

REPORT.

DISTRICT OF MONTREAL, } IN THE KING'S BENCH,
PROVINCE OF LOWER CANADA.

Thursday, October 8, 1833.

Present.—His Honor the CHIEF JUSTICE,
Mr. Justice ROLLAND.

THE CASE of "LOUIS BLANCHARD against THOMAS MITCHELL SMITH and CHARLES LINDSAY," having been called, Mr. DAY and Messrs. CHERRIER & LABERGE, appeared as Counsel for the Plaintiff; and Mr. WALKER and Mr. LAFONTAINE for the Defendants. Messrs. JONES and SEXTON were the Defendant's Attornies.

The following persons were called as Jurors:—

Louis Duchantal,
Robert Wilson,
Charles M'Donald,
Louis St. Denis,
André St. Denis,
Henry Stern,

Henry Dow,
François Derome,
George Harrison,
Isaac Johnson,
John Wells,
Augustin Perrault.

The Jury having been sworn—

Mr. DAY addressed the Court and Jury, for the Plaintiff, as follows:—

May it please the Court,

Gentlemen of the Jury,

For the third time, gentlemen, and to a third Jury, it has become my duty to urge the pretensions of the Plaintiff in this cause, and to expose the grounds upon which these pretensions rest. If in the performance of this duty, the circumstances, upon which the Plaintiff chiefly relies for success, shall not appear to you to be characterized by that strength and conclusiveness which, upon the two former trials, they have been declared to possess, you will considerably bear in mind, that a tale oft repeated must necessarily lose its interest in the mind of the narrator, and that to me the subject of the present litigation has been deprived of the greatest of its charms, the charm of novelty; and you will not suffer the wrongs of the Plaintiff to call in vain at your hands for redress, from any want of energy in me, or from my incompetency in pressing them upon your notice.

The matter, gentlemen, upon which your decision is now called for, is a claim by Louis Blanchard, formerly a trader of this city, against Messrs. Smith & Lindsay the Defendants, merchants of this city, and gentlemen of respectability and standing in society, and of reputed wealth—as a recompense and in compensation for the damages suffered by him in consequence of an unfounded and malicious prosecution and arrest issued at the instance of these gentlemen, the Defendants. In order, gentlemen, to put you fully in possession of the facts from which the present contest has originated, it will be necessary to carry back your attention to a period as remote as the months of November and December