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## DU CALVET'S MEMOIR.

[Translated for the North American.]

(CONTINUED.)

Extract of Mr. Du Calvet's letter to the Canadians.

Report with its thousand tongues had spread the news that my seigniory at David's river was a receptacle for provisions for the Americans; 1500 oxen, a similar number of hogs, 30,000 bushels of wheat, were there deposited waiting for the arrival of the *Bostonians* through the woods. Capt. LeMaitre, Aid-de-Camp to General Haldimand and Mr. Gray a Justice of the Peace, were ordered to go and take possession in the King's name of the precious depot, then of great value to the British. They visited my mills, my stores, barns, in a word all my property where I could have concealed this considerable supply; they found but 24 little pigs belonging to the men in my employment; and the 30,000 bushels of wheat were reduced to about 100, which were the produce of my seigniorial dues. Disappointed in their expectations, the commissioners proceeded to an authentic inquest at the house of the Captain of Militia at Maska, the tenants of my seigniory were examined and they who were the ocular witnesses of my conduct, gave a just tribute of respect to my person, and they extolled my disinterestedness and honesty.

Losing nearly all hopes of finding any thing unfavorable against me on the spot, and desiring to prove me guilty, they went for proofs against me in a place where I was hardly known. Young DuFort had been arrested whilst he was leaving the Province, seeking in flight, the security of his wavering personal liberty, there being a warrant of arrest issued against him by an inexorable creditor; officers of the highest grade believed they were not compromising their honour in trying to take advantage of his good faith in three successive interrogatories, and to extort evidence against me by captious questions and even fraudulent assertions as to my pretended execution on a gibbet. The prisoner who was more friendly to truth than to his own personal liberty, disclaiming his liberation at the expense of my innocence, could not be brought by all their artifices to compromise me in his leaving the Province, of which he swore I could have known nothing.

His own father when at the jail joined my enemies not however wishing to subvert the probity of his son whom he had honestly brought up, but to press him to reveal such information as might set him at liberty; but the prisoner always remained firm in his first attestations which absolved me from all participation in his flight. Since then in presence of witnesses he has given his written certificate of the interrogatories put to him, and the uniform answers he then gave, to which he made most solemn oath.

Mr. L'Evesque one of the most respectable citizens of the Province, desirous of obtaining my liberty, solicited my liberation just at this favorable time when the fire of persecution had brought the calm in Gen. Haldimand's mind. My wise friend strengthened his repeated demands by offering to be himself my bail to the amount of any sum whatever. The Governor was then holding his *levee*. He subscribed obligingly to the demand of my good friend. He called immediately his Aid-de-Camp Mr. LeMaitre, whom he sent in Mr. L'Evesque's company to the Lieutenant Governor Mr. Cramahe to signify to him the order to draw the obligatory act which was immediately to precede my liberation. The Lieutenant Governor met this demand with enthusiasm and extacy, which were visible in those transports of joy so natural to a kind heart at liberty to act according to its own feelings. "Truly, said he, I am very glad of it, for it was shameful to keep

a man like Mr. Du Calvet in jail and without knowing for what. But unfortunately he was busy and the transaction was postponed till the next day.

At the appointed time Mr. L'Evesque went to Mr. Cramahe's office where in concert with Mr. Dunn a personage of rank in the Province, the obligatory act was drawn; they went into Mr. Cramahe's room to sign the document in his presence and to give to it all the legal forms, but what was their astonishment when the Lieutenant Governor told them that my liberation was no more to be talked of, as the *weathercock had turned* and that he had received a countermand from the Governor.

The following Sunday, 10th Dec., 1780, Mr. L'Evesque found out the secret of such an order, the Governor was then holding a *levee* in great style. "Mr. Du Calvet, said His Excellency to Mr. L'Evesque, has had the audacity of addressing me an impertinent letter, I shall learn him whether that be the manner of writing to a person of my standing, and I shall force him to alter his tone." Mr. L'Evesque then told him "I have read the letter and I could never have imagined that it was such as to irritate and offend your Excellency; after all some irregularities ought to be pardoned in a man who sees his grave gradually opening every day by the horrors of a dungeon, and his fortune fallen to utter ruin by want of proper attention and by his absence from home." Mr. Panet a French lawyer since then a Judge of Common Pleas, joined Mr. L'Evesque in this plea in favor of suffering humanity. Provoked by these solicitations which were in direct contradiction with his own feelings, the haughty General Haldimand became furious and answered them insultingly "I do not need your counsel, I alone have the right and power to judge and I shall proceed as I think proper."

(To be Continued.)

## HISTORY OF CANADA.

(CONTINUED.)

The time had arrived, when the Americans thought it as well their duty as their interest, to nominate delegates from each colony, to discuss their rights in a common Council, which was to take such steps as might be deemed necessary to remove all the abuses and vexations of which they had for scores of years complained in vain. In consequence of this understanding on their part, a Congress of the members elected by the several colonies met at Philadelphia, on the 5th September 1774. On the 21st of October following a resolution was passed to name a committee to prepare an address to the people of the Province of Quebec. Mr. Lee, Mr. Dickinson and Mr. Cushing, were elected members of the committee to prepare this address. On the 24th these gentlemen reported their address to the Canadians, it was read and recommitted. On the 26th, Congress adopted the following address, which we think it our duty to transcribe in this place, to show that the Americans will understand the abject political position in which the French Canadians were placed.

## TO THE INHABITANTS OF THE PROVINCE OF QUEBEC.

*Friends and Fellow Subjects.*—We, the delegates of the colonies of New Hampshire, Massachusetts Bay, Rhode-Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, the counties of New Castle, Kent and Sussex on Delaware, Maryland, Virginia, North Carolina and South Carolina, deputed by the inhabitants of the said colonies, to represent them in a general Congress, at Philadelphia, in the province of Pennsylvania, to consult together, concerning the best methods to obtain redress of our afflicting grievances; having accordingly assembled, and taken into our most serious consideration, the state of public affairs on this continent, have thought proper to address your province, as a member therein deeply interested.

When the fortunes of war, after a gallant and glorious resistance, had incorporated you with the body of English subjects, we rejoice in the truly valuable addition, both on our own and your account; expecting, as courage and generosity are naturally united, our brave enemies, would

become our hearty friends, and that the Divine Being, would bless to you the dispensations of his over-ruling providence, by securing to you, and your latest posterity, the inestimable advantages of a free English constitution of government, which it is the privilege of all English subjects to enjoy.

These hopes were confirmed by the king's proclamation, issued in the year 1763, plighting the public faith for your full enjoyment of those advantages.

Little did we imagine that any succeeding ministers would so audaciously and cruelly abuse the royal authority, as to withhold from you the fruition of the irrevocable rights, to which you were thus justly entitled.

But since we have lived to see the unexpected time, when ministers of this flagitious temper, have dared to violate the most sacred compacts and obligations, and as you, educated under another form of government, have artfully been kept from discovering the unspeakable worth of that form you are now undoubtedly entitled to, we esteem it our duty, for the weighty reasons herein-after mentioned, to explain to you some of its most important branches.

"In every human society," says the celebrated Marquis Beccaria, "there is an effort continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally and equally."

Rulers stimulated by this pernicious "effort," and subjects animated by the just "intent of opposing good laws against it," have occasioned that vast variety of events, that fill the histories of so many nations. All these histories demonstrate the truth of this simple position, that to live by the will of one man, or set of men, is the production of misery to all men.

On the solid foundation of this principle, Englishmen reared up the fabric of their constitution with such a strength, as for ages to defy time, tyranny, treachery, internal and foreign wars: And, as an illustrious author\* of your nation, hereafter mentioned, observes,—"They gave the people of their colonies, the form of their own government, and this government carrying prosperity along with it, they have grown great nations in the forests they were sent to inhabit."

In this form, the first grand right, is that of the people having a share in their government, by their representatives chosen by themselves, and in consequence of being ruled by laws which they themselves approve, not by edicts of men, over whom they have no control. This is a bulwark surrounding and defending their property, so that no portions of it can legally be taken from them, but with their own full and free consent, when they in their judgment deem it just and necessary to give them for public services, and precisely direct the easiest, cheapest, and most equal methods in which they shall be collected.

The influence of this right extends still farther. If money is wanted by rulers, who have in any manner oppressed the people, they may retain it, until their grievances are redressed; and thus peaceably procure relief, without trusting to despised petitions, or disturbing the public tranquillity.

The next great right is that of trial by jury. This provides, that neither life, liberty, nor property, can be taken from the possessor, until twelve of his unexceptionable countrymen and peers of his vicinage, who from that neighborhood may reasonably be supposed to be acquainted with his character, and the character of the witnesses, upon a fair trial, and full enquiry, face to face, in open court, before as many of the people as choose to attend, shall pass their sentence upon oath against him; a sentence that cannot injure him, without injuring their own reputation, and probably their interest also; as the question may turn on points, that, in some degree, concern the general welfare; and, if it does not, their verdict may form a precedent, that, on a similar trial of their own, may militate against themselves.

Another right relates merely to the liberty of the person. If a subject is seized and imprisoned, though by order of government, he may, by virtue of this right, immediately obtain a writ, termed a *habeas corpus*, from a judge, whose sworn duty it is to grant it, and thereupon procure any illegal restraint to be quickly enquired into, and redressed.

A fourth right, is that of holding lands by the tenure of easy rents, and not by rigorous and oppressive services, frequently forcing the possessors from their families and their business, to perform what ought to be done, in all well regulated states, by men hired for the purpose.

The last right we shall mention regards the freedom of the press. The importance of this consists, besides the advancement of truth, science, morality, & arts in general,

\* Montesquieu.

in its diffusion of liberal sentiments on the administration of government, its ready communication of thoughts between subjects, and its consequential promotion of union among them, whereby oppressive officers are shamed or intimidated, into more honorable and just modes of conducting affairs.

These are the invaluable rights, that form a considerable part of our mild system of government; that, sending its equitable energy through all ranks and classes of men, defends the poor from the rich, the weak from the powerful, the industrious from the rapacious, the peaceable from the violent, the tenants from the lords, and all from their superiors.

These are the rights, without which a people cannot be free and happy, and under the protecting and encouraging influence of which, these colonies have hitherto so amazingly flourished and increased. These are the rights, a profligate ministry are now striving, by force of arms, to ravish from us, and which we are, with one mind, resolved never to resign but with our lives.

These are the rights you are entitled to, and ought, at this moment in perfection, to exercise. And what is offered to you by the late act of parliament in their place? Liberty of conscience in your religion? No. God gave it to you; and the temporal powers with which you have been and are connected, firmly stipulated for your enjoyment of it. If laws, divine and human, could secure it against the despotic caprices of wicked men, it was secured before. Are the French laws in civil cases restored? It seems so. But observe the cautious kindness of the ministers, who pretend to be your benefactors. The words of the statute are—that those "laws" shall be the rule, until they shall be varied or altered by any ordinances of the "governor and council." Is the "certainty and lenity of the criminal law of England and its benefits and advantages," commended in the said statute, "and said to have been sensibly felt by you," secured to you and your descendants? No. They too are subjected to arbitrary "alterations" by the governor and council; and a power is expressly reserved of appointing "such courts of criminal, civil, and ecclesiastical jurisdiction, as shall be thought proper." Such is the precarious tenure of mere will, by which you hold your lives and religion. The crown and its ministers, are empowered as far as they could be by parliament, to establish even the inquisition itself among you. Have you an assembly composed of worthy men, elected by yourselves, and in whom you can confide, to make laws for you, to watch over your welfare, and to direct in what quantity, and in what manner, your money shall be taken from you? No. The power of making laws for you is lodged in the governor and council, all of them dependant upon, and removable at the pleasure of a minister. Besides, another late statute, made without your consent, has subjected you to the impositions of excise; the horror of all free states; thus wresting your property from you by the most odious of taxes, and laying open to insolent tax-gatherers, houses, the scenes of domestic peace and comfort, and called the castles of English subjects in the books of their law. And in the very act for altering your government, and intended to flatter you, you are not authorised to "assess, levy, or apply any rates and taxes, but for the inferior purposes of making roads, and erecting and repairing public buildings, or for other local conveniences, within your respective towns and districts."

Why this degrading distinction? Ought not the property, honestly acquired by Canadians, to be held as sacred as that of Englishmen? Have not Canadians sense enough to attend to any other public affairs, than gathering stones from one place, and piling them up in another? Unhappy people! who are not only injured, but insulted. Nay more!—With such a superlative contempt of your understanding and spirit, has an insolence ministry presumed to think of you, our respectable fellow-subjects, according to the information we have received, as firmly to persuade themselves that your gratitude, for the injuries and insults they have recently offered to you, will engage you to take up arms, and render yourselves the ridicule and detestation of the world, by becoming tools, in their hands, to assist them in taking that freedom from us, which they have treacherously denied to you; the unavoidable consequence of which attempt, if successful, would be the extinction of all hopes of you or your posterity being ever restored to freedom: For idocy itself cannot believe, that, when their drudgery is performed, they will treat you with less cruelty than they have us, who are of the same blood with themselves.

What would your countryman, the immortal Montesquieu, have said to such a plan of domination, as has been framed for you? Hear his words, with an intension of thought suited to the importance

of the subject.—"In a free state, every man, who is supposed a free agent, ought to be concerned in his own government: Therefore the legislative should reside in the whole body of the people, or their representatives."—"The political liberty of the subject is a tranquility of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted, as that one man need not be afraid of another. When the power of making laws and the power of executing them, are united in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner."

"The power of judging should be exercised by persons taken from the body of the people, at certain times of the year, and pursuant to a form and manner prescribed by law. There is no liberty, if the power of judging be not separated from the legislative and executive powers."

"Military men belong to a profession, which may be useful, but is often dangerous."—"The enjoyment of liberty, and even its support and preservation, consists in every man's being allowed to speak his thoughts, and lay open his sentiments."

Apply these decisive maxims, sanctified by the authority of a name which all Europe reveres, to your own state. You have a governor, it may be urged, vested with the executive powers, or the powers of administration: In him, and in your council, is lodged the power of making laws. You have judges, who are to decide every cause affecting your lives, liberty or property. Here is, indeed, an appearance of the several powers being separated and distributed into different hands, for checks, one upon another; the only effectual mode ever invented by the wit of men, to promote their freedom and prosperity. But scorning to be illuded by a tinsel outside, and exerting the natural sagacity of Frenchmen, examine the specious device, and you will find it, to use an expression of holy writ, "a whitened sepulchre," for burying your lives, liberty and property.

Your judges, and your legislative council, as it is called, are dependant on the servant of the crown, in Great-Britain. The legislative, executive and judging powers are all moved by the nod of a minister. Privileges and immunities last no longer than his smiles. When he frowns; their feeble forms dissolve. Such a treacherous ingenuity has been exerted in drawing up the code lately offered you, that every sentence, beginning with a benevolent pretension, concludes with a destructive power; and the substance of the whole, divested of its smooth words, is—that the crown and its ministers shall be as absolute throughout your extended province, as the despots of Asia or Africa. What can protect your property from taxing edicts, and the rapacity of necessitous and cruel masters? your persons from *lettres de cachet*, gaols, dungeons, and oppressive services? your lives and general liberty from arbitrary and unfeeling rulers? We defy you, casting your view upon every side, to discover a single circumstance, promising from any quarter the faintest hope of liberty to you, or your posterity, but from an entire adoption into the union of these colonies.

What advice would the truly great man before-mentioned, that advocate of freedom and humanity, give you, was he now living, and knew that we, your numerous and powerful neighbours, animated by a just love of our invaded rights, and united by the indissoluble bonds of affection and interest, called upon you, by every obligation of regard for yourselves and your children, as we now do, to join us in our righteous contest, to make common cause with us therein, and take a noble chance for emerging from a humiliating subjection under governors, intendants and military tyrants, into the firm rank and condition of English freemen, whose custom it is, derived from their ancestors, to make those tremble, who dare to think of making them miserable?

Would not this be the purport of his address? "Seize the opportunity presented to you by Providence itself. You have been conquered into liberty, if you act as you ought. This work is not of man. You are a small people, compared to those who, with open arms, invite you into a fellowship. A moment's reflection should convince you which will be most for your interest and happiness, to have all the rest of North-America your unalterable friends, or your inveterate enemies. The injuries of Boston have roused and associated every colony, from Nova-Scotia to Georgia. Your province is the only link wanting, to complete the bright and strong chain of union. Nature has joined your country to theirs. Do you join your political interests. For their own sakes they never will desert or betray you. Be assured, that the happiness of a people in-