

STATEMENT OF FACTS,

RELATING TO THE TRESPASS,

ON THE

PRINTING PRESS,

IN THE POSSESSION OF MR. WILLIAM LYON M'KENZIE,

IN JUNE 1826.

ADDRESSED TO THE PUBLIC GENERALLY,

AND

PARTICULARLY TO THE SUBSCRIBERS, AND SUPPORTERS

OF

THE COLONIAL ADVOCATE.



YORK :

Printed by R. STANTON.

1828

STATEMENT OF PAID

RELATING TO THE TRIP

AND

PRINTING PRESS

IN THE SERVICE OF THE UNITED STATES

IN 1848

ADDRESSED TO THE PUBLIC OFFICIALS

AND

RELATIVES TO THE PASSENGERS AND SEAFARERS

OF

THE FEDERAL GOVERNMENT

LONDON

Printed by R. BAYNE

PREFACE.

IN presenting to the Public a statement of facts relating to the trespass committed in 1826 on the Printing Press, at that time in the possession of Mr. William Lyon M'Kenzie, and candidly declaring and avowing the motives which influenced the persons concerned in that act, I feel it necessary, as I am connected with the Government by an office, however unimportant, to offer, respectfully, to HIS EXCELLENCY the LIEUTENANT GOVERNOR, an apology for the liberty I have taken in presuming to make use of His name, or the names of persons forming members of His Government without first obtaining his permission, or even making him aware of my intention.

But the Editor of the *Colonial Advocate*, having lately thought proper, by representing in his usual style, statements relating to the injury committed upon his property, by myself and a few others, in language which could not have proceeded from any mind not callous to truth, and devoid of every honorable and virtuous feeling, with the sole view of exciting public indignation against myself and companions, and involving the Government in a suspicion created by his own malignant imagination, that they were the contrivers and instigators of the act he complains of; I cannot, in justice to myself, or to those implicated through my indiscretion, remain longer silent, and quietly witness this second attempt at imposition, without an effort to counteract its wicked and mischievous tendency, by what I declare on my honor, and what is known to eight or nine other persons concerned with me, to be a true, faithful, and ungarished statement of every thing that occurred relating to that hasty and inconsiderate act.

I had once before made up my mind to give to the public my sentiments on this subject, but I am almost ashamed to confess that I was deterred, or rather restrained, by the conviction that the Editor of the *Advocate*, and his fellow labourer the *Freeman*, would represent me, as they had done before, to be acting under the direction, or with the knowledge or sanction of the Executive Government, and consequently, according to their doctrine, unworthy of belief; and although I then felt, and do now feel, the perfect absurdity of such a charge, and strongly condemn an apprehension which may be by others pronounced very unworthy and unjust towards the public, the currency which the foulest and the most unfounded attacks upon the character and reputation of some of our oldest and most respectable inhabitants seemed to obtain throughout the province, and the avidity with which they were sought after and read, by those whose abilities and station in society might have taught them better, made me imagine that the time had not yet arrived when I could hope for a cool, dispassionate and unbiased opinion of my conduct, and the motives which governed it.

I had sufficient experience of the uncompromising baseness of Mr. M'Kenzie's disposition, and could not doubt that he would descend to the meanest and most contemptible artifices, and use the most strenuous exertions to paralyze the effect which a candid and ingenuous relation of facts was calculated to produce on the minds of a generous and impartial public; but as he appeared to think that he had already succeeded in establishing a belief, that the Government had incited a party of young men to commit a trespass on his property, it was not altogether improbable or unreasonable to suppose that a similar artifice would be practised by him on the credulity of the same persons, and with equal success.

Indeed it is more than probable that, he will now resort to this stratagem to blunt the effect which the following pages may have upon his subscribers; for I think they will find themselves not a little at fault, when they reflect upon and compare the statements

herein set forth, verified and strengthened as they are by a solemn affidavit of their truth, with the innumerable and extravagant falsehoods, fabricated and ushered into the world by their friend Mr. M'Kenzie, unsupported in any way but by his character and reputation for honor and integrity, which his style of conducting his paper was calculated to impress upon the public mind—for I know not what other test they have by which to judge of his character.

If his word, supported only by a character so acquired, is to be considered satisfactory, and is to stand uncontradicted even by the oaths of eight or nine persons of undisputed veracity; then I most sincerely hope and trust that his friends will at least pause, before they again condemn the conduct or motives of any one, against whom the columns of such a Journal as the *Colonial Advocate* may be filled, with base, scurrilous, and unfounded abuse.

SAMUEL P. JARVIS.

York, 1828.

STATEMENT &c.

WITHIN the last few weeks the columns of certain newspapers printed in this Town have been filled with statements contrived with much meanness and malignity, to inflame and abuse the Public mind with respect to a transaction in which I am stated, and not untruly, to have acted a prominent part. I have thought several times before, that an explanation to my fellow subjects of all that can be truly stated upon the subject of Mr. M'Kenzie, and his infamous press, was due, in justice to myself, and to others—and now, upon the occasion of the mean and deliberate revival of statements, formerly made, with a full knowledge of their falsehood, I will discharge, candidly, at all events, a duty which I think I owe to society—and I shall do it in as few words, and as plainly as I can.

I will appeal to such of you as have, like myself, been born and brought up in Upper Canada, to remember, that until within these few years, our society was happily undisturbed, and undisgraced, by those unfeeling and unprincipled attacks upon the characters and reputations of individuals and families, and by those gross and vulgar personalities which have, for some time past, been a blot upon the Province—I say a blot upon the Province, because, it must appear very evident to our fellow subjects in other Countries, that unless such calumniators found some support from others they could not continue their scandalous trade; and no one can expect but that in the eyes of all reflecting men, those who abet such a nuisance to society, must appear as culpable as those who derive their bread from it. I do not say that we had not formerly some newspapers in which, for political purposes, and perhaps also in the hope of making a profit by the slander, Public men were spoken of in their Public capacity, and the various authorities of the

Province attacked with rancor and injustice. Indeed we all know this was the case, and that with respect to the Printer of one paper, he went to such unwarrantable lengths in conduct of this kind, that he was convicted and sentenced, for a seditious libel, to a very ignominious punishment, from which he was saved by the lenity of those against whom it had been his whole employment, to endeavour to raise the hatred and indignation of the Country. But then let it be remembered, that although the Editors of these former journals transgressed the laws, and become justly liable to punishment, it was against Public Measures and Public Men that their efforts, however base and unprincipled, were directed.

A few years ago Mr. M'Kenzie came to this country a perfect stranger, and in the employment of a respectable man, who has since become a worthy and useful member of our society—and how long before or after I do not know, but probably somewhere about the same time, Mr. Francis Collins, the present Editor of the *Freeman*, came here from another part of the United Kingdom, equally a stranger to us all, and was of course, like other strangers, at liberty to gain among us, without hindrance, an honest livelihood by any lawful course. We saw both these persons for several years in this Town—the former apparently earning his support by attending the shop of his employer—the latter following his occupation of journeyman Printer in the Gazette Office. Why they did not continue in these employments no one has any business to inquire—it is enough to know, that no one of all those whom they now spend their time in slandering could have had any inducement to injure them in their several callings, and that no one did. They saw us living as people do in other societies, happily and harmoniously.—We had done so for a long series of years before they came among us. During that time some of our most respected inhabitants

had gone to their graves in peace—and the feelings of their relations had never been harrowed by brutal and inhuman attacks, which the dead cannot repel—Many of our Townswomen—aged and respectable mothers of families, had arrived at the verge of life, without having been distressed and insulted by having their names bandied about, with the coarsest abuse, in the columns of newspapers—Many of our Townsmen had here, as in all other countries, risen to independence and to respectability in character and circumstances, by their own exertions, without having drawn upon them, by their prosperity, the envy of malignant spirits—without having their wives and mothers, their daughters and sisters, and even their grand-mothers, insulted and spoken of, with coarse and unfeeling insolence, in newspapers industriously circulated throughout the province; for no offence of theirs, for no provocation they had given—in short, for no other reason, and upon no other pretext, than that their relatives happened to fill those respectable stations which some persons must fill in all civilized societies—but which are always objects of envy to the mean and the vicious.

It was, I think, some time in the year 1824, that Mr. M'Kenzie set up a paper called the "*Colonial Advocate*," in the District of Niagara.—The principal object it professed was to advance the Commercial and Agricultural interests of the Province—but it very soon became evident, that the conductor of the paper was determined to try whether there was not in this colony an appetite for calumny, which he might turn to good account, and which he might gratify with less trouble to himself, and less exertion of intellect than would be required for more honest purposes; for, indeed, it had been proved very clearly to the people of Upper Canada, that when a writer has once brought himself to lay aside all regard to decency and

truth, nothing is easier than for him to fill the columns of a newspaper, once a week, with false and slanderous stories.

Mr. M'Kenzie, accordingly, even while he kept his Press at Niagara, commenced an attack upon a few persons, most prominent, or supposed by him to be so, in public affairs, and commenced it in a style which had been almost without precedent in this Country before, and which I am sure very many people will remember excited their surprise at first, though some of them may now have become rather callous.

After a considerable time, the Editor of the Colonial Advocate removed his Press to York, and I am not sure, that he did not for a while attempt to establish it at the head of the Lake—ultimately, however, he fixed himself at York, and published here a Paper under the original title of “Colonial Advocate,” at very irregular intervals.

I never subscribed to his Paper, but frequently saw it in the hands of those who did—and probably as often in the hands of those to whom he sent it without its being subscribed for, as indeed he did for some short period to myself; for it is very well known, that, in order to force himself if possible into notice, he was in the habit of sending his paper to a multitude of persons who did not subscribe, and thus, those whom he chose to select as objects of his slander had to complain of it as an additional injury, that that slander was gratuitously circulated, and sent unbidden to Taverns and other places, to meet the eyes of the people of the Country in every quarter, whether they desired it or not.

For the months, or rather the years, during which the Colonial Advocate was published in this irregular manner, it was distinguished beyond all other Papers that ever had preceded it, for the rancorous and insolent language in which it attacked

the Government, the Members of the Legislature, and some of the highest Officers of the Colony.

Why an abuse of the Press, licentious beyond all former example, was suffered by the Government to continue with impunity, it is not my business to inquire. I can easily conceive, that a great unwillingness should be felt, to notice a paper so utterly contemptible, and conducted so entirely without regard to the maintaining a character, either for decency or truth. I can readily suppose, that it must have anticipated with confidence, that the public at large would receive from the perusal of such a paper, no other impressions than abhorrence of its falsehoods and contempt for its author; and that any official notice of either, would only be giving a degree of importance to such a journal, which it never could attain if left to itself. How far it is right to forbear on such principles, or to forbear at all, I will not presume to say; my individual opinion is, that the Laws should not have been allowed to be insulted so long and so grossly with impunity; and I believe, that the forbearance shewn, has only encouraged and increased an evil that other measures would have cured. But no part of the responsibility rests with me; what I desire to give to the Public, is merely a statement of facts.

Finding, it would seem, that his paper, conducted as it was, was not very profitable, he began in the Spring of 1826, to shew symptoms of discontinuing it; and, if I remember right, for I have no file of his papers before me, he threw out several hints of his intention to do so, complaining of the want of zeal and interest in the people, which prevented "their *supporting an Independent Press*;" but perceiving, as I hope I may more truly represent it, that the morality and honest principles of the people prevented their contributing to

support any man in obtaining a living by inventing and disseminating slander.

Nevertheless, before Mr. M'Kenzie could make up his mind to abandon his employment and endeavour to earn his living by honest industry, he was determined to make one or two desperate efforts to draw the universal attention of the public upon him. Perhaps his hope was, that he should compel the Government to prosecute him, by the unexampled scurrility of his language; or, perhaps he expected to gain a rather less degree of notoriety by enraging individuals and provoking them to a prosecution, which he of course would represent as persecution; or he may have meant principally to make an experiment, whether, by making his columns the vehicle of the grossest and coarsest slanders, and of the most malicious lies, against the living and the dead, against men and women, the powerful and the helpless, he should not at least secure the patronage of all those whose minds and hearts were so utterly depraved, as to rejoice in this degradation of human nature, and thus draw a subsistence from some source, no matter how polluted.

Under the influence of some or all of these motives, he began in the month of May, 1826, to send into the world a series of libels, unequalled for their disgusting ribaldry, for their hardened insolence, and for their brutal and unfeeling cruelty; and these libels were directed, not merely against persons in public situations who had borne his slander for years with silent contempt, but against persons unknown in public life, and unconnected with politics, against married women, against aged widows, and even against our friends who had been long dead, and who, while they lived, were universally beloved and respected. Many of the foul aspersions thus published to the

world, had no connection with any public measure; the misfortunes, the poverty, the former occupations, the personal appearance of individuals were all made alike the objects of unfeeling and impious abuse, regardless of the pain which the wanton calumny might bring to the bosoms of relations and friends. To make the insolence the more intolerable, no pains were taken to avoid mention of names; on the contrary, they were given at full length—no blanks—no asterisks—all set down plainly, to amuse the malice of the world, and to insure the whole mass of unmanly scandal being as fully understood and applied abroad, as it might otherwise only have been among ourselves.

I cannot reconcile it to myself to be the means of giving a second publication to these horrid papers, which, I am sure, it has been the endeavour of all good men to forget; and, therefore, I will not, for the sake of justifying my own conduct the more plainly, pollute the public eye, with placing before them any part of these productions, which no language can describe. But I call upon any man who may have preserved a file of the *Colonial Advocate*, to turn to the number published on the 18th May, 1826, as well as to those immediately preceding and following it, and then to inform me, if he can, in what Country, and at what time, the feelings of a whole Society were ever so barbarously and cruelly outraged as they were by this man, whom no one had injured—whom, indeed, many of those whom he thus insulted, did not know by sight, and of whose existence even, it is very probable, some of the persons he abused were unconscious.

Need I say what must have been the feelings of those thus injured, and what ought to have been the feelings of all mankind, against the individual who, for the chance of making a

few pounds by such a trade, rather than by the honest exercise of his mind and hands, could thus scatter his base calumnies to excite the hatred of the malignant, and the ridicule of the unfeeling, to inflict pain and injury for which he could never atone?

If I speak warmly on this subject, it is because I am myself the instance of the most cruel persecution of this heartless man. I never had with him either transaction or dispute of any kind—I held no situation that made me responsible for any act of the Government, or that gave me any share in their measures—I am not, and never was, a politician, not having either the station or the disposition, and not pretending to the talent that leads a person into that path; if any merit belongs to me for it, I had, like almost every other person, allowed his slanderous attacks upon myself and others to pass unnoticed. I never condescended to be the author of a line in print in which he or his Colonial Advocate was spoken of.

But this signified nothing—I was connected with persons who served the Government—in an humble office I had the honor to serve it myself. I was, as every man of character is, the friend of those Gentlemen whom he thought it his interest to abuse most; and I had a mother and a wife, whose feelings he might wound, and children, whose love and respect for their father might make them one day feel their share of the pain, to which they could not yet be sensible.

These were, in Mr. M'Kenzie's eyes, sufficient reasons, for I can fancy no other, for stigmatizing me in his paper as a Murderer—in his paper, which he boasted of sending to all corners of the world, and which you all know he sent to all who would receive it, and to hundreds who would not.

In making this charge, he knew he should be understood

by all who read his Paper here, to be alluding to an occurrence, the most distressing of my life, which he has, within these few days, unreservedly recurred to in his Paper, endeavouring to attach to it every feeling of horror for which falsehood could invent a motive.

I will not, I cannot, for feeling forbids me, dwell upon the circumstances of a misfortune, which the heart of no man should have suffered him wantonly to recall to the recollection of those whose affliction may have been at least alleviated by time—it is not necessary I should. Conscious that I acted under a fatal necessity, which the condition of human society imposes, I surrendered myself unhesitatingly to the officers of Justice—I endured imprisonment, unmitigated by favor—I underwent a public trial under circumstances of peculiar disadvantage, and was readily acquitted by a Jury of my Countrymen. The whole melancholy story has been long given to the world. I will not do such injustice to myself, or such violence to the best feelings of mankind, as affect to be without that lasting sensation of regret, which the greatest of misfortunes has unavoidably occasioned, and which it is my lot, as it has been the lot of many with whom I cannot presume to compare myself, to bear and to lament.

After Mr. M'Kenzie had, in defiance of all shame and of every feeling of restraint, sent into the world the very disgraceful Papers I have alluded to, and in particular that of the 18th May, 1826, which I have already mentioned, he seemed to consider it a very necessary measure of prudence to keep himself as much as possible from the view and contact of the Society which he had insulted.

He could not indeed have walked into the street, without meeting the husband, son, or brother of some female whose

feelings he had outraged, and scarcely indeed without meeting some one of the numerous individuals whose characters he had wantonly attacked, with an equal disregard of decency and truth.

I only desire any person to turn to his paper of the 18th May, 1826, and, having read it as deliberately as his patience will allow him, to ask himself, whether it is not expecting too much from the members of any community on earth, to suppose, that the person who had dared to propogate these odious slanders, could, while the recollection of them was fresh in the minds of those he had iusulted, walk the public streets, with impunity, enjoying with a malignant smile, the pain he had inflicted. My belief is, that he thought and felt it to be unsafe to make the experiment; for he could hardly have done otherwise than expect the same chastisement here, which, for much less provocation, he had more than once received in other parts of the Province.

The public feeling, indeed, was immediately expressed, and very unequivocally; Letters from those who had formerly befriended him, were inserted in other newspapers, declaring their abhorrence of his conduct—Subscribers withdrew their names—his papers were returned; and those who had been his Agents, were anxious to rid themselves of the discredit of having any connection with such a paper, or such a person, by publicly renouncing their Agency.

It was currently reported, that his creditors, seeing that his situation had become hopeless, had, by his consent, taken possession of his Press, and that he had given up his establishment, and intended to take leave of the Province. I believe now, that it was so—that the experiment he had made was indeed about to end in the way most creditable to the Country—that the

want of public patronage, and the decided expression of public detestation had really put an end to Mr. M'Kenzie's slanderous career.

In common with others I expected such a result, and did not believe that another paper would have issued from the press of the Colonial Advocate. No one has greater reason than myself to wish that not another had---for in that case, my first notice of Mr. M'Kenzie's press would have been spared as well as this---the last, I trust, which I shall ever feel it necessary to take of him, or of his trade of calumny, which he has since driven, and which he no doubt will continue to drive so long as it suits his purpose, and is permitted to go unpunished.

But the rancour of Mr. M'Kenzie's mind was not yet satisfied---He had up to the moment of his hasty departure shot his poisoned arrows where he pleased---he had been called to no account---he had had every thing his own way---and even when he left his trade and this country together he yielded only to a necessity of his own creating. But what was his last resource? He went to Lewistown to be sure---and took up his residence in the United States---but he left as managing journeyman at York, a person who had some years ago been convicted of a seditious libel, and pardoned upon his earnest assurance no doubt, of repentance---and in the hands of this man, and two or three apprentices, the press was still left, to usher into the world, under the conduct of no person apparently responsible, such falsehoods as Mr. M'Kenzie, now out of the reach of justice, might choose to send them from a foreign country.

When the first number that was printed, under these extraordinary circumstances, made its appearance, it is not to be wondered, that all had not patience under such an abuse.

B.

Mr. M'Kenzie has affected to record the eighth day of June, as a sort of era in this Province, because it was signalized by a trespass on a Press, which in his hands, had been used only to destroy whatever was most valuable in public or private life; and which he had so abused, that he had actually accomplished with it, at last his own destruction.

The facts have all been detailed on Oath, in a Court of Justice—they have since been trumpeted forth with more or less exaggeration in the newspapers of the province.—There never was less room for misrepresentation or doubt—whatever was done was done openly—there was neither an attempt or wish to conceal a single particular of the transaction.—It can all be told in a few words.

In company with eight or nine persons, most of them, perhaps all of them, younger than myself, I went to the office of the Advocate at about half past six o'clock in the afternoon, with the determination to abate an intolerable public nuisance—with a perfect readiness to abide the consequences—but I will freely grant without having reflected sufficiently upon them.—The Press was overturned—the Types were scattered about, and some portion of them, unquestionably, lost, thrown away, and destroyed. No personal violence was offered to any body, nor was any intended, though I do not deny that if resistance had been made, under the influence of the feelings which actuated myself and my companions, our intentions would probably have been nevertheless persevered in.

As it was the extent of the injury was what I have described and nothing more. I do not pretend to be able to estimate the loss correctly---(not the loss of Mr. M'Kenzie, for it turns out that the press was really no longer his)---but I have heard others state, and I fully believe it, that fifty pounds, and perhaps less,

would have paid the whole loss he had sustained. The Press was soon afterwards in operation again, and I imagine without any very great expense in materials or repairs.

An expression of indignation, rather than deliberate destruction, was the purpose of our attack. In either point of view, I admit its impropriety, so far as Society is concerned, and still more its folly—of all that followed, the public are aware. Of course, Mr. M'Kenzie, as a moments reflection might have led us to expect, came back to the Province, delighted with his success. He had at length succeeded in producing such an effect, as I am satisfied he had been long contemplating. He had, on the one hand, a few inconsiderate individuals on whom he could wreak his vengeance, for an injury little more than imaginary—while on the other, he could make it answer the purpose of his politics, by affecting to believe, that the Government, or any person whom he chose to traduce, had been the contrivers of this hasty and thoughtless act. The loss, in point of fact, did not fall upon him, but, for all that, he now might assume the language of complaint, represent himself as persecuted, and, by my imprudence, and the imprudence of others associated with me, he had a straight road before him for repairing his broken fortunes. We were all known, and were some of us responsible; and it was not long before an action brought against us by Mr. M'Kenzie, in £2,000 damages, shewed pretty plainly his conviction, that he had at last brought his Press and Types to good market—his creditors, it is well known, rejoiced with him, and they had reason.

In the mean time, and up to the moment of the trial, Mr. M'Kenzie was to be seen, traversing every corner of the District, spreading the story of "*his wrongs*,"—*his wrongs* in-

deed!! the *wrongs* of him who, in almost every Paper that he published with that Press, inflicted without provocation, without other possible motive than malice, envy, or hopes of gain, injuries to characters and feelings which no money could repair.

He took his stand at the corners of the principal streets, leading into the Town, in order to catch the people of the Country as they passed, and to qualify them by his harangues, of a piece no doubt with the statements in his Papers, to discharge, *cooly and impartially*, the duty of Jurors, in his own case at the approaching Assizes, and in the hope, that, if they should not be chosen, they might at least perform the friendly task of instructing their neighbours.

His Counsel at the trial, thought it neither proper nor prudent to give, by his assertions, any countenance to the base falsehoods which Mr. M'Kenzie had uttered for the purpose of implicating the Government, and various official characters, in a transaction of which the Defendants alone were the authors; but the wrongs, the losses, the sufferings, of the Plaintiff, were made the ground of an appeal to the compassion of the Jury, and they were called on to prove their indignation against an outrage of which the circumstances were of course painted with the strongest colouring by the Counsel, while the provocation, which no language could exaggerate, was kept out of view.

It was proved on the trial, by Mr. M'Kenzie's own witnesses, that the general tenor of his Paper was scandalous and scurrilous; and the Counsel for the defence, in language which must have carried conviction to every candid mind, shewed it to be clear and certain, that, in the first place, Mr. M'Kenzie had sustained no actual damage, and that if he had, it was to

be charged solely to his own misconduct, and to provocations more aggravated than had ever before been endured; and that the peace of Society having been infringed, and the possessions and property of an individual trespassed upon, *some* damages must of course be given; yet, if they were limited either to the amount of the loss which Mr. M'Kenzie had suffered, or of the recompense which his conduct deserved, they must be small indeed.

The plain fact is, that the Press in Mr. M'Kenzie's hands had become worthless, and was a loss to him—when he abandoned it, it was left to his creditors—the loss of it, therefore, as to Press and Types, (had it amounted to £50), was in effect their loss, and not his. The loss of the opportunity of using such an engine of malice and falsehood, was in reality no loss to him or them; for while he had used it, unmolested, and unrestrained, either by force or law, or religion or morality, it had only incumbered him with debt, and covered him with contempt.

The Jury found a verdict of £625—and it has been paid, not wholly by the Defendants themselves, but by a tax, if I may call it so, which our inconsiderate act imposed upon Society in various parts of the Province. We were enabled to pay it, and to disappoint the malice of Mr. M'Kenzie, by the voluntary contributions of persons who, sharing the feelings of indignation under which we had acted, regretted, while they condemned, the rash, imprudent, and improper act, into which those feelings had hurried us.

Mr. M'Kenzie, having received a more than tenfold recompense for an injury provoked by himself, is evidently disappointed, that individuals, whom his own unprincipled scurrilities had led into the only act of violence perhaps which can

be laid to their charge, have not been forever ruined by it—he would be content with nothing less than that they should be marked out, for the remainder of their lives, as proscribed members of Society—forever unworthy of the countenance of the public, or the confidence of their Government. He would wish that an injury offered to a venomous Press, which had once been his, should be the only offence never to be pardoned and never to be atoned for—and he would see, with pleasure, nine or ten individuals, for one trespass heedlessly committed without concealment or disguise, and under the most provoking circumstances, ruined and disgraced for the rest of their lives, whilst he is permitted to continue, as he had done for years before, to stab the reputation of these persons and their families, without provocation, without remorse, and without punishment.

He has accordingly been ever since complaining, that myself and one or two others, whom he ridiculously and falsely represents as holding high situations under Government, have not been ruined beyond redemption by this one act; and he has uncharitably and basely pretended to construe the forgiveness or forbearance of the Government (after we had suffered for our indiscretion) into an approbation of the act. The object of such insinuations is as evident as its injustice—he must think meanly of the hearts and minds of his readers, on whom he endeavours to impress such groundless suspicions. While he has been labouring to produce this impression, which he knows to be false, I and the others whom he was prosecuting at Law, have always felt that our case was most unfortunately prejudiced, and our trial prevented from being equal and dispassionate, by the step which His Excellency the Lieutenant Governor thought it proper to take, in dismissing Mr. Lyons from being a Clerk in his office, and thereby pronouncing, in

the strongest terms, his condemnation of an act which was the subject of a Law suit depending against us.

Besides this artifice of attempting to throw suspicion on the Government, Mr. M'Kenzie next attempts to console himself for his disappointment in not seeing our ruin complete, as well as his own fortune established, by stating that the extravagant verdict of the Jury, which he hoped was calculated to ruin ourselves and families, was paid wholly by the Officers of Government, and by certain individuals, whose characters and feelings he had cruelly outraged, and by pretending that having done this, they had thereby proved not merely that they approved of the act, but that they had instigated and contrived it. I have on my part to assure the public, that so far from being indemnified by the contributions, which from various motives were made for our relief, the burthen fell heavily upon such of us as had the means of paying any thing: And I affirm, that the share of the verdict which I myself had to defray from no very abundant means, was such, that if Mr. M'Kenzie had made as much clear profit by his Press, during the whole time he has employed it in the work of detraction, he would not have found it necessary to leave the concern and abandon it to his creditors. With this simple fact before the public, I will ask, upon what calculation did the Jury found their verdict? I have also to assure Mr. M'Kenzie, rather than the public, for many of the latter already know the fact, that among the contributors to the payment of the verdict, were many both of men and women, whose names had never been made the topics of his slander, and who, living in different parts of the Province, and having no reason for personal resentment against him, yet felt that the cause was that of Society in general, and voluntarily offered to bear their share in the consequences of a pardonable imprudence, committed under

the influence of a most unpardonable provocation—so general was the scandal excited by Mr. M'Kenzie's paper!! As to the idea, that those who contributed to our relief approved of the act, it is hardly deserving of a serious refutation.

In point of fact, both I and my companions had the mortification to find that no one approved of an act, the impolicy of which, on every account (to say nothing of its bad tendency as an example), was too evident not to be seen by every body, and by ourselves as well as others, as soon as we reflected upon it.

No persons certainly had more reason to regret or condemn it, and none, I am persuaded, did more justly or more heartily condemn it, than the very persons whom Mr. M'Kenzie would insinuate (though he well knows better) to have given it their countenance.

It is true that some persons seemed to think it reprehensible chiefly as a breach of the Laws—and others as affording an evident triumph and advantage to a worthless person. All concurred in censuring and regretting the transaction from the moment it was known, and if we had been unassisted, except by those who thought we had done wisely, Mr. M'Kenzie's malignant wishes might have been gratified to the utmost.

Another act to which Mr. M'Kenzie has resorted for the purpose of raising a prejudice against us, and at the same time injuring the Government, is his insinuating that we had favor shewn us in not being prosecuted criminally for the act, as well as being made to pay more than ten times the value of the property, which we overturned and threw about.

We went without disguise or concealment of any kind, and in open day, to the premises of Mr. M'Kenzie, and did what

I have stated, and nothing more. We were all known, and immediately prosecuted by him for damages. There was nothing to investigate; every thing was known, and it was for Mr. M'Kenzie to determine, whether, besides trying to fill his pocket with damages, he should also have us brought up before the Sessions or Assizes and punished in another way.

If it is the duty of the Government or of Crown Officers to prosecute criminally for every trespass done to individuals, whether those individuals complain of it or not, I think I have a right to ask why the Crown Officers have allowed Mr. M'Kenzie to call me a Murderer, another person a Shoe-black, and another a Beggar, in his Newspaper as often as he pleases, and to abuse in the most offensive manner, not only the whole Magistracy of the District in a body, but every individual, male and female, whom he chooses to make the object of his malice. I think their character is as dear to them, and mine to me, as the old Press and Types which Mr. M'Kenzie knows he had never paid for, could possibly be to him. I know if I complain, or if any other person should complain, of Mr. M'Kenzie's Libels, the Grand Juries must notice them, and the Attorney General must conduct the prosecution; but, inasmuch as we have not thought it worth our while to do so, Mr. M'Kenzie has gone unpunished by the public, although he has not, as we were forced to do, made any recompense to the individuals for the injuries he and his Press had inflicted.

But people will know better what to think of these insinuations and complaints of Mr. M'Kenzie, when I state to them, as I now do, that the Defendants were, above all things, anxious that they should have been prosecuted criminally by the Grand Jury or the Crown Officers, while the civil cause was depending; they would cheerfully have suffered any imprisonment, or paid any fine to the public, upon an Indictment, in the

hope that such punishment would have prevented the Jury from giving as large damages to Mr. M'Kenzie, and they were disappointed, (and the Crown Officers know it), that they did not think proper in this case, any more than in other cases of trespass committed against the person or property of an individual, to interfere uncalled for by that individual, who knew the aggressors and had chosen his remedy against them. Our Counsel stated, very truly, at the trial, the handle that Mr. M'Kenzie would have made, and the motives which he would have imputed to such a departure in his case from the ordinary forms of proceeding. But what is best of all, Mr. M'Kenzie has, within these few days, confessed in his paper that the Grand Jury, hearing the evidence given in Court, did notice the transaction so far, that they sent for him to their room, and only forbore to proceed upon his complaint because he expressly declined to prosecute, alledging, that he thought the civil action was punishment enough.

But no sooner has Mr. M'Kenzie pocketed his £625, and applied a small part of it in repairing the injury done to his Press, and the rest to his other purposes, than he resumes his trade of slander, and abuses the Grand Jury and the Court altogether, because we were not indicted, although he tells us himself, that he was expressly applied to and declined to prosecute.

I shall only say of this, that it is like Mr. M'Kenzie.

As to the amount of damages awarded, I have no inclination to say much on the subject, nor do I think I need. It is but justice to Mr. M'Kenzie's Counsel, however, to say, that they resorted to no unfair or unworthy means, to inflame or prejudice the Public. The Jury have by law the discretion of measuring the damages, and it would be wasting time to

say much of the manner in which they have exercised it. I have no wish to do more than to observe, that for insults far less aggravating than abound in Mr. M'Kenzie's paper of the 18th May, 1826, he is stated to have been twice horse-whipped in different parts of the Province, and for that particular paper, to have been hung in effigy at Kingston and at Ancaster.

Of these outrages he has thought it prudent to take no notice.—Had I, or any other person, whom Mr. M'Kenzie had grossly libelled in that paper, met him in the street and chastised him on the spot as he deserved, I know not what damages he might have succeeded in obtaining here—but we have all read enough of such proceedings in other countries to know, that his chance of Six Pence damages with an English Jury, who should have heard his libels read, would have been at least doubtful. By what law, or upon what principle it is, that the property of a Ruffian is more sacred than his person, I am at a loss to understand.

But I have done with Mr. M'Kenzie and his verdict.—Before I conclude, I have a few words to offer, which I think are required by a sense of justice to others.

The Public know the individuals who were associated with me in the attack upon the Advocate Press—most of them were young men—that they are not lawless characters is best proved by appealing to the whole tenor of their lives, and by putting the single question, upon whose property did they ever trespass before?

Not satisfied with abusing us first—then suing us, and then after obtaining satisfaction, returning to the subject and abusing us again, Mr. M'Kenzie has thought it would be a good stroke of policy, to insinuate at least, that the Government, the Ma-

gistrates, the Crown Officers and others, were all concerned in the *outrage*; and if he can make any one believe it, the truth or falsehood of the statement, is not likely, as every one knows, to give him much concern. He has accordingly thrown out certain hints for public suspicion to work upon, and then affects to regret, that his Counsel would not allow him upon the trial to attempt to prove the truth of his assertions, telling him very gravely, that it would hurt his cause.—They knew it would, and so did he, for not a question could have been asked with that view, that would not have proved at once upon oath, the injustice and the malice of his own insinuations. He thought it better therefore to confine his calumny to his paper, and say nothing about the proofs.

On this head I feel it right to state, truly and plainly, with respect to Mr. Allan, who is a Magistrate, and Mr. Heward, who is not, and I believe never has been, that I neither saw them, nor knew they were in view. The transaction took place just at that time, in a Summer afternoon, that people are usually to be seen standing or walking near their doors.—The house of Mr. Allan is immediately opposite to the Advocate office—the house of Mr. Heward near and in sight, though more distant—and the Attorney General's office stands between them.

Had Mr. Allan or Mr. Heward been in the street before we entered the house, I am convinced I should have seen them.—But as they were not, and as the whole transaction occupied but a moment of time, being scarcely sooner began than ended, had they known what was going on, they could not possibly have prevented it—and as to their being parties to it, and approving it, because they happened to be in sight, it might be said as truly, that the crowd that stood on the bank, last

Spring, and saw the Squaw quarrelling with Higgins, and strike him with the axe, were accomplices in his death.

Another statement wholly false is, that the party rendezvoused at the Attorney General's office.—If they had done so, it would only have shewn more clearly their heedlessness and indiscretion—but there is not a word of truth in the assertion. It is well known that the Attorney General's residence is a mile from his office, which he therefore does not see except in office hours, and which might be used by any Clerk who keeps the key of it, without the knowledge of the Attorney General, for any purpose. But the truth is, it was neither used nor intended to be used on this occasion as a place of rendezvous, any more than the office of the Canadian Freeman—not one of the party had been in it, or came from it—and the whole foundation for the story is, that some of the young men were seen to come past it, and from that direction, as others did past other houses in the other street. The office, however, was all the while locked up and fastened, and the Attorney General, I dare say, at his dinner at the other end of the town, knowing as much of what was doing as Mr. M'Kenzie, who was at Lewistown.

As to my own conduct and motives,—I confess the want of prudence—the impropriety, of the former—I cannot, and do not admit, the impropriety of the latter.—I feel now, and I felt it as strongly after an hours reflection, that what we did was wrong—and I regret it.—It was infringing the peace of society, and taking the law into our own hands; and it was setting an example which might lead to worse excesses. I feel that by one imprudent and rash proceeding, we have been the means of supporting rather than suppressing a nuisance, and that we were doing for a very despicable person the very thing he wanted---

we were giving him notoriety which he wanted to obtain by any means, and at any price.

But I feel, that more than all, the Government, and those individuals of the Government whom Mr. M'Kenzie had been employed in traducing, had reason to complain of our want of consideration, in subjecting them to insinuations which they could not condescend to repel.

I allowed persons, thoughtlessly, to join me, whose connexion with the friends and officers of the Government would afford a plausible ground for a malicious calumny, not considering that their having been provoked beyond others by the brutal slanders on their relations and employers, though it prompted them most strongly to the act, made them the last persons that should have been suffered to join in it.

As the best amendment I can make for the lateness of my reflection, I have taken upon myself the task without the knowledge, and consequently without the approbation of the Government, whose servant I am, to give to the public this true account of a matter, upon the fame of which Mr. M'Kenzie evidently hopes to live, after the injury has been recompensed.

As to the morality or immorality of the act, I am easy on that head, for I feel that I deserve more the respect of Society and have more reason to respect myself, as an actor in the attack upon the Press of the Colonial Advocate, than those persons who, regardless of the peace and happiness of families, have contributed funds for the propagation of scandal and falsehood, by subscribing to the paper which has proceeded from it.

The original of the Affidavit which follows, may be seen by any person in my possession.

SAMUEL P. JARVIS.

York, January, 1828.

Samuel P. Jarvis, Charles Richardson, John Lyons, and James King, Esquires; Peter M'Dougall, Merchant; Henry Sherwood, Charles Heward, and Charles Baby, Gentlemen; severally make oath and say, that they were the Defendants in the action of Trespass brought by William Lyon M'Kenzie, for an injury done to his Press and Types, in which a verdict of £625 was rendered for the Plaintiff—That the act complained of was committed without much time for reflection, and without any deliberate concert—that it proceeded from the impulse of their own minds, under a strong feeling of indignation, for very cruel, false, and scandalous attacks then lately made in the Colonial Advocate, upon some of the Defendants, or their relations or friends.—And, lastly, these deponents say, that the charges and insinuations made in some of the public Newspapers, that the Defendants were incited and persuaded to do the act complained of, either by the Government, or by any members of the Government, or by any Magistrate, or that they had communicated their intentions to, or consulted with any other person or persons who were not then actually assembled and met together, or that the same was made with their approbation, are wholly and utterly untrue.

Sworn before me, this

2d January, 1828,

ALEX. M'DONELL, *J. P.*

} SAMUEL P. JARVIS,
HENRY SHERWOOD,
JAMES KING,
C. R. HEWARD,
CHARLES BABY,
PETER M'DOUGALL,
JOHN LYONS,
CHA'S. RICHARDSON.

John Lyons, sworn to the aforesaid Affidavit before me, the 10th day of January, 1828.

JAMES CUMMINGS, *J. P.*

Sworn before me, at Niagara, Charles Richardson, to the said Affidavit, this 10th day of January. 1828.

J. MUIRHEAD, *J. P.*

Since writing this Statement, I have read in the Montreal Gazette of a late date (13th December, 1827,) the following paragraph:—

“The Colonial Advocate of the 6th instant, has embellished his paper with a curious diagram, purporting to illustrate the destruction of the printing materials employed in the publication of this Journal, and giving the relative positions of the individuals whom he asserts to have been engaged in the affair. We would advise Mr. M’Kenzie to let this matter drop, as we have it in our power to throw some light on the subject. Does he recollect declaring to an individual in Montreal, that his real loss amounted to forty-five dollars only, and that he had cleared two thousand four hundred and fifty dollars by this business? If Mr. M’Kenzie denies this, we beg leave to remind him of the time and place where, and the person to whom such declaration was made, when the Editor and Proprietor of the Colonial Advocate was last in Montreal, at a public house, not a hundred miles from our Establishment, and to a person then in our employ.”

It is not a bad comment upon the opinion I have expressed, and I dare say, if Mr. M’Kenzie, or any of his witnesses or friends desire to know more they can be satisfied by a reference to the conductor of that paper, of whose name I am ignorant.

I remember an editorial remark of Mr. Gurnetts, the Editor of the Gore Gazette, which leads me to think, that he could, if he would, throw further light upon this point.

In the mean time, I think the Montreal Gazette has made it pretty clear, that instead of calling the verdict a ten-fold recompense for all Mr. M’Kenzie’s loss, I should have been nearer the truth if I had used the words *fifty-fold*.

S. P. J.

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