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TO THE EDITOR OF THE SENTINEL.

SIR,—I have always approved of the conduct of the present Lieut Governor of the Province, for the simple reason, that the line of policy he pursues is known to be the very best which in his circumstances can be imagined. Hence it is that I can never restrain my surprise, on reading (as I do every week) the base attempts at calumniating his public character, which in such rapid succession, and lately under cover of a well known delinquency—disfigure the columns of one of our provincial papers.

It is said, Mr. Editor, that the print in question is conducted by a few disappointed individuals, who once, under the old system—retained all the crumbs of patronage; and who now grudge even a few of them to their more moderate and less aspiring fellow subjects. Others again, affirm that from the intimacy which some of those writers seem to hold with the minutes of our Cabinet affairs, and even from the private and confidential conversation at government House, being from time to time partially reported, there must yet be a traitor in the camp; that the "Stable" is not entirely cleansed; and in short, that some *Vicar of Brayish* worldling is yet permitted to retain office.

How far the latter opinion may consist with truth, I pretend not to judge; and shall only remark that the man who could be capable of giving his ostensible support to His Excellency, and who at the same time, would in a private manner, endeavor to destroy his claims—well earned as they assuredly are—to the confidence of the people, should, to all intents be identified with that man who in the hour of danger, would furnish the enemies of his country with bullets and gunpowder.

That there is a certain class of persons both at Head Quarters and in St. John, who enjoy a considerable share of Government support, and then like the untamed mastiff snap at the hand that feeds them, it would be in vain to deny; as their growing habits become so notorious that even their children, cannot refrain from boiling over those pent up feelings of jealousy and disappointment, which their wiser parents, endeavor to smother under a heap of the good things which they enjoy: but the whole effect which those few individuals are able to make, resembles more the weak writhings of a serpent's tail after his more vital part has received its death blow, than the healthy and vigorous action of a body in the possession of its natural powers.

Might we not in the name of common sense, ask those retailers of wholesale slander—not what they would gain by a change of the present liberal policy of the Executive—for that is quite obvious—but, what would the country gain if a reaction of their fusty principles, and obnoxious practices were to take place in this Province? Would there be less crime and rapacity, than are now said to be exercised in the Government affairs of the colony? Would there be more harmony in the Council, or more peace and contentment among the people? Would public officers of all denominations, be more faithful to the full discharge of their respective duties? The present situation of the neighboring provinces, the past and present situations of New Brunswick contrasted: the poor man's independence, and the wealthy man's increasing prosperity under the present administration, will answer the above questions.

Every one who possesses either good sense or a feeling heart, will readily grant that it is unpardonable in any one who has outlived the years of a school-boy, either to write or publish any article which has for its only object the desire of giving pain to a fellow creature. Most certainly every public communication should possess enough of interest to make it in some way acceptable to the reader; but such should invariably have some moral, or useful aim, and should never descend to the brutal and malignant attempt to beat down, and then trample upon those ties which unite so firmly, the learned and illiterate, the weak and strong, the rich and poor, the people and their magistrates in one common bond of brotherly kindness and confidence.

But more especially by those to whom is confided the task of conducting the public press, should the same right of public and private character be respected; lest the degree of uncommon, nay dangerous power which they possess, should be prostituted at the shrine of envy or interest, and thus become the means of circulating the very passion, for which it was originally designed as the most effective antidote.

Much has been said about the freedom of the press, and certainly too much cannot be said, when that freedom is restrained within the limits of prudence, moderation and justice; but when it degenerates into a mode of conveyance for licentious thought and unblushing falsehood then it is to be dreaded as the plague, or the inquisition, or any other great moral or physical evil which nations are forced to endure as chastisement for their sins.

We never hold him to be a wise man who on all occasions blabs out the full amount of his neighbours' "faults and failings"—even within the bounds of truth;—because we think the practice unnecessary and cruel, and because we generally find that such persons however sharp-sighted in discerning the "note" abroad, have not turned their attention to the "beam" at home: but when calumny, falsehood and vituperation dress themselves in the garb of patriotism, truth and justice, then indeed our feelings of indignation may be excited although they should find vent in the language of severity, and then it is that severity is no more than justice.

I fear the above remarks will apply too well to the individuals in question; they have descended from the high stand which public journalists should ever occupy, in the absence of argument they have had recourse to low abuse and personal invective; they have substituted forgeries of a degrading character for truth, while their late feeble attempt to reanimate an old and popular political writer is calculated only to remind us of a would-be hunter in the East Indies, who went out one day in search of an Elephant and rather than return empty brot home a mouse.

Yours, &c.

AMICUS.

Sheffield, May 12, 1840.

LAW AND LAWYERS;

Or Sketches and Illustrations of Legal History and Biography.

The degree of merit that at best can be appropriated by a compilation of this description is not very high; and unless the compiler be really a man of extensive research, and well able to deal with his subject, he seldom produces a work likely to pass into an authority, or even to survive the season of publication. In the present case all that can be reasonably said is that the *olio* is highly amusing, full of a strange variety of biographical and historical anecdotes, and presenting tolerably correct and spirited sketches of some of the most distinguished members, past and present, of the bench and the bar.

Lawyers are a race in whom readers of every grade and party feel a certain interest. Their lives are spent in perpetual intellectual toil—especially those who are constantly before the public. The labours in which they are engaged affect all our personal and common rights, and in contemplating their struggles and their progress, we recognize much incidental matter that touches us nearly in the various relations of society. And mixed up with all this there is an under-current of humor that runs through the gravest parts of the inquiry, for there is scarcely any class of men who indulge more freely in ridicule and satire than do the professors of the law. The picture, consequently, is various and entertaining—at one moment developing the most solemn features of jurisprudence, and at another the archest and most vagrant burlesque.

The volumes fairly reflect these contrasts; but it is needless to suggest that their authenticity bears no proportion to their versatility. Some of the anecdotes they record are at least apocryphal—others obviously exaggerated—and not a few rest upon no better foundation than after-dinner scandal. Yet whoever will take the pains to separate the true from the doubtful, and to exercise a careful judgement over the whole, will not think a few hours thrown away upon the perusal of the work; which, with all the faults inseparable from such productions, must have cost the author considerable trouble.

It is written in the narrative form, and takes in some measure a shape of systematic arrangement. From the mass of particulars it contains, we will select two or three as specimens. Under the head of "Legal Eccentricity," we find several amusing recollections. Take a glance at a Chief Justice—

Willes, chief justice of the Common Pleas, though a good lawyer, was scarcely fitted by his habits and character for the high post to which he was appointed. He was greatly disliked by the Pelhams and Lord Hardwicke; but he was befriended by Sir Robert Walpole, to whom he owed his elevation. Willes was a gambler and a debauchee. So little did he disguise his taste, that on one occasion he was seen playing cards in the public rooms at Bath. Here he was recognised by a young barrister, who resolved to annoy him. Feigning intoxication, he rolled up to the table where his lordship was sitting, and getting behind the chair, looked over his hand. On this Willes turned round in a tremendous passion, and gave the intruder a severe reproof. "Sir," said the barrister, pretending to stagger, "I beg your pardon—but I want to improve—in what playing;—so—so I came to look—at your playing;—for—if—I'm not—mistaken, sir,—you're a judge!"—Willes would not readily tolerate the impudence of any one who ventured to remind him of the inconsistency of his conduct with his judicial character.

Again, of Lord Northington, a chancellor of the old time:—

One dirty day, whilst walking along Parliament-street, very plainly dressed, the chancellor picked up a handsome ring, which was, according to custom, immediately claimed by one of the fraternity well known as ring-droppers. This gentleman feigned exceeding delight at recovering an article of such value, and begged the chancellor, whose person he did not evidently recognize, to accompany him to a neighbouring coffee-house, and partake of a bottle of wine. To this Lord Northington, who was fond of a

joke, readily assented, and they adjourned to a tavern in the neighbourhood, where they discussed the news of the day over a bottle. They had not been seated long before other gentlemen entered, all of whom, the chancellor observed, appeared acquainted with his friend. The conversation on this became general, when at last one of the company proposed a game at hazard, to which another objected, and observed in an under-tone of voice, which however did not escape his lordship's ears; "D— the loaded dice—he is not worth the trouble—pick the old flat's pocket at once?" Upon this the chancellor discovered himself, and assured the company if they would confess why they supposed him such an immense flat, he would say nothing to the police about them. One of them replied, "We beg your lordship's pardon, but whenever we see a gentleman in white stockings on a dirty day, we consider him a regular pigeon, and pluck his feathers as we would have plucked your lordship's."

Thurlow is rich in recollections, that do credit to his heart as well as betray his glib-gloss:—

Crabbe soon after he came up to London, a poor penniless adventurer, sent a copy of verses to the chancellor, with a letter imploring the honor of his patronage. To this application Thurlow made a cold reply, regretting that his avocations did not leave him leisure to read verses. Crabbe, stung with this repulse, addressed to him "some strong but not disrespectful lines, intimating that in former times the encouragement of literature had been considered as a duty appertaining to the illustrious state he held." Of this effusion the chancellor took no notice whatever.

After Crabbe had, through the discriminating goodness of Burke, been relieved from the immediate pressure of distress, he received a note from Thurlow inviting him to breakfast the next morning. He was received by the chancellor with more than ordinary courtesy. "The first poem you sent me, sir," said Thurlow, "I ought to have noticed, and I heartily forgive the second." They breakfasted together, and at parting his lordship put a sealed paper into Crabbe's hand, saying, "accept this trifle, sir, in the meantime, and rely on my embracing the first opportunity to serve you more substantially than I hear you are in orders." The paper contained a bank-note for a hundred pounds.—The promise Thurlow made at the time he so soon performed. When Crabbe was qualified to hold church preferment, he received an invitation to dine with the chancellor. After dinner, addressing the poet, his lordship told him that "by G— he was as like parson Adams as twelve to a dozen," and that he should give him two livings in Dorsetshire, that had just become vacant.

Another anecdote will illustrate still more forcibly the peculiarity of his temper. One day he was sitting in his private room to hear some application at the time that the lords were assembling in their house. Being unable to commence business without their speaker, they desired Mr. Quarme, deputy usher of the black-rod, to go to the chancellor and tell him the house had met. Mr. Quarme went and delivered his message. "Umph," was the only reply which the chancellor vouchsafed. The deputy-usher returned to the house—some time passed, and Lord Thurlow did not make his appearance. A peer went down to Mr. Quarme, and begged him to go again and tell the chancellor plainly that the lords were waiting for him—that the hour appointed for house meeting had long passed—and that they could wait no longer. The deputy-usher returned to the chancellor, and with some emphasis repeated the message with which he was charged. The chancellor designed to reply no otherwise than with his accustomed growl. "But, my lord," said Quarme, with some warmth, "I must have your lordship's answer. The lords are waiting!" "D—n the lords," said Thurlow, quickly, fixing a look of rage on the usher. "You may D—n the lords as much as you like," exclaimed the undaunted official, "but I'm d—d, were you twenty times chancellor, if you should d—n me!" The chancellor gazed with astonishment at Quarme—the audacity of a mere servant of the house thus bearding its chief excited his amazement: at length his features expanded in a smile, and rising from his chair he exclaimed, "By Jove, you are a bold fellow: come and dine with me to-morrow." "And so I will," replied Quarme; with whom, ever after, the chancellor continued on terms of friendship.

Of Lord Alvanley, by no means a distinguished man, we have a brief notice, of which the following is a specimen, and may be accepted also as a sample of the general level of the work:—

Sir Richard Pepper Arden, afterwards Lord Alvanley, was appointed Master of the Rolls in 1789, and Chief Justice of the Common Pleas in 1801. His decisions in general gave satisfaction and appeals were not more numerous than under Sir Lloyd Kenyon. They were calculated at seven per cent. The business of the Court increased much, especially concerning mercantile and theatrical matters, and disputed wills, ill drawn. From the mistaken adoption of legal words and other causes, this was a matter of no light difficulty at times, when the meaning was often doubtful. On one occasion the Counsel asserted that it was the duty of the Court to find out the meaning of the testator. "My duty, sir, to find out his meaning!" exclaimed Lord Alvanley. "Suppose the will had contained only these words, 'Fustun funnidus tantaraboo,' am I to find out the meaning of his gibberish?" His decision in the famous case of Thellusson, concerning the absurd accumulation of property, contemplated by this monomaniac is well known. Arden was created Lord Alvanley at the same time that he was raised to the chief seat in the Common Pleas. His warmth of temper sometimes engaged him in altercations with "brother Best" and others; and it is said, that his want of gravity rendered it impossible that he could have justified the saying, "as grave as a judge;" that he would laugh as merrily as a comic actor, and talk in a loose, careless manner as if he had been the president of a debating society, or a free-and-easy. Upon one occasion, when trying a case in the Hall, and an Act of Parliament was in question, a learned serjeant quoted a section of it, but was interrupted by Lord Alvanley's saying there was no such clause in the act.

"Why but, my Lord, here it is," said the serjeant.

"Never mind, I tell you I have looked, it is not there," retorted the judge.

"I beg your Lordship's pardon, but here it is in the book, read it."

The learned Judge at length took the book, and having read it, exclaimed, "Oh, true, here

it is sure enough, as sure as God is in Gloucester!"

If we have lately had some discussion concerning the supremacy of the House of Commons, it appears that on some occasions the judges have attempted to set themselves likewise above the law:—

The authority which the judges have at times assumed, have been altogether unwarranted by the constitution. They have, in effect, repealed Acts of Parliament. Barrington alludes to a passage in "Burnett's History of his Own Times," where he mentions an Act of Charles the Second, with regard to the drawing of horses abreast on the highways, and which was so impracticable that the judges on their circuits directed the grand juries not to put it into operation. In the reign of Charles I. Sir Robert Berkely, one of the judges, in charging the grand jury at York, in 1636, declared, "That in some cases the judges were above an Act of Parliament."

We have some remarkable cases on record in which judges have acted on the opinion of this superiority. In *Smith v. the Company of Armourers*, in which an application for a mandamus to admit a person to the Company, was met with the assertion that he had not been duly apprenticed, in conformity with the Act of Elizabeth, Lord Kenyon made the following observations: "When the act was made, those who framed it might find it beneficial, but the ink with which it was written was scarce dry ere the inconvenience of it was perceived; and judges, falling in with the sentiments of policy entertained by others, have lent their assistance to repeal this law, as much as was in their power." This they did by a rigorous construction of the words of the Act, so as to defeat the obvious intention of the framers. "The great operation of the statute *De Donis*," says the same eminent judge, "was destroyed by the revival of common recoveries." In the case of *Russell v. Russell*, the principle of the 29 Car. II. c. 3. s. 3. was altogether disregarded, but Lord Eldon declared that that case "is not now to be disturbed."

Of such materials is this publication for the most part composed; amusing, various, numerous, and generally superficial. If, however, lawyers are likely to derive nothing better than amusement from it, the general reader may here and there hit upon a scrap of something that will, to him at least, be new and useful.

ORIGINAL HYMN.

Sung at the Anniversary of the Sabbath School, Baldwin Place, (Boston,) December, 1839.

BY MRS. SIGOURNEY.

WE come to raise our voices,
In songs of grateful praise,
To him who deigns to listen
To childhood's feeble lays:
Whose mercy still preserves us,
From every youthful snare;
Who guards our lives from danger,
With his own watchful care.

We thank him for the Sabbath,—
Its hallowed hours we love,—
We hail it as the emblem,
Of nobler joys above,—
For parents, friends, and teachers,
Who make our wants their own;
For blessings that His kindness
Has o'er our pathway strown.

But, more than all, we thank Him,
That His dear Son has died,
To save from endless ruin,
Who in His love confide.
Lord, since thou hast loved us,
We give ourselves to Thee:
For thou alone from bondage
Canst set the captives free.

[From the New York Evening Star.]

Sir Lytton Bulwer and his Wife.—The case recently tried before the Correctional Police of Paris, reflects the highest discredit, as it strikes us, upon the learned and talented baronet. This decision we come to as the consequence of the careful perusal of the facts and pleadings in the case. We give a rapid summary of them, as furnished in the foreign journals.

Sir Lytton and Lady, "agree to differ," and execute a mutual deed of separation: he to take charge of the children, and she to receive such or such an allowance. He remains in England, while she takes up her residence in Paris. For aught that appears, or that is alleged, her conduct is there irreproachable. She is received in the society to which her character and rank entitle her to move, with cordiality, and makes many friends there.

Of a sudden, she finds herself attacked by the Parisian newspapers. Conscious of her innocence in the matters of which she is accused, she brings an action in the Sixth Chamber of Correctional Police, of Paris, against the libeller, for the vindication of her character. At about the same time, an attempt, partially successful, is made to obtain her private papers from her private residence, surreptitiously; and another, as she alleges, to suborn and bribe testimony against her. These actions are brought in Lady Bulwer's name, against one Lawson, an attorney, and his clerk, Thackeray. The libel alleged is charged to be from the pen of the latter, and appeared in the *Gazette des Tribunaux*.

Just as the case was about to be brought to trial, steps in M. Odillon Barrot, as counsel for Sir Lytton Bulwer, and demurs to the competency of the Court of Correctional Police to try the case, the husband having the right to forbid an action to proceed which is instituted by the wife without his consent! This point is elaborately argued by learned counsel on both sides, and the demurrer is sustained by the decision of the court. And so the matter stands;—Lady Bulwer losing the opportunity to defend herself from such attacks upon her reputation, because the husband will not permit her to defend herself.

The Court suggested, however, that she had a remedy by denouncing these acts of the accused as breaches of the public law, and then appearing as a witness; a course which is probable she will adopt. She has also the right of appeal to the Court Royale, upon the question decided by the lower court; and it is said in *Caligani's Messenger*, that she will so proceed.

Now, the worst feature of all this business, is that the offences charged against Lawson and Thackeray, as the basis of this action of Lady Bulwer, are in reality, the acts of her husband,

whose agents the accused are. In order to obtain a shadow of pretence for blasting the plaintiff's character, as a wife and mother, he employs people to steal her papers, to slander her in the public prints, and to plot perjury for her ruin. Then, if she rises up in her own vindication, he says you are still my wife, and cannot bring any action, even in Paris, against your detractors and robbers, without my leave or consent.

LAW INTELLIGENCE.

HALIFAX, May 13.

SUPREME COURT.—LIBEL CASE.—Mr. E. Ward against Messrs English and Blackadar, was tried on Monday last. This was a case of some interest,—its merits are as follow: Sometime in 1838, a person of the name of Duncan arrived in Halifax. Shortly after an article appeared in the *Frederickton Sentinel*, of which Mr. Ward is editor, describing Mr. Duncan as a swindler, and cautioning the public to be on their guard against him. Mr. Duncan saw the article, and wrote an answer to it, which was inserted in the *Acadian Recorder*, published by the defendants. The answer denied the charge made in the *Sentinel*, and, in strong terms, declared Mr. Ward to be a swindler, cheat, and prone to quarrelling. On this the action was brought,—damages laid at £1000.

The Solicitor General for Mr. Ward, opened the case briefly to the Jury. The alleged libel was read.

Mr. Doyle, for defendants, argued that the chief term in the libel, Swindler, was not of itself actionable, unless used in connection with the trade or profession of the party to whom it was applied.

The Chief Justice overruled the objection. There was a difference, his lordship explained, between words spoken hastily, and words deliberately written. Not only was the charge of swindling libellous, but any moral charge, anything turning a party into contempt and ridicule.

Mr. Uniacke, for the defence, addressed the Court and Jury. The liberty of the press was of much consequence, and tended to prevent the growth of many evils. It was a peculiar feature in the present case, that the Press sought to control the Press, the Jury were judges of law and of fact, in the case. The alleged libel was a reply, to a previous communication, from the person assailed. The action had been delayed from 1838 to 1840,—Mr. Duncan had left the Province, and therefore could not be brought forward to justify the contents of his letter. The intention was of much consequence in such charges, and were the intention was good, malice was not inferred. When Mr. Ward noticed and answered the charge, defendants copied his answer, thus showing that they were not parties in the matter. Plaintiff should not complain if words which he had used against another, were thrown back on himself. (Cases were referred to, to prove the position of the learned counsel,—and instances to show plaintiff's experience in such quarrels.) Newspaper editors should not be blamed for all that appeared in communications; they had many opposing claims to attend to, and generally acted as a check to repress the warmth of correspondents. What would be said if defendants refused a reply to a party who felt himself grossly ill-used. No injury had been shown as the result of the publication. It was the duty of the jury to support free discussion.

Witnesses were called, chiefly to prove that Mr. Ward, while conducting the *Free Press*, was inclined to be quarrelsome, and had become involved in several angry disputes. The evidence amounted to very little and was taken no notice of by the Court, as the plea was, *not guilty*; the plea of *justification* was not made.

The Solicitor General addressed the Court. The case had received a more serious aspect than when he opened it, by the counsel for the defence arguing that the intention of parties was of consequence in alleged libels.—That was most explicitly repudiated,—the consequence of such a doctrine would be most dangerous and improper. The libel was a violent slander. It was not such a reply as an aggrieved party should have been allowed to publish. Persons might give opinions of others, without fear of legal consequences, when they were legally acting,—such as a person giving a character of a servant,—a relative or commercial correspondent, stating opinions of a third party,—a reporter furnishing proceedings of the houses of Parliament or Courts of law—these were cases in which the intention was considered,—but not such as that before the Court. Several cases were referred to. The publication of a libel by the plaintiff, by no means privileged the defendant to publish another. It would be an insult to plaintiff to have laid special damages,—who doubted that a man would be damaged in his feelings, and family, and daily avocations, by such charges going abroad in a widely circulated paper?

The Chief Justice charged the jury. There was no doubt on the case. The question was was the article a libel or not; justification by proof was not pleaded. There were three modes of bringing actions for libel: One by going before the Grand Jury, and getting an indictment, on the ground that the offence was calculated to endanger the public peace. Another was to apply to the Court for an Information. In which case the party applying would have to swear that the charges were untrue; under that the truth or falsity could not be gone into before a Jury.—A third mode was, by the party bringing his own private action. In the latter, the defendants must plead that charges were true, and bring proof to that effect, and if the Jury were satisfied of the truth, they would not allow a party to put money into his own pocket by means of damages. The defendants in the present case had not done this.—The question was, was the article a libel,—of this no doubt could exist. Intention should be judged by the consequences likely to ensue. Was the article, in its nature, calculated to annoy and distress. The printer was