gunpowder, the said building being insecure and unsafe for the purpose of storing gunpowder, being neither vaulted nor fireproof, and moreover by then and there unlawfully, injuriously and negligently carting, and permitting the same to be thrown into, and carelessly placed in the said building, and by permitting the door of said building to remain open and accessible to all persons at all hours, and permitting access into the said building after dark and with lights, whereby the said liege subjects upon said Lady the Queen there, and also those residing within the limits of the said City of Montreal, and there passing and repassing on the said highway are and have been and still are placed in great terror and in great danger of the great damage and common nuisance of, &c."

*R. Mackay* for the defendant before the Jury said: The accused was charged with having in his magazine at Côte Ste. Catherine fifty-one tons of gunpowder, against the provisions of the law, and that the building in which said powder was kept was not adapted to the purposes of a magazine. The question to be decided was, had the facts alleged in the indictment been proved? He believed not. With reference to the keeping of gunpowder every man knew there was always great danger in doing so, but at the same time it was necessary that a quantity should be kept constantly on hand for purposes of defence, and a building must be had to store it in. It was a question of policy whether there should be one or several magazines; but he believed it safer to have only one. For if the Corporation were to license as many magazines as taverns, there would be the more danger to life and property. In fact no security at all. The building at Côte Ste. Catherine had been in existence for twenty-three years, and no explosion, not even of a cartridge, had ever occurred, a circumstance greatly in favour of his client. All the witnesses had moved to the vicinity of the so-called nuisance since its erection, and yet they only began to fear danger now. They had moved towards the magazine; the magazine had not been taken to them, or to their neighbourhood. The proceedings instituted were got up by private prosecution, and was the result of the *animus* of Mr. Bellingham against Mr. Dunlop, and not of Mr. Beaubien, the nominal private prosecutor, who was merely a tool in the matter. It had been got up to harass Mr. Dunlop to gratify personal and petty animosities; but he had no doubt the jury would look at the whole facts of the case in their proper light, and give his client the benefit of an acquittal, which he was certainly entitled to. Taking into consideration the nature and position of the magazine, Mr. Mackay said he would have no fear, seeing the nature of the building and of the walls surrounding it, of being hurt if he was sitting on a fence half a mile from the magazine, and it containing seventy tons of powder to explode. No fear whatever. The learned counsel then ably appealed to the jury to judge of the merits of the case, and they would clearly see that it originated from personal motives. In conclusion he said he would adduce evidence to show that Mr. Dunlop was not and had never been the proprietor of the premises, the land or the magazine. He produced a deed of sale from Madame Ambault to Charles and Alexander Francis Dunlop of the said property, and also a mortgage held against the same by the Montreal Permanent Building Society.

*Carter*, Q. C., *contra*, cited Russell on Crimes, to show that the storage of