the Chair.

Henry Griffin, Esquire, appeared again, and his examination was continued :— 3rd Jany 1829.

331.—You have pointed out the situation of the property of which a description was asked from you by the 310th question ; will you now give a description of it ?

It is bounded in front by the upper Lachine Road, commonly called the Lachine Turnpike Road; in the rear and part of the North East side by the Domain of St. Gabriel, the remainder of the North East side by the Heirs Stuart, and on the South West side by the limits of the City.

332.—You have only replied to the first part of the 311th question; will you now answer the whole question ?

All are erected within the limits of the City, upon the lot just now described.

333.—Who is the person who drew out the oath which you took as Returning Officer ?

I wrote it myself, and it was administered by Mr. Froste, J. P.

334.—Did the Magistrate who administered or received your oath as Returning Officer, read the form of the oath before swearing you, or did you yourself read it in his presence ?

I cannot remember whether Mr. Froste read the affidavit or not ; or whether it was read to him

335.—Did you apply to any other Justices of the Peace to receive your oath as Returning Officer, before addressing yourself to Mr. Froste ?

No.

336.—You have stated, that you requested Mr. Gale to call in military force; can you now say at what time of the election for the West Ward, you made such application to Mr. Gale ?

I think it was on the evening of the third day of the poll.

337.—Is it not true that before the third day, to which you have just alluded, Mr. Henry McKenzie asked you at the poll, to call in the guard, telling you it was ready to turn out.

No.

Minutes of Evidence.

H. Griffin, Esq. No. 338.—Did he make this request at any other time whilst the poll remained open?
3d Jany. 1829.

I do not remember any think of the kind.

339.—Is it not true that the High Constable, followed by other Constables, appeared at the said election, and that you ordered them to retire from the poll?

I remember sending for the High Constable, which was objected to by Mr. Papineau, on the ground that he was the son of one of the Candidates. I do not remember having seen the High Constable at the poll.

340.—Was it not only on the appearance of the Constables at the said poll, that Mr. Papineau made the objection?

I cannot tell.

341.—On the same day, on which you had spoke to Mr. Gale, respecting the Military force, was not order restored several hours before the adjournment of the poll?

Yes; the disturbance was suddenly allayed. This I attribute to the influence which Mr. Papineau appeared to have over the disturbers of the peace as he retired from the poll room, after stating that all would soon be quiet, and that there would be no necessity for an adjournment which the violence of the riot had induced me to propose; upon his return the election went on and continued quietly during the remainder of the day, and during the remainder of the election.

[Adjourned until Monday next.

Monday, 5th January 1829.

PRESENT:—Messrs. *Viger, Heney, Bourdages, Lefebvre and Leslie.*

Mr. Viger in the Chair.

Huques Heney, Esquire, one of the Members of the Committee was examined as follows:—

H. Heney, Esq. 342.—Did you attend the poll, at the election for the West Ward of Montreal, in 1827?
5th Jany. 1829.

Yes; I attended from day to day.

343.—Were you present at the poll when the High Constable, followed by other Constables, made his appearance at the said election; and did they remain long?

Yes; I saw a great number of Constables armed with their staves, and having the High Constable at their head, arrive at the poll. I cannot exactly say whether it was on the second or third day of the poll. I am persuaded that they had been expressly required to attend, as well from their number as from the hour at which they arrived; the poll had been opened for a long time. When the information was given, by some one outside the poll, that the Constables were coming, Mr. Papineau, one of the Candidates, addressed

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Minutes of Evidence.

Mr. Griffin, the Returning Officer, and made some observations on the impropriety of the High Constable's appearance there in his public capacity, as H. Heney, Esq. was the son of one of the Candidates; on which the Returning Officer 5th Jan'y. 1829. dismissed all the Constables, saying, that, their presence was not necessary; or that they were not wanted; or something to that purport.

344.—Do you know that Mr. Papineau, at any time, left the place where the poll was held, to allay any disturbance which might have arisen during the said election?

No; and I have already said that I had attended the poll from day to day. I have no knowledge that he left the poll to restore order; but at a moment when much noise was heard outside, he rose in his place and made some observations to the people to quiet them.

Jacques Viger, Esquire, of Montreal, afterwards appeared before the Committee, and was examined as follows:—

345.—Are you Surveyor of Highways and Bridges for the City and Parish J. Viger, Esqr. of Montreal, and how long have you been so?
I have been so since December 1813.

346.—Did several Commissions of the Peace issue during and under Lord Dalhousie's administration in this Province; and at what time did the last issue?

There were in fact several; I know that the first is dated the 19th October 1821, and the last in March 1828; I do not know the dates of the others.

347.—Did the last Commission produce many changes in the body of the Justices of the Peace for the District of Montreal?

Yes; Messrs. J. M. Mondelêt, Douaire Bondy, René de Labrière, F. X. Mailhot, Ignace Raizenne, Hugues Heney, François Antoine Larocque, P. Heilbrenner, James Leslie, Hertel de Rouville, François Mailhot, L. Chicouvert, Wm. Woods, Thomas Baron, and several other Magistrates for the District of Montreal, equally respectable and respected by their fellow citizens and qualified in every respect to fill that Office, were struck out of the last general Commission of the Peace, to the great dissatisfaction of the District. I cannot say whether many new Justices of the Peace were included in the said Commission of the month of March; I know that Mr. David Ross's name was inserted for the first time, and that this gentleman succeeded Mr. Gale as Chairman of the Quarter Sessions for the District.

348.—Was it not notorious that the names of many of the Justices of the Peace for the District of Montreal, had been struck out of the Commission on account of their opinions on public matters and with respect to Lord Dalhousie's administration?

Yes; it was the general opinion of the public.

349.—Were not some of the Justices of the Peace for Montreal, struck out of the last Commission for reasons peculiar to their case, in addition to the general cause above mentioned?

Yes; the general opinion was that Messrs. Mondelêt, Heney, Larocque, Baron, were struck out for having, on the 7th July 1827, signed a *super-petition*, to stay an order made by themselves, and several other Magistrates, on the 30th June preceding.

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350.—Did not some of the Magistrates tell you that the said *supersedeas* was the cause of the dismissal of those who had signed it?

J. Viger, Esqr.

5th Jan'y. 1829.

I recollect that the very morning of the day on which the last Commission of the Peace arrived at Montreal, Mr. David Ross, one of the new Justices of the Peace, and Chairman of the Quarter Sessions, in the place of Mr. Gale, by virtue of that same Commission, said to me, "Well, so the Magistrate of the *Supersedeas* are at last struck out." "Yes," answered I, (without appearing to hear him,) "I have already heard that the new Commission has arrived, and that Messrs. Leslie, de Rouville and De Labruère are not included," "that's true," said he, "but I am speaking to you about the gentlemen of the *supersedeas*." "Oh! are Messrs. Mondelêt, Heney, Larocque and Baron, no longer Magistrates?" "No"—"and what reason?" "why don't you know that it is because they signed your *supersedeas*?" "Certainly I do not know it; and unless you have an official communication from the Civil Secretary to tell you so, I won't believe any thing about it." Messrs. T. A. Turner, H. McKenney and Thomas Porteous, also Magistrates at Montreal, likewise attributed, in my presence, the striking out of the names of the four Justices of the Peace, (Mondelêt, Heney, Larocque and Baron,) to their having signed the *supersedeas* in question.

351.—What proceedings did you adopt on receiving the said *supersedeas*? It was served on me by two Bailiffs, and in the presence of Mr. Stanley Bagg, one of the parties interested, at the very moment I was proceeding to execute the order of the 30th June 1827. I thought it my duty to refrain, as the said *supersedeas* was signed by four Magistrates, who I knew were present at the Session of the 30th June 1827, and as I was bound by Law to obey the orders of the Magistrates, I went without delay to Mr. Gale, the Chairman of the Quarter Sessions, to whom I exhibited the said *supersedeas*, asking him for further directions in the embarrassment in which I found myself, by the contradiction in the two orders. Mr. Gale remained for some time undecided; I pressed him to tell me what I ought to do in such a case: he still hesitated; and at last said to me, "do what you like," "no Sir," said I. "I will only do what I ought to do; and if you tell me to go on, and to go and knock down the fence and house which occasioned the order of the 30th June, I will return immediately and knock them down in spite of the *supersedeas*." "Speak and I obey; here are my men, armed with axes, ready to return to the ground; only speak; for, as to me, I do not know which order to obey." Mr. Gale then answered me, "well, Mr. Viger, you need not proceed further; make your report to the Magistrates, and produce the *supersedeas*;" that said I discharged my men in Mr. Gale's presence, and in fact I reported to the Magistrates asking their further orders.

352.—Did not the said *supersedeas* relate to a nuisance, which Mr. Stanley Bagg was accused of having occasioned on the highway?

Yes; such was the complaint made against Mr. Bagg.

353.—Can you say, in your quality of surveyor of highways, &c. &c. &c. since 1813, whether the street or public passage which Mr. Bagg was charged with obstructing, was truly and legally a road or highway?

According to me, the ground on which Mr. Bagg had erected the fences and house complained of, and which I was ordered to knock down, as an obstruction or nuisance, did not belong to the public as a street or highway; as the

formalities

Minutes of Evidence.

formalities prescribed by Law, for the opening of a Public Road and for acquiring the ground, had not, in my opinion, been observed.

J. Viger, Esqr.
5th Jan'y. 1829.

354.—When Mr. Bagg committed the trespass mentioned above, was it in consequence of your report, as inspector, that the Magistrates took cognizance thereof ?

Yes, it was in consequence of my report, laid before the Special Sessions of the Magistrates in May 1827 ; Mr. Gale, the Chairman of the Quarter Sessions, having informed me a few days before, that the said trespass had been committed by Mr. Bagg, and having required me to ascertain the fact, and to make a report thereon, I assured myself by visiting the ground that the obstruction really existed ; and made a report thereof on the day above mentioned.

355.—If you thought, as you have just said, that this street or road was not legally the property of the public, how comes it that you thought it necessary to report the said trespass, which, in your way of looking at the matter, could not be considered as such ?

I knew that the Magistrates had approved, in a Special Session, the favorable report of a Jury summoned for the purpose of putting the City in possession of the ground in question ; and although I was convinced that all the formalities required by law had not been observed ; yet, being the officer of the Magistrates, it would not have become me to question the validity of their judgment homologating the said report ; and I therefore thought it my duty to inform them of the existence of the obstruction, and to ask their orders.

356.—It is not true that a great part of the ground so declared to be public property, by the report of the Jury, homologated by the Justices of the Peace, was publicly known to belong to the Ladies of the Montreal General Hospital ?

Yes, that was the general opinion ; and I believed so myself.

357.—Is it not true, that the Ladies of the General Hospital who are publicly supposed to be the proprietors of the said ground, were never regularly notified by the Justices of the Peace, that the Town intended to take possession of that part of their property, either at the time the Jury were summoned or after ?

Yes ; I myself requested the Magistrates, and particularly Mr. Gale, to notify on those Ladies, as well as Mr. Cuvillier, who was at that time building a wharf in front of his property, (adjoining that of the General Hospital) that the City took possession of their ground as being a public street ; but they finally refused, pretending that they were not obliged to do so by law.

358.—Did the Justices of the Peace at Montreal take any steps to obtain decision on the legality or illegality of the said *supersedeas* ; and what steps were taken ?

At a Special Session of the Magistrates held on the 4th August 1827, it was in fact, proposed to adopt measures with respect to the said *supersedeas*, and my report accompanying it. Mr. De Boucherville, one of the Justices of the Peace present, moved that the *supersedeas* and other papers relating to the question of the obstruction which Mr. Bagg was charged with having caused, should be placed in the hands of the Crown Officers, with instructions to bring the whole before the Court of King's Bench in order to obtain

Minutes of Evidence.

a legal decision thereon ; but the majority of the Justices of the Peace decided the contrary, and resolved to submit the whole to the consideration of His Excellency the Earl of Dalhousie ; which was immediately done.

J. Viger, Esqr.
5th Jany. 1829. 359.—Is it not true that since this reference was made to the Governor by the Magistrates, no decision has been given with respect to the *supersedeas*, and that things have remained in the same state in which they were at the time the said order was made?

Yes.

360.—Do you know of any law of this Province, referring to the Governor the judgment and decision of a point of law such as that to which the *supersedeas* gave rise ?

I know of none.

[Adjourned to Wednesday next.

Wednesday, 7th January 1829.

PRESENT :—Messes. *Viger, Heney, Leslie, Cuvillier, Lefebvre*, and *Bowdler*.

Mr. *Viger* in the Chair.

Jean Philippe Leprohon, Esquire, of Montreal, appeared before the Committee, and was examined as follows :—

J. P. Leprohon,
Esqr.

361.—Do you reside at Montreal, and how long have you resided there ?

I have always lived there.

362.—Are you one of the Justices of the Peace of Montreal, and since what time ?

Since 1800 ; or thereabouts.

363.—At what time did the last Commission of the Peace, for the District of Montreal, issue ?

In March or April last.

364.—Did this Commission, compared with the last, produce many changes in the District of Montreal ?

It produced many changes ; several of the Magistrates of the City included in the old Commission were omitted in the last.

365.—Was it not notorious at Montreal that the dismissal of many of the Magistrates whose names were omitted in the last Commission, was owing to their political opinions ?

Yes ; it was the general opinion.

366.—Were not some of the Justices of the Peace of Montreal dismissed for some particular reason, in addition to the mere general cause here above mentioned ?

It was publicly rumoured, that four of these gentlemen had been left out of the list, for having signed a certain *supersedeas*, relative to the obstruction of a public way, which Mr. Stanley Bagg was charged with having caused.

367.—Is it not true that some of the Magistrates included in the last Commission, have no property, and consequently offered no responsibility, and were known to have none when the last Commission issued ?

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Minutes of Evidence.

There are some.

368.—Can you name any of them ?

Doctor Parly, Thomas A. Turner, Henry McKenzie, James Finlay, Wm. Hollowell, D. C. Napier. I know of no property belonging to them.

369.—Do the Justices of the Peace generally enjoy public confidence ?

They are far from enjoying it as formerly.

370.—Did they not recently call one or several meetings of the citizens of Montreal ?

They lately resolved to call a meeting of the citizens of Montreal, and called the said meeting on the subject of certain improvements to be made in the City, and a loan for that purpose.

371.—Is it not true that a number of the citizens of Montreal who were at that public meeting, openly expressed their determination not to attend any longer at the said meeting, if it had been called by the Justices of the Peace at Montreal ?

It was not precisely for that reason ; but on motion this meeting was adjourned *sine die* ; and the reason assigned was, that the citizens were of their own accord to meet on a subsequent day for the same purpose, and that the Magistrates might attend at the meeting if they thought proper.

372.—Is it not true that several of the citizens who had called at the second meeting, and who were also Justices of the Peace at Montreal, thought themselves obliged to declare that they did not attend there as Justices of the Peace, and that they had not called the meeting in that quality ?

I heard so ; but I was not there at that time. When I arrived at the meeting, it was already organized and the discussions had commenced ; but in my presence the Magistrates of Montreal were accused of bad management, and severe reflections were passed on them ; and it is this which led me to judge that they had lost the public confidence.

373.—Did any person undertake the defence of the Magistrates ?

No.

374.—Were there several Justices of the Peace at that meeting ?

I observed five or six.

375.—Had this meeting been publicly called ; was it numerous and respectable, and could it be considered as representing the public opinion of the City of Montreal ?

Yes ; certainly.

376.—Are the Justices of the Peace at Montreal authorized in any case to advance any of the public monies of the Town.

A vote was passed for lending the sum of £100, to the Trustees of the new market, but only a small part of the sum was paid.

377.—Was the Road Treasurer authorized at any and at what time, to advance any sum out of the public monies ; and to whom ?

I am not aware that he was ; with the exception of the sum just mentioned.

378.—Are the Justices of the Peace accountable for the public monies of the Town ; and to whom ?

It has not come to my knowledge, that the Magistrates have, up to the present time, rendered an account to any person whatsoever ; but the account of receipt and expenditure has been published from time to time.

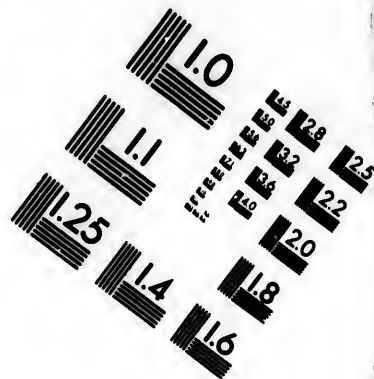
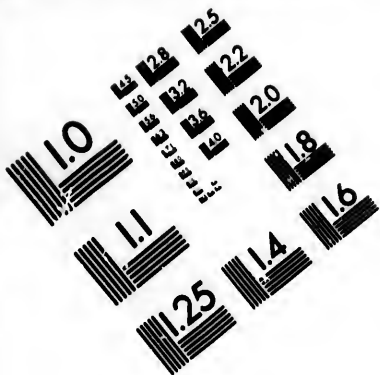
379.—Are not some of the Justices of the Peace also proprietors of the Montreal water-works ; and if this is the case, can you name them ?

Yes ;

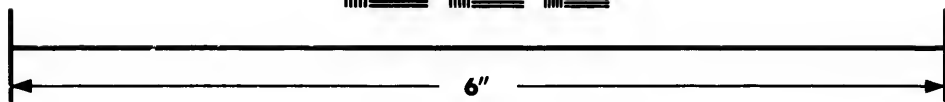
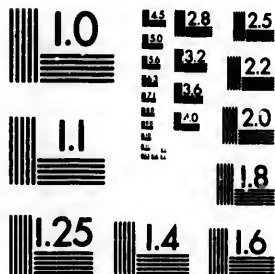
J. P. Leprohon,
Esq.

7th Jan'y 1829.





**IMAGE EVALUATION
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Minutes of Evidence.

J. P. Leprohon, Yes; I shall name Messrs. Porteous and Griffin, who are so either as
Esqr. agents or proprietors.

7th Jan'y. 1829. 380.—Are they subject to come frequently into collision with the other Justices of the Peace with regard to the streets of the Town, which they are from time to time obliged to break up for the purpose of extending or repairing the water pipes?

I do not know how it may be at present; but that has happened formerly.

381.—By whom are the duties of the Clerks of the markets performed?

By Léon Bernard Leprohon.

382.—Is he the sole Clerk of the markets?

No; Mr. L. M. Marchand is also Clerk of the markets conjointly with my son; I am informed that he obtained leave of absence, 15 or 18 months ago.

383.—Is Mr. Marchand one of the Justices of the Peace for the District of Montreal, and did he not reside at Montreal and hold there, and at the same time, the office of Clerk of the markets and that of Justice of the Peace?

Yes.

384.—Are not the Clerks of the markets obliged to make frequent reports to the Justices of the Peace on the state of the markets; and are they not made dependent on them by the regulations concerning their duties, and by which the emoluments are fixed?

Yes.

385.—Are not the Justices of the Peace bound by law to meet every month, and at such meeting to make out a statement of the works necessary in the Town and City, and to appoint a Committee from among themselves to cause the said works to be executed?

According to the act of 1825, they ought to do so the first Monday in every month: and on the first Monday in the month of May the Committee of three, was appointed for the year, to superintend the works.

386.—Who are the Justices of the Peace composing the said Committee?

The Committee was composed of Messrs. Guy, Molson and Griffin, up to the first Monday in August last, on which day Mr. Guy, declared he had been and was unwilling to serve, because he considered the proceedings of the Magistrates contrary to law.

387.—What reasons did Mr. Guy assign on this occasion?

That the meeting for the purpose of assigning the work to be done, ought to be held every month; that this had not been done on the first Monday in the month of May preceding; and further, because, he would not agree to certain work ordered to be done in St. Joseph street in the St. Joseph Suburb.

388.—Who took Mr. Guy's place in the Committee?

Myself.

389.—Are the public monies of the Town employed exclusively to the objects for which they are appropriated; and is this done in a judicious manner and conformably to the wants of the Town?

I believe that they have been employed with the intent to do the public justice, but in my opinion they might have been employed more profitably than they have been.

390.—Can you point out any particular case in which the said monies have not been employed as they ought to have been, most advantageously for the Town?

Yes;

Minutes of Evidence.

Yes; I think that the McAdamization of St. Joseph Street at a considerable expense might have been avoided, as it was to be expected that the Turnpike Road act would be renewed; in which case the Town would only have to pay twenty five pounds annually for the greater part of the said road.

J. P. Leprokov,
Esqr.

7th Jan'y. 1829.

Secondly; It appears to me, that a stone bridge of a single arch was inadvisedly built in a part of the town but little frequented.

391.—Did not the Justices of the Peace order in Session, that the said bridge should be built of wood?

Yes; the carpenter had even got the materials ready, but Messrs. Molson and Griffin, two of the members of the Committee, caused it to be built of stone, alleging that the difference of the expense was only twenty odd pounds.

392.—By whom were the repairs and improvements made, last year, to the market house of the new market at Montreal, ordered?

By the market Committee.

393.—Who composed the said Committee?

Messrs. Porteous, Turner, Parry, Napier and De Montezach.

394.—At what time was this Committee appointed?

On the first Monday in May, as far as I can recollect.

395.—Did they receive directions from the Justices of the Peace, at the time they were appointed, to cause the said works to be executed?

No; I have no knowledge of any Session at which a work of this nature was ordered; and I do not believe that one was held for that purpose.

396.—Were these repairs urgently necessary; and to what sum might the expense attending them amount?

I considered that the expense was necessary; as to the amount, a meeting of the Magistrates was held to consider the expense, and to determine whether the market Committee had a right to take upon themselves to order it without an order from the Magistrates; the majority of the meeting approved the conduct of the Committee,—the members of the Committee themselves voting with the majority; without which the said majority in favor of the Committee would not have been obtained. This expense was also incurred in contravention of a resolution entered in the Register of the Special Sessions, by which the Committee were restrained from expending on the market any sum greater than ten pounds, without the order of the Magistrates: these expenses were, as I have been informed, as follows, viz: one hundred and eighty odd pounds for clapboarding (*l'entourage*) the market house, and about eighty pounds for the floor; we have not been able to learn the exact amount, because the Committee pretend that they are not bound to render an account before the end of the year.

397.—Was the said work done with proper economy; and were the public proposals required in such cases by the road law made?

I do not believe that the said work was done with proper economy; and I produce the certificate of a contractor who is well known, by which it appears that he would have been able to do the flooring for £32 15s. instead of which it cost about £80; the certificate is as follows:—

"I, the undersigned, residing in the Town of Montreal, after having inspected the flooring laid by the Magistrates under the market house in the new market,

Yes;

Minutes of Evidence.

J. P. Leprohon, " market, declare that I would have done the same work as it is now done for the sum of thirty two pounds fifteen shillings currency ; and that I am E. q. " and shall be ready to do an equal quantity of the same work for the said sum.

7th Jany. 1829. " Montreal, 5th January 1829.

(Signed,) HUBERT SEXTENNE."

and no public proposal was made to my knowledge.

398.—Is the said Hubert Sextenne, who signed the certificate, a man of credit and worthy of confidence ?

Yes ; he is a man of character and worthy of confidence.

399.—Are not the Justices of the Peace, and especially the Watch and Night-Light Committee of the Town of Montreal, the natural superintendents of the said establishment ?

Yes.

400.—Do you know that any person not belonging to the establishment of the Watch, has been employed at Montreal as a spy upon the officers and men belonging to the watch ?

I was told that a man of the name of Moon was employed to superintend the watch.

401.—Do you know whether it was the Watch Committee who employed this man ?

Mr. Ross told me that it was he who employed him, and that he found the benefit of it. He (Mr. Ross) was one of the members of the Committee ; another Member of the Committee told me he had not heard it spoken of.

402.—Was this man one who could be recommended, and whose activity and honesty could be better depended on than the vigilance of the officers of the watch ; by what name and style was he known and designated at Montreal ?

I am not acquainted with him ; I know the officers of the watch to be persons who could be depended on ; Moon was known by the name of the " Watch Spy."

403.—Who appoints the officers and men of the watch ?

The Watch Committee who are chosen from among the Magistrates and by them.

404.—Do you know the new market erected at Près-de-Ville, at Montreal ?

Yes.

405.—Is it so situated as to be useful and to meet the wants of a large portion of the inhabitants of the Town and Suburbs of Montreal ?

I consider it as central, and useful to the inhabitants of the St. Lawrence and St. Anthony Suburbs.

406.—Do you know whether the proprietors of the said market have offered to place it in the hands of the Justices of the Peace, and whether the purchase thereof would have been advantageous to the Town ?

The proprietors made the offer ; and I believe the purchase would be advantageous to the Town, if the conditions were reasonable.

407.—Is the Little River which runs behind the Town of Montreal, considered unfavorable to the healthiness of the Town ?

It is ; and I am surprised that contagious diseases have not been occasioned

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Minutes of Evidence.

ly it; this is the opinion of many Physicians : a person was drowned there ; and one family lost four children in the course of three months, which the Physicians attributed to the unhealthy exhalations from the said River.

408.—Do you believe it would be practicable to give it another, and what course ? J. P. Leprohon,
Esq.
7th Jan'y. 1829.

It might be turned through Monarque street, and made to discharge itself into the St. Lawrence at a small expense. A plan relating to this subject was made by the Road Surveyor.

409.—Do you know that several prosecutions for Libel were brought before the Criminal Court at Montreal last year ?

Yes.

410.—Were not the said prosecutions occasioned by certain writings published at Montreal, in the "*Canadian Spectator*," "*La Minerve*," and the "*Spectateur Canadien*?"

I believe so.

411.—Have you, since the year 1827, observed writings and paragraphs extremely violent against the people of the Country, their representatives, or the House of Assembly, published in the Official Gazettes and other papers in the interest of the administration ?

I have observed such paragraphs in the "*Montreal Gazette*" to which I subscribe ; I seldom see the others.

412.—Do you know that any of the Editors or Printers of the said Gazettes have been prosecuted for Libel ?

I do not know that they have.

413.—In your opinion, have not the said Gazettes afforded matter as legitimate for prosecution for Libel, as the news papers mentioned in the first instance ?

I am unable to judge of that.

414.—Do you know whether any difficulty has been found at Montreal, in getting together the number of Magistrates necessary for the holding the Quarterly or Weekly Sessions ?

Yes ; it has several times happened, that the opening of the Court has been retarded by the want of Magistrates, as well at the Weekly Sessions as at the Quarter Sessions of the Peace.

415.—Has this difficulty been experienced for some years ?

Yes ; since the Magistrates have ceased to have an understanding with each other to attend in turn.

416.—How long have the Magistrates ceased to make arrangements for attending in turn ?

From the moment that a Chairman of the Quarter Sessions was appointed.

417.—Did the Chairman of the Quarter Sessions begin, at the same time, to attend in the office which has since been known under the name of the Police Office ?

Yes.

418.—Have one or more Magistrates been some times paid for holding the Quarter Sessions, or for holding the Weekly Sessions, besides the Magistrates who had been for some years past appointed to preside at the Quarter Sessions of the Peace ?

Minutes of Evidence.

J. P. Leyrohon, Esqr. I believe that when the Chairman has been absent, the Magistrate who has attended at the Police Office in his stead has been indemnified for the loss of his time by the Chairman.

7th Jany. 1829. 419.—What has induced you to believe this ?

Because the person who was indemnified told me so himself ?

420.—Is it not true that Mr. Gale, in order to ensure the presence and co-operation of some one of his fellow Justices of the Peace on the Bench, has been obliged to pay such Magistrate according to a rate agreed upon for each sitting ?

It is true that the Chairman of the Quarter Sessions gave an indemnity to the Magistrate who sat with him in the Weekly Sessions ; this indemnity was about ten shillings per Session, this lasted but a very short time.

Pierre de Boucherville, was again called in, and examined:—

P. de Boucherville, Esquire. 421.—By whom were the repairs and improvements, made last year, to the market house of the new market at Montreal, ordered ?

They were made by the Committee for superintending the markets, and after their own movement ; to the best of my knowledge.

422.—Who composed the said Committee ?

Messrs. Porteous, Turner, Pardy, Napier and De Montenach.

423.—Had they received directions from the Justices of the Peace, at the time of their appointment, to cause the said work to be done ?

No.

424.—Were these repairs urgently necessary ; and to what sum might the expense amount ?

The said repairs may be looked upon as essential, but not as of peculiar urgency ; I believe the expense amounted to near £300.

425.—Was the said work performed with proper economy ; and were the public advertizements required in such cases by the Road Law made ?

Messrs. Delorme and Sextenne, persons who undertake such work, have declared that more than its value was paid for the said work. I believe that the work was done uneconomically. No public notice, by advertizement or hand bills, was given with relation to the said work.

426.—Were one or more meetings of the inhabitants of Montreal called in November and December last ?

In November last, the Magistrates of Montreal, met in Special Sessions, decided that it would be necessary to call a meeting of the inhabitants of the Town of Montreal, for Saturday the 24th November, for the purpose of taking into consideration certain resolutions relating to the improvements to be made, whether in the port or harbour of Montreal, the Little River, in Craig's street, or the roads in general.

A second meeting of the inhabitants took place on the 1st of December, the meeting of this object of which was to petition the Legislature for the purpose of obtaining an act to Incorporate the City of Montreal, was announced by many of the inhabitants in the public papers.

427.—Is it not true that a number of the inhabitants who attended the said meeting, loudly expressed their intention not to remain any longer at the meeting if it had been called by the Justices of the Peace at Montreal ?

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Minutes of Evidence.

The meeting held at the invitation of the Magistrates was numerous. No reflection was made upon the Magistracy. It was easy, however, to read the mute language of the meeting which seemed to say to us, "*your reign is over*;" for Mr. Ross had no sooner opened the meeting than a motion to adjourn (*sine die*) was made and carried by a great majority, and that, without being willing even to hear the resolutions which had been drawn up and read, or the arguments in support of them.

P. De Boucherville, Esqr.

7th Jan'y. 1829.

At the meeting held on the 1st December, a voice was heard enquiring whether the meeting had been called by the Magistrates; and on an answer being given in the negative, the same voice said, "*that's good, let's stay.*" I cannot point out the individual, he was in the crowd.

428.—Is it not true that several of the inhabitants who had called the second meeting, and who were also Justices of the Peace, thought themselves obliged to declare that they were not present as Justices of the Peace; and that they had not called the meeting in that quality?

When the voice, (I cannot say whose) that I have spoken of was heard, enquiring whether the meeting had been called by the Magistrates, Mr. M'Gill declared, as well in his own name, as on behalf of several of the Magistrates who had signed the notice or invitation to the public to meet for the purposes already mentioned; that they had not intended to invite or call the meeting as Magistrates, but that on the contrary, they had done so in their quality of citizens.

429.—Was the conduct of the Magistrates censured at the said meeting?

The general conduct of the Magistrates was censured by several persons, and that in the strongest manner; we were spoken of as ignorant and prejudiced men who were unworthy of the public confidence.

430.—Did any one then undertake the defence of the Magistrates?

No; that would have been contrary to the rules.

431.—Were there many Justices of the Peace at this meeting?

Yes; many of us attended.

432.—Was this meeting publicly called; was it numerous and respectable; and could it represent the public opinion in the Town of Montreal?

This meeting was called in the public papers: it was numerous: I cannot say positively, but I believe there were four or five hundred persons present. It was in every sense respectable; the majority were Canadian proprietors. I think this meeting might represent the public opinion.

Jacques Viger, Esquire, appeared again, and was examined:—

433.—Can you say whether the number of Justices of the Peace appointed by the last Commission, in the District of Montreal is proportionate to the population of the District; or if the number appointed in the City and County of Montreal is proportionate to the population?

J. Viger, Esqr.

The number of Magistrates in the District of Montreal is, I believe, 170, exclusive of the Judges and Councillors by whom the number is increased to 209. The population of the District in 1825, was 224,324 persons. I may safely say that the great Majority of this population were Canadians, or persons born in Canada; but I cannot fix the exact number, as I can with respect

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Minutes of Evidence.

J. Viger, Esqr. spect to the County of Montreal, of which I made the census, in 1825, with Mr. Ls. Guy. As to what remains, having assured myself that of these 209 Magistrates (including the Judges and Councillors) only 70 are Canadian born, and 139 born out of the Country, I can safely say that the Canadian population is not represented as, its appears to me, its numbers would require in the Magistracy of the District. With regard to the County of Montreal in particular, the population was in 1825, 37,279 souls.

7th Jany. 1829.

Of this number there were born in the Country, 28,850
out of the Country, 8,699

37,279

The number of Magistrates in the County in 1828 (the Judges and Councillors residing there being alone reckoned) was 44,

Of which there were Canadians born in the Country, 12
out of the Country, 32

44

The City of Montreal reckoned within the limits in 1825, 22,540 persons subject to assessment and other taxes, of which the Magistrates residing within the limits, have the administration,

Of this number there were, born in the Country, 15,120
out of the Country, 7,420

22,540

The Magistrates residing in the City in 1828 (Judges and Councillors reckoned as above) were in number 40.

Of whom there were born in the Country, 10
out of the Country, 30

40

434.—Do the Magistrates generally enjoy the confidence of the public? I am sorry to say, that I do not believe they enjoy it.

435.—To what can this want of confidence be attributed?

It is, I believe, from the establishment of a Police Office at Montreal, that the commencement of the falling off in the popularity of the Magistrates in this City may be dated. Before this time, the Magistrates were all equal, and gratuitously performed the duties which were common to all. Since the establishment of the Police Office, the Magistrates who have been placed at the head of it, and paid in consequence, have taken the lead in all the business and have become the exclusive organs of communication between the administration and the municipality; a mode of proceeding which could not fail to excite discontent among the other Justices of the Peace, and to induce some of the most respectable and most useful men among them (both as regards activity and intelligence,) from that time to take no part in the business of the City, except at long intervals; thinking as they did that this new order of things must tend to lower them in the public confidence. Since that time, and particularly under Lord Dalhousie's administration, the public disfavor in which the Montreal Magistracy has been held, has been real and constantly increasing. The following are, I believe, some of the causes of this disfavor.

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Minutes of Evidence.

Many of those who are included in the Commission which he issued, and particularly in the last, do not possess the confidence of the public, and are, on the contrary, looked upon with an evil eye: some of them are Bankrupts, Clerks, men without property, not merely in the City, the revenues of which they administer, but even in the District. Many of the Canadian Magistrates, (the number of whom was far from being proportionate to the Canadian population of the City,) were omitted in the last Commission of the Peace.

J. Viger, Esqr.

7th Jan'y. 1829.

436.—Have they not lately called one or more meetings of the inhabitants of Montreal?

Two meetings of the inhabitants of Montreal were lately called for the purpose to petition the Provincial Parliament on various subjects of peculiar interest to the City of Montreal. The first of these meetings was expressly called in the name of the Magistrates, by the Clerks of the Peace; the second by an advertisement in the papers signed by several inhabitants known to be Justices of the Peace.

437.—Did it not happen, that a number of the inhabitants of Montreal who were present at a public meeting in the month of December last, loudly expressing their intention to remain no longer at the said meeting, if it had been called by the Justices of the Peace at Montreal?

Yes; and this was at the first of the two meetings I have spoken of, or that called by the Magistrates.

438.—Is it not true, that several of the inhabitants who had called the second meeting, and who were also Justices of the Peace at Montreal, thought themselves obliged to declare that they were not present as Justices of the Peace, and that they had not called the meeting in that quality?

Yes; this was said by Messrs. McGill, Moffatt, and others, in answer to a direct question to this purport, put by many of the persons present, who at the same time declared in the name of the meeting and with the approbation of those present, publicly shewn by acclamation, that they would have nothing to do with the Magistrates, and that they would retire if they knew they had been called by them to the present meeting. It was not till after the answer aforesaid that these words were heard, "Oh! then let's stay."

439.—Was this last meeting publicly called; was it numerous and respectable; and can it be considered as representing the public opinion of the Town of Montreal?

It had been publicly called; it was very numerous and respectable, and certainly represented the public opinion in Montreal; a very great majority of the persons present were proprietors in the City.

440.—Are the Justices of the Peace at Montreal authorized in any case to lend any of the public monies of the Town, or to borrow money with or without interest?

I know no law which permits them to do so.

441.—Was the Road Treasurer authorized at any and at what time, to lend any sum out of the public monies, and to whom; or to borrow money, and from whom?

He was authorized by the Magistrates in 1827, to lend £100 to the Trustees of the market then contemplated between the Town and Pointe à Calière, under the Act 7th Geo. IV. Chap. 14; but I do not know whether he lent the said sum or any part thereof. He was in like manner authorized to

borrow

Minutes of Evidence.

J. Viger, Esq. borrow from the Watch Chest, in 1819, and 1820 ; I do not know to what amount. The Special Session of 12th July 1823, also authorized him to borrow 500*l.* from the Montreal Bank ; I do not know whether he did so.

7th Jany. 1829.

442.—Were the Trustees of the Market you have just spoken of, themselves Justices of the Peace, &c. ?

Yes.

443.—Was the Road Treasurer in any instance authorized to pay the Creditors of the Town, the interest on the amount of their respective accounts, in consequence of the said accounts not having been paid for want of the necessary funds ?

It is within my knowledge, that, in 1824, the Road Chest not being in a state to meet the whole of the expenses of the year, and the Contractor, Delorme, pressing the liquidation of an account of more than 600*l.*, which he had against it, for Carpenters' work and materials ; the Magistrates, in their Session of the 9th January, consented to pay him the interest of the said sum ; and thereupon authorized the Road Treasurer to pay it to him, until the account should be liquidated.

444.—Are not some of the Justices of the Peace at Montreal also proprietors of the Montreal Water-works ? and if so, can you name them ?

I know two of them, Messrs. Thomas Porteous and Henry Griffin.

445.—Are they not frequently exposed to come into collision with the other Justices of the Peace, with respect to the Streets of the Town, which they are obliged to open from time to time, in order to extend or repair the water pipes ?

Yes.

446.—Is either of these gentlemen a member of the Committee appointed to superintend the keeping up and repairing of the Roads and Streets in the City ?

Yes—Mr. Griffin.

447.—Has any inconvenience arisen from this : and what inconvenience ?

The Proprietors or Shareholders in the Montreal Water-Works, if they are Justices of the Peace residing in the City, unite the contradictory powers of breaking up the Pavement, and opening the Streets as often as they think proper, and of giving orders to the Road Surveyor, in Special Sessions of the Peace, to pave or repair the Streets in general. If these Shareholders, who are Magistrates themselves, neglect to repair the Streets opened by them, they are liable to receive orders, (sometimes very peremptory ones) from their fellow Magistrates to do so, and that to the satisfaction of the Surveyor, and under pain of being prosecuted by that officer. The Shareholding Magistrates may sit at all the Sessions of the Peace, and have more or less influence on the deliberations. The Surveyor is placed in an extremely painful situation, and is liable to suffer from his strictness, in the performance of his duty. I ought to observe, that the operations carried on in the Streets of Montreal, by the Proprietors of these Water-Works, have been, for many years, the subject of repeated deliberations on the part of the Montreal Magistrates, and a subject of contention between them, and the Magistrates who are Proprietors of the said Water-Works.

[Adjourned until to-morrow.

Friday,

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Minutes of Evidence.

Friday, 9th January 1829.

W. S. Sewell,
Esquire.
9th Jan'y. 1829.

PRESENT :—Messrs. Viger, Heney, Lefebvre, Leslie and Bourdages.

Mr. Viger in the Chair.

William Smith Sewell, Esquire, Sheriff of the District of Quebec, appeared, and gave in, according to the order of the Committee, a List of the Grand Jurors, summoned for the Court of King's Bench for the March Term of 1828, and also of those summoned for the November Term of the same year: which Lists are as follow:

List of the Grand Jurors summoned for the Court of King's Bench, in the Criminal Term of March 1828.

Sworn.....Amable Berthelot, { appointed Foreman by the Court.

Ditto.....William Finlay, {
I don't believe they attended. } { William G. Sheppard, William Price,

Sworn.....Joseph Morrin,
Excused.....John W. Woolsey,

Sworn.....Charles A. Holt.
Ditto.....William Patton,
Ditto.....Edmund Antrobus,

Ditto.....John Fraser,
Ditto.....Robert Paterson,
Ditto.....William Phillips,

Ditto.....Henry Lemesurier,
Ditto.....Robert Shaw,
Ditto.....Joseph Cary,

Ditto.....David Burnet,
Ditto.....John G. Irvine,
Did not attend, I believe.....Michel Sauvageau,

Sworn..... { Narcisse Duchesnay, Francois Drolet,
Did not appear.....The Hon. Charles De Léry,

Sworn.....Joseph Leblond,
Ditto.....Michel Clouet,
Ditto.....Henry J. Russel.

(Certified.)

WM. S. SEWELL.

List of the Grand Jurors summoned by me for the Court of King's Bench, held in September 1828, at Quebec:

John Davidson, Foreman.....Point Levi,
Nicolas Boissonnault.....Quebec,
Thomas Lee.....Ditto,
James McKenzie.....Ditto,
William Henry Roi.....Ditto,
Louis Panet.....Ditto,
Daniel Sutherland.....Ditto,

William

Minutes of Evidence,

<i>W. S. Sewell,</i> <i>Esquire.</i>	William Pemberton.....	Quebec,
	Etienne Féréal Roi.....	Beaumont,
9th Jan'y. 1829.	John McNider.....	Sainte Foi,
	Charles L'Etourneau.....	Saint Thomas,
	Jacques Oliva.....	Ditto,
	Edward Hale.....	Port Neuf,
	George Hamilton.....	Point Levi,
	Dominick Daly.....	Quebec,
	John Caldwell.....	Ditto,
	Charles Chapais.....	River Ouelle,
	J. B. Taché.....	Kamouraska,
	Benjamin Tremain.....	Quebec,
	Alex. C. Buchanan.....	Ditto,
	Thomas Gordou.....	Ditto,
	Charles De Léry.....	Ditto,
	Thomas Cuzeau.....	Kamouraska,
	Amable Dionne.....	Ditto,
	Pascal Taché.....	Ditto,
	Pierre Canac, dit Marquis.....	Saint André,
	Alexander Simpson.....	Quebec,
	John Leather.....	Ditto.

(Certified)

W. S. SEWELL,
Sheriff.

He was then examined as follows :

448.—Were there any other Grand Jurors summoned to attend this Court, besides those whose names are found in this List ?

No other.

449.—Were not some of the Jurors named in this List, twice summoned ? if so, can you assign the reason of this ?

They were summoned twice, and the reason is this: My Clerk had filled up blanks for the Quarter Sessions instead of those for the Superior Term; having learnt which, I ordered him to summon the same persons anew; which was done, with the exception of Mr. Lee, who was forgotten by mistake, as he himself informed me on the morning the Court opened, upon which I requested him to stay, in order that he might be sworn, which he refused to do.

450.—Who was the person substituted in the List in place of Mr. Lee ?

No one.

451.—Where do the Grand Jurors named in this List reside ?

They are all resident within the walls of Quebec, except Mr. Russel, who resides in the Baulieu. I have always made a practice (and I believe it was the case with my predecessors) of summoning the Grand Jurors from the City, for the March Term, and those from the Country Parishes for the September Term; because it is difficult for the Jurors from the Country to attend in March, whilst in September it is equally inconvenient for the Merchants.

452.—Are the Roads impassable in either of those months ?

No—not impassable.

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Minutes of Evidence.

453.—Have there been any Courts of Oyer and Terminer in this District during the last five years ?

Not one.

454.—Whence are the Petty Jurors summoned ?

In great part from the City and County of Quebec.

455.—What is the number of those who are taken from that part of the County which lies outside the Town ?

A very small portion ; about an eighth.

456.—When Jurors are summoned from parts of the District lying outside the Town, in what portion are they to those from the Town ?

In general they amount to about a fourth.

457.—Have you never summoned a greater number from those parts of the District lying outside the City of Quebec ?

I have summoned a greater number, to the extent even of one third : in the last Term all the Canadian gentlemen, except three or four, were from the Country.

458.—By *Canadians*, you mean, no doubt, those born in the Country ?

Yes.

459.—Did you make only one List or Panel of Grand Jurors for the March Term of 1828 ?

There was only one.

460.—You have said that Mr. Lee had been forgotten, when the gentlemen of the Grand Jury were summoned a second time, in March last ; how comes it that this gentleman was summoned the first time, since his name could not be in the List or Panel of the Jurors for the said Term ?

I do not know how that happened ; perhaps my Clerk could give some information on this subject :—Mr. Lee had a conversation on the subject with Plamondon, the Bailiff, who served the summons, as I was informed by Plamondon, who could perhaps likewise give some information on the subject.

Amable Berthelot, of the City of Quebec, Esquire, appeared, and was *A. Berthelot, Esq.* examined as follows :

461.—Were you summoned as a Grand Juror for the Criminal Term held at Quebec, in March last ?

Yes—by virtue of two Writs of Summons, one dated the 10th March 1828, and the other the 12th of the same month.

462.—For what reason were you twice summoned for the same Term ?

I know nothing about it.

463.—Was not the first summons you received erroneous, inasmuch as you were summoned for the Court of General Quarter Sessions, instead of the Criminal Term of the Court of King's Bench ?

Both Summonses were in the same form, and both for a Court of Criminal Jurisdiction, which was to be held on the 22d of the said month of March.

464.—Can you produce them both ?

Yes—here they are.

W. S. Sewell,
Esquire.

9th Jany. 1829.

Minutes of Evidence.

A. Berthelot, Esquire. " Province of Lower Canada, }
District of Quebec. }

9th Jany. 1829.

" Sir,

" You are hereby summoned to attend as Grand Juror, at a Court of Criminal Jurisdiction, which will be holden at the Court House in this City, on Saturday the 22d day of March instant, at ten in the morning, to do and receive all things which on the part of our Sovereign Lord the King, shall then and their be enjoined you, and herein fail not at your peril.

Quebec, the 10th day of March 1828.

" W. S. SEWELL,
" Sheriff."

" Amable Berthelot, Esquire."

" Province of Lower Canada, }
District of Quebec. }

" Sir,

" You are hereby summoned to attend as a Grand Juror, at a Court of Criminal Jurisdiction, to be holden at the Court House in this City, on Saturday the 22d day of March instant, at ten o'clock in the forenoon, to do and receive all those things, which on the part of our Sovereign Lord the King, shall then and there be enjoined you. Hereof fail not at your peril.

" Quebec, the 12th day of March 1828.

" WM. S. SEWELL,
" Sheriff."

" Amable Berthelot, Esquire."

465.—Do you know whether several of the Grand Jurors serving as such during the said Term, also received two summonses ?

I heard it said so.

466.—What is the proportion in the District of Quebec, of the number of persons born in the Country, to that of those who have come from other places, and settled there ?

The number of the persons born out of the Country does not amount to one eighth part of the whole population of the District.

T. Lee, Esq. *Thomas Lee*, Esquire, one of the Members of this House, was then called, and Examined as follows :

467.—Were you summoned to serve as Grand Juror, for the last March Term ?

Yes.

488.—Did you serve as such ?

No.

469.—For what reason ?

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Minutes of Evidence.

There was a mistake in the summons. I had been summoned to attend as Grand Juror at the Court of Quarter Sessions: I perceived the mistake, but thought it my duty, nevertheless, on account of the important business which was to come before the said Criminal Court, during the Term, to attend on the day appointed. When I reached the Court House, I went up to the Grand Jury Box; I learnt from a great number of the gentlemen present, that they had all received a second and regular summons. I remained a few moments with them, and on reflection, thought it right to withdraw. I went to the Sheriff's office to obtain information as to the reason for which a distinction had been made between me and the rest. The Sheriff, whom I first addressed, seemed not to know the reason; he turned to the Clerk of the office, who, on referring to the List, told him, "Mr. Lee's name was on the first List, but is not in the second."

T. Lee, Esq.
 9th Jany. 1829.

470.—Can you produce the Writ of Summons which was served on you? I believe I have it, and will produce it.

Mr. Lee afterwards produced the Writ of Summons, which is as follows:

" Province of Lower Canada, }
 District of Quebec. }

" Sir,

" You are hereby summoned to attend as a Grand Juror at a Court of Quarter Sessions, to be holden at the Court House in this City, on Saturday the 22d day of March instant, at ten o'clock in the forenoon of the same day, to do and receive all those things which on the part of our Sovereign Lord the King shall then and there be enjoined you. Hereof fail not at your peril.

" Quebec, the 10th day of March 1828.

" W. S. SEWELL,
 " Sheriff.

" Thomas Lee. Esq."

Jacques Viger, Esquire, again appeared, and his examination was continued.

471.—By whom are the duties of Clerk of the Markets at Montreal performed? *J. Viger, Esq.*

Messrs. Louis Marie Marchand, and Léon B. Leprohon, are Clerks of the Markets at Montreal. Mr. Leprohon has acted alone for two or three years, since Mr. Marchand retired to St. Ours, and this, if I am well informed, by permission of the Earl of Dalhousie.

472.—Do you not know that a Clerk of the Markets at Montreal, being at the same time a Justice of the Peace, sat as such when the Tariff of the Clerk of the Markets was under consideration; and did not the said Magistrate leave the Bench in consequence of a remark made in Court, on the impropriety of this proceeding?

I remember that this happened to Mr. Marchand in my presence. He was

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Minutes of Evidence.

J. Viger, Esq. of the Peace. A Tariff, or some new Regulations concerning the Clerks of the Markets, was published and read, (*public*) by the Clerk of the Peace. 9th Jany. 1829. Mr. Marchand continued. I believe it was Mr. Ross the Advocate, who, on a remark made by some gentlemen of the Bar, of whom he was senior, by the date of his Commission, rose and pointed out the impropriety of this proceeding: he even, I believe, went so far as to say, that the Tariff or Regulations, might, by this single act, be liable to be set aside as null, whenever it should be wished to enforce it. Mr. Marchand made no difficulty about leaving the Bench, and another Magistrate, then in Court, took his place.

473.—Are not the Clerks of the Markets obliged to make frequent reports to the Justices of the Peace, concerning the state of the Markets; and are they not made dependant on them, by the Regulations concerning the duties of the Clerks of the Markets, and by which their emoluments are fixed?

The Clerks of the Markets are Commissioned by the Governor; but their emoluments depend entirely on the Magistrates, who are authorized by Law to make a Tariff of their fees: their duties are also prescribed by the Regulations made by the Magistrates.

474.—Are not the Justices of the Peace bound by Law to meet every month, and at such meeting to make out a statement of the work necessary to be done in the Town and City, and to appoint a Committee from among themselves, to cause the said work to be executed?

Yes—by the Act of the 5th Geo. IV. chap. 3.

475.—Has the Law been executed in this respect at Montreal, during the course of last year?

On the 5th of May last, (the first Monday in the month) the Magistrates of Montreal did in fact choose a Committee to superintend the work to be done during the year 1828, but instead of appointing them for one month only, according to the intent of the Law, they passed the following Resolutions:

“ On motion of Mr. Ross:—Resolved, That a Committee of Magistrates be appointed to superintend the public work for the present year, which will expire on the first Monday in May 1829.

“ Resolved, That Messrs. Louis Guy, John Molson and Henry Griffin do compose the said Committee.”

These Resolutions did not pass without a division: and instead of ordering the work to be done during each month, the Magistrates in their Session of the 7th of the same month, after examining the report of the work to be done in 1828, made by the Committee of works, for the preceding year, passed the following Resolution:

“ Resolved, That the Road Committee do take the said report, and be charged to cause the same to be carried into execution during the present year.”

This Resolution also did not pass, until after a division.

476.—Are the public monies of the Town, arising from the Assessment and other funds, employed exclusively to the purposes for which they are appropriated; and in a judicious manner, and conformably to the wants of the Town?

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Minutes of Evidence.

I do not believe the public monies of the Town are employed otherwise than as they are appropriated, but I do not believe they have been employed as judiciously as they might have been, as regards the wants of the Town.

J. Viger, Esq.
9th Jan'y. 1829.

477.—Can you mention any particular cases ?

The main street of the St. Lawrence suburb, which forms a very much frequented (and on that side almost the only) line of communication between the Town and the Country, and especially the Quarries, and under which there are, along its whole extent, public sewers, made by the Town, ought, as it appears to me, to have been McAdamized (*empierrée*) in preference to St. Joseph street, in the suburb of that name, which has been McAdamized this year, at great expense, and in which flagged footpaths and drains have been made, and under which there are no public sewers for carrying off the water from the ground adjoining it.

The work last mentioned cost more than 750*l*.

It was said at the time that there was no need for pressing the execution of this work : that the renewal of the Lachine Turnpike Road Act was expected, and that in that case the Town would only be subject to an annual expense of about 25*l*. for the greater part of the said street.

A sewer under St. Elizabeth street, in the St. Lawrence suburb, was very necessary, it was projected several years ago, and still remains to be done. It would have been necessary to turn the waters of the Little River, which, running through a piece of low lands, overflows in the suburbs, and the waters of which becoming stagnant, make the air unwholesome, in addition to the inconveniences resulting from it : this has been for many years a subject of complaint. The inhabitants also complained that the Beach of the river opposite the Town was neglected. I think that the opening of many new streets, or the establishment of the necessary public squares (*places*) as well as the construction of sewers under several streets, have been neglected. I may also, at this moment, refer to the evidence I gave before a Committee of this House, on the 10th of March 1825, with regard to the works and improvements necessary in the Town of Montreal, which have been long projected, and still remain to be executed : And, in my opinion, many of these works were more urgently necessary than those which have been executed.

478.—Do you know the new Market erected at Près de ville, at Montreal ?
Yes.

479.—Is it so situated as to be useful to meet the wants of a great portion of the inhabitants of the Town and suburbs of Montreal ?

I believe so.

480.—Is the Little River which flows behind the Town of Montreal, considered as unfavorable to the healthiness of the Town ?

Yes.

481.—Do you believe it would be practicable to give it another course ; and what course ?

I think the course of the waters of the Little River may be changed in two ways ; first, by an outlet to the St. Lawrence, through Papineau Road and Papineau Square, and Monarque street ; and secondly, by a subterraneous outlet to be made under Lacroix street as far as the St. Lawrence.

Minutes of Evidence.

482.—Do you know that several prosecutions for Libel were brought before the Criminal Court at Montreal, last year ?

Yes.

9th Jany. 1829.

483.—Were not those prosecutions occasioned by certain writings published at Montreal, in the *Canadian Spectator*, *La Minerve*, and the *Spectateur Canadien* ?

Yes.

484.—Have you, since March 1827, observed writings or paragraphs extremely violent against the people of the Country, their Representatives, or the House of Assembly, published in the Official Gazettes and other papers in the interest of the administration ?

Yes; and some of these writings were republished as pamphlets, and distributed gratuitously, or at very low prices.

485.—Are you aware that any of the Editors or Printers of the said Gazettes were prosecuted for Libel ?

They were not prosecuted.

486.—In your opinion, have not the said Gazettes frequently furnished matters as legitimate for prosecution for Libel, as the newspapers first mentioned ?

Most certainly.

487.—Was it not the general opinion that the said public papers would not be indicted, because they were on the side of the administration ?

Yes.

488.—Do you know at what time the last Election for the West Ward of Montreal took place ?

In July and August last.

489.—Who was the Returning Officer for the said Election ?

Mr. Henry Griffin.

490.—Do you know at what time the Writ reached him ?

I do not exactly know, but it was publicly said from the middle of July, that Mr. Griffin was the Returning Officer.

491.—Was not a meeting held at Montreal in the month of July 1827, on the subject of the Election which was to take place for the West Ward of Montreal ?

Yes.

492.—Can you recollect the day on which this meeting was held; and can you say whether Mr. Griffin was present and took an active part in the deliberation of the said meeting ?

There was such a meeting on the 18th of June 1827, in the News Room; I saw Mr. Griffin come in. The public papers afterwards informed us that Mr. Griffin took an active part in it, and even moved a Resolution, in which he engaged himself, in common with the meeting, to support with all his might the election of Messrs. McGill and Delisle, and consequently to exclude Messrs. Papineau and Nelson.

493.—Were you present at the election for the West Ward of Montreal, at the time of the last general election ?

Yes; I was there at different times.

494.—Were you at the poll of the said election when the High Constable made his appearance there, accompanied by the other Constables with their staves ?

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Minutes of Evidence.

I was there one day when the High Constable, followed by several other Constables, came there with their staves.

495.—Can you say by whose order they appeared at the Poll ? and whether they were sent back ; and by whom ?

J. Viger, Esqr.

9th Jany. 1829.

The High Constable appeared at the door of the room in which the poll was held : Mr. Henry Griffin, the Returning Officer, after some explanation which took place between him and the Candidates on the news of the arrival of the said Constables, said to the High Constable, " I do not need your services, you may withdraw, and when I want you I will send for you." The High Constable remarked, that if he had come, it was only because Mr. H. McKenzie, a Justice of the Peace, had let him know that the Returning Officer required his services.

496.—In the Petition from Montreal, addressed to this House, one of the subjects of complaint against the Magistrates of that Town, is their alleged neglect in not having secured for the Town, the property and enjoyment of forty acres of land, reserved as a Common ; can you give the Committee any information on this subject ?

This is a complaint which has existed, I believe since 1819, or perhaps even since 1815. From one or other of these periods, the Magistrates have been busied on this subject, without being able to determine what means they ought to adopt, to secure to the Town the property and enjoyment of the said Common. Things were in the same state with regard to this business in 1825, when I appeared on the 10th of March before one of the Committees of this House ; gave the evidence, which may be there seen relative to the said Common, and produced copies of the deed of concession thereof in 1651, and an extract from the *Livre Terrier* of the Seigniors, communicated to me by those gentlemen. Since that time the Magistrates, in order to prevent the encroachments made by several individuals on the said Common, by enclosing certain portions thereof with fences, have thought it their duty to take possession of the forty acres which form it, and to declare it public property (*places publiques*) by homologating, in October and November 1826, the favourable reports of two Juries summoned for this purpose. In July 1828, encroachments were made by individuals, and, by order of the Magistrates, I got rid of them, by removing the fences they had put up : But since that time, that is to say, since the 4th of August last, I have again been obliged to report to the Magistrates, that Mr. Commissary Forbes was taking possession of part of the said ground, and fencing it as ground belonging to the King. At the same time Mr. Ross, the Chairman of the Session, produced a letter of explanation, from Commissary General Routh ; and it was resolved that the Chairman do communicate to the Commissary General, the verdict of a Jury given on the 21st December 1826, and homologated the same month, concerning the ground in question. Things have remained in this state ever since ; and I have not received from the Magistrates the further orders I asked for, by my report of the 4th August.

497.—After having made your report to the Justices of the Peace, and asked for their further orders, after the *supersedeas*, of which you have spoken

Minutes of Evidence.

J. Viger, Esqr. spoken in your 7th answer, did the Justices of the Peace give you fresh orders with regard to Mr. Bagg's fences and house?

9th Jany. 1829.

No.

498.—Were you prosecuted for having neglected to throw down Mr. Bagg's house and fence; and was this done before a Court of Criminal Jurisdiction?

Yes—an indictment was brought against me at the Court of Oyer and Terminer, in November 1827.

499.—Was this indictment tried?

No—but it was afterwards removed by *Certiorari*, into the Court of King's Bench, for Criminal matters: it is still pending therein, and I am under Bail.

[Adjourned to to-morrow.]

Saturday, 10th January 1829.

PRESENT:—Messrs. *Viger, Heney, Cuwillier, Lefebvre, Leslie, and Bourdages.*

Mr. *Viger* in the Chair.

Mr. *William Manly* appeared before the Committee, and was examined as follows:

Mr. W. Manly.

10th Jan. 1829.

500.—Were you employed in the Sheriff's Office last March, and in what capacity?

I was employed in the capacity of Clerk.

501.—Are you aware that there was any irregularity in the summoning of the Grand Jurors for the last March Term?

There was an irregularity, of which I was myself the cause. Instead of taking the blanks for the Superior Term of Criminal Jurisdiction, I filled up blanks for the Quarter Sessions, and gave them to the Bailiff to be served.

502.—Were all the summonses so given to the Bailiff to be served on the Grand Jurors, for the *Court of Quarter Sessions* instead of the *Criminal Term of the Court of King's Bench*?

To the best of my knowledge they were all for the Quarter Sessions.

503.—Did you receive orders to summon the Members of the Grand Jury anew?

The Sheriff gave me orders to do so, as soon as the error was discovered.

504.—Did you summon them all anew?

I believe I did. I know of no omission, and do not remember that I was ordered to omit any one.

505.—Was the List or Panel of the Grand Jury made and signed before you caused the Members of the Grand Jury to be summoned the first time?

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Minutes of Evidence.

The List was made out by me, as usual, and given to the Sheriff for his approval, before the first summonses issued ; it was not at that time signed by the Sheriff. Mr. W. Manly,
10th Jan. 1829.

506.—Has it been changed or altered since ?

I do not believe any alteration has been made: the summonses on the second occasion were filled up with the names of the persons who were in the same List.

507.—Was Mr. Lee summoned as a Grand Juror for the said March Term ?

I think he was summoned, by being served with one of the blanks for the Quarter Sessions.

508.—How could he be summoned when he was not in the List or Panel of the Grand Jury ?

His name appeared in the List which I had in my possession at the time I gave the summonses to the Bailiff on the second occasion ; because I do not remember that any order was given me to omit it,

509.—How happens it that he was not summoned anew a second time, with all the others ?

I cannot say—that may have been an omission on the part of the Bailiff.

510.—Look at the two Writs of Summons, (here the two Writs of Summons produced by Mr. Berthelot, one of the preceding Witnesses, were shewn to the Witness) and explain how they came to be both issued, addressed to the same person, and for the same Court ?

After the error was discovered, and when I believed that all the summonses which had then issued were for the Quarter Sessions, other summonses issued for the Court of King's Bench, to all the Jurors, I believe.

511.—How and by whom were you informed that the first summonses had been irregular.

I believe it was by the Sheriff himself.

512.—How and from what general Lists are those of the Jurors summoned to attend the Courts of Criminal Jurisdiction made in the District of Quebec ? They are taken from a List kept for that purpose in the Office.

513.—Do these general Lists include all the Jurors in the District ?

They do not include all the Jurors in the District.

514.—Where do the persons whose names are found in the general Lists reside ?

Chiefly in the Town ; and a small number in the Country.

515.—In what part, and at what distance do those reside who are from the Country ?

Grand Jurors have been taken from the County of Kamouraska (Cornwallis) and Petty Jurors from the county of Quebec, and Pointe Levi.

516.—Can you say in what proportion the Petty Jurors from the Country are to those from the City of Quebec in the general Lists ?

I do not believe there are more than three or four in forty.

[Adjourned until Monday next.

Monday,

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Monday, 12th January 1829.

PRESENT:—Messrs. *Viger, Heney, Lefebvre and Leslie.*

Mr. *Viger* in the Chair.

Ordered, That the Chairman make a motion for causing A. W. Cochran, Esquire, to come before the Committee, on Wednesday next, at 10 o'clock in the forenoon.

Ordered, That Dominick Daly, Esqr. Provincial Secretary, be requested to appear before the Committee on the same day.

Wednesday, 14th January 1829.

PRESENT:—Messrs. *Viger, Neilson, Heney, Bourdages, Lefebvre, Leslie and Cuveillier.*

Mr. *Viger* in the chair.

The Honorable *Andrew William Cochran*, appeared, and was examined as follows:—

A. W. Cochran, 517.—Have you been Civil Secretary during the administration of Lord Esqr. Dalhousie, and for what length of time?
I have been so from the month of June 1822, till some time after the departure of Lord Dalhousie.
14th Jany. 1829.

518.—You know that the Parliament of this Province passed a Bill of supply in 1825, under the administration of Sir Francis Burton?

Yes.

519.—Have His Majesty's Ministers in England or the Minister of State for the Colonial Department, at any time signified their approbation or disapprobation on the subject of that Act, and in what manner?

In answer to that question, I refer to the message of His Excellency the Earl of Dalhousie of the month of March 1826, transmitting a Despatch from Earl Bathurst on that subject; I mean to say that that message and the Despatch connected with it are all the information that I think myself authorized to give on that subject.

520.—Has this Despatch been duly enregistered in the Office of the Civil Secretary of the Province?

I do not know whether it is so now: it was not when I left the office, but it was in the office. I believe it was by an oversight of some of the Clerks in the office that it was not enregistered; because it was given out of my hands for the purpose of being enregistered a very long time before I left the office, so long that I do not remember when.

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521.—Whose duty is it to register such Despatches ; and on whom does the responsibility of neglect, in that particular, rest ?

It is the general duty of the second assistant in the office ; if he neglects his duty he is of course responsible for it.

A. W. Cochran,
Esq.

14th Jany. 1829.

—Are not the assistants in that office under the control and supervision of the principal, i. e. the Civil Secretary ?

They are.

522.—Has it come to your knowledge that His Majesty's Ministers have, upon new information, expressed different opinion from that expressed in the Despatch of the 4th June 1825, on the subject of that Bill ?

I decline answering any questions as to any opinions expressed or supposed to have been expressed by His Majesty's Ministers to the Government of this Province ; unless so far as those opinions may have been already made public by the Government.

523.—Have you any knowledge of a Despatch from the Secretary of State for the Colonial Department, relating to that of the 4th June 1825, dated the 30th September, of the same year ?

I decline answering that question, not feeling myself at liberty to speak in any way with respect to any Despatches, except so far as is expressed in my last answer.

524.—Have you at any time published, or caused to be published, in any of the newspapers of this City, any writing or paragraph relating to the said Despatch of the thirtieth September 1825 ?

Not of my own authority ; but I decline answering further any question on matters of State that relate to acts done by me or supposed to be done by me as the confidential Secretary of His Excellency the Governor in Chief.

525.—Have you in fact published or caused to be published any such writing or paragraph, and under what authority ?

I refer to my last answer.

526.—The twenty third number of the fourth volume of the Quebec Gazette, published by authority, dated 15th March one thousand eight hundred and twenty seven, being exhibited to the witness, he is requested to say whether he knows the author of the article inserted at page two hundred and fourteen, in the first and second volumes, relating to the Despatches of the fourth June and thirtieth September one thousand eight and twenty five, which article is as follows :—

“ Report of the Committee of the Assembly of Lower Canada on His Excellency the Earl of Dalhousie, refusing to communicate the Despatch on *the financial difficulties of the Province*, and *exonerating Sir Francis Burton, from blame in assenting to the Bill of Supply* in 1825.”—*Mr. Neilson's Gazette.*

In this short and apparently unstudied sentence, containing merely the heading of a Report of the Assembly, there is misrepresentation direct and indirect, on two points which we have marked in Italics. The design with which that misrepresentation is introduced is obvious ; but we turn from this minor object to comment upon the subject of the Report itself.

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The Resolutions to which the Assembly have pledged themselves, in refusing the supply, are easily understood. But another resolution has been added to them, so little connected with the subject, that it is difficult to imagine how it got there: to the public it must be quite unintelligible.—It regards Sir Francis Burton, not the finances of the country: it regards a censure on him, not the sum of £1805 overdrawn by him, and in vain recommended by Earl Bathurst to be allowed in the Public Accounts as a grant made to him by the Provincial Legislature.

A. W. Cochran,
Esqr.
14th Jan'y. 1829.

As the Report, in which the Assembly by this Resolution concur, is before the public, and as it contains assumptions and assertions not only unsupported by any known facts, but at variance with those which have come to our knowledge, we think it well to inform the public very concisely on this subject, and we do so on the best authority.

On closing the Session of 1825, Sir Francis Burton reported to Earl Bathurst its happy termination in the following words: "It is with infinite satisfaction I acquaint your Lordship that the differences which have so long subsisted between the Legislative bodies on financial matters have been amicably settled; and by the inclosed bill, your Lordship will see that the Assembly have decidedly acknowledged the rights of the Crown to dispose of the revenue arising out of the 14th Geo. III. and certain others, the produce of which is already appropriated by law; and that henceforth it will only be necessary to apply to the Assembly for such aid as may be necessary to make up the deficiencies of the Revenues above mentioned to defray the expenses of the Civil Government and Administration of Justice."

Let any man compare the expressions above quoted with the Resolutions adopted by the Assembly on the 21st March 1826, declaring that they "do formally reject the propositions that the Revenue applicable to the payment of the expenses of the Civil Government and the Administration of Justice may legally be distributed by any other authority than that of the Legislature;" and that they adhere to their former resolutions, "in so far as they are opposed to the exclusive application of any part of the public revenue to particular services without the consent of the House:"—and it will be seen what was the real worth of the "reconciliation" of which so much is still said.

But Lord Bathurst viewed the result of that Session, and the Bill itself, very differently. After having had it under consideration for some weeks, he expressed his sentiments upon it in his Despatch of the 4th June, which is already before the public. On the 25th July, Sir Francis Burton justified his conduct by a Despatch of which no copy has been recorded, and which of course remains yet as a private letter. On the 30th September, Lord Bathurst answered it, accepted the justification on the plea of the want of those instructions, for the violation of which Sir Francis Burton was censured; and therefore recalled that personal and particular censure. But that letter, as since explained, did not cancel the instructions of the 4th June, nor did it at all relate to the Supply Bill.

This is the Despatch respecting which the Assembly have exhibited so much curiosity. This is the Despatch respecting which the Assembly (assuming without the slightest foundation that it "contained the sentiments of His Majesty's Government relative to the Supply Bill") have declared that without

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having communication of it they cannot proceed to make a grant to His Majesty.

When the Governor in Chief laid the Despatch of 4th June before the Legislature, the Assembly addressed him for copies of any other Despatches he had received relating to the Bill of Supply. The object of this enquiry will best be elucidated by a passage in the Report now before us, which states that "in requesting further information as to the sentiments of His Majesty's Government respecting the Supply Bill of 1825, the House never for a moment entertained an intention of calling for a justification of the Lieutenant Governor in giving the Royal Assent to that Bill." The Governor apparently viewed this matter in the same light, when the Address in question came up in March 1826; and the answer then given was, that no such Despatches as the Address referred to had been received; and very sufficient reasons for refusing, both then and now, the Despatch of the 30th September, may be found in the tenor of that Despatch as we have described it, and in the circumstances attending it:—

For, 1stly. That Despatch did not, as we have already stated, convey the "sentiments of His Majesty's Government respecting the Supply Bill of 1825," which the Assembly were desirous of ascertaining.

2dly. It was an answer to the private letter of Sir Francis Burton to Earl Bathurst, dated 25th July, of which the Governor had no information or copy.

3dly. It was not received by the Governor, but by Mr. Daly, an Assistant in the Civil Secretary's Office.

4thly. Although it reached that gentleman on or about the 25th November, it was not presented by him to the Governor until the 14th January, having been opened by him, and shown, as there is reason to believe, to more than one person in town, in the intervening period.

On this account alone there would have been sufficient reason for refusing to accept it as an official document, referring as it did to a previous Despatch which had been officially communicated, and being on the face of it an answer to private and unknown explanation.

The matter stands thus:—The Assembly have asked for a copy of the Despatch of the 30th September. That Despatch must under all its circumstances be still considered as private, and the curiosity of the Assembly must yet remain unsatisfied, until they can see the letter to which that Despatch is an answer. They will then have an equal desire, and quite as much right, to know every other private circumstance and communication necessary to an understanding of the whole subject. They may be assured that this will never be given to them, even though they continue to feign a belief, and to declare (while yet ignorant of the contents of the Despatch of 30th September,) that it contains the sentiments of His Majesty's Government respecting the Supply Bill of 1825, and that without communication of it they cannot make a grant to His Majesty.

In the mean time they must remain content with the commentary on the Despatch of 4th June, which is afforded by Lord Bathurst's Despatch of the 7th January 1826, (expressly referring to and following up the principles of the former); and by the course which the Government has pursued in this Session "in compliance with instructions from His Majesty's Secretary of State," in laying before the House of Assembly the estimates of the year,

A. W. Cochran,
Esqr.

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A. W. Cochran,
Esqr.
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which are framed in accordance with the principles of the Despatch of June, and with those on which the estimates in 1822, 1823, and 1824 were framed. It is, indeed, matter for surprise that the Assembly, in the intensity of their desire to discover the "sentiments of His Majesty's Government," should have confined themselves to an inquiry for the Despatch of September 1825, and should exhibit no anxiety to be informed of the more recent instructions, of the existence of which they were apprised. This forbearance, however, may furnish some clue to their motives in appending their Resolution to the Report we have been commenting upon, to their proceedings on the supply. They appear to be in search of a pretext, and they have gone far to find one, which renders them unworthy of the confidence of the Government or of the Country.

I refer to my answer to the 524th question.

527.—Have you at any time written, published, or caused to be written and published, any anonymous writing or paragraph in any Gazette, and that as Lord Dalhousie's confidential Secretary?

I decline answering that question altogether.

528.—Have you a knowledge that an address to the King from the Legislative Houses of Upper Canada, relating to the financial difficulties between that Province and that of Lower Canada, was presented in 1822?

I have a general official knowledge of it; I think it was in 1822, before I came in the office,

529.—Was this address transmitted to the Governor of Lower Canada by Sir Peregrine Maitland, Lieutenant Governor of Upper Canada?

I believe it was.

530.—Can you say at what time?

I cannot at this distance of time, nor can I now ascertain.

531.—Who held the office of Secretary to the Governor of Lower Canada, at the beginning of 1822?

The Honorable Colonel Ready.

532.—Is he now absent from the Province?

He is now Lieutenant Governor of Prince Edward's Island.

533.—Had you a Commission as Civil Secretary to the Governor in Chief?

No; the Civil Secretary never has a Commission; he is the private officer or servant of the Governor, and responsible to him alone, except so far as particular Statutes of the Province may have occasionally imposed duties upon him.

534.—Does he take an oath of office?

No.

535.—By whom is he paid?

By the King.

536.—Out of what monies is he paid?

Out of the monies levied in the Province.

537.—How is he paid?

By warrant on the Receiver General of the Province, under the authority of His Majesty.

538.—Under what authority are his duties determined and his office regulated?

By the will and pleasure of the Governor for the time being.

539.—Can you state at what time the office of Civil Secretary was established?

I

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I cannot: I believe it has existed since the year 1763, in one shape or other.

540.—Has the office still existed under the same denomination and with the same salary and emoluments?

A. W. Cochrane,
Esqr.

No; I do not think it has. The salary was raised in 1818, under the administration of Sir John Coape Sherbrooke; the denomination of Civil Secretary existed at the time I came in the Province, sixteen years ago; how long before I cannot say.

14th Jan. 1829.

541.—How was it raised and to what amount?

It was raised from two hundred to five hundred pounds, upon a message from the Governor to the Assembly, included in the vote of 1818 and covered by the Law of 1819.

542.—What do you understand when you speak of *confidential Secretary* to the Governor, and *matters of State*?

What I mean by *confidential Secretary*, is that a confidence is reposed in him which he is not to betray; as to *matters of State*, I draw a distinction between the ordinary details of the office, and those things which are of a private or peculiar nature, and particularly those things which are in any way directly or indirectly connected with communications of or from the Government of the Mother Country.

543.—Do you conceive that this applies to official Despatches required to be enregistered in the office?

Yes; I think this term applies to them, and to many other things besides, in the duties of the Civil Secretary and other departments connected with the Governor.

544.—Would you think yourself authorized to depose on the subject of such documents if called upon before a Court of Justice?

I should refer myself, in that case, to a decision of the Court.

Dominick Daly, Esquire, Provincial Secretary, was then called in, and examined as follows:—

545.... What situation did you hold under the administration of Sir Francis Burton?

D. Daly, Esqr.

Assistant in the Civil Secretary's Office.

546.... You know that the Parliament of this Province passed a Bill of Supply in 1825, under the administration of Sir Francis Burton?

Yes.

547.... Have His Majesty's Ministers in England, or the Minister of State for the Colonial Department, at any time signified their approbation or disapprobation on the subject of that Act, and in what manner?

The Secretary of State's Despatch of the fourth June 1825, which is upon the Journals of the House of Assembly, contains his disapproval of that Bill.

548.... Has it come to your knowledge that His Majesty's Ministers, upon new information, have officially expressed a different opinion from that expressed in the Despatch of the fourth June 1825, on the subject of that Bill?

The Secretary of State did address another Despatch on the subject of that Bill to Sir Francis Burton, differing materially from the former.

549.... Have you any knowledge of a Despatch from the Secretary of State for the Colonial Department, dated the thirtieth September 1825, and relating to that of the fourth of June in the same year; and what knowledge have you of the same?

A

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A Despatch dated the thirtieth September 1825, addressed to Sir Francis D. Daly, Esqr. Burton, and received and opened by me, after his departure from the Province, (having been authorized so to do) was afterwards handed by me to 14th Jan. 1829. Mr. Cochran then Civil Secretary to the Governor, to be presented to His Excellency the Governor in Chief.

550.—Do you know whether Mr. Secretary Cochran submitted this Despatch to His Excellency the Earl of Dalhousie ?

I cannot doubt that he did ; having delivered the Despatch to Mr. Cochran, when the Governor in Chief was in his office.

551.—What was the general purport of the last mentioned Despatch ?

The general purport of this Despatch went to the removal of a censure passed upon the conduct of Sir Francis Burton, in the Despatch of the fourth June.

552.—Were there any particular grounds stated for the removal of the censure contained in the former Despatch ?

The grounds stated were the absence of some instructions which were supposed to have been deposited or enregistered in the Civil Secretary's Office from the Secretary of State to former Governors.

553.—Do you know if that document has been enregistered in the Civil Secretary's Office ?

I do not know.

554.—Have you had any and what conversation with Andrew William Cochran, Esquire, on the subject of this Despatch ?

I have ; on the day after I had delivered that document to him, as I have already stated, Mr. Cochran enquired of me if I had shewn it or mentioned its existence to any person, to which I replied, that I had shewn it to the assistant Civil Secretary, and had further stated the existence of a document removing the censure which had been passed on Sir Francis Burton, Mr. Cochran then said, "the less that is now said on the subject the better, as "the Governor does not intend to take any notice of it, and indeed I have myself advised that he should not."

555.—At what time did that Despatch of the thirtieth September reach you, and when did you deliver it to Mr. Cochran ?

I cannot remember exactly now, but I believe it was received by me in the latter end of November 1825, and handed over to Mr. Cochran in the month of January following.

556.—For what reason did you defer to deliver that Despatch until the month of January ?

I waited to know the Lieutenant Governor's wishes respecting it.

557.—Were his wishes made known to you, how and when ?

I cannot give the date more particularly than I have done already, but I became acquainted with his wishes regarding it from a letter which I received from him on the day I delivered the Despatch to Mr. Cochran, expressing a hope that the Despatch in question had been recorded in the Civil Secretary's Office. Within an hour after the receipt of that letter, I handed the Despatch to Mr. Secretary Cochran.

558.—Did you shew this letter of Sir F. Burton's to the Governor in Chief's Secretary when you delivered to him the Despatch to which it referred ?

I did at the time state my reasons for detaining and delivering the Despatch as above.

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559.—Have you a knowledge that any writing or paragraph on the subject *D. Daly, Esqr.* of the Despatch mentioned by you, and in which you were concerned, was published in March 1827, in the Quebec Gazette? 14th Jan. 1829.

I do remember an article in which my name was made use of, appearing in the Quebec Gazette published by authority, on the subject of these Despatches, in March 1827.

560....Being concerned in that writing or paragraph, did you think it necessary to enquire who was its author, and did you ascertain who he was?

I did call upon the Editor, who after having stated that he had reluctantly used my name, mentioned Mr. Cochran as the author of the article.

561....Did he offer to shew you the manuscript?

He did offer to shew it to me, which I did not consider necessary.

John Charlton Fisher, Esquire, was then called in, and examined :

562....Are you the Editor of the Quebec Gazette published by authority, and since when?

Yes, since the 23d October 1823.

*J. C. Fisher,
Esqr.*

563....When you receive any anonymous paragraph or writing of some importance, are you in the habit of enquiring the name of its author, previous to its insertion in the Gazette of which you are the Editor?

I believe I know the author of every article of importance, published in the Gazette.

564....The twenty third number of the fourth volume of the Quebec Gazette published by authority, dated fifteenth March one thousand eight hundred and twenty seven, being exhibited to the witness, he is requested to say whether he knows the author of the article inserted at page two hundred and fourteen, in the first and second columns, relating to the Despatches of the 4th June and thirtieth September 1825?

I do know the author.

565....Who is the author of that writing?

This article was principally drawn up by me from notes furnished to me by Andrew Wm. Cochran, Esquire.

566....Did he deliver these notes to you himself, or did he transmit them to you?

These notes were given to me by Mr. Cochran himself.

567....Was Andrew William Cochran then Secretary to the Governor?

He was.

568....Have you received any injunctions from him to keep the secret on the subject of these notes?

Certainly not.

569....Did you consider on this occasion that he acted in an official capacity?

I could not with propriety refuse any communications furnished by Mr. Cochran, and I think in this instance he was acting in his official capacity of Secretary to the Governor, and I thought myself bound to publish it.

570....Was the article drawn from these notes communicated to Mr. Cochran before its publication?

To the best of my recollection he never saw it until he saw it in print.

571....Had these notes an express reference to the two Despatches of the fourth June and thirtieth September 1825?

Yes.

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J. C. Fisher,
Esquire. The Clerk then delivered to the Chairman certain documents which he had received from John Delisle, Esquire, which the latter addressed to him in conformity to the requisition of the Committee. (For the said documents, see 14th Jan. 1829. Appendix G.)

[Adjourned to the call of the Chair.]

Friday, 16th January 1829.

PRESENT :—Messrs. *Viger, Heney, Lefebvre, Leslie, Cu villier,* and *Bour dages.*

Mr. *Viger* in the Chair.

Louis Guy,
Esqr. *Louis Guy,* of Montreal, Esquire, appeared, and being desired to explain to the Committee the reasons which had caused his delay in appearing, he answered :

16th Jan. 1829.

It was impossible for me to appear before the Committee, because it was only on the fifth of the present month, about one o'clock in the afternoon, that I received the letter from the clerk of the Committee, dated the 30th December last, and requiring me to appear on the 5th instans. It was not in my power to leave Montreal before the ninth instant, and I arrived at Quebec only on the evening of the eleventh.

He was afterwards examined as follows :

572.—Do you reside at Montreal—and since what time have you so resided ?

I was born there, and have always resided there.

573.—Are you one of the Magistrates at Montreal, and how long have you been so ?

I am one of the Magistrates of Montreal, and have been so for more than 20 years.

574.—At what time did the last Commission of the Peace for the District of Montreal issue ?

I believe it was in March last.

575.—Did this Commission operate many changes in comparison with the preceding one ?

It did operate many changes, since many Magistrates were dismissed from office, and a great number of new names inserted in the Commission.

576.—Was it notorious that the dismissal of the greater number of the Magistrates whose names were omitted in the last Commission, was owing to their political opinions ?

The public generally thought so, and such was my own opinion.

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577.—Were not some of the Justices of the Peace at Montreal dismissed from office for some particular reason, in addition to the general cause assigned above?

Louis Guy,
Esqr.

16th Jan. 1829.

Four of the Magistrates of Montreal, viz. Messrs Mondelét, Heney, La-tocque and Baron, were dismissed: I sincerely believe they were so dismissed upon a complaint made against them by Mr. Gale, (the Chairman of the Quarter Sessions) and several other Magistrates, to the Earl of Dalhousie (their Governor in Chief,) on account of their having signed a certain order of *supersedeas*.

578.—Did the Magistrates by whom this reference to the Governor in Chief was made, take any steps for obtaining the judgment of the ordinary tribunals with regard to the legality or illegality of the said *supersedeas*?

I sincerely believe that the Magistrates took no measures for obtaining the judgment of the ordinary tribunals with respect to the legality or illegality of the said *supersedeas*; and what leads me to believe this, is, that Mr. Boucherville and myself proposed to the meeting at which this complaint was resolved on, to refer the whole to one of the Superior Courts for the sake of obtaining a decision with respect to the legality or illegality of the said *supersedeas*; or if they thought it better, to place all the papers relating to this business in the hands of the Solicitor General, in order that he might institute any prosecution he might think expedient; but the majority of the meeting came to a contrary decision.

579.—Is it not true that the business has remained in the same state ever since; and that the whole terminated in the dismissal of the four Magistrates who signed the *supersedeas*?

Yes.

580.—Is it your opinion that the Justices of the Peace do possess the right of granting a *supersedeas* in certain cases; or do you think that your fellow Magistrates who signed the *supersedeas* committed an illegal act?

I believe that the Magistrates have the right of granting orders of *supersedeas* in certain cases; for example, I believe that a Magistrate who has by mistake issued an order, which he afterwards becomes convinced was illegal, and contrary to Law, has and ought to have the power of issuing a *supersedeas* of that order; and even that where several Magistrates have issued an illegal order, on one of them acting alone, can grant a *supersedeas* of such order, and I sincerely believe that the Magistrates who signed the *supersedeas* in question did no more than their duty in signing it, if they were convinced that the order suspended by the *supersedeas* was illegal.

581.—Have you had opportunities of consulting any persons versed in the science of the law on the subject of the said *supersedeas*, and if you have, what was their answer?

Before the said *supersedeas* was issued, I consulted two of the oldest advocates in Montreal, as to whether a Magistrate who had been induced by error or surprise to issue an illegal order, could order the execution thereof to be staid until the decision of a Superior Court as to its illegality could be had, and as to the steps to be taken by the Magistrate in such a case: the two advocates agreed in saying, that in such a case the Magistrate had a right to issue an order of *supersedeas* to suspend the execution of the former order, until a Superior Court should have made an order to the contrary.

Q

582.—

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Louis Guy,
Esquire.

16th Jan. 1829.

582.—Are you not of opinion, that the object of the reference made to the Governor on this business, was the dismissal from office of the four Magistrates who had signed it ?

I believe that the principal object Mr. Gale had in view, in causing the business of the *supersedeas* to be referred to the Governor in Chief, was to effect the dismissal of the four Magistrates who had signed the *supersedeas*, without affording them an opportunity of clearing themselves in a legal manner, from the imputations cast on them in the resolutions proposed by Mr. Gale, and approved by the majority of the Magistrates.

583.—Is it not true, that this dismissal, under the circumstances of the case, might be looked upon as a lesson to the other Justices of the Peace, and as a warning to them not to oppose the views of the Chairman of the Quarter Sessions in future ?

Yes—I believed at the time, and I still believe that such were Mr. Gale's views; and it is within my knowledge that several Magistrates entertained the same belief: I may even add, that the proceeding had the effect of intimidating one of the Magistrates to such a degree, that he told me, that considering himself no longer free, he should attend less frequently at the meetings of the Magistrates, for fear of losing a profitable situation which he held under Government; and in fact since that time he has rarely attended the meetings of the Magistrates.

584.—Did not the Chairman of the Quarter Sessions make some observations relating to the peculiar duties of his office, in a discussion which took place on the subject of the *supersedeas* ?

I remember that Mr. Gale said at the meeting, that he had a very painful duty to perform; but that he thought he was bound by his oath to report to the Governor every thing that might take place at the meeting, with the names of the Magistrates who might vote for or against it. I remarked to Mr. Gale, that I hoped he would keep his promise, and mention my name to His Excellency, as that of one of those who were opposed to it.

585.—Is it not true that some of the Magistrates appointed by the last Commission have no property whatever, that they are therefore without responsibility, and that this circumstance was known at the time the Commission was issued ?

I believe there are several of this description.

586.—Can you name them ?

They are, Messrs. Garden, Auldjo, McKenzie and Turner; with regard to Messrs. Pardy, Napier and Byng, I do not know whether they are possessed of any real property: I know of none held by them.

587.—Have the creation of the office of Chairman of the Quarter Sessions, and the establishment of the Police Office at Montreal, been advantageous to the public; and have they tended to raise the body of the Magistrates in public estimation ?

The creation of the office of Chairman of the Quarter Sessions has not been productive of that advantage to the public, which they had a right to expect from it, neither has it contributed to raise the Magisterial body in the estimation of the public. As regards the establishment of the Police Office, the general opinion is that it has produced more mischief than advantage,

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vantage, by concentrating in the person of the Chairman, or in the Chairmen, the control of the whole Police of Montreal, which by law is entrusted to the body of the Magistrates.

Louis Guy,
Esqr.

588.—Do the Magistrates at Montreal in general enjoy the confidence of the public?

I do not think that the body of the Magistrates enjoy the confidence of the public, especially since the issuing of the last Commission of the Peace for the District of Montreal.

589.—To what can this want of confidence, particularly since the period alluded to, be attributed?

According to the public opinion, it is principally to be attributed to the influence which Mr. Gale has acquired over the majority of the Magistrates at Montreal; and this influence is so great, that it is generally believed he can carry any measure which he has in view.

590.—Are the Justices of the Peace at Montreal accountable for the public monies of the City; and to whom?

During the twenty years that I have been one of the Justices of the Peace at Montreal, I do not know that they have rendered any account, or that any account has been required of them by any competent authority. I believe, however, that they are accountable for the public monies, either to His Majesty's Government in this Province, or to the Lords of the Treasury in England.

591.—Are not the Justices of the Peace bound by law to meet once a month, and at such meetings to make out a statement of the work necessary to be done in the Town or City; and to appoint a Committee from among themselves to see such work performed?

Yes.

592.—Has the law been fulfilled in this particular, during the last year?

No.

593.—Who are the Justices of the Peace composing the said Committee?

I was informed by the Road Surveyor that I had been appointed in conjunction with Messrs Molson and Griffin; but I withdrew about the month of July last.

594.—What were your reasons for withdrawing from the said Committee?

I had several reasons for withdrawing:

1st. Because the performance of the work had not been ordered by the Magistrates in the manner prescribed by the law: the Magistrates having been satisfied with drawing up, at a general meeting, a statement of the work to be done, and leaving it in the power of the members of the Committee to cause the same to be performed in the order they should deem advisable; by which means the members of the Committee were left open to the remarks and censure of the public.

2ndly. Because the two Magistrates, who, with myself composed the said Committee, manifested a determined intention of causing the work ordered on the streets which lead to their own property, and to mine, and in the repairing of which streets they as well as myself, had a personal interest, to be first performed; instead of that ordered on other streets which stood in greater need of repair; the expense of the said works to the Town, estimated at the sum of 1000*l*. or 1200*l*. This determination appeared to me to be so much the

more

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Louis Guy, Esqr.
 16th Jan'y. 1829. more unjust, inasmuch as by the act establishing a Turnpike on the La-
 chine road, the Town was only bound to pay 25*l.* per annum, towards the
 keeping up of one of the said streets, viz. St. Joseph street, from the Town
 to the boundary of the City; and that it was probable that the said act
 would be revived by the Legislature, and that it was likely it would cost the
 Town at least 600*l.* to put this street in a state of repair. It was not, how-
 ever, until after I had received information that the said work had been be-
 gun, that I determined to withdraw from the Committee, and I then did so,
 because I did not wish it to be supposed that I had any share in directing
 the execution of work which was less urgently necessary for my own per-
 sonal advantage.

J. C. Fisher, Esquire.

John Charlton Fisher, Esquire, was again called in and examined :

595.—Have you at different times received from Mr. Secretary Cochran, notes or writings of the same kind as those you spoke of in your former examination ?

Not more than five or six times during the four years I have been Editor of the Gazette. I do not know what might happen during the year I was absent from the Province.

596.—Was this principally since the prorogation of the Legislature in March 1827 ?

I think that it was principally since November 1826.

597.—Who was Editor of the Quebec Official Gazette during your absence from the Province ?

Mr. William Kemble acted in my name as Editor of said Gazette, from November 1825 to November 1826.

D. Daly, Esqr.

Dominick Daly, Esquire, was again called in, and examined as follows :

598.—Can you now say what was the precise day on which you handed the Despatch of the 30th September 1825, (of which you have spoken in your preceding answers) to Mr. Secretary Cochran ?

Having since that time referred to documents in my possession, I find that the 23d January 1826, was the day on which I handed the Despatch in question to Mr. Cochran.

[Adjourned to the call of the Chair.]

Saturday, 17th January 1829.

PRESENT :—Messrs. *Viger, Heney, Cwillier, Lefebvre* and *Bourdages.*

Mr. Viger in the Chair.

Louis

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Louis Guy, Esquire, again appeared, and being examined, answered as follows : *Louis Guy, Esqr.*

599.—Are the public monies belonging to the Town of Montreal exclusively employed for the purposes for which they are appropriated; and is this done in a judicious manner, and conformably to the wants of the Town? 17th Jan'y. 1829.

I believe that the public monies are generally employed for the purposes to which they are appropriated, and that this is done in as judicious a manner as can be expected from a body composed of persons having opposite views, dispositions and interests. According to the custom which has obtained for a number of years, the Road Surveyor lays before a special meeting of the Magistrates, a statement of the work which it appears to him most urgently necessary to perform, and the Magistrates select such as they consider most expedient and pressing, and order it to be performed. Sometimes other work than that mentioned in the Road Surveyor's statement is proposed by the Magistrates, (when they consider it more urgently necessary than that mentioned in such statement) and ordered to be performed. The consequence of the Magistrates having in part deviated from this practice, during the last year only, (as I stated in the first part of my answer to the preceding question,) has been, that a sum of about 1000*l.* has been less judiciously expended, than it would have been if the Magistrates had strictly followed the old practice, that is, if they had ordered and prescribed every month, the order in which work was to be performed.

I have heard many persons, and even Magistrates, complain of the sums which had been expended by the Magistrates on the Market House of the Montreal New Market. I do not know whether these complaints were well or ill founded.

600.—Do you know the New Market erected at the place called *Près-de-Ville*, at Montreal?

I know its situation only; having had no opportunity of seeing the Market.

601.—Is it so situated as to be of much benefit to a great number of the inhabitants of the City or of the Suburbs of Montreal?

I believe from the description given me of it, that it is sufficiently extensive to meet the wants of a portion of the inhabitants of the Town, or of the Suburbs of Montreal; but it might have been so situated as to be more central and of greater benefit to the public.

602.—Is the Little River which runs behind the Town of Montreal, considered as injurious to the healthiness of the Town?

Yes.

603.—Do you think it practicable to give it another direction?

I think it would be easy to turn the waters of the Little River out of their present course, by giving them an outlet into the St. Lawrence, either by a canal under Papineau square, and Monarque street; or by another subterraneous canal to be made along Lacroix street.

604.—Which of these plans appear to you the best, and the most practicable?

I should prefer giving the waters an outlet by a subterraneous canal under Lacroix street, as being likely to be of the greatest public advantage?

605.—

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Louis Guy,
Esqr.
17th Jan. 1829.

605.—Have you any idea what would be the probable expense of carrying this plan into execution ?

I think it would cost about 1000*l.* currency.

606.—Have you a knowledge that several prosecutions for libel were brought before the Criminal Court at Montreal last year ?

I know two or three were instituted at the Criminal Court at Montreal, in March last.

607.—Were not these prosecutions instituted in consequence of certain writings published at Montreal, in the *Canadian Spectator*, *La Minerve*, and the *Spectateur Canadien* ?

I believe that these prosecutions were occasioned by writings published in the *Canadian Spectator* and *La Minerve*.

608.—Were the *Canadian Spectator* and *La Minerve*, and the *Spectateur Canadien*, in the interest of the administration ?

No.

609.—Have you observed writings or paragraphs extremely violent against the people of the Country and their Representatives, or the House of Assembly, published in the Official Gazettes and other papers in the interest of the administration, since March 1827 ?

Yes.

610.—Have you any knowledge that any of the Editors or Proprietors of these Gazettes were prosecuted for libels ?

No.

611.—In your opinion, have not these Gazettes furnished as legitimate matter, for prosecution for libel, as those first mentioned ?

Yes.

612.—Were you present at the Criminal Court held at Montreal in March last, and in what capacity ?

I was there as Foreman of the Grand Jury.

613.—Do you know that the Grand Jury brought in a Bill for Libel, against Jocelyn Waller, Esquire, and Ludger Duvernay, during the March Term ?

Yes—I know that during the March Term, that is, on 8th of March, I brought into Court (as Foreman of the Grand Jury) a Bill for Libel against Jocelyn Waller, Esquire, and Ludger Duvernay.

614.—Was the Criminal Court competent on that day—that is, on the 8th of March 1828 ?

On the 10th of March it was decided that the Court was not competent on the 8th of March ; because the Chief Justice had not presided on that day.

615.—Did you not, as Foreman of the Grand Jury bring in a second time, on the 10th of March, the same Bill you had before presented on the 8th, against these two persons ?

Yes.

616.—How came the Bill you had already found, to be again in your hands, so as to make it possible that it should be found a second time by the same Jury ?

I remember that on the 10th, the Attorney General came into the Grand Jury Room, and placed in my hands the same Bill I had returned into the Court

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Minutes of Evidence.

Court against Jocelyn Waller and Ludger Duvernay on the 8th, telling me that it had been determined that the absence of the Chief Justice on the 8th, had rendered the Court incompetent on that day; that it is necessary, for the sake of mere form, to return the same Bill again.

Louis Guy,
Esqr.

17th Jan'y. 1829.

617.—Was this Bill again returned, without any formality; or did you not think it your duty to consult the Court of King's Bench on the subject?

Having gone into Court, and having doubts as to what the Attorney General had said to the Jury, I took upon myself, without consulting the other Jurymen, to enquire of the Court, whether the Jury ought to proceed afresh on the Bill which I then held in my hand, and which had been found a true Bill on the 8th, against Messrs. Waller and Duvernay, and returned into Court as such; or whether it should merely be again returned into Court for form sake; saying, at the same time, that many of the Jurymen who had given their opinion on this Bill on the 8th, were then absent: the Court was of opinion that the Bill ought to be considered anew. The Attorney General then said, he would send for the absent Jurymen, saying, "I will send for them." But instead of sending for them, the Attorney General went into the Grand Jury Room, and repeated that it was not necessary, to proceed afresh. I remarked to him, that I had taken the opinion of the Court, and should act in conformity to that opinion. He remained there for the space of five or six minutes conversing in private with several of the Jurymen, and then asked me whether I would follow his advice, and again return the same Bill with further formalities. I told him at the time that notwithstanding the high opinion I entertained of his talents, I could not follow his advice; that he had a duty to perform, and that I had another, which was equally sacred: I then proceeded to take the opinion of the Jurors and the Bill was found "*true*," and returned as such.

618.—Were the witnesses heard anew, on this second occasion?

No—I proposed to the Jury that the witnesses should be again called in, but they objected to it; and having put the question to the vote, the majority decided that it was unnecessary.

619.—Were the Jurors who had returned the Bill of Indictment on the first occasion all present?

Three of them were absent.

620.—Were there among the Jurors, who returned the Bill of Indictment the second time, any who were not present when it was returned the first time?

Yes, there was one, who was satisfied with the account given him of the evidence by the other Jurors, although I proposed to call the witnesses in again.

621.—Did the Attorney General show a great deal of vivacity in this affair?

Yes.

622.—Was this prosecution publicly and notoriously considered as resulting from political opinions?

Yes.

Mr. Guy then withdrew.

Ordered,

Minutes of Evidence.

Ordered, That the Chairman move, that an humble Address be presented to His Excellency the Administrator of the Government, praying His Excellency to be pleased to lay before this House, a copy of a Despatch from the Secretary of State for the Colonial Department, to Sir Francis Burton, Lieutenant Governor of this Province, dated the 30th September 1825, and referring to another Despatch of the 4th June, of the same year.

[Adjourned to the call of the Chair.]

Monday, 19th January 1829.

PRESENT:—Messrs. *Viger, Cuillier, Lefebvre, Heney and Bourdages.*

Mr. *Viger* in the Chair.

Louis Guy,
Esquire.

Louis Guy, Esquire, again appeared before the Committee, and was examined as follows :

19th Jan. 1829.

623.—Is it not true that by the last Commission of the Peace for the District of Montreal, there remain only six Canadian Magistrates for the Town and City of Montreal?

Yes.

624.—Do you believe that it would not have been possible to find a greater number of persons fit to hold this office, among the Canadians in the Town and City of Montreal?

I believe that a greater number might have been found; and I will even add, that Mr. Ross, the Chairman of the Quarter Sessions, when a wish that several Canadian Magistrates should be appointed was expressed to him, told me that he hoped I would have the goodness to give him a list of the Canadians best qualified to become Magistrates. I at first refused, for private reasons; however, on the following day, I told him that I could give a list, and in fact gave him one, two or three days afterwards, containing the names of twelve or fifteen very respectable persons. He then told me, that if he was again spoken to with regard to this plan, he would avail himself of my list. He proposed that I should insert in it the names of three or four young gentlemen of Montréal; to which I objected, telling him that I thought the public would be dissatisfied with it, while there remained older persons to be appointed; and I sincerely believe that I could have furnished him with a much more numerous list.

625.—Can you say what effect this omission has produced on the opinions of the small number of Canadian Magistrates, who were continued in office in the Town and City of Montreal?

They all appeared to me dissatisfied: and three of them (of whom I am one) said they would withdraw from the Commission, if things remained in

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Minutes of Evidence.

the state in which they then were. So much dissatisfaction did this produce : besides that, the three Magistrates in question have almost entirely withdrawn from public business since that time.

*Louis Guy,
Esquire.*

19th Jan. 1829.

Tuesday, 20th January 1829.

PRESENT :—Messrs. *Viger, Lefebvre, Leslie, Heney, Cuillier, Neilson and Bourdages.*

Mr. *Viger* in the Chair.

The Chairman reported to the Committee that in conformity with the order of the Committee of the 17th instant, he moved in the House, that an humble Address should be presented to His Excellency the Administrator of the Government, praying His Excellency to be pleased to lay before the House, a copy of the Despatch from the Secretary of State for the Colonial Department, to Sir Francis Burton, Lieutenant Governor of this Province, dated the 30th September 1825, and having reference to another Despatch of the 4th of June of the same year : That the said Address having been presented to His Excellency yesterday, he was pleased to return the following answer :

“ The Despatch in question not being of record in the office, nor in his possession, he cannot comply with the desires of the House.”

Dominick Daly, Esquire, was then again called in, and examined as follows: *D. Daly, Esqr.*

626.—You said in your former examination, that you handed to the Civil Secretary, in January 1826, a Despatch of the 30th September preceding, addressed to Sir Francis Burton : did you keep a copy of this Despatch ?

I did not.

627.—Have you since that time had occasion to have a copy of that document in your possession ?

Yes.

628.—Have you it now in your possession ?

A copy of this Despatch having been sent me by Sir Francis Burton, after his arrival in London, where a duplicate of this Despatch had been furnished him at the Colonial Office, I have it in my possession.

629.—Is this copy a correct copy of the Despatch you handed to the Civil Secretary, or have you any reason to doubt its exactness ?

As I handed over the original of the Despatch before the receipt of the copy, I cannot say that they are *verbatim* alike ; but I received it from Sir Francis Burton as a true copy, and cannot recollect any reason which can induce me to doubt its exactness ; I therefore believe that it is a true copy.

R

630.—

Minutes of Evidence.

J. Daly, Esqr. 630.—Can you lay a copy of this Despatch before the Committee?
As this document did not come officially into my possession, I can have
no objection to give a copy to the Committee, and will do so to-day.
9th Jan. 1829.

(Mr. Daly then withdrew, and returning shortly afterwards, handed to the Committee a copy of the Despatch for which he had been asked,) which is as follows :

“ Downing Street,
“ 30th September 1825.

“ Sir,

“ I have the honor to acknowledge the receipt of your Letter of the 25th July, in which you enter into a detail of the circumstances which induced you to assent to the Act of appropriation, notwithstanding the omission of some appointments which had received the previous sanction of His Majesty, and had long formed part of the Civil Establishment of Lower Canada.

“ As my Despatch of the 4th June was written to you under the impression that you were in possession of all the correspondence with my Department, and more particularly of my instructions to Sir John Sherbrooke, and the Earl of Dalhousie, with regard to the provision to be made by the House of Assembly for the Civil List, you will consider that Despatch as withdrawn, being inapplicable under the explained circumstances of the case; and I have to limit the expression of my regret, with respect to the measures which you have adopted to the single point of your having carried into effect an arrangement of so delicate and important a nature, without previous communication to His Majesty's Government.

“ I have the honor to be,

“ Sir,

“ Your most obedient

“ humble servant,

(Signed) “ BATHURST.”

“ The Honorable

“ Sir Francis Burton.”

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Minutes of Evidences.

Thursday, 22nd January 1829.

PRESENT:—Messrs. *Viger, Heney, Bourdages and Lefebvre.*

Mr. *Viger* in the Chair.

Ordered, That the Reverend Mr. *Kelly*, Curate of *Sorel*, and Mr. *Jean Crébassa* of the same place, be required to appear before this Committee, on Wednesday next, the 28th instant.

[Adjourned to the call of the Chair.]

Saturday, 24th January, 1829.

PRESENT:—Messrs. *Viger, Heney, Lefebvre, Neilson, Cuvillier and Leslie,*

Mr. *Viger* in the Chair.

Amable Berthelot, Esquire, was again called before the Committee, and examined as follows :

A. Berthelot
Esqr.

631.—Do you know how far back the establishment of the *Quebec Gazette*, now published by Mr. Samuel Neilson, may be dated? 24th Jan. 1829

The first number of this Gazette appeared on the 27th June 1764. I have gone through the series of it from that date up to the present year, for the purpose of taking notes from it, relative to the History of this Country. There has been no interruption in the publication of this Gazette, except 1st. from the 31st October 1765 to the 29th of May 1766, on account of the subscribers being unwilling to pay the Stamp Duty imposed by the Act of the Parliament of Great Britain, by whom it was imposed: 2ndly. From the 3d. November 1775 to the 8th August 1776, on account of the Siege of Quebec, at the time of the American Invasion.

632.—What opinion have you been able to form of this Gazette?

It is the most interesting monument with which I am acquainted, of the History of Canada since the conquest.

633.—In what manner has this Gazette been conducted?

I consider that this Gazette has been conducted with the greatest prudence, and the utmost wisdom and impartiality.

Jacques

Minutes of Evidence.

Jacques Viger, Esquire, was then called in again, and examined as follows :—

J. Viger, Esqr.
24th Jan. 1829

634.—Were you one of the Grand Jurors attending the Court of King's Bench for the District of Montreal, for criminal matters, in September 1828? I was one of the Grand Jurors attending the said Court.

635.—Among the bills of indictment preferred to the Grand Jury attending the said Court, was there one against a man of the name of Joseph Brazeau, and others, for committing a riot, by knocking down one or more May Poles?

On the first day of the Court a bill of indictment was preferred to us, against Joseph Brazeau, the younger, Jean Olivier, and others, whose names I do not recollect; it was for a riot, and for having cut and knocked down a May Pole.

636.—Was this bill thrown out by the Grand Jury?

Yes; it was thrown out.

637.—Was another bill of indictment of the same nature, for the same offence and against the same persons, preferred to you during the same term?

Yes; and I believe that it was on the 5th of the same month, that this second bill of indictment for the same offence and against the same persons, was preferred to us.

638.—Was any one new witness produced when the bill was preferred a second time to the Grand Jury?

No.

[Adjourned until Monday next.

Monday, 26th January 1829.

PRESENT :—Messrs. *Viger, Heney, Cuvillier, Leslie* and *Bourdages*.

Mr. *Viger* in the Chair.

Jean Joseph Girouard, Esquire, appeared, and was examined as follows :—

J. J. Girouard, Esqr.
26th Jany. 1829.

639.—What is your place of residence and quality? I live at St. Benoit, in the County of York, and exercise the profession of Notary there.

640.—Are you an Officer of Militia, and what is your rank? I was Captain of a Company of Militia in the first battalion of the County of York, under the command of Lieutenant Colonel Dumont.

641.—Are you not one of the Officers of the first battalion of the County of York, who, in the course of last winter, returned their Commissions to Lieutenant Colonel Dumont?

I was a Captain in the first battalion of the County of York, and am one of the Officers who returned their Commissions to Lieutenant Colonel Dumont. 642.

Minutes of Evidence.

642.—What reasons had you to induce you to throw up your Commission ?

I made these reasons known to Lieutenant Colonel Dumont as several other Officers also did, when they sent him back their Commissions, by letters which they addressed to him in the month of January 1828. Mr. Dumont's conduct and measures had evidently no other object than that of making the authority with which he was invested as commanding the first battalion of the County of York, subservient to the views of the then administration, of employing the arm of the Executive to avenge his pretended and private injuries; or of rewarding his partisans and punishing those who had been against him at the two last elections.

J. F. Girouard,
Esquire.
26th Jan. 1829.

When I threw up my Commission he had already caused a great number of Officers, all citizens of the highest respectability, and possessing the esteem and confidence of their fellow countrymen, to be deprived of theirs; he had put in their places Officers for the most part unqualified, young men and others, without property, without education, or without character, persons who had no other title to this honor, and to the protection of Lieutenant Colonel Dumont; that the part they had taken in his favor at the last election.

I was disgusted at serving under a man who denounced and persecuted all who were unwilling to abandon the cause of their fellow countrymen.

643.—Have many Officers of Militia been dismissed in the County of York since the beginning of 1827 ?

The greatest number were deprived of their Commissions by the General Order of Militia of 12th July 1827; since that time there have been divers dismissals by several General Orders, but the number has been less. Lieutenant Colonel Dumont has also granted several permissions to retire, which may be considered as dismissals.

644.—Have not similar reasons likewise prevented the promotion of certain Officers in your battalion ?

Yes; I produce in support of my opinion a letter from Lieutenant Colonel Dumont, which is as follows :

“ St. Eustache, 29th July 1828.

“ My Dear Sir,

“ Lieutenant Colonel De Bellefeuille came to day to complete the organization of my battalion, and as I told you, I recommended you as Major. This brought on the scene; Mr. Eug. Globensky said, that Mr. Smith did not deserve that place, since the Governor had dismissed Officers for having signed papers against him; that Smith was worse, for he had commanded Militia men to meet at Rochon's to sign the petition against the Governor—a petition the most scandalous; that he himself had signed that petition. Gentlemen, I answered, I have done my duty in naming Mr. Smith as Major; I will not make complaints against him on hearsay. You know it, said they. No, much is said, where is the proof; do your duty, I will do mine. Well, we will, therefore you make them reach His Excellency. I will transmit

Minutes of Evidence.

transmit them, provided they be respectful. I warn you of all, that you
J. J. Girouard, Esq., may ward of the blow.

26th Jany. 1829.

" Your Friend,

(Signed),

L. DUMONT."

" Wm. Smith, Esqr. }
St. Eustache. }

645.—Was Mr. Smith afterwards appointed Major?

No, it was Mr. Eugène Globensky who was appointed Major.

646.—Was it not notorious the greater part of the Militia Officers of your County were dismissed, not for having neglected the performance of their duty as such Officers, but for having taken part in the public affairs of the County, and for having participated in the measures publicly adopted in the County, and the object of which was to bring before the King and His Parliament the complaints of the Country, against Lord Dalhousie's administration?

Yes; and the general order of Militia, of the 12th July 1827, proves it. I produce this order as annexed to a letter addressed to Mr. Dumont, signed "Robt. Armour," the whole as posted up at the door of the Church at the Parish of St. Eustache, in the County of York, as I was then informed.

Lieutenant Colonel Dumont,

Montreal,——.

{ Office of the Montreal Official Gazette,
11 o'clock, Saturday.

Sir,

I have only time to announce to you the arrival of the Steam Boat Chambly, which brings the following piece of good news :

{ " Office of the Adjutant General of Militia,
Quebec, 12th July 1827.

" General Order of Militia,

" The Adjutant General of Militia is commanded to convey to Lieutenant Colonel Dumont, of the first battalion of the County of York, the thanks of the Governor in Chief, for the notice he has taken, and the report which he has with great propriety made, of the conduct of certain Officers under his command, in encouraging and taking part in public meetings, tending to excite the people to discontent. This instance of his loyal and faithful performance of his duty to his King and Country, merits the entire approbation of His Excellency.

" The Officers hereafter named are hereby notified that the Governor in Chief, by virtue of the powers vested in him as His Majesty's Representative, hereby cancels all the Commissions they held as Officers of Militia, and he directs those persons individually be enrolled as private Militiamen.

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Minutes of Evidence.

Lieutenant Colonel Dumont will immediately recommend Officers in the vacancies so made.

J. J. Girouard,
Esqr.

First Battalion County of York Militia.

26th Jan. 1829:

Names of the Officers whose Commissions are cancelled.

Major Ignace Raizenne, Captains Louis Dumouchelle, J. B. Dumouchelle, Jacob Barcelo, J. Bte. Féré, A. Berthelot, Joseph Hétier, Lieutenant, Wm. Scott, Dr. Jacques Labrie, (formerly Surgeon in the embodied Militia.)

By order of His Excellency the Governor General and Commander in Chief.

F. VASSAL DE MONVIEL,

Ajt. Genl. M. F.

I remain in great haste, yours, &c.

ROBERT ARMOUR, JUNR.

(This order was posted on the Church door by Lieut. Col. Dumont.)

Q.—What public meetings were those to which the general order of Militia, you have just spoken of, alluded?

A.—The general order alludes to the constitutional meeting which took place at St. Eustache in the County of York on the 4th June 1827, at which meeting Resolutions were adopted, tending to concur with the other Counties of the Province, in the measure to be taken for laying the complaints of the people before the Imperial Parliament.

Q.—Had this meeting, in your opinion, any tendency to create troubles, or to excite discontent in the Province?

A.—Far from it. Its sole object was to reclaim, in a legal and constitutional manner, the rights of free English subjects; and to complain to the King and His Parliament of divers acts of the Colonial administration. The public conduct of the two Representatives of the said County of York, Messrs. Dumont and Simpson, was also there discussed.

Q.—Did not Colonel Dumont make these public meetings a pretext for causing a great number of Militia Officers of his battalion to be dismissed, in order as much as possible, to paralyse their influence at the election which was, then shortly about to take place?

A.—Mr. Dumont well knew the loyalty of the gentlemen whom he had caused to be dismissed; many had served under him as Officers in his battalion for more than twenty years. He had seen them turn out zealously during the late war; and knew better than any one, that not one among them deserved the bad treatment that they met with at his hands. I cannot suppose that he had any other motive than that of gaining by intimidation what he could not obtain by his credit or his influence. He saw clearly that the constitutional meeting of the 4th June 1827, was the forerunner of the certain downfall of himself

Minutes of Evidence.

J. J. Girouard,
Esqr.
26th Jan'y. 1829.

self and his colleague, John Simpson, Esquire, at the ensuing election. He could not conceal from himself, that his change of politics, and the part he had on all occasions taken against the rights and interests of the inhabitants of the county, had made them altogether dissatisfied with him. By calling down this stroke of authority, he perhaps imagined that he should be enabled to destroy the influence of the gentlemen whom he denounced, and to strike fear into those who might have been willing to follow them. In addition to a great number of circumstances which leave no doubt on this subject, I can support what I have just said, by the subsequent conduct of Lieutenant Colonel Dumont and his partizans; for it is a fact, that the *breakings* and dismissals of Officers, and even the forced retirements which have since taken place in his Battalion, have lighted especially on those who declared themselves opposed to him at the last Election: on the other hand, the promotions and Commissions in the Militia which Lieut. Col. Dumont gave in great number, have fallen especially on those who had abandoned their fellow countrymen, to join the party of Lieutenant Col. Dumont, and to favor his election. It is moreover a fact of public notoriety, and one of which it would be easy to procure evidence, that at the time of the said Election, many persons acted in favor of Lieut. Col. Dumont, only on the faith of the promise which had been made to them, that their trouble should be recompensed by Commissions in the Militia, and this in fact afterwards took place, to the great dissatisfaction of the Militiamen, who saw plainly that they had no longer any but adversaries at their head; besides which, these Commissions had been lavished without regard to the character, the influence, the property, the ability, and other qualifications which the Militiamen had always found in officers of whom they had just been deprived.

650.—What effect did the General Order of Militia of the 12th July 1827, produce on the minds of the inhabitants of the Country in your neighbourhood?

It produced general indignation among the Militiamen of the 1st Battalion of the County of York, when they learnt the dismissal of their old Officers; and they showed the regret they felt at it, on several occasions. Among other facts, which I cannot point out, as supporting this assertion, I know that the officers, who were partizans of Lieut. Col. Dumont, at the head of whom was his Nephew, E. A. L. Bellefeuille, then a Major in the Battalion, and now on the Staff of the Militia, ran over the whole of the concessions in the division under Lieut. Col. Dumont's orders, to look for some one who would accept a Commission in the Militia, and that they met with several mortifying refusals, especially in St. Benoit, where Messrs. Mallu, Leclair, Pilon, and other respectable inhabitants could never be prevailed on to accept a Commission in the Militia, under Lieut. Col. Dumont. Another fact, which shows much better the opinion of the Militiamen is, that on the first of May, they humbly testified the esteem and respect they entertained for their old officers, and the contempt they had for the greater part of their new ones, by refusing to the latter the honor of planting the May Pole, which they continued to bestow on the former.

651.—Was Major H. Lemaire St. Germain, deprived of his rank in the York Militia, for having been present at the said meetings, or for any other and what cause?

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I believe that he was so deprived for the same reasons I have already given with regard to the preceding dismissals. Mr. St. Germain had always opposed, and had never been willing to favor the election of his Brother-in-law, Lieut. Col. Dumont, particularly at the last election. Perhaps Mr. Dumont was also influenced by Major St. Germain's refusal to execute a certain order of division, which he received from Lieut. Col. Dumont, in the month of August 1827, the original of which I produce :

J. J. Girouard,
Esqr.

26th Jan'y. 1829.

St. Eustache, this 12th August 1827, A. M.

(Order of Division.)

To

Hya. St. Germain, Step. McKay, and Eust. De Bellefeuille, Esquires, Majors in the 1st Bat. C. of Y.

It is clear, by His Excellency's General Order of the 12th July last, that the officers who have encouraged, and have taken part in the public meetings tending to excite discontent among the people, have been degraded. I therefore require you in the King's name, and each of you in particular, officially to report to me whether the officers under your immediate orders, have encouraged and taken part in the public meetings tending to excite discontent among the people, since the 12th of July last; and to inform yourselves exactly of their conduct since the 12th of July last.

At the same time to make a circumstantial Report to me, with regard to these meetings, of the persons by whom they have been most encouraged, and to give me, in writing, the names of the Officers, Militiamen, and other persons under your orders, or under those of your officers. You are to conduct yourselves with great secrecy, and are each of you to make a separate report to me, within forty-eight hours.

(Signed) LAMÉ. DUMONT,
Lt. Col. Comdg. 1st. Bat. C. of Y.

By Order of the Lt. Col. Comdg. }
the 1st. Bat. C. of Y. }

Charles L. Dumont,
Lt. & Adj. 1st. Bat. C. of Y.

652.—You were speaking a little while ago, of the permissions to retire, sent to certain officers of your Battalion, as of something meant to degrade them, why so ?

Because these permissions to retire, are considered, and very justly so, as dismissals :

1st. Because the officers who received them, had not asked for them, and were not, as many of them have assured me, ever consulted on the subject. I know also, that Mr. Joseph Robin, an Ensign in the Battalion, was preparing to present a Petition to His Excellency on the subject. He told

Minutes of Evidence.

J. J. Girouard, Esqr. told me myself, that he had served in the last war, that he was still willing to serve, that he was able to do so, and had not given cause whatever for this permission to retire.

26th Jan. 1829. 2ndly. Because they were considered as a punishment for having signed the Petitions to the Imperial Parliament, and for having refused to favor Lieut. Col. Dumont at the last Election.

—Are the officers who, in your Battalion, have been appointed in the place of those who were dismissed, or who resigned, generally speaking, duly qualified ?

The greater part of these officers are, as I said before, in no wise qualified ; several of them are neither freeholders nor sons of freeholders : a good many of them are entirely without even a domestic education.

In St. Benoit, I know only Capt. Edouard Viau, who knows how to read and write ; there are even some among them, who from their conduct or situation cannot possess the confidence or the respect of the Militiamen : several of them are only petty Tavern keepers, who sell nothing but rum by the glass and gill.

—Was not the said Capt. Viau promoted in a singular and unusual manner ?

He is a young man, living in St. Benoit, where he keeps a petty Tavern. He is infirm, and frequently attacked by the falling sickness. After the dismissals which took place in the Battalion, he was appointed Ensign, and happened to be the only remaining officer in St. Benoit at the time when several of the newly promoted officers had sent back their Commissions to Lieut. Col. Dumont. It was on this occasion that Lieut. Col. Dumont sent a sort of Battalion Order, (which has been alluded to) to St. Benoit, which Order was published and read aloud, by Paul Brazeau, a Bailiff, at the door of the Parish Church of St. Benoit, after Morning Service, on the last Sunday in January 1828.

I produce an exact copy, line for line, and word for word, of this Order, the original of which I saw in the hand writing of, and signed by, Lieut. Col. Dumont,

It is as follows :

“ Inhabitants of St. Benoit,

“ All is not lost in Israel : one good Israelite is still to be found in St. Benoit.

“ Edouard Viau having by his conduct deserved the confidence of the Government, has become, by the desertion of the officers, the oldest officer of St. Benoit.

“ By the King’s Order.

“ All good subjects in St. Benoit are requested to obey the orders of Edouard Viau, Commanding Officer in St. Benoit!

“ As

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" As for the Rebels, we shall find means of compelling them to obey his orders, according to law. J. J. Girouard, Esqr.

" Given at St. Eustache,
" the 19th January 1828.

20th Jan'y. 1828.

" L. DUMONT, Lt. Col.
" Commanding,
" 1st Bat. C. of Y."

(On the back of this Order, was the following writing, signed by the said Mr. Dumont, and which was read and published at the same time with the foregoing.)

" *To the Inhabitants of St. Benoit.*

" Edouard Viau, Gentleman, having by his conduct deserved the confidence of the Government, has become by the desertion of the Officers, the first commanding officer in St. Benoit.

" By the King's Order.

" All good subjects of St. Benoit, are requested to obey him, and we shall find means of making the rebels obey his orders, according to law.

" L. DUMONT, Lieut. Col.
" Commanding,
" 1st Bat. C. of Y.

" St. Eustache, }
the 19th January 1828." }

—Do you believe, that if the Militiamen were called into active service, Lieut. Col. Dumont's Battalion would be able to render that service which might be expected from a well organized corps of Militia?

I do not believe it. It is true that the Militia, being, as I know they are, loyal and faithful, would be far from refusing to obey any lawful orders; but from the private knowledge I have of their present officers, and the sentiments they entertain with respect to them, I am persuaded they would not obey with that good will and eagerness which they would show, if they had officers whom they could respect, and in whom they could confide. Besides, before the Militia was thus turned upside down, almost all the officers had received sufficient instruction to enable them to perform their duty; this is now far from being the case, for a good many of the subalterns have received no instruction whatever, and even among the captains, there are some who neither know how to read or write. To conclude, the breakings, the dismissals, and the conduct of Lieut. Col. Dumont and his partizans before, during, and after the Elections, as well as with regard to the measures taken by the people to obtain justice at the hands of the Imperial Parliament, have produced this unhappy result; that the inhabitants have believed it impossible for a man to be a good citizen and hold a Commission in the Battalion of Lieut. Col. Dumont; that the strange abuse of these honorable

Minutes of Evidence.

J. J. Girouard,
Esquire.
26th Jan. 1829.

honorab!e charges, which Col. Dumont has lavished, without distinction, to create partizans or to reward his creatures, has made the inhabitants look with suspicion, and often with contempt, on what was formerly the reward of services performed, the mark of merit, of integrity and of talent, and the object of their confidence and of their respect.

—Was it the object of all the meetings held in your county, and in the several Parishes, in 1827, to ensure the election, and to present Petitions to His Majesty and the Parliament ?

To my knowledge no meeting was held which had any other object than those which have been mentioned.

—How many of the old officers who had Commissions in the first Battalion of the County of York, are now remaining ?

Since Lieut. Col. Dumont began to *practice dismissals*, in 1827, there remain, to the best of my knowledge, only the Lieut. Col. and one Captain, who still hold their old Commissions ; the greater part of the other officers have been forcibly dismissed, or placed on the Retired List, or have, of their own accord, withdrawn from the service, by sending back their Commissions to Mr. Dumont, so that at this moment the number of officers thus dismissed, amount to more than thirty.

653.—Do you know Joseph Brazeau, Paul Brazeau and Maurice Lemaire, who have presented a Petition to this House ?

Yes—I know them ; they live in the County of York, at the Village of St. Benoit, where I have myself lived for 13 or 14 years.

654.—Did Lieut. Col. Dumont enforce the Militia Ordinances of the 27th and 29th Geo. III ?

After the expiration of the Militia Laws on the 1st May 1827, Lieut. Col. Dumont, as well as the other officers commanding Divisions, received orders to enforce these Ordinances in his Battalion : but at first he did nothing in the matter ; and even gave reason to suppose, in the first instance, that he did not believe in their legality, and afterwards, that he had his private reasons for not enforcing performance of the duties mentioned in them before the approaching election. Having, however, as it appears, received a particular order on this subject, I know that he sent orders to his Majors, and these latter to the Captains, to enforce the said Ordinances : but as the time of the general election was drawing near, and he knew the repugnance the inhabitants felt to the performance of duties to which they were unaccustomed, and which they believed to be illegal, these orders were not executed ; which was generally attributed to Mr. Dumont's great desire to remain on good terms with the electors, in order to have their votes at the election which was then on the eve of commencing. After the election he strictly enforced the Ordinances in his Battalion, and rigorously exacted the performance of the duties required under them, at least in the part of St. Benoit, and St. Scholastique, where he was zealously seconded by his newly created officers.

655.—Do you believe that Mr. Dumont, by not in any manner enforcing the Militia Ordinances in his Battalion, in 1827, may have thereby contributed to raise a belief among the inhabitants of your part of the country, that these Ordinances were not in fact in force ?

Yes—I do believe so ; and this consideration was stated as an excuse, or

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as a motive for leniency on the part of the Judge, by the Militiamen who were found guilty last year, of having infringed the Ordinances, at a Court Martial, in which Mr. Dumont presided. J. J. Girouard,
Esqr.

656.—Do you know why the prosecutions you have just spoken of took place? 26th Jan. 1827.

I have already stated my opinion, that Lieut. Col. Dumont and his Subalterns did not so much seek to make the law respected, as to revenge themselves; and the Ordinances afforded them the means of doing so: the prosecutions were for not having enrolled themselves as required by the Ordinances, and were followed by a sentence of fine and imprisonment.

657.—What were these prosecutions, and what followed from them?

Captains Charles Dorion, J. Bte. Ritcher, François Desvoyaux and Edouard Viau, made an arrangement in the first place with Lieut. Col. Dumont, Tison, the Bailiff, and a clerk, that they should not be obliged to make the pecuniary advances which these prosecutions rendered necessary; the latter agreed to wait for their fees until the fines were paid. A Court styled "*Martial*" was organized at St. Eustache, composed of Lieut. Col. Dumont, as President, Major Stephen McKay and Captain William Smith. On Thursday, the 3d July 1827, the Court heard the complaints made by the Captains I have before spoken of, against:

1st. Ignace Raizenne, of Saint Benoit, Notary, a Justice of the Peace of long standing, Commissioner of Small Causes, and a Major dismissed by the General Order of the 12th July 1827.

2nd. Jacques Labrie, of St. Eustache, Physician, deprived, by the same Order, of his Commission as Surgeon in the 2d. Battalion of embodied Militia.

3d. Jean Olivier Cherrier, Physician, residing at St. Benoit.

4th. Jean Joseph Girouard, of St. Benoit, Notary, a dismissed Captain.

5th. Seraphim Barbeau, of St. Benoit, Miller.

6th. Doctor Alexis Demers, a Lieutenant, dismissed by the General Order of the 12th July 1827,

7th. Dominique Poitra, Private, who, as well as Doctor Demers, no longer resides within the limits in the Battalion.

8th. J. Bte. Dumouchelle, a Captain, dismissed by the General Order of the 12th July 1827.

9th. Louis Masson, a Captain, dismissed.

10th. Maurice Lemaire, a Lieutenant, ditto.

11th. Paul Brazeau, an Ensign, ditto.

12th. Vital Dumouchelle,

13th. Joseph Brazeau,

14th. Laurent Aubry,

15th. Michel Lalande,

16th. J. Bte. Bertrand,

} Privates.

All prosecuted for not having enrolled themselves as required by the Ordinances.

The ten first were exempt from Militia duties, according to the Ordinances themselves. The Court, nevertheless, were loud in the expression of their opinion, that all the persons prosecuted ought to be sentenced to pay a fine of 5*l*. In the mean time these causes were put off till the 10th of the same

Minutes of Evidence.

J. J. Girouard,
Esqr.

26th Jan. 1829.

same month, to allow time for consultation. The Court then again declared that it was their opinion, that the persons under prosecution ought to be condemned, but that having received a letter from the Solicitor General, which was read in open Court, they dismissed the prosecutions merely out of deference to the opinion of the Officer of the Crown, and caused this explanation to be entered in the Judgment recorded in the Register of the Court.

As to the nine other persons under prosecution, their causes were finished at the first sitting of the Court. Laurent Aubry, Louis Masson, and J. Bte. Bertrand were acquitted for divers reasons; and Messrs. J. Bte. Dumouchelle, Vital Dumouchelle, Joseph Brazeau, Paul Brazeau, Maurice Lemaire, and Michel Lalande were condemned to the highest fine, which was 5*l.* and costs. Some days afterwards Messrs J. Bte. Dumouchelle, Vital Dumouchelle and Michel Lalande, each paid into the hands of Lieut. Col. Dumont, the fine of 5*l.* and costs, amounting to 8*l.* or 9*l.*

With regard to the Ex-Lieutenant Maurice Lemaire, the Ex-Ensign Paul Brazeau, and Private Joseph Brazeau, not having paid the fine, they were imprisoned for one month, reckoning from the 24th July 1828, in the Common Gaol of the District of Montreal, by order of Lieut. Col. Dumont, and the two other Judges of the Court, who had passed sentence on them.

There were other prosecutions during the same Court, but they were not followed by condemnations.

658.—Can you, in a few words, tell us what were the grounds of defence set up by the Militiamen who were condemned?

The accused pleaded (without being willing to admit the legal existence of the Militia Ordinances:)

1st. That there was room for *challenge*, because the Judges had beforehand pronounced sentence on those accused (as was in fact acknowledged by the Court in my own case.)

2d. That the Court as then composed, was incompetent by the Ordinances: because it was not composed of Field Officers, Mr. Smith, one of the Judges, being only a Captain: and because further, Mr. Smith's rank would not make him a proper officer under the Ordinances, there being in the Battalion a Captain of longer standing than himself.

3d. That the Ordinances required only one enrolment, and that they were all enrolled as required by the Ordinances.

4th. That even if their enrolment was insufficient, they ought to be at all events exempt from the Penalty, for the following considerations, viz:

Because, up to the date of the Judgment of the Court of King's Bench in Mr. Chasseur's case, Mr. Dumont had led the Militiamen under his command into error, with regard to the legal existence of these Ordinances, both by his conversation and his conduct in not enforcing them in any way in his Battalion: and because the Militiamen had no means of knowing their officers, the companies having been changed and re-changed several times, without the men having the least knowledge of it.

Such were, in a few words, the general grounds of defence urged by these under prosecution. But Joseph Brazeau, (one of the Petitioners) who was a minor, wished to be allowed to prove that he had caused himself to be enrolled,

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enrolled, according to custom, by his father (Joseph Brazeau, of St. Benoit, Bailiff, a respectable man, and of acknowledged integrity) and offered to the Court documentary evidence, that captain Viau had received the said enrolment, and had appeared satisfied with it. The Court rejected the defence, and refused to admit the said proof, deciding that the enrolment, according to the Ordinances, ought to be personal.

J. J. Girouard, Esqr.

26th Jan. 1829.

William Scott, Esquire, of St. Benoit, Merchant, then appeared before the Committee, and was examined as follows:

W. Scott, Esq.

659.—Were you present at the Constitutional Meeting held at St. Eustache, on the 24th June 1827 ?

Yes—I was there.

660.—Do you know by whom, and in what manner the said meeting was called ?

The meeting was called in consequence of the determination of some of the principal inhabitants of the Eastern portion of the County of York, at St. Benoit, a few days before. Notice of the calling of this meeting, and of the time and place of holding it, was given at the doors of the Churches of the different Parishes, on Sunday, after Divine Service.

661.—Who was Chairman of the said meeting, and who was appointed Secretary ?

Major Raizenne, who was at that time a Justice of the Peace, was called to the Chair, and Doctor Labrie was requested to perform the functions of Secretary ; It was the gentleman last named who more particularly explained the object of the meeting.

662.—What was the object of the meeting ?

1st. To give the inhabitants a knowledge of the proceedings of the House of Assembly, the result of these proceedings, the prorogation of the House, and the conduct, in the House, of the persons who represented the County of York, Messrs. Dumont and Simpson.

2d. To take the sense of the people with regard to the then administration, and to adopt certain resolutions, tending to smooth the way to sending Agents to England to obtain a redress of Grievances, and to procure the adoption of such means as would prevent their recurrence.

663.—Can you give an account of what passed at the said meeting ?

My answer to the preceding question explains nearly the whole of what took place at this meeting. Those who had called it obtained all they hoped for: for immediately after Divine Service, the inhabitants having met in great numbers, several public newspapers containing accounts of the proceedings of the House of Assembly, and of the then administration, were read to them, accompanied by some remarks. After this a series of Resolutions having been proposed, they were almost unanimously approved, there being only Major McKay, who, from the midst of the crowd made some incoherent remarks, and a couple of drunken men, who attempted, but in vain, to disturb the peace, and the good order of the meeting.

(No. 35, of *La Minerve*, of the 11th July 1827, having been shewn to the witness, was asked :)

664.—

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W. Scott, Esq. at 664.—Does it contain a true copy of the Resolutions which were adopted at St. Eustache, at the meeting held on the 4th June 1827 ?

It contains a true copy of the Resolutions adopted at this meeting.

26th Jan. 1829.

665.—Do you remember that any thing was said at this meeting, in any manner inconsistent with the duty of faithful and loyal subjects ?

I am certain that nothing was said or done which could lead any person to imagine that those present acted otherwise than as loyal subjects.

666.—Was Lieut. Col. Dumont present at this meeting ?

He was not there.

667.—Did he not nevertheless make a very unfavorable report of this meeting to the Governor ?

Judging from the General Order of Militia which issued a short time afterwards, and by which several officers were deprived of the rank they had held, I must infer that Mr. Dumont's report on the subject of this meeting was very unfavorable.

668.—Did you understand that it was for having attended this meeting that you as well as the other officers were dismissed on the 12th July 1827 ?

The General Order assigns no other reason for this arbitrary conduct on the part of the Governor, than the false report made to him by Mr. Dumont.

669.—Have you a copy of the report made by Mr. Dumont, and can you tell of what nature it is ?

I have not seen a copy of the report made by Mr. Dumont, concerning this meeting : but I must suppose it to be extremely malicious and false : for had it been otherwise, the Governor would not have deprived of their Commissions, gentlemen who had, for the most part, grown old in the service, and who, during the last war, had behaved like brave and loyal subjects. I may also say that this report was made with partiality, because, on the one hand, I remarked that a Captain was dismissed for having attended this meeting, at which he had never been present, and in which he had taken no part whatever ; and on the other, that a Captain who *did* attend the meeting, who was one of the Committee, and who had in other respects taken an active part therein, kept his rank in the service for twelve months afterwards, at the end of which time he obtained leave to retire with honor.

670.—To what cause do you attribute this preference ?

I can attribute it to no other cause, than the fact that this person was allied to his (Col. Dumont's) family.

671.—Is the Battalion of "*La Rivière du Chêne*," which is the 1st Battalion of the County of York, as it is now organized, fit for effective service ?

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672.—Explain this, if you please ?

There are a number of young persons, they are almost children, who are at school at Montreal and elsewhere, for whom Commissions have been obtained. Many of the Captains, as well as the Adjutant reside at Montreal : some are Students at Law, and others Students of Medicine ; some have not lived in the Country (*la campagne*), since their infancy, and considering the profession they have chosen, it is to be presumed they will never reside there.

Among the newly Commissioned officers, there are many who are ignorant, or in no way qualified ; who have no property ; known drunkards,

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and some who keep miserable taverns, where nothing is sold but the very worst sort of rum. On the whole, the greater part of them will never obtain the respect which ought to be due to those who possess the authority of command. W. Scott, Esq
26th Jan'y. 1829.

673.—Are you personally acquainted with Mr. (formerly Major) Raizenne, Captain J. Bte. Dumouchelle, J. A. Berthelot, and the other officers dismissed by the General Order of the 12th July?

Yes—they are all men of respectability: some of them are possessed of considerable property, and are in other respects qualified to perform worthily the duties of the station they held; and in my opinion the Battalion has experienced a severe loss by the dismissal of these gentlemen.

674.—Do you consider them faithful and loyal subjects?

I do most assuredly consider them such; I am informed they gave proof of it during the last war; and during the great number of years that I have known them, I have seen nothing which could destroy the good opinion I entertain of their loyalty.

675.—Would you express as favorable an opinion with respect to the inhabitants of the County of York in general?

I consider the Canadian population, not merely of the County of York, but of Lower Canada, faithful and as loyal subjects as exist in any of His Majesty's Dominions.

676.—How then could Mr. Dumont represent as disloyal, those who had promoted or who attended the meeting of the 4th of June?

I do not believe that Mr. Dumont had in reality any doubt of the loyalty of the officers whom he caused to be dismissed; but, in my opinion, I believe that what induced him to act in this manner, was the declaration publicly made by these officers of their intention to oppose his being again returned as Member for the County: and that by the proceedings he adopted, he believed he should diminish their influence, and hinder others from following their example, or perhaps create a hope in those who would support him, that he would confer on them the rank of the officers who had been dismissed.

677.—Did not Mr. Dumont's conduct to his officers make it impossible for them to continue the exercises required by the Militia Ordinances which had been revived? and did not the Governor, in consequence of this, offer to give him leave to retire?

Whether it arose from his incapacity, or from doubts he entertained of the validity of the revived Ordinances, (which doubts he clearly manifested by consulting a Lawyer on the subject) the duty expected from him was not performed. The Governor thereupon offered him leave to retire, against which Mr. Dumont protested, attributing this offer to some underhand dealing; which, however, does not appear to have been the case, as the Governor permitted him to retain the command, since he wished it: the Governor's only motive being to extricate him from the singular dilemma in which he was placed, being at enmity with the whole, or the greater part of his officers, at the same time recommending Mr. Dumont to continue the performance of his duty as usual.

678.—Do you believe that if the 1st Battalion of the County of York,

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W. Scott, Esq. were called into active service, the men would serve under their present officers ?

26th Jan. 1829.

Rather than be considered as rebels, they would probably do so ; but not, I am well convinced, with the same zeal.

(A paper writing laid before the Committee by Jean Joseph Girouard, Esquire, making part of his 8th answer, was shewn to the witness.)

679.—Do you know this paper ?

Yes—It is the General Order of Militia of the 12th July 1827, by virtue of which many officers of the 1st Battalion of the County of York, were dismissed, on the Report of Lieut. Col. Dumont. The General Order appears to have been cut or extracted from the Quebec Official Gazette, and annexed to another piece of paper, on which are written the following words :

“ I have only time to announce to you the arrival of the Steam Boat Chamberly, which brings the following piece of good news.

(Signed) “ R. ARMOUR.”

I saw the son of the Lieut. Col. (who is Adjutant of the Battalion,) post this entire paper, as it is described, on the door of the Parish Church of St. Eustache. The same General Order was also published and read at the Church, after Divine Service, by Major E. Globensky, who was then a Captain ; and who ended, by making the following remark, “ The Officers “ must have deserved it, for otherwise the Governor would not have dismissed them.”

681.—Was it the object of all the meetings held in your County, and the different Parishes, in 1827, to consider of the Election and to present Petitions to His Majesty, and to the Parliament ?

They had no other to my knowledge.

Monday, 26th January 1829.

PRESENT:—Messrs. Bourdages, Cuvillier, Hery, Leslie, Viger, and Neilson.

Mr. Viger in the Chair.

Ordered, That the Chairman do write to His Excellency's Secretary, for the purpose of obtaining a copy of the Memorial addressed by Mr. Gale to His Excellency, on the subject of the *superseedeas* spoken of in the Evidence, relative to the Petition complaining of Grievances ; and of the Memorial of the four Magistrates afterwards dismissed.

And further, for the purpose of knowing at what time the proceedings of the two Houses of Upper Canada, in 1822, relative to their complaints on the difficulties

Minutes of Evidence.

difficulties between the two Provinces, on Financial matters, were transmitted to the Governor of Lower Canada.

26th Jan. 1829.

[Adjourned until to-morrow.]

Tuesday, 27th January 1829.

27th Jan. 1829.

PRESENT :—Messrs. *Viger, Bourdages, Heney, Cuvillier, Neilson and Leslie.*

Mr. *Viger* in the Chair.

The Chairman informed the Committee, that in consequence of the order of yesterday, he had immediately written to Lieut. Col. Yorke, His Excellency's Secretary; and had this morning received the following answer, with copies of the two Memorials mentioned in the said order :

CASTLE OF ST. LEWIS,
27th January 1829.

Sir,

Having had the honor of submitting to His Excellency the Administrator of the Government, your letter of yesterday's date, requesting that the Committee of the House of Assembly, of which you are Chairman, might be furnished with the copy of a letter addressed by Mr. Gale, Chairman of the Quarter Sessions at Montreal, to the late Governor in Chief, in the year 1827, relative to an order of *supersedeas* given by four Magistrates of that place; and also with a copy of the memorial of those four Magistrates to the late Governor in Chief; I am commanded by His Excellency to transmit you herewith copies of these documents to be laid before the Committee.

With regard to the information with which you request, on the part of the Committee, to be furnished, as to the date at which an Address and Report of the two branches of the Legislature of Upper Canada, voted on the 8th January 1822, relative to the financial difficulties between the two Provinces, was received at Quebec; I am commanded by His Excellency to inform you that the letter from His Excellency the Lieutenant Governor of Upper Canada, transmitting those documents, is dated the 22d January 1822, and explains that from the time necessary for their preparation they had only been received on the preceding day from the Clerk of the Parliament, but the date at which this letter was received is not marked upon it, now does it appear from any document on record.

I have the honor to be,

Sir,

Your most obedient,
humble Servant,
(Signed,)

D. B. Viger, Esq.
M. P. P.
&c. &c. &c.

C. YORKE,
Secretary.

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Montreal, 17th August 1829.

27th Jan. 1829.

My Lord,

I have been desired by a General Meeting of the Magistrates of the City of Montreal, to lay before your Excellency a representation respecting the extraordinary authority assumed by four of their number, namely: Jean Marie Mondelêt, Hugues Heney, F. A. Larocque and Thomas Baron, of declaring the official act of the Magistracy of former years to be illegal, and of prohibiting, out of Sessions and without giving notice or calling a meeting, the execution of the orders of that body twice during the present season, solemnly sanctioned at regular sessions; at the last of which (convened upon previous notice and constituting one of the fullest meeting of the Magistracy ever held at Montreal, and after the audition of Counsel) the previous order was approved of with only one dissenting voice.

This proceeding of the four Magistrates is a deviation from the courtesy and the practice at Montreal, according to which, notice to their associates in the Commission would have been proper.

It is a violation of Law, in as much as not one of the four was present at those Courts or Sessions of former years, whose proceedings they took upon themselves to declare illegal, and one of the four was not even at that time (1825) in the Commission. And it is of dangerous tendency for a part of the Magistracy to array themselves against and labour to destroy the official authority of the body to which they belong, instead of allowing their errors, if they commit any, to be corrected by a superior tribunal, which alone can be competent to determine between the Magistrates who are acting for the City, and the individuals who may deem themselves aggrieved by their acts.

I might, perhaps, without impropriety, restrict my statement to the recent occurrences; nevertheless, as the four gentlemen above named have assumed prior orders and determinations as the basis of their *supersedeas*, I have thought it useful, at the risk of additional prolixity, to begin the relation as far back as the year 1825. To commence then at that period: A number of Magistrates having observed with uneasiness the continued encroachments made upon the vacant ground between the River and the former line of enclosures in front of the beach in the City of Montreal, fearing also, that these encroachments would soon leave no passage open to the citizens, unless some course were taken which might enable the Magistrates to prevent the further extension of these spoliations, and considering that the Magistrates would have no right to prevent or to punish such further spoliations, unless the remaining space should be laid out for a street or public place for the benefit of the City, deemed it necessary in August 1825, to call a Session for the 24th of that month, which being assembled at the Court House, after due notice, it was, by the Magistrates present, namely, Samuel Gale, Thomas Porteous, Jean P. Leprohon, William Robertson, Thomas A. Turner, George Garden, James Millar and George Moffat, resolved among other things, that it was expedient to cause a jury to be summoned by the Sheriff according to Law, to determine the necessity and advantage of laying out a street from the Creek at Pointe à Callière as far as the corner of Grey Nuns Street, in the Ste. Anne Suburb.

In conformity to this resolution a warrant was issued to the Sheriff for summoning

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summoning a jury of twelve principal Household-ers. The Sheriff in consequence summoned and returned a panel of jurors on the 12th September 1825, who, after being sworn and charged, returned to *visi* the premises and frame their verdict, and report, which they subsequently produced, and thereby among other things declared it to be necessary and advantageous to lay out a street from the Creek at Pointe à Callière as far as the house of Nahum Hall, at the corner of Grey Nuns' Street, and to give such breadth to the said street as circumstances and the extending commerce of the Port might appear (viz. to the Magistrates) to require and justify. 27th Jan. 1829.

This verdict and report were taken into consideration, ratified and confirmed at a Session of the Magistrates, held at the Court House on the 17th September 1825, at which were present, Samuel Gale, Jean P. Leprohon, Thos. Porteous, William Robertson, Pierre de Boucherville and Pierre de Rochelave, who established and gave to the said street and public place all the breadth which the previous enclosures permitted.

The width in some parts was unfortunately less than would have been suitable, had it been in the power of the Magistrates to have increased it, but it was nevertheless as broad as the entire space left by those who had before that time erected enclosures and buildings to protect their encroachments.

This was all that could be done at the time, and it was hoped that the resumption of these encroachments might be hereafter made through the interposition of government, after which a convenient breadth might be obtained for the whole extent. Supposing any individuals to have previously possessed a right of property on the ground, comprehended in this street or place, the Magistrates nevertheless, under the Law, had a right to take it for such a public purpose, because it had always been uninclosed and vacant, and the law gives express power to the Justices to take the land necessary for these objects, excepting such lands as are under peculiar enclosures, or are used as Gardens or Orchards. The right of former proprietors in cases like the present, supposing such right to have existed, would only extend to a claim for pecuniary compensation or indemnity, and not to prevent the occupation of the public, nor to resume the possession of the ground. For a period exceeding 18 months, between October 1825 and May 1827, no attempt was made by any person to assume possession of the space thus declared to be a public street and place. Occasional delinquencies during that period, in leaving property upon this street for a longer time than allowed by the rules of Police concerning streets, were prosecuted and punished by fines; thus sanctioning and confirming to the public, the proceedings whereby the Magistrates had assumed possession and established the street.

At length, about the beginning of May 1827, information was casually given to some of the Magistrates, through the zeal of private citizens, that a short time previously, one Stanley Bagg, had enclosed and taken possession of a part of this space, and had put a tenement of a few boards nailed together similar to what is often seen upon the rafts descending the St. Lawrence, and is often termed a Shanty. The Inspector of Roads for Montreal, (Mr. Viger,) whose duty it was, even without waiting for orders, to have prevented or removed this encroachment, and to have given the earliest information to the Magistrates, and who had neither acted or reported, was then directed to make his report upon the subject. The Report of the Inspector was in consequence

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quence made, and on the 19th May 1827, an order was given at the Session (at which were present, Samuel Gale, the Honorable C. William Grant, J. P. Leprohon, Thomas Porteous and Thomas A. Turner, Esquires.) commanding the Inspector to do what he was bound without such order to have done, namely, to execute the Law, by giving notice to the trespasser (Stanley Bagg) to remove the obstructions, &c. and by removing them himself, in case the trespasser should not, against whom the expenses, charges and legal penalty were afterwards to be awarded.

This, if not the only course which the law allowed, appeared the only proper, as being the only expeditious one, because the navigation being open, it might be injurious to the interest of the public, that the obstructions and encroachments should continue.

The Inspector of Roads at a subsequent Session, reported to the Magistrates that he had delayed the execution of their order in consequence of a communication from Stanley Bagg, from whom also a petition, conceived in highly indecorous language, was received. He advanced his right to the ground, declared that he would maintain possession, and desired to be heard by Counsel.

The majority of Magistrates then present, were of opinion that his pretensions should be considered, and Counsel heard on the subject.

Regular notifications were given to all the Magistrates to the end that they might be present and assist with their advice, if they thought fit, the Magistrates who had before acted in the matter. Those who had previously acted being alone competent, if any were so, to suspend or supersede their own previous determinations and orders. After various adjournments to suit the convenience of Counsel, the Magistrates to the number of twenty two, * assembled at the Court House on the 30th June last, when after seeing a promise made this spring on behalf of the Grey Nuns, to lease for a term of years to Stanley Bagg, the ground from their wall to the waterside, being precisely the space taken for the street at that part, and after hearing Mr. Bedard, on behalf of Stanley Bagg, and the Solicitor General in reply, the order before given on the 19th May last, was approved by all, except Pierre de Boucherville, and in consequence the said order was directed to be forthwith carried into execution by the Inspector of Roads.

Had the commands of the Magistrates been acted upon, if there had been any thing illegal in the order of the 19th May, or in the proceedings of former years establishing the street, it was in the power of the party aggrieved to have sought relief before a superior tribunal, which was competent to afford him redress.

It would have been improper, even in those Magistrates, who acted on the former occasions and gave the original orders, to have frustrated or prevented the execution by a *supersedeas*, after they had upon further consideration and a full hearing, confirmed their former determination, and after they had from courtesy applied to, and received the approbation of their brother

Justices

* Those present at the meeting were Samuel Gale, the Honorable C. W. Grant, J. M. Mondelêt, Jean P. Leprohon, Jean Bouthillier, Thomas Porteous, William Robertson, Thomas Andrew Turner, Pierre de Boucherville, Charles Fremont, Hugues Heney, François Ant. Larocque, Pierre de Rocheblave, James Leslie, George Auldjo, Horatio Gates, Peter McGill, William Lunn, Robert Froste, Henry Griffin, Thomas Baron and John Molson, Esquires.

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Justices upon the measures they had adopted, an approbation they were not bound to obtain. It would be more than improper, it would be highly illegal ^{27th Jan. 1829.} in Magistrates who had no concern in the original orders, who had not participated in their proceedings of former years, to assume a superiority and pre-eminence over the associates in office to declare their proceedings in former years to be illegal; their recent orders upon these proceedings to be of consequence unfounded, and to prohibit their officer from executing them. Nevertheless, all this will appear to have been done. The Inspector of Roads in his Report to a Special Session held at the Court House on the 14th day of July last, returned, that as he was in the act of carrying the orders of the Magistrates into execution, on the 9th July, (this was, however, two days later than under his notice for the purpose, it needed to have been) a *supersedeas* was delivered to him in writing, under the hands of Jean Marie Mondelét, Hugues Heney and Thomas Baron, that there upon he desisted until he should report thereon, and receive the decision of the Magistrates respecting the *supersedeas*, upon which he prayed their further orders.

A day or two afterwards another *supersedeas*, a mere transcript of the former, except that it had the signature of François Antoine Larocque, in addition to those of the three last named Magistrates, was brought forwards by the Clerk of the Peace, as having been left with him. The *supersedeas* after a long recital of the various proceedings, verdicts of Juries, and determinations of 1825, declares them *en masse* to be insufficient, and contrary to law, and the order of the 19th May last founded, (predicted as they call it) upon them to be also illegal, state that they concurred by error and mistake with others on the 30th June, in confirming the order of the 19th May, and concludes by declaring that they supersede, and order the Inspector of Roads to abstain from carrying it into execution.

Now, in fact, the concurrence of these four Gentlemen on the 30th June, in the order of the 19th May, could not add to its validity, and their recording it would have been illegal, for not one of the four gentlemen, who signed the *supersedeas*, were present on the 19th May last, or at any of the previous Sessions in 1825, relating to the street in question, and Mr. Baron was not, for nearly a twelve month after, even in the Commission of the Peace. If they were present on the 30th June, in consequence of the intimation, which in accordance with the courteous practice generally adopted in Montreal was given to them, this could give no right to set aside or violate the proceedings of other competent Sessions, in which they had not participated. Such opinions as they might have chosen to express, would doubtless have been received with proper attention; but, although, for them to have sanctioned, was unnecessary, and to have reversed would have been culpable; nevertheless, they thought fit to declare their approbation. If their approbation had not been given, it would not have been possible for them to have alleged recent error in themselves, as a ground for correcting pretended antecedent errors of others, nor indeed, to have taken any steps towards correcting such errors, without a completely unveiled appearance of wrong.

The *supersedeas* above mentioned, again prevented the execution of the order of the 19th May, brought the matter again before the Magistrates without

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27th Jan. 1829 out any thing being done, and enabled Bagg to retain his possession instead of obliging him to apply to a superior tribunal to sanction his title, which the enforcement of the order would have done.

It remained for the body of Magistrates to consider what measures might be adopted concerning the *supersedeas*, for which purpose a Session was convoked upon notice, which after adjournments met on the 4th instant. At this meeting it was represented, that although for Magistrates to issue a *supersedeas* respecting their own acts, might have been occasionally practised, it was founded upon the principle, that a man upon sufficient ground might countermand his own orders, where it was lawful for him to do so; but that it would by no means be always lawful even for those who gave to countermand their own orders, to do even this in some cases might be a flagrant abuse. Far less could it be lawful, or decent, for Justices of the Peace to issue a *supersedeas* respecting the orders of other Justices of the Peace, or officially to declare their proceedings illegal.

That in the King's Bench in England, it had been declared that if Justices of the Peace take upon themselves to supersede the warrant of a Justice having competent jurisdiction of such matters; it is taking upon themselves to prejudice that the Justice has done wrong, and it is a palpable and gross abuse of their office, for which the *Court will grant information*; that if such proceedings as these adopted by the four Magistrates could be tolerated, it might prevent the execution of all the regulations and orders heretofore made concerning the City of Montreal, and would render the Magistrates of the City wholly inefficient and powerless, as often as the interest or the partiality of two or three of their number should be opposed to the proceedings of the regular Sessions of former years, or of the entire body, and would wholly subvert and bring into contempt among His Majesty's loyal subjects, the authority of the Magistracy to which the Magistrates themselves should be the first to give their fellow subjects an example of deference, respect and obedience; and would finally introduce uncertainty, confusion and anarchy, where consistency, order and government, ought to prevail.

Two courses of conduct seemed to offer themselves to the choice of the Magistrates; one was, to declare the prohibitory order or *supersedeas* of the four Magistrates, pronouncing illegal the official act of Sessions, at which they were not present, to be an undue assumption of superiority and jurisdiction, and insult to the Magistracy, and a violation of the law, and thereupon to command the officer, *non obstante the supersedeas*, to proceed to the execution of the order of the 19th May. But from the temper shewn by the four in their proceedings, and by the conduct of their officer, it might be apprehended, if such command should be given, that they would not hesitate to issue a new *supersedeas*, nor the officer to obey it, and this might be carried on without end, or never approach to a termination, a most unseemly contention between the Members of the Magistracy, which might entirely subvert the respect due to its authority, even if such a result formed no part of the motives of some of the signers of the *supersedeas*. To bring the matter to a conclusion then, without carrying on such a prolonged and dangerous contention, or unnecessarily exposing the dissensions of the Magistrates before the public, seemed the dictate of propriety, and to accomplish this, there seemed no other efficient mode than a representation to the Governor in Chief of the

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the assumption of power and superiority complained of, and their inevitable tendency to render the Magistracy powerless, to the end that such directions might in consequence be given to the Crown Officers, or such measures be adopted as the circumstances should appear to require and justify. 27th Jan'y. 1829.

To cause the representation to be made, was therefore considered the most proper course to be taken, and resolutions to that effect, among other things, were in consequence passed by the great majority of the Magistrates.

Three resolutions I have the honor to submit with the present communication, as well as the other documents connected with the transaction alluded to, in case reference to them should be desired.

It remains for me to express my regret at having been compelled to trouble Your Lordship on the present occasion, and I may assign as additional reasons which influenced me and some of the others in considering the proceeding by a representation to Your Lordship, to be the most proper, that there appears to be, (*I will not say a general plan to frustrate authority, lest I should be wrong*) but at least a general course of proceedings in various parts of this Province, whose inevitable tendency is to frustrate established authorities, and not unfrequently is this course pursued even by official characters, in relation to the body of which themselves are members, or in relation to the source from whence their authority emanates.

To trouble the superintending power with light differences of its subordinate officers, would be injurious to the inferiors, whose agency ought to be as uncontroled as is consistent with the public good, and it would be unpleasant to the superior authority, whose dignity should be too highly respected to be resorted to on matters of trivial import.

But when the course pursued by a part is frequently such as to pervert the authority given, into the means of its own subversion, a reference to the source of office, appears not merely to be proper, but seems to become an absolute duty, to the end that the Executive may not too confidently rely upon the strength of any authority, which a portion of its own members are rendering inefficient, and that an opportunity may be afforded of adopting measures to re-establish such a degree of efficiency and energy as circumstances may permit, or as prudence may be taught to require.

I have the honor to be,
With the highest respect,
My Lord,
Your Lordship's obedient
and humble servant,

(Signed,) SAMUEL GALE,
Ch. Q. S.

To His Excellency,
The Right Honorable
The Earl of Dalhousie, &c. &c. &c.

True copy,

U.

C. YORKE,
Secretary.

To

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27th Jan'y. 1829. To His Excellency, George, Earl of Dalhousie, Baron Dalhousie of Dalhousie Castle, Knight Grand Cross of the Most Honorable Military Order of the Bath, Captain General and Governor in Chief, in and over the Provinces of Upper and Lower Canada, &c. &c. &c.

May it please your Excellency :

We, the undersigned, the objects of a denunciation on the part of our fellows, which is to be laid before Your Excellency by the Chairman of the Quarter Sessions at Montreal, in conformity with the Resolutions passed at the Special Session of Saturday last, owe it to ourselves, from the respect we bear to the Magisterial character, with which we are invested, to offer some respectful observations to Your Excellency.

On Saturday, the 30th of June last, at a Special Session, we concurred in an order given to the Road Surveyor to demolish a certain wooden house, erected on a piece of ground, said to make part of a street established by a Judgment of the 3d October 1825, and to remove the enclosures and lumber by which the said street was obstructed.

On the 7th of July last, we signed a *supersedeas* of the order given to the Road Surveyor on the 30th June: we were then convinced (as we still are,) that the proceedings of the 3d October 1825, were irregular, and the establishment of the street in question illegal; there were no other means of suspending the execution of the order given to the Road Surveyor on the 30th of June last, in which we had by mistake concurred, than by granting a *supersedeas*.

Our brother Magistrates do not allege that our conduct was illegal, but they complain that we were deficient in courtesy towards them, and they apply to Your Excellency, as their tribunal for the purpose, doubtless, of obtaining Your Excellency's opinion on this business, which they look upon as of very serious import.

Our object was to bring the discussion of this affair before the Court of King's Bench, as the Superior Tribunal, by means of the *supersedeas*; and we could not, it would not have been right that we should, call a Special Session, which, besides that it might have disapproved our proceedings, (as the Resolutions passed last Saturday prove would have been the case) could not have inviolated or annulled the order of the 30th of June last. A Court cannot alter the Judgment it has given on a matter within its jurisdiction, and in the forms prescribed by law. And, besides, the *supersedeas* was not presented to us for signature, until the very day on which the Road Surveyor was to execute the order of the 30th June. We were convinced from our own knowledge, and that of Messrs. Bedard, O'Sullivan, and other eminent Lawyers at Montreal, that the superseding of the execution of the order of the 30th June, was a lawful proceeding, and we thought it our duty to grant the *supersedeas* in question.

But the *supersedeas* we had granted might have been set aside, the power to do this is naturally vested in the Court of King's Bench, and it is before that Court that the question should be brought by the intervention of the Law Officers of the Crown; a motion to this effect was made on Saturday last; Your Excellency will see this in express terms, in the copy of the

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said motion hereunto annexed, it was made before the said Resolutions were put to the vote ; but was negatived.

What can be the design of having recourse to Your Excellency in language as illiberal as that of the Resolutions aforesaid ? This appears to us more extraordinary than the *supersedeas*, of which our Brethren complain with so much bitterness ; and look with pain, both as Magistrates and as Citizens on this new mode of procedure, the tendency of which seems to be to substitute a recurrence to the Executive, for the ordinary course of Law and Tribunals, and to foment a spirit of tale-bearing against fellow officers, in whom nothing can be found but a love of duty, and a respect for the Laws.

We acknowledged the error we had committed, in concurring in the order of the 30th of June last, inasmuch as we are persuaded that the proceedings of the 3d October 1825, were irregular and illegal ; we granted a *supersedeas* which we believe to be legal, and of which the Court of King's Bench can alone take cognizance : we have not been wanting in courtesy towards our Brethren, in not acquainting them with our determination to grant the said *supersedeas*, since this act was on our part purely ministerial. We have the pleasure of seeing that several of our Brethren, and those some of the best informed, partake our sentiments ; several lawyers sanction our proceedings ; we expect, and we are doubtless right in expecting, that Your Excellency, who has no decision to pronounce on our *supersedeas*, will at least declare, that it is without reason, and without any reasonable pretext, that we have been complained of, as having been wanting in courtesy towards our Brethren ; and will in this manner discourage the unprecedented mode of proceeding lately adopted by the majority of the Magistrates, of using injurious language towards their fellows, and bringing them before the Head of the Executive, with regard to matters lying in no way within the province of His Majesty's Representative.

The whole very humbly submitted.

Montreal, 9th August 1827.

(Signed) J. MONDELET, THOS. BARON,
H. HENEY, FRs, ANT. LAROCQUE.

True copy,

C. YORKE,
Civil Sec.

[Adjourned to the call of the Chair.]

Wednesday,

27th Jan. 1829.

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Wednesday, 28th January 1829.

The Rev.
J. B. Kelly,

28th Jan'y. 1829.

PRESENT :—Messrs. *Viger, Heney, Lefebvre, Cuvillier, Leslie and Bourdages.*

Mr. *Viger* in the Chair,

The Reverend *J. B. Kelly*, Priest, Curate of *Sorel*, appeared before the Committee, and was examined as follows :—

682.—How many years have you been Curate of the Parish of *Sorel* ?
Eleven.

683.—Do you reside in the Borough of *William Henry*, (*Sorel*) and have you always lived there since you have been Curate of the said Parish ?
Yes.

684.—Did the then Governor, the Earl of *Dalhousie*, pass the Summer of 1827, in the House belonging to Government, in the said Parish ?
Yes, he passed the Summer there.

685.—Did the Governor, (*Lord Dalhousie*) reside there during the time of the last General Election, and particularly during the time the Election was going on in the Borough of *William Henry*, of a Member to represent the said Borough ?

Yes—He was then living there.

686.—Was the said Election warmly contested ?
Very warmly.

687.—Did you receive from the then Governor, any communication relative to the Election, before or during the time it was going on ?

I received none from the Governor himself; but Mr. *Welles* communicated to me a Note, which had been written to him by the Governor's order, by one of his Aides-de-Camp, and which Mr. *Welles* had orders to communicate to me : this was while the Election was going on.

688.—What is Mr. *Welles*, and what post does he hold at *William Henry* ?
He is Agent for the Seignior, and Barrack Master.

689.—What was the nature of the communication you have just spoken of ?

A threat of *complaint* to the Bishop, and even to the Minister of State in England, if I did not stop one of the members of my family from interfering at the said Election.

690.—Who was the said member of your family ?
My Father.

691.—Did Mr. *Welles* communicate to you the letter in question ?

He showed it to me : I do not remember whether I read it myself, or whether he read it to me.

692.—From whom did this letter come ?

From Capt. *Maule*, the Governor's Nephew and Aide-de-Camp.

693.—Who were the Candidates ?

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The Rev.
J. B. Kelly.

28th Jan. 1839.

The Candidates were Messrs. James Stuart, (the Attorney General) and Wolfred Nelson.

694.—For which of the two Candidates had your father interested himself?

For Mr. Wolfred Nelson.

695.—What answer did you give Mr. Welles?

That I was entirely unacquainted with my Father's proceedings; that I had not even heard them spoken of; and that it being my principle not to interfere in the Election, it was absolutely against my intentions that he had so acted.

696.—Was your father an elector for the Borough?

No.

697.—Had you afterwards an interview with the Governor himself, and some conversation with him on the same subject?

Yes.

698.—Was this while the Election was going on?

Yes.

699.—Can you say what was the nature of that conversation, and on what it turned?

The conversation turned on the proceedings imputed to my father with regard to the Election, His Excellency alleging, that the sentiments manifested by my father at the Election must of necessity be mine, since he lived in my house, adding, that he could not believe it was otherwise, and that he had been told that a cabal had long been formed against the views of Government, with regard to the said Election.

700.—What remarks did you then make on this subject?

I remarked to the Governor, that although I did not myself interfere in the Election, or even with politics, I was always glad to know what was going on; and that I could assure His Excellency that the inhabitants of the Borough of William Henry, had not in any manner been for a long time caballing with respect to this Election; that it was the business of the moment, that they had no wish to do what might be offensive to himself or to the Government, and that the opposition was to Mr. Stuart personally, who at that very time was still abusing all who came to vote against him.

701.—Did you visit the Governor in consequence of the communication Mr. Welles had made to you?

Yes.

702.—Did you then speak to him, and did you enter into some explanation with him before the commencement of the conversation?

I told him that I came in consequence of a letter written by his Aide-de-Camp to Mr. Welles, inculcating me in the business of the Election.

703.—Did you after that time receive any new communication from the Governor, on the same subject?

Yes.

704.—What was the nature of this communication?

After the Election I went to the Governor's house, to call on him, as I was in the habit of doing from time to time; having spoken to one of his Aides-de-Camp, he told me that His Excellency being busy, could not see me; I replied to the Aide-de-Camp, that it was the same thing, and that I would

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would come again another time; two hours afterwards, I received a note from Capt. Hope, one of the Governor's Aides-de-Camp, and written by his orders, informing me that he was commanded by His Excellency, to tell me, that in consequence of what had happened at my house, in relation to the Election, His Excellency conceived it to be contrary to his public duty to receive my visits any longer.

705.—Can you produce this note, or a copy of it?

I cannot produce it at this moment; and I beg to be allowed until to-morrow to do so.

706.—Did you, in consequence of this letter, yourself write to the Governor, the Earl of Dalhousie?

No,—but I sent an answer to the Aide-de-Camp from whom I had received the note.

707.—Did the Governor send an answer?

Yes.

708.—Can you lay before the Committee, the correspondence which passed on this subject?

I cannot at this moment; I beg to be allowed until to-morrow to do it.

709.—Do you know André Lavallée, of Sorel?

Yes.

710.—Does he enjoy a good character; and may his testimony be credited? Is he a proprietor of real property in the Borough of William Henry?

Yes—he is a sober and honest man; and a proprietor in the Borough.

Ordered, That André Lavallée be required to appear before the Committee to-morrow at ten o'clock.

[Adjourned till to-morrow.]

Thursday, 29th January 1829.

PRESENT:—Messrs, Viger, Leslie, Lefebvre, Cuvillier, Neilson and Bourdages.

Mr. Viger called to the Chair,

Mr. A. Lavallée

André Lavallée, of the Parish of Sorel, Voyageur, was called before the Committee, and examined as follows:

29th Jan. 1829.

—Are you a proprietor in the Village of Sorel?

Yes.

711.—Are you an elector for the Borough of William Henry, as proprietor?

Yes. I have a building lot, (emplacement) with a house and buildings on it, and I reside there.

712.—Do you know Mr. S. Gale, of Montreal; and when did you last see him?

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I do know him. The last time I saw him, was on the day before that on which the last Election for the Borough of William Henry was to begin towards the end of the month of July 1827. I drove him on that day from Sorel to *St. Michel d' Yamaska.* *Mr. A. Lavallée.*
20th Jan'y. 1829

713.—Had you on this occasion any and what conversation with him on the subject of the said election ?

Yes—he began by asking me whether I was an elector for the Borough of William Henry ; upon my saying I was, he asked me for which of the two Candidates I intended voting ; I told him I did not know, and that I had not yet decided for whom I should vote : he then put his hand into his pocket and drew it out full of money, as it appeared to me, (there were several pieces of money) saying to me, “ if you will vote for Mr. Stuart, I will give you what I have in my hand.”

714.—What was your answer to this ?

I refused him, saying that I could vote without being paid.

715.—Did not this conversation take place at Sorel itself, when Mr. Gale spoke to you on the subject ?

Yes—it began as we were starting from Sorel. Mr. James Stuart, the Attorney General, and one of the Candidates at the election, passed close by us, with Mr. Welles and Dr. Iffland, who were canvassing for votes. When they saw us they bowed and signed to us to stop, but as I suspected that they meant to solicit my vote, I paid no attention, and drove on. Mr. Gale then remarked to me, that he thought Mr. Stuart was canvassing for votes, and it was thereupon that the conversation I had with Mr. Gale, as I have just related it, commenced.

716.—Can you positively say that Mr. Gale offered you money to vote in favor of Mr. Stuart ?

Yes.

Jean Crébossa, of Sorel, Shopkeeper, then appeared before the Committee, *Mr. J. Crébossa.* and was examined as follows :

717.—Do you know André Lavallée, of William Henry, the witness who has just been examined ?

I am well acquainted with him ; he is a perfectly honest man.

718.—Was he an Elector for the Borough of William Henry, at the time of the last Election, in 1827, as being a proprietor ?

Yes—he is proprietor of a building lot, a house in which he lives, and buildings.

719.—Were you present at the last Election held at William Henry, in 1827 ?

Yes—I attended every day, but not continually.

720.—Was this Election warmly contested ?

Yes.

721.—Do you know Mr. Welles, of the said Borough of William Henry ?

Yes.

722.—Does he hold any situation of a public nature in the place ?

He is the Government Agent for the Seignior's ; I believe he is also Barrack Master ; and he is a Justice of the Peace.

723.—

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Mr. J. Crebassa 723.—Who were the Candidates at the said last Election, in 1827?
James Stuart, Esquire, Attorney General, and Doctor Wolfred Nelson,
29th Jan. 1829. of St. Denis

724.—Did not Mr. Welles take a very active part at this Election, in favor of the Attorney General?

He took an active part in favor of the Attorney General.

725.—Was he exposed to any threats on the part of either of the Candidates, on the subject of the said Election?

He received some from the Attorney General.

726.—What was the nature of these threats?

Mr. Stuart addressed him at the Poll, during the Election, and threatened him, that if he was not more active he would report him to the Governor.

727.—Was the Governor, (Lord Dalhousie) at that time living in the neighbourhood of the said Borough, in the Parish of Sorel, and did he not pass the Summer there?

Yes—he passed a great part of the Summer there.

728.—Were there many persons present at the Poll when the threat you have just spoken of was made to Mr. Welles?

Yes—a great many.

729.—Were there several Justices of the Peace in the Borough of William Henry at the time of the last Election, and what were their names?

There were, Messrs. Robert Jones, John K. Welles, Henri Crebassa, Anthony Van Iffland, and the Rev. Mr. Jackson, Minister of the English Episcopal Church. With regard to the last, I do not know whether he has taken the oath in order to qualify himself as Magistrate: I have never seen him act in that capacity.

730.—Did they all interfere very actively in the Election, and in whose favor did they interest themselves?

They all, with the exception of Mr. Jackson, and of Mr. Crebassa, (who was Returning Officer) took a very active part at the said Election, in favor of the Attorney General.

731.—Were any of these Magistrates dismissed?

They were not.

The Rev.
J. B. Kelly.

The Rev. J. B. Kelly, again appeared, and being called upon to produce Captain Hope's note, and the correspondence mentioned in his examination of yesterday, produced Captain Hope's note, and his own answer thereto; which are as follows:

“ Mr. Hope is directed by Lord Dalhousie, to inform the Rev. Mr. Kelly, that after what has passed in his house on the subject of the last election, His Excellency does not believe it to be compatible with his public duty to receive Mr. Kelly's visits for the future.

“ Sorel, 14th August.”

“ William Henry, 15th August 1827.

“ Mr. Hope,

“ Sir,

“ The testimony of my conscience, and the word of a person of a
“ character

Minutes of Evidence.

character so highly distinguished as Lord Dalhousie, who had told me that he acquitted me of the charges brought against me, appeared to me sufficient to authorize my appearance without fear, and even with confidence, before His Excellency. Certain reports spread among the Clergy, were the occasion of my visit. Assure His Excellency, that I am ready to make every sacrifice, rather than expose him to be wanting in his public duty; and that I am even ready to make application to the Bishop to remove me from this place; if His Excellency thinks the thing would be advantageous to the welfare of the Government. Assure His Excellency further, that if the person who has occasioned this misunderstanding, had been less near to me; I should have immediately dismissed him from my house; as it is, to have done so; would have been an unheard-of act, and one which I could not have committed without being wanting in a sacred duty,—that of filial piety.

The Rev.
J. B. Kelly.
29th Jan. 1827.

“ I have the honor to be,

“ Sir,

“ Your very humble and obdt. servt.

(Signed) J. B. KELLY.

Considering Lord Dalhousie's letter as being of a private nature, I think I have a right to refuse it, and will not produce it except on the express order of the Committee.

The witness then withdrew, and having returned, the Committee expressly ordered him to produce the said letter. Of which the witness produced to the Committee the said letter, and his answer thereto, which are as follows :

“ Sorel, 15th August 1827.

“ Sir,

“ Mr. Hope handed me your Letter this morning, and I think it right to explain myself as to its contents.

“ I willingly admit that you did not yourself interfere in this election business; but I cannot for a moment doubt that the sentiments manifested by those who compose your family are also your own. It has become quite fashionable among the Canadians, to oppose the views of His Majesty's Government, and to abuse His Representative. I do not dispute their right to act thus; but for the same reason I have a right to refuse to mingle in the society of those who think, in private, in the same manner. I do not like flatterers, who, in secret, think in another manner. I have long learned to treat with indifference those who entertain such sentiments. It is not my nature to play the hypocrite, and to conceal my real opinions. Such being my principles, I should be unwilling to receive your visit. It is not my design to trouble you in the execution of your duties here, nor any person either within or without your house: you cannot imagine that I am capable

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Minutes of Evidence.

The Rev. J. B. Kelly. of entertaining the idea of molesting your father, while he is under the protection of his son.
 29th Jany. 1829. " You wish to see me on the subject of the rumours in circulation, concerning the conduct of the Clergy: I think it my duty to refuse such an interview: this matter remains between me and the Bishop, if he thinks it necessary to take cognizance of these reports: the moment does not appear to me favorable for judging of what degree of credence they are worthy. Under all the circumstances, I cannot think you would have more pleasure in visiting me, than I should have in receiving you.

" On matters of business I am ready to see you, to listen to you, and to answer you, as I should be to do the same towards any other person who might be a stranger to me. My object in living in this village, is to be quiet and retired. I avoid busying myself with political affairs, which have unfortunately been brought to my very door, in a manner altogether disagreeable.

" I endeavour to keep them at a distance from me, and to learn as little as possible about them during the little time I have to remain here this summer. I have no intention of hurting the feelings of any one; but I also cannot permit any one to offend mine. Busy yourself in your duties, I shall not molest you while you are engaged in performing them: I shall be happy to learn on some future occasion that your flock have learned to "fear God and honor the King;" a maxim which they may serve for a guide through life.

I am your very obedient,

(Signed) DALHOUSIE.

To the Rev. Mr. Kelly, }
 Sorel. }

" William Henry, 18th August 1827.

" Sir,

" I will not abuse His Excellency's goodness, in doing me the honor to answer himself the letter which I addressed to you, by writing directly to him, for fear of making him lose that time which is precious to him. I shall content myself with saying, that my letter contained only the expression of my real sentiments, and was not written for the purpose of soliciting an interview which I had ceased to wish for, from the moment I learned from your note, that it would be disagreeable to His Excellency. I deeply regret the loss of His Excellency's esteem; but I should feel his displeasure much more keenly if I had deserved it: my short visits occurring rarely, and at times when politeness, decency and respect made it right that I should pay them, did not mark the conduct of a flatterer. As far as re-

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Minutes of Evidence.

gards my loyalty, I gave more than one proof of it during the last American War, and that to the knowledge of the whole Province. Before, during, and since that period, I have never failed on every fit occasion, to inculcate in the minds of my Parishioners, principles of obedience and subordination towards His Majesty's Government; principles upon which I have myself constantly acted in my conduct towards all my superiors, from whom I can say with pride, I have never drawn reproach upon myself.

The Rev.
J. B. Kelly.
29th Jan. 1829.

" I have the honor to be,
" Sir,
" Your very humble and very
" obedient servant,

(Signed) J. B. KELLY, Pt."

" Mr. Hope."

(The originals of which documents were returned to the witness.)

732.—Have you deposited the original notes and letters which form this correspondence in any office; and where?

I have deposited them in the Archives of the Bishop of Quebec; and it is from thence that I have obtained them, in order to lay them before the Committee.

733.—Why did you so deposit them?

The correspondence which had taken place having given me room for believing that His Excellency might pursue the matter further, I thought it right to deposit them there, in order that they might serve for my justification, when time and place might require.

734.—Were you solicited by any person, and by whom, to take part in the said Election?

Yes; by the Attorney General.

735.—When, and in what manner?

During the Election, and in an earnest manner.

736.—Did he point out any private motives to induce you to vote for him, and to interest yourself in his Election?

Yes—in the first place he told me, that I ought to make him a recompense, seeing that my father had hurt him in his Election.

737.—Did he press any other motive on you; and what motive?

Yes—he joined to the motive of which I have already spoken, that the Governor would be very angry if he lost his Election.

Ordered, That *Michel Glachemeyer*, of Berthier, and *Narcisse Crébassa*, of Sorel, be required to appear before the Committee, without delay.

[Adjourned to the call of the Chair.]

Saturday,

Minutes of Evidence.

Saturday, 31st January 1829.

PRESENT :—Messrs. *Viger, Heney, Cuvillier, Leslie, and Lefebvre.*

Mr. *Viger* in the Chair,

Mr. *Samuel Neilson*, of the City of Quebec, appeared before the Committee, and was examined as follows :—

S. Neilson, Esq. 733.—Are you not Printer and Editor of The Quebec Gazette ?

Yes.
739.—Is it not the one which is sometimes called by the public "The Old Quebec Gazette," to distinguish it from another which has been published for some years in the same City, under the same name ?

Yes.
740.—How long has the Quebec Gazette which you print, been published in this Province ?

Since the early period of the year 1764.

741.—When was the second Quebec Gazette, of which you have spoken, established ?

The first number was published on the 30th October 1823

742.—How and under what authority has this new Gazette been established ?

It was established by order of the late Governor in Chief, Lord Dalhousie, subsequently to a Proclamation of the 23d October 1823, declaring therein that he recalled the Commission of King's Printer which I held, and gave it to John Charlton Fisher, at the same time appointing him Editor of the Quebec Gazette, and directing especially all Sheriffs, Servants and Officers of the Crown "to insert all official communications, notices and advertizements whatever relating to their offices respectively, in the Quebec Gazette so to be printed by the said John Charlton Fisher, and by his successors in office duly appointed under and by virtue of Letters Patent under the Great Seal."

743.—In which Gazette were the advertizements of Sheriffs' sales inserted before the establishment of this New Gazette ?

They had been uniformly published in the Quebec Gazette which I print, since the passing of the Ordinance 25th Geo. III. cap. 2; under the special provisions of that Ordinance.

744.—Was the Executive Government proprietor of the Quebec Gazette printed by you ?

No.

745.—Was the Government interested in that Gazette in any other way whereby it might be authorized to dispose of the Gazette ?

No.

746.—Did any of the proprietors of the Quebec Gazette who preceded you receive Commissions as King's Printer ?

No.—they were paid for what Government got published in the Gazette, and for other printing; but I have no knowledge of any of them ever holding Commissions

Minutes of Evidence.

Commissions; and I know that the Law Officers of the Crown, who had an easy access to the Archives of the Province, did not exhibit such a Commission at the trial instituted in 1824. In some years they received a fixed sum for printing, but since 1790, Government has always paid for any work done, at the regular price of the trade. S. Neilson, Esq.
31st Jan'y. 1829.

747.—When and by whom were you Commissioned as King's Printer?
I received a Commission of King's Printer in 1822. Colonel Ready, the Civil Secretary, had some time before written to my father on the part of the Governor in Chief, Lord Dalhousie, stating that His Excellency had seen with regret "the conduct of the persons (whenever they were) who had been employed in Editing the Quebec Gazette, and that he had determined to adopt a course which shall effectually provide against a continuation of such conduct." This letter was dated the 6th April 1822.

Mr. Neilson, Senior, answered this letter, on the 12th of the same month, and stated that "he might be permitted to state his apprehensions that His Excellency had not had an opportunity of becoming fully acquainted with the relations which the Government of the Colony had hitherto had with the "Gazette," that as to himself he could not be concerned in the publication of the paper on any other plan; that the Gazette had been established at the private costs of Brown and Gilmore, and by a list of subscriptions, that it had been transferred by sale to his brother Samuel Neilson, and by Will made over to him in 1793; that the paper was private property. That however, he had determined some time back to make a sale of the establishment to myself and Mr. Wm. Cowan; and that I seemed disposed to enter into some arrangements with Government, and that the business was mine.

748.—Have you received subsequently any new written communication from Government on the same subject?

I soon after obtained a Commission of King's Printer, a copy of which I lay before the Committee,

PROVINCE OF }
LOWER CANADA. }

Dalhousie, Governor,

George the Fourth by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith:

"To our trusty and well beloved Samuel Neilson, of our City of Quebec, gentleman, and to all others to whom these presents shall come, or may in any wise concern; greeting;

"Know ye that we have taken into our consideration, the knowledge, integrity and ability of you the said Samuel Neilson, of our especial grace, certain knowledge and mere motion, have assigned, constituted and appointed, and by these presents do assign, constitute and appoint you the said Samuel Neilson, to be our Printer within our Province of Lower Canada: To have, hold, exercise and enjoy the said office, unto you the said Samuel Neilson,

Minutes of Evidence.

S. Neilson, Esq.
 21st Jan. 1829

son, for and during our pleasure and during our residence within our said Province of Lower Canada, together with all and singular, the rights, profits, privileges and emoluments of the said office belonging, with full power, all and every the rights and duties belonging to the said office, to exercise and perform, in as full and ample a manner as the same by Law may or ought to be done.

" In testimony whereof we have caused these our letters to be made Patent, and the Great Seal of our said Province of Lower Canada, to be hereunto affixed: Witness our trusty and well beloved George, Earl of Dalhousie, Knight Grand Cross of the Most Honorable Military Order of the Bath, Captain General and Governor in Chief in and over the Province of Lower Canada, Vice Admiral of the same. &c. &c. at our Castle of St. Lewis, in our City of Quebec in our said Province, the third day of July, in the year of our Lord one thousand eight hundred and twenty two, and in the third year of our Reign.

" **LS. MONTIZAMBERT,**
 Acting Provincial Secretary."

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I continued to publish my paper as usual, and at the request of the Governor's Secretary, Colonel Ready, I placed the words "by authority," at its head.

On the 30th August 1823, I received the following letter from Mr. Secretary Cochran :

" Castle of St. Lewis,
 Quebec, 30th August 1823.

" Sir,

" I am directed by His Excellency the Governor in Chief to acquaint you that various considerations have determined him to entrust the Editorship of the Quebec Gazette in which you have hitherto been acting, to Mr. J. C. Fisher, to whom you will please to give such information as he may require respecting the mode in which that paper has hitherto been conducted, so far as relates to the expenses and profits of it.

" I have the honor to be,
 Sir,

" Your most obedient humble servant,

A. W. COCHRAN,
 Secretary."

" S. Neilson, Esqr.

I have not been able to find a copy of my answer among my papers, but the answer was in substance, that I would communicate with Mr. Fisher on the subject. No arrangements took place with this gentleman, and I received on the 10th October, a letter from Mr. Secretary Cochran in the word following:

Castle

Minutes of Evidence.

“ Castle of St. Lewis,
Quebec, 10th October 1823.

S. Neilson, Esq.

31st Jan. 1829,

“ Sir,

“ Having submitted to His Excellency the Governor in Chief your letter of the 27th September, stating your reasons for not being able to carry on the publishing of the The Quebec Gazette in conjunction with Dr. Fisher, as the Editor, on the terms he required, and on which alone he can make such an arrangement; I am directed by His Excellency to acquaint you, that as you have failed in coming to a satisfactory understanding, it only remains for him to carry into effect the determination, which considerations of the public interest have led him, as you are already aware, to adopt, by recalling your Commission as King's Printer, and leaving the whole publication of The Quebec Gazette to Dr. Fisher, as Editor of the Gazette and King's Printer. Dr. Fisher will not be able immediately to enter upon the effectual execution of the duties belonging to the latter Commission, but he is authorized to make such temporary arrangements, as he may think proper, for conducting this part of his duty for the present.

“ I am Sir,
Your most obedient servant,

A. W. COCHRAN,
Secretary.”

“ Mr. S. Neilson.

On the 4th November I addressed the letter subjoined to the Governor's Secretary.

“ Quebec, 4th November 1823.

“ Sir,

“ I have the honor to request that you would be pleased to furnish me with a certified copy of any complaint which may have been laid before His Excellency the Governor in Chief, against me, in the office which I had the honor of holding as King's Printer, and of which I have lately been deprived. Also certified copies of all such statements, documents and evidence, as may have been laid before His Excellency the Governor in Chief relating to, or in support of such complaints, and remaining in your office.

“ I have the honor to be,
Sir,
Your very obedient and humble servant,
SAMUEL NEILSON,”

To which I received the following answer :

Castle

Minutes of Evidence.

“ Castle of St. Lewis,
Quebec, 5th November 1823.

S. Neilson, Esq.
31st Jan. 1829.

“ Sir,

“ I have submitted to His Excellency the Governor in Chief, your letter of the 4th instant, in which you request to be furnished with a certified copy of any complaints which have been laid before His Excellency against you, respecting the office you lately held of King’s Printer, and certified copies of such statements, documents and evidence as may have been brought forward in support of such complaints and may remain in this office. And I have it in command from His Excellency to acquaint you in answer to this application, that His Excellency does not deem it expedient or necessary to make known to you, further than has been already done by my letter to you of the 10th October last, the particular grounds and reasons for which the Commission granted to you has been recalled.

“ I have the honor to be, &c.

A. W. COCHRAN,
Secretary.”

At the same time I had addressed to Mr. Ryland, the Clerk of the Executive Council, a letter nearly of the same import, viz :—

“ Quebec, 4th November 1823.

“ Sir,

“ I have the honor to request that you will be pleased to furnish me with a certified copy of any complaints which may have come before His Majesty’s Honorable Executive Council against me in the office which I had the honor of holding of King’s Printer, and of which I have lately been deprived; also certified copies of all such statements, documents and evidence, as may have been laid before the said Honorable Executive Council, relative to or in support of such complaints; also certified copies of all the proceedings had thereupon by or before His Majesty’s said Executive Council.

“ I have the honor to be,
Sir,

Your very obedient and humble servant,

SAMUEL NEILSON.”

The answer is subjoined.

Executive

Minutes of Evidence.

Executive Council Office,
Quebec, 4th November, 1823.

Mr. S. Neilson,
31st. Jan. 1823.

Sir,

In answer to your letter of this date, requesting to have communication of Documents which you conceive to be lodged of Record in this Office, I can only say, that in cases where an individual wishes to obtain information from the Council Office, respecting matters of State, it is necessary in the first instance to obtain the special permission of the Governor or person Administering the Government of the Province, without whose authority it would be a breach of trust on the part of Clerk of the Council, to make any communication of the kind.

I am,
Sir,
Your obdt. hble. servt.

HERMAN W. RYLAND.

Mr. S. Neilson,
Quebec.

The Proclamation I have alluded to, had been published in the interval, with a notice, in the Mercury, some days preceding the day of its publication.

I subjoin both,

Province of }
Lower Canada. }

DALHOUSIE, Governor.

George the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To all to whom these presents shall come, or may in any wise concern:
Greeting :

A PROCLAMATION,

Whereas, by Letters Patent, under the Great Seal of our said Province of Lower Canada, bearing date at our Castle of St. Lewis, in our City of Quebec, the third of July, in the year of our Lord 1822, and in the third year of our reign, we did assign, constitute and appoint Samuel Neilson, gentleman, to be our Printer within our Province of Lower Canada, for and during our pleasure, under and by virtue of which said Letters Patent, since the date thereof, the said Samuel Neilson has printed and published the Quebec Gazette : And whereas by Letters Patent, also under the Great Seal

Y

*Minutes of Evidence.*Mr. S. Neilson.

31st. Jan. 1829

Seal of our said Province, bearing date at our Castle of St. Lewis, in our said City of Quebec, the twenty-second day of this present month of October, we have declared the above-mentioned Letters Patent to be null and void and of no effect, and have assigned, constituted and appointed John Charlton Fisher, Esquire, Doctor of Laws, to be our Printer, within our said Province, in the room and stead of the said Samuel Neilson, with full power and authority, all and every the rights and duties belonging to the said Office of Printer, to exercise and perform; And, further, whereas by our Letters Patent, under the Great Seal of our said Province, also bearing date at our Castle of St. Lewis, in our said City of Quebec, the said twenty-second day of October, we have assigned, constituted and appointed the said John Charlton Fisher, to be Editor of the Quebec Gazette, with full power, all and every the rights and duties belonging to the said Office of Editor, to exercise and perform; to have, hold and exercise and enjoy the said Office of Printer and Editor of the Quebec Gazette, unto John Charlton Fisher, for and during our pleasure,

Now therefore know ye, that we do hereby make known the same to all our servants and Officers of the Crown, and by these presents do require all and every the servants and Officers of the Crown whomsoever, and particularly all Sheriffs, to take notice of the same and govern themselves accordingly, and all and every the Sheriffs, Officers and servants of the Crown are hereby especially directed to insert all Official communications, Notices, and advertizements whatever, relating to their Offices and the duties and services of their said offices respectively, in the Quebec Gazette, so to be printed by the said John Charlton Fisher, and by his successor in Office, duly appointed under and by virtue of Letters Patent under the Great Seal of our said Province.

In testimony whereof, we have caused these our Letters to be made Patent, and the Great Seal of our said Province of Lower Canada to be hereunto affixed. Witness our Trusty and well beloved, George, Earl of Dalhousie, Knight Grand Cross of the Most Honorable Military Order of the Bath, &c. &c., at our Castle of St. Lewis, in our City of Quebec, in our said Province, the twenty-third day of October, in the year of our Lord one thousand eight hundred and twenty-three, and in the fourth year of our Reign.

Ls. Montizambert,
Actg. Prov. Secty.

D. G.

(Extract from the *Quebec Mercury*.)

Castle of St Lewis,
Quebec, 17th Oct. 1823.

His Excellency the Governor in Chief having found it expedient to entrust the Commissions of Editor and Printer of the Quebec Gazette to John Charlton Fisher, Esq. L. L. D.

Public

Minutes of Evidence.

Public notice is hereby given thereof, and the Quebec Gazette will, for the present, and until further arrangements can be made, be issued and published "By authority," from the Office of the Quebec Mercury, on Thursday in every week, of which all Public Officers and Departments of the Civil Government are required to take notice, and govern themselves accordingly.

Mr. S. Neilson
31st. Jan. 1829

By Command of His Excellency
the Governor in Chief.
(Signed) ANDREW WILLIAM COCHRAN
Civil Secretary.

I instituted proceedings in the April Term of the King's Bench, at Quebec, laying claim to the right of printing in my paper, the Sheriffs Advertizements which had, since the proclamation communicated above, been published in the new Paper which had assumed the title of mine, by Order of His Excellency Lord Dalhousie.

I again addressed the Clerk of the Executive Council, as follows :

Quebec, 15th April 1824.

Sir,

I am advised by my Counsel, in the proceedings now pending in His Majesty's Court of King's Bench for this District, relative to the Quebec Gazette, that a copy of any entry or entries, in the Register of His Majesty's Executive Council for the affairs of this Province, on the subject of the annulling of any Commission of King's Printer, or relating to the insertion in the Quebec Gazette of the Sheriffs Advertizements, required by the Ordinance of the 25th Geo. 3, cap. 2, are necessary for the ends of Justice in the said proceedings, as also of the names of the Councillors present in Council at the time, to which such entry or entries relate.

I therefore feel myself bound to request of you as Clerk of the said Executive Council, a certified copy of any such entry or entries with the names of the Councillors present.

I have the honor to be,

Sir,
Your very obdt. humble servt.
(Signed) SAMUEL NEILSON.

To the Hon. H. W. Ryland, }
Clerk, Executive Council. }

I subjoin Mr. Ryland's answer.

Executive Council Office,
Quebec, 16th April 1824.

Sir,

In answer to the letter I have this day received from you, requesting

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Mr. S. Neilson, to be furnished with a " Copy of any entry or entries in the Register of His Majesty's Executive Council," on the subject of your Commission of King's Printer, &c. &c. 31st. Jan. 1829. I am under the necessity of replying, as I did to a former application from you of this nature, that, without the special sanction of the Governor, I can make no communication from the Records of the Executive Council, and that it is absolutely necessary you should, in the first instance, obtain His Excellency's authority to enable me to give you any information relative to the proceedings of His Majesty's Executive Council, on matters of State.

I am, Sir,

Your most obdt. humble servt.

(Signed) H. W. RYLAND.

Mr. Neilson.

In the mean time the proceedings in the Court continued, and the motions made by my counsel for a *mandamus*, to Mr. Sewell, Sheriff, and an injunction to Mr. Fisher, the Printer of the new Paper, were dismissed with costs, on the 19th June 1824: and I place before the Committee the Judgment delivered by Mr. Chief Justice Sewell.

King's Bench, Quebec.

Ex parte. }
Samuel Neilson. }

On motion for a Writ of *Mandamus*:

We have before us a motion on the part of Samuel Neilson, for a Writ of *Mandamus*, directed to the Sheriff of this District, commanding him to cause to be printed in a newspaper, which is published by Samuel Neilson, under the Title of the " Quebec Gazette," all Advertizements required to be published in the execution of his Office, when Lands and Tenements are seized to be sold by Décrêt.

This motion is founded upon affidavits made by John and Samuel Neilson, in which it is stated, that in the year 1764, William Brown and Thomas Gilmore, established in Quebec, with their own funds, a newspaper, intitled, The Quebec Gazette.

That on the death of the said Wm. Brown, the said establishment was purchased by his Nephew, Samuel Neilson, who continued the newspaper, and left it by Will to his Brother, John Neilson.

That on the 1st of May 1822, the said John Neilson sold his printing establishment and his right to the Gazette to his son Samuel Neilson and Wm. Cowan, and since that period, the said paper has continued to be printed by the said Samuel Neilson and William Cowan, for their benefit. It is also stated, that during the whole of the time since the establishment of the aforementioned newspaper, the Advertizements required by the Ordinance of the 25th. Geo. III, cap. 2, sec. 23, to be published in the Quebec Gazette, when

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Minutes of Evidence:

Lands and Tenements are taken in execution by the Sheriff, were published in the paper printed under that Title, by Samuel Neilson and his predecessors. Mr. S. Neilson,

The inference drawn by the applicant, Samuel Neilson, from the facts thus stated: that by a just construction of the Ordinance in his favor, the Sheriff ought to be restrained from publishing his Advertizements of Sales by Décrêt in another paper, which is also entitled the Quebec Gazette, and is published under the authority of the Crown, by His Majesty's Printer; and the *Mandamus* is asked to restore him to his right of printing all such Advertizements upon the ground, that title to the Quebec Gazette originally printed by Brown and Gilmore, is vested in the applicant, and that the Ordinance directs the Sheriffs' Advertizements of Sales by Décrêt to be inserted in the " Quebec Gazette." 31st. Jan'y. 1829.

The Writ of *Mandamus* is a prerogative Writ, to which the subject is *Rex vs. Parker*, entitled upon a proper case shewn to the satisfaction of the Court. The 2 Bun. 1265.
The object of this Writ is to prevent disorder from a failure of Justice, and it is used where the Law has established no specific remedy, and wherein Justice and good government require that there should be one.

There is however a great deal of difference between a *Mandamus* to admit and a *Mandamus* to restore. The former is granted merely to enable the party to try his right, as he would otherwise be left without any legal remedy. But the Court have always looked more strictly to the right of the party applying for a *Mandamus* to be restored.

In these cases, he must not only shew that there is no other specific legal remedy. He must also shew a *prima facie* Title in himself, to the right which he claims, by laying before the Court such facts, as will warrant them in presuming that the right is in him.

Lord Mansfield has expressed the rule in this respect in very few words, in the case of the *King v. The Bank of England*, " When an action," says The King vs. Junnam, J. T. R. 575.
his Lordship, " will lie, and the right of the party applying is not clear, " the Court will not interpose the extraordinary remedy of a *Mandamus*." The King vs. the Archbishop of Canterbury & East. 219

Now, can the right of the party applying in this case, be said, from the facts laid before us, to be clear? When he himself has impeached that right, by accepting and acting in the exercise of it, under a Commission from the Crown appointing him to be Printer to the King.

When it is not sworn in any of the affidavits; that the original Printers of the paper were not in the service and pay of the Crown, as Printers to the King, when the Ordinance was passed, upon which he founds his right, and it is sworn, that the prices paid for printing the Sheriffs' Advertizements have at all times been settled by agreement, not with that officer, but with the Executive Government.

When it was not sworn that any right or title to Brown and Gilmore's Quebec Gazette was ever vested, by any transfer of any description, in Samuel, the Brother of John Neilson, from whom he derives his own right and title, by the will of Samuel and Assignment of John; It being sworn, that Samuel purchased the Establishment, and no more.

Now, can we presume the right to be vested in him, when from the De-
position

Minutes of Evidence.

Mr. S. Neilson position of John Neilson, it is apparent that the right (if there be any) is vested in him, and one William Cowan, jointly.

21st. Jany. 1829.

The King vs. the Mayor of Colchester, 2 T. R. 259.

Upon the ground, therefore, that the party applying for the *Mandamus*, has not laid before the Court such facts as will warrant us in presuming that the right claimed is in him. And upon the further ground that he can try his right if he has been illegally dispossessed of it, without colour of a Title, by an action for money had and received for the profits or by an information in the nature of a *quo warranto*, if what he claims is to be considered as a right to execute an office, and any other person is in possession of it, with an apparent Title, which of itself is a decisive answer to the present application for a *Mandamus*.

It is Ordered,

That Samuel Neilson take nothing by his Motion for a *Mandamus*, and the same is hereby rejected; with costs.

King's Bench, Quebec.

No. 517. }
Ex parte. }
Samuel Neilson. }

On the motion for an Injunction.

A motion has also been made in this cause, for an Injunction, commanding and enjoining John Charlton Fisher, his servants, workmen and agents, to desist from printing and publishing in the Quebec Gazette, (a paper purporting to be printed by him as Printer to the King) the Advertisements by Law required to be published in the Quebec Gazette, when Lands and Tenements are seized by the Sheriff, under Writs of Execution, and,

These affidavits are offered in support of this Motion for an Injunction, as are offered in support of the motion for a Writ of *Mandamus*. But admitting that by Law the "Advertisements of Sheriffs' Sales must necessarily be inserted in "The Quebec Gazette, printed by Samuel Neilson," will it follow that John Charlton Fisher has not the right to insert the same Advertisements in the King's Gazette, if he sees fit to do so?

It is plain that there is no ground whatever for the Injunction which has been asked, therefore,

It is Ordered, That Samuel Neilson take nothing for his motion for a Writ of Injunction; and the same is hereby rejected, with costs.

Wednesday,

Minutes of Evidence.

Wednesday, 4th February 1829.

PRESENT :—Messrs. Viger, Heney, Lefebvre, Leslie and Cuvillier.

Mr. Viger in the Chair.

Mr. Pierre Triganne, of the Borough of William Henry, Bailiff of the Court of King's Bench, appeared before the Committee, and was examined as follows:—

Mr. Pierre Triganne,

4th Feby. 1829.

749.—How long have you been resident at William Henry ?

For nearly two years.

750.—Was the election for the choice of Members to serve in the Provincial Parliament, in July 1827, warmly contested in the Borough of William Henry ?

Yes.

751.—Did you interest yourself about the election, did you take a part in it, and in whose favor ?

Yes—in favor of Wolfred Nelson.

752.—Were any threats used towards you about punishing you, or causing you to be punished for having taken part in the said election ?

Dr. Von Iffland came to my house in the afternoon of the 2d or 3d day of the election; he told me to take good care of myself for that the Attorney General was angry with me, because it appeared that I took part in favor of Mr. Nelson; and that it might happen that he might do me a mischief, as he had much influence with the Sheriff. On the following morning he came to ask me on the part of the Attorney General, whom I was going to call on at Mr. Burke's; he said to me, "are you not a public officer?" On answering in the affirmative, he said to me, "it seems that you are making great exertions against me." I said to him, "it appears that you are prejudiced against me." He asked me, if I had a vote to give for whom I should give it, I told him that I did not come there to flatter him, and that if I had a vote, I should give it to whom I pleased.

753.—Did you hear threats used at the poll towards the electors who came to give their votes; and by whom and to what electors were they used ?

I heard the Attorney General say to several persons who appeared to have come for the purpose of voting for Mr. Nelson, and who afterwards voted for him, "take good care of yourselves, for if after you have taken the oath "it appears that you have no right to vote, I shall prosecute you; and if you "give a false vote, you will be guilty of perjury, and will be put in the pillory; Mr. Nelson won't take your place for you."

754.—Was Mr. Von Iffland whom you have mentioned above, a Magistrate in the Borough of William Henry, and is he so still ?

He was at that time, and I believe he still is.

755.—Was he a warm partizan; and in whose favor ?

He appeared to be a warm partizan of the Attorney General.

Narcisse

Minutes of Evidence.

Narcisse Crebassa, Esquire, of William Henry, Student at Law, was then called in and examined as follows :—

756.—Do you reside at the Borough of William Henry, and how long have you done so?

N. Crebassa, Esq. I was born there, and I am twenty four years of age.

757.—Was the last election of Members to serve in the Provincial Parliament, in 1827, warmly contested in the Borough of William Henry?

Yes.

758.—Did you attend at the poll during the continuance of the said election?

Yes—the greater part of the time.

759.... Do you know that threats were frequently used towards the electors who came to vote?

Yes—on the part of one Candidate (Mr. Stuart, the Attorney General,) towards many of the electors who came to vote for Mr. Wolfred Nelson the other Candidate.

760.—What were these threats?

He said to many of the electors who came to vote for Nelson, that they had no right to vote; and that if they voted without being very sure that they had a right to vote, he was Attorney General, that he would prosecute them and cause them to be put in the pillory: And when Mr. Nelson assured them that they had a right to vote, Mr. Stuart told them to take good care; that Mr. Nelson would not put himself in their places, that he might be a good doctor, but that he did not understand the law; many were intimidated by these speeches, and did not vote until some time afterwards.

761.—Were not several electors arrested and put under bail during the course of the election?

Yes—I believe seven or eight.

762.—Do you know that a man of the name of A. Germain, the elder, voted at the said election, and in whose favor?

Yes—he voted for the Attorney General.

763.—Had this A. Germain, to your knowledge, any real property belonging to him?

No—he had made a donation of all his property many years before, and had only a life rent, a circumstance which he himself explained at the poll, before he voted.

764. Was much opposition made to his vote being received, and was there much discussion on this subject; and what passed at that time?

Mr. Nelson remarked to him that having made a donation of all his property he had no right to vote, and told him to take good care of what he was about to do; on which A. Germain showed some repugnance to taking the oath. The Attorney General said that in his quality of Attorney General he told him he had a right to vote, and bade him fear nothing. The Attorney General restored his courage by taking his hand and putting in on the Testament for him; he then took the oath as a proprietor, and voted for Mr. Stuart.

765.—Do you know that many other persons in the same situation as A. Germain

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Minutes of Evidence.

Germain, voted in consequence of the opinion the Attorney General pronounced with respect to Germain ?

N. Crebasca,
Esqr.

After Mr. St. Germain had given his vote, two persons, one named Assant, and the other Heu dit Cournoyer, who also made donations of their property, voted for Mr. Nelson : when they offered to vote, the Attorney General objected to them, saying that having made donations of their property they had no right to vote, and that he would prosecute them for perjury ; upon which several persons, and the men themselves, observed that Mr. Germain having voted and being in the same situation, they had a right to do so : and they did vote after having taken the oath on the requisition of the Attorney General.

4th Feby. 1829.

766.—Were Assant and Cournoyer, of whom you have spoken, indicted for perjury at the Court of King's Bench for Criminal matters at Montreal ?

Yes.

767.—Was Germain himself prosecuted in the Court of King's Bench ?

No.

768.—Were there several other electors, whose votes were objected to by Mr. Nelson, as those of persons who had no real property, and who did not pay a sufficient rent to qualify them ?

There were several.

769.—Did several of these persons take the oath to qualify them as proprietors or tenants ?

Yes—several.

770.—Were any of the electors who voted for Mr. Stuart, at the said election, prosecuted before the Court of King's Bench ?

Several were indicted for perjury, arrested in consequence, and put under bail ; but I do not know that the prosecutions were carried on.

771.—Did the Attorney General prosecute several of the electors, who voted for Mr. Nelson, at the Criminal Court ?

Yes—he prosecuted several.

Mr. *Michael Glackmeyer*, of Berthier, appeared before the Committee, and was examined as follows :—

772.—Did you attend the last election for the Borough of William Henry, *M. Glackmeyer*. and in what capacity ?

I attended in the capacity of Clerk of the poll.

773.—Who were the Candidates at the said election ?

James Stuart, Esquire, (the Attorney General) ; and Wolfred Nelson, Esquire.

774.—Did this election last a long while, and was it warmly contested ?

It lasted a long while, and was warmly contested.

775.—Was the Governor, (the Earl of Dalhousie) then residing in the Borough of William Henry ?

He was living in the Government House at Sorel, a short distance from the Borough.

776.—Did not the Governor's Aide-de-Camp come very often to the poll ?

I have seen him come there several times in a day ; and on each occasion he spoke to the Attorney General, whom he drew over on one side.

Minutes of Evidence.

M. Glackemeyer. 777.—Do you remember that a man of the name of Germain, the elder, voted at the said election ?

4th Feby. 1829.

Yes.

778.—To whom did he give his vote ?

To Mr. Stuart.

779.—Was much opposition made on the part of the other Candidate to his being admitted to vote, and of what kind ?

Mr. Nelson addressed him, and objected against him that he had no right to vote, because his son had already voted by virtue of the same property, of which he had made a donation to his son; and on which he intended to found his right to vote. I remember that Mr. Nelson said to him, "my good friend, I have no wish to prevent your voting, but you will do well to consult some skilful person for the purpose of ascertaining whether you have a right to vote or not;" upon which Mr. Stuart said to him, "my friend, fear nothing, I tell you in my quality of Attorney General that you have a right to vote, and that your vote is good." Mr. Nelson then required that he should take the oath as a proprietor; St. Germain still showed some reluctance, and even appeared to wish to withdraw, when the Attorney General said to him "that he might take the oath without fear,"—he took his (St. Germain's) hand and placing it on the Testament, again said to him, "my friend, you may take the oath without fear, your vote is good." Germain then took the oath as proprietor, and voted for Mr. Stuart.

780.—Did this man come to the poll before that time for the purpose of voting, and withdraw without giving his vote ?

Yes.

781.—Why did he then withdraw ?

In consequence of some remarks made to him by Mr. Nelson, that he had no real property, and had therefore no right to vote.

782.—Do you know that a man of the name of Assaut, and another of the name of Heu dit Cournoyer, came afterwards to vote ?

Yes.

783.—Was any objection made to their votes being received, and by whom ?

The Attorney General objected to their votes being received, saying that they were not proprietors; on which a number of the electors present remarked that they had the same right to vote as Saint Germain, since they were in a similar situation.

784.—Were several of the electors who had voted in favor of Mr. Nelson, arrested and put under bail during the course of the election, as being accused of perjury ?

Many were so, immediately after they had given their votes; some not an hour afterwards.

785.—Did you hear the Attorney General frequently require the presence of Mr. Welles at the poll ?

Yes—he complained that Mr. Welles was not there and caused him to be sent for; and when he came reproached him for not remaining there.

786.—Were threats used towards the electors who came to give their votes, during the course of the election; and by whom were they used ?

Threats were very frequently used, and by the Attorney General alone, towards those electors who came to vote for Mr. Nelson.

787.

Minutes of Evidence.

787.—What was the nature of these threats ?

Whenever an elector came to vote for Mr. Nelson, he would say, ad-^{M. Glackemeyer.}
dressing himself to the Returning Officer, " *Let him swallow all the oaths ;*" ^{4th Feby. 1829.}
he told them to take good care of themselves, for that if they had not a right to
vote, they should be prosecuted for perjury and put in the pillory ; that Mr.
Nelson would not put himself there in their stead ; and he made use of many
heavy threats in order to intimidate them ; he told them that as Attorney
General he would prosecute them.

788.—Did Mr. Nelson himself remark to some of the voters who came to
vote against him, that they were laying themselves open to prosecution for
perjury ; and what passed on this occasion ?

Yes—he told them that they laid themselves open to prosecution for per-
jury, upon which the Attorney General said directly, " Don't be afraid, as
" Attorney General I tell you that you can vote, that your vote is good ; and
" and as Attorney General I tell you that you have nothing to be afraid of,
" and that it will not be Mr. Nelson that will plead your cause." These
scenes and other similar ones, were frequently repeated during the elec-
tion.

[Adjourned.]

Saturday, 7th February 1829.

PRESENT :—Messrs. *Viger, Hency, Lefebvre, Leslie and Neilson.*

Mr. *Viger* in the Chair.

William Smith Sewell, Esquire, Sheriff of the District of Quebec, appear-
ed again before the Committee, and was examined as follows :—

789.—Did you receive orders to publish the advertizements of the seizures
and notices of inmoveable property under execution, in the new Quebec ^{W. S. Sewell,}
Gazette published by authority, since the year 1823 ; what orders did you ^{Esquire.}
receive on the subject ; and if you have any, produce them ? ^{7th Feby. 1829.}

I received no particular order from the Government, except those contain-
ed in the Proclamation issued by the Governor in 1823 ; I have further, the
following documents to produce on this subject :

Sir,

In the cases wherein we are concerned for the Plaintiffs, we have to re-
quest that you will continue to insert the advertizements in the Gazette which
was *in esse* at the time of the passing of the Provincial Ordinance 25th Geo. III.
and which was then and now is known by the name of the Quebec Gazette,
and wherein such advertizements have been hitherto usually inserted by the
Sheriffs of the different districts.

Responsible

Minutes of Evidence.

*W. S. Sewell,
Esquire.*

Responsible as we are to our clients for the legality of the proceedings upon these sales, and conceiving that the above mentioned Gazette is the only one in which these advertizements can lawfully be inserted; We have only to add that in the event of this notice not being complied with, our clients will be advised to look to you for the consequences.

7th Feby. 1829.

We are,

Sir,

Your obedient servants,

(Signed,)

STUART & BLACK.

Quebec, 21st October 1823.

W. S. Sewell, Esqr. Sheriff, &c,
Quebec.

Quebec, 23d October 1823.

Sir,

In answer to your request that I should inform you in which of the Quebec Gazettes, the cases wherein I am concerned for the Plaintiffs should be published. It is my opinion that the Quebec Gazette published by authority of Government, is that in which Sheriffs sales ought to be published, conformably with the legal sense of the Ordinance of 1785. I however think it prudent that you should publish the sales in which I am concerned in both Gazettes, until the question shall have been put at rest by decision of the proper authority, or until you may have received positive instructions of the course you are to pursue, in this respect, from His Majesty's Government.

I am,

Sir,

Your obedient humble servant,

(Signed,)

ROBERT CHRISTIE.

W. S. Sewell, Esquire,
Sheriff.

Sir,

Finding myself placed in the most embarrassing situation, with respect to the advertizements which the law requires to be made previous to the sale of immoveable property, owing principally to objections which have been started by the parties as to the right and the justice of involving them in double expenses. For having received no other communication on this subject than your letter in the Mercury of Friday last, which does not refer to the advertizements for Sheriffs' sales, I had determined to make duplicate insertions till I had received the pleasure of His Excellency thereon. I beg leave to enquire whether it be the intention of His Majesty's Government that the advertizements above alluded

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Minutes of Evidence.

alluded to, shall be made in the Quebec Gazette printed by authority, or in the Quebec Gazette printed by Samuel Neilson.

A. W. Cochran, Esqr. &c. &c.
10th November 1823.

(Signed,)

W. S. SEWELL, Sheriff.

W. S. Sewell,
Esqr.

7th Feby. 1823.

Dear Sir,

There will be no objection to your inserting your official advertizements in the Quebec Gazette of Neilson and Cowan, or any other private paper in which the parties wish them to be inserted, and are willing to pay for the additional expense, it being well understood that they appear also in the Gazette published by authority.

Yours truly,

(Signed,) A. W. COCHRAN.

Monday.

W. S. Sewell, Esqr. Sheriff.

790.—Have you since that time constantly published the said advertizements in the new Gazette ?

Yes.

791.—Have not all the advertizements of the same nature made by the Sheriffs of Montreal and Three Rivers also been, since the same time, inserted in this new Gazette ?

Yes.

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Appendix A.

District of }
Montreal. }

King's Bench,
February and March 1824.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the District, summoned to be and appear before our said Lord the King, in His Majesty's Court of King's Bench, holding Criminal Jurisdiction for the said District, on Wednesday the Twenty-fifth day of February, at Montreal, in the said District, and in the Year of our Lord 1824.

François Antoine Larocque, Esquire, Foreman.

John Forsyth,	Esquire.	Horatio Gates,		Esquire.
François Desrivières,	"	Pierre De Boucherville,		"
Thomas Porteous,	"	Francis Badgley,		"
Jacques P. S. De Beaujeu,	"	Jean Marie Cadieux,		"
Samuel Gerrard,	"	John Fleming,		"
Jean Bouthillier,	"	Jean Philippe Leprohon,		"
Henry McKenzie,	"	John Molson, junr.		"
Nicolas Benjamin Doucet,	"	Alexis Laframboise,		"
George Moffat,	"	Robert Unwin Harwood,		"
Jacques Hervieux,	"	Thomas Bedouin,		"
Thomas Andrew Turner,	"	John Brown,		"
Louis Roy Portelance,	"			"

(Signed) FREDK. W. ERMATINGER, Sheriff

Certified,
JOHN DELISLE, clk. c.
25th February 1824.

Oyer and Terminer.

August and November 1824.

The names of the Grand Jury, to enquire for Our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices, at the Session of Oyer and Terminer and General Gaol Delivery, for the said District, on Tuesday, the tenth day of August, at Montreal, in the said District, and in the year of our Lord 1824.

Thomas Blackwood, Esq., Foreman.

François Rolland,	Esquire.	Robert Armour,		Esquire.
John Molson, Senr.	"	Austin Cuvillier,		"
Thomas Barron,	"	John Jones, Senr.		"
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Appendix (A.)

Jacques Viger,	Esquire.	Adam Lymburner Macnider, Esquire.
James Millar,	"	Pierre Hervieux,
Joseph Perrault,	"	John Jamieson,
Henry Griffin,	"	Joseph Masson,
Jules Quesnel,	"	Robert Froste,
Thomas Thain,	"	Joseph Roy,
Pierre Amable Dézéry,	"	Charles Grant,
David Haudyside,	"	Felix Souigny,
Paul Joseph Lacroix,	"	

(Signed) FREDK. W. ERMATINGER, Sheriff

Certified,
 JOHN DELISLE, clk. c.
 10th August 1824.

Montreal, }
 to wit : }

The names of the select men, summoned to be and appear before His Majesty's Justices at a Session of General Gaol Delivery for the said District, on Tuesday the 10th day of August, at Montreal, in the said District, and in the year of our Lord 1824.

Julien Perrault, Stanley Bagg, Pierre Beaudrie, Kenneth Walker.
 Certified, (Signed) FREDK. W. ERMATINGER, Sheriff.
 JOHN DELISLE, clk. c.
 10th August 1824.

King's Bench,
 August and September 1824.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices of the Court of King's Bench, in and for the said District, on Friday the twenty-seventh day of August, at Montreal, in the said District, and in the year of our Lord 1824.

George Auldjo, Esquire, Foreman.

Hugues Heney,	Esquire.	Louis Guy,	Esquire.
Henry McKenzie,	"	Andrew Porteous,	"
Frs. Desrivieres,	"	Nicolas B. Doucet,	"
James Leslie,	"	Benjamin Hart,	"
Touss. Pothier,	"	Louis Roy Portelance,	"
William Stephens,	"	James Hughes,	"
Jacques Hervieux,	"	James McGill Desrivieres,	"
Peter McGill,	"	Samuel S. Bridge,	"
Jacques P. S. De Beaujen,	"	Charles Frémont,	"
William Blackwood,	"	Robert D. Handyside,	"
Jean Philippe Leprohon,	"	Thomas Bedouin,	"
Alex. Thain,	"		

(Signed) FREDK. W. ERMATINGER, Sheriff.

Certified,
 JOHN DELISLE, clk. c.
 27th August 1824.

King's

Appendix (A.)

King's Bench,
February and March 1825.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the District, summoned to be and appear before the Justices of His Majesty's Court of King's Bench, on Thursday the twenty-fourth day of February, at Montreal, in the said District, and in the year of our Lord 1825.

	François Desrivieres, Esquire, Foreman.	
Samuel Gerrard,	Esquire.	John Molson, Junr. Esquire.
Jean Bouthillier,	"	Dominique Bernard, "
George Moffatt,	"	William Peddie, "
Louis Roy Portelance,	"	Jean Bte. Berthelot, "
John Forsyth,	"	Francis Badgley, "
Jacques Hervieux,	"	Thomas Bedouin, "
George Garden,	"	Horatio Gates, "
Frans. Antoine Larocque,	"	Henry N. L. De Bellefeuille, "
Thomas Andrew Turner	"	John Porteous, "
Alex. Laframboise,	"	Paul Jos. Lacroix, "
John Fleming,	"	George Davies, "
Joseph Masson,	"	

(Signed) FREDK. W. ERMATINGER, Sheriff.

Certified,
JOHN DELISLE, clk. c.

24th February 1825.

King's Bench,
August and September 1825.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices of the Court of King's Bench, in and for the said District, on Saturday the twenty-seventh day of August, at Montreal, in the said District, and in the year of Lord 1825.

	Hugues Heney, Esquire, Foreman.	
John Molson, Senr.	Esquire.	James McGill Desrivieres, Esquire.
Pierre De Rocheblave,	"	Alex. McKenzie, "
Peter McGill,	"	Pierre Hervieux, "
Austin Cuvillier,	"	Joseph Shuter, "
George Auldjo,	"	Jules Quesnel, "
William Stephens,	"	Norman Bethune, "
Jean Philippe Léprohon,	"	Joseph Roy, "
Robert Armour,	"	Robert Unwin Harwood, "
Thomas Barron,	"	Felix Souigny, "
		William

(185)

Appendix (A.)

William Blackwood,
Pierre De Boucherville,
Henry Griffin,

Esquire.
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(Signed)

Benjamin Hart,
Charles Stuart,

Esquire.
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FREDK. W. ERMATINGER, Sheriff.

Certified,
JOHN DELISLE, clk. c.

Esquire.

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King's Bench,
February and March 1826.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices of the Court of King's Bench, in and for the said District, on Friday the twenty-fourth day of February, at Montreal, in the said District, and in the year of our Lord 1826.

Thomas Porteous, Esquire, Foreman.

Jean Bouthillier,
Jacques P. S. De Beaujeu,
Henry McKenzie,
Frans. Desrivieres,
George Garden,
Jacques Viger,
Thomas Blackwood,
Nicolas B. Doucet,
John Jones, Senr.
Jacques Hervieux,
David Handyside,
Louis Guy,

Esquire.
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Horatio Gates,
Paul Jos. Lacroix,
Robert Froste,
Pierre Amable Dézéry,
James Hughes,
Alex. Laframboise,
Thomas A. Turner,
Dominique Bernard,
Samuel S. Bridge,
Bernard Léprehon,
John Brown,

Esquire.
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(Signed) FREDK. W. ERMATINGER, Sheriff.

Certified,
JOHN DELISLE, clk. c.
24th February 1826.

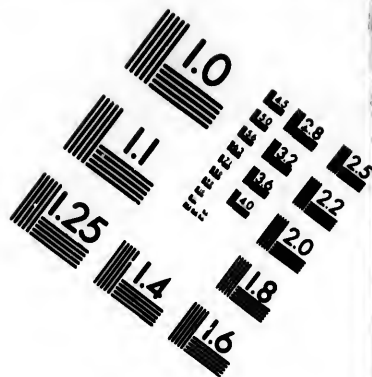
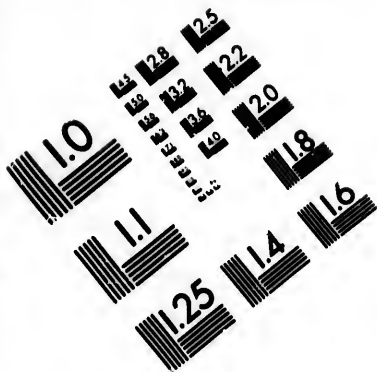
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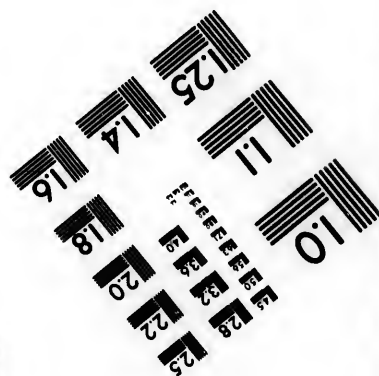
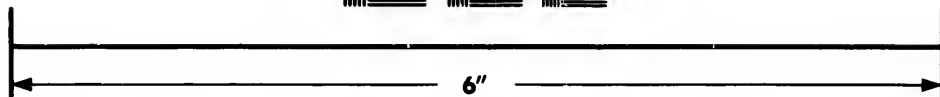
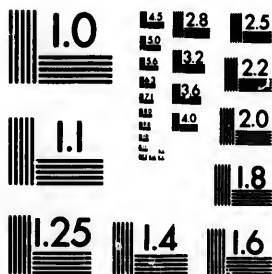
King's Bench,
August and September 1826.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices of the Court of King's Bench, in and for the said District





**IMAGE EVALUATION
TEST TARGET (MT-3)**



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Appendix (A.)

trict, on Monday the twenty-eighth day of August, at Montreal, in the said District, and in the year of our Lord 1826.

François Ant. Larocque, Esquire, Foreman.			
Peter McGill,	Esquire.	Joseph Masson,	Esquire.
Samuel Gerrard,	"	Turton Penn,	"
Pierre De Rocheblave,	"	Thomas Bedouin,	"
James Leslie,	"	John Fleming,	"
Pierre De Boucherville,	"	James McGill Desrivières,	"
James Millar,	"	John Jamieson,	"
Hugues Heney,	"	Pierre Hervieux,	"
William Peddie,	"	John Porteous,	"
Louis Roy Portelance,	"	Edward M. Léprohon,	"
Adam L. McNider,	"	George Davies,	"
Joseph Perrault,	"	Joseph Roy,	"
John Molson, Jun.	"		

(Signed) FREDK. W. ERMATINGER, Sheriff

Certified, JOHN DELISLE, clk. c.
28th August 1826.

King's Bench,
February and March 1827.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices of the Court of King's Bench, in and for the said District, on Saturday the twenty-fourth day of February, at Montreal, in the said District, and in the year of our Lord 1827.

John Molson, Sen. Esquire Foreman.			
Paul Jos. Lacroix,	Esquire.	Jacques Viger,	Esquire.
George Garden,	"	William Blackwood,	"
Jacques P. S. De Beaujeu,	"	Jacques Hervieux,	"
Horatio Gates,	"	Benjamin Hart,	"
Jean Bouthillier,	"	Félix Souigny,	"
Louis Guy,	"	Robert Armour,	"
Thomas Porteous,	"	James McGill Desrivières,	"
Thomas Barron,	"	Samuel S. Bridge,	"
Robert U. Harwood,	"	Jules Quesnel,	"
Nicolas B. Doucet,	"	Robert Froste,	"
Henry Griffin,	"	Alexis Laframboise,	"
		Charles Stuart,	"

(Signed) FREDK. W. ERMATINGER, Sheriff.

Certified, JOHN DELISLE, clk. c.
24th Feby. 1827.

OYER

Appendix (A.)

oyer and J. RMINER.

May 1827

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices at a Session of General Gaol Delivery for the said District, on Thursday the third day of May, at Montreal, in the said District, and in the year of our Lord 1827.

	John Forsyth, Esquire, Foreman,	
François Desrivières,	Esquire,	Francis Badgley, Esquire,
George Moffatt,	"	Thomas Bedouin, "
Pierre Amable Dézéry,	"	Joseph Shuter, "
Charles Grant,	"	Austin Cuvillier, "
Pierre Hervieux,	"	John Fleming, "
Thomas A. Turner,	"	Charles Frémont, "
Joseph Perrault,	"	Andrew Porteous, "
George Auldjo,	"	Jean Dominique Bernard, "
Louis Roy Portelance,	"	Norman Bethuene, "
John Jones, Senr.	"	Bernard Léprohon, "
Hugues Heney,	"	Charles Bancroft, "
		Louis Huguet Latour, "

(Signed,) L. GUGY, Sheriff.

3d May 1827.

Certified, JOHN DELISLE, Clk. C.

The names of the selected men summoned to be and appear before His Majesty's Justices at a Session of General Gaol Delivery for the said District, on Thursday, the third day of May, at Montreal, in the said District, and in the year of our Lord 1827,

Stanley Bagg,	Pierre Beaudry,
John Try,	John Donegany,

(Signed,) L. GUGY, Sheriff.

3d May 1827.

Certified, JOHN DELISLE, Clk. C.

Appendix (A.)

KING'S BENCH.

September Term 1827.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Justices of the Court of King's Bench, in and for the said District, on Saturday, the first day of September, at Montreal, in the said District, and in the year of our Lord 1827.

	Samuel Hatt, Esquire, Foreman,		
Thomas Blackwood,	Esquire,	Lawrence Kidd,	Esquire,
Pierre De Rocheblave,	"	Antoine Filion,	"
Peter McGill,	"	Joseph Masson,	"
Jean Dessaulles,	"	William Peddie,	"
Adam L. McNider,	"	James McGill Desrivieres,	"
Nicolas E. L. Dumont,	"	George Davies,	"
John Molson, Junr.	"	Gabriel Marchand,	"
François Ant. Larocque,	"	William Stephens,	"
James Leslie,	"	Peter Wilbrenner,	"
Jean B. R. H. De Rouville,	"	Turton Penn,	"
James Millar,	"	Michel Turgeon,	"
Jacques Déligny,	"		

(Signed,) L. GUY, Sheriff.

Certified, JOHN DELISLE, Clk. C.

OYER AND TERMINER.

November 1827.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before the Commissioners of a Court of Oyer and Terminer and General Gaol Delivery, on Friday, the second day of November, at Montreal, in the said District, and in the year of our Lord 1827.

	Henry McKenzie, Esquire, Foreman,		
Samuel Gerrard,	Esquire,	Charles Stuart,	Esquire,
Jacques P. S. De Beaujeu,	"	Louis Barbeau,	"
			Jacques

Appendix (A.)

Jacques L. De Martigny,	Esquire,	Arthur Webster,	Esquire.
Alexander McKenzie,	"	Barthelemy Joliette,	"
Jules Quesnel,	"	John Porteous,	"
John Yule,	"	George D. Arnoldi,	"
Edward M. Leprohon,	"	William Molson,	"
George Gregorv,	"	Joseph Roy,	"
Louis Fleury Dechambault,	"	William Smith,	"
John Jamieson,	"	Barthelemy Rocher,	"
Thomas Barron,	"	Charles Morrison,	"
		Isaac Valentine,	"

(Signed) L. GUGY, Sheriff.

Certified.

J. DELISLE, Clk. C.

The names of the selected men, summoned to be and appear before the Commissioners of a Court of Oyer and Terminer and General Gaol Delivery for the said District, on Friday, the second Day of November, at Montreal, in the said District, and in the year of our Lord 1827.

William Kerr,	William Bradbury,
Augustin Perrault,	Joseph Valois.

(Signed) L. GUGY, Sheriff.

Certified,

J. DELISLE, Clk. C.

KING'S BENCH.

March 1828.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the District, summoned to be and appear before His Majesty's Justices of the Court of King's Bench, in and for the said District, on Saturday, the first day of March, and in the said District, at Montreal, in the year of our Lord 1828.

George Simpson,	Louis Guy, Esquire, Foreman,	William Porteous,	Esquire,
Jean Bouthillier,	Esquire,	Jacques L. De Martigny, Sen.	"
John Molson	"	John McKenzie,	"
Jacques Hervieux,	"	Paul Joseph Lacroix,	"
George Henry Monk,	"	Lawrence George Brown,	"
		Félix Souigny,	"
			George

Esquire,
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the King,
the Com-
elivery, on
ict, and in

Esquire,
" Jacques

Appendix (A.)

George Aubry,	Esquire,	Benjamin Hart,	Esquire,
Réné B. De Labruère	"	Louis Marchand,	"
Charles O. Ermatinger,	"	Charles Penner,	"
Charles C. Deléry,	"	Pierre Grisé,	"
Robert Froste,	"	Thomas McVey,	"
Nicolas B. Doucet,	"	Benjamin Beaupré,	"

(Signed,) L. GUGY, Sheriff.

Certified, J. DELISLE, Clk. C.

OYER AND TERMINER.

August 1828.

The names of the Grand Jury, to enquire for our Sovereign Lord the King, and the body of the said District, summoned to be and appear before His Majesty's Court of Oyer and Terminer and General Gaol Delivery, in and for the said District, on Wednesday, the twentieth day of August, at Montreal in the said District, and in the year of our Lord 1828.

Thomas Boucherville,	Thomas Badgley, Esq. Foreman,	Esquire,	Jacques Archambault,	Esquire,
John Porteous,	"	"	Robert Griffin,	"
Paul Lussier,	"	"	Louis C. Duvert,	"
Thomas A. Turner,	"	"	Daniel Farley,	"
Louis Bourdages,	"	"	Edouard Langevin,	"
Norman Bethune,	"	"	Robert Jones,	"
François Marchand,	"	"	Louis H. Latour,	"
Thomas B. Anderson,	"	"	George Auldjo,	"
Paul T. Pinsonnault,	"	"	Hyacinthe St. Germain,	"
Thomas Busby,	"	"	Charles Bancroft,	"
Joseph T. Drolet,	"	"	Joseph Turgeon,	"
Robert Armour,	"	"	David Handyside,	"
			Richard V. Freligh,	"

(Signed,) L. GUGY, Sheriff.

Certified, JOHN DELISLE, Clk. C.

KING'S

Appendix (A.)

KING'S BENCH.

September 1828.

The names of the Grand Jurors summoned upon the Grand Inquest for the said District, at a Term of His Majesty's Court of King's Bench of Criminal Jurisdiction to be held at the Court House in the City of Montreal, on Monday the first day of September, in the year of our Lord 1828.

	Thomas Porteous, Esqr.	Foreman,	
Thomas Barron	Esquire,	George Aubry,	Esquire,
William Blackwood,	"	Charles Grant,	"
Alexis Berthelot,	"	Amable Archambault,	"
Robert U. Harwood,	"	Louis Guerout,	"
Jean U. Raymond,	"	Laurent Leroux,	"
Horatio Gates,	"	Jacques Viger,	"
William Bingham,	"	Samuel S. Bridge,	"
Henry Griffin,	"	Timothy Franchère,	"
George Gregory,	"	William U. Chaffers,	"
George Gordon,	"	John McDonald,	"
Alexis Laframboise,	"	Réné Boileau, fils,	"
		Richard B. McGinnis,	"

(Signed,) L. GUY, Sheriff,

Certified, JOHN DELISLE, Clk. C.

APPENDIX (B.)

Court of King's Bench, Criminal Jurisdiction.

FEBRUARY AND MARCH 1826.

Bills found.

Feby. 24th 1826.

1.—Dominus Rex, vs. Joseph Massé, Jean Bte. Commeau and Jacques Chégnay dit Sabourin.—Indictment for Grand Sarceny.—True Bill.

2.—

Feby. 24th 1826.

2.—Dominus Rex, vs. P. Menancon.—Indt. for stealing above the value of fifteen pounds in a dwelling house.—True bill.

3.—Dominus Rex, vs. Jean Bte. Rouleau and Antoine Goyette.—Indt. for stealing a Stallion.—True bill.

4.—Dominus Rex, vs. Jean Bte. Rouleau and Antoine Goyette.—Indt. for stealing a Stallion.—True bill.

5.—Dom. Rex, vs. Joseph Delaurier.—Indt. for stealing a Gelding.—True bill.

6.—Dom. Rex, vs. Mary Ann Konwasenakwen.—Indt. for stealing above the value of 5s. in a shop.—True bill.

7.—Dom. Rex, vs. Joseph Botquin, otherwise called Jos. St. André.—Indt for Larceny.—True bill.

8.—Dom. Rex, vs. Samuel Davis and Matilda Davis, his Wife.—Indt. for felony, in stealing a promissory note.—True bill.

9.—Dom. Rex, vs. John M'Ewen.—Indt. for Grand Larceny.—True bill.

Feby. 25th 1826.

10.—The King vs. Angélique Langlois as principal, and against Joseph Mallet and Helen Fleet, his wife, as accessory after the fact.—Indt. for stealing above the value of 5s. in a shop.—True bill.

11.—The King, vs. James Haughton, and Susan Smith, his wife —Indt. for assaulting and beating one Patrick McGuire, and stabbing him with a knife, with intent to murder him.—True bill.

12.—The King, vs. John McEwen.—Indt. for Larceny.—True bill.

13.—The King, vs. Jean Marie Rose.—Indt. for stealing above the value of 40s. in a dwelling house.—True bill.

14.—The King, vs. Jean Marie Rose.—Indt. for grand larceny.—True bill.

15.—The King, vs. Joseph Lamarque.—Indt. for grand larceny.—True bill.

16.—The King, vs. Joseph Goyette.—Indt. for grand larceny.—True bill.

17.—The King, vs. Louis Jobin.—Indt. for larceny.—True bill.

18.—The King, vs. Louis Massé, Jean Bte. Commeau, and Jacq. Chouinière alias Jac. Sabourin.—Indt. for grand larceny.—True bill.

Feby. 27th.

19.—The King, vs. James Smith.—Indt. for larceny.—True bill.

20.—The King, vs. Joseph Delisle.—Indt. for burglary.—True bill.

21.—The King, vs. Hiram Gleason.—Indt. for assaulting E. Knight, a Bailiff of the Court of King's Bench, in the execution of his duty.—True bill.

22.—The King, vs. John Shields.—Indt. for larceny.—True bill.

23.—The King, vs. John Shields.—Indt. for stealing above the value of 40s. in a dwelling house.—True bill.

24.—The King, vs. Michel Content.—Indt. for grand larceny.—True bill.

Appendix (B.)

Febry. 27th 1826.

25.—The King, vs. Joseph Botquin dit St. André.—Indt. for larceny.—True bill.

26.—The King, vs. François Goyette.—Indt. for sheep stealing.—True bill.

27.—The King, vs. William Nichols.—Indt. for stealing above the value of 40s. in a dwelling house.—True bill.

28.—The King, vs. Pierre Achim alias Catlin.—Indt. for assaulting and beating a Bailiff of His Majesty's Court of King's Bench, in the execution of his office.—True bill.

29.—The King, vs. Isaac Johnson.—Indt. for larceny.—True bill.

30.—The King, vs. John McEwen.—Indt. for larceny.—True bill.

31.—The King, vs. Robert Mannagh as principal in the first degree, and Hugh Mannagh as principal in the second degree.—Indt. for felony, by cutting off the lip of John McNiles.—True bill.

32.—The King, vs. Amable Ané.—Indt. for larceny.—True bill.

Febry. 28th

33.—The King, vs. Toussaint St. Germain.—Indt. for larceny.—True bill.

34.—The King, vs. Henri Garron.—Indt. for grand larceny.—True bill.

March 1st.

35.—The King, vs. Mary Minier.—Indt. for larceny.—True bill.

36.—The King, vs. Paschal Lamesse.—Indt. for larceny.—True bill.

March 2nd.

37.—The King, vs. John Mina.—Indt. for grand larceny.—True bill.

38.—The King, vs. Saraphin Maisonneuve.—Indt. for grand larceny.—True bill.

39.—The King, vs. Thomas Brown.—Indt. for assaulting and wounding Danl. Ager with a pitch-fork, with intent to murder him.—True bill.

40.—The King, vs. Thomas Brown, Hannah Smith, Robert Jones, Chs. Jones, James Percy, Elkanah Phelps, Samuel Luke and Peter Waters.—Indt. for conspiracy to break down and destroy the mill dam of Daniel Agers, and for riotously breaking down and destroying part of the said mill dam.—A true bill against Thomas Brown, Hannah Smith, Chas. Jones, Jas. Percy, E. Phelps, Samuel Luke, and Peter Waters. No bill against Robt. Jones.

March 4th.

41.—The King, vs. Robt. Managh, and Hugh Managh.—Indt. for assault and battery, with intent to murder, and also for biting off part of the under lip of John Niles.—True bill.

42.—The King, vs. William Jackson.—Indt. for assaulting a Bailiff of His Majesty's Court of King's Bench, in the execution of his office.—True bill.

43.—The King, vs. Maria Badger.—Indt. for stealing above the value of 40s. in a dwelling house.—True bill.

44.—The King, vs. Joachim Naulette.—Indt. for assaulting and beating George

Appendix (B.)

March 4th 1826.

George Miller, when lawfully employed in the due execution of a warrant of a Justice of the Peace, specially directed to him.—True bill.

45.—The King, vs. Morril Magoon.—Indt. for forgery.—True bill.

March 6th.

46.—The King, vs. Célestin Fuseau, otherwise called Célestin Roc.—Indt. for assaulting and beating Thomas Fagnant, when lawfully employed in the execution of a warrant of two Justices of the Peace, specially directed to him.—True bill.

March 8th.

47.—The King, vs. Hiram Ellison and Augustus Simkins.—Indt. for larceny.—True bill.

March 9th.

48.—The King, vs. Samuel Davis and Matilda Davis.—Indt. for fraudulently obtaining a promissory note by deceit and on false pretence.—True bill.

49.—The King, vs. Hiram Wright, George Rounds, Silvester Delano and Jeremiah Rowe.—Indt. for a conspiracy, riotously to seize and imprison Nathan Pierce, and forcibly and against his will to convey him as a prisoner to a foreign country, and for a riot so to imprison and convey him, and also for assaulting and beating him.—True bill.

50.—The King, vs. Jean Marie Desjardins.—Indt. for felony for breaking out of gaol.—True bill.

51.—The King, vs. Joseph Moreau.—Indt. for felony for breaking out of gaol.—True bill.

March 10th.

52.—The King, vs. Joseph Verdon.—Indt. for feloniously conveying spring saws into the gaol at Montreal, in order to facilitate the escape of a prisoner.—True bill.

53.—The King, vs. John Minx.—Indt. for stealing above the value of 40s. in a dwelling house.—True bill.

Certified,

John Delisle,
Clk. C.

No Bills.

Feby. 25th 1826.

1.—The King, vs. Archibald Campbell.—Indt. for larceny.—No bill.

Feby. 28th.

2.—The King, vs. Gabriel Deguise dit Larose.—Indt. for Burglary.—No bill.

3.—The King, vs. Lucie Gendron.—Indt. for arson.—No bill.

4—

Appendix (B.)

Febry. 28th 1826.

4.—The King, vs. Jean Bte. Fontaine dit Bienvenue and Bazile Munro as principals, and Joseph Fontaine dit Bienvenu as accessory after the fact.—Indt. for grand larceny.—No bill.

March 1st.

5.—The King, vs. Thomas Cockburn.—Indt. for felony, in robbing from the person of John Brooks.—No bill.

March 4th.

6.—The King, vs. Gabriel Deguise alias Gabriel Larose.—Indt. for Burglary.—No bill.

7.—The King, vs. Lucie Gendron.—Indt. for arson.—No bill.

March 6th.

8.—The King, vs. Thomas Harper.—Indt. for stealing a mare.—No bill.

9.—The King, vs. Pierre Desforges, Louis Desforges and Pierre Grossier.—Indt. for larceny.—No bill.

March 8th.

10.—The King, vs. Ellen Norris and Susan Waters.—Indt. for grand larceny.—No bill.

11.—The King, vs. Robert McNabb.—Indt. for arson.—No bill.

12.—The King, vs. Robert McNabb.—Indt. for a misdemeanor, for setting fire to and burning his own house.—No bill.

March 10th.

13.—The King, vs. John Brown.—Indt. for stealing above 40s. in a dwelling house.—No bill.

Certified,

John Delisle,

Clk. C.

Court of King's Bench, Criminal Jurisdiction.

AUGUST AND SEPTEMBER 1826.

Bills found.

August 28.

Dominus Rex, vs. John Johnson,—Indictment for stealing privily from the person.—True bill.

Dominus Rex, vs. Germain Talbot,—Indictment for larceny.—True bill.

3.—

Appendix (B.)

August 28th.

3.—Dominus Rex, vs. Geo. Mitchell,——Indictment for sacrilege in stealing goods out of a Church.——True bill.

4.—Dominus Rex, vs. Charles Fisette,——Indictment for grand larceny.——True bill.

5.—Dominus Rex, vs. Zephyr Lanaville,——Indictment for burglary.——True bill.

6.—Dominus Rex, vs. Jean Bte. Charbonneau,——Indictment for grand larceny,——True bill.

7.—Dominus Rex, vs. Margaret Miron,——Indictment for stealing privily from the person.——True bill.

8.—Dominus Rex, vs. Antoine Depré dit Loranger,——Indictment for stealing lamps.——True bill.

9.—Dominus Rex, vs. Frans. Robillard dit Sanspitié,——Indictment for stealing above the value of 40s. in a dwelling house.——True bill.

10.—Dominus Rex, vs. Frans. Robillard dit Sanspitié,——Indictment for grand larceny,——True bill.

11.—Dominus Rex, vs. Frans. Robillard dit Sanspitié,——Indictment for stealing above the value of 40s. from a dwelling house.——True bill.

12.—Dominus Rex, vs. George Lorimier,——Indictment for murder.——True bill.

August 29th.

13.—Dominus Rex, vs. Pierre Viger,——Indictment for larceny,——True bill.

14.—Dominus Rex, vs. Augustin Langevin alias Alexis Archambault,——Indictment for assault with an intent to ravish.——True bill.

15.—Dominus Rex, vs. Julien Bouthillier,——Indictment for stealing above the value of £15 in a dwelling house,——True bill.

16.—Dominus Rex, vs. John Bowman,——Indictment for larceny.——True bill.

17.—Dominus Rex, vs. Marie Louise d'Orleans,——Indictment for larceny.——True bill.

18.—Dominus Rex, vs. Margaret Latour,——Indictment for stealing above the value of 40s. from a dwelling house,——True bill.

August 30.

19.—Dominus Rex, vs. Hilaire Grenier,——Indictment for stealing above the value of 40s. from a dwelling house,——True bill.

20.—Dominus Rex, vs. François Cazavant dit Ladebauche, and François Poulin,——Indictment for burglary,——True bill.

21.—Dominus Rex, vs. Jean Bte. Mousseau,——Indictment for larceny,——True bill.

Appendix (B.)

August 31st.

22.—Dominus Rex, vs. François Larivière,——Indictment for manslaughter,——True bill.

23.—Dominus Rex, vs. John McDonald, Margaret McDonald, and Archibald McDonald,——Indictment for grand larceny.——True bill.

24.—Dominus Rex, vs. John McDonald, Margaret McDonald, and Archibald McDonald,——Indictment for grand larceny.——True bill.

25.—Dominus Rex, vs. Jean Bte. Dusep,——Indictment for larceny,——True bill.

1st September.

26.—Dominus Rex, vs. Joseph Bouchard,——Indictment for murder,——No bill for murder; true bill for manslaughter.

27.—Dominus Rex, vs. Patrick Daly, otherwise called Patrick McEwen, John Mitchell, Mary Mitchell and Mary McGuire.——Indictment for grand larceny.——True bill.

28.—Dominus Rex, vs. Mathew Verts.——Indictment for larceny.——True bill.

29.—Dominus Rex, vs. Peter Williams, Thomas Tecatarago, Jean Bte. Checataga, Louis Chirongué, Joseph Newatara and Charles Yontourré.——Indictment for stealing in a dwelling house and the owner being therein, put to fear.——True Bill.

30.—Dominus Rex, vs. Henry Mongeon, otherwise called Garçon Mongeon, Michel Mongeon, otherwise called Fifine Mongeon, Antoine Benoit, otherwise called Garçon Benoit, otherwise called Antoine Nevinois and François Lépine,——Indictment for burglary.——True bill.

31.—Dominus Rex, vs. Matuew Millan,——Indictment for grand larceny.——True bill.

32.—Dominus Rex, vs. Joseph Pacquin,——Indictment for grand larceny.——True bill.

33.—Dominus Rex, vs. John McDonald, Margaret McDonald and Archibald McDonald,——Indictment for grand larceny.——True bill.

September 2nd.

34.—Dominus Rex, vs. Joseph Bouchard,——Indictment for manslaughter,——True bill.

35.—Dominus Rex, vs. William Collins and James Lang,——Indictment for murder,——True bill.

September 4.

36.—Dominus Rex, vs. Joseph Massé,——Indictment for carnally knowing and abusing a female child under ten years of age.——True bill.

37.—Dominus Rex, vs. Felix M'Cormick, Daniel McMillan, the elder, Daniel McMillan, the younger and John Mahoney,——Indictment for a riot and

Appendix (B.)

September 4.
and assault on Wm. Anderson, and riotously and with force and violence preventing him from raising and setting up the frame of a wooden house.— True bill.

38.—Dominus Rex, vs. Patrick Daly, otherwise called Patrick Rily, otherwise called Patrick McEwen, John Mitchell, Mary Mitchell and Mary McEwen.— Indictment for grand larceny.— True bill.

39.—Dominus Rex, vs. Adolphe Nolin, Raphaël Brosseau the elder Geneviève Regnaud and Raphaël Brosseau, the younger, — Indictment for murder.— True bill.

September 5th.
40.—Dominus Rex, vs. Samuel Little, — Indictment for a forcible entry and detainer.— True bill.

41.—Dominus Rex, vs. Asa Fleming, the younger, — Indictment for maliciously maiming and wounding a bull.— True bill.

42.—Dominus Rex, vs. Asa Fleming, the younger, — Indictment for maliciously maiming and wounding a steer.— True bill.

September 6th.
43.—Dominus Rex, vs. Charles Smith, — Indictment for stealing above the value of 40s. in a dwelling house.— True bill.

44.—Dominus Rex, vs. Charles Smith, — Indictment for stealing above the value of 40s.— True bill.

45.—Dominus Rex, vs. Luke Bowen.— Indictment for assault with intent to murder.— True bill on 1st Count: No bill on 2d Count.

September 7th.
46.—Dominus Rex, vs. Alexis Verdon.— Indictment for burglary.— True bill.

47.—Dominus Rex, vs. James Duffin.— Indictment for assaulting Mary Campion with a gun, with intent to murder.— No Bill on 1st Count.— True bill on 2d Count.

48.—Dominus Rex, vs. Adam Johnson, — Indictment for burglary.— True bill.

49.—Dominus Rex, vs. John McFarlane, — Indictment for Larceny.— True bill.

50.—Dominus Rex, vs. Patrick Daly, alias Rely, alias McEwen, and Mary Daly his wife, — Indictment for larceny.— True bill.

51.—Dominus Rex, vs. Bazile Demers, and Marie Belanger. — Indictment for stealing a mare.— True bill.

52.—Dominus Rex, vs. Bazile Demers and Marie Belanger.— Indictment for grand larceny.— True bill.

53.—Dominus Rex, vs. James McFarlane, James Elliot, Michael Murphy and Patrick Schicalue.— Indictment for assaulting and beating a Constable in the execution of his office.— True bill.

54.—Dominus Rex, vs. Bazile Demers and Marie Belanger.— Indictment for larceny.— True bill.

Appendix (B.)

September 7th.

55.—Dominus Rex, vs. James Gordon,——Indictment for larceny,——
True bill.

56.—Dominus Rex, vs. Samuel King, Joseph Moore and Elizabeth Briand.
——Indictment for feloniously conveying two small saws, one small auger
and one file into the Common Gaol of the District of Montreal, in order to
facilitate the escape of a prisoner.——True bill.

September 9th.

57.—Dominus Rex, vs. Alexander Young, Joseph Platt, Thomas Boucher,
Robert Luck, Alanson Barber, Gabriel Longpré, Martin Kelly, Peter Rey-
nolds and Maurice Reily.——Indictment for a riot, assaulting John Murphy
one of the Bailiffs of His Majesty's Court of King's Bench, and preventing
and obstructing him in the execution of a writ of attachment issued out of the
said Court.——True bill.

Certified,

JOHN DELISLE, Clk. C.

No Bills.

August 28th. 1826.

1.—Dominus Rex, vs. Joseph Lefebvre.——Ind. for a rape.—No Bill.

2.—Dominus Rex, vs. Michel Goyette et Auguste Goyette.——Indict-
ments for grand larceny.—No Bill.

August 30th.

3.—Dominus Rex, vs. André Arnois.——Indictment for grand larceny.
—No Bill.

4.—Dominus Rex, vs. Jean Bte. Berthelet, Benj. Berthelet, Scholastique
Mathieu, Michel Alarie et François Clément.——Indictment for a riot, and
forcebly entering the dwelling house of Paul Dagenais, assaulting and ex-
pelling him from the same, throwing his goods and effects into the King's
high-way, and taking down and removing the windows and doors of the
said house.—No Bill.

September 1st.

5.—Dominus Rex, vs. Susane Vervais, alias Susanne Lamour.——Indict.
for stealing above the value of 40s. in a Dwelling house.—No Bill.

6.—Dominus Rex, vs. William Nichols.——Indictment for larceny.—No
Bill.

7.—Dominus Rex, vs. Maria Birchley.——Indictment for grand larceny.
—No Bill.

September 5th.

8.—Dominus Rex, vs. Asa Fleming, the younger.——Indictment for ma-
liciously maiming and wounding a stallion—No Bill.

Sep-

Appendix (B)

September 5th.

9.—Dominus Rex, vs. Luke Bowen.—Indictment for maliciously maiming and wounding a mare.—No Bill.

10.—Dominus Rex, vs. Marie Trémoulé, Michel Bélanger and James Dogherty.—Indictment for sacrilege.—No Bill.

September 8th.

11.—Dominus Rex, vs. Morrill Magoon.—Indictment for horse stealing.—Ignoramus.

12.—Dominus Rex, vs. James Careless.—Indictment for stealing privily from the person.—Ignoramus.

13.—Dominus Rex, vs. Joseph Moses and Auguste Moses.—Indictment for Burglary.—Ignoramus.

14.—Dominus Rex, vs. Joseph Moses, Auguste Moses and Elizabeth Degan.—Indictment for grand larceny.—Ignoramus.

15.—Dominus Rex, vs. Joseph Moses, Auguste Moses and Elizabeth Degan.—Indictment for stealing above the value of 40s. in a dwelling house.—Ignoramus.

16.—Dominus Rex, vs. Joseph Charbonneau.—Indictment for grand larceny.—Ignoramus.

17.—Dominus Rex, vs. Joseph Moses, Auguste Moses and Elizabeth Degan.—Indictment for grand larceny.—Ignoramus.

18.—Dominus Rex, vs. Denis Burke, James Riley and Richard Murray.—Indictment for robbery from the person on the high-way.—Ignoramus.

19.—Dominus Rex, vs. Ann McLaughlan.—Indictment for grand Larceny.—Ignoramus.

20.—Dominus Rex, vs. Joseph David.—Indictment for grand larceny.—Ignoramus.

Certified.

JOHN DELISLE, Clk. C.

APPENDIX (C.)

Court of King's Bench, Criminal Jurisdiction.

February and March, 1827.

Bills Found.

No. 1.—The King, vs. François Cadoret.—Indictment for stealing above the value of £15 in a Dwelling House.—True Bill.

No. 2.—The King, vs. Alexander Johannet.—Indictment for stealing above the value of 40s. in a dwelling house.—True Bill.

No. 3.—The King, vs. Hypolite Denault.—Indictment for assaulting a Tide Waiter in the execution of his office.—true bill. No

Appendix (C.)

No. 4.—The King, vs. Mathew Verts.—Indictment for burglary.—true bill.

No. 5.—The King, vs. Edward Kennedy.—Indictment for grand larceny.—true bill.

No. 6.—The King, vs. Marie Rose Lesiege.—Indictment for stealing above the value of 40s. in a dwelling house.—true bill.

No. 7.—The King, vs. Olivier Bedard.—Indictment for grand larceny.—true bill.

No. 8.—The King, vs. Alexander Hover.—Indictment for fraudulently obtaining money under false pretences.—true bill.

No. 9.—The King, vs. Michel Janvier.—Indictment for stealing above the value of 40s. in a dwelling house.—true bill.

No. 10.—The King, vs. Peter Hart.—Indictment for stealing above the value of £15 in a dwelling house.—true bill.

No. 11.—The King, vs. Mary Hunter.—Indictment for petty treason.—true bill.

No. 12.—The King, vs. Benjamin Sanfaçon.—Indictment for shooting at one Ant. Valiquet with a gun.—true bill.

No. 13.—The King, vs. Joseph Vincent.—Indictment for stealing a cow.—true bill.

No. 14.—The King, vs. Joseph Larose.—Indictment for grand larceny.—true bill.

No. 15.—The King, vs. Antoine Rousselle.—Indictment for grand larceny.—true bill.

No. 16.—The King, vs. John Croker.—Indictment for feloniously stealing a promissory note.—true bill.

No. 17.—The King, vs. Louis Bret.—Indictment for stealing above the value of 5s. in a warehouse.—true bill.

No. 18.—The King, vs. Joseph Moses and Jean Bte. Verdon.—Indictment for burglary.—true bill.

No. 19.—The King, vs. David Robert.—Indictment for ravishing a woman.—true bill.

No. 20.—The King, vs. John Little.—Indictment for forgery—no bill on 1st and 4th counts, and a true bill on the remaining counts.—true bill.

No. 21.—The King, vs. Pierre Papineau, Joseph Chouenièrè otherwise called Joseph Sabourin and Jean Bte. George.—Indictment for grand larceny.—true bill.

No. 22.—The King, vs. François X. Leblanc.—Indictment for assault and battery with intent to murder.—true bill.

No. 23.—The King, vs. Pierre Henry Barsalouè.—Indictment for digging up and carrying away a dead body out of a church-yard.—true bill.

No. 24.—The King, vs. François Martin otherwise called François Barnabé.—Indictment for digging up and carrying away a dead body out of a church-yard.—true bill.

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No. 25.—The King, vs. John Crawford and Alexander McDonell.—Indictment for forgery.—true bill.

No. 26.—The King, vs. André Jobin.—Indictment for assaulting Louis Malo, one of the bailiffs of the Court of King's Bench in the execution of his office.—true bill.

No. 27.—The King, vs. Jean Bte. Rodier.—Indictment for grand larceny.—true bill.

No. 28.—The King, vs. Joseph Deloge.—Indictment for stealing a gelding.—true bill.

No. 29.—The King, vs. Antoine Gagnon.—Indictment for grand larceny.—true bill.

No. 30.—The King, vs. John Earl, Joseph Boutron, otherwise called Joseph Major and Louis Dumouchelle.—Indictment for conspiracy to persuade and induce certain persons not to give evidence against one Louis Masson on an information against him for selling spirituous liquors without licence.—true bill.

No. 31.—The King, vs. Geo. Washington Drew.—Indictment for larceny.—true bill.

No. 32.—The King, vs. Geo. Washington Drew.—Indictment for larceny.—true bill.

No. 33.—The King, vs. Benjamin Sanfaçon.—Indictment for shooting at one Antoine Valiquet with a gun.—true bill.

No. 34.—The King, vs. Joseph Villeneuve and Joseph Delisle.—Indictment for burglary.—true bill.

No. 35.—The King, vs. Joseph Edge.—Indictment for perjury.—true bill.

No. 36.—The King, vs. Henry Pierre Barceloue.—Indictment for digging up and carrying away a dead body out of a church-yard.—true bill.

No. 37.—The King, vs. Joseph Rousseau and Jean Rousseau.—Indictment for larceny.—true bill.

No. 38.—The King, vs. Louis Thivierge and Joseph Massé.—Indictment for larceny.—true bill against Thivierge, no bill against Massé.

No. 39.—The King, vs. Robert McIrose.—Indictment for burglary.—true bill.

No. 40.—The King, vs. Pierre Duplessis, otherwise called Pierre Desjardins.—Indictment for stealing a mare.—true bill.

No. 41.—The King, vs. Jonathan Corson.—Indictment for larceny.—true bill.

No. 42.—The King, vs. Amos William Lay and Geo. Washington Jackson.—Indictment for digging up and carrying away a dead body.—true bill.

No. 43.—The King, vs. Margaret Perigord and Eliza Robertson.—Indictment for larceny.—true bill.

No. 44.—The King, vs. Walter B. Corlew and Benjamin Woodbury.—Indictment for larceny.—true bill against Corlew, no bill against Woodbury.

Appendix (C.)

Bills of Indictments thrown out and Ignored.

The King, vs. Joseph Moses and Auguste Moses.—Indictment for burglary.—no bill.

The King, vs. Joseph Moses and Auguste Moses.—Indictment for grand larceny.—no bill.

The King, vs. Edward Kennedy.—Indictment for larceny.—no bill.

The King, vs. Robert Keavers.—Indictment for horse stealing.—no bill.

The King, vs. Isabelle Marcotte.—Indictment for grand larceny.—no bill.

The King, vs. George Cliff and John Dogherty.—Indictment for larceny.—no bill.

The King, vs. John Butler.—Indictment for larceny.—no bill.

The King, vs. Joseph Montferrant.—Indictment for stealing above the value of 40s. in a dwelling house.—no bill.

The King, vs. Loyan Fuller.—Indictment for larceny.—no bill.

The King, vs. Mary Partlow.—Indictment for perjury.—no bill.

The King, vs. Joseph Villeneuve and Joseph Delisle.—Indictment for burglary.—no bill.

The King, vs. Edward McGlone.—Indictment for grand larceny.—no bill.

The King, vs. Robert Armstrong and Patrick Coone.—Indictment for grand larceny.—no bill.

The King, vs. Hugh Smith, William May and Thomas Rosby.—Indictment for grand larceny.—no bill.

The King, vs. Hugh Smith, William May and Thomas Rosby.—Indictment for larceny.—no bill.

The King, vs. Jean Bte. Malbœuf, otherwise called Jean Bte. Fontaine.—Indictment for horse stealing.—ignoramus.

The King, vs. Luke Bowen.—Indictment for maiming and wounding a cow.—ignoramus.

The King, vs. Isaac Wilson.—Indictment for larceny.—ignoramus.

The King, vs. Felix McCormick and John Fitzgerald.—Indictment for assault and battery with intent to murder.—ignoramus.

The King, vs. Amable Boulet.—Indictment for stealing a mare.—ignoramus.

The King, vs. Louis Bret.—Indictment for larceny.—ignoramus.

The King, vs. George Ashley.—Indictment for stealing to the value of 40s. in a vessel on a navigable river.—ignoramus.

Certified,

JOHN DELISLE, Clk. C.

Court

Court of Oyer and Terminer and General Gaol delivery,

May 3d. 1827.

Bills found.

No. 1.—Dominus Rex, vs. Asa Fleming the younger.—Indictment for maliciously maiming and wounding a Steer.—true bill.

No. 2.—Dominus Rex, vs. Amos Wm. Lay and George Washington Jackson.—Indictment for digging up and carrying away a dead body out of a church-yard.—true bill.

No. 3.—Dominus Rex, vs.—Louis Bret.—Indictment for stealing above the value of 5s. in a warehouse.—true bill.

No. 4.—Dominus Rex, vs. Pierre Papineau, Joseph Chouenière, otherwise called Joseph Sabourin and Jean Bte. George.—Indictment for grand larceny.—true bill.

No. 5.—Dominus Rex, vs. Joseph Villeneuve and Joseph Delisle.—Indictment for burglary.—true bill.

May 4th.

No. 6.—Dominus Rex, vs. Henry Pierre Barceloue.—Indictment for digging up and carrying away a dead body out of a church-yard.—true bill.

No. 7.—Dominus Rex, vs. Thomas Stone.—Indictment for ravishing a woman.—true bill.

No. 8.—Dominus Rex, vs. François Martin, otherwise called Frs. Barnabé.—Indictment for digging up and carrying away a dead body out of a church-yard.—true bill.

No. 9.—Dominus Rex, vs. John Earl, Joseph Beatron, otherwise called Joseph Major and Louis Dumouchelle.—Indictment for a conspiracy to persuade certain persons not to give evidence against Louis Masson, on an information against him for selling spirituous liquors without a licence.—true bill.

May 7th.

No. 10.—Dominus Rex, vs. Joseph Vincent.—Indictment for stealing a cow.—true bill.

No. 11.—Dominus Rex, vs. Margaret Perigord.—Indictment for larceny.—true bill.

No. 12.—Dominus Rex, vs. Joseph Paquin.—Indictment for larceny.—true bill.

No. 13.—Dominus Rex, vs. Catherine McGeary.—Indictment for larceny.—true bill.

No. 14.—Dominus Rex, vs. Joseph Larose.—Indictment for larceny.—true bill.

No. 15.—Dominus Rex, vs. Joseph Morreau, as principal, and against Pierre Milette the younger, as accessory after the fact, by receiving part of the goods stolen.—Indictment for burglary.—true bill.

No. 16.—Dominus Rex, vs. Joseph Deloge.—Indictment for stealing a gelding.—true bill.

No. 17.—Dominus Rex, vs. George Washington Drew.—Indictment for larceny.—true bill.

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May 7th 1827.

No. 18.—Dominus Rex, vs. Jonathan Carson.—Indictment for larceny.—true bill.

No. 19.—Dominus Rex, vs. George Washington Drew.—Indictment for larceny.—true bill.

No. 20.—Dominus Rex, vs. Thomas Stone.—Indictment for an assault with an intent to commit a rape.—true bill.

No. 21.—Dominus Rex, vs. Robert Mitrose.—Indictment for burglary.—true bill.

No. 22.—Dominus Rex, vs. Jean Bte. Vaillant.—Indictment for a forcible entry.—true bill.

No. 23.—Dominus Rex, vs. Bazile Demerse and Marie Belanger.—Indictment for grand larceny.—true bill against Bazile Demerse, no bill against Marie Belanger.

No. 24.—Dominus Rex, vs. Bazile Demerse.—Indictment for larceny.—true bill.

No. 25.—Dominus Rex, vs. Bazile Demerse.—Indictment for stealing a mare.—true bill.

No. 26.—Dominus Rex, vs. Jean Bte. Malbœuf, otherwise called Jean Bte. Fontaine.—Indictment for horse stealing.—true bill.

No. 27.—Dominus Rex, vs. Hypolite Denault.—Indictment for assaulting a tide waiter, in the execution of his office.—true bill.

No. 28.—Dominus Rex, vs. Adolphe Nolin, Raphaël Brosseau the elder, Genevieve Regnaud and Raphaël Brosseau the younger.—Indictment for murder.—true bill.

No. 29.—Dominus Rex, vs. John Minx.—Indictment for grand larceny.—true bill.

No. 30.—Dominus Rex, vs. Michel Janvier.—Indictment for stealing above the value of 40s. in a dwelling house.—true bill.

May 10th.

No. 31.—Dominus Rex, vs. Antoine Roussel.—Indictment for grand larceny.—true bill.

No. 32.—Dominus Rex, vs. Joseph Eno, otherwise called Joseph Deschamps.—Indictment for a nuisance.—true bill.

No. 33.—Dominus Rex, vs. Pierre Duplessis alias Pierre Desjardins.—Indictment for stealing a mare.—true bill.

No. 34.—Dominus Rex, vs. Antoine Gagnon.—Indictment for stealing a mare.—true bill.

No. 35.—Dominus Rex, vs. Marie Rose Lesiege.—Indictment for stealing above the value of 40s in a dwelling house.—true bill.

No. 36.—Dominus Rex, vs. Louis Bret.—Indictment for larceny.—true bill.

No. 37.—Dominus Rex, vs. Richard Johnson.—Indictment for assault and battery.—true bill.

No.

No. 38.—Dominus Rex, vs. François Drouin.—Indictment for perjury. —true bill. May 10th.

No. 39.—Dominus Rex, vs. John Earl.—Indictment for dissuading witnesses from giving evidence. May 12th.

No. 40.—Dominus Rex, vs.—Louis Dumouchelle.—Indictment for dissuading witnesses from giving evidence.—True Bill.

No. 41.—Dominus Rex, vs.—Joseph Bautron alias Joseph Major.—Indictment for dissuading witnesses from giving Evidence.—true bill.

No. 42.—Dominus Rex, vs.—Josiah Green.—Indictment for Larceny.—true bill May 16th.

No. 43.—Dominus Rex, vs.—William Forbes.—Indictment for Nuisan —true bill.

No. 44.—Dominus Rex, vs.—Ewen Cameron, Frederick Team alias Jean Team and Edward Huot dit St. Laurent.—Indictment for Murder.—true bill.

No. 45.—Dominus Rex, vs.—Patrick Fitz Patrick.—Indictment for Larceny.—true bill. May 17th.

No. 46.—Dominus Rex, vs.—Patrick Fitz Patrick.—Indictment for Larceny.—true bill.

No. 47.—Dominus Rex, vs.—Margaret Johnson as principal & Jean Trudelle as accessory after the fact.—Indictment for Robbery.—true bill.

No Bills. May 3rd.

No. 1.—Dominus Rex, vs.—Isa Fleming the younger.—Indictment for maiming and wounding a Bull.—No Bill.

No. 2.—Dominus Rex, vs.—André Jobin.—Indictment for assaulting Louis Malo, one of the Bailiffs of His Majesty's Court of King's Bench, in the execution of his Office.—no bill.

No. 3.—Dominus Rex, vs.—David Robert.—Indictment for a Rape.—no bill. May 4th.

No. 4.—Dominus Rex, vs.—Joseph Villeneuve & Joseph Delisle.—Indictment for Burglary.—no bill.

No. 5.—Dominus Rex, vs.—Samuel King, Joseph Moore and Elizabeth Briand.—Indictment for feloniously conveying two small saws, one small auger & one small file in the Common Goal for the District of Montreal in order to facilitate the escape of a Prisoner.—no bill. May 7th.

No. 6.—Dominus Rex, vs.—Olivier Bedard.—Indictment for Grand Larceny.—no bill.

No. 7.—Dominus Rex, vs.—George Homarish.—Indictment for Robbery.—no bill.

No.

Appendix (C.)

May 10th.
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for Larceny.—

May 16th.

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May 17th.

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May 3rd.

Indictment for

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May 4th.

for a Rape.—

elisle.—Indict.

May 7th.

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for Grand Lar-

at for Robbery.

No.

- May 7th.
No. 8.—Dominus Rex, vs.—John Donegany.—Indictment for assaulting Adelphe Delisle, Head Constable, in the execution of his Office.—no bill.
- May 10th.
No. 9.—Dominus Rex, vs.—Joseph Eno, otherwise called Jos. Deschamp.—Indictment for a Nuisance.—No Bill.
- May 12th.
No. 10.—Dominus Rex, vs.—Joseph Hedge.—Indictment for Perjury.—no bill.
- May 16th.
No. 11.—Dominus Rex, vs.—John Moore.—Indictment for Grand Larceny.—no bill.
- May 17th.
No. 12.—Dominus Rex, vs.—Jos. Eno dit Deschamp.—Indictment for a Nuisance.—no bill.
- No. 13.—Dominus Rex, vs.—James Duffin.—Indictment for assaulting Margt. Campion with a Gun, with intent to murder her.—Ignoramus.
- No. 14.—Dominus Rex, vs.—Louis Thivierge et Joseph Masse.—Indictment for Larceny.—Ignoramus.
- No. 15.—Dominus Rex, vs.—James Gordon.—Indictment for Larceny.—Ignoramus.
- No. 16.—Dominus Rex, vs.—Augustin Langevin.—Indictment for an Assault with an intent to ravish.—Ignoramus.
- No. 17.—Dominus Rex, vs.—Joseph Rousseau et Jean Rousseau.—Indictment for Larceny.—Ignoramus.
- No. 18.—Dominus Rex, vs.—Eliza Smith.—Indictment for Larceny.—Ignoramus.

(Certified)

JOHN DELISLE, C. K. Cr.

KING'S BENCH.

Bills found.

September 1827.

- No. 1.—Dominus Rex, vs.—Antoine Dubreil.—Indictment for stealing above the value of £15 in a Dwelling House.—True Bill.
- No. 2.—Dominus Rex, vs.—Edward Blacker.—Indictment for sacrilege.—true bill.
- No. 3.—Dominus Rex, vs.—Joseph Sinclair.—Indictment for Burglary.—true bill.
- No. 4.—Dominus Rex, vs.—Michael Beattie & Mary Fraser.—Indictment for burglary.—true bill against Mary Fraser, no Bill against Michael Beattie.

No.

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September.

No. 5.—Dominus Rex, vs.—E. X. Daubreville, Wm. Flynn, Jos. Raymond, William Burrell, George Montferrard et Louis Montferrard.—Indictment for a Riot breaking into the Dwelling House of Charlotte Bélanger, assaulting & beating her, and breaking to pieces the furniture.—A True Bill against E. X. Daubreville, Wm. Flynn, Jos. Raymond, Wm. Burrell & Louis Montferrard, no Bill against George Montferrard.

No. 6.—Dominus Rex, vs.—Adelaide Vezina.—Indictment for stealing privately in a warehouse.—True Bill.

No. 7.—Dominus Rex, vs.—George Henderson and John Shields.—Indictment for Murder.—True Bill.

No. 8.—Dominus Rex, vs.—Noel Schriver.—Indictment for Grand Larceny.—True Bill.

No. 9.—Dominus Rex, vs. George Baker.—Indictment for grand larceny.—true bill.

No. 10.—Dominus Rex, vs.—Nathan Schofield.—Indictment for maliciously and feloniously shooting at one James Gardner.—true bill.

No. 11.—Dominus Rex, vs.—Auguste Moses & Pierre Millette.—Indictment for stealing privately from the person.—true bill.

No. 12.—Dominus Rex, vs.—John Winterskale.—Indictment for assaulting and stabbing one Louis Massé, with a knife, with intent to murder him.—true bill.

No. 13.—Dominus Rex, vs.—John Donegany.—Indictment for soliciting and inciting one Wm. Alex. Collins to kill and murder one Celeste Duchesne, otherwise called Celeste Galigneau.—true bill.

No. 14.—Dominus Rex, vs.—Patrick Gillespie.—Indictment for stealing to the value of 40s. in a Brig on the navigable River St. Lawrence.—true bill.

No. 15.—Dominus Rex, vs.—Ezekiel Brown.—Indictment for wounding and maiming a mare.—true bill.

No. 16.—Dominus Rex, vs.—Robert Gibbons.—Indictment for Grand Larceny.—true bill.

No. 17.—Dominus Rex, vs.—Jean Bte Desforges dit Piccard and Marie Lafleur.—Indictment for Larceny.—True Bill.

No. 18.—Dominus Rex, vs.—Alexander Fraser.—Indictment for Forgery.—true bill.

No. 19.—Dominus Rex, Antoine Goyette dit Belisle.—Indictment for stealing above the value of 40s. in a Dwelling House.—true bill.

No. 20.—Dominus Rex, vs.—Murdock McGillivray and J. Bte Chalou.—Indictment for stealing above the value of £15 from a Vessel on a navigable River.—true bill.

No. 21.—Dominus Rex, vs.—Felix McCormick and John Fitzgerald.—Indictment for assault and battery, with intent to murder.—true bill.

No. 22.—Dominus Rex, vs.—Charles Labombarde, William Lutridge, Chs. Prevost et Antoine Campagnard.—Indictment for a Riot, breaking and entering a Dwelling House in the night time and assaulting the Master therein.—true bill.

No.

September.
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 rard.—Indict-
 otte Bélanger.
 —A True Bill
 m. Burrell &
 t for stealing
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 grand larceny.
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 Fitzgerald.—
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 breaking and
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September.

No. 23.—Dominus Rex, vs. Louis Grandpré.—Indictment for Larceny.—true bill.

No. 24.—Dominus Rex, vs. George Smith, Oliver Smith, Samuel Smith, Thos. Lonsdell, Cyrus Purchard, Ephraim Hunt, otherwise called Abraham Hunt, William Thompson, Joshua Hill, John Levetts, Hiram Newton and Adam Thompson.—Indictment for Felony, by putting out the Eye of one John Byrns.—No Bill against John Levetts, true Bill against all the others.

No. 25.—Dominus Rex vs. Ambroise Labé.—Indictment for Grand Larceny.—true bill.

No. 26.—Dominus Rex, vs. Eloi Lavictoire, Etienne Benêche, otherwise called Etienne Lavictoire and Joseph Constantineau.—Indictment for an assault on a constable, having a prisoner in custody under a warrant of Justice of the Peace, and rescuing him.—true bill.

No. 27.—Dominus Rex, vs. Joseph Constantineau, Eloi Benêche, otherwise called Eloi Lavictoire, Augustin Loriau and John Woolscamp.—Indictment for assaulting and beating one of His Majesty's Justices of the Peace, in the due execution of his Office.—No bill on 1st Count, a true bill against Joseph Constantineau only on 2nd Count.

No. 28.—Dominus Rex, vs. Joseph Allard.—Indictment for Perjury.—True Bill.

No. 29.—Dominus Rex, vs. John McDonell.—Indictment for Forgery.—True Bill.

No. 30.—Dominus Rex, vs. Murdock McPherson.—Indictment for Larceny.—True Bill.

No. 31.—Dominus Rex, vs. Wm. Kearns the elder, William Kearns the younger.—Indictment for assaulting and wounding one William Carlisle, with a Bludgeon and Handspike with intent to murder him.—True Bill on 2nd Count only.

No Bills.

Dominus Rex, vs. Josiah Green.—Indictment for stealing above the value of 40s. in a Dwelling House.—No Bill.

Dominus Rex, vs. François Lapierre.—Indictment for Larceny.—No Bill.

Dominus Rex, vs. Murdock McGillivray and Jean Bte Chalou.—Indictment for stealing above the value of £15 from a Vessel on a navigable River.—No Bill.

Dominus Rex, vs. Antoine Goyette dit Belisle.—Indictment for Grand Larceny.—No bill.

Dominus Rex, vs. François Pigeon.—Indictment for assaulting, beating and fracturing the leg of David Welsh.—No Bill.

Dominus Rex, vs. William McDonald and Joseph Bellefeuille.—Indictment

Appendix (C.)

September.

ment for assaulting one James Buchanan, when employed as a Sentinel and in the due execution of his duty.—No Bill.

Dominus Rex, vs. Laurent Perrault.—Indictment for Larceny.—No Bill.

Dominus Rex, vs. Joseph Constantineau, Eloi Benêche, otherwise called Eloi Lavictoire, Etienne Benêche, otherwise called Etienne Lavictoire, Augustin Loriau, John Woolscamp, Louis Picard, Louis Dechantal, John McDonell and Jos. Barceloue.—Indictment for a Riot, obstructing by force and violence the due course of an Election for Electing two Members to serve in the Assembly of this Province, and assaulting and beating the Returning Officer.—No Bill.

Dominus Rex, vs. Mary Hart.—Indictment for grand larceny.—no bill.

Dominus Rex, vs. Antoine Paul Cornoyer.—Indictment for perjury.—no bill.

Dominus Rex, vs. Nicolas Buckner.—Indictment for perjury.—no bill.

Dominus Rex, vs. Antoine Aussant.—Indictment for perjury.—no bill.

Dominus Rex, vs. Joseph Claprod.—Indictment for perjury.—no bill.

Dominus Rex, vs. William Dick, William Cowan and William Stuart Hunter.—Indictment for robbery.—no bill.

Dominus Rex, vs. Mary Millar.—Indictment for larceny.—Ignoramus

Dominus Rex, vs. Richard Taylor.—Indictment for grand larceny.—Ignoramus.

Dominus Rex, vs. Joseph McFarlane otherwise called Joseph Charlie.—Indictment for robbery.—Ignoramus.

INFORMATION :

The King, vs. Joseph Constantineau, Eloi Benêche, otherwise called Eloi Lavictoire, Etienne Benêche, otherwise called Etienne Lavictoire, Augustin Loriau, John Woolscamp, Louis Picard, Louis Dechantal, John McDonell and Joseph Barsaloue.—Information for a riot obstructing by force and violence the due course of an election for electing two members to serve in the Assembly of this Province, and assaulting and beating the Returning Officer.

Certified,

JOHN DELISLE, Clk. C.

Oyer

OVER AND TERMINER.

November Term, 1827.

Bills Found.

No. 1.—Dominus Rex, vs. Joseph Santerre.—Indictment for altering a counterfeit English Crown.—True Bill.

No. 2.—Dominus Rex, vs. John Baker.—Indictment for Grand Larceny.—True Bill.

No. 3.—Dominus Rex, vs. Nathan Pierce and Miranda Whitney.—Indictment for Burglary.—True Bill.

No. 4.—Dominus Rex, vs. Francois Pigeon.—Indictment for assaulting, beating and fracturing the leg of one David Welsh.—True Bill.

No. 5.—Dominus Rex, vs. Edmund Phelan.—Indictment for Robbery.—True Bill.

No. 6.—Dominus Rex, vs. John McDonell.—Indictment for Forgery.—True Bill.

No. 7.—Dominus Rex, Emanuel X. D'Auberville, William Flynn, William Burrel, Joseph Raymond, George Montferrant and Louis Montferrant.—Indictment for a Riot, breaking into the dwelling house of Catherine Belanger, assaulting and beating her and breaking to pieces the furniture therein.—True bill against E. X. D'Auberville and William Flynn, and no bill against Burrel, Raymond and the Montferrants.

No. 8.—Dominus Rex, vs. William Mitchell.—Indictment for Larceny.—True bill.

No. 9.—Dominus Rex, vs. George Smith, Oliver Smith, Samuel Smith, Thomas Lonsdale, Cyrus Purchard, Ephraim Hunt alias Abraham Hunt, William Thompson, Joshua Hill, John Levetts, Hiram Newton and Adam Thompson.—Indictment for Felony, by putting out the eye of one John Byrns.—True bill against all, except against John Levetts.

No. 10.—Dominus Rex, vs. George Bradford.—Indictment for Larceny.—True Bill.

No. 11.—Dominus Rex, vs. George Bradford.—Indictment for Grand Larceny.—True Bill.

No.—12.—Dominus Rex, vs. George Bradford.—Indictment for Larceny.—True Bill.

No. 13.—Dominus Rex, vs. Pierre Tetrau alias Pierre Ducharme.—Indictment for Sheep stealing.—True Bill.

No. 14.—Dominus Rex, vs. Pierre Tetrau, dit Ducharme.—Indictment for Sheep stealing.—True Bill.

No. 15.—Dominus Rex, vs. George Patrick.—Indictment for assaulting and beating one Thomas Cliff with an intent to murder him.—True Bill.

No.

No. 16.—Dominus Rex, vs. Louis Massé.—Indictment for Burglary.—True Bill.

No. 17.—Dominus Rex, vs. James Robert Reid.—Indictment for persuading soldiers in His Majesty's service to desert and leave such service.—True Bill.

No. 18.—Dominus Rex, vs. Joseph Constantineau, Eloi Benêche dit Lavictoire, Etienne Benêche dit Lavictoire, Augustin Lauriau, Joseph Woolscamp, Louis Picard, Louis Dechantal, John McDonell and Joseph Barsaloue.—Indictment for a Riot, obstructing by force and violence the due course of an election for electing two members to serve in the Assembly of this Province, and assaulting and beating the Returning Officer.—True Bill against Constantineau, Eloi Lavictoire, Lauriau, Woolscamp, Dechantal and McDonell.—No Bill against Etienne Benêche, Barsaloue and Picard.

No. 19.—Dominus Rex, vs. Eloi Lavictoire, Etienne Benêche dit Lavictoire and Joseph Constantineau.—Indictment for an assault on a constable, having a prisoner in custody under a Warrant of a Justice of the Peace and rescuing him.—True Bill.

No. 20.—Dominus Rex, vs. Murdock McPherson.—Indictment for Grand Larceny.—True Bill.

No. 21.—Dominus Rex, vs. Joseph Santerre.—Indictment for deceit and obtaining money by colour of a false token and under false pretences.—True Bill.

No. 22.—Dominus Rex, vs. Charles Labombarde, William Luttrede, Charles Prevost and Etienne Champagnard.—Indictment for a Riot, breaking and entering into a dwelling house in the night time, and assaulting the master therein.—True bill.

No. 23.—Dominus Rex, vs. Joseph Allard.—Indictment for Perjury.—True Bill.

No. 24.—Dominus Rex, vs. Joseph Claprood.—Indictment for Perjury.—True Bill.

No. 25.—Dominus Rex, vs. Antoine Paul Hue dit Antoine Paul Cornoier.—Indictment for Perjury.—True Bill.

No. 26.—Dominus Rex, vs. Jean Bte. Cantara.—Indictment for Perjury.—True Bill.

No. 27.—Dominus Rex, vs. Antoine Aussaut.—Indictment for Perjury.—True Bill.

No. 28.—Dominus Rex, vs. Louis Allard.—Indictment for Perjury.—True Bill.

No. 29.—Dominus Rex, vs. Nicolas Buckner.—Indictment for Perjury.—True bill.

No. 30.—Dominus Rex, vs. Rosalie St. Michel.—Indictment for Perjury.—True bill.

No. 31.—Dominus Rex, vs. William McEwen.—Indictment for persuading a soldier in His Majesty's Service to desert and leave such service.—True bill.

Appendix (C.)

No. 32.—Dominus Rex, vs. Stanley Bagg.—Indictment for nuisance.—True bill.

No. 33.—Dominus Rex, vs. Jacques Viger.—Indictment for nonfeasance and neglect of duty as Surveyor of High-ways. True Bill.

No. 34.—Dominus Rex, vs. John Caldwell and Elizabeth Petro.—Indictment for Grand Larceny.—True bill against Elizabeth Petro.—No bill against John Caldwell.

No. 35.—Dominus Rex, vs. Louis Marcoux.—Indictment for subornation of Perjury.—True bill.

No. 36.—Dominus Rex, vs. Jocelyn Waller and Ludger Duvernay.—Indictment for Libel.—True bill.

No. 37.—Dominus Rex, vs. Jocelyn Waller and Ludger Duvernay.—Indictment for Libel.—True bill.

No. 38.—Dominus Rex, vs. James Lane.—Indictment for Libel.—True bill.

No. 39.—Dominus Rex, vs. John Caldwell.—Indictment for stealing a Cow.—True bill.

No Bills.

Dominus Rex, vs. William McDonald and Joseph Bellefeuille.—Indictment for assaulting one James Buchanan when employed as a sentinel and in the execution of his duty.—No bill.

Dominus Rex, vs. François Lanneville.—Indictment for stealing above the value of 40s. in a dwelling House.—No bill.

Dominus Rex, vs. Agnes McKeny.—Indictment for Larceny.—No bill.

Dominus Rex, vs. André Jobin.—Indictment for assaulting Louis Malo one of the Bailiffs of His Majesty's Court of King's Bench in the execution of his office.—No bill.

Dominus Rex, vs. Pierre Villeneuve.—Indictment for Grand Larceny.—No bill.

Dominus Rex, vs. Olivier Bedard.—Indictment for Grand Larceny.—No bill.

Dominus Rex, vs. Margaret Tessier.—Indictment for privately stealing in a shop.—No bill.

Dominus Rex, vs. Margaret Tessier.—Indictment for Larceny.—No bill.

Dominus Rex, vs. Patrick Fitzpatrick.—Indictment for Larceny.—No bill.

Dominus Rex, vs. Edmund Phelan.—Indictment for a Riot and assaulting and beating one Louis Longpré and one Jean Bte. Homier.—No bill.

Dominus Rex, vs. Isaac Labonté and Gabriel Menard.—Indictment for assaulting one Gabriel Saliere, with a hammer, with intent to murder him.—No bill.

Dominus

Appendix (C.) (D.)

Dominus Rex, vs. Antoine Aussant.—Indictment for Perjury.—No bill.

Dominus Rex, vs. George Bradford.—Indictment for Perjury.—No bill.

Dominus Rex, vs. Marguerite Neveu.—Indictment for Perjury.—No bill.

Dominus Rex, vs. Felix Lavallée.—Indictment for Perjury.—No bill.

Dominus Rex, vs. Sophie Proulx.—Indictment for Larceny.—No bill.

Dominus Rex, vs. Murdock McGillivray and Jean Bte. Chalou.—Indictment for stealing above the value of £15 from a vessel on a River.—Ignoramus.

Certified,

J. DELISLE, Clk. C.

APPENDIX (D.)

COURT OF KING'S BENCH.

March 1828,

Bills found.

March 1st.

No. 1.—**Dominus Rex, vs. François Belleville, otherwise called François Thibotte.**—Indictment for Burglary.—True Bill.

No. 2. **Dominus Rex, vs. François Belleville, otherwise called François Thibotte.**—Indictment for Grand Larceny.—True Bill.

No. 3.—**Dominus Rex, vs. Jérôme Bisson.**—Indictment for uttering Counterfeit Money.—True Bill.

No. 4.—**Dominus Rex, vs. Samuel Catlothers.**—Indictment for Assault & Battery with intent to murder.—True Bill on 2nd Count.

No. 5.—**Dominus Rex, vs. Bazile Demers.**—Indictment for uttering Counterfeit Money.—True Bill.

March 3rd.

No. 6.—**Dominus Rex, vs. Michel Ainse et Véronique Lemieux.**—Indictment for a Misdemeanor in receiving Stolen Goods.—True Bill.

No. 7.—**Dominus Rex, vs. Jérôme Maillé.**—Indictment for Larceny.—True Bill.

No. 8.—**Dominus Rex, vs. François Bissonette.**—Indictment for Rape.—True Bill.

No.

Appendix (D.)

March 3rd.

No. 9.—Dominus Rex, vs. Jérôme Maillé.—Indictment for Larceny.—True Bill.

No. 10.—Dominus Rex, vs. Ant. Depré, otherwise called Antoine Lorranger, and Gabriel Charron.—Indictment for Grand Larceny.—True Bill.

No. 11.—Dominus Rex, vs. Luc Courville.—Indictment for Burglary.—True Bill.

No. 12.—Dominus Rex, vs.—Gabriel Quintin, otherwise called Gabriel Dubois.—Indictment for Arson.—True Bill.

March 4th.

No. 13.—Dominus Rex, vs. James Prior, Barbara Price, Arthur Tully and Caroline McDougall.—Indictment for a Rescue.—True Bill.

No. 14.—Dominus Rex, vs. Emelie Gauthier.—Indictment for Grand Larceny.—True Bill.

No. 15.—Dominus Rex, vs. Anson Church.—Indictment for Burglary.—True Bill.

No. 16.—Dominus Rex, vs. Pierre Ledoux as principal, and Mic. Maillé as accessory after the fact.—Indictment for Stealing above the value of 40s. in a Dwelling House.—True Bill.

No. 17.—Dominus Rex, vs. Jos. Pierre, otherwise called Joseph Anwell and J. Bte Dubois.—Indictment for Grand Larceny.—True Bill against Joseph Pierre, no Bill against J. Bte Dubois.

March 5th.

No. 18.—Dominus Rex, vs. Adelaïde Roynebourn.—Indictment for Larceny.—True Bill.

No. 19.—Dominus Rex, vs. Elizabeth Benoit, otherwise called Elizabeth St. Charles.—Indictment for Stealing above the value of 40s. in a Dwelling House.—True Bill.

No. 20.—Dominus Rex, vs. Anson Church.—Indictment for Larceny.—True Bill.

No. 21.—Dominus Rex, vs. Anson Church.—Indictment for Larceny.—True Bill.

No. 22.—Dominus Rex, vs. Joseph McFarlane, otherwise called Joseph Charlie.—Indictment for uttering Counterfeit Money.—True Bill.

No. 23.—Dominus Rex, vs.—Anson Church.—Indictment for Grand Larceny.—True Bill.

No. 24.—Dominus Rex, vs. Augustin Nabourgesse, otherwise called Augustin Laporé.—Indictment for assaulting & beating one Jean Bte. Thorin, and fracturing his Skull with an Iron Instrument, called *Cuiller à Sabot*, with an intent to murder him.—True Bill.

No

Perjury.—No

Perjury.—No

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Perjury.—No

Larceny.—No

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March 1st.

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March 3rd.

Lemieux.—

True Bill.

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ent for Rape.

No.

March 6th.

No. 25.—Dominus Rex, vs. François Vandal.—Indictment for Perjury.—True Bill.

No. 26.—Dominus Rex, vs. Joseph McFarlane, alias Joseph Charlie, and Jean Bte Ouëllette.—Indictment for Burglary.—True Bill.

No. 27.—Dominus Rex, vs. Joseph McFarlane, alias Joseph Charlie, and Jean Bte Ouëllette.—Indictment for Burglary.—True Bill.

No. 28.—Dominus Rex, vs.—Joseph McFarlane, alias Joseph Charlie, & Jean Bte Ouëllette.—Indictment for stealing above the value of 40s. in a dwelling house.—true bill.

No. 29.—Dominus Rex, vs.—Joseph McFarlane, alias Joseph Charlie, and Jean Bte Ouëllette.—Indictment for Larceny.—true bill.

No. 30.—Dominus Rex, vs.—Joseph McFarlane, alias Joseph Charlie, and Jean Bte Ouëllette.—Indictment for Larceny.—true bill.

March 7th.

No. 31.—Dominus Rex, vs.—Nath. Dickson Bingham.—Indictment for an assault and battery with an intent to murder.—true bill on 1st Count, no bill on 2nd Count.

March 8th.

No. 32.—Dominus Rex, vs.—Jocelyn Waller and Ludger Duverray. Indictment for Libel.—true bill.

March 10th.

No. 33.—Dominus Rex, vs.—Pierre Matte, Hyacinthe Daigneau, Laurent St. Onge, François Camyré and Pierre Mathon.—Indictment for a conspiracy to persuade certain persons not to give evidence against Alexis Moquin, on an information against him for selling spirituous liquors without licence.—true bill.

No. 34.—Dominus Rex, vs. Pierre Matte, Hyacinthe Daigneau, Laurent St. Onge, François Camyré and Pierre Mathon.—Indictment for a conspiracy, to persuade certain persons not to give evidence against the said Hyacinthe Daigneau, on an information against him for selling spirituous liquors without licence.—true bill.

No. 35.—Dominus Rex, vs.—Pierre Matte, Hyacinthe Daigneau, Laurent St. Onge, François Camyré and Pierre Mathon.—Indictment for a conspiracy to persuade certain persons not to give evidence against Pierre Matte, on an information against him for selling spirituous liquors without licence.—true bill.

March 6th.
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No Bills.

March 1st 1838.

No. 1.—Dominus Rex, vs.—Jérôme Bisson.—Indictment for uttering counterfeit money.—no bill.

March 3rd.

No. 2.—Dominus Rex, vs.—James Stuart.—Indictment for horse stealing.—no bill.

March 4th.

No. 3.—Dominus Rex, vs.—Anson Church.—Indictment for burglary.—no bill.

No. 4.—Dominus Rex, vs.—Anson Church.—Indictment for burglary.—no bill.

No. 5.—Dominus Rex, vs.—Pierre Tétrau dit Ducharme.—Indictment for uttering counterfeit money.—no bill.

No. 6.—Dominus Rex, vs.—Pierre Tétrau dit Ducharme.—Indictment for uttering counterfeit money.—no bill.

March 7th.
—Indictment
on 1st Count,
March 8th.
Duvernay.

March 5th.

No. 7.—Dominus Rex, vs.—Anson Church.—Indictment for burglary.—no bill.

No. 8.—Dominus Rex, vs.—Joseph Delisle.—Indictment for larceny.—no bill.

March 10th.
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March 9th.

No. 9.—Dominus Rex, vs.—Hugh Heney.—Indictment for stealing a Cow.—no bill.

March 10th.

No. 10.—Dominus Rex, vs.—Ludger Duvernay.—Indictment for libel.—no bill.

No. 11.—Dominus Rex, vs. Louis Marcoux.—Indictment for subornation of perjury.—no bill.

No. 12.—Dominus Rex, vs. John O'Brien and Susan O'Brien.—Indictment for larceny.—true bill.

aigneau, Lau-
dictment for a
against Pierre
quors without
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March 10th.

No. 13.—Dominus Rex, vs. Richard Thomas.—Indictment for assault and battery on Antoine St. Denis, with intent to murder him.—no bill.

(Certified)

JOHN DELISLE, Clk. C.

COURT OF OYER AND TERMINER AND GENERAL GOAL DELIVERY.

August 1828.

August 20th

No. 1.—Dominus Rex vs. Duncan M'Kinlay and David McGregor.—Indictment for stealing privately in a shop.—true bill.

No. 2.—Dominus Rex, vs. George Minx.—Indictment for grand larceny.—true bill.

August 21st.

No. 3.—Dominus Rex, vs. James Gilles.—Indictment for stealing privately in a shop.—true bill.

No. 4.—Dominus Rex, vs. Pierre Millette, Denis Gaudrie, Chs. Prevost and Joseph Valancour.—Indictment for stealing privately in a shop.—true bill against Millette and Valancour, and no bill against Gaudrie and Prevost.

No. 5.—Dominus Rex, vs. Pierre Matte, Hyacinthe Daigneau, Laurent St. Onge, François Camyré and Joseph Mathon.—Indictment for a conspiracy to persuade certain persons not to give evidence against the said Hyacinthe Daigneau, on a certain information against him for selling liquors without licence.—true bill.

No. 6.—Dominus Rex, vs. Pierre Matte, Hyacinthe Daigneau, Laurent St. Onge, François Camyré and Joseph Mathon.—Indictment for a conspiracy to persuade certain persons not to give evidence against one Alexis Maggullon on an information against him for selling spirituous liquors without licence.—true bill.

No. 8.—Dominus Rex, vs. Joseph Paquin.—Indictment for larceny.—true bill.

August

Appendix (D.)

August 21st.

No. 7.—Dominus Rex, vs. Pierre Matte, Hyacinthe Daigneau, Laurent St. Onge, François Camyré and Joseph Mathon.—Indictment for a conspiracy to persuade certain persons not to give evidence against the said Pierre Matte on an information against him for selling spirituous liquors without licence.—true bill.

No. 9.—Dominus Rex, vs. Joseph Corbeille.—Indictment for uttering counterfeit money.—true bill.

August 22nd.

No. 10.—Dominus Rex, vs. John Walsh.—Indictment for burglary.—true bill.

No. 11.—Dominus Rex, vs. John Dolan.—Indictment for larceny.—true bill.

No. 12.—Dominus Rex, vs. William Corey and Harvey Lee.—Indictment for unlawfully having in their possession, false and counterfeit notes with intent to utter them.—true bill.

August 23rd.

No. 13.—Dominus Rex, vs. Margaret Barry.—Indictment for stealing above the value of 40s. in a dwelling house.—true bill.

No. 14.—Dominus Rex, vs. Augustin Nabourgesse dit Laperé.—Indictment for assaulting and beating one Jean Bte Thouin with an iron instrument called *Cuiller à Sabot* with intent to murder him.—true bill on 2nd & 3rd Counts, no bill on 1 Count.

No. 15.—Dominus Rex, vs. George Patrick.—Indictment for assaulting and beating one Thomas Cliff, with intent to murder him.—true bill.

August 25th.

No. 16.—Dominus Rex, vs. Fr. Felix Budry.—Indictment for assaulting a bailiff in the execution of his office.—true bill.

No. 17.—Dominus Rex, vs. Simon Hubert.—Indictment for Horse stealing.—True bill.

No. 18.—Dominus Rex, vs. John McGregor.—Indictment for Rape.—True bill.

August 26th.

No. 19.—Dominus Rex, vs. William Dunn and Jane Dunn.—Indictment for Grand Larceny.—True bill.

No. 20.—Dominus Rex, vs. Alexis Jacques and Joseph Chomneau dit Sabourin.—Indictment for Larceny.—True bill.

No. 21.—Dominus Rex, vs. Alexis Jacques and Joseph Chomneau dit Sabourin.—Indictment for Grand Larceny.—True bill.

No.

March 10th.

Indictment for assault
him.—no bill.

lk. C.

AL DELIVERY.

August 20th

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August 21st.

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Daigneau, Laurent

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ment for larceny.—

August

Appendix (D.)

August 26th.

No. 22.—Dominus Rex, vs. Jean Raymond.—Indictment for stealing above the value of 40s. in a dwelling House.—True bill.

No. 23.—Dominus Rex, vs. Jean Raymond.—Indictment for Larceny.—True bill.

No. 24.—Dominus Rex, vs. Pierre Mettote.—Indictment for stealing a mare.—True bill.

No. 25.—Dominus Rex, vs. Nicolas Le Blanc.—Indictment for Larceny.—True bill,

Augt. 27th

No. 26.—Dominus Rex, vs. Hyacinthe Darpentigny and Jos. Rt. Jervis.—Indictment for Forgery.—True bill against H. Darpentigny.—No bill. against J. R. Jervis.

August 28th.

No. 27.—Dominus Rex, vs. Arthur McGuigan and Arthur Burns.—Indictment for Grand Larceny.—True bill.

No. 28.—Dominus Rex, vs. Arthur McKenny.—Indictment for Burglary.—True bill.

August 29th.

No. 29.—Dominus Rex, vs. Jean Bte. Martin and François Thomas.—Indictment for Grand larceny.—True bill.

No Bills.

Augt. 20th

No. 1.—Dominus Rex, vs. Nathan Pierce and Miranda Whitney.—Indictment for Burglary.—No bill.

August 21st.

No. 2.—Dominus Rex, vs. William Lane.—Indictment for stealing privily from the person.—No bill.

No. 3.—Dominus Rex, vs. Jean Bte. Brissette.—Indictment for Larceny.—No bill.

No. 4.—Dominus Rex, vs. William Horley.—Indictment for Larceny.—No bill.

August 22d.

No. 5.—Dominus Rex, vs. Simon Bernard.—Indictment for an assault with an intent to commit a Rape.—No bill.

No.

Appendix (D)

August 23d.

No. 6.—Dominus Rex, vs. Joseph Brazeau the younger.—Indictment for a Riot and maliciously and unlawfully cutting down and destroying a May Pole near the dwelling House of one Antoine Denis.—No bill.

No. 7.—Dominus Rex, vs. Joseph Desrocher.—Indictment for Grand Larceny.—No bill.

August 25th.

No. 8.—Dominus Rex, vs. Francois Vallée and Hyacinthe Vallée.—Indictment for Larceny.—No bill.

No. 9.—Dominus Rex, vs. Owen Hughes and Mary Hughes.—Indictment for Grand Larceny.—No bill.

No. 10.—Dominus Rex, vs. Antoine Lortie.—Indictment for Grand Larceny.—No bill.

August 26th.

No. 11.—Dominus Rex, vs. François Belanger.—Indictment for stealing a cow.—No bill.

No. 12.—Dominus Rex, vs. François Belanger.—Indictment for stealing a mare.—No bill.

August 27th.

No. 13.—Dominus Rex, vs. James Fuller.—Indictment for stealing Oxen.—No bill.

August 28th.

No. 14.—Dominus Rex, vs. Louis Belotte.—Indictment for stealing privily from the person.—No bill.

Certified.

J. DELISLE, Clk. C.

Court of King's Bench.

Bills Found.

September 1st. 1828.

No. 1.—Dominus Rex, vs. Daniel Salmon.—Indictment for a contempt against His Majesty's Court of King's Bench for the district of Montreal.—True bill.

No

No.

September 2nd.

No. 2.—Dominus Rex, vs. François Belanger.—Indictment for stealing a Horse and a Cow.—True bill for stealing a Cow and no bill for stealing a Horse.

No. 3.—Dominus Rex, vs. Alexander McFee and John Vanvalkenburg.—Indictment for stealing Sheep and Lambs.—True bill.

September 4th.

No. 4.—Dominus Rex, vs. Jean Bte. Audette dit Lapointe.—Indictment for Larceny.—True bill.

No. 5.—Dominus Rex, vs. Louis Laramé.—Indictment for House breaking.—True bill.

No. 6.—Dominus Rex, vs. George Rolland.—Indictment for stealing privily from the person.—True bill.

September 5th.

No. 7.—Dominus Rex, vs. Thomas Sheppard.—Indictment for Felony by cutting off the under-lip of one Joseph Covey.—True bill.

No. 8.—Dominus Rex, vs. Joseph Brazeau the younger.—Indictment for a Riot and maliciously and unlawfully cutting down and destroying a May Pole.—True bill.

No. 9.—Dominus Rex, vs. Edward Redsall.—Indictment for assaulting and beating one Antoine Demerse, otherwise called Antoine Dumas with intent to murder.—True bill.

September 6th.

No. 10.—Dominus Rex, vs. Joseph Martin.—Indictment for Grand Larceny.—True bill.

No. 11.—Dominus Rex, vs. Hyacinthe Darpentigny and Joseph Robert Jarvis.—Indictment for Forgery.—True bill.

No. 12.—Dominus Rex, vs. Louis Duteau.—Indictment for an assault with intent to commit a Rape.—True bill.

No. 13.—Dominus Rex, vs. Duncan McNaughton.—Indictment for a Libel on two Commissioners for the summary trials of Small Causes in the Seigniori of Argenteuil.—True bill.

No Bills.

September 1st 1828.

No. 1.—Dominus Rex, vs. Joseph Brazeau the younger.—Indictment for a Riot and unlawfully and maliciously cutting down and destroying a May Pole on the land of Antoine Danis, near his dwelling House.—No bill.

No.

Appendix (D.) (E.)

September 5th.

No. 2.—Dominus Rex, vs. Joseph Turgeon.—Indictment for a Nuisance.—No bill.

No. 3.—Dominus Rex, vs. John Shine and Patrick Drew.—Indictment for stealing privily from the person.—No bill.

No. 4.—Dominus Rex, vs. Louis Duteau.—Indictment for ravishing a woman.—No bill.

Certified,

JOHN DELISLE, Clk C.

APPENDIX (E.)

Province of Lower- }
Canada.

George the Fourth, by the grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To the Sheriff of the District of Montreal, Greeting :

We command you, that you cause to come before our Justices of our Court of King's Bench for our District of Montreal, at our city of Montreal, in our Court House, in the said city of Montreal, on Monday the 1st day of Sept. next Twenty-four, free and lawful men, of the body of the District of Montreal, aforesaid, by whom the truth of the matter may be better known, and who are in no wise of kin to Joseph Constantineau, Eloi Benêche otherwise called Eloi Lavictoire, Augustin Loriau, John Woolscamp, Louis Dechantal and John McDonell, to make a certain Jury of the Country, between us, and the said Joseph Constantineau, Eloi Benêche otherwise called Eloi Lavictoire, Augustin Loriau, John Woolscamp and John McDonell, on an Indictment before us against the said Joseph Constantineau, Eloi Benêche otherwise called Eloi Lavictoire, Augustin Loriau, John Woolscamp, Louis Dechantal and John McDonell, for a Riot, obstructing by force and violence the due course of an election for electing two members to serve in the Assembly, and assaulting and beating the Returning Officer, upon the oath of which the said Joseph Constantineau, Eloi Benêche otherwise called Eloi Lavictoire,

No.

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Lavictoire, Augustin Lorian, John Woolscamp, Louis Dechantal and John McDonell, hath put themselves ; and have you then and there the names of these Jurors and this Writ.

Witness the Honorable James Reid, our Chief Justice of our Court of King's Bench, for the District of Montreal aforesaid, this tenth day of March, in the ninth year of our reign.

(Signed) JOHN DELISLE, Clk. C.

The Execution of this Writ appears in a certain Pannel hereunto annexed :—

(Signed,) L. GUOY, Sheriff.

Certified, JOHN DELISLE, Clk. C.

1st. September 1828.

Montreal, List of Special Jurors of this Cause.

The King, vs. Joseph Constantineau, Eloi Benéche, otherwise called Eloi Lavictoire, Augustin Lorian, John Woolscamp, Louis Dechantal and John McDonell.—On Indictment for a Riot, obstructing by force and violence, the due course of an election for electing two members to serve in the Assembly of this Province, and assaulting and beating the Returning Officer.

Names.

Occupation.

Thomas A. Turner.....	Esquire,
Henry Griffin.....	Notary,
Peter McGill.....	Merchant
Abner Bagg.....	Hatter,
James Millar.....	Merchant,
John Brown.....	Merchant,
John Molson.....	Esquire,
Samuel S. Bridge.....	Auctioneer,
Kenneth Walker.....	Merchant,
Thomas Blackwood.....	Merchant,
Beniah Gibb.....	Tailor,
James Henry	Grocer,
Adam L. McNider.....	Auctioneer,
John Torrance.....	Grocer,
George Moffatt.....	Merchant,
Norman Bethune.....	Auctioneer,
Joseph Frothingham.....	Merchant,

Campbell

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Names

Occupation

Campbell Sweeney.....	Inspector of Ashes,
George J. Holt.....	Do.
James Fraser.....	Auctioneer,
George Auldjo.....	Merchant,
William Peddie.....	Merchant,
James H. Lambo.....	Gentleman,
Benjamin Hall.....	Trader.

Filed 27th August 1828.

(Signed)

JOHN DELISLE, Clk. C.

All which Jurors have been duly summoned.

(Signed)

L. GUGY, Sheriff.

1st September 1828.

Certified,

JOHN DELISLE, clk. c.

Appendix (F.)

List of the Magistrates for the City of Montreal:

Honorable	John Richardson,	Councillor;
"	Louis Gagy,	"
"	Charles W. Grant,	"
"	John Forsyth,	"
"	Toussaint Pothier,	"

David Ross,
 Samuel Gale,
 Louis Guy,
 Jean Bouthillier,
 Jean P. Leprohon,
 Thomas Porteous,

William Pardy;
 Charles De Montenac,
 William Hollowell,
 George Moffatt,
 George Auldjo,
 Josias Wurtele,

2 F

Henry

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Henry McKenzie,
 James Finlay,
 Pierre De Boucherville,
 William Robertson,
 Honorable Henry Byng,
 George Garden,
 John Gray,
 Pierre De Rocheblave,
 Thomas A. Turner,
 James Millar,

John Molson, Senr.
 Horatio Gates,
 Peter McGill,
 John Fleming,
 William Lann,
 William McKay,
 Robert Froste,
 Henry Griffin,
 N. B. Doucet,
 D. C. Napier.

Certified,

J. DELISLE, Clk. C.

Appendix (G.)

Proceedings of the Magistrates of Montreal relative to the appointment of a High Constable.

Montreal *Special Session of the Peace.*

Friday 31st October 1823.

PRESENT:—The Honorable C. W. Grant, Thomas McCord and Jean M. Mondelêt, Esquires.

Resolved, That a meeting of the Magistrates of this City be called on Monday next, at 11 A. M. for the purpose of conferring on matters of importance.

Special Session of the Peace.

Monday, 3d November 1823.

PRESENT: Thomas McCord, Jean M. Mondelêt, Jean P. Léprohon, Hugues Henay, Pierre De Boucherville, Pierre De Rocheblave and Thomas A. Turner, Esquires.

Mr.

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Mr. McCord informed the Magistrates that they had been called together on that day, to take into consideration a Letter addressed to the Chairman of the Court of Quarter Sessions on the part of His Excellency the Governor in Chief, bearing date the 18th of the last month, relating to a complaint which had been made to His Excellency against the High-Constable of this District and the Deputy Foreman of the Watch of this City, as having aided and assisted in conveying one Johnston out of the Province in July last; and at the same time communicated to the meeting the answer returned to the said letter, by the Chairman of the said Court of Quarter Sessions, on the thirtieth of October last.

The original of His Excellency's Letter not having been produced;
Adjourned until tomorrow at noon, for the purpose of taking communication thereof and deliberating on the whole.

Special Session of the Peace.

Tuesday, 4th November 1823.

PRESENT: Thomas McCord, J. M. Mondelêt, Louis Guy, J. P. Leprohon, Thomas Porteous, P. De Boucherville, H. Heney, Pierre De Rochelave, F. Ant. Larocque and T. A. Turner, Esquires.

The Court met according to the adjournment of yesterday, the third of November, and the proceedings of the Session held on the said third of November, were read.

The Letter of His Excellency the Governor in Chief, dated the 18th of October last, and the answer thereto by the Chairman of the Quarter Sessions, dated the 30th of the same month, of which mention was made at the Special Session held yesterday, having been read.

Resolved, That the said letters be copied into this Register.

Castle of St. Lewis,
Quebec, 18th Oct. 1823.

Gentlemen,

" His Excellency the Governor in Chief having received a strong representation from many of the most respectable Inhabitants of Montreal, respecting the forcible seizure and removal from this Province, into the United States

Mr.

Appendix (G.)

States, of a British subject, of the name of Johnston, and having caused an Investigation to be made into the circumstances from which it appears that this most extraordinary outrage upon the laws was committed by one or more Americans with the assistance of the person lately nominated by the Magistrates to be High Constable and of one Schiller, Foreman of the watch and their assistants ; His Excellency thinks it right to call your attention to a transaction so discreditable to the Administration of Justice in the District of Montreal, and to express his surprise that the two men who have so abused their public trust and authority should be continued in employment in their respective capacities after such a transaction, and that he conceives it indispensable that they should, as far as it can possibly be done, be suspended from their several employments.

His Excellency directs me to acquaint you at the same time, that having had under consideration the notification given by Mr. Delisle under your directions on the 16th August last, of Mr. Ogilvie's appointment by the Court of Quarter Sessions to the situation of High Constable, and having taken the opinions of the Crown Law Officers at Quebec on the subject, it is his intention to withhold the salary of the situation from Mr. Ogilvie, particularly after the circumstances that have lately occurred ; and, that in future the salary of High Constable will not be assured unless the name of the person whom the Magistrates wish to appoint is previously submitted to His Excellency for his acquiescence and approval.

I have the honor to be, Gentlemen,

Your most obedient servant

(Signed)

A. W. COCHRAN,

Secretary.

To the Chairman of the }
Quarter Sessions, }
Montreal.

Montreal, 30th October 1823.

A. W. Cochran, Esquire, Secy. &c. &c. &c.,
Quebec.

We had the honor of receiving your letter of the 18th instant, communicating His Excellency's ideas on the subject of a transaction said to have taken place in Montreal some time since, we shall not pretend to say any thing

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thing or to call in question the respectability of the persons signing the representation made to His Excellency; but we must say that not one of them ever made a complaint to us or to any other Magistrates to our knowledge on that subject.

A Bill of Indictment found by the Grand Jury last Session of the Court of King's Bench against certain individuals for the outrage said to have been committed by them, was the first information on the subject, that came to our knowledge; they deny the charge and of course must take their trial, and we are of opinion that it did not become us as Magistrates to prejudge them, losing right of that principal of laws that every man must be considered innocent till found guilty, by legal process.

Mr. Ogilvie as High Constable, was appointed at a meeting of the Magistrates convened for the purpose on the fifth of July last, and in consequence was received as such, in the Court of Quarter Sessions then ensuing.

We shall submit His Excellency's communication to the Magistrates at large, and should they think proper they may suspend him; but we as individuals of that body, did not consider ourselves justifiable in suspending an officer appointed by the whole. There can be no doubt of His Excellency's right to withhold the salary allowed to the High Constable by the Executive.

As regards Mr. Schiller, who is not Foreman but Deputy of the Watch, a communication shall be made to the Committee of Justices regulating the concerns of the watch, who will no doubt report to the Magistrates at a Special Meeting.

Mr. McCord withdrew.

The Court adjourned until Thursday next at 10 A. M.

Special Session of the Peace.

Thursday, 6th November 1823.

PRESENT.—J. M. Mondelêt, Louis Guy, Jean P. Leprohon, H. Heney, Pierre De Boucherville, François A. Laroque, Pierre De Rocheblave, Thomas A. Turner and Thomas Porteous, Esquires.

The Court met pursuant to the adjournment of Tuesday last, the 4th instant.

Read

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Read the proceedings of the Session held on Tuesday last.

The Court caused the Deputy Clerk of the Crown, (J. Delisle, Esqr.) to be requested to attend, with the Register containing the proceedings had in the Court of King's Bench for the District of Montreal during the last Term; and the said Clerk of the Crown attended with the Register; by which it appears that on the 6th of September last the Grand Jury attending the said Court, found a bill of Indictment against Archibald H. Ogilvie, Antoine Lafrenière, Benjamin Schiller, Jeremiah Lawler, Benjamin Thatcher, and Jason Pierce, for Riot, false imprisonment, and for conveying John Johnston out of the dominions of His Majesty, into the United States.

Mr. Delisle being questioned by the Court, added that the above named Archibald Ogilvie, Antoine Lafrenière and Benjamin Schiller, are to his knowledge, the same persons who are respectively, the first, High Constable, the second, a Petty Constable, and the third, Deputy Foreman of the Watch at Montreal.

After the Court had deliberated, and on motion of Mr. Heney, it was Resolved;—by all the Members present, except Mr. Mondelêt, who did not think it right to give his vote, as he had already given his opinion by the communication above mentioned, dated the 30th October last,—That the High Constable A. H. Ogilvie, Antoine Lafrenière, Petty Constable, and Benjamin Schiller, Deputy Foreman of the Watch, be suspended from their functions as public officers, until they shall be cleared of charges laid against them by the Grand Jury attending the last Criminal Court of this District :

Because they are solemnly accused by the Grand Inquest of the District, of having made an unprecedented attack on the personal security of the citizens at a time when the stations they held made it imperiously their duty to defend them from every act of violence, and to protect them not in their property alone, but still more especially in their persons.

Because the citizens can never feel themselves in safety, under the guardship of persons who are accused of having turned against them the very arms given them for their defence, and of having perverted what was intended for the assurance of personal security into an instrument of oppression, until they shall have been cleared of the charges under which they lie.

Because they are under the immediate superintendence of the Magistrates, whose duty it is to watch most attentively the conduct of those whom they appoint and to whom they delegate a part of the important duty of maintaining good order and preserving the public tranquillity.

Mr. Mondelêt withdrew.

Resolved.

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Resolved, That the salaries allowed to the said High Constable, by the Session of the 21st June last, for his attendance at the Special Sessions of the Peace, and for seeing that the Rules of Police of this City and the Road Act were duly observed and carried into execution, be discontinued to him from this day.

Resolved, That the salary of the Deputy Foreman of the Watch be in like manner discontinued from this day.

Ordered, That the Clerk of the Peace do without delay notify the said Archibald H. Ogilvie, Antoine Lafrenière and Benjamin Schiller, that they are from this day suspended from their functions, as public officers, and that the salaries of the said A. H. Ogilvie and Benjamin Schiller is also discontinued from this day.

Mr. Larocque withdrew.

Resolved, That a meeting of the Magistrates be held on Monday next, the 10th instant, at 10 A. M. to consider the means of filling the office of High Constable *pro tempore*; and that notice of the said meeting be given to the Magistrates by the Clerk of the Peace.

Ordered, That the Clerk of the Peace do immediately transmit to the Civil Secretary A. W. Cochran, Esquire, for the information of His Excellency the Governor in Chief, a copy of the proceedings of the Session held this day, and of those held on the 3d and 4th instant.

—

Special Session of the Peace.

Monday, 10th November 1823.

PRESENT.—Louis Guy, J. P. Leprohon, Pierre De Boucherville, Pierre De Rocheblave and Thomas A. Turner, Esquires.

Read the order of reference made at the Session of the 6th instant, by which the means of filling *pro tempore*, the office of High Constable, held by A. H. Ogilvie, who was suspended from his office by the said Session, are appointed to be taken into consideration at this meeting.

Read the application made this day by Jacob Marston, representing that he is still High Constable; that he was never dismissed, or superseded; that he is now ready to fulfil the duties of his office, and prays the Court to authorize

Resolved.

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florize him again to execute the functions thereof in consequence of the temporary removal of Ogilvie.

“ Montreal November 10th 1823.

“ To the worshipful the Magistrates now convened and assembled, in their room in the Court House, in the City of Montreal, in their Special Sessions of the Peace, on business respecting the appointment of Head Constable: *pro: temp:*

“ May it please your worships.

“ I am informed that Archibald Henry Ogilvie is now under impeachment, and now is suspended from acting in the capacity of High Constable, and no person hath been appointed by His Excellency to that office in the District, since my appointment in the year 1796, and that the situation is now vacant and I am ready to act and do the duties of the said office as before; by the advice of a few gentlemen in Montreal, I did relinquish the situation to Richard Hart, (Police Constable) after he was appointed to the said office, in General Quarter Sessions of the Peace, October Term 1821, in consideration of the said Hart giving me during my natural life sixty pounds currency per annum as per deed passed before Jean M. Mondelêt, Esqr. N. P. of Montreal on the 28th October 1821, but to take date from 18th day of October 1821; in consequence of the said contract, I did not act as such for he was to do the said duties, and had the perquisites appertaining to said office, and hath so done, and never has paid to me one farthing; but since his decease, Archibald Ogilvie has acted in that capacity, now I beg leave to mention these circumstances to your worships as matters of fact, and neither Hart, nor Ogilvie hath given me any of said perquisites since that period, promised in said deed. Gentlemen, can it be that the contract between Marston and Hart as aforesaid does deprive me of acting in said capacity as High Constable, until His Excellency's pleasure be known on the same.

“ Therefore, Gentlemen, as you now are assembled, I have to notify you as before, that I am ready to act in said capacity as aforesaid, and pray your due consideration on the subject, and believe me to be yours &c. &c. most respectfully.”

(Signed)

J. MARSTON, H. C.

The Court having considered the entries made in the Register of the Quarter Sessions, of 1821 and 1823, and also a letter from His Excellency, through his Secretary, dated 1st November 1821; orders that the said entries
and

and letter be copied into this Register, for the information of the Magistrates, and to serve for answer to the pretensions of the said J. Marston.

MONTREAL—*Court of General Quarter Sessions of the Peace.*

Wednesday, 24th October 1821.

PRESENT.—Messrs. McCord, Mondelêt, and the Honorable C. W. Grant.

The Court on the application of Jacob Marston, for leave to resign the office of High Constable, grant him leave to resign the said office from this day:—Richard Hart one of the Constables of this City, shall be High Constable in the place and stead of the said Marston, and the Court appoint him to the said office.

“ Castle of St. Lewis,

Quebec, 1st November 1821.

“ Sir,

“ Having submitted to His Excellency the Governor in Chief, your letter of the 27th ultimo, I am directed to inform you that he is pleased to accept the resignation of Mr. Jacob Marston as High Constable of the District of Montreal, and to approve the Justices' nomination of Mr. Richard Hart in his stead, whose salary as such will commence “ from this date.”

I have the honor to be

Sir,

Your most obedt. servant,

(Signed) J. READY.

John Delisle, Esquire,
Clerk of the Peace,
Montreal.

General Quarter Sessions.

Thursday, 10th July 1823.

PRESENT.—Mr. Justice McCord, Mr. Justice Mondelêt and Mr. Justice Marchand.

The Court having ascertained that Richard Hart, High Constable for this District, is deceased, do hereby nominate and appoint Archibald Ogilvie of Montreal, and he is hereby nominated and appointed High Constable for the District of Montreal, in the place of the said Richard Hart; and the said Archibald Henry Ogilvie took the oath of office of High Constable and also the oath of allegiance.

Ordered, that the Clerk of the Peace furnish the said Jacob Marston, with copies of the above entry, in the Register of the Quarter Sessions of 1821, and of His Excellency's letter of the same year.

Read Mr. Adelphe Delisle's application for the situation of High Constable *pro tempore* in the room and place of Mr. Ogilvie.

The Court in consideration of the respectability of the applicant and that of his family, unanimously resolve that his request be granted, and that in consequence his name be laid before His Excellency the Governor in Chief for his approval.

Ordered, that the Clerk of the Peace do transmit without delay to the Civil Secretary A. W. Cochran, Esquire, for the information of His Excellency the Governor in Chief, the proceedings of this Court, respecting the appointment of Mr. A. Delisle, as High Constable.

Special Session of the Peace.

Saturday 20th December 1823.

Mr. Adelphe Delisle, appointed High Constable by the Session of the 10th November last, to fill *pro tempore* the situation of Mr. Archibald Henry Ogilvie, attended and asked permission to take the oath of office; but as the Magistrates have not yet received from His Excellency the Governor in Chief an answer to the letter they addressed him to inform him of this appointment, do not at this Session think fit to solicit an answer on account of the few persons present.

Resolved,

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Resolved, That a Special Meeting of the Magistrates be called on Monday the 22d of this month, at 11 o'clock A. M. to take into consideration the application of Mr. Delisle, and determine whether or not it is advisable to write again to His Excellency.

Ordered, That the Clerk of the Peace do immediately give notices of the said meeting.

Court of Special Sessions of the Peace.

Monday 22d December 1823.

PRESENT.—Thomas McCord, Louis Guy, Jean P. Léprohon, Pierre De Boucherville and Thomas A. Turner, Esquires.

The meeting of this day having been called for the purpose of taking into consideration the nomination of Mr. Adelphe Delisle, as High Constable, for the District of Montreal.

Resolved, That inasmuch as it is expedient that the appointment of such office should take place before the approaching Courts of Quarter Sessions and King's Bench, the Clerk of the Peace do write to A. Wm. Cochran, Esquire, to ascertain the pleasure of His Excellency the Governor in Chief's pleasure respecting the nomination of the said A. Delisle to the said office, as transmitted to Mr. Cochran on the 10th November last.

Special Session of the Peace.

Wednesday 31st December 1823.

PRESENT.—Thomas McCord, Louis Guy, Jean P. Léprohon, Pierre De Rocheblave and Thomas A. Turner, Esquires.

Mr. McCord laid on the table a letter, of the 27th of this month, from the Civil Secretary in answer to the communication of the Magistrates of the 10th November and 22d December of this year, respecting the appointment of

Resolved,

of Mr. A. Delisle as High Constable, by which it appears that His Excellency the Governor in Chief approves of this appointment; and at the same time informed the Court that Mr. Delisle yesterday took the oath of office at the weekly Session, and qualified himself to act as High Constable.

Ordered, that a copy of the Civil Secretary's letter be entered in this Register.

Castle of St. Lewis,

Quebec, 27th December, 1823.

Sir,

I am directed by His Excellency the Governor in Chief to inform you that he approves of the nomination of Mr. Adelphe Delisle to be High Constable for the District of Montreal.

I have the honor to be Sir,

Your most obedient servant,

Thomas McCord, Esqr.

(Signed)

A. W. COCHRAN, Secretary.

Special Session of the Peace.

Saturday, 20th March 1824.

PRESENT.—Thomas McCord, Jean P. Léprohon, Thomas A. Turner, Thomas Porteous and the Honble. C. W. Grant, Esquires.

Mr. A. Delisle applied this day to be permanently appointed High Constable.

Resolved

Resolved, That a Special Meeting of the Magistrates be called on Saturday next the twenty-seventh of this month, to consider the said application.

Special Session of the Peace.

Saturday, 27th March 1824.

PRESENT.—Honble. Chs. W. Grant, Thomas McCord, Louis Guy, Thos. Porteous, François Ant. Larocque, Thomas A. Turner, Pierre De Rocheblave and Henry McKenzie, Esqrs.

Read the proceedings of the last Session. Read the application made by Mr. A. Delisle, and by him submitted to the last Session, by which he prays to be permanently appointed High Constable in the room and place of the former High Constable A. H. Ogilvie suspended *pro tempore* by the Session of the 6th November 1823, until he should be cleared of the charges found against him by the Grand Jury attending the Criminal Court of this District, held in September last.

Read the said order made on the 6th November last, respecting the temporary suspension of Ogilvie.

Mr. Delisle, Deputy Clerk of the Crown and Keeper of the Register of the Criminal Court of this District, attended and produced the Register of the said Court, by which it appears that the said A. H. Ogilvie was on the 28th February last, by the Petty Jury of the said Court, found guilty of assault and riot, and condemned on the 10th of the same month to pay a fine of £10 currency, and to one month imprisonment in the common gaol of this District.

Mr. J. S. McCord, advocate, was admitted, and on behalf of Mr. Ogilvie, prayed of the Magistrates that before they decided on Mr. A. Delisle's application, and dismissed the said Ogilvie from office, a day might be given him to appear before the Magistrates, and be heard in his defence.

The Court were of opinion, that they cannot grant Ogilvie's request, but that it is expedient to call a special meeting of the Magistrates for the purpose of taking into consideration, the verdict of the last Criminal Court, against the said Ogilvie, and of determining whether the said Ogilvie ought to be dismissed; and if so, whether the said A. Delisle ought to be permanently appointed High Constable.

Ordered,

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Ordered, That that the said special meeting be held on Saturday next, and that the Clerk of the Peace do in consequence give notice thereof to the Justices of the Peace.

Special Session of the Peace.

Saturday 3d April 1824.

PRESENT.—The Honble. Chs. W. Grant, Thomas McCord, Jean M. Mondelèt, Louis Guy, Jean P. Léprohon, Thomas Porteous, Henry McKenzie, Pierre De Boucherville, François A. Larocque, Thomas A. Turner and Pierre De Rocheblave, Esqrs.

Read the proceedings of Saturday last.—The Court proceeded on the orders of the day appointed in the session of Saturday last,

1^o. —On that respecting Mr. Archibald Henry Ogilvie, a motion was made to resolve; that in consequence of the production on Saturday last of the Judgment rendered on the 10th of March last, against the said Ogilvie, he the said Ogilvie ought to be deprived of his situation as High Constable.

Immediately after this motion, a petition by him signed, dated this day was produced on his behalf and read, together with two recommendations in his favor, one from the Petty Jury who gave a verdict against him, and the other from several citizens of Montreal, which went to solicit the reinstatement of the said Ogilvie. After mature consideration, the Court was unanimously of opinion that the said A. H. Ogilvie ought not to be re-instated; and that the situation of High Constable ought to be and is declared vacant.

And in consideration of the application made by Mr. Adelphe Delisle, High Constable, *pro tempore*, to be permanently appointed in the place of the said A. H. Ogilvie.

Resolved, That the said Adelphe Delisle be appointed High Constable, in the room and place of the said Ogilvie, from this date: that he do immediately take the oath of office; and that the Clerk of the Peace do immediately inform the Secretary of His Excellency the Governor in Chief of this appointment, for his approval.

Mr. A. Delisle was immediately admitted and took the oath of office.

Special

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Special Session of the Peace.

Saturday, 17th April 1824.

PRESENT.—The Honble. C. W. Grant, Thomas McCord, J. M. Mondelôt, Louis Guy, J. P. Léprohon, Jean Bouthillier, Henry McKenzie, Thomas Porteous, Pierre De Boucherville, Charles Frémont, Frs. A. Larocque, Hugues Heney, Thomas A. Turner and Pierre De Rocheblave, Esqrs.

Read the proceedings on Saturday last.

Mr. McCord laid before the Court a letter from the Secretary of the Governor in Chief, dated the 9th of this month, in answer to the communication made to him on the 3d instant by the Magistrates, respecting the appointment of Mr. Adelphe Delisle as High Constable. This letter was read, and is as follows:

Castle of St. Lewis,

Quebec, 9th April 1824.

“Gentlemen,

“Havnig laid before His Excellency the Governor in Chief, the proceedings of the Magistrates of Montreal, assembled in Special Session of the Peace on the 3d instant, nominating the appointment of Mr. A. Delisle as High Constable, in the room of Mr. A. Ogilvie; I am commanded by him to acquaint you for the information of the Magistrates, that although he is on this as on all other occasions, desirous of meeting their wishes and of paying every attention to their recommendations, the impression he has derived from various recent occurrences of the necessity of a more active City police of Montreal, and the conviction, that for this purpose much must depend on the qualifications and experience of the Chief Constable, have induced him some time ago to determine on recommending to the Magistrates the appointment of a person of the name of McCulloch, well known to him for his activity, intelligence and peculiar qualifications for this situation :—He therefore thinks it expedient to decline confirming the nomination

Special

mination of Mr. Delisle, and directs me to suggest the great advantage of placing at the head of this Department the person before mentioned.

I have the honor to be, Gentlemen,

Your most obedient Servant,

(Signed)

A. W. COCHRAN, Secretary.

The Chairman of Quarter Sessions, Montreal.

After which a motion was made to resolve :

1^o.—That it is the incontestible right of the Justices of the Peace in their Quarter and Special Sessions to appoint and swear in the High Constable when circumstances require it. On this motion the Court divided ; for the motion 11, against it 3;—majority 8.

2^o.—That the appointment of Mr. A. Delisle is according to Law. The Court divided ; for the motion 13, against it 1;—majority 12.

3^o.—That Mr. Adelphe Delisle since the 10th November, on which day he was appointed High Constable *pro tempore*, and since the 3d of April instant, when he was permanently appointed High Constable, and sworn in as such, has by his conduct proved himself worthy of the office with which he has been entrusted.

Passed unanimously.

4^o.—That there being no complaints against M. A. Delisle for neglect of duty or malversation in the said office, there cannot and ought not to be any plausible reason for depriving him of the same.

The Court again divided:—for the motion 12 ; against it 2,—majority 10.

5^o.—That the Clerk of the Peace do transmit without delay to Mr. Secretary Cochran, for the information of His Excellency the Governor in Chief, the above resolutions and the following letter :

Passed unanimously.

Montreal, 17th April 1824.

Sir,

I am directed by the Magistrates of the City of Montreal, this day met in Special Session for the purpose of taking into consideration your letter
of

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of the 9th instant, with regard to the intention expressed by His Excellency to decline confirming the appointment of Mr. Adelphe Delisle as High Constable of the City of Montreal, to inform you that the said letter has been read to them, and that they have maturely considered its contents.

I am directed to transmit to you without delay, for the information of His Excellency, the result of their deliberations, the substance of which will be found in the following principles and reasons.

On the suggestion of His Excellency, intimated in your letter of the 15th October 1823, the Magistrates did not hesitate, in their Session of the 10th November in the same year, to suspend Mr. Archibald Henry Ogilvie from his office of High Constable, and appointed Mr. Adelphe Delisle *pro tempore* in his stead and place. This appointment was confirmed by His Excellency the Governor in Chief; and this confirmation was intimated to the Magistrates by your letter of the 27th December 1823.

In the appointment of Mr. Delisle to the office of High Constable, the Magistrates had consulted not only the interest of the public, by making choice of a person who would give respectability to the office, and would actively fulfil the duties attending it, but also the recommendation of the Judges of the Court of King's Bench for this District and of several of the most eminent citizens of Montreal.—When Mr. Archibald Henry Ogilvie was found guilty of the misdemeanor by which he had deserved to lose his situation, there was nothing to prevent and every thing concurred to induce the Magistrates to appoint in his place Mr. Adelphe Delisle, whose regularity of conduct and vigilance in the execution of his duties were the best proof of his right to the office. He had already been approved by His Excellency; the Magistrates did not presume any motives which could induce His Excellency not to repeat his approval with regard to this new appointment; they could have no expectation of his declining to do so; they knew of no person more deserving; they did not therefore hesitate to appoint him permanently High Constable in the place of Mr. Archibald Henry Ogilvie, and to administer the oath of office; and they venture to assure His Excellency that this appointment meets the approbation of the Judges of the Court of King's Bench, of the Sheriff, and of the Public.—The Magistrates acted under the conviction that they could not make a better choice.—Mr. Adelphe Delisle speaks and writes both French and English—he is acquainted with the citizens and is known by them;—he was born in this town, and is of a respectable family; he fulfils in person the duties of his office; there are no details to which he is not willing to attend, or to which he does not attend when occasion requires.—He supports himself by this situation although it is by no means a lucrative one.

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The Magistrates are convinced that he is competent to the performance of all the duties of the office.

In making this appointment the Magistrates have exercised a right which they believe to be indisputably theirs; a right which even by the acknowledgement of His Excellency the Governor in Chief, belongs to them. They sincerely regret that His Excellency does not think fit to concur with them, but their motives are too just, and their right too certain not to produce in them a conviction that it is their duty to persist in the appointment they have made.

The Magistrates are convinced that the Police of Montreal ought to be placed on the most active footing; this District, which is the most populous in the Province, and in which immorality has for several years made the more rapid progress from the circumstance of the population having been considerably increased by the influx of Emigrants, can only be purged of the vices which exist in it by the vigilance and assiduity of the Magistrates and of their subordinate officers in the discharge of their duties.

The Magistrates have received with equal respect and gratitude His Excellency's assurance of his desire to comply with their wishes on all occasions, and humbly pray His Excellency to believe that his recommendation would have had the greatest weight with them, if they had not believed they should be guilty of an act of injustice towards Mr. Adelphe Delisle and towards the public, in preferring a stranger, of whom they have no knowledge, to a native of the Country, of whose integrity and vigilance they are assured.

I have the honor to be,

with consideration,

Sir,

Your very humble and obedient Servant,

(Signed)

JNO. DELISLE,
C. P.

A. W. COCHRAN, Esqr. }
Civil Secy. }
Quebec. }

The Petition signed William McCulloch praying for the situation of High Constable was received and read.—The Court order that the Clerk of the Peace answer the said Mr. W. McCulloch in writing, and inform him that they cannot grant the prayer of his Petition.

The Court adjourned until Monday next, at 11 o'clock A. M.

Special

Appendix (G.)

Special Session of the Peace.

Monday, 19th. April 1824.

PRESENT :—Jean M. Mondelêt, Jean P. Léprohon and Pierre de Boucherville, Esquires.

The meeting took place in pursuance of the adjournment of the Session of last Saturday.

Owing to the small number of Magistrates present the Court thought proper not to proceed on the orders of the day, but to postpone the consideration thereof until Saturday next.

Ordered, in consequence ; That the Clerk of the Peace give notice of this adjournment to the Magistrates.

Court of Special Sessions.

Montreal,

Wednesday, 21st. April 1824.

PRESENT :—Jean M. Mondelêt, Jean P. Léprohon and Hugues Heney, Esquires.

Ordered, That the Clerk of the Peace do call a Meeting of the Magistrates for tomorrow at ten o'clock in the forenoon, to take into consideration a document relating to the proceedings, which took place at the last meeting of the Justices, on the 17th. instant, with respect to the nomination of the High Constable.

Special Session of the Peace.

Thursday, 22nd. April 1824.

PRESENT :—The Honorable Charles Wm. Grant, Messrs. Thomas McCord, Jean M. Mondelêt, Louis Guy, Jean P. Léprohon, Jean Bouthillier, Thomas

Special

mas Porteous, Henry McKenzie, Pierre de Boucherville, Pierre de Rochelave, Hugues Heney, Frs. A. Larocque, Thomas A. Turner.

The Court met in consequence of the Session of yesterday, to take into consideration a document relating to the proceedings at the session of the 17th. instant, with respect to the High Constable; this document was produced and read, and is an affidavit of the Constable Jean Prénoveau, conceived in the following terms :

“ Jean Prénoveau, one of the Constables of the City and District of Montreal, being sworn upon the holy Evangelists, maketh oath and saith, that yesterday a letter was delivered to him by Mr. Delisle the Clerk of the Peace, with direction to immediately carry the same to William McCulloch, Esquire, residing in the Quebec suburb of this City, that this deponent went to the House occupied by that Gentleman and delivered the said letter, that said Wm. McCulloch asked deponent, who were the Magistrates that had met? to which deponent answered he did not know, that said Wm. McCulloch told this deponent that a gentleman had been so polite as to send him a list of those that had met on Saturday last and produced a printed list of names, that this deponent observed that it was a list containing the names of some of the magistrates of this town, that said Wm. McCulloch asked deponent if he would drink some brandy, which deponent declined taking, saying that he did not like strong liquor, but beer; that he was served with a glass of beer, that he the said Wm. McCulloch asked of Deponent what Mr. Delisle thought of his situation of High Constable, and if he believed he would hold it; to which this Deponent answered that he believed that said Mr. Delisle had hopes of holding the situation, to which Mr. McCulloch answered: they have not done yet, they are just beginning, you will see a hell of a dust kicked up, and added, that he was informed that Mr. Mondelêt was the person who dictated the letter which was to be sent to the Governor; and observed that many of the Magistrates had nothing to do with government, but two of them had, and particularly one of them, which might be sorry for it and might lose something.

“ That Mr. McCulloch enquired of this Deponent who was one Mr. Heney; to which Deponent answered that he was a Member of Parliament; that said Wm. McCulloch told Deponent that he was well informed that Mr. Heney was one of the first that opposed him at the meeting of the Magistrates, and observed to Deponent that Mr. Turner had always appeared to be a friend of his, but he now found the contrary, and requested of this Deponent that if he heard any thing for or against him, to let him know or Mr. McConnell.

“ This Deponent further saith that Mr. McCulloch told him, that he should not be sorry at not getting the situation of High Constable since
he

Appendix (G.)

" he had heard it was not worth what he had heard and expected, which
" was five hundred pounds, and said that he expected a better one."

(Signed) JEAN PRÉNOVEAU."

Sworn at Montreal, this 20th. day of April 1824.

(Signed) GEORGE PYKE, J. K. B.

Resolved, That the above proceedings and affidavit, with a copy of the following letter, be transmitted without delay by the Clerk of the Peace, to Mr. Secretary Cochran, for the information of His Excellency the Governor in Chief.

Montreal, 22nd. April, 1824.

Sir,

Having been directed by the Magistrates in their Session of the 17th. instant, to transmit to Mr. William McCulloch their answer to the Petition which he had that day presented for the situation of High Constable, I sent it to him on Monday last by the Constable, Jean Prénoveau.

The conversation which took place between Mr. McCulloch and Prénoveau was reported to some of the Justices of the Peace, who immediately conceived it to be their duty to have this conversation laid before the body of the Magistrates for their consideration; the meeting was held this day, and after mature consideration the Magistrates made an order that the annexed copy of the Deposition of Prénoveau the Constable, should be forwarded to you for His Excellency's information; and it is in consequence of this order that I address you.

The Magistrates think it right to adopt this measure for the purpose of proving to His Excellency how great the indiscretion of Mr. McCulloch has been and how little he is deserving of their support.

They know the honesty and good conduct of Prénoveau, and being persuaded of his veracity, cannot help giving credence to his report, more particularly when made under oath.

I have the honor to be,

Sir,

Your very humble and obedient Servant,

(Signed)

JNO. DELISLE,
C. P.

A. W. Cochran, Secretary, Quebec.

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Resolved, as the opinion of this Court, That the information which Mr. McCulloch has received and which is mentioned in Prénoveau's affidavit, could not have been obtained by him, but by the indiscretion of some of the members of the Session of the 17th. instant.

Resolved, That such indiscretion deserves the censure of this Court, since it has always been and still ought to be understood, that the deliberations of the Courts ought never to be divulged, although the proceedings ought to be considered Public.

Special Session of the Peace,

Saturday, 8th. May, 1824.

PRESENT.—The Honble C. W. Grant, Jean M. Mondelêt, Louis Guy, Jean P. Léprohon, Henry McKenzie, Pierre de Rocheblave and Thomas A. Turner, Esquires.

Mr. Mondelêt produced a letter from Mr. Secretary Cochran dated the 3rd. instant; which letter was read, and is as follows :

Castle of St. Lewis.

Quebec, 3rd. May, 1824.

“ Gentlemen,

“ The proceedings of the Magistrates assembled in Special Sessions at
“ Montreal, on the 17th. and 22nd. April, together with the letters of the
“ Clerk of the Peace of the same dates, written by order of the Magis-
“ trates, having been laid before His Excellency the Governor in Chief, and
“ having been maturely considered by him, I am commanded by His Excel-
“ lency to acquaint you for their information that he regrets to find that
“ there is such an entire difference of opinion between himself and the Ma-
“ gistrates with respect to their appointment of Mr. Delisle as High Cons-
“ table, in which they persist, but His Excellency does not think it necessary
“ at the present moment to take any further notice of these proceedings, except
“ in apprizing the Magistrates through you, that Mr. Delisle's appointment
not

Appendix (G.)

" not being sanctioned by His Excellency, no salary can be allowed to him
" as High Constable from the date of my letter of the 9th. April, signifying
" His Excellency's determination on the subject."

" I have the honor to be

" Gentlemen,

" Your most obedient Servant,"

(Signed,)

A. W. COCHRAN,
Secry."

" The Chairman, Quarter Sessions, Montreal."

Resolved, That the Clerk of the Peace acknowledge immediately the receipt
of the said Letter by that of which the following is a Copy.

Montreal, 8th. May 1824.

Sir,

I am directed by the Magistrates in their Special Session of this day, to
inform you that your letter of the 3rd. instant was communicated to them,
and that in obedience to the order of His Excellency the Governor in Chief
which it contains, they have intimated to Mr. A. Delisle that his Salary as
High Constable will not be allowed him from the 9th. of April last.

I am directed by the Magistrates to repeat to His Excellency the Go-
vernor in Chief, the sentiments of respect with which they have received all
his communications, and to assure His Excellency that they sincerely regret
that any difference of opinion exists between His Excellency and the Magis-
trates respecting the right of appointing the High Constable.

I have the honor to be

Sir,

Your most humble and obedient Servant,

(Signed)

JNO. DELISLE, C. P.

A. W. Cochran, Esqr. Secry. Quebec.

Special

Appendix (G.)

Special Session of the Peace.

Tuesday, 1st. June 1824.

PRESENT.—Thomas McCord, Jean M. Mondelét and Thomas A. Turner, Esquires.

Ordered, That the Clerk of the Peace cause to be prepared and delivered without delay, copies of the Proceedings of the Court of Special Sessions on the subject of the appointment of the High Constable, A. H. Ogilvie and his successor, and also Copies of the Proceedings of the said Court respecting the *charivari* which took place in May and June last.

Certified,

JNO. DELISLE, C. P.

Appendix (H.)

Form of the Commission of the Returning Officer, for the West Ward of the City of Montreal.

George IV. by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.—

To our loving subject Greeting :—Whereas, for the Division of our Province of Lower-Canada, for the purpose of holding an Assembly in the same, therein is become entitled to chuse

Representatives for the same Assembly ; Know ye, therefore, that having confidence in your loyalty, ability and integrity, you we have nominated, constituted and appointed, to be our Returning Officer of the

to be therein chosen for the in Assembly. To have and to hold the same Place and Trust of Returning Officer for the for and during and until the day of

in the year of our Lord One thousand eight hundred and , or the sooner determination of our pleasure respecting the same, together with all the Rights, Powers, Authorities, Profits and Emoluments, which to the said Office do or ought to belong or appertain, in pursuance and by

Appendix (H.) (I.)

by virtue of the Act of Parliament in that case made and passed in the 31st year of the Reign of George the Third, and of these Presents, and of Proclamations, Commissions and Instruments and Authorities, by us heretofore issued, and of the Writs by us hereafter to be issued by virtue of our Royal Authority, and agreeable to the tenor and intent of the said Act. In testimony whereof, we have caused these our Letters to be made Patent, and the Great Seal of our Province to be thereunto annexed; Witness our Right trusty and well-beloved George, Earl of Dalhousie, Baron Dalhousie of Dalhousie Castle, Knight Grand Cross of the most honourable Military Order of the Bath, Captain General and Governor in Chief, in and over our said Province of Lower-Canada, &c. &c. &c. at our Castle of Saint Lewis, in our City of Quebec, in our said Province, the day of , in the year of our Lord, one thousand eight hundred and , and in the year of our Reign.

Appendix (I.)

Form of the Oath taken by H. Griffin, Esquire, as Returning Officer.

I, Henry Griffin, Returning Officer for the West Ward of the City of Montreal, do solemnly swear, that I am resident in the City of Montreal, and duly qualified as an Elector for the West Ward thereof, and that I have not directly or indirectly received any sums or sums of money, office, place or employment, gift, gratuity or reward, or any bond, bill or note, or any promise of any gratuity whatsoever, either by myself or by any person for my use, benefit or advantage, for favouring the election of any particular person or persons, or making or endeavouring to make the return of any particular person or persons at the present election of a member or members to serve in the Assembly of this Province, and that I will proceed in taking the votes of the Electors, and will make return of such person or persons as shall appear to me to have the majority of legal votes, and this I do solemnly swear to do without partiality, fear, favour or affection.

Sworn before me at Montreal, this }
 26th day of July, one thousand }
 eight hundred and twenty-seven, }
 (Signed) Robert Froste, J. P.

So help me God.
 (Signed) H. GRIFFIN,

Certified a true Copy.
 Thomas Douglass,
 Clk. Own. in Chy.

Appendix (K.)

Court of Oyer and Terminer & General Gaol Delivery.

MONTREAL.

AUGUST SESSION, 1828,

The King vs. Joseph Brazeau the younger.

Filed 23d Aug. 1828.

Indictment for a Riot, and maliciously and unlawfully cutting down and destroying a May-Pole near the dwelling-house, and on the land, of one Antoine Danis.

No Bill.

(Signed) FRANCIS BADGLEY,
Foreman.

Witnesses.

Antoine Danis,
Antoine Danis, Junior,
Aug. Quintal,
Jacques Joron,
François Desvoyau,

Jeremie Franche,
Marie Chantal Franche,
Marie Masson, (wife of Joseph
Duchesne.)

Certified,

J. DELISLE, Clk. C.

No. 8.

Court of King's Bench.

MONTREAL.

September Term. 1828.

The King vs. Joseph Brazeau the younger.

Filed 5th Sept. 1828.

Indictment for a Riot, and maliciously and unlawfully cutting down and destroying a May-Pole.

A true Bill.

(Signed) T. PORTEOUS,
Foreman.

Wit-

TH
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Appendix (K.)

Witnesses.

Antoine Danis.
Antoine Danis, Junior.
Augustin Quintal,
Jacques Jauron,
François Desvoyau,
Prisque Charbonneau,

Marie Masson,
Hyac. Seguin,
Joseph Seguin,
Antoine Franche,
Am. David,
Pierre Hogue.

Certified.

JOHN DELISLE, Clk. C.

No. 14.

Court of King's Bench.

MONTREAL.

September Term, 1828.

The King agt. Chennier, Paul Brazeau, François Martin, Jean Clerout, Joseph Brazeau, the younger, and Maurice Lemer, otherwise called Maurice St. Germain.

Indictment for a Conspiracy to harass, injure, and oppress, certain Captains of Militia, in the County of York, and to compel them to resign their Commissions.

Filed 10th September.

All pleaded except Paul Brazeau.

A true Bill.

(Signed) T. PÔRTEOUS,
Foreman.

Witnesses.

Jean Bte. Richer,
Edward Viau,
Frans. Desvoyau,
Antoine Danis,
Aug. Quintal,
Frans. Meloche,

Jean Bte. Collet,
Jean Bte. Jimbault dit
Mata,
Frans. Leonard,
John Davis.

Certified,

JOHN DELISLE, Clk. C.

Appen-

Appendix (K.) (L.)

District of }
MONTREAL }

Court of King's Bench, Criminal Jurisdiction.

WEDNESDAY, 10th September, 1828.

No. 14.

The King vs. }
Joseph Brazeau } On Indictment for a Conspiracy to harrass, injure and
the younger. } oppress, certain Captains of Militia in the County of York,
and to compel them to resign their Commissions.

Joseph Brazeau, the elder, of the Parish of St. Benoit, in the District of Montreal, and Charles Ambroise Laberge, of the Parish of Montreal, entered into recognizance towards Our Sovereign Lord the King, each in the sum of One hundred pounds, current money of this Province, for the personal appearance of Joseph Brazeau the younger, at the next Court of King's Bench to be holden in and for the District of Montreal, on the first day of March next, and that he, the said Joseph Brazeau the younger, shall attend the said Court from day to day, till discharged by due course of Law.

Certified.

JOHN DELISLE, Clk. C.

Appendix (L.)

Montreal, 22d. Decr. 1828.

Sir,

I had the honor to address you under date of the 17th instant, acknowledging the order of the Committee, and notwithstanding my week state of health I stated it to be my intention to attend.

Considering the shock that my constitution has experienced in my late dangerous illness, the delicacy to which I am reduced, and the necessity of taking medicine daily (which I still do) both my friends and myself think the undertaking so long a journey, at this severe season, would be attended with extreme danger to my life.—I therefore beg the Honorable Committee will be so obliging as to dispense with my attendance—hoping at the same time the public service will not suffer thereby.

They

Appendix (L.) (M.)

They may be assured that was my health such as to admit of it, I should be glad to present myself before them.

I enclose a certificate from my Medical attendant, and

I remain,

Sir, Your obdt. servt.

R. FROST.

To Ed. Glackemeyer, Esqr. }
Clerk of the Committee }
of the House of Assembly }
on the Montreal & York }
Petitions of Grievances. }
—Quebec

I certify that I have attended Mr. R. Froste for nearly two years past : That he has suffered a very severe and dangerous fit of sickness last summer : That he is yet in a delicate state of health.—I further believe that he is under the necessity of taking some slight medicine daily.

ROBT. NELSON.

Montreal, Decr. 19th 1828.

Appendix (M.)

Mr. Neilson.

I had scarcely arrived in Quebec, to which place I was called by my business in the Court of Appeals, when I learnt the news of my dismissal as Captain and Aide-Major of the Division of Boucherville. I will not say that I was much surprised, for experience and the present situation of affairs, tend strongly to guard us against astonishment. Knowing perfectly the rights which an English subject enjoys, you will not perhaps be disposed to reject the following.

I have the honor to be,

Your most humble servant,

CHARLES MONDELET,

Quebec, 10 Nov. 1827.

To

To His Excellency, George, Earl of Dalhousie, Governor in Chief,

§c. §c. §c.

May it please Your Excellency,

If I listened only to that voice which makes itself forcibly heard in the inmost hearts of many of your partizans, and of the greater number of your courtiers, I should perhaps be inclined to look on you as on a being privileged and exempted from the control of the law. But I, may it please Your Excellency, who am proud of having been born and of having lived a British Subject, cannot but remember the fundamental maxim, *that the law is above all authority*. I may, therefore, be allowed to avail myself of a right I enjoy as a Subject of the British Empire, that of pointing out to Your Excellency, with all the respect demanded by your exalted rank, an act of your Administration, which does not, as it appears to me, confer on it much lustre.

The greatest clearness as well as the most scrupulous good faith, ought, if I am not mistaken, to characterise the acts of every Administration whatsoever; good faith should appear in their execution, clearness in the manner in which they are laid before the public. Now, may it please Your Excellency, whatever may be the excellence of the motives which induce your advisers to persuade you to deprive me of my Commission as Captain and Aide Major of the Boucherville Division, I shall take the liberty of stating to Your Excellency that your advisers have not exactly adhered to the rules of sound logic, in the counsel they have given you on this subject, to say nothing of the illegality of your General Order of the 5th November inst. with respect to the issuing of which your advisers have made Your Excellency their tool.

The reason assigned as the cause which has influenced the mind of Your Excellency, appears to me to be my absence from the Division to which I belonged. It must be confessed that if this be a discovery of recent date with your advisers, it says little in their favor; if it was known that I did not reside at Boucherville, how happens it that the zeal of your advisers has, up to the present time, slumbered so soundly. And if Your Excellency's motive for dismissing me was founded on my non-residence in the division of Boucherville, how happens it that Messrs. Charles Panet, Pierre Elzéar Taschereau, and Charles Turgeon, who are in like manner absent from the Divisions to which they belong, have become in so high a degree the objects of the predilection of your advisers, as to induce them to give Your Excellency so singular a piece of counsel. These Gentlemen have been promoted, and it is remarkable, that your advisers have not been afraid of drawing either on themselves or on Your Excellency the public reprobation and

Appendix (M.)

and ridicule which a contradiction like this must ensure to its author! A few lines will place it in its full light before the public.

It seems to me, may it please Your Excellency, that law, and justice, and sound policy (the object of which under any administration, should he to create no dissatisfaction) ought to have been sufficient to prevent your advisers, and by a natural consequence, Your Excellency, from going so far astray. To dismiss a British Subject from any post whatsoever, without first affording him an opportunity of being heard, and without assigning any reasons; or to assign such reasons as must cover the proceeding with which they are connected as well as those by whom they are adopted, with ridicule, argues but little respect for the ideas, and the principles which the present age, and the admirable system of the British Administration, have consecrated in the focus of the Empire, the mild influence of the rays issuing from which, thanks to your advisers, is often prevented from reaching us.

If you had taxed me, may it please Your Excellency, with having refused to assist in the execution of your General Orders, which appear to be to as illegal as the illegal and void ordinances on which they are expressly founded, you could not indeed with justice have deprived me of my commission without giving me an opportunity of being heard; but in that case, your General Order would not, at least, have been apparently absurd, nor would the said order have been so remarkably the subject of the ridicule of those, who do not profess, either willingly or from necessity, to bow the head like slaves at the voice of him whom many consider as superior to the Laws.

In the last place, may it please Your Excellency, I shall avail myself of the right of an English Subject, and permit myself to say to you, that your advisers have greatly misled Your Excellency, in advising you to commit acts which ought to be unheard of under the British Empire, and of which examples are to be met with in this Colony *alone*. As regards my dismissal (which is in fact none, since there are no Militia Laws,) far from being a source of pain to me, far from producing on me the effects which Your Excellency and your advisers perhaps anticipated, whether it proceeded from my having refused to acknowledge as Laws certain ordinances which are not so, or whether it be a consequence of the political conduct, which Justice, my respect for the Laws and the constitution and my unalterable attachment to the interests of my Country, have made it imperative on me to hold, it can only be to me a source of pride.—Such, may it please Your Excellency, has been my conduct, and such it shall be so long as I have the happiness to boast that I am a British Subject.

CHARLES MONDELET, ex-captain and aide-major, of the Boucher-ville Division; and an advocate, residing at Three-Rivers.

Quebec, 10th Nov. 1827.

OFFICE

Appendix (M.)

OFFICE OF THE ADJUTANT-GENERAL OF MILITIA.

Quebec, 5th November 1827.

General Order of Militia.

His Excellency the Governor General and Commander in Chief, has been pleased to make in the Militia of this Province, the following appointments and changes, to wit :—

Mr. Charles Mondelêt, Captain and Aide-Major in the late Division of Boucherville, by Commission of the 5th May 1822, residing now in the Town of Three-Rivers, and not performing any duty in the Militia, His Excellency the Governor General and Commander in Chief has been pleased to annul and repeal his Commission.

2d Battalion of the County of Dorchester.

The Hon. Lieutenant-Colonel J. T. Taschereau, having solicited to retire from the service, His Excellency has been pleased to grant his request, from the 31st October, 1827—and to appoint Major Antoine Charles Taschereau, to be Lieutenant-Colonel commanding this Battalion, by Commission dated 31st October 1827 ; Captain Charles Panet from the 2d Battalion of the County and City of Quebec, to be the 1st Major, by Commission dated 31st October, 1827—Lieutenant Aide-Major Pierre Elzear Taschereau of this Battalion, to be 2d Major in the same Battalion, by Commission dated 1st November, 1827.

2d Battalion of the County of Hertford,

Major Abraham Turgeon, to be Lieutenant-Colonel Commandant, by Commission dated 1st November 1827 ; Capt. Charles Turgeon of the 1st Battalion of the County of Quebec, to be Major, dated 2d November 1827.

Quebec, 8th November 1827.

General Order of Militia.

His Excellency the Governor and Commander in Chief having found cause to disapprove of the conduct of the undernamed Officers of Militia, in the Reviews of last summer, directs that they shall be placed on the list of retired and supernumerary offices, viz :

Lieut. Colonel Jean Marie Mondelêt, and Major Dominique Mondelêt, of the 5th Battalion of the County of Montreal.

Lieutenant

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Lieutenant Colonel Joseph Bresse of the 2d Battalion of the County of Kent.

And His Excellency has been pleased to make the following appointments and promotions in the above-mentioned Battalions, viz :—

Lieut. Colonel the Honorable Lewis Gogy, Esq. to take the command of the 5th Battalion of the County of Montreal;

Captain John McCord, to be Major in the said Battalion, by Commission of the 8th November, 1827.

Major Gabriel Marchand to be Lieut. Colonel in the 2d Battalion of the County of Kent, and to take upon himself the command of that Battalion, Commission dated the 8th Nov. 1827.

Captain D. David, to be Major in the said Battalion, by Commission dated the 9th of November 1827.

By order of His Excellency the Governor General and Commander in Chief,

F. VASSAL DE MONVIEL,
Adj. Genl. M. F.

Appendix (N.)

At a Meeting of the Constitutional Committee of the District of Three Rivers;

[Sitting extraordinary held in the house of René Kimber, Esq.]

MONDAY, 25th February, 1828.

PRESENT :—Messrs. *Réné Kimber*, Chairman, *Pierre Défossés*, *Jean Doucet*, *Etienne Tapin*, *Joseph Dubord Lafontaine*, *Jean Défossés*, *Louis R. Talbot*, *W. Vondenvelden*, *Joseph Lonval*, *Etienne Leblanc*, *Pierre Blondin*, *L. Olivier Coulombe*, *Laurent Craig*, *Charles Mondelét*, *Ant. Zeph. Leblanc*, and *Antoine Gareau*.

Read the General Order of Militia of the 24th instant.

Resolved, Istly. That the loyalty, integrity, firmness and independence which have at all times characterized all the actions, both public and private,

of François Legendre and Antoine Poulin de Courval, Esquires, Deputy Chairmen of this Committee, and especially the course they have followed in the crisis which has necessitated accusations on the part of the inhabitants of this country against the Earl of Dalhousie, have earned for them the confidence and respect of their fellow-citizens.

Resolved, 2dly. That this Committee have learnt, that by the General Order of Militia of the 21st inst. His Excellency, George, Earl of Dalhousie, has cashiered these Gentlemen, and deprived them of their rank as Lieutenant Colonels of Militia, alleging, "that they have shown themselves " the active agents of a party hostile to His Majesty's Government."

Resolved, 3dly. That in the opinion of this Committee the assertion thus made by His Excellency, is entirely without foundation.

Resolved, 4thly. That, accordingly, this Committee believe themselves authorized to declare, that these dismissals can never diminish the respectability of the persons who are the subject of them.

Resolved, 5thly. That the following Address to Messrs François Legendre and Antoine Poulin de Courval, be adopted by this Committee, and that a Special Committee composed of four members, viz : Messrs. Jean Doucet, Joseph Dubord Lafontaine, Etienne Leblanc, and Jean Défossés, take measures for transmitting the same to Messrs. Legendre and Courval.

(True Extract.)

Secretaries, { CHARLES MONDELET,
ANT. Z. LEBLANC.

On Tuesday the 26th, the four Gentlemen chosen by the Committee to transmit the Address of the Committee to Messrs. Legendre and De Courval, understanding that Mr. Legendre was in the town, went to the Hotel at which he resided, and presented the following Address, which had been adopted by the Committee :—

To François Legendre and Antoine Poulin de Courval, Esquires.

WE, the Members of the Constitutional Committee of the District of Three-Rivers, have considered it our duty to express our deep sense of the injustice which His Excellency, George, Earl of Dalhousie, has done you, in depriving you of your Commissions as Lieutenant Colonels. We hope that this arbitrary proceeding will be discountenanced by the paternal Government of His Majesty ; and we take the liberty of assuring you, at the same time, that our respect for you has increased in proportion to the diminution of rank which you have both suffered.

The

Appendix (N.)

The Committee see in you two courageous patriots, whose title to the respect of the people becomes stronger, in proportion to the efforts made by the administration to render them contemptible.

Three-Rivers, 25th February 1828.

Mr. Legendre was pleased to make the following reply :—

Gentlemen,

Notwithstanding the assertions contained in the General Order of Militia of the 21st instant, I feel myself in no wise guilty of the conduct of which I am accused, since in spite of His Excellency's declaration, I shall be at all times ready to afford my services to His Majesty whenever he may need them. If His Excellency believes he has punished me for having been one of the Deputy Chairman of your Committee, I am sorry that he so deceives himself, since nothing can afford me greater pleasure than the sacrifice of my commission in the cause of my country. I entertain a deep sense of the honour you do me, and I thank you for it.

FRANÇOIS LEGENDRE.

Three-Rivers, 26th February 1828.

On the same day, the Gentlemen deputed for that purpose, waited on Mr. de Courval, presented the Address to him, and received the following Answer :—

Gentlemen,

His Excellency, in depriving me of my Commission as Lieut. Colonel; far from succeeding in his design to mortify me for having been faithful to my country, has conferred on me much honor by associating my name with those of so many illustrious men who have suffered oppression in a cause for which a Canadian ought constantly to be in readiness to sacrifice his fortune and his life. I receive the marks of honour which you now offer me, as rendered, not to myself as the individual, but to the motives by which my conduct will be governed until death. Be pleased to accept my most sincere thanks for the trouble you have taken in my behalf.

ANTOINE POULIN DE COURVAL.

Three-Rivers, 28th February 1828:

Before

Appendix (N.)

Before these Resolutions were adopted, Mr. Charles Mondelêt addressed a few words to the Meeting, nearly as follows:—

Gentlemen,

At a time when the public mind was nearly restored to that state of tranquillity which distinguishes the Canadians, another step has been taken by our Colonial Administration tending to prevent this effect. The Quebec Official Gazette of the 21st instant, announces to us that François Legendre, and Antoine Poulin de Courval, Esquires, our two Deputy Chairmen, have, among others, been deprived of their Commissions as Lieutenant Colonels by the Earl of Dalhousie; and the reason which His Excellency is pleased to assign for their dismissal, is certainly of the strangest kind. These Gentlemen, would you believe it! these men, who have always been so eminently distinguished for their most approved loyalty, the most exalted courage, and the most inviolable attachment to their country, are accused by His Excellency the Governor in Chief, of "*having shewn themselves the active agents of a party hostile to His Majesty's Government*"! What a charge is this, Gentlemen, against men like these? In itself it would deserve no refutation; for who is there among you who knows not that it is absolutely without foundation? But the charge is brought by one high in authority, by whom exalted rank is held sufficient to confer the right of attacking with impunity the most respectable and the most irreproachable Citizens. Unfortunately, these absurd and tyrannical notions are not confined to the Earl of Dalhousie; they are held by other men who are interested in propagating and eulogizing them in society as just and sensible!! It is then important, Gentlemen, that His Excellency should learn, that his exalted rank does not give him the right of bringing against our citizens charges as injurious as these, and which would even have been deeply felt, had they not come from a quarter overflowing with this sort of official matter.

You all remember the meeting of this district, held on the 22d of December last. You remember that Mr. Kimber was Chairman, and that Messrs. Legendre and De Courval were Deputy Chairman thereof. You all know that these Gentlemen testified in the cause of their country, that zeal for which so many other patriots have been distinguished. They were the firm supporters of those Resolutions and of that Petition which will in a few weeks be laid at the foot of the Throne and before the Imperial Parliament, and which contains complaints against the Earl of Dalhousie, the truth of which has been loudly proclaimed by the whole country. In a word, they openly shewed themselves to be true Canadians; the defenders of their country, and the friends of their fellow-citizens; they are therefore richly entitled to share the hatred and ill-will of an Administration, surrounded as it is by men who exert their talents to deceive it, and who shamefully
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sacrifice their welfare and their right to encourage an oppression of which there is no example in the English Colonies. If Messrs. Legendre & Courval had ranged themselves under the standard of that horde of invaders and destroyers (by will at least) of our rights, they would at this time have been proclaimed faithful subjects. It is therefore honorable and glorious, for these gallant citizens, to see their names inscribed on the endless catalogue of the victims of devotion to the sacred cause of their country! But if we are impressed with these sentiments, let us hasten to make them known to these gentlemen. Let them be recompensed; what do I say? Let them scorn the vain attempt to degrade them. They never shall be degraded since the country can weigh their merits; and what more is required by Canadians who love their country?

When our proceedings are made public, His Excellency will learn, that mere rank is insufficient to excite credence; that merit alone has any weight in the opinion of honest men, and that public opinion is not only sufficient to counterbalance charges as ill directed as those which he has made, but is infinitely preferable to all the honours which he showers on those who obtain them only by abjuring their political faith, by avowing themselves traitors to their country, and by staining for ever a name which was given to them only that they might earn for themselves the addition of "a true Canadian."

Be pleased then, Gentlemen, to allow the following Resolutions to be submitted to you, &c.

PETITION of divers inhabitants of the County of York, presented to the House of Assembly, 28th November, 1828.

To the Honorable the Knights, Citizens and Burgesses representing the Commons of Lower Canada, in Provincial Parliament assembled.

The humble petition of the undersigned, inhabitants of the County of York, respectfully sheweth:

That since the premature prorogation of the Provincial Legislature by His Excellency the Earl of *Dalhousie*, late Governor in Chief of this Province, on the seventh of March one thousand eight hundred and twenty-seven, many important and serious inconveniences have afflicted the people of this Province, threatened completely to undermine the most valued and best secured privileges of His Majesty's subjects, and have excited a degree of uneasiness and alarm prejudicial to their repose and to the good government of the Province.

By exercising the Royal prerogative, first to prorogue and then to dissolve a Parliament, which, although it had already made much progress in the

the public business, have nevertheless to terminate several important Bills which were necessary to the general interests of the Colony, the passing of which that prorogation prevented, and by his subsequent conduct in the several acts of his Administration, His Excellency the Earl of *Dalhousie* deprived the Country of the Sessions of its Parliament, and committed several other abuses and grievous acts, which have been fully set forth in the Petitions to the King and the Imperial Parliament, by the Inhabitants of the several districts of this Province, to the investigation of which the Petitioners beg leave to call the House, and upon which a numerous Committee of the Honourable the House of Commons agreed upon a Report, which contains several very wise decisions and recommendations.

The Petitioners are extremely desirous that this Report should avail for the passing of all the laws which are necessary to remedy past evils, correct existing abuses, and prevent their recurrence. Among these would be an Act of appropriation for defraying the expenses of a Colonial Agent at the seat of Government. A Law to compel persons in charge of the Public Monies to give sufficient security. Another for the qualification of the persons who might be admitted into the Executive and Legislative Councils, for securing the independence of those Bodies, from which the Judges of His Majesty's Courts, and Officers having Salaries during pleasure, should be excluded. Another for rendering effectual the disposition evinced by the Imperial Parliament to restore to the country, for the purposes of education, the Estates possessed in this Province by the late Order of Jesuits.

The passing of a Law to constitute and regulate a Militia force in the Province, is among the number of the benefits which the Petitioners expect from the labours of the House. The Earl of *Dalhousie* having prorogued the Legislature, and thereby deprived the country of a Militia Law, soon perceived his error, but instead of adopting the legal course of convening the Parliament, he took it upon himself to re-establish the superannuated Ordinances, long ago repealed by solemn acts of the Provincial Legislature, thereby assuming the exercise of a Legislative power, which the Constitution has wisely invested in the three Branches. It is the more to be lamented, that those Ordinances should have been revived, as they were passed at a time when the country had not as yet acquired the full rights of a British Country and as they contain provisions subversive of those very rights, and have a tendency to cause a military despotism, instead of constitutional liberty to prevail. It has even come to the knowledge of the Petitioners that excellent Jurists have declared that those Ordinances never were legally in force, the *Quebec* Act not authorizing the Legislative Council to pass such Laws.

Thus, by the illegal and arbitrary conduct of the Earl of *Dalhousie* on that occasion, embarrassing and burdensome duties, destructive of the liberties of the Inhabitants of this Province, have been imposed upon them. They have been taken from their occupations to be forced to toilsome exercises having no object. They have been prosecuted before tribunals established by virtue

of

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of those Ordinances—have been condemned there to disgraceful and serious penalties—have been cast into prison for breeches of these pretended Laws ; and this when public opinion and that of the most learned Jurists were expressed against the pretensions of the Executive Government on the subject, and when the peculiar and dependant situation of those Judges who declared their legality offered good grounds for a want of confidence in their decision.

Thus also it is, that by extending the same despotic principles, the Earl of *Dalhousie* exercised the powers which he was invested as Commander in Chief to dismiss from their Commissions in the Militia, officers who had not chosen to enlogize and support among the electors of the Province his errors. These abuses of power have no where been more conspicuous than in the County of *York*, where the most worthy citizens have been deprived of the situations they held to the satisfaction of the inhabitants, both in the Militia and in the Magistracy—which was done in consequence of false accusations of disloyalty, maliciously brought against them by Lieutenant Colonel *Dumont*, and some other adherents of the Administration, although they had done no more than exercise the indisputable right of every British subject to complain of abuses and present petitions to the King and his Parliament, whereby through illegal and frivolous pretexts those officers have been punished and outraged, as the inhabitants themselves have been, who have thus been deprived of the services of those who possessed their confidence, in order to their being replaced by persons whom they cannot respect, and who, in case of the re-organizing of the Militia under a new Law, are not qualified as is necessary for that command.

The Petitioners have not witnessed with less regret the pretensions of the late Governor in Chief respecting the application of the public monies which he has illegally issued from the Provincial Funds when no Law authorized his so doing. These breaches of the Constitution, repeated as they have been, cannot, in the humble opinion of the Petitioners, be otherwise than dangerous in themselves, fit to excite discontent in the subject, and to induce in the Government a systematic contempt of the Law, and an extremely pernicious state of confusion and anarchy.

The Petitioners wish to call the attention of the House to the prosecutions instituted by the Attorney General against several persons for Libel and other pretended misdemeanors, alleged to have been committed at the late elections, the exorbitant security required of the accused, the severe manner of proceeding against them, and above all the attempt to bring them before a Special Jury, a course neither sanctioned by law nor by usage ; are so many circumstances which have alarmed the inhabitants of this Province, and which could not remain unpunished without danger to the liberties, the fortunes, and even the lives of the Citizens.

Unwilling to conceal any of the grievous abuses which have come to their knowledge, and by which they have suffered themselves, the Petitioners think it proper here to mention, that at the late Election for the County of *York*, *E. N. L. Dumont* and *John Simpson*. Esquires, both of them Candidates, did, without any kind of necessity or plausibility, cause to be sworn all and every

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every the electors who came forward to vote, a practice which cannot accord with the spirit of the Law, which although permitting it to be done when there may be reasonable doubts respecting the qualification of Electors should revolt from that kind of mockery where a Candidate subjects aged men, grey with years, solemnly to swear that they have reached their Twenty-one years. Such a practice can only be regarded as a pernicious abuse and the profanation of the sanctity of an oath.

The foregoing allegations are submitted to the House with the greater confidence, as they are in unison with the recommendations of the Committee of the august House of Commons of *England*, which after a serious investigation of the grievances set forth in the Petitions of the Inhabitants of the Country, have made a Report, in which they express their conviction that they are well founded, and in which they suggest as a remedy several Legislative or other measures, of which the Petitioners solicit the adoption.

Wherefore the Petitioners pray the House would be pleased to take their present Petition into serious consideration, proceed with rigor against the guilty authors of the evils they complain of, and apply to the grievances and abuses which they have taken the liberty to set forth to the House, such remedy as it shall deem meet,

THE Petition of divers inhabitants of the City of Montreal, presented to the House of Assembly, on Friday the 28th November, 1828.

To the Honourable the Knights, Citizens, and Burgesses of the Province of Lower Canada, in Parliament assembled;

May it please your Honors;

The undersigned inhabitants of the Town and City of Montreal,

Most humbly sheweth;

That under the Administration of His Excellency the Earl of *Dalhousie*, late the Governor in Chief of this Province, various abuses prevailed which the Petitioners conceive it to be both their paramount duty and prominent interest to point out, in order that a prompt and effectual remedy may be provided against them.

That amongst other objects of complaint which in their opinion, deserve the serious attention of the Legislature, must be mentioned the sudden and premature prorogation of the Provincial Parliament on the seventh of March One thousand eight hundred and twenty-seven, at a time when the business of the Session was far from being terminated; and that the Speech which

was

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was addressed by the Governor in Chief to the Representatives of the people on that occasion, was unconstitutional and replete with reproachful language, equally insulting to them and to their Constituents.

That shortly afterwards, His Excellency thought fit to dissolve that Parliament, to the great injury of the internal interests of the Country and the industry of the Inhabitants in general, resorting, both before and after the issuing of Writs for summoning a new Parliament, to various improper means for intimidating the voters and influencing the elections, such as by depriving those individuals who would not lend themselves to the manœuvres of those who were desirous of controlling and counteracting public opinion, of their Commissions in the Militia and in the Magistracy, thereby to procure the elections to be in conformity with the sinister views of the then Administration, and further also by overthrowing and confounding all the battalions of the Militia and embodying new ones. That in order to increase the number of partizans of the Administration, a new Commission of the Peace was issued, from which were excluded the greater part of those who had shewn their independence of principle both by words and actions, and of those who declined to be actively engaged in the promotion of the measures of arbitrary power. In the cities the British and Canadian Militia were mingled together, with the view of giving at a future period no commission as officers except to persons of foreign extraction. Four of the most enlightened, most respectable, and most active Justices of the Peace, were struck out of the Commission for no other cause, that can be imagined, than because they had made use of their authority in a case in which they were the more justified in believing it to have been legally and properly exercised, inasmuch as the question has never yet been brought forward for decision before the tribunals competent to decide it.

That in the present list of Justices of the Peace there are persons who do not possess the qualifications of that property, that intelligence and that respectability of character which are indispensable for the due performance of the important functions which devolve upon them; some are only Clerks, others and even several belong to the Military Departments, and have no permanent interest either in the City or in the Province. There are some among them whose occupations in society place them in a state of inferiority and obsequiousness to their Colleagues, of whom they ought certainly to be always the equals, whilst others are possessed of a species of property and swayed by interests notoriously incompatible with those of the city and its inhabitants.

Under the operation of such a system, the Petitioners have beheld with vexation their municipal affairs badly conducted, the money raised upon them ill levied and worse applied; the distribution of public labors made without judgment or justice; the most necessary improvements neglected, such as the diverting of the waters of the Little River; the putting into better repair Commissioners' Street and its Quays, whether by means of the

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city funds or by aids obtained from the Legislature ; the leaving of the harbour unprovided with Quays and in the worst possible state ; the refusal to accept of a market-place planned and constructed by individuals in the *Saint Lawrence* Suburb, which market is of a great and acknowledged convenience ; and in fine the neglect of the Magistrates to secure to the city the property and enjoyment of the forty acres of land reserved by the seigniors to form a Common.

The total want of all independence in the Magistracy, the endeavours frequently made and not unsuccessfully, as well by the present President of the Quarter Sessions as by his predecessor, to impress upon the public mind the idea that he is in fact the organ of the Administration, and that those opinions and measures which he upholds and recommends cannot be opposed, but at the risk of incurring the displeasure of Government ; the existence of a confidential, private and salaried spy of the Police are not only matters that have naturally and forcibly drawn the attention of the Petitioners to the unlooked for and unexplained dismissal from their seats as presiding Magistrates of the Quarter Sessions, of two gentlemen, who are generally believed to have become the victims of their resistance to an act of injustice, but constitute alarming evils of which the Petitioners cannot too loudly or too bitterly complain.

Under such an Act of Incorporation, whereby the Citizens would have the right of electing their own municipal officers, as the Petitioners as well as the inhabitants of the City of *Quebec* have before prayed for, it is to be hoped that the grievances which peculiarly affect the City of *Montreal* would very soon disappear.

There are, however, also matters of complaint of a more general and much more serious nature, and which will only properly be redressed by following up and putting into full and complete operation the several recommendations contained in the Report of the Committee of the Imperial Parliament upon the affairs of *Canada* dated the Twenty-second of July last.

The Petitioners in particular allude to the alarm which has been excited in this country when the Crown officers entered proceedings against, and caused to be arrested and prosecuted for Libel, certain Citizens and Editors of public papers, for having in their publications replied to and refuted the malicious and false accusations and allegations repeatedly brought forward by writers in the pay of the Administration, against the Representatives of the people, against the Clergy, and against all who retained their attachment to the laws and ancient customs of the country and to the inviolability of its political constitution ; whilst the real authors and original inciters of the evil, not only went unreprieved and unpunished, but on the contrary received numerous favours and accumulated in their own persons various situations of honor and advantage, those who had themselves provoked the publications which were the object of their persecution.

This may be cited as an instance of the partiality with which the Crown Officer

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Officers have done their part in the administration of Criminal Justice in this Province, but the Petitioners have found their apprehensions multiply and their indignation carried to the highest pitch when they perceived that in the prosecutions alluded to, recourse was had to proceedings of an unusual nature, and such as were often contrary to law; that exorbitant bail was required from the parties arrested; that Special Juries not qualified as such to decide the issue were summoned to try them, a contrivance equally novel, iniquitous and deceptive; and that the parties accused were dragged from one district to another, at the peril of their lives, instead of prosecuting them in the place of their residence, all with the view of harrassing them, and deterring them in their endeavour to preserve the liberties and privileges of their fellow-citizens.

The impunity which all those who supported the measures of the Administration of His Excellency the Earl of *Dalhousie*, flattered themselves they should enjoy, for all their violations of the law, was, no doubt the motive which induced the Returning Officer of the West Ward of this City namely, *Henry Griffin*, Esquire, to act in that capacity, at the last election, without having duly qualified himself as such, according to law; which is a subject of remonstrance which the Petitioners could not omit noticing, since such conduct in a public Officer cannot but be one of most dangerous tendency, not only as it regards the rights of the people, but as an example highly improper and immoral.

Wherefore the Petitioners humbly pray the House will be pleased to take the grievances they complain of into their serious consideration, and afford such relief in all those matters they have thus submitted as to the House may seem fit and reasonable; and more especially take such efficient measures as may cause the recommendations contained in the Report of the Committee of the Imperial Parliament on the affairs of *Canada*, to be followed up and put into early and full execution.

Petition of divers Citizens and Proprietors of the District of Three-Rivers, against the Administration of Lord Dalhousie, and praying for a remedy of their Grievances.

To the Honorable the Commons of Lower-Canada in Parliament assembled.

The undersigned Citizens and Proprietors of the District of Three-Rivers have the honor to represent :

That the Petitioners take advantage of the opportunity afforded them by the present Session of the Legislature, to make known to the Provincial Parliament

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Parliament their wants and their wishes, their sentiments upon those subjects in which they are most deeply interested, and the remedies they consider best adapted to restore this country to a state of political health :

That they had flattered themselves the Session of the Legislature in the year one thousand eight hundred and twenty seven, would have provided for the pressing wants of the country, but that the just hopes and earnest wishes of the whole Province arising from the deplorable state of the public affairs of the Colony, were disappointed and rendered vain by the premature and unnecessary prorogation of that Session by Lord Dalhousie :

That as such conduct on the part of the Executive could produce nothing but the greatest mischief to the Province, the Inhabitants with one voice complained thereof; agents were appointed to lay their Petitions at the foot of the Throne and before the Imperial Parliament; they were listened to, considered, and weighed by that august tribunal to which the Province had appealed; the Report of the Committee of the House of Commons is a public record of the opinions of the Members who composed it; in a word, it is favourable to the just claims of the people of this country :

That the length of the period during which the country has been unhappily deprived of the advantages it derives from the Assembly of its Representatives in Parliament, the evil which has resulted from this deprivation, and the danger to which in consequence thereof, not only the security of the people but that of the Government, must of necessity be exposed, have produced throughout the country a lively conviction of the necessity of such prompt and efficacious remedies as the Legislature only can apply.

The Petitioners dare to suggest, that the country can only be tranquillized and its apprehensions dissipated by an immediate and diligent inquiry on the part of the Legislature into the abuse of power, the vexatious proceedings, and the stretch of authority which Lord Dalhousie permitted himself, during his administration of the government of this Province; in order, by such inquiry, to set a mark upon misconduct of this nature, to prevent its recurrence and to obtain redress :

That it appears to the Petitioners, that the House should take into serious consideration the Ordinances of the years 1787 and 1789, which, although repealed by the Legislature, were declared to be still in force by Lord Dalhousie, who in so doing arrogated to himself, without the concurrence of the other branches of the Legislature, the whole Legislative power, for the purpose of favouring, supporting and carrying into execution his schemes of oppression, his attacks upon the liberty of the subject, the happiness of the people, and the constitutional freedom of public discussion with regard to public affairs :

The dismissions from the Militia, to which Lord Dalhousie had recourse for the purpose of intimidating the people and restraining them in the exercise of their rights, and to punish them for making use of that liberty which is the birthright of every British subject; and the Courts Martial which he
caused

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caused to be held to enquire into pretended offences, and the unlawful penalties by which such pretended offences were visited :

That the appropriation of the public monies made by Lord Dalhousie, without the authority of the Legislature, is a serious breach of the Constitution, to which the Petitioners think it their duty particularly to call the attention of the House :

That a reform in the Constitution of the Legislature and Executive Councils appears to the Petitioners to be so much the more desirable that its necessity is pointed out by experience, and its adoption recommended in the Report of the Committee of the House of Commons :

That as the responsibility of the public functionaries is indispensable to the due administration of public business, the Petitioners entreat the House to employ itself in the consideration of such measures as may appear best adapted to ensure such responsibility :

That the circumstances in which the country has for many years been placed, demonstrate the necessity of the appointment of an accredited Agent for the Province, who shall be resident in England :—that the Report of the Committee of the House of Commons recommends the appointment of such Agent, and that the people earnestly desire it :

That as the education of the people is the foundation of public happiness they ought not to look on with indifference when the funds destined for the promotion of general education are employed otherwise than as they ought to be :—The Jesuits' Estates offer an illustration unfortunately too obvious, the Petitioners entreat the House to consider the use made of them :

That the District of Three-Rivers has been treated by the late administration, that is, by Lord Dalhousie, unconstitutionally, illegally, oppressively and vexatiously ; and that the liberty of the subject has been there attacked :

That the dismissals from the Militia to which recourse was had to punish His Majesty's loyal subjects for the exercise of their constitutional rights, were attacks upon the Constitution itself ; that to pass them over in silence would shew but little anxiety on the part of the people of Canada for the preservation of their liberties :

That this attack was the more serious, because it was made by Lord Dalhousie, and his advisers, under color of the authority of two Ordinances, the legal existence of which is, at least questionable :

That among other dismissals from the Militia, there are some by which the liberty guaranteed by the Constitution was more particularly endangered ; the Petitioners allude to the dismissal of François Legendre and Antoine Poulin de Courval, Esquires, formerly Lieutenant Colonels in the Militia, Deputy Chairmen of the Constitutional Committee of the District of Three-Rivers, in whose persons the Constitutional liberty of the subject was outraged in the most pointed manner, when they were accused of "having shewn themselves the active agents of a party hostile to His Majesty's Government,"

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"Government," while in the eyes of Lord Dalhousie himself, these worthy and loyal subjects of His Majesty had been guilty of no other crime than that of attending the Constitutional Meeting held by the people of this Province, for the purpose of drawing up, adopting and conveying to England, the just complaints of the country against the administration of the said Lord Dalhousie :

That the Commission of the Peace was also made an instrument of oppression by Lord Dalhousie, when Messrs. René Kimber (Chairman of the Committee before mentioned,) Jean Emanuel Dumoulin, François Legendre, Etienne Côté, Louis Landry, Pierre Joseph Chevreuil, Jean Baptiste Hébert, Joseph Lozeau and Joseph Turcot, formerly Magistrates for the District of Three-Rivers, all members of the said Committee, and who had taken part in the Constitutional deliberations of the people, were for that sole reason arbitrarily dismissed from the exercise of their functions, and struck out of the Commission of the Peace, and when their places were filled by avowed partisans of Lord Dalhousie's administration, men whose political opinions are directly opposite to those of the great majority of the persons over whom their jurisdiction extends, and whose appointment as Magistrates can tend only to the production of public inconveniences and mischief :

That Lord Dalhousie, for the purpose of forcing the people into submission to his assumed authority and vexatious conduct, directed his attacks against the liberty of the Press, and the freedom of discussion on public affairs with which the very existence of society itself is closely connected :

That advantage was taken by the late administration of the defects in the Laws relative to juries, for the purpose of annihilating the just liberties of the people : that incredible efforts were made for the accomplishment of this object, and that the most serious apprehensions were entertained of the loss of that security from oppression, granted to the people by the Constitution :

That prosecutions for Libels were directed by the Attorney General, James Stuart, Esquire, by the authority of Lord Dalhousie, against the public press, and against several individuals concerned in the publication of the proceedings of the Constitutional Committee organized by the people of this country, for drawing up and conveying to England, their Petitions against the grievances suffered by the Province under the administration of Lord Dalhousie :

That the Petitioners, confining their observations to the District of Three-Rivers, will say, that the security of the subject, and the Constitutional right of petitioning have been attacked in the person of Charles Mondelét, Esquire, an Advocate in the District of Three-Rivers, one of the Secretaries of the Constitutional Committee for that District, and who, together with

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with the inhabitants thereof, stood forward to oppose the oppressive measures adopted by the then administration :

That the said Attorney General, James Stuart, Esquire, not only preferred a Bill of Indictment for Libel, against the said Charles Mondelêt, (and caused the same to be found by the Grand Jury at the Criminal Term held in March last, for the District of Quebec,) for having published the proceedings of the said Constitutional Committee for the District of Three-Rivers, on the twenty-fifth February last, and a letter addressed by him to His Excellency the Earl of Dalhousie, at the time of his dismissal from the Militia, in November last; but also immediately after the expiration of the Criminal Term for the District of Three-Rivers, held in March last, during which Term, and at which place, the said Attorney General might have carried on the prosecution against the said Charles Mondelêt, he oppressively removed the said Charles Mondelêt out of the jurisdiction in which he resided, and caused him to be arrested and carried to Quebec at a time when travelling was both difficult and dangerous, namely, in the month of April last; obliged him to find securities for his good behaviour, in an exorbitant sum, at a time when no verdict had been given against him by a petty jury, by whom alone he could be tried; and thus vexatiously attacked and violated, in the person of the said Charles Mondelêt, the constitutional liberty of the subject :

That the said Charles Mondelêt having appeared at the Criminal Term held at Quebec, in September last, was there detained nine days by the said Attorney General, without being called upon to answer to the indictments founds against him, although the said Attorney General had from the first no intention whatever to proceeding against him :

That on the last day of the said Criminal Term held in September, the said Charles Mondelêt and the other persons against whom Indictments for Libel had been preferred, were called upon to find sureties for their appearance at the Criminal Term to be held in March next, and for their good behaviour in the mean time; that notwithstanding the objections raised against this proceeding by the persons so indicted, the said Attorney General persisted therein, with a view to establish as a principle and rule of practice, that men who in the eye of the law were considered innocent, because they had not been proved guilty, (and who, we must believe, were so considered by the Attorney General himself, since he declined to proceed against them,) might be compelled to find sureties for their good behaviour: a dangerous doctrine and one subversive of all liberty :

That the question of jurisdiction will be argued in March next; but that in the mean time the liberty of the subject is attacked :

That the said Attorney General summoned five citizens, namely, Messrs. René Kimber, Pierre Benjamin Dumoulin, the late Doctor Talbot, Wm. Vondelvelden and Antoine Zephirin Leblanc, and compelled them to attend at Quebec in March last, as witnesses against the said Charles Mondelêt, unnecessarily

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necessarily and for the purpose of harrasing them, detaining them there several days, taking them away from their business, and exposing them to the dangers of a winter journey :

That the Petitioners respectfully beg leave to call the immediate attention of the House, to this arbitrary conduct and direct attack upon the liberty of the subject on the part of the Attorney General :

That the Petitioners believe the welfare and advancement of the Province would be promoted by the granting of the Crown Lands to such persons as maybe willing to settle thereon, and entreat that this important subject may be taken into consideration by the House :

That the Petitioners will conclude by daring to call the attention of the House to the Report of the Committee of the English House of Commons, and by praying that such measures may be adopted for remedying the abuses which have existed, for punishing the authors of those abuses and for protecting the people in the exercise of their Constitutional privileges, which the House in its wisdom may deem expedient.

To the Honorable the House of Assembly of Lower-Canada,
in Parliament, assembled :

The humble pctition of the undersigned, citizens of the District of Three-Rivers, representeth :

That one of the first acts of the administration of Lord Dalhousie, aimed at the liberty of the Press, that by which he established a new Quebec Gazette, and compelled the Sheriffs of the Districts of Quebec, Montreal, and Three-Rivers, to insert their Advertizements therein, bears at once the character of an invasion of private property, and a forced interpretation of the Law, contrary to its spirit, and forms a fit subject for the attention of Parliament, for the maintenance of that respect which is due to the manifest intention of the Legislator.

That in a country wherein it is in the power of the Head of the Executive Government to cause an individual to be prosecuted by an Attorney General, removeable from office at pleasure, and to have the matter adjudged upon by Judges likewise removeable at pleasure, there can be no security for citizens in the exercise of their political rights, nor consequently any constitutional liberty, and it is fitting that the Provincial Parliament should address to the Imperial Government, representations in order that the Judges be rendered alike independent of the Crown and of the People, and that their salaries ought to be declared permaneat upon that condition alone.

That

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That therefore, the Petitioners humbly pray, that their Petition be taken into consideration, and such measures adopted thereupon, as in the wisdom of the House shall be deemed meet, and the best adapted to ensure the security of the people and the good government of the country.

18th December 1828.

The Honorable the Knights, Citizens and Burgesses representing the Commons of Lower Canada, in Parliament assembled.

The Petition of Paul Brazeau, Joseph Brazeau, Junr. and Maurice Le-maire, all three of the Parish of St. Benoit, in the County of York ;

Respectfully sheweth :

That after the expiration of the Militia Act of the first of May one thousand eight hundred and twenty-seven, obsolete Ordinances of the Legislative Council, repealed by the Legislature, were put into force, under the influence of the then Administration, throughout the whole of the Province, and the County of York in particular, to intimidate the Electors on the eve of the Election, and to punish them for the independence they had shewn on that occasion : That several respectable individuals were deprived, for the same reason, of their Commissions in the Militia, and exposed to the outrages and persecutions of the Officers appointed in their stead, who shewed themselves the passive agents of the spirit of political revenge which animated Eustache Niclas Lambert Dumont, Lieutenant Colonel Commanding the Battalion in which they had been promoted : That the Petitioners were among the victims of those outrages and of those persecutions.

That during the year one thousand eight hundred and twenty-seven, the said Eustache Nicolas Lambert Dumont, Esquire, did not fulfil nor did he caused to be fulfilled by the Militiamen, any of the duties required by the said Ordinances ; sanctioning thereby, and also by his conduct in other respects, the prevailing opinion of their illegality, for which he received from the Administration none of the reprimands which were continually incurred for the smallest supposed infraction of the same, but on the contrary, had all the powers of appointing to Com-missions

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missions, men who had shewn themselves his supporters during the Election which then took place, however deficient they were both as to qualification and respectability, while he struck from the List all those who had voted against himself and the other favoured Candidate, his transmitting Reports against them, both injurious and false, which could only tend to incense and prejudice the Governor against the Inhabitants of the country.

That afterwards, with the intent to restrain the people in their constitutional proceedings in petitioning to the King and Parliament, the said Eustache Nicolas Lambert Dumont become suddenly the zealous defender of the above-mentioned Ordinances, put them into execution with the utmost rigour, and made use of the influence he had gained by lavishing Militia Commissions to the injury of those who were opposed to a faction hostile to the interests of the Government and of the Country: That he insulted several respectable citizens, and the inhabitants of that part of the country generally, by epithets most offensive to their loyalty, threatening them with vengeance and calling them Rebels; and that the paper writings composed and signed by him, containing these threats and insults, were by his order rendered public in different ways, and read and posted on the Church doors in the different Parishes of the County.

That the said Eustache Nicolas Lambert Dumont, in his writings, encroached upon the King's Prerogative, by using His name, to command or prohibit, blame and praise, reprimand or recompense, opinions, actions and individuals in a manner not warranted or justified by the said Ordinances; pretending also in the King's name to divest himself of an indeterminate portion of his authority as Commander of the said Battalion in favor of several Officers, over and above what their Commissions gave them; and in wishing to delegate to them certain prerogatives and certain powers of control over the Officers and the Militiamen of a certain Subdivision of the County, which power he could not lawfully delegate; the said Eustache Nicolas Lambert Dumont, by such paper writings, having gone as far as decorating some of his supporters with the title of Commanding Officer, and requiring obedience and respect to them in such quality from Officers of the same rank, and Militiamen in the said Subdivision.

That the said Eustache Nicolas Lambert Dumont himself, and several Officers by him newly promoted, acting under his orders, have harassed the ancient Officers, and done all in their power to degrade them, by insolently requiring them to perform the duties of Militiamen in the ranks that they had previously commanded, and in dragging them for pretended disobedience before Courts Martial organized and presided at by the said Eustache Nicolas Lambert Dumont.

That in the said vexatious spirit, and with the same political intention, the same individuals have dragged before them, and pretended to render amenable to them certain persons exempt from Militia service by the text of
the

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the Ordinances, among whom were Justices of the Peace, Physicians and Notaries, with the intention to torment them and put them to great costs, because at the said Election they did not choose to intrust the said Eustache Nicolas Lambert Dumont with a mission over which the Law and the Constitution gave them a jurisdiction both independent and incontestible: That in one of those Courts martial, held at Saint-Eustache, on the third of July last, the said Officers, condemned to a fine of five pounds each and to the payment of illegal costs, by virtue of Laws repealed, and in direct contradiction to the Constitution and the Statute of the Province, certain individuals, among whom were the Petitioners, that is to say, Jean Baptiste Dumouchelle, ex-captain; Vital Dumouchelle, Michel Lalande and the Petitioners: That besides considerations of public and private justice which were outraged by the said sentences, Joseph Brazeau, Junior, one of the Petitioners, ought to have been much less exposed to such injustice, as he had fulfilled the pretended duties he had been accused of neglecting, and had even offered to prove the same, but was not allowed by the said Court Martial, who condemned him on the accusation of the aforesaid Commanding Officer.

That the Petitioners, lest they should appear to connive at or acquiesce in the abuse of power, so reduced in system, refused to pay the above-mentioned fine, and were dragged from their families and occupations, and detained one whole month in the common Gaol of the District, all which put them to considerable expense, damage and privation.

The Petitioners also take the liberty of humbly representing to the House, that since the proceedings herein above-mentioned, the aforesaid Officers so recently promoted, and more particularly Edouard Viau, Antoine Danis, Jean Baptiste Richer and François Desvoyaux, Captains of Militia of the above-mentioned Parish of Saint-Benoit, acting under the influence and by the direction of the said Eustache Nicolas Lambert Dumont, Esquire, and to revenge themselves for the public contempt their want of qualification and capacity to fulfil their situations had drawn upon them, prosecuted vindictively, in His Majesty's Criminal Courts, for pretended misdemeanors, several individuals, among whom were the Petitioners; and that the alleged acts, even if they had been committed, could not have been called misdemeanors, and could only be considered as the expression of the ridicule with which the above-mentioned Officers had covered themselves, and of the indignation they had drawn upon themselves, by their conduct, as evidence of the contempt which they had drawn upon themselves and as the effect of the re-action of public opinion.

That the said Officers were encouraged and supported with political and oppressive intention by James Stuart, Esqr., Attorney General, to prosecute the said accusations with animosity, in which said accusations the said James Stuart proceeded in a manner both uncommon and illegal, and with an activity which the nature of the supposed offences did by no means require;

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quire ; shewing thereby that the prosecution was less the act of a few individuals than that of the passions, schemes and oppressive acts of the faction which then predominated in the Council of the Administration.

That the said Captains of Militia, protected by the said Eustache Nicolas Lambert Dumont and James Stuart, Esquires, and the other agents of the above-mentioned faction, have continued to harass the quiet subjects of His Majesty, with respect to the aforesaid pretended misdemeanors, using all their endeavours by threatening of further prosecutions, and promising promotions in the Militia through the influence of Eustache Nicolas Lambert Dumont, to provide themselves with witnesses against the Petitioners, and the other accused persons, for the decision of the said prosecutions, which yet remain pending.

That in the opinion of the majority of His Majesty's subjects in this part of the Province, the further encouragement shown to the said prosecutions and to the spirit of political revenge would be extremely unfavorable to the interests of the Government, and to the union and cordiality with which the loyal Inhabitants of the County of York have always supported those interests from the general opinion entertained that these prosecutions were instituted and encouraged with the intent above-mentioned.

The Petitioners think it also their duty to accuse the said James Stuart, before the House, of malversation and political revenge in the conduct of one of the said prosecutions against Joseph Brazeau, one of the Petitioners, in not having, for an offence of such trifling importance, been satisfied with the rejection of two Bills of Indictment by the Grand Jury, which rejections ought to have cleared the said Petitioner, but continually bringing him back before a Jury, till he found men whose opinions, passions and prejudices engaged them to sanction the same.

That in the Term of the Court of King's Bench, held in September last, after the Bill of Indictment presented to the Grand Jury, then sitting, had been thrown out, the said James Stuart laid the same identical Indictment before the same Jury, which found a True Bill : And the Petitioners have strong reasons to believe that this Bill was the same written document which had already been thrown out, and on the intersement of which the said James Stuart had blotted out, or permitted to be blotted out, the declaration which proved this rejection, whilst it ought to have remained of record in the records of the said Court for the protection of the Petitioner.

That those different malversations, and the intention with which they were committed, are of an extremely dangerous nature, and capable of destroying the confidence of the subject in the protection of the Government and of the Laws, and in the administration of Public Justice.

Wherefore the Petitioners pray, that it may please the House to take their Petition into consideration, and proceed in every legal manner against the said Eustache Nicolas Lambert Dumont, Esquire, and against the said James Stuart

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Stuart Esquire, to sanction their dismissal, or punishment if they deserved the same, to act together with the Executive Authority for the discontinuance of all prosecutions begun and supported with political intentions, and apply such remedy as the wisdom of the House may deem meet.

St. Benoit, January 7th 1829.

Resolutions proposed by Mr. Viger, and adopted by the House, founded on the Report of the Committee on Grievances; and, in conformity to which an Address has been presented to His Excellency, whose answer follows the said Resolutions:

1. *Resolved*, That in the year one thousand eight hundred and twenty-two, the Earl of Dalhousie, being then Governor in Chief, failed to communicate to the two Houses of the Legislature of Lower-Canada, the Addresses from those of Upper-Canada relating to the difficulties which had arisen between the two Provinces with respect to the duties levied at the Port of Quebec, and to the proceedings adopted in Upper-Canada relative thereto, which made a pretext for the scheme of a Union of the Legislature of the two Provinces, and finally caused the passing of the Act for regulating the commerce of the two Canadas.

2. *Resolved*, That by the conduct of the Earl of Dalhousie, on this occasion, His Majesty's Government was left without information as to the relative situation of the two Provinces of Lower and Upper-Canada; that the inhabitants of Lower-Canada were thereby deprived of all means of supporting or defending their interests, and that at the moment when they had a right to rely on the Governor's care, and upon his vigilance in watching over the interests of the people committed to his charge, and who must have relied upon his honour.

3. *Resolved*, That it appears, likewise, that the Earl of Dalhousie, being so Governor, permitted this Province to remain ignorant of all that was passing, and of schemes with which he could not himself be unacquainted, concerning the introduction and passing of the Act of the Imperial Parliament of the Sixth Year of His Majesty's Reign, chapter fifty-nine, relating to tenures, the provisions of which have so seriously and so deeply affected the feelings and interests of the inhabitants of this Province.

4. *Resolved*, That the Earl of Dalhousie, being so Governor, established in one thousand eight hundred and twenty-three, a new Quebec Gazette, although another of the same name, which had been established nearly sixty years, was in existence; and took upon himself to

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command the officers of Government, and in particular, the Sheriffs, to insert into this New Gazette, such notices as by the existing Laws were required to be inserted in the Quebec Gazette, the only paper under that name established at the time the said Laws were made, and that by establishing this new Gazette, and by his orders with respect to this matter, he deprived the Proprietors of the Old Gazette of the profits and emoluments which belonged to them as such proprietors.

5. *Resolved*, That the provisions of the said Act of the Imperial Parliament, passed in the Sixth Year of His Majesty's Reign, chapter fifty-nine, relating to the New Quebec Gazette, could have only been suggested to His Majesty's Government, and to Parliament, by persons connected with the Administration of the Governor the Earl of Dalhousie, without making them acquainted with the true state of things, the consideration of which would have been sufficient to prevent them from adopting these provisions.

6. *Resolved*, That on the fourteenth of March one thousand eight hundred and twenty-six, and during the Session of the Provincial Parliament, the Governor the Earl of Dalhousie, communicated to the Assembly of this Province, by message, a Despatch from His Majesty's Ministers of the fourth of June one thousand eight hundred and twenty-five, censuring Sir Francis Burton, Lieutenant Governor of this Province, for having given his sanction to the Bill of Supply, passed in this Province during the same year, and that he made this communication to the Assembly at a period when a more recent Despatch dated the thirteenth of September of the same year, which acquitted Sir Francis of all blame in this matter, had been delivered to his Secretary, in the office, and in the presence of the said Governor the Earl of Dalhousie, in the month of January preceding.

7. *Resolved*, That the Assembly having, in consequence of a Resolution of the fourteenth of March one thousand eight hundred and twenty-six, presented an Address to the Governor, the Earl of Dalhousie, praying him to cause to be laid before it, copies of such Despatches as he might have received since His Excellency's return, on the subject of that part of the administration of Sir Francis Burton relating to the said Act of Supply, received for answer on the sixteenth of March, that His Excellency had not received any Despatch subsequent to the date of that which he had communicated by Message, in reference to the said Act of Supply.

8. *Resolved*, That the Governor the Earl of Dalhousie, afterwards, on the thirty-first day of January, during the Session of the Provincial Parliament in one thousand eight hundred and twenty-seven, informed the Assembly that he had received a Despatch of later date than that of the fourth of June, one thousand eight hundred and twenty-five (but received after the departure of Sir Francis Burton) having reference to a previous Despatch; and in making this communication to the House, laid before it only a part of the contents, and above all, did not

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not communicate to the Assembly the latter part of the said Despatch, in which Sir Francis Burton was more particularly acquitted of all blame, and the Ministers expression of regret confined to the single point of his having carried into effect an arrangement of so delicate and important a nature, without previous direct communication to His Majesty's Government.

9. *Resolved*, That the Assembly having, in consequence of a Resolution of the third of February one thousand eight hundred and twenty-seven, again addressed the Governor the Earl of Dalhousie, praying him to order to be laid before the House, a Copy of the Despatch addressed to Sir Francis Burton, referring to that of the fourth of June one thousand eight hundred and twenty-five, mentioned in his message of the thirty-first of January preceding, the said Governor declined to do so, having (to use the terms of his answer) *communicated the substance of it*, adding, that he "*must decline to lay before the public, the correspondence of His Majesty's Ministers with the Executive Government of the Province.*"

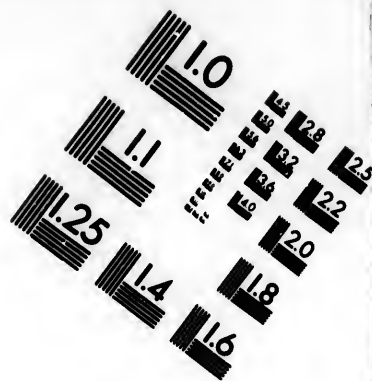
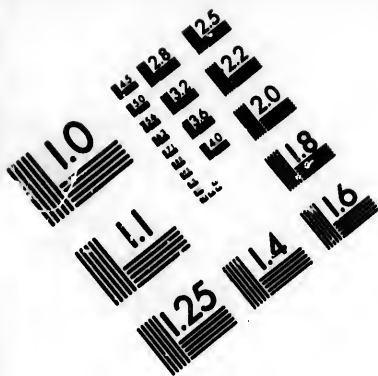
10. *Resolved*, That the Governor the Earl of Dalhousie, concealed from the knowledge of the Assembly and of the people, a document, by which Sir Francis Burton was justified at a time when this document must have been in his possession, and of the existence of which he could not be ignorant, that he afterwards communicated a part only thereof, and refused to communicate that part which was of the most importance to the justification of Sir Francis; and that in suppressing, or declining to communicate this; as well as several other important documents, the knowledge of which was necessary to place the Assembly in a condition to proceed to the despatch of public business, he failed equally in the duty he owed to His Majesty, to Sir Francis Burton, and to the country with the administration of which he was entrusted.

11. *Resolved*, That the Governor the Earl of Dalhousie, availing himself of certain old Ordinances of the Legislative Council, made use of his authority as Commander of the Militia, to influence elections, and to intimidate the Electors, or to punish them for having exercised their rights at the said Elections, by voting against persons who were partizans of his administration; or for the purpose of preventing them from taking part, or of punishing them for having taken part in the Petitions to the King and to the two Houses of the Imperial Parliament, against the administration of the said Governor the Earl of Dalhousie.

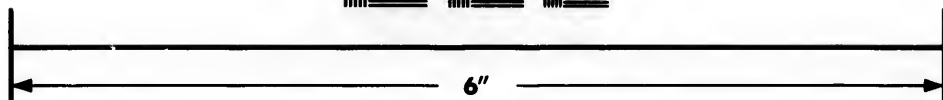
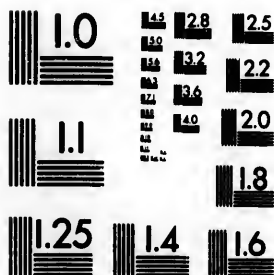
12. *Resolved*, That the Governor the Earl of Dalhousie dismissed (without having recourse to the proceedings of Courts Martial) a great number of Militia Officers with this intention, and filled up the vacancies thus created with officers who were the partizans of his administration, or of those Candidates who had shewn themselves violent partizans of that administration.

13. *Resolved*, That the Governor the Earl of Dalhousie, went still further, by interfering actively in the Election for the Borough of William Henry





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Henry, in favour of one of the Candidates, the Attorney General, for whom he warmly interested himself, employing for this purpose his own *Aides-de-Camp*; having recourse even to threats towards the Reverend Mr. Kelly, the Rector (*Curé*) of the place, with the same views, while the Candidate himself made use of similar means to endeavour to secure his own election.

14. *Resolved*, That the Governor, the Earl of Dalhousie, by these unlawful proceedings, violated the clearest rights of the inhabitants of this country; and in particular, the right of petitioning, and the Elective Franchise of the people of this Province.

15. *Resolved*, That the Governor, the Earl of Dalhousie, dismissed from office a great number of Justices of the Peace, although justly in possession of the confidence of the public, because they did not submit themselves to his pleasure in matters which came under their consideration, and were within their jurisdiction as Magistrates; or because their opinion on public affairs did not coincide with his own, or on account of their disapprobation of the conduct of the said Governor with regard to this subject.

16. *Resolved*, That Samuel Gale, Esquire, Chairman of the Quarter Sessions at Montreal, appointed in the room of Messieurs McCord and Mondelêt, who were dismissed from, and deprived of the salary attached to their office, exercised a decided ascendancy over his fellow Justices of the Peace at Montreal, making use of the name and authority of the Governor (the Earl of Dalhousie) for the purpose of intimidating those Magistrates and bending their opinions to his will, and consequently to that of the Executive, by employing threats of punishment and exciting fears which the subsequent dismissals proved to have been but too well founded.

17. *Resolved*, That the exercise of an influence and of an ascendancy of this nature over Magistrates must be equally destructive of the interest of His Majesty's Government, and those of His faithful subjects in this Province, by destroying the confidence of the Public, in the Magistrates and in the Administration of justice.

18. *Resolved*, That the number of Justices of the Peace born in the Country, included in the late Commissions issued in March last under the Administration of the Earl of Dalhousie is not, in the District of Montreal at all proportionate to the Canadian population, and that the choice which was made of a great number of persons coming from other places to establish themselves here, to the exclusion of persons born in the Country, must have given birth, and in fact has given birth to feelings of a most painful nature to the Inhabitants of the Country.

19. *Resolved*, That the manner of selecting Jurors in the Districts of Quebec, Montreal, and Three-Rivers, is not in accordance with the principles of impartiality essential to a wise Administration of justice; and is, in Criminal matters, in opposition to those principles and to those express rules which direct that Jurors shall be chosen from the body of those Citizens within the extent of the Sheriffs' Jurisdiction, who are called by the Law to the exercise of those functions.

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20. *Resolved*, That in the great Districts of this Province, the Grand Jurors are summoned in the greatest number, and frequently altogether, from the Cities; that the Petty Jurors are summoned exclusively or almost exclusively from the Cities; that more than one half of the Jurors are constantly Citizens born out of the Country, while the number of these is to that of His Majesty's Canadian subjects only in the proportion of one to eight.

21. *Resolved*, That the Governor the Earl of Dalhousie, made use of the the Royal Prerogative, for the purpose of causing justice to be administered by special Courts of Oyer and Terminer unnecessarily, or wherein many Indictments for *misdemeanors* were preferred in the place of Indictments for crimes and for delivering the Gaols. That the prosecutions of a political nature instituted in these Courts and some others instituted in the Courts of King's Bench, were directed exclusively against persons who had been opposed to the Administration of the said Governor, (the Earl of Dalhousie) or who had voted at the late Elections in opposition to the views, either of the Candidates or of the party which he favored, although, if prosecutions of this nature could be considered necessary, a feeling of justice would have imperiously required that the same proceedings should be adopted against those of the opposite party, who had notoriously afforded matter for much more serious complaint.

22. *Resolved*, That many of these indictments for misdemeanors originating in political motives were found by Grand Juries at those special Courts of Oyer and Terminer, after they had been preferred to the Grand Jury at the Court of King's Bench during the ordinary term of the said Court, and by them thrown out.

23. *Resolved*, That recourse was frequently had to the same practice of preferring Indictments for mere misdemeanors, which had been already thrown out by Grand Juries, and that this was particularly the case with respect to Paul Brazeau, and others, against whom an Indictment was preferred for facts laid to their charge upon which two Indictments had already been laid before two Grand Juries and by them thrown out.

24. *Resolved*, That these political prosecutions were conducted with much irregularity, and that among other things an attempt was made to try the persons indicted by a Jury summoned altogether from the City of Montreal, and taken from lists composed exclusively of the names of inhabitants of that City, by virtue of an Ordinance peculiar to this Province, and relating to Courts and causes of a nature purely civil.

25. *Resolved*, That during the Term of the Court of King's Bench, held at Montreal, in September One thousand eight hundred and twenty-seven, for the cognizance of criminal matters, the Attorney General had recourse to the proceeding by *information* against the persons indicted for these misdemeanors, after Indictments for the misdemeanors imputed to these, had been preferred to the Grand Jury of the said Court and by them thrown out.

26. *Resolved*, That the person who was appointed and acted as Returning Officer at the late Election for the West Ward of this City of Montreal, took

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steps during the course of the said Election, for calling in an armed and military force, without any pretext to warrant such steps, and by so doing made an attempt, the nature of which was to violate the rights of the Citizens, and to destroy their constitutional privileges in the City of Montreal.

27. *Resolved*, That this manner of conducting prosecutions in Courts of Criminal Jurisdiction, and other irregularities were calculated to give birth to, and to nourish well founded apprehension, to call for warm remonstrances, and to create alarm in the minds of His Majesty's faithful subjects in this Province, upon every subject connected with the security of their property, of their liberty, of their lives and honor, and of all their rights as Citizens, and are of a nature to destroy all confidence in the ministry of the Law officers of the Crown (*Ministère Public.*)

28. *Resolved*, That among the Justices of the Peace in the City of Montreal, there are many who are possessed of no real property ; who pay no assessment in the City, the income of which (raised from the said assessment) they administer, and who hold situations and have interests incompatible with their duties, or with the dignity of their office.

29. *Resolved*, That the composition of this Magistracy, and the abuses which it must necessarily have produced, have had the effect of ruining, and are of a nature to cause the loss of all public confidence in the Justices of the Peace, in the City of *Montreal* ; and these considerations apply with equal force to the manner in which the Magistracy of the whole District is composed by virtue of the late commission of the Peace, issued in March last, One thousand eight hundred and twenty-eight.

Address.

To His Excellency SIR JAMES KEMPT, Knight Grand Cross of the Most Honorable Military Order of the Bath, Lieutenant-General and Commander in Chief of all His Majesty's Forces in the Provinces of Lower-Canada and Upper-Canada, Nova-Scotia and New-Brunswick and their several Dependencies, and in the Islands of Newfoundland ; and Administrator of the Government of the Province of Lower-Canada, &c. &c. &c.

May it please Your Excellency ;

We, His Majesty's most dutiful and loyal subjects, the Commons of Lower-Canada, ever actuated by the desire of seconding His Majesty's gracious intentions for the happiness and prosperity of His faithful Canadian subjects, have, during the course of the present Session of the
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Provincial Parliament, taken into consideration the subjects of complaint and the grievances set forth in different Petitions addressed to the Assembly from various parts of this Province ; and have adopted on this subject certain Resolutions as the expression of our sentiments, and those of the people we represent, on the important matters to which these Petitions relate.

We pray Your Excellency to be pleased to take the whole into your serious consideration, indulging the confident hope, that the means offered to His Majesty by the Royal Prerogative, and those placed in the hands of Your Excellency, for the protection of His Majesty's most faithful subjects in this Province, by the power and authority with which you are invested, will be employed in remedying the abuses and removing the subjects of complaint on which the said Resolutions are founded.

Answer to the Address.

Mr. Speaker, and
Gentlemen of the House of Assembly ;

It being my earnest desire to exercise the power and authority which Our Gracious Sovereign has placed in my hands for the protection of His Majesty's faithful subjects in this Province, and the promotion of their welfare, you may rely on my using my best endeavours to afford relief in every case of real grievance that is brought to my knowledge, and to remedy such evils as may exist in any department of the Government committed to my charge.

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