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THE FREE PRESS.

VOL. I.] MONTREAL, THURSDAY, 14th NOV. 1822. [No. 6.]

*Servemus leges patrias, infirma minoris
Vox cedat numeri, parvique in parte salescat.*

PRUDENTIUS.

Still let us our forefathers' laws uphold;
And let the FEW, tho' clamorous and bold,
Yield to the MANY, and in silence rest,
Nbr with their selfish plans, our peace molest.

Of the many essays that have appeared in the public prints, on the subject of the union between Upper and Lower Canada, that which was published, under the signature of Z. in the Canadian Courant of the 2d instant, seems to me to be one most deserving of reply and refutation. Other writers on the same side of the question, have almost entirely confined themselves to generalities, to vague declamation, and unsupported assertion. Z. however, without that excess of wordiness which characterises the effusions of his party, enters into facts and details, and comes to the point without much ceremony or circumlocution. The hostility of the Gallo-Canadians to the projected union, he ascribes to three motives.

1st. Because they expect to lose the preponderancy in the assembly.

2d. Because their religion and laws may suffer innovation.

3d. Because the English language would be to be used in the assembly, in fifteen years.

Although there are, in my opinion, others, and far more weighty, motives, such, for instance, as—Because they would lose the proper privilege of an English house of commons, that of providing for, and contributing, the public expenditure—Because the executive part of the government would acquire an exorbitant and undue influence and power—Because they would then be still more subjected to the arrogant domination of a set of needy Scotch adventurers, that are annually vomited on our shores, for the purpose of being fattened and returned—Because the United provinces would be rendered infinitely more vulnerable, both in peace and in war, to the intrigues and the hostilities, of our cunning and ambitious neighbours—Because, though they desire not to be independent of Great Britain, they desire to be an independent portion of her empire, subject to her imperial control, but not subject to proconsu-

lar dominion—with many other Reasons that might be enumerated, yet I will confine myself at present to those which Z has stated, with the intention of shewing that they constitute well-founded apprehensions, and such as ought to be, if no others existed, sufficient motives for resisting the encroachments and alterations attempted to be foisted upon the Canadians.

The first reason, Because they expect to lose the preponderancy in the assembly, is a just and proper one. Who ought to have the preponderancy in any popular assembly? undoubtedly the majority of the inhabitants of the country represented by that assembly. That the French Canadians constitute a majority of four to one, supposing both Canadas to be united, never was attempted to be denied, yet the main hopes of the Unionist party rest upon the circumstance, that under the odious arrangements proposed by their delusive bill, that majority would not be represented in the united legislature, by any proportionate number of members.—Now, this is in itself the acme of political injustice. What is the essence of the representative system? that whilst every part of the commonwealth shall be entitled to be heard, and have a vote, yet that the majority of the community so represented shall bind the minority. But it is not attempted to be denied, that the real majority of the inhabitants of the country would thus lose their legitimate preponderance; but says Z, this would be for the advantage of that majority, inasmuch as the minority would enact all those laws, and promote all those plans, which they conceive would be most for the interest of that majority. What is this but the very principle of all despotism? Whether the minority be as 100,000 to 500,000, as is the case in Canada, or as 1 to 25,000,000 as was the case in France, under its absolute monarchs, and under Napoleon, the only difference is that there are 100,000 tyrants instead of one. That one says, I know best what is for your interest, therefore you shall obey the mandates I give out; the 100,000 say, we know better than you do, what is fit for you, therefore you shall submit to our enactments. I deny that we have any occasion to go into the merits of these enactments; the only question is, whether they are to be imposed upon a body of men, who claim to be freemen, to be able to judge for themselves, and to be entitled to exercise that judgement, by another set of men (if we look alone at the Scotch faction in Lower Canada, who are attempting this innovation, for I am far from stigmatising the Upper Canadians in the same manner,) who are not only numerically so utterly inferior, but are proportionately even far more inferior than that, in intellect, education, and principle, compared to the Canadians. It has been the fashion to impute ignorance to the bulk of the Canadians. It of course follows, that in a population of 500,000 souls, especially in a new country, a very large pro-

portion of the lower classes must be comparatively ignorant, and uninformed on political questions; but, for argument's sake, strike out of the calculation every Canadian who can neither read nor write; and set against those of the Canadians who are educated, well-informed, enlightened, and learned; those of the Scotch and Irish, who are so; the proportion will still be inconceivably small, numerically; and I am quite sure the warmest advocates of the union will not have the temerity to set in competition, with the classical, literary, and liberal, education which is so general amongst the upper ranks of the Fréich, the disciples of Cocker, the shop-boys; the uneducated and ignorant rustics, from which our Scotch great folks have arisen to be legislators and politicians, pretenders who know nothing but their native tongue, (and that most defectively,) and therefore, with a spirit of Vandálish, worthy of the barren highlands whence they sprung, desire to put down all other languages. But this belongs to another part of the argument; and I have been prematurely hurried into it by the strong conviction of my feelings on the subject, and the sovereign contempt in which I hold the intellectual and acquired abilities of these political Quixottes. I will dismiss this head, with the observation, in reply to what has fallen from Z. on the subject, that it is not to British, but to English customs that the world is indebted for freedom and elevation of literature.

On the second head, I remark that Z. takes it for granted that no restraint upon religious opinion, nor any controul in the exercise of religious worship, will be introduced; but the question is not whether such will be introduced; but whether they may, or can follow the measures that are wished to be adopted. That a material innovation in the discipline of the church of Rome was in contemplation, I have made evident in my last number, and that other covert attempts of the same kind, would be made, if this first succeeded; there can exist no doubt. To those therefore, to whom their religion is dear, it is most essential that they should keep guard at the avenues that may lead to its destruction. I am a staunch protestant, I have been bred up, with a great antipathy towards both the doctrines and the ceremonies of the church of Rome; the convictions of my later years have confirmed my objection to its creed, and have more indelibly fixed me in that of the reformed church; I know therefore I should, with jealous care, endeavour to guard against whatever would tend to destroy the protestant religion, and disable the professors of it from enjoying that liberty of conscience, which is the peculiar birthright of every British subject. Hence I think that each man who, along with attachment to his own religion, possesses that spirit of toleration, which is essential both to the christian and the politician, ought to praise, rather than blame, the Canadian catholics, for feeling alarm, and

endeavouring to ward off every, even indirect, attack, that may be made upon their religious liberties. They say, and justly, we want not any further guarantee, we want not any act of parliament, to confirm what is ours *inalienably and of right*, and which the boasted omnipotence of the Imperial parliament, can not take from us. Every act, or every section of an act, in which any mention is made of either confirming, or innovating upon, the Roman Catholic religion in Canada, as recognised and exercised agreeably to the capitulation, to the treaty of cession, and to the Quebec act, is utterly void; we can not, we dare not, recognize it, as either strengthening our right, or binding us by its power. But although they properly deny the right, or the power, of the Imperial Parliament to effect any alteration in their religious constitution, or privileges, they know that *by their own consent* every such alteration may be made, and even the whole hierarchy of their church overthrown; their constitution expressly admits it; now, should they have a house of assembly, the majority of which (representing a comparatively most insignificant minority of the united population of the two Canadas,) were protestants, and some of them bigoted, methodistical, enthusiasts, (as would no doubt be the case,) it would be in the power and competency of such a majority, to make all the alterations, and innovations they chose, and in that way they would apparently, but most fallaciously, *by their own consent*, be wholly deprived of the free exercise of their religion. Even were this, only a possible case, instead of being, as it is, a very probable one, it would be their duty to withstand the adoption of any measure which would lead to that contingency. It will be here objected, that the clause of the union-bill which says, that no future act of such united legislature, shall, in any wise, affect the free exercise of the religion of the church of Rome, would prevent this; but to this I answer, let but the united legislature of the Canadas, their legislative councils, their governors, and the Imperial parliament of Britain, with the Royal sanction to boot, be but joined in the enactment of any law whatsoever, were it even one of absolute abrogation; where is the remedy? where is the guarantee? I want no answer. Every one must feel what the answer must be.

A great part of the same reasoning will apply to the subject of the French laws, which, in civil cases, prevail in Lower Canada. They are secured to the Canadians in the same manner, as their religion, and may in the same manner, be subverted and abrogated, should a united legislature think fit, and which would then be said to be *by their own consent*; nay, that the alteration of those laws, and the substitution of the English common and statute law, is a main purpose of the Unionists, is either openly avowed, or very thinly veiled. The respective

merits of the codes have nothing to do with the case. Almost in the same proportion, as I disapprove, in my own person, of the Roman Catholic religion, do I dislike the civil law of Rome, and both the French, and the Scotch, juris-prudence that are founded upon it; but it is not what I prefer, or what any Englishman, or Scotchman, or Irishman prefers, that the Canadians are entitled to; but what they themselves prefer; they have their own reasons, their own predilections, their own prejudices if you will, but they are entitled to be governed by those laws, which they themselves approve of; and this is not only the fundamental maxim which the Romans observed with respect to the nations that became subjected to their power, but that likewise which has most wisely been adopted, and acted upon by the British government. Do not the French conquered islands in the West Indies, St. Lucia, and Dominica, enjoy their own laws and customs? Are not in Trinidad not only the Spanish laws observed, but is not the Spanish language that of all the official acts there? What would the Spanish inhabitants of that island say of British good faith, if, in order to deprive them of the rights secured to them by capitulation and treaty, they were to be incorporated with some of the originally British West India Islands, required to send deputies to a general assembly, and when that assembly had passed an act totally changing all their municipal regulations, be told that they had themselves consented to the measure? Such is exactly the serious farce that is in rehearsal to be acted in Canada. But go home: look at Jersey, Guernsey, and Alderney, are not the French laws, and French language, the laws and legal language of those dependencies of the British empire? Nay is not the Isle of Man governed; to this day by the Manks laws, administered in the Manks language? And even the little rock of Heligoland is, if I mistake not, in the same predicament. These are all, as it were, small independent commonwealths, living under the protection and imperial government of Great Britain, and do not all British subjects resorting to them, consider themselves, if they take up their residence there, as bound to become part of that community, and abide by their local laws. Shall then an exception be made as to Canada, which in itself so far outweighs the aggregate importance and population of all the others together? Look farther on, look at the Ionian republic, look at the British possessions in India; but the subject is so rich in matters of illustration that I must abandon that part of the field of argument, for fear I should bewilder myself and my readers in their multiplicity.

But Z. is wrong in saying that the maxim held up here is that the French laws shall receive no change. No. The maxim is, we will not have a change of them imposed upon us; if we judge proper to change them we will, but not upon compulsion.

Argue the point, shew their defects, and point out the excellencies of your own code; as soon as we are convinced by your arguments, we will adopt them; but do not, because either you are deficient in the powers of conviction; or we, if you will have it so, possessed of an inconvenient degree of obstinacy, force us to be of your opinion; for

"He that's convinced against his will,
Is of the same opinion still."

That most of the British, whether settlers, or only sojourners in Canada, can not comprehend, and detest, the French laws; and that in particular the British agriculturists hold them in terror, I admit; Nay, I am ready to add, that, with reference to their own habits, feelings, and perceptions of right and wrong, they are justified in detesting them; yet the question here again occurs, what right have the few, the transitory, the inexperienced minority, who have, or ought to have, come among us with a knowledge that such were our laws, and which must, in that respect, be said to be laws of their own choice, to dictate to the majority, the many, the permanent, the old inhabitants of the country.

Z is, I see, of the same opinion as I am, which I expressed in No. 4, that in the townships, settled by emigrants from Great Britain or elsewhere, and where the land is granted in free and common soccage, the French civil laws of Canada, not only ought not to prevail, but, that it is improperly, illegally, and contrary to the constitution, that their operation has been extended beyond the limits of the seignories. On this subject, however, as well as on that relative to the proposed introduction of the English language as that of the legislature of Lower Canada, after fifteen years, which well deserves an essay of itself, my space will not allow me to dilate, and I must therefore defer what I have further to say, on Z's letter, till another opportunity.

L. L. M.

The Quebec Mercury, very properly, asks why the intended Union of the two provinces, is spoken of as a Re-union; what has been contemplated, is the union of the two legislatures only; and when were they ever united, to justify the term re-union? But the unionists want to cover their projects of innovation and abolition, under the veil of restoration; and this word is one of their minor artifices, to mislead the public. Away with such mummery, and affectation! But we must excuse them, their cause is too rotten not to need the foreign aid of ornament.

Some of the readers of the Free Press, having expressed dissatisfaction at the use made, in No's 2, and 3, of picknames of

Scribblerian notoriety, to designate individual political characters, I beg to say, that I perfectly coincide with their opinion, and shall in future, avoid such inadvertencies, which arose, first, from my having so much habituated myself to those appellations, that they are

"Familiar in my mouth as house-hold words;

and secondly, that they were such as were actually used in the letter of my correspondent, *Verité*, which appeared in No. 3.

Should any gentleman desire to have an explanation of who are meant, by all or any of the fictitious designations, so introduced, he shall be fully satisfied, upon his addressing a private letter to me on the subject, at Burlington, Vermont.

LEWIS LUKE MACCULLOH,

Quebec, 2d Nov.

MR. MACCULLOH,

Political coalitions, between parties who have been opposed to each other, both in principles and conduct, however much they may appear surprising to the vulgar herd, are by no means uncommon, amongst statesmen whose creed of morality and honour, is invariably guided by the dictates of interest and party. Were not this exemplified in the history of all political contentions; I should have felt much surprise upon perceiving the conduct of Mr. James Stuart, of Montreal, in now joining himself to the party of the Hon. John Richardson, who it is well known, always before did whatever he could to oppose Mr. Stuart, and to hold him up to the public, as a man devoid of principle, a disaffected and disloyal demagogue. I will advert only to what is notorious to all Canada. During the reign of tyranny, under Sir James Craig, Mr. Stuart being a candidate, at the general election, as a representative of the eastern quarter of Montreal, where he had before been elected without opposition; Mr. Richardson, with the whole of the North West Company's interest, which was then all powerful, successfully opposed him, and brought in Sewell; at which time, it is deserving of remembrance, that when Mr. Stuart took occasion, on the hustings to make some very just, and severe remarks, upon the shameful conduct of the Executive, Mr. R. was watching with the utmost attention to lay hold of any expression that might have been tortured into sedition, it having been determined, to cast Mr. S. into prison, along with the other victims of oppression, during the reign of that Scotch preconsul, Craig, whom we all so much execrate. Mr. Richardson, and his clan, have invariably persecuted the man who is now hand and glove with them. No longer ago than last year, when the people, (whose cause he is now betraying,) again, through their repre-

representatives, manifested the confidence they placed in Mr. Stuart, by desiring to depute him as their agent of the province in England, Mr. Richardson, in conjunction with the chief justice, defeated the measure, principally on account of their personal hostility to Mr. S. What ought we to think now, however, of the man who thus makes common cause with his greatest enemies, who hate him, as much as he, in his soul, despises them. One of the papers lately justly observed, that if the impeachment of the two chief justices has failed, it may in a great measure be ascribed to him, for instead of repairing to the assembly in time, he let the February term go by first, so that it was evident his private interest weighed more with him than the public good; and indeed the whole of his conduct on that occasion seemed to indicate that he was actuated alone in the part he took, by personal hatred towards chief justice Sewell. He does not now scruple to say, that a union will be the surest means of crushing the chief justice; and should he be sent to England, by the Unionist party, I am convinced that he will have that more at heart, than any thing else. Between you and I, however, there seems good reason to believe, that the accusations against the judges, were well founded, and that at all events they ought to have been brought to condign punishment, for their acts during the proconsulate of Craig. But again, how can Mr. Stuart reconcile it to himself, to act with Mr. Gerrard? two men who mutually detest each other. Do we not all recollect the part Mr. G. took some years ago, when he was foreman of the grand jury, who made a presentment against Mr. S. for contempt of court, and that it required all Mr. S.'s talents and address to save himself from being committed to gaol, on the occasion; whilst on the other hand, S. was the prosecutor of G. for perjury, a true bill for which was found by the grand jury, before whom it was laid—this you no doubt know was in the case of Forbes's succession, and has been hushed up, God knows how.

Compare Mr. James Stuart's present conduct, with the behaviour of his brother in this city, who is a man of principle, of liberality, and of information; who too well perceives the machinations that are put in practice by the faction to which his brother has united himself, and who, detesting the measures of the Executive, is a tower of strength to the Canadian and constitutional party. I could contrast their private characters too, but I refrain; and remain, Sir,

Your obed^t. serv^t.

CONSISTENCY.

CONSISTENCY may rely upon the utmost discretion as regards both his present and future communications; Such matters as I have not yet noticed, are taken *ad notam*, probably for some future opportunity.