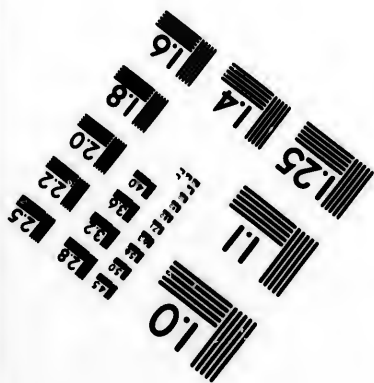
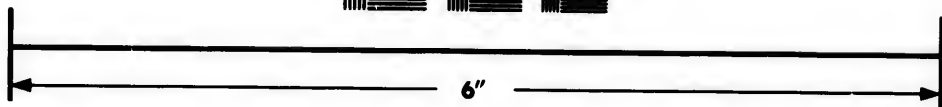
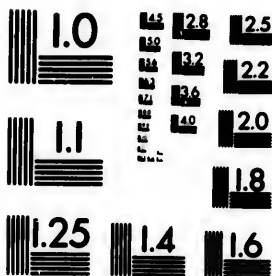


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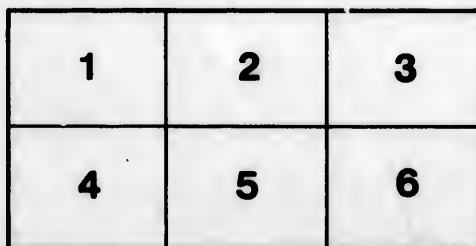
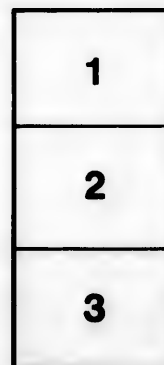
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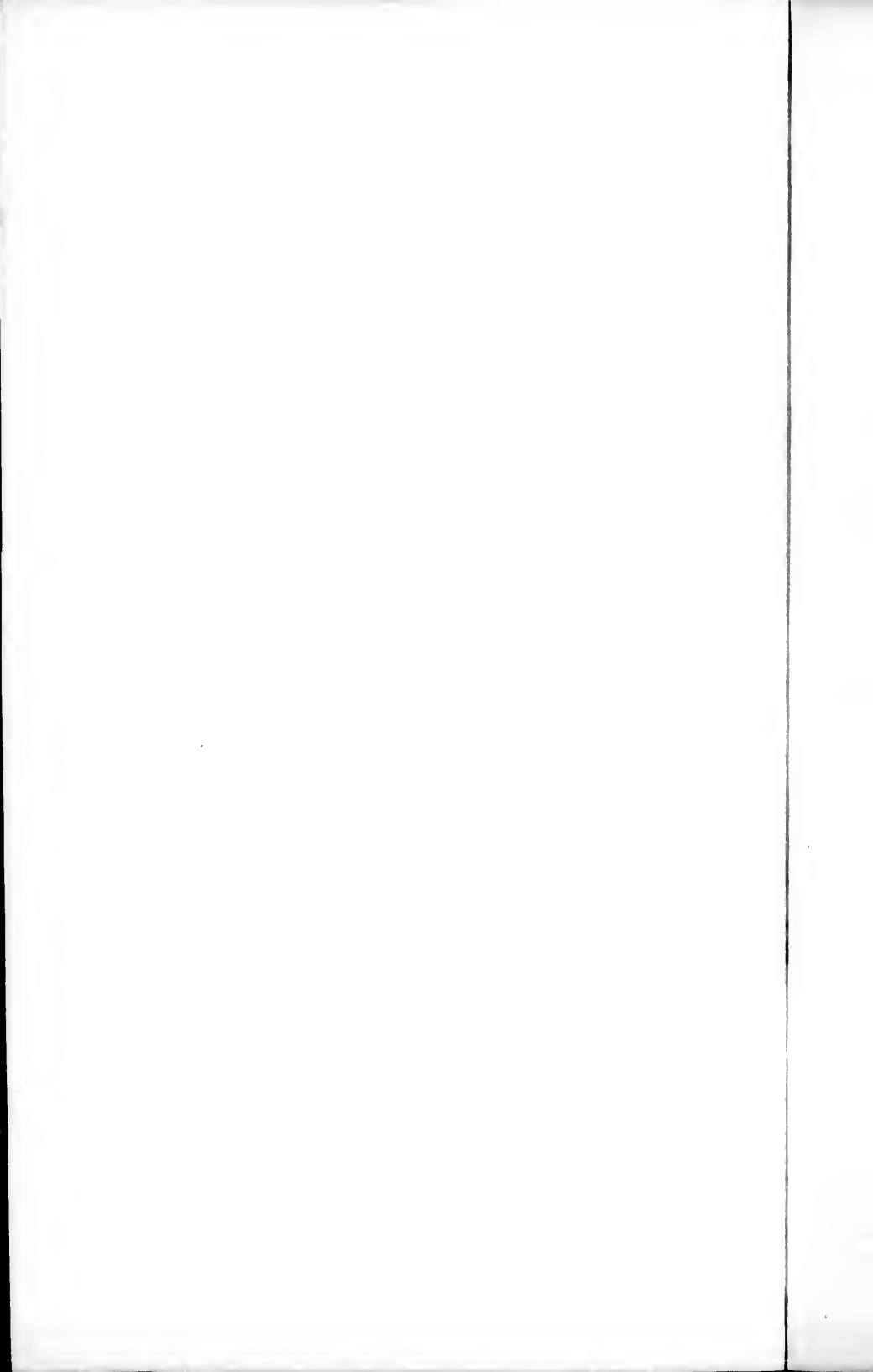
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**TRIAL**  
  
OF  
  
**Dr. MORRISON, M. P. P.**  
  
FOR  
  
**HIGH TREASON,**  
  
AT TORONTO,  
  
ON WEDNESDAY, APRIL 24, 1838.



TORONTO:  
PRINTED BY DONLEVY & MCTAVEY,  
CHURCH STREET,  
—  
1838.

## TO THE PUBLIC.

In offering the following Trial to the public eye the object of the publisher has been in the first place to give the most irrefragable proof that Doctor MORRISON—the unfortunate victim of public prosecution, was an innocent sufferer from the jealous and narrow suspicions of official subtlety; and in the next place to afford a proof equally strong that those who were the avowed leaders of the Reformers throughout the Province, were as hostilely opposed from conscientious motives, to the late Insurrection, as those whose boasted and obtrusive loyalty is based upon a sordid adherence to power and place, gained by corruption, strengthened by family connection, and held by the tenacious grasp of patronage and exclusion.

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## TRIAL OF DR. MORRISON, M. P. P. For High Treason.

On Wednesday, the 21th ult. Dr. Morrison, M. P. P. for the 4th Riding of the County of York, was brought to the Bar, and arraigned for High Treason. The indictment contained two counts: the first was for composing and publishing a Declaration at a meeting held at Mr. Doel's Brewery, on the 28th July last, with intent to excite rebellion. The 2nd count, with levying war for the purpose of subverting the Government of this Province. The case was tried before Mr. Justice Jones (the Chief Justice having expressed his unwillingness to preside.) The Attorney General (Mr. Hagerman) conducted the prosecution, and Messrs. Baldwin, Boswell and McDonnell, appeared for the defence.

After several challenges on both sides, the following Jury was empannelled:

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| <ul style="list-style-type: none"> <li>- G. B. Spencer,</li> <li>- J. L. Perrin,</li> <li>- J. M. Murchison,</li> <li>- Silas Hubbard,</li> <li>- Peter McArthur,</li> <li>- George Moore</li> </ul> | <ul style="list-style-type: none"> <li>- Joseph Rogers,</li> <li>- Thos. Champion,</li> <li>- William Ross,</li> <li>- Thos. Bell, jun.</li> <li>- Thos. Milburn,</li> <li>- Thos. Clarkson.</li> </ul> |
|--|---|

After the names of the Jurors were called over, Mr. Boswell said, he hoped his Lordship would allow Dr. Morrison a seat near his Counsel; the dock was so confined, that he could not change his position; added to which, the Doctor was in rather a bad state of health. Mr. Justice Jones, after some hesitation, said, he could not comply with the request, on the score of convenience, but as the prisoner was in ill health, he might be allowed to take the seat fronting the Dock.

ATTY GEN. HAGERMAN then opened the case. It was, he said, difficult to divest the mind of previous recollections: They had seen the prisoner moving in a respectable sphere of life—they had often walked and talked with him; it was therefore natural that they should incline to mercy, and he did not quarrel with them for their feelings, because it would be an obliteration of the most kindly part of our nature. Yet, those feelings, strong tho' they may be,

should not prevent their doing their duty to their God and their country. The prisoner he said, had been Chairman to a Committee, from whom had emanated a document calling upon their fellow-Reformers in Upper Canada to elect deputies in order to meet in convention in this City for the purpose of coercing the Legislature into compliance with their views. That it may not enter the mind of the Prisoner at the bar, or any of the party who called the Convention, to effect the death of the King, or subvert Monarchy, yet if it did produce that effect, or if the means were to be employed to overawe the Legislature to compel them to do something they would not do, it was an overt act of Treason. The King cannot, and dare not act contrary to the coronation oath and the principles of the Constitution, to attempt to coerce the King to do something contrary to those principles is to commit an overt act to depose the King. The Atty General then went into argument to prove that the law of Treason was the same in this Colony as in England; and that any attempt to destroy the Constitution, to coerce the King; to take the authority out of his hand is an overt act of Treason. The convention about to be called in this Province, was to induce those in power to govern contrary to their opinion, to induce the King to act contrary to the principles of the Constitution, to alter the system of the Constitution, to alter the system of Government, to assume the Sovereign power; for there cannot be two Sovereign powers. Mr. Hagerman then read extracts from the Declaration, and commented on them with much severity. He said such language was not necessary in this country where the principles of monarchy were not so rigidly enforced as in England: He would declare, that if there was a country in the world where the administration of justice was pure and uncorrupted, *that country was Upper Canada.* It may be asked, if the prisoner at the bar signed this Decla-



ration so long back as the 1st of August, why had they prosecuted at this late period? He would not attempt to vindicate himself there, but he had sufficient reasons for his conduct when called on. There were other persons in the Province responsible for not doing their duty. He (Mr. Hagerman) would, however, candidly state it arose, in a great measure, from the difficulty of getting juries to convict the accused. All attempts had hitherto failed. There was another reason—the event contemplated by that paper had occurred. The consequence of its publication has been war, and do you think, a prosecution 5 or 6 months ago, would have prevented that? In his opinion it would not, but an acquittal—a very probable thing then—would have done much damage. The paper now produced, was the cause of that unnatural war, which has bro't this once happy country, into a state of bloodshed and murder, which many wives and families will mourn over for many years. It was, he thought, impossible not to see that this Declaration had produced the late cruel rebellion. Why then, not go the root of the evil? or how will jurors answer to their consciences for an acquittal? It was the cool, deep reasoning of such men as the prisoner at the bar, which produced those direful effects. Mackenzie was not the master-mind—he was a vile and restless creature, without sufficient grasp of mind to accomplish those schemes; but he was the torch used by the incendiary to accomplish the work of destruction. He would now proceed to the second count in the indictment, which charged the prisoner with actually levying war. He did not believe, until he heard the bell toll on the night of the 4th of December, that fifty men could be found in Upper Canada to take up arms, but it turned out he was mistaken. Three witnesses, he said, would swear positively, that they had seen the prisoner at the bar with Mackenzie. He did not mean to say but that they might have been mistaken, but when the Jury saw the connection of the prisoner with that paper, and the evidence of three witnesses who will

swear they saw him on Yonge-St.—men who have known him for years; within a short distance from him on a night not very dark—he felt confident, that on such testimony, the Jury would find a verdict of Guilty on both counts of the indictment. [He above is merely an outline of the learned Attorney General's speech. He occupied the jury a long time reading extracts from the several opinions of Chief Justice Ayre and Lord Chancellor Eldon.

*John Elliott sworn*—Resides in Toronto. [The Constitutional newspaper was handed to the witness by the Attorney General.] Thinks the Declaration of Reformation published in that paper in substance the same as that presented to the meeting at Mr. Doeb's by Dr. Morrison in July last. Witness acted as Secretary at that meeting, but did not compare the original document with the printed copy, can therefore only speak from recollection.—Dr. Morrison addressed the meeting. His speech had little bearing on the document but related to general subjects. About 300 persons attended and Mr. John McIntosh acted as the chairman; who is at present very ill. The Declaration was read by Mackenzie it being in his handwriting. Cannot say that Dr. Morrison ever signed it. Witness attended almost every meeting of the Toronto Political Union, which was first organized in October, 1836.—The Constitutional Reform Society of which Dr. Baldwin was president, merged into this. Never saw Dr. Ralph or Mr. Baldwin present at any of those meetings, though he believes they were not opposed to the proceedings of the Reformers. Delegates were chosen. [Mr. Elliott here read their names.] Dr. Morrison was there when elected, as was also Mr. Robt McKay; neither refused to act. Delegates never met. In October last Mackenzie asked witness to attend a meeting of reformers; it was held in Mr. Doeb's parlour and about 8 or 10 persons only attended. Mackenzie in the course of conversation mentioned that now as the troops were withdrawn from the city a fine opportunity was presented for seizing on the arms in the City Hall. Dr. Morrison rose to leave the room and appeared very indignant at Mackenzie and said "Mr. Mackenzie if you think to entrap me into any such mad scheme I'm not your man. Dr. Morrison and Mackenzie had some little altercation when the matter dropped; the Doctor did not go away. Thinks from what has since occurred Mackenzie called the meeting in order to sound them on the subject. No meeting of the Union after this, nor of course any thing further said on the subject. There were present at that meeting:—Dr. Morrison, John MacIntosh, John Doel, Robert McKay, John Armstrong, T. Parsons, J. Mills, Thomas Armstrong and witness. Every one dissented from the proposition made by Mackenzie and though, it a mad freak of his.

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CROSS EXAMINED BY MR. BALDWIN

Thinks the Declaration as published in the Constitution in substance the one read at the meeting; all that he could say was that Dr. Morrison proposed a declaration similar to the one published. Heard Dr. Morrison say in his speech that the British Constitution was the best in the world, and for his part he wanted no new jangled constitution, only let it be administered in its spirit; thought the constitutional act was not administered in its true spirit or meaning. He also said a good deal about a responsible Executive, & the necessity that existed for a control of the Executive by the people. Witness does not think it was ever seriously contemplated to have a Convention of Delegates called together. Never heard it again mentioned even in private conversation. The Declaration was intended more for effect as embodying the grievances the country was under, than any thing else, also to arouse reformers to be active, & give a new expression to public opinion. No allusion whatever was made at the meeting to separation from Great Britain; if Dr. Morrison had said anything on the subject he would recollect it. Witness has said he thought the meeting in John Doel's parlor was called by Mackenzie to sound them. It is his impression only now formed by recent circumstances. At the time the proposal was made to seize the arms looked upon it not in a serious light, but as something chimerical and absurd. The idea was immediately repudiated by the Doctor and the others present, who did not seem to think seriously of it. Witness has no knowledge of any Executive Committee to correspond with Mackenzie, or to co-operate with him in the rebellion. The name of the Reform Society was changed & a plan adopted to conform more closely to the Political Unions in Great Britain.

**Robert McKay sworn**—Was present at the meeting where the Declaration was read and adapted. Saw it afterwards in the newspapers and never heard any complaints of its being imperfectly printed. Dr. Morrison was one of the committee that reported it, and he afterwards addressed the meeting. He did not say much regarding the Declaration. [A list of names was here handed to witness by the Attorney General.] Thinks that list refers to the Declaration. Witness was present when Mackenzie spoke about taking the arms in the City Hall. Dr. Morrison got up immediately and declared if anything more was said on such a subject he would leave the room; every individual present scouted the idea as being chimerical and the thing was put down. This was about the end of October. Doubted then that Mackenzie was serious, but has little to doubt now on the matter.

CROSS EXAMINED BY MR. MACDONALD.

The Declaration in his opinion only intended to bring about Reform in England in a constitutional way. When the proposition was rejected Mackenzie seemed dispirited. Witness always thought Dr. Morrison moderate in his politics, saw nothing like it or a good in any of his

opinions. The object of the Declaration was to arouse the Reformers, and to give a new expression to public opinion on the subject of their grievances; does not believe a Convention was seriously contemplated as it was not afterwards talked about. Witness knew of no secret understanding to subvert the government—neither did he know of the outbreak until publicly known, when the bells of the city were rung. Does not believe there ever was an Executive Committee in Toronto, such as mentioned by Mackenzie in his Narrative.

**John Armstrong sworn**—Was present at the meeting when the Declaration was adopted, and saw Dr. Morrison there. [The Attorney General here handed witness one of the Union lists.] His name is on the list but he did not sign it with any treasonable intention or secret understanding.

CROSS EXAMINED BY MR. BALDWIN.

No design of carrying arms was contemplated by their meetings. Was present in J Doel's parlour when Mackenzie said something about seizing the arms in the Hall. Dr. Morrison condemned such language and threatened to leave the room. The Doctor spoke of the grievances of the Province, and that they should do their utmost in a constitutional way to correct them. Witness knows nothing of an Executive Committee to co-operate with Mackenzie, nor did he hear of the rising until publicly reported.

**James Latimer sworn**—Was in the employment of Mackenzie as a journeyman Printer. [The witness was handed a number of the Constitution newspaper by the Atty General.] Believes it to be the paper published by Mackenzie. Something similar to that Declaration was put up in type in the printing office; it was in Mackenzie's hand writing.

CROSS EXAMINED BY MR. BOSWELL.

Did not see Dr. Morrison's name to the Declaration when printing it.

**John Powell, Esq. mayor, sworn**—Went to search Mackenzie's printing office. All the papers found there were delivered into the hands of Alderman Dixon. Witness did not examine them.

**Alderman Dixon sworn**—Recollects Mr. Powell bringing papers which he said he found in Mackenzie's printing office. Witness took them home and examined them, but he did not find anything to criminate Doctor Morrison.

[The Declaration was then read by the Clerk of the Crown, when the Attorney General said he would now proceed to sustain the second count in the indictment, viz: Dr. Morrison's being in arms.

**Captain Bridgford sworn**—On the night of the 4th of December, he and Lawrence on their way to the City were met by three persons near Gallows Hill on Yonge Street. One of

them was Mackenzie, the other was Dr. Morrison as he believes. Mackenzie said "is that you Bridgford? stop or I'll fire on you." The other person whom he thinks was Dr. Morrison cried out "stop." Possibly it might *not have been Dr. Morrison*, but thinks it was. Knows Dr. M. for many years. There was another person with them but he does not know whom. It was about half-past 11 o'clock at night

CROSS-EXAMINED BY MR. RALPHIN

The moon was down and there was not much light. Dr. Morrison told him to stop; thinks he was dressed in dark coloured dress, but saw no fire-arms. Is quite positive of Mackenzie but not so fully positive of Dr. Morrison being there. Thinks he wore Spectacles:— Does not recollect having any conversation on this subject with Mr. Baker, nor can he recollect having said the reason he thought it Dr. Morrison was, because he did not speak.

*Capt. John Prime Lawrence sworn.* Was in company with Capt. Bridgford on the night of the 4th December, when about a mile at this side of Montgomery's they were stopped by Mackenzie and two other persons, one of whom was Dr. Morrison. Did not observe that he wore spectacles. Is satisfied in his own mind that it was Dr. Morrison as he would have been were it his own brother. It was about midnight.

CROSS EXAMINED BY MR. BOSWELL.

When proceeding to the City came West down Yonge Street; never said to any person that he came down thro' Boulton's fields. Gave information to the Governor on his arrival. Was met by a person at the Greenland Fishery; and does not recollect expressing to him any alarm of being shot. Thinks Dr. Morrison had on a cloak and a hat, and that he rode a white horse; but cannot say whether it was a large or a small one. Knows Dr. Morrison by sight, having seen him 100 times.— Thinks the moon was down, but it was a clear night. Before Capt. Bridgford, mentioned it, thought it was Dr. Morrison. Witness was in a gallop when

he passed the prisoner, his horse was across the road. Soon after his arrival in the City the bells began to ring.

*Captain Brooks sworn.*— On the night of the 4th December I was coming down Yonge Street in company with Captain Stewart and Col. Moodie, each on horse back, when at Montgomery's tavern saw a crowd of persons who attempted to detain us. I heard the order given, guard fire, four pieces were discharged at us, and I saw Col. Moodie fall. I made my escape and was shortly met by about ten men, who said is that Mr. Thomson, I said yes, and they ordered me to pass on. I afterwards met four men, who demanded to know who I was, I said Thompson; Mr. Powell then said, I demand your protection Mr. Thompson. I then told him that the rebels were in arms and that they had shot Colonel Moodie. Soon after I saw two men on horseback, their horses were standing across the road, one immediately turned his horse and said I was his prisoner. I replied, never, and past him: I knew this to be Mackenzie, the other, I have no doubt, was Dr. Morrison—feel as sure of that as that I am now speaking to you, did not see Bridgford until I arrived in town, turned off Yonge Street at the Blue Hills.

CROSS-EXAMINED BY MR. BOSWELL.

Knew Mackenzie's voice, Morrison did not speak, saw Powell near Elnsley's barn, saw Mackenzie near Mrs. Heath's gate, does not remember the time, must have been between 11 and 12, knows as well now as when the deposition was made before the Commissioners. Deposition here referred to. Witness had stated the time to have been between the hours of 8 and 9. Mackenzie called to witness, Morrison did not speak, but fired at him, witness snatched his pistol, but it missed fire— never said to any person that he knew Dr. Morrison by his voice—Dr. Morrison had not glasses on.

*John Powell, Esq. Mayor, sworn.*— Witness got into town sooner than Brooks. He was left prisoner with Anderson and Shepard. Mackenzie and two others passed on. When in the

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City met Brooks at the market square, who then told him Dr. Morrison was among the persons who stopped him.

CROSS-EXAMINED BY MR. BALDWIN.

Cannot speak accurately as to the time, but believes it must have been after 11 o'clock. Did not see Dr. Morrison. Stated next morning that he was the person with Mackenzie, but feels satisfied now that it was not, neither did he see him on the street. Has known Dr. Morrison for many years, and were he among the party is sure he would have detected him immediately. Five persons took witness prisoner near the Sheriff's Hall. Mackenzie ordered two of them to take him further back; of the three remaining firmly believes Dr. Morrison was not one. Witness met no person on horseback afterwards except Brooks, which was in about a quarter of an hour. Repassed Mackenzie and two others who he believes were the same persons before mentioned.

John G. Spragg sworn.—Saw Capt. Bridgeford on Monday night, who then told him Dr. Morrison was among the persons he saw with Mackenzie. [Mr. Boswell objected to this species of evidence, and the witness was then sent down.]

The Attorney General stated he had now made out his case against the prisoner.

Mr. MACDONALD then rose and spoke as follows:—May it please your Lordship, and gentlemen of the Jury.—When I consider the importance of this case, not only to the prisoner himself, but to the people of this Province at large, I sadly confess, that I rise to open the defence with no inconsiderable degree of diffidence and embarrassment as well as regret, that the duty has not devolved upon one better able to do that justice its importance so much deserves. But this case, in the eyes of others, as well as my own, is the most important one that has as yet come under your notice, or that perhaps of any Jury ever impanelled in this land. I need only refer to the learned speech of the learned Attorney Gene-

ral to shew, but that the evidence to support it is not, in his opinion, proportionable strong, I think may be interred by the length at which he has considered it necessary to address you. I have remarked in the progress of the present trials, that the length, breadth, and thickness of the learned Attorney General's speeches are always in the inverse ratio of the importance and weight of the testimony; and that when the statements made under oath are not considered sufficiently conclusive, that learned gentleman is too apt to be tempted to *eke them out* by statements *not* under oath. If I am correct in this view, the present is certainly the *weakest* case that has as yet been brought before you, but fortunately for us we are not driven to rely upon the weakness of our adversary alone, of which I conceive you will be fully satisfied when you hear the evidence to be adduced on the part of the defence. But before entering fully into the case, I would remark, Gentlemen of the Jury, that I am not here to establish my reputation as an orator, or to dazzle your judgments by the variety and novelty of my arguments, but to establish the innocence of the prisoner at the bar, in regard to the high crime of which he stands accused, and therefore, if I should in the course of my observations, unwittingly repeat any arguments you may already have heard from me, I trust, that when you consider that at the trials that have as yet taken place, were for the same alleged offences, and that they required, of course, the same general species of defence, you will listen to any such repetition with the same patient attention and consideration, that you have uniformly displayed. But while I claim this indulgence at your hands, I would, at the same time mention, that I will not intentionally put your patience to so severe a proof, because I perceive with great pleasure, that some, if not the greater number of you, were on the jury that I had the honor of last addressing. Gentlemen, the learned Attorney General has thought it necessary to warn you against allow-

horse was his arrival ring. On the was company Moodie, Mon'go of persons I heard our pieces I saw Col. scape and men, who I said yes, on. I demand Thorp I demand on. I then re hi trus el Moodie, on horse- ling across torced his er. I r. I knew ner, I have n—feel as r speaking until I ar- nge Street

BOSWELL: Morrison near Elms- near Mrs. member the been 11 and men the de- e Commi- referred to. have been 19. Mac- Morrison did n, witness missed fle— at he know —Dr. Mor- r, sworn.— oner than r with An- kenzie and then in the

ing any prepossessions in favor of the prisoner, to have any weight with you, but I cannot help considering the caution a very needless one. If I can gather anything of public opinion in Toronto, the prepossessions, feelings and prejudices are all the other way. In proof of which, I need go no further than the last Palladium, published in this City, by a gentleman upon whose writings I had occasion before to comment. According to this individual, Dr. Hunter (whom he persists in stigmatising as "*obnoxious and guilty as Mackenzie himself.*" in spite of the oaths of 12 jurors to the contrary) "has wholly escaped all punishment for the present in consequence of being put upon his trial whilst the spectacle (the gloomy scaffold) occurred," and not in consequence of being innocent of the charge. That spectacle now no longer raises its frightful head, and I demand of you as an act of justice to yourselves, to shew this gentleman by your verdict this day, that its terror had no more to do with your former verdict than the terror of his disapprobation will with this. Not content gentlemen, with accusing you of having been influenced otherwise than by the evidence, he proceeds to tell you, in order that you should not be again guilty of the crime of acquitting any person he may choose to consider guilty—"that the Judge, the entire Court, nay, even the prisoner himself, seemed perfectly amazed, for the evidence was striking and full, and the Judge declared he could not see on what ground the acquittal was returned." Gentlemen, I take upon myself to say, that a fouler libel was never published against that distinguished individual. Chief Justice Robinson is a man too tenacious of what is due to himself and the Bench, I am proud, as a Canadian, to say, he adorns, to interfere with, or give an extra-judicial opinion, and to suppose him guilty of making such a comment is, in fact, to say that he disgraces the Bench—an opinion which I conceive, gentlemen of the Jury, no right-minded man in the Province would coincide in. In

the consideration of the crime of Treason, gentlemen you will have to look into the motive of the actor—it is the intention that constitutes the crime, although what is called an overt act is required to be passed, and therefore, in this case, you will have to canvass most minutely the motives of the prisoner; but when doing so, what I ask of you is, to canvass them with fairness and liberality. Christina charity teaches us to put the *best* construction upon the acts of our fellow-men. What, I ask of you is, that you should not do, as the learned Att'y General asks you, and put the *worst*. Let the prisoner's actions speak fairly for themselves, and by those actions let his motives be judged. But I pray you not to see with the learned Att'y General's eyes, and detect Treason lurking in every word, and crime in every action, however innocent in themselves. Among the many difficulties, gentlemen, that you will have to contend with in your search after the truth, by no means the least will be the difficulty of preventing yourselves from identifying the prisoner at the bar more or less with the subsequent actions of his former associate Mackenzie. What was it that made Messrs. Bridgford, Lawrence & Brooks jump at the conclusion, that the prisoner was the person they saw with Mackenzie? What was it that very nearly made Mr. Alderman Powell arrive at the same conclusion? It was not that he (the prisoner) *was there*, because we shall prove to you, beyond the shadow of a doubt, that he was in his own house at the time. So it was that the Doctor and Mackenzie had always acted together. That nothing could be more natural, in their opinion, than that it should be the Doctor, and therefore, they at once made up their minds that it could be no other person. Yes, so convinced were they that it *must* be the Doctor—that one of them, without reflecting upon the absurdity of a man wearing spectacles at night (dark ones too) actually succeeded in persuading himself that he had seen this identical *green spectacles* that the Doctor wore to pro-

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lect his eyes from the light. The only way, therefore, to avoid falling into similar errors, is to dismiss from your minds all knowledge of the former connection between the prisoner and the guilty individual I have just named, and let your minds be governed only by the evidence applicable to the prisoner himself. At the great judgment seat before which we must all bow our heads on that dread day, when the grave shall give up its dead, we are taught to believe that every man shall be judged according to his *own* acts. Do, therefore, as will hereafter be done unto you, and let not the unfortunate prisoner at the bar, be made accountable for the acts of others as well as his own. — Gentlemen, Mackenzie was an enemy to the Government. I may add, with truth, that he has proved himself a greater enemy to the prisoner at the bar, and the great body of Reformers in the Province, for it is to him they owe it, that Reformers in that witness-box had hesitated to acknowledge themselves such, and that the avowal was at last made with the honest blush of shame on their cheeks. It is to him they owe it, that her Majesty's Atty General could utter sneers at that ever honored name. It is to him, and to official partizans as bad as him, they owe the foul calumny: "that all Reformers are rebels in their hearts, and would be so in deed, if they dared." In short, it is to him, and him alone, they owe it that the term is now made to signify all and every thing but what it really means. But while, in the name of the great body of Reformers of Upper Canada, I thus publicly give the lie to that base slander, and declare that, had they willed it, the rebellion would have been a successful Revolution; let me drop a word or two of advice to the learned Attorney General, which I had as well, be as kindly received as it is given. During the progress of Doctor Hunter's trial, and particularly in conducting the cross examination of the witnesses of the prisoner, I was sorry to see that learned gentleman, for whose abilities and himself personally,

I have the highest respect, indulge in remarks towards Reformers, which could certainly do no good, and I fear may yet work harm. Those expressions I shall not repeat, for I wish them to be forgotten, but I would remind him, that the time has been, that the veriest official hack dare not show his face at the hustings, without, at least, for the time, professing measures of Reform, and the intention to carry them into effect, and I now prophecy, that the time will again come, and that too, at no more distant period than the next election, when no candidate will dare to come forward without making the same professions. The vast majority of the people of this Province are Reformers, at the same time, that the vast majority of that majority, are as good and loyal subjects as the learned gentleman himself. In proof of the first assertion, I refer to the composition of the last House of Assembly;—of the second, to the conduct of Reformers at the last election, when they considered that that House were endangering the continuation of our glorious connection with the glorious empire to which we belong, to say nothing of the testimony of their gallant conduct during the late unnatural rebellion, borne by their declared enemy, Sir Francis.— But, perhaps, the learned Atty General would be more likely to follow my advice if backed by the weight of authority. I shall, therefore, give it in the words of his Governor and master, Sir George Arthur. The quotation is perhaps long, and the noble, the God-like sentiments it breathes, must plead my excuse for giving it to you entire:—

"Harshness and severity are distinguishing marks of weakness and apprehension. The country is strong enough to be magnanimous, and as the inhabitants of Upper Canada have the reputation of being a religious people, it will now be open to them, both collectively & individually, to give proof of their christian professions by forgiving without any vexatious upbraidings the extreme injuries they have received.—

The quality of mercy is not strained,  
 It dropeth as the gentle dew from Heaven  
 Upon the place beneath, it is twice blessed,  
 It blesseth him that gives & him that takes,  
 'Tis mightiest in the mightiest.



If the great victory which has been achieved be now wisely used with moderation and well timed conciliation, the late seeming frown of Providence upon this noble Province may issue in a very great blessing; for, I do not despair of seeing many persons now come forward openly and avowedly, as loyal supporters of the Constitution, who, although hitherto advocates for some partial changes in the institutions of the country, nevertheless would be desirous to make the most public declaration of their detestation of traitors, and murderers and incendiaries, and thus you may become a more united and therefore a happy people."

Oh! may that distinguished individual indeed strive with all his might to make us "a more united and happy people," and Upper Canada will have reason to bless the auspicious day when he landed on its shores. Let him stand aloof from all parties and thereby teach them to look up to him in the light of an impartial judge between them. Let his single aim be to be indeed accounted the governor of the Province, and not of a faction, and my word for it, he will never have reason to rue the day when he refuses to listen to the poisonous insinuations of those who pretend to monopolize all loyalty, and who to gain their own selfish ends have not hesitated to "nod away" the reputations of individuals who in the hour of danger have been found to be *better men* than themselves. Gentlemen, I have been told that man is an enthusiastic disposition, and perhaps it is so, but I do say without the least fear that the result will falsify my prophecy, that I have formed the highest hopes of the result of the labors of our new governor in the wide field that lies before him. From what I have seen of his acts and the last interview I had with him, I feel satisfied that his intentions are of the best description, and his past career is an earnest to us that he will persevere in those good intentions, and at least succeed in restoring peace, prosperity and good will to this our suffering country. Gentlemen, the questions you are impartially to try, are, whether the prisoner has either levied War against Her Majesty or compassed her death, in the words of the Statute of Edward 3rd, which great Statute

was passed to protect the subject against constructive and all other treasons but those therein enumerated; and those questions are mere matters of fact which it is your exclusive privilege to decide upon. With regard to the first question, I doubt much even if it were contradicted by evidence on the defence, whether you would consider it sufficiently proved to call for your verdict. It will be recollected that the night was a dark one, the moon having previously gone down;—that the witnesses however, cool and collected in the witness box, were (without any imputation upon their courage, holding commissions as they do, which have been most deservedly conferred upon them) must have been, to say the least of it, very much agitated; and I think I may add *alarmed*, were it only for your safety, gentlemen of the jury, if not for themselves; and that they do not agree in their description of the prisoner,—one of them representing him as being armed with pistols, another with spectacles, while the third could not say that he was armed with either; and therefore they all differed on this point, unless indeed Mr. Brooke mistook the spectacles for a pistol, which can hardly be the case, because he says that Dr. Morrison snatched it at him. However one thing I am confident of and that is that the witnesses religiously believe that it was Dr. Morrison they saw, and I account for that belief in this way: they saw a man with Mackenzie who whether he was like the prisoner or not they took it for granted was the Doctor,—they mentioned the circumstance when they arrived in the town, and according to Capt. Bridgford who says that he has repeated the story over at least one hundred times, they have repeated it over so often since without perhaps considering that they would hereafter be called on to swear to it, that what was at first but a mere impression has now grown into a firm belief in their minds which perhaps it is next to impossible to eradicate. But to me, gentlemen, who has no impressions of my own and now hear the

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evidence against the prisoner for the first time, the very circumstance which may be supposed to make most against the prisoner conveys the certainty that there must be some mistake in the matter, for I cannot for a moment believe that an individual whose whole life, as far as I have heard, has been one continued and uninterrupted course of peaceable, quiet and inoffensive conduct, could at once be transformed into a demon, and take up arms and deliberately point those arms against the life of his fellow man. No man falls at once into crime; the descent from virtue to vice is gradual, and therefore I am not prepared to believe when I look at the prisoner, that he is such a criminal. But, gentlemen, I am happy to say you will not be left in doubt upon this point; the evidence will be so clear that I almost consider it an interposition of Providence in the prisoner's behalf, for I doubt whether there is any of you, gentlemen, that could so satisfactorily account for yourselves on any particular night that you might per chance be called to account for; and if we can satisfactorily do away with the testimony of no less than three witnesses who are equally positive as to their *belief*, I ask you, gentleman, whether it ought not make you distrust the judgments of others, and even your own in other matters connected with the other branch of this case, from the nature of which it is impossible for us to adduce the same satisfactory testimony, because it is only a question of motives and intentions. Were I upon that jury, the moment the prisoner had answered the main accusation (and the only one remember, gentlemen, upon which he was originally arrested) if I did not at once dismiss the consideration of the second

duty one, I would at all events enter into it with a mind most strongly predisposed to do so; and here it is that I cannot but comment a little upon the course pursued by the public prosecutor. Dr. Morrison, gentlemen, was not arrested for reporting the declaration that has been read to you, but for actually levying war. Why then is it that when the learned Attorney General perceives the prisoner is likely to prove his innocence of the charge, he should change his ground and rake up this publication in judgment against him? Does justice require this course of proceeding, or ought not the Attorney General to rejoice rather at the prospect of there being one more innocent man than he had been taught to believe, and ought he not to have pursued his usually magnanimous course and said, "Dr. Morrison only prove to me that you were not that night with Mackenzie, as has been reported, and I will go no further." An individual coming into Court and hearing this matter for the first time would naturally suppose that this declaration was written one day and the Doctor arrested the next. No such thing, it was written last July: has been published in all the newspapers in the Province, and here under our very noses ever since, and yet poor simple people that we were, we never thought it was treason before, nor mark me, Gentlemen, would it be thought treason now if the main accusation against the prisoner at the bar was not likely to fail. If it is treason now, surely it was treason last July, although it would seem to have taken the learned Att'y Gen. from that time till this to find it out. "But," says the learned gentleman—for he felt it necessary to say something on this point—"one reason why I did not then indict Dr.



Morrison was, because I was afraid the jury would have acquitted him; my other reasons I am ready to give when called upon by my Sovereign." What amiable conduct! Who will say there is no honesty among public men after this? Then, gentleman, if you would have acquitted him *then*, why should you find him guilty *now*? Why should you give a verdict now in an excited moment, which you would not have given six months ago, and would not give six months hence, when in a more composed state of mind? What more do I want than this acknowledgment from the learned Att'y Gen. to ensure the acquittal of the prisoner, because I certainly do agree with him, that last July, before the public mind was excited as it now is, no jury would have retired from their box before giving a verdict of "Not Guilty." In treating this branch of the case, it is not my intention to enter into any discussion upon the abstract question whether conspiring to overthrow the Government of this Province, is encompassing the Queen's death, because it is not necessary for my purpose, as I contend that the prisoner did not conspire to overthrow the Queen's authority, and therefore, I shall only call your attention to that part of the law in which I take it we all agree, and that is, that it is the bodily and not the political death of the Queen which the statute contemplates, and that, therefore, you must believe that the Doctor contemplated her death, or in other words, you must believe the truth of the charge, before you can find him guilty of the fiendish crime of conspiring to take away the life of our young and innocent Sovereign.— Happily for us, gentlemen, the law of High Treason is a species of *terra incognita* in this Province, and more par-

ticularly that part of it, by virtue of which this Declaration is attempted to be distorted into Treason, and therefore I shall have to go elsewhere to shew you what has been called so in England by Crown officers, and decided not to be so by English Juries, under the direction too of the very same Chief Justice Eyre, that the learned Att'y Gen. just now quoted. [Here the learned Counsel quoted from the celebrated trial of John Horne Tooke; the Address to the British Nation prepared by a Committee of the Sheffield Constitutional Society; the Address of the deputation from the Society for Constitutional information in London to the French Convention; the declaration of the friends of the people; Mr. Shewell's letter to citizen Jack Vellan; and several letters of Mr. Thomas Hardy, to his fellow-citizens.] "But (said the learned gentleman) it will be said by the learned Attorney General, you are defending a traitor by quoting the sayings and doings of a still greater traitor." Yet, gentlemen, notwithstanding all the efforts of the then Attorney General Scott, and here is my answer to the supposed remark— John Horne Tooke was declared to be *no traitor*, although the trial took place during the excitement attending the French Revolution, and although there is not a single line in what I have read to you but is worse, aye, twice over, than the worst sentence contained in this Declaration. I can well conceive the learned Att'y Gen. raising his hands and eyes with pious horror, had it fallen to his lot to conduct the prosecution against Tooke, and at the close of every paragraph I think I hear him say, "here is treason, aye, treason of the blackest dye, what need of going further." And yet, gentlemen, a Jury of

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tender-hearted, independent Englishman, although it was like the present, a moment of excitement, said upon their oaths, whatever it might be, it was not treason. Yes, here is actually an address to the French Convention, concluding with the remarkable words:— "After the example which France has given, the science of revolution will be rendered easy, and the progress of reason will be rapid. It will not be strange if in a period far short of what we should venture to predict addresses of felicitation, should cross the seas to a national Convention in England." What would be said if Dr. Morrison had published such an address to the American Congress? Why the learned Att'y General would tell you there could be no doubt of its being treason, and yet, gentlemen, the address to the French Convention was not adjudged high treason. Now look at this Declaration and see if there is anything in it to compare with the expressions in that address. Look at Shelwell's letter to citizen Jack Vellen, (by the way I expected to hear this Declaration called treason, if it were only for using the word *citizen*, but I suppose the learned gentleman recollected that the word was made use of in the oath that he took as a Barrister,) and look at Hardy's letters for which, and worse, he also was tried and acquitted, and then tell me whether a man's life, property, and all he holds dear, is to be forfeited because forsooth, he made use of words which we considered a *little too strong*. Away with the idea. Prove to me by a man's acts that he is guilty, and I will be the first man to find him so, but I will never consent to take away that which we cannot return, because a man has had the folly to scribble a few wordy, frothy resolutions or declarati-

ons, which one man considers to mean this, a second man to mean that, and a third man t'other. Why, gentlemen, Sir William Molesworth stated in the House of Commons, that he hoped success would attend the Canadian arms, and that the British flag would be driven before them; and who does not recollect the memorable words of Lord Chatham in the House of Lords, and yet, gentlemen, people were not found so silly as to indict either of them for high treason, nor am I aware that "baneful domination" Hume, has been indicted, yet I am not prepared to say what might be the consequences to them if the learned Attorney General's sphere of action should be enlarged.— If I understood the learned Attorney right, the principal argument made use of by him to prove this act treasonable is that it hints at and contemplated separation from the mother country. I have read it over and over again, but I cannot make out any such intention:— But, supposing for the sake of argument, that it did, I would ask whether the discussion of separation at home be treason? If it be then are Lord Aberdeen, Sir Robert Peel, and England's brightest and best, guilty of high treason; if it be not treason there, then why should it be treason in us to discuss it, that are more interested in the event than they can by any possibility be? Surely if it be not treason *there*, it cannot be treason here, for the same law obtains in both countries;—but hold, I will take an instance nearer home, and that instance shall be the well known one of the valorous Major Gurnett. The mind of this worthy, it will be recollected, at one time unfortunately got "unhinged," and he actually prattled about "casting about in his mind's eye for a new state of

political existence," and pray what act of despotism, what invasion of their dearest rights, a stranger would involuntarily ask, was it that could induce an individual so loyal, to use language so very disloyal? Why there was no despotism, no invasion, only his patron the then Attorney General, had been deprived of his office, and so had the present Attorney General. Well but of course, he was tried for high treason and promoted to the gallows. No such thing, he was made a Major and promoted to the Clerkship of the Peace! Now, gentlemen, if Dr. Morrison had stuck these words into his declaration, I wonder what sort of promotion he would have met with? I come now to the conduct of the prisoner at this meeting in Doel's parlour last October, when Mackenzie suggested the seizure of the arms, and hesitate not to say that one fact of this kind speaks louder to me than all the arguments and inferences the shrewdness of man can invent or draw,—I say that if Dr. Morrison had been a traitor in his heart, that was the time for him to show it by acceding to Mackenzie's proposal.—But what was his conduct? Directly the reverse. Instead of giving him any encouragement, he was the first man to denounce him and to use those emphatic words:—"Mr. Mackenzie if you think you are going to entray me into one of your mad schemes, I can tell you that you are mistaken and that I am not your man." What was the consequence? Every man in the room opposed the project, and it will be proved to you that although Dr. Morrison was prevailed upon to return to the chair after leaving it, from that day to this the prisoner at the bar and Mackenzie never interchanged even words of civility; but you will be told by and by

I have no doubt, by the learned Atty General, that that was not enough, that the Doctor ought to have informed the government. Well in strictness we will say he ought, but I will ask if there is one man in a hundred but would have considered he had sufficiently done his duty by putting the party down, particularly when we all knew the odium that attaches itself to an informer, more particularly when the Doc or thought it was but a mere freak of the moment which he would dismiss from his mind when he found it so strongly opposed, and more particularly still when you consider the utter uselessness, the worse than folly to give advice or information to such a man as Sir Francis, who pretended to know everything of his own knowledge, and according to his own words refused to listen to "the strong and repeated calls made upon him by the peaceable portion of the community." Unless an advocate is himself convinced of the goodness of his cause, I maintain that he can succeed but very indifferently in convincing a jury. Now one of the circumstances that had a great influence in satisfying me of the innocence of the prisoner was this. We shall prove to you, gentlemen, that on the Monday and the Monday evening, the Doctor was as usual about his ordinary affairs, talking to his friends with his usual calmness; giving physic to his patients and visiting them; again we see him quietly enjoying himself with his family, and nothing unusual or agitated in his manner or actions. Now, gentlemen, I maintain that these are not the distinguishing marks of a conspirator. If the Doctor had in any way been concerned in the late rebellion, on that day he would have been restless and his looks would have been disturbed,

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and unless he was more or less than a  
 man the witness that will be called in  
 that box must have observed something  
 in his actions denoting the secret work-  
 ings of his mind. [Gentlemen upon the  
 whole I am glad this trial has taken  
 place. I think it will have a good ef-  
 fect, because in the progress of it you  
 will have a good deal of evidence that  
 will make you think better of some of  
 your neighbours and fellow-townsmen  
 than you perhaps now do. It certainly  
 seems to me a strange perversity of judg-  
 ment that people who would not take  
 Mackenzie's word for a brass farthing,  
 who would not even believe his oath in  
 a matter of six pence worth should yet  
 place implicit reliance in his statements  
 when those statements tend to no less  
 than the destruction of the fair fame of  
 some of the most wealthy and influen-  
 tial of their townsmen. I have no  
 doubt now but the learned Atty Genl  
 and most of his friends very religiously  
 believe in the existence of the Execu-  
 tive Committee that has been so much  
 talked of, and I have no doubt but that  
 it has cost them hours of hard thinking  
 to settle in their own minds the partic-  
 ular individuals that composed this  
 Committee, and now what grounds  
 have they for this uncharitable belief?  
 Why nothing but the bare word of the  
 despised and God-forsaken rebel, mur-  
 derer, housebreaker and mailrobber,  
 whose very name they cannot mention  
 but with abhorrence. We shall prove  
 to you, gentlemen, by witnesses upon  
 witnesses that there was no such com-  
 mittee, and that so far from the Re-  
 formers of the city being connected  
 with the rising, they were as ignorant  
 of it as yourselves, and that the first in-  
 timation they had of it was what every  
 one else received, and, gentlemen, when  
 we prove these things to you, will not

a great load be taken off your breasts,  
 will you not feel happy that you can  
 again take the hand of your next door  
 neighbour whom you may perhaps have  
 done the injustice of looking upon with  
 suspicion, because he happened to be a  
 Reformer, and will you not rejoice with  
 me that this trial, which is but "a seem-  
 ing frown," should "issue in so great  
 a blessing." You will rejoice with  
 me, gentlemen. I think you will, for  
 there is no misery to a well-regulated  
 mind so great as the being obliged as  
 it were to think ill of others. [The his-  
 tory of the rebellion I take, gentlemen,  
 to be shortly this: after the troops were  
 sent away (because I do not think that  
 McKenzie himself even thought of such  
 a thing till after they were sent away)  
 Mackenzie formed the idea of taking  
 possession of the arms, and finding by  
 the result of the experiment at Doels,  
 that he need look for no assistance  
 among the Reformers of the city, he  
 had recourse to his ignorant and de-  
 luded adherents in the back townships  
 and with their assistance he thought to  
 take the arms together with the city  
 banks and governor, and then with the  
 help of Americans who would move in  
 from the States he hoped to find revo-  
 lutionizing the whole province but an  
 easy task, and I am satisfied that if the  
 troops had not been sent away the at-  
 tempt would never have been made, and  
 I am more satisfied still that no rebel-  
 lion was contemplated as long back as  
 the date of this declaration, because if a  
 conspiracy to depose the reigning mo-  
 narch as far as this province is concern-  
 ed was then formed and this declara-  
 tion is evidence of that conspiracy  
 would it not be the highest of folly for  
 the parties concerned in it to publish  
 their proceedings in the manner the  
 Reform Societies have always done?

A conspiracy conveys the idea of something secret, something done in the dark and to be hidden from the light of day. If therefore this declaration is evidence of a contemplated treason it must have been the strangest conspiracy that ever was concerted. A conspiracy because the Att'y. General says their object was bad, and yet *not a conspiracy* because their proceedings were carried on openly. Why, gentlemen, you never yet heard of a man committing robbery or murder and proclaiming it on the house tops, and so in like manner no party of men ever entered into a conspiracy and then publish that conspiracy in hand bill form to be circulated through the whole province.— The thing is itself a manifest absurdity. Through the kind consideration of the learned Attorney General (I have heard it said it was in hopes that the Dr. would run away, but I do not believe it.) Gentlemen, the prisoner at the bar has been on bail for this some time back, yet when the day of trial comes you see him here with a constable on each side of him. Does this circumstance speak no language? it does, gentlemen; it speaks volumes. I can readily conceive a man surrendering himself up to relieve a friend who has gone bail for him for a few hundred pounds, and I can conceive a man surrendering himself to relieve a friend who has gone bail for him in some trifling case of assault and battery, although even in these cases we have seen instances to the contrary.— But nothing except conscious innocence could induce a man to remain and play a game for a stake which involved the loss of life, liberty and fortune, and that too, when the scaffold seemed purposefully *not* standing. If the prisoner at the bar, gentlemen, had been base enough

to contemplate treason against his anointed Sovereign, depend upon it, he would have been base enough to have deceived the friends that had confided in him. Gentlemen, do not allow yourselves to be deceived in this matter; if Dr. Morrison is guilty of high treason for having reported that Declaration, then, not only every man who signed it, but every man in the Province who had signed an union list (which requires and pledges them to support the principles advocated in that Declaration) is also guilty of high treason, and this is the reason why I stated in my opening, that this is by far the most important trial that ever took place in Upper Canada. Yes, gentlemen of the Jury, there is no use in your shutting your eyes to the consequences; they intruded themselves too strongly upon you to be shut out. If you find Dr. Morrison guilty, every man that has signed such a list, (no matter how innocent his intentions may have been in themselves) will hold his life and property as the tenant at will of the learned Att'y Gen. The consequence of this state of things would soon be apparent; whole sides of your streets would be either depopulated, or their tenants turned into plotters against that Government without the destruction of which, they would never feel secure in the possession of their lives and fortunes. Well, gentlemen, to pursue the matter a little farther; why are they not all indicted simultaneously to use a favourite word of our late Lieutenant Governot.— Is it because this trial is only one of experiment to open the way? is it because Dr. Morrison has a seat in Parliament which somebody that we do not at present see is coveting, or is it because they wish to make an example of the Doctor from his holding a promi-

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ment station in society? If the last be  
 the reasons, as I think I understood the  
 learned Att'y Gen. to say, why not have  
 gone a little higher and made an exam-  
 ple of Sir Francis Head? The thing  
 was the easiest in the world to be done,  
 for his own writings prove him to be  
 guilty of aiding, assisting and abetting  
 the rebellion; yes, gentlemen, I will  
 undertake to prove him guilty of high  
 treason from his own mouth, and the  
 only defence that his ablest advocate  
 can make is, that his admissions are not  
 to be believed, which would of course,  
 be rather an awkward sort of defence to  
 say the least of it. In his Speech at  
 the opening of the House on the 28th  
 Dec. last, he says:—

"Without either soldiers or weapons to en-  
 force my cause, I allowed the leader of the  
 intended insurrection a full opportunity to  
 make his intended experiment—I freely al-  
 lowed him to write what he chose—*SAY* what  
 he chose, and do what he chose—I allowed him  
 to assemble his deluded adherents for the pur-  
 pose of drift—I even allowed them unopposed  
 to assemble with loaded fire arms, and in spite  
 of the remonstrances which, from almost every  
 District in the Province, I received from the  
 peaceable portion of the community, I allowed  
 him to make deliberate preparations for revolt.

Again, he says in his despatch to L'd  
 Glenelg of the 19th December, "I pur-  
 posedly dismissed from the Province the  
 whole of the troops," satisfied that "the  
 more I encouraged them to consider  
 me defenceless the better." Here we  
 see him encouraging Mackenzie to re-  
 volt, and instead of taking precaution-  
 ary means to prevent rebellion, he abet's  
 the commission of high treason. Re-  
 gardless of remonstrances, spurning ad-  
 vice, eager only for an opportunity of  
 proving his own superiority and of  
 wreaking his vengeance on his oppo-  
 nents, we find him, in order to obtain  
 those darling objects; even hazarding  
 the overthrow of the Queen's authority,  
 and the pillage and slaughter of her  
 Majesty's loyalists, when had he but re-

tained the smallest portion of the for-  
 ces, or even taken the most common  
 precautions after they were gone, Mac-  
 kenzie would have been deterred from  
 his enterprise. You, gentlemen, need  
 not have owed your safety to the  
 accident of Mr. Powell's escaping and  
 giving him notice that the Philistines  
 were upon him. Navy Island would  
 not have been seized, nor would we  
 now be on the eve of a war with the  
 United States. Again in the same des-  
 patch he says, "the crisis, important as  
 it was, was one I had long earnestly an-  
 ticipated;" that is to say, gentlemen,  
 he earnestly anticipated *revolt, rebel-  
 lion and bloodshed*. Again, he says,  
 "I observed with *satisfaction*, that  
 Mackenzie was pursuing a *lawless*  
 course of conduct."—then we have  
 him absolutely rioting with pleasure  
 over what ought to give every good  
 man pain; and to crown the measure  
 of his guilt, he tells my Lord Glenelg:  
 "without taking any notice of his (Mc-  
 Kenzie's) treasonable proceedings, I  
 waited with *folded arms* until he had  
 collected his *rebel forces*, and had ac-  
 tually commenced his attack." That  
 is to say, gentlemen, he "waited with  
 folded arms," not only while the mis-  
 creants were sharpening their knives,  
 but until they had "actually commen-  
 ced" cutting your throats. Gentlemen,  
 what would you think of a watchman  
 paid to protect your lives and property,  
 who avows that designs were framing  
 against both, nevertheless allows the  
 robbers "a full opportunity to make  
 their intended experiment," should  
 "earnestly anticipate the crisis," should  
 "observe with *satisfaction* their lawless  
 course of conduct," should send away  
 your sole protection, should do all he  
 could to encourage them to consider  
 you defenceless, and then, "without  
 taking any notice of their guilty pro-  
 ceedings, should wait with *folded arms*



until they had collected their forces and had actually commenced the attack upon your lives and property. I ask you, gentlemen, what would you think of such a watchman? Why, unquestionably, that he was more guilty, a thousand times over, than the robbers themselves; and yet, gentlemen, I have not yet heard that Sir Francis had been indicted. The fact is, if Dr. Morrison had written one-fiftieth part as much as the above, I would not have the face to stand up and defend him for a moment; and when I compare Dr. Morrison's little miserable Declaration to the astounding declarations I have just read you, and consider the different manner in which they have been treated, I cannot help acknowledging with the lowest humility, that we are, indeed, but poor erring creatures at best. But, gentlemen, erring as we are, we all have duties to perform to the best of our ability; and therefore, I feel it to be secure to remind you that the eyes of the whole Province are upon you. It is not merely the persons now in the Court House, nor yet the inhabitants of this place alone that are to pass their judgment upon your judgment, but the people of the Province at large, and above all, future generations, who will have reason to bless or to curse your memories, as your conduct this day may tend either to perpetuate or destroy those liberties and rights for which our ancestors have fought and bled. And now, gentlemen, I do not know that I can close this part of our case in a more appropriate manner, than by reading to you the following extract from the Address of the distinguished individual before named, Attorney General Scott, (afterwards Lord Eldon) to the Jury in the case of Tooke:—

"We have a great and glorious system upon the whole, and in the discharge of your duty let it be remembered that whatever opinion I may have for or against the case of one of its best principles, that it is infinitely better for the

liberties and security of the country than incases which juries may think it doubtful five thousand men should be acquitted, all men knowing that if they engage in certain schemes, to certain extents they are liable to be tried and have a verdict of guilty or not guilty pass upon them. I say it is a thousand times better for those liberties and that security that prisoners should escape whose juries doubt through misconceiving the transactions or not duly applying the evidence, than that one man about whose case any twelve men may have a fair doubt at the conclusion of the cause, should be found guilty, and the misery of finding him guilty under that doubt be upon their minds."

"Gentlemen, it is fit that I should also say upon this case, that if the most mischievous man that ever existed in Great Britain, was brought to this bar, it is of no consequence, none in the world. In the trial of the charge that is submitted to the consideration of the jury, except so far as the tendency and tenor of the actions which constitute those mischievous qualities in his character, bear upon the charge which the jury are to try. I dismiss; therefore, from this case in one moment, as I did in the last trial, every thing that my friends have said about constructive treason, analogous treason, like treason, accumulative treason and libels.—Gentlemen of the Jury, if you should find, what I am sorry to say, I think you cannot fail to find, if you should find libels in every part of this evidence laid before you, which has been published by this gentleman, yet I have not the least difficulty in saying, that you are to try a charge of quite a different nature, and it does not signify what the gentleman at the bar has done in the distribution of libels in the country, provided it cannot be made out to you that he has done that in the prosecution of the design which this indictment charges against him."

I have now, Gentlemen, performed my duty. The attention you have paid to what I have thought it necessary to say, calls for my warmest thanks, and is an earnest that you will do yours.

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**Edward Perry sworn.**—Left his house to go to George street Canal on the night of the 4th December about 7 o'clock. Called on his way at Dr. Morrison's and left his wife there. On his return which was at 9 o'clock, called again when he saw Dr. Morrison in the parlour with his family. Is particular as to the hours on account of meeting time. Saw nothing unusual in Dr. Morrison's manner, nor did he hear of the rising until it was publicly known.

**Mrs. Perry sworn.**—Was at Doctor Morrison's house on the night of the 4th Dec. between the hours of 7 and 9. Saw the Dr. there with his family, and observed nothing unusual in his manner. He was called to the office several times but was absent only for a few minutes.

**Edward Wright sworn.**—On the night of the 4th of December feeling unwell he went to Dr. Morrison for medical advice, about 9 o'clock. Told Dr. M. about a report of armed people being on Yonge street. The Doctor said he did not believe it as the people were too enlightened to take such a step. Recollects Mr. Lawrence coming to his door that night. He said he made his escape through swamps and Boulton's fields. Lawrence expressed apprehensions of being shot, and was so frightened that he could hardly keep on his horse.

**CROSS-EXAMINED.**—Heard through the City on Monday that armed persons were on Yonge street. The time he saw Lawrence was 10 minutes before 2 o'clock.

**RE-EXAMINED.**—Saw Doctor Morrison early next morning about 6. He seemed surprised at the intelligence of the outbreak. The name of witness is to the Declaration though he never signed it.

**James Bridgland sworn.**—Called at Dr. Morrison's about a quarter before 8 on the night of Monday the 4th Dec. Saw the Doctor and observed nothing unusual in his manner, nor did he hear of the rising until publicly known.

**Hugh Main sworn.**—Called on Dr. Morrison on the night of the 4th Dec. a little after 9 o'clock. Is particular about the hour as the Society which he was that night attending broke up exactly at nine. Witness asked the Doctor to attend a person who was sick in his house. He came in about an hour after and remained only 10 minutes. Desired witness go to his house in about a quarter of an hour, when the medicine would be ready. Did go at the appointed time and got it from the Doctor himself.

**CROSS-EXAMINED.**—Went to the meeting of his Society between 6 & 7, where he remained until 9 o'clock. Is positive as to the hour because one of the men looked at his watch.

**Wm Musson sworn.**—Met Dr. Morrison in King street opposite the Court House on the night of the 4th December about 10

o'clock. Mr. Mills was with witness. Dr. Morrison was walking leisurely. They joined him and went as far as Ketchum's corner when the Doctor parted and went up Newgate street towards his home.

**CROSS EXAMINED.**—Spoke of the report of a disturbance to Dr. Morrison who seemed surprised and appeared to disbelieve it. All he said was that he feared we were going to have troublesome times.

**Mrs. Hannah Doel sworn.**—On the night of the 4th December, Dr. Morrison called to see her about a quarter past 8 o'clock. He did not remain long. Called again the same night about a quarter past 11. She thinks Doctor Morrison appeared more dejected than usual.

**Miss Mary Doel sworn.**—Recollects Dr. Morrison being at her father's house on the night of Monday the 4th December. He first called a little after 8 o'clock, and a second time at 10 minutes past 11. Is exact as to the hour because her brother immediately after Dr. Morrison went away, came into the room and said it was time to go to bed, it being a quarter past 11. Heard on the following Wednesday that Dr. Morrison was arrested for being at Montgomerys. Began then to recollect the time of the Doctors visits to their house.

**Alfred Patrick sworn.**—Saw Doctor Morrison at his house on Monday evening the 4th December, at 3 o'clock, and again at 6. Told him he understood that persons were collecting on Yonge street. Witness heard the report that day from Captain Fitzgibbon. Saw Dr. Morrison twice next day and remained all Tuesday at his house during which time the Doctor was not out.

**Mrs. Patrick sworn.**—Went with Mr. Patrick and her sister to Dr. Morrison's on Tuesday and remained there until the Doctor was arrested. He was at home all that time except for about 10 minutes at 11 in the morning. The family remained up the entire of the night.

**Miss Hopkins sworn.**—Went with her sister to Dr. Morrison's on Tuesday morning and remained there until next day. The Doctor was absent during that time only for a few minutes on Wednesday morning.

**Rev. John Roof sworn.**—Saw Dr. Morrison on Tuesday morning, 5th December, about 10 in the morning. Saw him again several times during the day, and observed nothing unusual in Dr. M's manner or conversation. After his arrest called on the family and desired them make a memorandum of the time they had seen the Doctor.

**CROSS-EXAMINED.**—Called often at Doctor Morrison's, because his house is on the line of street along which he passes to the city.

**Miss Gilbert sworn.**—Recollects the 4th of December, when she resided with her sister at Dr. Morrison's. Recollects Mr. Patrick



being at the house on the evening; also Mr. and Mrs. Perry being there; also Main having called on the same night about 9 o'clock. After the Doctor gave him the medicine he went over to Mr. Doels and was absent only 10 or 15 minutes. On his return the family went to rest and witness saw Dr. Morrison go into his bed room; this was about half past 11. Did not hear the Doctor go out or come in afterwards. He could scarcely go out without her hearing, as the house would make a great noise crossing the plankings. Mr. Wright called early next morning, and the Rev. Mr. R. at several times in the course of the day. Dr. Morrison never had fire arms in the house, nor did he use pistols, as far as she ever heard.

**Archibald Macdonnell sworn.**—Was taken prisoner on Yonge street on the night of the 4th December. Mackenzie and 4 others took him and Mr. Powell. Dr. Morrison in his opinion was not one of the party.

**Mrs. Brewer sworn.**—Five weeks last Saturday Captain Bridgford came to Mr. Bakers; he said he was not sure of the person he saw being Doctor Morrison, that his eye was over his face and he did not speak. She said perhaps it might have been Dr. Rolph.

**George Duggan junr. sworn.**—Went on Yonge Street about 10 o'clock on Monday night to patrol it. Remained there until the following Wednesday when he was taken prisoner. Does not think it likely that Dr. Morrison could pass without his observing him, and did not see him during that time.

**CROSS-EXAMINED.**—Bridgford told him he had seen Mackenzie but said nothing about Dr. Morrison.

**James H. Price sworn.**—His name was put to the Declaration but he did not sign it, neither did he attend any of their meetings at Doels because he understood Dr. Rolph and Mr. Bidwell would not be there. His reasons for objecting to sign the Declaration were, first the opinion expressed regarding the non-consumption of duty-paying articles, and secondly its interference in the affairs of Lower Canada. He thought one Province had no right to interfere in the concerns of another.— And thirdly, because Dr. Rolph had not signed it: Never heard of the existence of an Executive Committee until he read Mackenzie's narrative and solemnly disavowed ever hearing of it till then. He did not attend any public meetings latterly. First they had the Alliance Society; that lost in Consti-

tutional Reform Society which merged in Political Union, the two last societies he belonged to. Witness named as a Delegate, but never thought it seriously contemplated to hold a convention as it was never afterwards mentioned.

**CROSS-EXAMINED.**—If Dr. Rolph had signed the declaration, he thinks he would have done so too. Never heard Dr. Rolph say anything about the meeting.

**John E. Tims sworn.**—Attended the meeting where the declaration was adopted, and heard nothing said about separation from the mother country.— He never had an idea at the time of such a thing. Does not think it was ever intended to call the delegates together for the purpose of Rebellion.— The thing was got up merely to have a moral effect, and give an expression to public opinion on the subject of their grievances.

**George Morrison sworn.**—Was at the meeting when the declaration was adopted. Heard Dr. Morrison make a speech in which he praised the British Constitution as being the finest in the world, if we could get it properly administered here.

**Dr. W. J. O'Grady sworn.**—Was a member of a Society called the Political Union, the sole object of which was to concentrate public opinion with a view to obtain a redress of our wrongs. Has been intimate with Dr. Morrison for the last nine years, and never during that long period, heard him give expression to an opinion bordering on a separation from England. Witness thinks that Dr. Morrison's estimate of Mackenzie was very low.

**CROSS-EXAMINED BY MR. HAGFRMAN.**—Was not at the meeting when the declaration was adopted. Has been in correspondence with Mr. Papineau.— Nothing in Mr. P's letters that gave him reason to suppose he desired to effect a separation from Great Britain. When the supplies were stopped witness began to suspect that the Lower Canadian Assembly desired separation. Thinks the Imperial Parliament might

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have amended the Constitution so as to satisfy the people notwithstanding the 92 Resolutions. The Reformers there seemed to pursue Mr. O'Connell's policy for Ireland, by asking forty shillings in the pound, hoping to get twenty. His correspondence with Mr. Papineau would not lead him to a moral certainty that separation was intended. Frequently heard Dr Morrison advocate Mr. Papineau's views, but never heard him express a desire of separation from the mother country.

**RE-EXAMINED BY MR. BOSWELL:**

Thinks if an Elective Legislative Council had been granted to the Lower Canadians, even at the 11th hour, no rebellion would have taken place.

The evidence for the defence closed here.

Mr. BOSWELL said, it was now his duty, on closing the case for the prisoner, to bring back the attention of the Jury from the interesting trial of wits between the learned Attorney General and Dr O'Grady, the last witness examined to the question which they were impannelled to try. He (Mr. B.) was of opinion that this trial, from the great principles it involved, and the number of persons interested in it, was the most important that ever had been tried in this Province. The verdict now to be rendered would determine whether freedom of discussion, the right of every man fearlessly to express his opinion on public affairs, should be utterly suppressed, and the voice of public opinion silenced for ever. That is the question, a mighty one, indeed, not only for themselves, but for their children and their children's children. There were two species of treason charged against Dr. Morrison. The first, compassing the Queen's death; the other, levying war against the Queen in this Province. — The last would easily be disposed of, and he intended to confine his observations principally to the first and more important charge. In doing so, he should be obliged, as he had done in other cases of the same nature, to dwell at some length on the question of law

which this charge involved. It was not pleasant for a jury to be addressed at length on a dry point of law, nor was it usual in most cases to do so, but the question of law and fact were here so closely connected that it was difficult to separate them, and in cases of a similar kind in England, Counsel had addressed the Juries at great length upon the law. This was done in the cases of Tooke, Hardy and others, to which the learned Attorney General had referred. In this country it was a new question, and he (Mr. B.) entertaining the decided opinion which he did on the subject, would never consent to give up his view of it, and to concur in the construction of the Statute of treasons for which his learned friend the Attorney General had contended, until the matter had been fully submitted to all the Judges, and decided upon solemn argument. The prisoner was charged with compassing the Queen's death, that is, *with intending to kill the Queen*; such is the meaning of the Statute, as he would presently show, and before they bring in a verdict of guilty, the jury must be satisfied that Dr. Morrison actually contemplated the death of her Majesty Queen Victoria. It was not the political death which the Statute meant, it was the actual, the bodily death. It had been decided in England, that a conspiracy to levy war against the Sovereign, was evidence of compassing the Sovereign's death, but the reasoning on which that decision is founded is, that levying war against the Sovereign or dethroning her could not be contemplated without, at the same time, contemplating her death, as death would be, if not the inevitable, at all event, a most probable result. Men would be idiots, indeed, who should wage war against their Sovereign in England, or who should attempt to dethrone her without entertaining the expectation, that her death would naturally follow. He (Mr. B.) had only to instance the case of Charles the 1st, and Louis the 16th, to show how true it is that the dethronement of Princes end in their destruction. But in this

Province it was quite different, the death of the Sovereign, so far from being the probable or natural consequence of our separation from Great Britain, or of a revolt here, can scarcely be supposed possible to proceed from either of them, and it is only by imaginary reasoning that the law can be applied. If a rebellion takes place here, it may be said her Majesty may think it necessary to cross the seas with her army, and a chance bullet may then destroy her, or public meetings may be held, as they have already been held in England, upon the subject of the revolt here, and then if there be a rebellion here, then her Majesty's person may be endangered in many ways, and her death accomplished. It is only by such a process of reasoning, if you can call it reasoning, that the Statute can be applied to cases of this description in this country; by imagining consequences that are never likely to occur. The result of a rebellion in the two countries must be, from their distance and circumstances, perfectly distinct, and it is absurd to apply the same reasoning to results which are as wide as the East is from the West. But his learned friend would say, that it is very true the Sovereign is 3,000 miles off, but then the law supposes her to be in every part of her dominions at the same time. This he (Mr. B.) admitted. — But was it a fact? Is our Gracious Queen Victoria in this Province in her own natural body, so that any one might put her to actual death? We all know she is not. The law supposes it is a fiction like many other fictions. The law, in the same way, supposes the existence of John Doe and Richard Roe. But the matter before the jury is one of life and death, and is Dr. Morrison to be reasoned to death upon a fiction? If Dr. Morrison organized, (as it is contended he did) a Society in this Province, bent on bringing about a separation of this Colony from Great Britain, does it by any means afford a proof that he contemplated the death of the Queen? That is the question on this part of the charge. It is a ques-

tion of intention; the law in case of high treason retaining the old doctrine of *voluntas pro facto*—the will for the deed. The act is only proved for the purpose of shewing what was the intention. The learned Counsel then said he would read an extract or two from eminent legal authorities to prove the positions he maintained. He would first, however, read to them the words of the Statute as adopted by our own Parliament, 3d. Wm. IV, c. 4:—"If a person do compass or imagine the death of our Lord the King, and thereof be provably attainted of open deed by people of his condition, such person so attainted, shall be guilty of treason, and shall suffer death." Those were the words copied from the words of the good old Act of Edward the 3d. Mr. Justice Foster, speaking of this Statute, says, "the entering into measures for deposing or imprisoning the King, or to get his person into the power of the conspirators, these offences are overt acts of treason within this branch of the Statute. For experience hath shown, that between the prison and the graves of princes, the distance is very small." The jury would at once see by this reasoning of the learned Judge, that the actual, not the political death, was intended by the Statute. [Mr. B. then read from Blackstone, a history of the Statute of Edward the 3d, and of the pains taken by Richard the 2d and other Sovereigns to get rid of it, and referred to the numerous treasons created in the arbitrary reign of King Henry 8th, all which were subsequently swept away by another British Statute which once more reduced all treasons to the Statute Edward 3d, and proceeded to remark at considerable length on the pains the Legislature of England had taken to avoid new and constructive treason.] Mr. B. trusted the jury would bear his view of the law in mind during the remainder of his observations. He contended, that there was no evidence to shew that Dr. M. ever contemplated the separation of this Colony from Great Britain; on the contrary, it had been expressly proved, that he

Dr. M. British occasional almost all occu- vately. ous to broad p- Attorne on this that still His lea- pressed a Conve- bled in if such certain- doubt c- only ev- to be g- self, for- tent in- never s- error t- this des- Variou- by Brit- Perhaps- sent ca- lonies e- Massac- which- tory of- [The l- tract fr- tions v- countr- peculiar- held in- ject of- quence- tish L- and h- been l- illegal- standin- tions; a mod- which- cept in- and he- had no- while- free di- him to- not co- mion

[Dr. M.] was an ardent admirer of the British Constitution, which upon all occasions he had spoken of with the utmost veneration and respect on all occasions, both publicly and privately. But he (Mr. B.) was anxious to argue the question upon the broad principle, that if all the learned Attorney General charged Dr. M. with on this branch of the case were true, that still it did not amount to treason. His learned friend seemed to be impressed with great horror at the idea of a Convention of Delegates being assembled in this Province, and argued that if such an assembly were seriously entertained by Dr. Morrison, then, no doubt could be left of his guilt. The only evidence of such an intention is to be gathered from the Declaration itself, for all the witnesses were consistent in saying that a Convention was never seriously intended. But it is an error to suppose that Conventions of this description are illegal or unusual. Various Conventions have been held by British subjects at different times. Perhaps the most analogous to the present case, was that held by the old Colonies of New Hampshire, New Haven, Massachusetts, &c. an account of which was to be found in Graham's history of the United States of America. [The learned Counsel here read an extract from that work.] Those Conventions were recognized by the mother-country, and their representations respectfully listened to. Another one was held in the old colonies upon the subject of the Stamp Act, and in consequence of these remonstrances, the British Legislature repealed it. In Ireland and England conventions also had been held, and had not been declared illegal. He (Mr. Boswell) was not standing there the advocate of conventions; he certainly considered it was a mode of ascertaining public opinion, which never should be resorted to except in times of very absolute necessity, and he certainly thought such a time had not arrived in this Province. But while he was advocating the right of free discussion, it should be absurd in him to say that Dr. Morrison might not conscientiously entertain the opinion that the time had arrived.—

—He (Mr. B.) had already stated that there was no proof that a convention was at all intended, and he thought he had now shewn that if it had been it was not treasonable. The true object of the Declaration might be that stated by Dr. O'Grady. It might have been adopted upon the principle of asking for more than you want. Such was generally the conduct of politicians.— There was always a greater appearance of extreme opinions than was seriously entertained. How was it in England when the Tories were power? The Whigs then exhibited the utmost extravagance in their demands, nothing but vote by ballot, annual parliaments and a great extension of the franchise would satisfy them. But then in power, let them have the reins of government in their hands and they resist all these innovations with the same pertinacity as the Tories themselves. The policy then appears to be ask much and you may get a little, ask only for a little and you get nothing. This reasoning would readily account for the tone and spirit of public documents like this Declaration. The next question supposing a convention to have been really intended was what was its object. The learned Atty General had stated that upon the face of the Declaration it was evident that the object was separation from the mother country, and that such an object to be thought about by a convention was treasonable. He (Mr. Boswell) denied that such an object was apparent, but still he would meet the learned Attorney General upon his own ground, and would contend that the discussion of the question of a separation was perfectly legal. The greatest statesmen in England had uniformly been of opinion that the separation of this colony from England was inevitable and that it ought to be looked forward to and provided for: He could scarcely coincide in that opinion, for he knew no reason why they should not go on hand in hand together forever. When he said forever he meant it in the limited sense in which mortals used that word. He knew that the day must arrive, but he hoped it was far distant when the mighty and powerful empire of Britain would, like other great nations, which

had existed before it, be no more:—History too truly assures us that nations great as her have flourished for a season and have then sunk into decay. England must share the same fate. This country will also change with the revolutions of the world; it may rise into a great and glorious nation and after years of splendour be swept away, and men in future times may be at a loss to trace on the map of the world where Canada once was. He hoped the day of England's decline was far, far distant. That she might long continue the bright happy spot she now is, famed for the protection which her laws have provided for freedom of discussion without the dread of punishment. The only inevitable separation between this country and Great Britain, Mr. B. conceived was that which might occur upon the general decay of the British empire; still, however, the general opinion was otherwise. Statesmen of all parties in England seemed to look forward to separation as not very distant. He would read them the opinions of some of the members of the present House of Commons on this subject.

[The learned counsel here read several extracts from the speeches of Mr. Ellice, Mr Warburton and Sir R. Peel, showing that it was not deemed the policy of Great Britain to maintain the connection with the American colonies longer than the inhabitants of the colonies desired.] Mr. B. continued—if this connection is to be dependent on the wishes of people here how are their wishes to be ascertained if the discussion of the question of separation is to be construed into high treason? It is allowed on all hands that we are to be separated, and the only difference of opinion appears to be as to the time when the separation shall take place. Then if it be a mere question of time who is to determine it, or how can it be determined at all if it is not to be discussed. He (Mr. B.) certainly thought the connection very advantageous, and the learned Attorney General and the jury might think so too; they all might be of opinion that the time for separation had certainly not yet arrived, but Dr. Morrison might entertain very different opinions; he might think the period of

separation had arrived, and that a majority of the people were in favor of it, and he had an equal right to advocate that opinion. The question was freely discussed in England and the law there on the subject of high treason is precisely the same as in this country. If it be treason to discuss it here, so it is there; no distinction can be made. If discussion upon the subject is to be suppressed, the wishes of the people can only be shown by open rebellion. What evil, he would ask, would arise from the discussion? We were sensible that the connection was advantageous; the more then it was discussed the more manifest those advantages would appear. We ought to be anxious to have the question discussed. If a poet wished to show the world the beauties of his productions and the powers of his imagination he did not keep his poem in his pocket where nobody could see it, but he published it and invited observation upon it, and if it were a good poem, the more it was read, the more it would be admired. They only are afraid of discussion who know that their arguments will not bear the light. This right of free discussion was not a mere fanciful good which men prize without knowing why; it was a right which all men were anxious for, because it is the great defence of their liberties and of vast importance to their happiness. However we may disposed to praise the moderation or forbearance of any particular government, we know by the experience of past ages that it is the natural disposition of governments to encroach upon rather than to uphold the rights and liberties of the subject. Free discussion is the only barrier against this encroachment; but discussion was also eminently useful in the discovery of truth. The people, in moments of excitement may for a time be wrong, but in the end they are always right. It was said by the most remarkable man of the present age, one whose knowledge of the human race had been acquired by practical experience, he (Mr. B.) meant the celebrated Tallyrand, "I know where there is more wisdom than is to be found in Napoleon, or in Voltaire, or in any minister past or present—in public opinion;" and this was the voice

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which the gentlemen of the jury were now called upon to struggle. There was a prejudice likely to operate against the prisoner in this case, which it was very necessary for the jury to guard against. He meant that prejudice which always existed against men who advocated measures against our preconceived notions. Dr. M. was what is called a Reformer, and however sincere he might be in his views, he would, of course, have the enmity of all those whose interests would be interfered with by carrying out his (Dr. M's) opinions. He did not contend that Dr. Morrison's views were correct, but interest might prevent him (Mr. B.) as well as others, from seeing the truth.— The difficulty of inculcating truth against the interests of mankind, might be well illustrated by sacred history.— St. Paul preached the truths of the Gospel (those truths which we all now admit to be incontrovertible) at Ephesus and other parts of Asia. He was successful in making many converts in Ephesus, so much so, that the altars of the false gods were almost deserted.— When St. Paul left the City a great cry was raised there for a man named Demetrius who was a Silversmith, & who had made silver shrines for the Temple of Diana, perceived that Christianity was going to interfere with his means of living, he therefore assembled all his craftsmen of the same kind together, and raised throughout the City, as an inducement to the people to go back to their false gods the cry of "Great is Diana of the Ephesians." This was the charm by which he hoped to stop the progress of Christianity. When Luther attempted the reformation, he was met by the same cry. The great body of the clergy who were gainers by the corruptions, which in that day, disgraced the Catholic Religion, raised their voices in favor of their Diana.— In England, when Catholic Emancipation was advocated, those who held seats and obtained votes which they knew they should lose when the Bill passed, united in exclaiming with one voice: "Great is Diana of the Ephesians." The advocates of Parliamentary Reform were met by the same cry of the interested boroughmongers, "Great is

Diana of the Ephesians." All men had their Dianas—their personal interests—their false gods, and whenever they were attacked they united in their defence even against the truth. His learned friend said he had not formerly prosecuted Dr. M. for the treason contained in this Declaration, because he was aware of the tenderness of juries, and he thought an acquittal would have been productive of great mischief. But now, a rebellion had broken out, he thought a jury would convict. Why should they be more ready to convict now than then? Not a particle of evidence had been adduced to connect the rebellion with the declaration or with any act of Dr. Morrison's. On the contrary, the Declaration clearly shows that no rebellion was contemplated.— The learned Attorney General would make treason of it, because it talks of a convention of delegates, which convention, he says, was intended to bring about separation. Now, such an intention was in direct opposition to a rebellion, for the rebellion broke out before any convention was assembled.— But he (Mr. B.) denied that the juries of this country could justly be reproached with too much tenderness; he had found them on all occasions ready to do their duty. It is true that they were properly cautious in the discharge of it, and they showed, and he hoped they would always show an anxiety to defend the liberties of the subject, and they certainly never would consent that any man, for the publication of such a document as that declaration, should suffer death upon the scaffold, and his family be deprived of all his property. The learned Atty Gen. had always maintained that justice in this country was purely administered. To assert that juries would ever shrink from their duty, however painful it might be, was in opposition to his own principles.— The truth was, the declaration when published was not considered treason, and if it was not treason then, it is not treason now. His learned friend who was with him in this case, had imputed the rebellion wholly to Sir F. Head, and had endeavored to show from Sir F. H's own language, that he had actually cherished it, was aware of its approach,

and yet took no step to prevent it. A more enormous crime could not be brought against any man. He (Mr. B.) if it were true, should look upon it with the utmost horror. But he was prepared to vindicate Sir F. Head from this charge, and to shew that a rebellion was the very last thing he expected. It is true that his learned friend had quoted Sir F. Head's own words to prove that he knew it, but still he (Mr. B.) was quite sure, he was ignorant of it, and the language which had been alluded to must be explained in the way Lord Glenelg had explained it, who attributed it to the peculiar structure of Sir F. Head's language to his—[The learned Counsel seemed to be at a loss for the proper word, when a gentleman near said "epigrammatic."]. Yes, that was the word—epigrammatic turn. He would now read a few extracts from the late Lieut. Governor's despatches, to shew, as they did show, that he (Sir F.) was impressed with the profound tranquillity of this Province, and the impossibility of any violent outbreak.—[Mr. B. here read several letters and part of a despatch of Sir F. Head, as published in the London Morning Chronicle of the 18th January, which fully sustained the position of the learned Counsel.] At the time these letters were written, the declaration had long been published, yet, what did Sir Francis say? Writing to Lord Glenelg he observes, "Mackenzie's efforts to get up sedition have entirely failed." How could this assertion have been made if he had been instructed by the Crown officers, as he would have been if such were the case, that this declaration was a treasonable document? [The truth is, treason and rebellion were not tho't of until the troops had been sent away. That is the secret of the rebellion. The mode in which it was then got up, is very clear, and as there was an endeavor to connect Dr. Morrison with the rebellion, it was not improper that he (Mr. B.) should take this opportunity of stating to the jury his views of it. The fact was now notorious, that the puppets of Mackenzie's which have been seized by the Government proved that he was in desperate circumstances—His rash and violent character was

equally well known. His influence in the city was entirely gone; he was known too well there to be trusted. But he had acquired an amazing influence amongst an inferior class of people in the rear parts of the district, by means of his paper which was circulated amongst them, and taken to contain nothing but the truth, because it never was contradicted. Every thing he said they believed. When the troops were sent away, the idea then occurred to Mackenzie that he might use the credulity of these people for his own advancement. The insecurity of the city, and the unguarded manner in which a large quantity of arms were left without protection, led him to believe that if he could get a body of 4 or 500 resolute men together, the city might easily be taken. He held meetings in the back townships & gradually unfolded to them his plans, and led them to believe that all the leading Reformers in this city were ready to second him, and that the plot in fact was carried on by them under the superintendence of an "Executive Committee" as he termed it.—He went still further, he told them that persons in the city connected with the government only waited a demonstration when they would join his party. It is a fact, however incredible it may appear, that the name of the most distinguished individual in this Province, distinguished too not only for eminent talents, but for great integrity and loyalty, was particularly made use of, and such dependence had these deluded men on Mackenzie's statements that they actually believed that individual favored the rebellion. How easy then was it to persuade them that they would have the ready assistance of every Reformer in the Province? By these false statements Mackenzie succeeded in getting a pretty numerous body of men together. He knew that if they once perceived the deception that had been practised upon them they would abandon him; and he deemed it necessary therefore to get them committed by some act of enmity which might render them desperate. With this view Dr. Horn's house was burnt. No other motive could be ascribed to that act as he was an inoffensive person to

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prisoners who had been taken, in their  
intercourse with the rebels soon opened  
their eyes to the true state of the City,  
and from them they learned that the in-  
habitants were all armed, that the Chief  
Justice himself stood in the ranks with  
a musket on his shoulder, and that no-  
thing but a desperate attack could give  
any hope of taking the city. The men,  
finding they were deceived, deserted  
Mackenzie's standard, and his false-  
hood, as is invariably the case, ended  
in his own defeat. Such was in his  
[Mr. B's.] opinion the true history of  
the rebellion, and he no more believed  
in the existence of the Executive Com-  
mittee than he believed the gentlemen  
of the jury were members of it. It  
must be indeed a consolation to the jury,  
that the evidence which had been given  
on this trial and the light which was  
now thrown upon the origin of the late  
unnatural rebellion would enable them  
to acquit their fellow-townsmen of all  
participation in it. All suspicion would  
now be removed from them and he was  
sure the jury would rejoice at it. If he  
were to look for the true reason which  
had induced the learned Attorney Gen-  
eral to go into this part of the evi-  
dence, he believed it would be found in  
the wish of his learned friend to give  
to his fellow-subjects and his neigh-  
bours an opportunity to prove their in-  
nocence to the country. If so he must  
be happy indeed in the full attainment  
of his object. The rebellion then it  
would be perceived had its origin in the  
thoughtless dismissal of the troops from  
this Province. How far that act was  
censurable he would not say, but he  
would read to the jury some observa-  
tions of Sir Robert Peel which he con-  
sidered very applicable to the subject,  
though they were made in allusion to  
Lower Canada:—

"But as has been just said in the very able  
speech of the member for Newark, this is not  
a military question. This is a case of which  
every civilian is competent to judge, namely,  
whether or no, after the resolutions of last year  
and the state of the public mind in Canada,  
every rational mind must not have believed that  
on the rival of these resolutions public excite-  
ment have been aggravated, and that it was a  
time to take the additional precaution to send  
such a force as must, beyond doubt, suppress  
revolt. This then I want to know, whether you

did send such a force to Canada as might in-  
termediate the disaffected, calm the apprehension  
of the timid, encourage the loyal [cheers] and  
prevent that outbreak of popular violence and  
but unfortunate shedding of blood which has  
unhappily occurred [loud opposition cheers].  
Why, sir, when we see Lord Gosford and Sir  
James Kemp bestow praises which I echoed on  
these poor Canadian people—when we see them  
dwell on their honesty, simplicity, and indus-  
try—on their contentment with British rule,  
and their attachment to British connection—  
and when we read that in this same people  
there were [necessarily, I believe] killed two  
hundred, and three hundred wounded, in one  
village, that is, five hundred in the whole killed  
and wounded; for one gentleman stated  
that he counted 157 dead bodies, and that there  
were 300 wounded, besides several others dead,  
then I have a right to ask, might any precau-  
tion be taken which could have prevented such  
a lamentable loss of life [opposition cheers?]  
I rejoice, as every well-affected subject must,  
at the triumph of the law and the success of  
the King's troops; but I have no such feeling  
with regard to that victory as if it had been  
achieved in a righteous cause over the open  
enemies of the country. [cheers.] When such  
a slaughter is found necessary or justifiably,  
the occasion which gave rise to conflict leading  
to such calamitous consequence is deeply to be  
lamented; and if, by a timely supply of troops,  
you might have averted that melan-  
choly necessity then I maintain there were rational grounds  
for believing that the necessity might occur, in  
consequence of the activity and delusion practi-  
sed by the leaders of the Canadian people  
[cheers] and that it was the duty of the gov-  
ernment to overlook the miserable [compara-  
tively speaking] consideration of the inconve-  
nience of a military demonstration, and by a  
timely display of force to prevent the desertion  
of the well-affected and encourage the fearful—  
it was, I say, your duty to manifest such a de-  
termination to support the authority of the  
British Crown, and to maintain the British  
connection, as to deter designing men from  
practising on the simplicity of a loyal and well  
conducted people [loud cheers.] So far from  
exposing yourself to the unjust reflection of  
having acted in a severe and tyrannical man-  
ner, you would have secured and deserved the  
compliment of having made a merciful demon-  
stration of vigour [cheers]."

It is very true that the same loss of  
life has not to be lamented here, but  
how many families are now over-  
whelmed with misery, are left destitute  
who only a few months since were liv-  
ing in happiness and prosperity, and  
how many men whose loyalty and fide-  
lity were then unsuspected are now lan-  
guishing in gaol awaiting their final sen-  
tence. It is frequently remarked that  
it will all terminate to our advantage.—  
He [Mr. B.] had no desire to see good  
purchased at such a dreadful price; he  
would rather dispense with the good  
that was to come, if the evil which has



already happened could also have been prevented. He (Mr. B. continued) he felt that in the observations he had been making he was, as far as the prisoner at the bar was concerned, arguing against a shadow, for the evidence was scarcely worthy of an answer, but he had felt it to be his duty to address the jury at considerable length, from the circumstances that the character of a vast number were interested in the result of this trial, and that principle of great importance were involved in the question before them. He believed he had successfully shown that a convention of the people was not in itself treasonable, and that the people of this Province had a perfect right to discuss freely the question of the separation of this colony from the Parent State.— There was however one important circumstance to which he had not adverted. If it were even admitted that the object aimed at by that declaration or by the convention there recommended was separation from Great Britain, still it would be impossible to infer from that document that separation *by force* was intended, there was nothing to negative the presumption that if separation was the object it was to be brought about *by the consent of the mother country*; and this at all events could be deemed treason. In short the jury might place any construction upon it they pleased, and they could not make treason of it in any way. The learned Counsel then went into the other branch of the case and showed most clearly that the witnesses on the part of the Crown in their fright have mistaken some other person for Dr. Morrison; he referred to the impossibility of the story altogether, from the character of Dr. Morrison, whose peaceful disposition had never been questioned, and lastly to the evidence on the defence which if credited, and there was nothing to impeach it, placed Dr. Morrison's innocence beyond all doubt.— The learned Council concluded by stating that a defence in every respect satisfactory had been made out on both charges; that he placed implicit confidence in the jury who had shewn by the great attention they had paid the trial, the deep interest they took in it and how determined they were to discharge their duty with fidelity. Hav-

ing now gone through the case to the best of his ability Mr. Boswell said he felt confident of a favorable result to his client—and that he never in his life closed a case of importance with a lighter and more cheerful heart than the present one.

The ATTY GEN. rose again to address the Jury. The evidence he said did not shake his opinion of the guilt of the prisoner. The declaration was a foul libel on the Sovereign, and was the main cause of bringing about the rebellion, which had been attended with so many fatal consequences to the Province. He admitted it was not treason to discuss the subject of separation, but it should be done in a proper manner. An Address to the King and Parliament would have been the proper course to pursue.

Mr. Justice JONES then proceeded to read over the evidence to the Jury, and commented slightly upon it. The jury retired at two o'clock, and in about half an hour, a note came from them to the Judge, requiring to know if they could bring in a verdict for a less crime than High Treason: Mr. Justice Jones said "No." The Court adjourned shortly after and re-assembled at 10 o'clock, when the jury came into Court and pronounced a verdict of "NOT GUILTY." [The announcement of the verdict was followed by a loud burst of applause from several parts of the court.]

The JUDGE ordered the Sheriff to take into custody those persons who had thus insulted the dignity of the Bench, and violated the decorum necessary for a Court of Justice. The Sheriff's Deputy was proceeding to drag some persons pointed out to him by the Judge, into the Dock, but however soon desisted.

Dr. MORRISON then rose and thanked the Judge for his impartial conduct and the Jury, for the attention they had bestowed on his case.

Mr. JUSTICE JONES said, from the long time taken by the Jury to decide on their verdict, Dr. Morrison must see the strong doubts they had of his innocence. He hoped the Doctor would conduct himself in future as became a good subj. ct.

Dr. Morrison was escorted to his residence by an immense body of the Fellow-citizens.

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