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Mr. Ross

## THE FREE PRESS.

VOL. I.] MONTREAL, THURSDAY 17th OCT. 1822. [No. 2.

*Qui non defendit, non obsistit, si potest injuria, tam est in  
vito, quam si parentes, aut amicos, aut patriam deserat.*

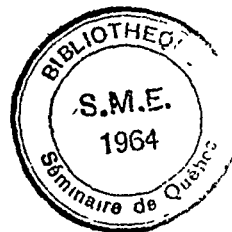
CICERO.

He who defends not himself, and resists not injury and encroachment, incurs as much moral blame, as if he had forsaken his relatives, his friends and his country.

### MEETING OF THE FRIENDS OF THE CONSTITUTIONAL RIGHTS OF LOWER CANADA,

*At Montreal, the 7th instant.*

This meeting, which was held in pursuance of a notice in the Montreal papers, addressed to the PRINCIPAL LAND-HOLDERS AND OTHER NOTABLES OF THE DISTRICT, in order to concert the best means of preserving inviolate the constitution under which we have the happiness to live, took place on the Champ-de-Mars, on the day appointed, instead of at the Court-house as had been announced. It was very, numerously and most respectably attended. It consisted, as might be expected, chiefly of the upper and middle ranks of the French Canadians, and displayed, upon the whole, a noble specimen, of the temperate, the dignified, and the enlightened, character of those men who have now been aroused to defend their constitutional rights, as well as of the feelings of steadfast loyalty and affection for the monarch and the mother-country, which are always found blended, in the breasts of true British subjects, with the love of freedom, and the spirit of resistance against encroachment. Louis Guy, Esquire, opened the proceedings in a neat speech; and the object of the meeting was then explained at large, by Denis B. Viger, Esquire. He dwelt upon the misrepresentations which had been made to government at home, by a set of men, who, whatever their intentions might be, were certainly endeavouring to destroy the chartered and constitutional rights of this province, and who were as insignificant in number, as they were deficient in real knowledge of the state of the country, and of its interests. That it therefore behoved the Canadians, who were not like these strangers, but were natives of the country, and had its welfare at heart,—the country in which their permanent property lay—in which all their individual prosperity was centered,—to stand forward in its behalf. The loyal attachment of the Canadians to their king was well known; they



identified themselves with the empire at large, and had spilt their blood in its service. They were ready to do so again. They revered the laws, and gratefully venerated the constitution that had been given them. He would not dwell upon any abuses of the law, or infringement of their rights, although such might be complained of. Those might form objects of separate remonstrance. But it was the sweeping away of the constitution altogether, and the substitution of another, that was to be now opposed. The union of Scotland had been quoted as a case in point, but it was by no means analogous, no more than that of Ireland. Colonies were widely different from integral parts of an empire, and conquered provinces were again essentially different from colonies. The Romans never interfered with the internal policy either of their colonies or of their conquests, nor did the Carthaginians, nor the Phœnicians. It is impossible to do full justice to his speech. His decided opinion, and that of a great majority of his friends, was against the union of the two provinces, and he and they were resolved to oppose it with all their power. He was much cheered, and in conclusion he moved that a committee should be appointed to draw up a petition to the imperial parliament against the union, which was carried without the slightest opposition.

After the meeting a party of the gentlemen present at it, amounting to about 130, partook of a dinner, provided for the purpose, at the Mansion-house-hotel.

On this occasion, the raw and imbecile tyro who, at the recommendation of the well-known Bum-Bailiff, Mr. Non-mi-recordo, and by the behest of His Majesty the King of Montreal, has been installed as editor of that degraded *turn-coat-paper*, the Montreal Gazette, he, the venal vamer up of forgery and falsehood,\* has thought fit to display his mother-wit,

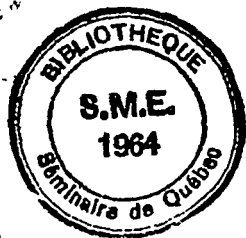
“A witty mother, witless else her son,”

his elegance of composition, and accuracy of Scotch grammar, in a long editorial paragraph, in ridicule of the meeting, of its objects and of its members. He begins with an attempt at a sarcasm upon the designation of NOTABLES made use of in the advertisement by which the meeting was convened. In a preceding Gazette a tolerably good historical account of the Notables of France was given, with the view of stigmatising the name, as a false and improper one, as applied in the present instance. According to that account, the Notables consisted of “princes of the blood, peers, nobles heads of the church, law and army, ministers of the crown, deputies and magistrates.”—

\* Alluding to the infamous pamphlet, of which Mr. Cl—m is reputed to be the writer, under the most unappropriate name “the Man of Ross.”

Now if such are the Notables of France, who are the Notables of Canada? Not indeed princes of blood, for we have none; not peers, for in the French sense of that word, we have none; but nobles I contend we have, the *seigneurs* all lay claim to territorial, and some of them to titular, nobility, the chief persons in the catholic church, advocates, legislators, and officers in the constitutional army of Canada, its brave and loyal militia, answer to the three following designations; ministers of the crown we have none here (*graces à Dieu et au Roi*) but members of the assembly, and magistrates, can not be denied their rank amongst the Notables. But do we find amongst them any traders, any pedlars, shop-keepers, or retailers, do we find any insurers, bankers brokers, or shipmasters, any jews, usurers, or scriveners? The application is obvious. The meeting on the 7th consisted of *Land holders and other Notables*; What that on the 14th consisted of, let them tell that know, I can not.

After having made a horse laugh, behold, how stalketh forth, in all the pomp of editorial affectation, yclad in *we's* and *ours*, and other unseel ornaments of plurality, this puny pretender to literature! Oh for a look into that *beaver of intellectual celebrity* which decorated *our* sapient noddle! I believe the inside would turn out to be mere wool or some softer material, and the outside nothing but bare and greasy felt. But to the pith and marrow of *our* recondite remarks. The requisition that, it appears, was presented to the bench of judges then sitting, to grant the accommodation of that, or some other, apartment, under the direction of the court, for the transaction of the important proceedings of the day, must have arisen, forsooth, from consummate impudence, or the grossest ignorance; and why, because *this was* a British court of justice— This was not, however, simply a British court of justice, but it was a British court, sitting to give audience and judgement upon French principles, according to French laws, and by French customs, such as had been secured to the inhabitants of this province by capitulation, by treaty, and by charter. It was not a criminal court, it was a civil court, performing the functions, and occupying the place, of the *cours des parlemens provinciaux*; and these provincial courts of parliament in France, took cognizance of all matters brought before them, municipal as well as jurisprudential, political as well as legal. they received petitions, granted redress of grievances, removed and appointed magistrates, and fixed places and times for the meeting of other courts and assemblies. It was, therefore, not only perfectly constitutional and consistent to present such a requisition to the court, but it would have been a want of respect towards the court not to have done so. That the presiding judge entertained a different opinion, does not decide the question; but had he ventured upon the measure which *this pauvre animal* (for I have no English



And that occurs to me just now adequately expressive of my contempt) of an editor, has the hardihood to recommend, namely, the commitment of the requisitionists to the house of correction, he would have soon found his error; and have been expelled from the seat of justice for so illegal and arbitrary a proceeding. Where are we now to look for *consummate impudence, and gross ignorance*? To enhance the latter may be added the mistake of supposing that *contempt of court* which is the crime of which the requisitionists are supposed to be guilty, is visited by being "escorted to the house of correction and moreover severely punished" whereas a simple committal to gaol at the pleasure of the court, is the invariable penalty. But what can he know about courts?

It is admitted that the requisitionists were men of the first respectability, talent, and probity; Yes, they were; and if but the tith of the respectability, talents, and probity, (saving alone such respectability as is procured by the possession of pelf,) can be found amongst the advocates for the re-union of the provinces, as it is falsely affected to be called, I will be content to

"Vail my eagle wing  
To the bald pimon of this popinjay."

But let me now follow him to the *parade-ground*, (a wilful misnomer for the *Champ-de-Mars*) where, wonderful to relate, "we found our limbs once more in a *reposing position* in the centre of a *motley crowd*." How, whilst lying down on the grass, we could escape being trampled on, a fate indeed which we richly deserve, is not explained; but a *reposing position* perhaps means an *upright posture*, and if so, and if ever this unslighted youth crossed the weed, and visited London, he probably derived this gawky image from those cellars, where his countrymen pay a penny a night, for sleeping with their arms and head hung over a rope, stretched across the apartment, for the accommodation of its breeless and barefooted lodgers. Next, "ye good natured readers and critics," do but admire how the truth will out - this champion of government, this tool of the minions of government, was in his youth, (God bless the mark! how long ago was that?) a very *radical*, and "in days of yore," a delighted admirer of their meetings, of which he was reminded by this *noisy assemblage* of Canadian notables. Ah! this explains one other knotty point. Radicalism was first heard of in 1817, and meetings of radicals, in 1819; these therefore were "days of yore" to this eminent politician, and this proves that it is a heedless schoolboy who thus presumes to vituperate all that is honourable, all that is enlightened, all that is respectable, amongst the Canadians. With admirable consistency this "motley crowd," this "noisy assemblage," is then praised for the "decorum and gentlemanly behaviour displayed on the occa-

sion," and with a linsey woolsey patchwork transition from "gay to grave," it is added, most truly, though with an obvious awkwardness of expression, that "the whole transaction of the ever-memorable day was conducted in a manner highly honourable to both the feelings and the cause of our Canadian ultra" (what is the meaning of this word here?) "politicians."

One would have thought that this was the conclusion: oh no! we are next presented with a representation of sundry heathen deities, and with "lungs inflated by a profusion of fine calar air;" (pray, what the devil is that?) and after a marigouant insinuation that sedition was expected to be preached, it is admitted, that it was not even murmured. Passing, however, to the close, we are told that the members of the Imperial Parliament are numskulls and dunces, "and understand no language but their mother-tongue," that therefore the Canadians ought not to send their remonstrances home in French, lest they should have to be transmitted "to the linguists of Oxford and Cambridge," for translation! as if the French language was unknown in London, and taught like Hebrew and Syriac at the universities. A worthy climax to the whole production!

I can not dismiss this notable essay, without expressing my vexation that Scotchmen should ever pretend to write English; as they invariably commit the most barbarous murders in our language. Here we have *should* for *would*, and *will* for *may*, and *may* for *might*, etc. Not to mention, "admitted," borrowed from the law jargon of Scotland, "governments hearing themselves profaned," with other inaccuracies and absurdities which it would be "breaking a gnat on the wheel" to criticise. But I now conclude by retorting upon this *literator*, the admonition from Pope which he partially quotes:

"A little learning is a dangerous thing;  
Drink deep, or taste not the Pierian spring."

L. L. M.

## PUBLIUS'S REMARKS ON ENGLISH HISTORY

..CONTINUED....

The liberty of the press has always been co-essential with the liberty of the subject. If they die, they die together. The petition of the bishops had been stigmatised as a *false, seditious, malicious and scandalous libel*\* because it opposed the mea-

\* *Amongst the dangerous innovations, and arbitrary measures, which that enemy to liberty and the constitution, Lord Mansfield, introduced into the practice of the law as relates to libels, that by which he maintained that juries were not to judge of the intentions of the publishers, but only of the fact of publication, is one that deserves most to be reprobated. On the trial*

suits of the ministry. It was represented as being published, though it was delivered to the king in private, and it met with as ungracious an answer as ever a petition or remonstrance ever could. All publications in the same strain, met with the same censure. The flood gates of the law were opened against publishers; and Scroggs, who favoured the views of the court as much as Jefferies, his predecessor, carried the rigour of punishment as far as it could be stretched.\* The poor as well as

*of Mr. Lillier for re publishing Junius's letter to the king, he even went so far, in his charge to the jury, as to tell them, that "the epithets, malicious, seditious, etc. used in the information, were merely inferences in law, and that it was needless to give any proof about them," because, forsooth, the defendant might, after conviction, be heard in extenuation of his offence. All that was required to be proved in order to bring in a verdict of guilty, was the simple fact of publishing. Let this principle be applied to any other indictment, and see how it will stand. In case of an indictment for perjury, where a person is charged with having sworn what is not true, wilfully and corruptly, if a jury were to find the person to have sworn falsely, but not wilfully and corruptly, such a verdict would be an acquittal. In every case of theft or robbery, the animus furandi must be clearly made out. In murder, if not proved to have been committed with malice aforethought, it is no murder. L. L. M.*

\* However much in those times the arm of arbitrary power was stretched out to overwhelm and crush, not only the bodies but also the minds of the people, yet the doctrine reprobated in the preceding note was not then broached; and though the publication of the petition (which was called a libel) for which the seven bishops were prosecuted, was undeniably proved, the court explained to the jury the nature of a libel, as well as the arguments offered by the King's counsel to prove this petition such, leaving it in conclusion entirely to the jury to judge both of the merits and the act, both of the law and the fact, and they acquitted the bishops of the whole information because their petition was not a libel. Since the promulgation of the abominable maxim of Lord Mansfield against which I am contending, some jurists have endeavoured to save their consciences by bringing in their verdicts in this manner, "guilty of publishing the paper called the *reeholder*"—(Law-reports, 1769.) But jurymen should consider the absurdity of such a verdict, for if nothing but publication be proved, nothing is proved but what is innocent, and to say that a man is guilty of an innocent action is absurd; besides, if such a verdict be taken and allowed the accused is subject to the same pains and penalties as if the jury had brought in their verdict simply "guilty." But says an

the rich groaned under his iron rod; and had the same persons who were punished by him for political writings dedicated even the Lord's prayer to him, they would have been sentenced for publishing treason. When he brought his information *ex officio*, he might have selected some detached passage, for the attorney general in those days, generally produced detached passages which might have supported his charge. The petition, "Thy kingdom come," might be said to mean the kingdom of the prince of Orange, who was invited over by the English to free them from the yoke of tyranny; and detached passages in any other piece are equally equivocal, and may be equally tortured.

As it was not in the power of ministry to prevent the book-sellers from publishing, though their punishments were enormous, they thought of going to the fountain-head to prevent the stream from flowing, and imagined that the most effectual method would be to prevent the people either from reading or speaking. With this view, a proclamation was issued for shutting up the coffee-houses, as places where discontent was disseminated, and grievances detected and exposed. This was considered as a *coup de maître*, but the spirit of liberty resembled Sampson, THE MORE IT WAS BOUND WITH CORDS, THE MORE IT INCREASED IN STRENGTH.

Petitions were presented to government, complaining that whilst those who wrote in defence of the constitution were groaning under pains and penalties, the publishers of works which struck at the very roots of religious and civil liberty, were suffered to go unquestioned, and in some cases were rewarded by government; but government was deaf to this remonstrance as well as to others. The string of power was strained, till at last it broke; and they who despaired while submissive, saved the nation by a generous opposition.

James, by coveting a power which he had not, lost that which he was possessed of, and by attempting to establish tyranny, lost the blessings of a limited monarch.

(To be continued.)

eminent lawyer (Sir John Hawles) "such a verdict hath generally been refused by the court, as no verdict; though it is said that it was lately allowed somewhere in a case that required favour." Since his time such verdicts have been received likewise in cases that it was predetermined to visit with severity. By such a compromise therefore, juries actually give to the judges, power to screen the guilty, and what is worse, to punish the innocent.

L. L. M.



The following was intended to have been added as a note in page 8 of last number, at the stop in line 7, but was forced to be omitted for want of room.

It may not be irrelevant here to observe that by the original constitution of parliament, "redress of grievances" was always looked after and taken care of before any money-bills were passed, (*Fetyl's preface to the right of Commons*, p. 40. *Stat.* 36. Edw. III. c. 10. 17 Edw II. 4 Edw. III) for one of the principal ends of calling a parliament is for redress of grievances; and this was so well known in former days, that when writs have been issued for summoning a parliament, the kings sent at the same time their writs to the sheriffs of the counties to summon all persons to give in their complaints or grievances against the ministers of state, and great officers of the realm; and the house of commons, being the inquisitors of the nation, have usually taken care to impeach such persons at court as had given ill advice, or mismanaged the king's affairs; and where the nature of the crimes or the proof of them could not well warrant impeachment, the commons have complained to the king, and at their suggestion, the accused have usually been removed. The rolls of parliament give many instances of this. As early as Henry II. (*Rot. Parl.* 29 Henry II.) the commons prayed the king that the duke of Somerset and about thirty more, "be abandoned from the king's presence during their lives, and not to come within twelve miles of the court, for that people speak evil of them." The king in answer granted that they should all (some few excepted) depart, and so continue for one whole year, to see if any man could duly accuse them. In the 5th of Henry IV (*Rot. Parl.*) at the request of the commons, the lords accorded that the king's confessor, and two others, should be removed out of the king's house; and the king moreover declared in parliament that "he would do the like with any other that was about his royal person, if they were in the hatred and indignation of the people" In Edward the third's time, when an aid being demanded for defending the seas and maintaining the war against his enemies, (*Rot. Parl.* 50 Edw. III.) the commons answer "that if the king had had faithful counsellors and officers, he could not but have been the richest prince in Europe; and therefore they require that the falsehoods and crafts of certain of the king's council, and other persons may be tried and punished;" and they proceed, as other parliaments have done, to the trial and punishment of offenders, before they would consider of a subsidy. Numerous other instances in subsequent parliaments might be adduced, but these will suffice to shew, what, from time immemorial, was, in that respect, the usage of parliament.

L. L. M.