

THE
SPEECH
OF
The Hon. John Rolph, M.P.P.
DELIVERED ON THE OCCASION
OF THE
LATE INQUIRY INTO CHARGES
OF
HIGH MISDEMEANORS,
AT THE
LATE ELECTIONS
PREFERRED AGAINST HIS EXCELLENCY
SIR FRANCIS BOND HEAD,
BEFORE THE
COMMONS HOUSE OF ASSEMBLY
OF
UPPER CANADA.

SIMCOE :
RE-PRINTED AT THE "NORFOLK MESSENGER" OFFICE.
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THE POLITICAL UNION OF UPPER CANADA.

TO WILLIAM WARREN BALDWIN, ESQ., M. D.,

President of their Society, &c. &c. &c.

SIR:

Dedications are not without their use. It is both proper and pleasant, on suitable occasions, to express those sentiments of esteem and gratitude, which are due to public men for their public services. Great is the debt we owe to you;—and both our duty and inclination concur, on the present occasion, in offering this tribute to your private virtues and undeviating patriotism. The seat which you held for many years, in the earlier period of our history, in the Provincial Parliament, was devoted with most honorable consistency to the cause of civil and religious liberty; and when the exigencies of the country lately needed your manly and active interposition, we witnessed the readiness with which you (one of its brightest ornaments) left the retirement of private life, and engaged in the vindication of the people's rights against Executive corruptions, which will be transmitted to the execration of the same posterity that will cherish your conduct in grateful remembrance.

For your manly and patriotic bearing you have fallen a victim to Executive resentment—but Sir, the utmost efforts of Executive malignity cannot lessen your distinguished reputation with the people who behold in you, in your advanced age, the winter of time having already shed upon your head its prophetic snow, a champion full of unabated affection for his country, nobly contending for the inviolability of public liberty. Your name will be associated with that of the great JOSEPH HUME and other illustrious benefactors of mankind, who uncompromising principles are a constant theme of calumny for a selfish and venal faction; and your memory will form an honorable record in the history of this unfortunate, because misgoverned, Province, whilst the name of its oppressors will be forgotten or only remembered for their injustice to you and general oppression of the country.

It will be some consolation to us who have been made to feel the baneful effects of the present Administration, that the character of the Venerable DR. BALDWIN will not float down the stream of time towards a dishonorable abyss “in the same boat” in which Sir Francis Head has invited the Constituency of Upper Canada to embark their interests.

With the highest respect and consideration,
We have the honor to be, &c. &c.
On behalf of the Union.

T. D. MORRISON, V. P.
WILLIAM LESSLIE, V. P.
PETER FREELAND, V. P.
JOHN McINTOSH, V. P.
JAMES E. SMALL, V. P.

{By order.}

JOHN ELLIOT, Sec^y.

UPPER CANADA HOUSE OF ASSEMBLY.

MONDAY, JANUARY 30th, 1837.

The House in Committee on the Report of the Select Committee on the Petition of Dr. Charles Duncombe, to the British House of Commons.

DR. J. ROLPH.—Mr. Chairman, Perhaps never did a day, wearing a more lowering aspect than this, dawn upon a British Colony! The glory of provincial monarchy, subjected ignominiously to these proceedings, is sullied beyond the power of your acquittal to redeem.

Kings are sometimes tried. But nations are their judges. And when a people, goaded by injury, rise in their majesty to occupy the judgment seat, grand is the spectacle and vast is the result! Popular sympathy generally mingles with the royal fate, and an interest is transmitted with the very block, which is dyed with their blood.

But kings even in Europe would dwindle into shadows, were they arraigned and tried before subordinate tribunals. Only imagine it; King William the Fourth tried by a select committee of the House of Commons! The proposition, Sir, shocks you. And behold the treasury benches; their very hair, at the thought, stands on end. Yet I charge them with a crime of little less atrocity. For they have not decorously appealed respecting his Excellency, to the paramount authority of the parent State, and then humbly awaited from the King or the Lords, or even the Commons, their high umpirage; but, intoxicated with power, unconscious of its legitimate bounds, and strangers to the due limits of the constitution, which they boldly vociferate others infringed, they have, with Tory temerity, erected from among themselves, a little tribunal of members, to propose for our adoption or rejection the presumptuous sentence "guilty," or "not guilty," against the Viceroy. It has filled me with amazement! When first made acquainted with the course thus pursued by the Hon. Gentlemen opposite, I exclaimed, impossible! Can this be the offspring of their monarchical professions? Are these the high-minded statesmen who would direct the affairs of a nation, and yet thus throw such a mantle over the occupier of the throne? Have they so little credit in the very community they aid in governing, as to stand half convicted under the solitary petition of C. Duncombe, and so little weight, or so little generosity of character, as to be incompetent to shield even provincial majesty from this humiliating predicament? Had Reformers a prevailing voice, I should be ashamed to see the country in this condition, and its local majesty made dim with this impeachment.

Impeachment, did I say? Oh no. They have doomed their illustrious personage to drink the cup of humiliation to the very dregs. The trial has not been conducted even before the Legislative Council, our Provincial

House of Peers, who would perhaps regard a guilty participation, little less than petit treason ! It has not even been conducted before this hon. House, while the chair, Sir, was occupied by the Speaker, in whom is embodied, besides his parliamentary phylacteries, the aggregated dignity of the Assembly, with the Mace, surmounted with a Crown, lying massively on the table, and defended by the Sergeant-at-Arms, girded with a sword and glowing with a chivalrous spirit. Such inquisitorial proceedings even over Royalty, have when clothed with stateliness and wrapt up in form, an imposing effect upon the eyes of the multitude, who are therefore the less likely to have their habitual reverence seriously impaired. But as if there were a conspiracy to bring His Excellency to the very dust, to shadow his dignity, mortify his pride, and republicanize the people, the investigation was repudiated by the House, and insultingly transferred to an ordinary Committee !

Behold some gallant general, doomed by an uncontrolable fate of war to justify his unfortunate career before the jealous inquiries of a wounded nation ! Conscious of his integrity, and proud to offer his honourable vindication, he cheerfully appears before a court martial organized according to his rank. But tell him that such a tribunal is denied him ! Tell him he is ordered to a drum-head court martial ! He no longer wears his lofty mien, or feels the buoyant spirit of the soldier's breast. He would in prospect of such a fate, break his sword in fragments rather than return it to the scabbard. His very heart would be wrung with agony, yea, rended and broken, before you could consummate his degradation and inflict your sentence. He would command the sympathy of the whole military word.

And were there no honorable gentlemen opposite to sympathize with the representative of Majesty, and save him, and the constitution too, from the, perhaps, mortal wound inflicted by this unprecedented humiliation ? Do none of you, boasting of your loyalty, and professing your admiration of the man and devotion to his service, feel conscious of shame for having thus unceremoniously turned over the trial of the Viceroy to (I mean no personal disrespect) two or three country attorneys ! He who is the depositary of the Royal prerogative ; he who lately ascended the Andes, traversed the mountains and plains, and even explored the mines of Peru ; he who, enjoying "otium cum dignitate," issued his elegant Bubbles from the brunens of Nassau ; he who is covered with the stars of kinghood, from the guelphic order, that of the Prussian order of merit ; he who is a co-ordinate branch of the provincial Legislature, and who, clothed in the semblance of Royal robes, sits in the Legislative chamber upon a throne ; he who there nods our bills into laws or into nothing ; alas ! even he is here doomed by his own unconstitutional majority, virtually to stand at the bar, while you, sir, put the blushing question, "guilty," or "not guilty ?"

*"Musa, mihi causas memora ; quo numine læso,
Quidve dolens regima Deum, tot volvere casus,
Insignem pietate virum, tot adire labores
Impulerit."*

What will the British Government say to this impolitic proceeding ? You who ought to be the first to keep within, at least, the bounds of impeachment in the mother country, have assumed to try, and either condemn or acquit the representative of the King ! The Governor has been charged

with interfering, to an alarming degree, with the purity and freedom of the late general elections. It is a charge of treason again the people. You are this day teaching them a lesson they will not easily forget. They find themselves, through the persons of their representatives, bringing under the ordeal of this enquiry the head of the Executive Government. If it is thought expedient to exempt him from civil and criminal responsibilities in the courts of justice, by what law do you now assume a jurisdiction, of which even the King's Bench is ousted? If found guilty will you put him into the custody of the Sergeant-at-Arms? Will you as it were dethrone him? or bring him to the block? You may have an authority from the British Ministry to exercise this inquisitorial function; but I cannot even then acknowledge its wisdom. When you familiarize the people with these summary proceedings against kingly functionaries, you make them compare their own strength and importance with that of their rulers. There is a prevailing opinion in favor of rendering the Legislative Council elective. But although it is easy to account for a belief that those who obey the laws should elect the law makers, and that qualifications to elect one house, cannot be disqualifications to elect the other; yet it is singular that you should invite popular expectation a step higher; for while you practically display your power in this cursory manner to try the Lieutenant Governor, the people will say, if our servants ought to try him, we, who are their masters, ought to elect him. Heedless, however, of public decorum, and constitutional boundaries, you oblige this side of the house to engage in the Parliamentary adjudication. Under these circumstances, I am bound to put aside what might, otherwise, be a becoming delicacy, and with that freedom demanded by the magnitude and justice of the case, closely examine this report and the fearful events out of which it has grown.

The following is the language of the Report:—

“ The committee having thus disposed of the *minor parts* of Dr. Duncombe's petition, will now advert to *that portion of it* that may justly be considered as of the *greatest importance*, viz., *the accusation against His Excellency the Lieut. Governor*; and it is with no common degree of satisfaction that the committee feel themselves justified in declaring that every charge and insinuation made against a man to whom the Province of Upper Canada owes so large a debt of gratitude, for firmness of principle and patriotic conduct, is wholly and utterly destitute of truth.”

By the adoption of this report you acquit, and by the rejection of it you convict Sir Francis Head of the high crimes and misdemeanors charged against him. But it may be well for the house to pause for a moment and review the very peculiar situation in which they are placed. The community will certainly regard our judicial proceedings in this matter with more than ordinary jealousy, and it becomes us therefore to observe more than ordinary circumspection.

Immediately after the late election, Sir Francis openly boasted, as the public documents show, of his parliamentary majority, and with singular prescience, communicated it to Downing-St. By what method he made his computation, by what unknown means or unofficial intercourse, he possessed himself of the views or pledges of members, I leave among the arcana of government; but this significant anticipation of our conduct, upon whatever it was grounded, became the general topic of animadversion, and by no means indicated upon such a subject, the dispassionate and dignified demeanor of a man filling a throne either for himself or another. And this

prophetic spirit about us, is the more striking when connected with the unhallowed means, which were directed against the freedom of election.

The very question before us, therefore, involves the constitution of this Assembly. If the potent influences which were so systematically put into active operation, did not fail of their intended effect, this House has no claim to the representative character. On the other hand, if those influences were really nugatory, the purity of parliament is sustained. Hence the fate of this House and of Sir Francis, is identified. If for instance he employed the means, and we availed ourselves of them, there is not much to choose between the guilt of the two. He is, then, the principal, and we are the accessaries: though in this sort of treason, perhaps, lawyers would class all as principals. While the house is thus under the imputation of being "particeps criminis," it might have been more satisfactory had the trial conducted by some other tribunal, altogether aloof from this unfavorable presumption. Take a vulgar example, which is oftentimes the best; if one set of men should steal merchandize, and another set should receive them, it would be a singular arrangement to appoint the one to try the other. And if, to carry out the illustration, we and Sir Francis combined to defraud the people of their liberties, they will not be satisfied with his praise of us, or our acquittal of him.

This is not the only questionable condition of the House, and of its Select Committee; for out of thirty witnesses, fifteen are honorable members. Now it appears to me that the people (they are a shrewd people) will not be satisfied when they see the judges, jury and witnesses principally selected from a suspected source.

The Committee, too, from which this report emanates, has, like the camelion, so often changed its color, and has been so singularly metamorphosed in the course of its inquiry, that one almost needs a directory to find one's way. The committee first sate on the 25th November, composed of Messrs. McNab, Draper, Parke, Sherwood and Woodruff. On the first of Dec. Messrs. Jones and Norton were added. And on the 22nd, the hon. and learned gentlemen for Toronto thought proper to retire, being succeeded by Messrs. Prince and Burwell. I cannot but commend the discretion of the hon. gentleman in washing his hands of the whole transaction. Some, indeed, hinted that his acceptance of the office of Executive Councillor operated as a point of delicacy, inducing him to abandon the investigation he had begun. But, surely, the same delicacy, had such been the case, would have led him to retire from the service of his constituents; for if it created an incompetency upon this matter, it must equally have done so upon all. When various motives are at the same time influencing the mind with various degrees of force, it is often difficult for the wisest and best of men, so to analyze their own moral and intellectual operations, as to ascribe to each motive its specific effect and contribution in influencing their determination under trying circumstances. I trust it will not be deemed an unparliamentary or uncourteous thing to express my belief, that while three other hon. members of that committee, as they have here openly declared, regarded the proceedings partial and unsatisfactory, (without however retiring,) the right hon. gentleman although prevented, by too favorable prepossessions, from ascribing a due force to the same objections, yet really sought a discharge from what his honorable mind could not approve, and his greater sensibility could not longer endure.

By this manœuvring with the structure of the committee, it is graced with many names and yet has been virtually managed by two! The whole number of sittings is fourteen, and some of them obviously very short. Within these narrow limits, the purity and freedom of all the elections in the country have been established, Sir Francis Head wholly acquitted, and Charles Duncombe, Esq., wholly condemned. This is expeditious work, clogged too, as it was, by other multiplied business in the House. It is like operations by steam. The boast of the Tories must be true; it must be the greatest House with which the country was ever blest and the committee were mainly the Goliaths and Sampsons selected from it. From a hasty computation, I find that Mr. McNab sate fourteen days and Mr. Sherwood 12; and more devoted servants and better managers, a governor never had. Mr. Draper having sate nine days took his leave of them; and was replaced by Messrs. Burwell and Prince, of whom the former bestowed four days, and the latter two! Mr. Jones sate five days and then absented himself on his judicial duties in the Eastern Districts. Messrs. Parke, Woodruff and Norton were treated in a way which has called from them the open expression of their indignation in the House. Hence the whole affair has been conducted by two warm, though honourable partizans, and the report is upon the face of it, the offspring of untempered zeal, insufficient evidence, hasty conclusions, and executive devotion.

How, Sir, could the report acquire any other character, when you consider the peculiar method pursued in its formation according to the avowal of the hon. and learned chairman. When the three liberal members of that committee expressed, in their places, their indignant dissatisfaction at the treatment they had received, he (Mr. McNab) frankly explained the novel way in which it was framed. The report he pronounced a month old! Each of his friends, it was said, had made a morsel of it, as the evidence came in, and the inquiry was going on. And my worthy friends were openly rebuked for being so conscientious, as to desire to hear all the evidence, carefully determine its sufficiency and compare it in all its parts before deducing their report from it. The hon. and learned chairman (Mr. McNab) deserves a patent for his new method. It is peace-meal fashion. It must have been borrowed from the patch-work of old women.

It is not impossible that this very document may claim something of a noble birth, though of an illegitimate kind. In the speech from the Throne, at the prorogation of the late Parliament, Sir Francis Head indulged in a complaint against the Select Committee upon the Executive Council question, because, as he alledged, "*contrary to form it made its existence known to him by directly applying to him, instead of through the House, for other documents and information which he immediately forwarded, without objecting to the irregularity of the application.*" This, Sir, was evidently an affectation of delicacy, for the purpose of criminating the late Assembly, to whom I desire to offer the tribute of my admiration and respect. For since the success of the various intrigues at the late elections, the above convenient delicacy has vanished; it was of a transient, perhaps, ephemeral nature; it was a sort of paroxysm, which passed briefly through its morbid stages, and left the illustrious patient in his natural temperament. Recall, as evidence of it, the singular scene which this House presented only a few days ago. The hon. and learned gentleman for Wentworth (Mr. McNab) under a *lapsus lingua*, rebuked the Hon. and learned Solicitor-General for opposing

a paragraph in the Report of the Select Committee on the Land Granting Department ; a paragraph, indeed, which he denounced as vicious and corrupt. And when the learned gentleman for Wentworth proceeded to exculpate himself, and involve the Solicitor-General in the crime of opposing the Government, he (Mr. McNab) expatiated with eloquence and warmth upon the fact, that the very paragraph so denounced was the very one which, of all others, Sir Francis Head himself, most particularly insisted upon retaining ! Oh, that I could now imitate the impassioned language and address of the learned Solicitor General ! With what indignation he condemned this court-intrigue ! With what honest zeal he denounced this unprecedented caucus ! With what sympathy he spoke of the privileges of the House, the purity of its proceedings, and the untainted independence of its members, as well as of his own exemption from all participation of such extra-parliamentary combinations ! But when we hear this innocent disclosure of His direct interference with the duties assigned to select committees by this Assembly ; when we discover Him to be in secret communication with members, and dictating the terms of Reports which are to be here introduced and hurried into laws ; who can, under such appalling circumstances, divest himself of the fear that a similar interference and control have been exercised over this Report ?—a Report, which would, in its rejection, establish such outrages against the liberties of the country, as would dissolve the elements of society, and even bring a King, guilty of them, to the very block. He who would thus violate the Constitution, in the very way which, at the late prorogation, he exposed to public condemnation in order to criminate the late Assembly, cannot be above suspicion of exercising the same influence on this occasion, for his own salvation. It is, too, a coincidence worthy of notice, that the hon. and learned member for Wentworth (Mr. McNab) was chairman of both committees, viz. : the one on the Land Granting Department, and the other on his Excellency, and he will excuse my presuming with those facts before me, that if the committee had no insuperable repugnance in the former case to accommodate themselves to the views dictated from the Government House, the latter committee would experience less repugnance to maintain similar communications with the same quarter upon a subject to which a man of honor must be exquisitely alive. I will not, in either case, impute this conduct to the committee as a fault, however momentous the error. It is difficult to repel the presumption, or rebuke the encroachments of men exalted in office and clothed with power. It needs a high degree of moral courage and an extensive acquaintance with the world, with dignity and effect to correct the ambitious advances of a Governor, temper him with constitutional principles, and keep him within the vice-regal limits of his authority. The censure, therefore, must primarily be imputed to him, who seduced the committee from their usual strict duty and natural high-mindedness. This Report, indeed, bears internal evidence of intense party feeling and unjudicial like investigation. It has not the generosity and ingeniousness of youth, or the temper and dispassionateness of maturer years. It has all the suspicious characters that would ascribe it in no small degree to the same head and the same pen as gave birth to the memorable addresses, which must presently be the subject of humiliating commentary.

It is a matter of surprise and regret, that this House negatived the motion, made by the hon. and learned Mayor, immediately to print the message

and documents bearing upon the question ; because it would have been a practical assurance of a disposition to conduct the enquiry *bona fide*, to acquaint the country with the details, and thereby apprise them of the testimony required. The same end might have been gained by adopting the course suggested to the committee by my honourable friend from Grenville, (Mr. Norton) who, as appears in the Appendix of this Report, moved that a series of questions, necessary to elicit the desired information, should be printed and circulated : a frank and honest course which would have induced from various quarters, both the complaints the people had to make and the testimony in support of them. But this proposition was unaccountably rejected ! No official notification was to be given the people of the facts alledged, and no queries circulated to facilitate the acquisition of proof. Surely, in the matter comprehending the whole face of the community and the alledged infringement, more or less, of the whole elective franchise, a co-extensive mode of investigation ought to have been pursued. The absence, nay, the rejection of a course so obviously suitable and just, exposes this report to much suspicion, and may well make us pause before voting for its adoption. For it is not a question of *principle* only, and therefore determinable, like a constitutional point, without an appeal to public testimony ; but it was a matter of fact chiefly within the knowledge of the great body of the electors, and susceptible of no satisfactory scrutiny without their co-operation.

It is, therefore, not so much the language of justice, as of a parliamentary majority, now to challenge us, as you do from the other side of the House, "to disprove the Report if we can." An opportunity has been asked and refused. Had you not felt that the more freedom you gave to inquiry, the more would the wickedness of late transactions have been exposed, you have both silenced objection and satisfied the demands of truth, by giving a further scope to investigation by those who, know the facts which you doubt, and are aware of testimony which you never sought ? When, Sir, I proposed the other day to refer this subject for additional evidence, it was met and avoided by a motion for the orders of the day, by the hon. member (Mr. Robinson) from Simcoe, a county which is said to have been, during the late election, specially deluged with executive corruption. It is a mockery of justice, it is an absolute derision of the people to invite us to disprove, and at the same time deny us the means. Give even now a fair opportunity, and it shall be done. But is it according to the laws of honor, or of parliamentary courage, for a majority to challenge a minority into the field, and deny them the free use of the same weapons as they use themselves ? Think not, however, that you have even by these means achieved a victory. This document, like all its kind, contains the elements of its own condemnation.

What is this ? The opinion of the Select Committee. But where, alas ! is the evidence comprising the Appendix ? Oh, Sir, that is not printed ! If the Select Committee needed evidence to arrive at these printed conclusions, do you think the House can by parliamentary magic, or a sort of hocus pocus conjure oculus, arrive at the same conclusions without any evidence at all ? Assuming solemn inquiry to be the object, and that we are bound by an obligation scarcely less sacred than an oath, to "render a verdict according to the evidence," the duty becomes impossible by the temporary suppression of the testimony in the Appendix. To judge of this Report every member

ought to see that on which it is founded. Were there no intention of imposing upon us, the Appendix would have been first printed and distributed; and after the lapse of a reasonable time for its careful examination, one or two resolutions founded on it might have been proposed for adoption. The order of truth, however, is inverted, and we are now called upon to draw a conclusion in ignorance of the premises! A jury of honest farmers would never give a verdict on a Lawyer's Record without first comparing its allegations with the testimony. It is equally preposterous for us to adopt this Report without first carefully comparing its allegations with the testimony in the Appendix. Amidst a pressure of business occupying the House from ten in the morning till a late hour at night, besides the duties of select committees and the necessary examination of passing measures, it is impracticable for 62 members to have access in the course of a few days, to a solitary manuscript of evidence, so as conscientiously to form an opinion.

But Sir, there is still further prima facie objection to this report. It has several times occurred during the present session that chairmen of select committees have made reports when members of them have stated in their place that they never heard a word about the reports till they were announced to the House. Upon one of those occasions the hon. and learned member for Wentworth (Mr. McNab) was the chairman; and those instances (the first in the history of Canadian Legislation) did not pass without animadversion. It is to be regretted that the exposure of those cases did not correct so discreditable a practice. But sir, the same manœuvre was resorted to on this occasion. The report was prepared, completed and introduced into the House without the previous knowledge of the three liberal members (Messrs. Norton, Woodruff and Parke.) They severally made their statements to this House; and I then submitted the following motion:

"That Mr. Woodruff has stated in his place in this House, as a member of the select committee to which was referred the message of his Excellency the Lieutenant Governor together with the petition of C. Dumcombe to the House of Commons in England, that about 7 o'clock on Saturday evening, he received a notice of a meeting of the select committee on the following Monday morning at 9 o'clock, but did not see the chairman at the house till about half past nine, when observing him go towards the Committee room, he followed him in about ten minutes, and found him there, with Messrs. Burwell, Prince and Sherwood; upon which Mr. Prince immediately said,—"*we have adopted the report;*"—that he then said to Mr. Burwell, "*it must be a very short report to go through it so quick*" to which Mr. Burwell answered,—"*we read it over on Saturday*"—of which meeting Mr. Woodruff had no notice; but that had he received any intimation that the committee were about to prepare a report he would certainly have attended. That Mr. Parke has also stated in his place, as a member of the said committee, that he had no notice of the preparing of the said report, nor any opportunity of examining or knowing the contents thereof; that he received a notice, late on Saturday night, to attend at nine o'clock on the following Monday morning, not specifying the object of the meeting, and that he heard the report was adopted a little before 10, on the same morning; and that he was refused by the said committee a view of his evidence, as taken down that he might be satisfied of its correctness, as was always allowed witnesses. And that Mr. Norton has stated in his place, as a member of the said committee, that he attended every meeting of the said committee although to his mind conducted unsatisfactorily, of which he received any notice, which did not exceed three sittings, not having been informed of any others; that he received no notice and had no knowledge of the preparing of the said report, except a notice late on Saturday night to attend at nine o'clock the following Monday morning, not specifying the object; and that at 10 o'clock of the same morning the report was adopted without his knowledge or consent, and therefore that the said report be referred back to a select committee, and the order for taking it into consideration on Monday next be discharged."

This motion, Sir, was lost by the previous question; the hon. member for Simcoe (Mr. Robinson) moved the orders of the day.

Admitting that these proceedings will be "perfectly satisfactory" in Downing-street, will they be so to the British House of Commons, or the British nation, or the Canadian people? Would a verdict be received by a Judge, unless as corrupt as a Scroggs, or a Jeffreys, when rendered by a foreman without the knowledge of three of his fellow Jurors? It appears as if it had become known that evidence had been quietly collected with great trouble and expense, as well as unavoidable delay; that it was about to pour in from all quarters upon them with shaming and overwhelming force; and that utter discomfiture could only be averted by this bold manœuvre; a course which no martyrdom could induce my honorable friends to sanction. Every appeal to the honor, justice, candor and dignity of the House was made in vain. The three hon. gentlemen I have named, were doomed to submit to the indignity; the House refused them its protection; and the report under all these circumstances was received, and will undoubtedly be adopted.

But all this is in perfect harmony with the proceedings upon the contested election for the 2nd riding of the metropolitan County.

Mr. Mackenzie in behalf of himself and the electors of the Second Riding of this District, petitioned the House against the sitting member (Mr. Thompson.) By our rule it is provided "that all petitions to be introduced shall be brought in immediately after the minutes are read, and that such petitions shall be read by the Clerk, after the third reading of any bills that may stand for that purpose on the order of the day; provided such petitions shall have laid on the table two days."

In this rule, to suit our modification of English practice, the term *presented* is avoided. The petition "to be introduced" is "brought in," then "lies on the table two days," and is then "read." These stages constitute its presentment. Election petitions have (properly or improperly is not now the question) always been subjected to this rule. Hence the one to be introduced in the above instance of Mr. Mackenzie was "brought in" on the 20th December, laid on the table two days, and on the 22nd was *read*.

By the Provincial Act 4th Geo. chap. 4, it is enacted,—“That whenever a petition, complaining of an undue election or return of a member or members to serve in Parliament shall be presented to the House of Assembly, a day and hour shall by the said House of Assembly be appointed for taking the same into consideration; and notice thereof in writing shall be forthwith given by the Speaker to the petitioner or petitioners, and the sitting member or members or their respective agents.”

By another act in amendment of it, the petitioner is required to enter into recognizances within 14 days after the petition is presented. It appears, therefore, that both the House and the petitioner had a duty to perform when the petition was *presented*, the one being bound to appoint a day and hour for its future consideration, and the other to enter into security for costs within fourteen days. I first ask the question, when did the house consider the petition *presented* so as to require them to name a day and hour? Was it when it was brought in? No. Was it when put on the table? No; but after it was brought in, and had laid on the table two days, and had been read. Then, and not till then, did the house act on it. But if they did not consider it presented under the law till read, surely the petitioner was entitled to the same construction. The petitioner seeing them adopt this rule of computation in their own conduct, applied the same rule for his

own guidance, justly supposing that if he regulated his proceedings by those of the Assembly he could not be wrong. But although they did not consider *on their own part* the petition fully *presented* till it was *read*, yet on the part of the *petitioner* it was considered as *presented* when it was brought in, although under a rule of the House it was in abeyance till read. One rule of law for the house, and a different one for the petitioner; one measure of justice for ourselves, and another for the people praying us for relief!—Generous to ourselves, ungenerous to others! Excusing our own omissions, and yet dealing to our constituents such rigidity as would discredit the sharpest and keenest Attorney. And this sharp practice, too, under our unjust construction of the law, for the improper purpose of stifling inquiry! Calculating the 14 days for Mr. Mackenzie, from the reading of the petition, when the house themselves acted on it, and it was unfolded and its contents disclosed and thereby presented to them, he had the whole of the 4th of Jan. to enter into the recognizances; yet on that very day this house struck the order, for taking the petition into consideration, off the order of the day; and, as it were, signed judgment; although it was notorious that the petitioner was at the bar, anxious to avert that course and give the required security, and prosecute his complaint. Such conduct will not bear investigation: and is calculated to excite a distrust of the power and justice of this house, and a belief of their fear to allow the alleged corruptions at the late general elections to undergo a fair and full investigation. An inquiry involving the character and constitution of this Assembly, the conduct of the Executive Government and the freedom of the elective franchise, ought not to be arrested by captious objections, or a convenient two-fold interpretation of the law. The act enjoins that notice shall be immediately given to the petitioner by the Speaker, upon a day being appointed for taking the petition into consideration. From the journals of the English House of Commons I find that it is their practice in such cases to introduce and read the petition immediately, and appoint a day for taking it into consideration, notice of which is forthwith given to the petitioner. This notice instead of being given on the 22nd, was omitted till the 30th December! The negligence of the Speaker is the negligence of ourselves. Every member must impute to himself parliamentary laches; we are individually convicted of abridging the notice which would otherwise have put Mr. McKenzie and his Attorney on their guard. Having been thus guilty of laches ourselves, ought we rigidly to have held the petitioner unexcused, even had he been guilty of laches too? We ought to have allowed him 14 days from the time the Speaker actually gave the notice in fulfilment of the law. So rigidly do they adhere to the Statute in England that they immediately upon reading the petition give notice to the petitioner of the day appointed for taking it into consideration. The law in force here is a copy of that in force in England, and are we not as much bound by it as they are in England? The only difference is that a petition has here to lie two days upon the table, before being read and acted upon, but when acted upon, notice should be forthwith sent to the party petitioning.

Mr. Mackenzie, too, was fairly entitled to 14 business days of this House. But in order to deal out to him the most scanty and niggardly measure of justice, we refused to give him the holydays which we sumptuously bestowed upon ourselves. On the 22nd of December, the day the petition was read

and a time appointed for taking it into consideration, we adjourned till the 2d January in order to eat roast beef and plum-pudding. Amidst all the feasting and convivialities of the season, Mr. Speaker and all, forgot to give the 14 days' notice to the petitioner. It was pardonable. With stomachs greeted with the richest delicacies of the season, and with heads and hearts bathed in Madeira and Champaigne, you could not rationally be expected to condescend to smaller things. Granted. But the epicurean philosophy of a Roman age should breathe generosity towards others amidst self-enjoyment. Mr. Mackenzie had his Christmas relaxation amidst an amiable and interesting family; and wrapt up in the christian duties of the season, he was absorbed in the hope of seeing ushered in, a new and happier year. He might have thought the absence of the Speaker's notice, intended to express the philanthropy of the House extending to him the same seasonable recreation as they enjoyed themselves. But—will posterity believe it?—while you were relaxing from all the cares of the country, and forgetting even the duty required by the law from you to Mr. Mackenzie, you would allow no corresponding relaxation for his still enfeebled health, no apology for his supposed forgetfulness, and no pardon for laches not greater than our own! Had he come here for the Speaker to enter into the recognizances during the vacation, he would have found nothing but the three-cornered hat! Our high court of Parliament was closed, ourselves dispersed, and our worthy Speaker lost in city festivities and Highland bliss. TEN DAYS of the fourteen allowed Mr. Mackenzie, were merged in our holidays!! If His Honor went to his country seat at Perth, was Mr. Mackenzie to follow him? Oh, melancholy display of Parliamentary infatuation! History will record this injustice, and Sir Francis may praise it, and Lord Glenelg may ratify it; but posterity will rise in judgment against it, and transmit it with your unenviable heraldry to future generations!

Mr. Mackenzie, it must be further remarked, acted upon the computation of time, which he learnt to be the proper one from Mr. Patrick, an experienced and intelligent officer of this house. Good faith required that we should not allow wrong to any individual acting upon information gathered from such a source. The House had power under the act to enlarge the time for entering into recognizances; the refusal to exercise that power for the promotion of enquiry, affords a ground of suspicion which no explanation can do away.

Supposing a full and satisfactory trial to have been our sole and hearty desire; the sudden arrest of all proceedings upon the above petition, and the pertinacious refusal to allow them to be continued or in any way renewed, have defeated our own honest views! We had an object to attain; we forgot the most effectual means! I beg, Sir, your pardon; we did not forget—the means were in our hands, and we let them go; they were in the very course of operation, and we stopt them: our memory was jogged and jogged again to recognize their justice and importance, and we did not: we were again and again solicited to revive those proceedings, and we refused. By this conduct we lost an opportunity of taking the evidence, affecting the charges against Sir Francis, UPON OATH. Had the trial been conducted before a Greenville Committee, the very members of it constituting the judges, would also have been sworn to the faithful and upright discharge of their duties. It would have been a tribunal acting under the solemnity of an oath, and receiving evidence under the same sanction. It would have been

guarded, therefore, by those sentiments of honor, to which this House is properly alive, with the superaddition (not to be spared) of the higher motives of religion. Had this Select Committee been held to their duty by the sacred obligation of an oath, would they have met in so desultory a manner? Would members have so unceremoniously retired from the judgment-seat, and others as unceremoniously taken their place and duties without having seen the earlier stages of the inquiry, and scanned the deportment, appearance and very physiognomy of the witnesses? Would not all have followed the industrious and punctual example of the hon. and learned members for Wentworth and Brockville (Messrs. Sherwood and McNab) who respectively sate 12 and 14 days, while others sate 2, 3, 4 and 5 days? Would they have solemnly adjudicated upon the whole elections of the country in 14 days with as few witnesses, except themselves and half-a-dozen other members? Would they have drawn up this Report by piece-meal as the evidence was given? Would they have offered the indignity which has been received by my honorable friends (Messieurs Norton, Woodruff and Parke,) and have drafted, considered, and adopted this report without their knowledge or consent, though associate judges? Would they have acquitted Sir Francis of all undue influence and executive corruption before and during the late elections? Let the people answer the questions.

It is, therefore, one of my objections, Sir, to this report, that it is an inferior substitute for a more complete investigation. It was forced upon us, when a far better was at command. It has compelled us to accept the judgment of the judges and the testimony of the witnesses upon their Parliamentary honor, instead of their oath. The uncharitable world will say, we shunned the clearer light because our deeds were evil. We appear to have evaded the truth as an enemy, with whom we dare not grapple in his strength. Pray, Sir, let us yet take that course. It is not too late. Do it out of justice to Sir Francis; for such an inquiry as this, so conducted and so completed, will make him appear to be guilty, even should he be innocent.

With these facts before us, it is matter of surprise that so few petitions have been presented against returns? What suitor would institute a law suit in a court which he apprehended, or misapprehended if you please, to be corrupt? It is notorious that there are loud and universal complaints of every species and degree of executive corruption exercised at the late contests. Now the very circumstance that those complaints are not embodied in petitions before us, implies a distrust, well or ill founded, of the constitution and purity of the Assembly. In times past there have been numerous contested elections without a hundredth part of the dissatisfaction which I learn from every section of the country. Some to my personal knowledge reluctantly abstained from taking this step from the apprehension that the House was so constituted as to justify their fear of being seriously and unjustly involved in ruinous costs by an arbitrary declaration that the complaint was frivolous and vexatious. Such a fear was of course, unfounded. But what better fate could they expect than Mr. Mackenzie? What better fate than Messrs. Norton, Woodruff and Parke?

The select committee, as I before remarked, dispose of what they call "the minor parts of Mr. Duncombe's petition" and then "advert to that portion of it that may justly be considered as of the greatest importance, viz.: the accusation against his Excellency the Lieutenant Governor."—Very true.

This is the key to the whole proceeding. Not a word of concern is there from the beginning of the report to the end of it about the rights and liberties of the people, or the freedom of election. Here you at once detect the bias of the mind. The grand thing, the one of greatest importance was the "accusation against Sir Francis." Are we the representatives of the people or of Sir Francis? In my apprehension with all imaginable deference to the committee and the House, the question of *greatest importance* is, has the confidence of the people been abused? Had they secured to them a peaceable election? Had they extended to them every facility to exercise their franchise? Were they protected from orangeism? Were they unawed and uninfluenced by the undue and corrupt exercise of executive power? Sir Francis, on the contrary, is mentioned as their first care; the people, the last!

Let me then, proceed to inquire from the internal evidence of this report, and from acknowledged facts, whether Sir Francis is or is not guilty of directing unconstitutional means against the elections.

The allegations may for the sake of arrangement, be classed into 1st. Orangeism—2nd. Returning Officers and places of election, and new patents, —3rd. every species of miscellaneous influence which high station could command and corruption exercise.

Orange influence is more easily *felt* than *proved*. It is not unlike that oppressive condition of the atmosphere, which is felt in all its uneasy effects, but is otherwise intangible, undiscernable and beyond detection. The very secrecy of these baneful societies necessarily imparts to them this character. Nine persons out of ten in the Province would acknowledge the prejudice which sprang from this Orange source, and exerted itself, whenever it was deemed an expedient auxiliary, throughout the country. But to put your finger upon it, is the difficulty. The existence of these combinations is known, and many places of their meeting; but the moment you attempt a closer inspection of the composition and operation of them, you are eluded and defied. You might as well try to grasp and examine globules of quicksilver scattered on the ground. You remember, Sir, the mysterious disappearance of Morgan among the secret fraternity of freemasons. The most exact, laborious and protracted investigations were instituted, but all fruitless; and his fate up to this hour is wrapt in dark conjecture and painful surmise. To declare, therefore, that the late elections were not pervaded by an Orange influence, so universally experienced, because not specifically and personally proved, is not more unreasonable or untrue than to deny the prevalence of a peculiar condition of the atmosphere in the cholera season of 1832 and 1834, because the chemist could not exhibit it in his laboratory.

Dr. Duncombe, therefore, might be correct in point of fact, and carry with him, as he undoubtedly does, the belief of the great body of the people, and yet be unable to demonstrate the Orange agency in detail. And perhaps the Select Committee, even had they really endeavored with the full extent of their authority, to scrutinize the thing to the utmost, would have failed. In England and Ireland the same Orange Lodges long existed, and carried their machinations to such an extent as to endanger the liberties of the people and the stability of the Throne; and when the British House of Commons instituted a searching inquiry, it is evident that much remained unrevealed, though enough came to light justly to alarm the nation. Such, and far worse, is our situation. We have the same latent evil without an adequate inclination to investigate on the part of those who have the power.

The minority cannot, and the majority, I believe, will not do it. In the absence of positive proof of Executive countenance to Orangeism, let me remind you of the significant conduct of Sir Francis Head upon this subject.

When he assumed the government of this country, orange violence was bold in its position and disastrous in its operation. The history of three successive elections in Leeds, affords a painful testimony, upon which I could, but must not dilate. The honorable member for Lanark (Mr. Cameron) touched upon that subject with much effect. And who that entertains an atom of respect for the honest, worthy and peaceful farmers of Upper Canada, did not feel a horripilation upon hearing that in approaching the hustings in 1835, they were insulted and beaten; that their clothes were ript up in the crowd; their bodies pierced and lacerated with cutting instruments; and their blood made to fill the very boots they wore! [Dr. Rolph then turned to Mr. Cameron and said, is this a true picture? To which he answered affirmatively.] On that occasion Deputy Grand-Master Gowan and Attorney General Jamieson were associate candidates. It was not without heaps of acrimonious scurrility and abuse, that the election was set aside. Beverly, in Leeds, was the scene of these atrocities; and the Returning-officer, high sheriff of the Johnstown district, swore before the Grenville committee, that it was in every respect an unsuitable place, one in which he did not think a peaceable election could be attained. The Executive government, however, again ordered the same returning-officer to hold a second election at the same place. The same tragedy was re-enacted; the same cruelties were practised, not without the loss of life; plainly revealing that we had a Government indisposed to protect the people in the exercise of the elective franchise.

Let me read the resolutions reported by the Grenville committee upon these memorable occasions. Upon the first trial I find the following:

Resolved, That it is the opinion of this committee that at the late election for the county of Leeds, insult, interference, riot, force and violence, were used to so great an extent as to interfere with and prevent the freedom of election, and that the excitement had so increased by the morning of the fourth day of the said election that it appears to the committee to have been conceived by the Returning-officer and civil authorities on the ground to be beyond their control, and that the supporters of Messrs. Buell and Mathew M. Howard, Esquires, candidates at the said election, were deterred and prevented from exercising the elective franchise in peace and safety, and voting at the said election."

Upon the second trial I find the following:

Resolved, That in the opinion of the committee, violence, riot, and intimidation were carried on at the late election for the county of Leeds to so great an extent as to deter peaceable and quiet electors from going forward to give their votes at the said election, and to materially interfere with the freedom of election, and to prevent the voice of the electors of the county from being taken, and that therefore the election and return of Robert S. Jameison, Esq., and Ogle R. Gowan, Esq., to represent the said county be declared void.

Resolved, That in the opinion of the committee there is no probability that a peaceable and quiet election will be held in the said county of Leeds under the present excited feelings of a portion of the inhabitants of the said county, and under the present law for holding elections, and therefore the committee deem it proper to recommend to your hon. house that no writ for a new election be ordered until steps are taken to secure the freedom of elections, and enable peaceable and quiet electors of the said county to exercise their elective franchise in peace and safety."

An arduous duty devolved upon the late House of Assembly, and they discharged that duty with a wisdom and firmness which ought to endear their memory to all the electors of the country. Satisfied by the evidence produced at the trials, that the inhabitants of the County of Leeds

could not, without some remedy against the perpetration of this violence, obtain a fair representation, they passed a bill which provided for the conduct of the election at, I believe, 4 different places; by which arrangement, the Canadian Deputy Grand-Master of Orangeism found his forces weakened by subdivisions, and obliged to array themselves at places where they were not so well received or so safe in their operations, as at far famed Beverly.

This bill so treasonable in its provisions and so patriotic in its object, was at first rejected by the Government, or, which is virtually the same, by the Legislative Council.

At Farmersville, too, in the vicinity of Beverly, a riot not less shameful and outrageous had taken place. The farmers were peaceably assembled at a public meeting, for the purpose simply of voting their thanks to Earl Ripon, then his Majesty's principal colonial Secretary of State, for his celebrated despatch, and generally for his benevolent deportment towards the people of the Province, for his generous consideration of their wants and wishes, and for his constitutional respect to the infant institutions of the country through which he appeared desirous, as far as possible, to administer their public affairs. The Tories and Orangemen, hating Earl Ripon for his liberality, made a violent attack upon the chairman, dragged him from his seat, and inflicted severe blows in addition to other indignities.

The existence of this kind of combination for outrage, violence and intimidation, was thus abundantly established; and it became the duty of the late House of Assembly to exercise their constitutional power and influence for the further and future protection of the people. Sir Francis Head professed the character of a Reformer. Suspicion was, indeed, justly awakened by his evasively alleging to the late Assembly that "he had better steadily look forward to the future than he observed in occupying himself solely in re-considering the occurrences of the past; and that altho' the latter occupation was not useless, yet that to attend to both was impossible." This language showed but little disposition to learn from the history of the colony its existing condition; and if he shut his eyes to the events of the past, how could he judge of men and things for the future? In the same evasive manner he talked of redressing "only real grievances;" by which convenient political formula, he armed himself with a ready excuse that any assignable grievance was not sufficiently "real" to demand redress! While he would himself scarcely lop off the top of the most noxious weeds in the process of shedding their seeds, he has in unmeasured terms denounced the people who desire to take them up by the roots. Notwithstanding their distrust of his sincerity, the late House of Assembly hoped at all events to obtain from him some relief against this Orange combination, then so alarming in England, and not less so here. They therefore sent him the following address:

"That your Excellency will be pleased to inform this House whether the government of this province have taken or determined to take any steps to prevent or discourage public processions of Orange societies or to discourage the formation or continuance of such societies?"

To which address Sir Francis Head sent the following answer:

"The government of this province has neither taken nor has it determined to take any steps to prevent or discourage the formation or continuance of such societies."

How, sir, could any man with the history of this colony before him, give such an answer to such a request from the representatives of an almost bleeding people, unless he was, indeed, devoid of all sympathy for the peo-

ple he governed ; insensible to the value of their dearest rights ; indifferent to their peaceful exercise of them ; and absolutely steeled by his Poor Law Commissionership among the poor in Kent, against the essential sentiments of humanity. Here an evil existed affecting the peace, welfare and good government of the country. He was asked by the late Assembly, in the most delicate manner, not to correct it, but if he intended to correct it ; and he answered in the negative. This pretended reformer was pointed to a real grievance of the first magnitude. He was asked by the reformers to redress it. He refused !

With these facts, sir, before me, can I justify myself to the country, if I vote for the adoption of this report, which acquits Sir Francis Head of directly or indirectly countenancing the orange combinations brought to bear against the people at the late elections ? Impossible !

What better encouragement could orange associations receive, than this peremptory refusal to *prevent* them ? What more effectual countenance than this refusal even " to discourage their formation ? " What more certain support, than this refusal to interfere against their " continuance ? " He must be an orangeman himself ! He must be one of the initiated ! He was conscious, under this appeal for their suppression, of tender sympathy for his own fraternity ! His conduct admits of no other explanation ; it involves a difficulty, which is susceptible of no other satisfactory solution. And never will I vote for this Report, which represents him as the enemy of orangeism, when he has thus professed and proved himself, its friend and patron.

I am aware of the apology offered for him. He was not at that time apprised of a similar request from the British House of Commons to his most gracious majesty, and his Majesty's most gracious and patriotic answer.— Let me consider it. In the first place I observe a singular coincidence of wisdom and patriotism between the House of Commons and the late House of Assembly. Compare, Sir, their respective addresses.

The House of Commons on the 24th Feby., 1836 :

Resolved, That an humble address be presented to his Majesty, praying that his Majesty will be graciously pleased to take such measures as to his Majesty may seem advisable, for the effectual discouragement of Orange Lodges, and generally of all political societies excluding members of a different religious faith using secret signs and symbols, and actions by means of associated branches."

This singularly comports with the address of the late Assembly. Each, careful and anxious for the public tranquility, appeals to the Throne for the attainment of the same end ; the King is requested to do it, while his Representative is simply asked if he intends to do it. Each was engaged nearly at the same time in attempting to secure the same redress of the same grievance in the same manner, and nearly in the same terms.

This fact alone confers a glory and distinction upon the late House of Assembly, which history will record and perpetuate. The man who has traduced them, and seduced a guileless people unworthily to desert them, will live, indeed, upon the same historic page ; but it will be in the contrast of a light and shade, which will for ever strikingly exhibit each extreme. Compare, sir, in the next place, the respective answers of his Majesty and his representative.

HIS MAJESTY :—

"I willingly assent to the prayer of my faithful Commons, that I would be pleased to discourage orange lodges and other secret societies. It is my firm determination to discourage all such secret societies in my dominions; and I rely confidently on the fidelity of my Loyal Subjects to support me in this determination."

SIR F. B. HEAD :—

"The Government of the Province has neither taken, nor has it determined to take, any steps to prevent or discourage the formation or continuance of such societies."

Behold the contrast! Behold the difference between being governed by a King identified with and living in the midst of his people, and being governed by an unsympathising stranger! It speaks volumes. The late representatives of the people (the people will hereafter honor and revere them) begged from Sir Francis quarter for the stabbed and wounded electors of Leeds. There is his refusal, which may be said to be written coolly in their blood! Every future outrage, every life it sacrifices and all the gore it may shed, must rest upon his head. The inhabitants have already recovered from their panic and delusion: they are already conscious of the impositions that have been practised, the frauds that have been worked upon them; and there is not a Canadian by birth, by education, or by feeling, who does not acknowledge a pang at the thought that he was beguiled to betray and desert as honest servants as providence ever bestowed upon a free people.

Such was the answer of Sir Francis Head to the late House of Assembly. He was not aware of his Majesty's answer: and therefore we know what he would do if he could. When he was ignorant of the coming mandate from Downing-Street, and when he hoped to rule such matters in the plenitude of his prerogative and self-will, he resolved to nourish these Orange Grievances. Fully apprised of their evil and magnitude in England, whence he had lately come, he coolly and deliberately contemplated their perpetuation in this devoted land. If he should now redress this real grievance, it will be from necessity and not from choice. It will be because the King commands and he must obey. Yes, he will now do to retain his office, what he would not voluntarily have done to protect the people.

During the present session, the same subject has been brought under his notice. He transmitted to us by message certain documents from Lord Glenelg; and an address drew from him some further information on the same topic. It is remarkable that on neither of those occasions did he volunteer one generous assurance to the people that he would use his influence and authority to discountenance and put down these Orange associations. We have seen enough of Colonial Government to experience how frequently instructions from Downing-Street are evaded, delayed or openly disobeyed. Now after chilling the country with the declaration that he did not intend to redress this real and portentous grievance, surely duty and good feeling required him (if he really intended it) to cheer us on such appropriate occasions with an assurance of his resolution promptly and cheerfully to pursue an opposite policy. But both his late messages are sullenly silent upon that most interesting point. The House is, indeed, informed that he is ordered to do it, but he accompanies his instructions with no intimation of his readiness to comply. Was such significant silence intended to avoid a pledge which his opposite determination would not allow to be redeemed? Was it to forbear a promise which he knew he never would fulfill? Or for

what other reason could he so pointedly abstain from tendering on two suitable opportunities, an assurance which was needed to counteract the apprehension occasioned by his former answer, and convey to all bands of Orangemen the expression of his displeasure, and the veto of his authority?

But he did not choose so to exercise his Majesty's prerogative; and with such facts before me, can I justify myself to the country if I vote for the adoption of this report, which acquits him of directly or indirectly countenancing the orange violence and influence brought to bear against the people at the late elections? Impossible!

The extent of the influence exercised by means of recent patents, will perhaps never be fully ascertained. It is among the secrets of the government, and we have upon this occasion only as much information as they choose voluntarily to disclose. Any such suppression is not alleged as a complaint, for the error must be traced to ourselves. Whatever is imputed to Sir Francis, necessarily attaches itself to this Assembly; and yet we are assuming to ascertain the condition of the country, which, if the prevailing outcry be true, has been so flooded with corruption, as to sap the very foundation of public liberty, leaving no other unimplicated source for redress, than the paramount authority of the Parent State, or the original and fundamental power of the people.

Application has been made to Sir Francis by address, for what you consider the necessary information respecting the patents. This information is to acquit or convict him. The charges must be true or false; for if you refuse to admit the alternative, the investigation is childish. But if true (your own inquiry admits the question doubtful) is he worthy of credit?—Would he not even be capable of making false returns? Would he not shelter himself under the maxim, no man is bound by law to criminate himself? Self-preservation is the first law of nature, and although some men there are, who would yield office, emolument and life itself, rather than sully their honor, yet such heroic morality cannot fairly be assumed for those, who are thought fit subjects for this new-fashioned impeachment. Culprits have been known to protest their innocence to the very last. The view of death; the certainty of being ushered after a brief struggle into a fearful eternity; and the prospect of a final doom, the duration of which no time can measure, the pangs of which no tongue can tell, have not been overwhelming enough to awe some men into repentant confession. But with the most solemn protestations upon their dying lips, you launch them into another world.

This is your ordinary course of justice. It is founded upon the maxim, that the accused cannot be witnesses for their own acquittal. Yet with boasting and exultation you spread out certain returns furnished by a Government impeached for Treason, and call upon us to admit those returns as the means of exculpation. The exculpation too, which you so promptly and unhesitatingly recognise, is also an exculpation of this House; for it equally proves on the one hand, that the government inflicted no wound upon the liberties of the people at the late elections, and on the other hand, that we are the free and independent representatives of a free and uninjured constituency. This kind and source of proof (to say the least of it) needs, and ought to receive abundant corroboration; or the question never should have been agitated. It is impossible for me to decide what further information might be collected from a variety of quarters; nor would the House favorably

entertain a motion recently made for the purpose of a more extensive investigation. I am obliged to form my opinion from this Report and its appendices, which I have had an opportunity of cursorily reading only once.

The evidence upon this subject, furnished by the Committee, is open to suspicion. Take the testimony of Mr. Ritchie as an example. It is not very long; and I will read it.

“WELLESLEY RICHEY, Esq., *Agent to the Commissioner of Crown Lands* lives at Barrie on Lake Simcoe, took out some deeds for the persons settled in that part of the country the settlement of which he had been superintending—Many of the persons for whom he took out deeds had been on their lands for four years and upwards, and none less than three—That he took out no deeds *except he was authorized to do so by the owners of the land*—That he distributed the same openly and without reference to whom the patentees would vote—That he mentioned to the Lieut. Governor that the persons who wanted their deeds were entitled to them, *and thought they would vote for constitutional candidates*—That Sir F. B. Head *strictly commented witness not in any manner to interfere as Govt. Agent or use any influence his situation gave him at the election*, but to hand the deeds openly to them that were entitled to them, which witness did—That out of a number not exceeding 130 patents which persons residing in the country were entitled to, and which were in witness' possession for them, only about thirty were called for, and only part of that thirty voted. Witness states that it was strictly his duty to get out the deeds for such persons as he had settled and were entitled to them; no deed was issued except all the conditions of the grant were complied with—Attended the election of Simcoe—Is an Orangeman—There were no bands of organized Orangemen at the election, and if there had been witness must have known it.”

This witness presents himself in the two-fold characters of “agent to the commissioners of crown lands,” and private agent for other persons. This mixture of public and private agency, often produces conflicting duties. He had in this case to serve divers masters; and if the allegations against the government are true, he had to accommodate a corrupt executive conspiring against the freedom of the elective franchise, and numerous electors of all tempers and of all creeds in religion and politics. The task upon the face of it would be indescribably difficult, if not impracticable; and it shows the impolicy of thus blending duties which may from circumstances become incompatible, conflicting or compromising. But we must take the witness, as we find him, with the further honors, blushing on him as an ORANGEMAN.

He informs us that he took out no deeds unless he was authorised to do so by the owners of the land.” We afterwards are told he took out “130 patents” of which “only 30 were called for.”

This is rather mysterious. One hundred persons give special instructions to their agent for their deeds; and yet are so indifferent upon the matter as not to call for them! I have often remarked the eagerness with which our farmers lay hold of the King's patent for their title. The estate it conveys is the support of themselves, and the inheritance of their children. It embodies the interest and feelings of the whole family. There is always a special place for it, in their once happy homes; and when they do grasp it in their hands, they lodge it among their treasure. It transcends belief that one hundred persons so anxious about their deeds as specially to combine to employ a common agent, would not afterwards even call for them!!

This apathy ill accords with the evidence of the Deputy Registrar, who represents the public office so prodigiously thronged by anxious applicants for tidings about their deeds, as to arrest all business, and blockade the buildings. It is strange the good people should take a pilgrimage to Toronto about Patents, which were not, in their estimation, worth seeking for, when brought almost to their homes. Mr. Jarvis is a man of honor. How, then, can it be explained? Just, sir, as you explain that condition of the mind;

under which you say "a minute seems to me an hour." It was a delusion. Every welcome visitor of Tory visage, made the impression of an hundred at another time; and with a head whirling round with the intrigues going on, he felt and believed every thing about him to participate the same pressure and confusion. It proves to my mind, that Sir Francis and his satellites were in busy motion all the while.

Suppose one hundred and thirty persons of my good old friends in Middlesex had been on their farms three or four years; that they had made the stubborn oaks, with their numerous rivals in the forest, to lay prostrate at their feet under the sweat of their brow; that they had paid the fees and performed the settlement duties; that they had with all the labour and under all the privations incident to a new settlement, cleared a comfortable farm, erected a house, and filled it with all which constitutes the charm, called *our home*; and that they were then told their deed would await them at London on a given day. Do you believe one hundred of that number would fail with all alacrity and zeal punctually to obey the happy summons? And suppose further that they had themselves with previous solicitude, paid the same agent to bring them. Do you not feel it to be still more incredible that they would stay away with indifference? And suppose still further that the time and place of their own arrangement and previous concert with their agent, was an eventful general election. Do you think it possible that one hundred would under all these circumstances, forget or neglect their own arrangement to secure their estates by putting their deeds into their pockets? This defies my credulity. There must be some mistake. The matter has not yet been sifted to the bottom.

It appears from the Report (page 12,) that besides the above 130 patents, others also destined for the election of Simcoe, were placed in this witness's hands, making a total of 303!! Mr. Ritchie had delivered to him "all the patents remaining in the office, some of them 10 and 15 years old, and not knowing whether the grantee lived in the county or not;" and of this number "170 were returned, the owners not having applied for them."

Those admissions are important, and force a conclusion the very opposite to what they were intended to induce. During the last 15 years there have been six elections; at neither of which so much officiousness was manifested by the public functionaries, as to send these deeds "in a wild goose chase" after their negligent owners. The very fact that government patents were thus crowded at the Simcoe poll at "hap-hazard" to find voters; betrays a very suspicious activity: it is, too, an executive activity exerted on this occasion only, and is inseparable from the prevailing complaints of corrupt executive influence. Even the dusty deeds from their dusty shelves were called into play. They rumaged for everything new and old, known and unknown, called and uncalled for, in order perchance to hit upon some stragling claimants, who would gratefully reward an obsequious government with their votes! Sir Francis and those who accepted his gracious invitation, "to embark their interests with his character in the same boat," must have trembled at an impending shipwreck, when, as a forlorn hope, they threw over, as it were, every anchor at random, without previous soundings or moorings, to find for them a chance salvation.

Of the above deeds, 170 were returned. For what purpose were they sent? Let any farmer in the country imagine himself at the hustings, either as a candidate or an elector, and that when the polling began, a

government land agent arrived, loaded with 303 patents, direct from the executive departments; would not the announcement produce an instantaneous panic? Would not the electors be immediately disposed to retire from an unequal contest? And would not the popular candidate withdraw from, apparently, an unavailing struggle? There is offence enough to my mind, in exhibiting at an election such an array of government deeds in the significant custody of a government agent. It is no defence to say, 170 of them were useless; perhaps sham deeds. A fictitious display is sometimes made in the art of war to deceive a superior enemy. And it is remarkable that the very effects, immediately rumored to have been produced at the Simcoe election, were precisely what you would a priori expect from the operation of these acknowledged causes. The law prevents a parade of 303 soldiers at the hustings, (though Sir Francis might pretend them to be for the comfort of the electors) and the parade of your government patents was equally intimidating and discouraging to the voters, and equally wicked and disgraceful in the executive.

The witness states, "that he distributed the same openly and without reference to whom the Patentees would vote"—This is singular phraseology. When the question is asked, "to whom would the patentees vote?" The grammatical answer is, *the returning officer*. He is the person who receives the vote, or to whom it is given. But 'tis not said to have been done *without reference to the voter to know for what candidates he would vote*. Admitting that though not so expressed, it was so meant; it is loose evidence from a committee on which have sat FIVE LAWYERS!!! But concede to Sir Francis the benefit of giving to the evidence in his favour an import which it does not really bear; still there is the absence of that cross examination which was necessary to elicit the truth and the whole truth clearly and unequivocally. Hence this ambiguous sentence not only remains unexplained, but is rendered still more ambiguous by the very next declaration of the witness, "that he mentioned to the Lieutenant Governor that he thought that the grantees would vote for constitutional candidates." The evidence therefore, implies that he had *previously* electioneered for Sir Francis, and consequently he needed no repetition of such intrigue at the hustings. True, perhaps, it was, that the deeds were given at the election openly and without reference to voters, as to the political use they would make of them. But of what avail is such a declaration, if the point had been previously concerted, or agreed upon, or understood? And unless such a previous canvas had been made for Sir Francis, how could the witness tell the manner in which they would exercise their elective franchise.

You will admit, sir, that while there is ambiguous evidence of Executive influence at the election, there is positive evidence of an antecedent ascertainment of their disposition to vote for "constitutional candidates," an imposing title lately assumed by the Tories. There is no sifting examination by the committee, almost of lawyers too, respecting the time and mode of getting this information. He might have been previously employed and paid (for any thing that appears in the examination to the contrary) to peddle through the settlement the viceregal appeals, to be presently noticed to the hopes, the fears and the passions of the electors; or they might have been worked upon in various ways, which could only have been elicited by a faithful cross examination. The fact, unexplained and unsifted by so learned a committee, allows room for unfavorable surmises. Assume for

example, any county of the Province, and where is the man who could vouch for 303 electors? The witness does not think that *many* or even *most* of them would vote for the tories, but he expresses an unqualified opinion about all. In a country like this, with great diversity of political opinion, and no small share of party feeling, it appears incredible, impossible that 303 electors could in any assigned limits be found with this almost miraculous unanimity. But this unanimity, sir, might have been ascertained and insured by actual communication with them, by a significant lecture upon the value of their deeds coming to the poll, and the matchless excellence of Sir Francis's "bread and butter."

The witness was of course, "strictly commanded not in any manner to interfere as government agent or use any influence his situation gave him *at the Election.*" The whole evidence, (loose, indeed, and unsatisfactory,) is without any date or approximation to dates. But no matter when the "command" was given, why was it limited by the expression "at the election." Every man, much more every government agent, knows that little mischief can be done "at an election," when compared with what can be accomplished *before* an election. It really seems to me, from this garbled evidence in the appendix, that the witness had explained to Sir Francis more in detail than we have it, the services he had rendered, the deeds he had in a bushel, and the votes he had secured; when Sir Francis fearing the witness might commit himself at the hustings, cautioned him to suspend all operations "at the Election." It was good advice as far as it went.—But it did not go far enough. The limitation might be taken by a zealous partizan to give him every scope, except the interdicted time and place, "at the Election." Words are known to some men in all their force and meaning—and in this case we are not scanning the language of a farmer, or half-educated gentleman; but of the author of "the bubbles of Brunen" and "Travels over the Pampas and the Andes."

A conversation between Sir Francis and Mr. Ritchie is partially related. I confess, I should like to know the whole of it, and regret it was not more fully elicited. It was no doubt an interesting one; but how came it to pass? Men may have a chance meeting in a bar-room; or a club; or, in a state of society less civilized than in Toronto, a vulgar person, assuming the door always to be open, might violate its threshold and unceremoniously betake himself to a little chit-chat even with a superior. This sort of obtrusion and undefined intercourse, would be insufferable to a personage of monarchial refinement, and wholly inconsistent with the deportment every where conceded to Mr. Ritchie. This important interview, therefore, must have been commanded by Sir Francis: and there must have been a motive, an object, or as lawyers call it, an inducement to it. This inducement can only be collected from what transpired at this gracious interview: and what was it? The whole conversation, the whole subject matter and particulars of it, comprehended a *general election, the number of deeds he had, and the candidates for whom the grantees would vote*; to which is added some demi-royal advice after the fashion of Lord Chesterfield, *about his good behaviour at the hustings*. What, Sir, is all this, but a clear, positive and definite interference with our elections? The above is but a peep into things as they are; and what should we not see, if we had a full and fair view?—I cannot bring myself to believe that Mr. Ritchie was the first to offend Sir Francis's delicacy with so impertinent a topic. It is incredible that as soon as he was

ushered into his presence, he volunteered as welcome news, "Sir Francis, I have got, do you know, a parcel of deeds, aye, 300 of them, all for Simcoe, and I'll tell you, they will all vote for the Tories."

But for a moment suppose that Sir Francis did not by any unconstitutional and undue inquiries and intrigues with Mr. Ritchie, draw from him this unseasonable and indecorous communication,—still it is singular he did not give the witness a gentle rebuke! Suppose the judges were holding a court, and a person could be found with courage enough to get into their presence and begin to tell them about the trial, the means he had at command, the use he was about to make of them, and the probable result; would not any judge we have, indignantly repel him from his presence, if not instantly commit him? And how can we account for the fact that similar offence to Sir Francis was not similarly resented? If Mr. any-one were now to wait on him and say, "Sir Francis, I have such and such "bread and butter" [whatever it might be] for so many members of the Assembly; I am going to deal it out, and I think they will all vote for your acquittal." It is impossible he could receive or answer such an intimation with complacency; yet it does not essentially differ from a like communication made to him during the late contests, when "his character and their interests were embarked in the same boat." Here is a case in which the vice-regal dignity is insulted by a conversation, the very introduction of which implied a confidence in his corruption. And the mystery is, that there is no rebuke. It can only be accounted for, upon the supposition that there was a good understanding about the whole matter between the two—Sir Francis was the principal, Mr. Ritchie truly the agent. Had the former needed any official information within the sphere of his duty, that information could have been effectually and authentically obtained from the head of the department, the hon'ble Mr. Sullivan, Commissioner of Crown Lands. But when we see him going beyond this official source, and engaged in close confabulation about an election with a subordinate officer, a land agent, half public and half private, it induces the presumption that their mutual object was equally unofficial, subordinate and intriguing.

According to this fragment of evidence, "Sir F. B. Head strictly commanded witness not in any manner to interfere as government agent, or use any influence his situation gave him at the Election." I should like to know what the witness had said to induce a suspicion in Sir Francis's mind, that he would act otherwise. To tell a man not to steal, implies that you think him a thief—and unless Mr. Ritchie, in his over zeal, tendered certain services, which even Sir Francis thought of a questionable character, he would scarcely have insulted, even an inferior, with such a caution. If he thought him capable of corrupt conduct, he ought immediately to have dismissed him, instead of commending him to an election. If he thought him incapable of corrupt conduct, the needless prohibition must have been wantonly cruel, and so lacerating to the feelings of an honorable man, as to have wrung from him an expression of wounded pride. On the contrary, Sir Francis and Mr. Ritchie seem good friends about the whole of it. Mr. Ritchie is eloquent about the number of his deeds, and their virtue at the approaching election; Sir Francis seems pleased with the music, and says, "you must not interfere at the elections, you know, Mr. Ritchie;" who perhaps responded with a wink, and was then bundled off from the vice-regal presence at government house with 303 deeds, for persons known and

unknown, to be dealt out at the Hastings during the Simcoe election to persons who, the agent thought, would vote for the tories!

The prohibition, too, merely restricted him in the exercise of his influence, "as government agent." This would be latitude enough for 99 men out of one hundred. As "government agent" he did nothing; as "Mr. Ritchie" he did everything! Of the "influence his situation gave him," he made no use; of the influence, which vanity ascribed to Mr. Ritchie, as Mr. Ritchie, he made every use! It was a neat application of the "*Bond*."—It is the discovery of a new art, viz.:—*to be and not to be, at the same time!* For instance: when Sir Francis first organized his present council, we have the evidence of two of its members, the Hon. Messrs. Sullivan and Augustus Baldwin, that the hon. Mr. Sullivan gave a writing, (the precise form of which is still conceded) to the hon. Mr. Allan, that in the event of the death or absence from the Province, of the Lieut. Governor, the former would resign, so that the administration might not fall on him by virtue of the King's instructions, but upon Mr. Allan. This writing was drawn up by Sir Francis, in the council chamber, or if you please, in the clerk's room adjoining it and regularly signed, perhaps sealed too, and delivered in the vice-regal presence. It was, to be sure, deceptive and politically nefarious, to impose upon a confiding community the belief that the presiding councillor would upon the faith of the Royal instructions, succeed upon a vacancy to the administration of their affairs, while there existed a secret document both to defeat the Royal instructions and disappoint well founded public expectation. It was natural for the late house to desire, upon an uncertain rumour of foul play being abroad, to learn upon what footing the contingent government of this country rested. They therefore addressed Sir Francis for,

"Copies of any bond or agreement between your Excellency and any of your present Executive Council, or between any two or more of the said Council, by which it is stipulated in what manner the Government shall be administered, or who shall administer the Government of this Province in case of the above named occurrence."

Sir Francis replied:—

"I have entered into no bond or agreement of any sort with my present Executive Council, and I do not possess, nor does there exist in Council, any document of such a nature between two or more of the said Council."

This denial of the transaction and of the existence of such a document, was put to shame by the reluctant testimony of two councillors Messrs. Sullivan and Augustus Baldwin. To any honorable or unsophisticated mind it would come under the vulgar denomination of a falsehood, and it was necessary to explain it away. How was it done? Sir Francis under a modern system of logic, proved the agreement, "to be and not to be."

There was such a bond, but not in *council*; there was such an agreement but t'was in a state of abeyance; not in the clouds, to be sure, but in an honorable councillor's breeches pocket. Although it affected the future government and destinies of the country, yet being off the file of the executive council office, it became an official non entity; our public records may thus conveniently be made to vanish in the twinkling of an eye!—It was an alien, without cognizable rights, born in the clerk's chamber instead of the council chamber: and although it avowedly sprang (perhaps as Minerva did from Jupiter's brain) from Sir Francis's fingers, yet it was illegitimate! Thus outlawed, the assembly were assured 'there was no such bond' in council,

with a mental reservation, however, that there was such a bond out of the council. This, perhaps, would have satisfied Lord Glenelg. But from certain extracts, published from an explanatory despatch, it appears that this nondescript document, this political hermaphrodite, had been guilty of treason ! Yes ; it had, we are gravely told, assumed a part of the vice-regal name ! BOND. Assuming it to have been intended as an indignity, we are further gravely told, that it justified an evasive answer, a denial of its existence,—Inquisitiveness, now-a-days, will justify prevarication. “ It is perfectly satisfactory.”

Very well. Were you to ask “ for a statement of the influence which Mr. Ritchie, government Land Agent, used at the late election.” Sir Francis would reply “ Mr. Ritchie, government land agent, did not use his influence at the late election.” In vain would you prove, as in this case, every point and degree of influence, of which an election is susceptible ; in vain would you prove that the agent had a special interview with the Lieutenant Governor upon the very subject of the election ; in vain would you prove that by preconcert, he carried out 303 deeds for persons who, it was thought, would vote for the Tories ; in vain would you prove that the Lieutenant Governor even condescended to prescribe the conduct of the agent at the election ; in vain would they accumulate facts (only a few of which, even, can on such occasions be brought to light) to manifest the various kinds and degrees of influence brought to play before and during the election ! The answer is simple ; “ It was not done as government agent ;” that was strictly true ; and of what Mr. Ritchie did as Mr. Ritchie I officially know nothing. This exculpation Lord Glenelg would call “ perfectly satisfactory ;” and many an agent resting on the authority of a viceroy, and the honor of an English Peer, might work every species of executive political corruption, and yet sustain an all sufficient vindication ! It really seems that Sir Francis, as Sir Francis, and Mr. Ritchie, as Mr. Ritchie, concerted a great deal about the election ; but respectively as Lieutenant Governor, and Land Agent, they hold themselves innocent of doing anything.

Much of the same character appears to be the evidence of the Clerk of the Crown in Chancery. With due executive gallantry, he relieves Sir Francis, and declares that what he did was “ upon his own responsibility.” It was done, not by the Clerk of the Crown in Chancery, not by the Deputy Registrar of the Province, but by “ Sam'l Peters Jarvis, Esq.” It is useless to press the Lieutenant Governor for further explanatory information, because all he knows on his part, is as Sir Francis Bond Head ; and if you were to address him in that character, you would be properly told “ I can only communicate with you as Lieutenant Governor.” If, Sir, this is Monarchy, it has sadly degenerated since I left England.

It is remarkable that Mr. Jarvis was not examined and cross-examined before the select committee. His evidence is altogether epistolary. This gentleman is a citizen, and therefore every day within reach of a summons ; and yet he is exempted from *viva voce* testimony, which might have elicited a great deal more than can even be conjectured from the evidence of Ritchie. When we have in any investigation, two or three leading witnesses, it is usual to make the most of them. They form a prominent part of the proof adduced ; and professional talent is often displayed in extracting from a witness what he does not like to disclose unless the question is put to him, or what from

ignorance of its bearing and importance, he omits to relate. In this case he had been in full communication with Mr. Ritchie upon the subject of those suspicious patents, had committed a heap of them to his care and distribution, not surely without instructions, and had destined 303 of them for Simcoe. Under these circumstances, as Mr. Jarvis was a co-adjutor with the agent, and must have had much to say and do in what formed the *res gesta*, it would obviously have been satisfactory and instructive, had he also been favored with an opportunity of being unburdened of all that had passed upon this half examined subject between himself and the agent as well as Sir Francis. It is again remarkable that the hon. Mr. Sullivan was also favored with a similar exemption. Yet he is the Commissioner of crown lands, to whom Mr. Ritchie was land agent! Thus while the principal actors in this political drama keep their faces from the committee, the minor one is put forward, delusively to draw our attention from the grand sources of convicting information. This arrangement is not in conformity with the course pursued with Mr. Parke, who was subjected to questions and cross questions, with an ability which only increases one's regret, that the same talented and sifting interrogation was not applied to other witnesses who necessarily possessed and could give more important and positive intelligence.

From the little evidence produced with respect to the Simcoe election, it may be collected that there was the active interference of a government land agent, (Mr. Ritchie) in express communication upon the subject with his principal, Mr. Sullivan, the Deputy Registrar, Mr. Jarvis, and Sir Francis Head; that he received from them 303 deeds with an understanding about the candidates for whom, it was thought, the patentees would vote; and that he was allowed by the vice-regal instructions, personally given, to attend the election, and to use any influence "except as government agent." The people, Sir, will be the best judges of what, in this limited community, would be the effect of such a conspiracy carried out into a mischievous detail, which has not by this committee been adequately inquired into, and which perhaps no human tribunal could entirely scrutinize. It is not, be it remembered, a deduction from evidence taken in behalf of the people injured in their elective franchise, but from evidence taken by a committee who confess "the accusation against Sir Francis to have been by them considered as of the greatest importance!" But let us take this confession, as it were, about the Simcoe election as a standard, and then estimate the amount of corruption, influence and intrigue exercised in other sections of the country. The deeds issued between the prorogation of the late Assembly and the close of the late election amount (as far as they are confessed) to 1478. Suppose these deeds to be carefully classed, and subjected to whatever inquiry led Mr. Ritchie to the conclusion that the patentees "would vote for the constitutional candidates," by which beguiling names the tories have been baptised with numerous dozens of wine on numerous occasions,—suppose a dozen Ritchie's to be duly armed with these deeds, puffed up with a regular conning over of the thing with Sir Francis Head himself and by him personally instructed in the science of cautious non-committal deportment "at the election." And suppose these official partizans to transform themselves (perhaps by a fresh patent) into free and independent electors, and then with the spirit of knight errantry to wage war against the reformers in favor of Sir Francis and the tories. Do you not think, will

not the people think, that it would amount to a serious, alarming and corrupting influence? And with these deeds suppose they disseminated the inflammatory appeals published by Sir Francis to the constituency. Do you upon your honor believe such intrigues to be constitutional, consistent with Earl Ripon's despatch, just to the elective franchise, or void of effect?

I am aware the Committee in their Report pompously declare "how hopeless would have been the attempt to corrupt the brave and loyal Highlanders and other electors of the Eastern District; and that had any one appeared among them for such an object, he would have been met with universal execration." It is not impossible, Sir, that this pre-judgment in the minds of the committee materially embarrassed and restricted them in their proceedings. This overwhelming conviction of its utter impracticability, would not leave the mind in that inquiring state, which would pervade it under a deep sense of an alledged violation of public liberty, and a subduing consciousness of the high duty which their accusing country expected from them. It politically sounds to my ears a little bombastical. It is of that *highly-tighty* nature, which is by no means suited to the subject or the occasion. But this is in no degree meant as an objection against the committee. I am aware, Sir, that when I address you about corruption, and undue influence, and the impairment of principle, and the like, I render myself wholly unintelligible. You are strangers to those mental affections, the power of which, human nature, in the general, humbly confesses and studiously avoids. It is, therefore, metaphysically impossible to bring to your knowledge and comprehension, the causes against which less gifted beings wage a watchful war. When some philosophers attempted to explain to a man born blind, the nature of the color red, he exclaimed, "it is just like thunder!" And I have so far studied metaphysical science as to appreciate the committee's seeming unconsciousness of the frailties of human nature, and the errors into which they betray us. The country will, I trust, under these circumstances make every allowance for this angelic condition, and admit the futility of any man being appointed to inquire into the operation of moral agencies for which they have, indeed, a name, but with the practical bearing and power of which they have no acquaintance.

One word, however to the Highlanders and the electors of the Eastern District. The language addressed to you, is not unlike what the serpent said when he beguiled Eve? The committee have judged you by themselves. I pray you, on the contrary, to judge yourselves by yourselves: and when you honestly and faithfully do so, you will not resent the advice, to be on guard against corruption, intrigue and influences, which have been, perhaps, not openly, but insidiously put into operation against you.—Remember the humiliating and instructive pages of recent history, from which we learn that even in England whole constituencies have been by the high court of parliament, convicted of bribery and corruption, and punished with disfranchisement. As your public servant, I wish you may not be led into temptation.

When, therefore, a government land agent from Sir Francis presents, himself among you even with the simplicity of a Ritchie; when he beguiles you with conversation about your elective franchise, and the manner you will exercise it, so as to report to head quarters how he thinks you will vote; when he peddles about from the public departments old dusty deeds for unknown claimants, upon the eve of an eventful contest; when he swarms

among you passionate and vindictive appeals blushing under the emblazonment of the Royal Arms; when in winning manner he enlarges on the gracious assurance and commands from Sir Francis, and vituperates your representatives for not prostituting themselves to base policy; when he unfolds to your admiring mind, as political "bread and butter" richer than Highland cakes, new government patents by the hundred, but blinding you with the assurance, that he is specially instructed not to use his influence as government agent at the election; when you see these bland and masked intrigues abroad amongst you, shun them "as pestilence and famine."—These are not the fruits of honest, upright and patriotic governments. They are calculated to warp the judgement, prejudice the choice, and poison the very fountains of political justice. They involve a conspiracy against your institutions, and a plot for blasting the character of your uncompromising servants in the Legislature. Trust not yourselves in such an infected atmosphere; but with the true dignity of the Highlander, renounce those "evil communications which corrupt good morals." Send them to the *impregnable Committee!*

Do you say, sir, that Sir Francis is not the *practical* friend of Orangeism? His own land agent, his man Friday for the Commissioner of crown lands, his own emissary to Simcoe, was an ORANGEMAN. This is proof enough. All the power, all the majority, all the evidence, are on your side of the house. The establishing of one case under all the circumstances of this present inquiry, ought to shatter this report to fragments. When you throw a pebble into the stillest water, one wave makes another upon another, spreading out into a circumference far and wide. And when Mr. Ritchie, primed with Orangeism, was commissioned by Royal authority to Simcoe, it was one Orangeman touching another and he another, diffusing their fraternal commotions throughout the whole constituency.

Judge of other elections by the outline which I have given of the one for Simcoe. To review the intrigues and corruptions which transpired at the hustings generally, would occupy more time than is usually assigned to a whole Session of the Legislature; and would require a previous analysis and arrangement beyond what my duty as an individual member could accomplish, or your patience under existing prepossessions would endure. It is often necessary to judge of the whole by a part.

It is a hard case that I should in the existing state of this indignant country, be obliged to prove its wrongs, wholly out of the defence made by the accused. There is no attempt in this Report to prove the facts. It is a labored document to negative by testimony, what nevertheless would have appeared irresistible under an attainable but unsought demonstration.—Every thing, therefore, we can deduce from this report, must be taken most strongly against the party, whose reluctant confession, indeed, it is. I shall not therefore, advert to the abuses which form the popular outcry in the land, or relate, as might be done, the apologies of public functionaries for admitted intrigues. This vaunted report contains the evidence for its own subversion. And when subjected to the criticism of a discerning and impartial public, it will not need, on this branch of the subject, the much that might be added for its further confutation.

Not satisfied with my own perusal of this Report, I commended it to the careful perusal of another, the more certainly to ascertain what notice the Select Committee had taken of the numerous inflammatory appeals made,

previous to the late elections by Sir Francis Head, to the hopes and fears, the passions and prejudices of the people. Not a word can be found relating to them! At first the deficiency struck me, I confess, as impeaching the good faith and upright inquiry of the hon. and learned committee; because the object and tendency of the vice-regal addresses, were notorious and unconstitutional, detracting from the dignity of the Crown and destructive of the freedom of election. But, on reflection, I felt convicted of an injustice towards them, which was readily retracted, and replaced by an admission of their candor. For they frankly declare "that the accusation against his Excellency the Lieut. Governor may justly be considered as of the greatest importance;" and under this open confession, it would be idle and preposterous to suppose they would add to the accusation which "with no common degree of satisfaction," they were about to falsify. Under these circumstances, however, we must be mindful to take a correct view of the committee's labors, and not erroneously ascribe to them the character of a general, impartial and rigid investigation into the high crimes and misdemeanors of the Executive Government against the liberties of the people.

What was the state of things when these fulminations were issued?—What kindled in Sir Francis this spirit of agitation, or rather of Knight-errantry? What was the "bubble" out of which he raised a whirlwind?

Sir Francis upon his arrival found in the Executive Council, appointed under our constitutional act "to advise the Lieut. Governor upon the affairs of the Province," the hon. Messrs. Robinson, Markland and Wells. This Council are required to take the following oath:

"You do swear, that so far forth, as cunning and discretion sufficeth, you will justly truly and evenly counsel and advise the King and his Representative in the government of this Province, in all matters to be communed, treated, and demeaned in the Executive Council, or by you as the King's Counsellor, without partiality or exception of persons, not leaving or eschewing so to do, for affection, love, mede, doubt or dread of any person or persons.

"You shall keep secret the King's Council, and all that shall be communed, by way of counsel, in the same, and shall not discover it by word of writing, or in any otherwise to any person out of the same council, or to any of the same council, if it touch him, or he be the party thereof. You shall not for gift, mede, good, or promise good, by any man or by promise of letting any person, accept, or take, for any promotion, favouring, letting, or hindering any matter, or thing, to be treated or done in the said Council.

"You shall, with all your might and power, help and strengthen the King's said Council, for the good of the King and this Province, and for the peace, rest, and tranquility of the same.

"You shall withstand any person, or persons, of whatever condition, state, or degree, that should intend or attempt the contrary, and generally, you shall observe, keep and do all that a good and true Counsellor ought to do unto his Sovereign Lord, or his Representative in this Province."

The country had ever assumed that the duties which they were sworn to perform, they accordingly did perform. And therefore to their bad advice had ever been ascribed our acknowledged misgovernment—to such an extent, too, had this misgovernment reached, that Sir Francis himself has emphatically said, "the grievances of this Province must be corrected; impartial justice must be administered; the people have asked for it; their Sovereign has ordained it; I am here to execute his gracious commands; delays will only increase impatience." Indeed, one grievance of which the country now most loudly complains, viz.: the erection and endowment of 57 rectories with exclusive ecclesiastical and spiritual rights and privileges, according to the establishment of the church of England, could not have been forced upon them without the consent of the executive

council; because the constitutional act, in that case specifically requires their consent.

The late House of Assembly impressed, therefore, with the importance of an executive council to guard the civil and religious interests of the people, sent to Sir Francis an address, expressing amongst other things, their dissatisfaction with its existing composition.

The propriety and justness of the views of the House, respecting the constitution duties and importance of an executive council, were recognised and approved by Sir Francis, when, in accordance with their address, he added to it, Messrs. Dunn, Robert Baldwin and myself.

After entering the executive council and taking the usual oath, which, as Sir W. Blackstone in his commentaries observes, "expresses the duties they have to perform," I felt that I had accepted the office under specific expectations by the country and with important duties to be discharged. To use, however, Sir Francis's subsequent language in some of his popular appeals, "we were sworn to be dumb." The great secret was, that there was no secret. And the public affairs were conducted by him with the aid of irresponsible persons; the executive council being made, what they have been since nicknamed, *dumbies*.

You, sir, must be aware that some of the immediate acts of Sir Francis's administration, upon our taking office, excited much and increasing dissatisfaction; and the prevailing opinion that the course of public affairs was in accordance with views of those who constituted the executive council, rendered it inevitable that they would incur the same odium as had been heretofore heaped upon their predecessors. If the council did not advise upon public affairs, though sworn to do so, it was just the country should know it; nor would it have been excusable (after its re-construction by the Lieut. Governor in compliance with the wishes of the late Assembly) to hold the office as a sinecure in the character of a cypher. In such case, the change would have been deceptive. It would in appearance have implied an acquiescence with the views and wishes of the Representatives of the People, while at the same time it in secret practically defeated them. It would have been a fraud upon the known and avowed expectations of the House, and the country.

Justice therefore and honor required, if the people, the Assembly, and Council had entertained wrong notions of the nature and extent of these executive duties, that the error should be corrected. The late executive council, under these circumstances, prayed, "that the affairs of the Province might be allowed to pass under their review for such advice as their consciences might suggest, preparatory to the final and discretionary action of the King's representative upon those affairs. And that should such a course not be deemed wise and admissible by the Lieutenant Governor, the Council most respectfully prayed that they might be allowed to disabuse the public from a misapprehension of the nature and extent of the duties confided to them." To this request, equally dictated by justice to themselves and honor to the country, Sir Francis replied, "that should they be of opinion that the oath they had taken, required them to retire from his confidence, rather than from the principles they had avowed, he begged that on his account they would not for a moment hesitate to do so."

It would have been discreditable to adopt (if it was not so to propose) this retraction of sound and expedient principles, as the terms upon which

we might have held our offices and salaries without the active performance of the Executive functions upon which a confiding community justly presumed.

The late Council, of course, tendered their resignations; which Sir Francis accepted. This request and Sir F's refusal to conduct his administration upon those principles were communicated by him to the Assembly: who, so far from dissenting from these views, even transcended them and passed the following resolution:

Resolved.—That this House considers the appointment of a *responsible* Executive Council to advise the Lieutenant Governor, or person administering the Government on the affairs of the Province, to be one of the most happy and wise features in our Constitution; and essential in our form of Government, and as being one of the strongest securities for a just and equitable administration of the government, and full enjoyment of our civil and religious rights and privileges."

This was carried almost unanimously. The following, sir, are the yeas and nays:

YEAS.—Messrs. Alway, Brown, Bruce, Caldwell, Chesser, Chisholm, Cook, Cornwall, Duncombe of Oxford, Duncombe of Norfolk, Durand, Dunlop, Gibson, Gilchrist, Hopkins, Jones, Lewis, Lount, McCrea, McDonell of Glengaray, McDonell of Stormont, McDonell of Northumberland, McIntosh, McKay, Mackenzie, McLean, McMicking, Macnab, Merritt, Morrison, Norton, Parke, Perry, Richardson, Robinson, Roblin, Rykert, Rymal, Shaver, Shibley, Small, Smith, Solicitor-General, Strange, Thorburn, Thom, Walsh, Waters, Wells, Wilkinson, Woolverton, Wilson, Yager.—53. NAYS.—Messrs. Boulton, Malloch.—2.

The manner in which the Tory members soon after abandoned the principles in this resolution, and "embarked in the same boat with Sir Francis," involves a question of a political inconsistency, which it is not necessary at this moment to canvass.

The House of Assembly were thus almost unanimously at issue with Sir Francis, who in the most ungenerous manner at the expense of candour and truth, heaped his abuse upon the late Executive Council for not being more pliable in their consciences, more time serving in their policy, and more accommodating in the maintenance of a public and legislative deception respecting the nature and extent of the duties confided to them. From the past constitution of this body, the Lieutenant Governor had with their aid, established 57 rectories, and might therefore erect as many more, and as many other grievances as his arbitrary pleasure might direct. The House of Assembly, therefore, declared that they would not out of the taxes raised from the people, vote supplies to support a system of government, which had practically proved so detrimental in the past, and would, in the nature of things, be equally pernicious in the future. Sir Francis, by virtue of the royal prerogative, dissolved the Parliament, and thereby appealed to the country to determine, how far they would sustain their representatives in their views of the nature, extent, and importance of the duties of the Executive Council. According to this report, the people at the late election were familiar with the whole detail of the question that had thus arisen upon this constitutional point, and "the interpretation placed upon the constitution by Mr. Baldwin and his political associates, was denounced and repudiated by the people of Upper Canada, and the promulgation of their views was immediately followed by the signal overthrow of the party who maintained them." But so erroneous is this statement that the report of the late House of Assembly could not be printed in time for general circulation previous to the election; and Sir Francis in one of his popular appeals

criminate them for the defalcation of the Printer, for the evident purpose of inducing the electors, ignorant of its contents, to believe that it contained what they were ashamed to have disseminated. And yet at the same time he attempts to justify himself to His Majesty's government for refusing the amount required by the late Assembly for their contingencies, on the ground that £2,700 of it was to be paid to the printer for this very report. By thus withholding the remuneration he tried effectually to embarrass the publication of the document; and perhaps made some impression at Downing St. by representing the amount to be £2,700, instead of £115; an exaggeration in character with His other moral aberrations. In the place of true, temperate, and candid statements of the constitutional question, the country was flooded with the most false, perverted and exaggerated misrepresentations from the pen of Sir Francis, and from Orange and other political associations acting in harmony with him. The Leeds election during the last Session of the late Parliament, took place after the agitation of the question; and although it was particularly brought by the candidates to the knowledge of the electors, yet so far were they from denouncing and repudiating the doctrine of having a good and efficient Executive Council, that even the tory candidates, (Mr. Gowan amongst others) who were obliged to conciliate public confidence by averring their support of those very views. Two reformers, however, were returned; and a similar result would have attended the late contests, had not the system of falsehood and intimidation been brought into the field.

So conscious was Sir Francis of the hopelessness of kindling popular hostility against reformers by abusing the late Executive Council and their views, that he abandoned it in all his later popular appeals, and dwelt in deceptive observations upon the withholding of the supplies. The following is his language to the Electors of Toronto:—

Gentlemen.—No one can be more sensible than I am, that the stoppage of the Supplies has caused a general stagnation of business, which will probably end in the ruin of many of the inhabitants of this city, and in proportion as the Metropolis of the Province is impoverished, the farmers' market must be lowered,—for how can he possibly receive money, when those who should consume his produce, are seen flying in all directions from a land from which industry has been publicly repelled?

In the flourishing Continent of North America, the Province of Upper Canada now stands like a healthy young tree that has been girdled, its drooping branches mournfully betraying that its natural nourishment has been deliberately cut off.

Now the supplies, sir, which are thus falsely magnified into a regular electioneering humbug against Reformers, consisted of about £9,000, one half not payable till July, 1836, and the other half not till six months after, which was weeks after the commencement of the present Session! Could this, without a sacrifice of truth, derogatory to the honor and dignity of the Crown, be alleged as the cause of "a general stagnation of business," likely to "end in the ruin of many of the inhabitants of this city;" to "impoverish the metropolis of the Province," to "lower the farmer's market," and cause the consumers of his produce "to be seen flying in all directions from the land" as if it were one "of pestilence and famine!" Such a fraud upon a confiding and credulous people by the highest functionary in the government, is so outrageous that although his elevated station preserves him from the punishment awarded by the law against public impositions, yet it will consign him to a memorable page in the history of North America.

You perceive, sir, that while the committee ascribe what they call "the reaction of the public mind" to a pretended "repudiation" of a good and efficient executive council, (a thing upon the face of it palpably absurd) they have kept wholly out of view the various other topics adopted by Sir Francis for the wilful and artful dissemination of the most agitating hopes and fears among the electors. Let me review a few of them; and with them connect the palpable fact, that he elicited the addresses through the active and zealous instrumentality of his Ritchies and other agents throughout the country, and then engrafted upon them these memorable replies.

Still dwelling with affected lamentation over the universal devastation caused by the withholding of his supplies, he thus attempts to work the electors up to the highest pitch:—

Gentlemen.—I have no hesitation in saying, that another such victory would ruin this country.

But this opinion is hourly gaining ground; the good sense of the country has been aroused; the yeoman has caught a glimpse of his real enemy; the farmer begins to see who is his best friend;—in short people of all denominations, of all religions, and of different politics, rallying round the *British Flag*, are now loudly calling upon me to grant them Constitutional redress.

When the verdict of the country shall have been sufficiently declared, I will promptly communicate my decision.

In what a pitiable condition, then, must be the wealth and finances of Upper Canada! Were we in a state, such as he has slurringly and sarcastically told us, not better than "the single Parish of St. Mary-le-bone in London," with "a revenue not equal to the private fortune of many an English Commoner," this pretended ruin from the suspension of the payment of less than £5000 in July and the like sum in December last, could not have followed. This sir, was not the blowing of a bubble; it was "drawing the long bow?" And you observe he did not draw his long bow in vain. Watching the effects of this method of vice-regal agitation, and glorying in the success of this system of *bouncing*, he exultingly adds, "this opinion is hourly gaining ground." He rejoiced in his daily converts, quieting his conscience with the worse than Pagan philosophy, "the end will sanctify my means!" No Missionary zealot in effecting his proselitism with the pious frauds of false miracles, ever betrayed higher exultation than Sir Francis in thus humbugging the people. "The good sense" says he, "of the country has been AROUSED;" And no wonder the Royal Agitator worked a panic, when, without explaining the nature and amount of these supplies, he deplored the impoverishment and ruin of the land, and likened it (beautiful simile!) to a girdled tree. Every back-woodsman, until now accustomed to repose with confidence in the assurances of the Vice-Roy, could not walk into his fields without witnessing Sir Francis's mournful picture of his country in many a girdled baswood tree, looking naked and pitiful, and seemingly watered with the tears of a tender and sympathizing Governor. Oh, sir, no station or title of rank or dignity, should shield a man pursuing such a policy, from full and well merited exposure.

We learn, too, from himself the *real* object he had in view. The proper object of the dissolution was to ascertain the dispassionate opinion of the country, and when ascertained, to respect it. But such was not the purpose of Sir Francis. He determined first to agitate the country into a certain excitement, and then, "striking the iron when it was hot," shape and mould all things to suit his project. "When the *verdict* of the country shall have been sufficiently declared, I will promptly communicate my

decision." The House was not to be dissolved in order to obtain the verdict at the Hustings; but the verdict, under this conspiracy by agitation, was to be insured first, and the dissolution to follow afterwards. This was putting "the cart before the horse," and with an honest and discerning people, faith thus broken will indelibly stamp its author.

The object, then, was to agitate the country till he "aroused it;" till he, a priori, got a "verdict:" and "*sufficiently*;" for which sufficiency, he no doubt, counted heads, deeds hopes, fears and all. When by his arithmetical and moral calculation he thought things were "sufficiently" ripe for the closing masterpiece of policy, he would "*promptly*" make his movement, and gull the country into a Tory representation. But, strange to say, while there is this clear manifestation of the object sought and the means used to attain it, the select committee wholly acquit him of exercising any influence or policy bearing upon the late elections. It is impossible for me to vote for the adoption of a report, the truth of which is negatived by the numerous official acts of the very person they unreservedly exonerate.

Follow, Him, sir, in the steps he took to consummate this agitation. To accomplish this object it was necessary to produce excitement, and infuse into the electors a high degree of hostility against Reformers. There is something contagious in example, particularly when it is recommended in splendor from a throne. When, therefore, Sir Francis raised his own standard, and invited the electors to rally around it, and called upon them to share with him his avowed vindictiveness, hatred and political anathemas against a large class of his Majesty's subjects, it is not strange that he gathered various partizans according to the various incentives which he brought to play upon all ages, sexes, characters and creeds in religion and politics. "He is more or less than man, who kindles not in the common blaze." And when the blaze was kindled from the throne, by lighting up into a fire the strongest passions and animosities yielded by the degeneracy of human nature, it will by posterity, be held a wonder that the virtue and intelligence of the people, even so well withstood the unhallowed flames.

I will read you a specimen:

Gentlemen.—My plans and projects are all contained and published in the instructions which I received from the King. They desire me to correct, without partiality, the grievances of this country; and it is because the agitators see I am *determined* to do so, that they are endeavoring to obstruct me by every artifice in their power. They declare me to be their enemy, and the truth is, *I really am*.

[*Cheers from Mr. Sherwood.*—“They declare me to be their enemy, and the truth is, I really am.” [*Cheers from Mr. Sherwood.*] How strange it sounds! One voice breaks the deep silence which hung on every other lip, and hushed into unapproving stillness every other heart,—Melancholy exception! He will not desert the sentiment while he serves the man? and where I least thought could be found a harmony for so repulsive and chilling a chord, there issued a responsive cheer. It was well rebuked by the solitary echo of his own voice, which, while it was reverberated from the indignant walls, shocked into deeper stillness about me, a thousand minds. Learn from this occasion a lesson which wisdom and virtue have ever taught, and christian patriotism has ever breathed. Be an enemy to no one. And when rank or fortune may mix you with the intrigues of a court, or the angry motions of even a Royal breast, rise in the majesty of only human nature, and soothe and allay if you can't extinguish, the unhallowed feeling, which, even now I think, he could not mean to cheer.

But, Sir, when I see the greater facility with which such a sentiment, wafted on the Royal breath, reaches, for even a transient stay, the heart of the cultivated and the refined; when I see it for a moment insinuating itself into a mind in which it can find nothing congenial, nor be allowed long to dwell; when I see it stealing upon those of learning and rank, tho' only hanging loosely as a cloud, which the next generous thought will chase away; when I see it as an evil spirit, fleeting about the author of this report, and reflect that it was perhaps unconsciously hovering about him, to taint, if possible, his inquiry into the truth, and by its mysterious influence, divert him from the sources of proof, and prejudice his efforts at fair deduction; when I see the possibility that an atom of its gall may have been slyly dropt into the ink which has spread out this record for our adoption;—how, sir, can I subdue the fear that this same spirit, sent abroad among a guileless people, cautioned by no suspicion, and captivated by the lofty source from which it came, must have infected every atmosphere it passed through, deposited its unfailing leaven among the electors, and brooded in its evil over all the hustings, which formed the special objects of its most envenomed mission.

Imagine, Sir, and grieve as you do so; imagine the electors "aroused" by these addresses and banded together by the anomalous appeal "to embark their interests in the same boat with his character;" imagine them maddened by his false outcry of ruin and desolation, and hurrying to the poll with worse than Bacchanalian song "Sir Francis for ever—Down with his enemies! They declare me to be their enemy, and the truth is, I really am;"—and do you wonder that some of the elections wore the character they did? or can you upon your honor say by the adoption of this Report, that the Hero of it stands innocent of all undue influence and interference?

In the very same document he says, "on the other hand, not a single address has reached me from the opposite party, since the prorogation of Parliament."—Do you marvel at it? The Indians, indeed, sometimes offer a sacrifice to appease the evil spirit. Were we to turn Indians? Were Reformers to offer at the shrine of Sir Francis's displeasure, their unwelcome remonstrances? He first declares himself the enemy of the great body of Reformers, and then literally reviles them for not appealing to his consideration as a friend, to his honor as a man, to his generosity as a statesman, and to his magnanimity as the unworthy representative of a noble Prince of the House of Hanover. Listen to the rest of the same tirade—"in no instance have the few individuals who have so unfortunately been misleading the public mind, thought it prudent openly to state to me their objections, lest I should expose them to public view, but their opposition, like their object, is dark, mysterious and discreditable." This is the language of an agitator to the electors upon the eve of an election; and yet we are invited to acquit him of all political agitation! He shall not on this occasion, however, charge me with a fear in my place in Parliament to state at large to him my objections. But while I argue from his own documents; while I criticise his state papers, which would be unworthy the kingdom of the Lilliputians; while from his own official acts and productions, his position is reversed, and "his object, dark, mysterious and discreditable" is held up in sad perspective, to the consternation of Canada, the judgement of North America, and the astonishment of England, he will, I trust have the magnanimity to remember, while he writhes under well

merited animadversion that he wantonly taunted and challenged the few, thinking they were weak. And, Sir, until now, no proper occasion presented itself, to do him even this feeble justice.

The Vice-regal address last quoted, proceeds in the following strain :—

Upper Canada has been so cruelly deceived by false statements, that the Farmers' interests are neglected, while the agitators of the Province have been reaping a rich harvest.

Gentlemen.—I was sent here by His Majesty on purpose to correct the grievances of the Country. I see quite clearly who are its enemies ; and I declare to you, that if the farmers will assist me, I will assist them.

It is quite certain that I can render this Province powerful assistance ; and it is equally certain that I have been ordered by his Majesty so to do.

We are to consider, Sir, the time and occasion when this language is used. It was upon the eve of an election. It continues in the same strain to represent the reformers as deceiving the farmers by false statements, neglecting their interests and reaping for themselves a rich harvest. It is scarcely possible to give the portion of the community here scandalised, a worse character ; and the tendency and object plainly are, to throw into the Tory scale the whole weight of his influence, by reducing the friends of reform to the lowest ebb of public estimation. They are to be treated as enemies ; as deceivers ; as selfish reapers of a rich harvest ; as fraudulent stewards of the people, *to be hated*. And to render this appeal to the basest passions the more effectual, he assures them, in the genuine spirit of bribery, of the " powerful assistance he can render," if the electors " will assist him." Upon your honour, Sir, I ask you to say, what *assistance* did he seek ! Is it no undue bias at such a juncture to infuse into the public mind the vilest prejudices, and prostitute the Royal name and station to embitter those prejudices to the utmost ? Perhaps, Sir, you would be shocked were I to prove to your satisfaction that Sir Francis had by specific bribes of money successfully tampered with the constituency, and secured a subservient Parliament. Your abhorrence would be commendable, and perhaps irresistible under the influence of pure and honorable sentiments. But substitute for those tangible means of gold and silver, appeals under the sanction of official authority, to inflame the passions, kindle animosities, infuse hatred, and blast the reputation of an opposing party ; and will those substitutes, in your honorable estimation, be less availing in their operation, or less detestable in their nature ? If you think so (I dare not presume you can think otherwise) you cannot vote for the adoption of this report, which acquits this vice-regal agitator of undue and unconstitutional influence over the late elections.

In every address you discover the same conspiracy against the people. Let the one to the electors of London bear its testimony :

Gentlemen—There is no portion of your address of which I more cordially approve than that in which you promise me that your " utmost efforts shall be employed to dissipate the delusion under which too many of your countrymen have been brought by the specious representation of factious and designing men," for I feel very deeply that if the inhabitants of this Province only knew the truth they would then be sensible how cruelly they have been deceived by those who undertook to promote their interests.

Gentlemen—I need hardly assure you that I myself am an advocate for reform, because if you will but take the trouble to read my Instructions, they will show you, that I was sent to Upper Canada by our Gracious Sovereign for the express purpose of carrying reform into effect—but the moment the agitators of this province read my instructions, they felt " what will become of us agitators if the grievances of this country should ever unfortunately be removed ? " The King's Instructions and Sir Francis Head are going to ruin us ; he or we must fall, or if " he should succeed in correcting the grievances of this country, one of two afflictions must befall us—namely, we must either work honestly like our neighbors or starve."

You can easily imagine to what "their utmost efforts against artful and designing men," most *cordially* urged on by the Lieutenant Governor, would eventually lead. The "artful and designing men," the Reformers, were to be run down. The most inflammable materials in the country were to be incited to its accomplishment. All he said and all he published, were calculated, as it were to convert his emissaries and partizans into blood hounds; and he hied them on, to act the part of canibals.

Observe, again, how he tries to arouse the electors of Johnstown:

In the Mother Country I have invariably found, that when the yeomanry are once aroused from the lethargy in which they are too apt to remain, their sturdy opinions form one of the most correct verdicts in the land, and confidently believing that such will prove to be the case in this Province, I beg to ask those yeomen and farmers of the Johnstown District whose names are subscribed to the documents I have just received, the following plain questions.

But his address to the electors of the Newcastle District, if possible, transcends the rest, and would alone be a solid foundation for his impeachment.

As your District has now the important duty to perform, of electing representatives for a new Parliament, I think it may practically assist, if I clearly lay before you, what is the conduct I intend inflexibly to pursue, *in order that by the choice of your new Members you may resolve either to support me or oppose me as you may think proper.*

I consider that my character and your interests are embarked in one and the same boat.—If by my administration I increase your wealth, I shall claim for myself credit; which it will be totally out of your power to withhold from me; if I diminish your wealth, I feel it would be hopeless for any one to shield me from blame.

As we have therefore one common object in view, the plain question for us to consider, is which of us has the greatest power to do good to Upper Canada? or, in other words, can you do as much good for yourselves as I can do for you?

It is my opinion that you *cannot!* It is my opinion that if you choose to dispute with me, and live on bad terms with the Mother Country, you will to use a homely phrase, only quarrel with your own 'bread and butter.' If you like to try the experiment by electing members, who will again stop the supplies; do so, for I can have no objection whatever; on the other hand, if you choose fearlessly to embark your interests with my character, depend upon it I will take paternal care of them both.

If I am allowed, I will by reason and mild conduct, begin first of all by tranquilizing the country, and as soon as that object shall be gained, I will use all my influence with his Majesty's Government to make such alteration in the land granting departments, as shall attract into Upper Canada the redundant wealth and population of the mother country. Men! women and money are what you want, and if you will send to Parliament members of moderate politics, who will cordially and devoid of self-interest, assist me, depend upon it you will gain more than you possibly can do by hopelessly trying to insult me; for let your conduct be what it may, I am quite determined so long as I may occupy the station I now do, neither to give offence, nor to *take* it.

Singular production!

The avowed object was "*practically* to assist."—None of your theories for Sir Francis. But for what *object* did he tender "his practical assistance!" He tells us frankly, "in order to aid you in the choice of your *new* members;" the old ones would not do. They are next told what principle must govern their elections. He makes common cause with the Newcastle electors, and trembling for the issue of the approaching contest, he no longer minces the matter, but out it comes without an *if* or a *but*, "I consider that my character and your interests are embarked in one and the same boat!" It needs no oracular penetration to unbridle his meaning. He foresaw, Sir, the position in which he this night stands before you; and he begs them to send members who would clear his "character." If this principle so importunately pressed upon a sympathising people, had a general effect at the poll, you have been elected to adopt what the select committee have here prepared and presented.

“ My character and your interests are embarked in one and the same boat.” It could not have been put better or stronger—*one and the same!* “ no other chance for you, my boys! If one goes, the other goes. Let us have a pull, a long pull, and a pull altogether. Now for it; neck or nothing.” How much more it sounds like the language of a gamester, than of a king. A *boat*, too! It is a most desperate game of hazard. It is like one throw of the dice to decide it. It must have have filled the whole constituency with pity, to see a character (representing our most gracious Sovereign) taking refuge in a skiff, and tossed about upon our troubled waters. Could no larger craft be found for such a cargo? No better ballast, amidst the indignant waves? It is, Sir, in unison with these unparalleled proceedings.— This committee is a suitable haven for a mere boat-load. But for the honor and glory of my native country, I would rather behold in grand perspective, a ship of the first magnitude, laden with richer treasures and ploughing its way majestically through the boisterous deep.

It cannot be borne. Sir Francis in his boat, talks of putting reformers down! Do you see, Sir, how firm we stand? Never did we occupy better or nobler ground. Here, Sir, we are united in our purpose, cheerful in our co-operation, and onward in our career; seeking no object but the public good, and no other reward than the ultimate approbation of our King and country. A boat upset us? Our principles are the immutable principles of truth and justice, resting upon the rock of ages. Kindly, Sir, steer that frail bark a safer course, lest it heedlessly wreck itself on our uncongenial shore. Put Reformers down! And with a boat-load of character and interests! Impossible. Look at the undaunted warriors about me, intrenched in a righteous cause, and girded for this day's battle. They look like a Spartan band, taking their patriotic post at the Thermopylæ of the liberties of their country.

With what importunity he goes on to press their embarkation in this boat. He promises “increase of wealth;” a tempting thing: and his greater ability to insure it. Who could withhold his confidence, or refuse the viceregal partnership? To differ from him, he does not blush to condemn; and lest the “peasants,” as he calls our people, should not comprehend the elegant prose of the “bubbles of Brunen,” he graciously condescends to “express himself in plainer and more homely language,” presumed by him to better suited to the lower level of their plainer and more humbly understandings! And therefore he tells them in the coarsest English, “if you live on bad terms with me you only quarrel with your own bread and butter!”

How irresistible his importunity! Do, says he again, but “choose fearlessly to embark your interests with my character, depend upon it I will take *parental care* of them both.” What people could withstand this solicitation from so exalted a functionary, clothed with power, enriched with patronage and commanding the whole crown revenues of the Province.— To all this he adds the highest inducements which operate on human nature. “Men,” says he to the Newcastle electors, “women and money are all you want.” Strange rewards are these to free and independent electors crowding to the poll. But lest this species of bribery should fail (it scarcely could) of raising recruits for embarkation into his boat, he closes with a threat, “while I occupy the station I now do” (one of power) ‘ I am

quite determined" (tremble you refractory ones) "neither to give offence nor take it." Oh! no.—An eye for an eye, a tooth for a tooth.

Having thus played upon the passions of the electors by temptingly presenting to them every thing of a rich, alluring and luxurious kind, which a modern Epicurean could dream of, or wish for, from a choise supply of "men, women and money," down to homely "bread and butter;" and having reminded them, by way of intimidation, of his exalted station and power, either for the dealing out of rewards or the visitation of his resentment; but still finding the integrity of the people seemingly invincible, he resorted to a further stratagem by sounding, as it were, with the bugle an alarm of war.

Addressing himself to the electors, he says:—

They are perfectly aware that there exist in the Lower Province one or two individuals who inculcate the idea, that this Province is about to be disturbed by the interference of foreigners, whose powers and whose numbers will prove invincible.

In the name of every Regiment of Militia in Upper Canada, I publicly promulgate—*Let them come if they dare.*

This is consummately artful. He had learnt how much the good people of this Province had suffered during the late war, when they unsparingly expended their Provincial treasure and blood, to maintain the British Supremacy, which has since rewarded their loyalty and valour with Sir Francis Head as a Governor; he knew that their losses had not even yet been wholly redeemed, and that what had been paid, was principally taken out of the sufferers to pay the sufferers; he knew, if he could spread the alarm of an invasion, and fill the electors with apprehensions of fire, sword and death, that all other considerations of public duty and political liberty would, for the moment, be merged in the possible approach of slaughter and carnage throughout the land. He therefore announced an invasion, and "in the name of every regiment of militia in Upper Canada, publicly promulgated let them come if they dare."—And over this Bulletin was displayed the royal arms, to increase its currency and insure its effects.

The universal bustle and confusion produced by this viceregal manœuvre, are more easily imagined than described. It reminded me of scenes in early life, when it was said Napoleon was about to invade England. The roofs were thronged with vigilant citizens, the utmost stretch of whose vision with a telescope, swept the surface of Ontario for hostile flags; and our merchants were seen in solemn squads, here and there about the streets, talking of confiscations of goods, and insurance against the King's enemies. The 12 o'clock gun, to those unconscious of the hour, became the signal for a transient alarm, and palpitated even some of the stoutest hearts. The very ladies, with all their heroism, threatened their appropriate testimony of nervous agitation, to the horror of Malthus, as well, one would think, as of Sir Francis Head. Red cloth for the warriors, and black cloth for almost certain mourning, were raised in price many per cent; and as the rustic in his evening passage through the village church yard, is heard with forced courage whistling his superstitious fears away; so many "bread and butter" men, who had rather live to fight another day, were somewhat faintly heard to cry, as the gallant Sir Francis galloped by,—"*Let them come if they dare!*" [a burst of laughter.]

Mr. Chairman!—Order! order! What means this laughter? Do you, the farmers, advocates, and soon to be, the adopters of this report, thus significantly charge Sir Francis with a hoax? Do you mean to imply that at

the announcement of this invasion, and amidst the panic it inflicted, Sir Francis was *laughing in his sleeve*? Oh! shameful merriment! I have heard of such things in the stock exchange in London. There, it is true, men have been found, who, after spreading false news of a defeat on land or sea, have availed themselves of a consequent fluctuation in the funds to realize by their nefarious means a dishonest fortune. They are there, sir, called black-legs.

But I must return to the consternation of the city. Much perplexity seemed to arise from the difficulty of judging from what quarter the invasion was threatened. It could not be from Lower Canada, because they are not "foreigners." It could not be from the Indians, who are few and weak, instead of numerous and powerful. And to ascribe it to the state of New York; to a sovereign and independent state, professing amity and peace with Great Britain and her dependencies; to a neighbouring people who had proved themselves humane in war, and honourable in peace; to ascribe it to treachery and plot from such a country,—seemed revolting; and yet possible. With the wisdom, therefore, and prudence, which usually characterize the commercial world, they thus addressed Sir Francis Head:

We, the undersigned electors of the City of Toronto having read in Your Excellency's answer to the address of certain electors of the Home District the following language:—"They (the people of Toronto) are perfectly aware that there exist in the Lower Province, one or two individuals who inculcate the idea that this Province is about to be disturbed by the interference of foreigners whose powers and whose numbers will prove invincible. In the name of every Regiment of Militia in U.C. I publicly promulgate '*Let them come if they dare.*'" We do not doubt the readiness with which would be answered upon any emergency your appeal to the Militia, which appeal we are satisfied would not have been made without adequate cause. In a matter so seriously affecting the peace and tranquility of the country and the security of its commerce, we beg to learn from Your Excellency from what quarter the invasion is alleged to be threatened.

Expectation was now upon the tiptoe. Had Toronto possessed a stock exchange, you might have gambled in the finest style. The commercial deputation dressed in their best hob and tucker, and with visages singularly varied to express their diversified emotions, proceeded to government house, and were ushered into the viceregal presence. Sir Francis, they say, did not sit, but stood with that personal oscillation which you witness in a man so situated as not well to know what to say or what to do. The royal answer left them, just where it found them! "Gentlemen—I have no further observations to make to you on this subject!" Never did men appear more chagrined. [A burst of laughter.] But time dispelled their fears, and to their unspeakable mortification, yet greatly to their comfort, it was soon revealed that the war was over; the enemy was conquered; the country was safe;—SIR FRANCIS HAD CARRIED THE ELECTIONS!!

Confining our attention within the range of the most favorable matters of defence, set forth in this report with consummate skill and address, with no other auxiliaries than the state documents, which the committee in their exuberant zeal forgot to notice, we have found, Sir, enough substantially to convict him of the most serious and alarming abuses of his high station. It is not necessary to descend to particulars. We have seen the large scale and systematic manner in which he has carried out his shameful policy to countenance Orangeism, to martial government patents and instruct the bearer of them. We have reviewed some of his vicious and disreputable appeals to the electors before the general election, and pointed out their unconstitutional bearing and corrupting tendency. The guilty policy used

against the people seems to me too apparent now to be denied, too extensive to have failed of its purpose, and too momentous to be hidden under title or station. I should have betrayed the country had I not, more awed by the danger of our liberties than by the rank of the violator of them, thus brought him into daylight, and exhibited in alarming array the nature and magnitude of his conspiracy.

Some subordinate particulars might, indeed, be shown from this report and its appendix; as the establishment of the election at Beverly in Leeds, the fatal inexpediency of which place had been already twice recorded in the blood and shrouded with the mourning of the freeholders; the appointment of the Halton election at a place within 12 miles of one end of the county and 30 or perhaps 40 of the other; and the selection in the Eastern District of a returning officer, who was so incorrigible a partizan as presumptuously and indecently to condemn the choice the electors had made, and who with a corresponding spirit of disaccommodation to the electors and the members elect, refused the execution of the indentures till another day and place; and the like facts, which were, indeed, too largely mixed up with the executive corruption, not incidentally to escape amidst the partial and necessary disclosures for the defence.

Had you sent for Dr. Smith, a late candidate for Wentworth, he would have given you an insight into the mischievous operation of recent patents, from 40 to 50 of which were unblushingly unpacked at the hustings, and brought successfully to bear against him; patents, sir, for land in the Brantford tract, which had been sold *two years* before upon the terms of *four annual instalments*; but which nevertheless prematurely issued for persons "who would vote for the Tories."

It may be true, that some points which have been alleged against Sir Francis, may be either incapable of proof, or may have erroneously grown out of other corrupt and prolific abuses. He who collects together the various complaints of an ill-governed people, and makes a catalogue of the grievances which form the outcry of the land, will find, as in this case, some unfounded things amidst a mass of corruption. If Dr. Duncombe has fallen into this error, it is a very venial one.

I have heard some of Sir Francis's devotees extenuate his inflammatory conduct by pretending all his errors to be the mere effervescence of an inexperienced man. But, Sir, in all these transactions, decides the proof of the "*quo animo*" deducible from his public conduct and his official papers, there is positive and external evidence to the same effect. For instance. He who knew that it was criminal to inflame the electors *at the election*, must have known it to be equally criminal to do so upon *the eve* of an election—but although he had previous to the late contest, most industriously circulated among the constituency various political appeals to the worst passions of the people, yet so conscientious was he of the impropriety of such conduct, that when the Wesleyan Methodist Conference waited upon him after the commencement of the election with a pious address, he suddenly became most conscientious, heavily burdened with religious scruples about his duty, exquisitely sensitive about influencing the elective franchise, and tenderly alive to the purity of the hustings and the honor and dignity of the crown! Putting on a face as long as the Reverend gentlemen before him, he gave the following syscophantic answer:

"GENTLEMEN:—As the Elections have commenced, I must decline giving any other reply to the Address I have just received from you than merely to acknowledge its receipt."

The Reverend gentlemen thanked him, in the presence of their Maker, for his gracious reply, and humbly bowing, retired to praise him in the columns of the *Guardian* for what they knew to be hypocrisy. Such is the offspring of the adulterous connection between Church and State.

But there is further evidence that the evil course was wilfully pursued.

In Sir Francis's answer to an address from the late Assembly, he used the following language, which under a solemn impression of its truth and importance, he repeated in his speech at the prorogation: "To appeal to the people is unconstitutional as well as unwise; to appeal to their passions is wrong." In the first place, sir, no other than a sworn Orangeman would think it unconstitutional or unwise to appeal to the PEOPLE. Are *they* such cypfers, such a mere flock of "Peasants," (I had almost said Pheasants) as to be deemed unworthy of being appealed to, upon matters transcendantly affecting their happiness and liberties? Are the people nothing, and Sir Francis everything? This implies the utmost contempt for the community at large, reserving all honor and wisdom to himself and the few about him as instruments for carrying on the government of the many! But why was he, who taught this doctrine even from the throne, himself guilty of such unconstitutional and unwise conduct as to appeal to the people through his various inflammatory addresses? Why did he, after denouncing it as wrong, appeal to their passions; yes, all their passions; yea more, their worst passions? It was, therefore, done wilfully. It was a violation of a known duty. He preached from the throne the iniquity of making "appeals to the people's passions," and yet to get "the electors on board one and the same boat with his character," and thereby carry the elections, he did not scruple to sacrifice virtue at the shrine of expediency, and do the very deed, he had for another purpose publicly condemned. It would make a syllogism—"To appeal to the passions or the people is wrong;" but Sir Francis has appealed to their passions, and their worst passions: therefore Sir Francis has done wrong, very wrong. How, then, can we vote for this report, which wholly acquits him? Impossible.

Dr. Duncombe must not be entirely forgotten. It must upon the whole be admitted, without descending to detail, that his allegations against Sir Francis are very moderate when compared with even the little that has been as yet disclosed respecting his patronage of Orangeism, his share of intrigues with land patents, and his poisonous addresses to the electors of the country.

He must not expect a better fate than others of past and present times, who have espoused the cause of the many against the arrogance and injustice of the few. It does not become a reformer to desert the people because they desert him. With the magnanimity, appropriate to the character he has won, he soars above the virulence of party under opposition, and the instability of men under an unparalleled concatenation of executive delusions. If there is any martyrdom which out of religion deserves the name, it is martyrdom in your country's service. When I hear and see directed against the hon. and learned member for Oxford (Dr. Duncombe) all the reproachful malice which the human heart can be made to distil, or the tongue to utter;—when I see the country robbed of the public services of the estimable Dr. Baldwin, venerable in years and exalted in everything honorable in man, because truth and patriotism constrained him to warn his unhappy country against the false and inflammatory appeals of a reckless Governor;—when I see the Courts of Justice violated by so rude a hand as

de-commissioned Mr. Ridout, and meanly stript him of honors which he had meritoriously earned in war—honors, however, which, notwithstanding the despoiler, are transmitted with the glorious memory of the immortal Brock—and all this degradation too, aimed, not consummated, against him, either because he voted for his brother-in-law, a reformer, or because of false tales welcomed by the vice-regal ear from some low informers or still lower eye droppers, under a despicable system of espionage;—when I see a similar despotic humiliation attempted against Mr. Small, the irreproachable and honorable son of one of the most accomplished gentlemen the Province ever saw, and one of the most devoted servants the crown ever had;—when I see my honorable and gallant friend from Stormont (Col. McDonald) whose ancestor as well as himself, were devoted to the services of a King, whose representative has cruelly injured and insulted him, without redress;—when I see the similar fate of a Scatchard, sustaining among all parties, the honorable character of an intelligent, upright and humane Justice of the Peace;—When——but stay the catalogue of public crime! The heart fills as this sort of massacre goes on!—Canada! Was this the public justice and the public good, for which you lately fought, and bled and cheerfully would have died! Was this the spirit which you ever thought could possibly survive the flames which under the law of retaliation in the late war, laid waste your villages and your homes? Is this the rightful fruit of that unity of the empire for which, many of you twice lost much, and hazarded all? Shall this be the fate of your bravest comrades in the recent war, who would rather have fallen gloriously in the field, than live to be the ignominious victims of this heartless policy? Peace to the ashes of our dead, happily unconscious of the wounded honor and insulted rank of their once companions in arms! Sleep on, in blissful ignorance that you fell in vain.

Dr. Duncombe is with singular malignity thus charged; “having some private business to transact with the government in England, he was desirous of advancing his claims, by representing himself as a person of some importance, and with this view assumed the character of delegate of the Reformers of the Province, but without any authority whatsoever for doing so.” It would have become a select committee, less seasoned with executive partizanship, to relate the facts, and leave us to draw the inference. But as they have endeavored to exercise perhaps the most dispassionate judgment in their power, though with singular failure of truth and justice, it is due to the honorable and learned member for Oxford (Dr. Duncombe,) to shew the evil genius by which they were unconsciously deluded.

This evil genius, the ghost of departing Toryism, haunted them into the belief that Dr. Duncombe was a minor thing, while Sir Francis was “justly of the greatest importance.”—Thus possessed by this unequal view, little attention was bestowed upon the testimony or the inferences from it, affecting the subordinate individual. Hence they sent for Mr. Bidwell, who is known to be wholly unconnected with the Reform Society, and so averse to personal attendance at public meetings, as never to honor them with his presence. In this House, indeed, he held as a public man the station of first commoner of the land, reflecting upon it all the dignity which learning, elequence and virtue could confer. But out of this House, he was notoriously so estranged from political transactions, as to render any application to him, a priori, certainly fruitless. In the same manner they applied to Dr. Baldwin, who is *honorary* President of the Reform Society,

but whose venerable age and growing infirmities render him only an occasional attendant upon anniversary and extraordinary seasons. The application to Messrs. Shaver and Cooke from the Eastern extremity of the Province, and to others more or less distant from the metropolis, was also calculated to keep up the appearance of inquiry, in a way, however, which was sure to elicit nothing. And because it elicited nothing, the honorable and learned committee from *nothing* deduced *something* to prove Dr. Duncombe an impostor in England. Surely, those hon. and learned gentlemen will feel the worse than error into which this evil genius has haunted them; for had the subject of their malediction in preferring his private claims at the Colonial Office, privately intimated that he had the honor (an honor it was) to represent the Reformers in Canada; and had Lord Glenelg written out to learn whether the character assumed was fictitious; then, Sir, there might have been an apparent ground for this invidious charge. But when Dr. Duncombe openly assumed this character in a public, not a private correspondence, and did so in a petition to the British House of Commons before the British nation and the world, detection and disgrace were certain to follow false pretensions; and surely no apology (save that of haunted imagination) can be suggested for those, who under a knowledge of these circumstances, charged him with a fraud "to advance private claims" which the attempted imposition would certainly defeat.

It is, Sir, a maxim in law, that you must produce the best evidence the nature of the case admits. Why did not the Lawyers upon this select committee observe this rule founded in reason and justice? Why did they forget to send for the active Vice Presidents of high and long established characters, as James E. Small, Esq. barrister at law, and late member for this City? or for James Leslie, Esq., one of our most intelligent and wealthy merchants? And above all why not send for the Secretary of the Society? and for the Secretary of the Executive Committee of that Society, intrusted by it and all its kindred branches in the country with the active conduct of their affairs? Why did they not send a subpoena duces tecum, to give the Truth as it might appear in the minutes and records of this society? It is not, sir, for me to state what might have been proved had they chosen to seek the facts from the fountain head: it is enough to show that a Report characterized by such a spirit, and blind to the clearer evidence within the very precincts of the City, is unentitled to our adoption.

This negligence of due investigation by so learned a body, is the less excusable, because on the 30th of November, when the Select Committee had been but lately organized and was barely in operation, Dr. Duncombe had arrived, and was justly greeted on his return, with the welcome of the people. The following appeared in the public papers:—

At a meeting of influential Reformers held at Thomas Elliott's Tavern, in the city of Toronto, on the evening of Wednesday the 30th day of November, 1836.

JAMES E. SMALL, Esq. in the Chair.

Mr. J. H. Price, seconded by Mr. F. Hincks, moves that it be resolved—1. That the thanks of the Reformers be rendered to Dr. Charles Duncombe for the readiness with which he accepted, and the fidelity with which he has executed the trust of representing in their behalf to the Right Hon. Lord Glenelg, the condition of this country.—Carried.

Mr. James Leslie, seconded by Dr. O'Grady, moves that it be resolved.—2. That Dr. C. Duncombe be requested to furnish the meeting, for the information of their fellow Reformers, in the Province, with an account of his proceedings in England.—Carried.

After the above resolutions were adopted Dr. Duncombe came forward and after an eloquent speech in which he detailed his proceedings on behalf of the Reformers while in England, read his correspondence with the Colonial Minister.

This was enough to put the committee upon their guard, particularly as it appeared almost simultaneously with the commencement of their inquiry; and without the possibility of anticipating this malignant insinuation against an honourable and learned member. Guided by this meeting into the tract of truth, why did not the hon. and learned committee send for James E. Small, Esq.? James Harvey Price, Esq., Attorney at Law? Francis Hincks, Esq., Cashier of the People's Bank? James Leslie, Esq., President of that Bank? The very Rev. Dr. W. J. O'Grady? The Secretary of that meeting with his record? and as many more as they pleased, or as might be suggested by the testimony of the above gentlemen, more honorable than whom, cannot be found in the community! It is not for me, following their example against Dr. Duncombe, to scan their motives, or the inexplicable and mysterious causes of their superficial investigation. But for the adoption of such a report I cannot vote. When, indeed, they were told by Messrs. Shaver, Cook, McMicking, Thorburn, and I know not at this moment how many others, from outer districts, with how much satisfaction Doctor D's mission was welcomed, an inquiry into the metropolitan proceedings respecting it, was both suggested by the evidence and by the subject matter of it.

A party, lawyers used to say, shall not discredit his own witness. In this case, therefore, I shall take as credible, upon their own admission, the evidence of Sir Francis Head. According to a despatch, a copy of which has been transmitted to this House, but which escaped the vigilant and scrupulous labours of the honorable and learned committee, Sir Francis sent the following announcement to Lord Glenelg, in a Despatch, dated 16th July, 1836:—

“ The Republican minority of course feel that their cause is desperate; and as a last dying struggle, they have, I understand, been assembling at Toronto, night after night, for the purpose of appealing for assistance to His Majesty's Government !”

“ Their convocations are so secret, that it is impossible for me to know what passes there, but I have been informed that they have actually despatched Dr. DUNCOMBE, an American and a rank republican, with complaints of some sort respecting the election.

“ I feel confident that your Lordship will discountenance this dark, unconstitutional practice of despatching agents from the Province to His Majesty's Government, to make secret complaints against the Lieutenant Governor, which, of course, it is impossible for me to repel.”

Thus it appears that a fact which was so notorious as to be known to Sir Francis in August last, was unknown to the committee in January 1837!— And what Sir Francis at once ascertained under a system of espionage, could not be fathomed by a greater number of learned men than perhaps ever constituted a similar committee in the world!

The style of the above despatch needs no comment. It came from the author of the acrimonious appeals to the people, as an unconstitutional prelude to the late election. It is, however, worthy to be recorded, that with all this information before him, Lord Glenelg, a Peer of England and a Minister of State, in a Despatch, dated, 8th Sept. 1836, expressly in answer to the one from Sir Francis, dated 16th July, thus welcomes and approves a course of conduct and policy, which would scarcely find a parallel or an apologist in the darkest Government in Europe:

"The King is pleased to acknowledge with marked approbation the foresight, energy, and moral courage, by which your conduct on this occasion has been distinguished. It is peculiarly gratifying to me to be the channel of conveying to you this high and honorable testimony of His Majesty's favorable acceptance of your services."

If it is "a dark and unconstitutional practice" to send agents to His Majesty's Government "to complain of such official conduct as preceded and attended the late elections," if such conduct is to be approved by the very Government from which the people ought to expect and to receive protection; if this cooperation of the Colonial Minister, is to perpetuate a system abhorrent to every well regulated mind, repugnant to the constitution, subversive of liberty and based in immorality; the future civil and religious rights of the country are doomed to extinction. Salvation can, in such case, only be expected from the subversion of such a system from its foundation.

Unless the evil is now and effectually corrected, it will equally infest the future, as it has the past Elections. The country must, therefore, remember that this execrable policy is not to be viewed in a speculative, but in a practical point of view. Shall we ever again have a free Election? This fearful inquiry must be met by another. Will this execrable policy ever again be put in operation? I answer, it will!—The same government under the same system will not hesitate to resort to the same means to gain the same end. They do not blush to call these means, "energy," "moral courage" and "foresight;" "services," worthy of "high and honorable testimony!" By these VIRTUES we are hereafter to be governed! Canada must now make her choice between the manful redress of the grievance; or a lasting submission. It is a solemn but unavoidable alternative. It is the preservation or the extinction of liberty. Repetition will be held corroboration; and renewed success will harden the workers of iniquity. If you recognize these VIRTUES, and desire their transmission to your posterity, you have nothing to do, you have only to SUFFER. But if your nobler feelings rise in arms against SUCH VIRTUES, and the dire inheritance they will yield to your children and your children's children; if you value that purity of civil government, which is Heaven's second best gift to man; if this rude blow has not severed your bonds of sympathy with your institutions, civil and religious, and with all that endears a people to their country; if liberty shall not by this deadly outrage become extinct, but rather rise from the panic with renewed energy and a more hallowed zeal;—Canadians must nerve themselves with a fervent patriotism and a christian spirit, to devise by all constitutional means, redress for the past, and salvation for the future.

Not less virulent is the language against Mr. Hume. In order to gratify the same spirit against him, they travel back to events which transpired years ago, and seem to feel (as well they may) that it is an honour to throw their missiles at so great a man. While Mr. Hume is supporting the Ministry in England, their public functionaries here, and Sir Francis's partisans, are seeking occasions to vilify abuse and degrade him. But on what occasion did Mr. Hume express a wish for our relief from "baneful domination?" It was, sir, when the "domination" was not less "baneful" than it is now. The liberal and benign intentions of Earl Ripon were defeated, and those who presumed to meet even to thank him, or through him to thank his Majesty, were treated with a violence and brutality which would

disgrace the least civilized government in Europe. Will you recollect, sir, the treatment that noblemen received upon the floor of this Assembly; and the changes which consequently took place, changes which it would be unnecessarily invidious more particularly to mention? Will you remember, sir, the celebrated address of remonstrance to the King, which passed almost without a dissenting voice, against the interference of his Ministers in our internal affairs? [“A shameful document too.”—from the Solicitor General,] and as unanimous, sir, as it is now said to be shameful! And during this session (when Lord Glenelg’s interdict arrived) the learned Solicitor General, and all his party, joined in similar remonstrance, embracing the very same principle, only dressed in more subdued and circumlocutory language! The minister who looks to the principle, and not to its envelope, will condemn you for the treason, which you charge against a former, and a franker Parliament. When, sir, this sort of distraction prevailed, and we were goaded with mis-government, almost equal to its present maximum (which, sir, exceeds what ushered in the American Revolution,) Mr. Hume indignant at our wrongs, expressed the sentiment which you cherish and preserve for his occasional malediction.

But what was your own language at that very juncture? What was your loyalty when Earl Ripon shook tories and their “bread and butter,” into impending annihilation? What was your outcry against “the baneful domination of the mother country,” when its scourge fell deservedly on yourselves? What was your patriotism, when your tory recklessness placed you in the minority, which from executive corruption, I and my friends occupy to night? I will read it for your humbling edification, from the columns of your own demi-official *Courier* :—

“This is a summary procedure most assuredly—and as high-handed and arbitrary a stretch of despotic power as has been enacted before the face of high heaven, in any of the four quarters of this nether world, for many and many a long day.

“Further marks of his Lordship’s displeasure at the recent proceedings of the two hours of the Provincial Parliament, we understand are threatened. And nobody can tell what political caper this political embezzle may next enact. The dissolution of the Parliament; the recall of the Governor; the dismissal of the Chief Justice; and many other equally mad and ruinous projects are said to be in the contemplation of this *foolish Colonial Minister*. One of the very worst effects of such a condition of affairs is, that it reduces every thing in the country to a state of uncertainty; with the past acts of this minister the great bulk of the people are displeased or disgusted; and, with reference to his future acts, they apprehend nothing but mischief and disaster both to the colony and to the empire. The minds of all the well affected people in the country (*and they to the ultimate certain discomfiture of the united factions of Mackenzie, Goderich and the Yankee Methodists are a vast majority*) begin to be unhinged. Instead of dwelling with delight and confidence upon their connexion with the glorious empire of their sires, with a determination to support that connexion, as many have already supported it with their fortunes or their blood, their affections are already *more than half alienated from the government of that country* and in the apprehension that the same *insulting and degrading course of policy* towards them is likely to continue, they already begin to “cast about” in their “*mind’s eye*” for some NEW STATE OF POLITICAL EXISTENCE which shall effectually put the Colony beyond the reach of injury and insult from any and every ignoramus, whom the political lottery of the day may elevate to the chair of the Colonial Office.

“This is strong language; the fools and the knaves of the *Yankee republican faction, whom Lord Goderich delighteth to honor*—and the fools and knaves of the Canadian Republican Press (and they are all fools or knaves) will affect to condemn and ridicule that language—but IT IS TRUE! It is not the mere circumstances of the dismissal from office of Mr. Bouiton, or Mr. Hagerman, but it is the *disposition* which this *Lordling of the Colonies* has evinced to countenance and protect the odious, despicable, the unprincipled and puny faction which has been labouring for years to *dissever the Colony from Britain, and to set up Democratic Republicanism in its stead*; and the equally despicable and unprincipled emissary of that faction, and the *disposition* which he has at the same time, as a consequence, shewn to *annoy, insult, and injure*

the feelings of the great and respectable majority of the Canadian population who disavowed and condemned the conduct and representations of that emissary and that faction; it is this we repeat, and not merely the dismissal of the gentleman in question (which constitutes only one prominent instance of the disposition and designs of the Colonial Secretary) that he has alienated the affections and produced the feelings of resentment *and the view with regard to the future*, which we have described.

"Fools never learn wisdom;" or one might have hoped that the experience which the present foolish ministry have had of the consequences of setting up their opponents and putting down their supporters; of taking their enemies by the hand, and throwing cold water in the faces of their friends, would have ere this taught them the propriety of abandoning this amicable iniquity; but the ruinous policy which has been enacted in Ireland, in Jamaica and in the Mauritius, is, it appears, to be enacted in Upper Canada, and the Lord knows, perhaps in all the other colonies of the Empire.

"In Ireland according with this imbecile policy, the government have alienated the affections, and made deadly enemies of the fastest friends of the British throne—while they have added tenfold to the power *and to the enmity* of their former foes; and 20,000 additional bayonets are consequently required to keep the people of Ireland from weltering in each other's blood, and from annihilating every vestige of order, government and law.

"In Jamaica, in pursuance of the same policy, *they have stimulated the blacks to cut the throats of the whites*—and now, in order to prevent those blacks from cutting any more throats, or to *protect* them in doing so, (for there is really no telling which is the object of our sapient Minister,) the same cabinet are obliged to send 5,000 additional swords and bayonets to that devoted Island.

"In Mauritius, in accordance with a similar policy, the same measures have been pursued, and the same necessity for resorting to additional bayonets has been the consequence.

"And now the same imbecile experiment is to be pursued in Upper Canada, but if not persisted in, the moral and PHYSICAL FORCE of the great and overwhelming majority of the Canadian people *whom it will be necessary for Lord Goderich to deal with*, will be too powerful to be subdued or influenced by any demonstrations of this kind.

"We hope, however, for the best—we hope that though "fools may not learn wisdom," they may, at least, *be arrested in their career of folly*; and that the consequences, which no honorable or patriotic mind can contemplate without shuddering, may therefore be averted."

Such is the language of George Gurnett, Esq., in the *Courier*; a gentleman who has been for years the pillar of your party, and the able editorial expounder of your cause; a gentleman who after years of ill requited services, has, by your instrumentality, aided by the powerful intercession of the Executive, been lately raised for the soundness of his political principles and the ability with which he has sustained them, to the high and dignified station of Mayor elect for the City of Toronto. Such was your language when your interests were threatened, and the power you had so long abused; was about to be taken away. It transcends the boldest things that ever passed in the mind or escaped from the lips of an American Revolutionist under the most intolerable despotism. To hear men of such a party and guilty of such productions, indulging in every kind of vituperation against an English statesman, who breathes towards us good will, and lends us the kindest offices, exhibits them in no enviable or praiseworthy consistency either for truth or patriotism.

Sir Francis, in his first appeal from the throne to the passions of the people, as "Englishmen, Irishmen, Scotchmen and U. E. Loyalists," forgot, yes sir, forgot the CANADIANS! Their name was not found in his vocabulary! Wrapt up in European prejudices and invidious nationality, he dwelt only on his countrymen here, and those whom he should empty upon us from the worst sources of the parishes at home! He had no name, as he has shown he has no sympathy for the very people he came to govern!—The emigrants were thus significantly marshalled against our hospitable natives! In behalf, therefore, of Canadians, thus neglected, despised and overpowered, I beg publicly to thank Mr. Hume for his kindness and urba-

nity towards them. It sinks, he may be assured, deep into their hearts, and the deeper, too, through the recent wounds still open and sensitive. The interchange of kindness in the same community in the ordinary course of life, awakens no surprise, and commands no unusual commendation. It is based upon reciprocity, or is the offspring of closer relations. But in Mr. Hume I see embodied the generosity of the English character, and the most estimable feelings of the true philanthropist.

He receives us from a distant country; and with a sympathy wide as the world, extensive as the human family, he has ever treated us with a benignity and patient consideration worthy of his nation. He listens to our repeated and increasing complaints with untiring attention; and his zeal in our behalf is unsubdued by failure, and unchilled by your reproaches.—Amidst the froth of your vituperation, you see him dignified and sincere. His heart is still open. His labors in the British Senate, are still inlisted in our unequal cause; and how vainly do you hope with such a man, to drown in his ears the complaints of the injured by the louder and ruder railings of their oppressors. Mr. Hume! In behalf of Canadians I gratefully thank you; and there is not a Canadian heart which does not respond to it.

I move that the committee rise. Blot out the Report. Let it not live to record the public calamities, which it feebly affects to wipe away. Harden not yourselves against sensibility to wrongs which you cannot but know, and infractions of public liberty which you must be more or less than men not poignantly to feel. *Our Country*, is a call, which has not altogether lost its charm. Disembark from a boat, floating on corrupted waters; and here on solid ground let us retrieve the past and erect a nobler emblem of the future. Let our honorable condemnation of what is base and despotic, be a guarantee of our devotion hereafter to what is noble and patriotic. I move that we rise.

ERRATA.

Page 4th, 47th line from the bottom, for "aggregated" read "aggregate."

Page 6th, 20th line from the bottom, for "thought proper," read "thought it proper."

Page 6th, 26th line, for "he," read "the."

Page 10th, 14th line from the bottom, for "no notice," read "no notice or knowledge."

Page 17th, 44th line, for "treasonable," read "reasonable."

Page 27th, 8th line, for "epistolatory," read "epistolary."

Page 31st, 22nd line, for "word of writing," read "word or writing."