

Letter from English Speaking Merchants to the Governor

REPORT OF THE MERCHANTS OF MONTREAL BY THEIR COMMITTEE TO THE HONORABLE COMMITTEE OF COUNCIL ON COMMERCIAL AFFAIRS AND POLICE.¹

“The Establishment of a Chamber of Commerce duly incorporated”²

Observation.

However beneficial to Trade & Commerce institutions of this nature be considered, yet we are of opinion that the same would prove ineffectual & inexpedient at this time considering the connection that subsists more or less among the Trading people of this place.

Holding Terms and the Abolition of Circuits

From the frequency of holding Courts, and from the mixture of French and English Laws, great delays, procrastinations, and incertitude are experienced in the decision of suits to remedy which we are of opinion, that Terms should be established; Four in the year to sit from day to day for fourteen days each term, which would be sufficient and prove more eligible for the dispatch of business, than those continual Courts. However for a time it might be proper to permit the Court of Common Pleas to sit once a fortnight for the decision of causes to the amount of Ten pounds. We are likewise of Opinion, that the Circuits should be abolished. It's an itinerant Court that carries no respect, impresses the inhabitants with

¹ Canadian Archives, Journals of Leg. Council, vol. E, p. 204; See also *Q* 27-1, p. 326. Much the same matters are discussed as in the Report from the Quebec Committee. As in that report, there are only certain sections which relate more or less directly to constitutional matters and only these are reproduced. The portion here given begins at p. 239 In vol. E. and p. 383 in *Q*27-1.

² The merchants of Quebec were those chiefly interested in the development of this proposal. See the "Plan for the establishment of a Chamber of Commerce for the City and District of Quebec." p. 692.

no awe of Justice, and proves of no relief whatever to the distant Parts of the District. The end for which they were intended.¹

“The present Establishment of Appeals in Commercial causes”

Observation.

The same uncertainty that has hitherto prevailed in the Courts of Justice, has made its way into the Court of Appeals, probably through the disadvantage it has long labor'd under, for want of a Gentleman bred to the science of the Law, presiding or sitting in it to point out to the other Members, the errors in the proceedings if any, and to explain the Law; indeed without any imputation on the Judges it is much to be lamented, that regular bred professional Men do not preside in all the Courts of Justice in the Province, to the want of which we may impute the great delays in the decisions of suits, in all the Courts but more particularly in the Court of Appeals, which has proved a great and real grievance to this District: If the Court of King's Bench was restored to its ordinary and former Civil Jurisdiction and Powers, we conceive it would remedy the evil complained of; in which case we would humbly request that the Chief justice should hold two terms in every year at Montreal for the purpose of hearing and determining all civil suits that might be brought before him, either by Original, or on Appeal from the inferior Courts. This mode would prevent the great expence now attendant on Appeals to Quebec, and prove infinitely more agreeable and satisfactory to the Suitors, many of whom rather put up with the decision of the Inferior Courts, than go to the great expence incurred by an appeal on the present footing.

“The Establishment of a Court of Chancery.”

Observation.—A Court of Chancery would be a very desirable object if it could be so constituted as to grant relief under the rigour of legal decisions with convenient dispatch and on moderate fees.

“On a Register of all Deeds”

Observation.

Frauds having been committed by Debtors mortgaging their Lands to different Creditors, also much inconvenience arisen to Purchasers of Lands who have no effectual means of discovering incumbrances on them. There being likewise a considerable degree of obscurity in most transactions with regard to real property: We offer as a means of better ascertaining the Rights of Proprietors and Creditors, and avoiding Lawsuits—That there be erected at Montreal

¹ See Report on Courts of Justice, p. 874.

an Office for the registering all Deeds in future which affect real property within the District.— That the Fees of such Office be moderate as possible.—That no such Deeds be valid in future unless passed by a Notary and so registered.—Considering the illiterate state of the Bulk of the Inhabitants,—That it shall be incumbent under a high penalty on the Notary who may pass any such Deed, to have the same registered in the proper office, and this within a short limited time, and before he delivers any Copy to the party.¹

“On a Bankrupt Law”

Observation.

A Bankrupt Law and equitable rules for the distribution of the property of persons failing in Trade, is become essentially necessary for the security of the fair Trader and for the prevention of those Frauds there is too much reason to believe are daily practised. We are therefore of opinion that such Law should ascertain what act of a Merchant amounts to an Act of Bankruptcy & should compel the insolvent Debtor, in that situation to a surrender of his Books, papers, and effects, on Oath for the benefit of all his Creditors, and to answer such questions to his Trustees or Creditors as they may put to him relating to his business. In which Law, the Rights of the Wives and Children of all persons concerned in Trade or Commerce to the real or personal Estate of such Bankrupt should be ascertained. A Distinction should be made in the Treatment of a fraudulent, & unfortunate Bankrupt; The former should be punished exemplarily, yet not cruelly, least the end be defeated; and the latter entitled to a discharge, provided three fourths of his Creditors both in number & value consent.

The contradictions in the Judgements of Law on this subject mark the strongest injury to the commercial Interest, therefore require a speedy & effective remedy.

Police

“The building a Goal in the District of Montreal”

There can be little doubt, that many objects of police will be best provided for, by means of incorporating the Town of Montreal by Charter, But there are some, which as they concern the District at large, require to be more particularly adverted to.

The want of a proper Goal for this District has long been complained of and at divers times has been represented, by different Grand Juries, as well at the Courts of Oyer & Terminer, as at the inferior Courts of Quarter Sessions, but hitherto no remedy has been applied. The House which at present serves for a Goal consists of four very small Rooms in which are frequently confined promiscuously persons of different sexes and for very different, degrees of crimes;

¹ See note 5, p. 904.

The unfortunate Debtor cannot have a Room to himself, nor can the Malefactor when preparing for another World be accommodated with a place of retirement to deprecate the wrath of the offended Deity. The insufficiency of the goal in point of security occasions a Guard of Soldiers to be kept in the lower part of it, and even with that precaution many atrocious Offenders have escaped, insomuch that the Sheriff of the District has refused to confine Debtors, unless the Prosecutor agreed to take upon himself the risk of an escape.

The situation of this insufficient Goal heightens, the sufferings of those persons whom the Law dooms to imprisonment, offends every Passenger in the warm season and is a Nuisance to the Neighbourhood, being without those conveniences requisite to carry off the Filth accumulated by want of them.

We propose as the means of obtaining a proper Goal, that an Assessment be laid on the District, for the purpose of raising a fund adequate to the building of the same, if the present Legislature is competent thereto.

“Whether or not we should apply for a Chatter incorporating a select
“number of Citizens, on some good and approved Plan, with powers to
“make Bye Laws, decide civil and criminal causes under certain restric-
“tions, whether under the stile and Title of Recorder, Mayor, Alderman &
“Common Council of the City & County of Quebec, and the Precincts and
“Liberties thereof or under any other denomination.”

And a like Charter for the City of Montreal”
Observation.

The bad state of the Police in this Town calls loudly for reform, and tho’ Government in its wisdom, have attended thereto by the appointment of an Inspector of Police; yet we are sorry to observe that the appointment has in no wise proven adequate to the intent. And by experience we find, that the exertions of the Magistrates are not sufficient to remedy the evil complained of, We therefore beg leave to point out as the only Remedy that can be applied with effect, the incorporating by Charter a select number of the Citizens of Montreal on a good and approved plan, with such powers and Privileges, as are usually granted to Corporations; for the purpose of police only. And we further beg leave to request, that in case the Honorable Council should approve of this mode, and Government incline to grant the same. That it be recommended to His Excellency Lord Dorchester to bestow on the Corporation such Lots of Ground and Houses, the property of the Crown within the Town and Suburbs of Montreal as Government have not present use for, in order to the same being applied, towards the erecting Schools, workhouses, and other Establishments of Public utility.

“That a Regulation is necessary to prevent a greater Number of Licences
“being granted for the sale of Liquors than are necessary for the use of
“the Town & Country.”

Observation

The many complaints arising from the great number of disorderly public Houses call the attention of the Legislature: There is infinitely too many of them both in Town & Country; they are the bane of Industry, and only tend to debauchery & Riot, it is much to be wished that a fewer number of Licenses were granted, and those to persons of good Character only.

“A Regulation to prevent the erection in future of Wooden Buildings or
“Fences within the City of Montréal.”

Observation

As the Legislature has carefully attended, by a wise Law,¹ to prevent the dreadful accidents that might happen by fire in the Towns of this Province, we must beg leave to offer an Amendment that would be of real service, to prevent the Spreading of fire in this Town, that is by enacting that no wooden fence or building of Wood of what description soever, be erected in the Town of Montréal in future under a severe Penalty.

“The establishing of Schools and Seminaries, for the Education of Youth
“from those funds now unemployed, as well in England as in this Province,
“and particularly a respectable College in this City, with able Professors,
“and erecting Free Schools at convenient distances throughout this exten-
“sive Province, for the purpose of opening and enlarging the human mind,
“conciliating the affections of all His Majesty’s Subjects and having a
“tendency to render this a happy & flourishing Province.”

Observation

There remains for us to advert to a subject which we consider as the surest and best means of obtaining a chearful and dutiful obedience to the Laws, and Government, from Subjects in general, and that is by establishing throughout the Province at proper distances, Public Schools for the Instruction of Youth. We hardly know of a single School in any Country part of the District for teaching Boys, and it is to the zeal of the few Sisters of the Congregation, that we are indebted for all the little which is taught to Girls throughout the Country. The Captains of Militia

¹ Referring to the Ordinance of 17 Geo. III., cap. 13, "For preventing accidents by fire." This applied to Quebec, Montreal and Three Rivers. See Ordinances of Quebec, 1763–1791, p. 841.

who are frequently called upon to enforce Laws and Orders, are so illiterate, that not one in three can write or even read, the consequence is confusion and disorder, and frequent suits and Complaints between them and the Militiamen. It is not for us to point out the best plan for Establishing those Schools, but having understood that all the Estates which the Jesuits possess in this Country were granted to them for the purposes of Establishing proper Seminaries of Learning and that those Estates are likely to revert to the Crown, we humbly conceive that they could in no way be better employed than in that for which they were originally intended and granted. There may be further some unappropriated Funds in England for similar purposes, now that the States of America formerly Colony of Great Britain are separated from her Dominion, which we would recommend to be applied for through the proper Channel.

Upon the whole of the Observations which we have humbly offered, may be collected the utter impossibility of promoting the welfare of this Province as a British Colony under the present System of Government. This consideration we submit to the Honorable Committee of Council, and refer them to the Petition we had the Honor to transmit to His Majesty and both Houses of Parliament two years ago, for granting a House of Assembly to His Majesty's faithful subjects of this Province, a copy of which accompanies this Report.¹

(signed) Jacob Jordan

James M^cGill

P^{re} Guy

Benjⁿ Frobisher

M^{le} Blondeau

A. Auldjo

Montreal 23rd January

1787.

COPY OF A LETTER ACCOMPANYING THE ABOVE REPORT.²

P. Bouthillier

Rich^d Dobie

Th. Perinault

John McKindlay

James Walker

Thomas McCord

Montreal 23^d January 1787.

Gentlemen,

Having now finished our report on the objects on which you were pleased to request our sentiments, and having read the same to a numerous Assembly of old and New Subjects in both Languages without one dissenting Voice being heard we take the earliest opportunity of transmitting the report, and shall be happy to learn that our Opinion on Subjects so interesting coincide with yours.

¹ Referring to the petition of Nov. 24, 1784, to which were appended, in separate lists, the signatures of those from Quebec, Montreal and Three Rivers. See p. 746.

² Canadien Archives, Q. 27-1, p. 409.

It would have afforded us much satisfaction, had it been in our power to hand you the Report at a more early day the length of the report with other Business of a pressing nature, which require the Attendance of several of the Members of our Committee, will we hope apologise for the delay.

We reiterate our sense of the honor you have done us in Consulting with us on this occasion, and remain with the greatest respect

Gentlemen

Your most obedient and very humble Servants

(signed)

P Boutheilier	Jacob Jordan
Th. Perinault	James M ^c Gill
John M ^c Kindlay	P ^{re} Guy
James Walker	Benj ⁿ Frobisher
Thomas M ^c Cord	M ^{le} Blondeau
	A. Auldjo
	Rich ^d Dobie.

Source: A. Shortt and A. Doughty, eds., *Documents Relating to the Constitutional History of Canada*, vol. 1, pt. 1 (Ottawa: King's Printer, 1918) 915-920.