

# THE QUEBEC TRANSCRIPT,

## EXTRA.

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SATURDAY, 28TH SEPTEMBER, 1839.

[No. 94.]

### COURT OF KING'S BENCH. CRIMINAL TERM.

Tuesday, 24th Sept.  
The Honbles. Justice Cochran and Duval took their seats on the Bench, at ten o'clock, when the Clerk of the Crown called the case.

#### THE QUEEN VERSUS WM. COATES.

The prosecutors, and prisoner's counsel having declared themselves ready to proceed, the prisoner was placed on the bar, and the Sheriff proceeded to empanel a jury, which after a few words from Messrs. Aylwin and Primrose, it was agreed should consist entirely of persons understanding the English language. After considerable difficulty in obtaining twelve such qualified, and one challenge on the part of the prosecution, the following were duly sworn in:—

Ellie Gingras, John Johnston, John Kane, Charles Fagie, Robert Jacks- on, Abraham Roberts, jr.	Thomas Rickell, Thomas Brown, Charles Phillips, George Moore, William McGrath, Daniel McClory.
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The indictment, which contains sixteen counts was read; it was varied as follows: 1st count charges the prisoner with having, on 28th Feby. 1838, 228 \$1 notes, \$2 82; 1370 \$5; 1939 \$10; 192 \$20; 205 \$50; 178 \$100—total \$58,942—in a dwelling house belonging to Peter McGill and others, Directors of the Bank of Montreal; the said money being the property of Alex. Simpson, Esq.; 2nd in the dwelling house of Mr. Jas. Bolton; 3rd in the dwelling house of Alex. Simpson, Esq.—and so on.

Upon the request of his Counsel, the Court directed that the prisoner should be allowed a trial, it being stated that his legs were rather weak, and that they had not been strengthened by nineteen months imprisonment. Mr. F. W. Primrose (with whom was Mr. G. O. Stuart) addressed the Jury at great length in explanation of the evidence that would be adduced on the part of the prosecution, but as that evidence is fully reported below, it is unnecessary for us to give more than a few of the concluding observations of the learned gentleman.

In the course of his remarks, Mr. Primrose was proceeding to make some statements respecting a conversation said to have taken place between the prisoner and Alex. Simpson, Esq., when Mr. Aylwin rose and stated that if the learned gentleman conceived it to be necessary to make such statements, he (Mr. A.) must insist upon the retiring from the Court, until the conclusion of the address to the Jury, of all the witnesses alleged to have been present at the conversation.

Mr. Simpson and two or three other witnesses were then directed to retire to an adjoining apartment.

Mr. Primrose resumed his address to the Jury. Having stated all the material points of evidence that he could bring forward, he proceeded to explain the nature of the indictment. The first six counts of it described the stolen property under the technical denomination of "Bank Notes," stated in one count to be the property of Alex. Simpson, Esq., in another the property of the thirteen Directors of the Bank of Montreal, and thus the definition of the property was varied; and the proprietorship of the dwelling house was also differently described; in another of the counts it was alleged to belong to some person or persons to whose names were unknown. The next six counts were in the same terms, with this difference only—the property was designated "Promissory Notes," instead of Bank Notes. The remaining four counts alleged the property to be vested in twelve of the Directors, some doubts having arisen as to whether one of them had acted as such at the period of the robbery in question. The learned gentleman concluded by explaining the nature of the statute 2 Geo. II. cap. 25, by which the stealing of choses in action is made a felony, and by pointing out the reasons which had induced him to lay the proprietorship in the Directors of the Bank of Montreal and not the Stock-

holders, of whom there were four or five hundred, and even if their names could be ascertained, it would be seen that the indictment, with 16 clauses, could never have, scarcely, been drawn up.

The following evidence was then adduced: Mr. Christian Julius Brown, sworn:—I am an assistant clerk of the Bank of Montreal, at Montreal. The two books now produced contain the articles of co-partnership of stockholders of the Bank subsequent to the expiration of the Act of Incorporation. I know some of the signatures to the articles, among others those of Joseph Masson and Peter McGill, Vice-President and President of the Institution. On the 28th of February 1838, I should think that the number of stockholders of the Bank was several hundred.

There was no cross examination of this witness.

Andrew Shaw, Esquire, sworn:—I was one of the scrutineers at the election of directors of the Bank of Montreal on the 1st June 1837, for the ensuing year, and the gentlemen whose names are now submitted to me were duly elected Directors. The signature to the paper is that of Turton Penn, Esquire. Directors of the Bank must be stockholders, otherwise they would not be eligible. I am acquainted with the handwriting of some of the gentlemen who signed the articles of copartnership. Thomas Brown Anderson, Charles Brooke, John Jamieson, James Logan, William Lunn, John MacPherson, Peter McGill, Joseph Masson, John Molson, John Redpath, Haviland LeMessurier, H. L. Routh, Joseph Shuter, John Torrance are the names of the Directors elected as before stated and the list of them now produced was signed by Mr. Penn and myself. Among the signatures of Directors to the articles, I recognize those of Messrs. Masson, McGill, Jamieson, Logan, Anderson, Shuter, Redpath, Brooke, Torrance, Holmes (attorney for Routh), Molson. The thirteen Directors acted on behalf of themselves and the other stockholders in conducting the business of the Bank. It is my impression that Mr. Routh was acting as a director on 28th February; he was absent from the Province for some time during the year, and I am not certain whether he was in Montreal at that period. I am not aware of any re-election during the year to fill up the place of Mr. Routh.

No cross examination of Mr. Shaw.

Alexander Simpson, Esq. sworn:—I am Cashier of the Montreal Branch Bank in this city, and have been such since 1824. The prisoner, on the 28th February, held the situation of First Teller in the Branch Bank, on the duties of which he entered for the first time on 1st November 1829. In the capacity of Cashier, I had in my custody and charge all the bills, notes, specie, and every description of securities and monies belonging to the Branch Bank, which were deposited in a house in St. Peter Street, Lower Town of Quebec, in which the business of the Bank was transacted. It is a house leased by the Bank from H. Atkinson, Esq., and the business of the Bank has been carried on in it ever since the prisoner was appointed First Teller. There is in the house a large outer room used for the daily business of the Bank, a Directors' room, and a Book-keeper's room. The large room is fitted up with furniture, the property of the Bank. The monies and securities of the Bank are deposited for safe custody in the vaults. There is a counter in the large room, on the left side of which, inside, was the place of the prisoner, who as First Teller and Paying Teller had in his possession a quantity of notes of the Montreal Bank, payable at Quebec, and of other Banks, placed in his hands for discharging the ordinary daily demands upon the Bank. The ordinary denominations of notes placed in his hands were, 1's, 2's, 5's, 10's, 20's, 50's, and 100 dollars; he had also silver and gold, notes of other banks taken during the day, and securities. The demands upon the Bank were paid in notes of the Montreal Bank, payable in Quebec; it sometimes occurred that they were paid in notes not payable in Quebec, but this was not the general custom. On the prisoner's appointment the balance in the

hands of Mr. Lindsay, whom he succeeded, was placed in his hands, he counted it, and made out a *bordereau* which he signed. I asked him if he was satisfied that the balance was correct, as he then became answerable to me for the amount; he answered in the affirmative. On his first appointment he was both paying and receiving teller, and continued so until the appointment of Mr. Maxwell to fill the latter situation, when the duties were divided, subsequent to which the prisoner's duty was confined to paying out. The receiving teller, every day, paid over to the first teller, the prisoner, the amount of the receipts of the day, so that when the latter struck the balance it was the balance of the whole transactions of the day. As Cashier of the Bank I was entrusted with the whole of the funds of the Bank, and the bulk of them were deposited in the vaults, with the exception so much as was deemed necessary for the ordinary business, and which remained in charge of the first teller. It was my duty to ascertain daily the amount in the hands of the prisoner but not to count it. He gave me a written statement thereof, twice a week, on the morning of every Tuesday and Friday, showing how much he had in checks, notes, gold, silver and copper; the notes being specified as to what Banks they emanated from but not distinguishing their several amounts, except those of the Montreal Bank. Prisoner kept a blotter in which he made a statement of the funds in his possession at the close of business every day. Twice a month, on the 13th and last day, the prisoner furnished me with a detailed statement of the funds in his hands showing the number of 1's, 2's, &c., of the Montreal Bank, and of the different coins, and the amount of the notes of any other Bank. I did not always verify the semi-monthly statements in detail; it was not my duty to do so. The manner in which I verified them was to count the bundles, not the notes. I felt so much confidence in the prisoner that I did not count the notes so often as I ought to have done. I did not take it for granted that all was right; I tried the bundles of notes which were each of one hundred, and I could never be very far deceived. Whenever I received from the prisoner any amount for deposit in the vault I found it correct. On the 28th February 1838, very few or none of the new notes of the Bank issued subsequent to the Act of Incorporation expiring were in the possession of the prisoner; there might possibly have been a few received from Montreal but I am not positive on this point.—On the 28th February 1838, I received from the Montreal Bank at Montreal, through the hands of Mr. Lowndes, three parcels of bank notes, with a *bordereau* to each. I handed them over to the prisoner to be counted, which having been done, the amounts were found correct. As a matter of course he had to debit himself with the amounts, previous to handing them over to me for deposit in the vault; one parcel contained Quebec Bank notes to the amount of \$7,725; the two other parcels contained each \$20,000, according to the *bordereau*, which I now produce. Before these notes came down I notified the prisoner to hand over about £4,000 or £5,000 for deposit in the vault; I did this in consequence of his having told me that complaints had been made regarding the state that some of the notes were in, being rather ragged. Prisoner was to hand the £10,000, previously mentioned, over to me the next day, with the four or five thousand pounds more already mentioned, when we came to the semi-monthly statement.—On my handing the notes over to the prisoner, he gave me credit for them—and, of course charged himself with the amount namely, £1191 5s. The balance book now produced is all in the hand writing of the prisoner. Towards the close of the day (the 28th Feby.) I asked the prisoner if the parcels of notes received from Montreal were correct according to the *bordereaux* and he said they were, upon which I said he must pay them in the next day with a few thousand pounds more. The prisoner had no authority whatever to allow any of the notes in his custody to leave the bank except from the counter in payment of

demands against the Branch Bank of Montreal; he never had authority to liquidate demands against the Bank anywhere than in the Bank office. On the morning of the 1st March, 1838 the prisoner gave me a detailed statement of the funds remaining in his hand the day previous. On the 28th Feby. I left the Bank at 3 P.M., and the prisoner was there. He had a small trunk in which he put up the whole of his balance except specie which he put in trays, and, sometimes bags. The prisoner kept the key of the trunk; it was the property of the bank and had, I believe been used for the same purpose since the commencement. The trunk during the day remained inside the counter under the charge of the prisoner and when business was over he deposited it with the loose specie, in the vault. In the morning a quantity of the notes were taken from the trunk and put in the till of the counter. To the vault there are two doors—one, the inner, with three locks (one very superior and in the opinion of locksmiths impossible to pick.) The outer door has an alarm bell attached, which on the slightest touch of the door can be heard throughout the building. There is a partition across the vault which divides it into two; in the outer apartment the prisoner's trunk was kept, this latter was further enclosed with a wooden door. The keys of the two outer doors were in my possession, and I saw on the 28th the trunk carried down and I locked it in. No person could have subsequently obtained access to it without my knowledge. Martin, the messenger carried the trunk down but I think the prisoner came to the head of the stairs. I kept the keys all night. I requested the prisoner, on the 28th February, to come to the Bank a little earlier than usual next day in order that I might verify his semi-monthly statement and receive the money which he was to pay over to me, before the banking hour arrived. The next morning, about 1 past 9, on reaching the Bank I found the prisoner had already arrived. Shortly before 10, as the messenger had not arrived, I said to the prisoner, both before going down to the vault himself and get up his balance. I gave him the keys of the two outer doors and he proceeded down, previous to this he had given me the *bordereau* of his balance which is that now produced. Martin having arrived followed the prisoner down, and both soon returned with the money. When the prisoner had arranged his notes as usual in the till, I went with the *bordereau* and began to examine the notes. The first I put my hand on were the \$100 bills, but I found only a few instead of two or three hundred; there were no hundred packages. I asked the prisoner where the remainder were, and he said he supposed they were all right. I did not think much of this, and passed to the 50's, when I found a very large deficiency in these also.—Upon being questioned with respect to the latter the prisoner made no answer, and turned towards the window, upon which I began to be afraid that something was wrong, and taking up the till I requested him to come into the Director's room, where we would probably find out the mistake. On making out a fresh *bordereau*, however, I found \$13,822 deficient compared with his *bordereau*, and the statement in his blotter of the preceding day. Prisoner was walking up and down near me when I was counting the money, and could see me all the time. Instead of 221 notes of \$100 each, there were only 43; instead of 367 50's I only found 62; instead of 211 20's I only found 18; instead of 4,795 10's there were 2,956; instead of 5,401 5's, found 4,071; instead of 514 2's found 222; instead of 763 1's found only 535. All these notes were of the Montreal Branch Bank. I remarked to the prisoner, after making the calculation, that he had better run over it again himself, and see if I had made a mistake. He said it was of no use, for he had been looking on the whole time, and no one could make any more of it. I urged the prisoner very strongly to declare if he knew what had become of the money, and if he had, in an unhappy moment, taken it—or something to that effect—to replace it instantly. He declared he knew not what had become of the money, &c.