

Communications.

PUBLIC MATTERS.

To the Editor of the Gleaner.

Sir, In this Letter let me inquire what is the business of the MAGISTERIAL BODY, as now constituted? What is their duty to their fellow men or the community? What constitutes their qualifications, and from whence comes their appointments? It cannot be their duty to keep order in society, for there is frequently to be seen uppers, and drunken brawls in the street; use made of the most profane and unchaste language, not alone in the presence of females and children, but in the very presence of Magistrates themselves, still no notice is taken of it, excepting to laugh at them. It is not to keep order in society, for we find them readily granting Licences to all grades and shades of persons, to keep sometimes dens of infamy, and it cannot be for their exemplary conduct, as many of them are no better than they should be; swearing betimes for the most trifling occasion a round of oaths, and some of their conduct otherwise not to be followed by any person pretending to morality. Not for the purpose of carrying out honestly the deliberations of their Court of Sessions, for they are often to be found diametrically opposite in their private capacity. Not for their Judgment, for the Law puts a veto on them in that. They may be honest from one shilling to five pounds. So that is the amount in the eye of the law of a Magistrate's honesty. This being the case, it might naturally be asked what really are they good for, and why should they be appointed at all. The reason is obvious to any observer why Magistrates are appointed under the present system. In the first place—Magistrates gain their appointments by a recommendation to the Government, by the Members for the County, for the time being, and each new addition of Members is followed by a second addition of Magistrates, and justly so, as they are frequently serviceable for electioneering purposes. Another reason of their appointment is, to collect sums under Five Pounds, and settle pretty squabbles, which Lawyers consider beneath their notice; but the moment you add sixpence to Five Pounds, the Lawyer steps in, and forthwith out comes a bill of costs to collect the extra sixpence; and it not unfrequently happens that Five Pounds five shillings costs three times the original to have it collected, and sometimes the Plaintiff is gravely informed by his Lawyer, that the debt is recovered, but the Defendant failing in costs, the Plaintiff must foot the bill. Now is it not surprisingly strange, that a note of hand, or a settled or signed account up to the above named sum, a Magistrate may safely collect for a trifling expence; yet, the instant it passes the sum mentioned, proof being equally plain in both cases, yet he becomes quite incompetent. This may seem strange and stupid in an enlightened eye, yet it is no less true. It may again be asked, why such a state of things. Let any one take an Almanac and look at the roll of Barristers and Attorneys in the Province, that has to be provided for, their name is Legion, the world might be challenged to produce such a respectable roll to the amount of Inhabitants the Province contains; and believe me, Sir, they make not a living by attacking or bringing each other to Justice, for, like Doctors, they are not fond of their own medicine, but all directly or indirectly, live on the public. Assuming for argument sake, that it takes One Hundred Pounds a year to support each one, and you find the round sum of fifteen to twenty thousand pounds a year of some persons hard labour, going to support Lawyers; and that is not all, the serious amount of mischief frequently entailed on a community by pettifogging Lawyers.—Many of whom being incapable of giving a sound advice, or lacking talent to plead before a Judge in Court. Their sole business it would appear, was to stir up strife, heap costs on a simple note of hand, or other petty suits.

I write not this to attack to offend any gentlemen at the Bar, as I am quite well aware and freely admit, many of them are a blessing to the community they reside in, in keeping down faction and litigation; but such is not the case with all, and there are few things requiring a reformation to a greater extent, than our Judicature, and under the present system nothing so grinding to the community, and I am confident many gentlemen of the profession will admit the truth and correctness of my observations. Take for example those Inferior Courts (most appropriate in name) a public nuisance, where the mockery of Justice is acted. Thirty Petty, and twenty-four Grand Jurors are summoned twice a year to attend on their *Worships*, (as the Lawyers call them) and taking the Jurors alone that attend those Courts, and

supposing them to lose five days each Term, would make a total of 740 days, which at five shillings per day for wages and board, amount to the nice little sum of £185; a direct tax on the industry of each county in the Province, saying nothing about the many others that are obliged to attend—and what to do? to try cases, many of them that a Judge of a Supreme Court would consider disgraceful to come before him; and it is truly piteous to see those worthies frequently beset with Tongue and Logical Lawyers, addressing their *Worships* on knotty points of Law, whilst they, *poor bodies*, many of them, know just as much of Law as they do of Greek, whilst each Lawyer strives to make the grey mare appear the better horse; and when it is a known fact that Judges of the Supreme Court has frequently enough to do keep Lawyers in their proper place, and prevent spurious Law and unsound reasoning—what, I ask, may not be expected from the Justices of our Inferior Courts, who are not professional men?

In Nova-Scotia the Judges of their Inferior Courts, were gentlemen of the highest standing at the bar, and conducted their Courts with equal dignity as that of the Supreme; yet they were abolished, being considered and proved to be a tax on the community. But there is one wise precaution in the Law touching our Inferior Courts, and that is—that all sums under Twenty Pounds as they *fall so must they lie*. I suppose it was wisely foreseen by the introducers of such an act, that there would many cases occur in those Courts that would not bear to be exhumed. Thus an unfortunate by the blunder of his Lawyer or unsuspected points turning up in evidence, which could be clearly shown to the contrary, if allowed an after hearing, loses his case of nineteen pounds nineteen shillings and elevenpence, with a heavy bill of costs; but then people should not be too nice or particular as that might be *near enough the points of Justice*. And again—this Court of Sessions is called under the pretence of transacting the business of the County. But in reality to Jockey one another often, saddling portions of a County with undue proportions of County or other rates, Magistrates generally being located in towns or villages, and holding a prepondering influence over other parts of a community. Now, what I would suggest, let those Inferior Courts and Sessions be abolished. Let one or two commissioners be appointed from the Legal profession in each County, and prohibited from practising in Court, let them hold a Court once a month; let them be empowered to collect all notes of hand or settled accounts, from one pound or under, to one hundred pounds; and all controverted cases up to at least ten pounds, at the same cost as is now taxed by a Magistrate, for it surely is an absurd law, that one shilling in the difference of a sum will make a number of pounds as to cost of collection, subject in all cases, to appeal if either of the parties can show cause. Let MUNICIPAL INSTITUTIONS be carried out in each County, to the fullest extent; not by UNMEANING ACTS, such as the present, to either accept them or leave them alone, but let it be compulsory; and further, as to the School Act—it should not alone rest with taxing for the support of Schools, but an act forcing all parents and Guardians of children, to send them to school up to a certain age; it being well-known, that many parents not knowing the value of education themselves, care not to bestow it on their children.

What a ridiculous thing it is in travelling through the Province, to see one County carrying out Municipal Institutions, and another County acting quite the contrary; or one Parish in a County taxing for Schools, whilst another is carrying out the old system. A stranger in visiting the Province might all but fancy himself travelling among the petty states of Europe, with their different laws and regulations, in place of being in a small Province, where the same law should extend from one end of it to the other. If optional Laws is to become the order of the day, why not extend them a little further, and leave it optional to pay one's debts or not, keep order in Society, or pay taxes, just as the people had a mind or the minds of two thirds of them determined. Each County should be forced to settle all its own local affairs. It is surely most undignified to see the number of petty bills that grace the table of our Legislature, such as to sell some old dilapidated building—such as a Church or Court House, and many other such like bills costing the Province £100 per day discussing matters that should be settled by Municipal Councils—Let our Magistrates become Conservators of the Peace, acting as the Police of the community, then none but men of integrity would be appointed to the Magistracy—and none but men of talent and first rate parts would find practice at the Bar.

I shall close the present, and in my next

notice the absurdity of the imprisonment for debt. Meantime I am, yours,

O. B. RYER.

Mr Editor,

I noticed in your last paper a communication from "E. Williston, Deputy Clerk of the Peace, Northumberland," in reference to an error in my former communication, and also observed your Editorial remarks upon the subject.

On reading the latter, I find that the impression may be drawn that in my former article, I had written "*Tuesday morning*," when it should have been "*Tuesday evening*," which is not the fact; and of this you may easily satisfy yourself by reference to the manuscript, in which you will find that I stated, that the certified list was forwarded to the Clerk of the Peace on "*Tuesday evening*," and this I pointed out to a young man in your office prior to your last issue. I did this because the error was one of some importance as far as facts were concerned and a misstatement of one important point in our case might imply incorrectness in others; had its effects rested here, the explanation though not satisfactory, would have satisfied me, but your insertion (with the knowledge of these facts before you) of the article first referred to, which charges me with improper motives, renders it necessary that the public should thoroughly understand the fact, that the words of my manuscript were "*Tuesday evening*," and not "*Tuesday morning*." That the error was one of the printer, and not of mine; and that consequently the imputations against my motives, based upon that point, contained in the Letter of the "*Deputy Clerk*" have no foundation in truth, and exist only in the imagination of that "*Public Officer*." I can assure you, Sir, that I had not the slightest intention either of misrepresenting a fact, or of casting an imputation on the Clerk of the Sessions, for the age and gentlemanly demeanour of that gentleman entitle him to my respect, and as to the person who signs himself his "*Deputy*," and is so uncharitable in his construction of my intentions, if I had entertained such a desire toward him, I would scarcely have chosen as the surest method of securing that object, to mistake a fact so easily refuted, when materials so ample existed, as did and still do, of showing up the conduct of that officer in no very enviable light. The lesson he attempts to read me, of entertaining "*improper motives and over zeal*," come with an ill grace from the office of the Deputy Clerk, and it would be well for its occupant if he possessed equal facility, in realising the real existence of such feelings in himself, that he does in ascribing their application to others, but in this case the opportunity of acting the character of injured innocence was too good to be allowed to pass over in silence. When he expresses the regret that "*gentlemen do not convey truth of information*," I presume he judges by the standard with which he is most familiar, and I can scarcely imagine but on that point, the public will give him much credit for discretion, in attempting to moralize on a subject with his acquaintance may well be doubted.

My object in thus troubling you, was to set myself right before the public, on a point of fact, and to repel the unjust and decidedly uncharitable charges and insinuations of the Deputy Clerk, and for no other purpose, and therefore I will forbear for the present from any farther noticing your correspondent.

I am, Sir, your obedient servant,
A RATE PAYER.
Newcastle, Feb. 17, 1853.

GRAND JURY.

Mr Editor,

You would confer a favor on the Inhabitants of the County by publishing a list of the GRAND JURY at the recent Court of Sessions, so that they will know to whom they are indebted for the able Presentment laid before that body, which shows a zeal and interest in our local matters which have never before been manifested by the Grand Jury on any former occasion.

I hope, Sir, the example thus shown of the power they possess, and the important service they are able to perform in representing abuses, scrutinizing all public accounts, and throwing out wholesome and timely advice to the Magistrates, will be pursued every year by that body.

Yours, &c.,
A TAX PAYER.
Newcastle, February 16, 1853.

LOST.

Some time since, between the Post Office, and Mr W. E. Sarnell's Store, Chatham, a small POCKET BOOK, with a Brass Clasp containing a sum of money, and papers of no value but to the owner. The finder by leaving it at the Gleaner Office, will be rewarded for his trouble.

Chatham, February 7, 1853.

Editor's Department.

MIRAMICHI:

CHATHAM, MONDAY, FEBRUARY 21, 1853.

TERMS OF SUBSCRIPTION.—15s. in advance: 20s. at the end of the year.

TERMS OF ADVERTISING.—Seven lines and under, first insertion 2s. 6d., and 6d every subsequent publication: from 7 to 15 lines, 5s. the first, and 1s. every insertion afterwards. Longer advertisements in proportion. Advertising by the year as may be agreed upon.

No order except from persons with whom we have an account, will be attended to, except accompanied with the cash.

We should like on the opening of the navigation, to publish Twice a Week, on a sheet somewhat larger than half the size of our paper. To procure a suitable Press, and other necessary materials, would involve an expense of about £200. Will our subscribers, who are the parties to be benefited by the arrangement, make an effort to put us in possession of the necessary funds? A small percentage on what is due by them, would enable us to carry out our wishes.

PARISH OF NEWCASTLE AND THE BENCH.

We have been handed for publication, the following Case of the Rate Payers of the Parish of Newcastle, in reference to the very extraordinary proceedings of the Bench in setting aside their appointments of Parish Officers, and the opinion of the Attorney General thereon, by which it will be seen that that Gentleman considers the act illegal.

CASE.

The Rate Payers of the Parish of Newcastle, County of Northumberland, in pursuance of the Act of 13th, Victoria, Chapter 34, proceeded on the day appointed, by Law, viz: on the 1st Tuesday in January last, to Elect their Parish Officers, and did so elect them, and the list thereof was made out, certified by the Chairman, and attested by the Town Clerk (which means witnessed by the Town Clerk.) This list was forwarded to the Clerk of the Peace, by the Town Clerk, on the first day of the Sessions, but it did not reach him till after the Court, closed on that day, it was, however filed, and in Court, on the morning of the second day of the Court, and remained on file during the whole sitting of the Court, from the morning of the second day. The Sessions, notwithstanding this, on the following week, some days after this list was filed, proceeded to appoint the Parish Officers, under article 7, of the said Act, upon the ground, that said certified list was not sworn to by the Town Clerk, and was not filed in Court at the opening of the Court, on the first day of the Sessions.

The question arising out of the foregoing state of facts, are as follows.

1st. Are the appointments so made by the Sessions Legal?

2nd. If not, what steps are necessary to have Legal appointments made?

OPINION.

I am clearly of opinion that the list of Parish Officers elected, and certified to the Sessions, are the Officers that ought to have been confirmed by the Sessions, as the Parish Officers for the year, and that the list not being filed the first day of the Court would not invalidate such list, the same having been in all other respects, properly and regularly certified and attested, and filed long before the appointments were made.

It is only under the seventh article, that the Sessions have the making of the appointments. The words of the Act are—"If the Rate Payers of any Parish fail so to Elect the Officers as herein before provided, or shall not elect a sufficient number, or if no certified list be laid before the Court, the Sessions are authorised &c."—The Act, therefore, does not say the first day of term, but generally, if no certified list be laid before the Sessions; therefore, if the list be laid before the Sessions at any time before the appointments, provided the election and list certified be in all other respects according to the Act, I apprehend the Sessions have not the power to act under that article, and therefore, that the appointments so made are not Legal.

In respect to the steps necessary to confirm the Parish Officers elected, and certified, I cannot say I am free from doubt, at the same time, upon looking at the whole Act, I think a Special Sessions, regularly called, might confirm the Officers elected, inasmuch, as under section 15, article 2, what is required to be done by any Sessions, shall apply to any General or Special Sessions. I would therefore, advise this course to be taken, and in the event of the Parish Officers so elected, and in this manner confirmed, refusing to act, then under article 10, of section 1, of the same act, others may be appointed in their stead.

JOHN A. STREET.

Erederickton, 10th of February, 1853.

We have been called upon to give our opinion on what is best to be done to remedy the evil. We shall do so unhesitatingly.

The suggestion of the Attorney General with reference to the calling of a special