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THE SCRIBBLER.

Vol. II.] MONTREAL, THURSDAY, 19th SEPT. 1822. [No. 64.

*Iterum ille eam rem judicatam judicat,
Majore multâ mulctat, quam litem auferunt.* PLAUTUS.

So the same judge in fact, rejudges his own sentence,
And fines, beyond the law, both plaintiffs and defendants.

Foxglove and nightshade side by side,
Emblems of punishment and pride.
WALTER SCOTT, *Lady of the Lake.*

Peccare est quasi transire lineas. CICERO.

Was 't not both sin and shame to cross the lines?

Mirandum est inde ille oculis suffecerit humor. JUVENAL.

How, in the name of wonder, does he get,
Topics for *humour*, ridicule and wit.

I hail the following communication as the commencement of a series of law-reports, that will be both interesting to my readers, beneficial to the country, and tending to restrain the abuses which prevail in the administration of justice in this province.

Quebec, 26th August.

MR. MACCULLOH,

The pure and incorrupt administration of justice being the source of all happiness to a free and noble-minded nation, I have read with pleasure the animadversions which you threw upon its administrators who, confiding in the meanness and want of courage of our Canadian editors, have hitherto bid defiance to all decency and decorum, and more than once convinced us of their corruption and guilt. Among the many instan-

ces that might be given I shall select the following, which one would more likely expect from the court of a despot, than from the judges of a British tribunal.

In the case **CONSIGNY**, appellant,

vs.

VERMET, respondent.

A woman of the name of Vermet, having instituted an action *en separation de corps et de biens*, from her husband (Consigny,) the latter did not appear, but allowed the two defaults to be entered against him, and afterwards moved to have those two defaults set aside, upon payment of costs, but the court refused to grant him leave to appear, unless he would pay ten shillings to the prothonotaries, which he positively refused to do, alleging that, until the law imposing the fine should be pointed out to him, he should consider it as a demand illegal and unprecedented. The chief justice, who is never at a loss, thereupon refused, (with the concurrence of the other judges,) to allow him (Consigny) to fyle his appearance, thereby depriving him of his right of appeal; which was a peremptory denial of justice, and an attempt to elude the jurisdiction of a superior court. Consigny's advocate, however, having, by a motion for contempt made in the court of appeals, compelled the judges to certify the truth. the case was solemnly argued, (if the nonsense of the attorney-general is entitled to be called an argument.) The court then went *en deliberé* and here comes an act which will for ever disgrace the members of the court of appeals, the chief justice, and the nation that could suffer it. Whilst the judges were deliberating on the case, (with closed doors,) the chief justice was seen* pleading the cause before the members of

* From a window on the opposite side of the Court-House, where several advocates stood looking at him.

the court of appeals; and what was the issue? The judges of appeal confirmed the chief justice's judgement!

I need not make a single remark upon such behaviour; the facts are in your possession, and you are the only man in the country who dares upbraid these men, (high in power, but low in the estimation of their fellow-citizens) with their corruption, their partiality, and their arrogance.

CAIUS.

In the above statement, the merits of the cause, which have been judiciously kept out of sight, (although Caius adds that the respondent's attorney admitted the justice of the appellant's case,) have nothing to do with the conduct that is censured; whether the appellant or the respondent were entitled in justice to the ultimate decision that was given, is a different question; that at issue is the abuses here exemplified in the administration of justice; first, there is an attempt made to extort an illegal fine; if the man had a right to appeal, notwithstanding his defaults, as would seem from the success of the motion for contempt made by his attorney, he ought to have been allowed it without paying extra for it; and if not, it was worse than extortion, it was gross venality, to offer to allow him what he had no right to, for money. This is *selling* not *administering* justice. But what shall we say to the utter mockery of justice that followed, to a judge, accused of having given a wrong judgement, (for every resort to the court of appeals is in fact a species of indictment against the judges of the inferior tribunal,) presuming to plead his own cause in private, after the matter had been publicly argued, or what shall we say to the corruptness & partiality of that superior court that would allow of such a flagrant instance of presumption and con-

tempt of all propriety.

"There's" not "*something*," but *most things*, "rotten in the state of Denmark."

I have not hesitated to give this report as I received it, as being one that, if not correct, must be known to all the bar at Quebec, and therefore easily to be controverted; and likewise in order to encourage similar and continued contributions of this nature; but I beg to remind CARUS, and others who may transmit me such communications, of what I stated in my invitation to the gentlemen of the profession in No. 57, *viz.* that whilst the most inviolable secrecy will be preserved, it is necessary, for my own satisfaction, *that such reports be authenticated by real names.*

St. Lewis-Street, Quebec, 23d August.

L. L. MACCULLOH, Esq.

It would not probably be an idle waste of time if, after the able review lately made by Tom Brown of that perplexing and deluding race, the lawyers, I should follow his steps in exposing the members of another profession, whose general deportment renders them not less fit subjects for animadversion than the former. I allude to those who profess the great and exalted science of medicine, the administerers of which, satirists say have, at all times, caused more harm than good to the human race; and what is much to be lamented, the wisdom of legislators has scarcely in any country or age, ever made any provision for the punishment of the pretended ministers of that profession. When I use the words *pretended ministers*, I wish them to be considered as synonymous with *ignorant members*, for I am very far from wishing to depreciate the invaluable blessings to be derived by mankind from those members that enter, fully qualified, upon the

practice of the important duties of the *ars medendi*; nay I am inclined to allow that such men, with minds well formed by nature, are capable of stamping the profession with a pre-eminence over all others, from the wide scope it affords for observation, improvement, and experience; for it is not, like the two other learned professions cribbed in by data already permanently fixed, by boundaries and land-marks, but is never-ending in its experiments, incessant in its researches, and bounded only in its operations by the extent of the world, and the duration of the human race.

But to my purpose. The first I shall introduce is one who must stand foremost at the head of the quacking tribe, and unaccustomed, as he is to receiving any testimony of public approbation, he would of course consider it as mockery on my part, were any compliments as to his science or ability to escape me. The situation, however, in which he is now placed might appear a contradiction to this, but as I have, on a former occasion, observed that it seemed to be considered as wise policy here to establish the ignorant in office, I shall not enter upon the causes to which he is indebted for the one he now so unmeritoriously occupies, or rather did occupy. Independent of his rank in the army as a half-pay military surgeon, it would be imbecility to employ him in the most trivial occurrences of life; and no one, I believe, has verified more than he has, the old proverb, *Fortuna favet fatuis*, "fortune favours fools"; and to pick out a companion to it, none can be better applied than, "Set a beggar on horseback and he'll ride to the devil."

The origin of some persons is so involved in obscurity that it is impracticable to discover it; therefore I decline commencing with the "birth, parentage, and education" of my hero; but his

rise and progress in life are too remarkable to be passed over, and, however unpleasant and dangerous the task may be, his spurious bullying influence will not intimidate me. This man owes his advancement in life to an incident, that must fire with indignation every one alive to moral feeling; an incident the more surprising from having occurred in a country, thought to be free from that depravity so general in older and more populous regions. By the unwearied assiduity and gallantry which he paid to one of the greatest prostitutes in the city of Quebec, he planted the thorns of jealousy in the breast of a distracted son of Mars. An *honourable* meeting ensued; the consequence was that poor Esculapius had his arm most seriously *hack't*. Thus, as his first step, to a common whore he owes his celebrity, and not long after, he was united to the sister of a high law-officer of the crown, and rose rapidly to practice, reputation and place. To the shame and disgrace of the country, genius and merit languish and die in obscurity, without protection or friends, whilst ignorance and the most matchless effrontery prevail; for it is not to his professional merits he stands indebted for the high notice paid to him by those cormorants and bloated animals by whom we are surrounded, but solely to that detestable, cringing & fawning conduct he has incessantly pursued. To give your readers an opportunity of duly appreciating his surgical talents, the following case related to me by medical characters of unquestionable veracity, will shew that in every operation undertaken by one who is unacquainted with anatomy, the principle on which the surgical art is founded, he is violating the most sacred of duties, by hazarding the lives of those who are thus unhappily exposed to feel the effects of his ignorance and barbarity.

In order to obtain some celebrity on his outset here, it was considered necessary by our hero that an operation of some consequence should be performed; he accordingly singled out a poor man then labouring under what professional men call a cataract. Instruments were ordered to be made for the purpose, during which "fame's thousand trumpets" did not fail to sound that a grand surgical feat was about to be performed at the general hospital. The day arrived—but, lo! from want of anatomical knowledge, the very scientific surgeon thrust out the whole globe of the eye, as completely as a Virginia gouger; and the poor victim lost his life in consequence.

If assuming a title which is not justly attained can be construed a fraud, the subject of this memoir must shrink from the tests I offer him. I allude to the title of M. D. you lately annexed to his name, and to make converts to the truth of my assertion, I will point out the qualifications that are indispensibly required previous to conferring on any candidate the degree in question, in that university where he pretends to have obtained it.* First, the candidate must be possessed of a good classical education. Is he?—Secondly, he must have studied three years uninterruptedly at the university. Did he?—And thirdly, he must be the author of a latin thesis on a subject connected with the profession, and that thesis must have been supported in latin before all the professors of the university. Now Sir, where is his latin production? No where; for I am mistaken if his mind is not sufficiently tinctured with vanity to have produced to the world

*That of Edinburgh. At the University of Aberdeen it is notorious that the degree may be purchased by any one for a certain price; and it is nearly the same at that of Glasgow.

that by which that feeling must have been gratified.

I will stop here : my subject is fertile, and will afford ample materials for an elaborate review, if you can afford sufficient space in your pages.

JUNIUS.

The man who suffers, loudly may complain.—HOMER.

MR. SCRIBBLER,

Inheriting, as I do, from strenuous and successful labour, an independent fortune, I have, since my retirement from the stimulus of avarice, travelled to discover happiness. Before I set out I feared the search would produce many disappointments and much chagrin. However, I proceeded from the enlightened, the free, state of Britain towards the west ; for my motive was to appropriate this tour to an appreciation of human institutions from their earliest beginning in savage life. This carried me, on my way for the North West parts of the British American possessions, up the river called the Grand River. There, under obstructions so manifold as to forbid enumeration, one dark and rainy night, I implored shelter from the ruthless storm at a house near the river, which, to my gratification, proved to be the solitary dwelling of an Englishman. His stores, not so luxuriantly abundant as his heart, were spread before me ; social converse ensued, and I am going to relate the facts disclosed, and the resolutions I formed, in consequence of this night's adventure.

He informed me that his land was "free," and as I might see when daylight returned "a garden." The gentleman had been in India, and in using the term "a garden," he told me he quoted the very words of Rajah Chiet Sing, to the governor general of India, Warren Hastings, who was, as is well known, many years under impeachment

before the British House of Peers, for high crimes and misdemeanours, amongst which stood prominent the accusation of *usurping property*; that, although he could not boast of extensive possessions, he could confidently rely upon his purchased rights, *which were now usurped and taken from him by military force, to make a canal*. He said that the improvement of his lands, and his experimental knowledge had been a beneficial example to his country; but that now, oppressed by military force and military ignorance of civil government, he meant to leave his lands in desolation, and let the fools pursue their own measures which would in time depopulate the province, when nature would resume her rights. Disgusted with the oppression he had experienced, for he had been even threatened with imprisonment upon charges of *treason and rebellion* because he had ordered the soldiers back from off his premises, it was in the parent-state he should look for redress.

Upon hearing this account, I set it down in my own mind that happiness, which can only, in a social state, be the offspring of wise laws and civil order, was not to be found here; so I am proceeding to the dominions of China by way of the North-west territory and the Pacific Ocean. I do not suppose that I shall meet with the object of my search in my journey, for from all the observations I have made, I have adopted the opinion that the natives of the interior of the large region I am going to traverse, are debauched and vicious, by having been made the dupes in their intercourse with what you significantly term the ratcatching companies, whilst, by exchanging the produce of the chace with those wily distributors of rum, beads, and gun-powder, they have enriched, augmented, and made audacious, the scrapings and sweepings of the poverty-stricken

extreme parts of Britain. If I do not find happiness in China, I will extend my travels to Ethiopia, or perhaps back to Mesopotamia, to look for it under a Turkish Pacha.

L' AMI DE LA PATRIE.

St. Johns, 29th August.

MR. MACCULLOH,

Oh! for an onion to rub your sweet eyes with, to enable you to bewail, with due decorum, the loss of that devil's boat, the Phoenix, which, after having been taken in due form, and being detained for the space of two hours, twenty-three minutes, and forty-five seconds, was unluckily retaken, and released by her mutinous and piratical crew, cut her cables, and amidst a most dense cloud of steam, made her exit from this port. At the head of this exploit was a young hero, expected now to be promoted by the buccaneers to the real rank of Captain, which he assumed on that occasion. Capt. M'Hugh then, (since we must give him his title) seconded by Lieut. Blackie, the former late steward, and the latter late cook, of the said steam-boat, although the gunner, whom the mutineers have since marooned,* endeavoured to betray them, completed the recapture in a few seconds. Capt. McHugh acted with coolness, intrepidity and skill, in giving his orders and managing the vessel, whilst Lieut. Blackie took upon himself the functions of steward and stevedore, providing his passengers with births, and stowing away the live lumber. We are bound in justice to give this meed of praise even to mutineers and pirates, in which light we,

* To be marooned, in the language of the buccaneers and pirates of the seventeenth century, is to be turned out of the company of "gentlemen adventurers" as they styled themselves, landed on a desert island or shore, and there left to shift for oneself, with a very limited supply of provisions and ammunition.

on this side the lines, are of course bound to say we consider the crew, who have thus carried off the already (in imagination) divided spoil from under the nose, and to the woeful dismay of port-admiral Seize-em, who, with eyes, "like Niobe all tears," deploras this unlooked-for catastrophe. *Sic transit gloria mundi.* So end our hopes in steam!

PHILO.

The transactions to which the above alludes, (the seizure at St. Johns for having prohibited goods on board, and the subsequent escape, of the American steam-boat Phoenix) have occasioned great inconvenience and difficulty, much discussion, and not a little animosity. With regard to the legality of the seizure there can be no doubt, the law is explicit; but the justice and the policy of the thing are widely different. That, however, has nothing to do with the seizing-officer, whose interest it always is to make such seizures. The execution of all prohibitory fiscal-laws is, in all cases, odious, and mankind cannot withhold their execrations from every invidious and oppressive exercise of them. Hence, in England, in all such cases, a power is lodged with the Lords of the Treasury, when the hardship of the case, and the innocence of the sufferers, are demonstrated to them, to remit the penalty of the forfeiture imposed upon the vessels or vehicles in which the contraband goods were found. This is in general very liberally exercised, under the proviso of *satisfying the seizing officer.* This satisfaction is always considered to be merely a complimentary fee to be given him for his zealous discharge of his duty, but by no means, as a compensation for his share of the value of the seizure. It is true the officer has a legal right to that share, as legal as to the money actually in his pocket, but were he to make any thing more

than a reasonable demand,* he would immediately lose his place. So it is at home; and it is probable that some similar course would have been pursued here. That, however, is now set aside by the escape of the boat; which it is much to be regretted has been followed up by so rigorous a system on the part of the British custom-house officers, that no American steam-boat can venture within the waters of Canada in the lake, for fear, not only of confiscation, but of that vexatious and oppressive detention and mode of search, which Jacks in office, so well know how to put in practice, when induced by rancour or conceit. Every one knows and feels that the law which condemns the innocent to suffer for the guilty is rigid and odious, and more lenity, and indulgence ought to be shewn in executing such a law, than where the penalty only falls on the offender, and is commensurate with the offence. Instead therefore of drawing the rope tighter, and declaring, as I am informed they have done, that, the merest prohibited trifle found in the baggage of any passenger, shall in future subject every steam-boat to instant seizure, the officers of the customs at St. Johns ought to have adopted a different course, and have given every facility to the re-establishment of the regular intercourse, instead of throwing every additional obstacle in the way which they could. This mode of conduct both propriety and policy would have dictated, especially when the loss is considered that must accrue to St. Johns and all its inhabitants, by the stagnation

* The very circumstance occurred to me, when I was a merchant at Liverpool. An American brig, the Polly, Capt. Purcell, which I had loaded for New-York, was seized, for having taken over from another American vessel, about sixty pounds of salt, worth about sixpence, in order to cure some beef for the voyage, without giving notice to the custom-house. Upon representing the case to the Treasury, the vessel was ordered to be released, upon satisfying the seizing officer, the compliment which I paid to whom on the occasion was thirty guineas.

of that intercourse to which they owe the whole of their prosperity, and on which subject I have more than one letter from that place. My space will not admit of enlarging on this matter, which I will endeavour to resume in my next; but I can not avoid noticing the absurdity of that opinion that has so generally been entertained here, that the return of the steam-boat to St. Johns, in order to abide the determination of government, and the issue of the vice-admiralty-suit that must be instituted on the occasion, is a matter either of right, or that can possibly be demanded by government. Lord Dalhousie, it is even said, has declared that she must be brought back to St. Johns, and delivered up again to His Majesty's customs. If he is advised that he has any right to require this, he is most wretchedly ill advised, and should he insist on it, or make any such ridiculous claim on the American government; he will in this instance, *as he has been in others*, be obliged to "vail his lofty-plumed crest," and will find that the laws of nations do not bend to his

sic volo, sic jubeo,

Stat pro ratione voluntas.

That an apology and satisfaction is due to the British government for the outrage committed in disarming, and carrying off the soldiers, I both allow, and contend; but the property and prize are irrecoverably gone; and the answer of the American government to any claim for them, will naturally be, the offence you complain of was committed in your own territory, catch the offenders there again and punish them and welcome, but we are not bound to deliver up to your custom-house laws, the property which it appears you had neither sufficient address nor force to keep.

L. L. M.

DOMESTIC INTELLIGENCER, No. XIII.

It is with a considerable degree of awe, and some fear of subjecting ourselves to prosecution, that we venture, after the lapse of a considerable space of time, to announce that there was a grand Pic Nic party at the island of St. Helena, (not St. Helena in the Atlantic ocean,) about the middle of August. That island, being government property, and it being well understood that whatever has any connection with government, down even to the rats and mice that are provided with rations by the Commissariat-department, must be considered as sacred, and not to be profaned by any remarks of any editors, it is with fear and trembling that we have gone thus far, and feel ourselves obliged to disappoint the public in giving them the details of that party, and to be content with stating that the Hon. Mrs. Loverule was presidentess on the occasion.

We beg to put a question to one of our brother editors, and ask Mr. Tommy Changeling whether he is, or is not, under bond to the Hon. Tory Loverule, not to print any thing of a political nature without his approbation, and to submit all his editorial paragraphs to him before publication?

WANTED, a number of lawyers, doctors, bank-directors, and clerks to visit the undersigned, who, being inclined to economy, are desirous of letting out their spare hours. These visitors may come at seven and stay till ten, at which hour our regular customers, Lord Goddamnhim and his brother arrive every evening. Apply at the new fur-store, near the Champ de Mars.

POLLY SQUINTUM AND CO.

FOR SALE, at Little Benjamin's store, the remainder of a parcel of port-wine in bottles, warranted genuine, as he manufactured it himself. It will be sold cheap, as the other part was luckily disposed of, at a convivial party, to Mr. Bigman, who took the seller's word for its quality, and paid him 45s. a dozen; so that he can afford to let the rest go almost for nothing.

N. B. Little Benjamin is about collecting in his debts and will sue every body that owes him 10s. and upwards if they don't bring him the needful.

MATRIMONIAL INTELLIGENCE.

The arrival from Clarencetown, (where the happy pair were united) of Norman Broadback, Esq. and his bride, lately Miss Pussycat, in the steam-boat Lady, occasioned a great commotion in the garrison of this place. When abreast of the Island, the guard at the look-out-house reported that she had four flags flying at her mast head, besides her ensign aft, and jack at the bow. Men's minds being just then in a state of effervescence, on account of the fracas with the Lake Champlain steam-boats, it was directly conjectured that dispatches had come from Quebec ordering the immediate seizure of all the American vessels in the harbour. The suspense was awful—The troops were all in motion—The boat fired a salute of two guns—The officers drew their swords—The bugles were going to sound—When Mr. Broadback and his lady, making their appearance on the deck, bowed most courteously to the assembled multitudes, and explained that it was only about them that all the fuss was made. This marriage is said to have created a great disturbance in the family of Mr. Broadback's partner; Miss Hairy, who little dreamt of Miss Pussycat being her rival, fell into fits, and not a battle-royal, but a quarrel royal, ensued; and report says, the partnership will be dissolved, *not by mutual consent.*

The Miss Rumpledales are always talked of when wedlock is the topic. It is now said that Lord Rawdon, intends shortly to lead to the hymeneal altar, Miss Betsey R. after having been rejected by her two sisters.

Mr. Benny Big, who with many other accomplishments, such as dancing, boxing, riding, etc. can cut out a coat in the most fashionable style, and charge still more fashionably for it, is to be stitched to Miss Wagtail, as soon as the press of business will allow him to lay aside the goose.

The amiable daughter of the Countess of Cork has, it is said, attracted the regards of Mr. Faun, of the house of Sack and Co. Should this expected union take place, the young couple intend to take an excursion—round the Mountain,—*after the nuptials, to wit.*

The youngest of the Solar Rays, has at length been prevailed on to accept the long refused hand of Mr. Mackaw, of the house of Hum-haw and Co.

The Dashing Mr. Peter Contract, whose residence at the Isle of Bullfrogs will thus produce more contracts than one, is expected to lead to the altar of the saffron-robed deity, the amiable and accomplished Miss Stitch'em; the alliance is said to be on a solid foundation; and the friends of the parties expect an entertainment on the occasion quite à la mode.

It is confidently asserted, and generally believed that the Knight of the Telescope is determined to have more than one string to his bow, as, besides his other amours, he is paying his private respects to his house-keeper, the fair and accomplished Miss McDevil, whom it is thought he will raise to his bed and board, having been very successful in his former adventure of that kind.

Mem. *Superfluity of matter obliges us to postpone to a supplement (to appear next week) a variety of articles of intelligence, selections from country-papers, advertisements, etc.*

Printed and published by DICKY GOSSIP, at the sign
of the Tea-table.

TO CORRESPONDENTS. JEREMY TICKLER's first ad interim report, under his new appointment, is received, and will appear next week, so also, if possible, *My Pocket book*. SKINNER MERHORN, first opportunity. SEMPRONIUS from Quebec, ditto. A. K. S. from Kamouraska, being the first communication from that place, shall receive attention, but it were to be wished he had been more general, and not confined his remarks to a single character. SYMPATHISER from Quebec, A FRIEND TO A DISGUSTED QUILL-DRIVER, and A STUDENT AT LAW, all on the same subject, are under consideration. THE DEVIL aims at very ignoble game, but the substance of his letter will weave in, somewhere or other. The verses under the title of *The Argenteuil topic*, should have been accompanied by a key: no promise can be given, but if the further elucidation arrives, that is expected on this subject from another quarter, they may perhaps, find an early place, in which case the request of W. W. R. shall be complied with. The letter from the UNKNOWN KNIGHT, would have received that immediate insertion which its subject merits, if the present plan of the Scribbler admitted any remarks on characters or occurrences south of the Canada line. The same cause prevents Mr. MACANDRE's ambition of figuring in the pages of the Scribbler from being gratified; he is therefore advised to take a trip to Montreal, and walk with a young lady hanging one on each arm, on the Champ de Mars every evening. Correspondents are informed that all communications whatsoever, received by the editor, are noticed in some way or other; those that are rejected, as well as those that are accepted; they can therefore judge whether there is any miscarriage or interception.

ERRATUM in No. 63. p. 163, 15th line, *for earthly, read earthy.*