

it to be his own hand writing; and as he had never made up more than one account for the Prisoner, he was from that circumstance; enabled to prove, most clearly, the period at which he first saw the receipt in question, viz: in the year 1793: and consequently, that it was in existence and charged against Mr. Grant, nearly ten years before the day on which it now purported to have been made. Mr. Serjeant would also prove, that it was then credited by Mr. Grant, and settled in account with the Prisoner.

The *Attorney General* stated also, that upon syling the receipt in question, in the cause of *Grant. vs. Miller*; Mr. *Taschereau* of Counsel for Mr. Grant, had required the Prisoner by a proceeding, called in the Civil Law of the Province, an "*Inscription en faux*," to declare whether he meant to make any use of it, or to maintain that it was made in July 1802, as in that case, he, Mr. *Taschereau* should proceed to prove that it was a forgery; and that the Prisoner upon this requisition withdrew it. The inference, which the Jury would draw from this conduct, he would not anticipate.

He should proceed to call the several Witnesses, which he had to produce, in support of the prosecution. In the first instance, he should by them trace the receipt mentioned in the Indictment, from the hands of the Prisoner into those of the Prothonotary of the King's Bench; with whom it was syled in February last, as it was received from the Prisoner; he should then prove it to be now in the same state, in which it was syled; and he should afterwards prove, what he had before more particularly stated, that it was in existence and in the possession of the Prisoner, in the year 1792; that it was then charged in an account signed by himself, against Mr. Grant, and by the latter,

passed to his Credit. The *Attorney General* concluded, by remarking, that if the evidence should rise to support the points which he had stated, to the satisfaction of the Jury, their verdict must unavoidably be, against the Prisoner.

*James Stuart, Esq.* of Counsel for the Prisoner was the first Witness called.

Mr. *Ker*, who was also for the Prisoner, objected to his being examined. He contended that Counsel could not be examined, as to any facts which had come to their knowledge professionally;—which was the situation of Mr. *Stuart*.

The *Attorney General*, admitted what had fallen from the learned Counsel, but stated that Mr. *Stuart* was called, not to disclose any matter which had been communicated to him by the Prisoner in confidence; but merely to shew what was the state of a certain Paper which Mr. *Stuart* had publicly syled to the Prisoner in the King's Bench when he received it.

The Court overruled the objection; and Mr. *Stuart*, being sworn, and the Receipt of July 21, 1802, shewn to him, said, that he had before seen a Paper perfectly similar to that and that it had been in his possession; that it was impossible for him to swear to each distinctive mark upon it, for reasons which he could assign to the Court, if allowed; but that, he believed that to be the same Paper that he syled a Paper perfectly similar to the one produced, with several others, in the Court of King's Bench, in the February Term last, in a cause there pending, wherein *William Grant, Esq.* was Plaintiff, and the Prisoner, defendant and *vice versa*, the Prisoner incidental Plaintiff against the said *Wm Grant*. That the Paper he syled, he received from the Prisoner at the Bar; he syled it with several others about two days after he received them, and believes it was in the same state in which he received it. It lay upon his Table for some time, he afterwards brought it to Court and syled it with the Pleadings. In his own mind, he had no doubt but he syled it in the same state in which he received it; he delivered it in Court, to one of the Prothonotaries, Mr. *Pyke* he believed. That the date of the Receipt in question, was what induced him to say, that it was the Paper which he had received from the Prisoner. He did not at first examine the sum, but observed that the ink with which the date of the receipt was written was of a colour different from the body of it; it was blacker.—He observed the same in another Receipt.—He recollected also the date of the Receipt in question, it was July 21st. 1802. *Cross Examined* by Mr. *Ker*, he said he thought there were 5 Receipts, which he had received from the Prisoner; he did not ex-