

APRIL 8, 1886

STORY OF THE AYLRARDS.

The Judicial Murder of 8th December, 1862.

A Never-to-be-forgotten Epistle of Blood in Canadian Annals.

In the course of his speech on the motion proposed by Mr. Landry (Montmagny) condemnatory of the execution of Riel, Mr. Curran made reference to the execution of the Aylwards in 1862, one of the most red handed acts of infamy ever perpetrated in this country, for, notwithstanding all statements to the contrary, the indictment was unjustifiable, the trial unfair, the verdict monstrous. And though official denials were secured, it is to this day believed that the female prisoner was at the time of the execution bearing child. Never in the annals of Russian or Mussulman atrocity was a darker deed perpetrated than the execution of these unfortunate people. And it was done to please the Orangemen. On what day? On the feast of the Immaculate Conception of the Blessed Virgin Mary, 1862. The Premier of that time, whose Government was responsible for this foul outrage on humanity, was the Hon. John Sandfield Macdonald, whom Mr. Curran's friends, the Orangemen of Ontario—the men who applaud his last speech in Parliament—afterwards supported as Premier of Ontario. The hon. member for Centre Montreal in his speech in the House of Commons of March 15th last, said: "The hon. gentleman, Mr. Cameron Huron, spoke in the first instance with respect to the legality of the trial. He agrees with the hon. member for Rouville (Mr. Gigault) that the trial was not a fair one. "I say on this occasion that I am surprised to find a gentleman calling himself a lawyer who pretends to say that a trial can be legal without being fair. What is the test of fairness? The only test of fairness is that which is established by law; you cannot go beyond that; the judge cannot go beyond the law, and if a man has had the full benefit of the law—for the law as it stands on the statute book is the test of fairness—he has had a fair trial."

This from an Irish Catholic gentleman is an extraordinary statement. Does not Mr. Curran know that the history of Ireland is darkened with the record of trials legal but not fair, and he cannot surely be ignorant that the history of Canada is not free from the same shadow. But if he should be, we propose to enlighten him, by the publication of the following official papers in reference to the Aylward massacre, upon which the Minister of Customs may further enlighten him:

[Copy.] Toronto, 23rd October, 1862. SIR,—I have the honor to enclose, for the information of His Excellency the Governor General in Council, a report of the evidence, verdict and sentence in the case of the Queen against Richard Aylward and Mary Aylward, charged with the murder of William Munro. The jury accompanied their verdict with a strong recommendation to mercy. They offered no reason for the recommendation, and I cannot pretend to explain upon what ground their recommendation was founded. The prisoners are both ordered for execution on Monday, the 8th December next. I shall be glad to hear that this report reaches you. I have the honor to be, Sir, Your obedient humble servant, (Signed,) WM. H. DRAPER, The Honorable the Provincial Secretary.

THE QUEEN } Indictment for Murder of William Munro, at the Township of Montpelier, May, 1862.

MARY AYLRARD, } of the Township of Montpelier, May, 1862.

1st. ALEXANDER MUNRO, sworn.—I live on the town line between Montpelier and Wicklow, and have lived there since the 16th May, 1861. The prisoner came two months later to live on the opposite side of the road. The deceased is my father. We were on good terms with the prisoners when they first came. There were, after a while, a few little differences between us. I never heard the prisoners complain of our fowls before the 16th May last. On that day, about 4 p. m., I and deceased heard a shot, apparently fired on prisoners' lot. We went home, and mother said one of our hens was missing. Deceased and I went over. Prisoner Richard told deceased he would not tell her the name of the prisoner who was standing inside at his own door; he said he did not shoot the hen, but he wished he had. Deceased said, perhaps they're on now; and prisoner Richard took a gun, and we all three went into his field. We went west. Prisoner's house fronts to the south; on the west is a gable end. The field was, I think, sown with wheat. Then prisoner Richard turned, with the gun towards deceased, and deceased caught hold of it. They were close together, the muzzle of the gun towards deceased. Prisoner Richard took a pistol out of his pocket with his right hand. Deceased knocked it out of his hand, and told me to get it. I asked where it was. Deceased said it was behind me. I went for it, found it, and rose with it in my hand. It was 11 or 12 yards from where deceased struck it from prisoner Richard's hand. When I rose, prisoner Richard was standing near me with the gun to his left shoulder, pointed towards me. I threw myself at his feet, on my knees. He stepped back and fired, and hit me in my back, over the left shoulder. I was on my knees, leaning forward. I ran home directly. The gun was loaded with cut lead; 36 pieces were taken out of me. As we were going to the field, deceased said to prisoner Richard, he did not mind his shooting his hens, if in his wheat, if he did not take

them away with him. When I rose with the pistol, I saw the prisoner Mary about 11 or 12 yards away, at the place where I left prisoner Richard and deceased scuffling for the gun. I did not then see deceased, nor did I see her until I turned, having picked up the pistol. I could not say whether she had anything in her hand; I was frightened. After I got into the house, deceased came in; he was cut on the left side of the head and in the arms; he was bleeding much. The cut was above the left elbow. He had no coat on; was in his shirt sleeves. Deceased never went out of the house again, and he died in 11 or 12 days.

Cross examined.—This piece of prisoner's is not on the Hastings Road. It is on a road that crosses the Hastings Road. They had a clearing, and some wheat sown that spring. I believe, not long sown before this occurrence. Our two houses are about 2 1/2 acres apart. Our house is to the west of theirs. Our hens were over in prisoners' wheat. Deceased and I went to prisoners' house. Deceased was angry at prisoner Richard shooting at his hens more than I was. I saw prisoner Mary in the house, and her children—two were running about, and there was a baby. We did not enter the house. Deceased did not ask me to go with him. I went of my own accord. I followed a little after deceased, not directly with him. The first I heard was prisoner Richard saying to deceased, "Go away," and deceased replied, "Not till he could get the hen, or knew what had been done with it." Prisoner Richard denied shooting the hen, but said he wished he had. Deceased said, "perhaps they're on now." Then prisoner Richard took the gun. I did not see him put any thing in it. We then walked abreast to the wheat field. Prisoner Richard was on deceased right hand, and he had the gun in his own right hand. We went about 1 1/2 or 2 acres. I saw prisoner turn with the gun. I did not see deceased first try to get hold of it. Prisoner had not the gun up to his shoulder. I did not see him try to pull the trigger. Then deceased seized the gun. They tussled and wrestled. Deceased was the oldest and strongest, I think. I did not see either of them fall. I did not see deceased seize hold of prisoner Richard, but he tried to take the gun from him. I did not interfere. I was 8 or 10 feet from them. I don't know whether the gun was cocked. I believe deceased life was in danger. Prisoner Richard got the gun at last. Prisoner Richard was drawing back, and deceased kept hold of the gun, following him. I never said to anybody that deceased had threatened prisoners. Prisoner Richard took a pistol from his pocket with his right hand, holding on to the gun with his left. Deceased kicked the pistol out of prisoner Richard's hand. It was in his right trouser pocket. A double bar rolled rifle pistol, the barrel 4 or 5 inches long. I ran for the pistol, and picked it up; and as I rose, prisoner Richard was about 2 feet from me, right before me. I had turned round, with the pistol in my hand. Prisoner Richard then stepped back. I threw myself at his feet before he stepped back. I did not catch hold of him, nor try to. When I threw myself on my knees, I stooped a little forward. I was not looking at him. When he fired he had the gun right on my back, resting on my back—and he fired. I had no vest on; I was in my shirt sleeves. When deceased came in, I did not tell him I was shot. The doctor came some days after deceased was wounded. I had never heard deceased say it was his own fault; that these people ought not to be prosecuted. The coroner came a few days after my father's death. I cannot exactly say how many days after, deceased had not long been buried. Prisoners were in their own house when deceased died. They did not leave the country. My mother is living; not here. I had not been on very good terms with prisoners. We passed one another without speaking. I never played tricks with them, nor with a spring that was near. I did not speak to them when I and deceased went over to prisoners. I carried the pistol home, it was not cocked then. I never pointed it at prisoner. I never fired it. I know it was loaded; there was something in it; it was capped.

2nd. MARY ANN MACRAE, sworn.—I live just a lot from the prisoners, in another township. I remember deceased being injured. The prisoners were at my place the week before that with a scythe. They were grinding it. One of my children asked prisoner Richard whether he was going laying. He replied, yes; he was going laying. There was no grass then. There was a little snow still left. Prisoner Mary did not speak. She turned the grindstone, and he ground. I think they said it was Munro's scythe. I did not see the scythe again until the inquest. Prisoners came to our house the day deceased was hurt. She had the gun, and loaded it at the end of our stable. He had the scythe. She said she had cut the head off the old man, and that Richard had shot Alick. I told her, "Surely that wasn't the truth." She said it was, and showed me the scythe. She held the edge up to me, and showed me the blood on it. The edge of the scythe was turned where the blood was. She gave the scythe to him, and took the gun and put a cap on it; and then my boy came in and told her to go out of the house, and they went away. The scythe was, I think, the one they had ground; it had a piece off the point. I observed this on both occasions. I went to Munro's about 4 o'clock. I found him lying on the floor, fainting; blood all over the floor, and part half full of blood and water. He had a cut across the top of his head, from which blood was flowing, and his arm was cut. He did not speak. He spoke the third day after that, when I went there. Two days after that, he said to me he did not think he would live, he was so weak. He died on the tenth or twelfth day after he was hurt. I saw him every day after, till he died. He was hurt on the 16th, and died on the 29th. He was the second conversation, he always told me he would not live; from that time he always expressed his expectation of dying; always spoke of himself as a man about to die, but he did not give any account of how he was injured. I saw Margaret Munro the same day the transaction took place.

Cross examined.—We came out this last winter from Lower Canada. I have been upwards of 22 years in this country. The prisoners came to our place after dinner. Our houses are a quarter of a mile apart. They continued on their own place after deceased died. I am no relation of

3rd. ISABELLA MACRAE, sworn.—I am daughter of last witness, and live with her. I know prisoners. I knew deceased, and remember the day he was hurt. I was in prisoners' house one evening, not long before this. I heard prisoner Mary say, in her husband's presence, she would tempt deceased over their fence, and she would draw back till she got to her door, and she would take a gun or pistol and shoot him, and leave him dead at the door, and then she would go for two men to see how far he had followed her to the door yard; but her husband would be a witness for her, but she could not be for him. I told her to take care of herself, or something to that effect.

Cross examined.—We were on good terms with the prisoners. I was not at her house after this conversation, before the fight. I do not remember being in the house after it. I spoke to her on the road. I did not talk much of this at the time. She would talk in this boasting style of what she would do.

4th. WILLIAM JOHNSON, sworn.—I live about 100 rods from Munro's, in the same township, since the 27th March last. I remember deceased being injured. I saw the prisoners that day, about four in the afternoon. They were coming along the road from their place. She had a gun, and he was trailing a scythe. She said, "William, Munro's dead. I lifted up the scythe and struck both of them, but that would not do, and I struck him again. I did not mean to hit him on the head, I meant to hit him on the neck and cut his head off." She made a gesture with the gun at my neck, to show me what she meant. I said it was too bad. She said she could not help doing it. Then they went on. I followed, and I saw prisoner Richard and James Macrae. Prisoner Richard had the gun, and the scythe was on the table. James Macrae came in. Prisoner Mary asked him about deceased, and he told her deceased was pretty badly hurt, and they did not think he would get over it. She replied, "God Almighty increase his pain!" He spoke mostly on these two occasions. He said little; he was standing close by her.

Cross examined.—I am a relative of Mary Ann Macrae; she is my aunt. Prisoner Mary did not appear to be excited. It was about 4 p. m., about three quarters of a mile from their place. I was sitting on a log by the roadside when she spoke to me. I was in their house when she was arrested the Saturday week after deceased got hurt. He was hurt on a Friday. I was not in the house since. It was the Saturday after deceased died that she was arrested. I stop at my uncle's. I have no house of my own. I never had the slightest trouble with the prisoner Mary. I heard that she got a warrant for me, but I never saw it.

5th. MARGARET GLEN, sworn.—I live near prisoners' 1 1/2 miles off, in Montpelier. I remember deceased being injured. I met prisoner Mary on the road after deceased was hurt and before his death. She was just outside her door. She took hold of my arm and told me to come and see where the fight was—to come and see the cut in Munro's hat. I walked a short distance and saw the hat, and would not go farther. I said it would give her a great deal of trouble. She said it would give her no trouble, that if it was to do, she would do it again. Her husband was not present.

Cross examined.—This was a few days after the fight.

6th. THEOPHILUS GOLDER, sworn.—I live on the branch road, 1 1/2 miles from deceased. After deceased was hurt, I went to prisoners' house on the morning the quest was held, I think, or the morning before. I saw the prisoner Mary. She said she was glad "Old Baldie" was dead; that if he was alive she would cut the head off him again, or any person who would do anything to her.

7th. GEORGE SELBY, sworn.—I live 4 or 5 miles from prisoners. I heard of deceased's death on the Sunday after he was buried. Prisoner Mary told me deceased was in the habit of coming opposite the house, abusing her, and calling her improper names, and that she had given it to him for it now, and she wished she had given him another blow and finished him at once. The prisoner Richard was present. I can't say he heard her. Soon after he brought out the scythe, and said that the scythe with which she did it. I am not sure she was in the room at that time. The scythe blade had no handle then. A few days after the fight, I saw prisoner Richard. I asked him what it was about. He said it was all about some fowls of Munro's that came to his wheat. That he had heard deceased had used the scythe against him, and he was determined to be prepared; and that he took the scythe out of the cradle, and told his wife if he wanted help she was to use that.

Cross examined.—I have lived nearly 4 years out there. I have only been once at prisoners. This conversation took place on Sunday, after deceased was buried. Prisoner Mary was then arrested. The conversation with her was while she was a prisoner. I am not a constable. The conversation with prisoner Richard was on the road opposite my place. He did not say he was afraid of Munro.

8th. Dr. AUGUSTUS A. YEOMANS, sworn.—I was practising at Madoc (70 miles from deceased's place), 100 miles from here. We started from Madoc on Saturday, 31st May, and reached the neighbourhood of deceased at 10 o'clock on the Monday morning. An inquest was held. I found a large incised wound on the left side of deceased's head, 3 1/2 inches long. It penetrated into the brain, through the skull and membranes. The blow must have been given with great force, or it could not have gone through the skull in a part where it is so thick. Inside, I found a large abscess in the brain. There was also a wound above the elbow joint of the left arm. The weapon had gone half way through the bone, and had fractured the bone at the joint. The wound was inflicted by a sharp and thin instrument. A scythe would inflict such a wound. The injury on the head must, I think, certainly have occasioned death.

9th. WILLIAM E. D. EDGS, sworn.—I arrested both prisoners on Monday of the week following the funeral of deceased. I went with the last witness and arrested them on Monday morning, before the

inquest was taken. Prisoner Mary had been arrested the preceding Saturday. I inquired for the scythe. One of the prisoners got it. I then enquired for the gun and got it; and a man who was sitting at the door had the pistol. I took the scythe, and it was carried off by some person—I don't know who—as I was stopping at a tavern on my way to Belleville; I have not been able to recover it.

DEFENCE.

JOHN ROUS, sworn.—I live on a lot joining the Hastings Road. I know deceased, and saw him after he was injured, and on the fifth day after, as near as I understand. I had a conversation with him. He said he felt very bad; that he did not expect to live. I advised him to have prisoners arrested. I proposed fetching a doctor. He said, "No; it was no use." He said he had no business interfering with prisoners; he was in answer to my advising him to have them arrested.

Cross examined.—He was lying in his own shanty, on the west side, on a bed. His son Alexander was in the house, and deceased's wife. I live about 1 1/2 miles from the house. I did not ask deceased how he got hurt. I had heard from neighbors that had happened; that deceased had a quarrel with the prisoner Richard, and deceased had got hurt. Deceased did not say he had interfered with prisoners, and did not tell me what happened. He was pretty bad.

REPLY.

ALEXANDER MUNRO, re-called.—I was present when the conversation took place between deceased and John Rous. Deceased asked him to go for the Indian doctor, and Rous said he would go the next morning. I was there all the time Rous was. I did not hear Rous propose that deceased should have prisoners arrested, nor did deceased make any such answer. The shanty is 18 or 20 feet long.

Cross examined.—Rous was there an hour or more. I was not able to stir out of bed. I was only 9 or 10 feet from deceased's bed. I decline to receive evidence of what deceased had said respecting the prisoners, or either of them, not being said in their presence—unless it could be shown that the prisoners were aware of it before the struggle took place; since, whatever it might be, it could not have influenced the prisoners' conduct if they were in ignorance of it. Verdict—"Guilty;" strongly recommended to mercy. Sentence.—To be executed on Monday the 8th December, 1862. (Signed,) WM. H. DRAPER, C. J. C. P.

[Copy.] To His Excellency the Right Honorable CHARLES STANLEY, Viscount Moxck, Governor General and Governor in Chief of the Provinces of Canada, New Brunswick, Nova Scotia, and the Island of Prince Edward, &c., &c., &c., in Council assembled: The Petition of the undersigned, respectfully sheweth: That two persons, named Aylward (man and wife), were found guilty of murder at the last assizes for the County of Hastings, and were sentenced to be hanged on the 8th day of December next, by His Lordship, Chief Justice Draper, who tried the case.

That, just before the trial took place, a man named Moorman was tried at the same assizes for causing the death of a person named Taylor, and, contrary to all expectations, Moorman was acquitted; people were astonished, and it is believed that the surprise created in this community on account of that trial, caused the conviction of the Aylwards.

That these latter persons have three young children, including a child at the breast.

That they and the person (Munro) who lost his life, are settlers in the new tract of country called the Hastings Road, and resided, at the time of this occurrence, a distance of 150 miles from Belleville, the county town, at a place where there is no law, no magistracy; where every one thinks it proper to defend his supposed rights by the strong hand; and it was there that the affray occurred, in which Munro eventually lost his life.

That your petitioners, therefore, respectfully represent, that from the strong recommendation to mercy by the jury, and from the very peculiar circumstances of the case, that Your Excellency in Council will be graciously pleased to commute the sentence of death imposed on the prisoners, inasmuch as their lives, if taken, will not atone for that of Munro, while their little children will be left fatherless, motherless, and friendless in a strange country and a strange land.

And your petitioners, as in duty bound, will ever pray, (Signed,) ROBERT REID (Honorable), and 39 others.

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That the jury who sat upon the trial of the case, found the prisoners guilty, with a strong recommendation to mercy.

That there was no positive or direct evidence against the prisoners, with the exception of statements immediately made by the female prisoner, Mary Aylward, after the scuffle between the deceased and the prisoners; statements which your petitioners firmly believe to have been made by her in a moment of excitement, and when she was in a passion, not knowing what she was doing or saying, and only for which, as before stated, there was no evidence against either of the prisoners.

That Alexander Munro, son of the deceased, would not contradict what it was that he had said, and that he would not have sworn on the part of the prosecution on the trial of the case, do so.

That the deceased and his son came to the house of the accused and irritated them in a most provoking manner, and after being told by them to desist and go away from the house of the accused, they still persisted in remaining on the property of the prisoners, were not afterwards suddenly sprang up, the death of William Munro would not have occurred.

That deceased and his son were engaged in a fearful struggle with Richard Aylward on the property of the latter, when his wife came to his rescue, and struck deceased a blow as your petitioners believe: that the deceased lived about twelve days after the fight, and your petitioners believe had not the wound which was inflicted been opened by an Indian "quack doctor" yet he would have lived; and your petitioners believe that he would have been dressed previously, as we are informed and believe, by a neighbor of the deceased, after which, and until said doctor was called in, the deceased was progressing very favorably towards convalescence.

That a witness who was called on the part of the prisoners swore that deceased, when he was in a dying state, told him that he did not wish the accused to be arrested, as it was his own fault, and he had no business to interfere with them.

That the prisoners have three small children, who are dependent upon the charity of the public for support, one of whom, an infant, is at the breast of his mother and confined in jail with her.

That the prisoners allege, and your petitioners are of opinion that it is a fact, from what they know of the circumstances, that the evidence against them is not true in substance and in fact, but was manufactured and got up for the occasion, in order to convict the prisoners at all hazards.

That it is the current opinion that the female prisoner is not in her sound senses, and it is also alleged that she is pregnant with child; that the prisoners, to the knowledge of your petitioners, have heretofore borne a good character for honesty and good behaviour.

Your petitioners, therefore, pray that the sentence of death recorded against the said Richard Aylward and Mary Aylward, his wife, may be commuted for imprisonment in the Penitentiary, or such other punishment as to Your Excellency may seem meet. And your petitioners, as in duty bound, will ever pray, (Signed,) EDMUND B. LAWLER, R. C. CLEGGAN, and former pastor of the prisoners, and 273 others.

Another petition, similar to the above, signed by the Rev. Michael Brennan, and 273 others.

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That the deceased and his son came to the house of the accused and irritated them in a most provoking manner, and after being told by them to desist and go away from the house of the accused, they still persisted in remaining on the property of the prisoners, were not afterwards suddenly sprang up, the death of William Munro would not have occurred.

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That the jury who sat upon the trial of the case, found the prisoners guilty, with a strong recommendation to mercy.

That there was no positive or direct evidence against the prisoners, with the exception of statements immediately made by the female prisoner, Mary Aylward, after the scuffle between the deceased and the prisoners; statements which your petitioners firmly believe to have been made by her in a moment of excitement, and when she was in a passion, not knowing what she was doing or saying, and only for which, as before stated, there was no evidence against either of the prisoners.

That Alexander Munro, son of the deceased, would not contradict what it was that he had said, and that he would not have sworn on the part of the prosecution on the trial of the case, do so.

That the deceased and his son came to the house of the accused and irritated them in a most provoking manner, and after being told by them to desist and go away from the house of the accused, they still persisted in remaining on the property of the prisoners, were not afterwards suddenly sprang up, the death of William Munro would not have occurred.

That deceased and his son were engaged in a fearful struggle with Richard Aylward on the property of the latter, when his wife came to his rescue, and struck deceased a blow as your petitioners believe: that the deceased lived about twelve days after the fight, and your petitioners believe had not the wound which was inflicted been opened by an Indian "quack doctor" yet he would have lived; and your petitioners believe that he would have been dressed previously, as we are informed and believe, by a neighbor of the deceased, after which, and until said doctor was called in, the deceased was progressing very favorably towards convalescence.

That a witness who was called on the part of the prisoners swore that deceased, when he was in a dying state, told him that he did not wish the accused to be arrested, as it was his own fault, and he had no business to interfere with them.

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That the prisoners have three small children, who are dependent upon the charity of the public for support, one of whom, an infant, is at the breast of his mother and confined in jail with her.

That the prisoners allege, and your petitioners are of opinion that it is a fact, from what they know of the circumstances, that the evidence against them is not true in substance and in fact, but was manufactured and got up for the occasion, in order to convict the prisoners at all hazards.

That it is the current opinion that the female prisoner is not in her sound senses, and it is also alleged that she is pregnant with child; that the prisoners, to the knowledge of your petitioners, have heretofore borne a good character for honesty and good behaviour.

Your petitioners, therefore, pray that the sentence of death recorded against the said Richard Aylward and Mary Aylward, his wife, may be commuted for imprisonment in the Penitentiary, or such other punishment as to Your Excellency may seem meet. And your petitioners, as in duty bound