

**COPY OF A PETITION**

FROM

**JAMES STUART, ESQ.**

TO

**His Majesty,**

AND OF

**A MEMOIR OR STATEMENT**

IN

**EXPLANATION AND SUPPORT OF IT,**

**RELATING TO**

**AN ADDRESS OF THE ASSEMBLY OF LOWER CANADA,**

**PRAYING FOR THE DISMISSAL OF THE SAID JAMES STUART FROM THE OFFICE  
OF ATTORNEY GENERAL FOR THAT PROVINCE.**

# COPY OF A PETITION

FROM

JAMES STUART, ESQUIRE,

TO HIS MAJESTY.

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TO THE KING'S MOST EXCELLENT MAJESTY.

The humble Petition of James Stuart, of the City of Quebec, in the Province of Lower Canada, Esquire,

SHEWETH,

That Your Majesty's petitioner, in pursuance of a Mandamus in this behalf, was appointed Attorney General of His late Majesty George the Fourth, for the Province of Lower Canada, by Commission under the Great Seal of the said province, bearing date the thirty-first day of January, in the year of our Lord one thousand eight hundred and twenty-five, and, since Your Majesty's accession, in pursuance of Your Majesty's Mandamus hath been appointed Your Majesty's Attorney General for the said province, by a like Commission, bearing date the eleventh day of December last.

That Your Majesty's petitioner, from the period of his first appointment to the said office, hath discharged the duties thereof, with unremitting assiduity, faithfully and honestly; and his official conduct, in all particulars, has been not only unexceptionable, but, he humbly presumes to believe, has been meritorious, and deserving of approbation.

That Your Majesty's petitioner has, notwithstanding, experienced the mortification of finding that his conduct has recently been misrepresented before a Committee of the Assembly of Lower Canada, and that upon certain *ex parte* proceedings had in that Assembly, an Address was adopted, in March last, to be laid at the foot of Your Majesty's throne, whereby the said Assembly prays that Your Majesty will be pleased to dismiss your petitioner from the office of Attorney General for the said province, which he now fills, and that Your Majesty will also be pleased henceforward not to grant to your petitioner any place of trust whatever in the said province, upon the ground that your petitioner hath been guilty of certain alledged offences set forth in the said Address.

While Your Majesty's petitioner most respectfully entreats permission humbly to represent to Your Majesty, that the alledged offences whereof in the said Address he is declared to have been guilty, have not been committed by him, and that he is alike guiltless of the said offences, and of every other offence; he begs leave also humbly to state, that he has been thus declared guilty of the said alledged offences, without ever having been made aware, except by the said Address, that such offences were imputed to him, without having been afforded any opportunity of answering or disproving the imputation of such offences, and without, previously to the said Address, having in any manner been privy to, or made acquainted with the proceedings of the Assembly of Lower Canada, on which the said Address has been grounded, or with any proceedings that could lead to such a result.—In a word, Your Majesty's petitioner has thus been convicted, by the mere authority of the Assembly of Lower Canada, of the said alledged offences, of which he is wholly guiltless, upon *ex parte* proceedings, to which he has been an entire stranger, without any opportunity for defence or justification, or hearing of any kind; and, upon this conviction, the punishment and disgrace of your petitioner are, by the said Address, prayed for.

Under the excellent Constitution and Laws of this Country, of which Lower Canada, happily for its inhabitants, continues to be a dependence, no violation of the principles of natural justice, in the exercise of authority, is permitted, or can be apprehended.—From this consideration, as well as from the well-known justice of Your Majesty, your petitioner is persuaded that the infliction of punishment, for imputed offences, will never take place, under Your Majesty's wise and just Government, without allowing to the person accused an opportunity for self-defence and justification.

Being entirely guiltless of the alledged offences of which, by the Assembly of Lower Canada, he has been declared to be guilty as above mentioned, Your Majesty's petitioner humbly, but confidently, claims the protection of Your Majesty's justice, that he may not, for these imputed offences, be punished and disgraced, unheard.

Wherefore Your Majesty's petitioner most respectfully prays, that Your Majesty will be graciously pleased to afford him an opportunity of establishing that the offences specified in the said Address of the Assembly of Lower Canada have been untruly imputed to him, and that he is guiltless thereof; and that Your Majesty will also be graciously pleased to grant him such other relief in the premises, as Your Majesty, in your wisdom and justice, may deem fit and proper. And, as in duty bound, Your Majesty's petitioner will ever pray, &c.

(Signed) J. STUART.

*London, 46, Albemarle-Street,  
6th August, 1831.*

**MEMOIR,**  
OR,  
STATEMENT IN EXPLANATION AND SUPPORT  
OF THE  
PETITION OF JAMES STUART, ESQ.  
TO HIS MAJESTY.

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THE petitioner, by his petition, appeals to the justice of His Majesty for protection in the office of his Attorney General for the Province of Lower Canada, and that he may not be punished and disgraced for offences imputed to him by the Assembly of that province, without an opportunity previously afforded to him for self-defence and justification.—In the upright and faithful discharge of the duties of his office, it became incumbent on the petitioner, in the years 1827 and 1828, to institute certain criminal prosecutions, which are to be considered as having furnished motives for, and as being the immediate cause, of the proceedings adopted against him by the Assembly of Lower Canada.—These prosecutions, at the time they were instituted, were of urgent necessity to enforce respect for the laws and constituted authorities of the country, and to maintain peace and good order.—They consisted in indictments for seditious libels; for aggravated riots, accompanied by acts of violence against persons in authority; and for perjury. Three of these indictments were brought to trial, at Montreal, in March Term, 1830. One of them being for a riot at an election held at that place, for the election of two members to serve in the Provincial Assembly, and for assaulting and beating the Returning Officer, while employed in the execution of his office, and the other two for perjury.—It was immediately after these trials, and during the excitement they produced in the political party to which the defendants belonged, that a petition to the House of Assembly was put into circulation, for signatures, complaining of the conduct of the petitioner, in relation to criminal persecutions. This petition was signed, exclusively, by the partisans and adherents of the same political party, in subservience to whose views the principal offences which had been made the subjects of indictment were committed; and the signatures to it were, for the most part, those of the persons accused, and of their attorneys, counsel, and friends. According to parliamentary usage, the petition became extinct with the Provincial Parliament in which it was presented, which expired a few months after. A new Parliament met in January last, and early in the session, General Committees were appointed, as is usual; and, among these, a standing Committee of Grievances.—To this Committee, composed entirely of persons belonging to the same political party, of which some of them were prominent members, and all of whom, from political animosity or personal resentment, were known to be hostile to the petitioner, the petition already mentioned, to a former Parliament, without any renewal of complaint on the part of the petitioners, and without any complaint whatever to the existing Parliament, was referred; and, it would appear, was ostensibly made the foundation of the proceedings which are now brought under the consideration of His Majesty.—To these proceedings the petitioner was an entire stranger, no intimation having been given to him that his conduct was the subject of complaint or investigation—no explanations or defence having been required from him—and no participation in or privity to them having been afforded him. With the result, only, of these proceedings the petitioner was made acquainted, which he learnt was an address to the Governor of the province to suspend him, and an address to His Majesty to dismiss him from the office of Attorney General, and thenceforward not to grant him any place of trust whatever in the province. To this latter address, the petition, now most humbly submitted to His Majesty, relates.

To avert the injustice which would be accomplished, if the address of the Assembly were acceded to, and rescue his character from unmerited imputations, the petitioner has left the country of his abode, his business and pursuits, that he might in person present and sustain his petition for redress. He seeks justice on the facts of the case, without regard to a want of jurisdiction in the Assembly, to technical objections, or irregularity and insufficiency in the proceedings adopted against him; and, if he notices these particulars, it is that he may not appear to have been unaware of them, and of the considerations of law and public policy which they suggest.—While he adverts briefly to the latter topics, he purposes, in support of his petition, most distinctly to establish that his conduct in the matters referred to by the Assembly in their address, has been not only unexceptionable, but meritorious, and that no cause whatever has been afforded for the infliction of the punishment, with which the Assembly has sought unjustly to visit him, undefended and unheard.

The punishment of the petitioner is prayed for by the Assembly, on the ground of the following alledged or supposed offences, whereof they represent him to have been guilty.

1st. Because he has abused the power with which he has been invested, as such Attorney General, so as to betray the confidence and trust with which His Majesty has honoured him, and that he has, by the serious offences, which he has committed in his high office, rendered himself totally unworthy of His Majesty's future confidence.

2dly. Because the said James Stuart, Esquire, Attorney General of this province, by persisting in prosecuting, before the Superior Tribunals, persons accused of minor offences, which ought to have been prosecuted at the Quarter Sessions of the Peace, has been guilty of malversation in office, and this with the sordid view of increasing his emoluments.

3dly. Because the said James Stuart, Esquire, Attorney General of this province, in order to show his attachment to the Executive Government of the day, has been guilty of partiality and persecution in the execution of the duties of his office, by instituting libel prosecutions, unjust and ill-founded, against divers persons, and has thereby rendered himself unworthy of the confidence of His Majesty's subjects in this province.

4thly. Because the said James Stuart, Esquire, Attorney General of this province, by making, at the election of Sorel, or borough of William-Henry, in the year one thousand eight hundred and twenty-seven, where he was one of the candidates, use of threats and acts of violence to intimidate some of the electors of the place, and by promising impunity to others, displayed his contempt of the freedom of election, and has infringed the laws which protect it.

5thly. Because the said James Stuart, Esq., Attorney General of this Province, by prosecuting for perjury certain electors of Sorel aforesaid, who had voted against him, and by refusing or neglecting to prosecute others who were no better qualified, but who had voted in his favour, was actuated by motives of personal revenge, which made him forget his duty and the oath he has taken as his Majesty's Attorney General in this Province, and that it would be dangerous to continue to him powers of which he has made use in so arbitrary and unjustifiable a manner.

6thly. Because the said James Stuart, Esq., Attorney General of this Province, by inducing, at the said election of Sorel, certain electors who were not qualified to take oaths usual on such occasions, although he knew that those individuals were not qualified, has been guilty of subornation of perjury.

Lastly. Because, by his conduct for several years past the said James Stuart, Esq., Attorney General of this Province, has brought the administration of Criminal Justice in this Province, into dishonour and contempt; and that he has been guilty of high crimes and misdemeanors; that his conduct has utterly deprived him of the esteem and confidence of the inhabitants of this Province; and that his continuing to occupy any place of trust therein could not be otherwise than injurious to his Majesty's Government in this Province.

Before proceeding to give a distinct answer in detail to the imputation of each of these alledged offences, in succession, the petitioner will beg leave, succinctly, to notice considerations which appear to him of the highest importance, in relation to the course of proceeding thus adopted by the Assembly of Lower Canada, to the nature of some of the alledged offences, and to the form in which all of them are charged upon the petitioner.

By its address to his Majesty, the House of Assembly, it appears to the petitioner, has not exhibited charges of official misconduct against him, to which he is required to furnish an answer, and on which a determination, after the requisite investigation, is sought. But assuming to itself, it would seem, the power, on the *ex parte* statements of individuals, made in the absence of the party accused, in secret, and not under oath, of convicting a public officer, not only of acts of official misconduct, but even of criminal offences, within the exclusive jurisdiction of Courts of Law, the Assembly, by its address, prays for the punishment of the petitioner, as on a conviction which has determined his guilt. Under this view of the address, the Assembly has assumed the character and functions of judge, as well as accuser, in respect of the same accusations; it has converted itself into a Court of Justice for criminal offences, cognizable by Courts of Law only; it has exercised and blended in itself the functions of accuser and Court, of Grand and Petit Jury, in respect of the same accusation, by declaring the petitioner guilty of the offence of subornation of perjury; and of all the alledged offences, specified in the address, including the offence last mentioned, it has convicted the petitioner, in his absence, without defence or hearing of any kind, on his part, upon the *ex parte* statements of individuals examined in secret, not under oath, without cross-examination, or opportunity for cross-examination on his part, and entirely irresponsible for the falsehoods by which they have sought to injure him.—That such a course of proceeding involves an assumption of unconstitutional and illegal powers on the part of the House of Assembly, and is, moreover, repugnant to reason and justice, is too evident to require observation. It becomes, there-

fore, as it appears to the petitioner, in his humble apprehension, a most important preliminary point for consideration, whether the Address of the Assembly does or does not possess the character now ascribed to it. If this character do belong to it, a conclusive reason would seem to be thence derived, that it should not be acted upon, but that the House of Assembly should be left to exhibit against the petitioner, if so advised, any complaint or accusation which it may be within its competence to prefer, in such form and manner as may admit of an answer, investigation, and decision on it. This being, as the petitioner believes, the first instance of the assumption of such powers by a Colonial Assembly, it would seem to be most expedient, for the security of public officers throughout His Majesty's Colonies, and for the faithful, upright, and efficient administration of the authority of government therein, that it should not be permitted to acquire the force of a precedent. Indeed, with the exercise of such powers in prospect, as have been assumed by the Assembly of Lower Canada, in this instance, honourable men, it could not be supposed, would enter into the public service, the faithful and honest discharge of official duties could not be expected, nor could colonial governments continue to subsist.

If, however, the address of the Assembly is to be considered, not as importing a conviction of alledged offences, which appears to be its true character, but as the exhibition of charges which the petitioner is called upon to answer, the nature of the charges as well as the form in which they are conveyed, necessarily demands attention. The charges, the petitioner humbly apprehends, must be such as it is competent to the Assembly to prefer, and they ought to contain a sufficient specification of facts to admit of an answer. Conceding to the Assembly the right of preferring complaints and accusations against public officers who abuse the trust confided to them, these complaints and accusations, the petitioner also apprehends, must be restricted to acts of official misconduct, and cannot embrace offences cognizable by Courts of Law, in respect of which the Assembly can exercise no jurisdiction whatever. Two of the offences specified in the address are of the latter description,—acts of violence at an election, amounting, it is to be presumed, to breaches of the peace, and subornation of perjury. For charging the petitioner with these offences, the shadow of a cause, as will be presently shown, was not afforded by him: but, if he had been guilty of these offences, he could only be made amenable to justice for them, by indictment and trial in a Court of Law, in like manner as all other His Majesty's subjects in Lower Canada would be.—Instead, not only of entertaining jurisdiction of these offences, but actually convicting the petitioner of them, the fit course to have been pursued by the Assembly, if sufficient cause for it had been laid before them, would have been, the petitioner apprehends, by address to the Governor, to have prayed that he would direct prosecutions for these offences to be instituted and carried on, by one of the Law Officers of the Crown, in the competent tribunal, in due legal course.

In the charges of the Assembly, as in those proceeding from individuals, it would seem to be indispensably necessary for the purposes of justice, that a sufficient degree of particularity should be used to convey information to the person accused, of the specific facts on which his criminality or culpability is predicated. Without such a specification, giving certainty to the charge, he cannot be apprized of the facts to be proved on the one side, and disproved on the other, and cannot, therefore, be prepared to defend himself. In all the alledged or supposed offences imputed to the petitioner, by the address of the Assembly, he has reason to complain of the absence of any such specification, from which the facts rendering him criminal, or culpable, could be known. This will be made apparent, by reference to the heads of offence, as stated in the address. The first and last heads of offence contained in the address being charged, it is to be presumed, merely as inferences from those of a more specific nature, need not be adverted to, as objectionable, on the ground of generality. Under the second head of offence, the petitioner conceives it would have been fit and proper that a specification should have been given of the particular prosecutions which, it is alledged, ought to have been carried on in the Quarter Sessions, and were improperly made cognizable by the Court of King's Bench. Under the third head of offence, a specification of the several prosecutions which, it is alledged, were unjust and unfounded, would, the petitioner apprehends, have been necessary and proper, to enable him to answer it. Under the fourth head of offence, the names of the electors who, it is alledged, were intimidated by threats and acts of violence, and also the names of the individuals to whom impunity, it is alledged, was offered, it is presumed, ought to have been introduced. Under the fifth head of offence, the names of the individuals charged with perjury, whom the Attorney General, it is alledged, refused or neglected to prosecute, it is humbly conceived, ought to have been specified. Under the sixth head of offence, which is a disgraceful misdemeanor, indictable at Common Law, and cognizable in His Majesty's Courts of Justice, it was of indispensable necessity, not only with a view to the adoption of any measures to be grounded on it, but in common justice and fairness to the party accused, that the names of the persons who, it is supposed, were suborned to commit perjury, should have been specified.

Upon this statement it is sufficiently plain, that, if the address of the Assembly is to be considered as containing charges which the petitioner is called upon to answer, there is an absence of the requisite specification of facts, to ascertain the precise offences with which he is charged, and to enable him to defend himself. But, however defective the address,

viewed as an exhibition of charges, may be, in this respect, and however considerable and unreasonable the disadvantages to which the petitioner is hereby subjected, it would, nevertheless, ill comport with the consciousness of perfect innocence on his part, to abstain, on this ground, from entering into a full justification of his conduct, as to all the matters referred to by the Assembly.—To enable him to do so, and for the purpose of supplying the particulars which are not to be found in the address of the Assembly, he must necessarily advert to a document which, otherwise, he conceives it would be improper to notice, and ought to receive no consideration. He refers to a report of the Committee of Grievances, which, in an address of the Assembly to the Governor of the Province, on the twenty-sixth March last, is called, “A copy of the evidence received by the Committee of Grievances, on the subject of the matters of complaint set forth in the petition of divers inhabitants of the City of Montreal, complaining of the conduct of James Stuart, Esquire, Attorney General,” and which, by that address, the Assembly prayed might be transmitted and laid at the foot of the throne.—This document contains the *ex parte* statements of individuals, not under oath, examined as witnesses before the Committee, in the absence of the petitioner, and without cross-examination, or opportunity for cross-examination, on his part,—and these statements are denominated evidence. From the description of persons examined before the Committee, being, exclusively as to all the material points of evidence, individuals rendered inimical to the petitioner, by the discharge of his public duties, and who were under feelings of resentment and revenge towards him, and other strong motives urging to misrepresentation and falsehood, as well as from the partial and mutilated manner in which these statements, it would appear \*, were received and reduced to writing, this document is liable to objections peculiar to itself.—But the petitioner, at this moment, is desirous of noticing it, merely in its general character, as containing *ex parte* statements of witnesses, to ground an accusation against a public officer. In this character, its office, the petitioner apprehends, is limited to the purpose of accusation, it cannot constitute evidence for the purpose of conviction; it stands on the same footing as evidence taken before a Grand Jury, though inferior in degree to the latter, as not having been given under oath, but equally inadmissible to prove guilt, as having been given in an *ex parte* proceeding, in the absence of the party accused, and without any opportunity for cross-examination on his part.—In principle, therefore, the petitioner deems it an incumbent duty to protest against this document, as containing no admissible evidence to establish the truth of the charges of the Assembly. At the same time, in the peculiar situation in which he is placed, and without any sufficient specification of the imputed offences in the address, to enable him to answer and disprove the charges of the Assembly, he is unavoidably compelled to refer to this document, to supply the facts and circumstances that ascertain what the imputed offences really are; while, for the purpose of establishing his innocence, it is equally necessary to refer to it, in order to prove the falsehood and insufficiency of the statements on which the address of the Assembly has been grounded.

Availing himself therefore of this document, for both these purposes, he will now proceed to show, that the offences imputed to him in the address of the Assembly have not been committed by him, and that no cause whatever has been afforded for the imputation of them.

On the first head of offence, no observation is necessary, it being too general to admit of any answer.

On the second head of offence, the petitioner will beg leave to remark that it is singular that even, upon the slightest inquiry, it should have been supposed by the House of Assembly, that there was cause for imputing offence or blame to the petitioner, “for persisting in prosecuting (as it is alledged) before the superior tribunals, persons accused of minor offences, which ought to have been prosecuted at the Quarter Sessions of the Peace.” Persons at all conversant with the constitution and proceedings of the Criminal Courts in Lower Canada, are perfectly aware, that it has always been, and continues to be, the duty of the Attorney General, to prosecute before the Superior Tribunal, as it is called by the Assembly, that is, before the Court of King’s Bench, such persons as are in custody charged with the offences which, by the Assembly, are denominated “minor offences.” This duty is derived from the powers with which the Court of King’s Bench is vested, and which it has always exercised. Under the system of judicature established in Lower Canada, a Court of King’s Bench sits twice a year, in each of the districts of Quebec, Montreal, and Three Rivers, for the trial of all crimes and criminal offences whatsoever. At these times, the Courts of King’s Bench, in the several districts, execute the powers and perform the functions of Courts of General Gaol Delivery, in which all persons being in custody are entitled *ex debito justitiæ*, to be prosecuted and tried. The Attorney General of Lower Canada always has been, and continues to be, charged with the duty of instituting and conducting criminal prosecutions before the Courts of King’s Bench. Hence he becomes auxiliary to these Courts in the execution of their office as Courts of General Gaol Delivery; and it is alike incumbent on him to prosecute, as it is on the Courts themselves to entertain the prosecution of, all persons in custody for criminal offences, whatever may be the nature of these offences, from the highest to the lowest. It has been, therefore, in execution of the law of the land, that the offences referred

\* Vide affidavits of W. Green, Esquire, and A. Von Iffland, Esquire, Nos. 2 and 15 in Appendix, p. 24. 42.

to by the Assembly have been prosecuted in the Courts of King's Bench, not only by the petitioner, but by all his predecessors in office, without exception; and, as well before as since the petitioner came into office, no term of these Courts has passed over, in which prosecutions for the offences termed by the Assembly "minor offences" have not been instituted and carried on by the Attorney General, for the time being. The petitioner, therefore, has been convicted by the Assembly, of alledged "malversation in office" for having done that which it was his bounden duty to do, and for the omission of which he would have been really culpable; and to this supposed offence, consisting in the right and proper discharge of public duty, it has pleased the Assembly, without any reason whatever, gratuitously, to annex the imputation of a "sordid" motive.

The petitioner will now beg leave briefly to advert to the evidence on which it would appear that the Assembly proceeded, in thus erroneously converting the discharge of an important public duty into an offence. The principal witness examined on this head was a Mr. Jacques Viger, Road Surveyor at Montreal. Among the number of criminal prosecutions instituted by the petitioner, which the political party, whose enmity he thereby incurred, has made a subject of complaint, were indictments against a Mr. Stanley Bagg, for a nuisance, and against this Mr. Jacques Viger, as Road Surveyor, for non-feasance of duty, in having neglected to abate the same nuisance, which, by the provisions of a statute, as well as by the express orders of the magistrates, in special sessions, he was required to abate.\* These prosecutions, than which none more legal could be instituted, were loudly clamoured against by Mr. Viger and his party, as an infringement of law and justice, and the Court of Oyer and Terminer, in which the indictments were found, was represented to the country, as having illegally and oppressively assumed a jurisdiction which did not belong to it, by entertaining these indictments. Mr. Viger, who, in making this unfounded clamour, was evidently very ill-informed respecting the jurisdiction and powers of a Court of Oyer and Terminer, appears not to have been better informed respecting the duties of the Attorney General of Lower Canada, though equally disposed to find fault with both; and it is not uncharitable to suppose, that, on this latter head, the feelings excited in his mind by the indictments against Mr. Bagg and himself may have contributed to blind his judgment. His error in this instance, however, has become of much greater importance, than the errors of a person moving in his sphere could be expected to acquire. In other countries, the errors of a Road Surveyor, in plain matters of law and government, it is not likely would be adopted, as the determination of a legislative assembly. In Lower Canada it is otherwise: Mr. Viger is connected with the leaders in the House of Assembly, and his error has become in effect, it would appear, through his representations, the error of the Committee of Grievances, and, through that Committee, the error, also, of the House of Assembly itself. Being a member of the Grand Jury, in March term, 1830, Mr. Viger, it seems, became impressed with the belief that a number of the Indictments laid before the Jury at that time were improperly brought before them, and ought to have been prosecuted in the Quarter Sessions; he, therefore, in a spirit of zeal for the public interest, as he would intimate, took notes of all these Indictments, that he might be the better enabled, afterwards, to disclose what took place in the secrecy of the Grand Jury room. The benefit of these notes he afforded to the Committee of Grievances, and it is this supposed important disclosure of Mr. Viger (singular to mention!) which constitutes the principal evidence, on this head of supposed offence.—Now, these notes of Mr. Viger, however valuable they may have been deemed by him, so far from establishing that, in preferring the Indictments in question, the petitioner acted improperly, lead to a directly contrary conclusion; they demonstrate that it was his imperative duty to prefer them. Mr. Viger furnishes a list and description of Indictments, which he says ought to have been prosecuted in the Quarter Sessions; and he thence infers, that the Attorney General was culpable, in prosecuting them in the Court of King's Bench. But Mr. Viger, from ignorance or inadvertence, does not appear to have been aware, that the duty of the Attorney General to prosecute these Indictments in the Court of King's Bench became more urgent, from the omission of the Clerk of the Peace to prefer similar Indictments in the Quarter Sessions; and he seems also not to have perceived, that the Attorney General could not be censurable for the neglect of that officer to do his duty.—According to the statement of Mr. Viger, two Quarter Sessions of the Peace (in October, 1829, and January, 1830) had intervened since the commitment of some, and one Quarter Session of the Peace since the commitment of others, of the persons accused, before Indictments were preferred against them, by the petitioner, in March, 1830. These persons, therefore, according to Mr. Viger's own statement, had been detained in custody for several months after the period at which they ought to have been tried; and at the opening of the March term of the Court of King's Bench, had legitimate cause for complaint on this ground. This cause of complaint would, of course, have been greatly aggravated, if their detention in custody had been further prolonged, without prosecution and trial, and they had not received, from the Court of King's Bench, the benefit of a Gaol delivery; in which case, that court, as well as the Attorney General, would have been liable to censure. It is most manifest, therefore, that, without a violation of the liberty of the subject, and a culpable neglect of duty, in which the Court of King's Bench itself would have been involved, the petitioner could not omit to prosecute, in that court,

\* Vide Appendix to Report, (No. 3.) p. 54, 47.



the several Indictments of which Mr. Viger communicated a list and description to the Committee of Grievances. Besides these Indictments, Mr. Viger, evincing certainly a very vigilant and minute though unusual superintendence of the Attorney General in the discharge of his duties, adverts to three other Indictments preferred in a former term, and disposed of in March term, 1830, which, he says, ought to have been prosecuted in the Quarter Sessions, viz.—those against Duncan M'Naughten, John Oliver, and William Covey. These Indictments were for very grave offences; the first being for a gross libel on the administration of justice by certain commissioners for the trial of small causes; the second, for the sale of unwholesome meat, by which the health of a number of persons had been injured; and the third for an offence which, a few years since, was of frequent occurrence in Lower Canada, and of very injurious tendency, the defendant (an American) being charged with unlawfully having in his possession a large number of forged notes of different banks in the United States, amounting to fourteen hundred and sixty dollars, with the intent to utter and dispose of them, in fraud of the King's subjects. That these cases, from the nature of the offences, were deserving of prosecution before the Court of King's Bench, the petitioner conceives no doubt could be entertained; but, if not prosecuted by the petitioner, the persons accused would not have been made amenable to justice in any other court:—in the two first cases, also, the defendants and witnesses had, in the first instance, been bound over to the Court of King's Bench, and, in the last, the defendant was in custody. In prosecuting the three last mentioned indictments, therefore, as well as those already mentioned, the petitioner discharged his duty, he presumes to think, meritoriously; and as to all of them, the singular supervision to which he has been subjected, without being aware of it, might have been dispensed with.

The other witnesses examined before the committee of grievances on this head of offence were Messrs. Green, Perrault, and Delisle, Clerks of the Peace, and two of them also Clerks of the Crown. In the statements of these gentlemen, particular directions of the executive government are referred to, the object of which was to enforce and facilitate the prosecution of certain offences in the Quarter Sessions. These directions originated in a Report of a Committee of the whole Council of the 31st May, 1822, in which were contained several recommendations, with a view to a reduction of the public expense in the administration of justice, in criminal cases. One of the objects of the Report was to compel the Clerks of the Peace to prosecute, in the Quarter Sessions, criminal offences cognizable by that Court, which, for the want of prosecution there, were prosecuted, at a greater expense, in the Court of King's Bench. The recommendation of the Committee, on the last head, appears to have received execution in the District of Quebec, but, from circumstances which it is unnecessary to particularise, was very imperfectly executed in the District of Montreal. Hence it became necessary, in the latter District, to carry on prosecutions in the Court of King's Bench for offences, for which prosecutions might and ought to have been instituted in the Quarter Sessions. But the remedy for this was not to be obtained, by an unfounded inculcation of the Attorney General, for having done his duty, but by compelling the Clerk of the Peace to discharge that which the law of the land, and the directions of the government, had imposed on him. To this subject the attention of his Excellency, Sir James Kempt, while he administered the government of Lower Canada, was drawn; and the petitioner will beg leave to refer to his report\* to his Excellency, in relation to it, as late as the 13th August, 1830, from which it will appear evident that the remedy for the evil in question was to be found, in the proper discharge of the duty of the Clerk of the Peace.

Before quitting this head of imputed offence, the petitioner cannot omit to notice that Mr. Green, a gentleman of acknowledged character and probity, one of the witnesses last mentioned, on his examination before the Committee, it appears, stated facts that might have rectified the erroneous view taken of this subject, by the House of Assembly, and which entirely disproved this charge, as to the District of Quebec: yet these facts, it is to be regretted, were not reduced to writing. It appears by the affidavit of Mr. Green that the material facts now referred to have been suppressed, in the report of evidence taken before the Committee, and that this was done by desire of a member of the Committee (Mr. Lafontaine), who stated it was not necessary to reduce that part of Mr. Green's evidence to writing.—The petitioner has already adverted to the inadmissibility of such evidence as that contained in the report of the Committee of Grievances, under any circumstances, to establish guilt. But when such mutilation has occurred in the manner of taking it, its claim to credit for any purpose cannot but be considered most seriously affected, if not destroyed.

On the third head of offence, it is to be observed, that all the prosecutions for libels, which have been carried on by the petitioner, originated in bills of indictment found by the Grand Juries in the districts of Quebec and Montreal: in no instance whatever has the petitioner exercised the right of filing *ex officio* informations for libels. He is at a loss, therefore, to conceive on what ground he can be held criminal or culpable, for having been merely auxiliary to Grand Juries in the institution of these prosecutions, which are not to be considered as proceeding from him, but from the country itself, through that organ by which

\* Vide Appendix, No. 1.

it is constitutionally represented in such cases. These prosecutions, it is alleged by the Assembly, were "unjust and unfounded." Without inquiring into the constitutional right of the House of Assembly, to sit in judgment on the decisions of Grand Juries in finding bills of indictment, or the expediency or fitness of such an exercise of power by the Assembly, the petitioner will beg leave to remark, that it does not appear, that either the Committee of Grievances, or the Assembly itself, had before it any materials whatever, by means of which it could be ascertained, whether the prosecutions complained of were unjust and unfounded, or not. Neither the indictments in question, nor any of the evidence on which the Grand Juries proceeded in finding them to be true, nor any evidence whatever respecting the charges contained in them, were laid before the Committee, or the Assembly itself. So that the determination of the Assembly, that these prosecutions were "unjust and unfounded," appears to have had no other foundation than the will of the Assembly to declare them so: *Sic volumus, sic jubemus; stet pro ratione voluntas*. To this determination is opposed the legal and constitutional authority of Grand Juries, by which the prosecutions have been sanctioned, and declared to be well founded. Resting on such authority, these prosecutions, the petitioner apprehends, must be presumed to have had a legal, just, and sufficient cause, till the contrary may be established, by the verdict of a jury. This mode (the only legal and satisfactory one), of determining whether the prosecutions complained of were or were not "unjust and unfounded," the House of Assembly does not desire should be pursued; and the defendants themselves have never signified, or manifested, any wish for its adoption; nor are they likely to do so. A conclusive and satisfactory answer to this head of offence, the petitioner, therefore, humbly presumes, is found in the indictments themselves. But apprehending, as in all humility he does, that his agency in these prosecutions was not only not criminal or culpable, but meritorious, he seeks not to shelter himself under the constitutional authority of Grand Juries;—he is ready to justify each and every of them, as having been urgently necessary, when instituted, and as having largely contributed to arrest the progress of disorder, and maintain the authority of his Majesty's government, and the tranquillity of the Province, when both were assailed and endangered. It would be easy for the petitioner to establish this assertion, by entering into particulars, and at the same time to show the connexion which subsists, between the defendants in these prosecutions, and the individuals whose labours and influence have been conspicuous, in the proceedings adopted against the petitioner. But he does not deem it proper, to give such an unnecessary extension to this statement; and will beg leave merely, on this head of imputed offence, to refer to his Report\* on the subject of these prosecutions, which was made to his Excellency, Sir James Kempt, soon after he assumed the administration of the Government of Lower Canada, and of which a copy is hereunto annexed. In this Report, he humbly apprehends, will be found the true character of the prosecutions in question, and sufficient reason to justify his conduct in relation to them, as well as that of the Grand Juries, by which the bills were found.

On the fourth head of offence some explanations, the petitioner begs leave to submit, are necessary, in order that a just opinion of it may be entertained. To represent the Borough of William-Henry, or any other part of the Province, in the Assembly as now constituted, was not an object of the ambition of the petitioner; and, if inclination had been consulted, he would have been a stranger to the elections for that Borough. But, on his receiving the appointment of Attorney General, it was intimated to him, that it was deemed proper that he should represent it, as his predecessors in office generally had done. At the first election, therefore, which occurred after his appointment, he became a candidate for the Borough, and, at considerable personal expense, was elected. The Borough constituting part of the seignory of Sorel, which belongs to his Majesty, the King's Agent for that seignory, on that as on other similar occasions, was relied on for the canvassing of the Borough. When a new election was about to take place in July, 1827, the petitioner placed the same reliance on the exertions of the Agent, as he had done at the previous election, and arrived at the Borough, only the day before the election. He then found that no communication had been had with any of the electors on his behalf, while active measures, of which he had remained ignorant, had been used against him, and that all the influence and activity of a powerful political party, opposed to the then administration of the Colonial Government, and which is now dominant in the House of Assembly, would be exerted to prevent his election. This fact was verified at the opening of the election, the next day, as a large concourse of persons from distant parts of the country, including officers of militia, from colonels down to serjeants, Justices of the Peace, and other persons of influence, wholly unconnected with the Borough, were found ready to sustain the interests of an adverse Candidate.—Among these there were also individuals of inferior condition, whose physical powers had evidently been put in requisition, to be used as circumstances might require. On the other hand, the petitioner, personally a stranger to the Borough, was absolutely alone and unsupported, except by some of the principal inhabitants of the place. It is not to be supposed, therefore, as alledged under this head of offence, that acts of violence, in restraint of the freedom of Election, could proceed from the petitioner, with the aid of four or five peaceably disposed burgesses (the whole amount of the physical force on his side) in opposition to hundreds of individuals thus collected together, acting, besides, under the influence of strong political excitement,

\* Vide Appendix, No. 16.

heightened by national and religious prejudices, and exhibiting both power and inclination to effect their purposes, without being scrupulous as to the means, on the other side.—There is absolutely, therefore, and in the nature of things could not be, the slightest foundation, or colour, for the imputation of acts of violence to the petitioner; while, on his part, he certainly had reason to entertain well-founded apprehensions on this head. As little ground is there also, for imputing to the petitioner the use of threats.—In endeavouring in a very unequal contest, as to numbers, physical strength, and the employment of means, to sustain his interests as a candidate, the petitioner could have no reliance except on the execution of the laws.—In the exercise of rights derived from these, he did object to the admission of illegal votes;—when such votes were insisted upon, he did require the oath of qualification to be administered;—and, when the want of right was evident, he did, as far as opposing violence would permit, caution the individuals about to compromise themselves by taking the oath, against doing so;—he did also represent to them (they being ignorant and illiterate persons) the penalties they would incur, and did inform them they would be prosecuted for Perjury, if they took the oath.—But all this was done by him, as would have been done by any other candidate, under like circumstances; and, on his part, was the mere exercise of the essential rights of a candidate, without which he must have immediately renounced the contest. The urgent occasion there was for the caution he thus attempted to administer to some of the voters, and the explanations he was desirous of affording them, may be sufficiently illustrated, by referring, by way of specimen, to three of the voters, viz. Antoine Aussant, Antoine Hus dit Cournoyer, and François Vandal.—The two former had executed deeds of gift of their property, in the Borough, to their children, without reserving any portion of the estate, in consideration of being lodged and fed by the Donees, or enjoying in their houses, what is vulgarly called in Lower Canada *la fortune du pot*, with the right also, in the case of Aussant, of insisting on a *life-rent*, or *pension viagère*, in case of disagreement between the parties; and the latter claimed the right of voting under the will of a testator *still living*. The returning officer (Mr. Crebassa), who was also the notary of the place, and in that character had in his custody the original deeds of gift and the will, was requested to put these men on their guard, when brought up to vote.—It was on his refusal to do so, that the petitioner interposed, and endeavoured, but ineffectually, to save them from the offence they were about to commit. He could with difficulty make himself heard, amidst the loud vociferations of the adverse candidate and his partisans, urging these men to take the oath, under the circumstances now mentioned, of which they were well aware; and, to vanquish their scruples, the adverse candidate gave them the strongest assurances that he would protect them against all consequences, and stand between them and harm. False swearing, with such attendant circumstances in the very face of the public, must be of rare occurrence; and cases more deserving of prosecution than these, it is presumed, could hardly occur:—Yet these are three of the cases, in which the petitioner is held culpable for indicting the individuals; and the explanations he attempted to give them respecting the offence they were about to commit, and the penalties annexed to it, have been called *threats*, in restraint of the freedom of election!—Under this head of offence, the petitioner is charged with having intimidated some of the electors, while he promised impunity to others. This allegation is altogether untrue, and destitute of any the slightest foundation. It is derived from misrepresentation of facts which really occurred, intermixed with falsehood, proceeding from individuals influenced by a strong desire to injure the petitioner, and subject to no responsibility, for the means thus employed to gratify their malice and resentment.—By misrepresentation, the legal and proper conduct of the petitioner, in cautioning ignorant and deluded men against the commission of perjury, is converted into intimidation; and by falsehood, in ascribing to the petitioner language which he never uttered, a colour is obtained, for charging him with having held out an impunity to voters in his favour, which the most ignorant persons must have been aware it was not in his power to afford, and which no person in his office, not actually deprived of his reason, could possibly have even hinted at, as an inducement to perjury, in the face of the public. The falsehood in this malicious compound thus defeats its object, by its very extravagance. It would be easy for the petitioner, to analyse the statements of the different witnesses from which this compound of misrepresentation and falsehood has proceeded, and establish, as to each of them successively, their entire unworthiness of credit, even if their statements had been legally made under oath, with the responsibility incident to evidence in that form. But a great and, he thinks, unwarrantable extension of this memoir would be thus occasioned unnecessarily, inasmuch as the misrepresentation and falsehood now referred to, besides the intrinsic evidence of it resulting from the facts which are stated, is distinctly proved by the affidavits on oath of the most respectable inhabitants of the borough, who were intimately conversant with the proceedings of the election from first to last, and who have been under the influence of no motive that could affect their veracity. To these affidavits, as well as those of several other persons, the petitioner will beg leave to refer\*, as not only disproving *in toto* this alleged head of offence, but as establishing the scrupulous fairness, and entire correctness of the conduct and deportment of the petitioner, throughout the election.

On the fifth head of imputed offence, the petitioner will observe, that he prosecuted no person for perjury whom he did not caution, at the time of taking the oath, against doing so, and whose want of qualification was not so evident, as to exclude all doubt as to

\* Vide Appendix, Nos. 3, 4, 5, 6, 7, 8, 9, 15.

the falsehood of the oath which had been taken. The number of cases in which this false swearing occurred was so great, compared with the entire number of votes for the borough, which is only between one hundred and one hundred and twenty, that the legal right of voting must be rendered entirely illusory, if the false assumption of this right, by perjury, were not checked. The effect of this assumption, in the case alluded to, was evident, inasmuch as the majority of the adverse candidate was only two or three votes, and the number of his voters against whom indictments for perjury were subsequently found was not less than seven. For the sufficiency of the grounds on which each of these prosecutions was instituted, the petitioner most willingly holds himself responsible. The prosecutions which he is held culpable, under this head of offence, for not having instituted against persons who voted for him, he could not have instituted, without a gross breach of his duty, for two very conclusive reasons. In the first place, no private prosecutor ever requested him to institute such prosecutions, or ever said one syllable to him respecting them; and, in the second, no sufficient evidence ever reached his hands to warrant or justify him, in laying any such accusations as those referred to, before a grand jury. The facts, with respect to this fifth head of offence, the petitioner begs leave to state are these.—In the term of the Court of King's Bench at Montreal, which succeeded the election at Sorel, there were delivered to him, by the Clerk of the Crown, to whom they had been sent, several depositions, charging persons who had voted for the petitioner, with perjury; but, from that period to the present, no private prosecutor ever required that these depositions should be acted upon, nor has any inquiry respecting them ever been made. Upon looking into the depositions, the petitioner found them to have been made by persons of very low condition in life, and to be wholly insufficient to admit of any prosecution being grounded on them. He likewise found that one of the persons charged in these depositions with the commission of perjury, in having falsely sworn to a qualification, had, indeed, voted at the election, but his vote had not been objected to, and he had, in fact, taken no oath at all. It was also, on the depositions of the same person (one Joseph Allard, an indigent carter) by whom this charge of perjury was thus falsely made, that two other of the charges rested. Under these circumstances, no prosecutions were, or could be, grounded on the depositions now referred to. But, it was deemed proper to prosecute Allard for the perjury he had committed, in charging, with that offence, the voter who had voted, without taking any oath; and an indictment was accordingly found against him for perjury, in a Court of Oyer and Terminer and General Gaol Delivery held at Montreal, in November 1827. And in the same session an indictment was also found against Louis Marcoux, \* for subornation of perjury, in having procured him to commit the offence. After the arrest of Allard, the criminal means by which he had been prevailed on, by Marcoux, falsely to charge Cameraire with perjury, as well as those by which these depositions, generally, had been procured, were disclosed. † By this disclosure, the prudential considerations, which had prevented any private prosecutor from incurring the responsibility of acting on such depositions, were rendered sufficiently evident.

On the sixth head of imputed offence,—

Leaving to the consideration of His Majesty's Government the extraordinary assumption of power, by the Assembly of Lower Canada, in convicting him of this offence, by their own mere authority, as already mentioned, the petitioner cannot, without the most painful sense of injury, proceed to exonerate himself from the disgraceful imputation thus arbitrarily and unjustly fastened upon him. The laws of the land, as to him, have been virtually suspended;—the safeguards provided for the security of men's persons, reputation, and fortunes, have, in this proceeding of the Assembly against him, been disregarded, and rendered of no avail. The whole extent of the injury thus inflicted can never be effectually counteracted by the petitioner. The establishment of his innocence, in the form now adopted, cannot effect this purpose. A wide dissemination has been given, under the authority of the Assembly, to a disgraceful charge, not within its jurisdiction or cognizance, and no circulation of its refutation, proceeding from the petitioner, can be equally extensive. Under any circumstances, therefore, the petitioner can only flatter himself with partial reparation for the injury he has experienced.

The offence of which the Assembly, by its assumed authority, has convicted the petitioner, is that of subornation of perjury "in having (as it is alleged) induced, at the "election at Sorel, certain electors, who were not qualified, to take oaths usual on such occasions, although he knew that these individuals were not qualified." Subornation of perjury is thus expressly charged on the petitioner, in respect of several individuals; yet it is not stated who these individuals were; and if the charge alone, therefore, were adverted to, there could be no means of repelling and disproving it. It is only, by referring to the above-mentioned document called "a Copy of Evidence," &c. that the foundation of the charge can be ascertained. The petitioner has looked into this document, to find the names of the several individuals, with the subornation of whom it might be supposed the Assembly meant to charge him; and he finds the name of one individual only, whose oath, it would appear, has given occasion to the charge. It certainly implies, the petitioner may be permitted to remark, singular facility in the imputation of offence to him,

\* Vide Appendix, No. 12.

† Vide the affidavit of Joseph Allard, Appendix, No. 11, p. 31.

that such an increased latitude should be given to the charge, beyond the foundation on which it rests;—that one supposed act of subornation, in the evidence, should be multiplied into several in the charge and conviction of the Assembly; while it is also true, that the magnitude of the charge, and the impression to be made by it, as well as the difficulty of repelling it, are thereby improperly enhanced.

The individual in respect of whom, it would appear, it was the intention of the House of Assembly to charge the petitioner with subornation of perjury, is one François Gazaille dit St. Germain, who, at the time of the election held at William-Henry, was a respectable inhabitant of that place. The facts, with respect to the oath taken by this man, within the personal knowledge of the petitioner, are the following.—On the second day of the election, in the morning, when in the act of proceeding alone, from his lodgings to the poll, which was then held in a small apartment in the Presbytère, or Parsonage-House, the petitioner was met near the door by François Gazaille dit St. Germain, whom he had never seen before, and who informed him that he had come to offer him his vote. The petitioner inquired of him, as he was in the habit of doing when votes were tendered to him, the nature of his qualification, and learnt from him that his qualification consisted in a usufruct for life, or life-estate, in part of a house or houses and lands in the Borough, of the whole of which he had executed a deed of gift to his son, subject to the reservation of a life-estate in part thereof, the annual value of which part so reserved he stated to exceed that which is required by law to confer the right of voting. Upon this statement, St. Germain was told by the petitioner that he had a right to vote, and that his vote would be gladly accepted. The ground of the opinion so expressed could be susceptible of no difficulty. The act of the Imperial Parliament, 31 Geo. III. c. 31. by which the Constitution of Lower Canada is established, annexes to a freehold the right of voting, and a life-estate being a freehold, the right of St. Germain to vote on his usufruct, or life-estate, exceeding in annual value the sum required by law, could not be questioned. After this short explanation with St. Germain, the petitioner proceeded to the poll, where he was for some time unattended by any of the persons who favoured his election. In this interval St. Germain presented himself as a voter, and tendered his vote for the petitioner. His right to vote was objected to by the adverse candidate, on the ground that an absolute right of property, or estate in fee-simple, alone conferred the right of voting, that it could not be claimed or exercised on a usufruct for life, or life-estate, and that, therefore, St. Germain could not vote on the reservation contained in the deed of gift to his son. This objection was answered by the petitioner, and some altercation took place between the adverse candidate and him, as to the admissibility of the vote; the one insisting that the objection was well-founded, the other that it was not; while the returning officer (as was usual with him) gave occasion to the altercation, by not interposing his authority, on the point in dispute. But, in all that was said, the fact of the reservation of a life-estate as stated by St. Germain was not called in question or doubted, either by the adverse candidate, or by the returning officer, or by any person present; the legal effect of the reservation being, alone, the subject of debate between the adverse candidate and the petitioner. While the discussion on this point was going on in English, St. Germain, not understanding that language, withdrew of his own accord; he soon after returned, and of his own free-will (without having been spoken to by the petitioner in the intermediate time) took the oath, and voted. If any doubt had been expressed as to the fact of the reservation having been made, the petitioner would have desired St. Germain to go for and produce the deed of gift, in order to remove it; but this was not thought of at the time, and by the most scrupulous person could not be deemed necessary, when the fact was acquiesced in by the adverse candidate, who is a native of the place, and intimately acquainted with the inhabitants and their concerns, and also by the returning officer, who, in his capacity of notary, had attested the execution, and was in possession, of the original deed of gift. Except on the occasion of offering him his vote, and voting as already mentioned, the petitioner, to his knowledge, has never seen or spoken to St. Germain, either before or since the election, and would not know him if he were to see him. It is on these facts, that the petitioner has been subjected, by the House of Assembly of Lower Canada, to the extraordinary charge of subornation of perjury, in having, as it is alleged, induced St. Germain to swear to a qualification which, it is now said, he did not possess. That such a charge should originate in such facts could not have been anticipated: the malicious misrepresentation and falsehood by which it has been sought to obtain a colour for it are now to be explained. The individuals examined before the Committee, consisting of the adverse candidate, his partisans and friends, two of whom are still under Indictment for perjury and subornation of perjury, on whose statements this charge has been founded, assert that St. Germain, when he tendered his vote, stated that he had given away his property to his son, and that, notwithstanding this fact, he was assured by the petitioner, that he had a right to vote. The fact thus stated is incredible: it cannot be supposed that the petitioner would assure St. Germain that he had a right to vote, if he had merely said, that he had given away his property, which would have been equivalent to a declaration on his part that he had no right to vote; and no person in his senses could, in such case, have ascribed to St. Germain the right of voting. It is here the misrepresentation occurs, on the part of these witnesses, by stating only a part of the fact, or *res gesta*, and suppressing the rest. It is true that St. Germain did state, that he had given away his property to his son, and it is also true that the petitioner assured him he had a right to vote; but it is equally true, that St. Germain added, that he had reserved a life-estate in part of the property so given away, on which he claimed the right to vote, and that it was, on this alleged reservation, not denied at the time, that he

was told by the petitioner that he had a right to vote. The statement of the whole fact, as it occurred, would have excluded all pretence for attaching offence or blame to the petitioner, as his assurance to St. Germain, that he had a right to vote, would have been predicated on a fact, acquiesced in as true at the time, and sufficient to confer that right. Hence the *suppressio veri* in the particular now mentioned; and still further to give a colour to the charge, falsehood has been added, by representing St. Germain to have been reluctant in taking the oath, and to have been pressed by the petitioner to do so, who, it is even falsely said, laid his hand on the book. To disprove the statements of these witnesses *in toto*, and deprive them of all credit, it is sufficient to establish the fact which they have maliciously suppressed, viz.—that St. Germain claimed the right of voting, on the reservation of a life estate. This fact is ascertained by the Affidavits\* of the most respectable inhabitants of the Borough, to whom St. Germain, the day before, and on the morning he voted, stated his intention to vote for the petitioner, and the ground on which he claimed the right of voting, viz.—the reservation of a life estate in part of the property he had given to his son, and to two of whom † he mentioned that he had spoken to the petitioner, as above mentioned, and had been told by him, he had a right to vote on his life estate. To these Affidavits the petitioner is enabled to add the Affidavits of St. Germain himself, and of his son ‡, the occasion and manner of taking which he begs leave to mention. Never anticipating that he could have become subject to such a charge as that in question, it was not, till after the Address of the Assembly, and the publication of the document called “A Copy of Evidence, &c.,” that he deemed it necessary to ascertain the actual residence of St. Germain.—He had removed, with his son, after the election, to another part of the country, where the petitioner caused him to be referred to, and his Affidavit taken of the facts as they really occurred, and also the Affidavit of his son, with whom he now lives. In his Affidavit, St. Germain confirms the fact established by the Affidavits already mentioned, that he claimed the right of voting, and voted, on the reservation of a life estate.—He also negatives the use of any influence whatever on the part of the petitioner to induce him to vote;—he states, that having signified, at the poll, his intention to vote for the petitioner, a discussion (*difficulté*) took place between the two candidates (referring no doubt to the discussion as to the admissibility of his vote on a life estate, which, being in English, he did not understand) and he withdrew;—that he soon after returned, and of his own free-will and accord took the oath;—that the Holy Evangelists, on which he was sworn, were put into his hand by Mr. Crebassa, the Returning Officer, and that the petitioner never touched his hand for the purpose of laying it on the book.—He likewise states facts, of which the petitioner was not previously aware, viz.—that Mr. Nelson, the adverse candidate, the evening before he voted, called at his house to solicit his vote, and in answer to his inquiry how he had disposed of his property, he (St. Germain) told him that he had reserved to himself, by his deed, a life estate in one or other of his two houses, at his option, and thereupon Mr. Nelson told him he had a right to vote, and that if any difficulty was made about it at the poll, he (Mr. Nelson) would soon put an end to it. He also swears that on the same qualification, and at the solicitation of the same Mr. Nelson, he had previously voted for the two members for the county, in which the borough of William-Henry is situated.—He likewise states, that the morning he voted, in order to be more secure as to his right of voting, he went to consult Mr. Crebassa, the Returning Officer, being the Notary before whom his Deed of Gift to his son had been executed, who refused to give him either information or advice on the subject, telling him at the same time to do as he pleased; by which he was the more confirmed in the belief that he had a right to vote. These last-mentioned facts, contrasted with the statements made before the Committee of Grievances, sufficiently exemplify the character, principles, and conduct of the persons with whom the proceedings in question against the petitioner originate. But they are not necessary for the petitioner's entire justification, which results from the simple fact, that St. Germain claimed the right of voting on a life estate, and that the assurances he received from the petitioner that he had this right, were predicated on the supposed existence of such life estate, which at the time was not denied or called in question.

The falsehood of the charge of subornation of perjury, of which he has been convicted by the Assembly, and the absence of any the slightest probable cause for it, is thus convincingly established; and the petitioner might abstain from further observations respecting it. But the true character of this proceeding against him would be imperfectly understood, without some explanation also of the motives for the misrepresentation and falsehood which have been made manifest. St. Germain had voted, early in the election, when a single vote was deemed of little importance, and his vote, as already established, had been distinctly given on the ground of a reservation of a life-estate in the deed of gift to his son. At a later period of the election, when it was drawing to a close, and the value of a vote was much enhanced, two persons, Aussant and Cournoyer, who had also given away their property, in the Borough, to their children, but who, by their own confession, had made no reservation of a life-estate in any part of it, were prevailed on by the adverse candidate and his partisans to swear, as above mentioned, to a qualification, without the semblance of a reason for doing so. These men, as they were forewarned by the petitioner, when they took the oath, were afterwards prosecuted for perjury. It then became an object with the persons by whose means and influence they had been got into this predicament, to extricate them from it, by falsifying the facts which had occurred, in relation to the vote given by St. Germain. He had voted on a life-estate of

\* Vide Append. Nos. 4, 5, 6, and 15.

† Vide Append. Nos. 4 and 5.

‡ Vide Append. Nos. 13 and 14.

which, it would appear, he *bonâ fide* supposed the reservation to be contained in the deed of gift to his son, and which his neighbours, and other persons (including the adverse candidate, Mr. Nelson himself) supposed him to possess. But, after the election, it was ascertained (whether from the fault of the notary by whom the deed of gift was prepared, or other cause,) that the deed of gift did not in fact contain such a reservation as St. Germain had supposed, and was believed, at the time he voted, to exist. With the aid of this circumstance, a defence and justification, or excuse for Aussant and Cournoyer, in having sworn falsely to a qualification which they did not possess, it was imagined, might be obtained, by converting St. Germain's vote into a precedent for the votes they had given, under very dissimilar circumstances. For this purpose, it was necessary to suppress the mention of the alleged title (a life-estate) on which St. Germain voted, and represent him to have voted precisely under the same circumstances under which Aussant and Cournoyer voted. The persons who have concurred in this suppression have done so with the greater confidence, as there were few persons present when St. Germain voted, and among these none of the persons who favoured the election of the petitioner, from whom contradiction could be apprehended. This singular mode of justifying the perjury, for which Aussant and Cournoyer were indicted, by endeavouring to establish that another person had previously committed a similar perjury, was resorted to on the trial of Aussant; and it was afterwards thought that the same misrepresentation and falsehood, which had been irregularly and irrelevantly introduced into that trial, might be successfully directed against the petitioner, in another quarter. The motives, therefore, for the misrepresentation and falsehood, which have been clearly established as to what occurred when St. Germain gave his vote, are to be found in the desire to obtain, by these means, justification or excuse for Aussant and Cournoyer, and to injure the petitioner.

So far as the justification of the petitioner is in question under this head of imputed offence, it matters not whether the life estate on which St. Germain voted was really possessed by him or not; it is sufficient that he claimed the right to vote on that title, and that it was with reference to it, that the petitioner assured him he had a right to vote. It may, however, not be unfit to mention, that the petitioner was not aware, till the trial of Aussant, that the reservation of a life estate in favour of St. Germain was not to be found in the deed of gift to his son. The fact of the reservation having been made was, at the election, acquiesced in as above mentioned; and it appears, by the Affidavits of both St. Germain, father and son\*, that it was stipulated between them, and ought to have been included in the deed of gift. It appears, also, that the elder St. Germain, who cannot read or write, still remains under the firm persuasion that the reservation is contained in the deed of gift;—that his son continues to give effect to the reservation as if it were contained in the deed;—and that the elder St. Germain, ever since the deed was executed, has enjoyed and still enjoys the benefit of it.

Under different circumstances, the petitioner might have deemed it proper to advert to facts which are of a nature to invalidate the credit of the several witnesses examined before the Committee of Grievances, in support of this head of imputed offence.—But, considering the falsehood of the charge to have been clearly and plainly established, he thinks he may, at least for the present, omit this disagreeable task; reserving, however, his right to do so, if it should hereafter be rendered necessary.

As he has already done, under a preceding head of imputed offence, it is incumbent on the petitioner that he should, under this head also, notice an alleged irregularity and incorrectness in the taking of evidence by the Committee of Grievances, in support of it, which must excite extreme surprise.—By the affidavit of Dr. Von Iffland †, one of the witnesses examined before the Committee, it appears that, in the Report of the evidence taken before it, there has been a suppression of material facts and circumstances which made part of his answers to the questions put to him, and that the evidence contained in the Report, in a number of particulars, is incorrect, and different from the evidence really given by him before the Committee. In what relates to François Gazaille dit St. Germain, it appears that Dr. Von Iffland stated before the Committee, facts from which it was to be inferred, that the said St. Germain took the oath, of his own free will, upon an alleged reservation of a life-estate, the existence of which estate was not denied or doubted at the time he voted; and that these facts have been entirely suppressed in the evidence ascribed to Dr. Von Iffland.—The facts which this witness thus stated before the Committee, and which have been suppressed in the Report of evidence, being the document above designated as “A copy of evidence, &c.” are in his affidavit proved to be the following, viz. “That St. Germain called upon Dr. Von Iffland the day before he voted, “and, after mentioning his intention to vote for James Stuart, Esquire, one of the Candidates, “stated also the nature of his qualification, which he represented to consist in the usufruct “for life, or life-estate, in part of the house in the Borough, which he had given to his son, “by Deed of Gift, executed before Mr. Crebassa, Public Notary.—The next morning, the “said St. Germain again called on Dr. Von Iffland, and informed him that he had just “seen the said James Stuart, who had told him, that if he (St. Germain) had reserved a “life estate, as he represented he had done, he would have a right to vote.—That Dr. Von “Iffland being desirous of assuring himself of the terms of the reservation stated by St. Germain “to be contained in the Deed of Gift to his son, immediately after went to the office of the said

\* Vide Append. Nos. 13 and 14.

† Vide Append. No. 15.

“ Crebassa, for the purpose of seeing the said Deed of Gift, and applied for the perusal of it, to the said Mr. Crebassa, who refused to let him see it.—That soon after Dr. Von Iffland met the said St. Germain, who persisted in the confident assertion that the said Deed of Gift contained such a reservation, as he had stated, and that he would go and vote for the said James Stuart: and, in the course of the same morning, Dr. Von Iffland heard that the said St. Germain had voted for the said James Stuart:—That Dr. Von Iffland did not hear any doubts expressed of the truth of the fact stated by the said St. Germain, as to the said reservation, until five or six days after the election was over, when the said St. Germain, in conversation with him, renewed his assertion, that he had reserved to himself a life estate, as above-mentioned.”

The evidence of Mr. Green, which he states on oath to have been suppressed, was of a nature to defeat the second charge, by disproving it.—The material facts, making part of Dr. Von Iffland's evidence, which he states, on oath, to have been suppressed, were equally calculated to disprove and defeat the sixth charge against the petitioner. Under these two heads of accusation, then, according to the express affidavits of Mr. Green and Dr. Von Iffland, the evidence to prove innocence has been suppressed, while evidence, from which culpability of some kind or other might be inferred, has alone been reduced to writing.—Upon such an extraordinary mode of investigating the conduct of a public officer, and establishing his guilt, by suppressing the evidence of his innocence, no observation can be deemed necessary. It is, however, strikingly illustrative of the spirit and manner in which the proceedings against the petitioner have been promoted and carried on, by the individuals with whom they originate, and of the means which have been perseveringly employed to injure him. He will only further permit himself to express his regret, that the facts thus suppressed should not have been reported to the House of Assembly, as it might reasonably be presumed, that with this evidence, of which it appears to have been improperly deprived, the Assembly of Lower Canada, in the judicious exercise of its high and important functions, would have abstained from both these charges.

Having, as he humbly apprehends, fully established the grounds on which his respectful appeal to his Majesty has been made, the petitioner submits the case set forth in his petition, to his Majesty's gracious consideration, in the full persuasion, that the measure of justice due to a servant of the Crown, in the faithful and honest discharge of his duty, will not be withheld from him.

(Signed) J. STUART.

*London, 46, Albemarle Street,  
6th August, 1831.*

True Copy, J. STUART.



*Copy of a Letter from James Stuart, Esq., to the Right Hon. Lord Viscount Goderich, one of His Majesty's principal Secretaries of State, relating to the foregoing Petition and Memoir.*

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London, 46, Albemarle Street, 6th August, 1831.

MY LORD,

In conformity with the intention expressed in my memorial, addressed to your lordship from Quebec, the 14th April last, on the subject of my suspension from the office of Attorney General for the Province of Lower Canada, I now do myself the honour to transmit to your lordship, to be laid at the foot of the throne, my humble petition, that his Majesty will be graciously pleased to afford me an opportunity of defending myself against, and disproving, the charges specified in the address of the assembly of that province, for my dismissal from office. Together with this petition, I also do myself the honour to transmit to your lordship a memoir or statement in explanation and support of it. Being solicitous that the charges of the assembly may receive the most complete and satisfactory investigation, it has been with much satisfaction that I have observed, that an agent has been deputed by the assembly, to sustain their charges and address; and I beg leave to express my humble wish that, under your lordship's authority, he may be made acquainted with every allegation and document proceeding from me, in relation to this matter, in order that he may be enabled to contest them, if so advised.

I have the honour to be, with the greatest respect,

My Lord,

Your lordship's most obedient humble servant,

(Signed) J. STUART.

To the Right Hon. Lord Viscount Goderich,  
&c. &c. &c.

True copy, J. STUART.

**APPENDIX**

TO A

**MEMOIR OR STATEMENT**

IN

**EXPLANATION AND SUPPORT**

OF THE

**PETITION OF JAMES STUART, ESQ.**

**TO HIS MAJESTY.**



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# APPENDIX.

## No. 1.

*Copy of a Report made by JAMES STUART, Esq., Attorney General of Lower Canada, to His Excellency SIR JAMES KEMPT, in a letter to LIEUT. COL. YORKE, Secretary to His Excellency.*

Quebec, 13th August, 1830.

SIR,

I have been honoured with the commands of his Excellency, Sir James Kempt, signified in your letter of the 5th May last, transmitting an extract from a report of a Committee of the whole Council of the 31st May, 1822, in which certain recommendations are made with a view to the reduction of the public expenditure in the administration of justice in criminal cases; and requiring me to take the subject generally into consideration, and suggest any measures that may occur to me, as necessary to give greater effect to the recommendation of the Council.

In obedience to his Excellency's commands, I have perused the extract of the Report of Council above referred to, with the documents connected with it.

In order to ascertain whether any thing can be done in furtherance of the object of this Report, it is necessary to mention the heads of expenditure, which it was intended by the Report to reduce, the means suggested for accomplishing the proposed reduction, and the effect of them.

The heads of expenditure were, 1st, The expense incurred in the conduct of criminal prosecutions by fees to the officers of the crown.

2ndly, The expense incurred in subpoenaing witnesses for the Crown, in such prosecutions.

3rdly, The expense incurred in allowances to witnesses for the Crown, in such prosecutions.

4thly, The amount of expense arising from the number and description of criminal prosecutions conducted by the officers of the Crown, in the superior courts of criminal jurisdiction.

Under the first head, was to be remedied the increased expense occasioned, by allowing the Solicitor General, to charge fees, in criminal prosecutions conducted by the Attorney General. This objectionable cause of expense originated in an order of Council of 21st August, 1817, by which it was directed that the Solicitor General should be employed with the Attorney General in all criminal prosecutions, and that he should be allowed for this service the fees granted by the Tariff of 1801. Under this order, the services which at all times previously had been, and could well be, performed by one officer, were to be performed by two, with a consequent duplication of the expense. That this increased expense was unnecessary, and ought not to be incurred, was very evident, and the committee recommended it to be discontinued, by rescinding the order above mentioned; so that, under this first head of expense, the proposed reduction has been accomplished.

Under the second head, a very large expense has been incurred, by permitting the person charged with the duty of procuring the attendance of witnesses for the Crown, to make a Bill in detail in each prosecution, without, perhaps, a very minute examination of the grounds of his charges. Instead of this mode of remuneration, it was deemed preferable, that the service in question should be performed for a specific sum *in globo*, and 100*l.* was allowed for it, each term. This expense has been further diminished since I came into office, several hundred pounds having been saved to the public, by the course I have pursued; and I am not aware that it admits of any further reduction, except by taking away the cause for this expenditure; that is, by obtaining the attendance of witnesses, by means of recognizances, instead of subpoenas. There is no doubt, that if the Justices of the Peace were to discharge their duty, by putting under recognizances

the persons capable of giving evidence in criminal prosecutions, and transmitting these recognizances regularly to the Criminal Courts for which they are intended, the necessity of subpœnaing witnesses would be obviated, and this cause of expense prevented. But this duty is omitted to be performed in the greater number of cases, and hence the continuance of expense that ought to be unnecessary. The true and effectual remedy for this evil would be found in a Legislative enactment, similar to one recently adopted in England, empowering the Criminal Courts, in a summary manner, to impose a fine on Justices neglecting to take and transmit recognizances, as required by law. Without such an enactment the object in view cannot be effectually attained. In the meantime, all that can be done is, to limit the service of subpœnas to cases of absolute necessity, and restrict the charge for it to the lowest possible amount. This has been, and continues to be, done by me.

Under the third head, it was recommended by the Committee, that needy witnesses only should be paid, and that an affidavit of want of pecuniary means should be made by each witness, to entitle him to an allowance. This recommendation has been since acted upon; and no reduction under this head of expenditure can be effected, except in so far as it may be accomplished, by a close adherence to the recommendation of the Committee, and a scrupulously exact taxation of each witness. Since I came into office as Attorney General I can assert, that these restraints have been rigidly enforced, and nothing that I am aware of remains to be done, to diminish this head of expenditure.

Under the fourth head, it was recommended by the report, that offences properly cognizable by the Quarter Sessions should be prosecuted in that Court. This recommendation, it is most expedient, should be acted upon at all times, and, if carried into execution, must have the effect of diminishing the number of prosecutions in the Superior Criminal Courts. The Officer whose duty it is to prosecute offences in the Quarter Sessions is the Clerk of the Peace; and it is only necessary that he should be assiduous in the discharge of this duty, to accomplish the object of the Report on this head. I am of opinion, that the Clerk of the Peace ought to be allowed a reasonable sum for the conduct of each criminal prosecution which it becomes his duty to carry on; and beyond this, it is only necessary, for the accomplishment of what is desired, that he be compelled to do his duty.

Under this view of the subject, it is plain that the reduction of the expense in criminal prosecutions can only be expected,—First, from a more exact and regular discharge of the duty of Justices of the Peace, in taking and transmitting recognizances. Secondly, from a more exact discharge of the duty of Clerks of the Peace, in prosecuting offences cognizable by the Quarter Sessions. An injunction, in the form of a circular letter, was laid by the Governor on Justices of the Peace, subsequently to the Report in 1822, to discharge their duty, in the particular just mentioned. Perhaps a renewal of this Injunction might be of some use; and it might also, perhaps, be of advantage, that the Clerks of the Peace should, by a circular letter, be required to discharge the duty which, as above mentioned, belongs to their office. No other steps than these, and a recommendation to the legislature to pass an enactment, such as above suggested, for compelling Magistrates to take and transmit recognizances, can, I conceive, be adopted by the Executive Government, with a view to the reduction of expenditure, in the administration of justice in criminal cases.

I have the honour to be,

Sir,

Your most obedient humble servant,

(Signed) J. STUART, Attorney General.

True Copy, J. STUART.

## No. 2.

*Affidavit of WILLIAM GREEN, Esquire, Clerk of the Crown for the District of Quebec.*

PROVINCE OF LOWER CANADA.

DISTRICT OF }  
QUEBEC. }

To wit:

WILLIAM GREEN, of the City of Quebec, Esquire, maketh oath, that he hath held jointly with François Xavier Perrault, Esquire, the office of Clerk of the Peace for

the district of Quebec, during nineteen years, and hath held the office of Clerk of the Crown, during seven years. And the deponent further saith, that on the twenty-sixth day of February, now last past, at the said city of Quebec, he was examined as a witness before the Committee of Grievances, sitting under the authority of the house of Assembly of this Province.—That in the course of his examination as such witness, as aforesaid, he, this deponent, stated to the said Committee, as a part of his evidence, that the Attorney General (meaning James Stuart, Esquire, His Majesty's Attorney General for this Province) had never taken any step for causing cases to be tried before the Court of King's Bench for the district of Quebec, which were susceptible of trial, or might be tried before the Court of Quarter Sessions for the same district; and that the said Attorney General had never thrown any obstacle in the way of prosecutions before the said Court of Quarter Sessions; but, on the contrary, that the said Attorney General had, on numerous occasions, and whenever applied to by the Clerks of the Peace, given every facility for removing such difficulties as occasionally occurred, in carrying on prosecutions before the said Court of Quarter Sessions.

And the deponent further saith, that he also, at the same time, stated to the said Committee, as part of his said evidence, that the consideration by which the said Attorney General has been governed in prosecuting, or not prosecuting, in the Court of King's Bench, offences of petty larceny and misdemeanor, has always been, that of the party accused being in custody or not, during the session of the Court of King's Bench: if the party accused has been in custody during such session, he has been prosecuted in the Court of King's Bench, in favour of the liberty of the subject, and as being incident to the delivery of the gaol; if not, the case has been left for prosecution in the Quarter Sessions.

And the deponent further saith, that his said evidence, in the particulars aforesaid, though given before the said Committee as aforesaid, was not reduced to writing, it having been stated by the member of the Committee, (Mr. Lafontaine) who put the question, in answer to which the said evidence was given as aforesaid, that it was not necessary to reduce to writing that part of the deponent's said evidence, which is herein before recited.—And the deponent further saith, that the evidence aforesaid, so given by him, the deponent, as aforesaid, is in all particulars true.—And the deponent further saith, that the said James Stuart, since he came into office, as Attorney General as aforesaid, has not, in any instance, to the knowledge of the deponent, deviated from the course pursued by his predecessors in office, as to the description of crimes prosecuted by him in the Court of King's Bench.—And the deponent further saith, that he passed his clerkship to entitle him to admission to the Bar, in this Province, in the office of the Honorable Jonathan Sewell, Esq., now Chief Justice, and formerly Attorney General of this Province, in and between the years one thousand eight hundred and three, and one thousand eight hundred and eight; and that the same course pursued by the said James Stuart, in the prosecution of larcenies and misdemeanors as aforesaid, was observed by the said Jonathan Sewell, in the criminal prosecutions of that nature, carried on by him in the Court of King's Bench.—And further the deponent saith not.

(Signed) W. GREEN.

*Sworn at the City of Quebec, this 4th day of  
April, 1831, before me,*

(Signed) EDWD. BOWEN, J. B. R.

True Copy, J. STUART.

### No. 3.

*Affidavit of JOHN KENT WELLES, Esquire.*

PROVINCE OF LOWER CANADA.

DISTRICT OF }  
QUEBEC. }  
To Wit:

JOHN KENT WELLES, of the Borough of William Henry, Esquire, maketh oath, That he now is, and hath been, for upwards of nineteen years past, Agent for His Majesty's Seigniorie of Sorel. That he was acquainted with the proceedings which took place at the Contested Election for the said Borough, which was held there in the month of July, in the year of our Lord one thousand eight hundred and twenty-seven, and was daily at the



Poll, during the continuance of the said Election.—That he was present, when some of the voters were objected to by James Stuart, Esquire, one of the Candidates, and were required to take the oath of qualification, and did hear the said James Stuart explain to them the consequences of their taking a false oath. That neither on these occasions, nor on any occasion whatever, did he hear the said James Stuart state, or in any manner intimate, that he, as Attorney General, had alone the power of prosecuting persons for Perjury, and that he would prosecute those who voted against him, for that offence, while those who voted for him had nothing to fear;—nor did he ever hear the said James Stuart utter any words of such import, or that could bear such an interpretation; nor did he ever hear, either during or subsequently to the said election, that such words, or words of similar import, had ever been used by the said James Stuart, until, to his surprise, he heard Mr. Wolfred Nelson, on his examination as a witness on the trial of Antoine Aussant for Perjury, at the said election, in the Court of King's Bench at Montreal, in March last, declare that such words had been used by the said James Stuart.—That the Deponent does not think that such extraordinary words could have been used at the said election, without their being made a subject of conversation then, or subsequently, so as to have reached his ears.—That the Deponent was principally referred to by the said James Stuart, during the said election, for information, respecting the qualification of the voters, and in every instance, within the knowledge of the Deponent, in which the right of a person desirous of voting for the said James Stuart, was deemed doubtful, the particulars of his qualification were inquired into by the said James Stuart, and if his right was found defective, he was told so, and his vote was not accepted. That, to the knowledge of the Deponent, several persons who had voted at former elections for the said Borough, and were desirous of voting for the said James Stuart, having submitted to him, during the election, and towards its close, the particulars of their supposed right, were informed by him, that they were without the necessary qualification to entitle them to vote, and that he therefore declined their votes, which in consequence were not given.—That among these persons, whose votes were so rejected, there were a Mr. John Carter, a gentleman residing in the Borough, who had voted at former elections, and who was willing to swear to his qualification, and one Gingras, and two or three other persons, whose names the Deponent does not now recollect, who were also willing to swear to their qualification:—And to the Deponent's knowledge, the said Gingras, and the said two or three other persons, at the most critical period of the election, and when a single vote might decide the result, by the desire of the said James Stuart, were sent to a distance from the Borough, at his expense, lest the partisans of the adverse Candidate (some of whom were known not to be scrupulous on this head) might induce them to swear and vote for him. That the expense of sending these persons out of the way, amounting to eight dollars, was paid by the Deponent, and reimbursed to him by the said James Stuart, after the election was over. That the Deponent was present when several of the voters, who have since been prosecuted for Perjury, were sworn to their qualification, and heard the said Wolfred Nelson encourage them, in the most pressing manner, to take the oath, assuring them that no harm would happen to them from it, and that he would stand between them and harm.—And the Deponent further saith, that it is within his knowledge, that in objecting to the qualification of voters, as well as in his attempts to make them aware of the consequences of taking a false oath, the said James Stuart experienced the greatest difficulty in obtaining a hearing, by reason of the loud clamours, and the interruption proceeding from the adverse Candidate and his partisans, and the encouragement given to the voters to take the oath, at all hazards. And further this Deponent saith not.

(Signed) JOHN K. WELLES.

*Sworn at the City of Quebec, the 21st day of  
May, 1830, before me,*

(Signed) EDWD. BOWEN, J. B. R.

True Copy, J. STUART.

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#### No. 4.

*Affidavit of ROBERT JONES, Esquire.*

DISTRICT OF }  
MONTREAL. }

ROBERT JONES, of the Borough of William Henry, in the District of Montreal, in the Province of Lower Canada, Esquire, Lieutenant Colonel in the Militia of the said Province, and also one of His Majesty's Justices of the Peace, for the said District, maketh oath, that he has resided for upwards of fifty years in the said Borough, and was particularly acquainted with the proceedings which took place at the Election of a Representative for

the said Borough, held there in July one thousand eight hundred and twenty-seven.—That he the Deponent attended the Hustings daily, during the continuance of the said Election, and was seldom absent therefrom.—That he the Deponent was present when Antoine Aussant, François Vandal, Nicholas Buckner, Joseph Claprod, and others, who presented themselves as Voters at the said Election, were objected to by James Stuart, Esquire, one of the Candidates, and were required to take the oath of qualification, to entitle them to vote.—That the said James Stuart, when the said oath was about to be administered to the said persons, used every exertion in his power to make them acquainted with the nature of the said oath, and the penalties they would incur if they swore falsely, but experienced great difficulty in doing so, in consequence of clamorous interruptions proceeding from the adverse Candidate, Mr. Nelson, and several of his partisans, who loudly and vehemently urged the said persons to take the oath, the said Mr. Nelson assuring them in the most earnest manner, that no harm could or should happen to them from doing so, and that he the said Mr. Nelson would stand between them and harm: and the Deponent recollects that it was stated by the said James Stuart, with reference to the impropriety of these assurances, that the Pillory was one of the punishments annexed to the offence of Perjury, and that Mr. Nelson could not, and would not, supply their places there.—That the said James Stuart repeatedly represented to the Returning Officer, Mr. Crebassa, the necessity there was, that he should explain to these individuals, they being illiterate and extremely ignorant, the nature of the oath to be taken, that they might not unguardedly become liable to the penalties of Perjury, but the said Returning Officer refused to do so, saying it was his duty to administer the oath and nothing more, without any explanations on his part, and he did accordingly administer the oath to them, amidst the clamorous outcries of Mr. Nelson, and several of his partisans, urging them to take the oath, and the assurances of indemnity on the part of Mr. Nelson as aforesaid.—That the said James Stuart did tell the said persons by whom the oath of qualification was taken as aforesaid, that if they swore falsely, they would be prosecuted for perjury, and this was said by him, as it would have been said by any other candidate under like circumstances:—but the said James Stuart did not say, that he, as Attorney General, would prosecute them for perjury, or that he, as Attorney General, had alone the right of prosecuting for perjury, or that those who voted for him had nothing to fear, while those who voted against him would be prosecuted for perjury, nor did the said James Stuart, on the occasion of administering the oath to the said persons, use any words of such import, or that could bear such an interpretation, nor did the Deponent ever hear, either during or subsequently to the said election, that any such language had ever been used by the said James Stuart until to his great surprise, being present in Court, he heard the said Mr. Nelson, on his examination as a witness, on the trial of the said Antoine Aussant for perjury, in March last, declare that such language had been used by the said James Stuart.—That Deponent having been long resident at the Borough of William Henry, and having himself represented the said Borough in several Parliaments, was frequently referred to by the said James Stuart, for information respecting the qualification of persons about to vote, or who it was expected would vote at the said election; and in every instance, within the knowledge of the Deponent, in which the right of a person desirous of voting for the said James Stuart was deemed questionable, the particulars of his supposed qualification were inquired into by the said James Stuart, and if his right to vote was found defective, he was told it was so, and his vote was not accepted. That the Deponent is well acquainted with one François St. Germain, who voted for the said James Stuart, at the said election.—That the said St. Germain told the Deponent, the day before he voted, that he intended to vote for the said James Stuart, and grounded his right to vote on a reservation, which he said he had made in a Deed of Gift to his son, of a house in the Borough, by which he had reserved to himself the usufruct for his life of two apartments in the house, over and above a life rent; and the Deponent also knows that the said St. Germain, before he gave his vote, went to the lodgings of the said James Stuart to consult him as to his right to vote, under the reservation which he stated he had made in the Deed of Gift to his son as aforesaid.—That the conduct of the said James Stuart, throughout the said election, in every instance, in which it came within the knowledge of the Deponent, was marked by fairness, and a strict regard to propriety.—That to the Deponent's knowledge persons who had voted at former elections, and were desirous of voting for the said James Stuart, were interrogated by him as to the nature of their supposed qualification, and he being of opinion that they had no right to vote, declined their votes, which were not given.—That the Deponent has also a knowledge that several persons who were desirous of voting for the said James Stuart, and were willing to take the oath of qualification, towards the close of the election, were sent out of the way to a distance from the Borough, by the desire, and at the expense of the said James Stuart, after he had inquired into their supposed qualification, and had ascertained that they had no legal right to vote:—and the reason then assigned by the said James Stuart for this step was, that the partisans of the adverse Candidate, not being scrupulous as to means, might, if these persons were not sent out of the way, induce them to vote for him.—And further this Deponent saith not.

(Signed)

R. JONES.

*Sworn at William Henry, this 9th day  
of June, 1830, before me,*

(Signed) ANTHONY VON IFFLAND, J. P.

True Copy, J. STUART.

## No. 5.

*Affidavit of ANTHONY VON IFFLAND, Esquire.*

DISTRICT OF }  
MONTREAL. }

ANTHONY VON IFFLAND, of the Borough of William Henry, in the District of Montreal, in the Province of Lower Canada, Esquire, Doctor of Physic, and one of His Majesty's Justices of the Peace for the said District of Montreal, maketh oath, that he has a particular knowledge of the circumstances which occurred at the Election of a Representative for the said Borough, held there in July, one thousand eight hundred and twenty-seven,—he the Deponent having been present daily at the Hustings, and having only occasionally absented himself from them.—That the Deponent was present when Antoine Aussant, Antoine Hus, alias Cournoyer, Nicholas Buckner, François Vandal, and others who presented themselves as voters at the said Election, were objected to by James Stuart, Esquire, one of the Candidates, and were required to take the oath of qualification to entitle them to vote.—That the said James Stuart, previous to the administering of the oath to the said persons last named, endeavoured to make them acquainted with the nature of the oath they were about to take, and the penal consequences they would incur, by swearing falsely, but found great difficulty in doing so, by reason of the interruptions he experienced from the adverse Candidate, Mr. Nelson, and several of his partisans, who with vehemence and loud clamour urged the said persons, and particularly the said Aussant, Hus, alias Cournoyer, Buckner, and Vandal, to take the oath; the said Mr. Nelson assuring them, in the most positive terms, that no harm should, or could, happen to them from doing so, and that he the said Mr. Nelson would stand between them and harm; in reference to which assurances, and by way of putting the said persons on their guard, it was stated by the said James Stuart, that the Pillory was one of the punishments annexed to the offence of Perjury, and that Mr. Nelson could not, and would not, supply their places there.—That the said James Stuart, to prevent the effect of the assurances and solicitations proceeding from the adverse Candidate, repeatedly represented to the Returning Officer, Mr. Crebassa, the necessity there was that he should explain to these individuals, they being extremely ignorant, the nature of the oath to be taken, that they might not be unguardedly involved in the penalties of Perjury, but the said Returning Officer refused to do so, saying it was his duty to administer the oath, and nothing more, without any explanation on his part, and he did accordingly administer the oath to them, amidst the loud and importunate requests of the said Mr. Nelson frequently repeated, that they would take the oath, and his assurances of indemnity as aforesaid.—That the said James Stuart did tell the said persons, by whom the oath of qualification was taken as aforesaid, that if they swore falsely, they would be prosecuted for Perjury, and this was said by him, in such terms as would have been used by any other Candidate, under like circumstances;—but the said James Stuart did not say, that he, as Attorney General, would prosecute them for Perjury,—or that he, as Attorney General, had alone the right to prosecute for perjury,—or that those who voted for him had nothing to fear, while those who voted against him would be prosecuted for perjury;—nor did the said James Stuart, on the occasion of administering the oath to the said persons, use any words of such import, or that could bear such an interpretation;—nor did the Deponent ever hear, either during or subsequently to the said election, that any such language had ever been used by the said James Stuart; until, to his great surprise, he learnt that the said Mr. Nelson, on his examination as a witness on the trial of the said Antoine Aussant, for Perjury, in March last, had declared, that such language had been used by the said James Stuart, when the said Antoine Aussant took the oath of qualification as aforesaid.—That the Deponent, having been long resident at the Borough of William Henry, was frequently referred to by the said James Stuart, for information respecting the qualification of persons about to vote, or who it was expected would vote at the said election, and in every instance, within the knowledge of the Deponent, in which the right of a person desirous of voting for the said James Stuart was deemed questionable, the particulars of his supposed qualification were inquired into by the said James Stuart, and if his right to vote was found defective, he was told it was so, and his vote was not accepted.—That the Deponent is well acquainted with one François St. Germain, who voted for the said James Stuart, at the said election.—That, on the first day of the election, being the twenty-fifth day of July, the Deponent met the said François St. Germain, when he signified a desire to vote for the said James Stuart, and, upon the Deponent's inquiring into the nature of his qualification, he told the Deponent that in the Gift which he had made to his son, of his house in the Borough, he had reserved to himself the usufruct during his life of two apartments in the said house, over and above a life rent, and he referred the Deponent to Colonel Jones for the truth of this fact.—That the Deponent thereupon advised the said François St. Germain to consult the said James Stuart, as to the sufficiency of his qualification, to entitle him to vote; and, the next morning, having again met the said François St. Germain, he told the Deponent that he had seen the said James Stuart, at his lodgings, and that the said James Stuart had told him, that under the reservation he had made he could vote.—That the Deponent felt anxious to ascertain the precise terms of the reservation which the said François St. Germain alledged

he had made, and went to the office of Mr. Crebassa, Public Notary, by whom it was understood that the Deed of Gift from the said St. Germain to his son had been passed, for the purpose of seeing the said Deed, but he could not obtain access to it.—That the conduct of the said James Stuart, throughout the said election, in every instance in which it came within the knowledge of the Deponent, was marked by fairness, and a strict regard to propriety; and the Deponent has a personal knowledge, that several persons desirous of voting for the said James Stuart, and willing to take the oath of qualification, among whom were one Gingras and one Bellan,—at the most critical period of the election, and when a single vote might determine the result of it, were sent to a distance from the Borough, by the desire, and at the expense of the said James Stuart, lest the partisans of the adverse Candidate might induce them to vote for him; it being well known, that some of them were not scrupulous as to the legal sufficiency of votes, or the means of obtaining them.—And further the Deponent saith not.

(Signed) ANTHONY VON IFFLAND, M. D.

*Sworn at William Henry, this 10th day of  
June, 1830, before me,*

(Signed) R. JONES, J. P.

True Copy, J. STUART.

That further, the above said Deponent maketh oath, that at the election of a Representative for the said Borough of William Henry, held in the month of August, in the year one thousand eight hundred and twenty four, one Catherine Lamère took the oath of qualification to entitle her to vote at the said election, under an honest belief on her part, that she had the requisite legal estate, during the temporary absence of her husband, Paul Levalle, to qualify her as a voter, and she did after taking the said oath vote for Norman Fitzgerald Uniack, Esquire, then His Majesty's Attorney General for the Province of Lower Canada, and one of the Candidates at the said election — That at the election for a Representative for the said borough, held there in July one thousand eight hundred and twenty-seven, she the said Catherine Lamère signified to the said Deponent her desire of voting for the said James Stuart, Esquire, then one of the Candidates, but, on explaining to the said James Stuart the particulars of her supposed qualification, her vote was declined as contrary to Law, and therefore not given at the said election.

(Signed) ANTHONY VON IFFLAND, M. D.

*Sworn at William Henry, this 10th day of  
June, 1830, before me,*

(Signed) R. JONES, J. P.

True Copy, J. STUART.

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## No. 6.

*Affidavit of Mr. RICHARD BURKE.*

DISTRICT OF {  
MONTREAL. }

RICHARD BURKE, of the Borough of William Henry, in the District of Montreal, Gentleman, maketh oath, that he was particularly acquainted with the proceedings which took place at the election for the said Borough, in the month of July, one thousand eight hundred and twenty-seven, having attended the Poll daily, during the continuance of the said Election.—That he knows François St. Germain, who at that time resided in the said Borough. That previous to the said François St. Germain having voted at the said Election, he told the Deponent that he would explain the nature of his qualification to James Stuart, Esquire, one of the Candidates at the said election, which qualification, he then also told the Deponent, consisted in a life estate in two apartments, making part of a dwelling-house which he had given to his son, which said two apartments he had reserved to himself for his life, by the deed of gift which he had executed to his said son.

That, to the Deponent's knowledge, the said James Stuart was scrupulous in the examination of the qualification of persons desirous of voting for him, whose right to do so was thought in any way doubtful, and the Deponent has a personal knowledge that several persons desirous of voting for the said James Stuart, and willing to take the oath, were prevented by him from doing so, after he had examined their papers, and had ascertained from them that they had not a legal right to vote. That the Deponent has a

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perfect knowledge, that one François Thibault, who appeared willing to take the oath, and vote for the said James Stuart, having submitted the papers establishing his supposed qualification to the said James Stuart, on the day the election ended, and a short time before the closing of the poll, was told by the said James Stuart, that he had no right to vote, and his vote was declined.—That one Joseph Claprod, who voted at the said election for Mr. Nelson, and who has since been convicted of Perjury, for having then falsely sworn to a qualification to enable him to vote, came to the Deponent's house, during the election, and before he voted as aforesaid, and offered to the Deponent to vote for the said James Stuart; but the Deponent, knowing that he had no right to vote, and that the said James Stuart constantly declined illegal votes, rejected his offer, and the said Claprod then went away, and was afterwards induced to vote for the said Mr. Nelson. That the Deponent was present, when different individuals, offering their votes at the Poll, were objected to by the said James Stuart, and also when some of the persons who have since been prosecuted for Perjury at the said election, took the oath of qualification, and voted for the said Mr. Nelson.—That, neither on those occasions, nor at any time during the said election, did this Deponent hear the said James Stuart say, or in any manner intimate, that he, as Attorney General, had alone the power of prosecuting for Perjury, and that he would prosecute those who voted against him for that offence, while those who voted for him had nothing to fear;—nor did he ever hear the said James Stuart utter any words of such import, or that could bear such an interpretation; nor did he ever hear, to his knowledge, either during or subsequently to the said election, that such words, or words of similar import, had ever been used by the said James Stuart, until, to his surprise, he learnt that Mr. Wolfred Nelson, the Candidate above mentioned had, on his examination as a witness on the trial of Antoine Aussant, for Perjury, at the said election, declared that such words had been used by the said James Stuart. That the Deponent thinks that if such extraordinary language had been used by the said James Stuart, it would have been made the subject of conversation, and must have reached his ears.—That the conduct of the said James Stuart, throughout the said election, was marked by the greatest fairness; and although intimately acquainted with the proceedings of the said election, from the first to last, the Deponent never observed the slightest deviation, on the part of the said James Stuart, from such fairness of conduct.—That the said James Stuart, in his attempts to put voters on their guard against taking the oath, without a legal qualification, was on several occasions, to the knowledge of the Deponent, interrupted by the said Mr. Nelson, the adverse Candidate and his partisans, who urged such voters to take the oath, the said Mr. Nelson at the same time assuring them that he would stand between them and harm.—And further this deponent saith not.

(Signed) RICHD. BURKE.

*Sworn at William Henry, this 8th day of  
June, 1830, before me,*

(Signed) ANTHONY VON IFFLAND, J. P.

True Copy, J. STUART.

## No. 7.

*Affidavit of Mr. JOHN CARTER.*

DISTRICT OF }  
MONTREAL. }

JOHN CARTER, of the Borough of William Henry, in the District of Montreal, in the Province of Lower Canada, Gentleman, maketh oath, that at the election of a Representative for the said Borough, held in the month of August, in the year one thousand eight hundred and twenty-four, he, the Deponent, took the oath of qualification, to entitle him to vote at the said election, under an honest belief on his part, that he had the requisite legal estate to qualify him as a voter, and he did, after taking the said oath, vote for Norman F. Uniacke, Esquire, one of the Candidates at the said election.—That, at the election of a Representative for the said Borough, held there in July, one thousand eight hundred and twenty-seven, he, the Deponent, was desirous of voting for James Stuart, Esquire, one of the Candidates at the said election, and signified to the said James Stuart such his desire, at the same time explaining to the said James Stuart the particulars of his supposed qualification.—That the said James Stuart, after learning these particulars, told the Deponent that he could, by reason of them, claim no right to vote, and with civility declined the Deponent's vote, which was, therefore, not given at the said election.—And further the Deponent saith not.

(Signed) JOHN CARTER.

*Sworn at William Henry, this 10th day of  
June, 1830, before me,*

(Signed) R. JONES, J. P.

True Copy, J. STUART.

## No. 8.

*Affidavit of Mr. MICHAEL GLACKMEYER.*DISTRICT OF }  
MONTREAL. }

MICHAEL GLACKMEYER, of Berthier, in the District of Montreal, Gentleman, maketh oath, that he acted as Clerk of the Poll at an Election held at the Borough of William Henry, in July one thousand eight hundred and twenty-seven, for the Election of a Representative to serve for the said Borough in the Provincial Parliament.—That he was present when Antoine Aussant, Antoine Paul Hus dit Cournoyer, Nicholas Buckner, François Vandal, and others, took the oath required by law as to their qualification to vote.—That, when the said persons last named offered themselves as voters, they were objected to by James Stuart, Esquire, one of the Candidates at the said Election, on the ground of their not being qualified to vote.—That the said James Stuart, as far as he had it in his power to do, explained to the said persons their want of right to vote, and the penalties they would incur, if they swore falsely; but the said James Stuart did not, either on the occasions of the swearing of the said persons, and of the giving of their votes, nor at any other time, to the knowledge of the Deponent, declare or say, that, as Attorney General, he alone had a right to prosecute persons guilty of perjury, and that those who voted for him had nothing to fear, while those who voted against him would be prosecuted, nor did he use any words of such import; that the said James Stuart seemed desirous of putting the said persons above named on their guard, and explained to them the consequences they would incur by swearing falsely, and nothing more; at the same time telling them, that if they did, notwithstanding, swear falsely, they would be prosecuted for it.

(Signed) ML. GLACKMEYER.

*Sworn at Montreal, this 11th day of  
March, 1830, before me.*

(Signed) SAMUEL GALE, J. P.

True Copy, J. STUART.

## No. 9.

*Affidavit of Mr. LOUIS PAUL.*DISTRICT DE }  
MONTREAL. }

LOUIS PAUL, Habitant de la Paroisse de Sorel, ayant été assermenté sur les Saints Evangiles, depose et dit, qu'il s'est trouvé présent à l'élection tenue au Bourg de William Henry, au mois de Juillet, mil huit cent vingt sept, pour y élire un Représentant pour le dit Bourg, dans le Parlement Provincial.—Que le déposant étoit présent quand les nommés Antoine Aussant et Antoine Hus dit Cournoyer, depuis poursuivis pour parjure à la dite élection, se sont présentés pour donner leur voix comme voteurs à la dite élection. Que le déposant a entendu James Stuart, Ecuier, un des dits Candidats, prévenir les dits Aussant et Cournoyer, qu'ils n'avoient pas droit de voter à la dite élection, et que s'ils le faisoient, ils seroient sujets à être poursuivis pour parjure. Que le dit James Stuart a prié l'officier Rapporteur d'expliquer aux dites personnes leur défaut de droit, à fin d'empêcher qu'ils ne s'exposassent aux mauvaises suites du parjure, mais l'officier Rapporteur a répondu que son devoir se bornoit à les faire prêter serment, et en effet leur a administré le serment requis en tel cas. Que sur les tentatifs que le dit James Stuart a fait de faire comprendre aux dits Aussant et Cournoyer qu'ils n'avoient pas droit de voter à la dite élection, l'autre candidat, Mr. Nelson les a assuré qu'ils avoient droit de voter, et qu'il les garantirait de toutes conséquences qui pourroient s'ensuivre, et en même tems le dit Mr. Nelson et ses partisans alors présents ont engagé les dits Aussant et Cournoyer de prêter le serment.—Que le déposant étoit aussi présent quand Nicholas Buckner, depuis poursuivi pour parjure, s'est présenté la première fois, pour voter à la dite élection, et a entendu les explications qui ont été faites au dit Buckner, alors, pour le faire comprendre qu'il n'avoit pas droit de voter, lesquelles ont paru convaincre le dit Buckner, qu'il ne pouvoit pas voter, et il s'est retiré sans donner sa voix.—Que ni dans les occasions ci dessus mentionnées, ni en aucune autre, il n'a entendu Mr. James Stuart dire, que ceux qui voteraient

contre lui sans en avoir le droit, seroient poursuivis pour parjure, tandis que ceux qui voteroient pour lui n'avoient rien à craindre, et il n'a jamais entendu dire au dit James Stuart qu'étant Procureur Général il pourroit en agir ainsi :—Il n'a jamais entendu dire non plus, au dit James Stuart, que sa charge de Procureur Général donnoit à lui seul le droit de faire des poursuites pour parjure, et que ceux qui voteroient pour lui n'avoient rien à craindre de ce côté là. Et le déposant dit de plus qu'il n'a pas entendu proferer aucunes paroles par le dit James Stuart, à l'occasion des votes données par les dits Aussant et Cournoyer, et des explications faites au dit Buckner comme susdit, ni en aucun autre tems, aux quelles on pourroit donner un tels sens ou signification.—Que le dit James Stuart dans les occasions susdites, n'a fait que prévenir les dits Aussant, Cournoyer et Buckner, des mauvaises suites qui s'ensuivroient, s'ils faisoient un faux serment, et rien de plus, et c'étoit avec difficulté qu'il a pû se faire entendre, en voulant le faire, à cause de l'opposition violente que faisoit le parti opposé aux explications qu'il vouloit donner.

(Signé) LOUIS <sup>Sa</sup> × PAUL.  
Marque.

*Assermenté a Montréal, le 11e  
Mars, 1830, devant moi,*

(Signé) SAMUEL GALE, J. P.

True Copy, J. STUART.

## No. 10.

*Affidavit of Mr. BENJAMIN JOHN SCHILLER, of the City of Montreal, Gentleman.*

DISTRICT DE }  
MONTREAL. }

BENJAMIN JEAN SCHILLER, de Montreal, dit District, l'un des huissiers de la Cour du Banc du Roi, dans et pour le dit District, ci-devant Capitaine dans le troisième bataillon de la milice incorporée, pendant la dernière guerre avec les états unis de l'Amérique, après serment prêté sur les Saints Evangiles, déposé et dit, que dans le terme criminel de la dite Cour qui se tint en Mars, mil huit cent trente, Henry Crebassa, Ecuier, Notaire Public, demeurant au Bourg William-Henry, autrement appelé Sorel, étoit à Montreal susdit comme l'un des temoins de la dite Cour, à ce que croit le déposant. Que vers la fin du dit terme criminel, le dit Henry Crebassa, que ce Déposant connoit familièrement depuis plusieurs années, ayant rencontré le Déposant à la Maison de Justice, lui dit que lui le dit Henry Crebassa avoit été une couple de fois chez le Procureur General (sçavoir l'Honorable James Stuart) pour signer un affidavit, mais qu'il n'avoit pas trouvé Monsieur le Procureur General à son logis. Que le déposant croit, que le dit Henry Crebassa lui dit ceci pour que lui le Déposant le repetât au dit Procureur General, que lui le Déposant, en sa qualité d'huissier, étoit dans l'habitude de voir souvent. Que le lendemain, ou sur lendemain, le dit Procureur General, étant sur le point de partir pour le District des Trois Rivières, rémit au dit Déposant l'affidavit ci-annexé, lui disant en même temps de se rendre au dit Bourg William-Henry, et de faire signer le dit affidavit au dit Henry Crebassa, après que celui-ci auroit été dûment assermenté devant le Lieut. Col. Jones, l'un de Juges de Paix de sa Majesté pour le dit District de Montreal. Que le déposant s'étant rendu chez le dit Lieut. Col. Jones, celui-ci envoya chercher le dit Crebassa. Que le dit Crebassa étant arrivé, le dit Lieut. Col. Jones lui donna le dit affidavit à lire; qu'ayant achevé de le lire, il lui fût lû deux fois par une des personnes lors présentes. Que le dit Crebassa déclara alors bien comprendre le contenu du dit affidavit, et ajouta qu'il n'avoit aucune objection de le signer, mais qu'il vouloit auparavant voir si ce qui y étoit dit des voteurs dont les noms y étoient mentionnés s'accordoit ou non avec son livre de poll, et que si l'affidavit se trouvoit à cet égard conforme avec son dit livre de poll, il reviendrait dans l'après midi le signer. Que le dit Crebassa voulût alors emporter le dit affidavit avec lui, mais que le Déposant le lui refusa, parceque le Déposant sçavoit parcequ'il avoit vû à l'élection, que le dit Crebassa étoit plutôt intéressé pour le candidat adverse que pour le dit Procureur General. Que sur la promesse du dit Crebassa, le dit Déposant laissa l'affidavit chez le dit Juge de Paix, et s'en retourna à Montreal. Que le Déposant peut dire sous serment que l'affidavit ci-annexé est le même affidavit dont il fût chargé comme dit est, parcequ'il en connoit bien l'écriture et qu'au Jurat d'icelui se trouvent les mots " William Henry", qui furent ajoutés à icelui, au dit Bourg, en sa présence, aussi bien que la date ou le jour de la date exprimé par les chiffres " 17." Le De-

posant ajoute qu'il à revû avec surprise le dit affidavit, sans être revêtu de la signature du di Crebassa. Et le Deposant n'a plus rien dit.

(Signé) B. J. SCHILLER.

*Assermenté pardevant moi le deuxième jour de Mai,  
1831, à Montreal susdit.*

(Signé) BENJAMIN HOLMES, J. P.

True Copy, J. STUART.

*Affidavit referred to in the foregoing Affidavit of Mr. BENJAMIN JOHN SCHILLER.*

DISTRICT DE }  
MONTREAL. }

HENRY CREBASSA, Ecuier, Notaire Public au Bourg de William-Henry, ayant été assermenté sur les saints Évangiles, déposé et dit, qu'il a rempli la charge d'officier rapporteur à l'élection qui s'est ténue au dit Bourg, au mois de Juillet, mil huit cent vingt sept, pour y élire un représentant pour le dit Bourg dans le Parlement Provincial.— Que le Déposant en sa qualité d'officier rapporteur comme susdit a fait prêter serment aux nommés Antoine Aussant, Antoine Hus dit Cournoyer, Nicholas Buckner, François Vandal, et autres, avant de recevoir leurs votes à la dite election. Qu'au moment où les dites personnes susnommées se sont présentées pour donner leurs voix, James Stuart, Ecuier, un des candidats, a objecté à la reception d'icelles comme n'étant pas recevables, faute de qualification de leur part. Que le dit James Stuart a prié le Déposant d'expliquer aux dites personnes susnommées leur défaut de qualification, et les consequences auxquelles elles s'exposeroient en prêtant le serment requis en tel cas, ce que le Déposant à decliné de faire, croyant que son devoir se bornoit à leur faire prêter le dit serment, et pas autre chose.— Que le dit James Stuart là-dessus, en autant que l'opposition qu'y a fait le candidat adverse et ses partisans le lui à permis, a expliqué aux dites personnes ci-dessus nommées leur défaut de droit de voter, et leur a aussi fait savoir la punition à laquelle ils s'exposeroient en faisant un faux serment: Mais que le dit James Stuart, en aucune des occasions susdites, où les dites personnes susnommées ont prêté serment comme susdit, ni en aucun autre tems, pendant la dite election, à la connoissance du Deposant, n'a dit ni donné à entendre qu'en sa qualité de Procureur General, il avoit seul le droit de poursuivre les personnes qui se rendroient coupables de parjure, ni que ceux qui voteroient contre lui seroient poursuivis tandis que ceux qui voteroient pour lui n'auroient rien à craindre. Et le Deposant dit de plus qu'il n'a aucune connoissance que pendant le cours de la dite election, des expressions pareilles, ni aucunes expressions auxquelles on pourroit donner un tel sens aient été proferées ou employées par le dit James Stuart.— Qu'il a paru au Deposant que le dit James Stuart, en ce qu'il a dit au dites personnes susnommées, à l'occasion des serments qu'ils ont fait à la dite election, a voulu les mettre sur leur garde, en les prévenant des pénalités auxquelles elles s'exposeroient en faisant de faux serments, et pas autre chose.

*Assermenté à William Henry, ce 11 Mars, 1830,  
devant moi.*

The foregoing affidavit, not signed or sworn to, is the paper, writing, or affidavit referred to in the affidavit of George Okill Stuart, Esquire, sworn to before the Honourable James Kerr, Esquire, on the 14th day of May, 1831.

(Signed) J. KERR.  
G. O. STUART.

*Affidavit of GEORGE OKILL STUART, Esquire.*

PROVINCE OF LOWER CANADA.

DISTRICT OF }  
QUEBEC. }

To wit:

GEORGE OKILL STUART, of the City of Quebec, in the Province of Lower Canada, Esquire, Advocate, maketh oath, that he the Deponent, being clerk to James Stuart, Esquire,



His Majesty's Attorney General for the Province of Lower Canada, was employed by the said James Stuart, in that capacity, during the criminal term of His Majesty's Court of King's Bench held at Montreal, in the month of March, in the year of our Lord one thousand eight hundred and thirty.—That he the Deponent was present in the lodgings of the said James Stuart, at Rasco's Hotel, on or about the tenth day of March, in the year last aforesaid, at the close of the said term, when Henry Crebassa, of the Borough of William Henry, Esquire, Public Notary, being there, expressed his readiness to make an affidavit to contradict certain facts that had been stated, a day or two before, by Wolfred Nelson, on his examination as a witness, on the trial of one Antoine Aussant for perjury, upon which the said James Stuart reduced to writing the statement of the said Henry Crebassa in the form of an affidavit, the rough draft of which, after it had been read over, and approved by the said Henry Crebassa, was given to the Deponent, with directions to make a fair copy of it.—That the paper-writing hereunto annexed, purporting to be an affidavit of the said Henry Crebassa, not signed or sworn to, is the fair copy of the rough draft of an affidavit, made by the Deponent as aforesaid, and is a true copy of the said rough draft.—That the said paper-writing, being such fair copy, was, in the presence of the Deponent, carefully and deliberately read over by the said James Stuart to the said Henry Crebassa, who declared it to be perfectly correct, and expressed his desire to swear to it immediately.—That the Deponent received the said paper-writing from the hands of the said James Stuart, in the presence of the said Henry Crebassa, with directions to go with the said Henry Crebassa before one of the Judges of His Majesty's Court of King's Bench, in order that he might swear to it; and the Deponent did accordingly go with the said Henry Crebassa to the Court House, for that purpose. That the only Judge whom the Deponent and the said Henry Crebassa found at the said Court House was the Honourable Mr. Justice Pyke, who was then on the Bench, and could not be interrupted for the purpose of taking the said affidavit, and thereupon the said Henry Crebassa said he would call again at two o'clock in the afternoon at the lodgings of the said James Stuart, for the purpose of going with the Deponent, before a Judge, to swear to the said affidavit.—That the said Henry Crebassa did not again come to the lodgings of the said James Stuart, for the purpose last aforesaid, either during that day or any subsequent day, while the said James Stuart remained at the said City of Montreal; and the Deponent, in the course of the same day, learnt that the said Henry Crebassa had left town, on his return to William Henry. And further the Deponent saith not.

(Signed) G. O. STUART.

*Sworn at the City of Quebec, this 14th day of  
May, 1831, before me,*

(Signed) J. KERR, J. B. R.

True Copy, J. STUART.

## No. 11.

*Affidavit of JOSEPH ALLARD, of Sorel, Labourer.*

DISTRICT DE }  
MONTREAL. }

JOSEPH ALLARD, de Sorel, Journalier, ayant fait serment, depose et dit comme suit :—J'étois le 20 d'Avoust dernier, de bon matin, sur le Quai de M. See à Sorel, quand Louis Marcoux, du même lieu, Contracteur de Bois pour les Steam-Boats, est venu au quai, et m'a demandé si je voulois déposer contre Camerere.—Je lui ai fait réponse, "Non, M. Marcoux, je ne veux point : " il a répliqué, "Viens donc." Après quelques importunités, je l'ai accompagné à sa maison, où il a versé du rum dans un "tumbler."—Ensuite, je suis parti pour aller chez moi : en revenant au bout de quelque tems, j'ai passé devant sa porte : il m'a appelé, et m'a fait rentrer de nouveau, et alors m'a demandé de déposer contre Pierre Lusignan, ce que j'ai refusé : il m'a ensuite dit, "Va-t-en chez M. Jean Crebassa, querir une pinte de rum."—J'ai été querir le rum, et l'ayant livré au dit Marcoux, il m'a donné encore un verre de rum. Ensuite, il m'a dit, "Va querir Noel Guillot pour déposer avec toi contre le bon homme St. Germain."—J'ai été chercher Guillot, comme il m'avoit dit ; et, étant de retour, Guillot et moi nous sommes trouvés ensemble avec le dit Marcoux.—Alors Marcoux m'a dit, "Fais toi donc un honneur de déposer contre Camerere."—J'ai dit alors à Marcoux, "L'homme n'a pas fait serment sur le poll."—"Eh bien," disoit Marcoux, "c'est bon, nous lui ferons payer dix louis d'amende." Tout de suite, après avoir ainsi parlé, Marcoux s'est mis à écrire ce que je lui disois (du moins, il me disoit que c'étoit cela qu'il faisoit). Il m'a demandé entre autres choses qui étoient les voisins de Camerere.—Je lui ai dit que c'étoit le bon homme Paul Lefebvre et Baptiste St. Jean. Marcoux m'a dit que non, que c'étoit marqué sur le livre de poll autrement, que c'étoit marqué sur le livre de poll, que John Hall

et Pierre Credit étoient les voisins de Camerere.—J'ai dit à M. Marcoux, "Prenez garde, parceque les voisins sont ceux que je vous ai dit."—M. Marcoux a répondu, "Ils verront leurs erreurs."—Enfin M. Marcoux a complété son écrit, qui contenoit à ce que je croyois ma deposition.—Mais il ne m'en a pas fait lecture dans sa maison, et je ne lui ai jamais dit que Camerere avoit fait serment au poll. Ayant complété son écrit, Marcoux m'a demandé d'aller dans l'Isle de M. Morrison, où j'ai été avec lui et une douzaine d'autres personnes, parmi lesquelles se trouvoient M. Jean Crebassa, M. Kimbert, Guillot, &c. &c. Etant arrivé à l'Isle, j'avois tant bù de rum que je ne sçavois pas à peine ce que je faisais. Peu de temps après, Mons. Douaire Bondy est arrivé à l'Isle, et je me rappelle qu'il m'a demandé si toutes les depositions étoient prêtes. Mons. Marcoux lui a répondu que non, mais que bientôt elles seroient prêtes. Au bout de quelque temps, j'ai été appelé pour faire serment à la deposition, Mons. Kimbert s'est mis (à ce que j'ai cru) en devoir de la lire. Je ne me rappelle pas à present du contenu de ce qu'on me lisoit, mais je me rappelle d'avoir dit que "son nom n'étoit pas Jean Camerere;" à quoi Mons. Marcoux a répondu, "C'est nous autres qui marquons cela." Dans le temps j'étois bien pris de boisson, et ne comprenois pas que je faisais serment de la verité de ce qu'on me lisoit, et j'étois hors d'état de pouvoir en juger.

Il y a à-peu-près vingt jours que le dit Marcoux m'a rencontré sur le quai de Mons. Molson, et il m'a dit, "Tu feras bien de te sauver pour ce que t'a fait à Berthier" (voulant dire dans l'Isle de Mons. Morrison, qui est à Berthier.) J'ai répondu, "Si vous avez fait quelque vilaine affaire, je n'en suis pas l'auteur, et je ne me sauverai pas."—Dit de plus qu'il ne sçait pas écrire.

*Affirmé devant moi ce 14 Nov. 1827.*

(Signé) SAMUEL GALE, J. P.

True Copy, J. STUART.

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## No. 12.

*Copy of an Indictment for Subornation of Perjury against LOUIS MARCOUX.*

### PROVINCE OF LOWER CANADA.

DISTRICT OF }  
MONTREAL. }

To wit:

Be it remembered that at a Session of Oyer and Terminer and General Gaol Delivery of our Sovereign Lord the King, of and for the district of Montreal in the province of Lower Canada, begun and holden at the Court House in the City of Montreal in the said district of Montreal on Friday the second day of November in the eighth year of the reign of our Sovereign Lord George the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, before the Honourable James Reid, Esquire, Chief Justice of His Majesty's Court of Kings Bench for the district of Montreal, Louis Charles Foucher, George Pyke, and Norman Fitzgerald Uniacke, Esquires, Justices of the same last-mentioned Court, John Richardson, Toussaint Pothier, Samuel Gale, and Louis Guy, Esquires, and others their fellows, Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King under the Great Seal of the said Province, to the same Justices above named and others, their fellows, Justices of our said Lord the King, or any two or more of them, directed, of whom one of them the said James Reid, Louis Charles Foucher, George Pyke, and Norman Fitzgerald Uniacke, amongst others in the said Letters Patent named our said Lord the King willed to be one, to inquire more fully the truth by the oath of good and lawful men of the said district of Montreal, and by other ways, methods, and means, by which they should or might better know, as well within liberties as without, by whom the truth of the matter might be better known and inquired into, of all treasons, misprisions of treason, insurrections, rebellions, counterfeittings, clippings, washings, false coinings, and other falsities of the money of the United Kingdom of Great Britain and Ireland, and all other kingdoms and dominions whatsoever, and of all murders, felonies, manslaughters, killings, burglaries, rapes of women, unlawful meetings and conventicles, unlawful uttering of words, assemblies, misprisions, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, con-

tempts, falsities, negligences, concealments, maintenances, oppressions, champerty, deceits, and all other evil doings, offences, and injuries whosoever, and also the accessaries of the same, within the district aforesaid as well within liberties as without, by whomsoever, and in what manner soever done, committed or perpetrated, and by what person or persons, when, how, and after what manner, and of all articles and circumstances concerning the premises, and of every of them, or any one or more of them, in any manner whatsoever, and the said treasons and other the premises according to the laws and customs of England, and of the said province of Lower Canada for this time, to hear and determine, and also justices of our said Lord the King, assigned by other Letters Patent of our said Lord the King, under his Great Seal of the said province to the same justices above named, and others their fellows, or any two or more of them directed, of whom one of them the said James Reid, Louis Charles Foucher, George Pyke, and Norman Fitzgerald Uniacke, amongst others in the said last-mentioned Letters Patent named our said Lord the King willed to be one, the gaol of our said Lord the King of his said district of Montreal of the prisoners therein being, to deliver, by the oath of Henry M'Kenzie, Alexander M'Kenzie, Jules Quesnel, Edward Martial Leprohon, Louis F. de Chambault, John Jamieson, Thomas Barron, Charles Stuart, Louis Barbeau, Jacques L. de Martigny, John Yule, Arthur Webster, John Porteous, George D. Arnoldi, William Smith, Charles Morrison, Isaac Valentine, Joseph Roy, Jacques P. S. de Beaujeu, William Molson, Samuel Gerrard, and George Gregory, Esquires, good and lawful men of the district of Montreal aforesaid, now here sworn and charged to inquire for our said Lord the King for the body of the said district, touching and concerning the premises in the said two several Letters Patent mentioned, it is presented in manner and form as in the Bill of Indictment to this Schedule annexed is contained.

MONTREAL. To wit:

The jurors for Our Lord the King upon their oath present,—That heretofore, to wit, on the twenty-fifth day of July, in the eighth year of the reign of our Sovereign Lord George the Fourth, by the grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, at the Borough of William Henry in the parish of St. Peter of Sorel, in the county of Richelieu, in the district of Montreal, an election of one burgess of the said Borough to represent the said Borough in the Assembly of this Province, to be holden at the City of Quebec, on the twenty-fifth day of August then next ensuing, was duly had and held, by virtue of a certain writ of election of our said Sovereign Lord, the King before them duly issued, and directed to the returning officer of the said Borough, under and in pursuance of a certain Instrument of our said Sovereign Lord the King, under the Great Seal of this Province, bearing date at the Castle of St. Lewis, in the City of Quebec, the fifth day of July, in the year of our Lord one thousand eight hundred and twenty-seven, for summoning and calling together an assembly in and for this Province, at which said election James Stuart and Wolfred Nelson were candidates to represent the said Borough, as such Burgess as aforesaid, in the said Assembly, and a poll for taking the votes of the Electors of the said Borough for the purpose of electing such Burgess as aforesaid, was then and there duly granted and held; and while the said election was had and held as aforesaid, afterwards, to wit, on the said twenty-fifth day of July, in the eighth year aforesaid, one Jean Cameraire appeared as a Freeholder at the said election and poll, at the said Borough of William Henry, and then and there polled and gave his vote as such Freeholder, without any objection having been made to his right of voting, by or on the part of either of the said Candidates, and without any oath having been required from him, as to his qualification to vote as aforesaid.—And the Jurors aforesaid, upon their oath aforesaid, do further present that Louis Marcoux, late of the said Borough of William Henry, in the parish aforesaid, in the county aforesaid, in the district aforesaid, gentleman, being a person of an evil mind and wicked disposition, and not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, and wickedly and maliciously devising and intending unjustly to vex and aggrieve the said Jean Cameraire, and to subject him to the punishment, pains, and penalties by the laws of this Province provided for persons guilty of Perjury, on the twentieth day of August, in the eighth year aforesaid, at the parish of Berthier, in the County of Warwick, in the district of Montreal aforesaid, did falsely, corruptly, knowingly, and wilfully solicit, suborn, and procure one Joseph Allard, to go before Joseph Douaire Bondy, Esquire, then and yet one of the Justices of the Peace of our said Lord the King, assigned to keep the peace of our said Lord the King in and for the said District of Montreal, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said District committed, and charge the said Jean Cameraire with Perjury, and make oath that the said Jean Cameraire had then lately before at the said election, been guilty of Perjury. And the Jurors aforesaid, upon their oath aforesaid, do further present, that in consequence, and by the means, encouragement, and effect of the wicked and corrupt subornation and procurement of the said Louis Marcoux, he, the said Joseph Allard, afterwards to wit, on the said twentieth day of August, in the eighth year aforesaid, at the parish of Berthier aforesaid, in the county aforesaid, in the district aforesaid, did go in his proper person before the said Joseph Douaire Bondy, being such

Justice as aforesaid, and then and there having sufficient power and authority to administer an oath, and take the deposition of the said Joseph Allard hereinafter mentioned, and the said Joseph Allard was then and there sworn and took his corporal oath, before the said Joseph Douaire Bondy, on the Holy Gospel of God; and the said Joseph Allard, being so sworn as aforesaid, by the means, and in consequence, of the said wicked solicitation, subornation, and procurement of the said Louis Marcoux, did then and there, upon his oath as aforesaid, in a written deposition then and there taken by and before the said Justice, touching the charge of Perjury by the said Joseph Allard, so as aforesaid made against the said Jean Cameraire, falsely, wickedly, maliciously, and corruptly say, depose, and swear (amongst other things) in substance and to the effect following; that is to say, that Jean Cameraire, of William Henry and district aforesaid, invalid (meaning the said Jean Cameraire hereinbefore named) on the twenty-fifth day of the month of July, one thousand eight hundred and twenty-seven, did take his oath, and swear before Henry Crebassa, Esquire, Returning Officer of the said Borough of William Henry, on the Royal Square (to wit, on a square called the Royal Square, at and in the said Borough) at an Election there, for electing a Member to represent the said Borough in the Assembly of Lower Canada, that he the said Jean Cameraire was qualified to vote at the said Election, as proprietor, as being possessed for his own proper use and benefit, in virtue of a legal title in the said Borough, of a Lot of Ground and Dwelling-house thereon, joining on one side to John Hall, and on the other to Joseph Pierre Credit, and that the said Lot of Ground and Dwelling-house thereon belonging to him was of the yearly value of five pounds, sterling, that is to say, five pounds, eleven shillings, and one penny farthing, currency, or more, over and above all rents and charges payable upon or in respect of the same, and that the said Jean Cameraire (meaning the said Jean Cameraire first above named) had been really in possession of the said lot of ground and dwelling-house thereon, or of the receipt of the rents and profits thereof, for his own use, during six calendar months and more, immediately preceding the said Election, and that the said Jean Cameraire (meaning the said Jean Cameraire first above mentioned) in swearing as aforesaid, had been and was guilty of wilful Perjury: Whereas, in truth and in fact, the said Jean Cameraire, hereinbefore and in the said written deposition of the said Joseph Allard named, did not, on the twenty-fifth day of July, one thousand eight hundred and twenty-seven, or at any other time, take his oath, or swear before the said Henry Crebassa, Returning Officer for the said Borough Henry, on the Royal Square, or elsewhere, at any Election for electing a Member to represent the said Borough of William Henry in the Assembly of Lower Canada, or on any other occasion, that he the said Jean Cameraire was qualified to vote at the said Election, or at any Election whatever, as proprietor and being possessed for his own proper use and benefit or otherwise, in virtue of a legal title or otherwise, in the said Borough, of a lot of ground and dwelling-house thereon, joining on one side to John Hall, and on the other to Joseph Pierre Credit, or of any other lot of ground and dwelling-house, and that the said lot of ground and dwelling-house thereon belonging to him, was of the yearly value of five pounds sterling, that is to say, five pounds, eleven shillings, and one penny farthing, currency, or more, over and above all rents and charges payable upon or in respect of the same, and that the said Jean Cameraire had been really in possession of the said lot of ground and dwelling-house thereon, or of the receipt of the rents and profits thereof for his own use, during six calendar months or more, or any other time immediately preceding the said Election;—And whereas, in truth and in fact, he the said Jean Cameraire, hereinbefore, and in the said written deposition named, did not, on the twenty-fifth day of July, one thousand eight hundred and twenty-seven, or before, or after that day, take any oath whatever, or swear in any manner whatever, before the said Henry Crebassa, Returning Officer for the said Borough of William Henry, touching his qualification to vote at the said Election, or touching and concerning the matters and things in the said written deposition contained, or touching or concerning any other matter or thing whatsoever; and whereas, in truth and in fact, he the said Jean Cameraire, hereinbefore and in the said deposition named, was not by swearing as aforesaid, or in any other manner or way, guilty of wilful perjury. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said Louis Marcoux, on the said twentieth day of August, in the eighth year aforesaid, at the parish of Berthier aforesaid, in the county aforesaid, in the district aforesaid, did falsely, corruptly, knowingly, wilfully, and wickedly suborn and procure the said Joseph Allard to commit wilful and corrupt perjury, in and by his oath aforesaid, before the said Joseph Douaire Bondy so then and there having lawful and competent authority to administer the said oath, to the great displeasure of Almighty God, in contempt of our said Lord the King and his laws, to the evil and bad example of all others in the like case offending, and against the peace of our said Lord the King his Crown and dignity.

(Signed) J. STUART, Attorney General.

(Signed) J. DELISLE, C. R. O. & T. & G. G. D.

A True Copy, J. DELISLE, C. K. Crown.

## APPENDIX.

(Indorsed)

COURT OF OYER AND TERMINER AND GENERAL GAOL  
DELIVERY, MONTREAL.*November Session, 1827.*

THE KING

v.

LOUIS MARCOUX.

INDICTMENT

*for*

SUBORNATION OF PERJURY.

A True Bill,      H. MACKENZIE, Foreman.

*Witnesses,*HENRY CREBASSA, Esq.  
NARCISSE CREBASSA.  
MICHEL GLACKMEYER.  
JEAN CAMERAIRE.  
JOSEPH DOUAIRE BONDY, Esq.  
JOSEPH ALLARD.  
PIERRE JOS. CHEVREFILS, Esq.

## No. 13.

*Affidavit of Mr. FRANÇOIS GAZAILLE dit St. GERMAIN, late of the Borough of William Henry, now of the Parish of St. Remi, in the District of Montreal, Yeoman.*DISTRICT DE }  
MONTREAL. }

FRANÇOIS GAZAILLE dit St. Germain, ci-devant notable cultivateur, residant à William-Henry, en la Seigneurie de Sorel, district de Montreal, province du Bas Canada, maintenant de la paroisse de St. Remi, dit district, après serment prêté sur les Saints Evangiles, depose et dit que lors de l'election qui se tint au dit Bourg, en Juillet, mil huit cent vingt sept, le deposant y residait.—Que James Stuart, Ecuier, Procureur General de Sa Majesté, pour la province du Bas Canada, et Wolfred Nelson, de St. Denis, dit district, médecin, étoient candidats à la dite election. Que par un certain acte fait et passé à William-Henry, le quinzième jour de Mars, mil huit cent vingt deux, pardevant les nommés Crebassa et Rolland, Notaires Publics, le deposant et Charlotte Meneclier, sa femme, de lui dûment autorisée, firent une donation en faveur de François Gazaille dit St. Germain, leur fils, de tous et chacuns leurs biens meubles et immeubles, consistant en trois emplacements, situés au dit Bourg, dont deux avec maisons et autres bâties dessus construites, et le troisième sans aucun bâtiment, et encore une terre de deux arpens de front sur vingt plus ou moins de profondeur, située en la dite Seigneurie de Sorel. Que le deposant est parfaitement persuadé, et croit dans son âme et conscience, qu'il a l'usufruit pour la vie de l'une ou de l'autre des dites maisons bâties sur deux des dits emplacements, et ce en vertu d'une reserve ou convention expresse, qu'il croit aussi en son âme et conscience avoir été inserée et être contenue à cet effet au dit acte de donation. Qu'il croit que ce droit lui appartient si bien, qu'il n'est pas au pouvoir de son dit fils de vendre l'une ou l'autre des dites maisons, sans son consentement pendant sa vie. Que depuis la passation du dit acte de donation il s'est toujours crû propriétaire pendant sa vie de celle des dites maisons, qu'il lui plairoit de choisir pour en avoir l'usufruit et disposer du dit usufruit, comme bon lui sembleroit, et ce en vertu de la dite reserve. Que le soir du premier jour de la dite election, qui eût lieu comme dit est en Juillet, mil huit cent vingt sept, le dit Wolfred Nelson vint chez le dit Deposant au dit bourg, lui le dit Deposant habitant alors une des dites maisons, ainsi qu'il l'avoit habité depuis une couple d'années, et ce tout seul avec sa femme, en vertu du dit droit d'usufruit, et avec un domestique à leur service. Que le dit Wolfred Nelson demanda là, et alors au Deposant de lui donner sa voix comme candidat: qu'il lui demanda en même tems comment il avoit donné ses biens. Que le Deposant lui repondit, qu'il s'était reservé par son acte un droit d'usufruit pour sa vie d'une des dites deux maisons, à son choix. Que la dessus le dit Wolfred Nelson lui dit qu'il avoit droit de voter, et que si on lui faisait quelque difficulté au poll, lui le dit Wolfred

Nelson saurait bien l'en tirer. Que le Deposant ne promit pas au dit Wolfred Nelson de voter pour lui. Que le lendemain matin le Deposant ayant formé la resolution de voter pour le dit James Stuart fût, pour se satisfaire de plus en plus de son droit de voter, et se consulter à ce sujet, trouver le dit Henry Crebassa, comme c'étoit lui qui avoit passé le dit acte de donation, mais que le dit Henry Crebassa refusa de lui donner aucune connoissance ou conseil à ce sujet, et dit au Deposant de faire comme il voulait. Que la dessus le dit Deposant partit satisfait de son droit de voter, et fût au poll pour donner sa voix. Que le dit Henry Crebassa, comme officier rapporteur lui ayant demandé pour qui il donnait sa voix, celui-ci repondit qu'il la donnait pour le dit James Stuart. Qu'alors une difficulté s'éleva entre les deux candidats. Que pendant icelle le Deposant se retira de la table. Qu'il y retourna peu de tems après, et qu'il fit le serment requis pour se qualifier pour voter, dans la sincère et ferme croyance que le dit acte de donation contenait une reserve et stipulation de la nature ci-dessus mentionnée, croyance qui existe encore fermement en son âme et conscience.—Que lui le Deposant fit le dit serment librement, et entièrement de lui-même. Que ce fût le dit Crebassa qui lui donna à baiser les Saints Evangiles. Qu'il n'hésita pas un instant à les baiser, parcequ'il ne sentit aucune repugnance quelconque à prendre le serment, en autant qu'il étoit convaincu qu'il en avoit le droit, à cause de la dite reserve et clause du dit acte de donation, et qu'il avoit déjà exercé le même droit, à la sollicitation du dit Wolfred Nelson, en faveur de deux membres pour le Comté de Richelieu dans lequel est situé le dit Bourg. Que lui le dit Deposant est positif à affirmer sous son dit serment que lui le dit James Stuart ne lui a jamais pris la main pour la mettre sur les Saints Evangiles. Qu'il croit que le nommé Burke étoit là present alors, mais qu'il ne se rappelle pas les noms d'autres personnes. Le dit Deposant dit de plus que des deux maisons ci-dessus mentionnées, l'une valait alors environ vingt louis, cours actuel, de loyer par année, et l'autre de trente six à quarante piastres. Le dit Deposant dit de plus qu'il n'a jamais parlé au dit James Stuart depuis qu'il lui a donné sa voix, et qu'il ne se rappelle pas de lui avoir jamais parlé au paravant de la lui donner. Que lui le dit James Stuart lui dit au poll qu'en vertu de la dite reserve, et du dit usufruit, il avoit certainement droit de voter. Le Deposant ajoute qu'il a soixante et dix neuf ans, mais qu'il jouit encore de toutes ses facultés, et il se porte bien; se rappelle bien tout ce qui s'est passé à la dite election en mil huit cent vingt sept lorsqu'il donna sa voix, et qu'il n'a donné cette deposition que pour rendre hommage à la verité et à la justice. Le Deposant declare ne sçavoir signer.

*Assermenté devant moi ce 6e jour de Mai, 1831,  
cette deposition ayant été par moi-même lue et expliquée  
au dit Deposant avant que de lui administrer le  
serment.*

(Signé) P. T. PINSONAUT, J. P.

True copy, J. STUART.

*Translation of the foregoing affidavit.*

DISTRICT OF }  
MONTREAL. }

FRANCOIS GAZAILLE dit ST. GERMAIN, late of William-Henry, in the Seignory of Sorel, in the District of Montreal, in the Province of Lower Canada, now of the Parish of St. Remi, in the said district, yeoman, having been duly sworn on the Holy Evangelists, deposeth and saith, that at the period at which the election was held at the said borough, in July, one thousand eight hundred and twenty-seven, he the Deponent resided there. That James Stuart, Esq., Attorney General of his Majesty for the Province of Lower Canada, and Wolfred Nelson, of St Denis, in the said district, physician, were candidates at the said election. That by a certain deed, made and executed at William-Henry, the fifteenth day of March, one thousand eight hundred and twenty-two, before Crebassa and Rolland, public notaries, the Deponent and Charlotte Meneclier his wife, by him duly authorized, made a gift, or donation in favour of François Gazaille dit St. Germain, their son, of all their estates real and personal, consisting of three lots of ground situated in the said borough, upon two whereof were erected dwelling-houses and other buildings, and the third without any building thereon, and also a lot of land of two arpents in front, by twenty arpents, more or less, in depth, situated in the said seignory of Sorel. That the Deponent is under the fullest persuasion, and verily and in his conscience believes, that he is vested with a life-estate (*usufruit pour la vie*) in one or the other of the said two dwelling-houses, in virtue of a reservation or special stipulation to this effect, which he verily believes to have been inserted, and to be contained, in the said deed of gift; and this right he conceives to be so complete in him, that it is not in the power of his son to sell either of the said houses during his life, without his consent.—That, from the time of executing the said deed of gift, he has always considered himself to be proprietor, during his life, of whichever of the said houses he might choose, to have the usufruct thereof, and dispose of such usufruct as he might think fit, in virtue of the said reservation.

That in the evening of the first day of the said election in July, one thousand eight hundred and twenty-seven, the said Wolfred Nelson came to the house of the Deponent, in the said Borough, being one of the said dwelling-houses, which was then inhabited, as it had been for two years previously, by the Deponent and his wife, alone, with their servant, in virtue of the said usufruct or life-estate. That the said Wolfred Nelson then solicited the vote of him, the Deponent, and at the same time inquired of him in what manner he had disposed of his property. That the Deponent, in answer, told the said Wolfred Nelson, that by his deed of gift he had reserved to himself a life-estate (*un droit d'usufruit pour la vie*) in one of the said houses, at his option; whereupon the said Wolfred Nelson told the Deponent that he had a right to vote, and that if any difficulty was made about it at the poll, he, the said Wolfred Nelson, would soon put an end to it. That the Deponent did not promise the said Wolfred Nelson to vote for him. That the next morning, the Deponent having made up his mind to vote for the said James Stuart, was desirous, for his greater satisfaction as to his right of voting, of consulting the said Henry Crebassa, before whom the said deed of gift had been executed, and went to him for that purpose, but the said Henry Crebassa refused to give him any information or advice on the subject, and told the Deponent to do as he pleased; whereupon the Deponent left him confirmed in the belief of his right to vote, and went to the poll to give his vote. That the said Henry Crebassa, as Returning Officer, having asked the Deponent for whom he voted, the Deponent answered that he gave his vote for the said James Stuart; whereupon an altercation (*difficulté*) took place between the two Candidates; and while it continued, the Deponent withdrew from the table.—That the Deponent soon after returned, and took the oath of qualification to entitle him to vote, in the sincere and firm belief that the said Deed of Gift contained a reservation and stipulation of the nature above-mentioned, which belief he still conscientiously retains.—That the Deponent took the said oath voluntarily, and of his own free-will and accord. That it was the said Henry Crebassa who put the Holy Evangelists into his hand.—That he did not hesitate an instant to kiss the book, inasmuch as he felt no repugnance whatever to take the oath, being convinced that he had a right to do so, in virtue of the said reservation in his Deed of Gift, and having, besides, already exercised the same right, at the solicitation of the said Wolfred Nelson, in favour of two members for the county of Richelieu, in which the said borough is situated. That the Deponent is positive in affirming upon his oath, that the said James Stuart never touched his hand for the purpose of placing it on the Holy Evangelists.—That he thinks that one Burke was present, but he does not recollect the names of the other persons. And the Deponent further saith that one of the two houses above-mentioned was of the annual value, in rent, of about twenty pounds currency, and the other from thirty-five to forty dollars. And the Deponent further saith, That he has never spoken to the said James Stuart since he voted for him, and does not recollect to have ever spoken to him before.—That the said James Stuart, at the poll, told the Deponent, that, on the life-estate which he had reserved to himself, he clearly had a right to vote. And the Deponent adds, That he is seventy-nine years old, but is in the full enjoyment of his faculties, and in good health: he recollects perfectly all that took place at the said election, in the year one thousand eight hundred and twenty-seven, when he gave his vote; and that he has no other motive for making this deposition than the desire to render homage to truth and justice. The Deponent declares that he cannot sign his name.

*Sworn before me this 6th day of May, 1831. This Deposition having been by me read and explained to the Deponent before administering the oath to him.*

(Signed) P. T. PINSONAUT, J. P.

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## No. 14.

*Affidavit of FRANÇOIS GAZAILLE dit ST. GERMAIN, the younger, late of the Borough of William-Henry, now of the Parish of St. Remi, in the district of Montreal, Shop-Keeper.*

DISTRICT DE }  
MONTREAL. }

FRANCOIS GAZAILLE dit ST. GERMAIN, fils, de la Paroisse de Saint Remi, dit District, Province du Bas Canada, Marchand, ayant prêté serment sur les Saints Evangelistes, dit que François Gazaille dit St. Germain, et Charlotte Meneclier, parties à un certain Acte de Donation passé en sa faveur, le quinze de Mars, mil huit cent vingt deux, devant Crebassa et Rolland, Notaires Publics, sont ses père et mère.—Que, depuis la passation du dit acte, ses père et mère ont habité long temps, seuls, avec leur domestique, une des maisons mentionnées au dit Acte de Donation.—Que, depuis la passation d'icelui, son dit père a toujours été dans la ferme croyance, et l'est encore qu'il avoit et qu'il a droit d'usufruit pour la vie de l'une ou de l'autre des dites maisons; que son dit père est dans la ferme croyance qu'il peut reprendre possession de l'une ou de l'autre des dites maisons, quand bon lui semblera; et que

ce n'est que l'amitié paternelle qui a porté son dit père à laisser sa demeure à Sorel, pour venir demeurer à Saint Remi susdit avec lui et son épouse. Le Deposant dit deplus, que des deux dites maisons l'une vaut environ vingt louis, cours actuel, et l'autre environ trente six ou quarante piastres de loyer, par année, ou plutôt c'étoit là leur valeur annuelle pendant que ses dits père et mère en habitoient une. Le dit Deposant dit deplus, que lui, le dit Deposant, se croyoit, et se croit encore obligé, d'après ce qui s'est passé entre lui et son dit père, lors de la passation du dit Acte, de lui laisser l'usufruit pour sa vie de celle des dites maisons qu'il à habitée comme dit est; et ce quoique les conventions passées et faites de rive voix entre lui le Deposant, et ses dits père et mère, ne soient pas exprimées au dit Acte, comme, et conformément, et aussi amplement, comme les obligations verbales contractées par le dit Deposant, au sujet du dit droit d'usufruit pour la vie, en faveur des dits Donateurs; et que si le Deposant, lors de la lecture du dit acte par le dit notaire, n'a pas fait corriger le dit acte, c'est qu'en consultant son amour, et son respect filial, il savoit que ces obligations seroient toujours observées par lui d'une manière sacrée.

(Signé) FRS. ST. GERMAIN.

*Assermenté pardevant moi ce 6 Mai, 1831, le dit Deposant ayant déclaré avoir lui-même lu la susdite deposition, et qu'elle contient la vérité.*

(Signé) P. T. PINSONAUT.

True Copy, J. STUART.

*Translation of the foregoing Affidavit.*

DISTRICT OF }  
MONTREAL. }

FRANCOISGAZAILLE dit ST. GERMAIN, the younger, of the Parish of St. Remi, in the District of Montreal, in the Province of Lower Canada, shop-keeper, having been duly sworn on the Holy Evangelists, doth depose and say, that François Gazaille, dit St. Germain, and Charlotte Meneclier, parties named in a certain deed of donation, executed in his favour the fifteenth day of March, one thousand eight hundred and twenty-two, before Crebassa and Rolland, public notaries, are his father and mother. That, after the execution of the said deed of gift, his said father and mother, for a considerable length of time, inhabited alone, with their servant, one of the houses mentioned in the said deed of gift. That ever since the said deed of gift was executed, his said father has always been, and continues to be, under the firm persuasion and belief, that he was and is vested with a life-estate (*usufruit pour la vie*) in one or other of the said houses, and that he may take possession of the one or the other at his pleasure; and that his said father has been induced, only by his paternal affection, to quit his abode at Sorel, and come and live with him and his wife at St. Remi. And the deponent further saith, that one of the said houses is of the annual value, in rent, of twenty pounds currency, and the other of thirty-six or forty dollars, or rather, they would have rented for these sums at the time one of them was inhabited by his said father and mother. And the deponent further saith, that from what passed between him and his said father at the time of the execution of the said deed of gift, he the deponent considers himself bound to allow to his father the enjoyment of a life-estate in that one of the said two houses which was inhabited by his said father as aforesaid; and he conceives himself to be under this obligation, although the verbal agreement between the deponent and his said father and mother has not been included in the said deed, to the same extent, and as largely and amply as was imported by the said verbal agreement touching the said life-estate; and if the deponent, at the time of the reading of the said deed by the notary, did not cause the said deed to be corrected, it was because he was satisfied that with his feelings of filial love and respect, the said obligations would always be fulfilled by him, as being of a sacred character.

(Signed) FRS. ST. GERMAIN.

*Sworn before me, this 6th May, 1831, the Deponent having declared that he had himself read the said deposition, and that it contains the truth.*

(Signed) P. T. PINSONAUT.



## No. 15.

*Affidavit of ANTHONY VON IFFLAND, Esquire.*

## PROVINCE OF LOWER CANADA.

DISTRICT OF } To wit:  
 QUEBEC. }

ANTHONY VON IFFLAND, of William Henry, in the Province of Lower Canada, Esquire, Doctor of Physic, maketh oath, that he was examined on the twenty-second day of February now last past, before a Committee of the House of Assembly of Lower Canada, sitting under the name of a Committee of Grievances, which Committee, at the time of the Deponent's examination, consisted of Messrs. Labrie, Bourdages, Heney, Lafontaine, and Duval.—That, soon after his examination, having heard various particulars spoken of as making part of his evidence before the said Committee, which particulars he had never stated, and were untrue, he called on James Stuart, Esquire, his Majesty's Attorney General, to learn from him what course he ought to take to obtain the correction of the evidence ascribed to him; and the said James Stuart, without entering into any explanations with the Deponent, told him, that if his answers had been untruly or incorrectly reported to the House of Assembly, the fit course to be taken was, by petition to the House of Assembly, to pray that an opportunity might be afforded to him for the correction of the errors and inaccuracies which had been committed, in taking down and reporting his answers.—That the Deponent, from the late period of the session at which he became acquainted with the incorrectness of the evidence ascribed to him as aforesaid, and from other circumstances, could not succeed in obtaining the correction of the evidence contained in the Report of the said Committee.—And the Deponent further saith, that in the evidence ascribed to him in the Report of the said Committee, styled "The Second Report of the Committee of Grievances," there has been a suppression of material facts and circumstances which made part of the Deponent's answers to the questions put to him by the said Committee; and the said evidence, in a number of particulars, is incorrect, and different from the evidence really given by the Deponent before the said Committee. And the Deponent further saith, that in that part of the evidence ascribed to him in the said Report, which relates to one Gazaille dit Germain, whose real name is St. Germain, there has been a suppression of material facts and circumstances which made part of the evidence given by him, the Deponent, before the said Committee, and there is also untruth and incorrectness in the said evidence, in various parts, as therein reported.—The Deponent stated before the said Committee, that he was not present when Gazaille dit Germain took the oath and voted, and could not, therefore, know whether he showed reluctance to take the oath or not: But the Deponent also stated facts, from which it was to be inferred, that the said Germain took the oath of his own free will, and that he did so, upon an alleged reservation of a life estate, the existence of which estate was not denied or doubted at the time he voted; and these facts have been entirely suppressed in the evidence ascribed to the Deponent as aforesaid.—The facts which the Deponent stated before the said Committee, with respect to the said Germain, and which have been suppressed as aforesaid, are the following: viz. "That the said Germain called upon the Deponent the day before he voted, and after mentioning his intention to vote for James Stuart, Esquire, one of the Candidates, stated also the nature of his qualification, which he represented to consist in the usufruct for life, or a life estate, in part of the house in the Borough, which he had given to his son, by Deed of Gift, executed before Mr. Crebassa, Public Notary: the next morning, the said Germain again called on Deponent, and informed him that he had just seen the said James Stuart, who had told him that if he (Germain) had reserved a life estate as he represented he had done, he would have a right to vote.—That the Deponent being desirous of assuring himself of the terms of the reservation stated by Germain to be contained in the Deed of Gift to his son, immediately after, went to the office of the said Mr. Crebassa, for the purpose of seeing the said Deed of Gift, and applied for the perusal of it, to the said Mr. Crebassa, who refused to let him see it.—That, soon after, the Deponent met the said Germain, who persisted in the confident assertion that the said Deed of Gift contained such a reservation as he had stated, and that he would go and vote for the said James Stuart; and, in the course of the same morning, the Deponent heard that the said Germain had voted for the said James Stuart.—That the Deponent did not hear any doubts expressed of the truth of the fact stated by the said Germain, as to the said reservation, until five or six days after the election was over, when the said Germain, in conversation with the Deponent, renewed his assertion that he had reserved to himself a life estate as above-mentioned."

And the Deponent further saith, that the said facts so suppressed as aforesaid are in all particulars true, and were stated by the Deponent, in answer to the seventh question put to him by the said Committee.

And the Deponent further saith, that the said Germain, at the time of giving his vote

as aforesaid, was an entire stranger to the said James Stuart, to whom he had never spoken (as the Deponent learnt from the said Germain) till he went to call on the said James Stuart, the morning he gave his vote as aforesaid.—And the Deponent further saith, that the said Germain has always borne the character of an honest, respectable man, and his connexions also are respectable, and that the said Germain, before and at the time of giving his vote as aforesaid, would not have been deemed capable of telling, much less of swearing to, an untruth, knowingly.

And the Deponent further saith, that the evidence ascribed to the Deponent in the said Report of the Committee of Grievances, in what respects certain affidavits said to have been sent to Sorel, by a Mr. Schiller, does not correspond with the evidence actually given by the Deponent before the Committee, and would convey an impression contrary to truth. The real facts, with respect to these affidavits, as represented by the Deponent before the said Committee, are the following.

In consequence of untrue statements which, recently before, on the trial of one Aussant for perjury, had been made respecting the conduct of the said James Stuart, at the election for Sorel, drafts or outlines of several affidavits to contradict such statements, were, on the part of the said James Stuart, transmitted to Sorel, accompanied by instructions that they were to receive any alterations and corrections that might be necessary to render them exactly conformable to the knowledge of the persons making them, and to truth. One of these affidavits was intended for Mr. Crebassa, who had been Returning Officer, who told the Deponent that it had been prepared at his desire, when at Montreal, and that he had called on the said James Stuart, to swear to the said affidavit, but had been prevented from doing so, by finding him too much engaged to be spoken to.—And the Deponent further saith, that the said Mr. Crebassa declined making the said affidavit when required to do so at William Henry, not on the ground of any inaccuracy in the said affidavit, but, because, as he stated, his brother and son were unwilling that he should make the said affidavit, and had told him not to do so.—And the Deponent further saith, that with respect to the proposed affidavit of the said Mr. Crebassa, as well as two or three others he received in the early part of June last, a letter from the said James Stuart, dated the 2d June, 1830, which he annexes to this affidavit, and to which he refers, as containing the instructions under which the said affidavits were to be taken.

And the Deponent further saith, that having in compliance with the said letter, renewed his request to the said Mr. Crebassa to be informed whether he would make the said affidavit, and, if not, that he would state his reason for not doing so, he was told by the said Mr. Crebassa, that he would make his own affidavit and send it down to the said James Stuart.

And the Deponent further saith, that among the particulars untruly stated in the evidence ascribed to Deponent as aforesaid, are the following: viz.—The Deponent in the said evidence is made to state that the said James Stuart used *threats* to voters; whereas the Deponent did not state, before the said Committee, that the said James Stuart had used threats to voters. The Deponent, in the said evidence, is also made to say, that by the said affidavits, the said James Stuart *pretended* that he had not used violence to electors, whereas no such language was, or could have been, used by the Deponent, inasmuch as it was within his knowledge, and he had stated before the said Committee, that no violence had been used by the said James Stuart.—The Deponent, in the said evidence, is also made to say, that he swore to affidavits, with "*alterations*;" whereas he stated before the said Committee, that he had sworn to them with "*additions*;" the Deponent having added to the said affidavits the mention of facts which had been omitted in them.—The Deponent, in the said evidence, is also made to state, that persons had refused to swear to affidavits which had been sent to Sorel, whereas no such refusal occurred, except in the case of Mr. Crebassa, as above-mentioned. The Deponent in the said evidence is also made to state, that abusive words had been used by the said James Stuart to the said Mr. Crebassa; whereas the Deponent did not so express himself, but only stated that he heard the said James Stuart say, that the said Mr. Crebassa acted stupidly, which was said with reference to the mistakes committed by Mr. Crebassa, in confounding the oaths to be taken by tenants and proprietors, and substituting the one for the other; and the Deponent could not state before the said Committee, and cannot now state, to whom the said James Stuart, in using the said words, addressed himself.—The Deponent, in the said evidence, is also made to state, that the said James Stuart threatened Mr. Wells, that he would complain of him to the Governor; whereas the Deponent in his evidence, as really given by him, stated that the said James Stuart, being a stranger and unacquainted with the qualifications of the voters, relied on the assistance of Mr. Welles, being Agent for the Seignior of Sorel, to give him the requisite information on this head; and, finding that Mr. Welles absented himself from the poll, by which he was deprived of such information, he remonstrated with Mr. Welles on his conduct, and insisted that he should not absent himself from the poll, at the same time stating if he did so, he would report him to the Governor. The Deponent, in the said evidence, is also made to state, that he had a knowledge that certain letters had passed between the Curé and the Governor; whereas he

stated before the Committee, that he had no knowledge of any such fact, except that derived from a Report of the Committee of Grievances in 1829.

And the Deponent further saith, that he did not, and could not have stated, before the said Committee, any particulars of misconduct on the part of the said James Stuart, at the said Election, or any circumstances from which such misconduct could be inferred, inasmuch as the conduct of the said James Stuart, throughout the said Election, in so far as the Deponent became acquainted with it (and he was intimately acquainted with all the proceedings which took place at the said Election), was not only altogether unexceptionable, but meritorious in discountenancing and preventing, as far as he could, all irregularities and improprieties, as well as all acts of violence.—And further the Deponent saith not.

(Signed) A. VON IFFLAND, M. D.

*Sworn at the City of Quebec, this 2nd day of  
May, 1831, before me,*

(Signed) J. KERR, Judge of the Court of King's Bench, Quebec.

True Copy, J. STUART.

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*Copy of the Letter referred to in the foregoing Affidavit.*

*Quebec, 2nd June, 1830.*

DEAR SIR,

IN conformity with what was suggested when I had the pleasure of seeing you at William Henry, a few days since, I now send to you, enclosed, Affidavits of the facts which it is understood can be sworn to by yourself and by Messrs. Burke and John Carter, together with a mem. of particulars which it would be proper to introduce into the Affidavits of Mrs. Graves, and St. Germain, if they should be within their knowledge, and accord with truth.—I also return to you the Affidavit of Mr. Crebassa. You would oblige me to recall to his recollection these facts, viz. that when I saw him at Montreal, after the trial of Aussant, he told me that the facts contained in this Affidavit were within his knowledge; that he would call on me at two o'clock in the course of the same day, and make Affidavit of them, which Affidavit I was to prepare in the mean time.—That he did not call on me as he promised, or, if he did, he did not announce himself, so as to admit of the Affidavit being made; that he told Schiller that he intended to make the Affidavit, but had been prevented by learning that I was occupied, &c. In recalling these facts to Mr. Crebassa, you will oblige me by putting the question to him *distinctly*, whether he will or will not make the Affidavit, and if not, by asking him to specify the reason of his refusal. It is of course understood, that the Affidavit proposed to be made is subject to all alterations and corrections on his part, so as to render it entirely conformable to his knowledge of facts, and to the truth.—I am extremely sorry to be under the necessity of giving you so much trouble; but, with your knowledge of the circumstances which have rendered it necessary, I am persuaded you will deem any apology on my part superfluous. I have only to add, that a great obligation will be conferred on me by a minute attention to the subject of this letter, which will at all times be acknowledged, by yours very truly,

(Signed) J. STUART.

*This Letter referred to in the Affidavit of Anthony  
Von Iffland, Esquire, made before me this 2nd  
day of May, 1831.*

(Signed) J. KERR, I. B. R. Quebec.  
A. VON IFFLAND, M. D.

True Copy, J. STUART.

## No. 16.

*Copy of a REPORT made by JAMES STUART, Esquire, His Majesty's Attorney-General for the Province of Lower Canada, to His Excellency SIR JAMES KEMPT, Administrator of the Government of that Province, respecting certain Prosecutions for Libels, pending undetermined in the Courts of Justice of the said Province.*

To His Excellency Sir James Kempt, Knight Grand Cross of the most honourable Military Order of the Bath, Lieutenant-General, and Commander-in-Chief of His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, Nova Scotia and New Brunswick, and their several Dependencies, and in the Island of Newfoundland, Administrator of the Government of the Province of Lower Canada, &c. &c. &c.

*May it please your Excellency,*

I have been honoured with your Excellency's commands, signified in Mr. Secretary Cochran's letter of the 24th September, requiring me to make a report of the prosecutions for libel, which have been instituted by me on the part of the Crown, since November last, and of the present state of the proceedings, together with any information deemed necessary for your Excellency, on this subject.

In obedience to your Excellency's commands, I have the honour to state, that all the prosecutions, referred to by your Excellency, have originated in indictments found by the Grand Juries of the Districts of Quebec and Montreal, respectively; and that the first three of them were instituted in a Court of Oyer and Terminer and general Gaol delivery, held in the latter of these Districts, in November, 1827.

The adoption of any legal proceedings to restrain the licentiousness in which some of the conductors of Newspapers had indulged, had been long, and probably in the estimation of the sober and discreet part of the community, too long delayed. It was not, indeed, till after it was evident, that the evil was greatly increased by this forbearance, and that a check to it was urgently required, that resort was had to legal measures, and for these the sanction of a Grand Jury was taken.

Before this step was adopted, the editors of these newspapers, with their auxiliary contributors, not satisfied with the free, temperate, discussion of public measures, had erected themselves into censors of the Government, and of the Administration of Justice, and were in the habit of pronouncing judgment erroneously against both, in terms of indecent disrespect. In these publications, the conduct and measures of Government, and the proceedings of the Courts of Justice were grossly misrepresented and calumniated, and the acts of both, within the limits of their legal power, in most important particulars, were held up to the public as illegal and unconstitutional, and in such language, as was calculated to invite opposition to their authority; while the person at the head of the Government was openly aspersed, vilified, and made the object of indecent personal attack. Of the urgent necessity of putting a stop to these publications, no doubt could be entertained, as Government, however leniently and justly administered, could not continue to subsist, if it could be thus perseveringly attacked with impunity. In this country also, the injurious consequences to be apprehended from these libels, it is fit to remark, were the greater, as the mass of the population are profoundly ignorant, and may easily, for this reason, be made to imbibe unfounded distrust and prejudices against the Government; under the influence of which they might be hurried into a criminal opposition to its authority, or long retain a sense of wrong, which was never done. That an extreme degree of hardihood had been acquired by the authors of these libels, will be considered as sufficiently evinced, by the fact of their not having suspended publications of this description, even while a Criminal Court was sitting, to which they could be made immediately amenable. It was during the sitting of the Court of Oyer and Terminer, and at the place at which its session was held, that the most offensive of the libels now alluded to were published; and some of them were even directed against the Court itself, containing the most criminal misrepresentation of its proceedings, and arraiging its justice, without the slightest reason.

In order to make your Excellency acquainted with the libels selected for prosecution, I shall beg leave to mention the prosecutions in the order in which they occurred; and, for the libellous matter which has been made the subject of prosecution, will refer your Excellency to the annexed Appendix, in which a copy of it will be found.

The first of these prosecutions is founded on an article contained in the Canadian Spectator, a newspaper published at Montreal, of the 7th November, 1827, for which an indictment was found against Mr. Waller, the Editor, and Mr. Duvernay, the Printer of that paper, in the Court of Oyer and Terminer and general Gaol delivery, held there in that month; and the matter charged as libellous in the indictment will be found in the Extract, (No. 1), in the annexed Appendix. In explanation of this prosecution, it may be proper to

observe, that the Editor of the paper now referred to, came hither from Ireland some years since, and, being afterwards in distressed circumstances, was hired to conduct this paper, which has been, since its first establishment, the organ through which a party, acting in opposition to His Majesty's Government in the Provincial House of Assembly, has manifested its sentiments, and by which it has been supported. The Editor himself is without stake or interest in the country; the language he holds would seem to be the language of his employers, by whom he is paid; and although published in English, the paper is intended to influence the mass of the French Canadian population, through whom its pernicious contents are made to circulate, by infusion into French papers, and by oral communication.—The article was published a short time before the expected meeting of the Provincial Legislature. The "conciliation" made mention of, and which is treated with so much contempt, was the conciliation of the three branches of the Legislature, and it is in relation to this anticipated conciliation, that the writer gives vent to the *tirade* of virulent abuse which follows, and which terminates in giving the character of a "*nuisance*" to His Majesty's Colonial Government,—a brief and concentrated form of libel, it must be admitted,—quite intelligible to the most ignorant of the persons for whose information it was intended,—and, as applied to a government still possessed of any efficiency, I believe to be almost without example. In using this disgraceful term, the writer would seem to have sought, in a single expression, to unite, in the most offensive libel, a direct incitement to insurrection; for, if the Government were to be considered a *nuisance*, as represented by him, that nuisance, like every other nuisance, it is fair to infer, was to be abated: and, as if to render his meaning unambiguous, he immediately adds, that if the country would co-operate with firm and decisive measures, it would be speedily extinguished.

Among the vague and general charges conveyed in this article against His Majesty's Government, admitting of no answer, is one of a specific nature, which, in a variety of insulting forms, had been before made in the same paper, and could not fail to make a strong impression on an ignorant population. The Colonial Government is charged with reviving military ordinances, against the plainest rules of legal construction. To render intelligible this gross libel on the Government, it is necessary to mention, that in the twenty-seventh and twenty-ninth years of His late Majesty's Reign, two ordinances were passed by the Legislature of the country, at that period, one of which is intitled, "An Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof;" and the other of which is intitled, "An Ordinance to explain and amend the first mentioned Ordinance." These Ordinances were permanent laws, for regulating the Militia of the Province, the operation of which some years afterwards was suspended by several successive statutes, containing a temporary repeal of them, and substituting, during the period of such temporary repeal, other provisions in the place of those contained in the Ordinances. The first of these statutes was passed in the year 1794, and the last in 1825, by which last statute the temporary repeal of these Ordinances was continued to the 1st of May, 1827, and no longer. At this period, by the expiration of the temporary repealing statutes, the Ordinances revived, and again became the law by which the Militia was regulated. It was peculiarly fortunate, for the peace and tranquillity of the country, that, in the absence of any other provisions, this revival took place; inasmuch as, besides the ordinary security conferred by a Militia Law, there is this peculiar benefit derived from it in this Province, that it furnishes Peace Officers throughout the country Parishes, that is, throughout the whole Province, with the exception of the Towns of Quebec, Montreal and Three Rivers; there being a special provision of law by which Captains of Militia and Officers of inferior grade are constituted Peace Officers, and there being no other Peace Officers except in these three Towns. Without a Militia Law, therefore, the country at large would have been without the legal means of maintaining, effectually, its internal tranquillity. The Government having, as it was its duty to do, and as the public safety and interest required, enforced these Ordinances, as a part of the law of the land, a clamour against them was immediately raised by disaffected persons, who, aware of the salutary and necessary power with which they permanently armed the Government, were anxious to prevent the execution of them. Among these persons the Editor of the Canadian Spectator, as the organ of the party to which he belongs, rendered himself conspicuous; and it is with reference to these Ordinances that he presumes to charge the Government with reviving Military Ordinances, against the plainest rules of legal construction. It is proper to add, that, amidst the opposition which the execution of the Ordinances experienced, some Militiamen having been fined for attending the reviews required by these laws, an action of trespass was brought against the Officers by whom the fines were levied, for the express purpose, as the public were informed by the Canadian Spectator and his associate papers, of trying the validity of the Ordinances. This action has been since brought to issue, and upon this question no gentleman could be found, who was willing to compromise his professional character, by maintaining the Ordinances not to be in force. The consequence has been, that upon a hearing, at the instance of the defendants, these Ordinances have been solemnly adjudged, by His Majesty's Court of King's Bench, to have been in force from the 1st May, 1827, the period at which the last of the temporary repealing statutes expired; and this decision it has not been attempted to impeach.

The second of these prosecutions is grounded on an article in the Canadian Spectator of the 3d November, 1827, for which an indictment was found against the same individuals, as in the case of the former prosecution, in the Court of Oyer and Terminer and general Gaol delivery,

held at Montreal in that month; and the matter charged as libellous will be found in the extract, (No. 2), in the annexed Appendix. The enforcing of the militia ordinances, in this, as in the articles already noticed, is made the ground of the imputations against the Government; and the writer of this article introduces a libellous letter from Mr. Thomas Lee to the Governor-in-Chief, under the general head "Militia." He prefaces this letter,—by expressing his approbation of it,—by stating that the doctrines propagated by His Majesty's Government should make all true British subjects boil with indignation,—and by charging the Governor with having, by his proclamation or general order, made law and military law, and with defaming British subjects, because they declined obedience to orders which were not law. These disgraceful charges have no other foundation than the execution of the laws of the land, which the editor and printer of the newspaper now referred to, had the hardihood to assure the country were not laws. In the letter of Mr. Lee which follows these prefatory remarks, this individual insults the person at the head of the Government, and the Government itself, by charging the Governor-in-Chief, with issuing an illegal militia order, and by imputing to him tyranny and oppression, and also falsehood; and it is this letter which the Canadian Spectator, in the article in question, held up to the public in terms of high commendation, as a very interesting document.

The third of these prosecutions was occasioned, by an article proceeding from the same press, and contained in a newspaper called the Spectateur Canadien of the 14th of November, 1827; for which an indictment was also found by the grand jury in the same court, against James Lane, the printer of that paper. Of this article a copy will be found in the extract, (No. 3), in the annexed Appendix. To convey an adequate idea of the malignity of this libel, and of the total absence of all ground for the criminal charge it conveys against the administration of justice, it is necessary to state a few facts. A new street had been laid out at Montreal, under the authority of the magistrates there, and in execution of the provisions of the Road Act, prov. stat. 36 Geo. III., c. 9. After this street had been laid out, a Mr. Stanley Bagg, deriving an alleged title from a convent of nuns called the Grey Sisters, thought proper to erect a wooden building on it. This being an obstruction of a highway and a nuisance, it became the duty of the surveyor of the highways, which office is filled by a Mr. Viger, to remove it, in the manner prescribed by the 68th section of the same Road Act. Mr. Viger, having neglected to perform this duty, one or more orders of the magistrates, assembled in special session, was made, enjoining on him the performance of it. After one, certainly, and I believe, two orders to the same effect, three magistrates, of their own mere authority, individually, and without any special session having been called to re-consider the subject, presumed to issue a supersedeas, as they called it, discharging Mr. Viger, from that duty which the law had imposed upon him, and which the magistrates acting collectively, in one or more special sessions, had required him to perform. For this non-feasance of a duty required by a statute, an indictment was found against Mr. Viger, in the Court of Oyer and Terminer and general Gaol delivery already mentioned; and at the same time an indictment was found against Mr. Bagg for a NUISANCE. In the libellous article now referred to, this proceeding, than which none more legal and unexceptionable could be adopted, is held up to the public, or rather to the French Canadian part of it, as most unwarrantable, as involving an illegal assumption of jurisdiction by the Court of Oyer and Terminer, over a subject belonging exclusively to a civil judicature, and as being "*une insulte et un outrage aux loix.*" For having permitted this proceeding, the court is charged with forgetting and disregarding the best established principles of law and justice, the country is represented to be in an alarming state, and it is said that the citizens ought to tremble for the consequences!! In order also to convey a charge of positive corruption, as one of the causes of this monstrous proceeding, the writer of the article adds "*Les magistrats qui se trouvent blessés par ce supersedeas sont du nombre des grands jurés, et le président de la police siège à cette cour!!*" In a more enlightened community, the writer of such an extravagant article would incur by it universal ridicule and contempt, and the very excess of its folly would preclude any public ill-consequence from it; but it is not so in this country; where, such is the ignorance which prevails among the people for whose edification this article was intended, that the charge thus conveyed against the administration of justice would be gravely received, and a strong impression be produced by it. This article, independently of its libellous character, it is proper also to observe, was deserving of the most serious consideration under another aspect, as being a manifestation of a principle on which the press from which it proceeds habitually acts, that of misrepresenting and calumniating the administration of justice, whenever persons belonging to the party, by which it is supported, are made obnoxious to punishment, for an infringement of the laws. Mr. Viger, the road-surveyor, is intimately connected by relationship, and otherwise, with the party by which the Spectateur Canadien is supported: hence, no doubt, the motive for misrepresenting the proceedings in question; with an expectation also, it is not uncharitable to suppose, that the petit jury (composed of illiterate persons) by whom the case was to be tried, would not be uninfluenced by this libellous misrepresentation.

The fourth of these prosecutions is derived from an article contained in the Canadian Spectator of the 24th of November last, for which an indictment was found against Mr. Waller, the Editor, and Mr. Duvernay, the printer of that paper, in His Majesty's Court of King's Bench, held at Montreal in March last, and of which a copy will be found in the Extract (No. 4), in the annexed Appendix. For the understanding of this libel, it is necessary to mention, that in the Court of King's Bench, held at Montreal in September, 1827, indictments had been preferred against several persons for perjury, committed by them at an Election held at William-Henry, in the preceding month of July, by falsely swearing

that they possessed the necessary qualification to entitle them to vote at that election.— These indictments had been *ignored* by the Grand Jury of that Court, and new bills for the same offences were preferred before the Grand Jury of the Court of Oyer and Terminer and general Gaol delivery, held at Montreal in November, 1827, by which latter Grand Jury these bills were found. In the article now referred to, the not finding of the bills in September is called “An acquittal by the country;” and on this ground the Court of Oyer and Terminer is impeached before the public, for having, it is said, thus overturned the well-known principle of the English law, according to which an acquittal by a jury is a protection against any further prosecution for the same crime; and for having thereby determined that an individual is exposed to be prosecuted, to infinity, for an offence of which he has already been acquitted by the country. In addition to this libellous charge against the court itself, the grand jury of the same court, having exercised a legal and constitutional power in finding these bills, is charged with having allowed themselves to be used as an instrument. The foreman is represented as a person unworthy of confidence, and all the members of the jury, with the exception of five or six, are held up to obloquy; while these five or six are made the objects of special commendation and eulogy; it being stated that their characters, private and public, and the independent manner with which they opposed, though without success, all these proceedings, made an honorable exception in their favour, and obliged the writer of the article to distinguish them from the rest.

This scandalous libel on the court and grand jury, by which the court is made criminal for permitting that which is the practice of every day, and by which the proceedings of the latter, rendered secret under the obligation of an oath, are disclosed, or professed to be disclosed, and are made the subject of disgraceful remarks, must be referred to the same motive, which dictated that already noticed, with respect to the prosecution of Mr. Viger. The persons prosecuted for perjury had voted for a candidate supported by the party by which the Canadian Spectator itself is supported. On this ground, they were to be screened from public justice; and for this purpose, courts and juries through whose power it was attempted to bring them to justice, were to be calumniated, for having entertained prosecutions against them, and were to be overawed before trial and judgment. I will only beg leave to add, with respect to this prosecution, that only one of the indictments for perjury which were *ignored* by a grand jury in September, 1827, and found by a grand jury in November following, has been tried, since the publication of this libellous article, and, on that indictment, the party accused, one Joseph Claprod, was found guilty by a common jury, on the clearest evidence.

The fifth and sixth of these prosecutions has been occasioned, by an article contained in the Quebec Gazette of the 28th February, 1828, being a newspaper published by Samuel Neilson, at Quebec. For this article, an indictment was found against Mr. Neilson, the editor and printer of the paper, and another indictment against Mr. Charles Mondelet, by the grand jury, in the Court of King's Bench, held at Quebec in March last, and a copy of it will be found in the Extract (No. 5), of the annexed Appendix.

This prosecution differs from those of which an account has been given, in a very important particular, that is, in what respects the means employed for the composition of the libel, and for giving weight and effect to it. In the prosecutions already noticed, the libellous articles proceeded from insulated individuals, expressing their sentiments, individually: in this prosecution, the libel proceeded from a number of individuals invested with public authority, as magistrates and officers of Militia, and associated under the imposing name of a *Constitutional Committee*. These persons, being officers of Militia, erect themselves into a tribunal for trying the validity of the public acts and orders of the commander-in-chief of the Militia, and pass sentence on them, as in their wisdom seemeth fit.—They assume to themselves all the form of a legally-constituted body, and arraign the conduct of the commander-in-chief, in such terms as to imply in them a right of determining on it. It is for the publication of a libel proceeding from such a self-constituted body, and conveyed in the form of resolutions, of a letter, and of a speech, that this prosecution was instituted. Of the grounds on which the exercise of the power complained of took place, I am ignorant, nor would it seem at all necessary to be informed of them, inasmuch, as whether right or wrong, it could never be canvassed and determined on, by such a self-constituted body, as a “Constitutional Committee,” without a surrender of the powers incident to the established Government. In the resolutions and letter, the conduct of the commander in chief is arraigned, as being arbitrary and unjust; and it is said by this body of militia officers, that in their opinion, “*cet allégué de la part de son Excellence* (meaning the fact alleged by the commander-in-chief, as the foundation of his general order,) *est entièrement mal fondé.*” In the speech, the commander in chief is spoken of, in the most disrespectful and indecent terms; he is charged, in offensive language, with being guilty of a departure from truth, with being under the influence of absurd and tyrannical notions, and with making defamatory accusations, not deserving of refutation; and the administration of the government by him is represented as being influenced and directed by persons “*qui s'évertuent à le tromper, et qui sacrifient honteusement leur honneur et leurs droits, pour encourager une oppression, dont il n'y a jamais eu d'exemple, dans les colonies Angloises!*” Not satisfied with these terms of abuse, the orator immediately after, characterizes the persons last spoken of, that is, the principal officers of His Majesty's Government, with whose advice the Governor is presumed to be assisted, as being a “*horde d'invasisseurs et de destructeurs (de volonté au moins) de nos droits,*” and represents two individuals, then recently dismissed from their rank in the militia, as entitled to the glory “*de voir leurs noms inscrits sur le catalogue de victimes de leur dévouement à*

“*la cause sacrée de la patrie.*” In conclusion, he charges the Commander in Chief with a criminal and disgraceful abuse of the patronage of the Crown, by stating that the persons on whom he conferred honours were those “*qui ne se les font prodiguer, qu'en abjurant leur foi politique, qu'en se déclarant traitres à la patrie, et en flétrissant pour toujours un nom qui ne leur a été donné que pour y ajouter celui de vrai Canadien.*”

The seventh of these prosecutions is grounded on an article contained in the same newspaper, the Quebec Gazette, of the 11th March, 1828, for which an indictment was found against Mr. Neilson, the printer and editor of that paper, in the same term of the Court of King's Bench, held at Quebec in March, 1828, and of which a copy will be found in the Extract, (No. 6), in the annexed Appendix.

In this prosecution, the libel is of the same character as that last mentioned. The example set by the Constitutional Committee of Three Rivers, in composing and publishing the libel of which an account has been given, was too agreeable to the feelings of the turbulent and ill-disposed elsewhere, and too well calculated to answer their views, not to be followed: other meetings of similarly self-constituted bodies, called *Constitutional Committees*, were therefore held for a like purpose, and among these a meeting of the *United Constitutional Committees* of the parishes of St. Gregory, Becancour, Gentilly, and St. Pierre les Becquets, the proceedings of which gave occasion to the seventh prosecution. At this meeting, the same assumption of the forms of a legally-constituted public body obtained, as in the case of its prototype at Three Rivers. In the 1st Resolution, it was declared, that the meeting, being composed of the majority of the officers of the 3rd battalion of the County of Buckinghamshire, would immediately take into consideration the general order of militia which was complained of; and in the ten following resolutions, this meeting of militia officers, assembled in that character, express, in various forms of language, their disapprobation of the conduct of the Commander in Chief, which they pronounce to be arbitrary and unjust. But the 6th and 7th of these Resolutions were particularly deserving of attention. By the 6th they declared, *Que les personnes qui acceptent des commissions, en remplacement de ceux qui ont été destitués, sans cause légitime, méritent l'improbation publique, et ne doivent être considérées que comme ennemis des droits du peuple.* By the 7th they declared, *Que les membres de cette assemblée, formant la majorité des officiers du dit 3me bataillon du comté de Buckinghamshire, ne pourront obéir qu'avec mortification, à la personne qui aura ordre de prendre le commandement du dit bataillon.*

The Constitutional Committee of Three Rivers had passed sentence on the Commander in Chief, in what related to the general order of which they had taken cognizance. These united Constitutional Committees go a step further; they not only pronounce judgment on the Commander in Chief, in relation to the general order taken under their special consideration, but by their 6th Resolution, they denounce public odium against persons accepting commissions, in the place of persons removed; and, by their 7th Resolution, they sufficiently intimate a disposition not to yield obedience to such persons. Of the dangerous nature of the associations, from which these libels proceeded, no person could doubt. They were evidently calculated to bring the authority of the Government into discredit and contempt, and gradually to supplant it. But however criminal may have been the views of a few individuals, by whom this seditious machinery was put into motion, it is certainly due to the country at large to remark, that it was the work of a few persons only, and that the mass of the inhabitants was in no degree infected with the disloyalty that might be inferred from such proceedings, in other countries. The necessity, nevertheless, of putting a stop to such associations, so pregnant with mischief, was urgent; and this was effectually accomplished, in this instance, by restraining the publication of their proceedings in the newspapers. After the two last prosecutions, of which an account has been given, the agency of Constitutional Committees, in opposing the Government, and in producing disorder, ceased.

The eighth of these prosecutions is grounded on the publication of a letter to the Governor in Chief, signed “Charles Mondelet,” inserted in the Quebec Gazette of 12th November, 1827, for which an indictment was found against “Mr. Charles Mondelet,” in the term of the Court of King's Bench, held at Quebec in March 1828, and of which a copy will be found in the Extract, (No. 7), in the annexed Appendix.

The example which had been set by Mr. Lee, in obtaining notoriety, by addressing an insulting letter to the person at the head of the Government, of which mention has been made, had already been followed, in one or two instances, and as yet, with impunity, when Mr. Mondelet, it would appear, became ambitious of the same distinction. It was evident, that unless this disposition received some check, no act of the Government, disagreeable to an individual, could be adopted, without exposing the person at the head of it to be traduced and vilified, in the form of a libellous letter, and without, as a necessary consequence, subjecting the Government itself to disparagement and contempt. It seemed necessary, therefore, that this check should be applied, in the case of Mr. Mondelet, who, it was obvious, had taken Mr. Lee's letter for his model, and had improved on it, by rendering his own more offensively libellous. In it Mr. Mondelet, as Mr. Lee had previously done, charges the commander in chief of the militia, in the most disrespectful terms, with enforcing ordinances as law, which were not law, and with issuing illegal orders of militia. In relation to Mr. Mondelet's removal from a particular division of the militia, on the ground of non-



residence, as compared with the cases of some other officers, he accuses his Excellency of gross partiality, and observes, *Votre conseil n'a craint, ni pour lui même, ni pour votre Excellence, la reprobation publique, et le ridicule qu'une semblable contradiction mériterait à son auteur.* In another part of his letter he observes, *Si vous m'eussiez taxé, qu'il plaise à votre Excellence, de m'être refusé à l'exécution de vos ordres généraux, qui me semblent aussi illégaux que sont illégaux, et non lois, les ordonnances que l'on assigne comme leur base, vous n'auriez pas pu, à la vérité, en justice, me remettre, sans me donner l'occasion d'être entendu, mais, au moins, les formes de votre ordre général n'auraient pas, en apparence, choqué la raison, et cet ordre n'aurait pas été aussi fortement l'objet du ridicule.* And towards the conclusion of his letter he imputes unheard-of tyranny to the commander in chief, in the following terms: "*En dernier analyse, qu'il plaise à votre Excellence, je me permettrai de vous dire, en usant du droit d'un sujet Anglois, que votre conseil égare grandement votre Excellence, en le portant à commettre des actes qui devoient être inouis sous l'empire Britannique, et dont notre colonie seule offre des exemples.*"

The ninth of these prosecutions is grounded on the publication of Mr. Lee's letter above-mentioned, in the Quebec Gazette of 29th October, 1827, for which an indictment was found against Mr. Neilson, the editor and printer of that paper, by the Grand Jury, in the term of the Court of King's Bench, held at Quebec in March 1828. In explanation of this prosecution, it is sufficient to refer to what is above stated, in relation to the second of these prosecutions.

The tenth of these prosecutions is grounded, on an article contained in the Quebec Gazette of 29th November, 1827, for which an indictment was found against Mr. Neilson, the editor and printer of that paper, in the term of the Court of King's Bench, held at Quebec in March 1828, and of which a copy will be found in the Extracts, (No. 8), in the annexed Appendix. This libel is an amplification of the two libels, which are the subjects of the third and fourth prosecutions above mentioned, the two being blended and amplified in this. Upon this prosecution it is sufficient, therefore, to refer to the explanations above given, in relation to the third and fourth prosecutions.

On the part of the Crown, all due diligence, in bringing these several prosecutions to trial, has, I beg leave to state, been exerted. The indictments found at Montreal, in November last, were brought by *certiorari* into the Court of King's Bench, in the succeeding term of March, and the trial of them was then moved for, but the defendants represented that they were not ready to proceed to trial, and succeeded in obtaining a postponement of it till the next term, held in September last. On this last occasion, the trials did not take place, on the days fixed for them, in consequence of a difference of opinion in the members of the Court, respecting the manner of preparing the lists, from which the special juries for these trials had been struck: they now stand over, therefore, to be had in the next term, which will be held at Montreal, in the month of March. With respect to the indictments found in the Court of King's Bench at Quebec, in March last, they were found too late in the term, to admit of the trials being had in it. In the last term, held at Quebec in September, the multitude of cases of felony, before the Court, precluded the trial of these misdemeanors, which were therefore permitted, on the part of the Crown, to stand over, and no application was made for the trial of them, on the part of the defendants; so that these cases also remain for trial, in the next term of the Court of King's Bench, which will be held at Quebec, in March next.

In addition to what has been stated respecting these prosecutions, it would seem not to be foreign to the order of reference, with which your Excellency has honoured me, to notice, briefly, some steps which have been taken by the persons indicted, or some of them, in conjunction with their friends, to render abortive and defeat them.

By the Minutes of the Evidence taken before the Committee of the House of Commons, on the Civil Government of Canada, in the last session of the Imperial Parliament, which have reached this country, it appears that a set of Resolutions were produced before the Committee by Mr. John Neilson, the father of one of the persons indicted, purporting to be Resolutions of a "Meeting of landholders and other proprietors composing the Committees appointed at the general meetings of proprietors, held for the purpose of petitioning His Majesty, and both Houses of Parliament, against the present administration of the Provincial Government, and for furthering the said petitions, assembled at the house of Louis Roy Pertelance, Esq. in the City of Montreal, 17th April, 1828," in which Resolutions these prosecutions are made the subject of grievance and complaint. Among the names of the persons, by whom these resolutions are alleged to have been adopted, is that of Mr. Waller, the person against whom the first, second, and fourth of the indictments above mentioned were found. Whether these Resolutions were or were not adopted, at a meeting composed of the persons whose names precede them, is a matter of some uncertainty. The names render it probable, however, that they were so adopted, being the names, generally, of the known supporters of the papers which are the subjects of indictment, and probably of part of the proprietors of them, whose acquiescence Mr. Waller would be likely to obtain, in any statements he would submit to them, on the subjects to which the Resolutions relate, and in particular, to those declaring these papers to be void of offence. The Resolutions themselves contain convincing intrinsic evidence of their being the production of Mr. Waller himself,

who has found it convenient to embody his sentiments and defence in these Resolutions.—He has evidently not neglected his own defence in them; for, in the 11th Resolution, this unauthorized meeting of individuals is made to contradict the indictments found by the Grand Inquest of the District, and to declare the publications which the latter, on their oaths, pronounced to be seditious libels, “to be innocent and praiseworthy,” and “entirely free from any thing prejudicial to the laws, or to public order.” This mode of superseding the authority of the legal tribunals of the country, I cannot but take the liberty of remarking, is without precedent, and, if successful in this instance, must be destructive of all legitimate authority. It does not belong to me, to notice the charges contained in these Resolutions, against the Governor in Chief, Courts, Chief Justice, Sheriffs, Jurors, and other public functionaries, all of whom it has entered into the views of the writer of these Resolutions to traduce and villify. But as I am made personally conspicuous in these charges, and am represented to have acted, from improper motives, and to have discharged my official duty with undue severity, even oppressively, it seems fit, that, in submitting to your Excellency this account of the prosecutions complained of, I should exonerate myself from this foul imputation, by stating a few particulars. It is insinuated, if not asserted, in these Resolutions, that, in the institution of the prosecutions in question, I have acted under the influence of personal feelings, from having concurred in advising the militia arrangements complained of. My feelings, as prosecuting officer of the Crown, must be a matter of indifference, in relation to the truth or falsehood of criminal charges; but the insinuation or assertion, such as it is, is entirely untrue, and has been hazarded at random, as the other disgraceful imputations contained in these Resolutions have been, merely to bring discredit on individuals and public authorities, and thereby render the Government itself odious. Except in having advised the enforcing of the Militia Ordinances, as a part of the law of the land, it has not fallen, within the scope of my duty, to have any thing to do with the militia arrangements of the country.—To appointments and dismissals I have been equally a stranger. I am also represented as a violent opponent of the representative body, but am at a loss to conceive on what ground; and equally so, to perceive the bearing of this demerit, on the prosecutions complained of. I am likewise charged with having proceeded, in a “*vexatious and oppressive manner*,” against Mr. Charles Mondelet, of the prosecution against whom an account has been given. This charge, depending on matter of fact, is easily refuted. It is said, that Mr. Mondelet ought to have been prosecuted in the district in which he resides, and where his offence was committed. Had the offences for which he has been indicted been committed in the district of Three Rivers, this observation would have been true, and he could not have been prosecuted elsewhere; but he was not indicted, *not* for writing or publishing libels in the district of Three Rivers, in relation to which offences I was in possession of no evidence to enable me to prosecute him there, *but* for having published, and caused and procured to be published, certain libels in the district of Quebec, in the courts of which latter district only could these offences be cognizable. This charge, therefore, is utterly groundless. But it is also said, that Mr. Mondelet was put to inconvenience, in travelling from Three Rivers to Quebec, to answer these indictments against him, there. This certainly is an unusual complaint on the part of a person accused, particularly before his innocence has been ascertained by an acquittal.—The inconvenience complained of is, necessarily, experienced by all persons, who subject themselves to criminal accusations, and, in making Mr. Mondelet amenable to the Court of King’s Bench at Quebec, the trouble of travelling hither, on his part, was unavoidable. It is also said, that Mr. Mondelet, and the witnesses subpoenaed from Three Rivers, incurred personal danger, in performing the journey. The route between Quebec and Three Rivers, the great highway of the province, is known here (though it may not be known by persons in London, for whose perusal Mr. Waller’s Resolutions were intended), to be free from danger to travellers at all seasons of the year, as much so as a promenade in the streets of Quebec and Montreal.—If, by any strange misadventure or accident, these persons should have incurred any risk, it must be considered, as one of the casualties to which men, in every situation, even in those the most secure, are liable, and for which it does not seem reasonable, to make His Majesty’s attorney-general responsible. It is also represented that I have acted partially, in selecting for prosecution the editors of one class of newspapers, only. It has been my duty to prosecute those persons, by whom libellous attacks have been made on the Government, its courts of justice, and its public functionaries, for the purpose of bringing them into contempt and disgrace, in the minds of the people. If such attacks have been found in one class of papers only, as has been the case, it sufficiently accounts for my having prosecuted the editors and printers of these, only. With the personal abuse of contending editors, which it might have been prudent and proper, on the part of their respective employers, to have restrained, but not affecting any department of the Government, I have had nothing to do. The King’s courts of justice have been open to all persons aggrieved by such libels, and it is their own fault if they have not sought redress there, my ministry not being necessary in procuring for them that redress; but it is trifling with the understanding of the persons to whom such a palliation is offered, to attempt to excuse gross libels on the Government, and its courts of justice, on the ground that other editors have published libels on some other persons, and on some other things. I will only beg leave to add, as a general answer to the unfounded misrepresentations contained in Mr. Waller’s Resolutions, respecting the conduct of these prosecutions, that in laying the indictments in question before the grand juries, by which they have been found, I was, and could only be, influenced by a sense of duty; and, in the several stages of these prosecutions, I have in no respect deviated from the established course of practice, which is observed in criminal prosecutions. The grand juries, by which the indictments have been found, have been composed of persons of the first respectability, in the

districts of Quebec and Montreal, and have been returned, in the same manner, as other grand juries have been, from the period of the conquest downwards. Till the publication of the libels of Mr. Waller and his associates, juries so returned had discharged their duties without reproach, and no person had ever called in question the purity of the administration of criminal justice. In the desperate position in which Mr. Waller has placed himself, it is not surprising, that the criminal judicature of the country, however free from reproach, till reached by his malignity, should not be acceptable to him: it is indeed not likely that he should be satisfied, otherwise than with a judicature of his own choice, or with no judicature at all; and, of these alternatives, the last would probably be most agreeable.

I cannot conclude this report to your Excellency, without respectfully deprecating the dangerous consequences to be apprehended to His Majesty's Government, and the peace and tranquillity of the province, from the course which has been pursued by Mr. Waller, and his associates, if it should be permitted to be successful. This course may be characterized in a few words. The Governor of the Province, the Courts of Justice, Juries, and other principal functionaries of His Majesty's Government, have been grossly calumniated, traduced, and vilified.—Of these grave offences, the authors of them have been accused, in legal form, by the Grand Inquests of the Country.—Instead of meeting the charges against them, in the course prescribed by law, the principal delinquent, for the purpose of counteracting the legal proceedings had against him and his associates, and in contempt of the authority of the Court in which the accusations are pending, calls a meeting of his friends and partisans, who pronounce him and his co-delinquents innocent of the charges against them.—Under colour of this meeting, he frames Resolutions, containing a specious misrepresentation of the facts on which the indictments have been found, and proclaims the falsehood of the charges contained in them.—In these same Resolutions, the principal party accused renews the calumnies he had previously published against the Government, and the administration of justice; and, on the ground that these calumnies are true, presumes to decline the jurisdiction of the Courts before which he and his associates stand indicted, as being corrupt and unfit to try them. Whether the execution of the laws can be thus eluded, or frustrated, is an important question, to which the attention of His Majesty's Government is necessarily called, by the foregoing statement. I shall not be thought, I hope, to take an improper liberty, if I presume to express my humble conviction, that if impunity can be obtained by so unprecedented a course of proceeding, the consequences thence resulting must be a general contempt of the legal tribunals of the country, and an utter inability, on the part of His Majesty's Colonial Government, to assert its authority, and maintain peace and good order.

All which is, nevertheless, most respectfully submitted to your Excellency's wisdom, by your Excellency's

Most obedient humble servant,

(Signed)

J. STUART,  
*Attorney General.*

Quebec, 20th October, 1828.

True Copy, J. STUART.

*Appendix to the Report of the Attorney General of Lower Canada, dated 20th October, 1828.*

(No. 1.)

Extracts from the Canadian Spectator of the 7th November, 1827, containing the libellous matter, for which an Indictment was found by the Grand Jury, against the Editor and Printer of that Paper, in a Court of Oyer and Terminer and General Gaol Delivery, held at Montreal, in November, 1827 :

“ The Official Gazette talks of the Speaker being the organ of ‘conciliation’—With whom? Not between two parties in the Commons over which he presided. There unanimity prevailed—for two or three voices from the officers of the Government did not disturb the unanimity in the Commons. Is it conciliation with His Excellency? What conciliation could be hoped for, with an administration which, for seven years, had been violating the laws, violating the Constitutional rights of the Country—which had transacted with the Ministers in England, to declare against us—which had vowed interminable war with our rights—which had dishonoured and defamed the Lieutenant Governor, who had won the affections of the Country, had treated it kindly and established harmony—which had refused communication of necessary documents on important subjects, which had defamed, insulted, and injured the Representative body—which had sanctioned, in its official papers, the filthiest abuse against all individuals prized by their countrymen for their abilities, activity, and patriotism? What hope of conciliation remains with such an administration, which avows that it will not change, revives Military Ordinances against the plainest rules of legal construction, and employs the power with which it vests itself, to punish British subjects, for the exercise of civil rights, coercing the free expression of political opinion—which travels about thanking any half dozen of remote, ignorant, fawning, or designing individuals for addresses, which load it with flattery, and utter abusive calumnies against the Representative body, chosen by the landholders and freeholders of the Province? Conciliation is impracticable with such an administration. Conciliation with the Clerkarchy would be submission, on the part of the House, to the loss of its essential rights, to insult, and to dishonour.”

“ The Country is threatened by the Official Gazette, that if Mr. Papineau is chosen Speaker, the Governor, placing himself in opposition to the voice of the whole country, will refuse his consent and dissolve the House. We hope the House will choose Mr. Papineau, and show reasons for choosing him, and persist in the choice. That the Governor and his Council will refuse their ratification we think probable enough; how far that will be valued we cannot say; and we think, it is probable, they will dissolve the House, to the great injury of the Country. Another subject of discord and discontent will thus be raised, by the present administration, and the passions of the Executive and of the place-holders will commence another war against the whole Country. There can be little doubt that such an administration will be considered as a nuisance, by the British Government, and that its own follies and misconduct will, if the country co-operate with firm and decisive measures, speedily extinguish it.”

(No. 2.)

Extracts from the Canadian Spectator of the 3d Nov., 1827, containing the libellous matter, for which an Indictment was found by the grand Jury, against the Editor and Printer of that Paper, in a Court of Oyer and Terminer and General Gaol delivery, held at Montreal in Nov., 1827 :

MILITIA.

Our readers will consider the following documents very interesting. Mr. Lee expresses himself like a British subject. *The doctrines, propagated by and on behalf of the Provincial Executive, should make all true British subjects boil, with indignation. The Governor not accountable! The Governor by his Proclamation or General Order, to make law and Military law! And British subjects to be defamed, because they decline obedience to Orders which are not law! But the Province will yet, and soon, have justice.*

“ A Son Excellence le Comte de Dalhousie, Gouverneur en Chef de la Province du Bas-Canada, &c., &c.

“ MYLORD,

“ Puisque vous vous êtes servi des papiers publics, et de votre prérogative, pour me perdre dans l'opinion de mes concitoyens, sans m'avoir donné l'occasion légale et usitée, d'être entendu, je prends la liberté d'employer, très-respectueusement, la même voie, pour y répondre.

“ Je proteste donc contre l'Ordre Général de Milice du 25 Octobre, présent mois, qui annule ma Commission de Capitaine au 1er Battalion de la Milice de Québec, dont Mr. Joseph François Perrault est le Lieutenant-Colonel Commandant, parce que je me suis honnêtement et légitimement refusé à obéir aux ordres illégaux du Lieutenant-Colonel Perrault :

*parce que votre Ordre Général de Milice, Mylord, comme Gouverneur en Chef, est illégal;— Parce que l'idée, adroitement répandue et propagée dans la société, qu'un Gouverneur, en vertu de sa Commission, ne serait comptable qu'à Dieu et sa propre conscience, de toutes ses actions, ou qu'il pourrait impunément, en quelque cas que ce fut, agir arbitrairement, despotiquement et tyranniquement, envers la liberté ou, la propriété des braves et loyaux sujets Canadiens de sa Majesté, est une doctrine monstrueuse et qui ne peut-être admise sans le plus grand danger; parce qu'un Gouverneur ne peut, sous le manteau de la loi, ni même sous les formes les plus strictes de la loi, exercer de la cruauté, de la malice, ou de l'oppression envers aucun des sujets de Sa Majesté, sans en être personnellement responsable;—parce que vous vous êtes, Mylord, prêté injustement à des insinuations méchantes, fausses, et injurieuses à mon égard; enfin parce que la lettre que vous avez fait publier, Mylord, en tête de cet Ordre Général de Milice qui annule ma Commission de Capitaine, contient des absurdités, des faussetés, et est incorrecte.*

“ THOMAS LEE,

“ Ex-Capitaine au 1er Bataillon de Milice  
“ du Comté de Québec, et Notaire.”

“ Quebec, 29e Octobre, 1827.

Here follows a translation of the above letter :

To His Excellency the Earl of Dalhousie, Governor in Chief of the Province of Lower Canada, &c. &c. &c.

MY LORD,

As you have made use of the Public Papers, and of your prerogative, to ruin me in the opinion of my fellow-citizens, without having given me the legal and usual opportunity of being heard, I take the liberty, very respectfully, to use the same mode of conveying my answer.

I protest, then, against the General Order of Militia, of the 25th October, present month, which annuls my Commission of Captain in the first Battalion of the Militia of Quebec, of which Mr. Joseph François Perrault is Lieutenant-Colonel-Commandant, because I have honestly and lawfully refused to obey the illegal orders of Lieutenant-Colonel Perrault, *because your General Order of Militia, My Lord, as Governor in Chief, is illegal; because the idea, adroitly circulated and propagated in society, that a Governor, in virtue of his Commission, is accountable for his actions to God and his own conscience only, or that he can with impunity, in any case whatever, act arbitrarily, despotically, or tyrannically, in violation of the liberty or property of His Majesty's brave and loyal Canadian subjects, is a monstrous doctrine which cannot be admitted without the greatest danger; because a Governor cannot, under cloak of Law, or even under the strictest forms of Law, exercise cruelty, malice, or oppression towards any of His Majesty's subjects, without being personally responsible for it; because you have lent yourself unjustly, My Lord, to wicked, false, and defamatory insinuations against me; finally, because the letter which you have published, My Lord, at the head of the General Order of Militia, which annuls my Commission of Captain, contains absurdities, falsehoods, and is incorrect.*

THOMAS LEE,

Ex-Captain of the first Battalion of Militia of the  
County of Quebec, and Notary.

Quebec, 29th October, 1827.

### (No. 3.)

Extracts from the “*Spectateur Canadien*” of the 14th Novr. 1827, containing the libellous matter for which an Indictment was found by the Grand Jury, against the Printer of that Paper, in a Court of Oyer and Terminer and General Gaol Delivery, held at Montreal, in Novr. 1827.

“ Cour d'Oyer et Terminer—Lundi dernier les Grands Jurés ont trouvé un *True Bill* contre Mr. Stanley Bagg, pour *nuisance*, et contre Mr. Jacques Viger pour négligence à remplir les devoirs de sa charge d'Inspecteur des chemins, &c. Nous publions sur ce cas intéressant les faits qui sont parvenus à notre connoissance.

“ Il y a quelques mois Mr. Stanley Bagg fit construire, sur un terrain clos, une petite bâtisse en bois, qui depuis a été habitée. Sur plainte portée devant les Magistrats, après longue contestation, la majorité des Magistrats, alors présents, ordonna la démolition de l'édifice, et enjoignit à Mr. Viger de la faire démolir aux frais de Mr. Bagg, si ce dernier ne se conformait point à leur jugement, dans un certain délai. Mr. Bagg se croyant lésé par cette décision, fit une application devant quelques Magistrats, qui trouvaient qu'il avait raison de se plaindre, lui accordèrent cet ordre de *supersedeas* dont les Journaux ont déjà rendu compte. Cependant Mr Viger, pour obéir à ses ordres, se mit en devoir d'exécuter le jugement. Aussitôt, le *supersedeas* lui fit suspendre ses travaux, et il présenta un rapport en forme aux Magistrats. Leur corps s'assemble, on veut faire déclarer nul cet ordre; finalement on s'aperçoit que le tribunal civil supérieur peut seul décider ce différend, et l'assemblée se disperse, sur ces entrefaites les Magistrats qui se croient offensés par ce *supersedeas* envoient au Gouverneur une plainte contre leurs confrères.—Nous ignorons quelle réponse a pu faire son Excellence. Mais aujourd'hui l'affaire devient sérieuse, et la Cour d'Oyer et Terminer s'en trouve saisie. Quel en sera le résultat, c'est ce que nous ne pouvons dire—*Il paraît très-extraordinaire que l'on traduise ainsi à la Cour Criminelle, sans distinction, des affaires civiles et celles qui appartiennent à une classe différente. On oublie et on méprise les idées que l'on s'était formées de la Justice et du droit. Le Pays présente un aspect alarmant; les citoyens*

*doivent trembler. Les Magistrats qui se trouvent blessés par ce supersedeas sont du nombre des Grands Jurés, et le Président de la Police qui a dirigé tous ces procédés, siège à cette Cour! une chose nous rassure un peu, c'est que les Grands Jurés n'auront pas à juger finalement cette poursuite. Nous n'entreprenons point de disculper Mr. Bagg.—S'il a commis une infraction à la loi, et s'il a empiété sur le terrain qui n'est pas à lui, il doit être débouté de ses prétentions. Mais nous regardons la poursuite au terme criminel, comme une insulte et un outrage aux lois, puisqu'il y avait un autre tribunal plus compétent pour en juger, et qui en devait être saisi."*

[Here follows a Translation of the above Extract.]

COURT OF OYER AND TERMINER.—On Monday last the Grand Jury found a true Bill against Mr. Stanley Bagg, for a nuisance, and against Mr. Jacques Viger, for neglecting to fulfil the duties of his office of Surveyor of Highways, &c. We now publish, respecting this interesting case, the facts which have come to our knowledge. Some months since Mr. Stanley Bagg caused to be erected on a piece of ground, within an enclosure, a small wooden building, which has since been inhabited. In consequence of a complaint made to the Magistrates, the majority of them present, after a long contestation, ordered the demolition of the building, and that it should be taken down by Mr. Viger, at the expense of Mr. Bagg, if he should not comply with their judgment, within a certain delay. Mr. Bagg, considering himself injured by this decision, made an application to some Magistrates, who, being of opinion that he had cause of complaint, granted to him the Writ of *Supersedeas*, of which an account has already been given, in the Journals. Notwithstanding, Mr. Viger, in order to yield obedience to his orders, was about proceeding to execute the judgment, when the *Supersedeas* caused him to suspend his labours, and he presented a Report in form to the Magistrates. The Body of Magistrates assembled, the object being to declare this order null; finally, they became sensible that the Superior Civil Tribunal is alone competent to the decision of this dispute, and the meeting broke up. At this stage of the proceedings, the Magistrates, who consider themselves aggrieved by this *Supersedeas*, transmit to the Governor a complaint against their Brethren of the Magistracy. We are ignorant of the answer which His Excellency may have given. But now the affair becomes serious, and the Court of Oyer and Terminer holds cognizance of it. What may be the result we cannot say. *It appears very extraordinary, that in this manner civil affairs and those of a different description should indiscriminately be carried before a Criminal Court. By this proceeding, the ideas which we had formed of Law and Justice are forgotten and despised. The Country presents an alarming aspect, the Citizens have reason to tremble, the Magistrates who are offended by this Supersedeas are Members of the Grand Jury, and the President of the Police, who has directed all these proceedings, sits as a Member of this Court. One circumstance diminishes a little our alarm, and that is, that the Grand Jury will not have to decide finally on this prosecution. We don't mean to undertake Mr. Bagg's defence. If he has infringed the law, or if he has encroached on land not belonging to him, his pretensions ought to be overruled. But we consider the prosecution in the criminal term to be an insult and an outrage upon the laws, inasmuch as there was another Tribunal more competent to decide on it, and which ought to have cognizance of it.*

Nous ne pouvons terminer sans exprimer le désir que nous avons, que la Législature s'occupe promptement des changemens que demande impérieusement l'organisation de nos Cours Criminelles. Les fonds de la Province doivent être employés à des objets de nécessité, et non à des poursuites ruineuses pour le pays, oppressives aux citoyens, et en opposition directe au but de la loi. L'objet qu'ont en vue ceux qui excitent les deux poursuites en question est trop évident pour que nous nous étendrions d'avantage sur cette matière: nous craindrions d'insulter au jugement de nos lecteurs si nous entrions dans des détails.

[Here follows a Translation of the above Extract.]

We cannot conclude, without expressing our wish, that the Legislature may speedily take into its consideration the changes which the organization of our Criminal Courts imperiously requires. *The public funds of this Province ought to be employed on objects of necessity, and not in prosecutions which are ruinous to the Country, oppressive to the Citizens, and in direct opposition to the purposes of the law. The object which those, by whom these two prosecutions have been got up, have in view, is too evident, to make it necessary that we should enlarge further on the subject: we should be apprehensive of offering an insult to the good sense of our readers, if we were to go into details.*

#### (No. 4.)

Extract from the Canadian Spectator of 24th November, containing the libellous matter for which an Indictment was found by the Grand Jury, against the Editor and Printer of that Paper, in the Court of King's Bench, held at Montreal, in March, 1828:—

In England, a practice almost without exception has established, that an individual acquitted by a Jury, of an accusation brought against him for a crime or misdemeanor, is protected against any further prosecution and inquietude, on account of that accusation. *Our late Court of Oyer and Terminer has just given us an example which overturns from the foundation that principle, and which teaches us that an individual is exposed to be prosecuted to infinity, for an offence of which he has already been acquitted by the Country; and we do not here allude to Mr. Jobin, against whom the Attorney General has presented, at different times, three Bills for the same offence. However, we console ourselves, with the hope, that what has just passed in that Court will not be taken as a precedent, and that a Jury composed of independent men will never allow themselves to be used as an instrument, like that of the late Court of Oyer and Terminer. The foreman, Mr. Henry M'Kenzie, had taken a very active part in favour of the Administration, in the late Election. He had carried his imprudence (to give it no other name) so far as to require the intervention of the military, at the Election of the West Quarter; he was in the middle of a fray, where he played a part not suitable for a Justice of Peace; he has ventured to allege publicly that the Governor of this country was not amenable to the law. This Mr. M'Kenzie is a clerk in the employment of Mr. Molson, and has no other property than his salary.—Would it be possible to expect*

much of independence and impartiality from a man in that situation, who had, as foreman of the Jury, to judge men who had taken a warm part in the Elections on the side opposed to his opinion? To hope for justice in such case would be to show little knowledge of human nature; particularly when we know that this same Mr. M'Kenzie, instead of withdrawing when the Jury was engaged with the business of the Election for the West Ward, did conduct the measure himself, by relating facts, searching for witnesses, and giving his opinion.

*In saying that the public has great cause of complaint, with respect to the composition and the proceedings of the Grand Jury in question, we owe it to justice to say, that five or six of that Jury should be excepted: their character, private and public, and the independent manner with which they opposed, though without success, all these proceedings, make an honourable exception in their favour, and oblige me to distinguish them from the rest, many of whom should have been excluded, from want of property, and other circumstances."*

## (No. 5.)

Extracts from the "Quebec Gazette," of the 28th February, 1828, containing the libellous Matter for which the Indictment was found by the Grand Jury, against the Editor and Printer of that Paper, in the Court of King's Bench, held at Quebec, in March, 1828.

"A une assemblée du Comité constitutionnel du District des Trois-Rivières.

(Séance extraordinaire à la maison de René Kimber, Ecuyer).

LUNDI, le 25e Février, 1828.

## PRESENS,

M. René Kimber à la chaire; Pierre Defossés, Jean Doucet, Etienne Tapin, Jos. Dubord Lafontaine, Jean Défossé, Louis R. Talbot, W. Vondenvelden, Joseph Courval, Étienne Leblanc, Pierre Blondin, L. Olivier Coulombe, Laurent Craig, Charles Mondelet, Ant. Zept. Leblanc, et Ant. Cazeau.

Lu l'Ordre Général de Milice du 21 du courant.—

*Résolu, 1o.* Que la loyauté, l'intégrité, la fermeté et l'indépendance qui ont de tout tems caractérisé toutes les actions publiques et privées de François Legendre et Antoine Poulin de Courval, Ecuyers, Vice-Présidens de ce Comité, et spécialement la conduite qu'ils ont déployée dans la crise qui a nécessité de la part des habitans de ce pays, des accusations contre le Comte Dalhousie, leur méritent la confiance et le respect de leurs concitoyens.

*Résolu, 2o.* Que ce Comité a appris, que par l'Ordre Général de Milice du 21 du courant, que Son Excellence George Comte de Dalhousie a cassé et démis de leurs rangs de Lieutenant Colonel dans la Milice, ces deux Messieurs, en alléguant "qu'ils se sont montrés les agens actifs d'un parti hostile au Gouvernement de sa Majesté."

*Résolu, 3o.* Que dans l'opinion de ce Comité cet allégué de la part de Son Excellence est entièrement mal fondé.

*Résolu, 4o.* Qu'en conséquence, ce Comité se croit autorisé à déclarer que ces démissions ne pourront jamais porter atteinte à la respectabilité de ceux qu'elles ont pour objets.

*Résolu, 5o.* Que l'adresse suivante MM. François Legendre et Antoine Poulin de Courval, soit adoptée par ce Comité et qu'un comité spéciale composé de quatre Membres, savoir: MM. Jean Doucet, Joseph Dubord Lafontaine, Etienne Leblanc et Jean Défossés, prenne les moyens de la faire parvenir à MM. Legendre et Courval. (vrai extrait).

Secrétaires,

{ CHARLES MONDELET,  
{ ANT. Z. LEBLANC.

MARDI le 26.—Les quatre Messieurs choisis par le Comité pour faire parvenir l'adresse du Comité à MM. Legendre et De Courval, apprenant que Mr. Legendre était en ville, se rendirent à l'hôtel où il logeait, et lui présentèrent l'adresse suivante adoptée par le comité.

A François Legendre et Antoine Poulin de Courval, Ecuyers.

Nous, Membres du Comité constitutionnel du District des Trois Rivières, avons cru devoir vous témoigner combien nous sommes sensibles à l'injustice à vous faite, par Son Excellence George Comte de Dalhousie, en vous destituant de vos commissions de Lieutenant Colonels. Nous espérons que ce procédé arbitraire sera repoussé par le Gouvernement paternel de Sa Majesté, et en même tems nous prenons la liberté de vous assurer que notre estime s'est accrue envers vous, à proportion du rang dont vous avez été destitué tous deux.

Ce Comité voit en vous deux patriotes courageux, qui acquièrent d'autant plus de droits au respect public, que l'administration s'efforce de les rendre méprisables.

Trois-Rivières, 25 Février, 1828.

[Here follows a Translation of the above Extract.]

At a Meeting of the Constitutional Committee of the District of Three Rivers (extraordinary sitting in the House of René Kimber, Esquire,) Monday, the 25th February, 1828:—

Present, MM. René Kimber in the chair, Pierre Défossés, Jean Doucet, Etienne Tapin, Jos. Dubord Lafontaine, Jean Défossés, Louis R. Talbot, W. Vondenvelden, Joseph Courval, Etienne Leblanc, Pierre Blondin, L. Olivier Coulombe, Laurent Craig, Charles Mondelet, Ant. Z. Leblanc, and Antoine Cazeau.

Read the General Order of the 21st instant.

*Resolved*, 1. That the loyalty, integrity, firmness, and independence which have at all times characterized the actions, public and private, of François Legendre and Antoine Poulin de Courval, Esquires, Vice Presidents of this Committee, and especially the conduct which they have displayed in the crisis which has made it necessary for the inhabitants of this country to prefer accusations against the Earl of Dalhousie, entitle them to the confidence and respect of their fellow citizens.

*Resolved*, 2. That this Committee has learnt that by the General Order of Militia, of the 21st instant, His Excellency George Earl of Dalhousie, has broken and removed these two gentlemen from their rank of Lieutenant Colonels in the Militia on an allegation "that they have shown themselves the active agents of a party hostile to His Majesty's Government."

*Resolved*, 3. That in the opinion of this Committee, this allegation on the part of His Excellency is entirely unfounded.

*Resolved*, 4. That in consequence this Committee considers itself authorized to declare that these dismissals can never affect the respectability of the persons who have been the objects of them.

*Resolved*, 5. That the following Address to Messrs. François Le Gendre and Antoine Poulin de Courval be adopted by this Committee, and that a Special Committee composed of four Members, to wit, Messrs. Jean Doucet, Joseph Dubord Leblanc, and Jean Défossés do take the necessary steps for conveying it to Messrs. Le Gendre and Courval.

(True Extract) CHARLES MONDELET, } Secretaries.  
ANT. Z. LEBLANC.

*Tuesday, the 26th.*—The four gentlemen chosen by the Committee to convey the Address of the Committee to Messrs. Le Gendre and De Courval having learnt that Mr. Le Gendre was in town, waited on him at the hotel in which he lodged, and presented to him the following Address adopted by the Committee.

To François Le Gendre and Antoine Poulin de Courval, Esquires.

We Members of the Constitutional Committee of the District of Three Rivers have thought it our duty to express to you how sensibly we feel the injustice which has been done to you by His Excellency George Earl of Dalhousie, in depriving you of your Commissions of Lieutenant-Colonels. We hope that this arbitrary measure will be put aside by His Majesty's paternal Government, and at the same time we take the liberty to inform you that our esteem for you has been increased in proportion to the rank of which you have been both deprived. This Committee sees in you two courageous patriots who have acquired the more claims to public respect, since the Administration has endeavoured to render you contemptible.

Three Rivers, 25th February, 1828.

Avant l'adoption des résolutions, Mr. Charles Mondelet, adressa quelques mots à l'assemblée, à-peu-près, comme suit:

Messieurs,

Dans un tems où les esprits allaient reprendre cette tranquillité qui distingue les Canadiens, un nouvel acte de notre administration colonial est venu y mettre une entrave. La Gazette Officielle de Québec du 21 du courant nous annonce qu'entr'autres, François Legendre et Antoine Poulin de Courval, Ecuyers, nos deux Vice-Présidents, ont été démis par le Comte Dalhousie, de leurs commissions de Lieutenant Colonels, et la raison que Son Excellence allégué comme base de cette démission est, assurément, des plus étranges. Ces Messieurs, le croiriez-vous! Ces hommes que la loyauté la plus éprouvée, le courage le plus élevé, et l'attachement le plus inviolable à leur patrie, ont toujours si éminemment distingués, sont accusés par Son Excellence le Gouverneur en Chef de s'être montrés les *agens actifs d'un partie hostile au Gouvernement de Sa Majesté!* Quelles accusations, Messieurs, contre tels hommes! Elles ne mériteraient en elles mêmes aucune réfutation, car qui est celui d'entre vous qui ne sait pas qu'elles sont absolument sans fondement? Mais elles sont portées par une autorité élevée qui croit qu'il suffit d'être exalté en rang, pour attaquer impunément des citoyens respectables et sans reproches. Ces notions absurdes et tyranniques sont malheureusement partagées par d'autres que par le Comte Dalhousie; elles le sont par d'autres hommes intéressés à les propager et les proner dans la société, comme justes et sensés! Il est donc important, Messieurs, que Son Excellence sache que si son rang est élevé, du moins il ne lui donne pas le droit de lancer contre nos citoyens des accusations aussi injurieuses, et qui seraient sensibles, si elles ne portaient pas d'un quartier qui regorge de ces sortes de matériaux officiels.



Vous vous rappelez tous de l'assemblée de ce District, du 22 Décembre dernier. Vous vous rappelez qu'elle fut présidé par Mr. Kimber, et MM. Legendre et Courval en étaient les Vice-Présidents. Vous savez tous que ces deux Messieurs ont montré, pour la cause du pays, ce zèle qui a distingué tant d'autres patriotes. Ils ont soutenu avec fermeté les résolutions et la requête qui sous peu de semaines seront soumises au Roi et au Parlement impérial, et qui comportent contre le Comte Dalhousie des plaintes dont le pays entier a proclamé à haute voix la vérité! Ils se sont, en un mot, montrés publiquement les défenseurs de leur patrie, les amis de leur concitoyens, de vrais Canadiens! *Quels titres n'ont ils donc pas à la haine et à la malveillance d'une administration entourée de gens qui s'évertuent à la tromper, et qui sacrifient honteusement leur honneur et leurs droits pour encourager une oppression dont il y a jamais eu d'exemple dans des colonies Anglaises! Si MM. Legendre et Courval s'étaient rangés sous la bannière de cette horde d'envahisseurs, et de destructeurs (de volonté au moins) de nos droits, ils auraient été aujourd'hui proclamés comme de fidèles sujets! C'est donc un honneur, une gloire, pour ces braves citoyens, de voir leurs noms inscrits sur le catalogue sans fin de victimes de leur dévouement à la cause sacrée de la patrie! Mais si nous partageons ces sentimens, hâtons nous de les faire connaître à ces Messieurs. Qu'ils soient dédommagés, que dis-je! Qu'ils méprisent cette vaine tentative de les avilir. Ils ne seront jamais avilis puisque la patrie les apprécie; qu'en faut il davantage, pour des Canadiens amis de leur pays!*

*Nos procédés devenus publics feront voir à Son Excellence que le rang ne suffit pas pour en imposer, que le mérite seul a du poids chez les honnêtes gens, et que l'opinion publique est non seulement un contrepoids à des accusations aussi déplacées que les siennes, mais qu'elle est infiniment préférable à tous les honneurs dont il abuse ceux qui ne se les font prodiguer, qu'en abjurant leur foi politique, qu'en se déclarent traîtres à la patrie, et en flétrissant pour toujours un nom qui ne leur a été donné que pour y ajouter celui de "vrais Canadiens."*

[Here follows a Translation of the above Extract.]

Before the adoption of the Resolutions, Mr. Charles Mondelet addressed a few words to the Meeting, nearly as follows:—

Gentlemen,

At a time when the public mind was about resuming that tranquillity which distinguishes Canadians, a fresh act of our Colonial Administration has occurred to prevent it. The Official Gazette of the 21st instant informs us, that among others François Legendre and Antoine Poulin de Courval, Esquires, our two Vice-Presidents, have been deprived by the Earl of Dalhousie of their Commissions as Lieutenant-Colonels, and the reason assigned by His Excellency for this measure is certainly most singular. These gentlemen—would you believe it?—these men, who have always been eminently distinguished for tried loyalty, the most elevated courage, and the most inviolable attachment to their country, are accused by His Excellency the Governor in Chief of *having shown themselves active agents of a party hostile to His Majesty's Government!* What accusations, gentlemen, against such men! In themselves these accusations would not merit a refutation, for who is there among you that is not aware, that they are absolutely without foundation? But they are made by an elevated authority which conceives it sufficient to be exalted in rank, to attack with impunity citizens who are respectable and without reproach. *These absurd and tyrannical notions unfortunately are entertained by other persons besides the Earl of Dalhousie; they are entertained by other men interested in propagating and inculcating them in the society, as being just and sensible!* It is then important, gentlemen, that His Excellency should know that if his rank be elevated he derives from it no right to level against our citizens accusations so defamatory, and which would be sensibly felt, if they did not proceed from a quarter which abounds with materials of this description.

You all recollect the Public Meeting of this District of the 22d December last. You recollect that Mr. Kimber presided at it, and that Messieurs Legendre and Courval were Vice-Presidents. You all know that these gentlemen evinced for the country the same zeal for which so many other patriots have been distinguished. They supported with firmness the Resolutions and petition which in a few weeks will be submitted to the King and to the Imperial Parliament, and which contain charges against the Earl of Dalhousie, of which the whole country has loudly proclaimed the truth! They have in a word, shown themselves publicly the defenders of their country, the friends of their fellow citizens, true Canadians! *What titles, then, have they not acquired to the hatred and malevolence of an Administration surrounded by persons who labour to deceive it, and who shamefully sacrifice their honour and their rights to encourage an oppression of which no example has ever been afforded, in English Colonies! If Messieurs Legendre and Courval had enlisted themselves under the banners of this horde of invaders and destroyers (at least in inclination) of our rights, they would now have been held forth as faithful subjects!* It is then an honor, a glory, for these brave citizens to see their names inscribed on the interminable catalogue of victims of their devotion to the sacred cause of their country! But if we share in these sentiments, let us hasten to make them known to these gentlemen. Let them be indemnified,—what do I say?—let them despise this vain attempt to degrade them, they can never be degraded, inasmuch as the country sets a proper value on them; and what more can be desired by Canadians who are friends of their country?

*Our proceedings when made public will teach His Excellency, that rank alone is not a sufficient title to respect, that merit only has weight among honest people, and that public opinion is not only a counterpoise to accusations so ill-timed as those made by him, but that it is infinitely preferable to all the honors in which he steeps those who only obtain them by abjuring their political faith, by declaring themselves traitors to the country, and by disgracing for ever a name which was only given to them that they might add to it that of "true Canadian."*

BEAUPORT, 1er Février, 1828.

Narcisse Duchesnay, Ecuyer, Lieutenant-Colonel, &amp;c. &amp;c.

Mon Colonel,

Sous l'administration d'un homme à jamais mémorable et digne de l'amour de tous les bons et loyaux sujets, je me trouvai honoré de mériter assez la confiance d'un si illustre personnage pour me charger d'une Commission d'Enseigne. Mais en ce jour que tout est vénal, que l'on ne saurait être citoyen étant milicien commissionné, que tant de personnes mille fois plus respectables que moi ont été déplacées et que d'autres étrangers et inconnus, ont été substitués à leur place, je me croirais souillé si je retenais une commission qui n'a plus rien que de dégradant à mes yeux.

*Quelque honoré que je fusse lorsque je reçus cette commission, je ne l'acceptai qu'après avoir su que mon devoir serait d'agir conformément à la loi. Cette conformité ne pouvant plus être, ma commission cesse d'exister. Elle est à vous disposez en.*

(Signé)

M. PARENT.

[Here follows a Translation of the above Extract.]

BEAUPORT, 1st February, 1828.

Narcisse Duchesnay, Esquire, Lieutenant-Colonel, &amp;c. &amp;c.

My Colonel,

Under the Administration of a man for ever memorable and worthy of the love of all good and loyal subjects, I felt myself honoured in meriting sufficiently the confidence of so illustrious a personage, to be charged by him with the Commission of Ensign.

But at this moment when every thing is venal, when it is impossible to be at the same time a Citizen and a Militia officer, when so many persons a thousand times more respectable than me, have been displaced, and when other persons, strangers, and unknown, have been substituted in their place, I should consider myself polluted if I retained a Commission which has no longer any thing in it but what is degrading in my eyes. It is yours, dispose of it.

*How much soever I was honoured when I received this Commission, I did not accept it till I was assured that it would be my duty to act in conformity to law. As this conformity can no longer obtain, my Commission ceases to exist.*

(Signed)

M. PARENT.

## (No. 6.)

Extract from the Quebec Gazette of the 11th March, 1828, containing the libellous matter, for which an Indictment was found by the Grand Jury, against the Editor and Printer of that Paper, in the Term of the Court of King's Bench held at Quebec in March, 1828.

*A une Assemblée Générales des Comités constitutionnels des Paroisses de St. Gregoire Bécancour, Gentilly et Saint Pierre les Becquêts, tenue dans la maison de M. Joseph Malhiot, en la Paroisse de Bécancour, le 5 Mars courant :*

*Present.*—MM. Jean B. Hébert, à la Chaire, Joseph Turcot, Antoine Leblanc, Vice-Présidens.

J. B. Legendre, Michel Malhiot, Ls. Landry, B. B. Beauchène, Jean Turcot, M. Gingras, Pierre Dubois, Julien Reau, Isidore Désilait, Jos. Malhiot, Laurent Genest, Alexis Reau, J. B. Panneton, D. Prince, Js. Chartier, Ls. Leblanc, P. Désilait, J. Beauchène, Jos. Bellefeuille, Frs. Héon, Thomas Fortier, Joseph Pepin.

Lu l'Ordre Général de Milice du 21 Février dernier.

Résolu, 1o. *Que cette Assemblée composée de la majorité des Officiers du 3me. Bataillon du Comté de Buckinghamshire, doit s'occuper de suite de la destitution de Frs. Legendre, Ecuyer, comme Lieutenant-Colonel Commandant le dit Bataillon, opérée, par l'Ordre Général du 21 Février dernier.*

Résolu, 2o. *Que pendant le tems que le dit Frs. Legendre, Ecuyer, été Commandant du dit Bataillon, et de la ci-devant division de Bécancour, il s'est toujours conduit d'une manière loyale et irréprochable, qui lui a mérité le respect, la confiance et l'estime de toutes les personnes qui ont été sous son Commandement.*

Résolu, 3o. *Que cette Assemblée regrette infiniment que Son Excellence ait usé de son autorité, pour priver ce Monsieur, d'une Commission dont il remplissait les devoirs, avec honneur, par sa justice, sa modération, et son exactitude.*

Résolu, 4o. *Que cette Assemblée ne voit aucune raison qui ait pu induire Son Excellence à agir d'une manière aussi arbitraire, si ce n'est le zèle avec lequel François Legendre, Ecuyer, s'est conduit comme Membre du Comité constitutionnel du District des Trois-Rivières.*

Résolu, 5o. *Que cette destitution ainsi que plusieurs autres, est une preuve non equivoque que Son Excellence écoute les faux rapports des personnes ennemis de tout ce qui est libéral et constitutionnel, et qui ne cherchent qu'à assouvir la haine qu'elles ont contre le peuple Canadien.*

Résolu, 6o. *Que les personnes qui acceptent des Commissions en remplacement de ceux qui ont été destitués sans cause légitime méritent l'improbation publique, et ne doivent être considérées que comme ennemis des droits du peuple.*

Résolu, 7o. *Que les Membres de cette Assemblée, formant la majorité des Officiers du dit 3me Bataillon du Comté de Buckinghamshire, ne pourront obéir qu'avec mortification à la personne qui aura ordre de prendre le commandement du dit Bataillon.*

Résolu, 8o. *Qu'une Lettre soit adressé à François Legendre, Ecuyer, et présentée par deux personnes choisies par la dite assemblée, lui témoignant qu'elle le regardera toujours comme un ami sincère des droits du peuple, qu'elle considérera sa destitution comme une couronne civique que son dévouement lui a méritée, qu'elle aura toujours pour lui le même respect, le même confiance et la même estime qu'elle a eu pour lui, et qu'il a justement mérités, soit comme Représentant du Comté, Lieutenant-Colonel, Magistrat ou simple citoyens.*

Résolu, 9o. *Que la Lettre suivante à Mr. Legendre, soit adoptée, et J. B. Hébert, et Louis Landry, Ecuyers, soient priés de la lui présenter.*

Résolu, 10o. *Que cette Assemblée remercie le président du zèle qu'il a montré dans la présente circonstance.*

Résolu, 11o. *Que les procédés de cette Assemblée soit publiés.*

(Pour vraie Copie,)

(Signé) LAURENT GENEST, Scr.

Le 7 du courant MM. Hébert et Landry se sont rendus aux désirs de l'Assemblée, en présentant à Mr. Legendre l'adresse qui suit :

Monsieur,—Nous Soussignés Officiers de votre ci-devant bataillon, avons appris par un Ordre Général du 21 Février dernier, qu'il a plu à Son Excellence de vous priver de votre Commission de Lieutenant-Colonel. Cette destitution nous eut surpris dans tout autre tems et toute autre circonstance, mais accoutumés à voir des personnes de la plus haute considération destituées, nous avions déjà prévu que votre mérite personnel et votre dévouement à la cause publique, vous exposeraient à la critique d'agens subalternes, qui pour avoir votre Commission, vous représenteraient sous un faux jour, auprès d'un chef militaire. Nous vous assurons que nous conservons l'estime, la considération, et le respect que votre conduite civile et militaire vous a mérités, et que nous considérons votre destitution comme équivalente à une couronne civique.

(Signé) JEAN B. HEBERT, Président.  
LOUIS LANDRY.

(Réponse de Mr. Legendre.)

Messieurs,—Je suis sensible à l'estime que vous me témoignez en cette circonstance. Votre dévouement me prouve ce que vous avez été par le passé, à mon égard, je vous en remercie. Je n'ai été nullement surpris de voir dans la Gazette Officielle, un Ordre Général du Comté Dalhousie, qui annonçait ma destitution de commandant du 3me Bataillon du Comté de Buckinghamshire, après les projets depuis longtems médités contre moi, par des gens vils et rempans, qui ont enfin trouvé une occasion favorable dans la crédulité d'un chef qui se laisse induire en erreur par les imposteurs qui lancent au hasard des jugemens sans avoir entendu les parties accusées.

J'ai l'honneur d'être, Messieurs,

Votre Serviteur,

(Signé) FRANCOIS LEGENDRE.

Gentilly, 7 Mars, 1828.

[Here follows a Translation of the above extract.]

*At a General Meeting of the Constitutional Committee of the Parishes of St. Gregoire, Becancour, Gentilly and St. Pierre les Becquets, held in the house of Mr. Joseph Malhiot in the Parish of Becancour, the 5th March instant :—*

*Present.*—Messieurs Jean Bte. Hebert, in the Chair, Joseph Turcot, Antoine Leblanc, Vice-Presidents.

J. B. Legendre, Michel Malhiot, Ls. Landry, B. B. Beauchène, Jean Turcot, M. Gingras, Pierre Dubois, Julien Reau, Isidore Désilait, Jos. Malhiot, Laurent Genest, Alexis Reau, J. B. Panneton, D. Prince, Js. Chartier, Ls. Leblanc, P. Désilait, J. Beauchène, Jos. Bellefeuille, Frs. Héon, Thos. Fortier, Joseph Pepin.

Read the General Order of Militia of the 21st February last.

*Resolved, 1. That this Meeting, composed of the majority of the Officers of the 3d Battalion of the County of Buckinghamshire, ought immediately to take into consideration the removal of François Legendre, Esquire, as Lieutenant Colonel commanding the said Battalion, effected by the General Order of Militia of the 21st February last.*

- Resolved, 2.* That during the time that the said Frs. Legendre, Esquire, was Commandant of the said Battalion, and of the late division of Becancour, his conduct was always loyal and irreproachable, which procured him the respect, confidence and esteem of all persons who have been under his command.
- Resolved, 3.* That this Meeting regrets infinitely that His Excellency should have exerted his authority for the purpose of depriving that Gentleman of a Commission, the duties of which he fulfilled with honour, by reason of his justice, his moderation and his punctuality.
- Resolved, 4.* That this Meeting can perceive no reason which could have induced His Excellency to act in so arbitrary a manner, unless it be the zeal with which François Legendre, Esquire, conducted himself as a Member of the Constitutional Committee of the District of Three Rivers.
- Resolved, 5.* That this removal, as well as several others, is an unequivocal proof that His Excellency listens to the false reports of persons who are enemies of every thing that is liberal and constitutional, and who are only anxious to gratify the hatred they bear to the Canadian people.
- Resolved, 6.* That persons who accept Commissions, in the place of persons who have been removed, without legal cause, are deserving of the public disapprobation, and are to be considered in no other light, than in that of enemies of the rights of the people.
- Resolved, 7.* That the Members of this Meeting, forming the majority of the Officers of the said 3rd Battalion of the County of Buckinghamshire, will not submit to obey, without mortification, the person who will receive orders to take the command of the said Battalion.
- Resolved, 8.* That a letter be addressed to François Legendre, Esquire, and presented to him by two persons chosen by the said Meeting, assuring him this Meeting will always consider him a sincere friend of the rights of the people, that it will consider his removal as a civic crown acquired by his devotion, that it will always entertain for him the same respect, the same confidence and the same esteem which it has heretofore entertained, and which he has justly merited, in the several capacities of Representative of the County, Lieutenant Colonel, Magistrate and simple Citizen.
- Resolved, 9.* That the following letter to Mr. Legendre be adopted, and that J. Bte Hebert and Louis Landry, Esquires, be requested to present it to him.
- Resolved, 10.* That this Meeting thanks the President for the zeal shown by him on this occasion.
- Resolved, 11.* That the proceedings of this Meeting be published.

(A true copy) (Signed) LAURENT GENEST, Secretary.

The 7th instant, M. M. Hebert and Landry complied with the desire of the Meeting by presenting to Mr. Legendre the following address :

SIR,—We the undersigned Officers of your late Battalion have learnt by a General Order of the 21st February last, that it has pleased His Excellency to deprive you of your Commission as Lieutenant Colonel. This dismissal would have surprised us at any other time and under different circumstances; but, accustomed to see the dismissal of persons of the highest consideration, we had already foreseen that your personal merit and your devotion to the public cause would expose you to the invidious remarks of subaltern agents, who, in order to obtain your Commission, would represent you in a false light to a Military Chief. We assure you that we preserve for you the esteem, consideration and respect, which your civil and military conduct have entitled you to, and that we look upon your dismissal as being equivalent to a civic crown.

(Signed) JEAN BTE. HEBERT, President,  
LOUIS LANDRY.

(Answer of Mr. Legendre.)

GENTLEMEN,—I am sensibly affected by the esteem you show for me on this occasion. Your devotion assures me of the sentiments you have entertained for me in times past, and I thank you for it. I was not at all surprised to observe, in the Official Gazette, a General Order of the Earl of Dalhousie, which announced my dismissal from the 3d Battalion of the County of Buckinghamshire, after the plots long since hatched against me, by mean and crouching individuals, who at last have found a favourable opportunity in the credulity of a Chief who permits himself to be drawn into error by impostors, who decide at random without hearing the parties accused.

I have the honour to be, Gentlemen,

Your Servant,

(Signed) FRANS. LEGENDRE.

Gentilly, 7th March, 1828.

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## (No. 7.)

Extract from the Quebec Gazette of the 12th Nov. 1827, containing the libellous matter for which an indictment was found by the Grand Jury against Mr. Charles Mondelet, in the Term of the Court of King's Bench held at Quebec, in March, 1828.

A Son Excellence George Comte de Dalhousie, Gouverneur-en-Chef, &c. &c. &c.

Qu'il plaise à Votre Excellence,

Si je n'écoutais que la voix qui se fait entendre puissamment au fond des cœurs de beaucoup de vos partisans, et de la plupart de vos courtisans, je serais peut-être enclin à voir en vous un être privilégié, et à l'abri des atteintes de la loi. Mais, qu'il plaise à Votre Excellence, glorieux d'être né et de vivre sujet Britannique, je dois reconnaître comme principe souverain, que la loi est au dessus des autorités. Il me sera donc permis, de me prévaloir du droit dont jouit un sujet de l'empire Britannique, celui de signaler à Votre Excellence, avec tout le respect que votre haut rang commande, un acte récent de votre Administration, qui, ce me semble, ne lui donne pas beaucoup de relief. La plus grande clarté si je ne me trompe, aussi bien que la bonne foi la plus scrupuleuse, doivent caractériser les Actes d'une Administration quelconque; la bonne foi dans leur perpétration, la clarté dans la manière et le mode où il sont soumis au public. Or, qu'il plaise à Votre Excellence, quelque soit le mérite des motifs qui ont pu induire Votre Conseil à vous porter à me démettre de ma Commission de Capitaine Aide Major à la division de Boucherville, je prendrai la liberté de représenter à Votre Excellence, que votre Conseil s'est un peu écarté de la saine logique, en vous avisant sur cette matière, *abstraction faite de l'illégalité de votre Ordre Général du 5 Novembre courant, à l'émanation duquel votre Conseil a fait servir d'instrument, Votre Excellence.* La raison assignée comme Cause agissante sur l'esprit de Votre Excellence, me parait-être mon absence de la Division à laquelle j'appartenais. Il faut avouer, que si cette découverte de la part de Votre Conseil est récente, elle ne dit beaucoup en sa faveur; si l'on savait que je ne résidais pas à Boucherville, comment se fait-il que le zèle de Votre Conseil ait été jusqu'à présent si endormi? Si donc, le motif de Votre Excellence, pour me démettre, est appuyé sur ma *non-résidence* dans la division de Boucherville, il est assez singulier que MM. Charles Panet, Pierre Elzéar Taschereau, et Charles Turgeon, également absents des divisions auxquels ils appartiennent, soient devenus les objets des prédilections de Votre Conseil, au point de l'engager à aviser aussi singulièrement Votre Excellence. Ces Messieurs sont promus, et chose frappante, *Votre Conseil n'a craint ni pour lui même, ni pour Votre Excellence, la reprobation public, et le ridicule qu'une semblable contradiction mériterait à son auteur!* Peu de lignes la montrent au public dans tout son jour. Il me semble, qu'il plaise à Votre Excellence, que la loi, la justice, et la saine politique (qui dans une administration, doit avoir pour but de ne pas exciter des mécontentemens) auraient du suffire pour ne pas égarer à ce point, Votre Conseil, et par suite, Votre Excellence. Démettre de ses fonctions quelconques, un sujet Britannique, sans lui donner préalablement l'occasion d'être entendu, sans lui assigner de raisons, ou lui en assigner qui couvrent de ridicule le procédé qui y tend, aussi bien que ceux qui l'adoptent, n'est pas beaucoup respecter les opinions, les idées et les principes, que l'âge actuel, et le système admirable de l'administration Britannique, ont consacrés, au foyer de l'empire qui, grâce à Votre Conseil, est souvent privé de nous faire ressentir la douce influence des rayons qui en jaillissent. Si vous m'eussiez taxé, qu'il plaise à Votre Excellence, de *m'être refusé à l'exécution de vos ordres généraux, qui me semblent aussi illégaux que sont illégales, et non lois, les ordonnances que l'on assigne comme leur bûse,* vous n'auriez pas pu, à la vérité, en justice, me démettre, sans me donner l'occasion d'être entendu, mais au moins, les formes de votre Ordre Général n'auraient pas en apparence choqué la raison, et cette ordre n'aurait pas été aussi fortement l'objet du ridicule de ceux qui ne font pas profession volontaire ou nécessaire de courber servilement la tête à la voix de celui que plusieurs regardent comme étant au dessus des lois. En dernière analyse, qu'il plaise à Votre Excellence, je me permettrai de vous dire, en usant du droit d'un sujet Anglais *que votre Conseil égare grandement Votre Excellence, en la portant à commettre des actes qui devraient être inouis sous l'empire Britannique, et dont notre Colonie seule offre des exemples.* Quant à ma démission (qui dans le fond n'en est pas une *puisque'il n'y a aucune loi de milice*) loin de me peiner, loin de produire sur moi l'effet que Votre Conseil et Votre Excellence en ont peut-être anticipé, elle ne peut que me rendre glorieux, *soit qu'elle ait eu pour cause mon refus de reconnaître comme lois, des ordonnances qui ne le sont pas, soit qu'elle ait été la suite de la conduite politique que la justice, mon respect pour les loix et la constitution, et mon attachement inébranlable aux intérêts de ma patrie, m'ont imposé le devoir impérieux de tenir.* Telle a été ma conduite, qu'il plaise à Votre Excellence, telle elle sera, tant que j'aurai le bonheur de me glorifier d'être un sujet Britannique.

CHARLES MONDELET,

Ex-Capitaine Aide-Major à la division de Boucherville, et Avocat résident aux Trois-Rivières.

Québec, 10 Novembre, 1827.

[Here follows a Translation of the above Extract.]

To His Excellency George, Earl of Dalhousie, Governor in Chief, &c. &c. &c.

May it please Your Excellency,

If I were only influenced by the voice which is strongly emitted from the bottom of the hearts of your partisans, and of the greater part of your courtiers, I should perhaps be inclined to see in you a privileged being, not to be reached by law; but, may it please Your Excellency, proud of being born and of living a British subject, I must admit, as a sovereign principle, that the law is superior to the authorities. I may then be permitted to avail myself of the right which every British subject enjoys, that of exposing to Your Excellency, with all the respect due to your high rank, a recent act of your administration, which it appears to me is not much calculated to signalize its character.

The greatest clearness, if I am not mistaken, as well as the most scrupulous good faith, ought to characterize the acts of every administration; good faith in the performance of them, clearness in the mode and manner of submitting them to the public. Whatever then, may it please Your Excellency, may be the merit of the motives which have led your Council to advise you to dismiss me from my Commission of Captain aide Major in the division of Boucherville, I will take the liberty of telling Your Excellency, that your Council has deviated a little from sound logic in advising you on this subject, *to say nothing of the illegality of your General Order of the 5th November instant, in the issuing of which your Council has made Your Excellency an instrument.* The reason assigned, as the determining cause in Your Excellency's mind, appears to be my absence from the division to which I belonged. It must be admitted that if this discovery on the part of your Council be recent, it is not very creditable to it; if it was not known that I did not reside at Boucherville, how happens it that the zeal of your Council has been, up to the present time, so sluggish? If, then, the motive of Your Excellency for dismissing me has been my non-residence in the division of Boucherville, it is rather singular that MM. Charles Panet, Pierre Elzéard Taschereau, and Charles Turgeon, equally absent with myself from the divisions to which they belong, should have become such peculiar objects of the favour of your Council, as to induce it to give Your Excellency such extraordinary advice. These gentlemen have been promoted, and singular to say, *your Council has not been fearful, either for itself or for Your Excellency, of public reprobation, or the ridicule which such contradictory conduct must bring on the person guilty of it!* A few lines will suffice to exhibit it to the public in all its deformity.

It appears to me, may it please Your Excellency, that law, justice, and sound policy (which under an administration ought to have for its object not to excite discontent) ought to have had sufficient influence to prevent your Council, and as a necessary consequence Your Excellency, from thus going astray. To dismiss a British subject from his public functions, without first affording him an opportunity of being heard, without assigning him any reasons for the measure, or assigning such as cover both the measure itself as well as those by whom it has been adopted with ridicule, is certainly not manifesting much respect for public opinion, and for the ideas and principles which the present age and the admirable system of British administration have consecrated at the seat of the Empire, which, thanks to your Council, is often prevented from making us sensible of its mild influence.

If you had charged me, may it please Your Excellency, *with a refusal to execute your General Orders, which appear to me to be as illegal and as destitute of all legal character as the ordinances which are alleged to be the foundation of them,* you could not, it is true, in justice dismiss me without giving me an opportunity of being heard, but at least, in its form, *your General order would not have been revolting to reason, and that Order would not have been so striking an object of ridicule with men who do not make a voluntary or constrained profession of bowing their heads with servility, on hearing the voice of him who in the estimation of many is considered to be above the laws.* Finally, may it please Your Excellency, I will take the liberty of telling you, with the freedom of a British subject, *that your Council leads Your Excellency sadly astray, by inducing you to commit acts which ought to be unheard of under British dominion, and of which our Colony alone exhibits examples.* As to my dismissal (which in fact is no dismissal at all, inasmuch as there are no Militia Laws), far from mortifying me or producing on me the effect which your Council and your Excellency may have anticipated, it can only redound to my honour, whether it has been occasioned *by my refusal to acknowledge to be law, ordinances which are not so,* or by the political conduct which justice, my respect for the laws and constitution, and my inviolable attachment to the interests of my country, have compelled me to pursue. Such has been my conduct, may it please Your Excellency, such it will continue to be, as long as I shall have the happiness to boast of being a British subject.

CHARLES MONDELET,

Ex-Captain Aide Major, in the division of Boucherville,  
and Advocate, residing at Three Rivers.

Quebec, 10th Nov. 1828.

(No. 8.)

Extracts from the Quebec Gazette of the 29th Nov. 1827, containing the libellous matter, for which an Indictment was found by the Grand Jury against Mr. Neilson, the Editor and Printer of that Paper, in the Term of the Court of King's Bench held at Quebec in March 1828.

Nous avons vu que le Procureur-Général a soumis au grand juré des bills d'accusation pour libelle, savoir; deux contre MM. Waller et Duvernay, l'un éditeur et l'autre imprimeur du Canadien Spectateur, un contre M. Lane, imprimeur du Spectateur Canadien; et que la majorité des jurés a

approuvé ces bills. Pour toute remarque, je renvoie à la composition du juré; et je déclare seulement que c'est la première fois, à ma connaissance, qu'une cour de justice, au lieu d'inspirer, la confiance et la sécurité à tous les citoyens, a paru inspirer au contraire des craintes pour la liberté et la propriété des individus en général, qu'elle était censée défendre.

Le bill trouvé contre les Editeurs des Papiers qui ne sont pas les fauteurs du pouvoir arbitraire, est certainement digne des autres procédés d'une cour qui, au lieu de s'occuper, comme l'indique la pratique constante et le discours d'ouverture de son honneur le juge Reid, à vider les prisons surchargées de brigands, d'incendiaires et de meurtriers, a pris presque exclusivement pour objet de ses travaux pendant une durée de quinze jours, des offenses, bien moindres, telles que des émeutes, des assaults et batteries de simples délits; devant laquelle enfin on a traduit, pour des offenses politiques, des personnes qui avaient déjà été acquittées par un juré du pays, ou d'autres personnes qui n'étaient pas même arrêtées lors de la constitution de la cour. Les Bills pour parjure trouvé contre eux à la poursuite du Procureur-Général, maintenant partie publique contre eux, et qui avait été acquittés au dernier terme du banc du roi; les bills pour émeute et assault et batterie contre nombre d'électeurs du quartier-ouest de Montréal, lorsque le dernier grand juré avait trouvé bill contre deux seulement pour rescue ou délivrance d'un prisonnier d'entre les mains d'un connétable; l'accusation portée contre Mr. Jacques Viger pour n'avoir pas mis à exécution un ordre des magistrats, n'ayant pu le faire en conséquence d'un supersedeas accordé par plusieurs autres membres de ce corps; enfin le bill contre les presses qui ne rampent pas servilement aux pieds de certains officiers publics; voilà la protection que doit à la cour la société du corps de laquelle on prétend que le grand juré a été tiré.

En parlant de la composition du grand juré, ce n'est pas à dire que tous ses membres soient de la même trempe; la partialité eût été trop visible; je me flatte seulement que la seule inspection de leurs noms peut exciter de grand soupçons à ce sujet.

[Here follows a Translation of the above Extract.]

We have seen that the Attorney General laid before the Grand Jury Bills of Indictment for libel, to wit, two against MM. Waller and Duvernay, the former being editor and the latter printer of the Canadian Spectator, and one against Mr. Lane, printer of the Spectateur Canadien, and that the majority of the Jury found these Bills true. As the sole remark to be made, I refer to the composition of the Jury, and declare that it is the first time to my knowledge that a Court of Justice, instead of inspiring in all the citizens confidence and security, has appeared on the contrary to inspire alarm for the liberty and property of the individuals in general, for whose protection it must be supposed to have been constituted. The Bill found against the editors of the papers which are not the supporters of arbitrary power, is certainly worthy of the other proceedings of a Court which, instead of occupying itself according to constant usage, and as pointed out in the charge of his honour Judge Reid, in delivering the gaol crowded with brigands, incendiaries and murderers, selected almost exclusively, as the objects of its labours, during a session of fifteen days, offences of a much inferior description, such as riots, assaults and batteries, and mere misdemeanors, before which, in fine, were dragged for political offences, persons who had already been acquitted by a Jury of their country, or other persons who were not even in custody when this Court was constituted. The Bills for perjury found at the instance of the Attorney General, against persons who had been acquitted at the last term of the Court of King's Bench; the Bills for riot, and assault and battery, against a number of the electors of the West Ward of Montreal, whereas the last Grand Jury had found a Bill against two only for rescue, that is, for rescuing a person out of the hands of a constable; the accusation against Mr. Jacques Viger for not having executed an order of the Magistrates, which he was prevented from executing, in consequence of a supersedeas granted by several other of the Magistrates:—finally, the Bill against the presses which do not servilely crouch at the feet of certain public officers. This is the kind of protection for which the society from which the Grand Jury, it is pretended was drawn, is indebted. In speaking of the composition of the Grand Jury, we do not mean to say that all the members of it were of the same cast; such partiality would have been too evident. I only persuade myself that the mere inspection of their names is sufficient to excite strong suspicions on this head.

Les Membres du juré ont été bien loin d'être unanimes sur les accusations d'une nature politique; plusieurs d'entr'eux auraient rougi de servir d'instrumens à la persécution; on dit même que quelques-uns dont les opinions politiques auraient pu les égarer, ont été frappés de la nature des offenses qu'on soumettait à cette cour; ont dit aussi que dans l'affaire des journaux, quatorze seulement des vingt-trois jurés, ont été d'accord sur un des bills; qu'un des Membres de la minorité a exposé à ses confrères d'une manière ferme et lumineuse, le danger qu'il y aurait, pour eux d'agir par ressentiment et par passion.

[Here follows a Translation of the above Extract.]

The members of the Jury were far from being unanimous on the accusations of a political nature; several of them would have blushed at being made the instrument of persecution; it is even said that some whose political opinions might have led them astray, were struck with the nature of the offences brought before that Court; it is also said that in the affair of the Journals, fourteen only out of twenty-three Jurors concurred in opinion on one of these Bills; that one of the members of the minority explained to his colleagues, in a firm and luminous manner, the danger they would incur by acting under the influence of resentment and passion.

## No. 17.

*Copy of a Letter from JAMES STUART, Esquire, to the Right Honourable Lord Viscount Goderich, &c. &c.*

*London, 8, Dover Street, 22nd October, 1831.*

MY LORD,

Within these few days past, I have received from Canada several affidavits, relating to two of the charges of the Assembly, against me; which, though strictly speaking, not necessary for my justification, cannot but be deemed satisfactory, in the consideration of these charges; and I beg leave, therefore, to transmit copies of them, herewith, to your Lordship. Among them are the affidavits of Samuel Gale, Esquire, late chairman of the Court of Quarter Sessions for the District of Montreal, of John Delisle, Esquire, Clerk of the Peace, and also Clerk of the Crown for the same District, and of Thomas Andrew Turner, Esquire, Foreman of the Grand Jury, in March, 1830, whose presentment is referred to in the Proceedings of the Assembly. The affidavits of these respectable individuals, whom I had no opportunity of seeing previous to my departure from Canada, have been made by them, of their own accord, from a sense of justice, and a regard for truth. They contain details, with which the official duties of these gentlemen, connected with those of the Attorney General, made them particularly acquainted; and, while they confirm my statement, the truth of which is well known to persons at all conversant with the proceedings of the Criminal Courts in Lower Canada, they disprove *in toto*, and in minute particulars, the second charge of the Assembly, grounded on the evidence of Mr. Jacques Viger.

The two other affidavits herewith transmitted relate to the fifth charge of the Assembly. In my answer to this charge, it is stated, that no private prosecutor ever required me to institute the prosecutions for perjury, for the non-institution of which I am held culpable; and also, that one of the charges for perjury, alluded to by the Assembly, was made against a voter, who had voted without taking any oath whatever. Both these are singular facts, and are now accounted for, by the disclosures made in these two affidavits; by which it appears that the persons, by whom the charges in question were made, being all of them of low condition in life, were conveyed to an island lying in the River St. Lawrence, between William Henry and Berthier, where they were made drunk; and that while they were in a state of intoxication, disqualifying them for taking an oath, a Justice of the Peace, who had been sent for to the contiguous mainland (Berthier) for this purpose, arrived on the island, and swore them to the Depositions, which were subsequently sent to me, to ground prosecutions for perjury. With a knowledge of these facts, it ceases to be a matter of surprise, that a voter, who had taken no oath at all, should have been charged with perjury by a drunken man deprived of his reason, and that no private prosecutor would incur the responsibility of acting on depositions thus taken.

I have the honour to be, with the greatest respect,

My Lord,

Your Lordship's most obedient, humble servant,

(Signed) J. STUART.

To the Right Honourable Lord Viscount GODERICH,  
&c. &c. &c.

## No. 18.

*Affidavit of SAMUEL GALE, Esquire, late Chairman of the Court of Quarter Sessions of the Peace for the District of Montreal, in Lower Canada.*

PROVINCE OF LOWER CANADA.

DISTRICT of } To wit:  
MONTREAL. }

SAMUEL GALE, of Montreal, in the said district, Esquire, Advocate, being duly sworn, deposeth and saith, that he was appointed one of His Majesty's Justices of the

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Peace, and Chairman of the Court of Quarter Sessions, in and for the said district of Montreal, in the month of May, one thousand eight hundred and twenty-four, or about that time, and continued to discharge the duties of the said office, as well as the duty of Police Magistrate for the said district, until the month of October now last past, with the exception of a period of about seventeen months, during which he was absent on a mission, on behalf of the Executive Government of Lower Canada, and during which another person was appointed to perform the duties of the said office. And the Deponent further saith, that, according to the practice which prevailed during the said period of time, as well as previously, it was his duty to transmit to His Majesty's Attorney General for the said Province, residing at Quebec, in the said Province, the depositions and papers relating to criminal proceedings to be carried on in His Majesty's Court of King's Bench for the said district of Montreal: and such depositions and papers, it was usual and customary to forward to the said Attorney General, some days before the opening of the said Court, in order that the said Attorney General might prepare the necessary Indictments, and give the requisite directions for the subpoenaing of the witnesses in support of the proceedings to be grounded on the said depositions and papers. And the Deponent further saith, that this course was pursued, as well before as after the appointment of James Stuart, Esquire, to the said office of the Attorney General. And the Deponent further saith, that among the depositions and papers so transmitted to the Attorney General, it has been the practice to include depositions and papers relating to petty larcenies and misdemeanors, of which persons in custody have been accused, and proceedings for such offences in these cases have, during the period aforesaid, been carried on by the Attorney General in His Majesty's said Court of King's Bench; and the Deponent believes that the same practice has obtained for a great number of years past, in the said district. And the Deponent further saith, that having perused the evidence ascribed to Jean Delisle, Esquire, in the second Report of Grievances of the House of Assembly of the said Province of Lower Canada, and therein appearing to have been given before the said Committee, on the eighteenth day of February last, this Deponent saith, that the depositions and papers relating to the indictments therein-mentioned to have been preferred against François Fournel, Thomas Pebble, Jean Baptiste Bloudin, Pierre and Timothé Guerin, Jean Baptiste Fournel, and Richard M'Ginnes, and David Codey, and also against Charles Charpentier, were, to the best of his recollection and belief, transmitted, together with the recognizances of such of the witnesses as had been bound over, to the said James Stuart, as such Attorney General, in the usual and accustomed manner, in order that he might prepare Indictments, and carry on proceedings on the same, in His Majesty's said Court of King's Bench, for the offences specified in the said evidence of the said Jean Delisle. And having also perused the evidence ascribed to Jacques Viger, Esquire, in the said second report of the said Committee of Grievances, and therein appearing to have been given, before the said Committee, on the twenty-third day of February last, this Deponent further saith, according to the best of his recollection and belief, derived from his having acted in his capacity aforesaid, that the several indictments whereof mention is made, in the said last-mentioned evidence, and which, it is therein stated, were preferred against the individuals therein named, were framed and drawn up, upon or in consequence of depositions and papers, which, in the usual and accustomed manner before mentioned, had been transmitted to the said Attorney General (James Stuart), in order that he might ground proceedings on the same; and that the said James Stuart, in the several cases mentioned in the evidence of the said Jean Delisle and Jacques Viger, preferred Indictments, and carried on proceedings against the several individuals therein named, in His Majesty's said Court of King's Bench, in the usual manner, and as this Deponent is of opinion would have been done by his competent predecessors in office, under all the circumstances.

And this Deponent further saith, that, during his continuance in the office of Chairman of the Quarter Sessions, he endeavoured to cause various larcenies and offences of the minor descriptions, mentioned in the evidence of the said Jean Delisle and Jacques Viger, to be prosecuted before the Court of Quarter Sessions, and gave directions to that effect to the Clerk of the Peace; but that the said Clerk of the Peace, Jean Delisle, Esq., represented to this Deponent, that he had heretofore made disbursements in subpoenaing witnesses, and other proceedings, on behalf of Government, before the said Court, for which he had long and vainly solicited payment, as there were no funds appropriated for the payment of such process, and the allowance of witnesses, before the Court of Quarter Sessions, and that it could not be expected that he, the said clerk, was personally to incur the losses and expense attendant upon such prosecutions, nor was he inclined, from his own funds, to make the disbursements. That this Deponent conceived the said clerk to have just reasons for his conduct, and hath a knowledge that many bills of indictment for crimes could not be found, nor when found, proceeded upon in the said Court of Quarter Sessions, for want of funds to pay the expenses and allowances to witnesses; and that when the accused were in confinement for such crimes, there was often no alternative, but either to discharge them, without trial, or to bring their cases before the said Court of King's Bench, for whose proceedings funds were provided, applicable to the payment of the expenses and allowances to witnesses; and that, in the opinion of this Deponent, the said Attorney General would have been culpable, and it might have been made a charge against him, for the neglect of duty, and the established practice of his predecessors in office, had

he omitted to bring before the Grand Jury and the said Court of King's Bench the bills of indictment, the bringing of which is now, by some persons, endeavoured to be perverted into malversation, or ascribed to improper motives.

(Signed) SAML. GALE.

*Sworn before me, at Montreal aforesaid,  
this 30th July, 1831.*

(Signed) JS. REID, J. K. B. Montreal.

True Copy, J. STUART.

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### No. 19.

*Affidavit of JOHN DELISLE, Esquire, Clerk of the Peace for the District of Montreal, Lower Canada.*

#### DISTRICT OF LOWER CANADA.

DISTRICT OF }  
MONTREAL. }

JOHN DELISLE, of the City of Montreal, in the Province of Lower Canada, Esquire, maketh oath and saith, that he hath been, since the month of September, one thousand eight hundred and fourteen, and continues to be, clerk of the peace in and for the said District of Montreal, and hath been, during six years now last past, and continues to be clerk of the crown in and for the said District. And the Deponent further saith, that, in the whole course of the said periods, during which the Deponent hath been clerk of the peace and clerk of the crown as aforesaid, one uniform practice has prevailed with respect to prosecutions for petty larcenies and misdemeanors, in His Majesty's Court of King's Bench for the said District, by the Attorney General, or other crown officer, charged with the conducting of criminal prosecutions; according to which practice, prosecutions for the said offences have been carried on by the said Attorney or Crown officer, in His Majesty's said Court of King's Bench, in cases in which the persons accused of the said offences have been in custody; the said Court of King's Bench being a Court of General Gaol Delivery for the said District. And the Deponent further saith, that, since James Stuart, Esquire, His Majesty's Attorney General for this Province, assumed the duties of that office, no deviation whatever has taken place in the said practice; the same course having been pursued by the said James Stuart, in carrying on criminal prosecutions, in His Majesty's said court, as was pursued by his predecessors in office, during the periods aforesaid; and in no instance, to the knowledge of the Deponent, has any one prosecution been carried on by the said James Stuart, in His Majesty's said Court of King's Bench, which, he believes, would not, under like circumstances, have been carried on by the predecessors of the said James Stuart, in the said office of Attorney General. And the Deponent further saith, that, according to the practice which has prevailed during the periods aforesaid, the depositions and papers on which prosecutions have been carried on by the Attorney General, in His Majesty's said Court of King's Bench, have been forwarded to him, by the chairman of the Quarter Sessions and the Clerk of the Peace, in order that such prosecutions might be carried on by him. And the Deponent has no knowledge of any criminal prosecutions having been ever carried on by the said James Stuart, in His Majesty's said court, the depositions and papers in relation to which were not forwarded to him, for that purpose, as aforesaid. And the Deponent further saith, that the circumstance which has in many instances prevented the carrying on of prosecutions for Petty Larceny, in the Court of Quarter Sessions, has been the want of pecuniary means to pay for the subpoenaing of, and the allowance to witnesses; and this, in reality, has been, in this Deponent's opinion, the impediment in the way of prosecutions for such offences, in that court, and has rendered necessary the prosecution of them, in the Court of King's Bench. And the Deponent further saith, that, in the evidence ascribed to the Deponent, in the second Report of the Committee of Grievances of the Assembly of this Province, and which evidence is therein stated to have been given on the 18th February last, an error has been committed in representing the Deponent to have said, that fines were paid by him into the hands of the *Attorney General*; whereas, instead of the Attorney General, it should have been stated, that such fines were paid by him into the hands of the *Receiver General* of the Province.

(Signed) JOHN DELISLE.

*Sworn before me at Montreal, this  
30th July, 1831.*

(Signed) J. REID, C. J. K. B., Montreal.

## No. 20.

*Affidavit of THOMAS ANDREW TURNER, Esquire, Foreman of the Grand Jury for the District of Montreal, in the Term of the Court of King's Bench for that District, held in March 1830.*

## PROVINCE OF LOWER CANADA.

DISTRICT OF }  
MONTREAL. }

THOMAS ANDREW TURNER, of Montreal, in the District of Montreal, being duly sworn, deposes and saith as follows:—I have resided in Montreal, in the said District, for more than thirty years, during twenty years of which period, I have, upon an average, served about once a-year as a Grand Juror in the Criminal Court of King's Bench, and also in the Courts of Oyer and Terminer and General Gaol Delivery for the said District. From the opportunities afforded me in this respect, I have a knowledge, that, during the period aforesaid, Bills of Indictment have been laid before the Grand Juries of the said Courts, by the respective Crown Officers prosecuting for the Crown, for Petty Larcenies, Misdemeanors, and other offences cognizable in the Court of Quarter Sessions. I have observed no variation from the usual practice, in this respect, since James Stuart, Esquire, has filled the office of Attorney General.—I do believe that Bills of Indictment for Petty Larcenies, Misdemeanors, and such other offences, have generally been laid before the Grand Juries of the said Courts, against persons who were in custody, for I observed that they were generally arraigned in the dock, with the prisoners actually detained in gaol, and tried shortly after having been arraigned. It has also happened occasionally, that persons accused of such minor offences have been indicted before said Grand Juries, from the circumstance of their having been bound over to appear at the said Courts.

I have acted as one of His Majesty's Justices of the Peace for the said district, for about nine years, and in such capacity have frequently sat in the Court of Quarter Sessions for the said district.—From my experience, in the last mentioned Court, I am enabled to say, that no provision was made for the expense of prosecuting, in the said Court of Quarter Sessions, petty larcenies and offences of the above-mentioned description, and no fund set apart to pay the necessary expenses and allowances to witnesses; and that such offences must have been committed with impunity, unless the persons accused had been indicted in the said Court of King's Bench, or Court of Oyer and Terminer and general Gaol delivery. This was found to be such an evil, that, in the term of the said Court of King's Bench holden in March 1830, the Grand Jury, in the presentment which they made, at the close of the Court, complained of it, in the following terms, which are a true extract from the said presentment:—"The Grand Jury further present, that, during the present term, a number of bills of indictment have been laid before them, for petty offences, which might have been (tried) in the Quarter Sessions, in the months of October and January last." I was foreman of the said Grand Jury, by whom that presentment was made, and as such I can safely say, that by what is contained in the foregoing extract, it was by no means intended to cast the least reflection upon James Stuart, Esquire, who then filled the office of Attorney-General, but that the object of the Grand Jury was solely to direct the attention of the Government to the practice that had so long obtained in that respect, to the end that funds might be provided for facilitating the prosecution of such offences, before the said Court of Quarter Sessions.

(Signed) THO. A. TURNER.

*Sworn before me at Montreal, this  
9th day of August, 1831.*

(Signed) GEORGE PYKE, J. K. B.

True Copy, J. STUART.

## No. 21.

*Affidavit of MICHEL LAFLEUR, of Sorel, labourer.*

## PROVINCE OF LOWER CANADA.

DISTRICT DE }  
MONTREAL. }

MICHEL LAFLEUR de Sorel, autrement appelé William Henry, dit district, Journalier, âgé de vingt sept ans, après serment prêté sur les Saints Evangiles, depose et dit comme suit :—Je demeure à Sorel, depuis douze ans. En mil huit cent vingt sept au mois de Juillet, il y eut une election au dit lieu de Sorel, très contestée entre James Stuart, Ecuier, Procureur-General pour la dite province, et Wolfred Nelson, Ecuyer, Médecin. Cette election étoit pour choisir l'un ou l'autre, pour servir comme membre du parlement provincial.—Lors de cette election, je travaillois pour Louis Marcoux, qui demouroit alors à Sorel, comme marchand, et qui reste maintenant à Yamaska, au même district. Depuis cette election, j'ai continué à travailler pour lui, jusques dans le mois d'Octobre de la même année. Vers la fin d'Aôut de cette année, pendant que j'étois occupé à décharger une barge pour lui, le dit Louis Marcoux m'envoya chercher, et me demanda si je voulois amener un de mes hommes avec moi, et le traverser lui et d'autres personnes, à l'Isle d'un nommé Morrison, qui étoit une des Isles dependant de la paroisse de Berthier, située de l'autre côté du fleuve Saint Laurent, et presque vis-à-vis du dit Bourg de Sorel.—Viens, viens, avec moi, dit-il, tu gagneras plus, et je mettrai deux hommes à ta place, et à celle de celui que tu amènes avec toi. La-dessus, je lui dis que j'irois, et je me suis en consequence rendu chez lui, avec un de mes hommes. Ayant vû partir de chez le dit Marcoux, le nommé Joseph Allard de Sorel, scieur de long, avec une cruche, je m'attendois bien qu'il alloit chercher du *Rum*, chez le nommé Crebassa. Quelque tems après son depart, je fus au devant du dit Joseph Allard; l'ayant rencontré à-peu-près à moitié chemin sur son retour chez le dit Marcoux, nous avons bû à même la cruche, chacun à sa soif. Cette cruche pouvoit tenir environ un galon et demi, et me paroissoit pleine ou presque pleine de *Rum*. Arrivés chez Marcoux, celui-ci a fait préparer une chaloupe, et a fait embarquer sur icelle plusieurs personnes: entre ceux qui se jout embarqués sur la dite chaloupe, à la requisition du dit Marcoux, étoient les personnes suivantes, savoir, Joseph Allard, Gonzague Rouleau, Jean Crébassa, Noël Guillot, Antoine Hus dit Cournoyer, Pierre Bouage, et le nommé Des Jardins. Je ne me rappelle pas des autres, si toutefois il y en avoit; mais Mr. Marcoux étoit un du nombre. Quand je suis parti de Sorel, j'étois un peu pris de boisson, mais assez bien en état pour gouverner la chaloupe, que je crois avoir gouverné comme il convenoit, puisque je l'ai conduite à l'Isle appartenante à un nommé Morrison, laquelle est une des Isles de Berthier susdit. Je me rappelle très bien qu'en partant de Sorel, le nommé Joseph Allard, dont j'ai parlé, étoit dans la chaloupe. Dans le cours de la traversée de Sorel à cette Isle de Berthier, j'ai bû du *Rum* que je croyois venir de la cruche en question. Arrivé à l'Isle en question; que l'on disoit être l'Isle de Monsr. Morrison, je ne me rappelle pas au juste si j'ai bû et mangé: il y avoit de quoi faire l'un et l'autre. J'ai senti que ma raison étoit bien affoiblie; elle ne l'étoit cependant pas assez pour m'empêcher de me rappeler de ce qui s'y est passé, pourvû que ce fût quelque chose qui me frappât, mais je sais que ma raison étoit trop affoiblie, pour pouvoir me servir de guide dans mes actions. Cette Isle où nous débarquâmes, appelée l'Isle de Monsr. Morrison, étoit separée d'avec la terre ferme, par un chenal d'environ quinze arpens. Pendant que j'étois dans l'état que je viens de mentionner, l'on fût chercher à Berthier Monsieur Joseph Douaire Bondy, qui étoit alors un juge de paix. Ce monsieur est venu dans l'Isle en question, et m'a fait prêter serment, sur une deposition contre un nommé Fontaine, qui avoit voté pour le dit James Stuart, Ecuyer, je me rappelle bien du fait. Mais je sais bien que je n'étois pas en état, sur la part que je pouvois pretendre en paradis d'appeller Dieu à temoin de la verité de ce que je disois. Je n'étois seulement pas en étoit de faire un marché, ou de contracter avec quelqu'un pour une entreprise. Je me rappelle très bien que le dit Monsieur Douaire m'a fait faire serment. Suivant mon opinion le dit Joseph Allard qui étoit dans la dite Isle avec nous étoit dans un état pire que le mien, et incapable de pouvoir se rappeler le lendemain de ce qu'il pouvoit faire alors. Le Deposant declare que cette Deposition lui ayant été luë, elle contient la verité. Lecture faite, dit de plus qu'il ne sait signer.

(Signé) MICHEL <sup>Sa</sup> × LAFLEUR.  
Marque.*Assermenté devant moi ce 27e jour de Juillct, une huit cent trente et un; cette Deposition ayant été par moi-même préalablement luë au dit Deposant.*

(Signé) PETER M'GILL, J. P.

True Copy, J. STUART.

## No. 22.

*Affidavit of WILLIAM M'LEAN, of Sorel, Boatman.*

## PROVINCE OF LOWER CANADA.

DISTRICT OF }  
MONTREAL. }

WILLIAM M'LEAN, of Sorel, otherwise called William Henry, in the said District, Boatman, being duly sworn on the Holy Evangelists, deposeth and saith as follows, to wit:—

I have lived at Sorel aforesaid, for about fifteen years. In the month of July, one thousand eight hundred and twenty-seven, there was a contested election there between James Stuart, Esquire, Attorney General for the said Province, and Wolfred Nelson, Esquire, physician. In the month of August following, it might be about the fifteenth or twentieth, Louis Marcoux, then residing at Sorel aforesaid, but now residing at a place called *Yamaska*, merchant, told me that he wished me to assist in ferrying or crossing some eight or twelve persons, to one of the islands belonging to Berthier, on the opposite shore of the River St. Lawrence, and said that he would pay me for my trouble. I went with Mr. Marcoux to his house, where I found eight or a dozen persons. A boat was prepared, some bread and butter was put on board, together with a jar capable of containing about a gallon and a half, and which contained rum. We all got on board, Mr. Marcoux being with us. I was one of those who rowed the boat, and Joseph Allard steered her. We put ashore upon one of the Berthier Islands called Morrison's Island. On our arrival Mr. Marcoux told us to eat and drink, while he would be going to Berthier, that is, the village of Berthier: he did not tell us for what purpose. We were there at about the distance of a mile from the said village. After an absence of about an hour or an hour and a half, Mr. Marcoux returned, with a Justice of the Peace, whose name I did not know, nor do I know it now. While Mr. Marcoux was absent, we did nothing but eat and drink. I observed that the others were drinking too much, and resolved to keep myself sober; I therefore drank but little. By the time Mr. Marcoux returned, they were all tipsy, except myself; some of them were very tipsy. Soon after the return of Mr. Marcoux, he inquired of us what we knew about certain persons who had voted for the said James Stuart, at the said election. The said Justice of the Peace swore us upon a Bible or book, which had a crucifix tied to it. After we were sworn, a man of the name of Kimber, who had crossed over from Sorel aforesaid before us, began to write. I suppose that he was writing what we said. I can swear positively that one Joseph Allard and one Michel Lafleur were on the island with me, and were sworn by the Justice of the Peace above mentioned. Joseph Allard appeared to me to be very tipsy: Michel Lafleur was not so far gone. Mr. Marcoux, Mr. Crebassa, who was one of the party, Mr. Kimber, and myself, were the only sober persons of those who had left Sorel with me: the others appeared to me tipsy, some more tipsy than the others. From what I could perceive of my companions, there were none of them sufficiently sober to make a bargain, or enter into any kind of contract, or comprehend the nature of an oath. After we were sworn we returned to Sorel. I received from Mr. Marcoux fifteen pence. What I swore to on the island was, that I was present when a man of the name of Thompson of Sorel had sold his lot and premises to Mrs. Kittson, reserving to himself the enjoyment and use of it during his life. I also swore there, that a Mrs. Hunes had, to my knowledge, made a deed of gift to one Joseph Bernier of one lot of land situate at Sorel, with a reservation for her children, and of the other lot of land which she had adjacent thereunto. In consideration of the said deed of gift, the said Joseph Bernier was to support her during her life. Such were the facts, which I swore to. I know not how Mr. Kimber wrote them down. I declare that I cannot write or sign my name.

(Signed) <sup>His</sup> WILLIAM × M'LEAN.  
<sub>Mark.</sub>

*Sworn to before me, this 1st day of August, 1831, at Montreal, in the said District; the foregoing having been by myself first duly read to the said WILLIAM M'LEAN.*

(Signed) JOS. SHUTER, J. P.

True Copy, J. STUART.