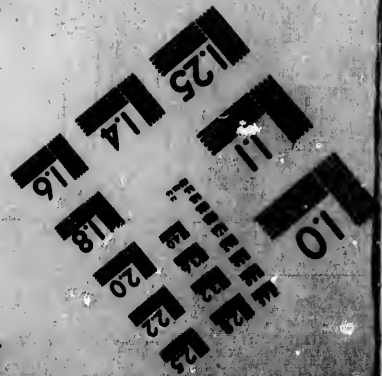
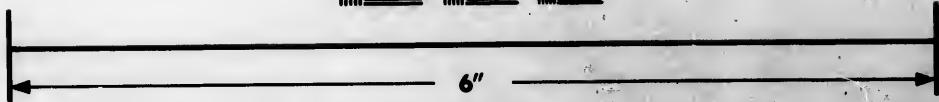
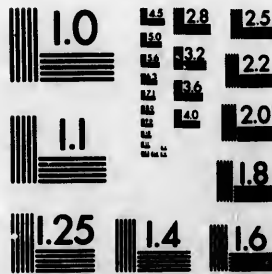


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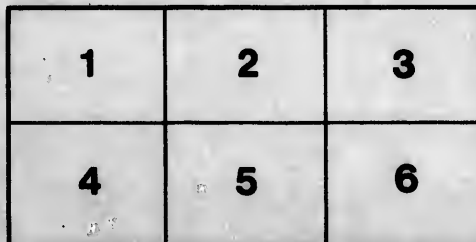
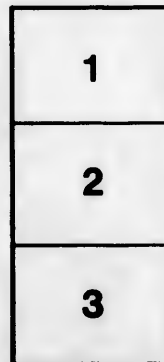
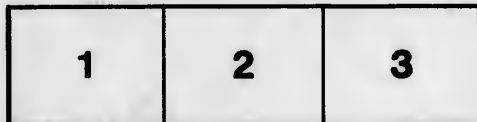
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T R I A L

OF

ISAAC JONES AND JAMES JONES, 10-

FOR THE ALLEGED 1835

M U R D E R

OF

LOUIS MARCOUX,

AT THE

BAR OF THE COURT OF KING'S BENCH,

FOR THE

DISTRICT OF MONTREAL,

ON

**WEDNESDAY THE 4TH, THURSDAY THE 5TH, FRIDAY THE 6TH,
AND SATURDAY THE 7TH OF MARCH, 1835.**

**COUNSEL FOR THE PROSECUTION.—THE SOLICITOR-GENERAL.
COUNSEL FOR THE DEFENCE.—JOHN BOSTON, HENRY DRISCOLL, AARON P. HART,
AND ROBERT ARMOUR, JUNIOR, ESQUIRES.**

**REPORTED BY
THOMAS HANDCOCK, A. B. TRIN. COLL. DUB.**

**MONTREAL:
1835.**

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THE TRIAL, &c.

COURT OF KING'S BENCH.

FEBRUARY AND MARCH TERM, 1835.

MONTREAL, SATURDAY, Feb. 23, 1835.

Present—The Hon. Chief Justice, Mr. Justice PYKE, Mr. Justice ROLLAND. The Grand Jury came into Court, and presented the following Bill of Indictment:—

The King *vs.* Isaac Jones, James Jones, William Jones, Medard Crepeau, Laurent Dumas, Charles Demarais, Joseph Allard, Louis Allard, Peter M'Nie, Duncan M'Nie, Peter Baley, Luther Sawtel, Patrick M'Donogh, and Francis Bradley, for murder.

PROVINCE OF LOWER CANADA, } At His Majesty's Court of King's Bench
DISTRICT OF MONTREAL. } for the District of Montreal, begun, and hold-
en at the Court-House, in the City of Montreal, for the cognizance of all
crimes and criminal offences, on Tuesday, the twenty-fourth day of Febru-
ary, in the Fifth Year of the Reign of our Sovereign Lord William the Fourth,
by the Grace of God, of the United Kingdom of Great Britain and Ireland,
King, Defender of the Faith, before the Honourable JAMES REID,
Esquire, Chief Justice of His Majesty's said Court of King's Bench, and
the Honourable GEORGE PYKE, JEAN ROCH ROLLAND, and SAMUEL GALE,
Esquires, Justices of the same Court.

MONTREAL, To wit,—

The Jurors for our Lord the King, upon their oath, present that Isaac Jones, late of the Parish of Saint Pierre de Saural, in the County of Richelieu, in the District of Montreal, yeoman; James Jones, late of the same Parish, yeoman; William Jones, late of the same Parish, yeoman; Medard Crepeau, late of the same Parish, yeoman; Laurent Dumas, late of the same Parish, yeoman; Charles Demarais, late of the same Parish, yeoman; Joseph Allard, late of the same Parish, yeoman; Louis Allard, late of the same Parish, yeoman; Peter M'Nie, late of the same Parish, yeoman; Duncan M'Nie, late of the same Parish, yeoman; Peter Baley, late of the same Parish, yeoman; Luther Sawtel, the younger, late of the same Parish, yeoman; Patrick M'Donogh, late of the same Parish, yeoman; and Francis Bradley, late of the same Parish, yeoman, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, on the fifth day of November, in the fifth year of the reign of our Sovereign Lord William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, with force and arms, at the Parish aforesaid, in the County aforesaid, in the District aforesaid, in and upon one Louis Marcoux, feloniously, wilfully, and of their malice aforethought, did make an assault; and that the said Isaac Jones with a certain gun, of the value of ten shillings, then and there loaded, and charged with gunpowder and leaden shot, which he, the said Isaac Jones, in both his hands then and there had and held at and against the said Louis Marcoux then and there, feloniously, wilfully, and of his malice aforethought, did shoot and discharge; and that the said Isaac Jones, with the leaden shot aforesaid, out of the gun aforesaid, then

and there, by force of the gunpowder aforesaid, shot and sent forth as aforesaid, the aforesaid Louis Marcoux, in and upon the lower part of the belly of him, the said Louis Marcoux, then and there, feloniously, wilfully, and of his malice aforethought, did strike, penetrate, and wound, giving to the said Louis Marcoux, then and there, with the leaden shot aforesaid, so as aforesaid shot, discharged and sent forth out of the gun aforesaid, by the said Isaac Jones, in and upon the said lower part of the belly of him, the said Louis Marcoux, one mortal wound of the depth of seven inches, and of the breadth of two inches, of which said mortal wound the said Louis Marcoux, on and from the said fifth day of November, in the fifth year aforesaid, until the eighth day of November, in the fifth year aforesaid, in the Parish aforesaid, in the County aforesaid, in the District aforesaid, did languish, and, languishing, did live, on which said eighth day of November, in the fifth year aforesaid, he, the said Louis Marcoux, at the Parish aforesaid, in the County aforesaid, in the District aforesaid, of the mortal wound aforesaid, died; and that the said James Jones, William Jones, Medard Crepeau, Laurent Dumas, Charles Demarais, Joseph Allard, Louis Allard, Peter M'Nie, Duncan M'Nie, Peter Baley, Luther Sawtel, the younger, Patrick M'Donogh, and Francis Bradley, then and there, feloniously, wilfully, and of their malice aforethought, were present, aiding, helping, abetting, comforting, assisting, and maintaining the said Isaac Jones, the felony and murder aforesaid, in manner and form aforesaid, to do and commit;

And so the Jurors aforesaid, upon their oath aforesaid, do say that the said Isaac Jones, James Jones, William Jones, Medard Crepeau, Laurent Dumas, Charles Demarais, Joseph Allard, Louis Allard, Peter M'Nie, Duncan M'Nie, Peter Baley, Luther Sawtel, the younger, Patrick M'Donogh, and Francis Bradley, him, the said Louis Marcoux, on the said eighth day of November, in the fifth year aforesaid, at the Parish aforesaid, in the County aforesaid, in the District aforesaid, in manner and form aforesaid, feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace of our said Lord the King, his Crown and dignity.

(Signed) C. R. OGDEN, *Atty. Gen.*

A. M. DELISLE, *Clk. Cr.*

True Bills against Isaac and James Jones.

No Bills against William Jones, Medard Crepeau, Laurent Dumas, Charles Demarais, Joseph Allard, Louis Allard, Peter M'Nie, Duncan M'Nie, Peter Baley, Luther Sawtel, Patrick M'Donogh, and Francis Bradley.

The prisoners, Isaac Jones and James Jones, were arraigned, and pleaded "Not Guilty." Trial fixed for Wednesday, the 4th of March.

WEDNESDAY, *March 4, 1835.*

Present—The Chief Justice, Mr. Justice ROLLAND, Mr. Justice PYKE.

Counsel for the Prosecution—Michael O'Sullivan, Esq., His Majesty's Solicitor-General.

Counsel for the Defence—John Boston, Henry Driscoll, Robert Armour, Jun., and Aaron Philip Hart, Esquires.

Mr. Driscoll moved, on the part of the Prisoners, that a Jury composed of persons speaking the English language be taken from the pannel.

The Chief Justice observed, that the practice had been universally maintained in the Court of allowing a Jury, one half of English and one half of French, if required.

Per. Cur. Call the Jury.

The pannel being called over, the Prisoners challenged nineteen persons; and the following gentlemen were sworn in as Jurors;—

Hyacinthe Payment dit Lariviere, yeoman, St. Genevieve; Alexis Ponton, yeoman, St. Marie de Monnoir; Pierre Ponton, yeoman, St. Marie de Monnoir; J. B. Chagnon, yeoman, St. Marie de Monnoir; Alexis Taillefer, yeoman, St. Martin; Donald Fraser, yeoman, St. Andrews; Donald M'Martin, yeoman, St. Eustache; George Simon Leroy, yeoman, St. Au-

Drews; Charles Renaud dit Blanchard, yeoman, St. Jean Baptiste; Patrick Drumgoold, tanner, Montreal; John Daly, gentleman, Montreal; John Drew, grocer, Montreal.

The SOLICITOR GENERAL opened the case, and addressed the Jury, in French and English, nearly to the following effect, in substance:—

The attention of the Jurors had hitherto, he said, been directed to the consideration of minor infractions of the law. The case about to be submitted to them, was one of a most solemn nature. The prisoners at the bar stood before them accused of a crime of the deepest die—of the murder of the late Louis Marcoux, the circumstances of which it became his painful duty to detail.

It was, no doubt, known to them, that Sorol was a Borough that sent but one Member to the Provincial Parliament. The usual period for renewing the Representation of the Province having arrived, an election took place there, in the latter part of October last. Two candidates had offered themselves, Mr. Pickel from Montreal, and Mr. Jones from Quebec. This election partook of the character of former elections at the same place; it was warmly, nay, violently contested. Though the number of voters was necessarily small, it was spun out for several days.

The Jury was, of course, sufficiently acquainted with the nature of contested elections, to know the results which they inevitably produced. All the bad passions of the human breast were roused into action. Friendships were hastily formed, and were as speedily dissolved, because formed by the selfish interest of the moment. But enmities were engendered which led to the greatest excesses, and left a deep rooted hatred never to be eradicated. As the voters grew scarce, animosities and collision increased, and expedients of every description were resorted to by the conflicting parties.

With respect to the election in question, it appeared that, in the last stage of it, one Dumas was desirous of voting for Mr. Jones, but was not sufficiently qualified, inasmuch as a certain house, of which he was the proprietor, had been left in an unfinished state, and wanted a chimney to give it the character of a dwelling-house. It happened to be the erroneous opinion of Mr. Jones' party, that by supplying this defect, Dumas would be sufficiently qualified to vote, and accordingly, at rather a late hour on the fifth of November last, it was resolved that they should set about building a chimney, and a contract was forthwith entered into for building one during the night. The preparations for building the chimney in question, drew several of Mr. Jones' friends to Dumas' house during the evening. It often happened through life, that events of the utmost importance could be traced to trifling and accidental causes. Thus it was with respect to the melancholy event which gave rise to the present prosecution. To that erroneous opinion respecting the chimney might be ascribed, as to its remote cause, the fatal catastrophe which ensued. He was aware that there were a great many circumstances connected with that melancholy event; but as his knowledge of these circumstances was not, he presumed, very correct, and as that knowledge, such as it was, was not derived from the witnesses whom he should call, he would confine himself to the few facts, and few they were indeed, which it would be his duty to prove, in support of the prosecution.

Immediately opposite to Dumas' property, was the house of a woman known by the appellation of the Widow Paul, *Madame veuve Paul*, at which a certain number of individuals, amongst whom were several witnesses for the Crown, had assembled on the evening of the same day (5th of November), for the purpose, as stated by them, of amusing themselves. About nine o'clock that evening, the deceased Marcoux arrived at Madame Paul's, in a caleche, driven by Andre Lavallée. He had not been long in the house, when the company broke up, and Marcoux left the house with them. Upon reaching the street, they heard a shot fired in the direction of Dumas' house. It had been fired in the air. The deceased immediately ran to the spot where the flash of the gun had been seen. On coming up to it, he found the pri-

soner Isaac Jones there, with a gun in his hand. As Marcoux neared Isaac Jones, he found the muzzle of his gun presented to his breast, and put it down obliquely with his cane, saying at the time, "don't fire, Isaac, don't fire." At that moment, the other prisoner at the bar cried out, "fire, Isaac, fire." And thereupon Isaac Jones fired the gun, and lodged its contents in the abdomen of the deceased. Shortly after the shot, Marcoux fell, exclaiming as he fell, that he was a dead man. The Solicitor General thought it his duty to add, as shewing the intention of each of the prisoners, that he believed it would be proved to them, that on the morning of that eventful day, Isaac Jones had been heard to say, that murder must be done; and that in the course of the same day, James Jones had been seen to load a pistol. Such were the facts. He would carefully abstain from any comment, and leave them to the unimpassioned consideration of the Jury. But this he must say, that if they were as stated to him, and by him repeated to the Jury, the voice of Marcoux seemed to call for justice from his grave. In saying so, he also felt that the case of the prisoners at the bar, whose fate was in their hands, required the most calm and impartial investigation.

One thing, however, might be assumed as certain, that Isaac Jones was the author of Marcoux's death—from the gun which he, Isaac, held, was discharged that shot which inflicted the mortal wound. The fact of killing being once established, the law presumed it to have been founded on malice until the contrary appeared; and it would be for the prisoners to prove, to the satisfaction of the Jury, all the circumstances of accident, necessity, or infirmity, which might make in their favor. These circumstances, however confusedly detailed by the witnesses, would, they might rest assured, be classed by the Court under the several distinctions of homicide to which they might apply.

The facts being few, as was already mentioned, in support of the prosecution, the Jury would, perhaps, be surprized to learn that he (the Solicitor General) intended to call a cloud of witnesses to support them. But, such was the local as well as the general excitement, which that unfortunate affair had produced, that he was determined that no person having the slightest knowledge bearing upon it, should be kept back. There was a very long list of witnesses (some twenty-five) on the back of the indictment. They should with the permission of the Court, be every one of them examined, as well as all those whose names might be suggested to him.*

With respect to the defence, he wished it to be equally full, equally free and unshackled, that full and ample justice might be done between the Crown and the prisoners at the bar. The witnesses which he (the Solicitor General) would produce, would, he believed, for the most part, be found to have sided with Mr. Pickel; and he took it for granted, that the witnesses to be produced by the defence, would for the most part be found to have sided with Mr. Jones. They (the Jury) would, therefore, have marshalled before them, the two great conflicting parties who had figured at the Sorel election, still retaining in spite of their best feelings, some of the prejudices, the enmities, and partialities which had been displayed at the Hustings.

In thus expressing himself, he meant nothing offensive to either party. He spoke but of weaknesses, and the infirmity common to all men, and of the difficulty which the most virtuous found in surmounting prejudices and party spirit, particularly political prejudices. He felt impressed with a strong sense of the arduous duty, the discharge of which he was about to share with them (the Jury). He would not conceal it from them, that they had before them a long, a painful, a most difficult task, and that they were entering upon a trial which would draw largely on their patience. But no trial could be too long, in which the search after truth was the object, and upon which hung the fate of two fellow-beings.

* There were four professional gentlemen engaged during the trial in furnishing the Solicitor-General with information, on behalf of the family of the deceased.

In matters of ordinary life, it was difficult to find a few persons agree as to all the circumstances attending any particular fact. What then might they (the Jury) not expect in a trial of that description, growing out of a contested election, in the strife and struggles of which, the witnesses on both sides will view men and things with eyes that had taken their hues and colors from passion and party. They would, therefore, at the end of the trial, have such a web of testimony to unravel, as to require all their sagacity. They would see accumulated before them, an immense and confused mass of contradictory evidence, from which it would be their duty to extract the truth. In looking at these difficulties, it was a consolation to him, and must be a great one to them, to obtain the great assistance which they would receive from the Honorable and learned Judges on the Bench, who would direct their steps and guide them through the labyrinth. Another difficulty, and by no means the least which presented itself, was the political feeling, which would necessarily be found to pervade the whole case. But political feeling, rancorous in all its bearings, had nothing to do with the sacred principles of justice. They (the Jury) were seated in the sanctuary of the laws, which must not be defiled by either prejudice or prepossession. A great deal had been said, and a great deal had been written, respecting this unhappy business, he hoped not for the purpose of bringing the prisoners to trial with an anticipated conviction. All previous impressions which had been made upon them, either in favor of or against the prisoners, they, as honest men, would discard, and bring to the investigation before them, hands as fair and as pure as white paper, upon which neither blot nor stain was to be found.

The solemn oath which they had taken was, not to judge from previous impression, but a true verdict to give according to the evidence. The prisoners had put themselves upon God and their country, for their trial. It was in the presence of that God that the trial was about to proceed, and he hoped God would enlighten their minds to discover the truth. If, after a fair, a patient, and an impartial trial, they felt convinced that the prisoners were guilty, it was their duty, however painful, to hand them over to the offended laws of their country. If convinced of their innocence, they (the Jury) would fearlessly declare it. And, if there existed a reasonable doubt, as to either guilt or innocence, the prisoners were entitled to the benefit of that doubt.—His Honor the Chief Justice was in the habit of saying in his impartial charges, and so he (the Solicitor General) was certain that the Chief Justice would say upon that occasion. For it was better, according to the humane principles of the Criminal Law, that ninety-nine guilty persons should escape, than that one innocent man should suffer.

Mr. Hart moved, that the witnesses for the Crown be directed to withdraw from the Court, and ordered to remain out of the Court until the time of their respective examinations.

The Chief Justice—Let the witnesses, both for the Crown and Defence, be called, and directed to withdraw.

This being done, the Solicitor-General proceeded to call up

EVIDENCE FOR THE CROWN.

MOYSE DUPLESSIS, called and examined by the Solicitor General.—Is a Notary Public, residing at Sorel, where he has resided for the last four years. He was there during the last election, where Messrs. John Jones, junior, and John Pickel were the candidates. The election, he thinks, commenced about the 26th of October last, and ended about the 7th of November. He knows the prisoners at the bar, who reside in Sorel, and were there during the election. They were active towards the latter end of the contest, in favor of Mr. Jones. He knew Louis Marcoux, who lived with his father in law, was formerly a trader, about 36 years of age, and who made himself busy at that election for Mr. Pickel, who eventually succeeded. On the 5th November he met Isaac Jones, who observed to him "that there would be murder committed

yet at the poll ; that he had been told to get his gun ready, that it was loaded, and that they were prepared." It was at about ten in the morning that this conversation took place. He knows Laurent Dumas by sight. He thinks that on the 5th November, Mr. Pickel had a small majority over Mr. Jones. Dumas was then not qualified to vote, but to obtain that qualification his friends proposed to build a chimney to an old house he owned. At about seven they went to work at this chimney, and he saw some masons laying the foundation of the chimney. The witness went into the house to see them work, having heard that they were going to build the chimney by night.—Several persons subsequently came into the building, and the masons retired. At about nine in the evening, while at the house of Mrs. Paul, (widow Coton) Mr. Marcoux came in and asked him to go out into the street, which he did. Marcoux had come in a *caleche* driven by André Levallée. They had advanced but a few paces, when they heard the reports of three or four guns, as if directed towards them, by a crowd of persons advancing. Some of these reports appeared to come from the rear of the house of Dumas. He thought they were shot off to frighten people. [The witness was shewn a plan of a part of the Borough of Sorel.] The house marked No. 1, is that of Mrs. Paul, No. 2 is that of Dumas. They are opposite to each other, forming the corner of two streets, which are about forty feet wide. He advanced forward, and in the street met Peter M'Nie, who struck the witness, threw some stones, and then called out "fire." He did not immediately hear any report, but he shortly afterwards heard Marcoux cry out that he was dead. He turned the corner of the street, and there found Marcoux in the arms of Levallée, who said he had met his death by a shot from Isaac Jones, who had the muzzle of his gun nearly touching his body, when it was fired, and that he had fallen. He was afterwards taken to Alexis Peloquin's. He did not see him fall, but he was incapable of moving when he first saw him. The witness and Levallée put Marcoux into a *caleche*, and on their route home, Marcoux repeatedly said that Isaac Jones had given him his wound. He did not see Marcoux till next day, when he was at his own house, still living, but in bed. He conversed with him about the accident ; the deceased again mentioned that he received his death blow from Isaac Jones, and said he saw several persons near him at the time. Marcoux was a Roman Catholic, and had sent for the Curate of the parish, who came several times to see him.—This accident occurred, he thinks, on the Thursday, and Marcoux died on the Saturday. He saw the deceased the evening before his death ; he was in the full possession of his recollection to the moment of his death. He did not speak much, because he suffered exceedingly. On the morning of his death, he still spoke of the accident ; he does not know if he had then taken the last sacrament. He afterwards saw him dead. Marcoux came to Mrs. Paul's house from some place where he had gone to secure a vote ; he had not come from the house of Dumas, but in a different direction with Levallée. Three or four minutes elapsed after parting with him ere he heard him cry out that he was shot. It was after Marcoux had advanced towards the crowd near the house of Dumas, that the first shot was fired. Curiosity only led him that evening to the house of Dumas.

Cross-examined by Mr. DRISCOLL.—It was only during the last few days of the election that the prisoners took any interest in the election. Isaac Jones had gone up to Montreal about the time of its commencement, but he cannot say he went there to keep himself out of the way. It was curiosity alone that took him to the house of Dumas. Dr. Hallor was with him and some other persons, but without being asked to accompany them. While there he noticed Pierre Cardin and Culbert Rondeau, but he does not recollect particularly the names of the other persons then present. It was about six in the evening, and there might be from eight to ten persons present, who came from different directions, in addition to the workmen erecting the chimney. The workmen were in favour of Mr. Jones, but only one of them had a vote, which was already given ; the others had no votes. He knows not what were the inten-

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tions of those who were present, and he did not see them interrupt the workmen. Dr. Haller had gone there merely to see if the chimney was building. He does not know that they went there to prevent the work proceeding. He did not hear all that was said. Nothing brought him to the house but that having heard that the Jones party had given instructions to have the chimney built, he went to see if it was the case. He saw several persons speaking to the builders, who, in return, spoke to them, but he heard no threats nor menaces; they stopped work of their own accord. Some person remarked, that it was a very unusual hour for masons to be working. He left the house, and shortly afterwards saw the masons leaving the house, with their tools. He left a short time before them, but all the others left the house with the masons. There were no threats held out while he was in the house, and when the men were retiring, he was in the street. He is positive in saying he neither saw nor heard of any violence; nor can he say why the masons left, nor does he think they were prevented from working. Between six and nine that evening he was at Mrs. Paul's, opposite to the house of Dumas, and saw several persons, near seven o'clock, scattering stones about in the street, about 30 or 40 feet distant, but could not distinguish who they were. This was after the masons had gone. He was standing at the door, and he now recollects having seen Alexis Pelouquin, Maxime Aussent, Pierre Cardin, Culbert Rondeau, Charles Pagé, Pierre Thouin, Hector Martin, Paul Pelouquin, Alexis Paul Hus, and Hubert Deguise. He cannot say they were all engaged in scattering the stones, but they were all present when it was done. He did not see bricks nor mortar there, but he knew that a load of clay had been brought there. He knows not what the intentions were of the party who were scattering the stones; they might possibly have intended to interrupt the work. He gave them no encouragement whatsoever, and he did not interfere in any way. If he had told them to desist, he possibly might have been injured himself. The reason why he did not interfere was an apprehension of personal danger to himself. He might have advised them to desist, but they never would have listened to him. The people appeared to be in good humour. He remained at Mrs. Paul's from six to nine, and his reason for remaining there was to spend the evening. He has no knowledge that they met there that night for the purpose of interrupting the building of the chimney, and he went out to see if the masons had returned again. He heard no conversation which could show him what brought all those people to Mrs. Paul's. All those whom he has previously named assisted in scattering the stones, or were present when it was done, and then went into Mrs. Paul's again. He persists again in saying that he did not know what were the designs of the people at Mrs. Paul's. She does not keep a public-house. He did not ask them why they preferred that house to all the public houses in the village. The witness was a partisan of Mr. Pickel, and took an active part on his behalf. Marcoux came to Mrs. Paul's, in pursuance of his own free will, like every other person. He does not know what Marcoux's intentions were in coming there. Several of those he named left the house before nine. Marcoux never explained what brought him there. He saw no stick in Marcoux's hand when he arrived. If he had one, the witness did not see it. He did not ask Marcoux to come out, for it was Marcoux who asked witness to come out of Mrs. Paul's, as there were vehicles coming towards them. He does not think Marcoux spoke to any one else, but they all followed Marcoux out of the house. Marcoux never, in his presence, directed these people to resist by force those who were coming up. When these people came out to the street, he heard a noise. He then noticed a cart, with some people following it. He saw no sticks with them, nor any other arms, nor did he see any in Marcoux's hands. Marcoux was the first to issue from the house, and advance towards the persons coming up. He cannot well say who commenced the noise. Peter M'Nie, without any provocation, struck with his stick the witness. The people with Marcoux behaved themselves quietly while the witness remained with them. He then heard several reports of guns, but cannot say who fired them. He has since been informed that they came from the

party of Mr. Jones. He thought they were firing with blank cartridge. He never heard that any person was wounded by those shots. There may have been some wounded, but he is ignorant of the fact. He cannot say why the shots were fired. He heard a noise, as if a cart was upset. He cannot say who did it, whether the people from the house of Mrs. Paul, or the other party. A gun was fired from the corner of the house of Dumas. He afterwards found the deceased in the arms of Levallée. He cannot say where he had been wounded, or where Levallée picked him up. Several shots were fired. Had all those guns been loaded, several lives must have been lost. The cart had been upset before Marcoux was shot. It was loaded with stones; and its upset made some noise. He heard several persons in conversation, but could not comprehend what they were saying. Marcoux mentioned that the muzzle of the gun was near his body, but he did not say that he struck the gun. He said that Isaac Jones presented the gun to his breast, and, supposing that he was going to fire, he lowered the gun with his hand. This he was told by Marcoux. Isaac Jones mentioned that morning, that there would be murder at the poll. Witness was sober when this conversation took place. He does not think that when Jones talked of murder, he alluded to its proceeding either from the party of Jones or Pickel; and does not think that Jones really at that time intended to commit murder, but expressed himself in bravado. He admits that violence was used by Pickel's party to prevent the voters of Mr. Jones coming to the poll. Pickel's party were the strongest. At the last day of the poll, violence was used by Pickel's party, but there was no murder. Marcoux left him in the street, and he cannot say whether he went on the lot of Dumas or not. There was a rail fence to the lot. He never heard Marcoux say he would "rip the guts" out of any person that would vote for Mr. Jones. Marcoux was, like many others, liable to be quick, but he was not violent. He was a warm partisan. His general character was violent, but he never knew him to be vicious or wicked. He never saw Marcoux run after the captain of a steamer with a knife. He knows Isaac Jones to be a man of an easy, mild disposition; Isaac Jones and Marcoux have had several transactions, and they were intimate friends. He saw them converse during the election on several occasions.

Dr. WOLFRED NELSON, called and examined by the Solicitor-General.—He lives at St. Denis. He saw Marcoux before and after his death. Two days before his death he saw him first. A messenger was sent for witness, who reached his house about two in the morning. Marcoux told him he was shot at nine in the evening. He saw him about eleven the next day. When he saw him, he had no hopes of him, but he was perfectly in his senses. He examined the wound, and found it about three inches below the navel, a little to the right side of the medial line. He then considered him in such a state that professional skill was useless. He probed the wound with his finger; it was inflicted with small shot, some of which the witness produced. The shot did not penetrate the cavity of the abdomen. The shot struck the belly, and glanced under the groin, and lodged in the back and inner part of the thigh. No intestines protruded. He was told by the deceased that "*the scoundrels had done for him at last.*" Marcoux was then under the impression that he was dying, and was told to settle his affairs. He then said he had been shot by Isaac Jones. The witness did not converse much with him. He was intimately acquainted with Marcoux, and knew his character. It was that of an honest, active, energetic man; his moral character was generally good; he would not suffer an insult; but was still a humane man. He was not irascible. There was a good deal of practical humanity in Marcoux. His death is much regretted in the Borough of Sorel. There was a *post mortem* examination of Marcoux's body, which the witness superintended. He then again saw the wound, and believes it to have caused the death of Marcoux.

Cross-examined by Mr. HART.—As the wound took an oblique direction, the muzzle of the gun must have been depressed. Unless the muzzle was de-

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pressed, the contents, in the ordinary method of firing, would have, perhaps struck the thorax. A man can be killed by a heavy load of small shot, as well as by a bullet; a bodkin, if professionally used, might be equally fatal. Laceration might be produced without death in a part merely fleshy. Marcoux was under the idea that he was dying; and it was not unnatural that, although near to death, he might have made use of the expressions mentioned by the witness. The expressions were made in English. When Marcoux was provoked, he exhibited great energy; he had quarrels often with his neighbours. The witness admired Marcoux's character, for his difficulties were often produced by protecting innocent persons from persecution. The witness lived 16 miles from Marcoux's residence. He delivered a funeral oration over Marcoux's body, and accompanied a number of persons to console his widow. He came down from St. Denis in his own carriage, and returned in the steamboat. The witness never alluded to politics in his funeral oration, nor to the persons concerned in his death. He saw two persons leave the ground, whom he would have wished had remained and heard the oration. After the funeral, he returned in the steamboat to St. Denis. It is not customary in this Province to deliver funeral orations over such men as Marcoux. This was the first instance he ever saw it done. He never addressed several persons at St. Ours, nor any where else, relative to the Coroner's inquest, nor as to the circumstances attending Marcoux's death.

MICHEL ETIENNE HALLER, called and examined by the Solicitor-General.—Is a physician at Sorel. He lived at Sorel in the beginning of November, and was there on the 5th of the month. He saw Marcoux at nine o'clock that night, and then extracted some snipe-shot from his wound, which he described precisely as Dr. Nelson did. This examination took place at the house of Alexis Peloquin. On examining superficially the wound, he saw some of the intestines, and was then immediately of opinion that the wound was mortal. When the deceased sent for him, on seeing him, Marcoux told the witness, "I am a dead man." He was present when deceased made his deposition before Dr. E. W. Carter, J. P. The deceased told him that he met Isaac Jones at the place, where they were building a chimney; he perceived that Jones had a gun in his hand; and he told Jones, "do not fire;" that he (Marcoux) had a stick or cane in his hand, with which he (Marcoux) struck the gun; and thereupon James Jones cried out "fire, Isaac, fire,"—and that Isaac Jones then fired the gun. The witness passed the greater part of the night with the deceased; he only dozed, and then became drowsy from opium. He spoke to him during the night, and he repeatedly mentioned the accident, deploring that a young man should be so quickly hurried out of life. He never varied for a whole day and two nights in his description of the event, though not precisely in the same language. He saw the wound at the *post mortem* examination, and then he did not change his opinion of the nature of the wound being mortal, and that it was the cause of Marcoux's death.

Cross-examined by Mr. ARMOUR.—He was Marcoux's medical attendant, and thinks he had sufficient confidence in his professional skill. Marcoux said he considered himself a dying man. To console him a little, the witness encouraged him with the hope of life, but he does not think the consolation had any effect on his mind. He spoke to him from time to time, without making any impression. He cannot say whether Marcoux mentioned having gone on the lot of Dumas. He mentioned that Isaac Jones had a gun in his hand, near the place where the accident happened; that having heard a shot fired, he had advanced towards Jones, and saw Jones with a gun in his hand; that he cried out "Jones, don't fire," and that he then struck the gun with a stick, but he did not say that at that moment or afterwards, he had heard the word "fire, fire," and he could not say, whether he was behind or beside James Jones at the moment that the gun went off. Marcoux was at the Widow Cotton's before the accident happened. Some persons had assembled at Alexis Peloquin's, where the election party of Mr.

Pickel generally resorted. There were there about ten or twelve persons, who proposed to go and see what was doing about the chimney of Dumas. They all left the house together. On arriving there, they found some masons building the chimney, and some other persons offering them assistance. He saw some stones brought in, and he perceived that one of the masons who had voted against Mr. Pickel, was not intimidated. The witness told him that he had no grounds for alarm, for that the party did not intend to offer them any injury; that they had come to see what was doing, at which the man became reconciled. On being asked what were the wages they were receiving, the answer was two dollars. Some of the people replied, that they would give him two dollars if he would drop the work. They had some spirits with them, and they offered the masons a dram. The bottle held about half a pint. Shortly after, the masons left the place—Cantara, one of the masons, in coming out of the house, slipped over a stone and fell. There were no threats used by any of the party with the witness; they went in and retired quietly—they had no sticks, as far as he can recollect. The witness, although in the habit of wearing a stick, that night had none. After entering the Widow Paul's house, he saw some person bringing in liquor; the deceased came in and complained of hunger, and wished to have bread and butter. While he was eating, they were told that there were spies about them, and on going to the door, they saw the son and servants of Mr. John Crebassa at the door. They were asked what they wanted, and they replied that they wanted to get some hands to work for Mr. Crebassa. Marcoux said he did not think that it was that which had brought them there. The witness did not again enter the house, and the deceased said he ought not to go home on foot; a *caleche* was ready for him, which he entered, and witness supposes that after that, the party returned to the house from whence they came out. He did not see the scattering of the stones near the house of Dumas, and he does not know why the persons assembled at the Widow Paul's; some of them went before him, and he followed after. There was no conversation about the chimney, while he was in their company. Mr. Marcoux was a warm partisan for Mr. Pickel. He never told Marcoux that he was too warm during the election. He thinks that was the first time that the people assembled at Mrs. Paul's.

Re-examined by the SOLICITOR GENERAL.—He knew Marcoux well, and all he heard of him was that of a man wishing to be servicable, and a humane man.

ANDRE LEVALLEE, called and examined by the Solicitor General.—He was at Sorel on the 5th of November last, when the accident happened to Marcoux. He drove the last witness (Dr. Haller) from the house of Widow Paul, and recollects having brought Marcoux in a *caleche* to his own house. About eight or nine o'clock he tied up his horse at the Widow Paul's, and while tying his horse, he heard the report of a gun, which made his horse start. He then heard a second report of a gun, and on advancing into the street, he saw Mr. Marcoux on the lot of Mr. Dumas, lying down on the ground, and about four or five feet on the lot; ran towards him and found him some few feet from the road, and about twenty or thirty feet from the house of Dumas; he was then on the ground. When he first saw him he was standing up, but he fell again. The witness raised him up, and put him into his *caleche*, and went then for the doctor. He heard no noise nor crying out during the firing. On coming up to Marcoux, he asked him who had committed the assault. He said it was Isaac Jones. He left Marcoux at Alexis Peloquins.

Cross-examined by Mr. DRISCOLL.—He voted for Mr. Pickel, and was employed to carry people to the poll for Mr. Pickel; Marcoux having hired him for that purpose. Marcoux was not much more of a partisan than many others. He heard the report of a gun while he was tying up his horse.

Marcoux never told him that the people had assembled at Mrs. Paul's to interrupt the erection of the chimney of Dumas. He does not know for what they assembled there. She does not keep a public house; her house is in the centre of the village, and is not the last house in the village. He did not perceive any people in the street, but he heard some persons speaking. He remained close to his *caleche*, and saw nothing. He had heard that some carts were coming up. His sight is not weak. He heard some noise, but it was nothing extraordinary. He saw nobody coming out of the Widow Paul's, and he did not go into the house. He cannot say how many were in it, and he saw nobody in the street. No carts had come up when he heard the two shots. At the report of the second gun, he turned round the corner, in the direction from which he heard the report, and found Marcoux standing on the lot. A part of the fence was up, and another part down. Upon coming up to Marcoux, he said that Isaac Jones had shot him. Moyse Duplessis was the only person on the spot, and assisted the witness to put Marcoux into the *caleche*. He saw nothing else, and knows nothing of a cart being upset that night. He did not assist to upset the cart. He did not see the deceased going into the house of Mrs. Paul; and he does not think that Marcoux had any stick with him. Marcoux and Duplessis were the only persons he saw there.

Examined by the Court.—He tied his horse on the street, between the houses of Mrs. Paul and Dumas, and one door faces the other. He thinks that four or five minutes may have elapsed, from the time he left his horse till he saw Marcoux. His horse started at the first report, and while tying him up, he heard the report of the second gun.

ALEXIS PAUL HUB *dit* CURNOVER called and examined by the Solicitor-General.—He lives at Sorel, and was there during the last election. He knows both the prisoners, and recollects the 5th of November. At about half-past four or five, after the poll was closed, he had a conversation with Isaac Jones, who remarked that the witness was making himself busy. Luther Sawtel and William Jones were also present, and told him he was making himself busy. Isaac Jones threatened to break his chops; upon which witness said he was not the man to do it. Jones then replied, if he did not do it in one way, he could well do it in another. Jones then put his hand in his pocket, and witness is positive he saw the butt end of a small pistol. This was the first time that he saw Isaac Jones during the election. The witness replied that he did not care for him.

Cross-examined by Mr. DRISCOLL.—The witness was one of the partizans of Mr. Pickel. Isaac Jones threatened to break his chops, but did not do it. He is positive he saw the butt end of a pistol.

PIERRE LOUIS DELIGALLE, called and examined by the Solicitor-General.—He lives at Sorel, and was there during the election on the 5th of November. He knows the prisoners. He was on Mr. Pickel's side. On the Monday previous to Mr. Marcoux's being wounded, he had a conversation with John Jones. He knows nothing further in relation to the case. No further questions were put to this witness, and he was not cross-examined.

PIERRE CARPENTIER, called and examined by the Solicitor-General.—He is eighteen years of age, and was living at Sorel with Peter M'Nie, last November. Mr. M'Nie keeps a public-house. He remembers the day that Marcoux was wounded. He knows the prisoners. He saw James Jones that day at Mr. M'Nie's, with William Jones. He saw James Jones load a pistol at the counter, but did not see him take it away. The witness went to the house of Dumas, but only with a view to assist the masons. After a cart had been upset, he heard two or three reports of fire arms. He was then on the lot of Dumas, but did not see Marcoux that evening. He heard James Jones cry out "fire, fire;" but cannot say to his recollection, to whom he said those

words. He did not see Isaac Jones fire a pistol; he only saw James Jones fire a pistol in the air. He does not know whether it was the pistol he saw him load or not. He had scarcely time to reach the house of Dumas, when the people ran out of the house of Mrs. Paul's with sticks. The witness says he was tipsy when he went to be examined before the Coroner. A cart had been upset containing materials to build a chimney for Dumas. A party went from Peter M'Nie's to protect the cart, between nine and ten o'clock. Some persons prevented the carters from unloading the stones. There were four carts, and about thirteen people to protect them; they first went to the house of Pierre Triganne, a constable, to get him to come to keep the peace, but he could not go in consequence of some sickness in his family. On arriving in the street, near to the house of Dumas, they were stopped by Alexis Peloquin. They told him they were going to build a chimney. Peloquin said they should not. Peloquin came by himself, and afterwards a number of persons rushed out with poles and rails from Mrs. Paul's. They were double the number of the party he was with. Maxime Aussenet then upset one of the carts, and was assisted by Peloquin and another. That party then commenced striking with sticks the party with which witness was. He saw a *caleche* going towards Mrs. Paul's. The witness then enumerated several names of persons that committed the outrage, by upsetting the cart and beating the party with sticks. They afterwards retreated to the lot of Dumas, and then separated to their own homes. He saw James Jones fire in the air, but he did not say "fire, Isaac, fire." He was close to him, and he could not say the words without his hearing them. He heard the report of several shots, but cannot say who fired them. He heard that Marcoux was killed, but did not see him dead. Peloquin took hold of the witness and desired him to go home, and that if he went back to Peter M'Nie's he would kill him. The witness then said that if he did not go back, he would lose his wages; upon which Peloquin said he would pay him. They then made the witness tipsy, drew out a deposition and made him swear to it. Alexis Peloquin dictated the matter to him. He was afterwards brought before the Coroner; and during the time between his taking his deposition before the Magistrate and the Coroner, he was threatened, that if he did not confirm his first statement, they would send him to jail. He drank several glasses with a clerk of Charles Gouin, who was a warm partisan of Mr. Pickel, on the day of the inquest, and it was through fear that witness made those depositions. At the time of the attack there was a great noise, and the witness ran upon the lot of Dumas, being afraid of being killed. It was then very dark, being between nine and ten o'clock on the 5th of November. He is positive that the attacking party were armed with sticks and fence rails. The noise might have been heard at a good distance. He thinks he was in danger of his life. After having given his deposition before the Magistrate, Alexis Peloquin, Duplessis, and others, threatened to kill the witness, if he went into the village of Sorel, except to church. They continued to supply him with drink; and till the inquest was held, he was in a constant state of alarm. He was really afraid of them, when under examination before the Magistrate and the Coroner. The inquest was held at Charles Gouin's house, and the persons he had named supplied the witness with liquor all the time. He was on the lot when James Jones was running away.

The SOLICITOR GENERAL here moved that the deposition of Carpentier, which had been taken before the Coroner on the Inquest, should be read to the Jury.

The CHIEF JUSTICE—Let the deposition be read.

Mr. HART—On the part of the prisoners, may it please the Court, I object to the application of the Solicitor General being granted, and will proceed to shew to the Court, that such an application is opposed to every principle in the law of evidence.

The CHIEF JUSTICE—Not at all, Mr. Hart, the Court have already decided that question; and there is no necessity of hearing another argument upon it.

Mr. HART—May it please your Honor, the question has been, it is very true, decided already by the Court—but in a case like the present, where the lives of two innocent men are in jeopardy, I feel urged to bring the point again before the Court, and I must respectfully insist that this Court has no right to establish a precedent, which is in contradiction to the established principles of the Criminal Law, and that your Honors are bound to abide by the Criminal Law of England, as it stood when introduced into this Province, or as since altered or qualified by Provincial enactment.

Let us regard the Reports of Criminal Cases, and ascertain what the writers on Criminal Law have stated, and we will find that the question was only once raised and revised by the Judges of England; and that on that occasion a different point was agitated—It was in the case of the King against Benjamin Oldroyd, reported by Russel and Ryan, and revised on the 11th and 18th May, 1805; There the matter mooted was this:—“Where a presiding Judge on a trial finding the name of a witness on the back of the indictment, who has not been examined by the Crown officer, directs the witness to be called up, and on the witness being examined, the testimony given by the witness proves to be a direct contradiction of a former deposition given by that witness, whether that Judge had a right to call for the first deposition and have it read, in order to discredit that witness?” On the revival of Oldroyd's case by the twelve Judges of England, they were unanimously of opinion that Baron Graham, (the Judge on Oldroyd's trial,) had acted correctly in calling for the deposition; and it is added by the reporter, that two of the Judges (Lords Ellenborough and Mansfield) thought that a prosecutor had the same right. But the Court on referring to the report of the case, will find that the attention and consideration of the Judges on the revival of the case, was confined solely to the question of the Judge having a right to call for the deposition of a witness whom he had forced the prosecutor to call; and the word “Judge,” in the report, is printed in capitals. Again, had the majority of the Court been of the same opinion with Lords Ellenborough and Mansfield, the decision would have been reported, and we are therefore to consider their opinion as merely that of a very small minority of the Judges, namely, two out of twelve, and ought in no way to decide or influence the judgment of this Honorable Court.

If then we have no positive authority, warranting your Honors in granting the application of my learned friend, the Solicitor General, let us see whether the weight of legal authority stands positively and directly opposed to it. I humbly contend that it does, and I will refer the Court firstly to the opinion of a Judge whose remarks are ever regarded with admiration; I allude to Mr. Justice Buller, and beg leave to cite his law of Nisi Prius, p. 296, (a) and your Honors will find that he lays down the general principle that a man should never be allowed to discredit his own witness, or making use of his evidence, if it answer his purposes, and setting it aside if it should not serve his interests. (Here Mr. Hart read the authority.) We have next the case in point of Warren Hastings before the House of Lords, where it was decided that a man shall not discredit his own witness, but shall merely be allowed to contradict the facts which that witness has proved. I beg leave to cite from 1st Phillips on Evidence, p. 309.

The question has only been agitated three times before the Court; twice I had the honor of opposing the application of the Crown Officer. The third case was that of the witness M'Nesce, a few days since. In the case of the King vs. Simon d'Helle and others, in the last Term, I succeeded in having the application of the Attorney General rejected, and in the first case wherein the question was for the first time mooted before the Court, I opposed the Attorney General Stuart's application, which was ultimately granted; it was in the case of Alexis Boyer, for murder—but that, your Honor the Chief Justice observed, was a case *sui generis*; and I certainly have ever considered that the decision of the Court was correct in that case, for there it was the mother of the accused, who had been in the house alone with the prisoner and his wife, when the murder was committed, and might have been suspected of be-

ing an accomplice—there too the deposition had been taken in the presence of the prisoner.

In this case there is a strongly marked distinction, the deposition was taken before the Coroner at the inquest; and the prisoners had no representative there—had no opportunity of eliciting from the witness those facts which have today been drawn from him—were not able to observe his situation, and prevent his examination. Again, the witness himself states, that he was forced to give the deposition which he did at the inquest by the menaces of others.

I allow that the search after truth, may it please your Honours, is the pre-eminent object in every trial; but, at the same time, there is another object which we must also recollect, and that is—the attainment of justice. This is the object to be desired by the innocent accused. The Crown Officer, in the performance of his duty, requires no more; and that is the landmark which your Honours have ever kept in view, and, I trust, will now keep in sight, and I respectfully urge that justice will not be administered, if the Prisoners, by Carpentier's being discredited, by his former deposition being read, should lose the benefit of the testimony which he has this day given, merely because he was, on a former occasion, suborned and excited to give a deposition which must be seen to be false. Under these circumstances, I again lay the case before the Court, and I sincerely hope that the consideration of your Honours may be unfavourable to the present application.

The SOLICITOR-GENERAL—I do not see that I can add any thing to the arguments which I had the honour of laying before the Court, with regard to the witness M'Neece. But your Honours must observe, that there would be no safety in following the depositions, which are all upon which the Prosecutor can depend, if this course be not allowed.

The CHIEF JUSTICE REID—The principle of allowing the Prosecutor to discredit his witness, by having a former deposition read, when the evidence given on the trial is contradictory of the previous deposition, we are still inclined to maintain; but there is, as has been observed, rather a difference between this case and the other cited,—here the witness has sworn that when he gave his evidence before the Coroner he was intoxicated, and that he had been menaced and threatened by persons whom he has named. The Court is, therefore, of opinion, to reserve pronouncing their judgment on the application until a future stage of the trial, leaving to the Counsel for the prisoners to support the assertions of Carpentier. Let the witnesses be examined, however, in the meantime.

FRANCIS HUGHES, called and examined by the Solicitor General.—The witness is a teacher at Sorol, and was there in November last. He knew the deceased, Marcoux. He was not on the ground where the accident occurred, but happened to be about two lots distant at the time. About nine o'clock that night, he was coming towards the spot, and heard the noise of a cart, he then heard that cart unloaded, and then a shot. He then heard a person say, in English, "don't fire, Isaac, you will be sorry for it." He also heard a person say "fire, fire," followed by a second shot. A person then came running down, exclaiming that Marcoux had been shot. He went home, and on going out again, he met some of Mr. Pickel's party, who told him that no harm was done, as the gun was loaded only with shot. The witness then went to Alexis Pelouquin's, where he found Marcoux lying on the sofa. He told the witness that Isaac Jones had shot him. Pierre Carpentier was examined at the Coroner's inquest, in the presence of witness; he appeared sober, and gave his testimony with correctness.

Cross-examined by Mr. ANNOUR.—He heard a cart coming towards where he was, and heard the sound of stones unloading from a cart. He heard some persons talking, and he was then about 60 feet distant from the people speaking. He cannot say whether the people were quarrelling. Carpentier, when examined, appeared to him to be sober, and he acted like a sober per-

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son. The boy was cross-examined at the inquest by Mr. Stanley and Mr. Hart, who attended there. He thinks Mr. Stanley was there the first day.— He cannot now say whether Mr. Stanley examined Carpentier or not.— He cannot say that he hesitated in the evidence. The witness did not vote at the election for either candidate. He attended to his business, and did not interfere in the election. If he had given a vote, it would have probably been in favor of Mr. Jones. He did not recollect whether he did or did not speak in favor of Mr. Pickel.

CHARLES PAGE having been called by the Solicitor General, and it appearing that the witness had been in Court during some part of the trial—

CHARLES L. ARMSTRONG was sworn, and examined by Mr. Driscoll. He saw the witness, Charles Page, walking from the door, as if he had been within the Court room. This was about half an hour ago. James C. Grant, Esq. also saw Page; it appeared to the witness that Page was listening.— The Court overruled the objection to this witness, and ordered his testimony to be taken.

Examined by the SOLICITOR GENERAL.—The witness lives at Serele, which there in November last, and recollects the events of the 5th November which relate to Marcoux's death. He was near the house of Dumas between nine and ten o'clock that night. He went out of the house of Mrs. Paul, and saw some carts coming up. He saw some persons lay hold of a cart and upset it, and he then heard James Jones cry out "fire, Isaac." He then heard a shot, and heard Louis Marcoux cry out "I am a dead man." The witness advanced, but did not see any person. Before he heard James Jones cry out "fire," he heard the report of a gun, but heard no body say "do not fire."— He does not understand English, but knows that the words he heard were "fire, Isaac." He did not see the deceased until he saw him at Pelouquin's. He knows that the voice calling out "I am a dead man," was that of Marcoux.

Cross-examined by Mr. Boston.—He was at the Widow Paul's before the accident occurred. Curiosity brought him there, as it was rather an uncommon thing to build chimneys at night, and merely to see if they could build a chimney by night. He was not there when they were working, the masons were then gone. He did not see the materials scattered about. He then left that place and went to Pelouquin's, to see if Marcoux was wounded. It was between seven and eight that he went to Mrs. Paul's first. There was no conversation there as to what were the intentions of those there assembled. He saw Marcoux in the house, along with several other persons, who were drinking and singing songs; Marcoux himself said nothing. He cannot say how or when Marcoux came there; he took a glass and went out of the door alone. He did not see Marcoux afterwards, until he saw him wounded. The witness was in the street. The people along with the witness had no sticks with them. The witness was one of the *Patriot party*, and the other party were *Bureaucrats*. He walks out at what hour he likes. He had no part to take—his party took one direction and he another, after the shot was fired, for they all dispersed. He saw a cart with stones upset, but does not know by whom it was done; the only voice he heard was when James Jones cried out "fire." It was not very dark, but he could not see all that was occurring. He has related all he did see. He does not know who upset the cart and cannot say whether it was done against the will of the carter or not. The cart had not reached the house of Dumas, to which he believed the cart, was going. He saw Dumas there, and saw him pass over the fence of his lot. He saw Maxime Aussenet there, and heard Dumas cry out that Aussenet had struck him. Dumas was then crossing the fence to go upon his own lot, but he cannot say if there was any person near him. He however saw several persons in the neighbourhood. He never was at enmity with the prisoners.

He made no declaration respecting them. He never said that if Isaac Jones was not hangod, he would himself kill people, at least not to his recollection. He was near enough to hear Marcoux call out that he was a dead man, and supposes that Marcoux to be then on Dumas's lot. He does not know what brought Marcoux on the lot. If Marcoux was going home, he had no business going on that lot. He does not know how many persons went into the house of Dumas, after the shot was fired. It was not to examine the obimney that they went in, but to see who it was that had wounded Marcoux. The witness went in first, the door being open. He took a stick which was near the door, with which he pushed the door back; he could have done so with his hand. He did not enter the house with the stick in his hand. He went in and found Dumas there. He laid his hand on the shoulder of Dumas, and said "Come along with me, do not be alarmed." It was not an inhabited house. Dumas came out with him, and he left him at the door. He saw a person strike Dumas; it was Pierre Touin, who had no stick. He saw him struck; thinks that Edward Dennis was there.

Re-examined by the SOLICITOR-GENERAL.—He knows Pierre Carpentier, and saw him examined before the Coroner, before whom the witness was also examined. As far as the witness knows, Carpentier did not appear drunk, but gave his answers correctly.

ALEXIS PELOQUIN, called and examined by the Solicitor-General.—He collects well the month of November last. It was to his house that Marcoux was brought after he had been wounded, at about nine o'clock in the evening. Some persons came into Mrs. Paul's, saying there was a riot in the street. The people there assembled then went into the street, where they found the Jones party. He met Dumas, who put himself into an attitude of defence, and then went upon his lot. He saw James Jones pass by with a pistol, going towards Dumas' house. William was with James Jones. They all went to the house of Dumas. He heard one shot, and after that heard James Jones exclaim, "fire, Isaac, fire." He heard the report behind him, and then some one cried out, that Marcoux was wounded. Peter M'Nie struck the witness on the head immediately after Isaac Jones had fired. He heard the report of the pistol of James Jones. Two shots were fired in his hearing after the words "fire, Isaac," were pronounced. He did not see Marcoux again until he saw him at his house, when Marcoux took the witness by the hand, and said he was a dead man, and that Isaac Jones had killed him. He saw Pierre Carpentier at the Coroner's inquest; he gave his answers there in a sober state. He did not see him taking any drink, nor go out of the room.

Cross-examined by Mr. DRISCOLL.—No violence was offered to Dumas to his knowledge. Dumas retreated to his lot, and put himself in a defensive position. He saw James Jones fire a pistol, and two or three persons might have been opposite to James Jones when he fired the pistol. Peter M'Nie and William Jones were then near him; there being only a small distance between them. He does not know with what the fire-arms were loaded. They were levelled, and not raised in the air. The witness was not wounded by James Jones, nor any other person wounded. He did not see any person coming out of the Widow Paul's. He only saw three persons, and he saw William Jones, Peter M'Nie, and several others of their party. Mr. Pickel's party did not assemble, to his knowledge, to interrupt the building of the chimney. There were two masons there with a lantern. His party went to the house of Dumas from curiosity. They went to assist in the building of the chimney, although they belonged to Mr. Pickel's party. Some of Pickel's party brought in stones for the building. They had some rum with them, but they did not intend to give it to the workmen, as they had another object for it. The witness is a patriot. Before James Jones fired the pistol, there was no noise or tumult. He cannot say who unloaded or conducted the cart. He cannot say which party upset the cart. The witness told James and Wil-

William Jones that they had no occasion to make use of fire-arms. His back was then to the cart. Other shots were fired in the streets, but no other person was wounded. After they had fired, William and James Jones and Peter M'Nie ran away. The witness pursued Peter M'Nie, who turned round, and struck witness on the arm with a piece of iron. He says he did not strike Peter Baley, nor any other person. He did not see Marcoux on the lot of Dumas. The witness went to Dumas' house after the firing, having heard it said that a man was there with a gun. Page asked Dumas if he had any fire-arms; he replied, that he had not, and that he might search him. A search was made, and none were found.

It being now six o'clock, the Court ordered the Jury to be taken in charge by the Deputy-Sheriff, and under the care of constables were conducted for the evening to Swords' Hotel.

The Court adjourned till nine o'clock the next morning.

THURSDAY, March 5, 1835.

At nine o'clock, the same Judges as were yesterday engaged in the trial took their seats on the Bench.

The Jury having been brought up by the Deputy-Sheriff, and the prisoners put to the bar, the case for the Crown was continued.

PAUL PELOQUIN, called and examined by the Solicitor-General.—He lives at Sorel, and was there in November last, when the accident happened to Marcoux. He knows the house of Dumas, and that of Mrs. Paul. At about nine o'clock of the evening of the 5th November, he went out of the house of Mrs. Paul with a number of other persons, and he saw a gang of people facing them, who began to discharge fire-arms, after which he heard James Jones say to his brother, "fire, Isaac, fire" He could not then see James Jones, but he knew his voice well. He has always been on good terms with James Jones. After having heard the words "fire, Isaac," he heard the report of some fire-arms discharged. He does not know that any body was wounded by the discharge of this shot. About a quarter of an hour after that shot, he saw Marcoux at his brother's, Alexis Pelouquin, who is an innkeeper. This was the first time he saw Marcoux after the shot; Marcoux then exhibited to the witness his wound; it was under the navel; and he told him that it was Isaac Jones who had shot him. Subsequently a warrant was issued for the arrest of Isaac Jones, and all his party. Isaac Jones was brought to the house where Marcoux was lying on a sofa. Marcoux said to Jones "go away, you have given me my death blow; you are the author of my death." Marcoux was aware of his dangerous state. After the report of the shot, he heard no cries. Prior to the discharge of the fire-arms, his brother, Alexis Pelouquin, cried to them, "don't fire, we can speak to one another without firing." He did not see either of the prisoners at this time. He had not seen them at the poll in the course of that day, not having been there himself. He knows Pierre Carpentier, and saw him during the election near to the house of Widow Paul Hus. This was on the 5th November. He saw him there after the wound was given, but had no conversation with him. He never told him what evidence he should give; never held out any threats to him; nor said he would poison him. He never gave him any liquor to induce him to give evidence.

Cross-examined by Mr. Boston.—The witness was apprehended as well as his brother, Alexis, and now is under bail. He was at the Widow Paul's that evening between six and seven, and was amongst the first there. There were seven or eight people there; he had left his own house, and stopped at his brother's, but had no conversation with the persons then present. He went to Mrs. Paul's, because the widow was his cousin, and also to see the chimney that was building. There was a conversation about the chimney at his brother's, but he left the house, and went to his cousin's. He first went to see Dumas' house. A number went in, perhaps some seven or eight. He

saw the masons working, and the masons asked his party for stones. They went into the house to render the masons whatever service they could. He saw no shavings there. He thinks they all left the house together. The men were singing songs. He is positive that he brought in no shavings, and he left the masons working. The witness heard no person seducing the masons away from their work, but he saw some person treating them to drink, but it was not the witness, and he cannot say who it was. Francois Cantara was one of the masons working. He knows nothing of the stones being scattered about. The witness subsequently went into Widow Paul's, where each took a glass, and after that, he came out. He was about two hours in that house, and he cannot say if all that were within came out together. The witness was not the first to come out; he only went out to see the people who were coming in another direction. Some person had mentioned, that a gang was coming up, but he cannot say that Marcoux was the person who said it. The witness went out, but not to insult them. None of his party had any thing in their hands, neither sticks nor rails. He heard shots, and then went away to his brother's, but did not run, although he felt alarmed. He saw nothing of a cart, nor of a carter seated on a load of stones. He does not know that his party upset the cart. He was not in liquor. The witness declares he heard no noise nor tumult before he heard the report of the gun. He was then opposite the widow's house. The report came from his right, and he afterwards heard three or four reports. He thinks the third report came from the other side of the street. When he heard the word "fire" he cannot exactly say where was the person who fired. The man who cried "fire" was near Dumas' house. He did not lay hold of any person who ran past him, but he followed a person to know who he was; he chased him, but still was afraid of him. He only wished to recognize who fired, and he does not know why the man ran. The witness says he struck no person. He knows Peter M'Nie, but did not fall in with him that night, and is positive he struck no person, as he had nothing in his hand. His brother Alexis had nothing in his hand, and he was struck in the arm, but he was not all the time in company with his brother. The witness again repeats, that he heard no tumult. He is not a companion of the prisoners. The witness lives about three quarters of a mile from Sorel. He knows James Jones; has often spoken to him, and would know him by his voice. He did not see him, but he recognised his voice. He distinctly heard the words, "fire, Isaac." Dumas had the witness apprehended because he was on the side of the *Patriots*. Mr. Pickel was the candidate of the Canadian party, but the witness had no vote to give. If he had, he would have given it to the *Patriots*, but took no part in the election. He drank occasionally, but paid for it himself.

Examined by the Court.—He cannot say who the person was that he pursued.

MOYSE DUPLESSIS was again called up to be re-examined by the Solicitor-General.—(Mr. Hart opposed the examination of the witness, on the grounds that he had been present in Court during the evidence of Pierre Carpentier, in relation to which, he understood the Solicitor-General was desirous of examining the present witness. The Court allowed the witness to be heard.)—He knows Pierre Carpentier; and he heard all the witnesses examined before the Coroner. The inquest was held at the tavern of Charles Gouin, and it lasted more than one day. There were heard about twelve or thirteen witnesses. He heard Carpentier give his testimony there; he has known him for ten or twelve months, and has seen him often. He had no conversation with him before the inquest, on the subject of Marcoux's death; he never offered him anything to bribe him to give particular evidence. Before witness came to Montreal, Carpentier came into the inn, and witness asked him if any person had offered him money to quit the country; he replied, "yes," but said "let me get the money, and I will laugh at them all." Dr. Haller and some others were then present. Carpentier appeared quite sober during his

evidence, and gave it as others did. Both Mr. Hart and Mr. Stanley were present when he was examined.

Cross-examined by Mr. HART.—He was present and was examined at the Coroner's inquest, but was not cross-examined. This was on the last day. It was Mr. Hart that cross-examined Carpentier. He thinks the Coroner would not have taken the deposition of a drunken person. It is not to his knowledge that complaints were made that the Jurors and witnesses were drinking at the bar. He himself took a glass with Mr. Stanley, and might have drunk with some other gentlemen. He was in Court during part of the time that Carpentier gave his evidence on this trial. He was present when Carpentier accused the witness of making him offers of money. It is not to his knowledge that Carpentier was forbidden to return to the service of M'Nie. He never told the Solicitor-General to be cautious of Carpentier; he gave no further information to the Crown Officer, except a list of the names. Carpentier was not on that list. He has spoken to several of the advocates employed by the relatives of the deceased. He does not think it necessary to say to whom he has spoken. He does not know that he told any other advocates that Carpentier was not to be depended on. He has seen Carpentier several times pass by; has seen him since in Montreal.

PIERRE CARDIN, called up and examined by the Solicitor-General.—He knows Pierre Carpentier, who was in the employment of Peter M'Nie. He remembers a Coroner's inquest on Marcoux's body, at the house of Charles Gouin, but was not present when Carpentier made his deposition; he had no conversation with Carpentier previously to his giving his deposition.

Dr. EDWARD W. CARTER, called and examined by the Solicitor-General.—The witness is a Justice of Peace for the District of Montreal, and resides at Sorel. He was there when Louis Marcoux was killed. He took the deposition of Louis Marcoux. The deposition exhibited to him by the Solicitor-General is the same. It is dated on the 5th of November, and was taken at Alexis Pelouquin's tavern, where Marcoux then was.

The SOLICITOR GENERAL—I move that the deposition of Marcoux be read to the Jury.

Mr. HART—I object to the application, the paper purports to be the deposition of the deceased, Louis Marcoux, and is offered as his dying declaration. Now may it please the Court, I refer your Honors to the evidence of Dr. Haller, who swears that he was the medical attendant of Marcoux, and that Marcoux had confidence in him; he also stated that he had given Marcoux hopes of life.

The CHIEF JUSTICE—Yes, but he stated that Marcoux did not appear to be influenced by his encouragement.

Mr. HART—That, may it please your Honors, I contend, is immaterial, and I will refer the Court to positive authority on this point.

The SOLICITOR GENERAL—The learned Gentleman, may it please your Honors, does not know in what shape the paper is offered. I beg to offer it, and ask that it may be read as the deposition of the Crown witness, who is now dead.

Mr. HART—In that case, I again oppose the application, but must beg to ask the witness, before stating the objection:—Were the prisoners present when the deposition was taken?

Dr. CARTER—They were not.

Mr. HART—I now object to the paper being read to the Jury, as it was not taken in the manner prescribed by the Statute of Philip and Mary.

The SOLICITOR GENERAL—As the objection of my learned friend appears to be well grounded, I beg to offer the paper, as the declaration of the deceased, taken in *extremis*.

Mr. HART—The application of the learned Solicitor General, I contend,

may it please your Honors, cannot be granted. Deacon, in his Digest of the Criminal Law, (serbo Evidence, § Dying Declarations,) states that where the surgeon shall give the deceased hopes of life, the declaration shall not be taken as evidence. I also refer the Court to Wellbourne's case; 1 East, P. C. 358, and to Christie's case, in Carrington. C. L. 202. Now, may it please your Honors, it is necessary that the persons who give the declaration should be impressed with a religious belief of his approaching dissolution; and it is a question for the Court to decide whether or not the declaration should go to the Jury. In this case we must connect the testimony of Dr. Haller with that of Dr. Nelson, and certainly I conceive, that the man who makes use of the coarse vindictive expressions which Dr. Nelson has stated were uttered by Marcoux, could never have been impressed with a religious belief of his approaching and inevitable dissolution.

The SOLICITOR GENERAL—If the learned Counsel would not consider it an interruption, I would beg of the Court to allow me to ask of the witness—the state of mind.

Mr. HART—This is extremely irregular—may it please the Court, the Solicitor General might have proved that before he offered the paper, and I contend that it is not now competent for him to ask the witness any question, because the fate of that paper be decided.

The CHIEF JUSTICE—The course should have been to have first asked of the witness the state of mind of Marcoux, when he gave the deposition. Reserve the objection, and let the Jury hear what the witness says on this point.

Dr. CARTER—He gave Marcoux hopes of life; does not know what effect the encouragement had upon him; cannot say what was his state of mind when he made the deposition; both Dr. Haller and witness told him that the wound was not necessarily mortal.

The SOLICITOR GENERAL here stated that he would not press the reception of the deposition.

The witness then continued. He was not employed as a medical man on the occasion of his visit; he went as a magistrate, but examined nevertheless the wound, and did not consider it immediately mortal. Marcoux himself appeared very apprehensive of dying, but was encouraged with hopes by the witness, and he did not appear apprehensive of any immediate danger. He knows Pierre Carpentier, who took a deposition before him. He appeared perfectly sober. This took place on the same night that he took Marcoux's deposition. The boy was brought before him by several persons. He never would have taken his deposition if he believed the boy to have been intoxicated. The deposition was written out, and the boy gave the facts in a collected manner. It was then late at night, in a crowded room.

Cross-examined by Mr. Amour.—The boy Carpentier was brought before the witness by several of the parties. He remembers Alexis Peloquin, Moys Duplessis, and Martin Paulet, being there at the time. He does not know of any person but I. M. Viger, Esquire, interfering. Dr. O'Callaghan wrote out some of the depositions, and thinks he drew out Carpentier's deposition. Several persons were round the boy when he swore to his deposition; it was a tavern, but he saw no drinking; the people kept going in and out. Carpentier came from the bar, where he might have taken liquor without the witness perceiving it. The deposition was certainly read over to the boy, who acceded to it. The witness thinks he read a part of the deposition to Carpentier, and that some other person read the remainder.

Mr. AMOUR applied to the Court for the deposition of Carpentier, to enable the witness to be satisfied whether it was taken in his own hand writing, and whether he had read the whole or part of it to the boy. The deposition was then produced.

The witness continued.—The deposition is altogether written in the hand

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writing of witness. He thinks the boy was sober when he made it. Nobody stated to him that Carpenter could prove such and such facts, before the deposition was written out.

MAXIME AUSSANT, called and examined by the Solicitor-General.—He is a farmer, living with his father when he is not otherwise engaged; and is twenty-three years of age. He was at the Widow Paul's the evening that Marcoux was killed. He saw a horse at the house, which was not tied up. He saw Marcoux coming into the house, and spoke to him; but did not speak to him outside of the house. He saw Marcoux at the house for about half an hour, and had seen him come out of the *caleche*. He heard no report of any fire arms, until after Marcoux went towards the house of Dumas. He remained in the same spot near the house of Dumas, and did not follow after Marcoux. He thinks he was then ten or twelve feet from Dumas' house. Heard the report, and heard some one speak. He received a blow on the shoulder and arm from James Jones, but does not know whether it was with a stick or not. He said to James Jones, "it was you, James, who did it." After being struck, he heard James Jones cry out "fire, Isaac;" and immediately James Jones fired a pistol at the witness, which missed him. He heard the report of a gun behind him, before the pistol was fired. He then heard two more reports, one of which was discharged in the air. He did not go to see if Marcoux was hurt; but was told he was mortally wounded. He saw Marcoux lying on the sofa, who took him by the hand, and said that Isaac Jones had done for him. He remained with him for three hours, as Marcoux always considered witness as one of his friends. While speaking, Marcoux's wife came to his side; upon which Marcoux said, "my dear wife, had I taken your advice, this would not have happened." She replied that she was not reproaching him. To pacify her, Marcoux then said he would get over it. When he shook hands with Marcoux, it was before his wife came in. He does not know whether Marcoux had any family.

Cross-examined by Mr. DAINCOILL.—He had heard that they were going to build a chimney to the house of Dumas; saw the men there, but they were then not at work. He went into Dumas's house, where he saw two masons. He did not see Louis Allard; he thinks there were several in the house at the time he was there; he is sure that Aloix Pelouquin and Alexis Paul Huc, with others, were there. When he came to the house all was finished; there were no materials, and he does not know why they did not work, for he heard them give no reasons. He heard some one say "Come along with us, and you will be well," and that they had got drink, but he did not see it. No menaces or threats were made to his knowledge, and there was nothing to alarm them. He saw none of the people assisting in the building, but some stones had been laid. He was at the Widow Paul's at nine o'clock, where there were some young girls. The company consisted mostly of young persons; it is not a public house, but he heard nothing said there of their waiting there for the arrival of the other party. He heard some person say that they were gone to get some more stones, and that they would go and lend them a hand. He cannot say whether this was said in good faith or not. Marcoux came in about nine o'clock. He does not know what brought him. He saw a married man, there, but saw him there two or three times. He saw him get out of a *caleche*, and that he left his cloak in the *caleche*; he then had a cane in his hand, about as thick as his thumb. He seldom went out without a cane, but it was not a stick. He did not see him with the cane while he was in the *caleche*, but saw it when he was in the house. The witness was about ten or twelve feet from the house when the other party came up; he did not hear any one say "now, boys, come out." Some person laid hold of Dumas, but he does not know who it was. He heard that a cart had been upset. The witness would not say at first whether he had upset the cart, but finally acknowledged that he did so. He said, that having been fired at, he immediately upset the cart. He had his hand on the cart when he was fired at. It was

not his cart. He put his hand on the wheels without any intention of injuring the cart. He was the only person near the cart, but others were in his rear. All these persons were out in the street, when he laid his hand on the cart. He received a blow, and in falling, pulled the cart down with him.—The witness does not know why the opposite party stopped before they reached the house of Dumas. The first account he heard of any violence having been committed, was from Dumas, who called out that he was struck by the witness. On hearing this, he ran up and told Dumas he had not struck him, and he positively did not strike Dumas. It was subsequent to this, that some one cried out that there was an armed person in the house, and which first caused any disturbance, in consequence of the search that was made. The opposite party ran up like a band of assassins, crying out "fire, fire," "kill." He had previously asked for a knife, to cut tobacco, and had borrowed one from Widow Paul. His party had neither stick nor rail.—No violence was offered by his party within his view, and he heard four shots from the other; he was told that five were shot, but he heard only three that were fired near him, and the one which passed between his legs. If he had had a stick in his hand when he was struck, he would have defended himself. James Jones struck him while his hand was on the cart, and he saw no carter at the time.

Re-examined by the SOLICITOR GENERAL.—He did not see James Jones, when he went across the street to tell Dumas that it was not the witness that had struck him. If he had not received the blow, he would not have upset the cart. He thinks that there was another who assisted him in so doing.

XAVIER PAUL HUS dit COURNOYER, called and examined by the Solicitor General.—He was living at Sorel in November last, and occupied a house there. He saw Marcoux after the accident. On the evening of the accident he was not at Widow Paul's, but was at Grenier's, which is next door. Between eight and nine, he saw a number of persons in the street, and heard some noise and several shots. Immediately afterwards he heard that Marcoux was shot, and went to Alexis Peloquin's to ascertain the fact. There he saw Marcoux, who said it was all over with him, and that Isaac Jones had fired at him. Next morning he saw Marcoux, who then said he had no hope of his life. Marcoux always passed for an honest man; he was hasty, but he was a humane man, and is much regretted in the borough.

Cross-examined by Mr. BOSTON.—In the tumult which occurred, he took no part, and when he ran out and found sticks and stones flying, he went away. He did not see Peter Baley that night, but heard the next day that Baley had received some blows; he did not strike nor see Baley. The people had no arms nor stones, and he saw nothing in their hands. Several persons were at Grenier's house; they had heard that a chimney was to be built that night, and went from mere curiosity. The witness believes himself to be what is called a *Patriot*.

FRANCOIS RONDEAU, called and examined by the Solicitor General.—He was at Widow Paul's on the evening of the 5th November, about nine o'clock. Marcoux and André Lavallée he knew, but he did not see Marcoux at that time. Shortly after he saw Lavallée with his *caleche*, and then heard the report of a gun, as if coming from the corner of the house on the street. There was no noise before this report, and after the report, he heard the words "fire, fire," and then the report of a gun; he was then in the street, about thirty feet from Dumas' house. He does not know whose voice it was that cried "fire, fire," as there was so much noise. Maxime Aussen, whom he knows, went out with him. Aussen was sitting on the cart, when the cart and driver were upset together. He saw Marcoux afterwards at Peloquin's.

Cross-examined by Mr. BOSTON.—The reason why he was out that night

was because he was in the habit of spending his evenings at Widow Paul's, and went there with no design. Others were there before him, and he had no invitation to go there. They had no particular conversation, but amused themselves in singing. Marcoux came in and sat down, and afterwards all went out together. It was before the report of the gun that they went out.

PIERRE ST. MARTIN, called and examined by the Solicitor General.—He lives near Sorel, and was there the last day of the election, having arrived in the village between seven and eight o'clock. Both the prisoners he knows; he went to the shop of James Jones that day, but not on business. They spoke concerning the election, when Jones told the witness not to go to the poll, as possibly some disturbances would ensue. The witness then went home, and did not again return that day.

Cross-examined by Mr. Boston.—He has no knowledge of any thing that took place at the poll, nor of the death of Marcoux.

MARTEL PAUL HUS dit COURNOVER, commonly designated **MARTEL PAULET**, called and examined by the Solicitor General.—He lives at Sorel, and lived there on the 5th November last. With Marcoux he was intimate. He was not at Widow Paul's nor at Dumas' house the night when the shot was fired, but he went to Pelouquin's, where his party were usually in the habit of resorting, and shortly after left that place with Mr. Pickel to look for some votes. When they arrived at Charles Gouin's, they found several people there at supper, and while there, Levallée came up and announced the fact that Marcoux was shot. They then left Gouin's, and went to Pelouquin's; when arrived there, Marcoux was lying on the sofa, and Dr. Haller with him. Marcoux said "I am mortally wounded," and being asked who had shot him, he replied, "Isaac Jones." The witness was then asked to go for a Magistrate, but he declined, saying he did not know where to find one. Marcoux related to the witness that he met Isaac Jones face to face, and that Jones had his gun pointed to his breast, that he, (Marcoux) said "what are you about," that a voice then cried out, "fire, Isaac," and that Jones then fired and disappeared. He has known Marcoux for the last eight years; he was of a good character; a courageous man, who would always defend his own rights; he was a well disposed and humane man, and his death is much regretted in Sorel.

Cross-examined by Mr. Hart.—Marcoux distinctly stated that Jones and he had met together, and in meeting, Jones presented his gun to his stomach. Marcoux said he asked Jones what he was going to do, and that he (Marcoux) then heard a voice crying "fire, Isaac, fire." He further stated, that with the cane he had in his hand, he touched the gun, saying, "what are you about." The witness admits he did not state any thing concerning the cane in his examination in chief. He also admits having had a dispute with the prisoners. He never said on board of a steamboat, that he would hang the prisoners, but he might have said that if they had killed Marcoux, they deserved to die. He did not interfere more with the inquest, than any other honest man would do. During the inquest, Mr. Hart made several complaints against him, as well as against many others. In the room he spoke to some of the witnesses, but he did not call any of the Jury out of the room to tamper with them. He knows a man named Berard, but had no conversation with him with regard to the trial of the prisoners.

PIERRE TRIGANNE, called and examined by the Solicitor General.—The witness is a bailiff and tavern-keeper at Sorel, and remembers the 5th November, when Marcoux was wounded, for he went to see him that evening at Pelouquin's. He does not think he saw Isaac Jones, but he saw James that day, at the house of William Jones, when he was alone. Some people came

that evening to his house; he does not think James Jones was with them. Among them was Peter Baley, apparently in liquor. They asked for pistols.

Cross-examined by Mr. Boston.—The witness is a Bailiff of the Court of King's Bench. Peter M'Nie and Baley opened the door of his house, and they asked him to accompany them, but he declined going, as one of his children was unwell. He understood that a cart had been upset, and the object of getting the witness to go, was, he thought, to have him to assist in the building of the chimney. M'Nie said that no pistols were wanted, when the subject was alluded to. Luther Sawtel was one of the party.

HECTOR MARTIN, called and examined by the Solicitor General.—The witness lives in Sorel, and was not at Widow Paul's, but at his own house on the evening of the accident. He knows of nothing that occurred at Dumas' house. Between six and seven that evening, several persons were assembled at Alexis Peloquin's, and some one said, "you are all quiet here, while others are working at night," and then said that a chimney was building at Dumas'. The witness, with six or seven others, went out to assist the masons. They asked for some stones, and one of his party brought in a stone, and they then asked for mortar. A woman came in at the moment with chips. His party only went to amuse themselves; they sat down on a board, and asked the masons how much they were to get for the work; one of them answered that it was ten shillings for the night. The work was not going on; the masons did not appear offended, for they took it in joke; they then went into Widow Paul's, and the witness returned to his own house. All that he can recollect was, subsequently hearing a noise, and the report of some fire arms. Having heard the noise, he returned to Peloquin's, where he met Dr. Haller, whom he asked what was the matter, and received an explanation. He asked the deceased who had done that to him, and Marcoux replied that Isaac Jones was the cause of his death. He then entered into no further details. He saw Marcoux afterwards, but never conversed with him about the wound.

Cross-examined by Mr. DRAISCOLL.—The number of persons within the house he cannot state, and he was not told how many masons there were.—It was originally agreed, that they should go and assist the masons, and the latter did not appear to be offended at their offer. The masons appeared to leave the work from the want of materials. No building materials were scattered in the street, in his sight, though there might have been. At about nine that evening, he heard a great noise. He lives about eight or nine acres from the place. He heard the report of a gun, and then a great noise and tumult. Marcoux was a remarkably quiet man, and was one that would do his duty, though he might sometimes quarrel, for his own interest.

JOSEPH LAMER, called and examined by the Solicitor General.—He lives in the village of Sorel, and is a shoemaker; he was living there from the commencement to the close of the election. Isaac and James Jones were both there during that time. James Jones made no threats, and he knows nothing respecting the prisoners. The witness was discharged without further examination.

FRANCOIS TIBUS CANTARA, called and examined by the Solicitor General.—By trade he is a mason, and was living at Sorel on the 5th November, and was employed that day to build a chimney to the house of Dumas. Louis Allard met him between four and five o'clock, and said he wanted him, as he was employed to build a chimney. The witness at first had some reluctance in going, but on further conversation consented. He did not like to refuse him, as he had voted for Mr. Jones. When he asked what he would allow him for his labour, Allard remarked he would be well paid; upon which, witness declined working at the same rate as during the day time, as the time

for finishing the chimney was limited. The witness then remarked that if he was well paid, he would employ his journeymen, and it was then agreed that all the materials should be upon the spot after supper. When he returned to the place it was about six o'clock, when he found neither the materials nor other persons on the spot. Finding nothing there, he proposed to his journeymen to go over to his sister-in-law, at the opposite corner, to wait till the materials came. After remaining there about fifteen minutes, Dumas arrived with a light, and they then had some words regarding the absence of the materials. Afterwards he perceived that a cart with some stones had arrived, and he told them all to go to work. Having desired Dumas to put him in possession of the work, they entered the house at the back door, and having formed his plan, he commenced his work, assisted by two neighbours, whom he desired to bring him in the stones. After having laid the foundation stone, he offered to Dumas the hammer, as is usual, to get a drink from him; but Dumas said he had no money, but would bring some drink after supper, and he then retired. The work was proceeded with, when a few minutes after, several persons came into the place. When he saw them, his hair nearly stood at an end with fright. They came in laughing and joking, and asked him what he was about. When he then called for stone, they pretended to offer to lend him a hand. One person brought stones, while another brought chips, instead of mortar. One asked him how much he was to have, but he gave him no satisfactory answer, having used words of no meaning. They then all laughed, and asked the journeymen what wages they were to have. One of them mentioned ten shillings; when he was asked would he not take ten shillings and go elsewhere to amuse himself. A similar offer was made to the witness, which he refused, as they were not on his side.—To entice the men, one person produced a flask of spirits; the liquor was offered to them, and the witness drank a little, and he thinks he then gave the flask to his journeymen. He again asked for stone, and was told there was none, but did not himself go to see if it was true. He does not think that he had used many stones, but as there was no mortar, the labourers went off, and he dropped work. He was again asked if he would take ten shillings, which he refused. The witness then sat down on the boards, and upon consideration, thinking that his journeymen had gone to collect a party, and having a family, he thought it more prudent to retire. No violence was offered to him personally, but he was afraid of one of the bullies of Mr. Pickel, who was paid three dollars a day, and who had insulted him before. This person was his own cousin, Pierre Touin. The witness then left the place and went to his own house, all of them parting on good terms. This night had been about seven or half-past seven.

Cross-examined by Mr. DAINCOLL—He heard it stated that there would be murder in the village before the election was over. He had one Flammand and two labourers with him, and was certain that these people could build the chimney. The flask alluded to, contained three gills, or perhaps half a pint. For himself, he took about half a glass, and handed it to Flammand. He soon saw the inutilty of proceeding with the work. Next morning he went to look at his work, and found no stones there. To him it appeared dangerous to stay there, though he cannot swear, yet he thinks, that the party came there to interrupt his work. With his hammer and trowel he could have defended himself against two or three persons. The morning that Marcoux died, he was going to a funeral, and saw some people standing outside of Dumas' fence. Some blood was then shewn to him, which was Marcoux's, and a stick that was pointed out to him as Marcoux's, which witness picked up, saying he would bring it to the Coroner. The thickness of it was somewhat larger than a constable's batten. The man who pointed out the stick to him could not swear it was Marcoux's stick. At this moment, the witness was called to the funeral, and unwittingly dropped the stick on the lot, and on his return the stick was gone.

MARIE BERNIER was called by the Solicitor General, to establish some dying declarations of the deceased, but as she acknowledged having been in Court and having heard the evidence of Dr. Nelson, the Court, on the motion of the Counsel for the prisoners, refused to allow her to be examined.

LOUISE BENOIT, WIDOW PAUL HUS, otherwise called WIDOW CORON, called and examined by the Solicitor General.—She lives at Sorel, and is now a widow. Many persons frequent her house, as she permits people of good character to meet there. She thinks that at about nine o'clock on the 5th November last, about fifteen or sixteen persons came to her house. One of that party was in the habit of coming much earlier than that hour. These people generally spend the evenings in singing, and other kind of amusements. She heard no conversation relative to the election, and nothing occurred to disturb the harmony of the company. There was no plot discussed, and she does not think that the assembly was any thing more than accidental. There are people resorting to her house at every hour from five o'clock till eight or nine. She cannot say why so many assembled there that night. At about nine they all retired, and in general her house is generally cleared by that hour. She heard of nothing after they had retired; she heard no shots, for her door was shut; she saw no sticks, canes, nor arms, and she has no knowledge of any tumult at Dumas'.

Cross-examined by Mr. DRISCOLL.—The relations of the witness, and the beaux of her young girls generally come to her house, but she does not know what brought Marcoux to her house at about six o'clock. He was only there once, and went away very early. At nine o'clock the whole party retired. She heard no conversation as to the purpose for which they assembled. Upon other occasions, she has had more people in her house than there were there that evening; she heard no reports of guns, nor any other noise, as she is rather deaf, and she had closed her shutters before the people came in. [She was then questioned by Counsel in a very low tone of voice and instantly replied.] If Marcoux had a stick in his hand, she did not see it. She saw no stick with one Louis Roy, and she was not present when a stick was found on the lot of Dumas.

FRANCOIS DEGUISE, called and examined by the Solicitor-General.—He remembers the 5th November, and knows Francois Cantara, with whom, at that time, he was journeyman. At Dumas' house, at about half-past six, he met him, and agreed with him to work that night; no price was fixed, and the agreement was to begin immediately after supper. When he arrived at the house, there were no materials, and, while waiting in another house, he was informed that a load of stones had been brought. There were two labourers with him; he dug the foundation for the chimney, but soon found there was no mortar, and only a few stones remained on his side, all of which was brought in. The stones brought in might have made a load. The witness discontinued his work, and sat down on the floor. Several people came into the house, and some of them asked, what they were doing. They were told that they were building a chimney, at which they remarked, that they never had seen a chimney built at night. They then produced a bottle, but he refused to drink. They asked the witness how much he was to get, and he, supposing them joking, said he was to get two dollars, upon which some one said, he had better take the two dollars from them, and come away and amuse himself. The witness then asked for some mortar, and an old woman brought him in some chips. He waited a quarter of an hour for mortar, and finding that none was coming, he determined upon going away; and Alexis Felouquin gave him the two dollars. The party had no sticks; they offered to help the masons, and brought in some stones. The people did not seem to come in a hostile manner.

Cross-examined by Mr. Boston.—Louis Allard employed the witness, and promised him good payment. When he repaired to the place, it was with a full intention of doing the work and earning the wages. Allard employed him along with Cantara, and both were spoken to at about the same time. The witness got two dollars, and supposed that he was not to work, and that the money was a present from Peloquin. He saw but one load of stones there; he knew that there were other materials then on the road. Being dark at the moment, he felt much surprised when the people entered, but when they spoke he became mere reconciled. There was a candle and lantern in the house; he cannot say how many came into the house. He was disposed to laugh at the affair. He had no interest in the election. Whether it was a woman or a man that brought in the materials he cannot say; but chips were fitter to light an oven than to build a chimney. Cantara remained some time after the witness went away; the labourers also went away. He does not know with what design he was given the two dollars; perhaps it was with the intention of his dropping the work, and perhaps not.

CHARLES DEMARAIS, called and examined by the Solicitor-General.—He was at Sorel during the last election, but is not a resident there now. He knows Peter M'Nie, and was at his house on the 5th November, where he saw James Jones, with some others, and also saw two or three pistols in their hands, but cannot say whether they belonged to M'Nie or Jones; he saw no pistol with James Jones, and saw no pistols loaded. No one took them away in his presence, and the witness went out first. He is positive he did not see them loaded; he saw gunpowder, and there was a powder-horn, which he took up in his hand. That horn-flask belonged to M'Nie. All this might have been about seven o'clock. He saw no shot in the room.

Cross-examined by Mr. Hart.—He again repeats, that during the evening he neither saw shot nor ball, nor did not see the pistols loaded. He was one of the carters that conveyed three loads of stones to Dumas' house, and several persons accompanied him. While on the road, a *caleche* passed by them in the streets, the same *caleche* had passed M'Nie's door previously, but he did not then know who Levallée was driving. The party accompanying the witness overtook the *caleche*, and he heard the person in the *caleche* with Levallée cry out, "Now, lads; they are coming." Paul Peloquin stopped the horses which the witness was driving, and upset his cart. He was accompanied by Alexis Peloquin and Maxime Aussenot. He was sitting on his cart when the whole was upset together. This occurred about forty feet from the house of Dumas. Several persons were coming up when the cart was upset. After upsetting the cart they ran away, crying out, "knock them down, kill them," and, turning upon the people who were coming up, advanced to meet them. Alexis Peloquin had a stick, but he did not see Paul with one. The witness then got up, arranged his cart, and met a person, who told him he was going for a gun, and that Marcoux had been wounded. The people who attacked him were coming from the house of Widow Paul. Levallée came out with them. The witness does not know that Dumas was struck, and saw nobody strike him. It was Mr. Pickel's party commenced the attack, by stopping his cart; he knows nothing of what occurred after he arranged his cart, though he heard people cry out, but does not know what they said, for he was alarmed. No inducement was offered him to leave Sorel. He was not present when Carpentier gave his evidence at the inquest, for he was then in Montreal Jail, charged as being accessory to the death of Marcoux along with the prisoners.

Re-examined by the Solicitor-General.—It was Paul Peloquin that stopped his cart along with the others, who cried out, "strike, kill." His cart was directed towards Dumas' and Widow Paul's before it was upset. He heard Aussenot tell Dumas that it was not him who had struck him. He did not hear the report of any pistol until after he had righted his cart, but he

cannot say who fired the pistol. He saw James Jones near his cart, but did not see him strike any person, nor fire off any shot. One of the Pichel party called out, "kill, destroy," and thinks that it was Paul Peloquin.

The Solicitor-General now declared the case on behalf of the Crown as closed. The prisoners were then put on their defence. Their Counsel then proceeded to call the following

EVIDENCE FOR THE DEFENCE.

LAURENT DUMAS called and examined by Mr. Driscoll.—He is aware that a chimney was to be erected in November last, in order to qualify him to give a vote at the then pending election, for he had made a bargain with Louis Allard to do it for eight dollars. The witness himself opened the house for the masons; and after they had begun, the master-mason asked him to strike the first stone. He went home to get his supper; but before leaving, he saw Alexis and Paul Peloquin going into the house, with stones. On his return, he found the building materials all scattered about. He then went to the house of Medard Crepeau, who asked him if he had seen his son. On his being told in the negative, Crepeau and the witness went back to the building, and found no one was there. They went to Madame Lefevre's house, to enquire for young Crepeau, and was told by the people of the house that he had been sent away from Damas by the opposing party; they then went in search of him. On passing by M'Nie's house, they saw several carts, and were there informed that young Crepeau had been driven away from the work. He went to William Jones' hotel, where he saw John Jones and Colonel Robert Jones, J. P. Upon his saying that the men could not go on with the work, Colonel Jones told them to go back to the work, shut the doors, and defend themselves from all intrusion. Isaac Jones was then in the room. The people met at M'Nie's, set out, and put themselves on the route leading to the place where the chimney was to be built; they went as his friends to defend the carts. When approaching the house, they heard a noise. He did not see Levallée passing by in a *caleche*. When they arrived near to the lot, a crowd of people came to meet them; some had fence rails, others with sticks. Pierre Touin laid hold of the witness, and asked him where he was going, he replied, to his work. As he saw several persons coming forward, he thought the best thing he could do was to get on his own lot; but he cannot say who the persons were that accompanied Touin. When he arrived at his own fence, he mounted it, and Maxime Aussent struck him and threw him into his own lot. The witness got up, and called out to his own people, that Maxime Aussent had struck him; he is positive it was Aussent. Perceiving that a row would soon take place, he went a circuitous route into the house and entered by the back door and fastened the front and rear doors, in hopes that the tumult would soon subside. After fastening the doors, he heard a noise outside, and looking through the boards, he there saw a man leaping over the fence, and after him another, as if he was in pursuit of the first. Upon that he heard the report of a gun fired in the air, and it appeared to him that the man who was pursued fired the shot, the one that was pursued was running away to the rear of the lot, as if to save himself; and the one pursuing, was still in pursuit, striking at the other with a cane or stick. It appeared to him that several blows were inflicted, and that he did not turn round on the first blow. The person pursued was followed as far as the well in the middle of the lot, when the pursuer turned round on his pursuer, and both appeared to defend themselves, as if with sticks. Immediately after, he heard the report of a gun, and the people cry out "kill, kill." Before the shot was fired, he did not think that there were any others on the lot, but he thinks that two others were there. A person called out "fire up;" and there was much noise in the street. After the shot fired upon the lot, the witness heard two others from the street; and he heard some persons crying out "kill, knock down, destroy." The persons who were then near the well, could hear no person cry out "fire," in consequence of the noise which occurred. When the others

SKETCH

of
That part of the *Billings of Detroit*, which
relates to the trial of *James Jones*.

REFERENCE.

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| <ol style="list-style-type: none"> 1. <i>Widow Otis's house when</i> 2. <i>Marston's party assembled</i> 3. <i>Thomas's house where the chimney</i> 4. <i>was to be built on his lot</i> 5. <i>General's house.</i> 6. <i>Place where the military party</i> 7. <i>was attacked</i> 8. <i>Window where Thomas viewed</i> 9. <i>the scene of the attack</i> | <ol style="list-style-type: none"> 10. <i>Window where Thomas viewed</i> 11. <i>Marston's assault on Isaac Jones,</i> 12. <i>and wound.</i> 13. <i>Spot where Isaac Jones fell in</i> 14. <i>the air.</i> 15. <i>Well on Dumas's Lot, behind</i> 16. <i>which Isaac Jones when pur-</i> 17. <i>sued by Marston retreated.</i> 18. <i>Spot where Marston fell.</i> |
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had run away, another party came up to the house, and with a foot or with a stick forced open the door. Charles Pagé was the first that entered, but he cannot say whether he opened it or forced it. Two or three persons came and laid hold of the witness, and pulled him by force into the street. The witness said to Pagé that he hoped he would not injure him; Pagé replied, "come along, and you will be well." Alexis Peloquin was one of the party, who asked him if he would go away and not appear against them at the poll. The witness said he had a right to go there. He did not see any thing in the hand of Peloquin, and did not notice him before that. Pierre Touin then laid hold of witness, and struck him in the face, and two blows on the back of the head. He then called out to Touin, "do you want to kill me;" when one of the party said, "you had better go away from this." Edward Denis and Charles Pagé interfered on behalf of the witness, which saved him from a second assault. When he found himself at liberty, he ran off, and they ran after the witness, but he finally escaped. The witness only knows Charles Pagé as the person that first entered his house, and he saw many more outside. He knows the prisoners for the last twelve or thirteen years; he knows Isaac to be a good man; he never had a dispute with him. At the last day of the poll, Marcoux conducted himself with great violence. The characters of Maxime Aussen and Pierre Touin are both bad. The latter, particularly, is a bold man.

Cross-examined by the SOLICITOR-GENERAL.—It was dark during that night. Charles Desmarais was in the rear of his party, and the witness was in the front. When he turned round he could only see Maxime Aussen. He would not believe Aussen on his oath, if he swore that he did not strike him; so confident is he of his identity. He cannot say upon his oath, who was the pursuer or the pursuer, that he saw on the lot. He did not see James Jones then, and he cannot say whether the shot proceeded from a pistol or from a musket. He did not see any pistol loaded; and is positive he did not see Isaac Jones there. When the witness left the place to go to his supper, the first layer of stones had been laid for the chimney. After taking his supper, he went to the house and found all the stones scattered about. Having met one of the masons, he was told by him, if the witness would answer for his life, he would go back to the work. He does not understand English, and does not know the voice that cried out "fire up." Charles Pagé committed on the witness no act of violence.

Examined by the Court.—The well he has alluded to, is about twenty-five or thirty feet from the corner of the house.

EDOUARD DENIS called and examined by Mr. Armour.—He lives at the village of Sorel. A person of the name of Charles Pagé lived in the same house with him, but never had any conversation with Pagé on the night that Marcoux was wounded, on the subject of the election or the disqualified voters. It was mentioned that Dumas was to vote the next day. Another person said he could not until he had a chimney to his house. A third person then said, he would soon have a chimney, as there were four masons employed to build one. Upon that, the witness and Pagé agreed to go and see it. They first went to Gouin's, where the inquest was afterwards held, and there had some conversation respecting the chimney. Then they went to Peloquin's, where he heard some people say that Dumas' chimney was to be built that night. Mrs. Peloquin said the people had gone to see the chimney. He then left that house and went to the house of Dumas, and found there from twenty to twenty-five persons. Among them he recognised Alexis Peloquin, and a number of others. On arriving there, he asked if they had got on far with the chimney; when he was answered, no. One of them remarked that two dollars had been offered to one of the masons, and that he took it, and went away. After that they went to Mrs. Paul's; Alexis Peloquin went with the party. The intention of that meeting he understood was to prevent the

building of the chimney; and he heard them say that they must oppose the building of it. Others might have heard the words, if they were paying any attention. When he was at Mrs. Paul's, a bottle of rum was introduced, of which he partook. He saw there Charles Pagé, Moyse Duplessis, Alexis Peloquin, Paul Peloquin, Francois Rondeau and his two sons, and some others that he cannot now recollect. Marcoux came in while the witness was there, and threw off his cloak. One of the family said, "you are warm." He replied, "yes, and perhaps it may finish me, if it does not, I shall have some difficulty in getting over it." He took some rum and a piece of toast, and then went out. In about a quarter of an hour after, he returned in great haste, and said, "now lads, come out, they are coming up, and we must not let them approach." He saw nothing in the hands of Marcoux. Every one then went out; the witness among the rest went out with them towards a cart, and when arriving opposite the cart, it was stopped, and some person upset it. No person appeared to him to be in charge of the horse. He saw Marcoux's party approach the cart. When he came up, he heard Dumas say, "I call you to witness, that Maxime Ausseut struck me;" but he did not see Ausseut pass by him.

It being now six o'clock, the Court ordered the Jury to be placed in the charge of the Deputy Sheriff, and in the custody of constables, were again taken to Sword's Hotel.

The Court adjourned to tomorrow at nine.

FRIDAY, March 8.

The Court met at nine. The same Judges on the bench as yesterday. The Jury have been brought into Court, and the prisoners placed at the bar. The examination of the evidence of the defence was continued.

EDOUARD DENIS, called and examined, in continuation, by Mr. Armour.—When near the house of Dumas he heard him say that Maxime Ausseut struck him, but Ausseut cried out, "you lie;" Dumas replied, that he knew it was him that had struck him; upon that Ausseut raised his foot against the cart and upset it. He saw several others near the cart. Luther Sawtel was there, but not James Jones. Ausseut fell while upsetting the cart, and, on rising up, was struck, upon which he cried out, "it was you, James Jones, that struck me." A pistol was then fired off, at the south-west corner of the house of Dumas, and shortly after another report, as if from the rear end of the lot. Several people were then in the street. The distance between the two shots was about thirty or forty feet; he heard two or three other shots in the street. He cannot say whether they were fired in the air. The party of Mr. Pickel pursued that of Mr. Jones; he thinks he saw one person with a fence rail, but cannot say who it was. The pursuit was short, but he cannot say who they were. He saw the pursuers afterwards return, and saw a person, dressed in white, fall under a blow from a fence rail. He then retired to the door of Mrs. Coton, where it was said they had better get some arms, when one from the house said, there was no occasion, as one was already killed. Somebody said there was a person armed in the house of Dumas. Charles Pagé went up to the house with a stick in his hand, and pushed the door open. He is positive that Pagé opened the door, and did not see whether the door was broken open; he pushed his stick against the door, and opened it. The witness and some others went into the house; he was searching for arms, under a bundle of straw, but found none, and having searched well, he went out. Dumas went out before the witness left the house; he saw nobody lay hold of Dumas. Did not hear any one ask him to go out. When the witness got out, he saw some persons touch him; Pierre Touin was one; another person then came up and struck him twice in the back, either with a stick or a branch of a tree, and on the back of the head. The witness pulled Touin away, who is a very strong man, and he saw Charles Pagé endeavouring to separate them. He saw Marcoux after he was wounded, on the Wednesday night. He asked him how it had happened, when Marcoux said that,

when he heard the first shot fired, he ran into the lot of Dumas, and that he sprang forward then to see who had fired; that he saw Isaac Jones presenting a gun at him; that he struck the gun with his stick, and that the gun went off, the contents entering his belly. Marcoux said he was "done for." He saw the hand of Isaac Jones after the accident, and noticed that it had received a blow, but cannot now say which hand it was. The skin was rubbed off, and it appeared a fleshy wound, with some blood about it. He has heard Charles Pagé often speak about this trial, and has had some conversation regarding the evidence that was to be given on the trial. Some persons were of opinion that the prisoners would get off, when Pagé said, if that was the case, they might as well set about killing some persons themselves. He has heard Martel Paulot speak about the trial, but does not recollect the nature of his remarks; but his opinion was that the prisoners could not escape. The witness has worked for Marcoux, and is aware that he was a violent man, but he never did any thing to witness.

Cross-examined by the SOLICITOR-GENERAL.—The witness busied himself at the election in favour of Mr. Pickel, but had no vote. He met many others of Mr. Pickel's party at Mrs. Paul's. Dumas was in the rear of the cart, and there was perhaps about fifteen feet between witness and Dumas. It was then dark, and the witness could not see him distinctly, but he knew his voice. Dumas said, "my friends, I take you to witness that Aussenet has struck me;" he did not see Pierre Touin then, but saw him afterwards, at about ten feet distance. Aussenet must have gone nearly twenty-five feet when Dumas called out that he was struck; Aussenet appeared to be somewhat heated; he knows Aussenet to be rather blunt in his manner. The witness heard the blows, but did not see either the hand or the stick; he did not hear a pistol then go off, but he did not see Dumas at that time, as it was then too dark. He knows the lot of Dumas, and its local situation. There is a well on the lot, in the rear of the house, and about more than thirty feet from it. He cannot say whether a person in the house could recognise people quarrelling near the well; but the witness thinks he could not know them at fifteen feet. He is on terms of intimacy with Charles Pagé, and never had any dispute with him; he has had conversations with him regarding the trial, and believes that the conversations were that the prisoners should be punished. Marcoux told the witness, that when he struck the gun with his stick it went off immediately.

PIERRE TOUIN, called and examined by Mr. D. Salmon, on behalf of Mr. Driscoll.—He is from the village of Sorel, where he has lived twelve years. He knew Marcoux, who was there during the election, and belonged to Pickel's party. He was not always following him, but he was not more active than many others. The witness was at Peloquin's on the 5th November, but did not see other persons going there. He was in the habit of going there, as it was a public-house, and arrived there at about seven. Peloquin was not in the house at the time, but Martel Paulot and Moysé Duplessis were there as well as Charles Pagé; they were conversing about the building of the chimney with one another; he drank nothing, and then went out to go and see the chimney. He left the house to go to Widow Paul's, as it was opposite where the chimney was building. They all went together, and he knows nothing of any person picking up a brick and saying, "D—n them, I'll fix them." He was not aware that other persons were then at the Widow's. At about eight he arrived at the Widow's, and found some three or four persons, who were there before his party arrived, but he cannot say to whose party they belonged. No conversation occurred there about the chimney; they were all singing, and were drinking some spirits. No person said in his hearing that some people were coming up. Marcoux came in about half an hour after. He took something to drink, and he came in as if accidentally. After taking some bread and a glass of water he went out, and the

witness did not hear him speak to any person in the house. He saw no stick, but Marcoux had a small cane, like a gentleman's cane. Some gentlemen carry rather heavy sticks at night. Some person said that people were coming up; several then went out, and approached towards the house of Dumas. He saw that a cart was coming up, loaded with stones, with a carter seated on the front. The witness went towards the cart along with Aussent, when the witness put his hand on one of the wheels. There were others round the cart. The cart was upset, and a man along with it. After it was backed, the driver balanced himself on the shafts, and as soon as the cart was upset, a gun was fired at the corner of Dumas' house; the carter did not cry out. The gun was fired apparently from the inside corner of the house, and within the lot. He knows that several people were speaking, but cannot say on what subject. He saw Marcoux after the report of the first gun, go upon the lot, at a distance of about twenty-five feet from the house; he passed over the fence violently, and had his cane in his hand when he jumped over; the witness followed him with his eyes, and then crossed the fence rather smartly. When Isaac Jones saw Marcoux come up, he turned his back to him, and Marcoux struck Jones with his stick on the back. Jones turned round and asked Marcoux what he was doing there, Marcoux told him to be off. Jones said he had as much right to be there as Marcoux; Jones had his gun pointed, upon which Marcoux turned the gun off with his cane, with force. Jones then retired, and Marcoux a second time ran up, and again turned the gun aside. He cannot say whether the stick struck the hand of Jones or the gun, but the gun went off immediately, on the word "fire" being repeated.

Cross-examined by the SOLICITOR-GENERAL.—The witness also leaped over the fence. He did not see Dumas when the cart was upset, but saw him after. Aussent came out of the house along with witness, but he did not see Aussent after the cart was upset; and he has no knowledge that the pistol was fired when the cart was upset. The first shot he heard was at the corner of the lot, when Marcoux got over the fence; the witness being then about fifteen feet from Marcoux. During the time he was there, the witness followed on one side of Marcoux, until after he was wounded. When Marcoux came up to Jones, he turned round about the middle of the lot, and Marcoux pushed Jones in the back; he did not say "stop, Jones." When Jones stopped, he asked Marcoux why he pushed him, speaking in a soft manner and not seemingly vexed. The witness always kept about the same distance, and his object was to see what took place. There were only three persons on the lot. Jones had the butt of the gun under his right arm, with the muzzle bending downwards. The first time Marcoux spoke, he said, "do not fire, Isaac;" at the same time striking the barrel of the gun with his stick; on the second occasion he saw the stick fall, but he cannot say whether on the gun or Jones' hand. He heard them speaking, and Marcoux said, "be off, Jones." After the shot went off, the deceased fell, but he cannot say who picked him up, for the witness ran away and tumbled over him. Marcoux exclaimed that he was a dead man. He heard the words "fire, fire;" and then three or four shots were fired. When Marcoux and Jones were talking, the word "fire" was given. He cannot say where the word "fire" came from, but thinks it was from the bottom of the lot; he could not recognize the voice. He did not assist Marcoux away. The witness admits having struck Dumas twice after the cart was gone; the reason why he struck Dumas was, from a suspicion he entertained that Dumas would strike him, and when he was undeceived he regretted it and apologised to him. The well was about the length of the Court-room from the end of the lot.

PETER M'NIE was then called, when the Solicitor-General stated that he had been informed that the present witness had been in Court during the trial.

Examined on the voir dire by the SOLICITOR-GENERAL.—The witness was not in the Court during the trial, and heard no part of the evidence. The witness was then ordered to leave the box.

Movre Duplessis called and examined by the SOLICITOR-GENERAL.—He saw Peter M'Nie inside of the Court during the examination of some of the witnesses in this trial; he is not sure whether it was on the first or second day of the trial, but believes it was on the first day. He is not sure who was under examination at the time, but believes it was himself. He is now sure it was himself who was under examination, and that he saw the whole bust of M'Nie behind the bar. [M'Nie went behind the bar alluded to.] It was inside of the bar of the Court that he saw M'Nie.

Cross-examined by Mr. HART.—He cannot say why he was in doubt as to who was under examination at the time, or what day it was. He is now sure it was on the first day. He saw Peter M'Nie in Court; he thinks he saw him, and is now sure he saw him, but cannot say how he was dressed.

ALEXIS PELOQUIN called and examined by the SOLICITOR-GENERAL.—He thinks he saw Peter M'Nie in the Court during the examination of Duplessis, but will not swear positively to the fact.

Cross-examined by Mr. HART.—It was during the examination of Duplessis that M'Nie was in Court. The witness was not in Court during the examination of Duplessis, during the first day, but it was during the second day.

THOMAS LITTLE called and examined by Mr. HART.—He was the constable who had charge of the door leading within the bar, pointed out by Duplessis. No such person as M'Nie ever passed there; he never saw him till this moment.

The SOLICITOR-GENERAL here stated, that he would not press his objection against M'Nie's testimony any further.

Examined by Mr. BOSTON.—He has resided at Sorel for fifteen years past, and knows all the inhabitants in the place. He remembers the election; where the contest was sharp, and he recollects the accident. A chimney, he was told, was to be built for Dumas; and the man who was employed came to his house, requiring some provisions. After having taken away the provisions, he was absent about an hour, and returned, saying that he had been threatened and had been obliged to leave his work. He then returned the provisions, and went away. Between eight and nine that night, four carts arrived at his house; on their way to where the chimney was to be built; but the people were afraid to proceed. Dumas was with the carters; and several persons accompanied the witness towards Dumas' house. When they had arrived within twenty or thirty yards from the house, an attack was made on the first cart. The opponents were armed with fence rails. Peter Baley was struck by a brick-bat, and when falling he cried out, "Oh God! I am killed." The witness went up and raised him, when he himself received a blow on the arm, which nearly fractured it. He brought Baley to the rear, and advised him to retreat, as his life was in danger. On looking round, he found all his party had gone away. A rush of people then pursued him with sticks; one came up with him, and raised his bludgeon to strike a blow, which he parried. This person then cried out "guns." He cannot swear that it was Alexis Pelouquin. The witness had with him an old blunt Trafalgar sword. He considers that that sword saved the life of Peter Baley, and the witness; and he is positive that his pursuers were armed with sticks. One of them he saw with a fence-rail. He heard several guns go off, after Baley was knocked down and the cart upset. The riot began by the upsetting of the cart, but he cannot be positive that the carter was then in his cart. He believes the other

three carters turned back from fear. He returned home and went to bed. The word "fire" might have been made use of, and he might have said it himself with a view to intimidate the mob, who were nearly ten to one. He took the sword simply for self-defence, but would not have taken an old sword if he had meant to fight. He heard the report of a gun, near the corner of Dumas' house, which appeared to be fired in the air. There was then a great noise and tumult, of a nature to excite apprehensions for his life. Baley dropped down as if he had been shot. He heard no person cry out, "Isaac, fire;" and he thinks that the noise was too great to allow it to be heard; and that no person, unless he was very near the person who cried out "fire, Isaac," could have heard it. James Jones went out of his house with the carts, but he does not know what became of him afterwards. He knows Isaac Jones well; he is a quiet, humane, mild man, and very difficult to provoke. James Jones is equally quiet and inoffensive. He knew Marcoux to be a violent leader at the election, and has had opportunities of witnessing his conduct. One day, on going up to the poll quietly, the witness was attacked in very violent language; it was in French, which by his gesture, and throwing of his cloak, he conceived to be very violent. He saw him in his own house after he was wounded. The witness rather declined testifying as to Marcoux's general character; but on being pressed, declared that he was a most violent man. The prisoners were not warm partisans of Mr. Jones. Isaac Jones was absent for four or five days during the election, to avoid taking any active part; for Sorel has the reputation of being very unquiet during its elections. He did not think that the vote of Dumas was very important at that time, for Mr. Jones, the candidate, had shewn to witness a list on that day, which contained more names than would have carried the election. The building of the chimney was not absolutely necessary to constitute Dumas a vote; but he was very scrupulous. It was an old house, undergoing some fresh repairs. A chimney, during the time of Mr. Attorney-General Uniacke, carried an election at Sorel; the building of that chimney then turned the scale. The prisoners being taken into custody, Mr. Jones, the candidate, declined any further contest, when the most of his friends were arrested for the alleged murder of Marcoux.

Cross-examined by the SOLICITOR-GENERAL.—There was no particular meeting held at his house, which is a tavern, on the 5th of November; several persons were there, but not for any particular purpose. Many people come to the house of the witness during the evening. He was at the poll the greater part of that day. He does not think that there were usually more than six people in his house at one time. There were more than six met there that evening. He saw a pistol loaded by a Mr. Dandy, a boarder in his house; but has no knowledge of James Jones having loaded any pistols. There were two pistols belonging to Mr. Dandy for sale in his shop, which were loaded to try them. The carts with materials stopped at his house, but he saw no other person with them but the carters. The carts had no other protection but the people from his house, who amounted to some ten or twelve. He cannot swear that none of these people were armed. They all started from his house, Dumas leading the way. Every one walked on as he pleased, in a straggling order. They were about thirty yards from Dumas' house, when the first cart was upset, and after that the conflict began. The noise was sufficient to have alarmed Dumas, where he stood. The sword he carried, did not save him from injury.

WILLIAM ROSS, called and examined by Mr. Armour.—Is a Deputy Assistant Commissary General in His Majesty's service, residing in Montreal. He was stationed for two years at Sorel, between 1831 and 1833. He knows the prisoners at the bar most intimately, and has had many opportunities of knowing them, especially Isaac, from having been out with him on many shooting excursions, and found him in his temper and disposition, cool, tranquil, respectful, obliging and good natured under most trying circumstances.

Isaac had a double barrellled percussion gun, which was the only one he had in his possession. A gun of that description was produced, which the witness identified as the gun in question, and then explained the difference between the flint guns and detonators. The advantages of the detonator to a sportsman are many, but the danger is equally great. He would not walk before a person carrying a percussion gun. A blow on the gun now produced would cause an explosion, if the gun was cocked. The trigger of that gun is nearly equal to a hair trigger. He has used the gun on several occasions, when out shooting. Jones usually held his gun by the guard, while the witness held it by the barrel. He saw Isaac Jones the day after he was arrested, and enquired of him what had brought him there, he then noticed the effects of a violent blow on the thumb of the right hand, which had been inflicted, from appearances, by a blunt instrument; what that instrument was he cannot say. Had the prisoner held the gun to his shoulder, no stick could easily reach his hand; had the gun been cocked, the hand would be protected by the cock, and had he intended to shoot a man he would not have carried the gun at the charge with the muzzle depressed, but would have raised it to his shoulder. He knew Marcoux during his stay in Sorel. They were both members of the Board of Health; he found him very zealous, but his zeal was not tempered with discretion; he was exceedingly violent. His knowledge of the deceased he acquired from his transactions at that Board. The deceased bore the character of a turbulent man, and in consequence the witness rather avoided the deceased. Marcoux had great influence among a certain class of people in the borough. The witness never interfered with the politics of Sorel.

The SOLICITOR GENERAL declined cross-examining the witness.

EDWARD DEMERS, called and examined by Mr. Hart.—He resides in Montreal; has known the prisoners at the bar the last eight years, from being in the habit of going to Sorel on shooting excursions. He sold to Isaac Jones a double barrellled percussion gun, made by Manton, who is an excellent maker of guns, but more particularly of locks. He knows that that gun went off quickly, and that the spring was so strong as to be able to raise a weight of five pounds. The witness examined the gun produced, and identified it as the one he had sold to Jones. Isaac generally held his gun behind the guard, which is an unusual way; the witness would hold his gun, if he was attacked, on the charge, and put it to his shoulder if he wanted to shoot a man. A blow on the barrel would discharge that gun. If the gun was cocked, the hammer would protect the thumb, and if the gun was depressed, the hand would be naturally more exposed. He knows James Jones also, and knows both brothers to be most peaceable, quiet men; he never met with a more easy tempered man than Isaac Jones. Shooting excursions are well calculated to try the temper of individuals. He knew Marcoux for the last eight or nine years; in his disposition he was very violent and irritable; he had the character of being a quarrelsome man, and he considered it dangerous to have any dealings with him, as he did not look upon him as being strictly honest.

The SOLICITOR GENERAL declined cross-examining the witness.

JOHN JONES, called and examined by Mr. Hart.—He is the brother of the prisoners, but no relation to William Jones. He knows well their disposition. Isaac's temper is quiet; he never saw him in a passion but once, and that was when he was a child. The temper of James is not so tranquil. The witness declined, from motives of delicacy, giving any opinion as to the general character of Marcoux. He had some conversation with Marcoux during the election, and heard him say he would carry the election, or "rip the guts" out of some person. The witness was asked by Mr. Pickel one evening to go and take tea with him at Charles Gouin's, where he found

Marcoux, Martel Paulet, Alexis Peloquin, and some others; Marcoux took a piece of paper and wrote down the names of persons on both sides who yet had votes, in order to strike a balance. Amongst these names was that of his brother Isaac, which he told Marcoux to erase, as his brother had left the village, to avoid being present at the election. Marcoux then said "by God, if he (Isaac) votes against us, he will remember it." Isaac advised the witness not to interfere with the election. He was not present when Marcoux was shot, and was in bed when his brother was arrested. He saw Marcoux after he was shot, at Peloquin's, and on entering was asked if he had seen Marcoux, to which he replied "no." When he did see him, Marcoux stretched out his hand and said "John, you have not done this." Isaac and Marcoux had been good friends, and Isaac was at that time bail for him. The witness subsequently went up stairs to partake of some supper, and then lay down on the floor; shortly after he got up, and on going down stairs, he found Mrs. Marcoux sitting by her husband, with his head on her lap. He requested the wife to retire, and promised to her to take her place. Dr. Haller then came in, and the witness held the hand of the deceased while the doctor was bleeding him. He asked Marcoux to relate the circumstances, for he said that something must have occurred to have provoked his brother. Marcoux then commenced speaking, in the presence of his wife and of Dr. Haller.—The deceased said that he went to see the building, that he heard a shot fired, and ran over the fence, when he saw Isaac; and was continuing, when his wife said, on his getting a little faint, "had you taken my advice, this would not have happened to you." The witness knows Charles Pagé, and has heard him speak on the subject of the charge against the prisoner. At Mr. Sawtel's house some person remarked that all the parties accused would get clear, when that was followed by an expression from Pagé, that if that was the case, his party had nothing to do but to kill too. He knows Pierre Carpentier, one of the Crown witnesses, and saw him at the inquest at Sorel. He appeared intoxicated on that occasion, and the witness remarked the fact to Mr. Hart and Mr. Stanley. Pierre Touin had been drinking with the boy, and Charles Gouin's clerk often treated him to drink. It was by his eyes and face that he discovered that he was tipsy. He cannot say whether Dr. Carter was then present or not. He also saw Paulet at the inquest, and noticed him in company with Touin. He noticed Paulet speaking in private with the witnesses, of which the witness complained to the Coroner. He examined his brother's thumb the day after the accident, and found it bruised, cut and much swelled; the wound had blood on it, as if it was of recent origin. He knows the gun now produced to be the only gun in his brother's possession. On the 4th November it was left loaded with snipe shot by the witness, and the gun was not used afterwards by any other person.

Cross-examined by the SOLICITOR GENERAL.—He cannot say whether Mr. Hart or Mr. Stanley communicated the state of Carpentier to the Coroner, and he thinks that Carpentier was cross-examined by Mr. Hart. He is unacquainted with the usual habits of Carpentier, but he saw him often drink that day, and his manner betrayed intoxication. The matter of his evidence was certainly given without hesitation, but several strangers remarked his intoxication. Carpentier went frequently to the bar and took the liquor before he gave his evidence; he saw Paulet frequently in conversation with Carpentier. The witness thinks that a blow on the barrel would discharge the gun, and injure the hand; and, in proof of his belief, would state, that last summer, while shooting with that very gun, his dog ran past him after a squirrel, and knocked the barrel against a tree, the gun went off, and carried away a part of the brim of his hat.

JOHN STANLEY, called and examined by Mr. Hart.—He is an advocate of the Court of King's Bench, residing in Montreal, but attended the inquest held at Sorel on Marcoux's body, and was present at the examination of nearly all the witnesses. He recollects hearing a boy, a servant of Peter

M'Nie's, named Carpentier examined; at the time that the boy gave his evidence, he could not say, except from the remarks made to him by others, that the boy was in a state of intoxication. Mr. Hart and the witness remonstrated with the Coroner upon the impropriety of taking his testimony. The Coroner acted with impartiality, and said, that if the witness stated himself to be sober, he took the responsibility upon himself. The Coroner seemed to acquiesce in the opinion that the boy was intoxicated. Several complaints were made to the Coroner. He thinks that the manner of Martel Paulet and some others proceeded more from the influence of political prejudice, than from a desire to do justice to the accused. He saw Martel retire with several of the witnesses, but cannot say that they went to the bar. The witness has known the prisoners at the bar for the last nine or ten years. He considers Isaac Jones to be a remarkably peaceable man, and wholly incapable of taking wilfully the life of any individual. He is not so intimate with James Jones. He knew Marcoux well, as a man of a most violent disposition, and he believes him to be a turbulent man. He saw Isaac Jones after his arrest, but he cannot take it upon himself to say that he saw any thing particularly the matter with his hands.

Cross-examined by the SOLICITOR GENERAL.—The witness did not consider the boy to be in a fit state to give evidence, and believes he was under the influence of other persons. The persons who were meddling might have done so in the course of truth and justice, but appearances exhibited a different feature. He was not retained on the occasion, but merely accompanied Mr. Hart to Sorel as a friend.

Jours Roy, called and examined by Mr. Boston.—He lives at St. GREGOIRE, in the District of Three Rivers, but was at Sorel on the 5th November, and was there by accident. He was at the house of Widow Paul that evening, where he saw several persons. He did not go there with them, for he was there before they came, and he remained there some time. These people were there, and spoke respecting a chimney which the *Bureaucrats* were going to build, in order to obtain a vote for the next day, and the people at Mrs. Paul's appeared determined to witness to resist the building of the chimney, and believes that was the reason for which they had assembled; this he judges from their conversation which he heard. He knows Moyse Duplessis, but he cannot say if he was there. He knew Marcoux a little, and saw him once before that night. He came to the Widow Paul's that evening about seven o'clock. Marcoux went away, and came back again, but he did not hear Marcoux make any remarks to the people assembled there; he heard him first say that he was hungry, and he then took some bread and butter. After he had eaten something, he disappeared, and shortly afterwards came back. Shortly after that he heard a carriage coming up, when some person in the room said, "let us go, they are coming." The witness was in the room at the time; the whole party went out, with the exception of the witness. While he was standing near the table, he saw Marcoux take a stick under the table, and go out. It was about half the thickness of his wrist, but not quite so big as a constable's baton, and was large enough to do injury, if well used. The stick was of hard wood, and thinks it was beech. Marcoux took it up, and disappeared with it. The witness was in no way interested in the affair. He did not dare to go out, in consequence of a resolution he made to himself. He did not know what they went out to do; they acted in concert. He heard some noise and a voice which he recognised, and understood, from what he said, that Marcoux was dead. He heard much noise before that, particularly a noise as if a cart was upset, and he thinks it was a cart, from the rumbling of the stones, which occurred at the same time. He never again saw Marcoux after he went out with the stick.

Cross-examined by the SOLICITOR GENERAL.—The witness does not carry a stick, and the stick which he saw was not what is called a gentleman's cane.

WILLIAM MORRISON, called and examined by Mr. Boston.—He lives on one of the islands opposite to Berthier, and was at the last election at Sorel, but not as a voter. He found there a great excitement among a certain portion of the inhabitants, particularly Mr. Pickel's party, who appeared to be ranging about the village. He was personally attacked, though he offered no provocation. This was on the last of October, while he was on the Royal Square, in conversation with several individuals, amongst others Martel Paulet. He saw a movement about the poll, and a man stripping to fight; he then heard the word "fight," and noticed Marcoux amongst the crowd, leading on the mob. He believes Alexis Paul Hus saved the witness from being then struck, for the mob said they must drive him off the Square. The worst of language was made use of; and he was actually in fear of his life, and would not have returned to the poll that night for fear of his life. Marcoux was a violent man, and he would consider the deceased, when in a state of irritation, as a most dangerous character. He believed that Marcoux was a leading man in all tumults in Sorel. At the two last elections, he knew him to be such.

Cross-examined by the SOLICITOR-GENERAL.—He was friendly with Marcoux during the election in 1827, but they were not very intimate friends. He lives on an island, which is his own property, and it gave no vote in the borough. He never tried his influence at the last election, though his opinions might have had some at Sorel. He thinks they took a wrong method of getting rid of him. It is generally the case that some irritation prevails at elections, and then all courtesy is forgotten. He was not out of his limits when he was in the borough, and perhaps Mr. Pickel's party might have supposed he had no business to leave his island.

WILLIAM JONES, called and examined by Mr. Driscoll.—He is no relation to the prisoners. He keeps a hotel in Sorel, and did so during the last election. He recollects that Colonel Robert Jones, J. P., and his son, John Jones, Jun., the candidate, were at his house on the 5th November; the prisoners were not, he thinks, in company with his guests, though they might have been there without his knowledge. A person was announced as wishing to see the Colonel as a magistrate; Louis Allard came in, and asked if either the Colonel or the candidate were there; Louis Allard was then shewn into the room where Colonel Jones was, but he did not see Louis Allard again until he saw him afterwards at M'Nie's. He saw some carts at M'Nie's door, laden with stones and bricks, and the carters were inside the house. He heard that the carters were employed to carry materials to build the chimney for Dumas. Several of Dumas' friends accompanied the carts. The witness was one, and among the others were Peter M'Nie and James Jones; Isaac Jones was not there; Luther Sawtel, Louis Allard, and Medard Crepeau were also there, and the number might amount to about twelve. They went towards Dumas' house, but, in passing, stopped at the house of Trigonne's, who is a peace officer, and who was asked to go with them. Trigonne excused himself, as his child was sick. When within twenty or thirty yards of Dumas', they saw a light from two houses opposite, and he noticed several people rushing out from both. He recognised Maxime Aussent, who rushed out and overturned one of the carts. The party with the witness gave no provocation. He heard a great noise, but could recognise no particular voice. Aussent first made the attack. James Jones and the witness were arm-and-arm together, and witness said, "let go my arm, before they rush down upon us." James Jones had no fire-arms to the knowledge of witness; he himself had a pistol. The witness went from the street towards the lot before the cart was upset, and there met Isaac Jones, about two or three hundred paces from Dumas' house. Isaac Jones entered upon Dumas' lot, and went up to the corner of Dumas' house within the lot. The witness followed Isaac Jones to the lot, and, on entering the lot, saw Aussent upset the cart, and rush on the party of the witness. He saw Isaac Jones fire one of the barrels

of his gun in the air. The gun produced in Court he recognised as the gun of Isaac Jones. He saw his party running for their lives down the street, and saw Isaac Jones running down the lot, and four or five persons pursuing him; and seeing Isaac Jones running, the witness, considering his life in danger, made away to the street on the other side of the road. He does not know who pursued Isaac Jones, for it was dark, and he recognised Maxime Aussenot, from the reflection of the lights from the houses. The persons did not seem to follow Jones in a body, but in succession. Isaac Jones was then about the centre of the lot, and the witness heard three or four shots, but he heard no person cry out that Marcoux was shot. The witness considered himself in danger of his life. He saw clubs in the hands of the attacking party. He heard no person cry out, "fire," and thinks he would have heard any person cry out "fire, Isaac, fire," if Isaac could hear it. He was then about ten yards from Isaac Jones. He knows nothing of the well on the lot. He has known Isaac Jones for about two years, and knows that Isaac Jones is of a tranquil, mild, and serene disposition; he has remarked him particularly for such. He has often been out shooting with Isaac Jones, and has gone up to the hips in brushwood and wet grass, led on by Isaac Jones, to the great annoyance of the witness, when Isaac would receive the abuse he got with the utmost good humour. He saw a mark on his right hand after the death of Marcoux; it was a cut, and his hand was much bruised. The wound appeared to be inflicted with a bludgeon. He knew Marcoux; he cannot say what his conduct was at the election, but his general conduct was boisterous, violent, and hot.

Cross-examined by the SOLICITOR-GENERAL.—The witness had a pistol; when he saw the cart upset, he did not fire his pistol, and heard no shot at the time. At the moment the cart was upset Isaac Jones fired his gun. Isaac did not run away for some minutes. The witness saw him run, and he himself ran in a different direction.

Examined by the Court.—He does not know what became of James Jones after he lost sight of him.

PETER BAILEY, called and examined by Mr. Boston.—He has resided at Sorel for about 14 years. He went on the 5th November last to assist in building the chimney of Dumas, and went from M'Nie's with five or six men for that object. They were met by a number of men, armed with sticks and fence rails. They had previously stopped at Triganne's; he carried no weapons, not expecting it would be necessary. While he was quietly walking along, he was knocked down on the road leading to the house of Dumas, and not far from it. He was knocked down before he could see where the people came from; he got a blow of a fence rail on the shoulder, while he was running away, by Peter M'Nie's advice. He thinks the first blow he received was with a brick, upon which he cried out "I am killed." M'Nie assisted the witness to rise; he then saw a fence rail over his head, and escaped the threatened blow and ran away. He was under serious apprehensions for his life, but he heard no noise afterwards. The blows he received prevented the witness from following his avocations, and he is sure that it was not from his own party that he received the blow. He knew Marcoux to be a troublesome and quarrelsome man. He did not see Isaac Jones that night, for the witness was confined to his bed. He was arrested along with the others, though he hurt no person, and got more blows than all the rest. He has known Isaac Jones for fourteen years; he is a quiet good man, and his brother is the same.

Examined by the Court.—The witness was sober. His party consisted of some six or seven; the carts were not near them then. He did not see Dumas, but he saw James Jones. The witness had been asked to lend a hand in building the chimney, if the materials were there.

LUTHER SAWTEL, called and examined by Mr. Hart.—He resides at Sorel. Was there on the 5th of November, and remembers the election. He recollects the arrangement for the building of Dumas' chimney, for he was responsible for half the money to Allard, for the expense of building. He was at M'Nie's at eight o'clock that night, and for two hours before that. M'Nie came in and said that a party had demolished part of a chimney built by Dumas. He then asked the witness and others to go and help to build the chimney, but he cannot say whether any thing was said about protecting the chimney. About twelve persons went out; Isaac Jones was not one of them. They followed the river side, and stopped at Triganne's house, to request his assistance as a peace officer. Triganne did not accompany them, as his child was sick. On approaching Dumas' house, a mob rushed on the left of them, from Widow Paul's. Some of them came up to the first cart, crying "strike, kill, knock down." He recognised no voices. There were then three or four loads of stones coming up. Heard Dumas say, "my friends, I call you to witness that I have been struck by Aussen." The cart was then upset, and a shot was fired from the end of the house, in the direction of the lot. He thinks that shot was fired in the air. Great confusion then ensued. In a few seconds after, James Jones passed the witness, going away from the party and returning by the way he came. He heard Peter M'Nie say to Baley, "for God's sake, run for your life." M'Nie then passed the witness, pursued by a number of persons. He then heard a second shot fired, apparently from the back part of the lot. James Jones could not have fired the shot, and he did not hear the word "fire" given. The noise which occurred prevented it. He does not think a person at the bottom of the lot could hear the words "fire," if they were used. Isaac Jones, who had passed the party, had something under his arm; but he cannot say it was a gun. Isaac Jones was not privy to the party leaving M'Nie's. The gun produced in Court he identified as belonging to Isaac Jones. He has fired with the gun, and found it very easy to go off. Isaac Jones was accustomed to carry his gun by the guard. He saw the hand of Isaac Jones after the accident, and noticed a piece of the skin taken off, and the wound was yet fresh, as if inflicted with a blunt instrument. He believes that a blow on the gun with the hammer down, is sufficient to cause the discharge of the gun. He has known Isaac Jones for a long time; he is particularly peaceable, and James Jones is quiet enough. Marcoux's general character was that of a passionate and violent man.

Cross-examined by the SOLICITOR GENERAL.—He cannot say that a gun struck between the cocks would go off, and he thinks that the skin of the hand might be taken off by a stick slipping over the lock.

CHARLES L. ARMSTRONG, called and examined by Mr. Armour.—He is the captain of a steamboat, and lives at Sorel. He has known the prisoners for the last ten or twelve years. They have ever borne a very good character, for being peaceably disposed. He knew Marcoux to be a noisy, quarrelsome character. He saw him during the election, and considered him the leader of a party. He appeared very anxious and active, but he said nothing to witnesses about the election. A small stick of wood less than the size of a wrist, might be a little crooked or have knots on it, and such a stick might possibly in striking the lock of a gun, also hit the hand.

The SOLICITOR GENERAL declined cross-examining the witness.

DR. EDWARD CARTER, called and examined by Mr. Hart.—He is a Magistrate for the district of Montreal, residing at Sorel, and has been already examined on this trial. He was called before the Coroner's inquest, but was not present when Carpentier was examined. He thinks he saw him in the house; but cannot say whether he was sober or otherwise. He has known the prisoners for many years, and never heard any thing against either Isaac

Jones or James Jones. He knew Marcoux to be a violent tempered man, who was often before the magistrates. He knows that Isaac Jones had become bail before him, as a magistrate, for Marcoux, on the charge for an assault.

The SOLICITOR GENERAL declined cross-examining the witness.

EDMUND PEEL, called and examined by Mr. Armour.—He has resided near Sorel for two years past, and was acquainted with the character of Marcoux. He believes he was quarrelsome, if he may judge of his conduct towards himself. He has always heard a good character of the prisoners, and has had personal experience of their kind and peaceable disposition.

The SOLICITOR GENERAL declined cross-examining the witness.

JOSEPH NICKLESS called and examined by Mr. Hart.—He is a Captain of a steamboat, and resides in Montreal. He knew Marcoux perfectly well. The witness was not present during the whole of the election, but was often there while passing with his steamboat. He knew him well as a contractor of firewood to the steamboats. He once exhibited great turbulence in the presence of the witness, in offering to fight the witness, and in attempting to throw a man overboard. He heard Marcoux, during the election, say that his party would have the election, at any risk, and that blood would yet be spilled. He considered Marcoux to be a dangerous and violent man. He has known Isaac Jones since 1824, and never heard any thing against his character, nor that of James Jones.

The SOLICITOR GENERAL declined cross-examining the witness.

HUGH MASSY BARRETT, called and examined by Mr. Armour.—He is a Magistrate for the district of Montreal, resides about seven miles from Sorel, and knows generally the inhabitants of the borough. He knows the prisoners; the character of Isaac is that of a peaceable and mild man. He knew Marcoux a little, and saw him during the last election, where he exhibited much violence, and was a leading character. He seemed to be concerned in any riot that was going on. He was once brought before the witness, as a Magistrate, for an assault on Mr. Peel. Isaac Jones bailed him out on that occasion, and this was not long before his death. He has heard that his brother magistrates had much trouble with the deceased.

The SOLICITOR GENERAL declined cross-examining the witness.

WILLIAM OSTEROUT, called and examined by Mr. Hart.—He resides in Montreal, and knew Marcoux only a day or two before the election. Marcoux and witness were on board of a steamboat, then going down to Sorel, when they had some conversation as to the probable success of Pickel or Jones. Marcoux during the conversation, remarked that if Pickel was defeated, blood would be shed. He saw Isaac Jones in Montreal during the election, when he said he was up in town to avoid the contest, and that when the election was over he would return. Some months before, Isaac Jones told the witness, that he would not remain in Sorel during the election. He considers the disposition of James to be quiet, peaceable and gentlemanly.

The SOLICITOR GENERAL declined cross-examining the witness.

JOSEPH TIMOTHEE GAUDET, called and examined by Mr. Armour.—He is a clerk in the Commissariat Department, and resides in Montreal. He knows the prisoners at the bar. Isaac Jones is extremely peaceable and quiet; he does not know James Jones so well, but believes him to be equally peaceable. He also knew Marcoux, but can say but little in reference to his temper.—

The gun produced he knows to be the gun of Isaac Jones ; it is easily discharged, and striking a blow on the gun with the cock down, will most readily make it go off. He has himself this morning struck the gun on the side and the top, with caps placed on the nipple, and the gun went off readily.—The gun has a double spring, and though it has not a hair trigger, it goes off nearly as easy as a pistol with a hair trigger. During the Sorel election Isaac Jones was in Montreal, and spent his evenings at the house of the witness, and thinking that the election would finish on the Saturday, he left town for Sorel.

Cross-examined by the SOLICITOR GENERAL.—When he struck the gun with a blow of the stick, he did not give it a violent blow.

ARTHUR FARQUHAR was called and examined by Mr. Hart.—He lives in Montreal, but went down to Sorel before the Coroner's inquest, which he attended the first day. He heard Carpentier examined, and does not think that the boy was sober. Martel Paulet spoke to the boy during his examination, and when he perceived that the witness was watching him, Paulet shook his fist at the witness. He does not consider that the conduct of Paulet at the inquest was correct, for he saw him talking to the Jurors, and otherwise make himself very busy. He knows Isaac Jones to be a peaceable character. He is not so well acquainted with James Jones.

The SOLICITOR GENERAL declined cross-examining the witness.

JOSEPH BOISVERD, called and examined by Mr. Driscoll.—He lives at Sorel, was there on the 5th November, and was a clerk with Mr. John Crebassa.—He knows the house of Widow Paul. He was sent there by Mr. Crebassa, between eight and nine that evening, where he saw many persons. Before going into the house, he saw Maxime Aussent coming from the house of Dumas. Mr. Crebassa desired him to ask a man named Paul Hus to go and work for him the next day. Marcoux called out that the witness was a d—d spy, and said that the election was not the time for such work, and that they had enough to do with the election. Pierre Peloquin caught hold of the arm of the witness, and obliged him to go home without any satisfaction. Marcoux was that day very troublesome at the poll ; he has known him for the last two years as a hasty man.

The SOLICITOR GENERAL declined cross-examining the witness.

MICHEL FORCIER was called and examined by Mr. Armour.—He lives at Sorel, and on the 5th November was in the service of Mr. John Crebassa.—He knows the last witness, and having got orders to do some work for his master the next morning, he was desired to go with the last witness to Mrs. Paul's, to get Alexis Paul Hus to assist. He went to Mrs. Paul's, and met Maxime Aussent near the house ; he asked him to send out Paul Hus to him, as he wanted him. Aussent refused to send him out. Paul Hus, however, came out to the door ; the witness told Paul Hus that Mr. Crebassa wanted a man to work about his house. Alexis Peloquin was there talking about the building of the chimney. Marcoux came out, and asked the witness abruptly what he wanted. He appeared to be very much vexed, and swore. He had a cane in his hand at the time. He heard Peloquin say that two men would be sufficient to prevent the building of the chimney, and that if two would not do, he would employ more. Peloquin then went into the house and Pierre Touin came out. The witness then wanted Paul Hus to promise to come to work at the house of Mr. Crebassa, when they desired the witness to be off. The people there had the appearance of, and acted like ruffians.—Pierre Touin took hold of him by the arm and squeezed him very hard, and then sent him away. He was very glad to get away.

The SOLICITOR-GENERAL declined cross-examining the witnesses.

JOHN CREBASSA called and examined by Mr. Armour.—He is a Magistrate for the District of Montreal, and has been living at Sorel for the last fourteen years, and knows the prisoners, who are kind, peaceable and quiet men. Isaac was one of the churchwardens of the Church of Sorel, and is a man of good character. He did not see him in Sorel, until the latter end of the election. He knew Marcoux to be a man of extraordinary violence and quarrelsome. He sent the two last witnesses examined, on the errand they mentioned, for the purpose of employing two persons to work for the witness. They told him on their return, that they had been driven away from Mrs. Paul's with violence.

The SOLICITOR-GENERAL declined cross-examining the witness.

It being now nearly six o'clock, the Jury were again taken in charge by the Deputy Sheriff, and in the care of the constables, conveyed to Sword's Hotel.

The Court then adjourned till tomorrow at nine.

SATURDAY, March 7.

At nine o'clock the Court opened, the same Judges presiding as yesterday. The Jury having been brought up, and the prisoners placed at the bar, the evidence for the defence was continued.

EDWARD CREPEAU called and examined by Mr. Driscoll.—He lives at Sorel, and was there on the 5th of November last. His father was engaged that evening as a driver of the cart for Mr. Dumas, and with witness arrived at Dumas' at about half-past seven, Louis Allard accompanying them. The father of the witness was one of those who had undertaken the job. Alexis Peloquin and Marcoux came up, along with Maxime Aussent and Alexis Paul Hus. On arriving near the door of Dumas' house, he was asked what he came there to do, and these people stopped him from unloading the stones from the cart he was driving. He was afraid of them, for they told him hastily to be off, but they did nothing to the horse. He, however, went back to the place where he had attempted to unload the cart, and was told by Louis Allard to go to M'Nie's; they again went back to unload the cart, and on arriving near the house of Dumas, he saw some thirty or forty persons in the street, with sticks, but he does not know what their object was. The carters could not reach the house of Dumas for the crowd. On hearing the reports of two guns, the witness went away. He did not see a cart upset, but heard the noise of it; he was then in the rear. At about half-past nine, it was dark, but he heard the words "kill, destroy;" he did not hear Dumas cry out. The noise was very great, and the witness ran away.

Cross-examined by the SOLICITOR-GENERAL.—He is only fourteen years of age. No person has dictated to him what to say, and he only speaks of what he knows. He knows Dr. Carter, before whom he made a deposition, by the request of John Jones, who took witness to Dr. Carter's. He related all he knew to John Jones. It took much longer time to relate his story to the Magistrate than to the Court, because the Magistrate had to write it all down. He cannot say who spoke first in the street; what occurred was not through play, for they rudely stopped the carts. He cannot say, who cried out "kill, destroy." He saw some people with sticks and rails, but he cannot say who had them; it was too dark, and he was not close enough to see. He stopped that evening at M'Nie's, at about half-past eight, and went into the house. He there saw William and James Jones, Peter M'Nie, Peter Baley, and Louis Allard. He saw some pistols there; and some of the party had them in their hands; they seemed to lay hold of them and then put them down on the counter. M'Nie was behind the counter, and might have seen as well as others

what was going forward. There was some powder and shot there also; he saw no lead cut up into slugs, but he saw a single bullet, which they tried to see if it fitted the pistol, which they loaded with shot as the bullet was too large. He thinks that there were twelve or thirteen persons then present. He saw an old sword, but not in the possession of M'Nie. He saw some strangers there, but he cannot say whether they accompanied the party to Dumas'. He knows Carpentier, but did not see him with any sticks; he saw some sticks at M'Nie's house, each about three feet long, and there might be three or four such. He thinks it was William Jones and M'Nie who were trying to fit the bullet into the pistol. He knows that James Jones was there, but he had no pistol in his hand. Isaac Jones was not there. He believed two of the pistols belonged to M'Nie; and he is positive in saying he saw three pistols. He did not hear the words "fire, Isaac," before he heard the reports of the two guns.

LOUIS ALLARD called and examined by Mr. Boston.—He lives at Sorel, and is a mail courier. He was employed by Dumas to build a chimney, and was the contractor for the job; he engaged persons to build the chimney. He sent two carts loaded with earth to the place, and went to M'Nie's to get some provisions. He had undertaken to complete the work by twelve the next day. He went back to the house of Dumas, and when he arrived, the little boy Crepeau told him that the cart was upset. The witness then returned to M'Nie's to report the matter and return the provisions to M'Nie. He then repeated to M'Nie what the boy had told him. Somebody present in the room said "then we will go with you," and then he went to the inn of William Jones, to see if Colonel Jones, the Magistrate, was there, and from him to get advice. They were told by the Magistrate that they had a right to work on their own property by day or by night, provided they conducted themselves properly. They then returned back to M'Nie's. He was not inclined to go any where but to home, through fear; though he had never been insulted during the election. Dumas, however, was determined to have his chimney built. There were then four carts at the door. His father's cart was not loaded. Upon arriving near the house of Dumas, he heard Dumas cry out, "I take you to witness that Aussenat has struck me." Upon that, he turned his father's horse round, and remained there till Dumas came up, who appeared like an animal that was pursued. He heard a noise, as if proceeding from a cart overturned. Judging by the voices, there might have been from twelve to fifteen persons there. The witness was too much in the rear to hear distinctly; but heard some of the people cry out "there they come, let us go meet them." The witness was so alarmed, that he employed some one to sleep in his house that night. In the morning he heard of Marcoux's accident. He witnessed the conduct of Marcoux during the election, during which he appeared very active. He heard Marcoux say to M'Nie that day, "You d——d Scotch rascal, I will rip your guts out." Marcoux was a man that would go through whatever he once took in hand, and considers him to have been a dangerous character. He did not hear Marcoux say, that blood would be shed. Isaac Jones was not at M'Nie's that night: and he thinks that if he was to pick out two of the most quiet or inoffensive men, it would be the two prisoners.

Cross-examined by the SOLICITOR-GENERAL.—He is thirty-eight years of age, and is a sort of jack-of-all-trades; he would do anything to earn an honest livelihood. He is crier at the church-door, mason, shingler and courier. The boy Crepeau related to the witness what took place at Dumas'. He took with him two candles, one loaf and a bottle, to be used among the seven men employed. The witness never drinks any himself. He got the articles on credit, and returned them to Mr. M'Nie that he might not be charged with them. M'Nie was occupied in his house when he saw him. There were pistols within the bar at M'Nie's, and some persons loading them. M'Nie said, "Let us take no pistols with us, lest there should be any accident,

but let us take sticks, and go on with our work." He cannot say how many sticks were there. He heard the servant boy ordered to bring in some sticks. He cannot say who had the pistols in the house, and is not certain whether James Jones had any or not. They were small pocket pistols. He does not know that Peter M'Nie took a sword. He did not hear the pistol go off.

LOUIS LONEY, called and examined by Mr. Hart.—He resides in Montreal, but knows Martel Paulet. The witness was lodging, on the 6th November last, at the house of one Paul Hus at Sorel, and being in conversation with some other persons about Marcoux's affair, Martel Paulet said, "he would hang all the Jones's." He has heard Paulet speak most violently against the prisoners. Marcoux's conduct at the election was the same as on all other occasions, extremely violent. They suspected the witness, as he did not belong to their party. He saw Marcoux and his party in possession of the poll, and Jones' party were generally obliged to keep at a distance from the poll. On the morning after the inquest was held, he was in the bar-room of Paul Hus. Paulet afterwards came in, and, perceiving one Antoine Berard there, said, "why do you come here among us, after having made a deposition against our party." Berard replied, that he had spoken the truth. Paulet then said, that Berard should come up to Montreal, and contradict his former deposition. The steamboat "Union Canadienne" was freighted on the following Sunday to convey Mr. Pickel and Berard to Montreal. He knows Isaac Jones to be a most peaceable man.

Cross-examined by the SOLICITOR-GENERAL.—He is a shoemaker, living in Montreal. He had two objects in view in going to Sorel; the first being to keep out of the way of the election for the West Ward of Montreal; and the second, to buy fish and poultry on speculation. He only remained in Sorel to do his business. He lives in the Quebec Suburbs of Montreal, but has a property in the West Ward. He took no interest in the Sorel election; made no speeches there, and expressed no opinion on the election. In his own opinion he certainly wished success to Mr. Jones, and to the opposite side a defeat. He did not vote at the West Ward election, although Mr. Papineau sent a *caleche* twice for him. He cannot say who were present when Paulet used the expressions alluded to. He heard Paulet express himself in that manner three or four times. There might have been twenty people present when he said so. From their not expressing any horror at the language made use of, he thinks on that occasion he was the only man of feeling in the company. He is acquainted with very few at Sorel, his business being at a place nine miles lower down the river. He followed the shoemaking up to 1832, he then turned carter, but in November resumed his old trade. It is true, that in 1832 he acted as assistant to the Cholera Doctor, Stephen Ayres, and may have mixed up charcoal for him. He does not consider himself a meddling man.

ANTOINE BERARD, called and examined by Mr. Driscoll.—He was living at Sorel on the 5th November last. He knows Martel Paulet, a brewer in the village. He never had any other conversation with Paulet beyond his telling the witness that he had perjured himself in a deposition he had made in favor of the prisoners. The witness was brought up to Montreal to contradict it, but he refused to do so. Paulet did not threaten the witness, but he came up with the witness to Montreal. He received no money for so doing. When he reached the chamber of the judges, where he was to make his contradiction, he saw some others going out, and the witness followed them. Paulet did not dictate to him, and he does not know who wrote the paper that was handed to him. The deposition was taken in writing in the presence of the witness. The first deposition he made was written by Mr. Crebassa. Paulet was present when the second declaration was read over to the witness: He thinks Mr. Pickel paid for the passage of the witness to Montreal.

The SOLICITOR-GENERAL declined cross-examining the witness.

MEDARD CREPEAU, called and examined by Mr. Boston.—He has lived at Sorel for the last seventeen years, and remembers the circumstances of the 5th November. He is by trade a contractor. He knew that a chimney was to be built for Mr. Dumas, as he was one of the contractors for the work. He knows Dumas well, and on repairing his house, they took down the old earthen chimney, to replace it with a solid stone one. The witness was going to Dumas' with the carts when he was met by a mob of persons. He heard the mob encouraging each other, and crying out "fight, kill." These people prevented the chimney from being built. He heard no shots. He is a Lieutenant of Militia, but he could have exercised no authority over the mob. He did not see Isaac or James Jones, but he saw William Jones with his party, when they went to see Colonel Jones, the Magistrate. He saw some fence rails in the air when they were attacked, but he did not hear the voice of Marcoux among those calling out. He could recognise no voices. When the cart was upset, he heard the word "fire" called out, and saw the flash of a gun shot in the air. He thinks the shot was fired to intimidate the people. He had nothing to do with Marcoux, who was a quarrelsome man, and generally at the head of every tumult. The mob appeared determined to carry their point. Some of them said they were hired for the purpose. He saw some peaceable people insulted at the poll. He himself was insulted, but made no resistance. Marcoux was always at the head of the people. He knew Maximo Aussent, who was also violent. He heard Pierre Touin say, that they might tear his shirt to pieces, as he would be well paid for it. The witness recognised Charles Pagé, Alexis Peloquin, Joseph Lumer, and some others. Marcoux in his presence insulted Mr. Jones, one of the candidates, and Colonel Jones, without any provocation.

Cross-examined by the SOLICITOR-GENERAL.—He was one of the partisans of Mr. Jones. He did not see M'Nic with a sword, but with a small stick.

RICHARD HALL, called and examined by Mr. Armour.—He is a gunsmith, residing in Montreal, and understands percussion locks well. He knows Manton to be a first-rate gun lock maker. The witness was employed by Isaac Jones to repair the gun produced in Court, and repaired the locks. He told Jones that the springs were too strong; much more so than necessary, as they made the gun liable to go off suddenly. The gun goes off very readily; he has struck the gun once or twice with a stick, while the cock was down, and it has gone off. The witness repeated the experiment in Court, and the gun went easily off. Any violent blow given to a gun of that description would discharge it. He thinks that the cock of a gun pulled back would protect the hand placed behind the cock, and a blow given to the gun, would cause a recoil from the discharge, if the gun went off.

The Counsel for the Prisoners here stated to the Court, that they closed their case, and submitted their defence to the Jury.

Mr. Boston was about entering upon an argument as to the insufficiency of the evidence to establish a murder, and to comment upon one or two material facts in the case, but the Chief Justice said it was unnecessary, as the Court felt itself fully in possession of the case.

LAURENT DUMAS was recalled and examined by the Chief Justice. His lot is 66 feet broad by 132 feet deep. The well is in the centre of the lot.

The CHIEF JUSTICE then stated, that he was prepared to give the opinion of the Court upon a question which has arisen during the progress of the trial, on the motion of the Solicitor-General, that the deposition of Pierre Carpentier, a witness examined before the Coroner, be read, to shew in what respect

it was contradictory to the testimony given by him before the Court, to which objections were made by the Counsel for the Prisoners. The Chief Justice then stated, that the Court were of opinion that, under the authority of the case of *The King vs. Oldroyd*, (Russel & Ryan, C. C. R., p. 88), this motion might have been granted on the first application, but it having been stated by the witness, that he had been intimidated by some others, witnesses for the prosecution, and was under the influence of liquor, at the time he made his declaration, the Court thought it advisable, before allowing this declaration to be read, to admit the parties on both sides to adduce such evidence as they might have, touching the state and situation of Carpentier when examined before the Coroner. This having been done, and the statement of the witnesses on this point appearing so contradictory, as not to lead to any certain conclusion, the Court were of opinion that the whole should go to the Jury, with directions to them, that in case they should be of opinion that Carpentier had been tampered with, or was under the influence of liquor when examined before the Coroner, they should give no credit or attention to that examination, but to attach their consideration to the testimony given by Carpentier before the Court, and to give that credibility to which they might consider it entitled, when compared with the other evidence before the Court. If, on the other hand, the Jury should be satisfied that the declaration made by Carpentier before the Coroner was free and voluntary, and without any undue influence or constraint, they would in that case see the palpable contradiction between that declaration and the testimony given by him before the Court, and totally reject that testimony as unworthy of credit—observing at the same time, that, in rejecting this testimony, the Jury could not receive as evidence against the prisoners the declaration so made by Carpentier, being admitted here merely to test the truth of his testimony before the Court.

The deposition of PIERRE CARPENTIER in the French language was then read, and is to the following purport:—

PIERRE CARPENTIER, of the Borough of William Henry, labourer, being duly sworn, declares, that on Wednesday, the 5th of November last, at about nine o'clock at night, he was at Peter M'Nie's, in the said borough, when and where were also present, William Jones and John Jones, of the same place, each armed with a pistol, a foot in length, which they severally loaded with powder and shot. The witness further adds, that he was then in the service of Peter M'Nie, who ordered him (the witness) to go and get sticks, which he (witness) did, and procured ten of beech, about 2½ feet in length. That upon that about twelve or fifteen men, the greater part armed with sticks, and some with fire arms, proceeded, and on the way stopped at Pierre Triganno's and asked for fire arms, which he (Triganno) refused to lend them. That they then proceeded on their route, and reached the lot of Laurent Dumas, in the said borough, and where they found Alexis Peloquin, of the same place, who addressed them, and earnestly requested of them to abstain from any violence, but they returned no satisfactory answer, and that the English attacked the Canadians. That he saw James Jones on the lot of the said Dumas, and heard him cry, "Fire, Isaac, fire." That he heard an explosion of a fire arm at about thirty feet distance, and shortly after heard renewed cries of "fire, fire," and instantly other discharges of fire arms. What he calls the English is the Jones's, the M'Nie's, and those who accompanied them; and that at M'Nie's it was resolved to fire upon every one of those who should oppose the erection of the chimney to the house of Dumas. That to his knowledge there was no explosion of fire arms, previous to the cries of "fire, fire," and that he saw William Jones discharge a pistol in the air, in the centre of the assembled crowd, near Laurent Dumas' house. That he then and there saw assembled together, and armed with sticks and fire arms, and endeavouring to put the plan proposed at M'Nie's, into execution: Isaac Jones, William Jones, Medard Crepeau, Laurent Dumas, Charles Desmarais, Joseph Allard, Peter M'Nie, Duncan M'Nie, Peter Baley, Luther Sawtell, Patrick

M·Donogh, and Francis Bradley, the two last mentioned persons being in the service of Colonel Robert Jones, from whose residence two of the guns had been procured, which were probably used.

Sworn before me, at William Henry, } J. M. MONDELET,
the 10th November, 1834. } *His Majesty's Coroner.*

The CHIEF JUSTICE then stated to the Jury the opinion they had thus rendered, and the terms upon which the deposition was to be received by them.

The CHIEF JUSTICE then proceeded to charge the Jury in both the English and French languages. In substance he remarked, that much time had been occupied in the examination of this case, and much testimony of a contradictory nature had been adduced; it was the testimony of the parties opposed to each other in a contested election, who appear to have viewed the transactions connected with this prosecution in so different a light, as to require the Jury to direct their attention in a more particular manner to find out the truth, and to give their verdict accordingly. The case may be considered in three points of view; as murder—as manslaughter—or as merely accidental. He would first consider the case of the principal, Isaac Jones.

Murder is the wilful killing and destroying of any person from malicious motives or evil designs, and to gratify the feelings of a corrupt heart bent upon mischief, which is to be collected not merely from previous threats, but also from the mode and manner by which the evil purpose is effected, and from which an evil design may be presumed.

The circumstances which led to the contest in which the deceased, Louis Marcoux, lost his life, appear to have originated in the intention of one Dumas, who was attached to the party of John Jones, one of the candidates, to erect a chimney in his house, with the view to entitle him to give a vote next day for that party. In directing their attention to the evidence adduced on the part of the prosecution, it would appear, by what is stated by the witnesses in support thereof, that they and all the persons who were in the evening of the 5th November last collected in the house of the Widow Paul Hus, and of one Grenier, were quietly assembled, without any previous intention or design to resist those who intended to erect this chimney, and that on hearing that a party was coming up with carts and materials, they went out more from curiosity than evil purpose, and were assaulted by that party, as well with fire-arms, as with sticks and other offensive weapons. Such a violent assault would lead to the impression of some preconcerted design on the part of Dumas and his party, to effect by violence and open force, what they had previously failed in. During this scuffle in the street, a gun was fired at the end of Dumas' house within his lot, to which the attention of the deceased was particularly directed, and he jumped over the fence to see who it was; that on going up to this person, the deceased found it was the prisoner, Isaac Jones, who presented his gun at him. The deceased told him not to fire, and struck the gun with his stick to turn it aside; at this time the voice of the other prisoner, James Jones, was heard calling out "fire, Isaac," on which the gun was fired, and the deceased was mortally wounded, and died a few days afterwards. According to this statement of the case, it would amount to murder, for as no violence would appear to have been offered to the prisoner that could excite any heat or passion, or an apprehension of personal danger, the use of so fatal an instrument as a loaded gun would indicate a malicious intention; the pushing aside the gun by the deceased with his stick could be considered only as done for self preservation, and not as an attack on the prisoner. On viewing the whole of the evidence for the prosecution, the same facts are reiterated by almost all the witnesses, without any particular detail of circumstances that would enable them to draw a more favourable conclusion for the prisoner.

But in judging of this case, they had to look at the evidence adduced on the part of the prisoners, to see in what it varies from that on the part of the Crown, and what additional circumstances are stated, from which a different

view of the case may arise, so as to exculpate the prisoners from the charge of murder, and reduce it to that of manslaughter.

Manslaughter is stated to be, where death ensues upon a sudden affray, and in heat of blood, upon some provocation given or conceived. This is also considered to be a felonious killing, as done without necessity or sufficient excuse, and subjects the individual to punishment—but it is distinguishable from murder, as not being the result of a cool and deliberate judgment, and a previous malignity of heart, but under the impression of the moment imputable to human infirmity alone. Here they had much evidence to consider, which appeared so contradictory to what had been stated by the witnesses for the Crown, that they must necessarily determine on which side the truth was, and feel satisfied that their verdict is founded on it. This evidence would shew that the intentions and conduct of the party who had assembled to protect the building of the chimney was orderly and peaceably throughout; that they had consulted a magistrate as to the course they should follow, and had even requested a peace-officer to accompany them, and although some of them appear to have had sticks, and some fire-arms were seen at the house of M'Nie where they assembled, yet this was stated to be merely for self-defence, and not intended to be used offensively against any one; that on approaching the house of Dumas with the carts and materials for building the chimney, a rush was made upon them by a number of persons from the houses of the Widow Paul Hus and Grenier, armed with sticks and rails, who overturned some of the carts, and assaulted those who accompanied them, and drove them back; and that several of them were beat and bruised, and all fled under an apprehension that their lives were in danger. As to the building of this chimney, if conducted peaceably and quietly, it was lawful, whether done by night or by day, and Dumas had a right to call in the aid of his friends to assist him in any lawful undertaking, while the conduct of those who obstructed him in this was unlawful, and might be considered as a riotous act from the numbers assembled for this purpose. In regard of any arms or offensive weapons that Dumas' party took along with them, it was proper to observe, that if done to protect their persons, they had a right to do so; if done for offensive purposes, it was criminal, and, had death ensued, it might amount either to murder or manslaughter, according to circumstances; but of the intention of the parties in carrying such weapons, they were to judge. It may, however, be reasonable to presume, that those who had in view to build this chimney, would rather seek to avoid a contest which would interfere with their purpose, while the object of the adverse party was to avail themselves of any means that might prevent it, as they thereby expected to deprive their adversaries of a vote. But whatever might have been the views or conduct of the parties thus engaged in the street, the case of the prisoner is in some respects isolated from this part of the contest; he was not one of the party that met at M'Nie's, or that accompanied the carts. After they had proceeded a certain distance, he was seen with his gun in his hand proceeding by himself towards the house of Dumas; he did not join the persons in the street, but took his stand on Dumas' lot, near the back corner of the house, where, while the affray was going on in the street, he fired one of the barrels of his gun in the air. This would seem to have been the first shot fired; it attracted the notice of the deceased, who jumped over the fence and went up to the prisoner. And here they had to attend to some material circumstances, of which no mention was made by the witnesses for the Crown. He alluded to the testimony of Dumas, and Pierre Touin. Dumas said that he had taken refuge in his house, and was observing what passed by looking through the openings between some boards with which some windows in the rear and gable end of his house were closed; that the person who jumped over the fence had a stick in his hand, and ran at the person who had fired the gun; that the latter turned and ran off, pursued by the former, who was striking him with his stick and must have given him several blows; and that after running about half-way down the lot, the person pursued, who had his gun in his hand, turned round, and both appeared fighting together, when the gun went off, and he imme-

diately heard the cry of murder. Touin, a witness for the prosecution, but not examined, says, that when the deceased jumped over the fence to see who had fired, the witness followed him; that when the prisoner saw the deceased go up to him, he turned and ran, the deceased followed him, and pushed him in the back with his stick. About the middle of the lot the prisoner turned and asked of deceased, why he pushed him that manner, he then had his gun in his hand pointing downwards; the deceased gave a blow on the gun with his stick as if to turn it aside; the parties again spoke together, but he did not know what they said; the deceased gave another blow with his stick, but whether it fell on the gun or on the prisoner he could not say; the gun then went off, when the deceased fell.

These circumstances are material on a charge for murder, for here an assault appears to have been committed on the prisoner by the deceased, to whom no personal provocation had been given by him. The deceased is stated to have been the leader of a party at the election, and a man of a violent character. On seeing him approach with a stick the prisoner fled, whether from apprehension, or to avoid contest, they could best determine; he was pursued by the deceased, and according to Dumas' testimony, the prisoner must have received several blows before he faced round on the deceased, when they appeared as fighting and the gun went off. It may, however, be doubted, whether from the situation in which Dumas then was, the parties being then near the middle of the lot, and at fifty or sixty feet from him, he could sufficiently distinguish what took place, as it was not a clear night. But Touin says that he was on the lot, and stood in a direction between the parties, and describes the pushing and blows given by the deceased, and in so far he corroborates the testimony of Dumas. Should they therefore be satisfied, that the assault and striking at the prisoner was of a nature to excite a feeling of passion or anger in him, or a sudden apprehension of personal danger, and that under this impression he fired the gun at the deceased, it would amount only to manslaughter. There appeared no ground to extenuate the killing in such case to self-defence, on the supposition that the life of the prisoner was in danger, as it does not appear by the instrument used or the manner in which it was used, there was reason to apprehend such danger.

There was, however, another point of view in which this case had been presented to them, as unconnected with crime or criminal intention—that of mere accident, which if founded, requires that they should acquit the prisoner. In proof of this, an instrument had been produced before them, called a percussion gun, which had been proved to be the property of the prisoner, and to be the gun he had with him on this unfortunate occasion. He could not here fail to blame the want of prudence and discretion in the prisoner, (putting criminal intention aside,) in having taken with him such an instrument, particularly of the description here given, to a situation where contest was likely to arise, or even accident to happen. Whatever might be their verdict, the prisoner must attribute blame to himself on this account alone. This gun, it had been proved, may be fired when a cap is put on, by the mere stroke of a stick, or hard substance striking it, whether cocked or not, and several instances had been stated to them of this fact, and the experiment tried before them in the face of the Court could leave no doubt on the point. From this circumstance it is inferred, that the blow given by the stick, such as described by the witness Louis Roi, to have been in the hands of the deceased, when he left the house of Widow Paul Hus, was more than sufficient to have caused the discharge of this gun in the hands of the prisoner. And as further evidence to shew that it was not the intention of the prisoner to kill or to hurt the deceased, it had been proved that the prisoner had previously taken no part, nor voted at the election, but had withdrawn from Sorel for a certain space of time, to avoid all contest; that he was in the habits of intimacy and friendship with the deceased; and that a few days previous to this election, notwithstanding all the violence of character and conduct attributed to the deceased, the prisoner had become bail for him on a complaint made before a Magistrate for some breach of the peace. The account given by John Jones,

who sat up with the deceased the night of the accident, of the statement made by the deceased when asked how it happened, is further adduced as the impression on the mind of the deceased, that in this *rencontre*, he was to blame and not the prisoner. Mr. Jones says, the deceased began to speak about the building of a chimney, that he had seen a person fire a gun, and jumped over the fence, that he struck this person, and on giving the second blow he recognised the prisoner; here the deceased began to get weak, and concluded by saying "it was my own fault."

These circumstances, with the humane and mild character of the prisoner, were submitted to their consideration upon this latter view of the case, and they would no doubt give that weight to this, and to the other matters laid before them, as they should appear to merit. It was a case of moment, in which they had to discharge a painful but a necessary duty, and in doing justice between the public and the prisoner, should any doubts arise in their minds upon any of the points thus submitted to them, these doubts ought always to weigh on the side of mercy and in favor of the accused. As to the prisoner James Jones, he is charged as an accessory before the fact, and it is only necessary to say, that unless you find Isaac Jones guilty of murder, James Jones must be acquitted, as in the case of manslaughter there can be no accessories before the fact.

The Jury then retired to deliberate upon their verdict, in charge of constables, and in about thirty minutes, at about three o'clock, returned into Court, and being called over, by John Daly, returned a verdict of "Not Guilty" in favour of the prisoners. A very marked expression of the public feeling in favour of the prisoners, which the exertions of the officers of the Court could not suppress, was then manifested by the crowded audience that had attended during the progress of this prolonged investigation. The prisoners were then, on motion of Mr. Boston, discharged from the dock, and were conducted from the Court by a number of their friends.

For the purpose of rendering this trial as perfect as possible, the Reporter deems it necessary to add here the substance of the deposition of the deceased, Louis Marcoux, which the Solicitor-General moved to have read to the Jury, but which, having been opposed by the Counsel for the prisoners, was finally withdrawn.

The deposition of LOUIS MARCOUX, which was taken before E. W. Carter, Esq., J. P., on the day of the accident, stated, that on that evening, "between the hours of nine and ten o'clock, he saw a man on a lot of the said borough with a gun in his hand, which said man fired; the said deponent went up to the man, whom he then recognised to be Isaac Jones. The said deponent struck at the gun, and told the said Isaac Jones not to fire, on which the said Isaac Jones pointed the gun which he held in his hands at the belly of the said deponent, and fired the same, which caused a deep wound in the belly of said deponent, under which he is at present suffering. The said deponent declares he also saw a man, whom he recognised to be Luther Sawtell, present when the said Isaac Jones fired, and a number of other persons, whom the said deponent could not recognize."

Subsequent to the trial, the following Depositions were taken, and the two individuals mentioned therein, Moyse Duplessis and Martel Paulot, were arrested, and held to bail, on charges of perjury.

PROVINCE OF LOWER CANADA, } To Wit:
DISTRICT OF MONTREAL.

LUTHER SAWTELL, the Younger, of the Borough of William Henry, in the said District of Montreal, Trader, being duly sworn upon the Holy Evangelists, deposeth and saith, that he never did on any occasion say to one Martel Hus dit Cournoyer, of William Henry aforesaid, what the said Hus dit Cournoyer hath stated in his deposition, given before Jean Marie Mondelet, Esquire, the Coroner for the District of Montreal, on the inquest held on the body of the late Louis Marcoux, deceased; and further the said deponent saith that the said Martel Paul Hus dit Cournoyer hath, in deposing that he the deponent, did state to him the said Cournoyer "that he (deponent) was on the ground when Marcoux was shot, that it was not he (deponent) who committed the crime, that it was Isaac Jones who shot Marcoux," and that "Isaac Jones had loaded his gun with a handful of snipe shot," has committed wilful and corrupt perjury, inasmuch as no such conversation did ever take place, and further deponent saith not, and hath signed.

LUTHER SAWTELL, JUN.

Sworn before me at Montreal, } D. ARNOLDI, J. P.
this 9th day of March, 1835.

PROVINCE OF LOWER CANADA, } To Wit:
DISTRICT OF MONTREAL.

PETER M'NIE, of the Borough of William Henry, in the said District of Montreal, being duly sworn upon the Holy Evangelists, deposeth and saith, that one Martel Paul Hus dit Cournoyer, of William Henry, aforesaid, has committed wilful and corrupt perjury, in stating in his deposition before Jean Marie Mondelet, Esquire, the Coroner for the District of Montreal, on the inquest held on the body of the late Louis Marcoux, deceased, that he, deponent, had said to him the said Martel Hus dit Cournoyer, "that he, the deponent, had been on the ground when Marcoux was shot, that it was not he, the deponent, who shot Marcoux, but that it was Isaac Jones who shot Marcoux," and that he, the deponent, had stated to him the said Martel Paul Hus dit Cournoyer, "that he saw the said Isaac Jones load his gun with a handful of gripe shot," inasmuch as no such conversations ever took place. And further deponent saith not and hath signed.

PETER M'NIE.

Sworn before me at Montreal, } D. ARNOLDI, J. P.
this 9th day of March, 1835.

PROVINCE OF LOWER CANADA, } To Wit:
DISTRICT OF MONTREAL.

PETER M'NIE, of the Borough of William Henry, in the District of Montreal, Trader, being duly sworn upon the Holy Evangelists, deposeth and saith, that he was a witness for the defence on the trial of Isaac and James Jones, for Murder.

That one Moyse Duplessis, of William Henry, aforesaid, Notary Public, with a view to prevent the said Isaac and James Jones from having the benefit of the testimony of deponent, knowing that the Court had directed the witnesses on the part of the Crown and on the part of the prisoners to remain and keep out of the Court-house, until called for examination, did falsely and maliciously make oath that he did see deponent in the Court-room whilst he, Duplessis, was under examination. And further, he the deponent, doth upon

his oath ever and say, that he was at no moment inside of the Court-room during the examination of any witness, until he was called for examination—and that the said Moyses Duplessis did knowingly and corruptly make a false oath, in saying that deponent had been inside of the Court-room during the examination of him the said Duplessis. And further deponent saith not, and hath signed.

PETER M'NIE.

Sworn before me at Montreal, }
this 9th day of March, 1835. } E. M. LEPROHON, J. P.

PROVINCE OF LOWER CANADA, }
DISTRICT OF MONTREAL. } To Wit:

JOHN JONES, of the Borough of William Henry, in the District of Montreal, Gentleman, being duly sworn upon the Holy Evangelists, deposes and saith, that during the whole of the time when Moyses Duplessis was under examination, at the trial of Isaac and James Jones, for murder, both on the first day and on the second day of trial, Peter M'Nie, of William Henry aforesaid, the witness, whom deponent is informed, was stated by Duplessis to have been in Court, was with deponent in the passage of the Court-house, and never entered the Court Room. And further deponent saith not, and hath signed.

JOHN JONES.

Sworn before me at Montreal, }
this 9th day of March, 1835. } E. M. LEPROHON, J. P.

