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THE FREE PRESS.

VOL. I.] MONTREAL, THURSDAY, 12th DEC. 1822. [NO. 10.]

*Ut in orbe tereti nomina eorum inscriberet
Ne primus esset, ne velimus quisquam.*

AUSONIUS.

In a round robin if you write each name,
No rank can one rogue have another claim.

In looking over my last number, I perceive that I have not expressed myself with sufficient clearness, in page 70, in speaking of the division of British North America, into moderately extended provinces. I meant that not only each such province ought to have its distinct legislative assembly, but likewise its distinct council and executive, (the latter, in all cases, to be appointed by the crown;) with that addition, I think that there are but few deep thinkers, or disinterested men, that is, men who interest themselves more for the whole, than for a part, who will not allow that such a general system, representative in its details, federal in its union, and monarchical in its ultimate subordination to the imperial crown of Britain, would be unobjectionable, if practicable. If this were once conceded, the next object would be to remove the obstacles and difficulties that may present themselves to its being put into execution, for obstacles and difficulties, unless proved to be insurmountable, are not decisive objections to any plan; and although this is certainly a speculative disquisition, I have the strongest impression of its importance, and indeed of the necessity that will one day arise for its discussion. I beg, therefore, to solicit the opinions and remarks on the subject that may arise amongst those who are desirous of contributing to the extension of political science in these provinces.

I find also, that a note, intended to have been appended to that part of the essay, (page 72) in which I enquired whether these colonies were far enough advanced towards maturity, to become independent, was omitted, for want of room. In further illustration of the subject, I insert it here.

This is, I am most thoroughly convinced, the natural progression that will arise, either by policy or violence, in the relations between Great Britain and all her dependencies. The anticipation of events of this nature, by gratuitous concession,

on the part of the mother country, I had the honour, warmly to recommend, and I believe, forcibly by argument to support, in a treatise which, in 1809, at the request of the committee of correspondence of the East India Company in London, I drew up on the subject of the best method of administering the government, and regulating the political relations of the British possessions in the East-Indies. For this treatise, the Court of directors voted me the sum of fifty guineas, in token of their approbation, which were presented to me, with the thanks of the company, by William Astell, Esquire, the then chairman.— That project, however, died away, and lies huddled in the archives of Leadenhall-Street. That, however, at some future period, not only the Canadas, but also, the British possessions in Hindostan, Southern Africa, and (tho' at a period that can be very dimly seen thro' the mist of successive ages) New-Holland, will become sovereign and independent states, does not require a very deep insight into futurity, judging from the past, to predict. Whether that sovereignty and independence be gained by force, or granted by concession, will depend on the councils by which the empire may be governed; but of this I am sure, that if independence be granted to each dependency, as it rises to maturity, upon the footing of being inalienably allied to, and indissolubly connected with, the original empire, no colossus of ancient, of modern, or of future history, can, or will, ever bear any comparison with the gigantic, the noble, and the happy structure, at the head of which Britannia would then be seated as the arbitress, protectress, and benefactress of the world; the preponderating and dominant state, either in her own person, or in that of her immediate progeny, in all the five grand divisions of the globe. L. L. M.

Quebec, 16th Nov.

Mr. MACCULLOH,

I have, with many apologies to you and the public, to rectify part of the information which I lately gave you, with regard to Mr. James Stuart, which I am bound to do, both in justice to the Free Press, and to that gentleman. It is certain he was at the opening of the assembly in its last session, and after having procured the 19th of March to be fixed for the discussion of the question relative to the judges, he returned to Montreal, but did not fail to be in his place in the house, on the 19th of March. Unhappily for Canada, he did not succeed in his object, not receiving that support, which he both expected, and ought to have had, and which without doubt, those members of the assembly who, from delicacy or weakness, declined going all lengths against the judges, now heartily regret. This error, with regard to Mr. Stuart, I was before led into, by

what I was told by a member of that assembly, whose recollection must have failed him, or perhaps he was one of those members, of whom we have too many, who neglect their duty to their constituents, by not attending the sittings at all,* or very seldom, and know little of the proceedings but what they glean from the meagre reports, that have hitherto been published in the newspapers † The rest of what I wrote you, is the truth, with the exception, that no bill, I find, was laid before the Grand Jury, against Mr. Gerrard, the prosecution not having been persevered in by Mr. Stuart, no doubt for reasons which he is better acquainted with, than we are. But although,

Latere semper patere, quod latent diu; ‡

“deeds that have long been hidden, often seem to the perpetrators as if they were for ever concealed,”

delay is not always defeat. The representatives of the credit-

* *Citizens of Montreal! I trust that, at your next election, you will recollect that one of your present representatives, Thomas Thain, Esquire, has never once, as yet, attended his duty in the assembly. It is, however, probable that at the ensuing session, as the Scotch faction will require all their forces mustered, and as that gentleman is the nephew of their chief, the Hon. John Richardson, he may make his appearance there. I am rather amused to think how Mr. Thain will extricate himself from the horns of this dilemma, on which I have stuck him — If he goes to the assembly, it will be said that he has done so, because I have reprimanded him for the neglect of his duty; an admission he would be very sorry to make; and if he does not, he will both betray his own party, and confirm the public in the conviction they must feel of his being a very improper person to represent them.*

L. L. M.

† *It is very much to be wished that sufficient encouragement may now be given to the proposition made public some time ago, for publishing regular reports of the debates of the provincial legislature. I am afraid, however, that Mr. W. S. Simpson, of Quebec, who made that proposal, and who, I can bear witness, from experience, is a very accurate reporter, is not in a situation to follow it up. The principal objection is that there would be no sale for such reports, if published by themselves, inasmuch as the newspapers would, of course, copy them; but I think it might be made worth the while of a regular reporter, for all the Canada papers, to combine to pay him a certain sum each, per annum, for his simultaneous transmission to them, of his reports: I would for one, willingly contribute my quota, as editor of the Free Press.*

L. L. M.

‡ *SENECA, (Edip. Trag.*

ers of Forbes are not all extinct, nor are the documents relative to that affair lost; but may be forthcoming whenever required. I will only add, in further illustration of that business, that it was, I believe, at the moment of Mr. Gerrard's embarkation for England, that he was arrested, upon the prosecution instituted against him, but afterwards dropped, by Mr. Stuart, for perjury; that he was held to bail in the sum of £1000 to appear at a certain time; that he did not so appear, and was too good a judge to return to the country till afterwards, when the matter was blown over, and, as appears to be the case now, entirely hushed up. I would ask what became of the bail-bond, and why has not the forfeiture been sued for?

CONSISTENCY.

In reply to the last query, I beg to state that, if the bail bond in question, bound the party over to appear at any specified court or term, to answer to the complaints alleged against him; and those complaints were not prosecuted at that particular court or term, then the bond would become void, and would, upon motion, at any subsequent time in that court, be cancelled, or at least ought to be, although I know that in these matters, the Judges in Canada, exercise a species of caprice, that is irreconcilable, both with law and justice. But if, as is sometimes, and most erroneously, and improperly, the case in Canada, the tenor of such bail-bond be, that the party shall be bound to appear at such court, or any other subsequent court, that may be held for the trial of such offences, the bond would remain in force, until it was cancelled, by cause being shewn to that effect. It is, however, a very immaterial matter in Canada, as far as regards the pecuniary liability of the parties, whether bail-bonds in criminal cases, are cancelled or not. For as the law now stands, there never was, nor ever will be, any bail-bond of that kind put in suit; since there exists no court in Canada, that can take cognizance of them, it being necessary that defaulters to such bonds, should be prosecuted in the King's court of Exchequer, at Westminster, and no where else; consequently the parties could not be attacked unless they were personally in England, nor the recovery effected without carrying all the documents, and all the witnesses, namely the constables, sheriffs, lawyers, and judges themselves, all to London. Hence, bail in criminal cases, is, in Canada, nothing but a farce, and until the law is amended in that respect, both judges and magistrates in requiring any bail, are merely acting a part to blind the vulgar. In offences that are bailable *de jure*, they dare not, both by magna charta and by the habeas corpus act, require excessive bail, and as the matter now stands, except for form's sake, they might just as well be content with

the personal recognizance of the party accused, or take any one that offers, for they know very well, while they are taking bail, that it is a non-entity, inasmuch as the recovery, in case of default, is impracticable. This is one of the secrets of justice in Canada, that are not known to many, and its divulgence may be considered as impolitic, since the difficulty of procuring bail by offenders, in consequence of the fears entertained by their friends, of eventually suffering in their purses, may be thereby much lessened; and in fact, many minor offenders may escape receiving any punishment, if they know that, after giving bail, they may abscond without the fear of their bail suffering. Nevertheless, as it is a great imperfection in the law, the more public it is made, the sooner will it require to be remedied. If I am wrong in this statement, I trust I shall be publicly contradicted, by some gentleman of the bar, and authorities shewn against me: and I will willingly publish any thing that may be sent me on the subject.

L. L. M.

Montreal, 6th Dec.

MR. MACCULLOH,

In the sixth number of the Free Press, I find your correspondent under the signature of CONSISTENCY, has told the public some plain truths, and a celebrated writer observes, that it is proper "that public men and public measures, should be watched with a scrutinizing eye, and their conduct laid fully and impartially before the people." Let us enter into it with candour and decency. Consistency reproaches Mr. Stuart for his conduct, in joining the party of the Hon. John Richardson, and he may certainly do it, without any person considering it reprehensible in *Consistency*, to reprobate a behaviour which is the very essence of *Inconsistency*. "Wonders never cease" is a proverbial expression, which may here be applied with the greatest propriety. What are we to think of Mr. Stuart's *independency* and consistency, now that he has fallen into the ranks as one of Mr. Richardson's recruits? while it is well known, and probably also, particularly to you, Mr. Editor, that a very few years ago, when a certain noble earl was amongst us, no two persons could bear more rancour towards each other, or express it more frequently, than Mr. R. and Mr. S. But, I am told, for I am not a very old inhabitant of the colony, that it was a pique of long standing, malice of many years brooding, that Mr. R. has often declared, he would give any sum to get Mr. S. shut up within the four corners of a

prison.* You, yourself know, Mr. Macculloch, with what virulence and alacrity Mr. S. took up, and persevered in, the accusations which were brought by Lord Selkirk, against the North-West-Company. and that the Hon. John Richardson, was always considered to be the chief protector, patron, and advocate with government, of that concern, and only not included in the numerous bills of indictment, that were brought and found against the active partners in that company, for murder, arson, robbery, riot and conspiracy, because he remained always behind the curtain, and nothing could be brought home to him, whilst the M'Gillivrays, the M'Leells, the M'Kenzie, the M'Leods, and ever so many more Macs, are still under bail to take their trials for those offences.† And now who is a more frequent visitor at the tables of the party, than Mr. Stuart? He can now partake of their fare, drink their wine, and converse upon past events with the utmost *sang-froid*, after he has accused them of every crime at which human nature shudders.

But what is more astonishing, is, that Mr. Stuart should now be hand and glove, with Mr. Gerard, a man whom he has publicly accused of the "foulest deed," & that he should propose him as one of the union committee; surely his frame must have trembled when he was about to utter his name, and, if report speaks true, he felt some reluctance in proposing him,

**I certainly do know, that Mr. Stuart was always an object of extreme hatred, in the eyes of Mr. Richardson, and his friends of the N. W. Company; but Mr. R. always expressed himself, as far as my experience went, with measured caution, due sedateness, and gentlemanly mildness, on the subject of Mr. S. Not so the other gentlemen of the concern; in their mouths no invective was too bad, no curses too deep.*

L. L. M.

†This has, in another page of this number, been shown to be absolutely nothing, but were it otherwise, the union that has now taken place between the two companies, or rather the absorption of the Montreal N. W. Co. into the Hudson-Bay Company, will prevent these questions from being ever again legally agitated, as no doubt, the M'Gillivrays, who have, in these transactions, treacherously abandoned the interests, and betrayed the whole of their former associates, have made it a condition, that all prosecutions should be abandoned, one which they could not obtain whilst the earl of Selkirk was alive who disdainfully rejected that clause, whenever it was brought forward, in the several negotiations that were entered into, for an arrangement of the difficulties between the two companies.

L. L. M.

but was over-persuaded by the Hon. John Richardson, backed by a gentle *Gale*, (one indeed, that has also veered about like the wind, and from being a sworn enemy to the whole tribe, has become one of their particular friends and advocates.)

Such, indeed, are the meannesses, to which party-feeling has made a man bow, who once was thought an honour to the country, free, & independent in his principles, an honest man, and a patriot; but now alas! how changed, how "fallen from his high estate!"

Should you deem this worthy of insertion, you may hear again from
Your obed't. serv't.

SCRUTATOR.

Popular ballads have often not only had a considerable influence on the manners and modes of thinking of a nation, but have also been attended at times with very important political consequences. The song of "Lillibullero" it is said, cost James the II. his crown, and more ripened and prepared the public mind for the glorious revolution of 1688 than the productions of the press, cramped indeed as it was by that arbitrary monarch, and the discussions in Parliament, overawed as they were by despotic power. The British anthem of "God save the King" has done more to cherish the loyalty and affection of the nation for the house of Brunswick, than the most elaborate panegyrics. "Wilhelmus Van Nassouwen," was the rallying song which upheld the name, and restored to dominion the princes of the House of Orange; and we all know the enthusiastic ardour that pervaded revolutionary France to the tunes of "ça ira," and "Allons enfans de la patrie." Songs and ballads on political subjects are, therefore, of great utility in all disputes that either affect, or must ultimately be decided by, popular sentiment. Scarcely any have yet appeared amongst us on the subject of the projected Union of the Canadas, fertile as it is in topics for railery, for reprobation, and for exhortation, the three qualities which political ballads ought always to possess. One under the title of "the Delights of the Union" has appeared in the *Kingston Herald*; but its length, (being no less than forty-four stanzas,) renders it quite unfit for a popular song, and it also enters too specifically into the clauses of the obnoxious bill, that we all so much detest.—There are some good things in it, however. Alluding to the French Canadians, and to the Scotch faction, that is attempting to get the command of every thing in this province, the following verses are no bad ironical picture.

"What can *they* know of civil rights
Or how of civil lists form notion?
Most ignorant and factious wights,
We'll drive them all into the ocean.

'Tis piteous to hear them prate
 About their annual supplies;
 The niggards seem to court our hate,
 They make our indignation rise.

For if they truly loved their King,
 Would they be sparing of their money?
 Or act like bees, who dart their sting
 'Gainst those who come to take their honey.

Like bees, by mites they've given for years,
 What's eager craved *in one great lump*.
 We'll knock their hive about their ears
 'Tis enough to rouse a very stump.

More fit that *we* should rule the roast,
 Tho' but a small, a chosen band,
 For who *of* loyalty doth boast
 So loud as *we*, throughout the land?

Far otherwise we'll shew *our* zeal
 We'll ne'er be call'd curmudgeons, never;
 Like patriots, for our country's weal,
 We'll grant the civil list for ever.

It would be, I think, of considerable service to the constitutional cause, both in Lower and Upper Canada, were a good ballad or two composed, adapted for general comprehension, both in French and English, that could be sung about the streets to some well known tune; and, being willing to contribute what is in my power towards defeating the selfish and ambitious projects of the little band of Union-conspirators who are trying their utmost to enslave, and Scotticise the country, I will send both the Free Press and the Scribbler *gratis*, the former from the commencement, and the latter from the beginning of the second volume to whoever furnishes the best ballad on the subject (not to exceed twelve stanzas of four lines) either in French or in English; and the Free Press to the next best; to which last the writer shall also be entitled, should there be but one: the ballads to be sent me on or before the 2d of January, as they will be published in the Free Press of the 9th ditto.

L. L. M.

TO CORRESPONDENTS. L'AMI DE LA PATRIE is received and will appear next week. Also CONSISTENCY'S third favour, which I regret did not come in time for this number. GRACCHUS on the 8th and 9th questions of SOCRATICUS, is requested to state the grounds on which he conceives that the Union bill originated in England.