

The True Witness.

CATHOLIC CHRONICLE, IS PRINTED AND PUBLISHED EVERY FRIDAY At No. 223, Notre Dame Street, by J. GILLIES.

TERMS: To all country subscribers, or subscribers receiving their papers through the post, or calling for them at the office, if paid in advance, Two Dollars; if not so paid, then Two Dollars and a-half.

MONTREAL, FRIDAY, MARCH 20, 1863.

Mr. Gillies of this office is now on a visit to our subscribers throughout the Upper Province, with full power to settle all accounts, and to make such arrangements as may to him seem appropriate.

NEWS OF THE WEEK. FRANCE has remonstrated with Prussia upon the action of the latter towards the Poles; and a concerted action betwixt the three Powers, Great Britain, France and Austria, in the same cause is spoken of as decided upon.

All the accounts hitherto received from Poland would seem to indicate that the patriots are holding their own against the Russian troops. The former avoid general actions, and endeavor to harass their enemies rather by the rapidity of their movements, than by acting in large masses.

ST. PATRICK'S DAY IN MONTREAL.—In consequence of the Holy-day on Tuesday we are compelled to postpone our account of the St. Patrick's Day Celebration to next week.

According to our promise we hasten to lay before our readers the "Return to an Address from the Legislative Assembly to His Excellency the Governor General, dated the 2nd inst., praying His Excellency to cause to be laid before the House 'Copies of the Evidence, Judge's Notes, Petitions praying for a Respite or Commutation of the Sentence, and all Documents relating to the Trial and Conviction of the Aylwards, executed at Belleville on the 8th December, 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 Queen vs. Richard Aylward & Mary Aylward, at the Township of Montreuil, on the 16th May, 1862. Mary Aylward. Lt. Alexander Munro, sworn—I live on the township, between Montreuil and Wicklow, and have lived

there since the 16th May, 1861. The prisoners 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 to go away. Deceased said he would not till he got the hen. Prisoner Richard 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. 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 the back, over the left shoulder. I was on my knees, leaning forward. I ran home directly. The gun was loaded with cut lead; 26 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; he was in his shirt-sleeves. Deceased never went out of the house again, and he died in 11 or 12 days.

Cross-examined.—This place of prisoners' is not on the Hastings Road. It is on a road that crosses the Hastings Road. There is a clearing, and some wheat sown that spring, I believe, not sown long 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 prisoner's 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 anything 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 believed 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 to his right trouser pocket. A double-barrelled 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 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 haying. He replied, yes; he was going haying. 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 of the old man, and that Richard had shot Alex. I told her, 'Surely that wasn't the truth.' She said it was, 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, faint; 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 28th. From 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 Munro's. I never had any difference with prisoners. I never said I would wait in town and see these people hanged, or any thing like it.

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 her 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 into the door yard; that her husband could 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 think 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 him on the head, and 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 saw them both at James Macrae's. 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!' She 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 road-side when she spoke to me. I was in their house when she was arrested on the Saturday week after the deceased got hurt. He was hurt on a Friday. I have not been 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 and a-half miles off, in Montreuil. 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 further. 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 and a-half miles from deceased. After deceased was hurt, I went to prisoner's house—the morning the inquest 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. I was at prisoners' house 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 was 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 threats 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. Edes, 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.

DEFENSE.

John Rous, sworn—I live on a lot joining the Hastings Road. I know deceased, and saw him after he was injured, on the fifth day after, as near as I understood. 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; this 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 what had happened; that deceased had a bit of 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 by 20 feet.

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 declined 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.

The petitions praying for mercy then follow in the Return, but throw no new light on the case. They assert, for the most part, the belief of the petitioners in the innocence of the condemned, and pray for mercy on the following grounds:—

1st. That they and the person (Munro) who lost his life, are settlers in a 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 magistrates; 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.

2nd. 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, nor did not, swear who it was that inflicted the fatal blow, nor would any of the other witnesses who were 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 for which, and the fight that soon 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' in his neighborhood, the deceased would yet be living; said wound having 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.

No Copies of any answer to any of the petitions are given in the official Return, which concludes as follows:—

Government House, Quebec, Wednesday, 3rd day of Dec. 1862.

His Excellency the Governor General in Council.

His Excellency was pleased to lay before the Council the notes of evidence taken by the Honorable Mr. Chief Justice Draper, in the case of Richard Aylward and Mary Aylward, who were tried before him at the recent assizes held at Belleville, in the County of Hastings, for the murder of one William Munro, and having been found guilty thereof were sentenced to death, such sentence to be carried into execution on Monday, the 8th day of December instant.

His Excellency also laid before the Council several petitions from inhabitants of the County of Hastings, praying that the Royal Clemency may be extended to the said convicts.

The circumstances of this case having been fully considered by His Excellency in Council, together with the report of the Honorable the Attorney General, U. C., adverse to the commutation of the sentence, His Excellency thought fit to order, and it is hereby ordered, that the sentence of the law in the case of the said Richard Aylward and Mary Aylward, be allowed to take its course.

(Signed) Wm. H. LEE, Clerk, Executive Council.

We bespeak an attentive perusal for the report of the trial as given above; and we would ask the reader to divest himself of all prejudices, religious and political, and to ask himself how far the evidence therein given establishes, beyond the possibility of any reasonable doubt, the fact of a guilty premeditation of murder on the part of the Aylwards, such as the law requires as an essential ingredient in the crime. The facts, it will be seen, differ in no one important particular from those furnished to us by Sarsfield, and where they do at all differ, they differ in favor of the hypothesis of the innocence of the accused. Here then are the facts as established by the "Judge's Notes."

The Aylwards and Munros were on bad terms—the fowls of the latter were destroying the spring-sown wheat of the former; and in self-protection, Aylward shot some of the intruders. The two Munros, both "angry," came over to Aylward's house, and when requested to "go away" refused to do so.—Munro, unable to provoke Aylward to come outside, then proceeded to taunt him, with the remark that "perhaps they—the fowls—are on now." Hereupon Aylward took a loaded gun, and rushed towards his wheat-field to shoot the fowls, followed or accompanied by the two angry Munros, but not followed or accompanied by his pretended accomplice Mrs. Aylward.

They went west, a distance of "1 1/2 or 2 acres." Now Munro's house lay about 2 1/2 acres to the west of Aylward's house; and consequently every step the three went together in company, took them, not only from Aylward's, but towards Munro's, house; so that having gone 1 1/2 or 2 acres from the former, they must have been actually nearer to Munro's, than to Aylward's house when the row commenced. This fact,

taken in connection with other facts—such as that the two Aylwards might conjointly have assaulted the Munros when the latter refused to "go away;" and that by their taunts about the fowls being "on the wheat now," the Munros at last succeeded in decoying Aylward out of his house, away from his wife, and towards their own house, where they had Mrs. Munro to help them if necessary—is conclusive as to the groundlessness of the hypothesis that the Aylwards had a guilty design upon the two Munros; but is strongly suggestive of the contradictory hypothesis, to wit—that the two Munros had formed a guilty design against Aylward, which they attempted to carry into execution, by decoying him away from his house, towards their house, where they might more conveniently beat, or otherwise abuse him.

Let us see also how the younger Munro describes the origin of the row. Aylward was on the elder Munro's right hand, the younger Munro being a few feet, "8 or 10 feet," distant. Aylward "turned with the gun;" but he did not, even by the evidence of one of his opponents, make any the slightest hostile demonstration therewith. He did not bring "the gun up to his shoulder"—the attitude of firing; the gun was not cocked, and Aylward made no offer to pull the trigger. He merely "turned, with the gun towards" the elder Munro. Hereupon the latter, a far more powerful man than Aylward, seized the gun, and the life and death struggle commenced. Then, but not before, according to Munro's own statements—did Aylward, engaged against such fearful odds, attempt to draw a pistol from his pocket with his right hand, "holding on to the gun with his left."—Munro "struck the pistol" from Aylward's hand; the younger Munro picked it up—and at this juncture, apparently, for there is no positive evidence, Mrs. Aylward, seeing her husband's danger, rushed half frantic to his aid, armed with a scythe, with which she struck one of her husband's assailants a severe blow; which again through neglect and quack doctoring, terminated fatally in about ten or eleven days. The blow was given with great force, on the head, according to the medical testimony; and as Munro was a large powerful man, and Mrs. Aylward a slight woman, the presumption is that Munro must have been stooping down when the woman struck the blow; and that as Aylward asserted, he had got the latter on the ground, and was stooping over him at the time. In any other position, it is not easy to see how Mrs. Aylward could have struck him such a blow on the head. All, however, as must be conjecture on these points, for there is no positive testimony. But if there were room for a reasonable doubt, the Aylwards were legally entitled to the full benefit of that doubt.

The younger Munro tells us that having picked up the pistol, he saw Aylward running towards him; that the latter held the gun close to his back "right on my back;" and fired; that he, the witness, had only a shirt on, and that the gun so fired, and loaded with cut lead, inflicted but so slight a wound that he was able to run home, and did not even tell his father that he had been shot. We ask any one accustomed to the use of fire arms, if such a story is credible. Held in such proximity to his back, the charge would have gone clean through his body like a ball; his shirt would also have been burnt, and his flesh mangled by the powder alone. He tells us that "26 pieces of cut lead were taken out of him;" but he does not say by whom, and it is not credible that he was himself able to take the charge out of his own back. Upon all this part of the business, however, the younger Munro's evidence is most mysterious, not to say evidently false. This is of less consequence, however, for the Aylwards were indicted, not for wounding Alexander Munro, but solely for the murder of his father.

We have already insisted upon the dishonesty of assuming that the sharpening of a scythe in the month of May, indicated an intention of murder. It was for the Crown to show that the accused must necessarily have had a guilty design in sharpening it, and not for the accused to prove his innocence. He asserted, to the last, that he wanted a scythe to cut the young underbrush which springs up on newly cleared lands, and as this assertion was probable, he should have had the benefit of the doubt. Besides, the scythe with which the blow was struck on the 16th of May, was not identified as that which the accused sharpened about a week before. One witness, Mary Ann Macrae, attempted to identify it. She said, "the scythe was, I think, the one they had ground;" but her evidence, as given in the official Return, presents such a mass of contradictions, that no reliance whatever can be placed on her oath. For instance, speaking of the sharpening of the scythe and of the day on which it was ground, she positively swore:—

"I did not see the scythe again until the inquest." And presently, speaking of the 16th May, on which day Munro received the wound, she swore equally positively:—

"He—Aylward—had the scythe. She—Mrs Aylward—said it was, and showed me the scythe." The scythe which she had just sworn she never saw from the day on which it was ground—