

Cause Criminal.

Montreal 10 March 1835

Sir

In the interval of his 29th last of

I have the honor to transmit to you a copy of
the Calendar of Convictions had at the late Court of Kings Bench
holding Criminal Jurisdiction for this District with a ~~copy~~
copy of a presentment made by the Grand Jury during the sitting
of the said Court, to which they request the particular notice
of His Excellency—

In regard of the two Capital convictions of Basile
Nadeau for stealing a mare and William Smith for stealing
above the value of fifteen pounds Sterling from a dwelling
house. The Judges ~~wanted~~ ^{wanted and then} gave leave to recommend that the
sentence of death ^{be commuted} be commuted into imprisonment of
such or other punishment as to His Excellency shall seem
meet—

Report of Ch. Justices & Justices of the Court

Burn's Justice. v^e Presentment.—

At presentment is that which the Grand Jury find and present to the Court without any Indictment delivered to them, which is afterwards reduced into the form of an Indictment — and in nothing else differs from an Indictment. —

2. H.H.P.C. ch. 19. p. 152 —

Bac. abr. titl.
Indictment. —

Presentment is a more comprehensive term than Indictment — for regularly an Indictment is an accusation given in against a person by the Grand Inquest for some misdeemeanor — whereunto he is put to answer; but presentments do not only include such Indictments, but also other Informations, whereunto the party is not put to answer — as presentments of Felodea, of Fugam fecit — of demands — of Deaths per infortunium — and many others. —

= orig. definitions & distinctions. —

First principles of criminal proceedings. —

Instructoress to Alle General. —

Suspicion of no evidence being red. —

2. Coke's Inst. — Every Indict. is a present.

Rolland

1st As to the authority of the Court of R. B. here to proceed
in this summary manner-

Prov. Stat.

Quebec Act. Sec. 11

The Court of R. B. here is vested with the Cognizance of all Crimes & Criminal offences, according to the Law of England and which that Court is required to administer and observe, as well in the description and quality of the offence, as in the method of prosecution and trial.—

according to the Br. law of England, — what is the quality of this offence? — and what is the method of prosecution and trial? —

Ought this to be now called in question, or considered as matter of doubt? — the research of the party moving the rule must, or ought to have satisfied him on this point.

It would be considered a flagrant contempt of the Court, and a gross obstruction to the course of Justice, and punishable by the Summary ^{course} proceeding here adopted.—

Ch. J. Willis. 254

Rex v. Almon

4. Bl. Com. 285.

The issuing of attachments by the Supreme Courts of Justice, for Contempts out of Court, stands upon the same immemorial usage, as supports the whole fabric of the Common Law — it is as much the lex talionis and within the exception of Magna Charta, as the issuing of any legal process whatsoever.—

Holt on Libel
p 154.—

It is therefore a rule founded on the reason of the Common law, that all Contempts to the process of the Courts, to its Judges, Juries, Officers & ministers, when acting in the due discharge of their respective duties, whether such contempts be by direct obstruction or consequentially, that is to say — whether they be by act, or writing — are punishable by the Court itself — and may be abated instanter, as nuisances to public Justice, and subject the party so offending, to fine and imprisonment.—

Hawk. P. C.

Deacons abt. attach^t

Bacons abt. attach^t upon a bare suggestion, or on their own knowledge — without any appeal, Indictment, or information.—

Comyns. Dig.

2⁴ No affidavit to establish the offence -

The court must have something to ground its proceeding - affidavits the more general course -

Hawke - Deacon - Contempt any evidence on oath
Do do or a bare suggestion.

3 Previous Rule to shew Cause necessary -

Hawke, P.C. B. 2. ch. 22. If the offence be of a very exhorbitant nature, or for words of Contempt of the Court itself, it will grant an attachment on the first complaint, without any rule to shew Cause -

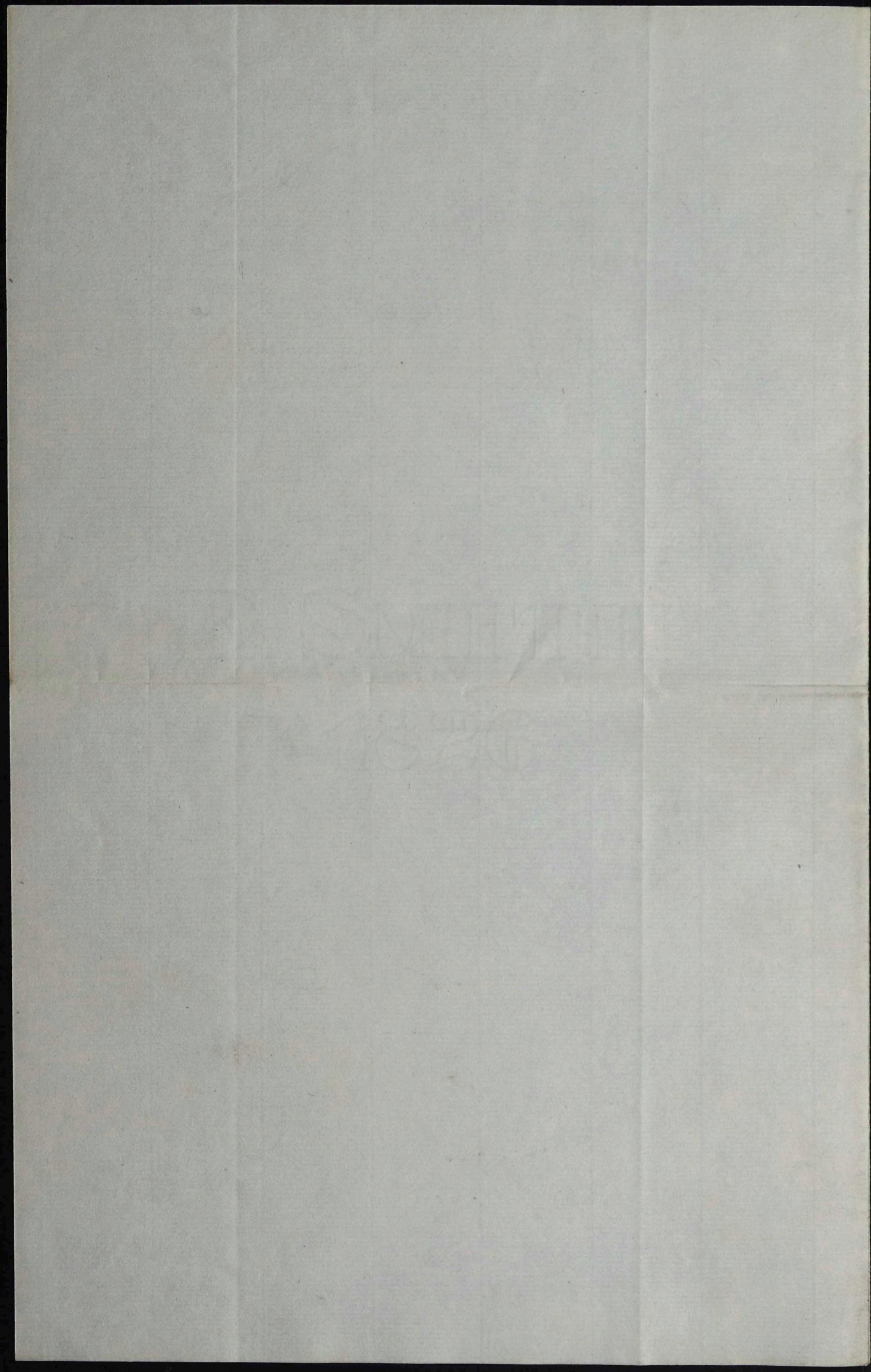
Deacon. Contempt p. 299. - 7th inst^{ly} The flagrant instances attachment granted p. 298. No 8 among these. Anything that demonstrates a gross want of that regard & respect (as Sir. W. B. rightly observes) which once Courts of Justice are deprived of, their authority, so necessary for the good order of the Kingdom, is entirely lost among the people. ex
4. Bl. Com. 286 -

-

Secte. 84. - For scandalous words used touch^g a rule of Court served on the party - Among mos -

2. Atk: 469. - On motion agt. two printers for publishing a libel touching some of the parties in a suit, and their proceedings - Both committed -

-



The King
and D'Alençon

4. On Conviction for Perjury -

Nous avons été trouvé coupé du crime de perjure - Crime infamant que il est aussi sévèrement puni et défendu également par la loi de Dieu & des hommes - de tous les crimes celiu de perjure est des plus dangereux dans la Société, il en détruit tous les liens - il trompe la Justice, & en pouvant les effets -

défauts - de criminalité - aux
quel le hom -
mettent souvent -

Votre cas est un instance frappante de l'enormité de ce crime - Que ~~avez~~ ^{sur} ~~avez~~ ^{reçu} 22 piastres ~~sur~~ ^{30 que} Mr. Mailloux vous ^{devant son billet} ~~avez payé~~, vous l'avez renié, vous l'avez affirmé par votre serment - tandis que la vérité étoit que vous aviez dans le tems reçu 22 piastres - ~~fact~~ ^{chose} que vous ne pouriez pas ignorer, ni avoir oublié dans le tems puis que le billet en question étoit le seul transaction ~~qu'il y ait~~ qui a eu lieu entre vous & Mr. Mailloux - on a de la peine à croire comment que ~~vous~~ pouriez reconnaître à votre Conscience de dire que n'aviez pas reçu les 22 piastres fait, que vous aviez reconnu en d'autres occasions fait, qui a été d'ailleurs prouvé par plusieurs témoins - Comment osiez vous mettre votre main sur les Saintes Evangiles, appeler Dieu en témoin de la vérité de ce que vous allez D'Alençon, et ^{dans le même instant} ~~au même tems~~ déclarer une fausseté - vous avez ~~voulut~~ tromper hazardé beaucoup pour gagner votre cause - vous avez voulu trompé la Cour pour parvenir à vos fins, & vous y avez réussi - mais vous ne pouriez pas tromper ~~entre dieu~~ que

vous

~~vous avez~~ grevement offensé par votre condicte -
Il est extraordinaire à voir - qu'un homme comme vous
un pere de famille - assé dans ses moyens - jouissant
d'un bon character & tenant le place d'un marquallier
~~en charge~~ dans votre paroisse - que vous ayez pu pour
ristance perdre de votre tant d'avantages, & pour une
20^e de piastres vous rendre infame, & jeter une tache
sur votre nom & sur celui de votre famille. qu'il
fautroit bien du temps pour effacer - Vous avoy payé
cher le gain de votre Cause - & vous devoy sentir dans
ce moment que tous les biens du monde ne ~~suffisent~~ point
~~pour vous dédommager~~ ~~bon~~ caractère, & réputation que vous avoy sacrifié
sans un moment malheur -

Considerez l'offense que vous avoy commise - vous avez
par votre serment - trompé un honnête homme - vous avoy trompé
la Justice - ~~vous avez~~ grevement offensé ~~votre~~ Dieu - Il
faut reparer vos torts en tant ce qui ^{envis et homme} dépend de vous - Il
faut vous reconcilier avec votre Dieu ^{que vous avez} grevement offensé - vous pourrez peut
être, par votre cord. fuit. gagner la bonne opinion des hommes - mais
soyez satisfait que ~~vous avez~~ par un repenti sincer vous
ayez merité votre pardon de Dieu -

The King
Et. Dumas.
Jos. Dumas

Coupable d'une offence énorme - approaché H. Grison en vous servant des paroles séditieuses en diff^e occasions rendu à exciter un mécontentement dans les esprits des sujets de la Maj^t.

Ces paroles sont - (word)

Elles ne paraissent point d'etre l'effet d'une colere momentanée mais démontrent une intention malicieuse, en caractère de déloyauté envers votre Souv. que l'on ne peut se tromper a ce regard vous paraîtrez d'ailleurs d'avoir eu de si fréquentes communications & intelligences avec l'ennemi, d'avoir tellement entre dans ses vues que vous n'attendiez que l'occasion favorable pour mettre vos dessins en execution.

Vous vous êtes montrés comme des pers. dangereux - tant par vos propos que par votre sit^e demeur. près de la ligne - ou les occ. pourront se rencontrer, si non de porter vos dessins à ex^{er} à moins de faire bien du mal - - & à qui - a vos propres compatriotes - Vous êtes Canadiens - cependant l'hon. de votre pays - le bien-être de vos compatriotes - la tranquillité publique n'éloignent rien chez vous - vous avez été corrompus par vos fréquents comm^{ts} avec ces Américains sur les lignes - vous vous êtes associés avec des vagabonds & vous êtes devenus vagabonds vous même et vous ne méritez plus le nom de Canadiens -

Mieux - dès que vous entretenez des opp. fav. pour ces gens que vous vous êtes rangés sous leurs étendards, parceque vous souilliez la terre de votre naissance

Que est ce que aurait pu vous exciter a tel bani de tel

telz propos autre que le bouleversement general & le
soumettance à gens avec rien & disposés comme vous êtes
espèrent toujours de gagner par tels changement. Mais
c'est un change^t - qu'il faut croire que vous ne verrez pas
bienobstant tout votre Pele - le Canada restera sous
la domination de son Roi - ~~pour ses Habilans par ce moyen~~
~~leur avantages de leur religion, de leur loix & usages, & de~~
~~cette liberte ces avantages qui constituent leur bonheur~~
Le Canada sera sauveé - mais cela sera par
d'autre bras que les vostres - Des gens fidèles à
leur Roi - et à eux mêmes - des gens qui
savent apprécier la valeur des avantages dont ils
jouissent - courreront à la rencontre d'un Enemi
lache & destructeur, & le chasseront de leur pais -
~~tant que~~ vous seriez considérés comme indignes de
contribuer à un evenement si glorieux -

La conduite que vous avez démontré exige, que le Roi
puisse des secours sur votre conduite future. Il a fini
d'arrêter les effets de votre sedition & de loyaute, —

Et il servoit à souhaiter que le temps qui vous sera donné pour faire vos réflexions, sur le passé, opère un changement dans vos sentiments & dans votre conduite futur - Soyez assuréz que le traître à son País, servoit toujours malheureux - pendant

Reponse vos lort. —

— chercher à obtenir à meurtre envoi par
conduite bien réfléchie, bâtie
bonne opinion & confiance
qui il a prude —

Faut se reconcilier avec Dieu
Peut obtenir encore la faveur &
bon. opin. des hommes — si vous
m'avez volé pardon de Dieu
vous avez envoi mercable

Turg
Dumas } Sedition. —

Offense — énorme — approché H. Traition —
Parole d.d. — diff. occ. tend. à
exciter ~~en~~
ces paroles dont (vnu)

Pas l'effet de colere — démont. violent. mal.
un casse. de l'loy autre —

Frequentés comm. avec l'Enemi — avoir
tellemt. entré en leur roya — ~~avait~~
~~quatre~~ ~~occasions~~ —

ces Propos tenus — à leur sit^u les rend dangereux
à occasion à faire du mal —

à leur Compatriotes — Le croira-t-on
des Canadiens — ~~croire~~ M. l'hon
de votre pais & bien être de vos
Compatri. trang. pub. sont
rien chez vous —

Canadi Corrompus — freq. com. — assoc. avec des
Vag. dev. vagab. & ne
merit plus le nom Canadi —

Mieux de se ranger sous l'Estand
Souillez terre de vot. nausse

Gens sans cœur — rien — aiment le
changeant — le boulevers — ils
espèrent gagner —

Mais le Canada restera sous la dom.^u
ses hab. — Rely. Loix duray —

Pais. paix — han bras — gens fidèles —

Dispositions ex q. sûreté. condit. future
& empêcher les effets de vot. id. id.

Temps de réflexion — chang^t. de con-

Mis
Déaurai

Offence - son énormité -

Ségrégation - avec laquelle on prête Dernier

Vérité - premier Vérité -

Votre Cas - instance frap^{te} d'une
paixure vénérable -

Seule transaction - sur 30. avoir
reçu 22 - piast.

Chose - pas ignoré - ni oublié -

Chose - reconnu avoir reçu -

Chose - affirmé par tous les témoins

Hardiesse sans exemple - prétend
sent devant Dieu et le hon
venié de fait. -

Homme aveugle - vous avez été
entraîné dans le crime, par
le vil désir de gagner une
20^e. de piastres -

Voulu tromper la Cour - réussi -

Etre audacieux - qu'un homme

Pas de famille
aisé sans ses moyens
bonne réputation
marié -

Perte de vie tant d'avantages - d'autant
moment de malheurs - tout ou rien

Vendre infamie - Tache sur notre
nom - sur sa famille -

Bien des tems pour effacer -

Payé cher - le gain de votre cause

Sentir - ni 20 piast - ni tout le bien
que vous possé. suff. pour épouser
votre partie -

Considérez - Offense - commis

français un hon. homme -
neutre et le AD

trompé la Justice -

quand affranchi vot. Dieu

Le 17 Mars 1828 Quittance Generale par -
Aujourd'hui le dix-septième jour de Mars apres
midi l'an mil neuf cent vingt-huit et compara
nt devant les notaires publics pour la Province
du Bas Canada soussignés, Antoine Belouin,
Cultivateur demeurant dans la paroisse St Jean
Frans Regis, vulgairement dit St Philippe -
lequel a reconnu et confessé par ces présentes
avoir eu et reçu d'Abraham Christopher Beaudé
de querreul dénommé en un acte de vente par
ce dit Comparant au de Beaudé en date
du 28 Fevrier 1827 - Pour Lamelot & son confere
notaire - la somme de quinze cents livres cours
ancien de cette province pour balanc du prix
principal de ladie Vente - Dont ledit comparant
est satisfait, en donnant quittance générale
et finale au de-aquerreur et tous autres -
Consentant que mention sommaire de la présente
quittance soit faite sur la minute du présent
Contract par tous notaires pour ce regis sans
que sa présence soit nécessaire - Dont acte à
St Jean les Ixme et an "d'mois" - et a déclaré ledit
Comparant ne savoir signer, a fait sa marque
lecture faite - un mot sayé nul -

Antoine ^{de} Belouin
marque
P. Besse. A. Pub.

a Seal Receipt most filled up with
The name of the subscriber - (or princi
pally in the money) is not except
the money within the States of
France - Reg. to Lyon. 2 March
597 - an amount of Lads given
an amount paid to them until
the blank was filled up. Then
published does not receive an
acknowledgment for part, or in
other words a receipt for money -

Rec'd. in Rushworth Pass. D.R. 317 -
Tangier a magistrate order

But the offence will not be forgery, where the false instrument does not carry on the face of it, the semblance of that for which it is counterfeited or where it is illegal in its very frame. 2 Russ. 345.

Jones's Case - putting away a paper as, "a good Bank Note" which on the face of it did not purport to be a Bank note, held not forgery. - signature of drawn wanting -
2 Russ. 345. -
2 East. 883
1 Leach 243-4 -

Pateman's Case. Forging or uttering a note, qd. for want of a ^{definite} signature, is incomplete, has been held not to be an offence within the Statute. -
2 Russ. 346.
Russ. & Ry. 455.

Moffat's Case. Uttering a forged bill under £5. - qd. by Stat. 17 Geo. 3. c. 80. is void, as it did not specify the abode of the payee nor was attested by a Subscribing witness. -
2 Russ. 348.
2 Leach. 483
East. 954. -

Wall's Case. Forging & uttering a Will of lands, attested by only two witnesses - Skidmore's will. -
2 Russ. 348.
2 East. 953. 4

Deakin's Case
2 Russ - 338
1 Hawke. c. 70. s. 7
2 East. 948. -

Forgeries may be committed of a writing not valid, where made w. intention to defraud - can't be a Protection - but ~~This is forgery at C. law only.~~
Instrument here not invalid but imperfect.

Crofts's Case - Property in deed wrong described so that nothing could pass - felonious intent held suff. -

Coygan's Case - Will of a man living -

Hawkeswood; an Mortor's - de Bill of exchange not stamped -

Anne Lewis's Case Power of Atty in name of a fictitious person w. fraudulent intent

as to the validity of the thing forged.

Not necessary that the instrument charged to be forged, should be such as would be effectual or available, if it were a true & genuine instrument -

2. Russl. 346 - Hawkeswood's case -
forging a bill on unstamped paper
Morton's case - ~~do~~

Teague's case - reissuing a
bill for £10 - forged to £50
without a new stamp

2 East. 883. —

The instrument is defective
in the frame of it —

2 East. 952 — also 948 —

Jones's Case —

— 1 Leach 243.

Poss. put away a paper as a good
Bank Note — ~~it~~ on face of it did
not purport to be a Bank note —

2 Russel. 345. —

One of the definitions of forgery
is given — as — the false making of an
Instrument, ~~q. r.~~ purports on the face of it,
to be good and valid for the purposes for
~~q. r.~~ it was created — with a design to defraud.

2 Russel. 338. —

1 Leach 367. Jones, Palmer's Case —

Thos. Wall's case — will of
John Stidmore. — 2 East. 953

Moffat's Case. — 2^o Leach 483

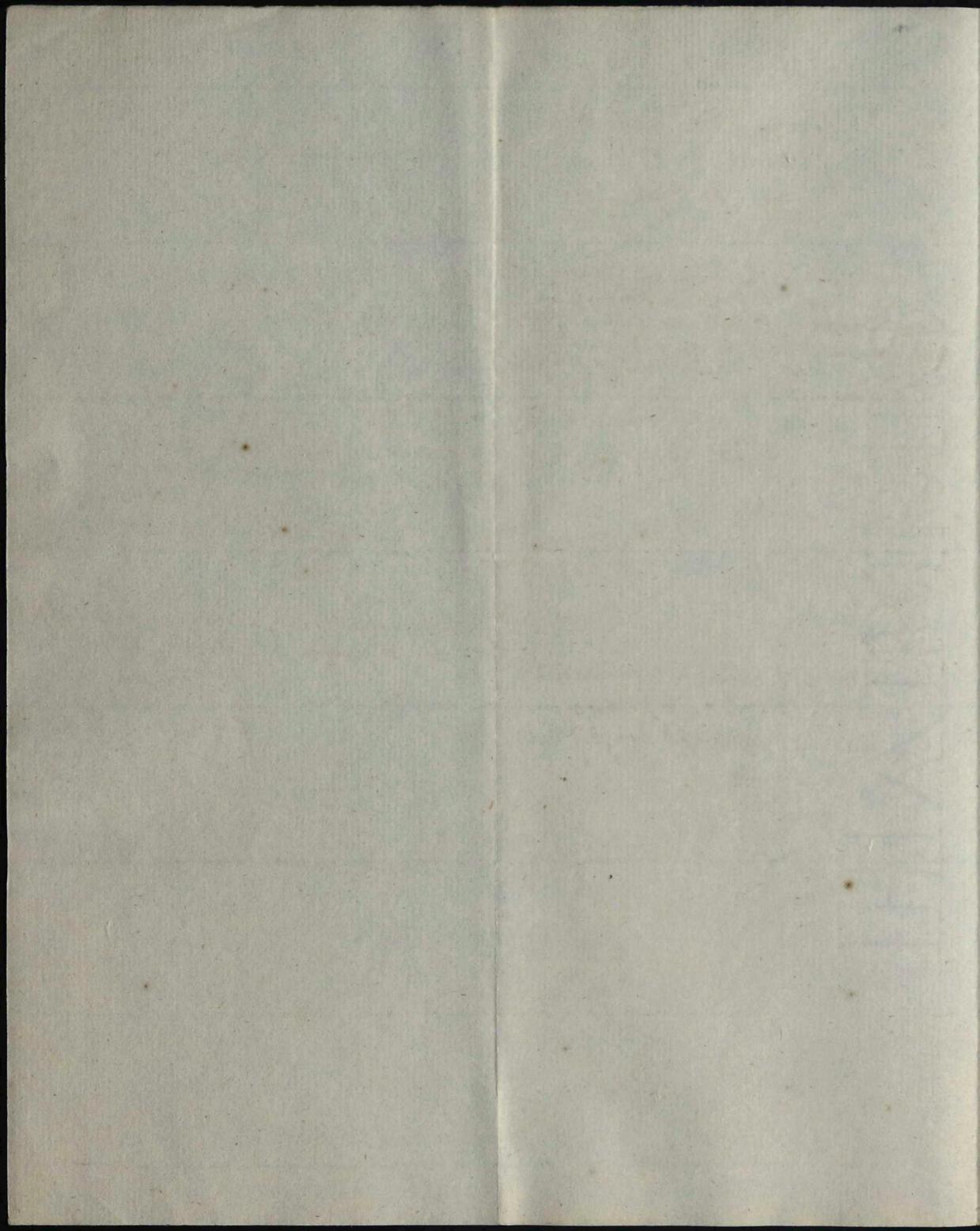
Offering a forged bill under £5 — qd
by St. 17. Geo. c. 30. is void — inasmuch as it
did not specify abode of payee
nor attested by a Subscribing Witness
East. 954 —

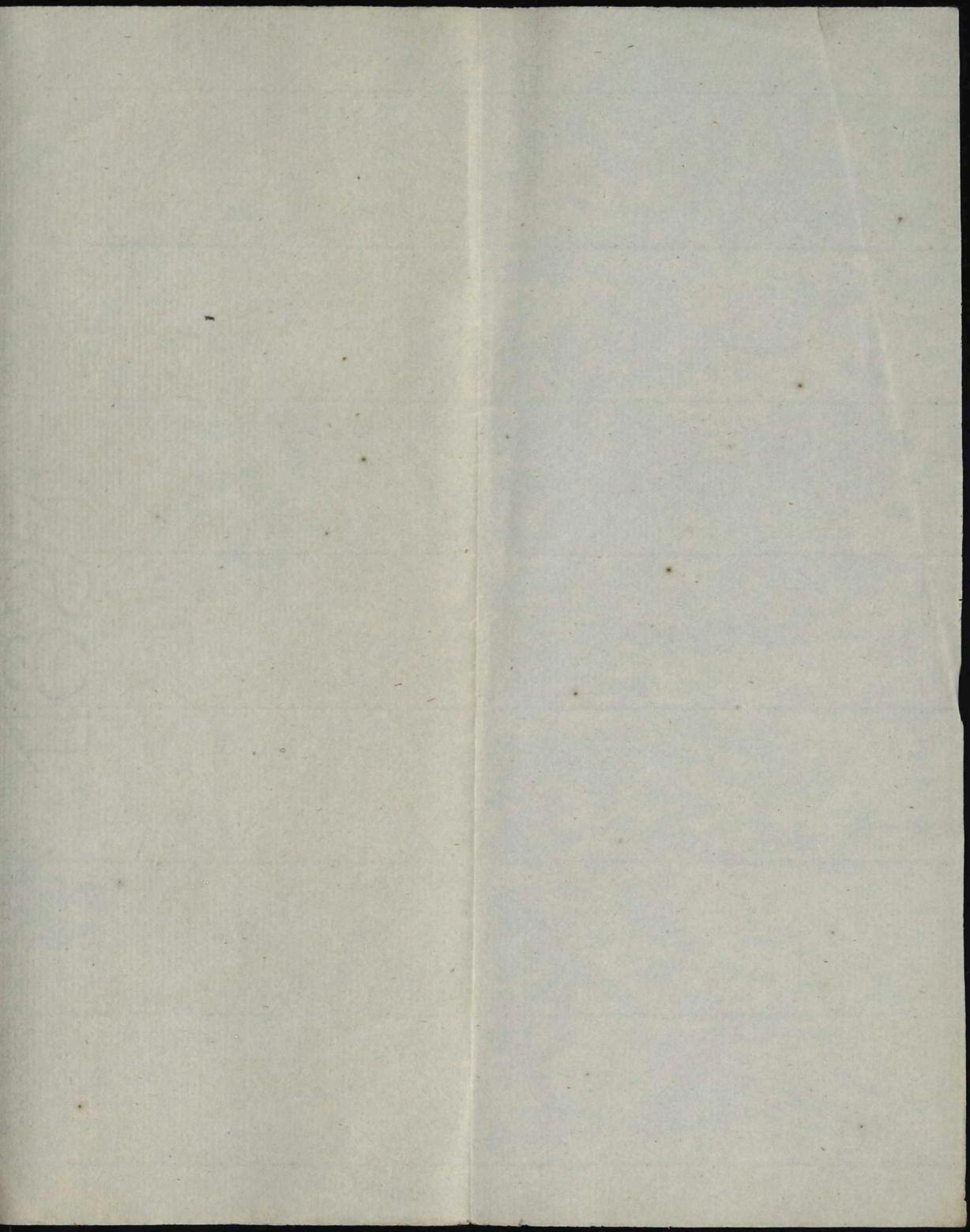
Petman's Case — forging note without
a signature — 2 Russel. 336

S. C. Russ. & Ry. 455 —

The state of the instrument
at the trial is to be considered —
and not what it might be
afterwards —

2 Russel. 1440. 1452. 1454 —





Doms Ray
Beaude' &
Benoit

Beaude' purchased
Benoit personatio antoine
Belouin.

Gentlemen of the Grand Jury

You are assembled here, for the execution of a duty, which the laws have devolved upon you, namely, to enquire into the crimes and offences which have been committed within the District, of which you form the Grand Inquest.

This Court has often had occasion to lament the numerous delinquencies brought before it, affecting the persons and property of individuals, the investigation of which has occupied much of the time and attention of the Court and of the County; — but it is with infinite regret that we are compelled to notice a state of things in this District, by which not merely the security of the persons and property of individuals is affected, but the very existence of Society, and the authority of the Sovereign over this part of her dominions, have been threatened with destruction. — When we see the seditionis labouring to promote and encourage disaffection to the established Government, until the effects of their labors have burst forth in acts of high handed treason and Rebellion, openly extending themselves throughout the land, we have cause, not only to be astonished but alarmed, at the existence of crimes like these, in a Country where from past indulgence, there was every ground to suppose, that peace security and loyalty might reasonably be expected to prevail among all ranks of men. —

When we consider the enviable state and condition of the people of this Province, having the full enjoyment of their property — their religion — and their laws —

harassed

harassed by no burthens, nor oppressed by any public exactions, but living in the quiet enjoyment of all the comforts and conveniences of life, which their means or their industry ^{can} procure, and all these blessings secured to them by the fostering hand of a benificent Government, we must lament the fatal delusion, that could have induced a people so circumstanced to throw off their allegiance, and lead them to rise in open rebellion against their Sovereign.— While the Subject is thus protected, his duty enjoins the allegiance that binds him to the Sovereign, as a principle founded in reason and in the nature of Government — The natural allegiance of the Subject is written by the finger of the law in his heart — it is a sacred duty — a moral obligation, by which Government is upheld, and cannot be violated or infringed, but by loosening the ties of society, and involving it in anarchy and confusion. —

It is difficult to believe that a people who enjoyed the character of being humane, peaceable and religious, could have thus readily combined to set all law at defiance — to trample on the rights of their fellow citizens — and to imbrue their hands in their blood, unless urged on by insidious falsehoods and malicious misrepresentations, equally injurious to themselves, and to the Government under which they live — The honest feelings of the people must have been worked upon by turbulent and designing

designing men, and seduced into the belief, that liberty could mean exemption from all legal restraint — that rights could exist without corresponding duties — that insurrection could be lawful — and that a forcible change of Sovereignty and allegiance would be a benefit. — But it may be asked, what new principle or change in our present system of Government could have improved or ameliorated the condition of the people of this Country? — Could their religion, — their laws, — their property, — or any of their civil rights, — be rendered more secure to them than they are at present? — And what people on earth can desire, or enjoy greater advantages than these? — Any change that Revolution could effect, might endanger any, or all of these blessings, but could neither add to them nor improve them. Had she object been to effect any beneficial alterations in the old municipal laws of the Country, in order to adapt them to the more advanced state of intelligence, and of improvement in the ~~country~~ Province, the power for this purpose has been long vested in the people, and such alterations would have been hailed with general satisfaction and attended ^{with} ~~some~~ success —

It must be the desire, as well as the interest, of all Governments, to conciliate the affections and support the rights of their subjects, and the British Government has in all its relations manifested this kindly disposition, and in none of its dependencies has it shewn more liberality towards its Subjects than in Canada, by extending to it a form of

constitution

constitution and government assimilated to its own — this was rightly considered by the people of this Province as a boon, and long appreciated as such, but in later times, a desire of innovation and a spirit of discontent have been fostered and encouraged — an attempt to controvert the powers of the Government under that Constitution has been evinced and persisted in — and as a last resource, an open rebellion and the overthrow of all legitimate authority, have been declared, the consequences of which have led to disturbances hitherto unknown in the Country — Surely it becomes us, in every situation in life, whether as individuals, or as Constituted Bodies, to resist and oppose all those principles and pretensions by which the peace, the safety, and the happiness of the whole Community are threatened, and to contribute by every means in our power to ^{the} support of order and good government — And as there is now an appearance and an expression of better feeling extending throughout the District, we ought to second and encourage the sentiments and exertions of the loyal and well disposed, that public peace and confidence may be re-established throughout the land —

Much of the happiness of the people of this Province rests in their own hands, and will be found to consist in the peace and comfort which they may at all times enjoy by a quiet submission to the laws, and the faithful discharge of their several duties

duties as Citizens and Subjects. — In all Government there will be found some discontented individuals who seek for a change of public measures, and who by their influence, may be enabled too easily to excite the feelings and the prejudices of the people under the specious pretence of reform — This unfortunately has been the occasion of the late Rebellion — And the same means may again be employed for a like evil purpose — But the people of this Province ought to know and be convinced, that when their claims or complaints are well founded, they need not seek by rebellion to obtain redress — The British Government desires only the happiness and the prosperity of all its subjects here, as in all its other Dominions, and will always ^{be} ready to relieve them from injustice or oppression, but it will with a powerful hand — suppress ~~and~~ rebellion and resistance to its authority. While therefore we ought to rejoice at our deliverance from our late troubles, we ought also to unite in one common sentiment, that we may long continue a loyal and a faithful appendage of that Government under whose protection we now have the happiness to live. —

These observations we have thought right to communicate to the Grand Jury, who as a Body of men constituted to enquire into the state and circumstances of the District, may by an expression of their sentiments in matters affecting the public

peace

peace and tranquillity, be instrumental in —
influencing the opinions of their fellow subjects,
and of leading them to a just sense of what
their interest and their duty require. —

The King. — }
John Sieveright }

On mo. for Hab. Cor.

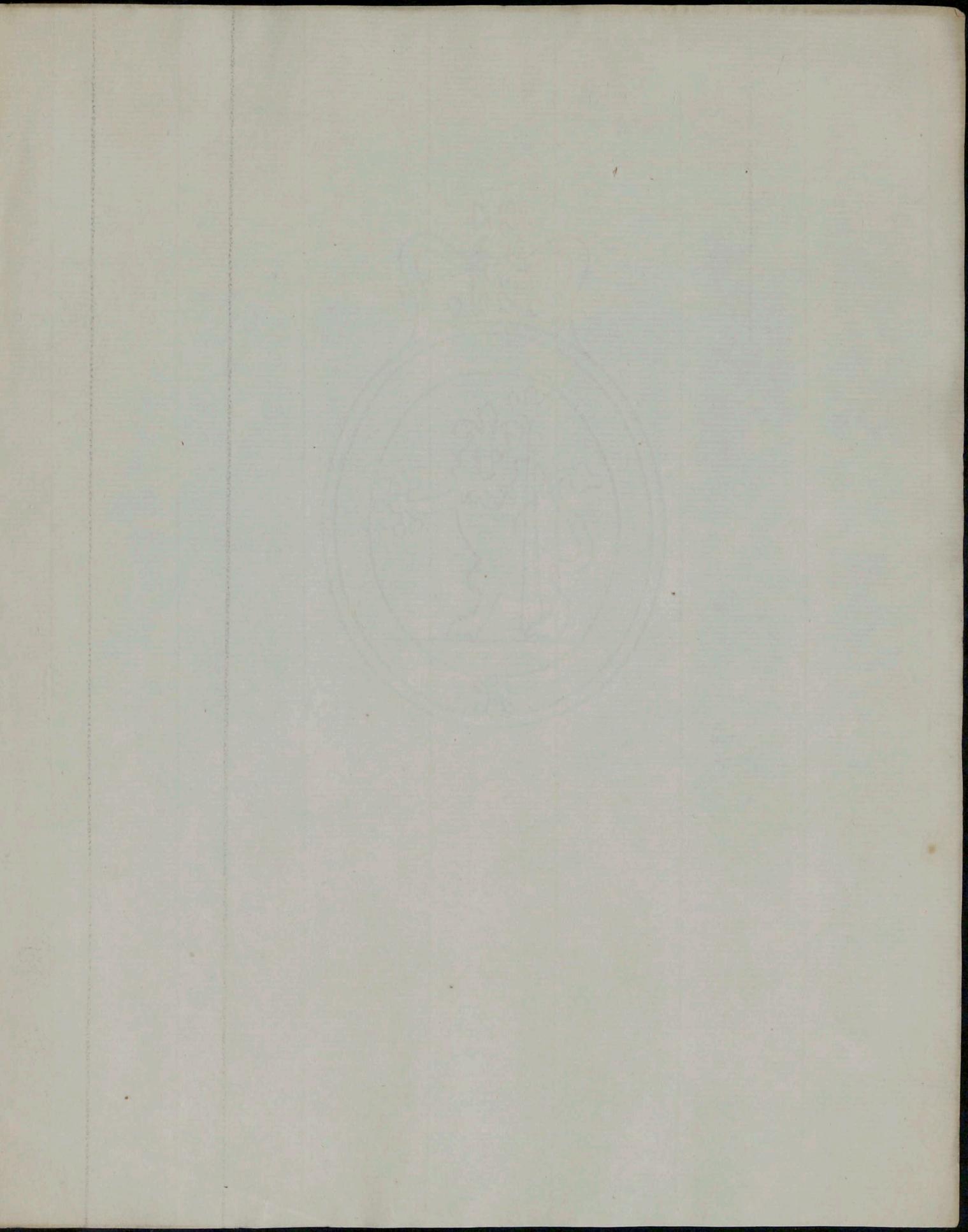
The P^r committed on two affidavits, one of Louis Blondelau, the other of Clement Rau on suspicion of having about the year 1803 — murdered one Lapointe at a place called Fort de l' Isle in the Indian Country — the Circumstances sworn to on the accounts the Deponents received of the murder from persons on the spot soon after it happened, and further one of them Blondelau says — "Qu'il a même parlé à ce sujet plusieurs fois" "au dit John Sieveright qui n'a pas nie qu'il "avait tué led^e. Lapointe." — the other, Rau, says — "Que led^e. John Sieveright a avoué au dit "deposant qu'il avoit tué led^e. Lapointe, et qu'il "avoit menti d'être tué." —

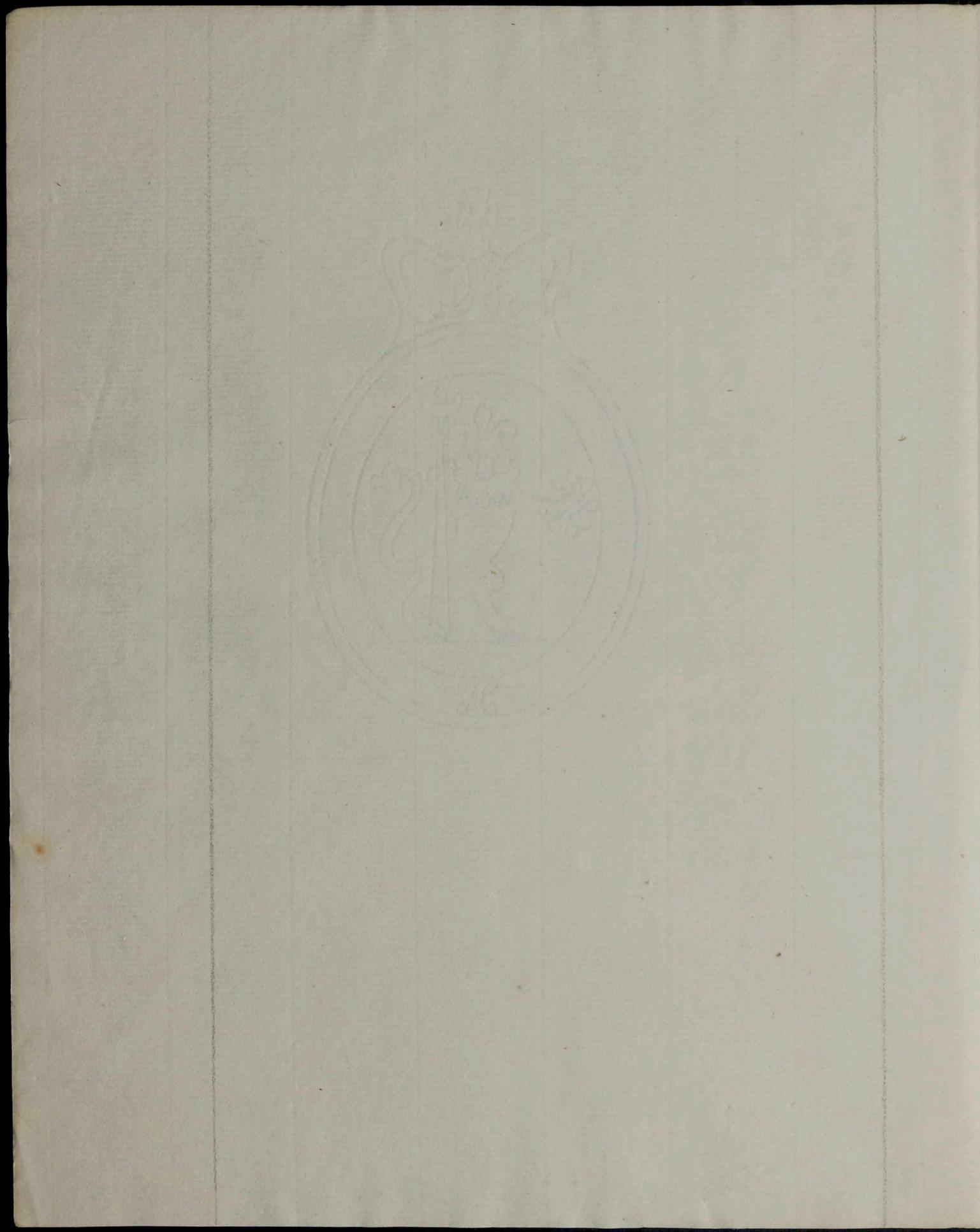
Objected that this Court has not jurisdiction over the offence under St. 43 Geo. 3. ch. 138. — as laws happen prior to the existence of the act — unless the words of that St. can be construed to extend as well

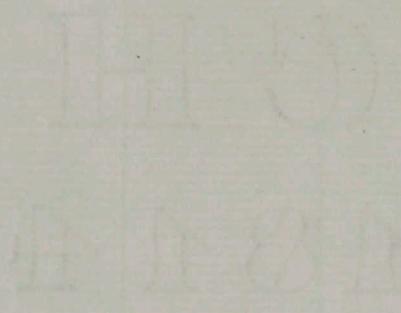
to

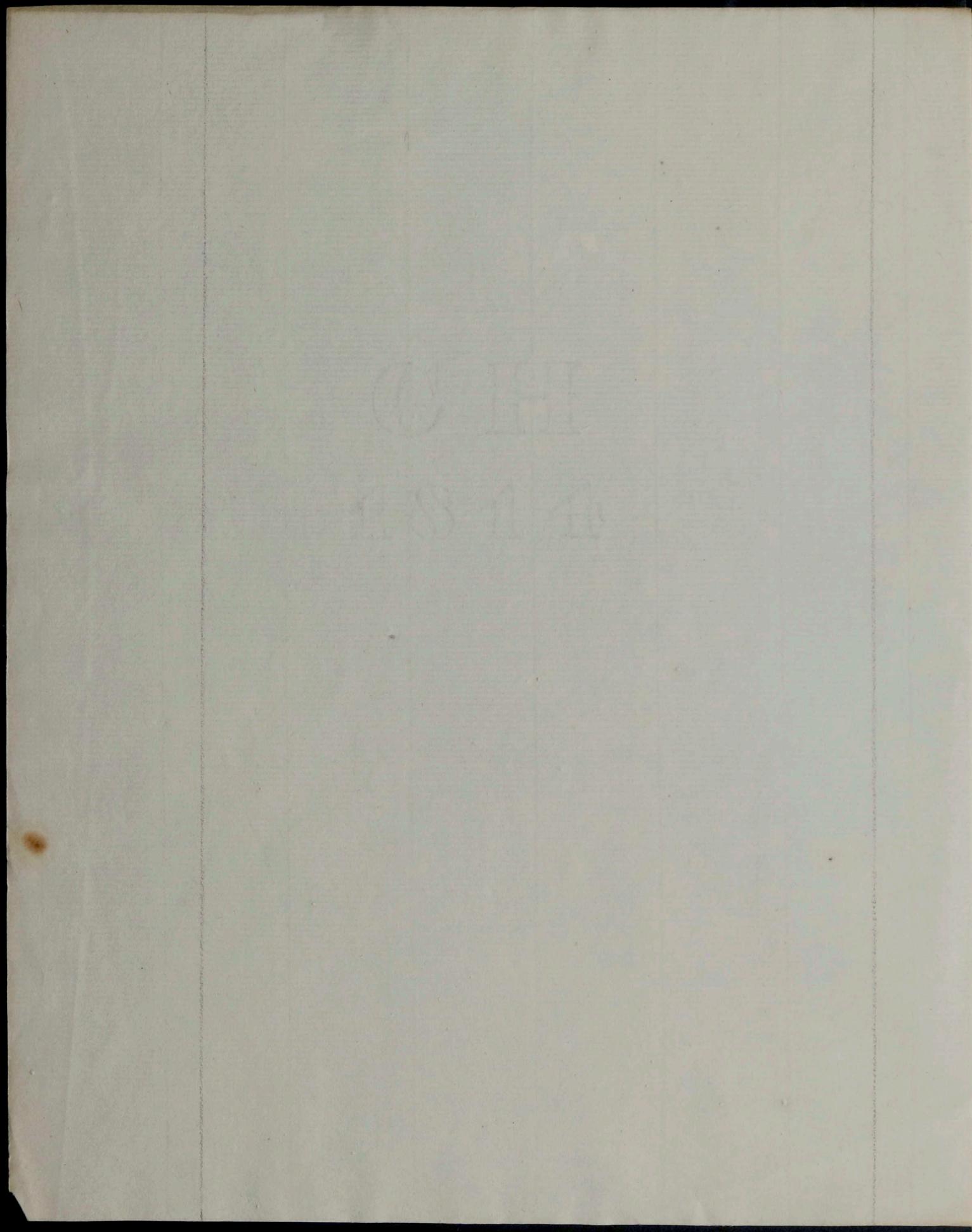
to offences committed before as after the passing
the act -

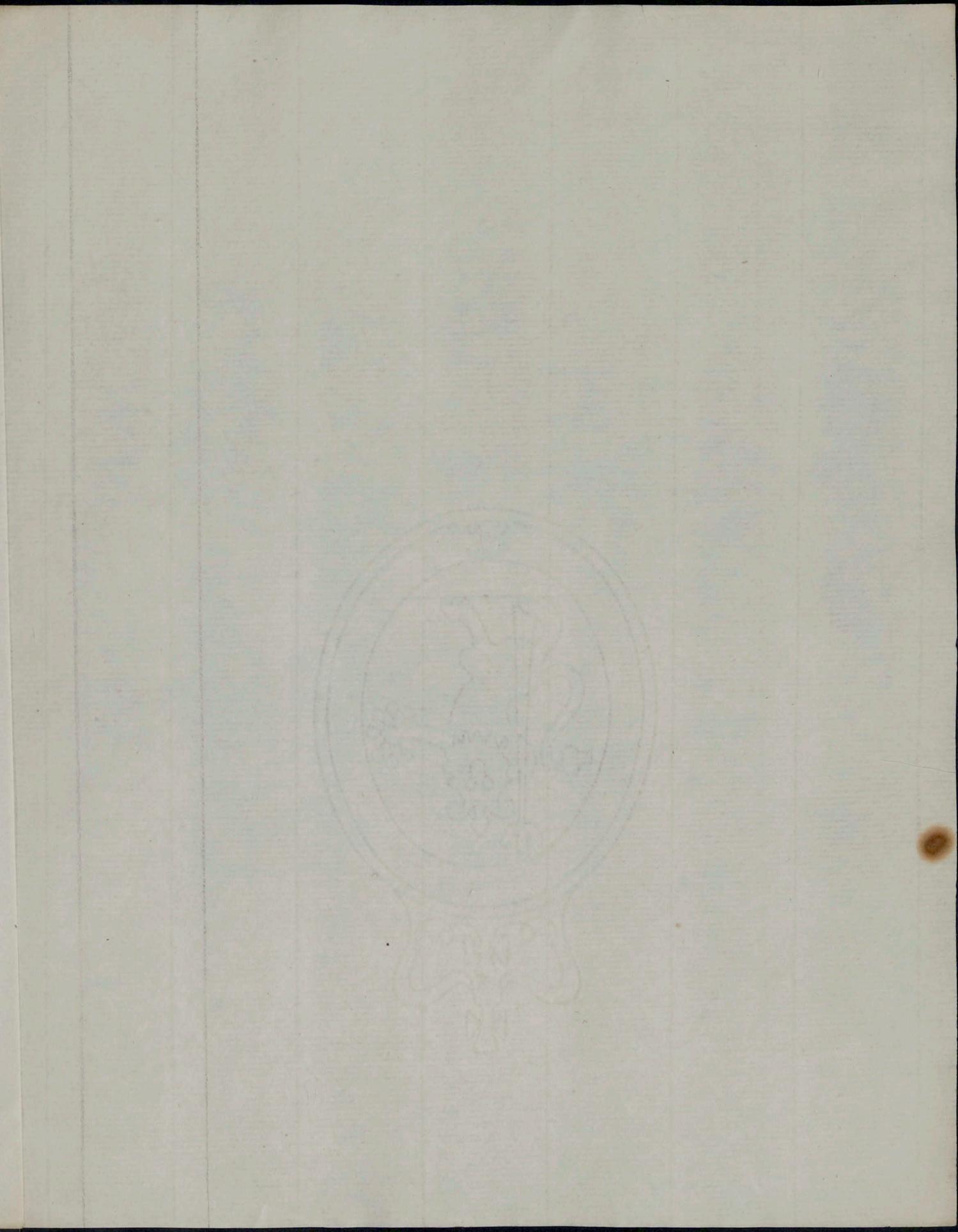
and on the other hand if this Court has
no Jurisdiction can they discharge the Dr or
admit him to Bail - see Platt's Case. 1 Leach.













The King - ?
F. D. Normandin }

Our motion for a new trial -

1st Point no proof that Defendant was sworn -

The identity of the Defendant is sufficiently ascertained in this respect to warrant the conviction -

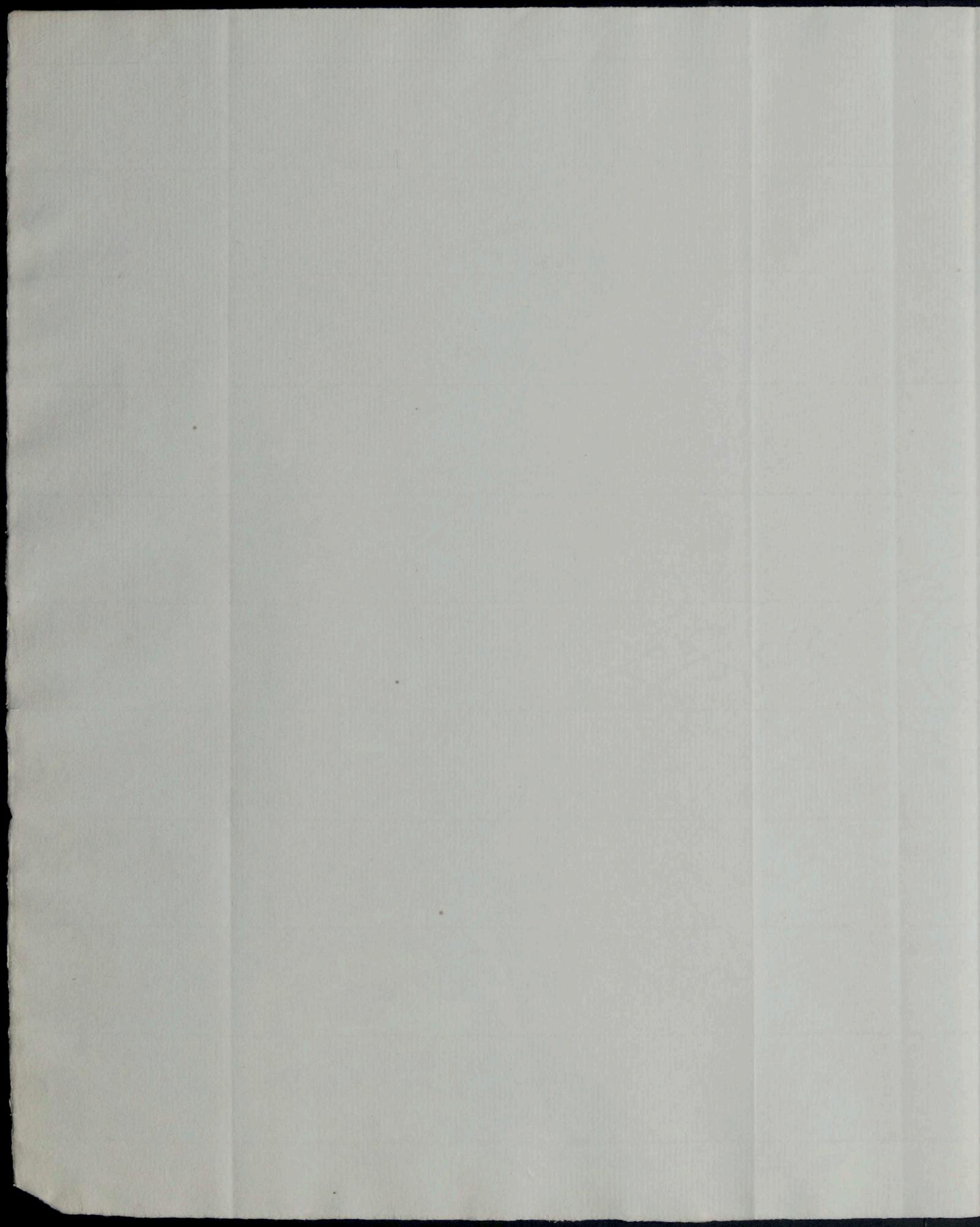
1. The record in the Cause exhibited by Defendant in the Court of C. B. in Feb 1828 - ~~proves~~ that at least wife - ~~proves~~ that the Plaintiff that Cain was sworn & examined on facts particulars & gave the answer in question -

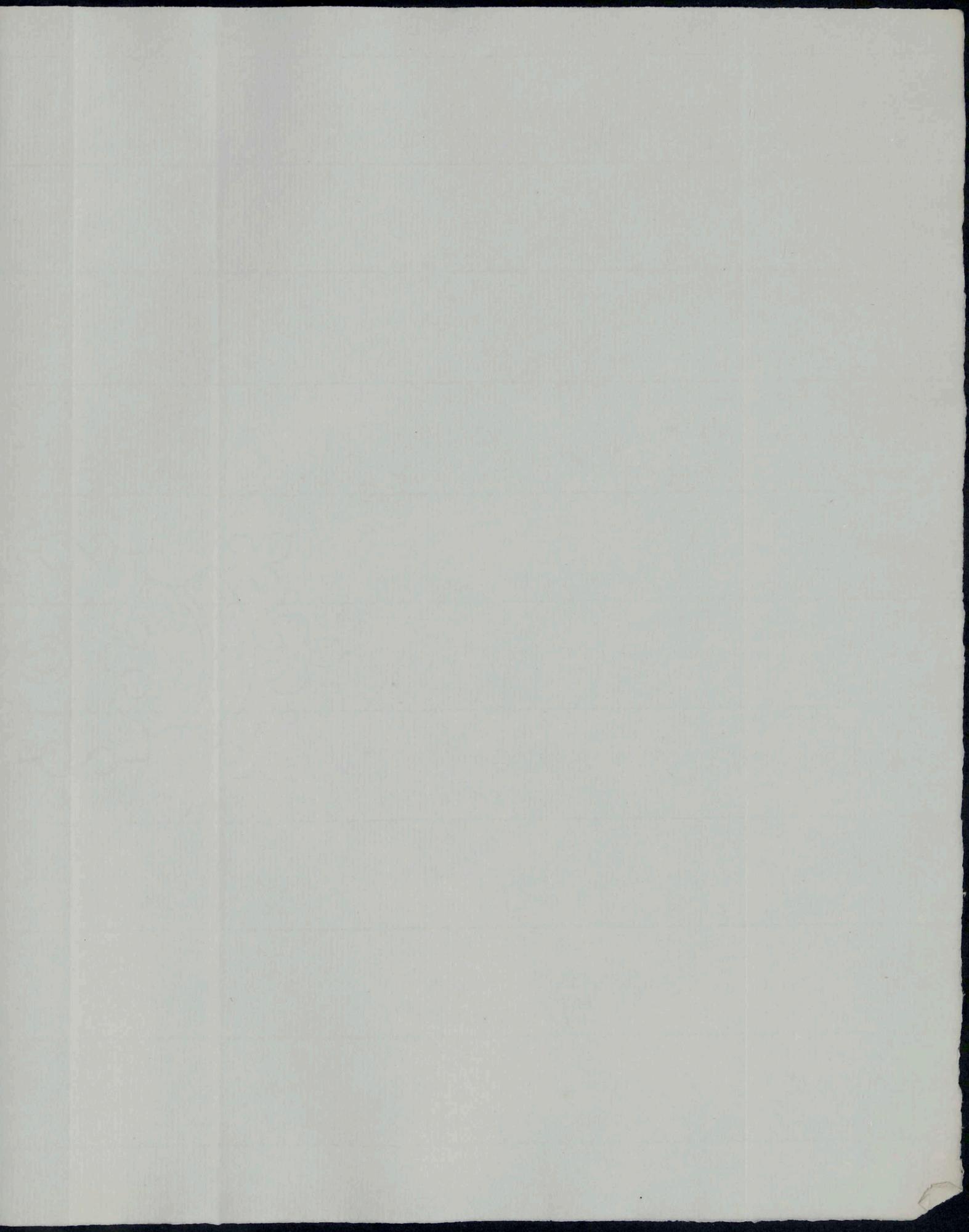
2 Louis fil Certifies that the Defendant in this cause was the Plaintiff that action - That he was examined on oath - & swore falsely -

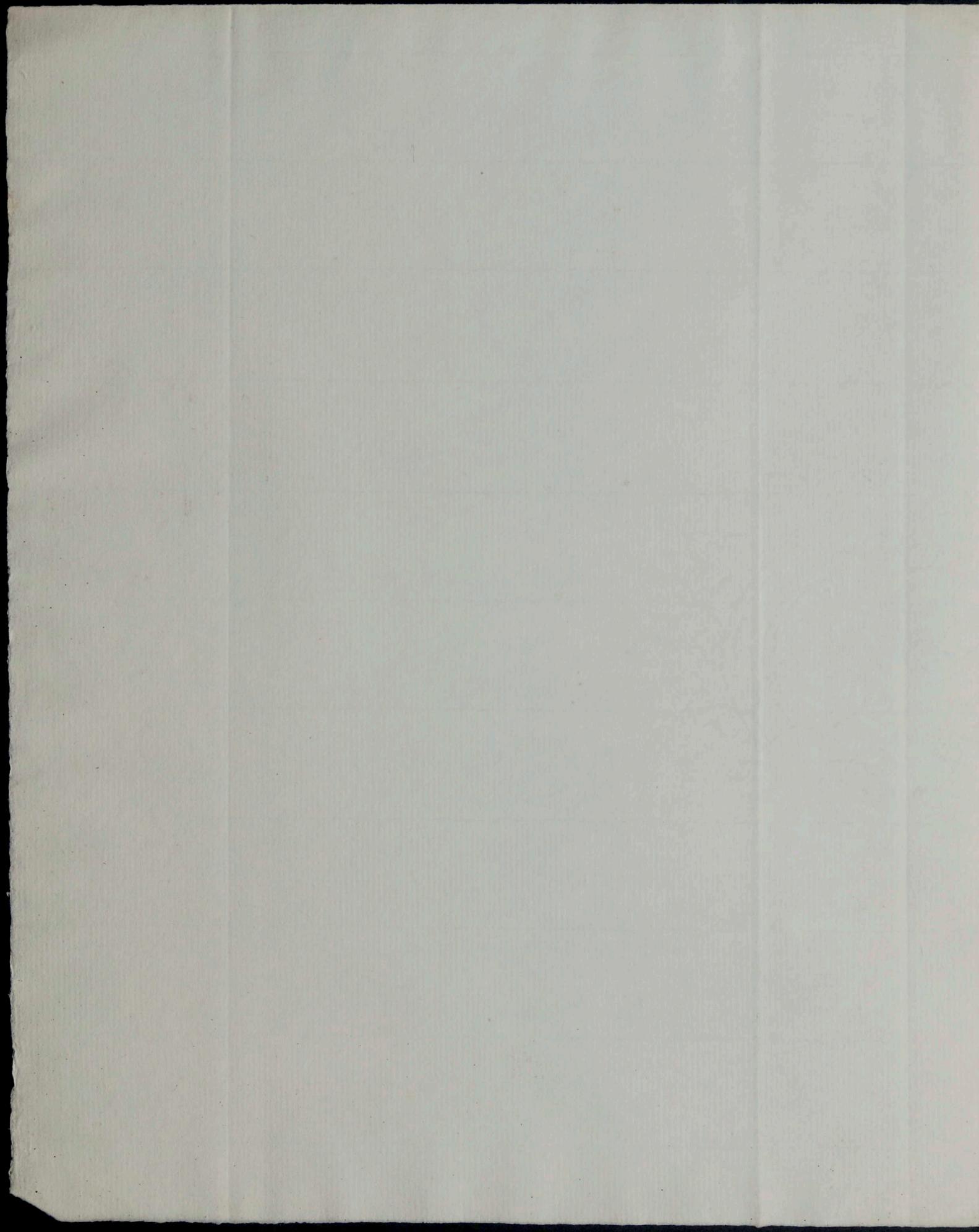
2 Russel 549 - contains all the authorities - & East 323
2 Bur. 1189 & others - can

2 The oaths not absolute -

2 Russel 518 -







The King

Fran^t. Bertheau

Sui Conviction, pour assaut avec intention
de commettre une meurtre —

L'offence dont vous avez été accusé - est, pour avoir
assauli la personne d'Antoinette Bouquin, avec intention
de commettre une meurtre - sur cette accusation vous
avez été aménié devant cette Cour, où votre ^{proces} a
été fait - vous êtes étranger dans le pais - cependant
la loi ne connoit aucune distinction, toute personne
qui vient sous sa protection, jouit des mêmes avantages,
et celui qui est accusé d'un crime, étranger ou non, ne
peut être condamné sans le verdict de 12 hom. désinteress.
Verdict - qui ne peut quere se rendre sans preuve
suffisante de l'accusation - vous avez eu cet avantage
12 hom. désinteress. ont examiné l'accusation contre vous
et la défense qui vous avez faite, et vous ont trouvé
"coupable" - toute personne qui a entendu le témoignage
rendu contre vous, doit être convaincue que ce verdict
est juste - L'Instrument du quel vous vous êtes
servi - et votre suite immédiate, démontrent que
trop clairement vos intentions - Vous n'avez pu
faire voir qu'un esprit de ressentiment contre cette
femme, parce qu'elle ~~avait changé de sentiment~~
ne pouvoit, ou ne voulait plus suivre ses engagements.

~~avec vous~~
~~à votre égard~~ — cela ne pourrait ~~excuse~~ servir
d'excuse pour le moindre assaut — et encore bien moins
pour avoir levé une main meurtrière sur cette
femme, et peu d'en est fallu, qu'elle n'ait été la
victime de votre temerité. — l'hazard seul l'a
conservée — et vous a sauvé la vie = Qu'elle
eut été votre situation, si vos intentions eussent
réussies, il n'y ~~avait~~ ^{avait} que cette fuite que vous
aviez méditée, qui ~~sous~~ ^{avoir fait vous} ~~aurait~~ sauvé de la potence.

D'avoir échappé d'un tel disgrâce et par un
hazard si inattendu, doit vous faire reflectir
sur votre conduite, et bien considérer, que l'homme
qui se livre à ses passions inordonnées, sera toujours
exposé aux conséquences les plus funestes — à la
ruine — à la disgrâce — & à l'infamie — un tel
homme n'est pas propre de vivre dans la Société — il
n'est lié par aucun principe d'honneur ni de religion
il doit être mis au rang des bêtes féroces, et ~~être~~
tout homme doit l'éviter comme tel —

Berteau — vous avez joui ci-devant d'un
bon

bon caractere, et sans doute, vous vous étes
comporté de maniere à le meriter - mais vous
devez bien penser, que par votre conduite actuelle
vous ne le meriterez plus
~~de tout~~
l'on ne pourroit plus vous regarder si favorablement
ni avoir la même confiance en vous - Il est
par consequent de votre intret et de votre devoir,
de vous comporter à l'avenir avec beaucoup de
circumspection et modération, de maniere & de ne
plus vous livrer a ces passions furieuses, qui ne
L qui fut au fond, tendent qu'à votre destruction - Tachez de rentrez
arriverai si vous dans l'estime de vos concitoyens - il n'y a
ne cherchez pas ^{un honnête} rien de plus satisfactoire à l'homme, après
de ~~vous~~ les
reproches
et l'approbation de son Dieu, que de meriter l'estime
et l'approbation de ses Compatriotes -

Comme votre offense a été grave, la Cour est
oblige' de seviri contre vous, sans lenquence et
sa sentence est non seulement pour vous punir
pour une offense qui doit être gardé en horreur,
mais aussi de servir d'exemple à tout autre qui pourrait
se rendre coupable de tel crime -

The King } Conviction for Burglary -
Geo: Cross }

You have been convicted of the crime of burglary
on the clearest evidence and by your own confession,
in breaking and entering the house of Thos. Bamborough
the Dr. Master of the Y6th. Regt and stealing therein
a large sum of money -

What is to be remarked particularly in your
case, is, that from the confidence put in you by the
Dr. Master, ^{as his servant} you became acquainted with the circumstance
of his being possessed of money, ^{& in what manner he kept it} and knowing he was
about to absent himself from home you determined to
avail yourself of that opportunity and of the knowledge
you had acquired of his money, to commit the offence
of which you now stand charged -

You had formerly enjoyed a good character, but
it is difficult to ~~conceive~~ believe that you could in every respect
have merited this, for we can scarcely conceive that you
should have at once plunged into so great a crime as
~~that of which you now stand~~ ^{to follow} the ~~present~~ ^{now} convicted, without having made
previous progress in vice. — your ~~habit~~ must have
become

been dissipated - ~~you must~~ have associated with
men of dissolute character, and ^{been} led into habits of
vice and extravagance, before ~~taking~~ committing so daring
an offence - and ~~indeed it~~ appears that others were
concerned with you in this robbery - You must
now be sensible, when too late, to what disgrace and
infamy such conduct leads, ~~had~~ you and to ^{think} ~~sink~~
with sorrow and regret, that a moment's reflection
might have saved ^{you} from all that disgrace & infamy -
When once a man forsakes the paths of rectitude
and virtue, he generally progresses from one degree
of crime unto another until the hand of the law
overtakes him, and stops his career ^{by} infamy
punishment - Had you acted up to that good
name which you seem to have acquired in your
regiment, you might still have been ^a member of it
~~but~~ enjoyed the esteem of your fellow Soldiers &
the confidence of your Superiors - instead of
this, you now stand the victim of your

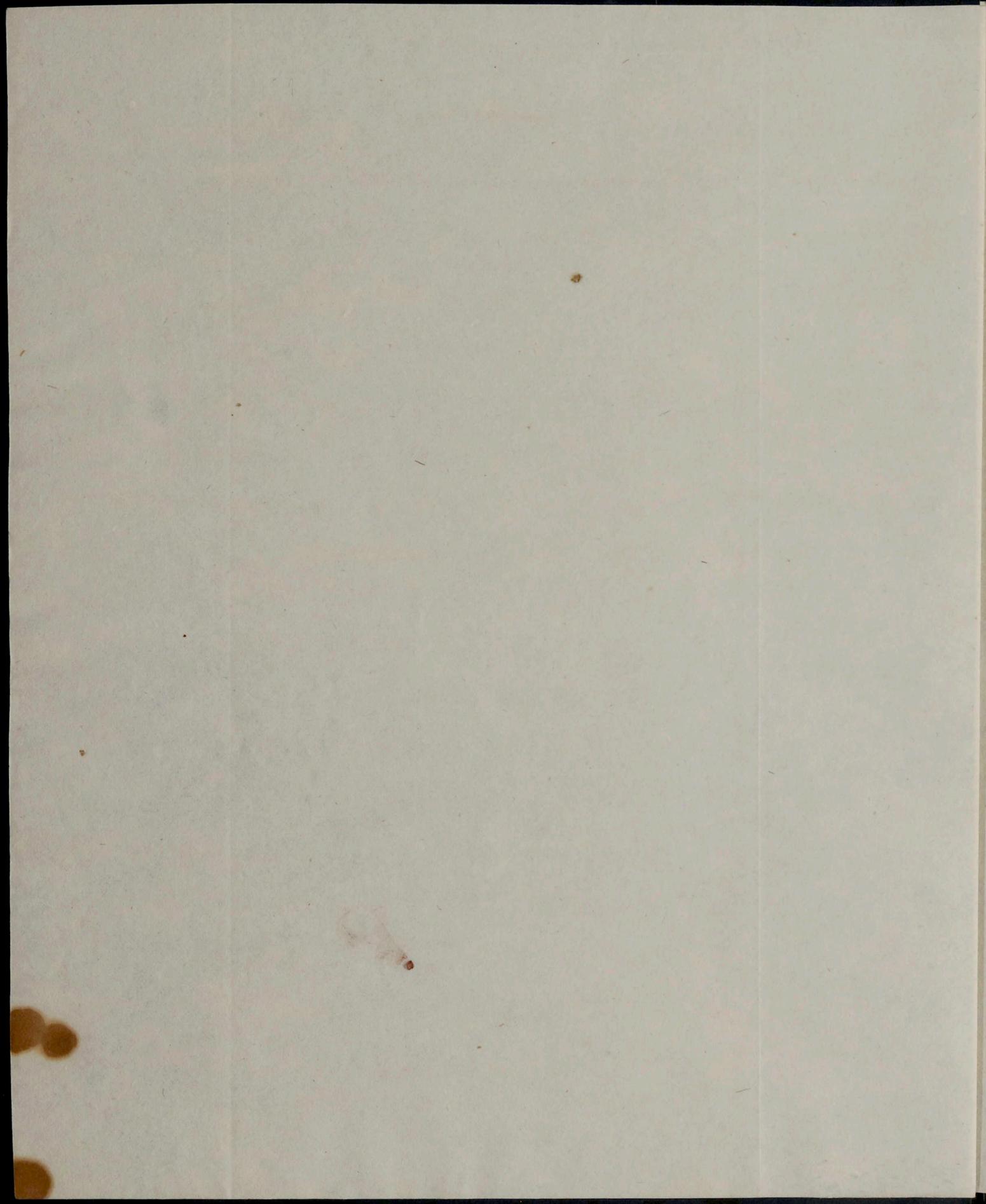
own

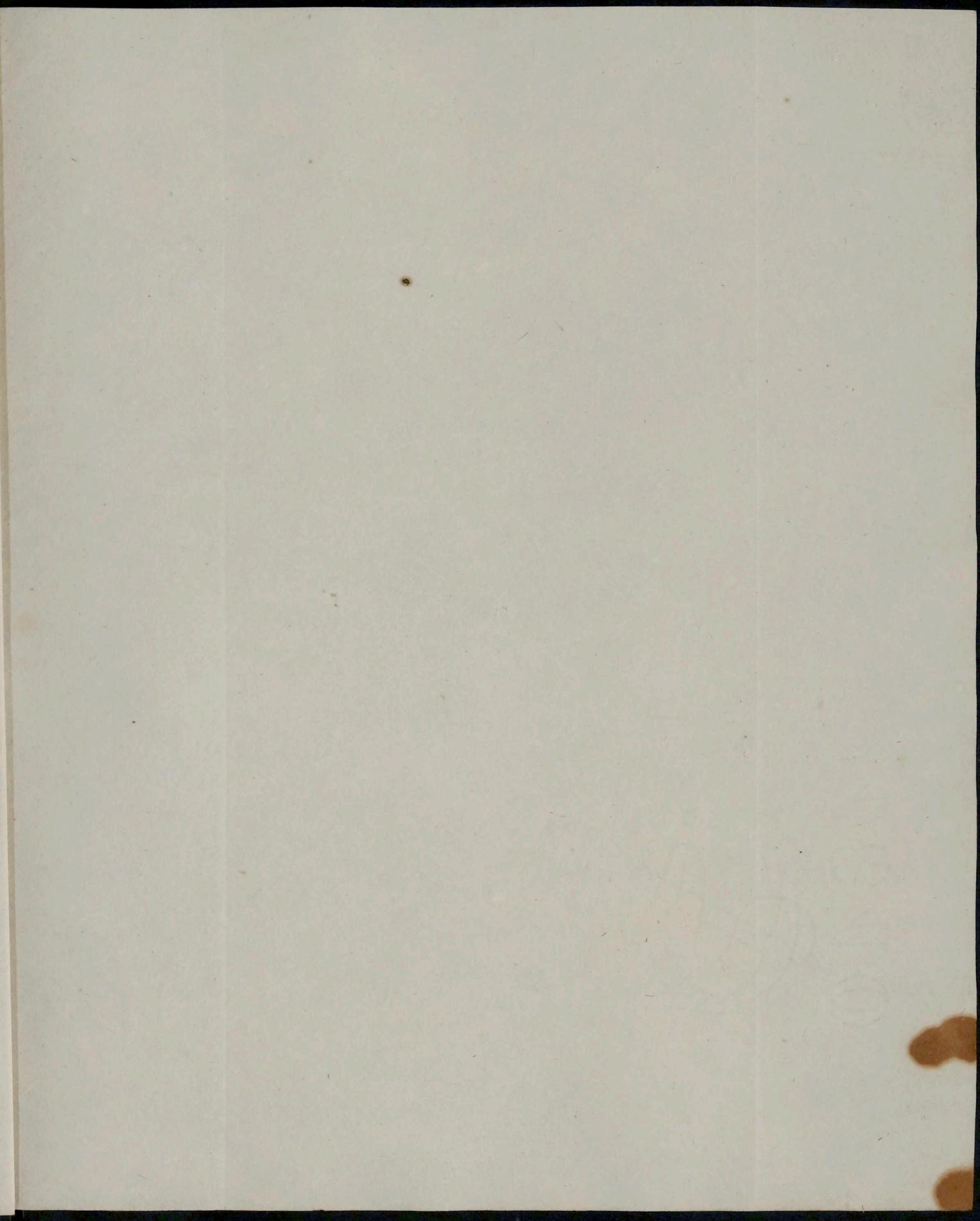
own folly, dissipation and extravagance - You
can no longer look an honest man in the face, but
let one cast off from Society turn to you

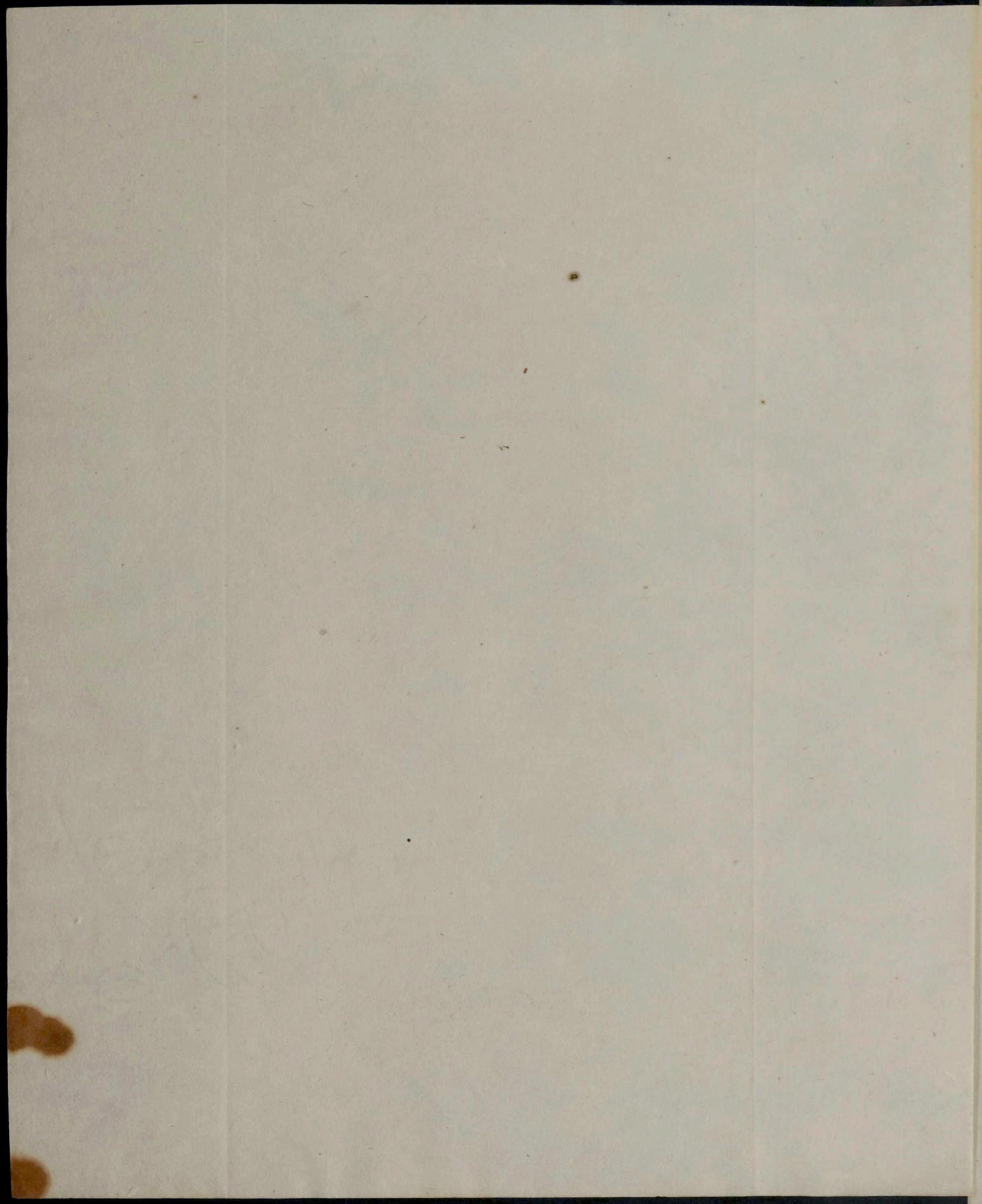
Your offence deprives you of the hope of ever being again
~~able to~~ entered into Society, ~~you must now~~ be cut off
as an unworthy member of it, that by your example
others may learn to avoid a similar conduct - The
Judg^t of the Law for your crime is death - It is true
the Jury have recom^d you to mercy, ~~this mercy lies not~~
~~in the power of the Court, but this recommendation will~~
be forw^d to the King's Rep^r - but mercy lies not in the
power of the Court, nor can they give you reason to hope
that mercy will be extended to you - Your offence
is of an aggravated nature, and becomes too frequent
not to call for punishment - Let me therefore advise
you to prepare for that event, consider well your
past conduct, by strict examination into your past
conduct, a sincere repentance for the offences wh^{ch} you
have committed & especially that of q^t you now
stand convicted - Make your prayers and
applications

supplication to the almighty for his forgiveness, well
assured, that the ~~penitent~~ ~~sinner~~,altho' the doors of
mercy may be shut against him ^{you} in this world
yet the ~~penitent~~ sinner can never be without
hope in the next - Call in the assistance of some
clergyman, and prepare yourself by all means in
your power to meet the fate w^t now awaits
you - I have now only to pronounce the
awful sentence of the law, which is -

~~Happiness - will assured -~~







1 Chilly. 502 By Stat. 13. Ed. 1st ch. 38. & 21 Edw. 1st — None are to be put on Juries, except in Cities, Boroughs, or trading Towns, who are not possessed of Tenements to the annual value of £50/-

By Stat. 2 Henr. 5. c. 3. No person can serve as a Juror in Capital cases, unless he has lands & Tenements to the clear yearly value of £50/- which by the 27 Eliz. c. 2. is extended to £4/-.

23 Henr. 8. c. 3. enables every Inhabitant of Towns, Cities & Boroughs, who is possessed of personal property to the value of £40/- to serve on Juries within the district where he resides over

4 & 5 Wm & M. c. 24. s. 15 - enacts that each Juror returned for trials of Issues in the Court of Kings Bench or before Justices of Assize, or Vice Admir. Oyer & Terminer, Gaol Delvery, or General & Sessions of the Peace in any County, shall have in the same County, in his own name, £10 £ per an. in England or £6 - in Wales, of Free or Copy hold Lands over - but this act does not extend to Cities, Boroughs & Towns -

3 Geo. 2. c. 25. s. 19 - Provides, that Jurors must be householders within the City of London and have real or personal property to the amount of £100 or

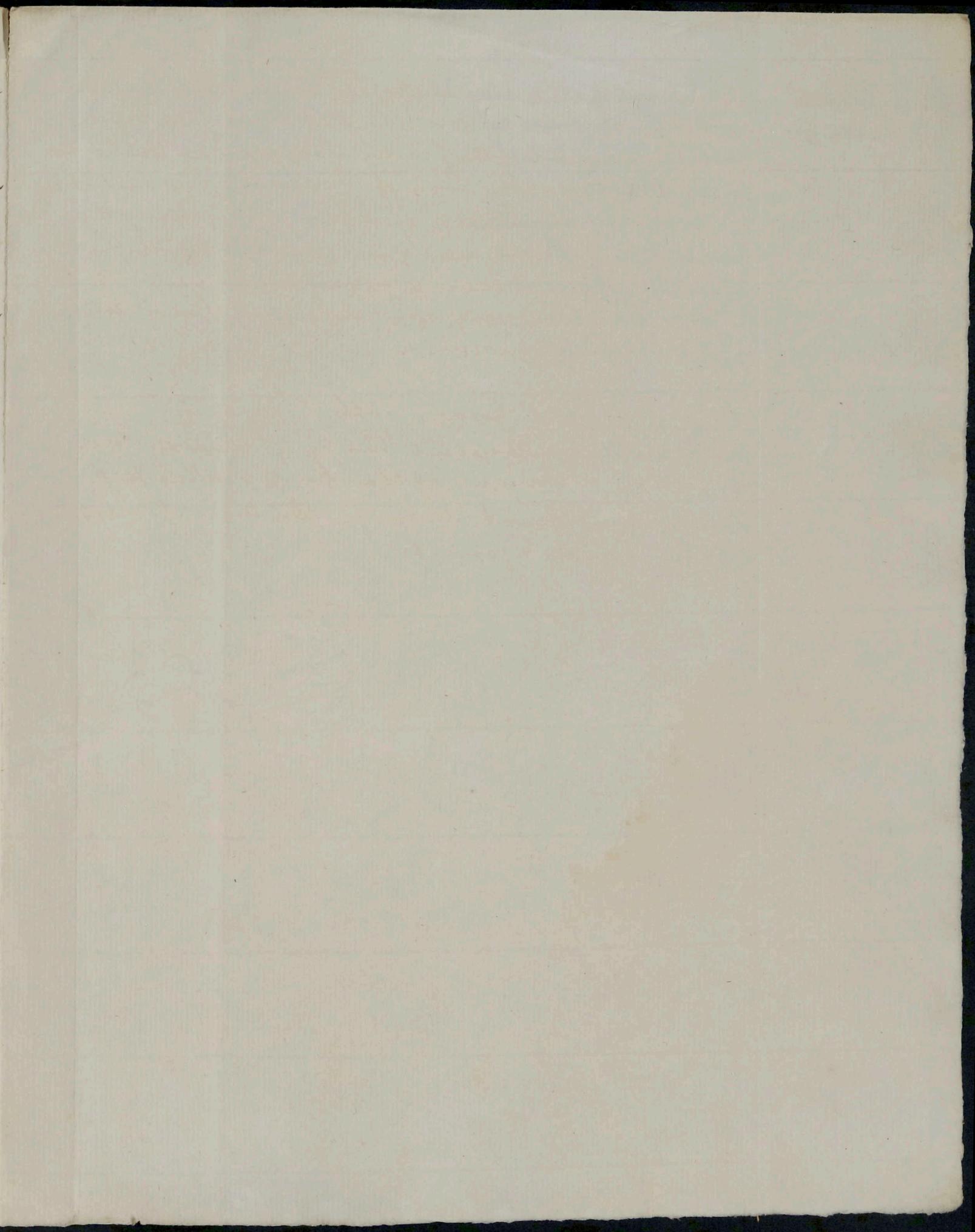
Hurst. P.C. B.2.
Ch. 43. ou. 12

At Common Law there was no necessity that Jurors should have any free hold as to Inquests before Justices in Eyre, or in cities or Boroughs -

Rex v Edmondsdale 4 Bar & Ald. 475 It has not hitherto been ascertained at what time the practice of appointing Jps. Juries for Trials at Nisi Prius first began - It probably arose out of the practice of appointing Juries for trials at the Bar of the Courts of Westminster, & was introduced for the better administration of Justice & for securing the nomination of Jurors duly qualified in all respects for their important office - It certainly prevailed long before the Stat: 3. Geo. 2. c. 25. & was recognized & declared by that Statute, which refers to the former practice.

Dalt. 5

Sheriff is Keeper or Governor of the County - Part of his duty - to execute the Kings writs or Proces, or the precepts or warrant of the Kings Justices &c To return indifferent Juries for the trial of mens lives, liberties, lands & goods &c



15
14
13
12
11
10
9
8
7
6
5
4
3
2
1

Dominus Rex
v.
Sherebiah Leach

Indictment for High Treason.

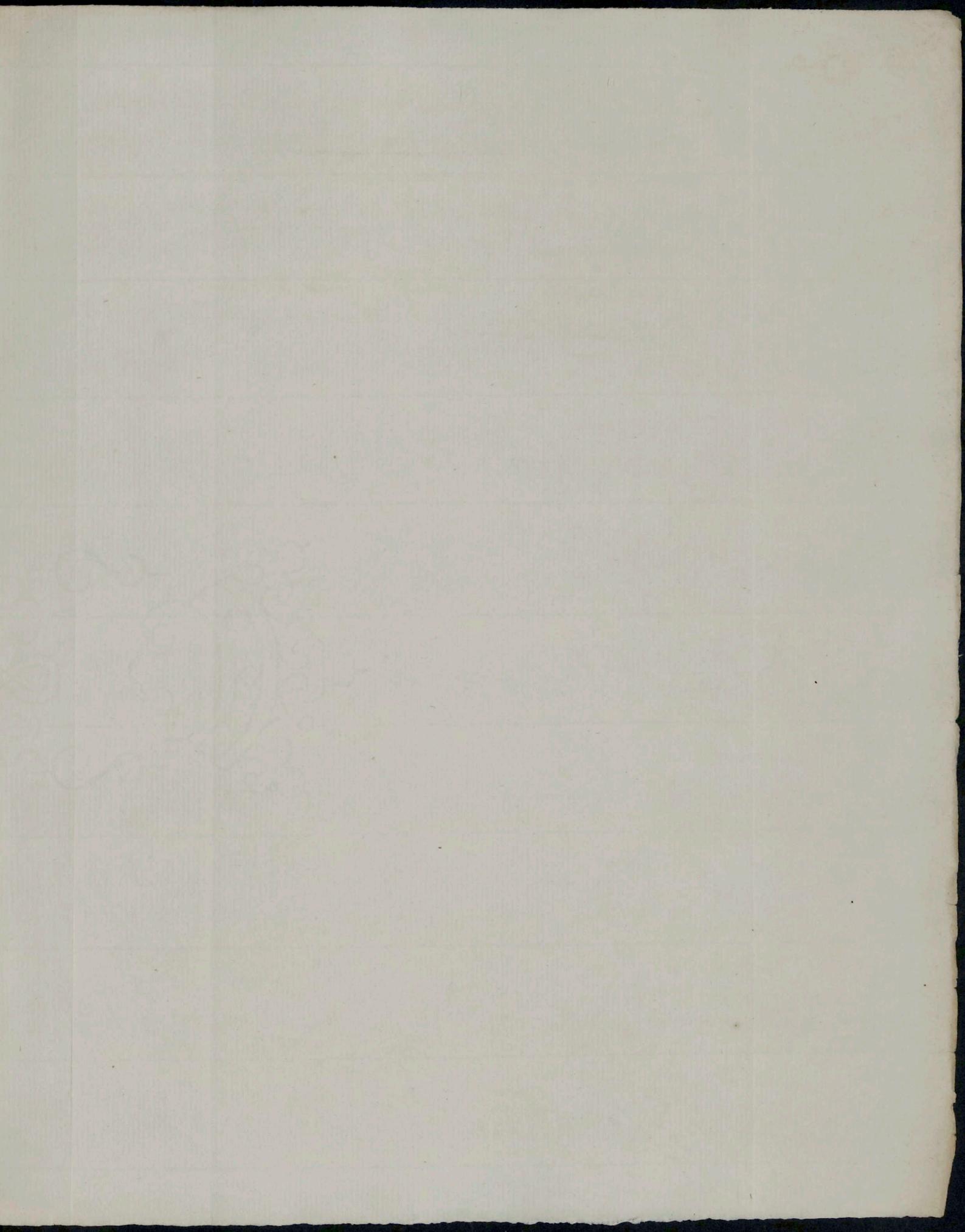
829 Wm 3
Ch. 26.

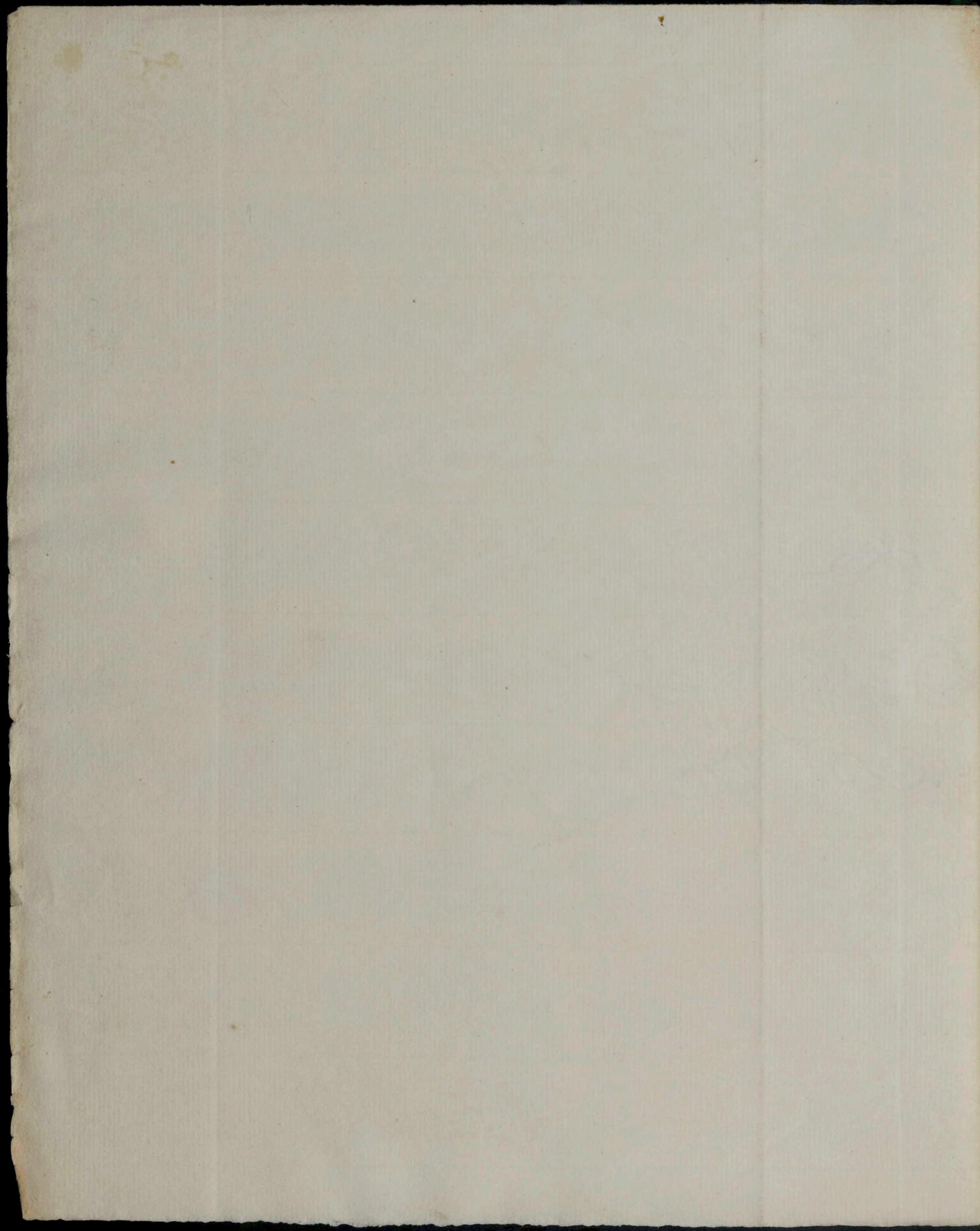
22 April 1825

- 1st Count. For having in his possession, on 22nd April 1825, at the Township of Sutton, in the County of Bedford, 5 dies made of Steel, upon which were made and impressed, the figure, resemblance and similitude of the sides of a Spanish dollar, the current Coin of the Province (each of which dies would make and impress the figure or of one of the sides of such sp. milled dollar) without any lawful authority &c -
- 2 Count. For having in his possession 5 dies, each of which would make and impress the figure or of one of the sides of a sp. milled dollar. +
3. Count. That he did knowingly & hide and conceal in the stump of a tree on his land in the said Township of Sutton, 5 dies made of Steel upon which were made & impressed the figure or of one of the sides of a sp. milled dollar
- 4 Count. That he knowingly hid & concealed (as in the 3rd Count) 5 dies, each of which, would make and impress the figure or of a Spanish milled dollar. +
5. Count. For having in his custody & possession one press for Coinage, vizt. for making false & counterfeit Coins bearing the resemblance of the current Coins of the Province. -
- 6th Count. For having in his Custody a press for Coinage, without any lawful authority &c

7th Count - For having in his house at Sutton
aforesaid, a press for coinage, to wit, for
making false & counterfeit coins, bearing the
resemblance ~~or~~ of the Current coins of this
Province. —

8th Count - For having in his house ~~or~~ a
press for Coinage - without any lawful authority
~~or~~ —





Dom^o Rex
John Bowes

On Indictment for breaking into a
house in the day time, some person being
therein, and stealing in the same. —

The Indictment consisted of four Counts —

1st Count. For feloniously breaking and entering
in the day time the dwelling House of our Lord the King
commonly called the Court House, divers of the Servants
of our said Lord the King in the same house then being, and
feloniously stealing ~~the~~.

2^d Count. For feloniously breaking and entering in the
day time the dwelling house of the Prothonotary of the Court
of Kings Bench, commonly called the Court House, divers
of the Servants of the said Prothonotaries in the same house
then being, and feloniously stealing ~~the~~.

3rd Count. Stealing from the dwelling house of our
Lord the King, commonly called the Court House. — ~~the~~

4th Count. — Stealing from the dwelling house of the
Prothonotary of the Court of Kings Bench, commonly
called the Court House. — ~~the~~

2 Russel. 966. By Stat. 5 & 6 Edw. 6. c. 9. If any person or persons be
found guilty for robbing of any person or persons, in any
part or parcel of their dwelling houses or dwelling places;
the owner or dweller in the same house, or his wife, his
children, or servants being then within the same house
or place, where the same robbery and felony shall be
committed, or in any other place within the precinct of
the same house or dwelling place; such offenders shall
in nowise be admitted to their clergy, whether the owner

or dweller in the same house, his wife or children
then and there being, shall be wakening or sleeping

2. East 629.—

By St. 3 & 4. Wm & M. ch. 9. s. 1. All and every
person and persons who shall rob any other person,
or shall feloniously take away any goods or
chattels being in any dwelling house, the owner
or any other person being therein and put in fear;
or shall rob any dwelling house in the day-time
any person being therein; or shall break any
dwelling house ~~but~~ no person being therein.—

2 East. 636.—

Robbery here implies a breaking — and breaking
is necessary, for robbing implies violence.—

2 Russel. 970

= The breaking must be such as if done in the
night would constitate Burglary.—

" — " —

= The offence here must be committed in the
day time — Trepshaw's Case. 1 Leach. 427.—

= So. 2 East. 640 — ob. on St. 5 & 6. Edw. 6. ch. 9. —

=

—

By Prov. Stat. 39. Geo. 3. ch. 10. s. 3. —

Commissioners to purchase lots of ground
for building the Court-Houses —

" Which ground so to be purchased shall be
conveyed to the Prothonotary of the Court of Kings
Bench for the time being of and for the District in
which the lot of ground so to be purchased shall
be situated and to his successors for ever: And
the Prothonotaries of the Court of Kings Bench
for

for the districts of Quebec and Montreal respectively
and their respective successors for the time being
for ever, are hereby made and declared to be a Corporation
for the special purpose of being respectively capable
to take and hold in perpetual succession for the
uses and purposes of this act, the said respective
lots of ground and Court & Courses and proper offices
as aforesaid, which shall be thereon erected.

As to the person who may be deemed the owner -

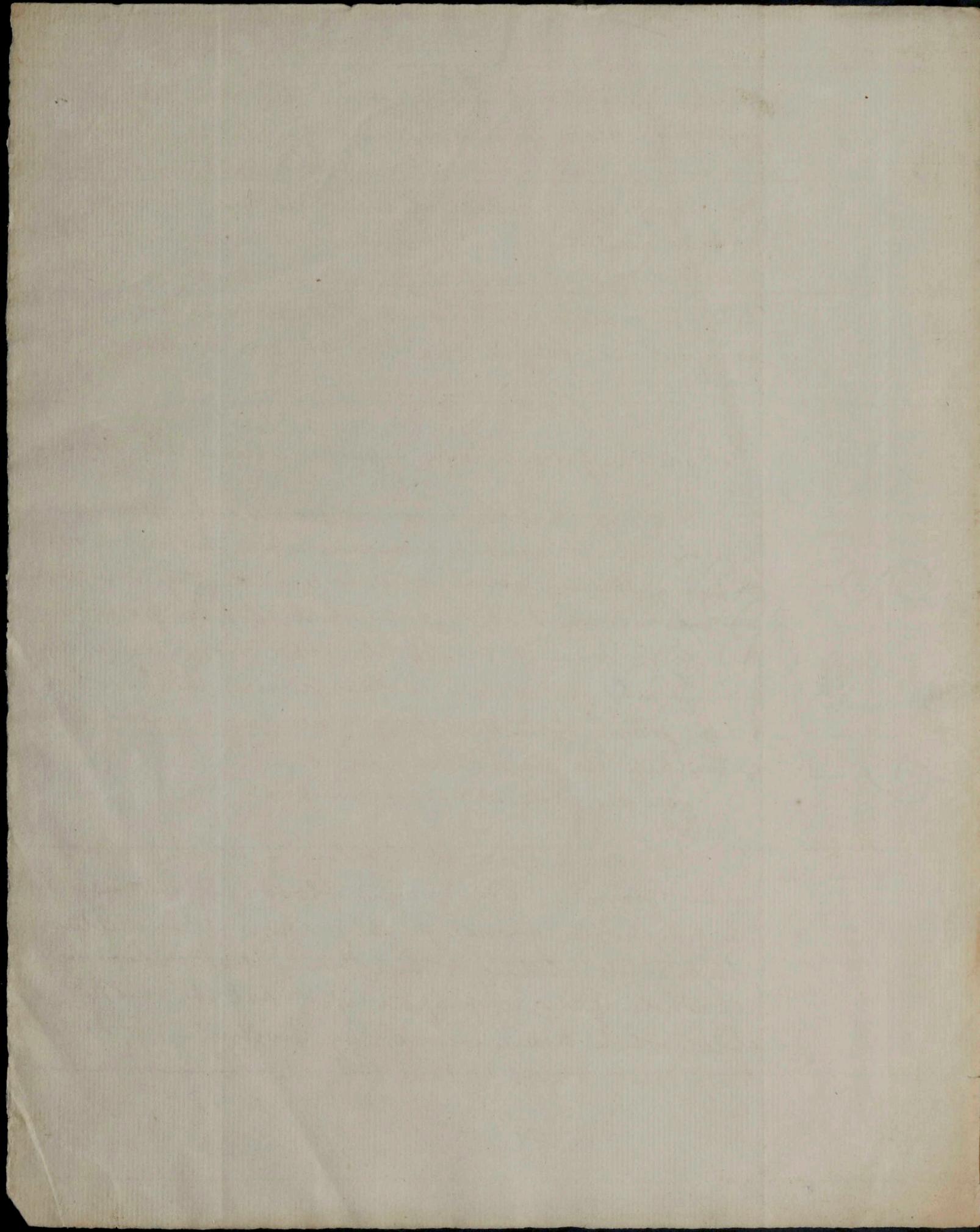
2 Russel. 927. It seems that the material point to be decided is,
whether the ownership remains with the proper owner
of the dwelling house, and is exercised by him, either
by his own occupation, or by that of other persons on
his account — or whether the proper owner has
given such an interest to other persons, in the whole,
or in parts of the dwelling house, as to constitute an
ownership in such other persons. —

see also. 2 East. 499. 500. — general rule —

Peyton's Case

1 Leach. 324

Invalid office at Chelsea — which was an office
under Govt. — The ground floor of it was used by
the paymaster general for the purposes of conducting
the business relating to the office — Mr. Bunbury occupied
the whole of the upper part of it, but the rent & taxes
of the whole house were paid by Govt. — Held that
the property must be laid to be the House of the King.



Domⁿ Rep
John Bowes

On Indictment for breaking into a house
in the daytime, some person being therein
and stealing in the same.

40 yds White Cotton £2. -

2 yds white Linen - .10

2 Silk Handkerchiefs. - .4

1 p. silk 2 silk 8s - .5

1 Sheet - .4

1 Shift - .2

1 Black Coat - .1

1 waist coat - .15

1 P. Trouser - .1

1 p. Gloves - .1

1 Muslin - .1

2 Silk Umbrellas - .10

2 Cotton dr - .5

1st Count - For feloniously breaking and entering
in the daytime, the dwelling house of our Lord
the King, commonly called the Court House,
divers of the servants of our said Lord the King
in the same house then being, and feloniously
stealing &c &c

£6.17. 2^d Count - For feloniously breaking and entering
in the daytime, the dwelling house of the Prothono-
ries of the Court of Kings Bench, commonly called
the Court House, divers of the servants of the said
Prothono-ries in the same house then being,
and feloniously stealing &c &c

3^d Count - Stealing from the dwelling house
of our Lord the King, commonly called the
Court House. -

4^d Count - Stealing from the dwelling house
of the Prothono-ries of the Court of Kings Bench
commonly called the Court House. -

2. East. 629.

St. 3 & 4. Wm & M. ch. 9. s. 1. enacts, that all & every
person or persons who shall rob any other person; or shall
feloniously take away any goods or chattels being in any
dwelling house, the owner or any other person being therein
and put in fear: or shall rob any dwelling house in
the day time, any person being therein - or shall break
any dwelling house &c no person being therein -

2 East. 636 — Robbing here implies a breaking
" and a breaking is necessary, for robbing implies
violence.

It does not require — steal the owner, or dweller in the house
his wife, children or Servants, should be in
the house at the time of the robbery — for it is
general — as to any person. —

" — 640 Sed quod — If it appear that the felony were
committed in the night, so as to make it Burglary.
=

—

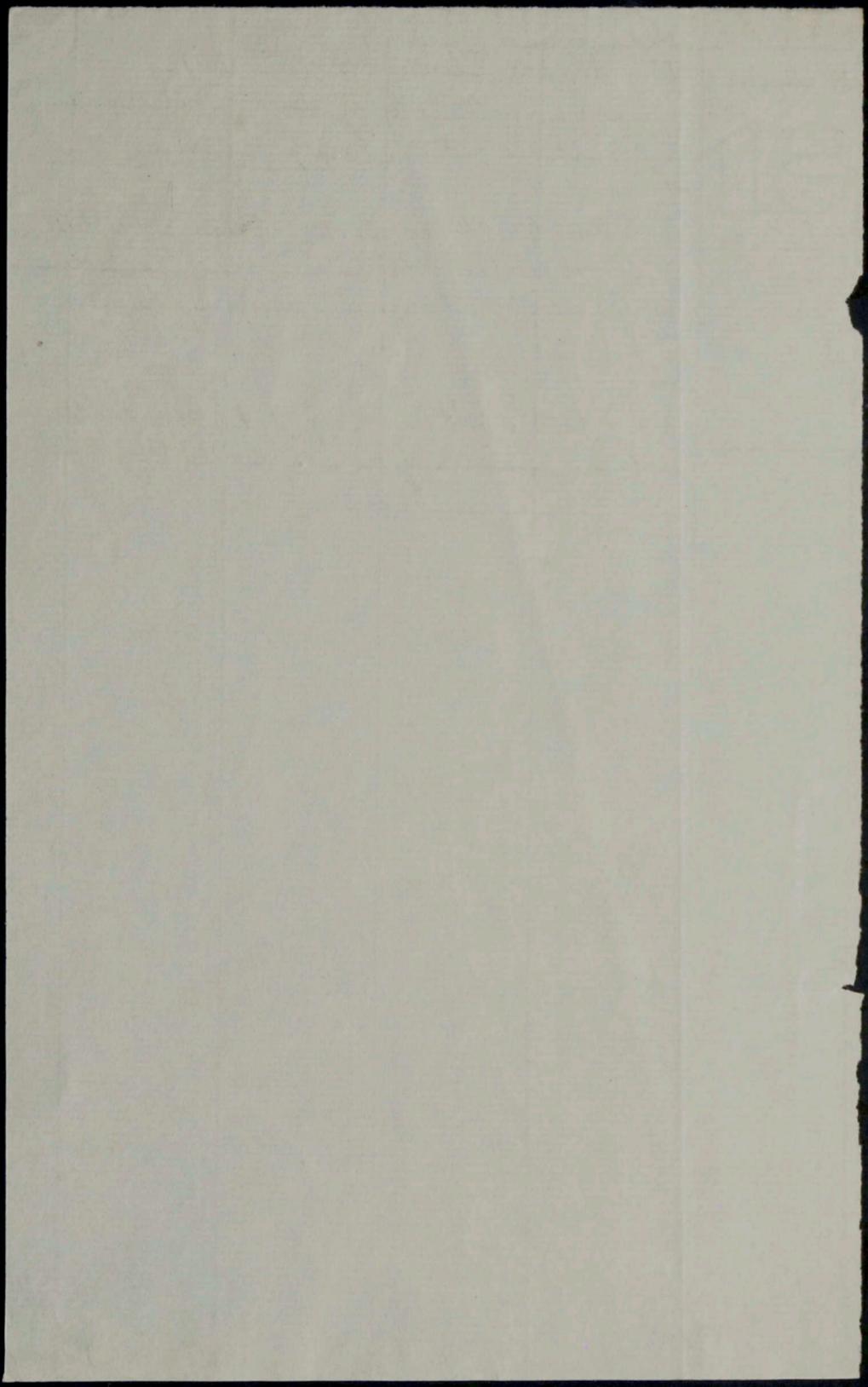
Peyton's Case The invalid office at Chelsea — which is an Office
, Leach A.C. 324, under Government. The ground floor of it was used
by the Pay master General for the purpose of conducting
the business relating to the office — Mr Bunbury
occupied the whole of the upper part of it, but
the rent and taxes of the whole House were paid
by Government — Held that the property must
be laid to be the House of the King —

See also 2 East. 500. 501. —

By Prov. St. 39 Geo. 3. ch. 10. s. 3.

And the Proth^r of the Court of R.C.B. for the Districts
of Quebec and Montreal respectively, and their respective
successors for the time being for ever, are hereby made and
declared to be a Corporation for the special purpose of being
respectively capable to take and hold in perpetuity succession
for the uses and purposes of this act, the said respective
lots

- 3 Chlly. 941 By St. 39. Eliz. chs. 15. S. 1 -
988. steals to amount of 5l. s^r. in dwelling house
by breaking & entering - no person being therein
—
- 1 Henr. 348. 1 Edw^r 6, chs. 12. S. 10, breaking & entering
a house in the day time - but fear & dread
on persons in house - a necessary ingredient
2 East. 625.
—
- 2 East. 625. 3 & 4. Wm & M - ch. 9. S. 1. Or shall
rob any dwelling house in the day time
any person being therein -



2 Rule 970.

The "breaking" must be an actual breaking, such as if done in the night, would constitute Burglary.

2 Rule 966.

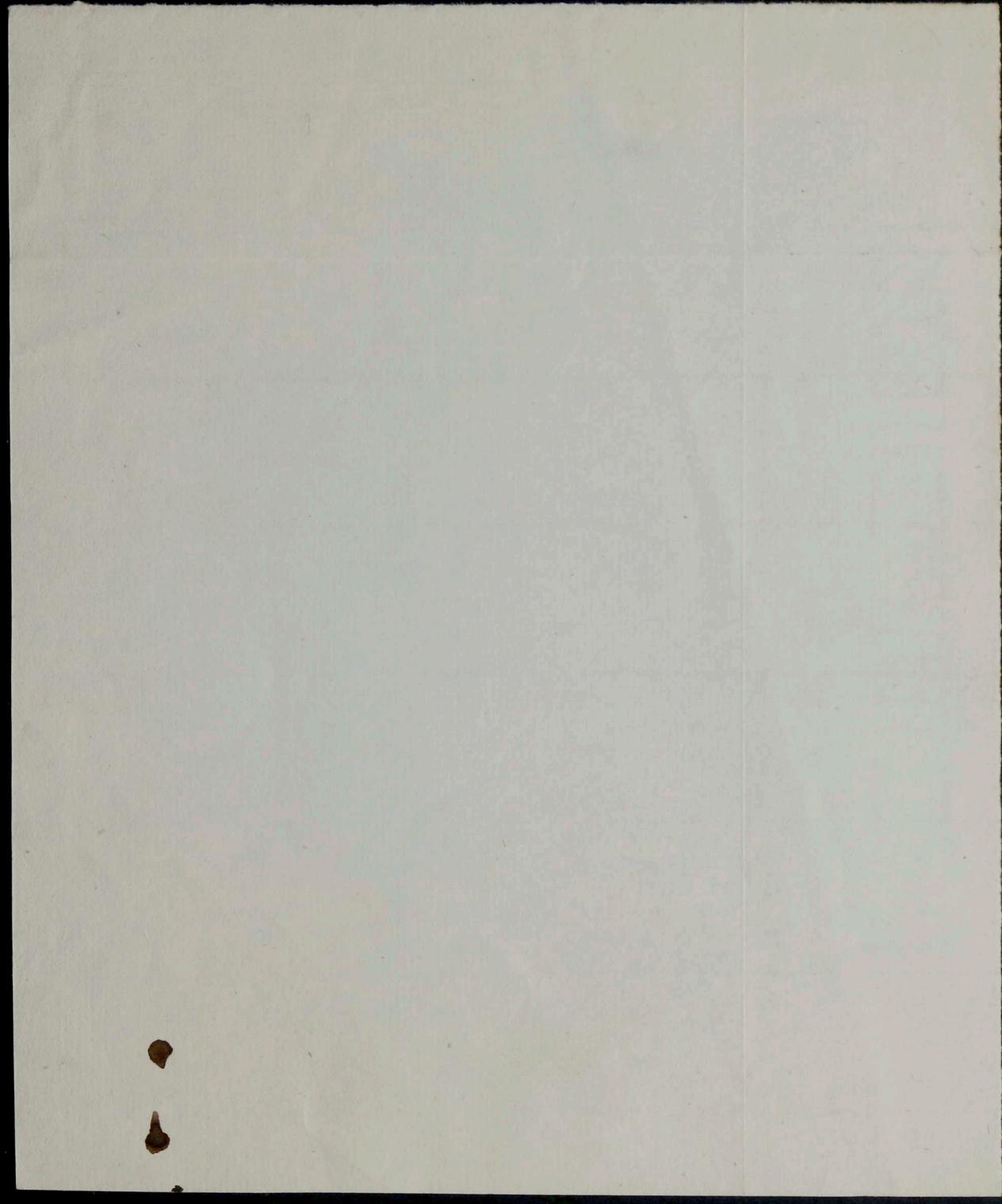
St. 5 & 6. Edw². 6. ch. 9. - where owner, his wife, children or servants are in the house - notwithstanding day or night time, or as to putting in fear.

= St. 3 & 4 Wm & Ch. ch. 9. s. 1. - goes further, as it applies to cases where, any person, is in the house
= does not require that they should be put in fear

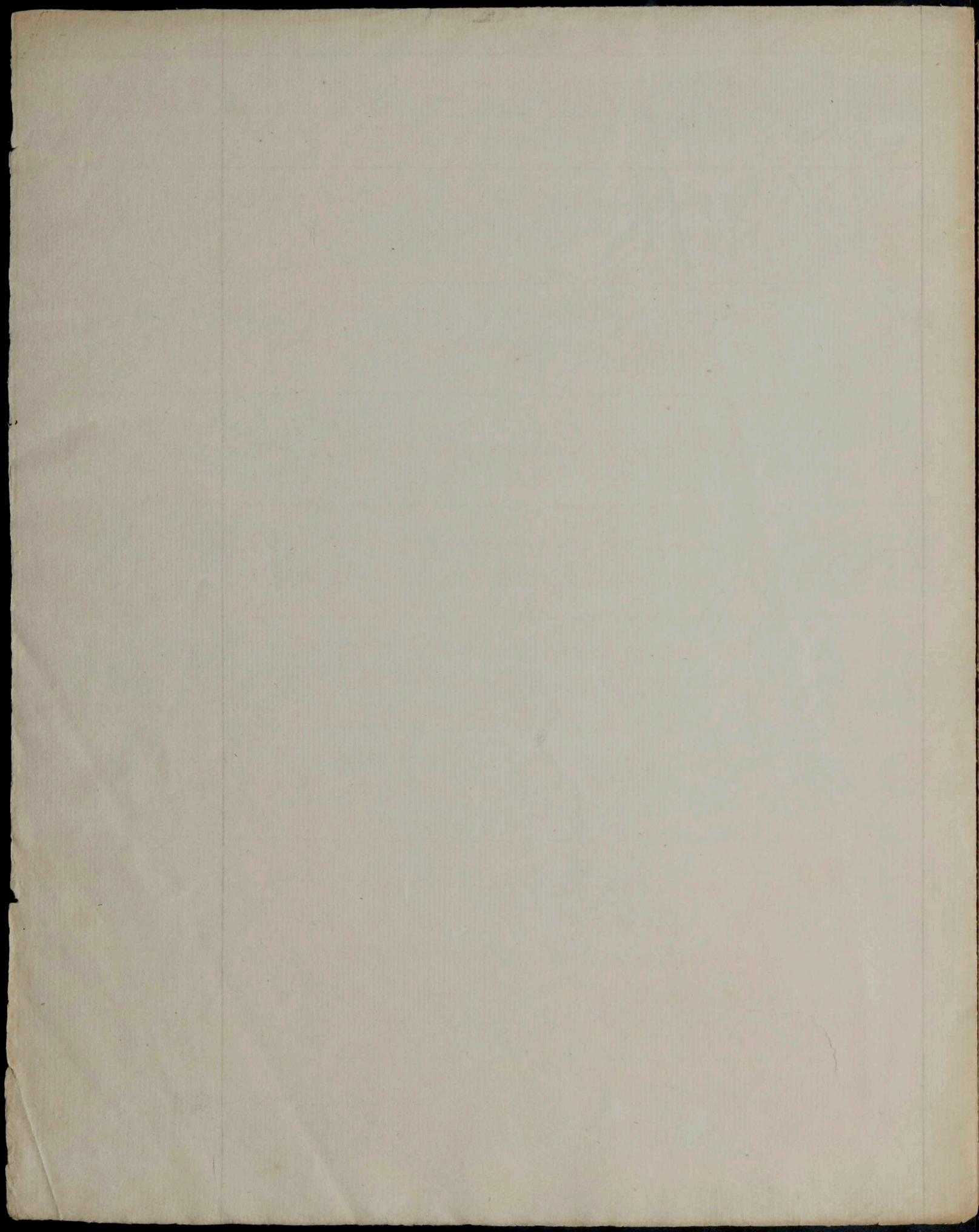
Rule 970

The offence here must be committed in the day time
see Trapshaw's Case. 1. Leach. 427

2 East. P.C. 640. same principle also on St. 5 & 6. Edw². 6. ch. 9.



lots of ground and Court houses & proper offices
as aforesaid which shall be therupon erected.—



Dom. Rex
vs
Sherwood }

On Indictment for a libel —

On question whether a Com^r of Oyer & T^r
and Gaol Delivery can legally vest this Court
with the Records of such Oyer & T^r & Gaol Delivery, by his
appearing and delivering ^{the same} into this Court "manibus propriis"
~~the Records of such~~.

2.H. p. 210
cts. 27. } G. Hale in treat^s the powers of the Court of K. B. is
express — Tho' it be usual to remove records of Indictments
by Certiorari, yet that Com^r of Oyer & T^r & Gaol Delivery
may deliver indictments taken before them "manibus
proprios without writ, and such record so removed, and
a record made of it, removes the Record —

and in p. 214, he puts a case that exemplifies the
rule laid down, as directly applicable to the Court of K. B.

cts. 27. §. 9.
4. Vol. 151. } M. Hawkins in treat^s the subject, says,
as to the 6th point. — where the record may be removed
into the Court of Kings Bench without any writ of
Certiorari. —

A Justice of the Peace or other Judge of
Record having taken any inquisition &c., the Court
of K. B. shall receive such record from his hands without
any

any writ of Certiorari."

And does not the exception here taken prove the rule? — *

10 St. Tr.
475.

* Vid. Stephenson's case for murder, where the whole argument of law rested on the authority of L^t. Hale, tho' contended by the Counsel for the prosecution that it was an old authority, and not being ment.^d by Supt. Hawkins, should not prevail — But the Court adjudged on the principle laid down by L^t. Hale. —

4 Vol. 157. §. 9

To here all Supt. Hawkins has not been so pointed as L^t. Hale, as to the Justices of C. & T., he only notices Justices of the Peace, "or other Justices of Record" this shall be intended of all such. — The law as stated by a great Judge of N. B. in such great occasions not to mistake the rule so well known, must require some positive authority aft. it, sanctioned by equal weight to prevail aft. the rule laid down.

3. Vol. 5. 6.
§. 14

M. Hawkins in treat^d the subject of Jurisdiction, lays down a position, that Courts not of record cannot impose a fine" — and draws as a consequence, that no proceedings of a Crim. Co^d can be removed into a Superior Court but by writ of Error or Certiorari. — But how does such a consequence follow? where are the authorities relied upon does he not contradict this reasoning in the subsequent part of his work, 4. Vol. 157. §. 9.

L Hale in treat^s the subject of general powers of the Co. of K. B., altho' he says in p. 3. that Indictments taken before Justices of Qy. & Tr may be removed by Certiorari he only establishes a general rule — But in the — Subsequent part of the same work, he applies the case of a cause that may also be adopted to remove. See —

A. 1330 By St. 4. Ed. 3. ch. 2, all Justices of the Peace are directed to send in the Indictments taken before them to the Justices of assize, who are required to receive and to adjudge upon the same —

4. Bl. 26. The Court of K. B. a fortiori, will receive such Inquests and record them to proceed thereon, as stated by L Hale.

How does that Court as a Gaol Delivery proceed on an Inquest taken by a Coroner? — Is it not an Inquest? Does he not return it "per manus suas" "proprias", and does not the Court record it and arraign the prisoner on this Inquest? —

The St. 1. Ed. 6. ch. 7. permits the New Justices of assize to take up the Records and proceedings from the former Justices — How is this done? — By writs of Certiorari? No — but by a regular transmission of the Records by any Commiss^r — "manibus propriis" — But this power was not wanting to the permanent Court of K. B. — The St. had the effect

to

to declare that no proceedings before the old Com^{ee}^r
should cease and determine - Would it be said that
the Court of C. B. could not issue a Certiorari to
remove such records and proceed thereon? If not the
principle laid down by D^r Hale applies, by the Record
so perfectly remains, being certified & returned, manibus
proprios by the Com^r -

On the follow 3. questions. -

- 1st Was the Defend. liable to be held to bail under a Capias issued upon the Indictment found. -

It may be premised, that the Atts Gen^t mo. was for process upon the Indictment recorded - It rested with him to take out a Venire Facias, or a Capias - He has issued the latter, on which the Defend^t was held to bail -

L. Bl. 297.

The general principle is, that all offences under the degree of felony are bailable. - This must imply, that the persons to be bailed are under arrest.

L. Bl. 319
Starkie 257.
272. 728.

To the time of Sir^t Hawkins it would appear that the Course was to issue process of Venire Facias on Indictments under the degree of felony, but since that time it has been the usual practice, for the furtherance of Justice, to issue a Capias on the return of the Indictment, for all but petty misdemeanors

And so clearly was this the proper Course, that an act of Parl^t declared it should be extended to all misdemeanors and upon informations, adding an express power, to notify the Defend^t if in custody to plead - and if he did not, to enter for him a plea of Not Guilty, & proceed to trial & Judgment.

The Process taken out by the Atts Gen^t was legal -

2^d Quest Is The Defendant as a member of the House of assembly now sitting, bound to answer to this Indict or can he claim any privilege in this behalf? +

The main ground upon which this right of being excluded from the general operation of the criminal law is, that the Defendant being a member of the corporate body of the Provincial Legislature, is not liable to those general laws that would arrest a person not of that body, who should stand accused as the Defendant now is. —

31 Geo. 3. ch. 31. There is no such privilege expressly conveyed by the act of Parl^t that gave a right to His Majtys subjects to meet by representation in that assembly -

The right of privilege must be claimed under the presumption that the local legislature has the same privileges in this respect as the members of the House of Commons in England — were it necessary to decide that question there would be much to be said — but even admitting that a similar privilege were the right of the Defendant would the Laws of England, or the Laws & Customs of Parl^t warrant the claim? —

The Defendant stands indicted in a libel of His His Royal Highness the P^r R^e & the members of His Majtys

Majestys Privy Council - upon which he has been arrested
and held to bail - He claims a privilege as a member of the
House of Assembly to be discharged from such bail -

The crime with qd. the Defendant is charged is a high misdemeanor
It is a fundamental principle under the Laws of England
and those of Parte, that no privilege can be claimed from
arrest by persons accused either of Treason, Felony, or a
breach of the Peace - All crimes are treated by the Law as
being "contra pacem domini Regis" and Libel found by
Indictment is not entitled to such privilege or exemption from
arrest -

1 Bl. 166.7

11 St. Tr. 305.
2 Wils. 154.

29 Nov. 1763

This question has undergone the most deliberate
consideration in the case of the King v. Wilkes, and altho'
D. Cambden & the Co. of Corn. Pleas held, that Mr Wilkes was
entitled to privilege under the charge of a seditious libel
yet both Houses of Parte under conference & great consideration
upon the subject resolved - That the privilege of Parliament
does not extend to the case of writing and publishing
seditious libels, nor ought to be allowed to obstruct the
ordinary course of the laws in the speedy & effectual
prosecution of so heinous and dangerous an offence -

The claim set up is under the law of Parte and
it is unnecessary to enquire further into a point so
settled & determined by that law -

The privilege of Parte as antiquily exercised
have

have been narrowed by divers Statutes, to the honor of
the nation — The St. of 11 H.6. to prevent the arrest
of priv. members has been repealed by divers subsequent
laws, which down to 10 Geo. 3. declares, that no priv.
shall be claimed at all Suits, &c. (meaning Civil Suits)
except if arrest arise thereon — and 4 Geo. 3. declares
the non-pay^t. of a Debt of a £100 after 2 months
shall be an act of bankruptcy — and the
41 Geo. ch. 58 — declares that no bankrupt shall
hold a seat in Parliament —

And in respect of Crim^c. Pross^e members who
have been convicted of misdemeanor have been
convicted to outlawry & imprisonment during the midst
of the session, which has afterwards been sanctioned
I. Bl. 167 — Welles's Can by Parl^t —

Authorities on Libel

2 Hawk. Cl. 73. p. 129.

Sec. 7. —

see also 1. Russel 1824

Holt p. 104 —

However it is certain, that it is a very high aggravated
of a libel that it tends to scandalize the Government
by reflecting on those who are intrusted with the —
administration of public affairs, which doth not only
endanger the public peace, as all other libels do, by —
stirring up the parties immediately concerned in it to
acts of revenge — but also has a direct tendency to breed
in the people a dislike av their Governors, and incline
them to faction and sedition. —

4 Bl. Com. 150-

Libels — are malicious defamations of any person,
and especially a magistrate, made public by either printing
writing, signs or pictures, in order to provoke him to wrath,
or expose him to public hatred, contempt and ridicule. —

Starkie. 485

all attempts to produce disorder by means of written or
printed communications — or for the more open and direct
purpose of alienating the minds of the people from the —
constitution under which they live — of rendering them
dissatisfied with its administration, and thereby inciting
them to acts of sedition & rebellion. —

p. 505. Publications tending to excite popular tumult, sedition,
or rebellion, — by engendering distrust or dissatisfaction
in the minds of the subject — relate to alleged defects
in, or misrepresentation of the constitution and form
of Government — Or to the personal imperfections
inabilities and mishandlement of those who are
entrusted with its administration. —

Starkie p. 525.

The test of intrinsic illegality must in this
as in other cases be decided by the answer to the
^{question - Has our}

"Has the communication a plain tendency
to produce public mischief, by perverting the mind of
the Subject, and creating a general dissatisfaction -
towards Government?"

This tendency must be ascertained by a number
of circumstances capable of infinite variety - it is
evidenced by the wilful misrepresentation, or -
exaggerated accounts of facts which do exist, or
the assertion of those which do not, mingled with
inflammatory comments, addressed to the passions of
men, and not to their reason, tending to seduce
the minds of the multitude, to irritate and inflame
them -

=

"The publication must have proceeded from a
malicious mind, bent, not upon making a fair -
communication for the purpose of exposing bad
measures, but for the sake of exciting tumult and
disaffection -

=

527. 8. Tutchins case - & Dr Holt's opinion - If persons should
not be called to ~~an~~ account for possessing the people with
an ill opinion of the Government no Government can subsist
nothing can be worse to any Government than to endeavour
to procure animosities as to the management of it - this
has always been looked upon as a crime, and no Government
can be safe unless it be punished - Now you are to
consider whether these words I have read to you do
not tend to beget an ill opinion of the administration
of the Government -

4. Bl. Com. 150.
Holt — 63

Sibelles — sont des défections malicieuses d'une personne — et plus particulièrement d'un magistrat, rendues publiques en les imprimant, ou les écrivant — ou par signalement ou portraits, afin de provoquer sa colère, ou de l'exposer à la haine, au mépris ou le ridicule public —

2. Hawk. 129.
^{su. y.}
Russel 324.
Holt + 104.

Il est cependant certain, que c'est agraver grandement l'offense de Sibelle, qu'elle tende à scandaliser le Gouvernement par des réflexions sur ceux à qui est confiée l'administration des affaires publiques — ce qui met non seulement la paix publique en danger (comme font toutes les libelles en excitant à la vengeance) mais parce qu'il tend directement à exciter parmi le peuple, un mépris de leurs Gouverneurs, et les porte à la faction et à la sedition —

Starkie 485. Tous attentats de produire le désordre par le moyen de communications imprimées ou écrites — ou dans le dessein plus déclaré & ouvert d'aliéner l'esprit du peuple de la Constitution sous laquelle ils vivent, ou de les rendre mal contents de son administration — sont des libelles aggravés —

Id — 527.8 ff L^e. Holt — Si on ne rendoit pas les personnes responsables qui inspirent au peuple une mauvaise opinion du Gouvernement — nul Gouvernement ne pourrait subsister — Rien ne peut être plus dangereux à aucun Gouvernement que ces attentats d'exciter des animosités contre son administration — On a toujours regardé ceci comme un Crime — Et aucun Gouvernement ne peut être en sûreté sans le punir —

Starkie. 525. La preuve de cette offense dépend ici, comme dans d'autres cas, de la réponse à cette question — Cette communication ^{mauvais effet} tend-elle évidemment à produire un mal public,

en pervertissant l'opinion du sujet, et en excitant un
mecontentement général ^{contre} ~~envers~~ le Gouvernement? —

Les observations en question, s'adressent elles aux passions
des individus, et non à leur raison? —

Tendent-elles à influer sur les opinions, et de les
irriter contre le Gouvernement. —

1. Bl. Com. 150. — Libels — are malicious defamations of any person and especially a magistrate, made publick, by either printing, writing, signs, or pictures, in order to provoke him to wrath, or expose him to publick hatred, contempt & ridicule.

—
Holt on Libel. 63.
—

2. Hawk. P.C. ch. 73.
p. 129. sec. 7 —

1. Russel C.L. 324
Holt on Libel. 104
—

However it is certain, that it is a very high aggravated of a libel, that it tends to scandalize the Government, by reflecting on those who are entrusted with the administration of publick affairs, which doth not only endanger the publick peace, (as all other libels do, by stirring up the parties immediately concerned in it, to acts of revenge) — but also has a direct tendency to breed in the people, a dislike of their Governors, and incline them to faction and sedition. —

Starkie. 485. All attempts to produce disorder by means of written or printed communications — or for the more open and direct purpose of alienating the minds of the people from the constitution under which they live — of rendering them dissatisfied with its administration, and thereby inciting them to acts of sedition and rebellion. —

Id. 527. 8 Tutchin's Case. & Ld. Holt. If persons should not be called to account for possessing the people with an ill opinion of the Government, no Government can subsist — nothing can be worse to any Government, than to endeavour

endeavour to procure animosities as to the management
of it — this has always been looked upon
as a crime, and no Government can be
safe unless it be punished. Now you
are to consider whether these words I have
read to you, do not tend to beget an ill
opinion of the administration of the Govt.

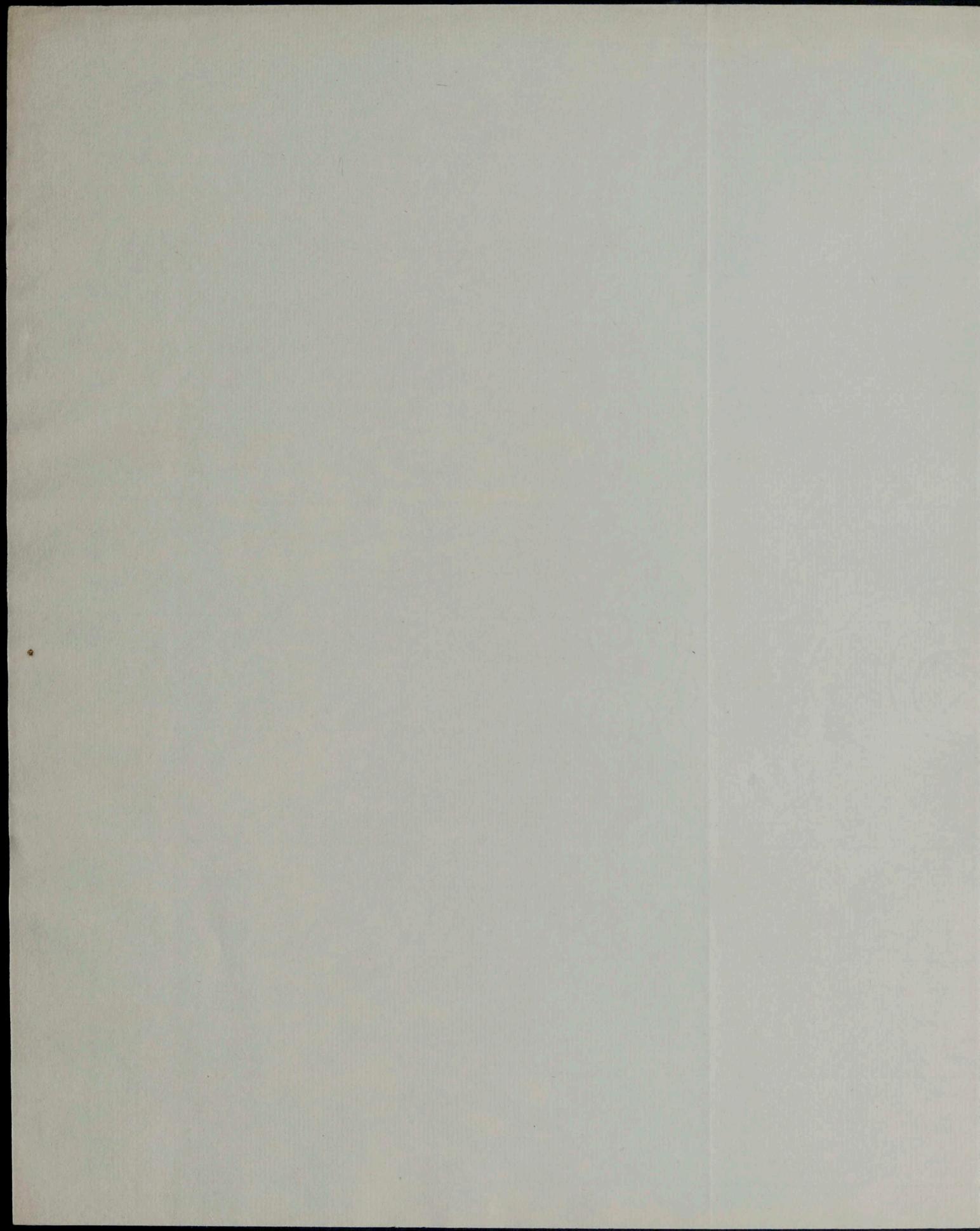
Starkie. p. 525. The test of intrinsic illegality, must in this, as in
other cases, be decided by the answer to the
question — Has the communication
a plain tendency to produce public
mischief, by perverting the mind of the
subject, and creating a general dissatisfaction
towards Government? —

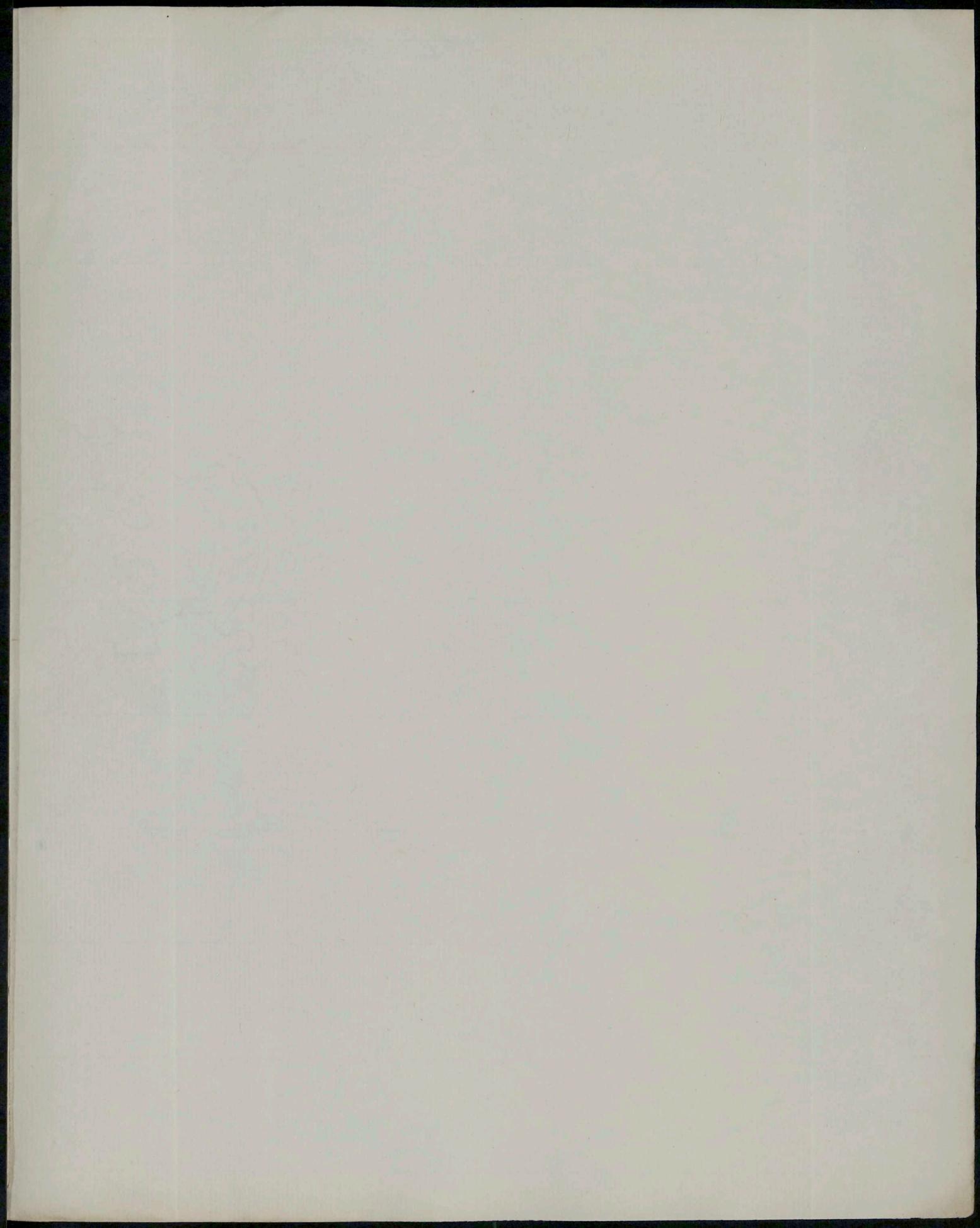
This tendency must be ascertained
by a number of circumstances, capable
of infinite variety — It is evidenced
by the wilful misrepresentation, or
exaggerated accounts of facts which
do exist. — or the assertion of those
which do not, — mingled with
inflammatory comments, addressed
to the passions of men, and not to
their reason, tending to seduce the
minds of the multitude — to irritate,
and inflame them. —

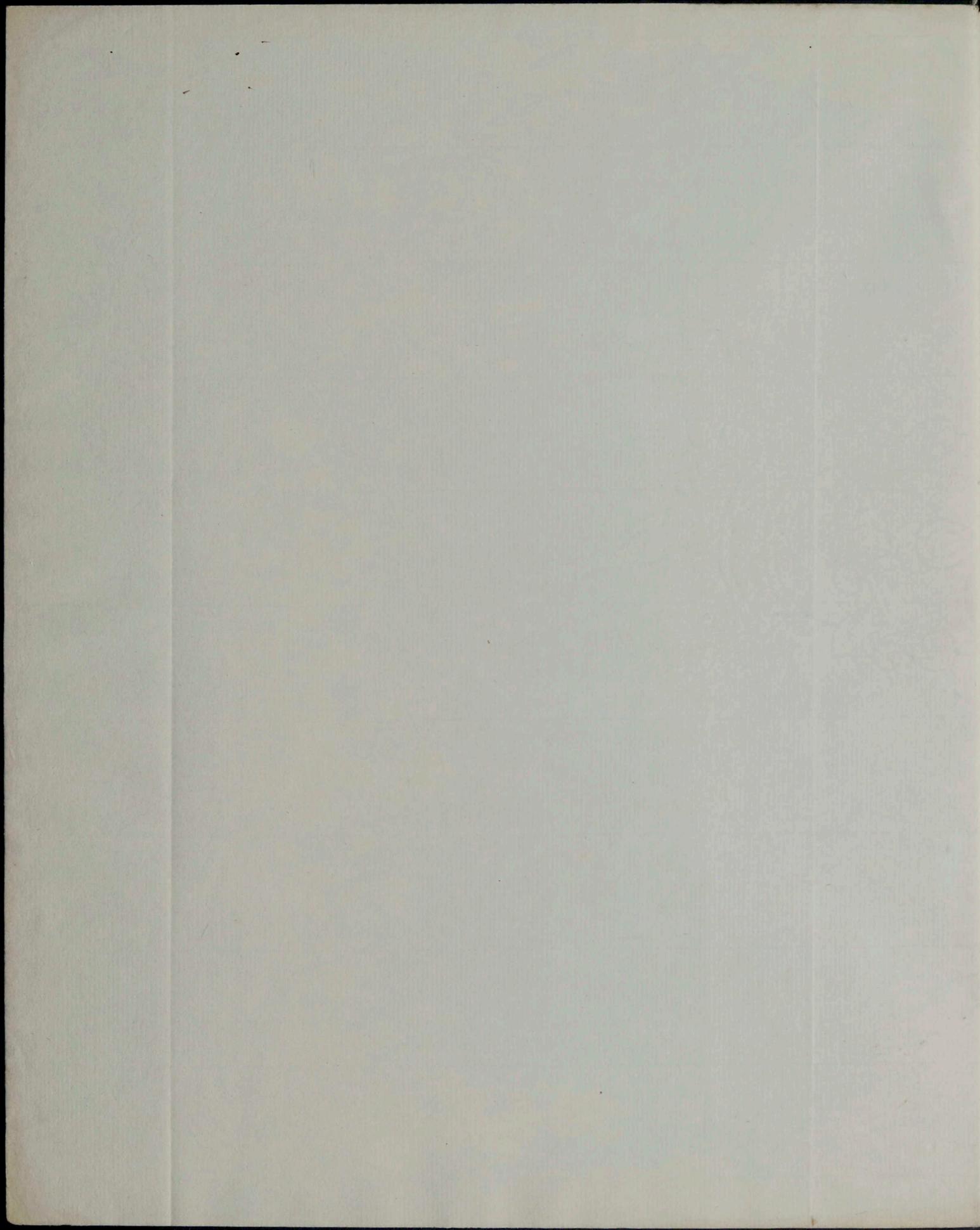
3. Chitty. 867. (a) — Must judge of the malicious intention, from the
mischievous tendency which the publication
is to bring about — Unless the defendant shew
something to rebut such inference —

1. Russel. 304. (m) Upon occasions of this sort, I have never adopted any other rule, than that which has been frequently repeated by Sir Mansfield to Juries, desiring them, to read the paper stated to be a libel, as men of common understanding, and say, whether in their minds it conveys the idea imputed.—

A fair, open, candid, and dispassionate Statement
of any grievance against Government, is not
libellous — The criterion to judge this by is,
in this question — " Has the communication
" a plain tendency to produce public mischief
" by perverting the mind of the subject, and
" creating a general dissatisfaction towards
" Government? —







Starkie. 531. 2

If there be ground for the charge, the guilty party is amenable to the laws, and it is the duty of the accuser to apply to the proper tribunal, & not to allow the crimination to rest on his own bare assertion — if the fact be doubtful, the necessity for judicial examination, in opposition to bare assertion, is still stronger — if the charge be a mere fiction, the calumniator attempts to impose upon and injure the interests of ~~the~~ ^{his} Country, by destroying the characters of those who are watching over its interests — An

3 Chitty 867. (a) Must judge of the malicious intention from the mischievous tendency which the publication is to bring about — unless the Defendant shows something to rebut such inference —

Id. — 874

Inducement, or averment, is necessary only, where the intent may be mistaken, or where it cannot be collected from the libel itself —

1. Russel. p. 302 It is also a misdemeanor, wantonly to defame or indecorously to calumniate that economy, order, & constitution of things, which make up the general system of the law and Government of the Country. —

Holt. p. 81. 2

Upon occasions of this sort I have never adopted any other rule than that which has been frequently repeated by D. Mansfield to Juries, desiring them to read the paper stated to be a libel, as men of common understanding, and say, whether in their minds it conveys the idea imputed. —

Id. p. 306 — Defendant cannot justify —

1 Russel - 310 It should be observed that the publication of preliminary examinations before a magistrate taken ex parte, will not come within the principle by which the fair reports of proceedings in Courts of Justice have been held to be privileged -

Such publications have a tendency to cause great mischief by perverting the public mind, and disturbing the course of Justice, and if they contain libellous matter will be considered as highly criminal -

5 Esp. N.P. cases The mere publication of ex parte evidence before a trial, was of itself highly criminal - Heath, Justice.

Rep. v. he & another see case of Rep. v. Fisher & al. 2 Camp. 570. D. Edinburgh.

1 Russel. 323. - A fair, open, candid, & dispassionate statement of any grievance at Govt. - not libellous - The Criterion to judge this by, is in this question - "Has the communication a plain tendency to produce public mischief, by perverting the mind of the Subject, & creating a general dissatisfaction towards Government?"

1 Russel 346. The translation from a foreign language must be proved to be correct -

Holt. p. 63 - A libel - is a malicious defamation expressed, either in printing or writing, tending to blacken the reputation of another, & exposing him to public hatred, contempt or ridicule -

Holt - 300 After conviction on a criminal information, the defendant must stand committed pending the consideration of the Court - unless the Prosecutor expressly consent to his standing out on bail 1 East. 143. Rep. v. Waddington

3 Quest. Can the Ch. Justice be said to be a
Prosecutor on his Indictment - and
can any objection be legally made to
his sitting in Judge thereon -

The Chief Just. is not prosecutor - so declared -

The peculiar constitution of this Court for hearing of
Criminal Causes is, that it shall be composed of two
or more of the Prince Justices & the Ch. Justice, who at
all times shall be one - It is true that his presence
is requisite to constitute the Court - but does his
Judg. or opinion become requisite to form the Judge
of this Court? - Certainly not - In this Court when
sitting his opinion is only as one to three, all of
equal weight in the Judge to be made - Should the
Ch. Just. abstain from giving any opinion in a case
would the powers of this Court be suspended - certainly
not - Suppose that having given his testimony
upon any case as a witness and he should decline
further interference or Judge, would not the
trial proceed, and Judge follow? Assuredly -

But upon what principle is it that the Ch. Justice
can be considered as sitting in his own cause, and
upon

upon what precedent or similitude of Cases is such a conclusion to be taken? — would not a stronger Argument be used were he personally insulted on the Bench and be should order the offender into custody by a conclusion Juge^t. for a contempt — with the acquiescence of his brother Juds^ts — might not that insult be in its nature libellous. — How is the subject of Contempt adjudged in all Courts?

2^d Raym. 1112
Is not the law of Parl^t part of the law of the Land and do not each House of Parl^t bring before it, libellers and aggressors & punish them by imprisonment for such acts? — Are there not Juds^ts in their own Causes — It is the public character that is attacked in each case — as an individual and personally he has no interest — It is not to be assimilated to a question of Interest on a Civil Suit. —

Leave not members of the House of Commons united in framing charges of Impeachment — and before the trial, being created Peers, have they not sat in Juds^t in the Ho. of Lords & given Judg^t —

And if so in a Court of the Higher Record, and where liberty, property, and life were interested shall it be said, that the principle of a publick private character are united, and that a rule respecting private interest shall attach to and impeach the publick character?

Jt.

It is considered that all public acts done by
an officer of Justice shall nullify such, because he
has no private interest? The Case of the King v. Baker
shews that an Officer issuing process in his own name
and for his own interest, is a legal process, and if an
Officer executing such process be killed, it will be
murder -

112-

But examine to what consequences would the
position or principle argued for, extend - suppose
a case in which all the Judges, and the Courts and
Councils of the Country were libelled - it would be
in their public characters though the individuals
were named in such libel - Could the libeller -
avoid all trial for such an offence, however enormous
inasmuch as the names of the persons libelled were
introduced into the Indictment?

Suppose publications of a libellous nature were
made after proceedings of this Court, or the Judges were
sitting - would not the aggressors be subject to an
Attachment and Judgment in this same Court for such
libellous publications - would not the use of
words of the same tendency be subject to a like
proceeding? would the aggressors be heard to
say in the face of this Court that the Judges were
the injured persons and not competent to sit in
them

2 Viii. Ab.

sup. 236. n. 67 made after proceedings of this Court, or the Judges were
70. 230-36 sitting - would not the aggressors be subject to an

3 Hawk. b. §. 15

Attachment and Judgment in this same Court for such
libellous publications - would not the use of
words of the same tendency be subject to a like
proceeding? would the aggressors be heard to
say in the face of this Court that the Judges were
the injured persons and not competent to sit in
them

their own cause - where would such a principle extend? - Must it not pervade the whole Judiciary and reach the House of Peers & both Houses of Parl^t? Must it not overturn every principle of Judicial power in the British Govt -

Domi^t. Rex. }
v
Denis Curran }

On Conviction for Murther. March 1814

The Petition being brot to the bar for Judg^t
moved in arrest of Judg^t, that the Jury
who sat on his trial was taken from the Towne of
Montreal exclusively, and not from the body of the
district of Montreal — & therefore he was not tried by
his Country —

2 And this question of right has been since —
generally raised, though not for a Judicial determinⁿ
that Juries should be taken from the separate
Counties in the district where the Crime is charged
to have been committed —

Upon the first point. — The plain answer is,
that if the Jury was returned from the body of the
2. Hale 301 264 district it is sufficient — the old English rule of
4 Bla. c. 350. being from the neighbourhood, de vicinato, is not the
general course in England, nor was at the passing the
Quebec act extend^s y: Crim^t. law to this Province —
1 A Geo. 3. ch. 83.

The Crime is alledged to have been committed in the
district of Montreal in the parish of Montreal, where the
Court actually sits and has Jurisdiction of the offence, so
that strictly speake^s, by the prisoners own shew^s he has had a
Jury, stricti juris, of the vicinap —

But

But it may be proper to see how the law stands in respect to the return of Juries for the trial of Criminal Causes. -

The Quebec act directs the same method of trial as in England - but under this term it cannot be supposed that all the Statutes of Gr. Br. of: except such mode of trial by Jury, have been introduced into this Colony, and shall operate -

In Eng^r. the Statutes have changed the mode of returning Juries de vicinio in Civil Causes and in Penal laws - to be taken from the County at large per

4 & 5. An. ch. 16
24. Geo. 2. ch. 18.

In Canada, the Ord^r I law that first regulated Jury trials, qualifies all persons of lawful age who are possessed of a house or lodgings paying £15. a year rent - The Sheriff was therein directed to take those Jurors from the Cities of Quebec & Montreal and the banlieues, and make lists conformably -

27 Geo. 3. ch. 1.

The same legislature enacted - to regulate proceedings in the Court of R. B. - that as it was difficult to find Jurors in the Towns of Quebec and Montreal, proprietors & freeholders - that on all Inquests and trials by Jury in Criminal Causes &c, the same persons might be - considered as legally qualified who rented a dwelling of £15- or upward. -

This Ord^r expressly recognized the same Rule for Civil Causes under the preceding Ord^r, to apply to Criminal Causes -

Upon

Upon the Defendant's mo. it must be noted that no
matter extensioe from the Record can be recovered in arrest
160 -
2. Tidz Prae. 808. of - Jury - And the Record shews that the Jury was returned
4. Bur. 2287. as prescribed by law from the City of Montreal, and this
is within the district, which is the legal term for County
in England -

To this it must be added that the exception to the
array comes too late - It should have been made by Challenge
before the Jury, or any of them were sworn - Rep. v Shepherd
1. Leach. 119

If it be said, that the court of Vic. fac. motions, derives
from the body of the district, the answer is, that the town &
banlieu is within the district - and the objection comes
too late after verdict, if even founded in point of fact -

If the St. 24. Geo. 2. ch. 18 - could be considered as having
been virtually extended under the Quebec act, yet the Order
above cited upon the subject of trials by Jury, must
operate as a repeal of that law.

The P^r can take nothing by his motion.

Upon the 2^d. point - That Juries should be
taken from the Counties where the Crimes may have been
committed -

If the order above cited prescribe the mode of
summoning Juries, it may be asked, what equal and
express law directs or permits any other mode? Can they
be done away by implication or constructive arguments?

The

1 Bl. 113.
The Counties in England have been established from
the earliest period of the history - and those districts
from time immemorial have been resorted to by
operation of the Statutes & Common Law for all the purposes
of Judicial proceedings. -

Counties in this Prov. arise from a power granted
to the Gov^r. to separate the Province into such districts, for
this express and limited purpose, of the residents electing
persons to represent such counties or districts in the
Assembly in a Legislative Capacity. -

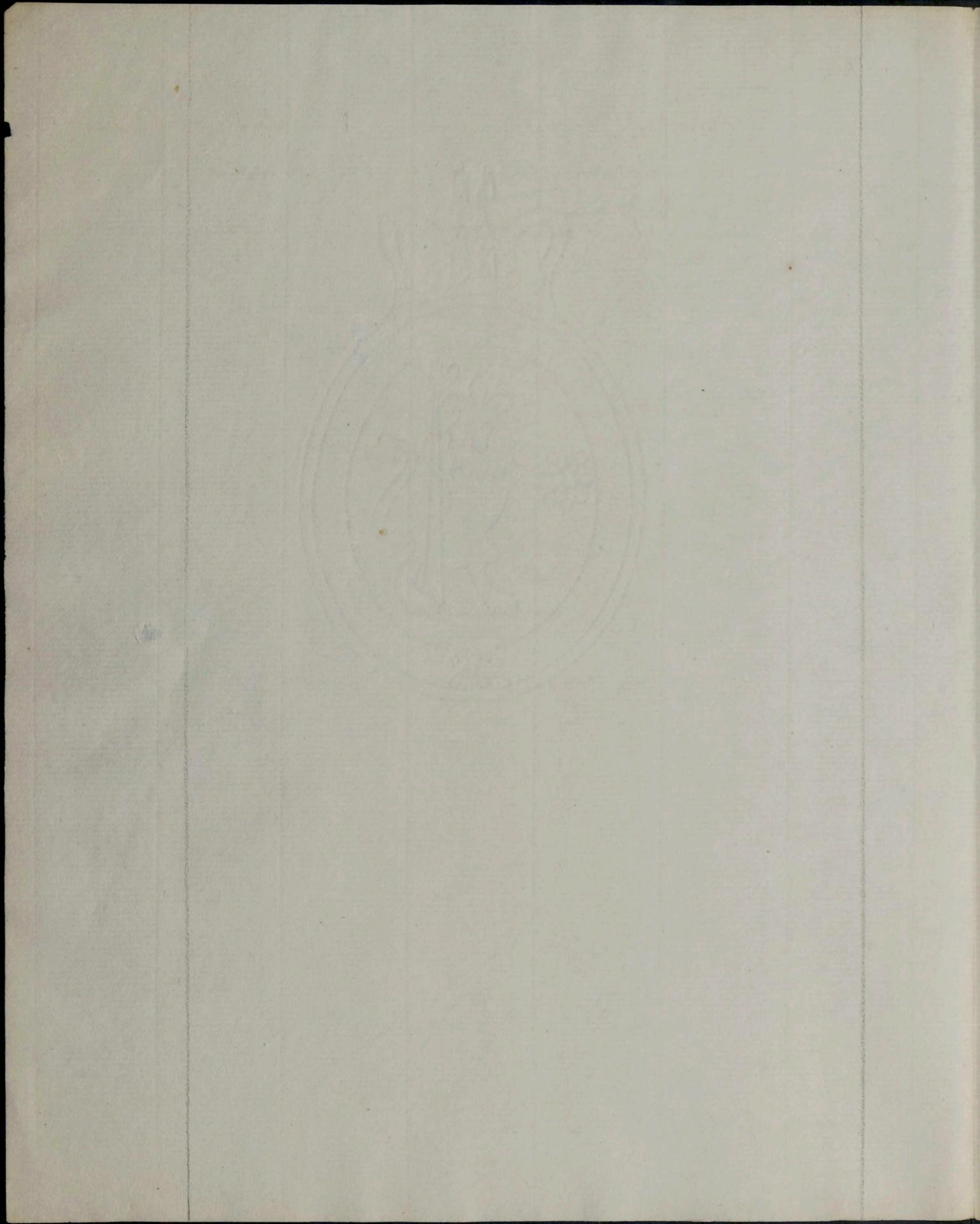
The proclamⁿ issued in the terms of the Stat. and
for the sp. purpose of obtaining such election of
representatives, and upon principle of cannot be exten^d
beyond the declared purpose and object to wh^t the law
applied it. -

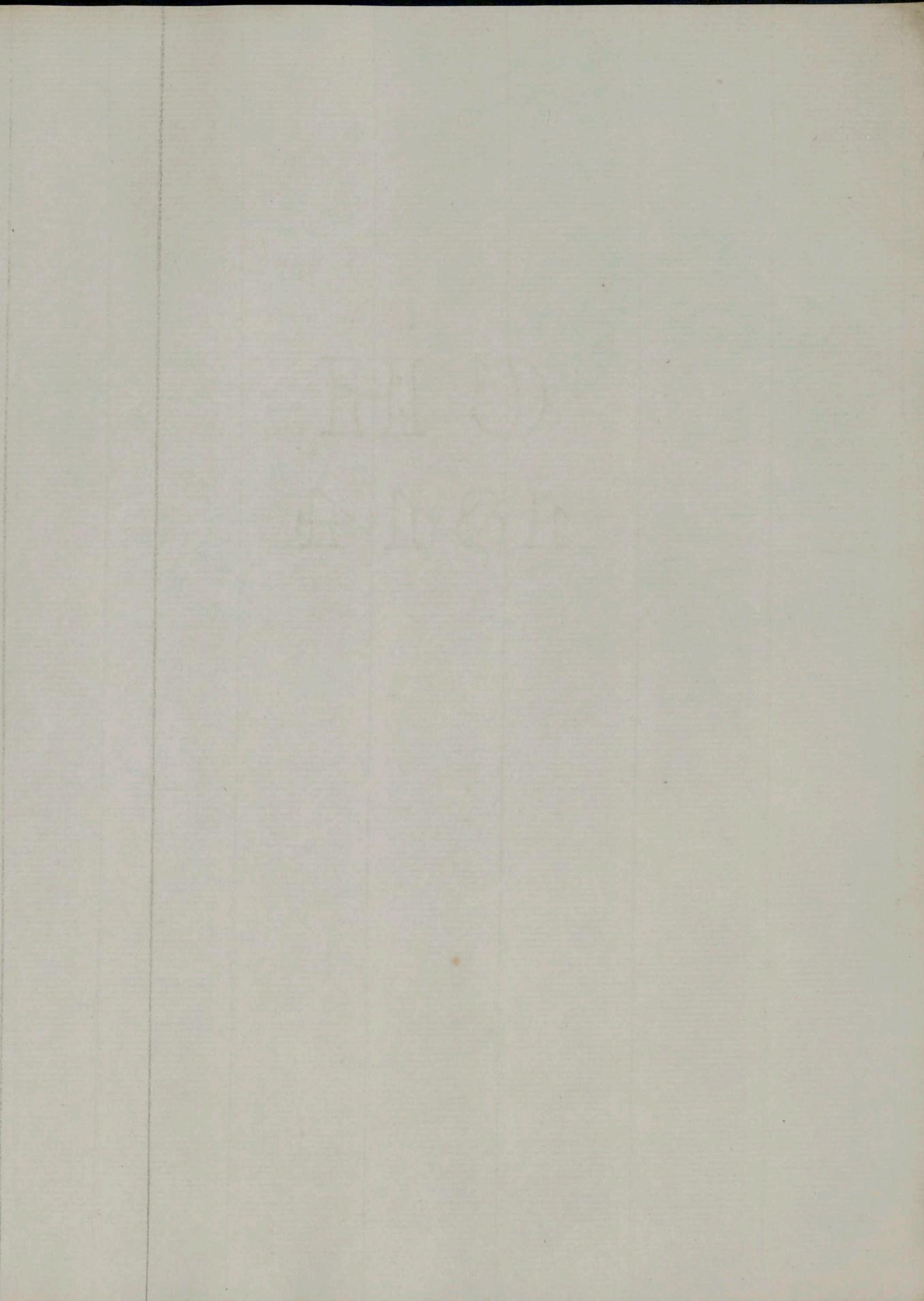
In respect to Juries, & Judicial proceeding
the laws of the Colony, antecedent & subsequent to
the Stat. & proclⁿ referred to, have established a
division by districts. - The ancient laws have
created parishes throughout the Province - these
divisions limit or enlarge the duties the law prescribes
to the subjects who reside therein -

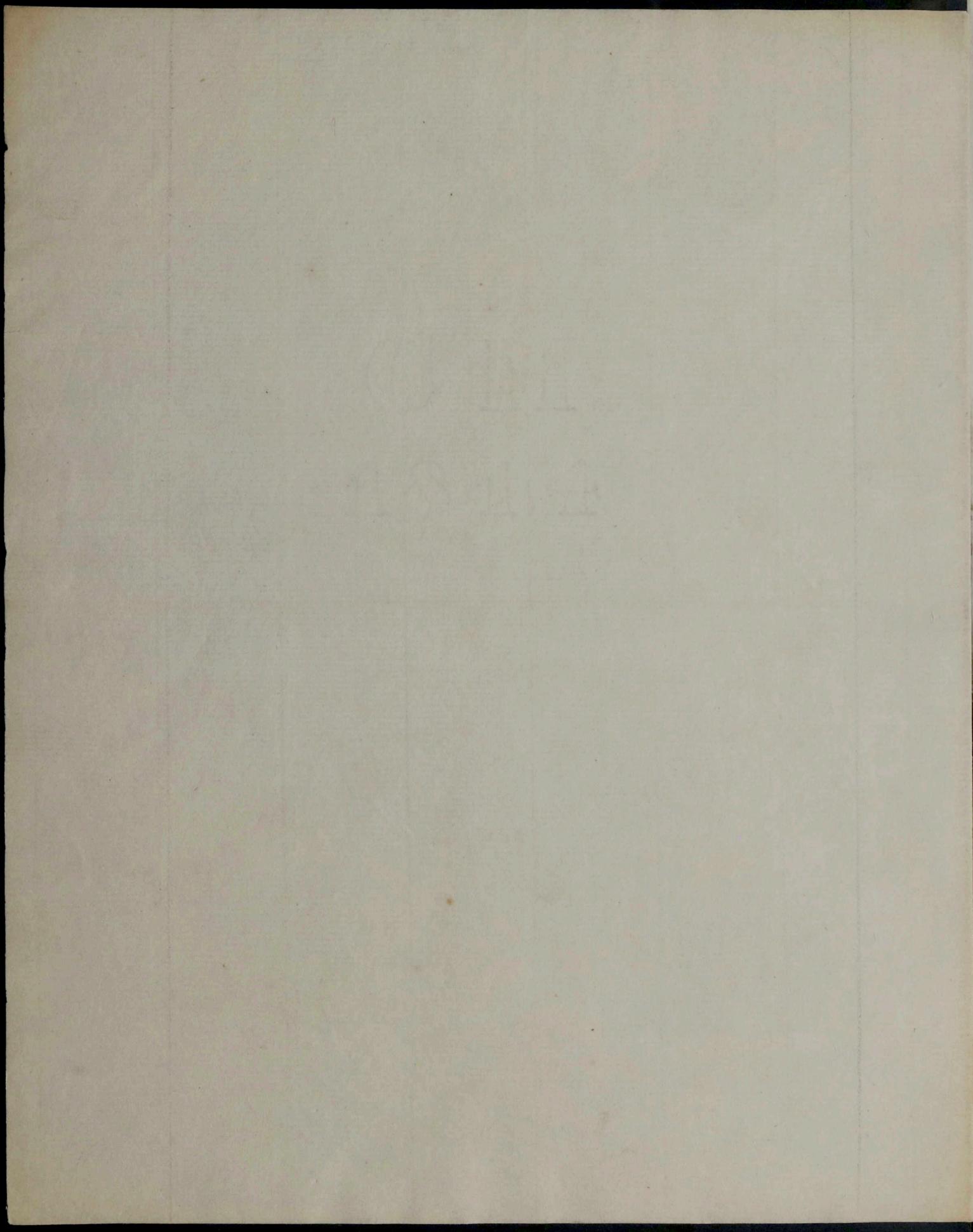
If the rights of magistrates or free men were to
be abridged - it must be done - as in England - by an
act of the Privy Council - as when a County is restricted,
and

objected to process being granted as the Indictment
was not regularly before the Court -

The Court granted the motion -







Criminal Court. Augt. & Sept. Sessions

Monday 28th August 1837.

Present

Ch. Justice Reid
Mr Justice Rolland
Mr Justice Gale. —

The Grand Jury having been sworn, the Court directed the proclamation of His Excellency the Governor in Chief announcing the demise of His late Majesty King William, and the accession of Her Royal Highness the Princess Victoria to the Throne as Queen of England and its dominions — After the proclamation of Her Majesty for the punishing of Vice, profaneness and immorality was read — all the auditory standing —

The Court afterwards charged the Grand Jury — Some bills of Indictment were found, and the prisoners were arraigned. —

Tuesday 29th Augt. 1837.

Pres:

Ch. Justice Reid
Mr Justice Rolland. —

Dom. Regina
vs.
Dos. Guyon &

This cause which was fixed for trial to day was under the circumstances of an essential witness for the Crown being absent & not to be found, continued to the second day of next Term, when the trial was directed to be had, whether the said witness were absent or not. —

The King
John Croker } On Trial of Indictment for Grand Larceny -

André Leffin Brothé, he is Silver Smith in Montreal - about
the 19 June last Mr. Dr. entered his shop - the Dr.
~~was not yet when Dr. came in~~, but came in shortly after
when Dr. was enquiring price of Silver penit cases
in a glass case - There were several gold rings in
the same case - wished to purchase the whole - there
were 3 doz. of them - asked £8.12.6 - Dr. offered
£8.00 & asked if Mr. would take that sum - went away
saying he was going to get money - from the position
the Dr. was in he could have reached the rings very
easily, - The Dr. came back twice the same day -
I am sure the ring was there when the Dr. came there the
first time - did not observe it was missing till the
next day - The Dr. he meant to purchase to the
extent of £6 from Mr. but he purchased nothing -
He took at first missed only one ring, but soon
after missed another - he asked his clock maker
if he had sold the ring, he said he had not - They
then went in search from shop to shop to stop
the way - stopped at first at Mr. Brown's where
he found the ring over produced, of course the one
he lost - he also found the other ring at Brown's -
The first he values at £3 - the other at 10/- and
are his property - Brown said he had got the
ring

ring from an Italian or a Jew - That he used to return to his house that morning & carry his Brown suit for the Mr. but the P^r was gone - They went after him, but did not find him at first, but afterwards found him in the S.L. sub-en Cheminelle Street & arrested him - he accused him of the theft - the P^r searched Mr. if he had seen him take it. -

x.

To take the rings out of the Case, the person must reach his hands over the Counter - The watchman was in the room - The desk is behind the Counter. & on turning to the desk, it is necessary to turn the back on the glass-can -

It is possible there may be rings of the same kind found in Montreal - These rings are made in England - We buy them from Mr. Walker. The large ring has his jeweller's mark on it - the figures being scratched inside with a steel point - This mode of marking is used by some other persons - it was marked in this way when he purchased it -

Richard Hopewell - was in the employ of last M^r in firm last - saw P^r in his shop in the morning - he came a second time & wanted some penit cases - Saw the rings in the glass can that morn^g - That he called Groth - The penit cases were taken out of the glass can, and Mr. & Mr. Groth turned their backs.

barker to look at the boxes - at this moment
the Dr. could easily have marked his hand over
the counter & taken the rings - he went away -
The following morning the rings were missed - the
rings were found at Boivin's, & he saw them when
Mr. Grotti came back with them from ~~Potthuis~~.
He says the rings now produced to be from \$300
L. H. belonged to Grotti -

I am sure that the rings were in the box this
morning the Dr.^x was in the shop -

Leandre Dr. Boivin, barker first of New Market on
from last is watch maker - the Dr. then came to
his shop 3 times - we saw him the last time - he
purchased several articles - he then proposed to exchange
the 2 rings now shown for another - the barker
gave him another ring & 7/8 to boot - when
the Dr. was arrested he called himself Leandre
Smith - The rings now shown are the same
he got from the Dr. that Grotti told him that
if the ring had not the No. 60 marked on it
it did not belong to him - he found the No.
60 on the rings -

The pattern of ring never exhibited is not common -

Dr.

In P'to Franchere lives in Montreal - Mr ~~and~~ Dr came to his shop about the month of June last - he enquired about the value of a ring he had - when he came first he had only one ring - It was similar to the one now exhibited to him - we valued it at £2. or £2. 10. The Dr came next day, & offered the smaller ring in exchange but no exchange was made -

André A. Grothe - he put the rings into hands of John Bégin Constable -

Bernard Delisle, rings were produced one sum or another from Grothe -

Evidence closed -

Mr Ward Jr Dr objected that the P. ought to be discharged, as at the time laid in the indictment the Queen did not reign in Canada -

The Jury retired a few minutes about in a Verdict of Guilty -

The King Queen } On Trial of Indictment for Larceny
Bredgar Brennan }

Henry Ward was in the service of Mr Bump
Hewitt on the 15th inst - Mr H. has a Carrot & Turnip,

etc

q.t. he kept in the Coach house in the yard - below
there is a passage from the yard into Cornhill Street
there is another commⁿ - in front by a small
passage at end of Bank - On the 15th he was
informed that some cushions were at Mr. Thorntons
belong to Mr. H - went to the Coach house & found
the cushions were gone - went to Thorntons and
found the cushions there - the same now shown
they are the property of Mr. Holmes - they are
worth of a \$8 dollars - there are two of them
marked, the front cushions have a black bar on
them -

Benjⁿ Delisle, his constable - on the 15th inst. he found
the Dr. in the Dr. Sub, who had them from cushions
in her possess^r she said that she had got them
from some girls ~~who was with her~~ - here are
the same cushions he carried & left at Mr.
Thorntons - the Dr. had been arrested on
suspicion of having stolen these cushions,
she found the cushions near her, & she said
she had got them from 2 girls who had been
in company w^t her - he pursued after these, but
never could find or see them. -

Benjⁿ Holmes - the cushions now produced on
his property - they were generally kept in the
Coach

Coach house - on his being asked by High Constable
if he had took any Thing, he went to look at the
Coach house & found two Carbons missing - he
went to Thronton's & found them there - valued
them at 7 or 8 dollars -

Verdict. Guilty - but recommended to
Mercy.

The Queen
v-
Pierre Payet
otherwise called
Pee St Amour

} On Arraignment on Indictment for
Grand Larceny - The Person pleaded
Guilty. -

The Queen
v-
William Grimes

} On arraignment on Indictment for
Burglary - The Pe. pleaded that
he was guilty of breaking as laid in the
Indictment, but not of the breaking &
entering as therein stated - The Atty
General prayed the Judge of the Court on the
above confession. -

Wednesday -

Wednesday 30th Augt 1837.

Pres.

Ch. Justice Reid
Mr Justice Rolland. —

The King
John Hill Roe {

On New trial on Indictment for Perjury.

John Smith, he lived in 1831 he lived in Stanbridge - is a blacksmith - he had before this he had employed the Dep't. as a Doctor - and the W^t had become indebted to him on £16.12 £. who had paid it up to £5 - in July 1831. - The Dep't. wrote a letter to W^t in July '31 - for this balance or he w^t see him, or that he shd^t bring his horse & w^t buy him - W^t in July went to Dr Lotters to see D. w^t his horse, but they could not agree about the price - but he told W^t that he must leave the horse as a pledge or he w^t see him - W^t agreed to this & left the horse w^t Dep't. ~~In the latter part of Augt~~ The Dep't. gave W^t a writing that when W^t p'd. the balance he could get back his horse - In any. after, he took David Smith & Lotters Corp w^t him to D. tells them he wanted to settle w^t D. - Told D. he wanted to pay him & take back his horse - D. & the horse was not at home - said D. he wanted to buy the horse - Mr. D. he had no objection & W^t. D. asked 45 dollars - D. then said he w^t be much obliged to him, but asked W^t if he would give him a chance

chance to pay the balance Mr W agreed, and then
then said he wanted keep the horse and would then
owe Mr 17 dollars - In 1833 Mr W sued D for
this balance at Circuit Court at St Johns - The cause
was continued to the Court in Town - In Novr 1833
he sent in his witnesses but did not come to town
to hear them.

X.

At the bottom of the letter he rec'd from D there was a
note, that if we would bring his horse we knew he
would buy him - has not this letter cost him at present
what he has spent it about a year ago - did not
produce this letter at his suit w^t D -

The D exhibited an agreement signed by D by which
the W agreed to leave the horse in the possⁿ of D till
1st Oct^r. following dated the 16 July 31 - W says this
is his handwriting, but the date is wrong, as it was earlier
in July & not so late as the 16th but this he thinks it
was about the 6th July - That the act was drawn up
by a Notary -

The horse was sold to D. in Augt by verbal agreement -
That he sometimes takes notes from persons that are owing him
that he asked no receipt from D. for the balance of his account
when he sold D. his horse nor did he take any acknowledgement
for the £4.5. q^t D. then would owe him -

That the two persons who went w^t W were at St
Athanasie w^t David Smith was w^t W & he found Lorry
in the Street at St Athanasie - and Lorry went along w^t

W^t

W. and David Smith to the D. W. had no other business but to receive his horse - he mentioned to the D. that a watch had been stolen from him & he suspected the thief was somewhere about St. Johns - does not know that D. Smith & Conroy had any business at D. but recd. told them he had a horse in pledge at D. and he wished to release him - & he called on them to be present at the settlement.

Robt. Lester Morrogh,^{was} Pro^r of the Court of R. B. on ~~July~~^{Aug} 1833, & is so still - & is keeper of the Records of that Court - produces the record of the Cause instigated by John Smith instituted agst the Defendant in the Circuit Court at St. Johns on the 25th July 1833 - Then the writ of Summons & demand were read stating demand for £. 5 - balance of acc't. for a horse sold to D by Smith - & other objects stated in the account annexed - The cause was heard from St. Johns first to Sept 1 afterwards to 25 Oct^r - and on 26 Nov: the cause was called for proof - The plea of Defendant was that he owed nothing - he was examined on oath - the Judge administered the oath to the Defendant - on the holy gospels to speak the truth - the Defendant was examined touching the purchase of a horse from John Smith the Plaintiff in the cause - but did not recollect what answer Defendant made - The action was discont^d by Plaintiff.

x

John Rock Rolland - Was Judge of H. B. in Nov. 1833
he presided in that Court in a cause of the nature now
in question, in q'ty the D. was examined on oath - From
what he has heard of this matter he recollects that Dr. Jr.
was examined on oath -

It being proposed to libts to speak to the answers
made by the D. when on oath -

It was objected by Counsel for D. - that verbal
evidence in this respect ought not to be admitted - This
objection was over-ruled -

The Wks said that he did not recollect what
answers the Dr. Jr. was made, but thinks he denied
the purchase of the horse in question, in some way,
and the cause was discontinued -

David Smith - objected to as having run onto Lamb
during the exam' of last Wk

Nelson Horatio Gosselin bkt. up by Dr. Jr. for fact
says, that during the exam' of John Smith, he
saw David Smith coming out of Lamb - spoke to
Mr. New at a table in the passage, & Q'd. he had not been
sworn, that John Smith was then under examination

David Smith, lives at Stanbridge & lived there in 1831. He
recollects that in Augt. 1831. J. Smith sent him to go to
a place at St. Pie to look after a watch that had been
stolen - when then he heard the persons suspect had gone
to St. John - on this J. S. This goes all right as he

he owed sum money to D or he had a horse
of his in pledge - They went on to S^c Abraham
hove out with Ishmael Cooley and Dr Pei, he
went along with them, and I.S. asked them to go
to them to D - as he had only to pay his money
& take his horse & return - They went there when
I.S. & he had come to pay his money & take
his horse - D - horse not here - I.S. said it
was no matter to him he wanted his horse - I
asked to buy horse darker price - I.S. asked
45 dollars - D said it was too much - but
I said, if you will do by me as I have done
by you I will buy the horse - I.S. agreed
to this, they then reckoned together, when it
was found that D owed to I.S. and
D. was to keep the horse - That I.S. took
an action ag^t D. for the above sum, and Mr
was called on as a witness in that cause ^{re} about
1833 - he attended, but does not recollect he was
examined as a witness but D. was examined on oath.
He was sworn by the Court - The Defd. was
questioned about the purchase of the horse in question
he said he had never purchased a horse from John
Smith in his life - & that he knew nothing about
the 2 men spoken of - on this he understood the
suit was lost -

The allowance made to him as a witness in the cause of Smith vs Ross was paid to him by John Smith but no more - Has no knowl. that he said to anyone that this suit gave him more than his farm - nor the profits he made out of the suit - Does not know one James Howard of Noyan -

By the Court - That after the settlement was made between the Defendt and John Smith, the Defd. produced a small bottle of rum and the Wks & the others had a glass of it from Dfd.

Joseph Bourré, is one of the advocates of this Court, was so in Novr 1833 - was employ'd by Dr Smith in a suit he had at Circuit Ct at St Johns in July 1833 against the Defendants in this cause. The demand was for a balance of £4.5- on a sale of a horse & other articles - The plea was that he owed nothing to Puff - The cause was consl. to Montreal to 16th Octo - on that day the Court was further consl. to 25 Novr after - it was then consl. to 26 Novr - when it was called - The Defd. was ordered to answer on Facts & articles - he was sworn by Mr Alcock the Clerk of the Court, in the usual manner - being sworn the Wks asked him to look at the suit in question & asked him if he had not purchased the horse then mentioned - he s^t he had no recollection of having purchased a horse from J. S. but that a horse had been left w^t him on pledge for a debt I C' owned him - The Wks put the question again to D'

to speak positively to the facts & and the Court
will put that question, when D - denied positively
having purchased the horse from Smith & and
that he had no recollection of having seen the
2 Mrks - on this we discont the claim on part
of Corts - That the two with David Smith and
Johnael Cory were present in Court at the time

x

There is one date marked opposite the sale of the
horse, it might be taken to be of the 2^d. May - There
are other previous entries in the account which are
dated, & the 2^d. May is the last date & on looking
on that and it would appear that the charge for the
horse is carried under the head of 2^d May. —

Johnael Cory - lives at Stanbridge, Servos I.S. & depo -
That in Augt 1831. he met w^t Jno S. & D S. near the
bridge of St Johns - when I. S. wanted him to go
over to D' Johns w^t him as he had an acct to settle
w^t D. - That D. had a horse ^{this} on pledge for a balance
he owed in the W^t & D Smith & I S would b^e D.
when the acct^s were settled, the balance due by I. S.
to Dr Roe was £7 - This I. S. was going to pay
when D. s^d he wanted to buy his horse - asked the
price - £. it was £5 date Roe s^d it was too
high on this Smith s^d here is your money. I
want my horse - D. s^d the horse was not at home
but if I. S. would do by him as he had done by
him, he w^t ^{keep} the horse - on this it was agreed

that

that there was a bill in due to J. Smith of 17 dollars
and D. was to keep the horse & he considered the sale
as made, and some liquor was drunk on the occasion
and the parties retired.—

Mr. was afterwards called to appear as a witness at
Montreal first in dephr. & afterwards in Nov. in
David Smith. — It was about the end of Nov. he
saw Mr D. sworn on the 6th to answer to the
questions put to him. — The Drft was questioned
about the sale of the horse, and the defendt said
that he had never purchased a horse from J. Smith
nor ever had any settlement of account w^t J. Smith,
who still owned him. — That he never knew the
witnesses D. Smith & this Mr. — The consequence
was that the suit was discontinued & the attorney
was paid at 15 dollars.

F.

Has a recollection there was some conversation
at D. about a watch that had been stolen from
house of John Smith —

Barnard Lynch — was objected to as having been present in
Court during a part of the examinⁿ of some of the witnesses —
and the objection was admitted —

Mr Hunt objected that the whole injury as assigned
in the indictment had not been proved, in regard of the
what is stated as to the answer of defendt touching the
two witnesses who were stated to have been present

at

at the sale of the horse. —

The Court directed the Defendant to proceed on his defense, reserving to remark on the objection now made further it charges the Jury —

Defence —

John Smith. The evening after trial in the Inferior Court at Morley went home the horse to Mr. saying that he had rec'd. the horse from Dr. Roe to give him — He refused to take him, saying he was not his —

Nelson H. Gosselin — He kn^t Smith first M. & the D^f —

In summer 1832 he had business w^t Dr. Roe, & frequently observed the horse he drove — late that fall or Jan^y 1833 Dr. Roe came to house of Mr. & he had purchased a horse & in conversation he had w^t Roe led to a conversation w^t Mr. Smith — having rec'd. the horse from Dr. Roe in his keeping — Dr. had at the time another horse of his own — The horse he got from Dr. Roe he w^d not keep for the use of him being an old horse, & his legs liable to swell in the stable — a defect which appeared to be of long standing — After this prosecution was commenced, Mr. Smith and some others came to enquire on what conditions he had the horse from Dr. Roe — He refused to give them any information on the subject — The next conversation he had w^t Mr. Smith was ^{when he saw} the account he gave him of the sale he had made of the horse to Dr. This was at a public house at Stanbridge — In D^r he was owing Dr. a

sum of money - That Dr. had written to him to get his
pay - he went to see Dr. took his horse or him, & left the
horse w^t Dr. as security until he got his pay - That he
soon time after earned money to pay d. & get his horse
back to d.^r The horse was not then lost at La Prairie,
as this Smith asked him to buy the horse - D. o^d, he
would buy the horse if he could find him as good a
chance as he had given him - he consented & left the
horse - On this the W^r observed, he was surprised he
did not take a receipt from the Dr. In what he said -
This led on to some excitement on the subject as Smith
appeared determined to prosecute the affair with vigor
as he should appear disinterested as a W^r for the Crown
The other W^rs were then present & seemed to join together
in the Dr. Then o^d. From the personal conduct they appeared
to take in the business he had no doubt but Dr.
w^r he convicted - when Correy said he ought to be excepted
then Smith clenched his fist in his face -

Has heard that character of D. Smith was bad -
Knows that Dr. Roe in 1833 had an extensive practice
at St. Johns - he lived in his own house - his general
character is good - never heard any thing against him till this
affair now in question -

2.

Thinks that Dr. Roe having an extensive practice, by
him riding for a year might be best to state in qd
he saw the horse was of. he got from Dr. Roe -
that when he observed that he had no doubt from what

h

he heard from them, he had no doubt but that D'Orsay
would be convicted - ^{They said,} that cost what it would.
D. should be convicted - & demolished his fort at W.

James Bowdon - lives at Morgan - Mr. David Smith - the
W^e up? to say - We also Dr^t Smith - That about 2
years ago he had some conversation w^t Dr David
Smith, he told W^e that if what he were not
what he got from John Smith in this affair, what
he got from the Crown w^t not pay his expenses in
attending the Court - That in attending Court in winter
it was less expensive, but in summer it was more
expensive as he could not attend to his farm - See

In ^{most} Oct^r 2 years ago, he fell in w^t John Smith as he
was coming to town - W^e asked Smith about the
suit - Smith said the suit had cost him about
600 or 700 dollars, and he wished he had never
commenced it. - This the W^e could not comprehend
when the expenses of the suits even p^t by the Crown -
Heas known Dr. for several years, never knew
a heard any thing said against him - He has
got practice in that part of the Country - & does not
think he is a man to commit any offence for 17 dobb

To the acc^t. of the character of Dr^t Smith are not
favorable - but he knows nothing personally ag^t
him -

Lament Auguste Morane, Justice of Peace & Notary - says
he signed the paper now produced as a witness,

it was at the time, as far as he recollects, as the date bears -

Samuel R. Allen - lives at Stanbridge - He on David Smith - called to day as a witness is brother in law of Mr -

W. Ishmael Corey - says, he drinks at times -

Jeremiah Allen, lives in Stanbridge - His son Smith - for 10 years - he is a man that drinks -

- W. David Smith was a man of pretty good character
- W. Ishmael Corey - is a man that drinks -

James McGillicuddy, Justice Peace - He Dr and also John Smith - about 2 years ago in Henryville he saw Smith & asked him the nature of the prosecution, saying from what he knew of Dr - he regretted it - Smith said that the Dr was the cause of it himself, that he had said so much agt his Smith's character, that he was bound to bring the prosecution agt him - He has known Dr - for 8 or 9 years, from what he knows of him thinks he would not be guilty in this affair

Edward Prentiss, has known Dr for 14 or 15 years always had the highest opinion of him

Eusebius Bandy Lawyer - He Dr. since 1831 - he is a man of a liberal ^{good} character -

Thomas Jones. Capt. of Militia, has Dr for 10 years -
his general character has been good - & his conduct
liberal - does not think that for a sum of 17
dollars he would do an illegal act -

Matthew Jamieson - has known Dr for many years
his general character was very good -

Peter Roe - son of Dr's wife - remembers when Dr had the
horse from Mr South - he then had another small
horse called Pompey he got from John Ryan -
& there was no necessity for his father having another
horse, as one was sufficient for him - That he had
no use for two horses - as they were frequently not
in use -

George Levy. Capt. of Militia at St Johns - No Dr since
1831 - gives him a good character - he is in good
practices and of liberal habits. - Was astonished
to hear of this "prosec". agt him -

Jean Frant ^{Berry} Léonais, is Physician, No. Dr for 4 or 5 years -
always considered him as a gentleman & a very good
Physician - was surprised to hear of this prosecution
agt him -

Char. Mongeon - Capt. of Militia. & Com^r No. Dr -
for 6 or 7 years always considered him as a man
of good character -

Wm D. Baldwin Pastor of St Johns - Rec'd since 1831 -
believes his moral character to be very fair & was
surprized to hear of the present accusation of him -
Defence was closed

Verdict. Guilty

Thursday 31st Aug^t 1837

Pres^t

Ch. Justice Reed

Mr Justice Rolland

The Queen -

Samuel Moorhead
John Williams
John Knox
James Dawson

On arraignment for Grand
Larceny - The P^r John Knox
pleaded Guilty - The other Prisoners
pleaded Not Guilty -

The Queen

John Knox

On arraignment for Grand
Larceny - The Prisoner pleaded
Guilty -

The Queen
v
Julie Deschamps } On trial of Indictment for Grand
Larceny -

William Walker, lives in Montreal, on the 16th
March last & on some days previous he had observed
the Pt in his yard - about 10th of that day he
went to take a surtout out of the Dining room
where it lay, and could not find it - was surprised
as he had seen it there in the morning - called the
servant man who persisted he had left the coat on
the sofa - suspected a servant woman who had been
in his employ for 3 or 4 days - he called this woman
& charged her indifferently with stealing the coat - she
was much affected, & mentioned that she had seen
a woman go up the stairs, & come down soon after
w something under her arm - said she was not
alarmed at this as some women came to the house
occasionally to do small jobs for Mr Walker -
that this woman was a girl Marguerite who came
daily to the house - but said, that the woman she
saw in the morning going out of the house between
she had seen in the yard 2 or 3 times before, & a
woman of bad character must be the thief - The
Pt was not damaged & directed the servant girl
to go in search of the woman, or to get his coat -
The W went to the Police office to see Mr Delisle
the servant girl proposed to go after the thief

W. meets circumstances w Mr Ditch who comes along with him in order to go to his house - on the way in the New Market perceived a person with something in her hand she offered for sale - almost at the same moment he saw his servant girl come forward and lay hold of this person - a struggle ensued, when the servant girl lay hold of the basket & threw it in the hands of some one - in the struggle the 2 women fell to the ground - By this time the W. & Mr Ditch came up - the W. recognized the coat to be his property and the person who had it & from whom it was taken to be the Dr. who was in consequence committed - recognizes the coat now shown to be his same that was stolen from his house, and of the value of five pounds Sterling -

Henriette Allorin - lived at Mr Walkers in March last - am. having seen the C^r come into the premises of Mr Walker - she came in by the yard gate - she heard the P^r speak in the passage - saying there is no body in - saw her go up the steps into the house where she might have remained $\frac{1}{2}$ hour - W. thought it might be one of the women who came to work there - but when the P^r came down again, she observed from a difference of cloak, she took a little more notice

nolice of her, she had something over her arm,
and she went out by the yard door with the Sheet.
About 2 hours after the ^{Mr Walker's} great coat was missing
and she saw Mr Walker in search of it. - on
this the W^r mentioned having seen the Dr go
up stairs, and as the W^r was suspected of having
stolen it, she went in search of the Dr on the
new market, and on enquiry she found there
~~was a person offering the Coat for sale - she found~~
~~that the person had purchased the great coat & that~~
Mr had hold of it & claimed it as her Master property
and in the mean time Mr Walker & Mr Delisle
came up, and Mr Walker recognized the great
coat to be his - Mr recognizes the great coat
now produced to belong to Mr Walker -

Benjⁿ Delisle - High Constable - on the 16 March last, he
recd from Mr Walker the great coat now produced
he arrested the Dr on the market place, the
servant was then in the possⁿ of the last Drs -
Saw a scuffle between Dr & Clark Works when
she pulled the great coat from the Dr -

Verdict. Guilty. -

The Queen

The Queen
v.
Charles Per }

On trial of Indictment for shooting a
Cow

Francis Bethel, lived in Limoilou on the parish of Longue Pointe near Montreal on a farm he had there - he had on the 27th June last he was informed that one of his Cows, a red one, was missing, valued her at £5 - the Cow was kept on the grazing place - he in consequence made search for the Cow - the former were all in good order & all other cattle were known except this Cow - ~~Mr Lapointe~~ From the information he recd from his servant he set off w/ his servant for town - on the road they met the Dr & two other men - the servant of W^r pointed out the Dr as the person whom Mr Lapointe had told him had the Cow - he charged him w/ the theft - he denied it - he brwl. Dr. de Lapointe - saw Madame Lapointe who said that Dr was the person she had seen with the Cow in the morning - the Dr again denied it - he examined the other two men separately - but they gave contradictions and - Mr Lapointe came up in the mean time & said he saw the Dr with the Cow - the Dr again denied it - the W^r then sent the Dr to town & lodged an information of him As they came on to town, the Dr said he would show

W^r

Mr where the Cow was in the St. Antoine Suburb
in the possession of ^{one} Rosalie Denis - Mr saw the
Cow then and recognized her to be his property
on this Madame Denis asked Dr to give back the
money she had given him, he said he had not
got it - The Dr recovered his Cow, & the Dr was
committed -

X

While at Lapointe w^r the P^r the Dr told him
he would do better to confess his guilt, and
nothing would be done to him - The P^r still
persisted in denying he had taken the Cow - That
on the way to town the Dr reiterated this regret to
Dr when he burst into tears and said he would
show where the Cow was -

Clement Bourdreau - In June last he was in the
service of Jack M. Knows that one of his cows
was missing in his field, saw her the night before
she was missing - The Jones were good - told the
Master of it - They went in search next day in
the neighbourhood, but did not find her - but
they found the Cow in the St. Ant^e Suburb - Mr
was present w^r Mr Bethel - knew the Cow -
The Cow was at one Mad^e Denis, when they found her.

F

X

That we told P^r if he would tell them where the Cow was, that M^r Béthel would not have him punished - but the P^r denied having taken the Cow - That afterwards when the came to Mr Fisher the same promises were held out to P^r when he acknowledged having sold the Cow - on the S^t. Ant. Subm^r

Antoine Desautels de Lapointe lives at Longue P^r
That about 27 Jun last Béthel told Mr. he had lost a Cow - That early in the morning he saw the P^r with the Cow of^t he knew to belong to Béthel Mr. came to town, & on his return he was told by Béthel's servant that he had lost his Cow - Mr. told the man that he had seen the P^r with the Cow pass in the morn^s towards the town - That Mr. Béthel took the P^r and two other men w^t him, and charged P^r with taking the Cow, but the P^r denied having taken the Cow - on this they took the P^r to town - Mr. accompanied Mr. Béthel on the way, the P^r said he had sold the Cow on the old market - when then Mr. told them to go forward till he conducted them to where the Cow was, where they found her in the S^t. Ant. Sub. in the poss^t of some Mad^r Denis - The P^r refused to return the money he had rec^d from Mad^r Denis -

That Mr. Bellet P^r would be better for him to tell where he had put the Cow, as there would be nothing down to him -

Rosalie Denis, wife of Benjamin Billiard - In the month of June last he purchased a Cow from the P^r in the St. Ant. suburbs - the P^r asked ten dollars for the Cow - said his name was Lapointe. he said the Cow was a good Milch cow - she gave 5 dollars, and promised to give him 5 more, in case the Cow turned out well. - The P^r returned the afternoon of the same day with one Bellet, kept Lapointe, who claimed the Cow as the property of Mr Bellet - on this the W^r asked P^r to give back the money she had paid him - but he said he had spent it -

Richard Webb - The P^r was bkt. to the police office on June last on an accusation ag^t him - he searched him, & found on him 15 dollars in bank notes & twenty five coppers - before being searched he denied having any money - The money never produced is the sum he found on his person

Defense -

Pierre Dalbec lives at St. Sulpice, St. L^r. for about 10 years to his family, who are honest people - P^r left St. Sulpice about a year ago - There is not a man who is of sound mind - he used to go about the parish

bpt

like a silly person, and would amuse himself
with the children — That when blamed for anything
he would cry like a child —

X

The P^r is a married man, & has a family —

Edouard Cole — lives at St. Sulpice — he P^r for 10 years
of his family — The P^r always passed for a man who
had not a war of weak mind — he could be made to
say a or whatever was asked of him — He played
with the children, and when found fault with
would cry like a child — He left his home at times
& his wife did not know what had become of him —

Amable Colin, lives in Quebec Sub. Is the P^r for several years
has heard the father of the P^r say he had one of his
children, who was of weak mind, alluding to the
P^r —

X

Does not think P^r is so weak of mind as not to
know

Lisette Eler, sister of the P^r lives at St. Sulpice — while the
P^r lived at his father's — he was of weak mind — altho'
he never did any thing wrong — he would absent himself
at times from the house without its being known what
had become of him —

X

Verdict. Guilty. recommended
to mercy.

The King
or
Louise Gougeon } on Indictment for Grand Larceny.

Jeremy Decary, lives at 104 St. Paul street of
Montreal, — Some days before ~~it~~ on the 10 June he
got 20 bills of 5 dollars each from the Bank du Peuple
^{In which he gave value to the Bank} on his return home he put up 18 of them notes
in a small trunk in a cupboard in his bed room
The valise was locked as well as the cupboard were
locked & he had the keys. — That he saw his money
there on the Sunday about 3 or 4 o'clock in the afternoon
the Dr had lived in his house for about 16 or 17 years
and had left his house about a month before this,
but she knows well where he kept his money &
all that belongs to the house — When he left the
house it was known that Mr was about to be
married — That Dr Sarazin & his family, the husband
of the Dr ^{had} lived in his house — When he left
the house on the Sunday afternoon he left his
servant girl in the house — He did not return till
about 1 o'clock at night — When he returned home
Marie Durasse was in bed — About 2 o'clock on
Monday he found he had been robbed — That on
going to his гарант he observed a small crochet ab
gave him some cause of suspicion, and he came
back, opened the cupboard w^t his key, but the
valise was gone — That when he put up his
money the daughter of the Dr was in the house, she

is about 15 years of age - thought have seen him go to his Cupboard, as it was in the day time & he had no occasion to conceal from the persons in the house what he did. —

That the same day, the Monday, he found the valise about an acre from the house, it was open and but nothing in it —

That some days after the Dr. told him who then lived on the 3rd lot from him told Mr. that there were a douzaine de piastres de dépenses sur l'argent, the Dr. slept at the house and speaking of the money, she made the above observation — That on this the W. S. if you knew that so much of the money spent, you must know where it was spent & when his money was, but she would not tell —

That the Dr. which at his house knew well when he kept his money and the day he drew his money from the Bank, the Dr. was at his house and knew he was coming to town to get money —

X-

The Dr. used to sell vegetables for WP on the market — The Dr. left his house about the 8 or 10th May —

That on the Monday his two brothers were at work for him —

That he caused Dr. & his daughter to be arrested for the robbery —

That he had 2 men servants who lived with him at the time. —

That he had suspicions of the Dr. although he could not declare it —

115

that the Dr. has been sued by the P^r for having said she had taken his money - the action was served on him about ~~an~~^{on a very day} two hours before he entered his complaint at the P^r.

Marie Decarry - was in the employ of last week in June last, she entered his service on 9th June - That on the Sunday afternoon Decarry left his house - the Dr. came to the house about 5 o'clock in the evening - the wife went out to milk her cows - P^r said she would go w^t her - She staid a short time, & then went away saying she must go and see what her young folks were about in the house - That Mr. milked her cows & came back to the house - when she had cleaned up the house the Dr. told her she ought to go and look after Decarry's horse in the barn and on the persuasion of Dr. W. went there leaving in the house the P^r & her daughter - That when Dr. came back from milking his third & last Cow the Dr. was in the house alone - and when Mrs returned from the ^{barn} stable looking after the horse she found the Dr. alone in the house - it might take a $\frac{1}{4}$ hour from time she left the house until she returned from the barn - The Dr. remained in the house nearly an hour after this -

x.

The servants in the house at that time were the wife the daughter of the Dr. & two young men -

That 3 days after the theft, the brother of Decarry opened the Cupboard with a p^r. of Jars and found it

in the same manner -

Magdelaine Deschambault, wife of Luc Vidal - to the P^r
Sunday - That on the 12 June she called on the P^r for some
money she owed her, when P^r told her there is money
en hant, that is further on at M^r Decarry's, M^r
asked her who said so, she said her daughter Adelante,
the W^r said, that money is not yours - she and -
c'est également en ta. - si je mets la main dessus
je m'en vais tout prendre - That on the Saturday
before the P^r told her that M^r Decarry had drawn
money from the Bank, and that her daughter had
told her so - On Monday morning she came to
house of W^r with 3 bills of 5 doll^s each, she called
to work them at work in the field, saying she had
brought her some money - but requested that W^r do
not speak of it, it was 15 doll^s. Decarry had
lent her, and she did not wish that any one should
know of it, not even Decarry himself - That
on the same day the P^r had the carriage of sister of
W^r to bring four bags of potatoes for her for which
P^r was to give her a minot - That P^r gave directions
to put the 3 bushels of potatoes by the fence of W^r garden
L when it was night she w^d. come with a cart and
take them, as she did not wish any one to know
any thing about it - That when she came for
her potatoes in the evening, the P^r said she said
she was going to Decarry's to see if ^{he} had any

Saturday

Monday

intelligence about his money - The Wks had
not then heard that Decary had lost any
money - & W. did not know what it meant
~~but~~ heard of it later the same evening -

Tuesday

That the Dr came to her next day Tuesday,
when W. observed to her how could Decary
find her 15 dollars when his money was stolen.
The Dr said it was her who had taken the money
and she availed not her valise south winds -
The W. asked her how she had committed the
Robbery - she said, that the girl of Decary had
gone to walk her cows, that she had gone to the
house, had sent out her own daughter & a young
man who was about to her wife the garden. That
she had opened the Cupboard with a crochet
and taken out the valise - That she told
the Wks on the Sunday she had a crochet
in her pocket in order to open the cupboard,
as she had done before - & had taken some
money out of it 2 piastres & one franc - She
said she took the valise put it under her robe
carried it towards the house of Mad. Thurtubise
~~The neighbour~~ that she told her daughter & the
young man You make love, but I will go
take a walk in the garden - That she forced
open the valise & threw it down in the hedge
by the fence of Thurtubise - The Wks then

asked

asked her what she had done with the papers in
the trunk & she said they were of no value &
she had thrown them in the stove —

That ^{on the Thursday after} Dr advised the Dr to carry back the money
that was left to Decamps, & put it in a place
where he would find it, but she said she had
taken the money & would keep it — he is going
to get married, but they will not drink with
that money, the Devil will take him & me also —

That the Dr is sister me dulac, tu le prouvera
le bon. a dit si je le prouvere ou sera vos filles,
give me survient de famois — the 2 daughters of
Dr were then present — The Dr said — mes deux
filles feront serment que m l'air point — the
wks said you will then be the cause that your
two daughters would never approach the communion
The Dr of she cared nothing for that — Je m'en fous —
That the money the Dr paid her were **2** bills of four
dollars each, of the People's Bank. —

That Madame Tremblay was present at the
conversation w^t Dr on the Sunday —

That the Dr told her ^{children} to watch, as since she had
taken the money, a cat would not come to the house
but Madame Tremblay was always there —

That the husband of Dr is a poor man & journakin —

P

Ms was on friendly terms w^t Dr but she has
not

not too good a character - That the bills ~~were~~
P^r gave W were two bills of 5 dollars each, which
Mad^e. Tumblay recd -

That W first gave information to Pervais
Decarry, the brother of ~~the~~ Jeremy Decarry, and
some time in the beginning of the week after the
Robbery the P^r was arrested -

Never said any thing to Larche touching this affair -

Catherina Maranda, wife of Roger Tumblay -

Saturday

That on Saturday the 11th the P^r was at
the P^r The P^r said she wanted to take Mr
Decarry's money - That she had a crochet that
would open his Cupboard - That she had
made use of this crochet before, and would
use it again -

Sunday -

That on Sunday, the 12th the P^r came to her
house of W^s Madame Vidal also last W^s
was present, That Mad^e. Vidal then asked
P^r to pay her money she said she had none-
but there was money at Mr Decarry's - on
this Mad^e. Vidal - That was not hers - P^r
and - ne soyoz pas si grande - je n'y en va -

That on the Monday, the P^r & Mad^e. Vidal
came to her house, with a Bank bill, it was

a bill of 5 dollars, while Mme Vedel said it was only 2 dollars - it was a bill of the Coupled Bank -

that when Pr left house of Mr she went towards Nut of Decarry - it is the third land from that of Mr it was then about 5 o'clock in evn -

*

Joseph Biron That Mr was at house of Jeremy Decarry on 12th June last - saw the Dr there about the evening - Mr was on the gallery talking with the daughter of the Dr at this time the Pr was in the house - the servant girl had gone to milk the Cows -

Then the evidence for the Crown was closed

Mr Hart for the Pr objected that the indictment was insufficient & that prosecution could ^{not} be supported at common law for the stealing of Bank bills -

Defence

In cross-examination Mr. Pr from her young years never heard any thing agt. her character - that Madeline Deschambault does not enjoy a good character - she is considered to have a light character, she would not believe her on oath -

P

P

The P^r is cousin to his wife -

Joseph Poirier - No P^r for about 15 or 16 years now
heard any thing of his character -

He has heard it said, that Mad^r. Vidal
has a bad character, & he would not believe
her on oath -

Nicolas Parent - No P^r from her infancy - she always enjoyed
a good character - She is cousin by marriage
w^r. P^r

That the reputation of Mad^r. Vidal is generally
considered as bad -

Madame Tremblay in speaking of what
she had said, stated, that she regretted what
she had said, but all she had said could not
hurt her very much - That she knew nothing,
I only stated what Mad^r. Vidal told

Toussaint Parent - is brother in law of P^r - No P^r for 23 years -
she always enjoyed a good character -

Has understood that general reputation is not good

Mrs. Laurent de Lortie - was married to a sister of the husband
of P^r - she is dead - No P^r for 23 years - good character,
general character of Marie Vidal is bad - does not know her

Jn

Mrs. Marie Duguet - known for 18 years - a good character -

Mme. Madeleine Vidal, she knows for a good character in
his neighbourhood - has heard people speak ill
of her - That he has seen her in the house of
correction when she was aged about 12 or 13 years -

Here the defense was heard

Jeremie Poirier, called my Atty General Knows
Mme. Duguet well for 10 or 12 years, she
enjoys a good character - a would believe her on
death -

Louis Chenu - Knows made Vidal for 25 years
~~she~~ always been considered her as a good
character, people talk of her indifferently -

Joseph Almond, knows Mme. Vidal for several years
she has a ^{very} good character - She is married about
less 5 years -

He has heard talk of her, but knows nothing -

~~Verdict.~~ Not Guilty.

Friday 1st Septr. 1837

Present

Ch. Justice Reid
Mr Justice Gale

The Queen

vs
Geo. Wm. Hoyle
Moses Davis
Michel Gaspard
De Laronde

On trial of Indictment for a Riot
and obstructing certain Commissioners
and assaulting their officers in the execution
of their respective duties.

Mr Grindes Blanchard, lives at St Andrews
Supt of Argentueil - & H. The Baron, Charles
Benedict. - The W & W two men were appointed
Commissioners for the trial of small causes in the
the beginning of Argentueil, by Commission dated
25 March 1836, which was admitted and read
to the Jury.

The Commissioners were sworn & undertook the
duty, they appointed John S. Houtsons as their
Clerk. - The Commissioners met as by law the first
& last Saturday of every month the Court must be
held - The 6th day was first day of meeting of the Court
which had issued a warrant on that day at the
School house in St Andrews. At similar Court
was formerly held in that Summary & the Court
was always held in the School house. The

W-

announced that the Court was to be adjourned
Mr L. finding he had succeeded in his object
began the following abusive language - excep-
tive, Stop Stop I will not allow His Majesty's
name to be taken in vain, — and to the Court
he said, Carey with you — If His Majesty saw
you, he would be ashamed of you — this was
said while the Court was adjourning — the
Court was thereupon adjourned.

When he went then, I saw Mr L. on the Bench
the other Dr Dr. Hough & Davis were present &
about 20 other persons —

That previous to the meeting of the Court Mr Dela-
vende applied to be Clerk of that Court, but before
the Commission came out —

There was also a similar application by Mr Nelson
Davis the son of Mr Elvens Davis —

That it was publicly known after the Com'ee. issued
that W^r & the others his associates were appointed Com'ee.
& W^r had spoken of it to Mr M. Davis —

x -

He has known Mr Davis for 20 years — he understood
that he was one of the ~~Trustees~~ Commissioners
for repairing the School house at St Andrews
with some others —

— That when W^r went in, there was a young man
writing under the dictation of Mr Delavende —

Then about 20 other persons were some sitting
some standing, & of the Jurors before the Court
as the Writs were returnable there that day -
It was customary to hold the Court there, which
was the reason they appointed it on that occasion -
that some years ago there were objections to the
Court being held there, but this had subsided -
There is a Presbyterian Church at the Shute
but a minister regularly appointed - cannot say
whether it is a Parish Church or not - There
is a Catholic Church near St Andrews and
an Episcopal Church -

Thinks that one Monnargent asked that the
Commission of Comrs should be read -

when Davis said that Laronde was in his employ
he cannot swear that he was in his employ to
create obstruction to the Comr's but the disturbance
was altogether unexpected & extraordinary -

That Mr Davis had a cause coming on before the
Court, ^{does not recollect any objection} and made some ~~objection~~ to the adjourning the
Court by him - Mr Hough objected to adjourning
the Court to La Shute, but that the Court should
be held at St Andrews

That in consequence of this trial the Court was about
3 or 4 months after always held at La Shute, at
about 7 miles distant from St Andrews -

B366eves

Believes that the words used by Mr Delaronde
that the King would be ashamed of his law - were
used about the time the Court was adjourned, -

By the Court - The Com^m had recd their commissions
but did not take them with them to the Court room
that day - nor did they cause them to be read at
the Court that day where the Court was afterwards
held -

Here a paper was produced as the official Gazette

Charles Benedict was appointed one of the Com^m. in the
trial of Small Causes for the Supt of Argentan with
Mr Blanchard & Mr Baron - that sum^s had been
issued returnable at School house there on 6th Augt.
W^t attended there on that day - After the Com^m recd. it
was publicly announced that the Court w^d be held
at the School house on 7 Augt. & sum^s had issued
accordingly - on that morning before the meeting, and the
oathes administered, W^t & several others proceeded to
the Court House, W^t was a little behind the others
when he entered in saw much confusion. Delaronde
was on the bench of the Com^m w^t a cane in his
hand, a young man by his side, his clerk - W^t stood
astonished at this conduct & the tumult - The
baileff was ordered to clear the Bench - he immediately
went

went to Mr Lawonde & told him he had better
go out quietly as he must take him out. The
Mr reiterated the order - Drd - replied that he
had as good a right to this seat as the Comte or
as the bariff ~~dealing~~^{Meeting} known to go out. Mr Lawonde
~~told~~^{told} him if he touched him he would shoot him.
The bariff said hold of him in order to pull him
out, when Lawonde struck bariff a heavy blow
on the head w^t the stick - a squabble ensued &
Mr Lawonde proving the strongest, resumed his
seat. The persons present were called to assist
the bariff in the execution of his duty - no person
coming forward - particular individuals were
required to ^{give} assist but none was sent - It
turned towards Mr Davis who was seated quietly
on a bench - asked him, if he approved of their
proceedings - Mr D. replied, that he had employed
Mr Delavonde - Mr Baron then said to Mr
Hoyle to ^{witness} ~~note~~ Mr Davis's words - up to this
time Hoyle had sat silent - Mr Hoyle rose
and said, his name had not been called before
& it was very hard to give evidence ag^t myself
I have employed Mr Lawonde as well as Mr
Davis - It was observed, that this was the house
appointed by law, and this the day for holding
the Court consequently the house must be under
the control of the Comte or
Am

W^r has been Commissioner for 18 Years & the Court
was always so held. The Dist^r was resident
in the said Superior for some years except Mr Lavonde.
In Augt 6. 1836 there was a School set that term
open, but it was suspended to make way for
the Court, and the rents were ascertainable at the School
house - That on the G^t Augt. The W^r & 2 others
comes & their bailiff proceeded to open the Court, on
arriving there they found Mr Lavonde occupying the
Court Bench, they requested him to have & give
room to the Com^r to open the Court & do their duty -
he said he was then doing his duty, and that they
might look for a place to hold their Court some
where else - on further remonstrance w^t Lavonde
he told W^r to be off or he would give him a sound
beating - On this the Com^r ordered the Court to be
opened, ^{+ the business to proceed}~~order to be kept~~ ^{but the noise was continued} - on this the F^r
ordered the bailiff to remove Mr Lavonde from the
Bench, and on his refusing the bailiff attempted
to pull him off, when Lavonde struck the bailiff well
a stroke & broke it on the bench - after struggling
for some time the bailiff gave up the contest, & Mr
Lavonde kept his place and continued to interrupt
the business of the Court and to insult the Com^r
until Mr Moses Davis whom forward said that Mr
Lavonde acted by his orders, had been employed by
him

him, but advised him as a friend to leave the
Court & Bench — accordingly Laronde said, as he
was under his (Davis's direction) he would do
it — and left the bench — The Court then
attempted to call over the causes to be tried
but Mr Laronde placed himself near the
Table and continued his violent conduct, by
talking in a loud & boisterous manner — and
an ordering silence, he asked the Court to shew
their Commissions, that he did not know their
authority — On this several others in the House
called out, that the Commissions should be read
so great confusion arose that the business of
the Court could not be proceeded — While this
was going on Mr Baron addressed himself to
Mr Hough as a man having influence, and
called upon him to discontinue such a
proceeding & to rebuke Mr Laronde's conduct.
Mr Hough replied, that he had joined in employing
Mr Laronde, it would be a hard case to make
him ~~as~~ a witness against himself — It was then apparent
there was a combination to insult the Commissioners,
& stop the proceedings of the Court — And such a tumult
& tumult was got up, the Court overabashed
to adjourn the Court — And when this was
done

answered

Mr Davis addressing himself to Mr Laronde, said
he would advise him to withdraw from that
bench - Mr Dick - said I am at your disposal
and if you desire it I will leave it - and left
the room but continued loud talking & very noisy -
Mr Blanchard &c They had better adjourn the
Court to La Gstre until it should be ascertained
whether they could be prohibited in their party - This
was agreed to -

— That while the Court was adjourning, Mr de la Rende
cried out, hey - hey - I'll not allow His Majesty's
name to be taken in vain -

— While Mr Laronde was ^{not} on the Bench, he cried out
we do not know you as Commissioners, where
are your Commissions? —

— thinks that some others mentioned the making of the
Commission - when Mr Blanchard also said, if
that was necessary they would send further Com.
I need it -

— In consequence of this trouble the business of the
Court impeded and the Court adjourned -

— Has been a Commissioner for several years in that place
an office he has discharged gratuitously -

— The Court has always been held in that School House
before this, except upon one extra occasion, and then
never was any assistance offered before -

— A note from Mr Laronde to the Comrs applying
for

In the situation of Clerk of their Court at Scandens
was read. —

Mr Hutchins was appointed who had been Clerk
for over 11 years before —

X-

The law of 1836 directs that the Clerks shall
furnish a suitable place to hold the Court, and
as no objection had been made to the School house
as the place where the Court had always been held
no particular directions were given by the Comr^m to
their Clerk on that subject. —

Was not that Mr Delavigne might have been
employed by Mr Davis & Mr Haig as a Notary
under a precept as a Notary —

— Thinks if the Commission had been there it could
not have been read from the noise. —

— Away with you, His Majestys Com^m if His M-
saw you he ~~would~~ be ashamed of you — Then
words were used after the Court had been ordered to
be adjourned to La Chute — and it was while
the Court was adjourning that these words were
used as he recollects —

That there were some Canadians there who
were addressed particularly to assist ~~in asserting~~
the Comr^ms to establish their authority, she considers
it to the discredit of the persons present that no
assistance was obtained —

Thanks

I think to hear the Commission of the Com^m was
read at the Chambers -

But Mr Davis & Mr Hough conducted themselves
quietly & peaceably, except as to the words used by
them; of which he has mentioned -

By the Court -

There was no person among those present
used any violent language or made any disturbance
except what was done by Mr Delawonder, and the
language used by Mr Davis & Mr Hough -

Thomas Barron one of the Com^ms at Argentueil.
The Chair of the meeting of the Com^m was placed at
the Church door & some were seated accordingly -
on proceeds to the School house, found L. d'Herblot
occupying the Bench - there were about 20 persons
present in the room - walked up to the Bench &
asked Mr L. to give them the seat, & he said there
was room elsewhere. I am here before you - on
this M^r & his colleague entered a little & directed the
bailiff to open the Com^m - which was done - and a
Cannon was called the first on the list - Mr. Delawonder
continued to talk very loud, & M^r ~~was~~ called frequently
to order - about the time the Jury - was drawing
Mr L. still continued his noise, so as to disturb
the Com^m - when the Com^m directed the bailiff

to cause order to be kept and to remove Mr Delano
from the Bench - The bailiff went up to Mr D. &
and spoke to him so go ant & on being further remon-
strated to present his orders, the bailiff put
his hand on Mr D. when he told Bailiff to take
care what he did - adding You don't know
where you are - on which the bailiff took hold
of Mr D. by the arm and wanted to draw him
from the Bench - Mr D. struck him sharply with
a stick he had - there was a struggle - and he
observed one part of the stick in the hand of Mr D.
& the other in hand of Bailiff - W. called to
those present to assist in keeping the peace, but
no one advanced, when Mr W. called on some
persons by name - particularly Mr Davis, who
stood up and said I have employed Mr Delano
W. expressed his astonish^t at this, Mr W.
named Mr George to assist, ^{# to witness what passed} & in answer, that
this is the first time you have used my name,
but I cannot be a witness of myself I have
also employed Mr Delano - Mr W. then called
on several to bear wit^t to what had passed, and
called on Mr D. to say he considered it a
means to confide the course of Justice - Mr
D. by this time had obtained poss^t of the Bench
containing his noise abusive language towards the

town

Com^rs That on something that Mr Davis
said my Mr Benedict to Mr Davis - Davis
told Laronde he had better leave the seat. He —
said if you say so I will do it - I am under
your direction - and left the seat & stood near
one end of it & continued to talk in a loud &
noisy manner - when Mr called on several
individuals to assist & keep the peace but no
one came forward -

all this time he could not discover the reason of
this disturbance - nothing was said about the plan
for holding the Court - the only thing he heard
hinted that the Com^rs were too late -

The noise was so great that no business could be
done - and it was considered proper to adjourn the
Court - when Laronde cried out - we do not know
you as Com^rs where is your Commission - the Mr
S^r if you will be quiet, we will read the Commission
no attention being paid to this & that the noise continued
Brommagnet stepped up and said it would be better
to read the Commission - on this the Mr S^r ^{that it was not necessary, but} if they
would give them time they would read the Commission -
On this several opinions were expressed, some that the
Court sh^r be read to others not - & the noise continuing
they that it was better to adjourn the Court -
according the Sheriff was called to adjourn the Court,
and proceeding to do so - Mr Laronde could not

I will not allow his Majestys name to be taken
in vain, away with you & if His Majesty
saw you or ~~him~~^{you} he would be ashamed of
you - The Court was adjourned — and
this from the interruption they met with -

F-

When W^e went into the Court house he saw Mr D^r.
on the Bench talking very loud - heard him say he
was occupied in the discharge of his duty -

W^e appealed to several persons by name, all of whom
refused to come forward & assist to keep the peace - but
no one would come forward -

When the Court met at La Chute, thinks that the
Commission, as a part of it was then need ~~#~~

William Beaton - ~~He~~ was in School house as bailiff of the
Commission - when he went in there was no person on
the Bench - but soon after Mr Dr L. came in and
took his seat on the Bench - when the Comⁿ came
in he was requested to retire - he refused, speaking
to Mr Blanchard said. He was then in the discharge
of his duty - W^e was required to keep silence, and
afterwards was directed to remove Mr Dr. from
the Bench - W^e attempted to remove him & was
struck by him on the head w^t a stick, and as was
unable to remove him - There was a good deal of
noise - that Mr. Moss Davis desired Mr

Lelouche

Delaronde to take the seat and make out a protest against the Committee as they were too late and had not come to open the Court at the hour that was fixed - That some time after he heard Mr Hughe say he also had employed Mr Delaronde to make this protest - Mr D. has an office of his own - never knew him to use the Stock Exchange as a place to do his business.

The witness was unable to remember the Mr Delaronde - The Court took ~~its~~ place was opened - Mr Delaronde still continued to speak rather loud, when Mr Baron desired silence to be made, but Mr Delaronde still continued to talk, when the noise was such as to induce the Com^{ee} to adjourn the Court -

As the 102 was adjourning the Court some disrespectful words were used towards them - if his Majesty saw this Com^{ee} he would be ashamed of them -

x.

Has lived long at Argentine know Spanish they are peaceable people -

He saw no act done by Mr Davis or Mr Hughe to induce Mr Delaronde to disturb the Com^{ee} in the discharge their duty -

When Mr Baron came in he requested Mr Delaronde to leave the ~~Court~~ a bench - Mr D. said he was in the discharge of his duty - Heard Mr Delaronde say he did not know them until they had mad their 

commun

Commission

The talking continued during all the time he was in Court -

That Mr. Barron told Mr. Davis that he was surprised to see him sitting there, and to allow such proceedings to be had - on this Mr. Davis said:

That Mr. Davis &c considered that Mr. Davis had denied the protest of the Com'ee as no notice had been given to him for him to take possession of the School

~~That the last time the~~

There were three persons called to assist the Com'ee but none came forward -

The disturbance was not such as to cause terror in the minds of his Majesty's subjects -

By Mr. Gant

We heard Mr. Delaronde say to some of the Deacons to go away, and he would take care of their suits. This was said before the Com'ee came into the Court room

Abram Rice, has been 15 years resident at St Andrews
is one of the Com'ee ^{& Trustee} for the School at St Andrews
& has taken that for many years a Court has been held in the School room - There was a suggestion that the Clerk of the Com'ee should try to keep the Court room clean - Mr. Mr. or Mrs. Davis or one

of the Town Trustees - but did not request of
Mr to join him in a protest at the Com^{ee} &
we had no objection thereto - now give my
directions to prepare such protest -

The Com^{ee} are men who enjoy the confidence of
their fellow citizens -

Came in after the Court was open that day - Mr
Larouche was in the dock declaiming something like
a protest at the Com^{ee} speaking pretty loud -
sufficient to interrupt the Com^{ee} in the discharge
of their duty -

The noise was so great I ventured that the
Com^{ee} were obliged to adjourn the Court -

Mr Baron requested the people to take notice
of the interruption - Mr Hough s^t he had not been
called up ~~so~~ ^{so} to witness what had passed -
~~Mr Hough~~ said he had ^{been sent by Mr Davis} employed Mr Larouche
and that it would be hard to be a witness up
himself - Mr Hough is not a trustee of the School
nor a Com^{ee} - Mr. L. Mr Davis are Com^{ee} & Trustees -
I never objected to the school being used by the Com^{ee} -
X -

Mr is sometimes employed to issue draft on that
can be recd the half of the fees -

The appointment by Govt of the Three Com^{ee}
for the trial of Small Causes was made from the
Gazette of 30 June 1836 -

Mr Hart for the Defendants moved that they be
discharged, as no ~~charge~~ had been proved.

The Court considered there was evidence before
the Court to allow the Case to go to the Jury —

Defense

Alexis Edouard Monmarquette lives in Dept of Argenteuil
he was at the school house on 6th Aug. last — he followed
Mr Benedict — saw Mr L — writing dictating to his
clerk who was writing — Mr heard Mr Baron tell
Baillif to make L — withdraw & saw the two other
Defendt^s now — from what he heard what Mr Lamore
was debating was a Protest — that the Baillif
not to obstruct him, as he had as much right there
as he had — Mr. L. requested the Jury to hear
Mai Com^d to read them — qualify yourselves
& I will have this place — does not recollect
that Mr Baron made any answer but told
the Baillif to remove L — & when no one came
forward to assist the baillif —

That Mr asked M^r Blanchard, & asked him why
he did not read his Com^d he said he could not
as it was not necessary — Mr m^r d^r the Commiss^r
of Sheriff & advocates read & of returning Officers,
adding if you will read the Com^d all will be quiet —
He replied if I do so now, he w^d. be obliged to

do it at every Court - and send the Court to be adjourned to the Chancery -

- When the bailiff put his hand on Mr L - he had a small stick in his hand w^t of. he struck Barlowe. The Court was adjourned & the London people went away -

When Mr L spoke at the King being ashamed of his form^m the order to adjourn the Court was given. No person appeared to be terrified - as there was no alarm - nor cause for it -

- When Mr Benedict spoke to Mr Davis - the latter told Barlowe - never mind give it up for peace sake - That Mr Vaugh did not appear to want any one -

But two or three months after he was surprised to hear Mr Barlowe say, that he was afraid of his life. -

He is convinced that if Mr L had used their commonon all would have been quiet - & it was said there may be several persons here who may not know that you are Com^m

The official Gazette is not generally received in Paul Streetings to give intimation of the appointment of the Com^m

2-

Hears Mr L - say to Mr Davis when he spoke to him - if it is your wish I'll withdraw

Ronald McDonald - was at Schoolhouse on the
3rd Augt last - was in before the Com^{ee} &
saw Mr D. going into the Bench off. his
clerk and began to draw out a paper - understood
it was a protest - saw Davis & Boyle there
that Baron & Blanchard came in first. They
appeared surprised and asked Mr D. what
was the meaning of this - to get Mr Z. and
don't interrupt me in my business - on this
they would wait to open the Court - the Clerk
was not then arrived - & this was observed - &
Baron told bailiff to go & look for the Clerk -
The Clerk came in - & a cause was called - &
directed bailiff to keep order in the Court & to
remove A. if he did not keep quiet - on
the bailiff going up to him he told him don't
touch me - Baron & take him out - the
bailiff presenting A. struck bailiff w^t a cane
Mr. A. then asked if they were com^{ee} to read
this Com^{ee} - they s^d. it was not necessary -
I heard Mr. Monmorgent say that he thought it
their duty to read the Commissioner Mr. Monmorgent
asked some questions if they knew they were
com^{ee} they s^d. they did not - on this Mr. Monmorgent
remonstrated w^t the Com^{ee} on this act - he
remarked that at Montreal he had heard Lawyer
& Sheriff's Com^{ee} read - The official Gazette

is not very current in that says —

That immediately afterwards the Court was adjourned
to the Chats —

The expressions used by L — of the Court were
and by him as the Four were leave the room —

He saw nothing take place to alarm any one
Had any one attempted to hurt the Four? Then were
sufficient there to defend them. —

This impression was of the Four had read their
comes there would have been no disturbance —

He said Mr Davis tell Mr L — it was better
for him to have the place, he said that if he desired
it he would do it — said But he had employed
him to make the protest —

I heard Mr Hough object to the Court being adjourned
to the Chats —

Samuel

Nelson Davis — Son of one of D of the was present on 6th
Aug last — Mr Davis his father had business there
it was present before the Four came in, and heard
Mr. Dedon say, it would be a good thing to make
a protest & leave the house. Mr L — bomb'd
the Bench to draw the protest —

Two Coms. Baron & Blanchard came in & shpt
forward to the desk, & asked what the meaning of this
& looking at Mr L — Mr. D L S^d he was
about a protest & wished to dictate it — one
of them S^d they were His Maj's Pleas & come to open

the

The Court - told to read their Com^m
L. was asked to remove - he P. read your
Com^m & I will draw this - They S^d. it was
not necessary - Mr. Monmaney said it
was usual for all Com^m to read their Com^m
he asked soon Canadians, if they knew who
were the Com^m They S^d they did not -
during this time his father Mr. Hough took
no part in it.

- That on Mr. Benedict addressing his father
that he was annoyed he would allow no
such conduct, as a word from him would stop
it - Mr. De L - S^d if you desire it I will
leave it -

That when Mr. Hough was named he was
said it was first time he had been called
upon as a witness - but in answer intimated
in the matter further than during the protest -

There was no real nor cause for alarm -
Rev. Mr. Hough objected to the Court being adjourned
to the Chate -

The Court was opened before Mr. Hutchins
Mr. Clark came in - Mr. Baron asked the C^t
for the documents - one cause was called -

The Court was adjourned, & immediately after
Mr. L - read the words alluded to -

That several individuals were called upon

to come forward & put Mr. Hoyt. —

Mr. Hoyt ^{said} that it would be hard to make him a ~~witness~~ ^{witness} up himself —

The evidence closed, and it being late, the Court directed the Jury to be committed to the charge of the Sheriff until to tomorrow morning at nine o'clock, at which hour the Court adjourned. —

Saturday 2^d Sept'r 1837.

Pres.

Ch. Justice Reid
W Justice Gale. —

The King. —

Geo. Wm. Hoyt
Moses Davis
Michel Gasparo
De la Rondin

The Jury being returned into Court and called over and appearing — The Ally Gentle was heard in reply — and being afterwards charged by the Court, they retired to consider of their Verdict. —

Verdict. Not Guilty on the first Count but ^{all} guilty on the second Count. —

The King
or
Samuel Moorhead }
John Williams } On trial of Indictment for Grand
James Dawson Larceny.

^{last} Robert Begley - partner of John McGowan was so in July last - Have a store in Trois-Rivières in Montreal - was informed that their store had been broken into & some sugar stolen - In the morn'g of a Saturday morn'g about the middle of July they found a man asleep in the store, they lit him up - but on up^t. They found afterward that the top load sugar had been stolen - The same night they arrested one Ross in the hogshead covered up w^t straw in the store - They arrested one Petit - The Sunday night Mr. Devan sat up - he alarmed the W^t in the night time, and found Mr. Moorhead ~~sitting~~ ^{on the floor} ~~in~~ ^{the} hogshead in the yard - asked the reason of his being there he said he was ~~fatigued~~ hard up - that is had no money - They arrested him as he was near the hogshead that had been opened - The door of the store had been broken open - the persons must have come in by creeping under the yard door - Knows the mark of their partnership & boxes of sugar now shown, q^t he believes to be their property - There had been between 50

and

60 loaves taken - values each loaf at about Six Shillings - was not present when the sugar was found - There were several loaves of sugar taken out of the hogshead lying near where the P^r - Morhead was found. -

X

The P^r acknowledged that he had come there to take the sugar -

Lewis Jos. Barker, was a clerk of Bally & McGowen in July - observed that a hogshead of sugar had been broken open - on the Saturday morning the Gardman came to tell him that he had found a man in the store & had sent him away - He examined the store & found that a hogshead had been broken open and several loaves of sugar stolen - That the same night Mr Bally & W^r sat up & watched - At about 3 o'clock in the morning they saw Knox come into the yard - W^r went to the yard door to see if there were otherwise him - He saw a man whom he pursued & arrested him - He was Paul Reit - They came back, and found Knox concealed in hogshead -

The next morning he saw Morhead in the Police Office, who said that he had taken sugar from the store of the s^r Bally & McGowen - He carried W^r to the house of Mr. Mad. Beauchaine where they found five loaves of sugar with the master of the

8

Co ents of Moorhead said he had sold them
with five more - sugar was also found at
other places, when they had been carried by Mr.
Knop. - all the sugar so found was marked
with the same mark as the rest in the hophead.
There might be 60 loaves taken in all, & it would
require several men to carry it.

James Bradley - About 22nd July last he met some
persons in Cornhill Street to Mr. McCaulys. &
met four persons - one of whom struck him
in full on his hands & his hat fell off - one of
them ran off w^t it - he ran after him over took
him - believes Mr. Dawson was the man -
he struck him & took his hat from him - When
he came up w^t these men, some of them had
something like a bundle under their arms - When
he got his hat, he called Mr. McCauly to his assistance -
he then pursued after the man, Dawson who
took his hat, & on the way he dropt a loaf of
sugar - on this Mr. McCauly said, there must be
more sugar amongst the others - on this he took
the direction to the place where he recovered his hat
and found 2 other loaves of sugar -

20

Will not swear positively that Dawson is the
man who took his hat - but ~~says~~ believes he
is the man - But the night was dark -

James

James McCauley - rem. that last Mr. call to him in the night
about the middle of July to come to his assistance, as
they had robbed him - in looking after the persons,
three boxes of sugar were found - but could not
recognize any of the P's.

Antoine Labbe - lives at New Market - about the 23
July last, three persons came to his house and
sold him some sugar - knows the black man
John Williams ^{& Dawson, now} ~~was one~~ of them - they asked 5 $\frac{1}{2}$. at
first, but agreed to take 3 $\frac{1}{2}$ to bot. on loaf - that
one Dr. Gran went after them men and got another
loaf - cannot identify the sugar -

That next day Mr. Dush came to his house and
took away the sugar - That he did not speak English
& Dr. Gran interpreted for him w^t P's

L by Williams -

Cannot say, whatt day of the month it was, but
it was on a Saturday night -

Appoline Crepin, wife of Frank Beaureau -

That the P^r, Moorhead sold her some sugar
seven boxes, from him - cannot tell the time
thinks it was about the middle of July - It was
after they had gone to bed, that he brot. the sugar -
she gave him 12 $\frac{1}{2}$ & was to pay him the balance
~~when~~ in wanted it in effects from this

Charles Jackson - Knows nothing -

Benjⁿ Dohle - High Constable - In July last, on a forenoon
red. he went to Mad Beaurain & found 3 $\frac{1}{2}$
loaves sugar - same now produced -
at Ant. Labbet^t - he found 2 loaves - same now
shown - recognized to day by Mr Begly - This
Verdict. Samuel Moorhead Guilty -
John Williams & not guilty
James Dawson

The Queen

Samuel Moorhead } On Trial of Indictment for Grand
Thomas Barry - Larceny.

Robert James Begly, partner of the firm
of McGowan & Begly - There is a gateway leading
to the yard, under which a man may pass. There is
a hangard in the yard in it. There were several
hogsheads of sugar, & where considerable quantity
of sugar had been stolen - it was determined to
watch. Some dozen watched, & it was agreed that
if he saw anyone to fire a gun - a gun was
fired. We went down to yard a day arrested
the C^r Moorhead, who pretended to be asleep
lying between a hogshead of sugar & the door of
the hangard - he was secured - saw two loaves
removed from the hogshead, as if they had been
dropt

dropt - did not see the other P^c - but found a
hat outside the gate - values sugar about £10/-

William Doran, was Stock keeper of Bally & M'Gowan on
23 July last - was directed to keep watch in the yard
on night of that day till he saw any one to fire -
About 11 uⁿ 12 o^l f^t he saw a man coming thro' the
yard to the door of the store - he went into the store -
he heard soon one as if throwing sugar over some
puncheons of wine in the store - he fired the gun
but Bally came & said Mr Thompson went into the
store and found Mr Moorhead lying inside
the store as if asleep - W called t P^c to get up
he did so, said he was an unfortunate man - he
was secured - W found 2 loaves of sugar at a
small mark where the P^c lay - recognizes the
loaves now known to be the same -

Daniel Arnoldi - is a Inv. of Peur for the District
the examination of Mr P^c Moorhead was taken
before W^r & now produced ~~as~~ ^{as} ~~had been~~ before him
privily and voluntarily - it was recd -
acknowledges the taking two loaves of sugar part
of a hogshead of sugar in the yard of M'Gowans
Bally, but was unable to carry them away before he
was arrested -

that

That at the same time the examination of
the Dr was taken before him in his said capacity -

Lewis Los. Harken saw P^r Barry after he was arrested
he acknowledged that he had been at the gate of
the yard of Bally Full Gowan the night that
Moonhouse was arrested - That he did not know
where Moonhouse was going, but said he
knew he was going for sugar -

Defence -

Eloza Martin - says nothing, as she has no knowledge
of any thing of this business. -

Verdict. Guilty of Petty Larceny -

The Queen
Paul Petit } Trial of Indictment for Grand
 Petit } Larceny -

Lewis Los. Harken - was in the employ of
Bally Full Gowan on July last - he arrested
a person in the store when sugar was kept - he
found 2 boxes were removed from the hogshead
and found a man with hogshead, one John
Knox - When they saw Knox going into the
yard, he thought it advisable to look out side
if

if there were not some other person connected with
the Steal - Mr went after him - & found the English
Church he seized him, and told him he must go with
him - the Dr went w^t him - when he came to the
Gateway he refused at first to go in, saying he had
nothing to do with any theft. -

The P. Knox said that P^r was with him

Verdict. Not Guilty

Monday 4th Sept^r 1837. a.m.

Pres:

Ch. Justice Reid

Mr Justice Gates

The Queen
James Foster }

On Indictment for forging of a Promissory Note

W^t Badgley for the P^r took objection to the
Indictment, that the instrument stated in the Indictment
was not a promissory note -

at Pro^r Stat. 10 & 11 Geo. 4. ch. 3, sec. 5 declares issuing any
notes under the value of £1.5 allowed to be issued or tendered
unpayable 1 Taunton 131. - 5 Barn. & Cours. 406 - 5 D^r & Ryl.
82. 4 Bang. 83 - where an act is prohibited under a penalty
such act is entirely void -

2 Russel 335 - 337. 338 - Russel & Rylands 496. King. v^r Bert

2 Russl. 348 - where certain requisites are wanting the instrument cannot be maintained - Moffat's Case
Drach's Case -

Chitty on Bills. p. 528 - This no promissory note - 152 - 560 -
more payable in East India Bonds - not a promissory note -
Chitty 154 - King v. Wilson -

Refers to Stat. 2 Geo. 2. ch. 25 - 2 Russl. 453 - 456

W. Abby Genl. in answer refused to can when the
sum on the bill was left in blanks.
States circumstances under which bills of this kind had
been emitted -

The Govt considered the case as not indictable
as a felony under the Statute, the note on the face
of the instrument not being a promissory Note -
and the instrument was quashed, and the Army
discharged. —

The Queen & Thomas Carroll
an Indictment for feloniously killing
a gelding. - Stat. 9. Geo. 1. ch 22. -

Peter N. Rossiter, advocate in Montreal. He P^r. came
into service of W^r on the 18th Aug. last - he had discharged
a servant he had a few days previous to this - The P^r. was
introduced to W^r by a Mr. Ferns - P^r was groomed
out door servant - W^r had a grey gelding whom P^r
came to serve of W^r the gelding was put under the charge
of the P^r given no instructions about turning the
horse

horse - Saw the horse come into the yard on the Saturday the 19th Augt perfectly well - The next morning the attention of the Drs was called to the horse by the Clerk - on going into the Stable he saw the Dr sweeping away the blood that was bespattered about the Stable - asked the Dr on seeing the man cut away & the tail cut away - Dr D. had done it because he thought the horse would look better - then asked how it was ^{in every} Pleasing, he appeared to know nothing of it said it must be something internal - The horse was then dischargeing blood by the arrows in great quantities - Mr. H. sent for Mr Costigan the Farrier - We put some further questions to the Dr he said, that while he held the Scissors in his hand it was rubbing down the tail the horse threw himself on the Scissors & wounded himself which was the only wound he knew of - Mr Costigan arrived - the horse was in a profuse cold sweat from the loss of blood - We left the horse in charge of Mr Costigan I went to Church, when we came back he found the horse was dead - Costigan told Dr. that he had seen wounds in the fundament of the horse from which the blood had proceeded & cause of his death - First day when the horse was warm he saw four cuts in the rectum of the horse, given with a sharp instrument

We also observed a wound ~~on~~ above the flank
near the kidneys, and a little above that there
was the appearance of a contusion, which did
not perforate the skin.

When the horse was examined, the Dr. was
present.

As to the wounds on the side of the horse the
Dr. said he knew nothing of it. — He admitted
merely the wound given as before mentioned

X-

The W. never had any angry words with the
Dr. before this happened —

The mane of the horse was cut in an irregular
manner so as to injure his appearance, & not
to improve his appearance —

Knows no cause the Dr. could have to induce
him to commit this cut —

Ann Donnivan — was in the service of Mr. Rositer on
the 18 Augt. last when Dr. came to her home.
The Dr. asked ss. to lend him a pair of Scissors on
the Sunday morn. — did not say for what
purpose. W. was if it was to trim the horse
in S. it was not — The Dr. went up stairs
himself for the Scissors and went out with
them — about an hour after the Dr. returned and
asked W. if ever she had seen a horse bleed
she said she had not, then they asked W. to go

out

out and see the horse in the stable - & W. did
and saw the horse bleeding very much - she
ran back and acquaints her Master Mr. Rossiter
who went out to the stable -

When W. saw the horse bleeding, she was
much surprised - The Dr. did not tell her how it
happened nor did she enquire, but run back
to tell her master -

The Dr. returned the Scissors to the WB - she saw
no blood on 'em at the time -

Mr. Dr. took off his shoes when he went up stairs
for the Scissors - as she believes not to disturb the
family -

The Dr. appears to be a sober steady lad for the
short time he has been in the house before this
she heard of no quarrel or disturbance -

William Costigan - is a farrier - was called on by
Mr. Rossiter on Sunday morning ^{20th August} to examine his
horse - W. went to the stable found the horse bleeding
from the fundament - he was in a cold sweat
and he appeared that he had lost almost all his blood
W. could not raise any vein on him - The Dr. was
then - The Dr. said he knew nothing about how
it happened - W. asked if the horse had thrown himself
down upon any thing or on to occasion any wound,

N.

The Dr said there was nothing that he knew of, that about 10 or 15 minutes after this, the horse fell down & he never stood more. He died in about 3/4 hour after Mr. Frost saw him - Dr. said nothing then about the accident by a Scissors - Next morning the W. examined the horses & found four cuts in the fundament with a sharp instrument - In taking off the skin, he observed a hole in the flank near the kidneys - & a contusion scar -

Under the kidney skin was near a gall of congealed blood inside in the horse - Thought that the cuts in the fundament would cause such a loss of blood as to occasion his death -

About 6 days after the Dr. told him that he had the Scissors in his hand when rubbing down the horse & thinks the horse might have been pricked by the Scissors, & then struck upon the Scissors - The horse might have received the wound on the side by falling -

The wound ^{in the side} might have entered 2 or 3 inches & the congealed blood was in the abdomen near the kidneys - The hole in this place was the size of a large quill -

It is the nature of a horse when pricked with any instrument to force himself upon it rather than escape from it -

- Thinks it probable that the four wounds he saw might have happened ~~in this way~~, by the Scissars being open in the hands of the Dr^r ~~as he might not have been able to~~ ^{on his} easily to get away from the horse, ~~biting~~ ~~either~~ ~~the~~ ^{by this forcing back on the Scissars the wounds were thus inflicted.}
- The wound in the side appeared like what the prong of a pitchfork would make -
- The Dr^r appeared to be much surprised at what had happened -
- The Dr^r ^{always} had the character of a quiet steady lad

John Armstrong - saw horse on Monday morn'd after he was dead -

Mr Sweeney addressed the Jury on behalf of the Dr^r and called on Mr

Joshua Woodhouse. The Dr^r was a servant w^r H^r for 7 or 8 months about a twelve month ago - he was a sober steady lad, and rather quiet, ^{and} ~~showed~~ ^{had} no disposition of violence or malice -

Robert Aird - the Dr^r he was in Mr Aird's employ for 7 months, conducted himself as a quiet steady lad

Verdict. Not Guilty.

Tuesday 5th Septr 1837

Pres^t:
Ch. Justice Reid
Mr Justice Pyke
Mr Justice Gale —

The Queen. —
S. Antoine Cooks }
William Laperrière }
+

On trial of indictment for stealing a heifer
The prisoners charged on this indictment having
served in their trials. — The Atty General presented
on the trials agt. Dr. Ant. Cooks. —

George Smart, lived at head of Papineau road on Luby
East en paroisse of Montreal — he had a heifer belonging
to him, wh^{ch} he kept in a pasture behind his house
on the 19th on the morning he observed a part of his fence
broken down and the animal gone, it was a reddish
colour, and of value of 30 dollars — on missing the
heifer he suspected the 19th as he had been looking at
her several times before — she was fat — saw P^r work
at her the Sunday before she was stolen — Mr went
to town and found the P^r selling the heif^r, asked him
where he got the heifer, & it was an old cow — Mr
asked him for the skin, he said it was gone, as
well as the head — the head was afterwards found
behind his stall — he knew it belonged to his heifer
from the mark it had on the lower jaw. —

Proves

proceeds than lower jaw, & shows where a tooth was
wanting from the bite of a dog. - He had observed
this mark some days before - The skin was afterwards
found - The Dr offered the skin 13 doll^s to say -
nothing of the matter - Dr refused - when the
skin was brought it^s recognized the skin to belong
^{to a man upon the shoulder}
to his master. The Dr then asked him to let him go home
he has a pig, and he would make some arrangement
with him that the master might go no further. -
The Dr said he got the hogs from his man Lavendure
and at one time he said he had paid 20 dollars for it,
at another time 21 $\frac{1}{2}$

x^d

The fat of the animal was in a bag, and the head was
under the bag. -

On seeing the mark on the under jaw of the animal he
recognized it to be his property - The skin was cut by
the bite of a dog and one of the teeth knocked out. -

Charles Laprise, lived in L. Sab. in July last. He was passing
when Pascall told him that they were selling a cow
at 10 $\frac{1}{2}$ which had been stolen - Dr arrived with
the carcass in a cart at the lower market - He went
to see the beef they asked him where he had got it, he
said he had got it at the water side - said it was an
ox - They persons I know it was not an ox - it was a
heifer - he other said it was neither heifer nor ox, but
a young bull - That the owner of the heifer came

and

and claimed the hump, by a mark he stated in
the lower jaw, and showed the marks on it -
The Dr. said that he had lost the hump at the
foot of the Bennett -

It may happen that a dog is set after cattle when
in the grain, and may be hit in the manner now
shown -

Gustave
Wellcome Perrault - on the 19 July last, he saw the Dr. who
was cutting up an animal in his yard ~~with~~^x door closed
Never heard any thing of the character of the Dr.

Chas. Picard, was on the market place on 19 July when
Mr Laprise asked him if he had lost a cow, as the
Dr. had killed a cow that he was bringing to market,
seen Dr. there - questioned the Dr. who said it was
an ox - that he had lost it in the market place
and also that he had got it from his man -
that he saw the owner Smart there, who described
the marks on the lower jaw of the hump -
that Smart ^{for loss was held} asked 20 dollars to settle the matter
the Dr. total ^{Smart} ~~loss~~ to beware what he was about
He made the Dr. offer Smart 13 dollars to settle
which he refused -

The sum now produced is the sum he saw in
the market place and the same claimed by Smart
as his property -

P

Marcus Valois - lived in St. Ant. Ith. on 19 July last, about
8 o'clock in the morning the Dr. Laverdure came to
his house, and offered for the sale the skin now
stolen - Mr. gave him 7/6 - as it was an old order -
he said that he had got it from an Anglais, being
the skin of a Cow that was drowned -

Charles Laprise - the skin now produced is the same he
got from Valois -

George Smart - the skin now produced is the skin of his
heiress that was stolen -

Joseph Dubarrel - saw the Dr. Laverdure on the
19 July last killing a heifer at the Dr's about
2 o'clock in the morning - thought the cow had
been stolen, as the Dr. was not a butcher - and
the door of the yard was closed up, but in looking
over he saw that it was a cow or some animal
they were killing - was present when the Dr.
brought the meat to market when he was arrested
for stealing the cow -

Defense

Agathe Florentin, wife of William Laverdure - the other
jailer was present when she saw a man pass in a
cart w/ a Cow, the Dr. sharpened the animal, but
she does not know whether he beat it or not

The Dr. is married to the ^X Sister of the Web -

Charles Laprise - a man may buy a stolen animal
without knowing it -

Abraham Vieux - It happened to him to have purchased
two stolen cattle, without knowing it -

Verdict - Guilty -

The King }
William Lariviere } on Indictment for stealing a heifer -

George Smart - about 19 July last I saw him living
at the head of the Papineau Road, he had a heifer &
was of a reddish colour, had a white mark on one
of her shoulders - he kept her in a paddock near his
house well fenced ^{value £7.10}. Saw the Dr Cook about his
 premises some short time before - This in the morning
of the 19th he perceived his fence broken down and
the heifer gone - The heifer had a bite of a dog in the
lower jaw which cut through the skin and one
of the small teeth was knocked out - produces
the pain of the jaws, thus marked - We followed
the track came to Montreal New market, and
found Cook selling the meat of his heifer - asked
him where he got the heifer - He said it was an old
cow - asked for the skin - it was gone - asked
for the head, when one of the butchers pulled out

The

the head from under the bench, when W^r recognised
the marks on the Law, above mentioned - Cook
was arrested - he offered 102 13 dollars to let him go
and drop the affair - W^r refused - Cook's? he
had a pig & could arrange w^t him by that means
the Constable having produced the skin, he knew it
to be his property from the Colour & mark upon it.

This person has all been good since the spring -
the white mark on the head was on the right side
the rest of the skin was red. -

Joseph Dubreuil. lives in L. Sub. on the morning of the
19 July last he saw the Dr. & Cook in the yard
where Cook lives, about 4 or 5 or 6 months ago
killing an animal, cow or heifer, of a red colour -

The work looked over the top of the cattle door in the
yard door and saw the Dr. & Cook thus employed
it was a market day, is not certain as to the time
thinks it was in the month of July. - saw only
the feet & the head of the animal, but not the skin
They were of a red colour. -

Narcisse Valois. lives in St. Ant. Sub. about 19 July last, the
Dr. came to his house with the skin of a cow qd. he offered
for sale to 102 he asked 10f. W^r gave him 7/6 - the horns
were cut off - the skin was of a red colour - the Dr.

said a man had given him the skin to sell for his own
advantage as it was a cow that had been drowned

X

It was on a tuesday the 1st of July - That one Laprise
came to claim the skin as of an animal that had
been stolen - The P^r came with him - & told Mr. to
deliver the skin to Laprise. -

Charles Laprise. On 18 July last he was told that an
animal had been killed at Cook's - and when
he came to market he enquired of several butcher,
if they had lost a cow, they said they had not -
soon after he saw Cook come to market with the
body of the heifer - asked where he had got it at
P^r in the market - this was denied - he then said
that he had got it at the foot of the Current -
the meat was badly salted - Cook denied that
it was a Cow or heifer, it was a bull - it was
recognized to be a heifer - The P^r was not Cook, and
being asked where he got the skin, he said it was
the skin he had got near Mr. Galt & afterwards
that it was the skin of a cow that had been
drowned - at another time he said he had not seen
the animal at all, he only had the skin & had
sold it to Mr. Valois - went w^t P^r to Valois, where
they found the skin, and P^r returned the money

Dr

he had received from Valois, except six apprs -

*

that Beaumain told the Mr. that it was the Dr.
who sold the skin, and on addressing the Dr. he asked
him, what have you done with the skin - he said
immediately he had sold it in St. Ant. Sub. In 7/6
went w^t Mr. to Mr. Valois, where he found the
skin - The Dr. is brother in law of Cook. -

Sous Boucaire - rem. to have seen the Dr. on market on
18th July last - There was some one mentioned that
the horse had been stolen - Cook was then arrested
The Dr. was then at the bench of Mr., and he asked if
if he had not assisted to kill the animal, he denied
it - Mr. observed that Dr.'s dress was covered w^t blood,
~~or it was blood of cats - heath horses~~ and said he had sold the skin Dr. denied it - but
on seeing the bag he had, Mr. then charged him with
selling the skin & laying hold of the bag found it
wet with blood - Dr. then acknowledged that he
had sold the skin to a person in the St. Ant. Sub.
In 7/6 - and spent some copper of it -

Defence

M^r de Bourdruille was heard on behalf of the
Dr. but adduced no witness. -

Verdict. Guilty

The Queen
v.
Rae - {

On motion for a new trial -

Mr Driscoll for the Defendant the grounds for
a new trial are -

1. Because illegal evidence was given of the answers
of the Defendant -

2. The Court was not competent when Mr Justice
Rolland was examined as a witness - no objection
could be raised nor held given on it by Mr Judge
2 Hawk. ch. 16. sec. 80. -

Mr Hart of counsel for Defendant -

1st Point - There was illegal evidence admitted to prove
the answers of the Defendant when sworn to answer
upon the Facts & Articles -

In England, a party is examined on oath only
in Chancery, where the answers are always in writing
1 Star. ch. 2. No 283. - The original answer on a
charge for perjury must be proved.

41 Geo. 3. ch. 15. - where the deposing oath is admitted
according to the ancient laws of the Country -

v. Denys. v. Fait & Hart. No 10. & 11. - The interrogatories
must be in writing but also the answers of the party -
on 2^d ground 3. Bl. Com. p. 386. 7 -

The Judge ought to have left the Bench. Deacon. p. 402
v. Evidence

The Atty Genl - The oath in the Indictment is not stated to have
been on Facts & Articles -

The party may waive his right to have the Interrogatories
in writing served on him -

The usage & custom referred to by the Stat. are acknowledged
& the usage & custom of the Superior Court is to us. The party must then
without written demands or answers -

The evidence given by the Judge related to facts in the case
of which he is not the Judge -
The Juryman may be a witness -

The King
^{or}
Allan Cameron } on Indictment for feloniously pulling down
and destroying part of a bridge. -

Pascal Lachapelle, is an architect - He & Mr Deurneville
the juryman, he & the W^s are persons in whose favor
the Stat. of 6 Geo. 4, ch. 30 - was made in 1835. It
purchased Mr Deurneville's right - The bridge was built
and received in 1836 - it was built conformable to law
and even more - the arches were to have been 80 feet & he
extended them to 160 - a Proves Verbal of the reception of
the bridge was made & the bridge has been open to the
public since - Was at the toll house on 23 May 1837
but was not present when the accident happened - but
heard the people cry out - he went to see - and observed
that one of the principal pillars that supported the arch
was destroyed & carried away - observed that Defendant
was on the raft - he admitted that he ~~who~~ was the
pilot of the raft, and that the raft had got entangled
with the pillar, but that it was negligence on his part
that it had so happened & not intentionally - the raft
was about 60 ft long & 30 feet in pavers of width
and there was room sufficient for a much larger raft
to pass through the arch -

The pillar ^{carried away} was one of the ~~principal~~ pillars of the
support of the arch - The waters were then high, and the
current was strong. - After this the W^s offered to give

57 So the persons in the neighbourhood for every raft they should pass through the arch safely - as many of the persons bringing down rafts were not well acquainted with manner of conducting them ~~rafts~~ through the arch. -

The rafts of the Dr. were moored a little above the bridge - and there run much less risk in passing than the rafts that come down the stream -

That it is very possible that the raft ^{of the Dr.} may have struck ^{the pillar} by negligence and ^{not} by malice - he did not see it - the Dr. said he had not done it purposely - That the Dr.'s raft was wrecked before he arrived at ~~the~~ by striking the pillar of the bridge - This was occasioned by the height of the water at the time - The Dr. had a large raft consisting of several small boats - The Dr. the same day passed the rest of his rafts without accident. -

That the same day the Dr. told the W^s that he was the person who had knocked down that pillar, and before he had passed all his rafts he would break down another pillar, and break down the dam'd bridge - the W^s told him if he did so he would send him to Gaol - he said he did not care a damn for him a for the Gaol -

That Dr. was arrested & the W^s asked him why he had broke down the pillar - that he was doing a great injury and showing a bad example - The Dr. then said that it was by negligence he had done so

as to the language he had used towards the W^s he said it was wrong for him to have done so.

I ^{Frank} Joseph Duemerville was on the bridge ^{after} the raft ^{had} passed that knocked down the bridge - went there after, but seeing another raft come in saw they were doing well while he was under the bridge Lechabille was on the bridge & said to him. Mr Cameron now you are passing well, continue to do - on this the P^r said it is I who broke down that pillar I have more rafts to bring down, and before I have done I will break down another pillar, and your damned bridge will soon go - on this Mr L - said stop Mr Cameron, before you break another I will send you to jail - when P^r said he didn't care a damn for him or the jail -

After this the P^r passed ^X ~~several~~ ^{two} rafts the ~~same~~ ^{and} next day when he was arrested -

The bridge is 84⁹ feet above the water in the centre of the arch -

Mr Lebedee had passed rafts there before - never heard of his doing damage -

Louis Lebedee, says, re: the bridge in question - after the injury done, the W^s had some conversation with the P^r he said if every one would strike the bridge as he did, the bridge would soon be down - cannot say that he said this with any malicious intention -

Joseph Lebedee - was on the bridge, when the P^r was coming down w^t his raft drove seeing he was going in a wrong direction

he made signs to him to go more into the channel, but he did not attend to him, but struck agt the pillar & knocked it down - he then cried out to the wts go and tell son bondonnn lachapelle to come & mend his bridge, I have knocked down one pillar and when I come back he would do as much on the other side, and the bridge would soon go -

20-

When the P^r passed, there were no oars used on the raft, altho' the W^s made sign to him to pull in the channel, yet he did not mind him.

Mr Driscoll addressed the Jury on behalf of the P^r and called the following W^s -

Pascal Lachapelle never had any dispute w^t P^r before this accident - it was the first time he had seen him. —

Frank La casse - was on raft when it passed the bridge, it happened by accident - the P^r was telling gloomy to put an oar, when he stood up he saw them so close to the bridge that he did the most he could to avoid the bridge and by the accident the raft was much shattered - The P^r has passed frequently since w^t raft & never struck it the P^r said he would take care not to strike it again, because the damage to him was too great - That is
was

was not intentional his running up the bridge -

Has been two years in the service of the P^C always found him a great man, but act in his employ

Louis Boileau, was on the same raft when the accident happened - they left morning & got a certain distance into the channel - he was slopping for me some boards for making an oar, I was standing up he cried out, my lads, we are wrong, we will strike the bridge called out to the men to stop and accordingly did strike it, but was by want of præcaution and not purposefully done - The oar was injured by the shock -

John Grant to P^C for 3 or 4 years, never saw any signs of malice in his conduct -

Verdict. Not Guilty. —

Wednesday 6th Septr 1837

Pres.

Ch. Justice Reid
Mr Justice Ryke

The Queen
Julia Campbell {

On Indictment for Murder - of one
Antoine Desmarais. —

James Clarke, in July last he had come up from Quebec, on the morning of 28th July he saw the P^C near the St. Ann's market about 5 or 6 of them in the snows, in the open air

with her was a young man of the name of Farlie & another girl - See D. come along, the Dr. was sitting eating - he came up & stood looking at the Dr. who asked, is that D. in the back yard? D. asked her is it me, she ^{said} yes. she told him to go his way, he ^{said} yes & don't be standing looking at me & threw a stone at him - ~~she~~ this D. told her if she threw another stone he would kick her you won't go away - well I'll soon make you go away, and with the knife in her hand towards him threw the knife - D. told her to keep back we the knife did not approach him & it - the Dr. said I'll soon make you go away and taking the knife in the left hand she gave D. a blow in the left breast w^t it - On this the D. walked away and the W^t told Dr. She had kicked the man so hard she did not care a damn - the W^t followed the D. towards the College, and told him to go to the Dr. as he was bleeding - she returned to go to the Dr. I met a man who asked what was the matter, he ^{said} a damned w^tton had stabbed him - on his way the Dr. fell nearly opposite the St. Annes Market a man came & told him upon the W^t told this ^{to Mr. John P. Hart no. 100} man that a girl had stabbed the Dr. and shouted from where she was, this man went to the stocks the knife from the Dr. The Dr. was still lying near the St. Annes Market, and W^t went to

Dr

in 1. Paul Street

Dr Cowans, and by the time he returned the Dr had been brok to the place when the D. was lying she asked him if it was her that stabbed him - he did not speak but that W. could hear, but made signs by nodding his head, that it was her - Dr Cowan came down raised up the wound, when D. recovered a little - and he was carried to the hospital -

Cannot say, that the knife Herb took from the Dr was the knife w^t g^t she struck the D -

The D. had gone about as far as from this to the Green house & turned back, when he fell -

2

W. was going towards the Canal that morning he was w^t another young man who was with the Dr he had not been a hour that night - W. has been in jail before this - had seen the P. before but not the D. saw D. coming along - walked up to P. & stood & looked at her - in a ~~laughing~~ manner with an apparent smile the P. appeared offended - told D. to go about his business in D. he would go when he was ready - the P. then appeared to be excited & threw a stone at him, he said if she threw another stone he would kick her & then got up & said she would make him go very soon - & advanced towards w^t the knife, the Dr fell back a little and told her to keep ^{back} ~~off~~ with the knife -

When D. came up to the P. the knife was lying along side of her, & she looked round for the knife & laid hold of it & got up saying she would make him go off soon - after having given the blow P. walked back to her place

she

she did not seem conscious of having hurt the D.
until W. told her she had killed the man.—
when the D. was carried in the Cart to the Hospital
he endeavoured to get out of the Cart to go home, but
the persons w^t him held him & would not let him
get out.

John P. Heret, did not see D. on the morning of 28 July
last he saw him at the end of Dr. Dennis' market
when he fell— W. was standing in the door of
of Mr. Eager's store at the time — when he fell &
seeing that he did not get up W. went up to
him, found him speechless, supposed he was in a
fit did not know he had been wounded —
he left him until another man came to assert
it holds him up, when last W. came up told
W. that D. had been stabbed — & that he could
show W. where the person was who had done it —
W. w^t him to a place behind the Gaspeake office
and pointed out the Dr. to him — she was behind
some ^{high} weeds on her knees, apparently seated —
W. asked her if she had a knife w^t her, she said
she had none — W. said you have, and have
killed a man, she still denied it, he said he
would search her — she had a knife in gl. he found
a ~~knife~~ some blood, & in that knife he found
the knife — on this she was sent to the place
where the D. lay — the D. had come to appearance

to have his senses but could not speak, he was asked if the Dr was the person who had stabbed him - he made signs that it was - by a nod of approbation - The Dr. asked him himself the question cannot say whether the Dr. understood the question - he never heard him speak -

The Dr. was put into a Cart and carried to the Hospital - Saw the Dr. after his death lying at the Hospital -

X³

Dr does not speak French understands it very little - did

The knife was a very dull knife without any handle saw the wound, did not examine it - The Dr appeared weak at the time

that no conversation passed between the Dr & the last Dr in the presence of Mr

By Mr Jeal - The knife was about 4 inches long with a slanting point - might inflict such a wound -

James Cowan was a medical pract. in July last, lives in St Paul street - on morning of 28 July last a boy came to tell him that a man had been stabbed lying close by the St An. Market - Mr. Cowan ran in bed - the person came a 2^d time - Mr immediately proceeded to the place, and saw a man lying there of about 32 years of age - he was wounded on the left breast between the 2 ribs - Mr plastered the wound to keep

it

it together until he could be carried to the Hospital
he was not called upon to visit him afterwards

He probed the wound, thought at the time a fleshy
or muscular wound — cannot recollect whether
the first Mr Clarke was the person who came
for him

Chas. McAllister saw D. on 28 July last near the
St An. Market, he was lying on his back & his
wound bleeding, he did not speak, the Dr was
sent for, the D — was asked in her presence if
the Dr was the person who had wounded him
he made a nod of approbation to his head
The Dr does not speak Fr but the question was
asked in Fr. & Eng — I do myself but the same
question in French — & the same nod of approbation
was given by the D —

x²

Understands very little French — The Dr asks D
est ce moi mon frere qui vous a blesse? — He
made a nod of assent —

Elizabeth Austin — was in company w/ Dr on morn of 28.
July last near St An. Market — had left her
before this accident took place — However where
Dr got a knife — it was a butcher's knife — The
knife now shown was not the knife — Other
butchers

butcher's knife she said it had thrown away
the weeds when she was setting, and this
knife the Dr. afterwards found among the weeds
saw no blood upon it -

Dr. Pierre Clément - was medical attendt at the Hotel
Dieu on the 28 July last - said D. the same day
he was sent to the hospital - The D. had received
a wound on the left side of the breast, it had
penetrated into the chest an inch & a half - he
was cold - there was little hemorrhage - left him
for the moment - when he returned found him
still cold, ordered some stimulants - next morning
the man died - next morn an ex. found the wound
had penetrated the chest, but none of the internal
organs - were wounded - believes the D. died
by means of that wound, there appeared no other
cause of his care about him -

The wound corresponded with the knife of Mr.
Dobie produced at the Inquest - The knife now
produced might have inflicted that wound -

The D. appeared to be a rather a strong muscular
man -

x^o

Spasm may be produced by many causes, & from
very suddenly - The Diaphragm was not wounded
at all - exposure to damp for some time will produce
with tetanus - sudden spasmodic affection
may

may arise from the derangement of the Stomach.
does not think that the affections of fear would
produce spasm -

In order to assist a man affected w^t spasm
ought to be closely attended - when Dr. W^r. M^r
first saw D. that his weakness arose from loss
of blood - left him for 3 or 4 hours, when he
came back he found Mr. D. in same state still
cold - when tapers commenced in that he would
die - when he left Mr. D. he left orders to keep
up warmth -

The wound was given in a slanting direction.

Dr Alex^r. McRae, surgeon in Montreal - was at the post
mortem ex. of D. on 29 July he attended the
Inquest - saw a wound on left side of the
breast, it penetrated between the 5th & 6th rib
the knife produced was tried & corresponded
w^t the orifice of the wound - a portion of the
Cartilage was lacerated - the wound was sufficiently
deep to penetrate the plera crustalis without
injuring the plera pulmonalis -

The appearance of the body was healthy, & no other
appearance of disease about - & he is of opinion
that this wound caused his death -

Bonyn

Benj'n Dilesh. high constable - Mr. rec'd from John P. Hart on the 28 July last the sume nove produced -

After the D. was put in the Cart to carry him to the hospital. Mr. asked him if the person who had been arrested and took to have of it as a prisoner was the person who wounded him - the D. then spoke and said Yes -

x¹

The Wo. did not consider the wound as dangerous at the time -

Catherine McCambridge, is widow of the late Antoine Demants - on the night of the 27 July last her husband slept at home - he got up about 4 o'clock from an hour or two of sleep to go to work - he was in good health and attended to his work every day - saw him in the Hospital after he was wounded and after he was dead -

Mr. Hart addressed the Jury on the behalf of the P^r but called no witnesses

Mr. Atty Gen^l rose to address the Jury in reply which was opposed by Mr. Hart, as he had called no witness in defence - But considered that the Atty Gen^l had the right to reply in all cases -

Verdict. Guilty of Manslaughter -

The Queen.

Augustin Richer
otherwise called Augustin
Laflèche

On trial of Indictment for an assault
with intent to commit a rape. -

+ she asked him
if his father was
men in ligues. he
said no.

Julie Génat. She is aged 13 years - She was at
her father's house on the 28 April last when the ^{saw of the} Dr
^{ask him to go to} came to make out some act^t for his father and to go
to his house - She went to Dr^r and he was about
writing, when the Dr^r sent out his son to get room
His wife & child went out - She was then alone
w^t the Dr^r after she had done writing the Dr^r etc
extinguished the candle, threw her up the stairs,
took up her cloths, made ~~her~~ found open her
legs and unbuttoned his pantaloons & lay upon
^{& injured her in her body} her - Mr. cried out to let her go - She heard some
one at the door, the Dr^r told her to be quiet & gave
her a slap - but she continued to cry out, the door
was opened, and she escaped - The wife was
afterwards examined by one of the wife's neighbors -

*

Dr did not hurt her by laying on her only - She mentioned
the circumstance next day to Mr Cribassa & two three
others - she never said that the Dr^r had hit her -
The Dr^r is a married man & has children - She was in
the habit of going to Dr^r's house - That she said ~~that~~
day she said the Dr^r had pushed her ag^t Mr. Stairs, & then
thrown her down on the floor - but never said that Dr^r
had hit her -

Marie

Marie Vier. lives at Soul - was at M^r B^t. Couture's on evening of the
28 April last, who lives opposite the house of P^r - she
heard a kind of suppressed voice crying out a man d^r
mon dire laisser moi done - as coming from house of
P^r - There was no light at the time in the P^r's house,
she had observed there was light

x²

She k^s. P^r for six years - never heard anything before
this said of him -

Lucie Lagrave - wife of Couture, on 28 April last she heard
a suppressed voice call out several times Ah mon
dire laisser moi done - ~~the man~~ seemed to
proceed from the house of the P^r - She saw no light
in the house at the time, altho' before this she observed
there was light -

x²

When she heard the cry she went up stairs &
heard the cry - k^s P^r for several years, never
heard any thing of him, he was always considered
as an honest man -

Ch^r. Genat, lives at Soul, the first wife is his daughter, - he
was at home on the 28 April last when she returned
him - she was bare headed & crying - s^t that P^r wanted
to kill her - asked how she said that the P^r had put
out the candle, thrown her down, had undressed his
pantaloons and laid himself ~~on~~ on her, and beat her -
that she cried out, and when the door was opened
she

she made her escape - Next day the person was
examined -

His child was not ill next day -

Olivier ~~Antoine~~ Peloquin de Félix - lived at Sorel on 28 April last.
the M was required to go to Dr. He went to the
door of the house of Dr. but on instant he saw
the girl of Gratiat the first W^r call out Mr
Courtin, open the door - when he came out she
ran off -

that Dr. came to the door and called his wife
M. Dr. for an honest man for 15 Years -

Charlotte Debroux, lives at Sorel - was there on 28 April last
went for Peloquin to go to house of Dr. went with
her to the door, but w^r not go in - W. opened the
door, when a person ~~came~~ out & went off - she
could not see who it was -

gives a good character to the Dr.

Marie Millet wife of Am. Paul Hébert is a midwife - She
was called to exp. the first rents by order of Magistrate -
W^r up her and found her private swollen - and the
W^r was satisfied that violence had been done to
the person of the girl Gratiat, by attempting to
penetrate her body -

The child told her what had happened before
she exp'd her

Verdict Guilty of an assault, but not with
intention to commit a rape

The Queen
v.
Francois Tournis } On trial for Grand Treason

Chas. Vidal, lives at St Hilaire - K. Dr
that several thefts had been committed in that part,
the 28th of July last he was at Archambault when
persons accused of these offenses had been brought there
& Mr Archambault told the Dr. to endeavour to find
out the guilty persons - The Dr. was among the
persons accused, and he asked the Drs. if he could
become Kings evidence, and he wanted to show where the
things stolen from Mr Messier &c. he had taken -
and as being we had not time so soon to answer when another
person came forward to say where he knew where ^{stolen} articles
were concealed - on this the Dr. was confined in the prison -
he then went ^{in the afternoon} with another Dr. & another man to the
land of Champigny, when the Dr. said, if I am not mistaken
it ought to be here - and on examining a heap of stones there
they found a tinette of butter and a linen towel - Mr
Messier the owner was then with us - We then returned
to the Dr. to Archambaults - This butter & both the Dr.
recognized to have taken from Mr Messier there may
be 30^{lb} butter in the tinette & is worth 7^{1/2} £ & 10/-

Godfrey Blanchard, was at Archambaults the 28 July but when
the Dr. was brot. there - masked of us to go w him and
he would show him where Mr Tournis butter was, and
also when he had sold 10^{lb} of it - The pork that had
been stolen was brot. to the magistrates, amounts to 10 or 12^{lb}
worth

with yr & H of. The D^r acknowledges to have taken
and two linen towels - all of he recognises having
taken from Mr Mission - estimates the towels at 5^c each

Verdict. Guilty of Petty Larceny.

The King
James Davis }
Francis Louis }

On Indictment for Petty Larceny -

François Blanchard - was at Mr Anchambault's
the magistrate on 28 July last. The D^r & some others were
but then charged with stealing. There was lost to the D^r
a hat and a blanket of which belonged to Mr Mission -
Mr Brodeur & Lavigne - values the hat at 1/8 and
the blanket. Then the D^r recognized ^{heavy slotted} from Mr Brodeur

Charles Vidal - says, that he was present at Anchambault on the
28th July last, when a quantity of stolen property had
been seized; and among other things the hat & blanket
here in question, then the D^r acknowledged having taken
from Mr Brodeur -

Verdict Guilty

The King
James Davis }
Franc Billette
Alex^r Perrault }

On Indictment for a highway robbery -

The witnesses for the prosecution being called and
not appearing, the Court directed the Jury to acquit
the D^r which they did accordingly by their

Verdict. Not guilty.

Thursday

Thursday 7th Septr 1837.

Pres^t

Ch. Justice Reid
Mr Justice Pyke

The Queen

or

Joseph Chouinere,
otherwise called Jos. Sabourin

Guillaume Chouinere
otherwise called Guilli. Sabourin

Joseph Asselin - otherwise
called. Jos. Mathias. -

In Bap^t to Asselin, otherwise
called. In Bap^t to Mathias

Hippolite Giroux

Francois Giroux. -

In Bap^t to Larose, otherwise
called In Bap^t to Saurette

Grand larceny
On Indictment for Burglary -

The said Jen^t entered a Noli proune
at Jos. Chouinere or Sabourin, one of
the P^s charged in the Indictment -

Serie Vandal - lives at St Philipe at her father's house
Fran^c. Vandal - On the night of the 1st & 2^d July last the
house was broken into - she was not in the house at the
time - she had been in service at the house about a fortnight
before. She left her great coat in the Cellar, it was worth 8
dollars - was told next day that it was stolen - went to the
house, saw two iron bars ^{or} ^{regarding} frame of glass broken, and the
latch of the door - no one could enter without breaking these
bars - She found her great coat afterwards - in the same
room produced - it has been unripp'd. -

x

*

Joseph Chouinard at Sabourin - lives at St Andre - He the
son of Grul. Chouinard - He Los. Asselin - In P'te Asselin.

Hypolite Groulx - Frans Groulx, & Mr B'n Larose -
Does not know Frans Vandal, knows the neighbour
Ren Larose, in the parish of St Philippe

That Mr B'n Asselin, came to him on even of first July
to ask him if he would not go w/ them - his wife
told him they were going to do some mischief & he had
better go to the neighbours & get bed -

Knows that Hypolite ^{Groulx} told him he had got a lateral
from P'te Asselin -

Since ^{the 1st} they were arrested, Mr B'n Asselin told him that
they had taken the ^{from house of Langlois} great coat, and left it at ^{Hypolite} Groulx
to have it cut up to make gilets of it -

Mr B'n Asselin was alone when he told this to me

Siray de Cote - In course even of the depredations committed in
St Philippe, on June & July last in being a magistrate
affidavits were made at several places & suspected of
being the persons guilty - Mr granted warrants, &
several of them appeared before him, and with
exception of Hypolite Groulx & ^{do. ac. Groulx} Lamette, acknowledged
they were guilty - ordered a search to be made
in the house of the persons charged - In the house
of one Sophie Herondelle, the great coat was found
it was said that the great coat was found had
come from Hypolite Groulx - it was Indian

Thibaudier

Thibaudian who delivered the great coat to him -

L²

That Jacques Giroux acknowledged he had taken wool from another house -

Julien Thibaudian, went w/o others in search of great coat in question & found it in the house of Hippolyte Giroux, it was given him by his wife, who said he had taken it from the house of ~~Hippolyte Giroux~~^{François Mandel}, in company with Dr B^r Asselin -

That Vandal lies in the house of Langlois, and is his master Langlois lives at some distance -

Verdict - Joseph asselin
In Dr Asselin } Guilty -
Hippolyte Giroux
The other two Not guilty.

300. Pounds.

40. Land
, timbale

{ Etienne Isabelle

The Queen. - Jos: Chouinard & Sabourin }
et al. - On Indictment for Burglary

Etienne Isabelle, lived at St Eustache, a la prisonniere in this district, he lives in his own house there - on the 30th June last he went to bed about 9 o'clock, the house was well shut up - he kept his pock & land in the Cellar - That the iron bars of the window in the Cellar were torn off and it was then easy to get into the Cellar - the chassis grit, were thrown aside - It had about 300^t pock, worth 72^t & 10^s, and a timbale of 40^t of land, value of 25^t - and it was all marked with marks of feet where the individuals had entered - the pock

pork and lard were stolen - and a bag of oats had been emptied, on the cellar, and the pork just rub it as he supposes -

When he got up in the morning, he found that the bars of the cellar window torn off, & with the sash were lying in the yard. About 8 days after he went in search of the effects stolen, and found at 13th Asselin de Mathias a pot of lard of about 4½ pounds -

That Mr. found about 15th pork at Mr. Lutis' but there were grains of wheat about it, as there was so heat in the salt cut, & he had salted his pork -

²⁻
There were other people at Mr. Coles who claimed pork that had been stolen, but it was different from that of Mr. we had been fed in a certain manner so as show the different layers in the pork -

Jos: Chauvinier de Sabourin, one of the accused -

lives at St. Andre' - His wife Gervais another Mrs. also house of last Mr. The Mr. & all the others Mrs. went to the house of Eleonore Isabell on the 30 June last - the Mr. and Thysle Gervais took off the bars of iron in the window of the cellar - that In 13th Asselin - Jav: Gervais - & Jos. Asselin remained at the fence close by to watch

The intention was when they set out to go to Isabell's to steal - In 13th The Mr. then went into the cellar and Thysle Gervais stood out side, and rec'd. the pork as the Mr. handed it to him - They had
bags

bags - They took about 50^t pock from that cellar -
They also took about 1/2 hundre of lard - from the
same cellar - They then all went off together - when
at some distance they divided the pock among them
that the Mrs. Guille & Chouanere & Mr. Larose were
not there -

That he was arrested, and he stated that the
pock he had taken was at his house & that of the other
persons. -

x2

Has been imprisoned for the last 10 days - has been
imprisoned before this. -

g

Simey Côte - was a magistrate in town last - There were
several robberies committed at that time Isabell claimed
the pock qd was found at her. Chouanere & he
also claimed pock that was found at Joseph Asselin
& Joseph Asselin -

That her Chouanere was charged w^t stealing pock, and
he said they would find pock at his house

W^t found found pock were found at B^t. Asselin, some pock
and some frasse qd. Isabell claim'd what Asselin's
wife &c had been taken -

*

Verdict - Joseph Asselin, in B^t. Asselin & Hypolite
Giroux. Guilty - The other pro. not Guilty -

=

The Queen - in
Wm Spencer Sloane } On Indictment for Burglary -

John Gray, was on the 6 Sept^{ent} before a Clerk in the
service of Wm Baker of Duxbury in this District -
the shop adjoined the dwelling house, this shop is
an addition made to the house - ~~they two were under the~~
~~same roof~~ there is no internal communication -
W^m had before this about six months before this slept
in the Shop - Mr. Baker was absent from home -
The w^m on night of 6 Sept^{ent} W^m shut up the store
the whole was secure and the W^m took the key w^m
him - When W^m shut up the store - the goods
mentioned in the Indictment were in the Shop -
and of the value therein stated - which belonged to
W^m Baker W^m returned to the store about 5 or 6 P.M.
next morn. found the window blind open & the
dash raised - That was absent was bound over with
an Augur & found open one of the panes of glass
was broken in order to draw out a nail in fixing
the window - ~~there~~ was an evident window forced
Some of the goods he found lying on the floor of the
Shop & some outside - Three shelves had been
emptied - About 7 or 8 days after ~~had~~ ^{Received} information - a man, ^{J. Russell} came from Johnson
in Vermont who said that goods had been found
there - W^m described the goods to Russell - and he told

W^m

W^t then were the same goods - next day W went to Vermont - described the goods, and they were delivered up to Mr. and he recognized them to be the goods stolen from Mr. Baker's Shop - Mr. Lynd was the person when the goods were - Gentry was then a clerk of Mr. Lynd - W delivered the goods to Mr. Baker - saw the other for Sprague, but not the Dr^r Sloane - The articles now produced & shown are the same goods except the shoes - some of the cloth -

I had lived ^X 7 or 8 years with Mr. Baker - There is a shed open to the street on one side ^{top floor} between the Dwelling house & shed but joined together -

left store between sun down & dark - fastened down the window with a nail - did not always fasten it w^t the nail the goods were then in the store -

First saw Dr^r at Troy in Vermont after this - W & some others arrived at Troy about 2 o'clock in the afternoon - there were several other persons ~~were~~ ^{were} with the Dr^r. The Dr^r understood that Dr^r was taken forcibly across the lines into this Province - and when W first saw Dr^r in this Province was at Durman - he was carried before Justice Selby - The goods now produced have always been kept in a trunk and not exposed to sale on the shelves of the shop -

Antoine Gentry - he left last he lived w^t Mr. Lynd at Johnson in Vermont as Clerk - about the 18th last the Dr^r & Sprague came to Lynd - about 1/2 after noon in evening with a trunk & goods in them - There may be 24 hours between Durman & Johnson -

Mr Lynd's shop was shut when he had gone to bed -
the 2 P.M. came into the shop was opened up, and
the Dr. asked Mr Lynd to buy the goods - Dr. Sloan
opened the trunk the goods were exposed on the
Counter - they were expens^e and Mr Lynd asked
the price of the goods - The Dr. said would take
\$150 - for the whole - Mr Lynd offered \$120 -
The Dr. observed the price of cloth & said it was very
fine cloth - the Dr. or he had but that cloth from
the P.D. revenue of Montreal & was selling it cheap
that he might get money to buy more - Mr
Lynd did not buy the goods - Some persons came &
knocked at the shop, & when the door was opened
the Dr. ran off - These persons asked Mr Lynd
who he had in his shop - and that he had two
persons who were selling him goods - but observed
that one of them, the Dr. was gone -

That the goods thus offered by the Dr. for sale
are the same as now produced -

We saw the Dr. afterwards, and he never came
back to claim these goods -

Mr. did not at that time speak the English very
well, but he understood it better than he could
speak it - & sometimes may have been said - of h^e
did not hear - after the Dr. was in the shop
Mr Lynd locked the shop door - & the Dr. the
Mr. Mr Lynd & another clerk were in the shop -

- G

It did not appear that Mr Lynd with others were acquainted before this —

Mr Lynd said the goods had been at 150 dollars and therefore offered 120 dollars. That Mr Lynd would not have purchased the goods for the 120 doll^o.

By Mr's Gnd Mr Lynd had heard before this, ^{that} a shop had been broken open —

^{x²} The persons who came into the store of Mr Lynd were persons of the neighbourhood, but there were several others outside he did not see

James Foster — Saw P^r in Gaol — The Dr asked Mr what he was in Gaol for Mr told him — The Dr asked P^r what he was in for he said he was in for breaking a store stealing goods after in Dunham a Standard — he said he would get clear, as there was no one could say anything against him but Sprague ^{who was wt. him} said he was a cowardly scoundrel of fellow — he Sprague had got some liquor before they robbed the store — & that P^r was obliged to present a cocked pistol to his breast before he would consent to go with him — He said he had taken the goods across the lines.

^{x²} The Dr said that Sprague had ^{been} sworn that the Dr had put a pistol to the heart of Sprague to compel him to assist in stealing the goods —

That Mr told this to Mr Badgley — and to Mr Delisle

Jordan Sprague - the W^r asked his discharge -

objected by the P^r - counsel that the W^r was not a competent witness under such circumstances -

Stevens - p 23 - King & Lee - Russell Ryan -

Dracon 390 - no evidence -

W^r admitted -

says he knows the P^r became acquainted with him on the 2^d of Sept last - W^r was boarded at Mr Stevens at Dunham - he had lost his money, & a collection was made to assist him to return home - W^r was at house of a Mrs Head on a Thursday even^g when P^r came there & P^r he was going to the States in a short time, as he w^t go with him, he w^t pay the board of the W^r - The P^r & W^r remained together for 6 days - That P^r presented ^{W^r} a pistol to assist in guarding him as he was afraid he would be taken across the lines for something he had done in the States & gave a pistol to W^r They went out together & one would watch & the other sleep - when P^r fell asleep W^r left him & went to bed -

That on Friday night they went to Holliston at Droom, about 18 miles from Dunham -

On Tuesday night they started from Mr Leapham's ^{went to} Dunham to Mrs Head's - and about 12 o'clock al night the P^r went w^t W^r to store of Mr Baker & broke it open - that P^r had an anger & a candle w^t him - he set the P^r to door & P^r had a pistol in his pocket, saying if we shot any one that should come they broke the window and raised it - then was a bold day in the store & W^r declined entering on this P^r presented his pistol at W^r said after

dec

did not enter the store, he would shoot him -
W. from terror intend, the dog started at barking him
for ran off & was got out again & fell - about 20
minutes after the Dr. came back & caused W. to
enter again - W. got into the store again, the
dog was quiet - the W. took the goods from the
shelves & handed them out to Dr. who threw them
over a board fence - there were broad cloth, Cirema
shoes & other articles of he thus handed to Dr. with a
box w/ ribbons places -

After the goods were packed up, the Dr. sent the
W. back three times to look for money -

The goods were carried to Mr. Lacy's boat in
the woods - they lay nre day there - when a hat box
was put & they were packed into it - carried to Mr.
Hobbeson's at Bowron, where they remained till next
Sunday, when a wagon was hired to carry the goods to
Montreal, but afterwards started to the States w/ them
and after travelling till about midnight they arrived
at a place Dr. called Troy - Dr. & ~~the~~ ^{the} ~~house~~ one Lynd
and next morning went to ~~Linton~~, up to a village
nine miles from Linton - from that they went to Linton
at Allen's Tavern - here he told Allen he had smuggled
goods & he wished to sell - That the goods were from
that, carried to Mr. Lynd's, the front blinds were closed.
That Mr. Lynd's purchased the goods for a \$20 or \$25
dollar - Lynd went out to get the money & Dr. followed
with a trunk under each arm - They soon after came
back, when Lynd's looking at the goods some one
knocked

Knocked at the door, when the Drⁿ run off
The goods now produced are the same that
W took of Mr Baker -

William Baker - was absent when store was broken open -
there was a severe frost the night of 6 Sept^r. at
Boston where W. then was -

Heard before he arrived at home that his store had
been broken open - and recognized the goods from
their general appearance to be his - and he can -
speak to some of the articles positively -

These goods are some his clerk took home from
Johnston, -

The House of W. was built on the road north &
south - behind it there is about 24 feet of roof -
it covers partly a kitchen bed room & Pantry -
the store ~~stands behind the kitchen~~ about 12 feet
is connected with the dwelling house & kitchen
by means of a covered shed, which is open to the
road & used for the storage of goods, but the
whole is under the same roof - but there is no
internal communication between the dwelling
house and the shop & store -

Verdict Not Guilty of Burglary
but guilty of Larceny as laid in
the Indictment. -

Friday,

Friday 8th Septr 1837.

Pres:

Ch. Justice Reid.
Ch Justice Pyke.

The Queen
v
Denis Pelagrin } On Indictment for Grand larceny -

Denis Pelagrin, lives at St. Jude, county of Richelieu - had a
grange at a distance of 2 1/2 leagues from his residence
in which he had stored in his barn - he found that his pease
had been taken to the extent of 7 or 8 loads -

The Dr who had part of the barn - Dr had given him
to put his pease on the north side, & more of it were
on the south side - Dr could not fail to distinguish between
the pease of Mr. & his own -

The Dr ^{had} threshed all his pease - those of the Dr were
not threshed -

Mr. got a search warrant & searched at Dr's but found
nothing - but was informed by Dr. Etier that Dr had
taken the Pease - The Pease was worth 15^t. at the time
Dr thinks he lost 34 or 35 bushels -

Mr. went to speak to the Dr on the subject - the
Dr. said he had carried pease, but they were his own -

After he was arrested the Dr came to Mr. to arrange
with him释放 for the pease for which he was charged
to have taken -

2

The Dr had put 23 bushels of pease into his barn
last

last fall - he may have threshed in all 12 loads
Mr. has carted 7 loads last fall -

Dr. threshed his pease about the 15th Nov^r and there
remained only the straw - but the pease were removed

Ignace Eve - lives at St. Jules - says that Peloquin has a barn
on his - he allowed Dr. to put his pease -

Says that Dr. he saw Dr. cart pease, but does not
know whether they were threshed or not - he carried
them into his own barn, instead about an acre of it -
from shed of Peloquin -

The Mr was the person who proposed the arrangement
between Dr. & Peloquin - The Dr. prefers to pay what
Peloquin demanded rather appear at the Court -

Peloquin agreed to settle, if it could be done -

Saw Dr. cart pease in the month of February last -

X^r

The Dr. is an honest man & ready to render service
to his neighbours -

That one may make a mistake as to the quantity
of pease threshed -

The Dr. did not acknowledge he had taken any pease
from Peloquin -

Marie Gourgeau, les Dr. and her barn - heard that Dr. had
a part in it -

On the 14th March last she saw the Dr. cart two loads
of pease cannot say whether they were threshed or
not -

X^r

The Dr. is a man who has means - -

Dems

Denis Peloguen filed - He, the barn - & that his father had allowed Mr. to put his pear in the barn - That last fall Mr. had removed all his stores & threshed all his grain, except 2 threshings - The shaw was still with the barn - at that time there might be about ~~for~~ 15 wagons belong to his father of them 15 wagons they carried of loads which was all that remained

The Dr. came to make an arrangement for the pear in & he pay all the costs that had been incurred -

That Drayton was the person who professed to pay the costs on the part

In the Langleys - See barn - The Dr. acknowledged he had carried pear in the month of March last - he did not say how much - but said it was his own pear -

That Peloguen advised to him that the Dr. had threshed all his pear - in & he had not threshed all his pear -

Defence

Mr. De St. Ours, Sheriff see Dr. he was always considered a very honest man & his family respectable

Verdict. Not Guilty

Mr. King
James Harper }

An arraignment for Grand larceny the
Prisoner pleads Guilty -

The Queen
or
Joseph Legault
de Delaunay.

{ Our Indictment for Manslaughter -

Frederick Sauve' - knew the deceased Marie Lise Sabourin, she was his mother, she was aged 70 years and lived in the parish of Regaud - Heavens heard that she had been run down in the road by a Cart. He went to her assistance, but she was dead. He saw her the evening before, she was not very well - This was the 15th June last - when he saw her after she had her head cut and fractured -

*
The P^r is a person of quiet & good character -

Donald McMillan, was present when the accident happened on the 15th June last, saw the P^r in his Cart & Joseph Legault was in another Cart - Saw the P^r who was following ^{Belanger} Legault, drove on one side drove on before ^{Belanger} Legault - in this ^{Belanger} Legault drove towards the same side of the road, and they were striving to get the one before the other - they ran thus for 4 or 5 acres until we lost sight of them - and Mr D^r had been in his shop and had left it about ten minutes, and had gone into the road when the P^r ^{Belanger} was driving - there was a great deal of dust & an elevation of ground prevented us from seeing the accident - but many people collecting to went to see what was the matter - he saw the woman

on the ground & known to be her Marie de Sabourin
she was breathing - but she had ^{had} a violent shock
She died about 3/4 hour after, d Ms saw her after
she was dead

x²-

When W^r was he could not see where the D. fell
from a small elevation between them & the P^r
When W. last saws th D. she was about the middle of
the road

Genevieve Vallee. Knew D - P^r & Belanger - Saw

the D. at about 4 acres from house of W^r and saw
her fall - she was on the ^{arm} side of the road ~~not~~
with P^r The P^r & Belanger had left their Cart
and were ~~driving~~ racing their horses saw the D -
fall, and run up to her - she had rec'd two blows
on the head - she was bleeding - she was carried into
house of Andre' Delourme - The wound the D -
had rec'd was on the head -

x²

W^r did not see the blow given - There was appearance
of two bruises on her head - She was an old woman

Antoine Desnoel - saw D. after the accident - shot his uncle
Desnoel to lots P^r I told you take care the P^r
said, its true, but my hat blinded me -

The P^r said he had run aft D - with the nose of
his Cart etc threw her down -

x²

F

The Dr. appears to regret the accident - &
he was sorry for it -

The D. was a little deaf - the marks on the
head of son of D. seemed to have been occasioned
by her fall -

Venance Desnile did not see the accident - run to the Dr.
found her lying w^t her face on the ground - he lifted
her up, she had rec'd a violent blow on the head,
the skin^d open^d. the tracks of the wheel of Dr. did not
appear to have passed over the head of D -
The Dr. and Belanger came back after the
accident - they said Belanger the Dr. said it
was he who had struck the D - w^t the wheel
of his Cart & thrown her down -

That the other Dr. Belanger told Dr. that he
had warned him to take care, the Dr. said he
had heard him say so - that they were
racing their horses & could not stop them -

Marie Astie Sauve' The D. was her grand mother - she
saw the Dr. come with a horse & cart he was racing
with Belanger, who also was on his Cart - the
D. was in the road - W. saw her fall on the side
next to the Cart of P^r - W. ran to her assistance
she was much bruise her marked clod in much
broken saw the Dr. there -

Court

Tous^t. Decoste - saw the Dr. & Blenger when they began their race - saw D. in the road - he saw a hot fly off, but does not know where it was - there was a great dust raised - he went to her assistance after some others - Heard the Dr. say he was sorry for what happened, but did not say how it happened

+

The Dr. is a young man of good disposition -
Verdict. Guilty. —

The Queen
v.
Charles Simard } On Indictment for Grand Larceny

Jos. Talon D. Insurance, is brother of the late Pierre Talon D. Insurance, who died last month - He that his brother was prop^r of a Silver watch - There were 3 seals & a gold chain to its valves the watch chain & seals as stated in the Indictm^t - The D. said w^t he was almost blind - D. was intrinsically acquainted w^t the Dr. In Feb^r last yr. the Dr. came up to enquire about the price of a large of W^r The D. suggested y^r O^r to conduct him w^t his canoe to Berthier & back again - They went off together - The D. took his watch with him - it was a silver watch - The D. was 8 or 10 days & came back w^t Dr. The day after, the D. told him that his watch had

been

taken, and that he suspected strongly Mr Dr
he told Mr. that he had made a deposition at Three
Rivers on the subject -

Louise Rousseau, widow of the late Dr. Talon de L'Isle-Verte
knows that Mr. Dr. went on a Journey to Berthier
in Feby 1836. & was conducted by the Dr. The
Dr. had a watch, chain, seals & guard he took
the watch seals w^t him - Mr. Dr. was absent
7 or 8 days. A day after his return he s^t he had
lost his watch - In May last he told Mr. that
he had made his declaration on the subject of
losing his watch -

Philip Devine. H. Constable of Th. Rivers - knew Dr.
saw him at Three Rv. in May last - he took
him to the police office to make his declaration
The declaration was admitted & was read
stating the loss of his watch, and his suspicion
that it was the pris^r. who took it -

In consequence of this declⁿ a search warrant
issued & was given to Mr to execute - Mr went
to residence of Dr. at Prencour, found him on
board his Schooner - told him he had a search
warrt. for a gold watch that had been stolen
from Mr. Maynard - The Dr. s^d the watch he
had purchased, was a silver watch - he drew

it from his pocket and gave it to W. Th W^s
finding the watch to correspond w^t the description
given to him of the lesperance's watch he arrested
the P^r and has kept the watch in his possession
since -

X

The P^r said he had purchased the watch & chain
& had sold the chain. -

Louise Rousseau says she knows the watch now produced
to have been the property of her husband. - She does
not know where it was lost -

X

Does not know the no^t of the watch - But there
are watches of a similar kind sold -

Jos. Talon - says he has seen the watch several times
and believes it to have been his brother's watch.

There may be other watches of the same kind

Verdict. Not Guilty. —

The Queen }
v
Charles Kenny } On Indictment for Grand Larceny —

Samuel G. Whitney, was owner of 3 planes, value
5/- each - 2 chugs 2/- each - one plane iron 4/- two
aprs 20/- & a compass 1/- These things kept in chest

in

in his Father's Mill - These things were stolen in
June last - made his complaint, but did not
at the time suspect the Dr - but did so afterwards,
he got a search warrant, went to P's who lived
about 8 miles off - told him they came to search
for tools stolen - Dr said they were not there -
They searched, and found the articles, except the
axes & compass in the premises of the Dr - hid
away in several different places - Produc'd the
articles, says they are the same that were taken -

Joseph Personneault went wth the last W's to search
for the stolen effects, told Dr the object of their
search - The Dr said he had no tools belonging
to Mr Whitney - Found the tools hid away
in different places about the Dr's premises -

Verdict. Guilty of Petty Larceny

The Queen v.
Hippolyte Giroux } on Indictment for Grand Larceny -
In P's Larceny & Swindles

Christin Fortin, Cap't of militia lives at
St Cyprien In June last some Jurasos broke open
his milk house & carried off 30* barrels value 77

and

and 20 doz. eggs value 6^l. & 10 doz - a ~~hand~~ table
cloth value 1^l & table cloth 1^l - got a search
warrant & went to Dr^r he found nothing -

Jos. Chouinere dt Sabourin - In June last he went
w^r Jac. Grivoux to Capt. Fortin's - Met Polit
Grivoux broke open the laiterie - it was about 10 ~
11 o'clock at night - they took a trunk of butter
of about 30^t and 17 doz. of eggs & a table cloth
these things they carried off & divided among them
and Jac. Grivoux, the Dr^r had his share - Larose was
not there. -

Verdict. Not Guilty. -

The Queen
vs
Jn B^r Larose
dt Surenne

On Indictment for Grand Larceny

Mr Bessonette, lives at St Lyprien - his laiterie was
broken in May last, and ~~they~~ about 250^t porks
~~were~~ carried off - he could not tell by whom -

Jos. Chouinere dt Sabourin - Mr. went to the house
of the last Dr^r he was accompanied by Mr Dr^r who
forced open the laiterie, and took out about 60 pounds

of

of Pork which he covered with the Drapes

The Dr. shut the window shutters of the house
so as to prevent the people of the town from observing

Pierre Bissomme - says that the window shutters were
closed in a particular manner, as it was not
usual

Verdict Guilty -

The Queen

Instituted Bill against

on Indictment for Manslaughter -

The Dr. prayed leave to withdraw his plea
and to plead Guilty - which was
granted -

Saturday 9th Sept. 1837

Pres^t.
Ch. Justice Reid
Mr Justice Pyke
Mr Justice Gale.

The Attorney General
n Duckenfield

Mr. Attorney General presented an
Information agt. the Defendant for a
Misdemeanor, and called on him to

Please

plead instanter to the same, or by granting such delay to next Term, that he should waive his right to traverse to a subsequent term -

Mr Lafontaine appeared on behalf of the Defendant and applied to the Court for his discharge from the Recognizance he had entered into to appear in this Court during the present Term to answer to the complaint made against him inasmuch as that complaint having been laid before the Grand Jury in the shape of an Indictment had been ignored by that Body - and the unusual course of an Information in the same offence had now been filed by the Atty Genl of the Defendant - He also contended that the Defendant was entitled to him to plead, as the Information had but this morning been filed, and that such delay should be granted without any condition of waiver of right of Traverse -

The Court refused to grant any special order for discharge of the Recognizance entered into by the Defendant, as this being the last day of the Court that discharge followed as of course by the closing of the Court - But delay was granted to Defendant till next Term to plead -

The following sentences were pronounced on the convictions had during the present session of the Court -

The Queen Augustin Richer M. Lafleche	}	On conviction of an assault Judge one month's Impris. in Gaol
---	---	--

The Queen John Croker	}	On conviction for G. Larceny Judge 6 months in Gaol -
--------------------------	---	--

The Queen

Bridget Brennan }

On conviction for Gr. Larceny
Judge. 4 months in Gaol

The Queen

Pre Payet & Hamon }

On conviction for Gr. Larceny
Judge. 6 months in Gaol.

The Queen

Wm. Grimes - }

On conviction for Gr. Larceny
Judge. 6 months in Gaol.

The Queen

Sohn Knop - }

On conviction for Gr. Larceny on
two Indictments
Judge. 6 months in Gaol on each conviction

The Queen

Jules Deschamps }

On conviction for Gr. Larceny
Judge. 6 months in Gaol

The Queen

Charles Otn - }

On conviction for shalls a Cow
Sentence of Death recorded

The Queen

Sam'l Moorhead }

On conviction for Gr. Larceny
Judge. 6 months in Gaol.

The Queen

Sam'l Moorhead }

On conviction for Petty Larceny
Judge. 3 months in Gaol.

Thomas Barry }

The Queen
v.
Louis Antoine Cook }
Wm ^{and} Laverdure }
On conviction for shooting a bœuf
Judge of Death recorded -

The Queen
v.
Julia Campbell }
On conviction for Manslaughter
Judge 12 months in Gaol

The Queen
v.
François Louis }
On conviction for Petty Larceny
on two indictments
Judge 3 months in Gaol, on each conviction -

The Queen
v.
Joseph Asselin }
Jn B. Asselin }
Thyotte Gravu }
On Conviction for Burglary
Judge of Death recorded

The Queen
v.
Wm Spencer Sloane }
On Conviction for Ge Larceny
Transportation for 7 years -

The Queen
v.
James Harper }
On Conviction for Ge Larceny
Judge 6 months in Gaol

The Queen
v.
Jos. Legault & Delaunay }
Justine Belanger }
On conviction for Manslaughter
Judge 3 months in Gaol

The Queen
v.
Charles Berry }
On Conviction for Petty Larceny
Judge 3 months in Gaol -

The Queen
In B^t Larose
de Surette }

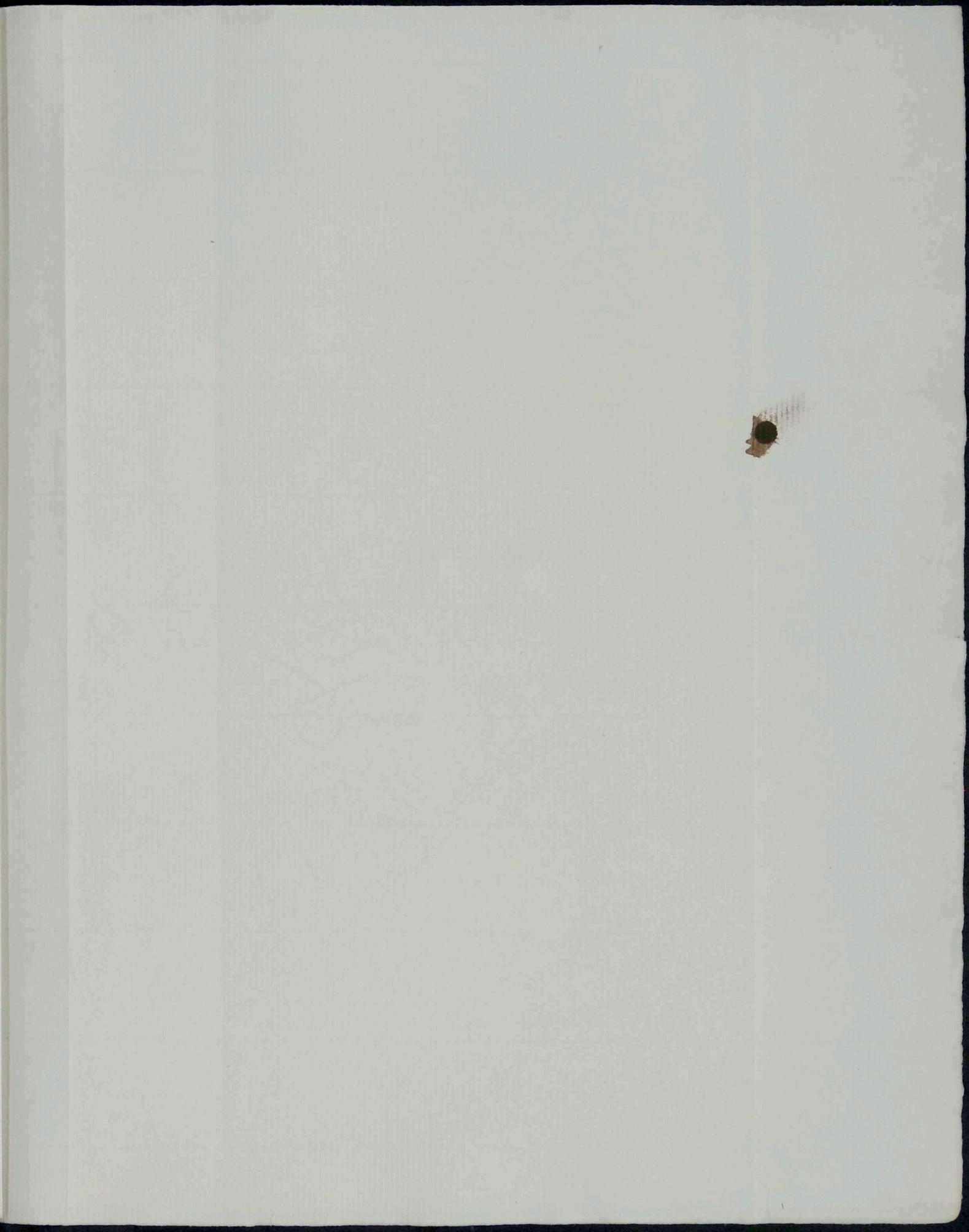
On conviction for Grand Larceny
Judge. 6 months in Gaol

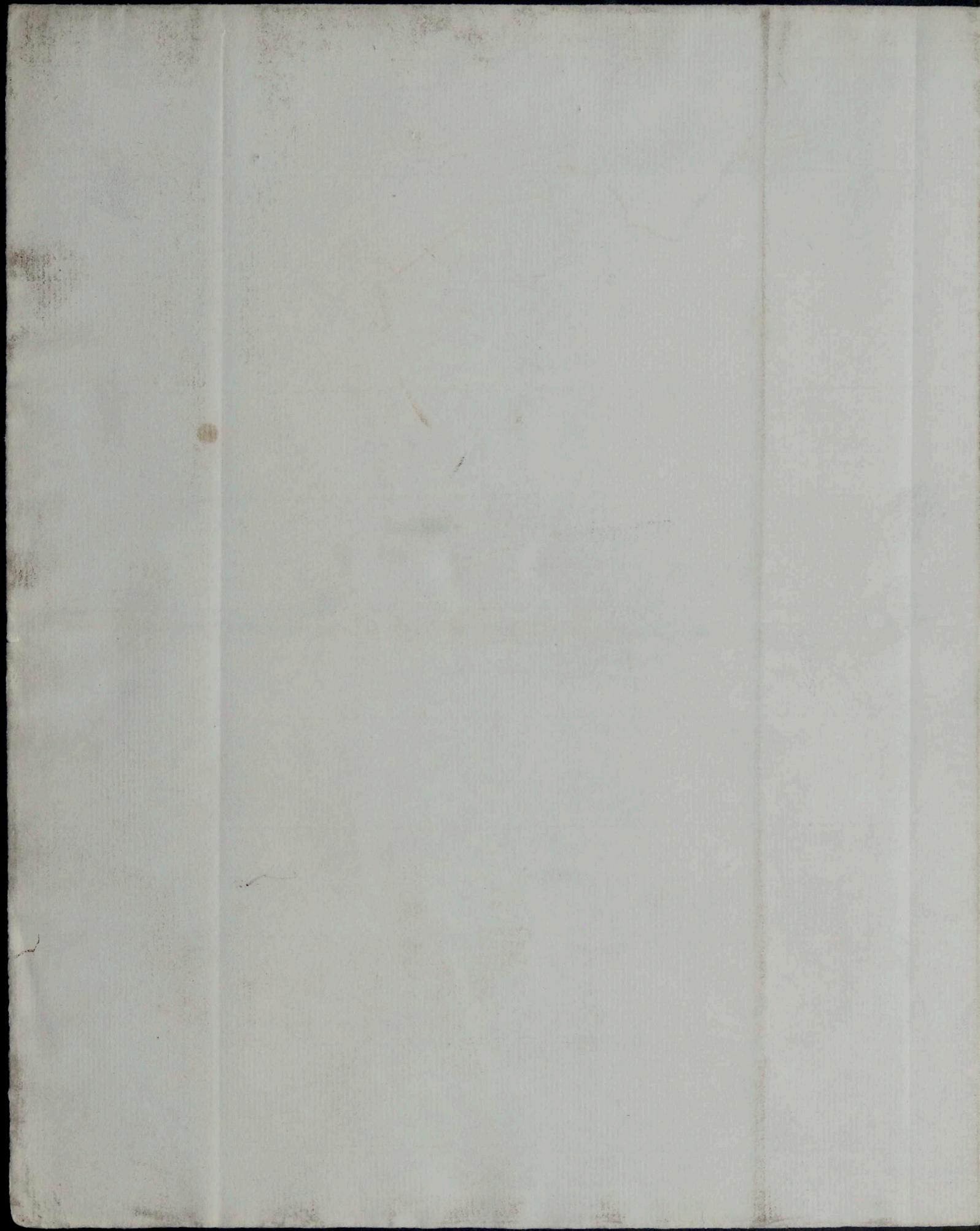
The Queen
John St. Rose }

On motion for a new Trial
Ordered that Defendant give security for his appearance
at the morning Court of N. B. to receive the Judge
of the Court —

The Queen
Joseph Asselin
In B^t Asselin
Hypst^t Groulx }

On conviction for Gr. Larceny
On this conviction no Judge was entered
the Prisoners being under conviction for
a Capital Felony.





Renaudou - Dicⁿ des Treffs - vo^r Lods. p. 56. n^o 160

Par arrêt du Parlement de Toulouse de l'année 1582, rapporté par Maynard liv. 4. ch. 51. rendu à son rapport, il a été jugé que si l'adjudicataire cède son droit à un tiers avant la prise de possession, les Lods ne sont point dus par l'adjudicataire, mais seulement par celui à qui il a cédé son droit. Idem judicatum par arrêt du Parlement de Bretagne du 30 Octobre 1576 rapporté par Chopin - de morib. Paris. liv. 1. Tit. 1. N^o 13-

Les Lods n'étant jamais dus que quand il y a translation de propriété, & changement de main - il est certain que l'adjudicataire qui remet son droit à un tiers, avant la prise de possession, ne s'aurait être assujetti au paiement des Lods - Il ne s'aurait autrement si le décret eût consommé au moyen de la prise de possession, car in ce cas il est sans difficulté, qu'il s'aurait du doubles Lods, savoir par l'adjudicataire & par son Cessionnaire, puisque l'adjudicataire ayant pris possession il s'est fait changement de main à son égard.

Boutarie. Traité des Droits Seign^{rs}
Tit. Des Lods. §. 2. p. 105 vme

p. 108. La maxime que les Lods ne sont dus qu'à raison du changement de main, a servi de fondement à un grand nombre de decisions —

p. 109. Le troisième effet qui résulte de la maxime proposée, que le changement de main est le principe productif des Lods, c'est, qu'encore qu'il y ait deux Contrats, s'il n'y a qu'une seule mutation, il n'est dû qu'un seul droit de Lods — Par exemple, je vendis un héritage féodal au Cessier, et l'acquéreur, avant la tradition de la chose fait cession de ses droits en faveur d'un tiers à qui l'héritage est livré par le Vendeur — Il y a là deux Contrats effectifs, la vente première, et la subrogation faite par l'acquéreur — Mais parce qu'il n'y a qu'une seule mutation, qui se fait directement de la personne du Vendeur en celle du Cessionnaire, il est décidé qu'il n'y a qu'un droit unique

Dumoulin porte la chose plus loin. — Il soutient qu'il n'y a qu'un droit, quoique l'exécution

l'execution ait été faite de maniere qu'on puisse y appercevoir deux traditions — Par exemple si l'acquereur et le Cessionnaire ont été presents l'un et l'autre à l'acte de delivrance, et que la delivrance ait été faite à l'acheteur, qui lui-même ait relâché incontinent la chose au Cessionnaire, parce que l'objet des parties dans le circuit qu'elles ont suivi, a été de ne constituer qu'un Possesseur. —

p. 110 — On pourroit renchérir sur cette pensée de Dumoulin en disant, que quand l'acquereur aurait été seul présent à la delivrance, que même il auroit conservé la chose quelque temps, et que le Cessionnaire n'eût entré en possession qu'après coup, il ne seroit jamais du qu'un Locataire unique, parce que tous les droits de la vente ayant été transférés au Cessionnaire, l'Acquereur qui a pris la delivrance, est sensé avoir pris ce qui ne lui étoit pas dû : Et pour rendre plus fortement cette pensée les choses en étoient venues à un cas où la mutation à laquelle la vente a dû donner lieu, ne pouvoit s'opérer qu'en la personne du Cessionnaire. —

Ce qui a été établi, qu'il n'y a qu'un droit lorsqu'il

lorsqu'il n'y a qu'une mutation, quoi
qu'il y ait deux contrats dont chacun —
seroit capable de produire des Lods, a
lieu aussi dans les occasions, ou il n'y
a qu'un contrat, quoiqu'il y ait deux
mutations. —

Journal des audiences, tom. 2. p. 409.

