

Montreal. N. B. Crim. Pleas. - Sept. Term. 1807. -

Friday 4th Sept. 1807.

The King
v
Wm Armstrong } On Indictment for murder

Dent. Arnoldi - Is a surgeon - Montreal. Group, the deceased came to his house in March last previous to 17th seemingly indisposed - Did not see her afterwards till sent for on the day of her ^{27th} death of ~~was about 26~~ March last - She was then dead - examined the body, saw no marks of violence on it, some marks but such only as might have arisen to the body after two days ~~being~~ death by settling of the blood - That it is possible that some internal injury might have been given so as to occasion the death of Angelique Giroux, without his being able to ascertain it - That when Angelique Giroux first applied to Witness it was about a week or fortnight before the 17 March last, when she complained of small indisposition, being wind in the stomach - that her complaint was not then such as could have caused her dissolution - That about the middle of March last the deceased came to Witness's house with Mr. Marston the Constable, & told him, but not in a professional way that she had been ill-treated by one Griswold & wished to prosecute him -

x^d

was sent for to the Coroners' inquest, and examined the body of the deceased, and his opinion then was as well from what he saw as from the facts stated, that she had not come to her death by any violence — That he cannot take upon himself to say that any marks of violence would have appeared had she died from internal teruisis, from the great variety of instances that might occur — That the complaint of the deceased when she applied to *Hitt* was a Stomach complaint — She gave her medicines accordingly —

Genevieve Barbier, femme de Pre — Qu'elle a été ^{comme sage femme} appelée de voir la defunte la Samedi, veille de Dimanche de Rameaux, le 21 Mars dernier. — Que le Defort. l'a trouee' malade au lit dans une chambre en haut, mais avant qu'elle est partie la defunte a descendu en bas — Que le Defunte étoit au lit lorsque la Defort l'a vu, et s'est plaint de maladie dans l'estomac, le ventre les jambes & les bras — elle s'est point plaint d'avoir été maltraitée, mais la maistrisse de la maison a remarqué que la Defunte auroit été battue — Que le Defort n'a point examiné le corps pour savoir si cela étoit vrai ou non. —

x²

A trouvé le défunte dans la maison ou —
demeuroit un nommé Berner, que cest une
maison de mauvaise réputation — Ne pouvant
point dire si la défunte étoit enceinte ou non —

Louisa Griswold — knew the deceased Ang. Groux — lived in
DeFont house in the Rec. Sub. on the 14 March last — there
was a ball there that day — remembers to have seen the
P^r there in the afternoon before the ball began ~~when~~ the
deceased was there also — there were also present Petsy
Manderille & Jenny Porown, — that about the beginning
of the evening there was one Martie — one Lafricain
one Jos. Connolly — That P^r staid there the whole time
till the evening — that P^r & deceased had a dispute —
that D. went into a back room saying she was
going to dress for the dance, & the P^r went after her.
that there ~~was~~ ^{a quarrel} ensued between them — That the
first part of the difficulty DeFont heard was that
P^r insisted the deceased should come & sit with him
& drink with him, she insisted to go and dress for
the dance — that the DeFont — upon this went out
upon her return saw the P^r chastising the deceased
with a stick somewhat larger than the thumb
which he usually carries — that P^r struck deceased
on the body and arms — which witness endeavoured
to prevent

that this was in the outside room & before the dance began - That after the dance began there was another difficulty between them but she saw nothing of it.

X^p.

That P^r gave the deceased five or six blows after the witness came into the house, which were applied to the arms & sides of the deceased - did not see the P^r & deceased dance together that evening - nor did see observe them together - That witness now is confined in the work house - where she has been since 20 July last,

John Griswold - was in his house on the 17 March last - but saw nothing of what happened -

Jean Martel - a été chez John Griswold dans le cours de Mars dernier, et croit que c'étoit vers la fin du mois - Qu'il y avoit alors une difficulté entre le P^r & la D^efunte - Qu'il est parti 5 jours avant le jour de Pâques pour les Trois Rivières, & que quelques jours auparavant il a été chez Griswold - Que la balle étoit commencée lorsqu'il est entré, qu'il y a vu le défunte & le Prisonnier - Qu'il a entendu du bruit il s'est avancé pour voir ce que c'étoit - et a vu le P^r & la D^efunte disputer en gagnant la porte d'un Cabinet que lorsqu'elle fut près de la porte le P^r a voulu la frapper, lorsqu'elle s'est gardée dans le Cabinet - Que lorsqu'ils étoient dans le Cabinet il a entendu crier & pleurer la défunte et le D^efunte. y est entré & a demandé au Prisonnier

pourquoi il maltraite la Defunte - mais n'a pas vu
donner de coups -

A vu la Defunte le lendemain matin, qui s'est plaignu
d'etre malade - disant qu'elle avait ete battue -

x^d

Qu'il ne s'est battu longtems avec le P^{re} - qu'il y avoit
d'autres personnes aussi qui se battoient - Que le P^{re}
n'a point este longtems avec la Defunte, que le temoin
y est alle aussi tot qu'il a entendu crier - mais n'a
pas vu donner de coups par le P^{re}

In B^{te} Lafricain - Etait chez Griswold le 17 Mars dernier,
et y est entre vers cinq heures & demi du Jour, la
danse n'avoit point alors commencee - il y a vu
la defunte, plusieurs soldats & filles - n'a pas
vu de difficulte entre la def. & P^{re} avant la halle,
mais apres il y en avoit - Que le P^{re} estoit couche
sur un banc & la defunte assise pres de lui - Martel
est venu apporter de la biere, et a demande de la defunte
si elle vouloit boire, ce qu'elle a refusee -

Que le P^{re} s'est leve & a donnee une tappe a la defunte
la main ouverte, & ensuite une seconde, disant, "go along
with you" - That the girl went across the room towards
another room & the P^{re} followed her, & both went into

the

the room, that he heard the girl cry out, let me alone - & Gou's would begged of the people to take away the P^{re} or he would kill the girl -

x²

Qu'il a vu le P^{re} & la Defunte danser ensemble mais c'etoit avant les coups donne's - & s'arrassoient assez amis - que les coups qu'il a vu donner etoit des tapper avec la main ouverte, & que la Defunte n'a pas tombee -

By the Court - Did not see the deceased dance after she received these blows from the P^{re} & did not see her come out of her room - That Defont did not leave the house till the block in the morning, when there ~~was no dancing~~ was over -

Marg^{te}. Rochou - femme Barnea - Que la defunte est morte chez la Deposante le 26 Mars dernier, & est entree chez elle 9 jours auparavant - elle estoit malade lorsqu'elle y est entree & y a toujours restee malade jusqu'a sa mort - Que la defunte a dit au Defont^{te} avant qu'elle est entree la dernier fois chez elle qu'elle seroit consommee par la boisson, qu'elle estoit bien malade

que la dernière fois, elle s'est plaint d'être bien malade disant qu'elle n'en viendrait point - Que la ~~Defunte~~ ^{Defunte} a dit cela Deposte avoir été battue chez Griswold par le Sergeant Major, qu'elle a dit être le Pris - et que c'était un coup de pied - Que la defunte a persisté dans cette déclaration jus qu'à son décès, mais elle a dit en même temps d'avoir été battue aussi par ledit Griswold sans dire de quelle manière - Que la def. n'a dit jamais plaint que les coups qu'elle avoient reçus étoit la Cause ou avoient augmenté sa maladie - qu'elle a dit, que la Cause en étoit qu'elle avoit attrappé du froid & avoit beaucoup bu, ~~qu'elle~~ et que cela pourroit occasionner sa mort -

x^o

Du'avant d'avoir attrappé ces coups la defunte a resté ^{18 ou} 19 jours chez la Deposante - que dans ce temps la la Defunte étoit bien malade, & la Deposante la ~~soignée~~ ^{panassé} une fois presque morte - Qu'elle a toujours dit que sa maladie provenoit de la boisson qu'elle prenoit - et que lorsqu'elle étoit chez Griswold, par le train & la quantité de monde qui y alloit elle étoit quelques fois obligée de

lever la nuit & sauter par la fenetre & passer la nuit dans l'endroit ou etoit la Caleche -

Qu'auant qu'elle peut se rappeler la deffente est venue chez la deposite le lendemain des coups qu'elle avoit recu chez Griswold - Qu'elle a envoye chercher le P^r disant qu'elle donneroit tout ce qu'elle avoit au monde pour le voir - qu'il est venu & elle a paru etre de bon accord

Qu'un bon intelligence avec lui -

Hermonus Barnhart - That deceased died in Whitman's house - That he had some conversation with her. That the last time sh came to Depont's house she complained of being sick that she expected to die - That she complained of a pain in her stomach - that arose from liquor which she was accustomed to drink too freely - That upon her returning the last time to the house she complained that the Sergeant Major had whipt skinned her, & that she had also been whipt by Griswold

x

That deceased lived with Wit^h before she went to Griswold, and was then sick - She complained of her stomach -

Testimony for Prisoner

Wm Langhorne. Is Keeper of the House of Correction - in which one Louisa Griswold & her husband are confined for keeping a Bandy House -

Ch^l Roi Dodge - was at the House of Griswold on 17 March last - saw the difficulty between P^r & the deceased that the blow he gave was with the open hand & he does not believe it could occasion her death -

Squire Goodsale - was at Griswolds house on 17th March last - saw dispute between deceased & the P^r that P^r gave 3 or 4 slaps with the open hand, that the deceased then ran into a back room - That these slaps could not hurt her much - but does not know what happened in the back room -

John Goodsale - Same testimony -

Sevi Hamilton. - That he was in the ^{at Griswolds} Inner-room when the deceased came in followed by the P^r. That he saw the P^r gave two or three blows to the deceased; but as far as he could see from the little light in the room it was with the open hand, & could not have done her much hurt.

Pat^l Kennedy. Same testimony -

Wm Jones - saw the deceased in Griswold's house on the 18th March last, walking about -

James Cowie - was one of the Jurors on the Coroner's Inquest saw the body of the deceased, & from the evidence laid before them & the view of the body was of opinion that the deceased did not come to his death by any violence.

The Inquest of the Coroner taken on the body of the deceased - that the deceased died in a natural way and by the visitation of God. -

Patt^o Downie. on the 19th March sent the deceased delivered a letter to the Witness to hand to the Pris^r & at same requested he would tell him to come to her -

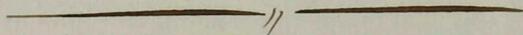
James Taylor. Knows the Pris. a man of good character -

Hamilton. Major of 100th Reg^t - Knows P^r since he joined the Regiment - a man of mild, & humane character -

Jackson. Cap^t. of 100 Reg^t - Knows the P^r since 18 months when he joined the Company to which Whit. belongs and always found him a man of humane character

The Ch. Justice charged the Jury that the evidence

did not amount to inculpate the P.^r and the
verdict of Not Guilty was returned



The King. —
 In ^{vs} B^t Mathieu } On Indictment for Larceny. —

Kenneth Walker, keeps a shop in town, sells such articles, as mentioned in the Indictment — 2 razor strops, two dressing combs & a soap ball being shown him, says, on the 9th June last he had similar articles in his shop for sale — the strops at 6/- each the combs 4/- That in June last similar articles were obtained in his shop by a fraud, as he was informed by his wife, not being at home at the time — That no entry was made in his shop book of these articles before he found out the fraud —

Elizabeth Hadden — lives at Mr Walker's in June last — remembers to have seen the P^r come to the shop some time about the begin^g of the month — That she was not in the shop the first time he came, the 2^d time she asked the P^r if Mr Panet kept the three razor strops which had been sent him by P. in the morning the P^r replied he did, would send pay for them at seven o'clock — he then said that Mrs Panet wanted some combs & two soap balls to ~~show~~ her, that Mrs Walker gave him seven, that
 she

she might chuse one of them - that he also said Mrs P^r wanted some wash balls & he obtained two of them, which were considered as sold, - ~~that~~ the combs were to be returned except such as Mrs Panet should chuse - I positve the P^r is the person to whom the above articles were delivered -

x²-

That she speaks french a little - that she cannot say that the articles now shewn are the identical articles which were delivered to the P^r. Recollects to have seen the P^r three times -

Sarah Walker - That about 5 o'clock on ~~the 9th of June~~ ^{a day in the} beginning of June last the P^r came to her shop, when she then was, and desired to have some razor straps to shew to Judge Panet - that she cannot speak French. ~~but upon his application applied to last witness who explained what he wanted -~~ ^{but understood sufficient to know what he said} That she delivered three straps to P^r to be shewn to Judge Panet which she commonly sold for 6p each - That she did not consider at the time that she had sold the straps to Judge Panet, but understood that Judge Panet had the option to take such of them as he pleased. That

P: returned about 10 minutes after saying that
 Mrs Point had sent him to get some hair
 combs & work balls, upon which seven combs
 & two work balls were given him, with
 which the P: did not return -

~~Eliz. Hadden - being called up - says she does not recollect
 having~~

J^r B^t Vincelet - demeure à Chambly - étoit à Montreal en
 Juin dernier - ne se rappelle point d'avoir vu le
 Pris: dans ce tems - mais croit qu'il est la personne
 de qui il a acheté quelques articles - i. e. 3 Shops
 à razoir, trois ou 4 petits peignes - pour lesquels il
 a payé 3^{rs} 4^{rs} - Qu'il a toujours gardé ces articles
 pardevant lui jusqu'à ce qu'il les ait envoyés au Greffe
 par son fils -

Eduard Vincelet - fils du dernier témoin - a reçu 2 shops à razoir
 & 4 peignes de son père qu'il a apportés au Greffe

John Delisle - a reçu les memes articles du dernier témoin
 qu'il a gardés jusqu'à présent & qui sont
 actuellement devant la Cour -

Mr Justice Panet. Knows the Pris^r only since what happened at Mr Walkers - some days before, he had worked half a day at Whit's house in the employment of Mr Lapricain - that he never gave any order to the Pris^r. to procure any articles for him from Mr Walkers. -

John Delisle - being again called, says, that after the Prisoner's examination had been taken before the Magistrate and the people present had left the room, - the P^r told Whit^o that if he thought it would be better for him, he would tell in what way he had disposed of the articles, which Whit^o understood to be the articles in question in this prosecution, that Whit^o told him, he might do as he thought proper, in that respect, whereupon he told Whit^o that he had sold them at Pointe à Calliere in a House which has a large Stair going up to it, and that the articles would be found there - That Whit^o went to the house, & upon enquiry, obtained 4 hair combs & two soap balls which are the same now produced, that he was also informed at same house that Jean B^t. Vincetlet had purchased the other articles which the P^r had written him.

16.
Defense

Franc. Louelle - Knows the P. for 12 years - ne l'a jamais
connu que pour un honnête homme - 11

Chas. Derome. connaît le P. depuis 20 ans - l'a toujours
connu pour un honnête homme -

Franc. Mathurin - connaît le P. depuis 14 ans - l'a toujours
considéré comme un honnête homme -

The Prisoner's counsel objected to Indictment under
the Evidence adduced, the same being insufficient to
support a Conviction for Larceny.

Atty. Genl. says that line of distinction is difficult to be
drawn - but says that authorities stand in favor of the conviction -
Eub. 685 - Pear's Case - Major Temple's Case, and -
Case of Sharpless & Geatrix to shew that where the possession
only and not the property was parted with, the
person obtaining the goods with a fraudulent intention
is guilty of felony - That this distinction is -
applicable in the present Case, as the possession -
only of the goods was given to the Prisoner and
not the property -

The Court however held that the testimony
adduced did not bring the Case within the Larceny
and

and that the distinction laid down by the attorney General was not applicable to the case - That the present case could be considered only as a cheat or fraud under Stat: 30 Geo. 2^o. ch. 24. according to which it mattered not whether the possession or the property were parted with by the owner, the punishment attaching equally in either case - That the distinction the Court took between what constituted the Larceny at Common Law and the Cheat by false pretence under the Statute of Geo. 2^o. was this - that wherever by any false pretence or fraudulent means the Offender obtained a personal credit, or procured the possession of the Goods due as for himself - then it was felony - but where he demanded the goods due for a third person to whom only such credit could be intended to have been given, and thereby obtained them, this could not be considered as a felony, but as a false pretence coming within the Stat: of Geo. 2^o -

See Cockwaine's Case. 2^o Leach. C.C. p. 562. -

The

The opinion of the seven Judges who gave Judgment in *Pear's Case*. 2^d East. C. L. p. 689. they say,

"That the Statute of Hen. 8. was confined to the
 "Cases of obtaining goods in other men's names
 "by false tokens or counterfeit letters made in any
 "other man's name - The Stat: of Geo. 2^d extended
 "that Law to all Cases where goods were obtained
 "by false pretences of any kind - But both these
 "Statutes were confined to Cases where credit was
 "obtained in the name of a third person, and
 "did not extend to Cases where a man on his own
 "account got goods with an intention to steal them".

That this being a Case where the Prisoner used the name of another person for whom the credit was intended to be obtained could only be considered as a Cheat and not a Larceny -

The Prisoner was discharged of this Indictment but remanded for prosecution for the Cheat -

All the authorities & cases in the books agree with the decision in this Case. - the Opinion however held in *Chadewoods Case*. 2 East. p. 689. seems otherwise*.

* (See after. p. 84.)

Saturday 5th Sept. 1807.

The King
 v^r
 Henry Lunn
 Lawrence Lunnstrom
 John Frederick } On Indictment for Highway Robbery -

Lewis Charles. lives on a farm near the mountain of Montreal and occupies the great House on that farm, and on the 29th Augt. last did occupied part of it for keeping of milk, That on the night of the 29th of Augt. between 10 & 11 he saw a light in the great House, & supposing that there were persons stealing the milk, charged a fowling piece he had with powder only, wishing to frighten them away he then went out, & observed three men of unequal height, one being taller than the other two, & halloed which was answered by the three halloo - that they advanced towards him who being alarmed fired his piece - that the tall man came up to him he heard the others call out damn him kill the bugger - that he struck M^r a blow which knocked him down & also gave a second ^{on shoulder} blow, which deprived him of his senses - that both blows were given with a bludgeon - that when M^r fell his gun fell by his side, or was in his hand - he did not find it afterwards, it having been searched for that night

without effect - a gun being now shewn to him
swears absolutely to be some he fired shot which is his
property - That there is a public road leading up to the
Great House on the farm - That he was at the time about a quarter
of a mile from this public road when he was beat & his gun carried
away -

X²

That upon leaving his dwelling House he went towards the
Great House, & seeing the people advance upon him when
called to he was alarmed & fired his gun - That he
was knocked down & laid some minutes & was by the
assistance of his wife taken home - That after he
got home he thought of his gun & search was made
for it - That Mr. McTavish's farm is inclosed, and
there is a gate on the high road leading up to the House
on it which is distant about 1/4 mile from this high road

Robt. Morrell - Sailor on board Everette now at Port of Montreal
knows Pris? who are Sailors on board the Pametta
vessel - Knows large house near the mountain, which
is empty - That on the 29th Aug. last Mr. agreed
with P^r to go to this House & get a little milk
the evening - That they did not intend to buy, but
to take the milk - That they took with them a
tinder box & a piece of candle, and a key to bring
away

away milk - That when they got to the Store they went in at one of the windows wh. they found open - they then struck a light and lighted a Candle - looked for the milk which after search they found standing in Pans, drank some, and brought away remainder - returned by window, and coming towards the dwelling House they heard another person call out, Halloo, upon which they answered, Halloo, upon which the person immediately fired, being at the distance from him as this M^r. supposes about 12 Yards - That Henry Lunn & John Fredericks advanced towards the spot where the gun was fired, the other P^r. & M^r. run away - That M^r. heard some noise, but what it was, cannot say, - That about 10 minutes after, the two Prisoners Henry Lunn & J. Fredericks joined the other P^r. & M^r. & M^r. perceived a gun in the hands of Lunn and is positive to say that when the party went out to the Great House & when he came out of it & advanced towards the man who fired he had no gun - M^r. asked Lunn how he came by Gun, he s^d. he had picked it up, & asking to look at it, he said he would keep it himself - That the party returned to town & went on board of the Ship Mary - when they took the key below - that Lunn gave the gun to

to Law^r: Lunston to put it also below, - that as soon as Law^r: returned from below the party returned to their own ships - That on the Monday evening after he heard of the man who lived at the Mountain having been much beat.

x^o.

That after the milk was taken, Wit^r: conceives there was no intention in any of the Prisoners to commit a highway robbery or to steal a gun - That they had formed no plan to beat or ill-use any person - That the P^r: answered Halloo as persons usually do when addressed in that way by saying Halloo, and had no intention of doing injury to any body - That upon hearing report of gun Wit^r: was alarmed and run off. -

By Court. That besides the other things they carried with them when they set out to go to Mountain - each of the party had a stick, the one Wits had was a small one which he picked up on the shore -

Sarah Charles wife of Lewis Charles. says, that she went with her husband towards the great House in the night of the 29th August last, she perceived three men, one
of

of whom looks like the tallest of the Prisoners Lunn -
 & the two others of the size and proportion of the
 two other Prisoners - That the tall man only struck
 her husband, the other cried out kill him murder him -
 That the tall man struck her husband who fell
 & after repeating his blow, took up the gun and
 carried it off.

x?

That Wit. was not so much alarmed till she received
 a blow herself when she became apprehensive that it was
 the intention of the persons who attacked them to murder
 both her & her husband - That the House where Wit.
 lives is at the distance of about $\frac{1}{4}$ mile from high way -
 That she thinks besides the three men she saw there were others
 behind who did not appear. -

Robert Ayr - Is mate of the Ship Mary now lying at the Port of Montreal
 com^d by Capt. Sarmon - was directed on Monday to search for
 men birth for a gun, which he found in one John Cole's birth
 he gave it to Capt. Sarmon - That the gun now shewn is the
 same he found -

John Cole - Is a seaman on board the Ship Mary - That he never put
 the gun in his birth which was sworn to by the late Wit.
 and

the gun now shewn him is not his, nor did he ever give leave to any one to put a gun there -

Alex^r Patterson - com^d Everetta - that Robt^t Thorrell is a seaman on board same ship in which he has served since March last, and has always borne the character of a man who spoke truth, and he should believe what he has sworn to day in this cause -

Chas. Blake. Pris^r brought before him as a Magistrate, and also the gun now shewn him, that he took their examinations now shewn him which were voluntarily given on the part of the Pris^r without threat or promise -

The examinations of John Frederick & Lawrence Lunstrom, were read -

Lewis Charles - again brought forward - says that his gun is worth seven dollars -

Defense

Hart Logan. That he made a passage to England in the Everetta last year, and then knew the P^r Lawrence Lunstrom who was a sailor on board, & who bore the character of a very honest sober well behaved man - and not a man who could be suspected of committing a robbery -

Geo: Watt. Knows all the Prisoners - considered them to be decent well behaved & orderly men - they no means persons whom he should suspect to commit robbery -

Geo: Sarmou - Capt of Ship, Mary - knows Prisoners and are men of good character, Lawrence he has known two years. & he does not conceive them to be persons who would be guilty of any felony or robbery -

Alex' Patterson - Capt Ewetta - Pris^r Seaman on board his ship, and he always considered them to be honest men, & not capable of committing a highway robbery or any such offence -

The verdict. Guilty - and Jury recommended Prisoners to mercy -

The King
v.
Amable Defort } Indictment for Larceny.

Stealing 10 martin skins of value of 20/- of value
of the goods & chattels of Forsyth Richardson & Co
on 6. Aug^r last. —

Joseph Malochloski
d. Volage }

Étoit au service de Mess^{rs} Forsyth Richardson & Co
à Montréal le 6 Aout dernier, pour ouvrir les paquets de
pellettes pour voir si elles étoient mouillées — Que ce jour
il a ouvert un paquet où il y avoit des peaux de
martre appartenant à ces messieurs qui sont Thomas
Forsyth, John Richardson & John Forsyth, Que le
P^r étoit avec lui, dans le temps — Comme il travailloit le
P^r venoit passer derrière lui, & le témoin s'étant retourné
un peu vite s'est aperçu le P^r avec ses Culottes défaites
& a dit au Commis Mr. Thériu le Commis qu'il falloit
visiter cet homme parcequ'il avoit volé quelque chose;
que comme on étoit sur le point de chercher dans ses
Culottes, le P^r lui même a tiré 10 peaux de martre
et les a remis au témoin, disant, tenez voilà vos
martres — Que le témoin estime les martres à 22/6 —

Et. Gauthier - Etait present le 6 Aout dernier lorsque le dernier
 temoin a accusé le P^r d'avoir volé, et que le P^r avait
 ses Culottes defaites - que le temoin a vu le P^r tirer de ses
 Culottes dix peaux de martres & les remettre au dernier temoin
 disant voila vos martres -

M. B^r. Durocher, Juge à pais - dit que la declaration à lui
 maintenant montrée a été volontairement faite par
 le P^r sur la plainte faite contre lui -

The examination read - confessed the theft -

Defence.

Jos. Ignace Hebert - connoit le Prisonnier depuis 25 ou 30 ans -
 et l'a toujours considéré comme un honnête homme -

Joseph Hebert - connoit le P^r pour un honnête homme & le
 considère comme incapable d'une mauvaise action -

Jos. Brosseau - connoit le P^r - et est son ^{depuis 4 ans} voisin - a travaillé
 pour le temoin - et s'est toujours comporté comme un
 honnête homme depuis 25 ans qu'il le connoit -

Maurice Bloudeau - connoit les temoins qui ont été appelés par
 le

le P^{re}. connoit la famille du P^{re} comme un des plus respectables de la paroisse ou il demeure -

The charge was given by Ch. Justice that nothing could exculpate the P^{re} from charge if testimony could be credited

Verdict - Not Guilty -

This verdict was wholly contrary to the Evidence and not being satisfactory to the Court, the Prisoner was remanded until the last day of the Court -

The King - }
 Johnⁿ Etman. - } On Information for persuading one Thomas
 Quin a Soldier to desert -

Thomas Quin. - Is a Soldier in the 100th Regt. was attested and receives pay - Knows Dep^t. Saw him on Lachine road on 14th Aug^t. Cent & there saw him - Spoke to Wit^t That Sergeant Frizzle & Wit^t were in pursuit of a Soldier who had deserted, that they met the Dep^t. coming from Lachine who told them he had met their commanding officer whose Calash had broke down & he could not get on, & requested of them to go into a house & get a glass of grog, that they went into a tavern on the road & had some grog - that when they came out they both went into the Dep^t. Calash to bring them to Montreal - That on the way he began to tell them he was an Old Soldier himself, and that he continued to help a Soldier - that Command^r officer came up & reprimanded them for delaying on the way - that Sergeant asked Dep^t. how far they were from the States, that he does not recollect what he is? but that when they came to a certain part of the road he could show them the way - that they went into an Inn, & there the Dep^t. said he could not well explain the road without pen ink and paper, which being obtained, he stated the road

and

and that they had nothing to fear except at a place
near the States where there was a man with seven
sons who made a business to bake dentiers - That
Defend^t said he would take them over for half a Doe
as being the least sum he could take as the road
was very dangerous -

told them to go to town and get a pass from the
commanding officer, ~~and~~ come to him he would
then carry them off - and in case of being pursued
or of resistance by any officer, to carry pistols
with them for defence - That Defend^t was the
person who first proposed to Thits to go off, but
without giving any particular inducement for
so doing, & that he the Defend^t would show him
the road to the States for Half a Doe -

x² -

That told Defend^t that Thits & Sergeant were
looking for Dentiers - & that it was at the place
where the 2 roads join near Lachine where they met
the Defend^t where they drank the grey & got into his
Calash - That Thits had some difficulty wth Defend^t -
at entry of Recollets suburbs respecting which street they
should

should take - that witness did not strike Defend^t
nor did he observe he had a swelled face or a black
eye -

Sutton Frizzelle - Sergeant in 100th Regt - Knows Defend^t and
saw him on the Lachine road on the 14th Aug^t. last - that
they went into a house near Lachine where they had
some grog - That Def^t. told Whit^t if his Calash were
not broke he would take him on the road - & upon
Whit^t. observing it would do very well, he allowed
Whit^t. to get into it & the other White got on behind
That they ~~were~~ ^{went} going to Cote St Pauls, and when
they came to a ~~road~~ ^{road} that led across the Country
Defend^t. observed to Whit^t that the road you should
go, & Whit^t. thinking it was the road to the Cote
St Paul, asked if that was not the Case, he said
no it is the road to the States - and that as it was
not safe for a man to go alone he could conduct
them there for half a Doe - That upon observing
the bars on the Whit^t. coat the Whit^t. Def^t. seemed
rather suspicious & asked Whit^t if he was not a
Serg^t - that upon his saying he was not, but only
wore a Sergeants Coat, he seemed less alarmed and
continued the Conversation -

went into the Inn of one Brown, where Whit-asked
 to give him directions in writing - that Whit got
 paper & sat down to write, when Defd^r told him to
 go by Laprairie St^r Philip & Addletown, sent to
 take care at Addletown as there was a man there with
 seven sons who made it a business to look out for
 deserters - This paper he has not now in his possession
 when they came to town Defd^r told Whit to go to Officer
 and get a pass, and to return^{to} him and for half
 a loe he the Defend^r would assist him to get
 away into the States & then him the road -

x^o

Understood what Defd^r said - That M^o drank some
 at Laehine & some at Browns - That M^o left Defd^r
 some time before they came into town & left Quin in the
 Calash - Did not see Defd^r was ill-used by any person
 or that he had a black eye -

Defence

John Richardson - Knows Defd^r & has known him for 12 years,
 has always considered him as an honest man and a

good

good subject - that he is a Carter

Alex. Auldjo - Has known Def^d. there 20 years, has employed him often and always considered him an honest man and a good subject - that Def^d. does not talk very good English, but in such manner as Germans usually do - that Wh^t. always understood him & was understood by him -

Edw^d Wm Grey - Has known him for many years & always considered him as an honest good man & a good subject that he talks very thick, & Wh^t. has had difficulty sometimes to understand him - that Wh^t. would never have suspected him of being guilty of the offence with which he is now charged

Geo. Watt - Same testimony -

Quin Owen Radford - Knows Def^d. and considers him as a good subject, & has particular reason to know his loyalty particularly in the year 1795 when came forward in manner which many others would not have done by giving his time to assist in looking after ^{persons} suspected - Thinks present complaint arises from a mistake - that there is a difficulty in being able to understand him at times, as he talks very bad English & very thick
that

that when he came to the Prison the day this complaint was made he had his face very bloody and had a black eye -

Jacob Marton - Has known Def^t. upwards of 20 Years, always considered him as an honest man and good subject - Had occasion to know his Deal for the Public Service - particularly in the years 1794. 5. & 6 - when he assisted M^{rs}. at all times when called on to take up seditions persons -

Fred^k - Weissenburg. Knows Def^t. saw him pass with the ^{Quin the M^{rs}} ~~Soldiers~~ on the 14th Aug^t. last when he had a black eye, and his face much swelled, that Def^t. got out of his Calash -

Verdict - Not Guilty. -

Monday 7th September.

The King. — }
 Berthi^r. Quintin } Ou Indictment for inciting Simon Siccard
 to commit perjury. —

Pierre St. Julien. — Qu'en 1804 il y avoit une action intentée contre lui pour le Defend^r pour ^{£5.} argent prêtée par sa femme. & la cause fut fixée pour être entendue en Septembre 1804. Que l'action a été retirée — et en Janvier 1805 témoin a commencé une action contre le Defend^r et le Defend^r a renouvelé sa demande par un incident — qu'ils ont fait une transaction ensemble sur cette dernière action devant Notaire le 26 Janvier 1805, par laquelle le Defendeur a reconnu que la somme de cinq louis n'aurait jamais été prêtée par sa femme au Témoin — Que le témoin n'a jamais demandé & n'a jamais reçu de la femme du Defend^r 20 piastres — Que le nommé Hamel est venu de la part du Defend^r pour un arrangement, et ils se sont rendus chez le Notaire pour cela, que le témoin dit alors au Defend^r puisque vous me demandez l'accord & mes propositions, vous me payerez mes frais qui montent à vingt piastres laquelle somme lui a été payée dans le moment et la chaîne de Sommier pour laquelle son action étoit intentée lui a été remise — Que le Defend^r n'a point fait faire des propositions d'arrangement qu'après que lui témoin auroit actionné les témoins à qui le Defend^r se seroit adressé pour lui servir de témoin contre lui dans la Cause —

Que le témoin a voit actionné parmi ses témoin Simon Siccard, Euphrasie Lalande Brabant -

x^o

Que le témoin n'a point d'ordre pour paroitre aujourd'hui mais a donné une Reconnaissance en Cour pour le faire - Qu'il n'a pas eu d'autres procès avec le Defeur - que deux qu'il vient de mentionner et n'a pas eu d'autres -

By Count - Qu'il a fait des affaires avec le Defeur. avant ce tems & a reçu de l'argent de lui - que c'étoit la femme du Defeur ordinairement qui payoit l'argent - Que le témoin a vendu du bled au Defeur. en 1804 pour plus forte somme que vingt picastres, laquelle lui a été comptée & payée par la femme du Def. cette même année, mais il n'a jamais emprunté du Defeur - ni de sa femme la somme de vingt Picastres. -

Simon Siccard demeure à la P.^{te} Claire connoit le Defeur. depuis 20 ans - qu'il se rappelle d'avoir vu le Defeur. le 20 d'août 1804 - qu'il est venu chez le témoin qui étoit alors à sa grange, et lui demanda de venir à sa maison qu'il vouloit lui parler - Qu'étant chez lui ils ont bu 2 ou 3 verres de grog - & le Defeur. commençoit par dire qu'il avoit un Procès avec le nommé St Julien disant ma femme dit avoir prêté 20 picastres à St Julien et a présent il le renie, et comme St Julien m'a
 toujours

toujours bien servi & est connu pour un honnête homme
 il ne savait point comment faire - ajoutant mon
 cher Sieur, nous sommes voisins, & tu peux me
 rendre service, & quant tu aura besoin de moi je
 peux te rendre même service - et continua, vint
 t'en à l'Eglise, ma femme va faire serment
 devant le Saint Sacrement qu'elle a prêté 20
 piastres à St-Julien, & tu peux alors faire serment
 devant la Cour que tu les a vu prêter à St-Julien
 pour ma femme - & si tu veux me rendre ce -
 service là, tu sais, que tu me dois 50 piastres
 en Janvier prochain, je t'en donnerai quittance
 tout de suite & je te rendrai tout autre service
 dont tu aura besoin d'ailleurs - Que le témoin
 croyoit que le Defeur auroit fait quant à cette quittance
 comme il auroit déjà faite envers lui, en faisant des
 promesses qu'il n'a point remplies - Que le témoin lui
 remarqua pourquoi continuez le Procès, n'ous n'avez
 point de témoin - le Def. dit, ce n'est point pour
 l'amour de l'argent, j'en ai assez, mais quand je pleure
 je ne voudrais point perdre aucun de mes procès -
 Que le témoin a refusé de consentir à la proposition que
 le Def. lui faite - Que ledessus le Def. lui dit
 pourquoi ~~est~~ que vous ne voulez pas faire comme
 j'en ai un qui veut bien le faire, et le nomme
 Pourquoi

Puisque Gagner, et indiqua son demeure - Que ce
 Puisque Gagner a été témoin du Defend. dans toutes
 ses causes ou au moins une grande partie - Il dit
 au témoin curri, qu'il avait parlé à d'autres personnes
 pour lui servir de témoin dans cette affaire qui
 ne vouloient point consentir pour le moment, mais
 qu'il esperoit bien en avoir -

X.^d

A eu plusieurs procès avec le Defend. et le témoin
 lui doit encore - que le 20 Aout 1804 le témoin
 n'avait point de Procès avec le Defend. Que depuis
 sa terre a été saisie à la poursuite du Defend.
 qu'il y a eu des ^{ter} saisies de ses deniers à la poursuite
 du Defend. Que depuis 4 ou 5 ans il a brouillé & raccommo-
 dé avec le Defend. mais qu'il n'y a jamais eu une amitié
 sincère entre eux - Mais que le 20 Aout 1804, il étoit en
 amitié avec le Defend. - Qu'il n'a jamais dit à personne
 qu'il vouloit nuire le Defendeur ni avant ni depuis
 ledit époque - Que le Defend. étoit chez lui dans le tems
 que le tem. a donné sa déclaration contre lui dans cette affaire. -
 N'a jamais dit que le Defend. étoit parti & ne reviendrait
 jamais, ni que le Roi eut la moitié de ses biens, qu'il
 aurait ^{pu} se joindre avec d'autres qui parloient de cette
 manière, mais il n'a jamais dit cela de lui-même -

Qu'il

Qu'il n'a pas fait prendre le Défend. la nuit

Marie Frosine Lalande, ^{femme de Brabant} brought forward to prove that Défend^t had made a proposition to her to be a witness in his cause at St Julien, which she had refused - and this in order to support the testimony of Siccard -

This was objected to by Défend^t's Counsel as proving another crime to support the present complaint -

The Att^y Gen^l replied that collateral matters are admitted in proof, if they apply to the Issue & go to the general support of the Indictment - If this were not admitted there would be a failure of Public Justice -

Instances the cases of Treason - and of Conspiracy - when the whole facts are allowed to be enquired into & laid before the Jury that the whole being linked together they may form a true Judgment -

The Court were of opinion - that the witness ought not to be admitted to prove a separate offense from the present against the Défend^t but ought to be received to every collateral matter that can touch upon the present Indictment or that can tend to corroborate the testimony of the witness for the Crown - That the point for which the testimony is to be adduced appears to corroborate the testimony of the witness Siccard, and it is consistent with public Justice that such testimony should be admitted -

dit. qu'elle demeure à la P^{te} Claire, connaît le Def^r & depuis 7 ans
 se rappelle qu'il est venu chez elle en Aout 1804 vers la fin
 du mois - Qu'on est venue appeller la Depos^{te} qui travaillait
 au champ à récolter, qu'étant rendue à la maison on étoit
 le Defend^r il lui dit. qu'il étoit envoyé par sa
 femme pour savoir si le témoin pourrait lui rendre
 quelque service dans la Cause qu'il avait avec St Julien
 que sa femme avait prêté 20 pistoles à St Julien, lequel
 se fiant qu'il n'y avait point de témoins, à présent
 le rendoit, mais comme ils avoient trouvé une personne
 pour rendre ce service il desiroit encore avoir un
 autre - Que le témoin insistant qu'elle ne savoit
 rien de cette affaire et qu'elle ne pouvoit point perdre
 son tems pour aller voir la femme du Defend^r le Defend^r
 lui dit que si elle vouloit venir il donneroit
 un louis, pour son voyage - Qu'elle devoit venir parler
 avec sa femme qui l'assureroit des circonstances de
 manière à pouvoir faire le serment qu'il demandoit
 et que d'ailleurs avec l'Anglais, on en étoit quitte
 à la Confession. -

X^o

Que si elle a eu des difficultés avec le Defend^r & sa femme
 elles sont finies il y a longtems, qu'elle en a eu, mais
 point dans le tems que le Defend^r lui a fait les propositions
 susdites - Quel y a cinq ans le Defend^r a fait
 sortir

sortir une prise de Corps et y a 5 ans contre le témoin, d'un peu politique elle a été persuadée de demander excuse de la femme du Défendeur. Qu'elle n'a jamais dit à personne qu'elle voulait se venger - Que le nommé Pilon n'a point resté tout le temps que le Défendeur parloit au témoin, mais ils étoient seuls - Que le Défendeur n'a point envoyé chercher pour lui payer paiement des 24^{rs} qu'elle lui devoit, et il n'en a point parlé, et même elle n'en dit point -

Jean P. Cerat. connoit le Défendeur et se rappelle l'avoir vu dans le temps de la révolte de l'année 1804, le Défendeur en passant demanda au Defeur. de venir avec lui, et qu'il est parti avec lui, et ils ont été ensemble chez le nommé D'Out en bas d'un côté où ils se sont assis - là il a demandé, connois-tu St Julien, tu sais, que c'est un hom. qui a voulu ruiner ton père; si tu veux, tu peux me rendre un service, lorsque le témoin répondit, si je peux je le ferai, qu'il est le service que tu veux, il dit alors tu pourras bien me servir sans le Prœs que j'ai avec St Julien - tu venant en cour et affirmer que ma femme a prêté 26 piastres à St Julien - que le témoin a dit qu'il ne prouveroit point comme il n'avait point vu faire - et dit il j'espère bien que tu le feras - j'irai te trouver ce soir -
 Ensuite que

que sa femme est venue le demander, & le Defend. est parti -

x^o

On se rappelle point d'avoir ~~assisté~~ ^{Guilbeau} Mr ~~Dubouche~~ D'etre du
complot contre le Defend. Qu'il a eu un Proce avec
le Defend. avant le tems qu'il vient de cita de la conversation
avec lui -

Witness recalled by Atty General, says, que le meme soit
~~David Ross~~ Defend. il a envoye chercher, et etant chez lui, il l'a
fait entrer dans une petite chambre & a fait apporter
une Caraffe du rom & deux verres - & a fait prendre
un coup, il lui dit, j'espere que vous me rendrez
le service que je vous ay demande, de me servir de
temoin dans la Cause avec St Julien - je te donnerai
les vingt piastres que je gagnerai, & autre chose
avec - Que la femme du Defend. etoit present et
incita le temoin de venir faire serment a la Cour
disant qu'elle avait prete la somme de vingt piastres
a St Julien comme il y avoit un Dieu au Ciel, &
que lui temoin pouvoit bien en faire serment
que le temoin a refuse, & etant sorti de chez le Defend
a peuli a son pere de la conversation qu'il avoit
eu avec le Defend -

Jean D. Ceret pere. Que le dernier temoin a dit au temoin

que le Défendeur lui auroit demandé s'il pouvoit lui servir comme témoin dans sa Cause avec St Julien, et de la manière que son fils lui parloit il lui parovroit que le Défendeur auroit fait quelque proposition de faire un faux serment pour lui, mais il n'a point parlé de récompense ni d'argent. —

David Ross says, that he knows the Defend^t who has had different suits in Court - and that he knows Jean Louis Cerat son of the last witness, who is now a bailiff of the Court of Kings Bench, he considers him as an honest man and a man ^{to whom he would give} Credit -

Jean B^t Dumouchel, curé de la paroisse de St Genevieve - qu'il connoit St Julien depuis plusieurs années et l'a toujours considéré comme un très honnête homme -

George Myer - connoit St Julien comme un parfait honnête homme, & aussi Jean de Cerat fils - connoit Siccard aussi & connoit rien de mal de lui - depuis 20 ans qu'il le connoit - croit ces trois personnes dignes de foi - connoit Marie Frosine Lalonde depuis quatre ou cinq, & autant qu'il sait, son caractère est bon -

Defence

Prisque Gagner, demeure à Carillon, qu'en 1804 il étoit aux Eboules - distant de la pointe claire 12 lieux - Qu'en
12

1804 le 18 Aout le Defend. vint chez le Defort. étant un Samedi, que l'on avoit proposé de lui donner un bouquet le jour de sa fête, qui se trouvoit le 24 du mois d'Aout, mais il est parti le 23 du mois, de manière que le bouquet ~~on~~ lui a pas été donné - et certain que le Defend. n'a point descendu à la Pointe-à-la-Peine depuis le 18 au 23 Aout. -

André Theoret, demeure aux Eboulis distant de la P^{te} Claire environ 14 lieues - Qu'il se rappelle d'avoir vu le Defend. ~~le~~ il y a trois ans aux Eboulis, qui y est arrivé dans un Canot d'Écorce un Jour de Dimanche le 19 du mois - Que le témoin lui a apporté du pain la semaine après son Arrivée, qu'il avoit boulangé pour lui, et que le Defend. a resté là jusqu'au 23 le mercredi ensuite, lorsqu'il est parti le soir pour éviter les frais du bouquet qu'on vouloit lui donner le lendemain. —

Ju B^{te} Demarek, demeure aux la paroisse St Benoit - Se rappelle d'avoir vu le Defend. à ses terres aux Eboulis en Aout 1804, mais ne peut fixer exactement le quantième connoit S. Siccard, que l'année dernière, le S^r Siccard lui dit, qu'il avoit plaidé avec Quinton, & que lui Siccard étoit ruiné, et que lui Siccard vouloit plaider Quinton jusqu'à ce qu'il vint à bout de ses affaires. —

Henry Albright. demeure à Caillon, se rappelle d'avoir vu le
 Defend. chez lui le 23 d'août 1804 à la rivière du Nord
 disant qu'il s'étoit sauvé pour ne point donner sa
 fête qui devoit se trouver le lendemain —

Ayacurbe Gauthier. demeure à St Anne — Que le 18 Août 1804
 le Defend. vint chez le témoin un samedi le soir ou il
 a couché, pour se rendre à Caillon ou il a été avec lui —
 Que le lendemain il a été chez Theoret pour aller de la farine
 pour Boulanger — Qu'ils ont travaillé à l'Isle — Qu'ils
 ont été 9 à 10 jours absent. & c'est le témoin qui a ramené
 le Defend. à la Pointe Claire — Qu'il connoit L. Sicard
 et que c'est un homme qui aime la chicane — Qu'il a
 dit au Depot. que le Defend. est parti — son bien est au
 Roi — et si jamais il revient je ferai fendre son nez en
 quatre — qu'il a dit encore au témoin, tu a un compte
 contre Quentin, et si sa femme l'actionne, tu fera un
 compte, & moi je l'affirmerai — Qu'il connoit Marie
 Froisne Lalonde qui dans une conversation qu'elle a eu
 avec lui il y a 4 ans à l'égard du Defendeur, elle lui dit
 qu'elle seroit vengé au peril de sa vie contre lui — Qu'elle
 a dit une fois au Depot. qu'il devoit venir lui faire
 serment comme témoin, pour affirmer faussement pour
 elle, ce qu'il a refusé, & qu'alors elle a dit comment
 vous ne voulez pas faire un faux serment pour moi
 je le ferai bien pour vous. — Que

Que c'est une fem. qui fait plaisir à ses amis & une
mauvaise langue - & que s'il auroit voulu suivre ses conseils
il n'auroit pas été aujourd'hui avec sa propre femme -

In L^e. Cerat. Que dans l'année 1804, il est parti de la Pointe
Claire le 20 Aout pour Caillon - qu'il a passé par la
Riv. du Chene, etant aux Ebouls, il a rencontré le Defend^t
qui travailloit - & qui dit au Defend^t. qu'il étoit parti de
samedi de la P^{te} Claire - Que le 22 du soir le Defend^t. a
couché chez le Defend^t. aux Ebouls, & est parti le 23 matin -
Qu'il est particulier pour les dattes & causer de l'Exercice
qu'il est obligé de faire faire aux Militiens - qui
n'ont pas le 5, le 12 & le 19 Aout - Connoît Simon
Siccard - aime la Chienne & a bon - connoît le
Defend^t. pour un honnête homme

Chap. Guillaud, demeure à la P^{te} Claire - Que dans le mois d'Aout
1806, etant chez Siccard, il y a vu le jeune Cerat, le
demain, & la ils ont dit au Defend^t. rentre ici, et etant
entré, ils ont tu dois te remettre du Complot avec nous
tu gagnera bien d'argent - que le Defend^t. comment,
tu n'aura que dire que le Defend^t. t'a sollicité de
faire un faux serment, comme nous ne sommes
pas beaucoup de monde nous ~~avons~~ ^{partageont} la moitié de
son bien et le Roi s'emparera de l'autre - Que

le Depos^t a refusé et est parti, que lendemain le
 témoin passant devant chez Siccard, il a demandé
 au témoin ce qu'il pensoit de la proposition qu'on
 lui avoit faite la veille - le témoin a dit qu'il n'y
 pensoit pas, alors Siccard dit, eh bien, si vous ne
 voulez pas, au moins que la chose soit secrète. —

Que depuis l'année dernière Siccard a dit en
 plusieurs tems, qu'il vouloit avoir vengeance du
 Defendeur pour les Procès que le Defend. avoit
 fait contre lui - et Berat fils a dit la même chose -
 Qu'il étoit présent lors de l'accord entre St Julien &
 le Defendeur, que la femme du Defend. n'y étoit point.
 qu'au contraire elle a toujours persisté à dire qu'elle
 avoit prêtée les vingt piastres à St Julien, et qu'elle
 étoit prêt d'en faire serment. —

Marie Bourgoirin - est mere de Charles Guilbault - que dans
 le mois d'Avril 1806, elle passoit devant la porte de
 Simon Siccard, ou elle a vu ledit Siccard le jeune Berat
 et ledit Guilbault son fils - Que Siccard proposoit
 à son D^e qu'il vouloit faire un faux serment, & la
 Depos^t a immédiatement appelé son fils, vint
 t'en mon fils, je ne veux pas que tu te mêle la dedans
 & son fils l'a suivi - Que dans le même tems elle
 Siccard dit au Depos^t que le Defend. l'avoit
 ruiné

l'avoit mis sur la paille, & qu'il vouloit le mettre dans le meme cas - & que s'il ne pouvoit point réussir autrement il mettroit le feu à la maison du Defeur -

Nicolas Tondü D'Orange. Demeure à la Pointe Claire - connoit Defeur & Siccard - qu'ils ont été bons amis jusqu'environ cinq à six ans - Que cet hyper Siccard lui dit que le Defeur estoit parti & qu'il ne reviendrait jamais, et si il revenoit lui Siccard lui feroit couper les oreilles et fendre le nez en quatre - qu'il vouloit avoir vengeance de lui - Qu'il connoit madame Brabant, et a entendu que c'estoit une mauvaise langue - Qu'en parlant des Debitours du Defeur Siccard lui dit, que ces gens faisoient très mal de payer, comme tout le bien du Defeur - appartenoit au Roi -

Pre Lacombe, connoit Mad^e Brabant, pour une mauvaise langue - et une brouille-ménage, & qu'elle a déjà brouillé plusieurs - que c'est une femme qui ne joint point de trop bonne réputation. -

Jⁿ B^{te} Lacombe, cap^t de milice - connoit les parties - Que le Defeur est honnête homme - a été Marguillier Syndic que madame Brabant est mauvaise langue & que
Siccard

Siccard est ennemi du Defeur. Qu'en Avril 1806 le dit Siccard dit au Defeur et en parlant de son Procès avec le Defeur - il dit au Defeur qu'on ne serait pas débarrassé de Quintin avant qu'on fasse perir sa Cabane -

Henry Pouchard présent à un accord qui s'est fait entre le Defeur & St-Julien - que la femme du Defeur étoit beaucoup fâché de cet accord, disant qu'elle avait réellement prêté les 20 foventes à St-Julien, & pleuroit même. -

Pierre Pilon. demeure aux Eboulis - connoit Mad^e Brabant - Qu'il y a deux ou trois ans il auroit été envoyé chercher la dite Brabant par le Defeur dans le tems de la Recolte il y a trois ans ~~le Defeur~~ a amené Mad^e Brabant à la maison où étoit le Defeur lequel demanda les quatre foventes qu'il lui avoit prêtés, laquelle répondit, que quand son mari seroit de retour elle les payeroit et que le Defeur s'en est venu chez lui avec Defeur -

Genevieve Lefevre. connoit Mad^e Brabant. Que dans le mois de Mai dernier, elle auroit été chez elle, et la ladite Brabant, que c'étoit la faute M^r St-Julien & de Siccard si elle s'étoit mêlé de ce Procès en question, mais qu'elle auroit été sollicitée par ces deux personnes à cela. -

Jⁿ Marie Mondelet. Qu'il est Juge à Paix du District de Montreal;

Pat^h. Murray. connoit Andre' Theoret depuis 12 a 13 ans, pour un
 homme d'un bon caractere et digne de fois - connoit aussi
 Henry Albrecht depuis 14, pour un honnete homme et digne de
 fois - connoit le Defend^t pour un honnete homme & tres attaché
 au Gouvernement -

J^r. B^{te}. Lefevre - connoit Andre' Theoret depuis 36 ans pour un honnete

J. Reid. That in 1804, he was the Defendants Attorney, and as
 such sued out a summons ag^t. St Julien at the suit of the
 Defend^t. for twenty dollars which his wife had lent him -
 That he informed the Defend^t. that this demand could not
 be proved by Witnesses as the sum in question was above
 an hundred livres - and this is the reason why the Cause was
 discontinued - That St Julien afterwards sued Defend^t. and
 upon this an Incidental Demand was made for the twenty dollars,
 but this Cause never came to a hearing in Court as the parties
 settled it by an arrangement before a Notary - That Defend^t.
 had several law suits, which Wit^h. attributes in some measure to
 the number of persons he employed on his lands which he had at a
 distance, & who he complained, always deceived him - the principal
 part of his suits was with these people. -

The King -

Berth^o. Quintin

} on Indictment for exciting Marie Euphrasie
 Lalonde Brabant -

It was agreed between the Att^y. General and the Counsel
 for the Defendant that the Jury should be sworn

and

and give their verdict on this Indictment upon the same testimony adduced on the preceding Indictment

The Jury returned a verdict of Not Guilty upon both the Indictments.

Tuesday 8th Sept^r 1809

The King
v.
Joseph Brunette

One Indictment for Larceny - stealing a silver watch of the value of £2. 10 St. of one Donald M. Cuagh at Montreal on the first May last, in the dwelling House of one Stephen Sewell.

Donald M. Cuagh was taken in the house of S. Sewell in Montreal in the beg. of May last ~~with a silver watch~~ in his pocket which he valued at eighteen dollars - that he recollect ~~stealing~~ his watch out of his pocket, saw, Jenny, thinking he spoke to the servant girl, take care of my watch, and take off my coat - meaning to deliver his watch to her - does not recollect if there was any other person in the room where the theft was by reason of his indisposition at the time. That he knows watch now shown him

to be same he lost - That when he got better his watch was gone, and he could not find it -

x.

Does not recollect having seen the P^r in Mr Sewell's house - that soon after he purchased the watch & before he lost it he took the number of the watch and the maker's name down on a piece of paper which he kept in his pocket book. -

James Watson. That about the end of April or beginning of May last the P^r came to Depon's house who lives at St Johns and keeps Tavern, and asked for lodging, saying that he had no money and lived at Miris qui bay - that the W^t said he might stay - that in the evening P^r showed a watch which he wished to sell & said he had bought it in - Montreal of one Petit clein a watchmaker that carried it two years - That next morning W^t told him he would exchange watches wth P^r & give his reckoning into the bargain q^d was about 3/- which he agreed to & the watches were exchanged - That watch now shown to W^t is the same - That he sent the watch to Mr Arnoldi the watchmaker at Montreal to be mended, who stopped the watch as stolen property - upon which & hearing that P^r lived at St Johns & went to him, & was informed by him that he had sold the watch which W^t had given him

him in exchange to a Sgt. of the Garrison for 15 dollars -
 That Wick got a warrant and had P^r arrested, and
 he then told him that he P^r had bought the watch
 from a man on the outside the market in Montreal, who
 wore blue cloaths -

X^o -

Has no particular mark to know the watch by now
 shown him to be same ~~was~~ that he exchanged with P^r - except
 by the crack in the crystal and the chain & seals -

Chas Arnoldi - Is a watchmaker in Montreal - That he received
 a watch from Mr Watson of St John to mend, that he
 does not recollect the watch - That before this time he
 had got a name and number delivered to him of a watch
 that had been stolen, which he entered in a book, and
 when the watch which was sent to him by Mr Watson
 came to his shop, he told the person that it was stolen
 watch and he must stop it - That he in consequence
 gave it to his apprentice to carry to Mr Reid, Clerk of the
 Court

John Larkins. That in May or June last he received a watch
 from Mr Arnoldi his master to carry to Mr Reid the Clerk of the
 Court - which he delivered to John Delisle his Clerk in the same
 state he received it -

John Delisle That the watch now shown him is the same watch
 he received from the last witness and has been in his possession
 ever since. -

Chas. Hyper. That he lives opposite to Mr St. Sewell's house in Montreal, That he knows Mr. McLaugh - that he was sent for in May last to see him who was then very ill - That when Mrk was sent for the P^r happened to be then in his house & went with him - That McLaugh was very ill - that Mrk went out of Mr Sewell's to go ^{with Richardson's} ~~elsewhere~~ & left the P^r in the house that there was a servant girl in the house also, but he thinks she run up stairs, and that when he went away the P^r was alone with McLaugh - when he returned to Mr Sewell's house he found McLaugh still sick, but the Prisoner was gone -

x^d

That the servant girl's name is Jenny - does not know whether Jenny came down stairs again while he was absent - was not present when McLaugh was first taken sick -

The Jury returned a verdict. Guilty of stealing a watch of the value of 37/6 ^{but not from the dwelling house} ~~as laid in the indictment.~~

had been sent to him by P^r who said he did, and that he would send at seven o'clock in the afternoon to pay for them. — — — — — that he then asked for some Combs for M^r Panet, when Mrs Walker delivered seven tortoise shell combs, and two wash balls — that she has no knowledge that the Pris^r brought back any of these above articles —

x^o

That there might be ten minutes between the first and second time of the P^r coming into the shop — and that he had no hat on either time —

Judge Panet. Connoit point le P^r mais croit l'avoir vu travaillé chez lui comme un engagé au service de M^r Lafricain, le maçon — qu'il ne lui a jamais donné ordre de lui apporter de chez M^r Walker des passe-razoirs ou aucuns autres articles, et de plus que le Prisonnier ne lui a jamais apporté de tels articles. —

Jean B^t Vincelet. Qu'il étoit en ville vers le 9 Juin dernier, ne se rappelle point bien d'avoir vu le P^r mais qu'il a vu un homme comme lui, & qu'il croit être le même de qui il a acheté vers ce tems à la P^t a Galliere

articles 4 perques, 2 Savonettes et trois passe-razoirs,

dans

dans une maison sur la P^{te} à Callière et a payé pour le tout 3^l. 4^s. que c'étoit vers le 3 ou 4 heures après midi. — Qu'il a reçu une lettre de la part de Mr Reid, Guffier de la Peix, et en conséquence a renvoyé par son fils les articles qu'il avoit achetés, excepté un Passe-rasou qu'il avoit vendu. —

Edouard Vincellet. — Qu'il a livré à Mr John Delisle 2 passe-rasouis, 2 Savonettes & 4 peignes qu'il a reçu du dernier témoin son père —

John Delisle — présent lors de l'examenation du P^r après faire le warrant, lequel en plément dit au témoin que s'il croyoit que cela lui feroit du bien il dirait où il avoit vendu les choses — et a désigné une maison avec un grand escalier sur la Pointe à Callier — Que le tem. cy fut en conséquence et qu'il a trouvé 3 peignes, ^{d'un nommé P^r Perrault,} et a été informé par une femme que Mr Vincellet avoit acheté d'autres effets du P^r — Qu'il a écrit une lettre à Mr Vincellet de remettre les effets qu'il avoit achetés du P^r et qu'il a reçu d'Edouard ~~Delisle~~ Vincellet 2 passe-rasouis, 2 Savonettes — & 4 peignes, qui sont ceux qu'il présente maintenant

Kenneth Walker. That he has similar articles to those now shown him in his shop for sale, & had such on the ninth of June last.

Sarah Walker says that the articles now shown to her are of the same size as those she delivered to the P^r the small combs were sold at 3/- and the large at 12/-

Defence.

The Attorney General to some times admits the defence that the P^r always enjoyed a good character until the time of committing the present offence

The Jury returned a Verdict of Guilty

Wednesday 9th September 1809

The King.
 vs
 Pierre Guilbault
 J^r B^r Masseau
 Joseph Laramée }
 An Indictment for a Conspiracy to obstruct
 the due execution of an act of Parliament
 The Defendants pleaded severally
~~Not~~ Guilty - and prayed leave to file
 affidavits in mitigation of their offence -

The Defendants afterwards gave in an
 Affidavit of three of the Officers of the militia,
 one of whom was the Complainant, stating,
 that since the offence committed the Defend^r
 had shewn much contrition and had conducted
 themselves in such manner as to shew an
 active Zeal in support of that Law, the
 execution of which they had endeavoured to
 obstruct. -

The King

^{vz}
Joseph Cadot
Joseph Chalifoux
J. B. Quimet
Pierre Laplante
Jean B. Laplante
François Fleurants
Charles Mayeur
Pierre Mayeur

An Indictment for a Rescue.

Joseph Lacroix. est Colonel de milice - a reçu dernièrement un ordre de son Ex. le Président de passer en revue les miliciens de son Battalion, & produit les ordres qu'il a reçu à cet égard, (les ordres ont été lus) - Qu'en conséquence de ces ordres, il donna ses ordres que trois Comp. doivent s'assembler le 3 du cout. à St Rose, parmi lesquelles étoit la Compagnie du Cap. Cyprien Quimet afin de tenir le 5^e nom. suivent les ordres - Les trois compagnies étant assemblées à l'endroit, il donna ordres aux Officiers présents de venir lui parler - les trois Capitaines sont venus accompagnés par leurs Officiers - à qui il a fait part des ordres qu'il a reçu & les a lus, et leur dit de se bien comporter à cette occasion, de retourner à leur Compagnies & mettre au rang & je viendrai leur

les ordres — Ceci étant fait il s'est rendu devant les
 Compagnies — 1^{re} Comp. de St Louis — la 2^e Cyp. Dumet
 & la 3^e com. ~~la~~ aut. Charot — Silence étant commandé
 et il leur lut les ordres qu'il avoit reçu & leur fit
 une recommandation de se bien comporter à cette occasion —
 et donna ordre aux Cap. de faire rapport des noms
 de chaque 5^e hom. depuis l'age de 18 ans jusqu'à 50.
 Poursors il se retira & donna ordres à deux de ses officiers
 Beaujeu & Turgeon d'accompagner les Cap. & prendre
 les noms qui leur seront donnés ~~par Beaujeu~~ Beaujeu étoit
 avec cap^t St Louis — & Mayr Turgeon avec Cap^t Grant
 Presque imméd. apres M. Turgeon vint lui dire qu'il
 n'avoit un milicien qui refusa de donner son
 nom, & que le Cap^t Dumet refuse également de
 donner le nom de ce milicien — Je donnai ordre
 au Mayr Turgeon de faire arrêter le milicien qui avoit
 refusé de donner son nom — ce qui fut fait — M. McKenzie
 Juge à Paris étoit alors présent fit quelques remarques
 au milicien & lui recommanda de donner son nom,
 ce qu'il se ~~refusa~~ ^{refusa} ~~qui étoit Joseph Chalifoux~~ ^{refusa} qui Que le Sr. Joseph
 Chalifoux étoit arrêté, et lui ou quelque autre
 donna le nom. Jos. Chalifoux — Qu'immédiat
 apres Turgeon revint & dit au Temoin volda encore
 un homme qui refuse de donner son nom, & le
 Capt

Cap^t. refuse également de donner le nom - Tout de suite l'homme étant arrêté & amené devant le témoin dit que son nom est Joe. Cadot - Que le témoin alors dit à M^r McKenzie, je vous remets ces² hommes comme Juge à Paix, faites en ce que vous voudrez. Que M^r McKenzie leur parla - quand tout d'un coup on entendit des grands cris, et dans les cris, on entendit "Prenons nos Camarades" - "Prenons nos Camarades" Prenons nos gens - & dans le même moment ils passèrent devant la fenêtre une grande foule des miliciens de la Comp. de Ouimet - & en même temps les deux hom. arrêtés sortirent par la porte & se joignirent avec la foule, lorsqu'ils ont fait des cris disant nous avons nos gens, partons nous - Qu'il y avait environ 50 & quelques personnes qui se présentèrent de cette manière - Que le témoin est sorti du Presbytère & courut aux miliciens d'arrêter, mais ils n'ont pas fait attention - Que le témoin ne peut dire si aucun des Prison^{rs} étoit parmi ceux qui se présentèrent de cette manière excepté les deux hommes qui étoient arrêtés - Que suivant le rapport qui lui a été fait les Prison^{rs} étoient tous dans les rangs ce jour là - & suivant le même rapport

personnes qui ont restées dans les rangs n'etoient point des Prisonniers - Que tous ceux qui sont venus au Poeslytere paroissent tous agir d'un meme accord pour enlever leurs Prisonniers. -

X^d

N'etoit point present lorsque le Major Turgeon fit ses commendeemens -

Michel Turgeon - Qu'il est Major de Milice, & a été nommé de prendre les noms des cinq^e de la Compagnie de Cap^t Ouimet - Qu'ayant reçu ses ordres, il s'est rendu au camp assemble les 3 Compagnies - qu'après avoir mis la Comp^{te} de Cap. Ouimet en rang, compté le nombre de 18 à 50 il les compta, & marqua le nombre des hom. qu'il falloit tirer, qui étoit environ 13 hom. - Dit alors au Cap^t Ouimet de commander le nombre requis d'avancer - ce que le Cap^t refusa de faire - Alors ten. demanda au P.^r Jos. Chelifaux son age, qui a répondu qu'il avoit 18 - il demanda alors son nom, & qui fut refusé - qu'il représenta a Chelifaux qu'il faisoit mal, que l'affaire étoit sérieuse, & qu'il feroit mieux de donner son nom, avant qu'il fit son rapport au Col. Lacroix mais il persista de refuser son nom - Alors se commanda aux Officiers & Militiens de se tenir à leur places & dans les rangs - Que la Compagnie de Ouimet étoit

était entre les deux autres & il devait passer devant la
 Compagnie du Capitaine Filiatreau pour aller au Presbytère,
 et il a dit au Cap^t. de tenir ses miliciens en rang, et il s'est rendu
 au Presbytère et fit son rapport au Col. Lacroix - qui
 donna ordre de faire prendre le P^r qui avait refusé de
 donner son nom, & d'être amené au Presbytère,
 que le témoin revint aux miliciens, ou il dit à Mr
 McKenzie, Juge à Paris, d'aller au Presbytère, & il
 demanda au Cap^t. Armet de lui donner le nom
 du second homme de la Compagnie, ce qu'il
 refusa également, alors s'adressant au second hom.
 qui était le P^r Jos. Cadot, il lui demanda son nom,
 ce qu'il refusa de même manière que le premier
 que le témoin presenta de nouveau la même situation
 ou il se mettait par un tel refus - mais il persista
 à refuser - Qu'en jettant un coup d'œil sur la Comp.
 il eut observé une intention pressentie de refuser de
 donner leur noms, il ne l'a pas eu ^{prudent} ~~convenable~~ d'ordonner
 de faire arrêter et conduire le 2^d hom. comme le Premier.
 il a eu plus à propos de le prendre et le conduire lui-
 même - ce qu'il fit avec quelque difficulté - alors il
 a tiré son épée & a fait marcher Cadot devant lui au
 Presbytère - ou il les a livrés au Colonel & à Mr. McKenzie.
 Qu'il connoit les 2 Paris^{es} Chalifoux & Cadot d'être les deux
 hom.

* L'ordonnance au
 Cap. de faire
 sortir deux
 miliciens pour
 conduire ce
 milicien au
 Presbytère, le
 Cap. dit à
 deux miliciens
 sans dire leur
 noms, de sortir
 & mener le
 Prison^{er} au
 Presbytère -
 Qu'une seule
 de ces miliciens
 est sorti des
 rangs, qui
 aussi faisait
 quelque diffi-
 culté de mener
 Chalifoux, mais
 enfin le fit.
 Qu'ensuite

hommes de la Comp. de Oumet qui ont été arrêtés -
 Qu'à peine rendu au Presbytère il a entendu un grand
 bruit, & des grands cris - et qu'en venant à la fenêtre
 il vit beaucoup de monde en foule qui criaient, sortez
 nos gens, venez vous en - qu'il entendait être les deux
 Prisonniers. - Qu'en retournant vers l'endroit où étoit
 les Pris.^{rs} il ne les voyoit plus, comme ils étoient partis,
 et en sortant il vit que tout le monde s'en alloient
 avec les deux Pris.^{rs} & une personne de la Comp.^{te} donna
 un grand coup contre la Porte de la Cour en jurant -
 Qu'il ne peut dire si les autres Pris. étoient au nombre
 de ceux qui étoient au Presbytère - Qu'il lui étoit -
 impossible de ramener les Personnes pour se mettre dans
 les rangs - qu'il en a eu 5 ou 6, mais que les Prisonniers
 n'étoient point du nombre de ceux là - Que Jean B.^{te}
 Oumet - étoit un de ceux qui étoit dans les rangs le matin
 mais pas de ceux qui ont resté après l'enlèvement des
 Prisonniers -

X^o -

Que le Cap.^{te} Oumet ne lui a pas dit qu'il ne savoit pas
 les noms des hommes qui il falloit choisir - Que lorsque
 les ordres étoient donnés, le Capitaine lui tenoit valet deux sans
 dire leur noms, et ayant demandé leurs noms le Capitaine
 lui demandez leur. je ne le sais pas. que le tem. lui dit qu'il
 falloit avoir leurs noms, le Cap. lui dit, prenez le rôle et appelez
 les - Que le tem. lui dit qu'il ne pouvoit point savoir les noms
 de ces hommes pour le rôle. et se remit au Capitaine -

Qu'il

Qu'il croit que le Cap^t. Ouimet ne sait pas lire - Que lorsque Chalifoux ne fit point de résistance lorsqu'il fut arrêté au Presbytère. Qu'il n'a point le rôle de la Compagnie de Cap^t. Ouimet & ne peut dire les noms des miliciens de cette Compagnie - a entendu dire que Jean B^t. Laplante étoit de la Comp^s. de Cap^t. St Louis - mais que P^r. Laplante est de la Comp^s. de Cap^t. Ouimet -

Henry McKerrie, Esq. Just. of Peace for the district, sworn duly sworn was at the review of the 3 Comp^s. of militia made by Col. La Croix on the 3^d. inst^t. That he heard the P^r. Chalifoux refuse to give his name, as well as Cadot, when required by Major Turgeon - That he proceeded to cause those two P^r. to be arrested as well upon what he saw as what he heard - that he left the place to go the P^r. to cause those two P^r. to be arrested after he had spoke to the Col. that when they were brought before him at the Presbytère, he considered the Prisoners to be entirely under his power, and under such legal order as he should make respecting them when the tumult arose - That Col. La Croix previous to this had caused the Prisoners to be arrested, and he delivered them over to the Milit^y for such further proceedings as he should think fit to make. That he observed a great crowd of people come towards the Presbytère

in a violent manner knocking ag^t the casement doors
 open & calling out, ^{prenez} nos Camarades, ^{prenez} nos Camarades -
 that upon this the two prisoners jumped into the
 midst of them & went off with the crowd - that
 at first he did not know their intentions, but upon
 their crying out for their Camarades, he perceived that their
 intention was to rescue the Prisoners, & he had not time
 to act before the Prisoners got away from him, and
 jumped into the middle of these persons, who carried them off
 in triumph -

x^o

That he spoke to Chalifoux at the Presbytere but not
 to the others, but cannot be positive to whom he spoke
 by reason of the tumult of crowd, but had not time to give
 any particular order - That none of the persons of the
 crowd entered the house, they came to the door, only of
 the Presbytere, & upon crying out Prenez nos camarades
 the Prisoners disappeared with the Crowd -

Pierre Pageot. de la paroisse de St Rose. connoit les Pris^{rs} qui
 sont de la même paroisse. furent à la revue le 3 du
 present mois, étoit à la porte du Presbytere lors du tumult
 et y a vu dans la foule tous les Prisonniers excepté Jean
 Baptiste Laplante - Que quand il les a entendu dire
 dans

dire dans la Comp. alors ~~selon~~ ^{Chalifoux} nos Camerades, il a —
 particulièrement fixé les prisonniers qui étoient alors
 présents dans les rangs avant qu'ils sont partis pour
 aller chercher les deux Prisonniers, et ils n'étoient point au
 nombre de ceux qui ont restés avec le Capt. Quimet

Que le cri, alors chercher nos Gens, étoit general, & ne peut
 dire que c'est les Prisonniers qui ont fait le cri, mais ils
 étoient avec ceux qui étoient — que ce cri se fit dans les
 rangs lorsqu'ils partaient pour aller au Presbytère —

Que ces mêmes personnes se sont rendues à la porte du
 Presbytère ^{avec les Prisonniers}, en criant, et que quand ^{le monde est} ~~les Prisonniers~~ ont sorti de la Cour
 du Presbytère, le témoin a vu les Prisonniers avec les deux
 personnes Chalifoux et Cadot qui avoient été arrêtés.

x^d

Qu'il a vu Quimet parmi la foule au Presbytère — mais
 ne peut dire s'il est entré dans la Cour du Presbytère — Que
 tous les pris. étoient dans la tumulte, mais ne peut dire
 les avoir vus dans la Cour ou à la porte du Presbytère —
 particulièrement — N'a pas vu aucun des Prisonniers
 faire aucun acte de violence — Que Jean St. Laplante
 est de la Compagnie de Capt. St. Louis —

Paul St. Louis. Qu'il étoit présent à la revue le 3 Sep. dernier
 et ^{militien} de la Compagnie du Capt. Filiatreau St. Louis — a vu

la

la Compagnie du Cap^t. Ouimet mise en rang, & les deux
 Prisonniers Chelifaux & Cadot arrêtés par ordre du Major Turjon
 et y a vu les Prisonniers dans les rangs. Que toute la Compagnie
 excepté sept ou huit qui ont resté avec le Capitaine, sont partis en
 criant allons chercher nos gens - et ont marché vers le
 Presbytere, & ont tous entré dans la Cour du Presbytere
 et que parmi ceux qui ont quitté & les rangs & sont
 partis de cette manière il a reconnu Jean B^t. Ouimet &
 Charles Maillat - Qu'il voit que tous les Prisonniers
 sont de la Comp. du Cap. Ouimet, excepté B^t Laplante
 que tous les autres Prisonniers étoient dans les rangs ce
 jour là - Que toute la Compagnie est partie, excepté
 le Capt. que sept ou 8 ont retournés, mais les Prison.
 n'étoient point du nombre - Qu'après qu'ils étoient
 sortis de la Cour du Presby. il a vu tous les Prisonniers
 excepté Jean B^t Laplante ^{qui} étoient au nombre de ceux
 qui sont partis avec les Prisonniers Chelifaux & Cadot.

X^e

N'a pas vu entrer tous les Prisonniers dans la Cour
 du Presbytere - Qu'ils étoient tous dans les rangs lorsqu'ils
 sont partis pour chercher les Prisonniers, & que les 7 ou 8
 personnes qui ont été rappelés ou qui ont restés avec le
 Capitaine, n'étoient aucun des Prisonniers - Qu'il n'a
 pas vu faire aucune violence par les Prisonniers ou
 par ceux qui ont été de la bande - Que sitôt que les
 Prisonniers sont sortis du Presbytere, ils sont partis en criant,

Joseph Filiatreau. de St. Louis. Qu'il est Lieut. de milices du Cap^t
 Filiatreau. et étoit à la revue le 3 Sep. court. et a vu partir
 la Comp^o. du Cap. Ousmet quitter leurs rangs pour aller
 au Presbytere pour chercher leurs Comarades, - n'a point
 entendu parler entre eux avant de partir - Qu'il a
 vu tous les Prisonniers dans les rangs ce leur la, ~~excepté~~
~~Jean B^t Ousmet et les deux Laplante~~ - Que les Prisonniers
 s'etoient point du nombre de ceux qui ont restés avec le
 Cap^t. - Qu'un grand nombre est entré dans la Cour
 du Presbytere, mais ne peut dire combien - Que Jean B^t
 Laplante est de la Compagnie du Cap. St. Louis, & n'étoit
 point du nombre - Qu'ils ont fait des cris, allons
 chercher nos Comarades, - & en sortant, ils ont criés
 allons nous en, allons nous en -

Joseph Desjardins - étoit présent à la revue - & est milicien
 du Cap. Ousmet - Que son Cheval étoit attaché à un arbre.
 et qui étoit debaché - Qu'en revenant de chercher son Cheval
 il a entendu dire par le P^r. P^re Laplante dire, si nous
 faisons bien, il faut se soulever - & les autres ne disoient
 rien - qu'il a entendu dire encore par le même "ce qu'un
fera, il faut que tous les autres le fassent" - Que ceci
 a été dit avant que Cadot & Chalifoux ont été arrêtés & menés
 au Presbytere - il après, il l'a entendu dire par Laplante -

nous en avons assez, il faut s'en aller. Que tous les Pris. étoient dans les rangs avant que la Compagnie est partie pour chercher Cadot & Chalifoux, mais n'en a pas vu rester après avec le Cap. Bretonnet. Qu'il ne peut dire avoir vu les Pris- partir avec, ou enlever les Prisonniers.

Défense

Cyprien Quimet - Qu'il est Cap. de la Comp. dont les Pris. sont miliciens. Qu'il s'en souvient de la Comp. de Laplante is not of his Comp. Que quand le Major Turgeon est arrivé il lui a dit qu'il étoit venu pour prendre douze hom. de sa Compagnie - Que le Cap. montra Chalifoux et il a demandé son nom, il a refusé - que M. Turgeon a commandé de faire arrêter & mener au Presbytère, ce que le témoin a fait faire -

Martin Chalifoux - Qu'il étoit présent lorsque Chalifoux & Cadot étoient arrêtés - que le Major Turgeon a commandé deux hommes de l'arrêter & mener au Presbytère - que lorsque il a demandé à Cadot son nom & qu'il a refusé Major Turgeon s'est saisi de Cadot disant qu'il vouloir le prendre lui-même, & tirant son épée avec un air fâché & la tenant par dessus la tête de Cadot, il la saisit brusquement & d'une manière rude - que le témoin croit que la conduite du Major Turgeon.

Turgeon est la Cause du tumulte qui s'est ensuivi parmi les autres Militiens, pour retirer leurs Camarades. —

x²

Qu'il est frere de Chalifaux le Prisonnier —

Ju B^{te} Laplante — Est milicien de la Compagnie du Cap^t Filiatreau — Qu'il etoit present à la révié — a entendu demander par le Major Turgeon le nom à Chalifaux, qui a refusé, & la dessus il adonna au Cap^t de faire mener ^{par} deux hommes en prison — et on l'a mené au Presbytere — Que le Major Turgeon a demandé à Cadot son nom, qui a refusé de le donner — Que la dessus le Maj^r Turgeon a dit, qu'il prenoit sur lui-même de l'arreter, & tirant son epee d'une maniere fachee, & se saisissant de Cadot d'une maniere violente, l'a fait sortir des rangs — & le temoin croit que c'est cette maniere d'agir envers Cadot qui a fait soulever la Compagnie, — Que le temoin — connoit tous les Pris. sont des gens pauvres, & que ^{plusieurs} ne sont point en état de payer pour leur sortie de la prison — Qu'il est frere du Prisonnier P^r Laplante —

The Jury without retiring from the Bar returned a verdict of — "Guilty" — against all the Defendants, except Jean Baptiste Laplante, for whom they returned a verdict of "Not Guilty". —

The King

v

Cartwright Clapper

Hanna Cramer

Elizabeth Cramer

Ketty Cramer

An Indictment for an assault on
Rebecca Douglass, a married woman
big with a quick child, whereby the
child was born dead. -

Rebecca Douglass lives on the Sagony, Dullebout is wife of Jacob Star
~~Star~~ - Knows Defend^r who live in same place at distance
of about a mile from Whit^r House - That in the month of
August 1806. - That in June 1806. Ketty Cramer came into her
Garden pulled up her plants - being forbid to do so, Elizabeth
Cramer came in and assisted her sister to pull up more - That
the other Defd^r Cart. Clapper came in, & struck with with
a Club. & gave her several blows with her fist. That
she was knocked down by the blow of the Club - & was
obliged to cry out for assistance - That on 13 August 1806
she was assaulted by Defend^r who threw pail of water on
her; and also make use of threatening language to her
which made her apprehend for her life - That Hanna
Cramer threw the water on Whit^r from a large pail - That
Witness was at time quick with Child, & afterwards
lost her Child & she attributes it to the ill treatment
she received from the Defd^r - That she continued always
ill from this period, till she was delivered of her Child
which

which happened about two weeks afterwards, and the child was dead. - That the child had quickened in the womb, immediately after the ill-treatment she received she felt it no more and supposed that it was dead.

x²

That on the 13th August last she made use of no bad language towards Def^{ts}, nor provoked them in any manner. - That she ~~decided~~ on Cap^t Fullers a few days after the 13th but was not at the same which was there. - That she heard some days previous that there was to be a ball that evening at Cap^t Fullers, that the distance from her house to Cap^t Fullers is about five miles, that she rode in a cart part of the way, and part of it on horseback. That there is a road leading to Fullers house, and she went slowly. - That she left Cap^t Fullers to return, before sun-set and ~~she was not~~ went to the house of a neighbour where she slept & returned home next day. - That it did rain on the 13th Aug^t last, but not till some time after she water was thrown on her. -

Jacob Star. - That the first that is his wife. - That he was at home in June 1806, when his wife was assaulted by Def^{ts} and saw them beat and abuse his wife. - That he

was

was not at home on the 13th Aug^r. 1806 & did not return till about the 16th when his wife told him the same story she has given in evidence to say, and expressed her apprehensions for the Child she then carried, said it was destroyed, and that she had not felt it since she had been so ill. med. on the 13th. And she was delivered of a dead child about a week or ten days after Whit^r. returned home —

x^o—

That he sent his wife to Cap^t. Fullers for a medicine for him as he was sick - that he did not go himself to Fullers - That on the 13th June his wife was struck and ill used by Cartwright Clapper, & upon his interfering he was struck by Law^r. Cramer, that he was called before the Justices at Larromption upon the Complaint of Cramer where was obliged to find security for his good behaviour and gave a note for Four dollars for the expenses —

Char^s. Boileau. That on the 10th June 1806 he came into the mill of Law^r. Cramer, & soon after heard a noise, & then went out and saw the Defend^t in Jacob Star's garden that Cramer said what is all this - that one of the girls said that Mr. Star had struck her mother. that Cramer gave much abusive language to Star - & Star came up

up and held his fist in Cramer's face, but they were separated and did not fight - that witness saw Mrs Cramer give a blow to Mrs Star with a rake - That on the 13th August he heard Mrs Star complain that she had been ill-used by the Defend^t and that they had thrown water on her -

x^o

That he was bail for Star at L'assumption in June 1806 and Star was bound to pay the expence - That the road from Star's house to Cap^t Fuller is rough, and a great many stumps of trees in it -

Fran^z Bourdeau - Il a vu deux ^{deux filles} ~~des Defendeuses~~ jeter de l'eau sur la femme de Mr Star - ne peut dire que c'estoit aucune des defendeuses. Qu'il n'a pas vu d'autres femmes alors pres de la maison -

Betsy Rodgers. That early on the 13th Aug^t. sent Mrs Star's girl early in the morning some for Writ^s and said that Hanna Cramer was killing her mother, and throwing water on her - that Writ^s went up, & saw the Cloath, that Mrs Star had thrown off very wet - That Mrs Star told her that Hanna Cramer had thrown water on her, & that all the Defend^t were there at the time - That about

a quarter of an hour afterwards Mr Star was taken ill and continued ill by intervals till she was brought to bed, when she brought forth a dead child about a fortnight after this had been taken ill - That the child appeared to have been dead some time and to be mortified -

x^o

That she is on good terms with Mrs Star - that Whit was on the mountain behind the mill to gather huckle berries after the 13th August ~~was~~ before Mrs Star was brought to bed, and Mrs Star was with her - but did not hear Mrs Star complain at the time of having met with any accident -

Quest. by Atty Gen^e That the mountain or rather the mountain that she went to with Mrs Star is not distant above the breadth of the house from Star's house - that Star went with them up the hill on his crutch - That she has seen Mrs Star & her children gather wood there - & she thinks no danger could have arisen to Mrs Star by going up the hill, as she was accustomed to go there frequently -

Defence

John Rowe - Shows Mrs Star - has heard she has the character of using hard language towards her neighbours -

That

That the mountain behind the mill is steep and difficult of ascent - Knows Cramner and his family & considers them to be quiet people -

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The Defend^t offered Law^r Cramner, the husband of - Cartwright Clapper one of the Defendants, as a witness on behalf of the other Defendants, his Daughters -

But the Court rejected the testimony - on authority of Case of King. vs. Frederick & Tracey - 1 McNally's Ev. p. 162. 163

Peter Lukin. Knows Law^r Cramner. That in Aug^t. 1806. he heard Mr. ^{Cramner} ~~Star~~ complain of having been ill used by Mr. Star. That he knows the roads in the Seigneurie of Daillebout which are very rough & dangerous.

Mr Justice Panet. Knows Defendants & Law^r Cramner who holds a Com. as Cap. of Militia in his Seigneurie, that his family is a very industrious family that the road in his Seigneurie is very rough and very bad - That the mountain behind the mill is five times higher than that of Montreal & difficult and dangerous of ascent -

The Jury found a verdict of Guilty on the 2^d. Count of the Indictment, and not on the first. -

Thursday 10th Sept. 1807

This day the Prisoners were brought up for Judgment, when the following sentences were pronounced—

The King. —
 Henry^{sr} Lunn
 Lawrence Lunston
 John Fredericks } On Conviction for a Highway Robbery
 Sentence of Death. execution on 30th October
 next.

The King
 Jean B^{sr} Mathieu } On Conviction for a cheat in
 obtaining goods on false pretences
 Judgt. That Pris^r be confined in
 the House of Correction for Six
 months - and that on Friday the
 18th inst^t he should be set in and
 upon the Pillory in the open
 market place in Montreal for
 one hour between ten and twelve
 in the forenoon.

The King
 v.
 Joseph Brunelle } On Conviction for Stealing a watch
 valued 37/6.-

Judge. That Pris^r be confined in the
 House of Correction for one twelve month
 and kept to hard labor.

The King -
 v.
 Pierre Guilbaud
 Jean B^t Masseur
 Joseph Laramee } On Conviction for a Conspiracy
 to obstruct the due execution of an
 Act of Parliament

Judge. That each of the Defendants
 pay a fine of five pounds, and be
 imprisoned for one year, at the expiration
 of which, each to give security for the
 good behaviour for one year more,
 the Principals in the sum of fifty pounds,
 and each of the Securities in twenty five
 pounds. —

The King

v²

Joseph Cadot
Joseph Chalfours
Jean B^t Ouimet
Pierre Laplante
Francois Fleurant
Charles Mayeur
Pierre Meilleur -

On Conviction for a rescue. —

Judgt. That Joseph Cadot, Joseph Chalfours and Pierre Laplante pay each a fine of Ten pounds - That Jean B^t Ouimet, Fran^c Fleurant - Charles Meilleur and Pierre Meilleur pay each a fine of five pounds. That ~~all the~~ Defendants be imprisoned for the space of one Year, at the expiration whereof each of them to give security for the good behaviour for one year the Principal in fifty pounds and each of the Securities in twenty five pounds. —

The King. —
 Cartwright Clapper }
 Hanna Cranmer }
 Eliz^t. Cranmer }
 Catti. Cranmer }

On Conviction for an assault

Judg^t. That Cartwright Clapper
 pay a fine of forty shillings, and Hanna
 Cramer, Eliz. Cramer, and Catti. Cramer
 each a fine of Ten shillings — and that
 each of the Defendants do give security
 for the good behaviour for one year
 the principals in twenty five pounds
 and each of the Securities in twelve
 pounds ten shillings — and that the
 severally do stand committed till
 the above fines be paid & security given

The Grand Jury gave in a Presentment
 respecting the want of a gaol, the necessity of
 a House of Correction and of employing the
 numerous

numerous children who are seen begging in the streets or hawking fruit -

The Judges transmitted to the President a report of the Convictions had during the present Sessions, stating the recommendation of the Jury in favor of the three Convicts Lun, Lunstroom & Frederik, with their own opinion on the same - enclosing at the same time the depositions & papers on the Conviction of Guibault, Masseau and Laramée, and a copy of the presentment of the Grand Jury - #

The Above Convicts were afterwards pardoned

Having met with a similar trial and decision of a case in England as that of the King. v. J^r. B^t. Mathew above mentioned (p. 12. ^{2^u}) I here note it as corresponding with the opinion held by the Court here. —

“ Old Bailey. Wednesday Sept. 23^d — 1807. —

The King.
v
Evan Evans }

The Prisoner was indicted for feloniously stealing from Mr. Rodgers, Jeweller, in the Strand two gold seals. —

The circumstances had been frequently before the public in the course of detailing the Prisoner's examinations at Bow Street — It appeared that he procured the seals from the Prosecutor, on the pretence that he had been sent to order them for Mr. Nepean son to Sir Evan Nepean. — The prosecutor's shopman accompanied him with the articles to the Admiralty, where the Prisoner took them from him, on pretence of carrying them to Mr. Nepean — After waiting for some time the shopman was induced to leave the articles, on the idea, that Mr. Nepean was then engaged — The Prisoner two days afterwards returned to the Prosecutor's shop, and assured them that they needed not to be uneasy about the property as Mr. N. — had been out of Town ever since the articles had been presented to him for his approbation. — It was not till
the

the Prisoner was in custody on another charge that the real state of the transaction was discovered. —

Mr Knapp, Counsel for the Prisoner, insisted that the Crime proved against him did not amount to a felony — It appeared that on the representation of the Prisoner, even supposing it to be a false one, the Prosecutor had entrusted his property to the Prisoner and on another occasion when the Prisoner called again at his shop, had consented to its continuing in his power — It could not therefore be said, that the Prisoner had feloniously applied it to his own use — His offence at most, could amount only to a misdemeanor —

The Common Serjeant — agreed in the doctrine laid down by the Counsel, and directed the Jury to acquit the Prisoner of the Felony. — He ordered however that he should be detained in custody to take his trial for a misdemeanor, as being guilty of obtaining the goods under false pretences. —

Montreal 20 Dec. 1804.

At a Court of Oyer and Terminer and
general Gaol delivery for the district of
Montreal begun and held at Montreal on

Wednesday 1st June 1808.

Before

Ch. Just. Monk
Justice Panet
Justice Ogden, &
Justice Reid

The two Commissions of Oyer & Terminer
and general Gaol Delivery were read. —

The Grand Jury were called sworn &
charged by the Ch. Justice. —

Thursday 2^d June 1808. -

Present

The Ch. Justice

Justus Panet, Esq. & Reto

The Grand Jury returned the following
Bills into Court, which they found "True".

The King. -

In B^{ts} Potevin the elder } Indictment for Burglary
alias In B^{ts} Content - } Larceny. -

The Prisoner being arraigned
pleaded "Not Guilty" -

Ordered for trial to morrow.

The King

In B^{ts} Potevin alias Content } Indictment ag^t. Jean B^{ts}
the elder } Potevin alias Content the elder
In B^{ts} Potevin alias Content } and In B^{ts} Potevin alias Content
the younger } the younger for Burglary
and } and Sacrilege, - and
Arcange Potevin alias Content } against Arcange Potevin
wife of the said Jean B^{ts}
Potevin alias Content the elder, as accessory in
receiving the goods stolen. -

The

The Prisoners were arraigned and pleaded severally, not guilty. -

Trial ordered for to morrow

Friday 3^d June 1808

Present

The Ch. Justice
Justices Panet, Ogden & Reid

The King. -

Sean B^{ts} ^{v^o} Potevin the elder,
alias, J^r B^{ts} Content. -

} On trial of Indictment for
Grand larceny, in stealing
a Cart, value 50^s of St^r the
property of Henry Dequire
alias Larose in the parish
of St Laurent on the 5th April
last. -

Henry Dequire alias Larose, sworn, says, qu'il est
habitant et demeure en la paroisse de St Laurent
dans ce district - Qu'entre le cinq et six du mois
d'Avril dernier il a perdu une charrette de sur
sa terre - quelques jours apres etant sur la
place du marché à Montreal, son frere est

venu

venu lui dire qu'il avoit trouvé sa voiture, et
l'a fait voir au témoin qui l'a reconnu
immédiatement. Que la charette étoit alors
en la possession du prisonnier, de qui le
témoin l'a réclamé comme à lui appartenant,
Que le Pris^r. a dit au témoin qu'il avoit acheté
la charette d'un homme du fauxbourg de Québec
mais ne pouvoit point se rappeler de son
nom - Que le témoin a laissé la charette
entre les mains du prison^r. et a été s'informer
des moyens nécessaires pour la r'avoir -
Que le témoin a depuis vu sa dite charette
entre les mains du nommé Tessier & Lavigne
et l'a reconnu ce matin dans la Cour pres
de la chambre d'audience - Que la dite charette
vaut 15 a 16 piastres. - Qu'il reconnoissoit
bien la charette pour la sienne, s'en étant
servi depuis deux ans, & ayant des témoins
pour le prouver s'il est nécessaire - Que
la charette avoit été peinte depuis qu'il
l'avoit perdue, et avoit les bout des épées sciées. -

Transquestionné - dit,

Que sa charette étoit contre sa grange
lorsqu'

lorsqu'elle fut enlevée, mais qu'il ne s'en est point servi depuis l'automne dernier - Que tous les jours il avoit occasion de la voir, et l'a vu la veille même qu'elle fut volée - Qu'elle n'étoit point peinteurée alors - Qu'on peut facilement changer les épis d'une charette - Que le Prisonnier n'a pas proposé au témoin d'aller avec lui chez la personne de qui il avoit acheté la charette. -

Michel Dequire dit Larose, frere du dernier témoin, dit, que c'est lui qui a decouvert la charette de son frere qui lui avoit été volée, sur la place de marché de - Montreal en la Semaine Sainte vers le 13 avril dernier. Que le Prisonnier l'avoit en sa possession - Que le témoin connoit bien ladite charette, l'ayant souvent vu chez son frere, et s'en étant souvent servi, et peut dire que c'est la même qu'il a trouvé entre les mains du Prisonnier - Que le frere du témoin ayant aussi reconnu sa charette, il l'a réclamé du Prisonnier comme à lui appartenant lorsque le Prisonnier lui dit de l'avoir acheté pour quatre chelins d'un homme du fauxbourg Quebec qu'il a nommé, mais dont le témoin ne peut se rappeler du nom; Que le Prisonnier n'a point offert

offert de les amener chez la personne qu'il a
nommé - Que la charette vaut quinze à seize
piastres - Que le frere du temoin ~~l'~~ ayant
quitté sur la place du marché pour aller prendre
des informations pour ravoir sa charette, le
pris^r est parti et a amené la charette avec lui
disant au temoin que si son frere avoit besoin
de lui, il le trouveroit au fauxbourg de Quebec
ou il restoit - Que quand le temoin a vu la
charette sur le marché il l'a reconnüe, quoique
changée, ayant été dernièrement peinte, et
ayant aussi des barreaux neufs, et des roues qui
n'appertenoient point à son frere - Que lorsque
la charette fut amenée en la Cour dependante
de cette maison, les roues avoient été changées,
pour celles de son frere -

Transquestionné - dit -

Que ~~il~~ a reconnü la charette pour s'en
être servi plusieurs fois, et ayant remarqué
qu'il y a fentes en plusieurs endroits - les
planches sont beaucoup machées par des
charges de pierres, et le brancard crevassé. -

Jean

Jean Bapt^{te} Tessier d^e Lavigne, dit, qu'il est habitant de
la paroisse de la Longue Pointe - que vers le treize
du mois d'Avril dernier le pris^r. est venu chez le
temoin avec une charette et un tombreau et deux
chevaux - qu'il est entré chez le temoin et a demandé
d'acheter du foin pour ses chevaux comme ils -
etoient bien fatigués - que le temoin lui a prêté
une botte de foin - qu'apres quelque conversation
il a proposé au temoin de changer de charette
a quoi ce dernier a consenti, et outre la charette
qu'il a donné en échange, est convenu^{de} porter
une charge pour le pris^r. à la Pointe aux Trembles
au lieu de huit francs qu'il devoit donner en
retour - que le temoin est venu en ville avec
la charette qu'il a eu du pris^r, et elle a été
reconnu par un connetable dans le fauxbourg
de Quebec pour avoir été volée, et on l'a amené
en la Cour de la Chambre d'Audience avec les
mêmes roux qu'elle avoit lors que le temoin
l'a eu en échange - que le temoin a depuis
vu la Charette dans la dite Cour et la reconnois
pour être la même qu'il a chargé avec le
pris^r. et qu'il a livré au Connetable.

John

John Spice - is one of the Constables for the Town of Montreal - That in the month of April last he ~~was~~ ~~employed~~ was employed to look for the Cart of Henry Dequire which had been stolen - That he went with Dequire to the Quebec Suburbs and near the prison^{r's} house they found the cart in the possession of the last witness Jean Bapt^e Tessier, which he seized and brought up to the Court House yard, where it has since remained and is now there. -

Here the evidence for the Crown was closed.

The Prisoner being called upon to make his defence, adduced no testimony, but submitted his case to the Court and Jury.

Verdict. Guilty. -

The

The King. —

vs
Jean B^t Potevin, alias
Content, the elder.
Jean B^t Potevin, alias
Content, the younger
and
Arcange Potevin alias
Content, wife &c^a —

On trial of Indictment found
against the two first named
Prisoners for a burglary and
Sacrilidge — and against the
last, for receiving the goods
stolen, knowing them to be
Stolen. —

Articles charged in the Indict.

4 muslin Curtains, value, St ^r —	.. " 3. —
2 linen napkins — — — — —	.. " 1. —
2 linen Sheets. — — — — —	.. " 1. —
19 linen surplices. — — — — —	1. — " —
1 silver goblet — — — — —	.. " 10. —
7 Cloth petticoats. — — — — —	.. " 10. —
	<u>£ 2. 5. —</u>

The above articles were laid by different Counts
to belong

- 1st To the parishioners of the parish of St
Francois d'Assise de la longue Pointe
2. To persons unknown.
3. To the parishioners of the said —
parish in the custody of the fabrique
of the said parish. —
4. To persons unknown & being in the
said church. —

Laurent

Laurent Longprés, habitant demeurant en la paroisse de St Francois d'Assise de la Longue Pointe, depose qu'il étoit marguillier en charge de la dite paroisse en avril dernier, et que dans la nuit entre le huit & neuf du dit mois plusieurs effets ont été volés dans la dite Eglise. Qu'une pierre de taille de fenetre a été baissée de maniere à laisser entrer une personne, et la fenetre même paroît avoir été forcée avec un baton - Que la veille, les fenetres étoient fermées, et rien n'étoit cassé ou dérangé pour laisser entrer aucune personne. - Que le lendemain vers les huit heures le témoin a vu la fenetre ouverte et a trouvé que plusieurs effets auroient été volés dans l'Eglise - Que les effets mentionnés dans l'Indictment étoient dans la Sacristie qui fait partie de l'Eglise, le nuit du vol. -

Trans-questionné

dit, que rien n'a été volé dans l'Eglise à sa Connoissance, et que c'étoit une fenetre de la Sacristie qui étoit forcée, laquelle donne dans les champs, que la porte de la Sacristie ouvre dans l'Eglise. - Qu'il n'a pas vu ni examiné la fenetre la veille du vol, et ne

peut

peut dire en quel tems avant le vol il auroit été dans la Sacristie, mais il ne passoit point trois ou quatre jours sans qu'il y a été - ne peut dire qui a fermé la porte de l'église la veille du vol.

Being afterwards examined as to the identity of the goods stolen, he said -

Qu'il étoit avec le Connetable lors de la recherche chez les Prisonniers pour les effets volés, et a vu le dit Connetable trouver un paquet des effets sous une traine dans la Cour, lequel paroisoit y avoir été caché, et en ouvrant ledit paquet ce déposant a bien reconnu qu'il contenoit des effets appartenans à la dite église, et particulièrement le goblet d'argent, les surplis et autres articles a present montrés, il reconnoit appartenir à la dite église. -

transquestionné

dit, que les Surplis et jupes à lui maintenant montrés sont semblables à ceux qui appartenent à l'église de la Longue Pointe et qui ont été volés mais ne peut dire positivement qu'ils soient les mêmes. -

Antoine Jeannot d^t Sachappelle one of the church
wardens

wardens of the parish of Long Point - says, That in the night between the eighth and ninth of April last sundry effects were stolen from the said church. That an iron bar was forced out of one of the windows, a stone lowered and the window forced open - That he saw the window the third day after the robbery - committed - That you must go through the church yard to get at the window, which is in the Sacristie. Having examined the articles now shewn to him, he says, that similar articles were stolen from the said church. -

Nicolas Lefevre, Carter, living in the Quebec Suburbs of Montreal, says, that he knows the prisoners and that on the eighth of April last they lived nearly opposite the house of the witness in the said Suburbs. - That between the eighth and ninth of April last about midnight or one o'clock in the morning as he was returning home from the end of the Island, he met the Cart and mare belonging to the prisoner Jean B^t Potevin pere, about half a league on this side of Long Point church with two persons in the
Cart

going towards the Church. That he passed near to them and clearly distinguished the Prisoner Jean B^t. Potevin fils, who was sitting in the Cart and there was another person in it covered up, but the witness cannot say whether it was a man or a woman - That it was clear moon light and the witness plainly saw the face of Jean Bap^t. Potevin fils. -

Basile Valliere, is a Carter in the Quebec Suburbs and lives opposite the Prisoners house. That in the morning of the ninth of April last about four O'clock, it being clear moon light and not quite day he heard a Cart going into the yard of the Prisoner - That from the situation the said Cart could have gone into the Prisoner's yard, or that of the witness only, and as it did not go into the yard of wit^s it must have gone into that of the Prisoners - That afterwards in the course of the same morning, he heard of a robbery that had been committed in the Church of Long Point, and wished to question young Potevin the Prisoner about it, and thereupon asked him where he had been so early that

that morning, he answered, that he had not stirred out that morning, but that his father might. -

Cross questioned - says, that young Potevin the pris^r told the witness, that he had slept at his aunt's house that night, and denied that he had been out with a cart the night before. -

Angelique Parre - knows the prisoners, that the prisoner, Potevin fils, told the witness, after he had been talking with Valliere, that he, Valliere, wanted to make him confess, but that he was not cunning enough. - That the witness thought that this had reference to the robbery which had been committed at the church of Longpoint of which she had heard mention made that morning. -

Cross questioned - says, That she does not recollect having been at the Prisoner's house the evening of the eighth of April last - That the wife of the prisoner Potevin pere seems to be much afraid of her husband, and when he is in liquor she has come at times to request of the witness to go and stay at her house with her. -

Jacob

Jacob Marston, says, that he is a Constable, and was charged with a Search warrant about the 13th or 14th of April last, to search the house of Jean Bapt^e Potevin pere at the instance of the Church wardens of the parish of Long Point. That on the search in the house he there found none of the articles stolen, but in the yard close to a window he found a bundle containing some of the articles under a traine, partly covered with dung - that the said bundle contained seven black gowns and a silver goblet, which were claimed by the said Church wardens, and have been in the possession of the witness ever since. - That at the time of the search the wife of the Prisoner appeared disturbed, and calling the witness aside said to him, that if he would send away his assistants she would go with him before the Cure, and tell the whole business, which the witness declined. - That the articles found under the traine appear to have been hid there but not to have lain long. That in consequence of information which he received the witness went to the house of one Beaugard, and found in a chest there a bundle of articles in the state now shewn,

That

That he carried the chest before a Magistrate and opened it, and there found the bundle, and upon examining its contents, there were found in it, 4 window curtains, two linen napkins, two linen sheets, and 19 linen surplices — charged in the Indictment, all which have been in the possession of the witness till this time. —

Cecile Cadoret, wife of Joseph Vincent at Beauregard says, that she knows the Prisoners. — That early in the spring about the eighth or ninth of April last, and about nine or ten o'clock at night the wife of Jean B^t. Potevin pere, with her son the other prisoner, brought a chest to the house of the witness, saying, it contained her sons cloathing, which she wished to conceal from her husband, who was drunk and making a disturbance in the house, and requested of the witness that she would allow her to leave the said chest at her house. — That the chest was — locked, and remained at the house of the witness for some days until the Constable Marston came and took it away. — That the chest now shewn is the same which the Prisoner brought to the house of the witness. —

Joseph

Joseph Vincent at Beauregard, says, that he knows the Prisoners.
That he had a chest in his possession for some days, and
delivered it to the Constable Marston, which chest is the
same now shewn to the witness. —

Catherine Millet, Sacristine, or keeper of the vestry room
of the parish of Long Point, having examined the
goods above mentioned, produced in Court, says,
that they are the property of the said parish, and
also deposes to the value of the several articles as —
charged in the Indictment. —

Here the testimony for the Crown was closed

The Prisoners were put upon their defence,
and respectively declared that they had no witnesses
nor had any thing say, but put themselves upon
the Court and Jury. —

It was argued on behalf of the Prisoner —
Arcange Poterwin, that she ought to be discharged,
that supposing her even guilty of the offence laid
in the Indictment, she is excused in Law, as
being

being presumed to have acted under the coercion of her husband. — cites. 1 Hawk. L. C. p. 3. sec. 9. with the authorities on the Notes. —

It was answered by the Sol. Gen^l. that in common and ordinary larcinies the wife was excusable when she acted or was supposed to act under the controul of her husband, but that in the present Case the husband was not present and had no part in the concealment of the things stolen. cites. East. C. L. p. 559. —

The Court was of opinion from the authorities cited by the Prisoner's Counsel, that the wife cannot be charged as accessory in receiving goods stolen by her husband and charged the Jury to this effect. —

Verdict- Guilty- ag^t. all the prisoners as — charged in the Indictment. —

It was afterwards moved in arrest of Judgment on behalf of the Prisoner Arcange Potevin, that she ought to be discharged notwithstanding the verdict against her, as by law she could not be convicted of the offence charged in the Indictment. —

The Prisoner was accordingly discharged.

Tuesday 7th June 1808.

Present.

The Chief Justice
and
Puisne Justices.

Dom.^s Rex.

^{v^s}
Thomas White
Thomas Quin
Thomas Burns
Pat^r McKennelly
Anne White,
Martha White, and
Catherine Burns

On Indictment found by the Grand Jury against Thomas White, Thomas Quin, Thomas Burns and Patrick McKennelly for burglariously breaking and entering the dwelling house of Isabella Hunter wife of Thomas Hunter in the City of Montreal, and there stealing the following articles, viz^t

26 gold ear rings, of the value of	£4. . .	St ^r
26 gold broaches.	8. . .	
20 gold pins.	1. . .	
54 gilt watch keys.	6. . .	
1 gold watch Seal.	3. . .	
3 gold watch keys.	9. . .	
1 Snuff box.	1. . .	

of the goods & chattels of William Polly

6 lockets of the value of	1. 10.	
24 gilt broaches of the value of	1. . .	

of the goods and Chattels of Hanson

Hoyle, William Henderson & Tho^s Gibb. —

and against the said Ann White Martha white and

Catherine

Catherine Burns for having feloniously received the said goods and chattels, knowing them to have been so stolen. —

There was another Count in the Indictment charging the burglary to have been committed in the house of Thomas Hunter and the above articles stolen out thereof & charging the accessories as above. —

The Prosecution was opened by the Sol. General for the Crown and the following testimony & depositions.

William Polley, sworn, says, that he is a merchant in Montreal and occupies a shop and two other apartments in the house of Mrs Hunter wife of Thomas Hunter, and lodges in those apartments with his family — That he rented the house & from the said Thomas Hunter. — That the upper part of the house, or second floor is occupied by the said Thomas Hunter and his wife, and that there is a common door of entrance from the street — That in the day time the witness has an entrance by his shop when open, which communicates with his other apartments. — That he recollects having closed the door of his shop on the evening of the 31st of March last with more than usual precaution by fastening the bolts of the shutters of the door and windows That the bolts were tied with strings to prevent their from shifting — That this might be about dark. — That in the morning early his clerk came to acquaint him
that

that the front door had been broken open and the shop robbed. That upon examination the witness found that the strings which fastened the bolts of the front door had been carried off, and part of a shawl cut off which hung by another string between the outer and inner door, and that string also cut. - That he missed several articles of Jewellery and hardware such as mentioned in the Indictment, which had been stolen out of the shop. -

Cross-examined

Says, That the house where his shop is, consists of two stories, and that he occupies a shop and three other apartments in the lower part of the house. - That in the day time while his shop is open he has a communication with his apartments by his shop door and at night when his shop is shut, that communication is by a door in another street or lane, which door is common to him with Mr Hunter and his family. - That he heard a noise in the night of the 31st March last in the street, but did not at the time think that any person was breaking into his shop. - That in the morning of 1st April, ^{when} his clerk came to him for the key to get into the shop, he told the witness, that he perceived through the glass door that opens into the shop from the other apartments of the witness, that the
outer

outer door had been opened. - That the witness keeps the key of this glass door, and opened it himself that morning. - That the articles mentioned in the Indictment were stolen in the night between the 31st of March and first of April last, as the witness had occasion to observe them or a part of them the evening before in a box he had

Fleury Roi, says, that he is clerk to William Polley the last witness - and was present and assisted him to close his shop doors and windows in the evening of the 31st March last. That there is an inner door of glass and an outer iron door to the shop, which last has bolts and a hasp for fastening it, both which doors were shut and fastened that night, and the witness tied strings round the bolts to prevent their being lifted - This was done about dark or dusk - That the inner door was also shut, and the door between the shop and Mr Polley's apartments was locked and the key left in Mr Polley's possession - That next morning on going into Mr Polley's apartments for the key, and looking through the glass door, he perceived both the outer doors were open - of this he acquainted Mr Polley and upon their going into the shop they found that the strings which tied the bolts had been carried off, and part of a shawl which was suspended by a string between the outer and inner door was cut, and many

articles

articles stolen out of the shop. - That a box was carried away in which were several gold pins, gold lockets, broaches and other articles of jewellery, which box he saw in the box the night before -

Cross-examined

Says, That the outer street door is fastened by two bolts, and the string which tied the bolts was fastened to the inner door - That the Iron door when thus fastened is very tight and could not be opened without cutting this string - When the witness opened the door in the morning it had been day light for some time -

Thomas Hunter sworn says, that his wife Isabella Hunter is Proprietor of the house where Mr Polley lives, and the lower part of the house where Mr Polley keeps his shop was rented to him by the witness. -

Cross-examined

That in the day time Mr Polley has a communication with the street by his Shop, and at night when it is shut, he has a communication in common with the witness and his family by a door in another Street. -

Mary Thomson, sworn, says, that she is wife of Geo. Thomson
soldier in the 100th Reg^t. - That in March last her
husband and her occupied a room in a house near the
new Colledge, and Thomas White Martha White Anne
White, Thomas Burns and Catherine Burns his wife
the Prisoners, occupied the other part of the house - That
the witness's room was between white's room and
Burns's room - That there was a kitchen in common -
and it was necessary to pass before the door of the witⁿ's
room when any person in white's or Burns's room
wished to communicate with each other. - That the
witness slept in her room on the 31st March last in
same bed with her husband - That she went to bed between
eight and nine o'clock and soon after fell asleep - That
in the night time she was awakened by a great noise
in the house, that she pushed her husband and told
him to get up, but he seemed not to hear her - That
she saw a man go past the door of her room to Burns's
room with a lighted candle in his hand, and heard
him call to Patrick McKennelly, who slept in Burns's room,
to get up, who made answer that he would not - That
she cannot be positive who the person was who passed her
room with the candle, but in her own mind and from
his voice she thinks it was the Prisoner Thomas White,
but

but will not swear that it was him - That immediately after she heard the noise of people going out of the house into the street, and about three quarters of an hour afterwards heard another noise of several - people coming into the house and going up to the garret. - That she heard some person say on their coming in, "take care" in a low voice, but does not know who it was - That she heard nothing further that night. - That next night about twelve or one o'clock she heard the noise of people in the garret, and walking up and down stairs and in the street - That she heard several voices but cannot say whose they were - That next morning she went into white's room, and saw Anne white who had something in her hand which she wished to conceal by throwing a handkerchief over it as witness entered the room. - cannot say what it was, but it appeared like rings and such things which the said Anne white held in the handkerchief and which she covered up - That witness is induced to think it was rings, from having seen two rings on a shelf in the room of said white afterwards on the same day - That the Prisoner Thomas White was not at that time in the room, having gone to parade with
the

the husband of the witness - That witness went into an unoccupied room between White's room, and a room where one McKagney slept, and there saw some toys for children lying near the trap door -

Cross-examined

Says, that she does not recollect the day of the month when she heard the above mentioned noises in her room - That she left the house on the sixth of April last, and says it was a short time before that, not quite two weeks. That she has often heard noises in the house before that time without knowing what or who it was - That there is an opening from Street into the Cellar through which a person can pass - That after all the other persons in the house were up, the morning after the first noise she heard as above mentioned she saw the Prisoner Patrick McKennelly in bed and does not believe he went out of the house that night. -

George Thomson, sworn says, that he is a soldier in the 100th Regt. That in the later end of March and beginning of April last he occupied a room in a house near the new Colledge, the other persons who lived in the house were Thomas White

Patrick

Patrick McKennelly and Thomas Burns, the Pris^{rs} and
one Patrick McKegney - That the Prisoners Anne White
and Martha White lived in the same room with Thomas
White. - That McKegney occupied a room next that
end of the house in which there is a door - That Tho^s
White, with Anne white his mother, and his Sister Martha
had the room next to McKegney's, then followed the
room in which the witness and his wife lived, and next
to that was the room in which Burns and his wife lived
in which also McKennelly staid. - That witness went
to bed in his own room about nine o'clock at night
the evening before or about the time he heard of a
robbery having been committed at one Polley's. That
he was awakened by his wife about one or two o'clock
in the morning and heard a noise in the house -
That he saw some person pass by the door of his room
but cannot say who it was. - That he heard the person
call to McKennelly who slept in Burns's room, to get
up. - That he took the person who thus passed his room
to be the Prisoner Thomas White, and on hearing his
voice he had further reason to think so. - That McKennelly
said he would not get up. - That about same time he
saw another person pass the door of his room, whom
from his appearance and voice the witness took to
be the Prisoner Tho^s Burns. - That Burns also called
out

out to McKennelly, will you get up, and when McKennelly said he would not, he (Burns) turned about and seemed not well pleased. - That the persons the witness thus saw had great Coats on - That he heard the street door open and he supposes those persons went out, and all was quiet for some time - That after some time he heard the street door open again, and the noise of people's feet and things rolling on the floor, all which seemed to go into White's room, and he also heard some one say in a low voice, "take care", but cannot tell who it was - he also heard some one say, "that if they had not got enough" "he knew a person who had got a key that would open" "any door in town"; he also heard some one say, "that he had a sweet little knife that could cut a string" "very well"; or something that way, but does not know who the persons were who spoke in this manner - That he looked into White's room through a crevice in the partition and saw light in it, and heard the gingling of money, as if people were counting it - That from the voices he took it to be the Prisoners White and Burns who were there - That he heard one say, "Damn" "me I have not got my right", but cannot say whose voice it was - That he also thought that he heard a voice in the room like that of the Prisoner Quin's -

That

That the said persons in white's room went up into the garret, where he heard the noise of people - walking backwards and forwards, but saw nothing. - That he heard the voice of the Prisoners Anne White and Martha white going up into the garret. - That the second morning after this, as he was coming along the passage into his own room, he observed Anne White putting some things into a box and covering them up in a hurry, and heard them jingle - That about the same time he saw some fine Combs in the possessⁿ of Anne and Martha white. - That at the time the Constables came to make the search at the house, as he was coming towards it he met the said Anne White who damn'd him why he went there when he replied that he was not afraid to go to his house as he had done nothing that could prevent him. -

Cross-examined

says, That by the looks and appearance of the person and by his voice, he thinks and believes that Thomas Burns was one of the persons who asked McKennelly to get up. - That next morning when Witness got up. McKennelly was still in bed, and the other prisoners were up and had gone out. -

Patrick

Patrick McKegney, sworn says, that he is a soldier in the 100th Regt.,
That about the 31st March last he lived in the same house
with the Prisoners near the new Colledge - That he always
slept at home, and did so on the ~~30th~~ 31 March last. - That
his room was a back room in the end of the house next
the street. - That he heard a noise in the night time in
the house, but cannot say about what time, nor did
he get out of bed to enquire into the matter. -

Anne McKegney, wife of the last witness, says, that she and
her husband slept at home about the 31st March last
and does not recollect to have heard any noise in the
house about that time, nor to have got out of bed. -

François Lebert sworn, says, that he is proprietor of a house
facing the new Colledge which in March last was
occupied by the Prisoners. - That he let the house to
Serjeant Hazelton of the 100th who sublett it to the Prisoners
who paid the rent to the wit. - That he had frequent
occasion to go to the house to demand his rent. - That
soon after the Robbery the wife of McKennelly sent for
the witness saying that it was something about money
for which he was wanted, and thinking it might be
about the rent the Prisoners then owed him, he went to
the house and enquired what they wanted. That

the

the Prisoners, Burns, McKennelly and Quin and a woman made him go into a room when Quin shut the door and taking out a small book, told him that he must swear not to tell what they were going to disclose to him - That the witness kissed the book without knowing what it meant. - That they then told him, that they all three wanted to desert and leave the Province, and that he must conduct them - That witness told them it was too late to procure a Canoe at that time, but to wait till to morrow and he would see about it, and that they should have their things ready by to morrow evening and he would conduct them. - That they pressed him to make all diligence possible and told him he should have ten or twenty guineas and even more if required - That upon his going away, one of them said, stop, you must take a coup before you go, and upon opening a trunk or box to get the liquor, he saw goods in it such as people of the condition of the Prisoners are not generally found to possess - That they told him their lives were at stake, or that their lives depended upon his keeping their secret. -

Cross-examined

Says, that he cannot speak English, but understood
enough

enough to comprehend what the Prisoners said to him. That he immediately gave his declaration before a Magistrate of the above - That he never drank with the Prisoners before - That at the time he was talking with the Prisoners as above, there were other persons in the house but not in the same room, and he does not think that any person without could have heard what was passing in the room. -

Victor Beaudin, sworn, says, that he is a Constable, and was employed by M^r Polley and M^r Park about the beginning of April last to search the house where the Prisoners lived, for stolen goods - That upon his coming towards the house, he saw the Prisoner Anne White going from it with a large bundle under her cloak - That he went up to her and told her to return to the house which she refused, whereupon he took out a small Constable's stick and shewing it, charged her in the Kings name to return immediately, that she then cried out murder, and said he wanted to kill her, and came back to the house with her bundle - That while the ~~Prisoner~~^{witness} stood waiting for the search warrant, he saw the said Anne White come out of the house a second time and go towards some Soldiers she saw on the glacis and complained to them that he wanted to shoot her - That the search warrant arriving in the
mean

mean time he went into the house, and on the search being made, found a quantity of goods which appeared to be concealed, and which were claimed - that some of them were hid under a quantity of ashes. That he did not find the bundle which Ann White had with her. - That some goods were found under the stair case which leads up to the garret -

Cross-examined

That he made his search in all the rooms in the house in some of which nothing was found. -

Joseph Lebert. sworn says, that about the 8th or 10th of April last he assisted in the execution of a search warrant at the house of the Prisoners. - That a variety of articles was found in different parts of the house, particularly in the garret, between the stair-case and partition, and among some saw dust he found a parcel rolled up in paper which contained rings, and which he believes to be the same now shewn, he also found a purse with money in it and some watches in the Saw dust. - That removed the first step of the stairs and there found a parcel of combs and other articles of Jewellery such as lockets and broaches, but cannot say what became of them, as there was a number of persons present who were searching and handing the things found to the Constable Marston. -

Cross-examined

Says, that there were a great many people present at the
time

time of the search. - That the articles he first found he believes belonged to Mr Polley, as he claimed them. -

Moratio Gates, sworn says, that he was present at the search which was made at the Prisoner's house in April last. - That he saw Jos. Lebert find some articles behind the stair Case but cannot say what they were. -

William Polley the first witness being again called, says, that he was present at the search made at the Prisoner's house and there found several of the articles which belonged to him. - That among the different articles now shewn to him, he thinks the following articles belong to him, as they have his mark upon them, viz. 10 pair of gold ear rings, which he values at 50/ St. - eleven gold broaches which he values at 8/9. each. - 28 gilt watch keys at 17/- a snuff box at one stilling. Six gold lockets at 5/- Seven gilt broaches at 5/10. all which articles were found in the house of the Prisoner. -

Cross-examined

Says, That in the first room they enter on going into the house a small box was found containing several articles belonging to the witness. - That he does not recollect that any of the above articles was found in any of the back rooms.

Austin Cavillier, sworn, says, That he was present at the search
which

which was made at the house of the Prisoners, and recollects that Jos. Lebert put into his hands a parcel containing Jewellery such as now Shewn, which parcel the witness delivered to the Constable Marston. —

Jacob Marston, sworn says, that he is a Constable, and had charge of a warrant to search the Prisoners house for stolen goods on the Sixth of April last. — That many articles, such as now shewn were found in different parts of the house and handed by different persons to the witness while there and he made the whole up in a bundle and delivered them to John Reid, Esq. Clerk of the Peace, who after the examination and commitment of the Prisoners — delivered the same back to the witness with injunctions to keep the same secure until called for, which the witness did and ~~now~~ which articles are the same now before the Court. —

John Reid sworn, says, That the day the Prisoners were brought before the Magistrates for examination a large quantity of articles was produced by Marston the Constable as being the goods found in the Prisoners house under the Search warrant, which after the commitment of the said Prisoners the witness delivered back to Marston, with directions to keep the

same

Same secure until the trial -

Here the evidence for the Crown was closed

The Prisoners being put upon their defence called the following witnesses -

James Gobe, sworn, says, that he is Serjeant in the 100.th Reg^t. That the Prisoner Th. Quin is a private in that Reg^t and belongs to the room in which the witness has slept since some time before last winter. That it is usual to call the Roll - immediately after the beating of the Tattoo in the evening, and he has never known the said Prisoner to have been absent. - That during all last March the Prisoner was in the Hospital and on his coming out of it, was confined to the barracks, but cannot say at what time he was so confined, as he never was reported absent from his room - That the said Prisoner is a well behaved Soldier, and attentive to his duty. - That he has known the Prisoner Thomas Burns for many years and while he was in the same room with the Wit^{ness} he considered him to be a well behaved and an honest man. -

Cross-examined

Says that on the 31st March last he was not present and did not call the Roll, and the said Th^o. Quin might have been absent from his room that evening without being reported to the witness -

Robert

Robert Vincent, sworn, says, that he is Serjeant in 100th Regt^l and knows the Prisoner Thomas Quin. That he never knew the said Quin to be absent from his room after roll call above a quarter or half an hour at most. - That no Soldier is allowed to go out of the barracks after tattoo-beating, and the Sentries have orders to prevent it. - That he knows the Pris^r Tho^s Burns, and considers him to be a good Soldier -

Cross-examined

Says, that instances have happened of Sentries failing in their duty in preventing Soldiers going out after tattoo-beating. -

Robert Higgins, sworn, says, that he is a private Soldier in the 100th Regt^l and has lived in the same room with the Pris^r Thomas Quin since October last, and has never known him to sleep out of his room. - That he saw said Quin in his room after tattoo-beating on the 31st March last but does not remember to have seen him next morning. That he does not think a Soldier could get out of his barracks after roll-call, as the walls of the barracks are high, and there are Sentries placed to prevent them going out. - That he always knew the said Quin to be a good Soldier and an honest man, and he has the same opinion of the Pris^r Tho Burns. -

Cross =

Cross-examined

Says, that in March last, tattoo beat at eight o'clock at night, and it is possible that Quin may have gone out afterwards. —

Patrick M'Dermott, sworn says, that he is a Soldier in the 100th Regt. and staid in the same room with the Pris^r Quin. That on the 31st March last he saw Quin in his room at tattoo-beating, and saw him again early next morning after he was dressed. — That Quin is a good Soldier. — That the Prisoner Th. Burns has the character of a good Soldier and an honest man. —

Patrick M'Murphy, sworn, says, that he is a Corporal in the 100th Regt. — That he sleeps in the same room with the Prisoner Quin. — That he called the roll after tattoo-beating on the 31st March last, and Quin was then present. — That he thinks it impossible for a Soldier to get out of the barracks after roll-call. — Never knew either of the Prisoners Quin or Burns to have done any thing improper. —

Cross-examined

Says, That he cannot say whether any one slept in the same bed with Quin on night of 31st March last. —

That

That it was the general practice for soldiers to sleep double, except when out on guard -

Patrick Mann, sworn, says, that he is a soldier in 100th Reg^t - That he usually slept in the same bed with Quin - That on the night of 31st March last the witness was on guard, but saw Quin go to bed before he left the room - That next morning he saw Quin, with only his trousers on, and seemed to be then just out of bed - Thinks it impossible for a soldier to get out of the barracks after tattoo-beating, as the high walls and the sentries would prevent it -

Cross-examined

Says, that he can speak more particularly of the night of the 31st March last, by having heard of a robbery having been committed on that night. -

Dan. Junkens, sworn, says, that he is a soldier in the 100th Reg^t - That on the night of 31 March last he saw the prisoner Quin go to bed after tattoo-beat, and saw him get up in the morning. - That he considers both Quin & Burns to be honest men and good soldiers.

Patrick Dunn, sworn says, that he is a Soldier in the 100th Regt. that he lodged in same room with Quin, and saw him go to bed on night of 31 March last, and saw him again next morning about Seven o'clock after he was up. - That he also saw the prisoner Thomas White in bed on 31st March last - considers him to be an honest man. -

Cross-examined

says, that he does not recollect having seen said white next morning. -

Patrick Carter, sworn, says, that he is an Ensign in the 100th Regt. - That he knows the Pris: Thomas Burns since he left Ireland - and considers him and Quin to be both honest men and good Soldiers - That both the Prisoners McKennelly and Tho: white have always borne the character of good and honest men, and he has never heard any thing improper alledged against any of the Prisoners. -

John Armstrong, sworn, says, that he is Captain in the 100th Regt. That he knows the Prisoners Thomas Burns and Thomas Quin to be well behaved men and good Soldiers. -

Thomas

Thomas Dawson, sworn, says, that he is a Captⁿ in the 100th Reg^t - That he enlisted the Prisoner Th^o White - That both Burns and White were always well behaved men and he has never known any thing against any of the other prisoners.

George Burke, sworn, says that he is Captⁿ in 100th Reg^t knows the Prisoner McKennelly and always considered him to be a well behaved man and a good soldier

John Hazelton, sworn, says, that he is a Serjeant in the 100th Reg^t - That he hired a house near the new Colledge - of one Lebert, for one month, and lett it to the Prisoners Th^o Burns & Dat^h McKennelly -

Samuel James Hinkston, sworn, says, that he is - Serjeant Major of the 100th Reg^t - That since the 17th of March last, the orders have been very - strict against Soldiers getting out of their barracks after tattoo-beating. -

George Thomson, the witness already produced on behalf of the Crown, says, that about fourteen days before the 31st of March last, the witness Fran^z Lebert came
into

into the Cellar of the house where the Prisoners Burns and McKennelly lived, where the witness happened then to be, and proposed to the witness, that if he wished to desert he would take him to the Colonies, as he the said Lebert had been there and knew the road well. —

Mary Thomson, wife of the last witness, says, she was present and heard the said Fr^o Lebert make the above proposition to her husband —

The Prisoners being charged on three other Indictments with the Crimes of Burglary & Stealing, it was agreed that the Jury now sworn & impannelled for the trial of the preceding Indictment, should be charged with the three others, and to avoid delay and the repetition of testimony, that the evidence adduced should be considered as applicable to the whole as far as it went.

Dominus Rex

Thomas ^v White
Thomas Quin
Thomas Burns, &
Patrick McKennelly

^{& agt.}
Ann White, Martha
White, & Cath. Burns

On trial on Indictment agt. Thomas White, Thomas Quin, Thomas Burns and Patrick McKennelly, for having on the 30th day of March last feloniously and burglariously

burglariously broken and entered the dwelling house of one William Shepherd in the City of Montreal, and stealing out thereof, the following articles, viz^t

86 pair of Scissars, of the value of.	£2, . . .	St.
100 knives of the value of.	3, . . .	—
35 pairs of spectacles, of the value of.	1-10. . .	—
12 Razor cases containing razors — 8. . .	—
300 Fish hooks. 5. . .	—
21 papers of pins. 11. . .	—
6 files, of the value 2. . .	—
1 Saw of the value of 3. . .	—

Of the goods and chattels of the said W^m Shepherd

The said Indictment charging the said Anne White Martha White and Catherine Burns, with receiving the said goods, knowing them to have been so stolen. —

By a second Count in the Indictment the above goods & chattels are charged to have been feloniously stolen by the said four first named Prisoners privately from the shop of the said William Shepherd, and the said Anne white Martha white and Catherine Burns are charged as Receivers ~~in~~

The Prosecution was opened by the Solicitor General and the following witnesses produced. —

William Shepherd sworn, says, that he is a Merchant and keeps a shop in the City of Montreal — That the doors of his
Shop

shop, were closed as he understood on the evening of the 30th of March last about Six or Seven o'clock - That next morning his servant came to acquaint him that his window shutter had been broken open, and that there was wanting a number of articles in the shop, such as - Scissars, knives, fish hooks, files, and a Saw. -

Cross examined

Says, that he saw his doors and windows after they were shut, but did not shut them himself the evening before mentioned -

Jacques Martigny, sworn, says, that in March last he was Clerk to Mr Shepherd the last Witness. That in the evening of the 30th of March last the doors and windows were carefully shut by the witness, and when he went to bed about half past eight o'clock, every thing about the shop was secure, both shutters being fastened with iron hooks. - That next morning about Six o'clock he was the first who went into the shop, and upon examination found that, the hook of the window shutter had been pulled off and a pane of glass broken by means of which the window had been opened - That several articles were wanting in the shop such as Scissars knives, files, and a Saw, which articles he is certain were in the shop the preceding evening, and believes that they were carried off at the time the shop was so broken open. -

Cross

Cross-examined

Says, that it was about Six o'clock in the evening of the 30th March last when he shut the shutters of the doors & windows of the Shop -

Jacob Marston, sworn says, that he is a Constable, and by virtue of a warrant made a search at the house of the Prisoners on the 6th of April last for different goods which had been stolen, and upon that search found the different articles he now produces, viz^t Scissars, knives, pens and fish-hooks, which he has had in his possession since that time -

Cross-examined

Says, that he found some of the above articles in the room occupied by the Prisoners Tho^s Burns and Patrick McKennelly, and part of them in Whites room. and he also found part of them in a room which is used only as a kitchen in common to all the lodgers

William Shepherd being again brought forward, says, that he was present at the search which was made at the house of the prisoners, and found a number of articles which had been stolen from him the 30th March preceding. - That the 86 pairs of Scissars now produced he believes to be the same as those

those stolen from the Shop, and are worth fifty shillings also 100 knives which he believes to be his, and which he values at twenty shillings, also 35 pairs of Spectacles which he values at twelve shillings, twelve razor straps and Cases, upon three of which he recognises his mark, which he values at fifteen shillings, the three marked may be worth three shillings and nine pence - 300 fish hooks, worth three shillings, thirty one papers of pins upon which he also knows his mark, & which he values at forty shillings, Six files, worth two shillings and a Saw worth nine pence. - That he occupied the whole of the house from which the above articles were - stolen and lodged in it -

Joseph Lebert, sworn says, that on searching the house where the Prisoners lived, all the articles now before the Court (being the articles mentioned in the preceding testimony of William Shepherd) were found in a tub under wet cloaths in the kitchen behind Burns & McKennelly's room, except some of the pins which were found behind the Stair case in Whites' room. -

George Thomson, sworn says, that he made use of the room - behind that of Burns and McKennelly as a kitchen, but never saw any such articles in that room as those now produced, nor did he ever put any such articles there. -

Mary

Mary Thomson, gives same testimony as her husband, the preceding witness —

Mary Biggars, sworn, says, that in March last she was servant to William Shepherd, the witness produced on this prosecution. That in the morning of 31st March last she saw the window in Mr Shepherd's shop open, the staple or hook by which it was fastened being wrenched out, and a pane of glass broken. —

Here the testimony for the Crown was closed

The Prisoners being put upon their defence, called the following witnesses. —

James Got. sworn, says, that he is a Soldier in the 100th Regt. and slept in the same room with the Prisoner Quin in March last, that after tattoo beat he always found Quin present when called. —

William Armstrong, sworn says, that he is a Serjeant in the 100th Regt. and was present while the Roll was regularly called every evening in March last after tattoo-beat in the room where Quin was, and thinks he was always present when called —

Thomas Davis, sworn, says, that he is a Soldier in the 100th Regt. —

and

The said Indictment charging Ann white, Martha white and Catherine Burns as the Receivers of the said goods, knowing them to have been stolen. -

There was a second Count in the Indictment charging the above goods and chattels to have been stolen privately from the shop of the said Samuel Park. -

The prosecution was opened by the Solicitor General for the Crown, and the following testimony adduced. -

Samuel Park, that he lives in St Pauls Street in Montreal where he keeps a shop. That the doors and windows of the said shop were shut and fastened on the evening of the 30th March last. That next morning between five and six O'clock, he found one of the window shutters had been taken off the hinges but was still holding by the piece of rope which tied it on the inside when shut, there was a pane of glass broken, and some whips and canes carried off - That the articles now shewn (being those mentioned in the Indictment) were in his shop the 30th March last, and believes them to be the same which were stolen from him that night.

That

That he bought the whips at Boston, and has not
seen any of the same kind for sale in town, - that
had fourteen of them, and sold seven, and the other
seven now produced he verily believes to be his -
Identifies one of them by a certain mark on it. -
That the Canes and umbrella are also his - values
the whips at 30/- the Canes at 15/- and the
umbrella at 2/6 - That the above articles were
found in the house of the Prisoners at the time
the search was made there. -

Jacob Marston, sworn, says, That at the time he
made the search at the Prisoners house, he found
the whips and Canes in the same state as now
produced, in the garret near the Chimney, and
he has kept them in his possession ever since. -

Here the testimony on behalf the Crown was
closed. -

The Prisoners called no Witnesses

Dominus Rex

^{vz}
Thomas White
Thomas Quin
Thomas Burns, &
Patrick McKennelly

^{& also}
Anne White
Martha White, &
Cath^e Burns

On trial of Indictment against
the Prisoners Thomas White, Thomas
Quin, Thomas Burns, and Patrick
McKennelly, for having feloniously
and burglariously broken and entered
the dwelling house of one James
McDowall on the 5.th day of March

last, and stolen out thereof 150 pounds of hogs
lard of the value of 60^s Sterling - and against
the prisoners Anne White Martha White and
Catherine Burns, as receivers of the said hogs lard
knowing it to have been stolen. -

The prosecution was opened by the Solicitor
General for the Crown, and the following -
testimony adduced. -

Daniel Eager, sworn says, that he has a store adjoining
the house of James McDowall in this town, which
he rents of said McDowall - That the store is
comprehended within the same inclosure with the
dwelling house - That the store opens into ~~another~~ the
street, ~~and~~ has no communication with the dwelling
house but by that street - That the store is situated
in

in the back part of the yard and parallel to the dwelling house, and one end of it is on the street in which the door is, - that there is no communication within the yard between the house and the Store nor any opening except small windows in the second ~~floor~~ of the store - That he is certain that about dusk of the evening of the fifth of March last the doors and windows of the said Store were shut and fastened ~~with~~ hooks and hasps - That on the Sixth he found that the store had been opened and a quantity of hogs lard carried off. - That nine or ten kegs of lard were marked *I. PECK* which were sent to him on Consignment and belonged to a Mr Peck of Boston. - That he afterwards saw some of those kegs in the Prisoners house, having been found there on the search which was made. That five halves of the said kegs were found under a pile of wood, and the other five halves in another room. That the value of the hogs lard may be sixpence per pound, and the halves of the kegs might contain about twenty pounds each - That the keg when full might contain about fifty pounds. -

Cross-examined

Says, that Mr. McDowall on leasing the Store -

requested

requested that he might be permitted to put any thing into it he might find necessary, to which the witness agreed—

Anne McKegan, sworn, says, that in March last she purchased ten or twelve pounds of pork from the Prisoner Anne White, being the remains of a Cask, for which the witness paid five shillings— That the empty keg remained in her room till the time of the Search when the Constable took it away with him—

Cross-examined

says, that it was more than a month prior to the robbery at Polley's that she bought the said load of the Prisoner—

Daniel Eager, being again brought forward, says, that the kegs were all marked on the end, That it appeared by the half keg found in the possession of the last witness, that it had been sawed asunder, and on comparing it with one of the others found in the prisoners house it matched exactly, the marked appeared to have been cut out, but was still visible—

Pierre

Pierre Berthelot, sworn, says, That Mr James M'Dowall has occupied a house in St Pauls street in this City for many years, which the witness lets to him. That there is a store behind the house such as described by Mr Eager. That between the store and the house there is a gate which opens into the yard, and which he considers to be common to both -

Jacob Marston, sworn, says, that the half keg now produced was found in the north room said to belong to one McKegan in the house of the Prisoners, and which has been in the possession of the prisoner since that time. - That the other halves were found in White's room - the empty end with the mark effaced was found in the Common room which was unoccupied -

Here the testimony for the Crown was closed -

The Prisoners adduced no witnesses

H

Monday 13th June 1808.

Present.

The Chief Justice.
Puisne Justices.

Dominus Rex.

vs

Thomas White
Thomas Quin.
Thomas Burns, &
Patrick McKennelly
and as
Anne White, and
Martha White —

The Grand Jury returned a Bill against Thomas White Thomas Burns Thomas Quin and Patrick McKennelly, for having burglariously broken and entered the Dwelling house of Thomas Hunter in the City of Montreal on the 31th March

last and stealing out there of the following articles viz^t

17 gold rings for the fingers of the value of £3 ⁰⁰ — — — — —	St ^r
3 silver Seegar tubes.	3. —
2 tape needles.	6
5 Silver pencil Cases	5. —
20 Silvered thimbles.	2. —
3 Small tortoise shell hair combs. — — — — —	15. —
5 Silver thimbles.	5. —
20 glass and gilt watch seals.	5. —
8 Steel watch keys.	2. —
19 gilt rings for the fingers	4. —
9 pair gilt ear knobs.	3. —
3 Silver Scissor chains.	1. —

3 Gilt

3 gilt watch keys, of the value of. — — — — — " 1. — St^r
 1 Steel watch chain. — — — — — " 2. —
 4 gilt miniature chains — — — — — " 2. —
 3 pocket handkerchiefs — — — — — " 1. —
 1 blue Shawl. — — — — — " 1. —
 11 pair of gold ear-rings — — — — — " 4. —
 240 pieces of Copper — — — — — " 9. —
 and 5 pieces of Silver — — — — — " 4. —

Of the goods and Chattels of one William Polley

5 Silver watches of the value of. — — — — — 5. —
 Of the goods and Chattels of one Daniel Buckley

and

10 hair combs, of the value of — — — — — 4. —
 1 Set of Ornaments for the hair. — — — — — " 15. —
 3 gilt watch Seals. — — — — — " 3. —
 and 7 Swivel watch keys — — — — — " 8. —

Of the goods and Chattels of Hanson Hoyle, William Henderson and Thomas Gibb. —

The said Indictment charging Ann white and Martha white as accessories in receiving the said goods knowing them to have been stolen. —

There was a second Count in the Indictment charging the same burglary and stealing to have been committed in the dwelling house of William Polley. —

The

The Prisoners being arraigned on the said Indictment, pleaded a plea of "autrefois acquit" on which Issue was joined by the Solicitor General, and hearing on this plea was ordered to be fixed for Wednesday next the 15th inst.

Wednesday 15th June 1808

Present
The Chief Justice, and
Three Puisne Justices.

Dominus Rex. - }
Thomas ^{v₂} White & } On demurrer to Plea of "autrefois acquit."
others. - }

It was contended by the Counsel for the Prisoners, that they had been already tried and acquitted for the same burglary as that charged in the present Indictment, and that it was an axiom in Criminal Jurisprudence that the life of the Prisoners cannot be twice put in jeopardy for the same offence. - cited case of Turners - Keylinge 30. and case Vandercomb & Abbot. 2 East. P. C. p. 519. -

That there are two kinds of burglary - one by
breaking

by breaking and stealing, and the ^{other} breaking with
an intent to steal, and the Prisoners having been
already indicted for burglary by breaking and
stealing, they cannot be a second time indicted
for burglariously breaking and stealing in the
same house at the same time, although part of
the goods stolen belonged to another person -
That by dividing the articles stolen in this
manner a separate Indictment might be had
for every article stolen, and the lives of the Prisoners
put in jeopardy thereon -

Sol. Gen^l. That the Burglary for which the Prisoners
have been already tried, was for breaking & stealing
certain specific articles not contained in the
present Indictment, and therefore not the same
felony - cites 2. Hale. 245. 6. - 2 Leach. 828. Vandercomb's
case and law on that subject -

The Court were of opinion that the Indictment
in as far as regarded the goods of William Polley
was wrong, as the Prisoners had already been
tried for the offence of breaking and stealing the
goods of Polley, and although there were other
goods belonging to Polley charged in this
Indictment

Indictment, they considered it wrong, as they could not recognize the principle that the Prisoners could be tried for stealing every separate article belonging to the same person, but as to the goods of Daniel Buckley the offence was different, and an acquittal for stealing the goods of Polley could never be considered as an acquittal for stealing the goods of Buckley, although in the same house and stolen at the same time. — They however recommended that the Indictment should be withdrawn and a new one preferred containing only the goods of Buckley —

Friday 17th June 1808

Present

The Chief Justice, &
Puisne Justices

Dominus Rex
Thomas ^{vs} White
Thomas Burns &
Others —

On trial of Indictment against
Thomas White Thomas White
Thomas Burns and Patrick McKennelly
for

and 10 hair combs of the value of	4	St
1 Set of ornaments for the hair.	15	
3 gilt watch seals.	3	
and 7 swivel watch keys	8	

of the goods and Chattels of Stanson Hoyle,
William Henderson and Thomas Gibb. —

The said Indictment charging Ann White
and Martha White as accessories in receiving
the said goods knowing them to have been
stolen. —

There was a second Count in the Indictment
charging the goods to have been stolen in the
dwelling house of William Polley. —

The Solicitor General opened the
prosecution on the part of the Crown, and
called the following witnesses. —

William Polley, sworn, says, that he keeps a shop in
Montreal in the house of Thomas Hunter —
That on the night of the 31st March last he
closed his doors securely, and on getting up
next morning, he found his door open and
many articles stolen out of his shop — That the
two bolts of the outer door were tied with a
string

string, which must be cut or removed before the bolts could be taken out - The articles mentioned in the Indictment being recited he says, that on that night similar articles were stolen from his shop, and were the property partly of the witness, partly of Daniel Buckley and of Hoyle Henderson and Gibb, whose christian names he repeated - That the outer door of his house so shut had been opened by removing the string and bolts and the articles charged in the Indictment stolen

Cross-examined

says, that he cannot account how the string might have been removed, it might have been untied and it might have been cut - That he cannot say whether the goods were stolen on the night of the 31st of March or the morning of the first of April last. - That the property of the house in which he lives belongs to Thomas Hunter and his wife; that he leased the lower part of it from the said Thomas Hunter, and that there is a common door of entrance for the witness and the said Th. Hunter.

Upon

Upon being afterwards examined as to the identity of the articles stolen - Says, that he can swear to three of the gold rings from his mark on the paper - to the silver thimbles mentioned in the Indictment, from one being broken, and the others being particularly rusty - to a steel watch chain from the Circumstance of having lately removed part of the swivels from it - to ten pair of gold ear rings, from one of them being broken, and a piece of wire wanting in another, and to the other pairs from their particular make by workmen in this City to whom he had given the pattern for such work, and a particular ill-execution of the work - and by the whole of those articles being together -

The several articles mentioned in the Indictment being produced and examined by the witness, he swears that he verily believes them to be his property, and that they were stolen from a glass Case and a drawer in his Shop - He also swears to the watches being the property of Buckley, and the other articles that of Hoyle Henderson and Gibb and to the value thereof the same having been delivered to the witness to Sell. -

Henry

Fleury Roi, clerk to the last witness, swears, to his shutting the shop door on the night of the 31st March last to his having found the same open in the morning, and the glass Case with Jewellery and hardware therein taken away. -

George Thomson, swears, that he is a Soldier in the 100th Regt. - That on the 31st March last he occupied a room in a house near the New Colledge in the Recollets Suburbs. That the Prisoner Thomas white occupied another room in the same house, with Martha white and anne white the mother and daughter. - That the Prisoners Burns and McKennelly also had a room there adjoining that of the witness. - That the room occupied by the witness was between those occupied by white and Burns, and that there was an empty room which served as a passage and whoever had occasion to go to McKennelly and Burns's room, must pass before the door of the witnesses's room - That he slept at home that night in his own room, and awakened in the night about one or two o'clock and saw two persons pass before his door, one of whom had a lighted candle

candle in his hands - one of them he took to be the Prisoner white, and the other from his voice, to be the Prisoner Burns - they were going towards the room of the Prisoner McKennelly, and asked McKennelly to rise, who said he would not, and is sure of McKennelly's voice - they then went into whites' room, and a little after he heard the noise of people going out of the door into the Street - that he supposes it was then about one or two o'clock. - That a short time after he heard the street door open and people walking about in the house and going towards white's room that there was a candle lighted and he heard voices in the room and something like the gingling or counting of money - That he heard a voice - which he took to be Quinn's, and also other voices which he took to be those of the Prisⁿ Burns and Anne White - That they were talking about shares, and heard one say himself that he had not got his share, which he thinks was Burns's voice - Heard a person say, that he had a sweet little knife and something was also said about a string, and that voice he took to be Thomas
whites

That the witness looked through a hole in the partition between his room and that of white and saw the two Prisoners Anne and Martha white and two men who appeared dressed in the same manner as those who passed by his room towards McKennelly's door some time before, as they had great Coats on - That he heard some of them say something about a key and that they knew a person who had got a key, and that if they had not enough they might get more. That he heard those persons go from white's room up to the garret as he supposes from the noise. - That the second morning after, the witness passed through white's room, and saw Anne white put something like lace, and something yellow like rings which were rolled up in a handkerchief, into a box quickly and sit down upon it. - That some days after as he was returning to the house, when the search was making, he met the prisoner Anne white, who said to him, "damn you what
"brought

"brought you here at this time". - That he recollects having seen an ornamented comb in Martha White's hair. -

Cross-examined

Says, that he thinks that the man who passed his room with a Candle in his hand came out of White's room. - That McKennelly did not go out of the house that night, as after the other persons had gone out he heard him speak to his wife - That White generally slept ~~in~~ Anne White's, (his mother's) room, and Burns usually slept there also. That he saw Anne White have rings in her hands or something of yellow like that. -

Patrick McKegan a soldier in the 100th Reg^t swears, that he occupies a room in the same house with the Prisoners near the new Colledge, and thinks he slept at home on the 31st March last, and did not go out that night. -

Anne McKegan, wife of the preceding witness, gave the same testimony with her husband. -

Thomas Hunter, proves the dwelling laid in the
Indictment

Indictment to be the property of his wife by their marriage Contract, and that he let part of it to William Polley for a shop and dwelling house - that there is one door of Common entrance in the night for both, and in the day, Polley enters by his shop door, and there is no other entrance into the house. -

Fran. Lebert, swears, that he knows the Prisoners, and is Proprietor of the house occupied by them near the new Colledge, which is divided into eight apartments - That the evening before the Prisoners were arrested, a person came two or three times to his house wanting to speak with him - That he went to the house of the Prisoners, thinking it was about his rent, where upon his arrival he was desired to go into a small room, where he found McKennelly, Burns and Quin the prisoners at the Bar, and also a woman but neither of the two women at the bar, that they shut the door, when he asked them what they wanted, they told him he must take an oath and presenting a book, said he must kiss it,
to

to keep secret what was to be said as life was at stake - they were dressed for duty and had their side arms on - that the witness kissed the book through fear, not knowing the consequence upon being told that life was at stake - they then told him, they - wanted to desert and that he must assist them, saying that if he wanted any money, ten or twenty guineas or whatever he wanted, he should get it - that he told them it was too late that night to think of it that they should wait till next day and he would buy a Canoe and go with them, to which they agreed, and said he must take a glass of liquor and upon their opening a chest to get a cloth to wipe the glass, he observed articles of a kind not suitable to their Condition - That the next morning he gave information to the magistrates of what had passed - That he never before had any conversation with the prisoners on the subject of their desertion - That the Prisoners spoke in English and he endeavoured to make them comprehend sufficiently what he said - That he is a butcher for twelve or thirteen years and has been in the habit of serving people who spoke both the French
and

and English language. -

Cross-examined

says, that he understands English, but cannot speak it - that what the Prisoners told him at the time was, "you swear for the life". - That he was not in the habit of drinking with the Prisoners before that time. That he is not certain whether the prisoner Quin lives in the house with the others, but has seen him there and it was Quin who gave him the book to swear, and now points him out to the Court. That he did not see the Prisoner Th. White while he, the witness, was in the house - That witness never proposed to Geo. Thomson, a soldier in the 100th to desert - That his brother never had any dispute with Quin to his knowledge - That at the time he made his complaint against the Prisoners he had no knowledge that any reward was offered by Colley to convict them, nor does he now expect any, but if offered he will take it - That the witness rented his house to Serjeant Maxwellton of the 100th Regt. and he sublett it to the Prisoners Burns and McKennelly

and

and shewed them to the witness, saying, these people will pay you well, and he in consequence accepted them. —

Victor Baudin, says, that he is a Constable — That being required by M Polley to attend at the search to be made at the house of the Prisoners, he went there a little before the warrant arrived, and observed that the persons in the house seemed suspicious that something was to be done. — That he saw the Prisoner Anne White come out of the house with a large bundle under her cloak apparently with an intention to carry it away privately — that he went after her and told her to stop, which she at first refused to do, but upon his producing a Constables staff, and commanding her in the Kings name to stop, she returned with him to the house — That he saw her go out a second time with the same bundle, and he again — followed her, and as she came near some Soldiers on the ramparts she cried out to them that the witness wanted to shoot her — That she again returned with the bundle into the house, but
on

on the search which was afterwards made, it could not be found; That a variety of articles, similar to those mentioned in the Indictment and now shewn to him, was found upon that search. —

Cross-examined

Says, that the articles were found between the stair case and partition in the first room as you enter on the north east side of the house. —

Joseph Lebert, says, that he was present at the search which was made at the house of the prisoners — That he went up to the garret where he found a great variety of articles, and on his return found a paper of pins — That on removing some saw dust which he observed behind the stairs, he found several ear rings pins, watches, and various other articles, such as now shewn him, which appeared to have been concealed there — these articles he delivered to Mr Cuwiler, who was then in the house — That he afterwards found three watches and a bag
of

of money - and on removing one of the boards of the stair case he found several other articles. - In a tub in which was wet linen he found a number of Scissars, razors, and other things, among which were three other watches and several earrings tied up with linen, which he delivered to M. Marston the Constable. -

Cross-examined

says, that he found nothing in M. Kermelly's room. e

Austin Cuvillier, says, that he was present at the search which was made at the house of the Prisoners, and received from Joseph Lebert a variety of articles, such as trinkets, watches, combs, earrings and the like which he delivered to the Constable Marston -

Jacob Marston, says, that he is a Constable, and was charged with a warrant to make the search at the prisoner's house, which he did, and
was

was assisted by several persons - That a variety of articles was put into his hand by M Curllier which he delivered to the Magistrates and Clerk of the peace who afterwards returned them to him - That the articles now produced, are the same and have been in his possession ever since. -

Cross-examined

Says, that the above articles were kept by him under lock and key in his desk and have not been changed while in his possession.

John Reid, says, that he is Clerk of the Peace - That he received from the Constable Marston the day the prisoners were brought before the Magistrates for examination similar articles to those now shewn - That he tied them up, kept them under lock and key, and afterwards delivered them back to Marston in the same state as he received them, having been so directed by the Magistrates -

Here the evidence for the Crown was closed

The

The Prisoners were put upon their defence, and called the following Witnesses. —

Dean Junken, a Soldier in the 100th Reg^t. says, that he sleeps in the same room with the Prisoner Quin in the barracks — That Quin was confined to the barracks nearly the whole of last March — That on the night of the 31st of that month he saw Quin go to bed, and in the morning of the first of April he saw him get up from bed and put on his Shoes — That tattoo beat then at eight o'clock in the evening — That the roll is called of the men confined in the barracks at ten o'clock at night — that he cannot say if Quin was present at that hour as the witness was then in bed — That after tattoo-beating he thinks no soldier can get out of his barracks, as there are high walls, and Sentries who would not permit them to pass —

William Armstrong, Soldier in 100th Reg^t. says, that he knows the Prisoner Quin, — That witness called the roll in his turn at the barracks last winter —

That

That Quin was confined to the Barracks all last March, and he never him to be absent when called - That he knows all the prisoners, and gives them all a good character -

Patrick McMahn, Soldier in the 100th Reg^t says, that he was bedfellow of the prisoner Quin and saw him go to bed on the night of the 31st March last - that the witness being upon guard came in for his night cloaths after roll call, and found Quin there between eight and nine o'clock at night. - That the witness thinks it difficult for a Soldier to get out of the barracks after roll-call - That he breakfasted with Quin next morning betwixt Seven and eight o'clock, and the prisoner Thomas White breakfasted with them -

Cross-examined, -

Says, that there are iron bars in some of the windows of the barracks - that Quin might get out at one of these windows by means of a rope, but even in that case, the Sentries would still be in the way to prevent him from getting out -

Robert

Robert Higgins Soldier in the 100th Regt says, that he saw the Prisoner Quin in the barracks on the evening of the 31st March last at roll-call - has never heard him reported absent - Gives a good character to all the Prisoners. -

Patrick M. Dermot Soldier in 100th Regt says, that he saw the Prisoner Quin in bed after tattoo beating on the evening of the 31st March last - That he does not think that Quin could get out of the barracks after that time, and verily believes he was the whole of that night in the barracks

Samuel James Minckston, serjeant Major in the 100th Regt says, that the Roll is called at ten o'clock at night of the men confined to the barracks - that in March last the Prisoner Quin was confined there, and he never knew him to be reported absent. That he thinks it impossible for a Soldier to get out of the barracks after tattoo-beating without being reported, as Sentries are placed to prevent it - That the Prisoner White was never under confinement till now - That Quin was punished for some quarrel - That all the four male prisoners are good Soldiers -

Cross

Cross-examined

Says, that the windows of the barracks in which there are no bars are locked every night, and the key delivered to the Serjeant of the Guard, who returns it to the Officer in the morning. —

Cap^t. Geo. Dawson
Lieut. Armstrong
Sery^t. Sutton Fizzel, &
Sery^t. W^m. Cunningham } All of the 100th Reg^t, give a
good character generally to
all the Prisoners. —

Gideon Gibson, Soldier in 49th Reg^t gives a good character to the Prisoners Thomas White, Anne White and Martha White. —

Francis Lee Soldier in the 100th Reg^t says, that he knows Francois Sebirt who gave his evidence this day was seen him frequently eat and drink with the Soldiers and their wives at White's house. That the witness is a taylor and used to work there. —

George Thomson, a witness for the Crown, called by the Prisoners, says, that he knows Fran^{cois} Sebirt, That

That about a fortnight before the robbery at Polley's house, the said Fran: Lebert proposed to the witness to desert - he told the witness that he had been in the States and had seen two men of the 100th Regt. who had deserted and who sent their Compliments by him, adding that he had a Cariole and an Ox that would convey the witness into the States, and that he the said Lebert knew the way very well. -

Patrick Dun Soldier in the 100th Regt. says, that he saw the prisoners Quin and Thomas White at the barracks after tattoo-beating on the 31st March last - saw the said white next morning in his shirt getting out of bed, but did not see Quin.

Andrew Burke, Lieut.
Thos Hearne - Quarter Master, &
James Allen, Soldier - } All of the 100th Regt., give
the Prisoners McKennelly a
good character - Allen
says, he has known him for thirteen years. ~~and~~

Here the evidence for the prisoners was closed

The

The Jury returned a verdict of Guilty ag^t all the Prisoners as laid in the Indictment except Martha White, for whom they found a verdict of Not Guilty, and she was in consequence discharged -

Monday 20th June 1808.

The prisoners under Conviction were brought up for Judgment, when the following Sentences were pronounced. -

Dominus Rex

Sean B^o. ^{vz} Potevin, alias,
Sean B^o Content, the elder.
Sean B^o Potevin, alias,
Sean B^o Potevin, the younger

~~and~~

On Conviction for Sacrilege
Judgment & Death. -
Execution on 22. July next.

Dominus

Dominus Rex

²⁷
Thomas White

Thomas Quin

Thomas Burns &

Patrick McKennelly

and ag^t
Anne White. —

} In Conviction for stealing
from a dwelling house above the
value of 40/- and for receiving
the goods stolen —

Judgment, against the Prisoners

Thomas White Thomas Quin Thomas Burns &
Patrick McKennelly — Death — Execution on
22^d July next. — and against Anne White
to be kept to hard labor in the house of correction
for two years —

In making ~~the~~ report of the above Convictions
to His Excellency Sir James St. Craig, the Governor
in Chief, the Judges thought fit to recommend
to mercy Jean Baptiste Potevin the younger, on
account of his youth — also Thomas Quin &
Patrick McKennelly, as they conceived the evidence
against them to be too weak to support the —
Conviction —

September Term 1808.

Monday 5th September 1808.

Present.

Ch. Justice Monk
Wth Justice Land
Wth Justice Ogden, &
Wth Justice Reid

Dominus Rex.
vs
Sean Bth Gendron }

The Prisoner, Gendron, was
indicted for Arson, in burning
the barn of one Daunay, but the
Indictment having been ignored

Daunay applied to the Court under an affidavit
which he presented, for security of the Peace from
Gendron before he should be discharged, stating
that he, Daunay, was under apprehension for his
personal security and that of his property - In
addition to this affidavit Daunay referred to the
affidavits taken before the Magistrate upon which
Gendron had been apprehended, in which it was
stated

stated, that Gendron had said, "that he would burn
Daunay's barn". -

The prisoner offered the affidavit of one Pierre Gauselin to shew that he was not the person who had set fire to Daunay's barn, but acknowledging the words of menace used that "he would burn it" which he said were words of imprudence without intent. -

The Court were of opinion, that the Prisoner ought to be bound over to the peace, as the words used by him were sufficient to require this, without making any enquiry as to his innocence of the crime of which he was accused, and ordered that he should give such security for two years - himself to be bound in £100 and two securities in £50 - each. -

Dominus Rex
Etienne^{vs} Lapointe }

On trial of Indictment against
the prisoner for a burglary in
breaking and entering the dwelling
house of one Nicolas Tourangeau at River du Chene
and stealing 93. Spanish dollars of the value of
£20. 18. 6. Sterling, one linen bag of the value of one
~~peony~~, and one wooden box of the value of Six pence
of

of the goods and chattels of the said Nicolas -
Tourangeau -

There was a second count in the Indictment charging the burglary, by breaking & entering the said dwelling house with an intent to steal, and then and there stealing the aforesaid articles, and also a promissory Note in the French language signed by one Joseph Berthelotte, that is to say, with his mark, in the presence of Louis Cloutier and - Etienne McKay bearing date the 10th Feby. 1806, of the value of £3. 15. St. -

The prosecution was opened by the Solicitor General for the Crown, and the following testimony adduced in support thereof -

Nicolas Tourangeau, pere, sworn, says, Qu'il demeure à St^e Eustache, et est pottier de son metier - Que le 22 Aout dernier le prisonnier demouroit chez lui comme engagé - Que le soir du 22, lorsqu'il s'est couché il avoit sa Cassette, mais le lendemain lorsqu'il s'est levé elle manquoit - Qu'il y avoit dans la Cassette lorsqu'elle fut volée, 90 piastres dans un Sac, et trois piastres à côté, et quelques trente Sols en argent, il y avoit
aussi

aussi des papiers dedans - reconnoit le sac à lui -
maintenant montré pour être le même qui lui a été
volé, mais ne connoit point les papiers comme il ne
peut lire. - Que vers soleil levé il s'est aperçu que la
Chassée étoit ouverte, et est certain qu'elle étoit fermée la
veille. - Que la Casette étoit renfermée dans un coffre
dans la Chambre à côté de celle où il couchoit, et la clef
du coffre étoit pendue dans la chambre - Qu'il a
pris sa clef et a ouvert le coffre, où il a vu que la cassette
manquoit - Qu'il a été chez le nommé François
Lauron pour demander le Prisonnier, et l'a trouvé
endormi dans une chambre - Que Lauron demeure
à environ dix arpens de chez le témoin - Qu'il a
dit au Prisonnier de venir travailler, et étant retour
chez lui, le témoin lui dit, de venir dans sa chambre
où il a représenté au Prisonnier le vol qui avoit
été commis, et que lui, témoin, avoit des soupçons
contre le Prisonnier comme il n'y avoit point
d'autre qui avoit fréquenté sa maison - Que le
Prisonnier devint blême, mais a renié la moindre
connoissance du vol. - Que le témoin dit alors au
Prisonnier de faire de recherches pour tâcher d'avoir
quelque connoissance de son argent - Que le
lendemain il a fait faire une recherche chez le
dit

dit Lawson, mais n'a rien trouvé - Que le
surlendemain le même sac qui lui auroit été volé
'avec 67 piastres dedans lui a été rapporté par
l'huissier Montgomery qui disoit l'avoir trouvé
dans une barrique de cendre dans l'hangar -
Qu'il reconnoit le sac pour être le même à lui
maintenant montré. - Que c'étoit vers soleil levé
du 23, ou quatre heures du matin, lorsqu'il s'est
levé, et environ une demie heure après il s'est
aperçu du vol - Lorsqu'il fut chez Lawson
pour chercher le Prisonnier il ne croit pas d'avoir
rien dit du vol à la femme de Lawson - Qu'après
la recherche faite chez Lawson, il a été chez le
nommé Pion ou le prisonnier avoit coutume de
se retirer, et n'ayant rien trouvé là, ils ont été ensuite
chez Madame Beauchamps, qui a beaucoup -
disputé contre la recherche, sous prétexte que le
prisonnier avoit veillé chez elle le soir du vol. -
Que lorsque le témoin a dit au Prisonnier de faire
des recherches pour tâcher de trouver son argent, il lui
a promis cinquante francs s'il pouvoit découvrir le
voleur, mais dans le tems il n'avoit soupçon sur
d'autre personne que le prisonnier - Que le soir
du 22 Aout dernier la chassée de sa chambre étoit
fermée

fermée lorsqu'il s'est couché; qu'il n'a pas regardée si la targette étoit fermée, mais on n'avoit point coutume d'ouvrir cette chassée depuis depuis deux ans.

Nicolas Tourangeau fils. - dit qu'il est fils du dernier témoin - qu'il demeure chez son pere - Que le soir du lundi, 22 Août dernier le vol a été commis chez son pere, et le mercredi apres il en a été informé - Que ledit Jour de mercredi, le prisonnier étant seul avec le témoin dans la boutique de son pere, il dit au témoin qu'il soupçonnoit une personne d'avoir volé l'argent, et qu'il la feroit rendre - que cette personne étoit Louis Beauchamps - et que lui le prisonnier feroit rapporter l'argent le même soir vers les dix ou onze heures, et la feroit mettre dans une barrique dans l'hangard, et que si elle n'étoit point rapportée dans ce tems il feroit prendre ledit Beauchamps le lendemain matin - Que le prisonnier a soupe chez le pere du témoin, et en sortant, a dit, "je m'en vais ou je t'ai dit", et est sorti -

Cross-examined

Says, que ledit Jour de mercredi, le pere du témoin lui dit, de parler au prisonnier, pour sacher de savoir
quelque

quelque chose touchant le vol. —

Angelique Hardie, femme de Nicolas Tourangeau pere dit, que le vol a été commis chez elle le 22 Août dernier, et qu'elle a soupçonné le prisonnier, et qu'elle a parlé au prisonnier le mercredi après à diner, lui demandant s'il connoissoit quelqu'un qui auroit pris l'argent, et de s'efforcer de la faire rendre, ajoutant, "comme il n'y a que vous qui
"travaille ici vous devez en avoir quelque —
"connoissance — il n'y a que le petit Beauchamps
"qui travaille trois matinées ici", et comme elle avoit entendu de son fils, que le prisonnier — paroissoit savoir quelque chose de l'affaire, elle pria le prisonnier de faire rendre l'argent soit au Curé, à Mr Gagner, ou à Mr Dumont. Que le prisonnier a rapporté au témoin la meme chose que son fils lui avoit dit, que lui, prisonnier savoit ou étoit l'argent, et qu'il y avoit quinze piastres d'otées, et qu'il s'efforçeroit de faire — remettre le restant, niant cependant qu'il avoit aucune connoissance du vol. — Que le témoin a

été

été chez M. Montgomery pour le prier de venir -
questionner le prisonnier et prendre les informations
touchant l'argent, elle a en même tems priée Mad^e
Montgomery de venir veiller avec elle, disant que
comme l'argent devoit se trouver remise ce même
soir dans la barrique de cendre dans l'hangard
elle desireroit avoir quelqu'un avec elle - Que Mad^e
Montgomery vint le soir et apres avoir resté quelque
tems elle est partie, et le temoin avec les autres personnes
de la maison ont été s'assoir sur la galerie pour mieux
voir ce qui pourroit se passer - Qu'ils ont vu un
homme passer devant la galerie en courant, lorsqu'il
est entré en l'idée du temoin que c'étoit la personne
qui auroit rendu l'argent, et en consequence ils
ont été au hangard, et dans la barrique de cendre
ont trouvé le sac avec l'argent, lequel sac le temoin
reconnoit être le même à lui maintenant montré
que l'argent a été comptée, et on a trouvé 57 piastres.

Cross-examined

Says, qu'il pouvoit être vers les onze heures lors que
la personne est passée devant la galerie en courant

John Montgomery - dit qu'il est huissier et demeure à

St.

St Eustache - qu'il a été prié par Mad^e Tourangeau de se trouver chez elle le 24 Août dernier vers les dix ou onze heures du Soir, disant, qu'elle auroit été informée que son argent devoit être remis ce soir. - Que le témoin y fut, et s'est assis sur la galerie pour un peu de tems avec les autres personnes de la maison lorsque Madame Tourangeau a prié le témoin d'aller voir si l'argent étoit rendue. - Que le témoin avec sa femme et Mad^e Tourangeau ont été dans l'hangar, ou ils ont trouvé un sac avec des piastres dans une barrique de Cendres, et étant rentrés dans la maison ils ont compté l'argent, et ont trouvé 67 piastres. -

Samuel McKay, dit, qu'il demeure à St Eustache. - Que vers le 24 Août dernier il a trouvée la Cassette, à lui maintenant montrée à la drive dans la rivière plus bas que la maison de Tourangeau avec des papiers dedans, parmi les quels étoit le billet à lui présentement montré. -

cross-examined

Says - que la Cassette avoit passé l'emplacement de Beauchamps, et étoit vis-a-vis celui du témoin. -

Louis

Louis Beauchamps, being next called as a Witness on behalf of the Crown, it was objected by the Prisoners Counsel, that as the testimony already adduced tended to implicate the witness more than the Prisoner, the said Beauchamps ought not to be admitted to clear himself at the expence of the Prisoner.

Court - The objection goes only to the credibility of the witness, of which the Jury must judge. -

The said Louis Beauchamps being sworn, says, qu'il demeure à St Eustache - a entendu dire par Tourangeau qu'un vol auroit été commis chez lui le 22 Aout dernier - qu'il n'a point connoissance de ce vol, et n'a point rapporté d'argent chez ledit Tourangeau. - Qu'il a veillé avec le prisonnier jus qu'environ neuf heures du soir du 22 Aout dernier, et l'a laissé chez Lorseau lorsque le témoin est parti pour aller se coucher vers les dix heures -

Cross-examined

Qu'il couchoit à la brasserie de Mr Chesser laquelle est distante de chez Laureau environ huit arpens. - Qu'il a laissé le prisonnier chez Laureau vers les dix heures et a été tout de suite

se coucher dans la brasserie sans s'arreter nulle part. —

Here the testimony was closed on the part of the Crown. —

The Prisoner being put upon his defence produced the following witnesses. —

Josette Desloges, femme de Francois Lauveau, dit qu'elle a entendu parler du vol commis chez Tourangeau en Août dernier — qu'elle connoit le prisonnier, le quel a couché & veillé chez elle le lundi ou mardi la veille de la recherche faite chez elle — qu'elle croit que la recherche fut faite le Mardi 23 Aout. — Qu'après souper le prisonnier a veillé le lundi au soir avec le petit Beauchamps jusqu' environ neuf heures, et lorsque Beauchamps est parti, le prisonnier a été se coucher — mais ne peut dire s'il a resté couché toute la nuit, comme il auroit pu ouvrir la porte et sortir la nuit sans la connoissance du temoin, mais elle n'a rien entendu — Que le prisonnier se couchoit au grenier et la planche entre le grenier et la chambre ou couchoit le temoin est simple, et on y entend aisement — Que le temoin est aisée à recueillir,

et

et croit si une personne marchoit dans son grenier
le bruit seroit assez pour la reveiller dans sa chambre.
Que vers la pointe du Jour le prisonnier est
descendu pour se chauffer se plaignant d'être
malade - que le témoin lui a donné un lit
dans la chambre pour se coucher, ou il a resté
couché jusqu'à ce que Tourangeau est entré
pour le chercher - Que le témoin étoit levée
lorsque le prisonnier est descendu du grenier -
Que le soleil étoit levé lorsque Tourangeau est
entré - Que ce même matin elle a entendu
parler du vol en question, et elle même en a parlé
au prisonnier qui en paroisoit peiné. - Que
le prisonnier a couché chez le témoin le même
soir que l'argent a été trouvée - qu'il est entré
chez elle vers les huit heures et demi ou neuf heures
et n'a pas sorti après - Qu'elle connoit le prisonnier
depuis quatorze mois, et l'a toujours considéré comme
un honnête homme -

Cross-examiné

says. Qu'elle s'est couchée le soir du vol, vers les dix
heures - qu'elle s'est endormie après et a resté -
endormie jusqu'au lendemain matin - Que

sa porte ferme à clanche, mais ne peut dire si elle peut être ouverte sans bruit - croit cependant que l'on ne pourroit point l'ouvrir sans qu'elle en eut connoissance. -

Marie Josette Lavoieau fille du dernier témoin, dit, qu'elle a entendu parler du vol le mardi matin et que le prisonnier couchoit chez sa mere la veille - Qu'il est entré chez la mere du témoin vers les huit heures, il étoit encore jour, et il s'est couché vers les dix heures et demi dans le grenier. Que le plancher du grenier est simple, et personne ne peut y marcher sans bruit - Que sa mere est quelquefois aisée à reveiller - Que le lendemain vers les six heures et demi ou sept heures le prisonnier étoit encore chez la mere du témoin. - Que le - sur lendemain le prisonnier a couché chez sa dite mere, et n'est point sorti apres s'être couché - qu'il faisoit noir alors - Que le prisonnier s'est absenté environ une demie heure apres son souper, et est rentré apres sans sortir -

cross-examined

says, qu'elle s'est couché vers les neuf heures et
demi

deuxième la première nuit, et s'est endormie - Que la dernière nuit le prisonnier a couché dans la cuisine et il n'est point sorti la nuit, comme le témoin n'a point dormie toute la nuit. -

Louise Féré, dit avoir entendu parler du vol, et que le sac avec des piastres dedans auroit été trouvé dans une barrique de cendres - Qu'elle étoit dans une maison voisine ce même soir chez Morin - a vu un homme sauter par dessus les pieux de la Cour de Tourangeau vers les dix heures du soir - qu'elle étoit distant de la personne environ quatre pieds mais elle ne le connoissoit point comme il faisoit noir. -

Chap. Pennelle

Antoine Lambert

Franc Lawton

} all living at St Eustache, agree in giving a good character to the Prisoner -

The Evidence being closed the Jury were charged by the Chief Justice, & after having retired to deliberate on their verdict, they returned into Court, and said - That they found the Prisoner Not Guilty of the Burglary - but found him guilty of stealing from the dwelling house to the value of twenty shillings. -

Friday 9th September 1808.

Present

The Ch. Justice & Judges

Dominus Rex }
Edward^{v^s} Maloni }

On prosecution ag^t the Defend^t
for enticing a Soldier in the 100th
Reg^t. to desert.

The prosecution was opened by the Sol. General
for the Crown and the following witnesses produced.

James Charlick Soldier in the 100th Reg^t. says, that in
March or April last he saw the Defendant at
Quebec and spoke to him - thinks that Defend^t
was then dressed as an Officers servant, but
cannot say whether Defendant then knew him to
be a Soldier - That he afterwards saw Defendant
in Montreal about the 30th March last but did not
speak to him - That between the market place
and the barracks of the 49th Reg^t, he saw a Sleigh
pass but did not know that it was going towards
the States, thinks it belonged to the Defendant
as he saw the Defendants baggage in it - In
front

front of this Sleigh there was another in which was the Defendant with his wife and a Carter driving them. That witness got into the sleigh in which the Defendants baggage was - that Defendant did not give him a great Coat to - conceal his dress - that he went on in company with the Defendant to some distance on the other side of the River, and thinks he was in Defendants company about ten hours - That he breakfasted in the same house with the Defendant, but not in the same room, - That he had nothing on that marked him to be a Soldier, when he went off. - That on their way they were stopped by some persons who asked the witness if he was a Soldier which he denied - He did not hear the Defend^t. say that the witness was his brother, nor is he so - That an officer in the 100th Regt. came up and knew Witness to be a Soldier in that regiment -

Cross-examined

says, That Defendant never said any thing to induce witness to desert - and when he jumped
into

into the Sled he saw the Defendant and a woman in the Sled in front, and had on at the time a fustain Jacket - That he did not receive a coat from the Defendant to put on, but found it among the baggage in the Sled

Jean Bapt^e Terrien, dit, qu'il est Charetier - Qu'en Mars dernier le Defendeur s'est addressé à lui pour le mener à Burlington, et lui a dit en même tems qu'il y avoit un autre homme qui devoit aller avec lui, qu'il devoit être son beaufrere, et sa femme. que le defendeur a fait retarder le temoin jusqu'à sept ou huit heures du Soir pour son beaufrere - Que vers ce tems ils sont partis sous les trois du marché avec deux voitures - que les trois personnes se sont parlés avant de partir mais il n'a point entendu leur conversation, et ils ont même entrés dans la Cantine ou étoit ce Deposant, ou la femme a donné une verre de rom au Defendeur, et en sortant ils ont embarqués dans les voitures - Le Defendeur et sa femme étoient dans une voiture et l'autre homme dans une traine avec le Charetier Sarammé - Il ne peut dire si le temoin qui a
vient

vient d'être entendu est la personne qui est entrée dans la traine avec Sarammé - Que le témoin avoit engagé Sarammé avec sa voiture pour faire le voyage en conséquence de son engagement avec le Défendeur de fournir deux voitures - Il est certain que ces trois personnes sont parties dans ces deux voitures et ont traversées la rivière vis-à-vis de Longueuil et ont arrêtées chez le nommé Roussel, mais ne peut dire si le premier témoin étoit un des trois personnes qu'il a vû la - qu'ils ont procédés à environ une demie lieue plus loin en montant la rivière chez un habitant ou ils ont arrêtés - la ils ont mangés tous ensemble & ont couchés la aussi - Que le lendemain ils ont continués leur route à Laprairie, ou ils ont déjeunés, et à environ une demie lieue plus loin ils ont rencontrés un grand Sled Americain, et le témoin trouvant son cheval fatigué leur a conseillé, comme la glace du Lac étoit partée, de s'arranger avec l'Americain pour continuer leur route ce qu'ils ont fait, et ont entrés tous les trois dans le Sled Americain, et le témoin les a quitté la

et

et s'en est retourné en ville. - La raison qu'il ne peut reconnoître la personne du Soldat, est, qu'il n'a pas pris garde particulièrement, et il ne lui paroissoit point habillé comme Soldat. -

Alexander Andrews, Captain in the 100th Regt says that about the end of March last James Charlick deserted from the said Regt and the witness went in pursuit of him - That about five or six miles beyond Lacadie he found him in a house with several persons among whom was the Defendant - That he saw an American Sled at the door - The Defendant denied having enticed Charlick to come from town with him upon being charged with it by the witness - That the witness questioned the driver of Sled, and understood from him, that the said Charlick had come there in company with the Defendant and his wife, the Defend^t was in the same room when witness questioned the driver on the subject and thinks he must have heard what passed, it was a small room, but there were several persons in it -

The

The Soldier was disguised in a brown frock coat
and had his regimental Coat in a handkerchief -

William Shepherd, merchant in Montreal - That
a burglary having been committed in his house
and sundry articles stolen out of it in March
last, he went in pursuit of the thieves by the
road from Laprairie to Lacadie, and overtook
the Defendant about four miles beyond Lacadie
Church in company with another man, ^{besides} the driver,
and a woman who passed for Defendants wife -
That James Charluk was one of the persons - That
from their appearance he had some suspicions of
them and stoppt them to search for the stolen goods -
That he carried them into a Tavern and on the
search he found a great Coat with N^o 100. on
the inside of it, on which he taxed Charluk with
being a deserter, which he did not deny - He
recollects that the woman owned Charluk to be
her brother - understood also from Charluk that
they had come all three together from Montreal -
but this was not in the hearing of the Defend^t -
while

While in the said Tavern, Cap^t. Andrews of the 100th Reg^t. came in and apprehended Charlick as a deserter. - That the American who drove them said, that they had changed their Sled with which they had come from town and that he had taken them in on the way - and the witness thinks that the Defendant was present and heard the American say so -

Here the evidence for the Crown was closed

The Defendant being put upon his defence called the following witnesses -

Jean Bapt^e. Terrien, the witness already adduced on the part of the crown, says, que le Defendeur ne l'a point pressé d'avancer viteement comme s'il vouloit se sauver, au contraire ils ont marché's doucement parce que les chemins etoient mauvais -

Cross-examined

says, que la personne qui a embarquée dans la traine avec Larammé est la même personne qui continuée avec lui jus qu'à ce qu'il les ait laissé plus loin que Laprairie. -

Thomas Place. Merchant in Quebec, has known the
Defend^t. for three years past, part of which time
he has lived with the witness in the capacity of
a Servant - That Defend^t. also lived with Mr Osborne
as a Servant - That he considers him as a man of
good character, and never thought him a person who
would render himself guilty of the offence with
which he is now charged -

Here the testimony for the Defend^t. was
closed -

The Jury retired, after being charged, and
returned a Verdict, finding the Defendant
Not Guilty - upon which he was discharged

Saturday 10th Sept. 1808.

Present

The Chief Justice, &
Puisne Justices

Dominus Rex
vs
In Bapt^t Gendron } On Conviction for stealing
from the dwelling house to the
extent of twenty shillings -

Judgment - That the prisoner be kept
to hard labor in the house of Correction for one
year from this date and be then discharged. -

Dominus Rex
vs
Jean B^t Poterin the elder,
alias J^r B^t Content - } The prisoner was convicted on
the third day of June last
of a grand Larceny in the
Court held under the -

Commissions of Oyer and Terminer and General
Gaol Delivery for this District, but no Sentence
was then pronounced, as he had been convicted

at

at the same Court of the Crime of Sacrilege
on which a Judgment of Death had been
pronounced against him - Having obtained His
Majestys pardon for this last offence, the Solicitor
General now moved for Judgment upon the
Conviction for the Larceny, and the prisoner
having nothing to say why the motion should
not be granted - The Court gave Judgment
That the prisoner should be kept at hard labor
in the house of Correction for two years from
this day, and be then discharged -