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LOWER CANADA.

REPORTS and CORRESPONDENCE on the subject  
of the Charges preferred against Mr. Gagy.

(Mr. Roebuck.)

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Ordered, by The House of Commons, to be Printed,  
1 June 1837.

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LOWER CANADA.



RETURN to an ADDRESS of the Honourable The House of Commons,  
dated 16 March 1837 ;—for,

COPIES of Two REPORTS of a Select Committee of the House of Assembly of Lower Canada, respecting Mr. Gogy, Sheriff of Montreal; and of any Correspondence between the Earl of Gosford and Lord Glenelg, on the subject of the Charges preferred against Mr. Gogy.

Colonial Office, Downing-street,  
26 May 1837.

G. GREY.



SCHEDULE.

- No. 1.—Copy of a Despatch from the Earl of Gosford to Lord Glenelg, dated Government House, Montreal, 11 August 1836. (Five Enclosures.) - - - - - p. 1
- No. 2.—Copy of a Despatch from Lord Glenelg to the Earl of Gosford, dated Downing-street, 16 November 1836. - - - - - p. 55

— No. 1. —

COPY of a DESPATCH from the Earl of Gosford to Lord Glenelg.

My Lord,

Government House, Montreal, 11 Aug. 1836.

I HAVE the honour herewith to transmit, for the information of your Lordship, an address presented to me by the House of Assembly, praying for the dismissal of the Honourable Lewis Gogy from the office of sheriff for the district of Montreal; my answer thereto, and all the other documents and information in my possession connected with this matter, which will enable your Lordship to acquire full information of the circumstances of the case, and to arrive at a decision on it.

The documents are, the first Report of, and Evidence taken by, the Special Committee appointed to inquire concerning fees and emoluments received by the Sheriffs and other Officers connected with the Civil and Criminal Courts of Judicature; the Report of, and Evidence taken by, the Special Committee appointed to inquire into the circumstances which preceded and accompanied the death of one John Collins, who died in the Common Gaol of the District of Montreal, and to inquire into the state of the Gaol; and, lastly, the explanation and defence of Mr. Sheriff Gogy, with the several papers and documents (thirteen in number), which accompanied it.

The charges against Mr. Gogy spring from two sources, and are of an independent nature.

Under the first series, he is accused of having fraudulently and corruptly concealed from the Executive Government, by transmitting false returns for the Blue Book, a great portion of the emoluments of his office of sheriff, amounting, in the five years ending with 1834, to the sum of 5,264 *l.* currency; and that he wilfully and maliciously gave false evidence, in his examination before a Special Committee of the House appointed to inquire concerning fees and emoluments received by sheriffs and other officers connected with the courts of law, with a view to conceal from the House the disproportionate amount of the fees and emoluments which he received as sheriff, and thereby to prevent the House, and his Majesty's Government, from applying an effective remedy to the abuses alluded to by the Committee.

To the charge of fraudulent concealment, Mr. Gogy states, that his returns of fees and salary were as nearly accurate as he could make them, from the imperfect notes and memoranda of his accounts, which he kept privately, and he admits that he is not capable of keeping regular books of accounts. He is, I believe, of an advanced age, approaching seventy; and I am informed that that part of his duties which relates to the keeping of the accounts of the office, has been discharged for many years past by Mr. Francis Perry, for some time his deputy sheriff, and subsequently his principal clerk. Mr. Gogy asserts, also, that if he has fallen into

Correspondence  
respecting  
Mr. Gogy.

Enclosure, No. 1.

Enclosure, No. 2.

Enclosure, No. 3.

Enclosure, No. 4.

Enclosure, No. 5.

Correspondence  
respecting  
Mr. Gogy.

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error. in the returns alluded to by the Committee, he has done so unconsciously. He likewise denies that he had any intention to give false evidence before the Committee, and in his defence, to which I beg to refer your Lordship, explains the causes from which any discrepancy that may be found to exist between his evidence and that of his chief clerk might have arisen.

The second series of charges against Mr. Gogy is connected with the death of John Collins, a man of intemperate and dissolute habits, who was committed on the 27th November last to the common gaol of Montreal, under a magistrate's warrant charging him with being a vagrant and a public nuisance; this man, whose constitution, it appears, was completely worn out by the excessive use of ardent spirits and bodily disease, died in gaol on the 10th of December last. The verdict of the inquest held on his body, as recorded by the coroner, states that "he died through want of food, and by cold and misery; he had in his prison neither clothes, bed, nor any covering by which he could keep himself warm, nor had he even any straw on which he could lay down:" and the House of Assembly, in their address (Enclosure No. 1), which is founded on the Report of the Committee to whom these proceedings were referred, allege that the death of John Collins is to be attributed chiefly to the culpable negligence of the subordinate officers who had the care and keeping of the gaol; that the sheriff was bound to superintend such officers, is responsible for their conduct, and was guilty of violating his duty in not superintending them with sufficient care, and in neglecting to see that the gaol was kept in proper order, and the health of the prisoners duly attended to; that he had shown himself ignorant of the state, keeping and management of the gaol under his charge; that he had permitted the existence of various abuses, and of vicious regulations, without any attempt to remedy them, and in particular that he had authorized the continuance in office as turnkeys the two sons of the gaoler, notwithstanding their bad conduct and immoral character, with which he was acquainted.

For Mr. Gogy's vindication against these charges, I must refer your Lordship to his defence, and the accompanying documents in support of it.

It is proper to inform your Lordship, that the House of Assembly also addressed me for the removal of Edward Holland, the gaoler, and Dr. Arnoldi, the physician of the gaol, as being implicated in the death of Collins. Previously, however, to the presentation of this address, the gaoler (who it seems is the person legally liable in case of the death by other than natural causes of prisoners while under his charge) had been indicted by the Attorney-General for the murder of Collins before the Court of King's Bench at Montreal, but the bill was ignored by the grand jury; I may also add that the two sons of the gaoler, whose conduct and character the Assembly condemned, have been removed from their office of turnkeys by the proper authority, and that Edward Holland himself, subsequently to the throwing out of the bill of indictment, voluntarily resigned his situation as gaoler.

There remained, therefore, only the cases of Dr. Arnoldi and Mr. Gogy to be decided. Having heard what both had to say in their defence, I did not think the case of the former of sufficient importance to be transmitted to England, nor do I see reason to deprive him of his situation for his conduct in this matter; but as the case of Mr. Gogy is of a more complicated and delicate nature, and in which I conceived that the first and final decision had better proceed at once from His Majesty's Government, I informed him that I had reserved the questions arising out of it for the signification of His Majesty's pleasure, and with that view should forward all the proceedings to the Secretary of State for the Colonies. The reasons which induced me to transmit Mr. Justice Fletcher's case, operated to induce me to follow a similar course in the present instance.

In the public discussions to which the death of Collins gave rise, some attempts were made to connect the Executive Government with this event, and to attach to me some degree of culpability for not having more promptly made advances to the sheriff from the public chest, to enable him to supply the gaol with necessaries for the prisoners. It is true, that in the beginning of November the sheriff informed me that there would be an immediate necessity for furnishing the gaol with a certain quantity of wood and bedding, and applied for an advance of 200 *l.* currency to procure those articles. I did not then accede to the application, from a strong disinclination to touch any of the Crown revenues before the Assembly had expressed itself upon the conditional offer made to it for their surrender; and the disapprobation of your Lordship's predecessor, the Earl of Goderich, expressed in his despatch of the 9th of April 1832, No. 92, against issuing warrants on the receiver-general to defray the expense of purchasing lights and



and fuel for the gaol and court houses, and food for the prisoners, heightened the objection I entertained of using for those purposes any part of the funds, to the disposal of which the assent of the other two branches of the Legislature was requisite. Moreover, I had understood that it was the practice (as stated in the Report of the Committee, Enclosure No. 4.) for the sheriff to advance from his private funds the sums required for the purchase of fuel and bread for the gaol, and that it was only when an expenditure for repairs or other purposes, exceeding 5 £, was necessary, that Government, in the first instance, authorized its outlay, or advanced the sum required. In fairness, however, to the sheriff, it must be stated that, at that time, he had not been repaid by Government the disbursements he had made during the two preceding years for the contingencies of his office, and there being then due to him on that account more than 2,000 £., he doubtless felt a very natural reluctance to continue his advances.

Correspondence  
respecting  
Mr. Gogy.

On the 25th of November, he addressed another letter to the civil secretary, stating, for my information, that the sufferings of the prisoners were becoming extreme since the setting in of the cold season; that an advance of money was absolutely necessary to procure a supply of blankets and bedding and other articles, mentioned in his first letter, to the amount of 200 £.; and repeated his application for such advance with an increased degree of earnestness. On the same day, I transmitted to the Assembly, with a message, copies of these letters, and of similar communications from the sheriffs of Quebec and Three Rivers in the hope that some provision would without loss of time be made to meet the pressing emergency of the case.

On the 8th December, Dr. Arnoldi, the physician of the Montreal gaol, addressed to me a strong appeal on behalf of the prisoners under his charge, whom he described as in a deplorable state of destitution from the want of proper food or clothing; many rheumatic patients, and even many females confined in the vaults below, were, as he states, under the necessity of lying, without covering or even straw, on the cold damp floors, and one patient he represented to be in such a weak state that he must inevitably sink unless proper diet and clothing were afforded him.

Much as I was averse to making any advance from the public chest in the peculiar and delicate position in which I stood with the Legislature, I conceived that I should not be justified in any longer declining to interfere in a case of such urgent necessity. Accordingly, on the 10th of December, the very day that I received Dr. Arnoldi's letter, and, as it happened, of Collins's death, I transmitted by post to the sheriff the sum of 50 £., to enable him to purchase indispensable articles of food and covering for the temporary relief of the destitute prisoners; and, on the 16th, I advanced for the same purposes the sum of 150 £., being the amount originally applied for by the sheriff. I am happy to inform your Lordship, that the House of Assembly have indirectly sanctioned the course that I adopted on this occasion; for their Special Committee, to whom was referred the whole subject, and all the correspondence connected with it, in their Report, (Enclosure No. 4, which was concurred in by the House,) state, that although there is no positive statute authorizing such advances, they cannot admit of any difficulty, and that similar disbursements made for an object of so urgent a nature, and for articles indispensably necessary for the maintenance and keeping of prisons, have invariably been sanctioned by the House; and the Committee proceeds to express its belief, that, as the House have always made good such advances, they will willingly recognise the necessity of making them.

I have, &c.  
(signed) Gosford.

#### Enclosures in No. 1.

No. 1.

House of Assembly, Wednesday, 2 March 1836.

Resolved,—That Lewis Gogy, esquire, in his quality of sheriff of the district of Montreal, receives large sums of money in the shape of fees, and that being required by His Majesty's Executive Government in this province yearly to lay before it true and exact statements or returns of the amount of the fees and emoluments received by him in his said quality of sheriff, the said Lewis Gogy, instead of acting frankly and in good faith towards the said Executive Government, and affording it the information required of him has, on the contrary, purposely, deliberately and corruptly deceived the said Government, and practised towards it a system of fraud and deceit, calculated to degrade His Majesty's Government in this province, and to deprive it of the confidence and respect of His faithful subjects therein.

Correspondence  
respecting  
Mr. Gogy.

Resolved,—That in pursuance of this system of fraud and deceit, the said Lewis Gogy deliberately and corruptly concealed from the knowledge of the said Executive Government a great part of the emoluments of his office, amounting to about 5,264 *l.* 11 *s.* 11 *d.* currency, for the years 1830, 1, 2, 3, and 1834, by transmitting to the said Government, during the said years, unfair and false returns of the amount of the fees and emoluments received by him as sheriff of the district of Montreal.

Resolved,—That by the said system of fraud and deceit, so practised by the said Lewis Gogy towards His Majesty's Executive Government in this province, he deliberately and corruptly allowed the said Government to remain ignorant that a portion of His Majesty's subjects were taxed by a mere tariff of fees made by the Court of King's Bench, to an enormous amount, and at a rate utterly disproportionate to the services by him performed.

Resolved,—That the said Lewis Gogy wilfully and maliciously gave false evidence in his examination before the Special Committee of this House, appointed to inquire concerning the fees and emoluments received by the sheriffs, prothonotaries and criers of the Court of Appeals, and of the Courts of King's Bench of this province, in virtue of their respective offices, and that, in so doing, the said Lewis Gogy has been guilty of a high misdemeanor, and of a breach of the privileges of this House.

Resolved,—That, by such false evidence, the said Lewis Gogy intended deliberately and corruptly to conceal from the knowledge of this House the enormous and disproportionate amount of the fees and emoluments which he receives as sheriff of the district of Montreal, and thereby to prevent this House and His Majesty's Government from applying an effective remedy to the great abuses and grievances aforesaid, under which His Majesty's faithful subjects in this province are suffering.

Resolved,—That the Legislature of this province has already exerted itself to improve the physical and moral condition of the accused persons, and those under sentence in the gaols of this province, and that until its efforts and labours can be followed by immediate effect, it is expedient to remedy the abuses which may exist in the keeping and management of the common gaols in the several districts of this province.

Resolved,—That by the common law of the country, as well as by the Act passed in the 45th Geo. 3, c. 13, the common gaols in and for the several districts of this province are placed under the care of the sheriffs in their respective districts, and that by virtue of the said laws, it is the especial duty of Lewis Gogy, esquire, sheriff of the district of Montreal, to keep and superintend the common gaol of the district of Montreal, and to see that it is healthy and secure.

Resolved,—That the officers, to whom the keeping, security and healthiness of the said gaol were entrusted, had at their disposal, on the 9th Dec. 1835, the means of furnishing to the prisoners therein confined, the usual and sufficient allowance of provisions and fuel to maintain and preserve the lives of the said prisoners.

Resolved,—That the death of the prisoner John Collins, which happened in the said common gaol of the district of Montreal, in the night between the 9th and 10th of December 1835, is to be attributed chiefly, and in a great measure, to the culpable negligence of the subordinate officers who had the care and keeping of the said gaol, and whose duty it was to watch over the health of those whom it contained; and that the sheriff of the district of Montreal was bound to superintend the said officers, and is responsible for their conduct, and has been guilty of violating his duty in not superintending them with sufficient care, and in neglecting to see that the said gaol was kept in proper order, and the health of the prisoners duly attended to.

Resolved,—That by his answers before the Special Committee directed to inquire into the circumstances which preceded and accompanied the death of the said John Collins, and the state of the said gaol, the said Lewis Gogy has shown himself ignorant of the state, keeping and management of the gaol under his charge; that the said Lewis Gogy has permitted the existence of various abuses, and of vicious regulations in the said gaol so under his care, and has not taken any means to remedy them; and that he has permitted and authorized the continuance in office as turnkeys the two sons of the gaoler, notwithstanding their bad conduct and immoral character, with which circumstances the said Lewis Gogy was acquainted.

Resolved,—That the said Lewis Gogy is therefore unworthy to enjoy the confidence of His Majesty's Government in this province, or to hold any place of honour or profit therein.

Resolved,—That an humble address be presented to His Excellency the Governor-in-Chief, praying that he will be pleased to exercise the powers with which his commission invests him, by removing the said Lewis Gogy from the office of sheriff of the district of Montreal, and that he will not hereafter appoint him to any place of honour or profit in this province.

(signed) *W. B. Lindsay,*  
Clerk Assisting.

Enclosure 2, in No. 1.

Gentlemen,

I REQUEST you to acquaint the House of Assembly, in answer to this Address, that Mr. Sheriff Gogy shall be forthwith called upon for such defence and explanations as he may have to make to the charges preferred against him in the accompanying Resolutions, and that when his statement shall have been received, I will take the whole matter into my serious consideration, and adopt such measures as the case may require.

Castle, St. Lewis, Quebec, 9 March 1836.

Enclosure 3, in No. 1.

FIRST REPORT.

Correspondence  
respecting  
Mr. Gugy.

The Special Committee appointed to inquire concerning the Fees and Emoluments received by the Sheriffs, Prothonotaries, and Criers of the Court of Appeals and of the Courts of King's Bench of this Province, by virtue of their respective offices, with an instruction to inquire also concerning the Fees and Emoluments received by the Attornies, Clerks of the Peace, and by the other Officers of Civil and Criminal Courts of Judicature in this Province, by virtue of Tariffs made by the said Courts, and generally concerning all Fees and Emoluments received by virtue of Tariffs made by the said Courts, either under the 17th Section of the Act passed in the 41 Geo. 3, c. 7, or otherwise; and to whom were also referred the Income Returns of the Sheriffs, Prothonotaries, and of the Clerk of the Courts of Appeals for the years 1830, 1831, 1832, 1833 and 1834, have the honour to make the following Report concerning the Sheriff of the district of Montreal:—

THE office of sheriff of the district of Montreal, one of the most important of those connected with the administration of justice, has, since the year 1827, been held by the Honourable Lewis Gugy, a member of the Legislative Council.

The income of the office consists of a fixed salary of 100 *l.* sterling per annum, of divers fees which he receives under the authority of a tariff made and promulgated by the judges of the Court of King's Bench at Montreal, on the 7th June 1815, and of the legal commission of two and a half per cent. on the monies by him levied under writs of execution.

The fees are nearly as follows:—on a writ of summons for less than 20 *l.*, 5 *s.*; for less than 30 *l.*, 6 *s.* 8 *d.*; and for more than 30 *l.*, 8 *s.* 4 *d.*; and for each additional copy, one-half of the said fees respectively; the said fees being a little higher when the process is accompanied by a writ of *saisie arrêt*, *saisie gagerie* or of *capias*; on all deeds of sale for less than 30 *l.*, 20 *s.*; for more than 30 *l.* and less than 100 *l.*, 30 *s.*; and for more than 100 *l.*, 40 *s.* The sheriff also receives a fee of 5 *s.* on each opposition filed in his office, and 7 *s.* 6 *d.* when the opposition stops the sale of moveable property.

In pursuing this branch of their inquiry, (which has not been the least difficult), your committee have examined the sheriff himself, Francis Perry, esq., his chief clerk, who has been employed in the office since the year 1823, and also several documents laid before your Honourable House by the Governor in Chief, and a table of the writs of execution issued during the last five years, laid before your committee by the prothonotary of the Court of King's Bench for the district of Montreal.

There are so many points on which the evidence of the sheriff and that of Mr. Perry contradict each other, and on which both of them are at variance with the public documents aforesaid, that your committee are under the necessity of entering into a crowd of details which they would willingly have avoided. The nature of the proof adduced before your committee enables them to state as their opinion, that the evidence of Mr. Perry is more worthy of credit than that of the sheriff, which latter is on many points far from being correct.

Mr. Gugy was at Quebec when he was summoned to appear before your committee; his examination took place on the 14th of November last, and it was not until after his return to Montreal that Mr. Perry was called before your committee.

Before proceeding to state the amount of the evidence aforesaid, it is right to remark, that Mr. Lewis Gugy transmits every year to the Executive Government, accounts or returns of his income as sheriff of Montreal, to be subsequently used in compiling the document commonly called "The Blue Book." Mr. Perry never had anything to do with these reports; he states that he never saw them, or knew what amount was returned in them.

It appears by extracts from the Blue Book, laid before your Honourable House by his Excellency the Governor in Chief, that the sums thus returned to the Executive by the said Honourable Lewis Gugy, as the amount of the income of his office, from the year 1830 to the year 1834, inclusively, are as follows:—

YEARS.	STERLING.				TOTAL.			
	Fixed Salary.		Fees.		Sterling.		Currency.	
	£.	s. d.	£.	s. d.	£.	s. d.	£.	s. d.
1830 - -	105	- -	1,094	7 3	1,199	7 3	1,332	12 6
1831 - -	105	- -	1,197	- -	1,302	- -	1,446	13 4
1832 - -	105	- -	992	14 -	1,097	14 -	1,219	13 4
1833 - -	105	- -	1,030	- -	1,135	- -	1,261	2 2½
1834 - -	105	- -	1,382	- -	1,487	- -	1,652	4 5½
£.	525	- -	5,696	1 3	6,221	1 3	6,912	5 10

The entries in the Blue Book are all in sterling money. No deduction is mentioned in that book for the first four years, but for the year 1834 the entry is as follows:

Gross amount of the fees during the year 1834, sterling	- - -	£.	1,382	s.	-	d.	-
To be deducted, for office rent, expenses of the office, printing, stationery, clerks, &c.	- - -		394		-		-
			<hr/>				
			£.	988			

Correspondence  
respecting  
Mr. Gogy.

From this entry it would seem, that in 1834 the net amount of the sheriff's income from fees was only 988 *l.* sterling, equal to 1,097 *l.* 15 *s.* 6 *d.*; while, according to his books of receipt and expenditure, the said net income was really 2,113 *l.* 17 *s.* 2 *d.* currency. With regard to the four first years, it is impossible to say whether the sums entered in the Blue Book are intended to represent the amount of the gross or of the net income of the sheriff, during the said years, for they are not accompanied by any such explanation as that given in 1834. But from Mr. Perry's evidence touching the annual amount of the said income, from the statements furnished by him, and from the entry in the Blue Book above specified, your committee are compelled to believe that the said several sums are entered in that book, as being the gross income. The course of the inquiry shows that a contrary opinion cannot be maintained.

Your committee come now to the evidence of Mr. Gogy, concerning the annual amount of his receipts, and the manner in which his office is kept. His answers to the questions inserted below, will show your Honourable House the necessity there was that Mr. Perry should be examined. The examination of the latter took place in December last, and as a part of his evidence was missing without its being possible for your committee to discover the cause, this circumstance made it necessary again to summon Mr. Perry before the committee. Having accordingly appeared on the 8th instant, the said witness declared that the answers he then gave were as nearly as possible the same as those which were missing.

To attain the object which your committee have had in view, that is, to show the manifest and unjustifiable contradictions which prevail between the evidence of Mr. Gogy and that of Mr. Perry, your committee have thought it their duty to transcribe a portion of the same in this Report, in order that the evidence of each may be confronted with that of the other :

*Mr. Gogy.*

What has been the average amount of the gross income of your office for the last five years, mentioning the amount for each year?—It is impossible for me to answer this question. I even think I could not answer it if I were in my office. The income of the office is composed of several different branches which come in unequally, so that it is impossible to keep separate accounts of them. I think however that the gross income exceeds 2,000 *l.*

Do you keep a separate book of receipt for each of the said sources of income?—No.

Do you regularly keep a general book of receipts?—I do not keep a general book of receipts; but I have means of ascertaining the income of the office when necessary.

general book of receipts of the said office?—There is.

By whom are kept the books which you mention as kept in the sheriff's office?—By me.

Is it from these books that the statements which you have produced before this committee were made?—Yes.

Are these books kept in the sheriff's office with the knowledge of the said sheriff?—They are.

Do you keep a set of books or a single cash book in the said office?—For some years after Mr. Gogy came into office, he kept only a cash book besides the office books; during the last two or three years the private books of Mr. Gogy relative to the fees of his office have been kept more extended.

Are the receipts of fees on executions and on mesne process, or arising from other sources of revenue in the said office, kept and entered separately in the said books?—Yes.

Could you furnish the committee with a statement of the separate amount of each of these sources of income during the last five years, showing the amount for each year?—I could not, even if I were in my office.

From these books of receipt kept by the sheriff, it is in his power then to furnish an exact statement of the separate amount of each of the sources of the income of his office during the last five years, showing the amount for each year; and is it not from these books of receipt that you yourself furnished the committee with statements of the said income, at the time of your examination on the 14th December last?—A statement of the fees of office could be always done from the books and papers in the sheriff's office, and I have made them from it.

The whole bearing of this evidence, and an attentive examination of the contradictions it contains, have convinced your committee that the said Lewis Gogy does keep books of receipt, and has the means of ascertaining the amount of the income of his office, and was himself able to give your committee that correct information on this point which was absolutely necessary for their guidance in their inquiry; but that the said Lewis Gogy has pursued towards your

*Mr. Perry.*

Are the proceeds of the several different sources of revenue in the sheriff's office entered in a book, or in books separately?—The proceeds of the office are entered regularly in the book, that is to say, the fees on executions are entered in items, the smaller fees and those on mesne process are collected in a drawer and entered as taken therefrom.

Does the sheriff of Montreal keep a regular book of receipt for the several sources of the income of his office?—Yes; he keeps a regular cash book.

Is there kept in the sheriff's office a separate book of receipts for each of these sources of income?—An account of fees is kept in the sheriff's office, on which all the fees of office are regularly entered.

Is there kept in the sheriff's office a

Correspondence  
respecting  
Mr Gugy.

your committee the same line of conduct which he has adopted towards the Executive ; that in tampering with the truth in so culpable a manner, his object was to prevent your committee from obtaining a correct knowledge of the enormous income he derives from his office, the more enormous because no proportion exists between it and the duties which that office imposes on him. Your committee cannot attribute to any other motives the negative and false answers of the said Lewis Gugy, to questions relative to facts which he has every day before his eyes. If it were possible to suppose, for an instant, that he has up to this time been ignorant of the facts stated by Mr. Perry in his evidence, this ignorance would be most culpable in a public officer having duties to perform so important as those of the sheriff, and his conduct would be yet more to be condemned, because in that case the said Lewis Gugy would offer the demoralizing example of a man accepting a high office of honour and profit, for the sole purpose of attaining large sums of money, without any care for the faithful performance of the public duties it imposed on him. But this supposition is wholly inconsistent with the facts, which fully bear out the opinion above expressed by your committee ; and the remaining portion of this Report must convince your Honourable House that this opinion is but too well founded.

Your committee then, being unable to obtain from the said Lewis Gugy the information which they asked of him, and which it was in his power to give, had recourse to the said Francis Perry, who is the chief clerk of the said sheriff, and was even appointed his deputy during the continuance of the Act of the 9 Geo. 4, c. 6.

The said Francis Perry consequently laid before your committee the statements which accompany the Report, and which are marked Nos. 1, 2, 3, 4.

According to these statements, the gross income of the said sheriff, for the last five years, including his fixed salary, has been as follows :

In 1830	-	-	-	-	-	-	£. 2,127	1	11			
1831	-	-	-	-	-	-	2,289	19	6			
1832	-	-	-	-	-	-	2,569	1	8			
1833	-	-	-	-	-	-	2,562	17	6			
1834	-	-	-	-	-	-	2,627	17	2			
Total							-	-	-	£. 12,176	17	9

The expenses of his office, as stated by the said Lewis Gugy, are 514*l.*, that is,

To Mr. Perry, chief clerk	-	-	-	-	£. 250
Three other clerks, at 50 <i>l.</i>	-	-	-	-	150
Rent, stationery, &c.	-	-	-	-	114
					<u>£. 514</u>

The total amount of his income as above established, (that is 12,176*l.* 17*s.* 9*d.* currency,) being divided by five, gives an annual average income of 2,435*l.* 7*s.* 6*d.* currency; and after deducting from this last sum, that of 514*l.*, which appears to have been hitherto the amount of the expenses of his office, the net annual income of the said Lewis Gugy will average 1,921*l.* 7*s.* 6*d.* currency. This amount is established by the evidence of Mr. Perry, and by the extracts made by him from the books of receipt kept by himself in the office of the said sheriff, under the very eye and with the knowledge of that officer.

Your committee are at a loss how to explain the enormous difference between this amount and that entered in the Blue Book. They can only attribute it to a system of deception practised by the said Lewis Gugy upon the Executive Government, with a view to deceive the latter, and to leave it in ignorance of the real amount of the emoluments he receives.

This difference is equal to one-half nearly. From the returns made by the sheriff to the Executive Government, as they appear in the Blue Book, the income of the sheriff for the last five years would seem to be 6,221*l.* 1*s.* 3*d.* sterling, equal to 6,912*l.* 5*s.* 10*d.* currency, while, according to the statements furnished by Mr. Perry, the said income for the same period has been 12,176*l.* 17*s.* 9*d.* currency, making a difference of 5,264*l.* 11*s.* 11*d.* currency, which the said Lewis Gugy has received, but has concealed from the knowledge of the Executive Government; and this difference would be equal to the sum of 1,052*l.* 18*s.* 4*d.* currency per annum.

The expenses of the said sheriff being 514*l.* a year, their total amount for the said five years will be 2,570*l.* currency. Deducting this sum from those entered in the Blue Book, which amount to

£. 6,912	5	10
2,570	-	-

there remains a balance of - - - £. 4,342 5 10 which, being divided by five, makes the average amount of the sheriff's net annual income 868*l.* 9*s.* 2*d.* currency.

The Executive Government has therefore been led to believe from the returns made to it by the said Lewis Gugy, one of its responsible officers, that the income of his office did not on the average amount to more than about the said sum of 868*l.* 9*s.* 2*d.* while he was in fact receiving an annual income of

£. 1,921	7	6
868	9	2

making a difference of - - - - - £. 1,052 18 4

It is true that the said Lewis Gugy acknowledged before your committee that the gross income of his office might exceed 2,000*l.*; but how is this answer to be reconciled with

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returns made by him to the Executive Government? If there is anything like good faith in the answer, there must be none whatever in the returns.

Your committee have also taken into consideration the statement of the writs of execution returned by the sheriff to the prothonotary's office during the years 1830, 1831, 1832, 1833 and 1834, as furnished to your committee by the prothonotaries.

These statements which are voluminous, comprise,

1. The number of such writs.
2. Their date and nature.
3. The day appointed for the return.
4. The time when they were returned by the sheriff.
5. The amount of the sheriff's fees on each of the said writs.
6. The amount of his disbursements on each, showing the purposes for which they were incurred.
7. The amount of his legal commission on the monies levied under each such writ.
8. The amount of the sums levied.

The following is a summary of the said statements :

YEARS.	Sheriff's Fees on the Writs of Execution.			DISBURSEMENTS.						COMMISSION.			Amount of the Sums levied.		
				Printing.			Bailiffs.								
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
1830	386	-	4	Printing and Bailiffs			1,563	1	-	573	19	2	23,115	4	-
1831	449	5	3	1,011	5	-	721	17	10	823	19	3½	33,123	19	3
1832	209	16	8	332	9	10	645	18	1	539	4	4½	21,400	10	10
1833	371	2	1	294	16	-	1,042	1	4½	1,285	1	6½	61,912	17	2
1834	497	10	2	409	-	10	1,787	15	8	770	7	1	31,196	10	1
£.	1,913	14	6	2,047	11	8	5,760	13	11½	3,992	11	5½	170,749	1	4

Commission at 2½ per cent. on 170,749*l.* 1*s.* 4*d.*, equal to 4,268*l.* 14*s.* 6*d.*

The sums entered in the said statements do not agree with those in the statements furnished by Mr. Perry. With regard to the sheriff's fees on executions, this is to be attributed to the frequent omission on the part of that officer to mention the amount of his fees in his returns. This omission is far from being beneficial to the parties interested, for after having examined the writs of execution returned by the sheriff to the prothonotary's office, it is still necessary to go down to his office to ascertain the amount of his fees and disbursements. Your committee therefore think it right, with reference to this point, to rely on the statements furnished by Mr. Perry, and made from the books of receipt kept in the sheriff's office.

This difference ought not however to exist, at least not to the same extent, with regard to the legal commission to which the sheriff is entitled on the monies levied. Your committee finding it impossible to account for the difference in this case, must content themselves by making it apparent to your Honourable House by means of figures :

<i>Mr. Perry's Statement :</i>			
Total amount of the sheriff's commission.			
Years.		£.	s. d.
1830	-	520	11 3
1831	-	883	- 8
1832	-	1,085	7 -
1833	-	789	16 8
1834	-	601	15 6
		£. 3,880	11 1

<i>Statement made by the Prothonotaries :</i>			
Total amount of the sheriff's commission.			
Years.		£.	s. d.
1830	-	573	19 2
1831	-	823	19 3½
1832	-	539	4 4½
1833	-	1,285	1 6½
1834	-	770	7 1
		3,992	11 5½
		3,880	11 1
		£. 112	- 4½

Such is the difference which exists between these several statements. It amounts, it is true to but a small sum on the whole, but it varies each year in an explicable manner.

Another difference is apparent between the statement marked No. 3, produced by Mr. Perry, and the statements of executions returned as furnished by the prothonotaries. By the said statement No. 3, it would seem, the total amount of monies levied during the said five years is 155,222*l.* 0*s.* 1*d.*, yielding the sheriff, for his legal commission, the sum of 3,880*l.* 11*s.* 1*d.*

On the other side, if we examine the said statements of executions returned, and suppose the several sums therein entered to be correctly added up, it appears that the amount of the same monies levied by the sheriff during the said period is a much larger sum, namely, that of 170,749*l.* 1*s.* 4*d.* currency, yielding the said sheriff for his legal commission the sum of 4,268*l.* 14*s.* 6*d.* currency. The difference between the two accounts will stand as follows :

Statement made by the Prothonotaries :				Statement made by Mr. Perry :			
Amount levied	-	£. 170,749	1 4	Commission	-	£. 4,268	14 6
Mr. Perry's statement	-	155,222	- 1	Ditto	-	3,880	11 1
		£. 15,527	1 3	Difference	-	£. 388	3 5

This

<p>This sum of 388<i>l.</i> 3<i>s.</i> 5<i>d.</i> ought therefore to be added to the net income of the said sheriff for the five years aforesaid. That income as above established amounts yearly to</p>	<p>Correspondence respecting Mr. Guky.</p>																
<p>The said sum of 388<i>l.</i> 3<i>s.</i> 5<i>d.</i> being divided by five, gives the yearly sum of</p>	<table border="0"> <tr> <td style="text-align: right;">- £. 1,921</td> <td style="text-align: right;">7</td> <td style="text-align: right;">6</td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;">77</td> <td style="text-align: right;">12</td> <td style="text-align: right;">8</td> </tr> <tr> <td colspan="4" style="border-top: 1px solid black;"></td> </tr> <tr> <td colspan="4" style="text-align: right;">Total - - - £. 1,999 - 2</td> </tr> </table>	- £. 1,921	7	6			77	12	8					Total - - - £. 1,999 - 2			
- £. 1,921	7	6															
	77	12	8														
Total - - - £. 1,999 - 2																	

Such appears to be the yearly net income of the said sheriff, according to the evidence collected by your committee.

If the total amount of the monies levied as shown by the said statements of executions returned, would make the sheriff's legal commission amount to a larger sum than that at which it is therein stated, this is probably owing to another omission on the part of the said sheriff, who, in many of the said returns, does not specify the amount of his commission, contenting himself with merely mentioning that he received payment of debt with interest and costs.

Another circumstance which has struck your committee, and which is doubtless the result of the conduct which they have good grounds for accusing the said Lewis Guky of having held both towards the Government, and towards your committee, is, that the portion of his evidence which relates to the yearly expenses of his office does not at all agree with the returns made by him to the Executive, as entered in the Blue Book. The said expenses, according to his declaration before your committee, would seem to be about 514*l.* a year, while, according to the return for 1834 made by him to the Executive, they would seem to amount only to 394*l.* sterling, equal to 437*l.* 15*s.* 6*d.* currency; making a difference of 76*l.* 4*s.* 6*d.* currency.

Your committee have thought it right here to terminate their examination of the contradictions and serious misconduct which this inquiry has exposed. With regard to the necessity of reducing the income of the sheriff of the district of Montreal to a just remuneration for his services, your committee will make it their duty to submit their views on this subject to your Honourable House in a subsequent Report.

For the present, your committee have thought right to confine themselves to making a separate Report, for the purpose of representing to your Honourable House the culpable conduct of the said Lewis Guky both towards His Majesty's Executive Government in this province, and towards one of the committees of your Honourable House. Fidelity in the performance of his duties, and good faith in all his actions, ought to be the first qualities required in a public and responsible functionary. He who does not possess these qualities is unworthy to hold the office entrusted to him, or to enjoy the confidence of His Majesty's Government. Your Honourable House, as the great inquest of the country, is entitled to demand and obtain from the various public officers, exact and true information with regard to the nature and income of their offices, and the manner in which they perform their duties. It is for the interest of His Majesty's Government in this province, that his representative should watch carefully over the conduct of his servants, and should require from them all such information as may tend to promote the welfare and prosperity of his subjects. The first duty of a good government is to take care that the subject be not excessively taxed, in order that public officers may receive salaries disproportionate to the services they perform. It is doubtless with the view of thus promoting the public good, that the Executive of this province requires yearly from its servants, and more especially from the sheriffs, statements and returns of the amount of the income of their respective offices. These officers are bound in duty and in honour to act in good faith towards His Majesty's Government, to lay before it truly all the information and statements which it may require of them, and not to conceal from its knowledge by fraud or deceit any facts concerning which the Government may think it right to inquire.

The result at which your committee, after having most attentively reflected on this subject, have arrived, is the conviction that the said Lewis Guky, for the reasons aforesaid, founded on the facts which this inquiry has brought to light, is unworthy to enjoy the confidence of His Majesty's Government, or to hold any place of honour or profit under it.

In consequence of this opinion, your committee have thought it their duty to accompany this Report with the following resolutions:

Resolved,—That the said Lewis Guky in his quality of sheriff of the district of Montreal receives large sums of money in the shape of fees; and that being required by His Majesty's Executive Government in this province, yearly to lay before it true and exact statements or returns of the amount of the fees and emoluments received by him in his said quality of sheriff, the said Lewis Guky, instead of acting frankly and in good faith towards the said Executive Government, and affording it the information required of him, has, on the contrary, purposely, deliberately and corruptly deceived the said Government, and practised towards it a system of fraud and deceit calculated to degrade His Majesty's Government in this province, and to deprive it of the confidence and respect of his faithful subjects therein.

Resolved,—That in pursuance of this system of fraud and deceit, the said Lewis Guky deliberately and corruptly concealed from the knowledge of the said Executive Government, a great part of the emoluments of his office, amounting to about 5,264*l.* 11*s.* 11*d.* currency, for the years 1830, 1831, 1832, 1833 and 1834, by transmitting to the said Government during the said years, unfair and false returns of the amount of the fees and emoluments received by him as sheriff of the district of Montreal.

Resolved,—That by the said system of fraud and deceit so practised by the said Lewis Guky towards His Majesty's Executive Government in this province, he deliberately and corruptly allowed the said Government to remain ignorant that a portion of His Majesty's



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subjects were taxed, by a mere tariff of fees made by the Court of King's Bench, to an enormous amount, and at a rate utterly disproportionate to the services by him performed.

Resolved,—That the said Lewis Gûgy wilfully and maliciously gave false evidence in his examination before the special committee of this House appointed "to inquire concerning the fees and emoluments received by the sheriffs, prothonotaries and criers of the Court of Appeals and of the Courts of King's Bench of this province, in virtue of their respective offices," and that in so doing the said Lewis Gûgy has been guilty of a high misdemeanor, and of a breach of the privileges of this House.

Resolved,—That by such false evidence, the said Lewis Gûgy intended deliberately and corruptly to conceal from the knowledge of this House, the enormous and disproportionate amount of the fees and emoluments which he receives as sheriff of the district of Montreal, and thereby to prevent this House and His Majesty's Government from applying an effective remedy to the great abuses and grievances aforesaid, under which His Majesty's faithful subjects in this province are suffering.

Resolved,—That the said Lewis Gûgy is therefore unworthy to enjoy the confidence of His Majesty's Government in this province, or to hold any place of honour or of profit therein.

Resolved,—That it is the opinion of this committee, that an humble address be presented to His Excellency the Governor in Chief, praying that he will be pleased to exercise the powers with which his commission invests him, by removing the said Lewis Gûgy from the office of sheriff of the district of Montreal, and that he will not hereafter appoint him to any place of honour or profit in this province.

The whole nevertheless humbly submitted.

*L. H. Lafontaine*, Chairman.

16 Januar 1836.

#### MINUTES OF EVIDENCE.

*Saturday, 14 November 1835. Louis Hypolite Lafontaine, Esq., in the Chair.*

The Honourable *Lewis Gûgy*, a Member of the Legislative Council, called in; and Examined.

How long have you been sheriff of the district of Montreal?—Since 1827.

What is the salary attached to your said office?—£.100.

What has been the average amount of the gross income of your office for the last five years; mentioning the amount for each year?—It is impossible for me to answer this question. I even think I could not answer it if I were in my office. The income of the office is composed of several different branches, which come in unequally, so that it is impossible to keep separate accounts of them. I think, however, that the gross income exceeds 2,000 *l*.

What are the several sources from which this income is derived?—The fixed salary, the fees on the following writs of summons of a special nature: of execution, *capias*, &c., sales of moveable or immoveable property, and commission on the monies levied.

What are your fees on writs of summons and *capias*, and on deeds of sale?—The fees on a writ of summons for less than 20 *l* are 5 *s.*, for less than 30 *l*.—6 *s.* 8 *d.*, and for more than 30 *l*.—8 *s.* 4 *d.*, and for each additional copy one half of such fees respectively. These fees include the return, but not the disbursements. The fees are a little higher when the writs are accompanied by *saisie gagerie*, *saisie arrêt*, or *capias*. My fees on deeds of sale for less than 30 *l* are 20 *s.*; from 30 *l*. to 100 *l*.—30 *s.*; and above 100 *l*.—40 *s.*

Is the service, not including the mileage, comprised in the above charges?—No.

Do you keep a separate book of receipt for each of the said sources of income?—No.

Do you generally keep a general book of receipts?—I do not keep a general book of receipts; but I have means of ascertaining the income of the office when necessary.

Could you furnish the committee with a statement of the separate amount of each of these sources of income during the last five years, showing the amount for each year?—I could not even if I were in my office.

What are the expenses attendant on your office, and paid exclusively out of the income derived from it?—First: the salaries of four clerks,—the head clerk having a salary of 250 *l*. a year; another 60 *l*.; and two 52 *l*. each. The rent of the office 40 *l*. Stationery and printing 60 *l*.; in all 514 *l*.

Has your chief clerk the quality of deputy sheriff?—He had before the expiration of the Act in that behalf.

What are the names of your clerks?—The chief clerk is Francis Perry, Esq., the others are Messrs. James Terroux, ——— Marquis, and I cannot remember the name of the fourth.

What are the fees paid by you to the bailiff employed to summon jurors in civil cases?—They vary from 10 *s.* to 20 *s.*



If the committee should wish to have the registers of your office brought down during your stay at Quebec, could your chief clerk bring them down?—If the committee wish them to be brought down, I would rather it should be after I return to Montreal, which I shall do very shortly. Correspondence  
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What fee do you receive upon oppositions?—Five shillings; and when the opposition prevents the sale of the moveables, 7 s. 6 d.

Besides the fee paid you on filing an opposition afin de conserver in your office, what fee do you receive on the judgment of distribution?—None.

Is it usual to file at your office oppositions afin de conserver?—Very rarely.

When monies are paid into your hands upon executions before the seizure takes place, do you charge poundage?—Certainly.

Do you make your returns to writs of execution on the day therein appointed?—Generally this is the case.

When monies are paid into your hands as sheriff, do you keep them in your office, or deposit them elsewhere?—I deposit them regularly in the Montreal Bank.

To how much did your poundage on the sale of the seigniory of Terrebonne to Mr. Masson amount?—£. 628.

Can you state the average amount of the yearly income you derived from your office when you were sheriff of the district of Three Rivers?—One year with another, 450 l.

Do you every year furnish the Executive with an account of your income as sheriff?—Yes, at the commencement of each year.

When you were sheriff at Three Rivers, did you send to the Executive an annual report of the amount by you received as such sheriff?—Yes; whenever it was required, as it was almost every year.

If you are unable to give the committee a detailed statement of your income for the last five years, how are you able to furnish the Executive every year with a statement of your income as sheriff?—I do not furnish the Executive with a detailed statement; and I draw up my statement from notes which I keep.

Do you generally employ bailiffs residing in the country parishes, for services and seizures to be made therein?—Sometimes, but not generally; because the country bailiffs are not sufficiently correct in the performance of their duties.

What difference is there in the costs of mileage when a bailiff residing in the country is employed?—The difference of distance causes a difference of 2 s. less in the mileage, because the country bailiffs only charge a shilling a league for their return.

Are not the fees of the bailiffs too high?—I think they are; but if they were lowered it would be difficult to find persons qualified and able to perform the duty of a bailiff.

Have you furnished the Executive with annual statements of your income for the last five years?—Yes.

Have you in your possession the notes you mentioned, or are they destroyed?—Yes; I have them at my office at Montreal.

Could you not furnish a detailed statement of your income from the notes which serve as the basis of your calculations for the statements you furnish to the Executive?—I think I could, if I were at Montreal.

Do you give security for the due performance of the duties of your office?—Yes, notwithstanding the expiration of the Act, the Executive has obliged me to render my security: this security is to the amount of 6,000 l.

*Monday, 14 December 1835. Francis Perry, Esq., called in; and Examined.*

ARE you employed in the office of the sheriff of Montreal, and in what capacity, and how long have you been so?—I have been in the office since March 1833. I was appointed deputy sheriff during the existence of the statute passed in the year 1829, chapter 6; and since, I remained in the office as principal clerk.

What was the amount of the gross revenue of the office during the years 1830, 1831, 1832, 1833 and 1834, specifying the same for each year?—I produce a correct statement of the gross revenue of the sheriff's office in Montreal:—

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No. 1.—STATEMENT of the Gross Revenue of the Office of Sheriff of the District of Montreal,  
for the years 1830, 1831, 1832, 1833 and 1834.

	1830.			1831.			1832.			1833.			1834.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
Commission - - -	520	11	3	883	-	8	1,085	7	-	789	16	8	601	15	6
Fees on writs of summons	431	6	8	307	13	4	432	10	-	581	15	-	667	8	4
Ditto on saisies arrêt, gagerie, and revindication - - -	81	19	10	86	2	6	111	15	-	138	1	8	160	12	6
Ditto on capias ad respondendum - -	30	15	10	42	6	8	44	17	2	89	11	8	88	6	8
Ditto on other special writs	7	16	8	4	19	8	3	13	4	1	6	8	2	13	4
Ditto on deeds of sale -	241	10	-	239	10	-	306	-	-	224	-	-	237	-	-
Ditto on warrants and returns on executions against goods - -	174	7	6	170	12	6	138	-	-	190	2	6	266	5	-
Ditto against lands -	71	17	8	71	2	6	46	17	6	71	2	6	89	10	-
Ditto on capias ad satisfaciendum - - -	6	12	6	5	12	6	1	17	6	6	15	-	6	15	-
Ditto on oppositions on fi. fa. against goods -	51	-	-	48	-	-	42	10	-	53	10	-	60	-	-
Ditto against lands -	36	7	6	38	12	6	39	7	6	37	17	6	39	7	6
Ditto on drawing advertisements for sale of lands - - -	155	16	8	172	10	-	108	6	8	155	-	-	173	6	8
Ditto on conditions of sale of lands - -	57	-	-	51	6	8	44	-	-	41	13	4	62	6	8
Ditto on bonds - -	15	-	-	19	10	-	18	-	-	26	-	-	21	10	-
Ditto on venire facias -	24	-	-	28	-	-	30	-	-	34	-	-	30	-	-
Ditto on warrants of discharge from seizure and arrest - - -	7	-	-	6	5	-	7	10	-	6	15	-	6	-	-
Copies of deeds of sale -	5	-	-	4	15	-	4	10	-	5	10	-	5	-	-
Salary as sheriff - -	110	-	-	110	-	-	110	-	-	110	-	-	110	-	-
£.	2,127	1	11	2,289	19	6	2,569	1	8	2,562	17	6	2,627	17	2

What was the amount of that part of the said revenue arising from the fees on deeds of sale delivered by the sheriff during the said five years; specifying the same for each year, and also stating the amount accruing from deeds at 20 s., 30 s., 40 s., respectively?—I produce in answer to this question a correct statement of those fees for the above period:

No. 2.—STATEMENT of Fees received by the Sheriff of the District of Montreal, on Deeds of Sale, for the years 1830, 1831, 1832, 1833 and 1834.

Years.	No. of Deeds at 20s. each.	Amount of Fees.			No. of Deeds at 30s. each.	Amount of Fees.			No. of Deeds at 40s. each.	Amount of Fees.			Total for Deeds.		
		£.	s.	d.		£.	s.	d.		£.	s.	d.	£.	s.	d.
1830	144	144	-	-	65	97	10	-	50	100	-	-	341	10	-
1831	75	75	-	-	55	82	10	-	41	82	-	-	239	10	-
1832	98	98	-	-	72	108	-	-	50	100	-	-	306	-	-
1833	45	45	-	-	42	63	-	-	58	116	-	-	224	-	-
1834	80	80	-	-	50	75	-	-	41	82	-	-	237	-	-

What was the amount of that part of the said revenue arising from the legal commission on the proceeds of sales during the said five years, stating the same for each year; and also, showing separately the amount arising from sales of moveable and of immoveable property?—I produce in answer to this question a correct statement of those fees for the above period:

No. 3.—STATEMENT of the Amount received by the Sheriff of the District of Montreal, for Commission on Sales of Goods and Chattels, Lands and Tenements, under Writs of Execution, for the Years 1830, 1831, 1832, 1833 and 1834.

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Years.	Amount of Sales of Goods.			Commission.			Amount of Sales for Lands.			Commission.			Total for Commission.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
1830	2,459	—	1	61	9	6	18,363	9	3	459	1	9	520	11	3
1831	1,820	7	9	45	10	2	33,500	18	2	837	10	6	883	—	8
1832	1,638	12	7	40	19	4	41,775	6	11	1,044	7	8	1,085	7	—
1833	8,086	—	—	202	3	—	23,507	3	7	587	13	8	789	16	8
1834	2,138	11	7	53	9	3	21,932	10	2	548	6	3	601	15	6
	16,142	12	—	403	11	3	139,079	8	1	3,476	19	10	3,880	11	1
	139,079	8	1												
£.	155,222	—	1												
2½ percent.	3,880	11	3												

What was the amount during the said five years, specifying the same for each year, arising from the fees, 1stly. On writs of summons; 2dly. On writs of saisie arrêt and saisie gagerie; 3dly. On writs of capias ad respondendum and ad satisfaciendum; 4thly. On writs of venire facias; 5thly. On other special writs; 6thly. On executions de bonis; 7thly. On executions de terris; 8thly. On oppositions; 9thly. On bail-bonds?—I produce, in answer to this question, a correct statement of those fees for the above period; and I remark, that the amount of the commission on executions referred to in this question, is set down in the statement of fees referred to in my answer to the fourth question, and the other fees on executions are set down in the general statement produced by me in answer to the second question:—

No. 4.—STATEMENT of Fees received by the Sheriff of the District of Montreal, in the Years 1830, 1831, 1832, 1833, and 1834, on Writs of simple Summons; 2d. On Writs of Saisies Arrêt, Gagerie, Revendication; 3d. On Writs of Capias ad Respondendum; 4th. On Writs of Venire Facias; 5th. On other special Writs; 6th. On Oppositions; 7th. Bail Bonds.

Years.	Amount of Fees on Summons.			On Writs of Saisie Arrêt, &c.			On Writs of Cap. ad respondendum.			On Writs of Venire facias.			On other Special Writs.			On Oppositions.			On Bail Bonds.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
1830	431	6	8	81	19	10	30	15	10	24	—	—	7	16	8	87	7	6	15	—	—
1831	307	13	4	86	2	6	42	6	8	28	—	—	4	19	8	86	12	6	19	10	—
1832	432	10	—	111	15	—	44	17	2	30	—	—	3	13	4	75	17	6	18	—	—
1833	581	15	—	138	1	8	89	11	8	34	—	—	1	6	8	91	7	6	26	—	—
1834	667	8	4	160	12	6	88	6	8	30	—	—	2	13	4	99	7	6	21	10	—

The fees on capias ad satisfaciendum, executions de bonis, and executions de terris, are not stated, they being included in the general statement.

When the same individual becomes the purchaser of several lots of immoveable property, sold in the same case, do you give only one title?—No, a separate title is given for each lot sold.

What is the reason of this?—It has been the practice of the office.

How many clerks does the sheriff employ; what are their names and salaries?—Four, viz.: myself, William Marquis, Charles Leeke, and James Terroux. My salary is 250 l. per annum, and the others are 50 l. each.

Tuesday, 15 December 1835. Francis Perry, Esq., again called in; and Examined.

Does the sheriff of Montreal keep a regular book of receipt for the several sources of the income of his office?—Yes; he keeps a regular cash book.

Does the salary of 250 l. which you receive form the whole income you derive from your situation in the sheriff's office?—Yes. During the period of my being deputy sheriff, I received the fees allowed by the tariff regulating bailiffs' fees of the court, for any services I might have performed, which were very few. The amount I do not now recollect. I believe it did not exceed 50 l. per annum during the period.

Does the sheriff regularly make his returns to writs of execution on the appointed days in such writs?—Not always. The returns to executions are generally made as soon as the proceedings are complete. It frequently happens that several lots are sold, and some of the purchasers do not pay in sufficient time to enable the return to be made on the day indicated in the writ.

Does the sheriff furnish the Executive Government every year with a statement of the emoluments

Correspondence  
respecting  
Mr. Gogy.

emoluments he derives from his office?—I believe so. I have never made any of the returns alluded to, and I have not seen them, nor do I know the amount returned.

What are the emoluments paid by the sheriff to the bailiff for summoning the jurors in civil cases?—Ten shillings, allowed by the tariff of the bailiff's fees.

*Friday, 8 January 1836. Francis Perry, Esq., again called in; and Examined.*

HAVE you not already appeared before this committee; how many times?—Yes; four times, I think.

Is not the income of the sheriff's office derived from several sources?—It is.

Are the proceeds of the several different sources of revenue in the sheriff's office entered in a book, or in books separately?—The proceeds of the office are entered regularly on the books; that is to say, the fees on executions are entered in items, the smaller fees and those on mesne process are collected in a drawer, and entered as taken therefrom.

Is there kept in the sheriff's office a separate book of receipts for each of these sources of income?—An account of fees is kept in the sheriff's office, in which all the fees of office are regularly entered.

Is there kept in the sheriff's office a general book of the receipts of the said office?—There is.

Is it from notes kept by the sheriff, or from the said books, that the statement sent annually to the Executive Government of this province by the sheriff, of the amount of his fees, is made?—I do not know how the sheriff made the returns alluded to; I have not made any.

By whom are kept the books which you mention as kept in the sheriff's office?—By me.

Is it from these books that the statements which you have produced before this committee were made?—Yes.

Are these books kept in the sheriff's office with the knowledge of the said sheriff?—They are.

Do you keep a set of books, or a single cash book in the said office?—For some years after Mr. Gogy came into office, he kept only a cash book, besides the office books; during the last two or three years the private books of Mr. Gogy, relative to the fees of his office, have been kept more extended.

Are the receipts of fees on executions and on mesne process, or arising from other sources of revenue in the said office, kept and entered separately in the said books?—Yes.

From these books of receipt kept by the sheriff, it is in his power then to furnish an exact statement of the separate amount of each of the sources of the income of his office, during the last five years, showing the amount for each year; and is it not from these books of receipt that you yourself furnished the committee with statements of the said income, at the time of your examination on the 14th December last?—A statement of the fees of office could be always done from the books and papers in the sheriff's office, and I have made them from it.

Can you now produce before this committee, a blank copy of sheriff's deed, as required in one of your former examinations?—Yes; I produce them. [See Appendix, (A.) and (B.)]

How long has the sheriff employed four clerks or writers?—I believe since 1828.

Does the sheriff generally employ bailiffs residing in the country to make the seizures which are to be made in the country?—The parties generally take the warrants to bailiffs in the country.

Are not the emoluments of the bailiffs too large?—The fees of the bailiffs are not, I think, too high in individual cases where they are obliged to travel for a single proceeding; when there are many papers in different causes, they may be deemed too high.

For what reason does the sheriff give as many deeds as there are lots sold, when such lots are all adjudged to the same purchaser?—It has been the custom in the office, I believe, since it has been established; at least it has been so since I have been in it.

Would there be any inconvenience in giving only one deed in such cases?—I am not aware of any, if the parties consented.

Would there be any inconvenience, independent of the wish of the parties?—No; several lots may be transferred by one deed.

In which language are all these deeds given?—Generally in the English.

Has the sheriff ever given any in French?—Sometimes.

Where is the sheriff's office kept?—In St. Vincent-street, in a private-house.

What rent does the sheriff pay a year for his office?—Thirty-five pounds.

Can you inform the committee, what is the probable amount of money in the hands of the sheriff, arising from the sale of either moveable or of immoveable property?—I should think about 20,000*l.*; I cannot say exactly.

What is generally the average amount of such monies in his hands, at any one time?—It varies very much; it may be set down since Mr. Gogy came into office, at from 10,000*l.* to 15,000*l.*

Do you not generally give deeds in the English language to purchasers of lots of land speaking the French language?—Yes.

Is not the subject of your examination of to-day very nearly the same as that of your two last examinations in the month of December last?—It is very similar.

What are the usual expenses of the sheriff's office; have the goodness to state them in detail?—About 510*l.* per annum; clerks, 400*l.*; office rent and stationery and printing, 110*l.*

Has the sheriff sustained any loss, caused by the bailiffs or others employed by him?—No.

APPENDIX, (A.)

Correspondence  
respecting  
Mr. Guky.

To all to whom these presents shall come, I \_\_\_\_\_ esquire, sheriff of the district of Montreal, in the province of Lower Canada, send greeting;

Whereas on the \_\_\_\_\_ a certain writ of venditioni exponas of our Sovereign Lord the King was sued out of the Court of King's Bench of our said Lord the King, holding civil pleas in and for the said district of Montreal, at the suit of \_\_\_\_\_. And whereas, I the said sheriff did cause the sale of the aforesaid \_\_\_\_\_ became the purchaser thereof, being the best and highest bidder, at and for the price or sum of \_\_\_\_\_ current money of the province of Lower Canada aforesaid. Now, in order to convey the said \_\_\_\_\_ and to confirm the purchase thereof to the said \_\_\_\_\_ heirs and assigns, know all men by these presents, that I the said \_\_\_\_\_ sheriff as aforesaid, by virtue of the said writ of venditioni exponas, and of my said office, and for and in consideration of the said sum of \_\_\_\_\_ to me by the said \_\_\_\_\_ at or before the execution hereof in hand paid, the receipt whereof I do hereby acknowledge, and thereof do acquit and discharge the said \_\_\_\_\_ heirs and assigns, have granted, bargained, sold and conveyed, and by virtue of the said writ of venditioni exponas and these presents, do, as much as in me is, and I lawfully may grant, bargain, sell and convey to the said \_\_\_\_\_ heirs and assigns, all the said \_\_\_\_\_ hereinbefore mentioned, situate, lying and being as aforesaid, and also all and singular the right, title, interest, property, claim and demand whatsoever, of me the said sheriff, by virtue of the writ of execution and venditioni exponas aforesaid, of, in, and to the same and every part and parcel thereof; to have and to hold all the said \_\_\_\_\_ in and by these presents bargained, sold and conveyed, and every part and parcel thereof, with \_\_\_\_\_ and every of \_\_\_\_\_ appurtenances unto the said \_\_\_\_\_ heirs and assigns, to the only proper use, benefit and behoof of the said \_\_\_\_\_ heirs and assigns for ever, and to and for no other use, intent or purpose whatsoever.

In witness whereof, I the said sheriff have hereunto set my hand and the seal of my office, this \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of the reign of our Sovereign Lord, \_\_\_\_\_ by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, and in the year of our Lord one thousand eight hundred and thirty-

(B.)

To all to whom these presents shall come, I the honourable Lewis Guky, esquire, sheriff of the district of Montreal, in the province of Lower Canada, send greeting. Whereas on the \_\_\_\_\_ a certain writ of execution of our Lord the King was sued out of His Majesty's Court of King's Bench, holding civil pleas in and for the said district at the suit of \_\_\_\_\_ to me directed, which said writ, afterwards to wit, on the \_\_\_\_\_ was unto me delivered, in due form of law, to be executed; by virtue whereof I, the said sheriff, did seize in my hands and take in execution, as belonging to the said \_\_\_\_\_. And whereas, I the said sheriff, having so seized into my hands and taken the said \_\_\_\_\_ in execution, did cause the same to be advertised and published according to law to be sold and adjudged to the highest bidder at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ of the clock \_\_\_\_\_ noon, and the said being then and there put up to sale in the usual manner \_\_\_\_\_ became the purchaser thereof, being the best and highest bidder, at and for the price or sum of \_\_\_\_\_ current money of the province of Lower Canada aforesaid. Now, in order to convey the said \_\_\_\_\_ and to confirm the purchase thereof to the said \_\_\_\_\_ heirs and assigns, know all men by these presents, that I the said Lewis Guky, sheriff as aforesaid, by virtue of the said writ of execution, and of my said office, and for and in consideration of the said sum of \_\_\_\_\_ to me by the said \_\_\_\_\_ at or before the execution hereof in hand paid, the receipt whereof I do hereby acknowledge, and thereof do acquit and discharge the said \_\_\_\_\_ heirs and assigns, have granted, bargained, sold and conveyed, and by virtue of the said writ of execution, and these presents do, as much as in me is, and I lawfully may grant, bargain, sell and convey to the said \_\_\_\_\_ heirs and assigns, all the said \_\_\_\_\_ hereinbefore mentioned, situate, lying and being as aforesaid; and also all and singular the right, title, interest, property, claim and demand whatsoever, of me, the said sheriff, by virtue of the writ of execution aforesaid, of, in, and to the same and every part and parcel thereof; to have and to hold all the said \_\_\_\_\_ in and by these presents bargained, sold and conveyed, and every part and parcel thereof, with \_\_\_\_\_ and every of \_\_\_\_\_ appurtenances unto the said heirs and assigns, to the only proper use, benefit and behoof of the said \_\_\_\_\_ heirs and assigns for ever, and to and for no other use, intent or purpose whatever.

In witness whereof, I the said sheriff have hereunto set my hand and the seal of my office, this \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of the reign of our Sovereign Lord \_\_\_\_\_ the \_\_\_\_\_ by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, and in the year of our Lord one thousand eight hundred and \_\_\_\_\_

Correspondence  
respecting  
Mr. Gogy.

Enclosure 4, in No. 1.

REPORT.

THE Special Committee appointed to inquire into the circumstances which preceded and accompanied the death of John Collins, who died in the common gaol of the district of Montreal, in the beginning of the month of December 1835, and also to inquire into the state of the said gaol; and to whom were referred that part of the message of His Excellency the Governor in Chief, of the 27th November 1835, which has reference to the state of the said gaol, with the documents relating thereto; and also copies of the proceedings at the inquest held on the body of the said John Collins, and of all correspondence between any public functionaries and the executive Government, since 1st December 1835, relative to the said gaol, have the honour to present the following Report:—

The documents laid before your committee, and the evidence which they have taken, leave no doubt as to the bad state of the common gaol of the district of Montreal, and the necessity of removing the prisoners into some other place where they can be better secured, and their physical and moral condition improved.

As the province, in order to accomplish this end, has expended a large sum of money in erecting a new gaol at Montreal, and as another committee of this House is instructed to institute an inquiry concerning this new establishment, your Committee do not consider themselves called upon to recommend those measures in this behalf, which cannot escape the attention of the committee in question.

Your committee first directed their inquiries to the condition and management of the old gaol in which prisoners are still confined in the district of Montreal, and next into the circumstances which preceded and accompanied the death of the said John Collins.

The laws under which we live are peculiarly humane. Whenever a question arises with respect to the death, from some sudden or extraordinary cause, of any member of society, the weakest as well as the most powerful,—the humblest as well as the most exalted individual in the community, is, in this respect, equally entitled to the protection and to the vigilance of the laws.

Your committee consequently, made it their object to ascertain whether the law had been violated or neglected; and in prosecuting their inquiry into the condition and management of the gaol, your committee endeavoured to obtain, and have obtained minute information with respect to the conduct and character of the gaoler and his turnkeys, the superintendence of the sheriff, the treatment of the prisoners, and generally with regard to the regulations adopted in the gaol.

According to the evidence taken before your committee, it appears that the gaoler, Edward Holland, is a man of a hasty and violent temper, addicted to profane swearing, and apt to get into a passion, for the most trivial cause, with those who visit the gaol.

The gaoler has two of his sons under him as turnkeys, whom the same witnesses have represented to your committee as worthless characters, and given to drunkenness and debauchery.

Such are the individuals to whom the care and safe-keeping of the prisoners in the gaol of Montreal are entrusted under the superintendence of the sheriff of this district.

This abuse alone would be sufficient to render that officer liable to censure, he being specially entrusted by law with the management of the gaol, even were it unaccompanied with other abuses and consequences, of the aggravated nature of which is proved by the death of the individual with respect to whom the present investigation has been called for.

Previously to the death of Collins, a new rule was observed in the Montreal gaol with respect to the distribution of the fuel in the prisoners' wards. This rule, which was established this year, consisted in only allowing the eighth part of a cord of wood for each large apartment in which the prisoners are confined. Formerly the fourth part of a cord was allowed for each of these apartments. This innovation, however, owes its origin to causes which your committee are unable to explain. Complaints were made on the part of the prisoners, but to no purpose. The death of Collins however seems to have shown the necessity of reviving the old regulation which had been discontinued, under the frivolous pretext that the prisoners consumed the wood given to them in making skewers, which they sold to the Montreal butchers. If it was deemed necessary to prevent the prisoners from employing their time in this way, the keepers of the gaol had other means of putting an end to this little traffic without resorting to so rigorous a measure as that of diminishing the usual quantity of fuel to such a degree as to expose them to the excessive cold of this climate.

The regulations observed in the Montreal gaol appear to your committee so vicious, that they deem it necessary to point out particularly that one under which the prisoners are confined in their cells, from eight o'clock in the evening, until eight in the morning, without fire, and almost without covering.

The prisoners are confined in large apartments, in each of which there is a stove placed nearly in the centre. Round these apartments are small rooms or cells, twelve feet square, in which the prisoners are shut up in the evening, at the hour above mentioned. The fires are then extinguished, and the prisoners are left for twelve hours exposed to the cold in cells not weather tight, and in an old building.

It was in one of these apartments that the said John Collins was confined on the 27th November 1835, under a warrant signed by James Millar, esq., justice of the peace, in which the said Collins was charged with being a vagrant, a public nuisance, and of disturbing the peace in the night.

Collins seems to have been taken to gaol in such a state of destitution and sickness, that he ought more properly to have been sent to another asylum. The physician of the gaol does not appear to have had any knowledge of the situation of this man until the evening previous to his death, for, in his report to His Excellency the Governor in Chief, on the 8th December 1835, no mention is made of Collins. The physician seems to have confined his attention, on the evening previous to Collins's death, to visiting him without affording him any relief. The following is the manner in which the prisoners confined in the same apartment with Collins, relate the circumstances preceding and accompanying the death of their companion in misfortune, in evidence by them given at the coroner's inquest:

They say, "The deceased, John Collins, occupied the same room with us, from the time he was incarcerated, about fifteen days ago. He was already unwell at the time he was taken to gaol. After that he complained of illness, and yesterday Doctor Arnoldi visited him; he however experienced no relief, and he died in that room this morning, (10th December) between one and two o'clock. He was very ill last night, when he was shut up in that room with the deponents, at eight o'clock, without fire, without a bed, without bed clothes, or any clothing, in a very cold night, and in a room very much open to the weather.

"The deponents say, that they have not a sufficient quantity of wood to heat the stove of which they are permitted to make use during the day; that the fire is put out every evening at eight o'clock; that they receive no warmth during the night; that the room in which they pass the night is not opened until eight o'clock in the morning, and that they are suffering from a total want of beds, bedding, fuel and clothing: they add, that the death of Collins must be attributed in a great measure to these privations."

This deposition given at the coroner's inquest contains facts which, in the opinion of your Committee, leave no doubt as to the culpable negligence of the public officers charged with the care and management of the gaol and of the health of its inmates.

This seems to be the conclusion to which the coroner's jury really came to. But here your committee must point out another violation of the law in the manner of recording the verdict rendered by the jury before the coroner.

Instead of entering the finding of the jury in the record of his proceedings, as he was bound to do, the coroner, according to the evidence of one François Pigeon, one of the jury, wished to argue with the jury respecting the opinion or verdict which they were giving. "The coroner appeared desirous of inducing the jury to find that the death of Collins was occasioned by severe privation, without adding that the gaoler and the physician were in fault. It was upon this point particularly that the coroner insisted, telling us to be on our guard; that it was hard that blame should be imputed to the gaoler and the physician. Thereupon I answered, that according to what we had seen and heard, it was impossible to blame any other than these officers." This evidence is corroborated by that of Pierre Jacques Beaudry, foreman of the jury.

Your committee are at a loss to understand how so formal a declaration was omitted to be recorded by the coroner. This circumstance of itself appeared to your committee deserving the attention of your Honourable House, for considerations upon the importance of which it would be doubtless unnecessary to enlarge.

According to the evidence received by your committee, the coroner did not confine himself to the neglecting his duty and pleading the cause of his colleagues, the other public functionaries; he, as well as the physician of the gaol, thought proper to make use of language which shows how little respect some officers of Government entertain for the powers whence they derive their authority. The following are the words which one of the witnesses states to have been used by the coroner in addressing the jury after having received their verdict: "This is what we get by the conduct of our good patriots and of our good governor, who make idle speeches and pass bills which are not half as much wanted as those for putting the gaol upon a proper footing, and for paying to the gaoler and the sheriff the money which is due to them." The witness adds, "These are not perhaps the exact words made use of by the coroner, Mr. Mondelet; but I am certain they contain the substance of the remarks made by him after having received our verdict."

The physician of the gaol, according to the evidence of Mr. Pierre Jacques Beaudry, stated at the coroner's inquest, "that it was time these things should be brought to light; that it was melancholy to see a man die in such a deplorable state; that it was the fault of our good governor and of the House of Assembly, who paid no attention to the applications which had been made to them for the support of the gaol; that notwithstanding the petitions presented by himself and by the sheriff, they had been refused: he hoped that this case would open their eyes. The coroner stated he coincided in this opinion, and said in presence of all the jurors that he hoped that a great change would take place, for it was high time."

The witness, Pigeon, was so suspicious of the conduct of this public officer (the coroner) that he took the precaution of making a memorandum in writing of the facts which he had witnessed, a few hours after he had been called upon to discharge the duty of a juror.

Your committee have deemed it important to submit, as the result of their investigation, that all the public functionaries connected with the Montreal gaol, including him whom the law called upon to discharge the solemn duty of coroner, have been guilty of a violation of their duty, and some of them of a want of a proper respect for the different branches of the Legislature.

Your committee must also call the attention of your Honourable House to the conduct of the sheriff of the district of Montreal, a public officer who is specially charged with the keeping and superintendence of the gaol; for in virtue of an Act passed in the 43d year of the



Correspondence  
respecting  
Mr. Gagy.

the reign of Geo. 3, c. 13, that officer is specially charged with the keeping of the gaol in his district.

It is to this public functionary then, the duty of superintending and managing the gaol is assigned, while he fulfils at the same time his civil function as sheriff. This officer is in the daily receipt of fees, the annual amount of which exceeds 2,000 *l.*, and, according to the evidence of Francis Perry, esq., heretofore deputy sheriff for the district of Montreal, and employed as chief clerk in the office of the sheriff of that district since the expiration of that statute, the sheriff was always in the habit of advancing, from his private funds, the sums required for the purchase of the fuel and bread required for the gaol. It was only when it was necessary to advance money for repairs and other purposes, exceeding 5 *l.*, that the authority of Government was required.

The sheriff of the district of Montreal appears, nevertheless, from the correspondence sent down to your Honourable House by the head of the executive, to have written on the 7th and 25th November 1835, to the civil secretary, begging him to lay before his Excellency the Governor in Chief, his application for an advance of 200 *l.* for the purchase of 100 cords of firewood, 50 pairs of blankets and 25 paillasses or bed cases.

Although there is no positive statute authorizing these advances, your committee must observe, that they cannot admit of any difficulty, and that similar disbursements made for an object of so urgent a nature, and for articles which are indispensably necessary for the maintenance and keeping of prisons, have invariably been sanctioned by your Honourable House. Your committee also believe that as your Honourable House have always made good such advances, you will willingly recognise the necessity of making them.

On the 8th December, 1835, the physician of the Montreal gaol renewed the application for an advance of money, and on the 10th of the same month the civil secretary transmitted to the sheriff of Montreal a warrant for 50 *l.* sterling, "for the purchase of indispensable articles of food and clothing for the temporary relief of the destitute prisoners." On the 16th December, 1835, the civil secretary transmitted to the said sheriff a warrant for a further sum of 150 *l.*, in order to enable him to provide for the immediate and indispensable wants of the prisoners. It is established, by the evidence of Mr. Perry, that a sum of 100 *l.* or 200 *l.* is the utmost which is due by the province to the sheriff of the district of Montreal, for advances made by him for fuel and provisions for the prisoners under his charge.

The said sheriff being interrogated by your committee, was unable to give positive answers to the questions put to him respecting the state of the prison under his charge, and the regulations therein observed. The following extract from his evidence will exhibit, in their true colours, the knowledge which this officer possesses in regard to the prison entrusted to his keeping, and the attention which he bestows upon it :

"Is there not a large apartment in the gaol containing several cells in which the prisoners are locked up during the night?—None are locked up during the night except those accused of felony.

"How long is it since the practice of locking up other prisoners than felons has been discontinued?—I am unable to state that from memory.

"Was it not the custom previously to the death of Collins, to lock up the prisoners in cells at eight o'clock in the evening, and not to let them out until the following morning?—I know nothing about it; I do not recollect.

"Was not Collins locked up in a cell, and was he not found dead in the same cell in which he had been shut up for the night?—I cannot answer positively; I went to the gaol and found him dead in a room in the building, the door of which was open.

"Are not the prisoners accused of minor offences also locked up?—If they are, I have no knowledge of it.

"Have you given orders to the gaoler not to shut up any of the prisoners in cells, except those charged with felony?—I have given no particular orders to the gaoler; there are general regulations which he is obliged to follow.

"What are these general regulations?—The general orders are to shut up the prisoners in cells at a certain hour.

"Do these orders include prisoners charged with minor offences?—The prisoners must be properly secured; there are no exceptions.

"You stated, in answer to a question, that none but those charged with felony were locked up during the night; you say now that there are no exceptions to the general order for locking up the prisoners; how do you reconcile these two answers?—The fact is, that I do not know which of them are locked up for the night. When the gaol is full, the prisoners must of course remain in the common apartment."

Further on, he is asked: "In what manner are the prisoners warmed during the night who are shut up in the cells in the large apartments?—A certain quantity of wood is given to them, and they keep up the fire during the night.

"How can the prisoners keep up the fire during the night if they are confined in cells, the doors of which are closed and bolted, and if the only stove which is in the large apartment is outside of these cells?—I believe they have access to the stove. I cannot answer all these questions from memory; they relate to localities.

"Are you well acquainted with the different apartments in the gaol, their relative situation, and the way and order in which they are kept?—My answer to the preceding question is an answer to this one.

"Have you visited the gaol sufficiently often to acquire a knowledge of these said "localities," and of the different apartments?—When I am there I know the localities perfectly well; but I cannot describe them from memory.

"Do



“Do you know at what hour in the evening the prisoners are locked up in the cells, and at what hour they are released in the morning?—I cannot answer, as I am not there at these hours.”

The foregoing extract from the evidence of the sheriff affords some idea of all his answers to the questions submitted to him. From the whole of his evidence, it is manifest to your committee that the sheriff has very lamely fulfilled his trust with respect to the superintendence of the gaol. His ignorance, or want of any accurate knowledge respecting matters intimately connected with the welfare of the unfortunate beings confined in gaol is palpable.

There is another point, however, upon which your committee was desirous of interrogating the sheriff, and with respect to which other witnesses have been examined, namely, the practice followed in the said gaol of chaining the prisoners accused of murder to a wall and loading them with irons even before trial.

Your Committee feel themselves bound to notice this fact as a violation of the first principles of the laws under which we live, and which always presume the accused to be innocent until a verdict of his countrymen has declared him guilty. This practice, according to the evidence taken before your committee, has not been uniformly followed. There is reason to fear, however, from the exceptions made, that the sheriff may have acted with partiality in administering this species of punishment, which is totally unauthorized by law. The danger of permitting a public officer to exercise any discretionary power in a matter of so delicate a nature, and which amounts to nothing less than punishing the accused and inflicting upon them a cruel species of torture previous to trial, needs only to be exposed in order to be deeply felt.

Your committee, with the view of obtaining some information upon the subject, submitted a few questions to the said sheriff, which appeared to your committee to be just and reasonable; and the sheriff, instead of answering them as he was bound to do, did, in the opinion of your committee, offer them an insult which they consider to be a breach of the privileges of your Honourable House.

The following extract from the evidence of the sheriff will bear out your committee in this allegation:

“What is the practice followed in the gaol with respect to those who are committed on a charge of murder; are they put in irons before trial?—They are put in irons at first, but almost in every instance we are induced by their subsequent good conduct to remove the irons. If the gaol were perfectly secure, we should never have recourse to such rigorous measures.

“Is that the rule generally observed in the gaol under your care?—That is the general rule; but there is no rule without exception.

“Have you occasionally made exceptions, and in what cases?—I have never been guilty of partiality. I have an unpleasant duty to discharge, and I execute it with all the humanity in my power.

“Have you always and invariably directed that those charged with murder should be put in irons before trial, until such times as an opinion could be formed of their conduct?—I cannot answer with respect to such details.

“Why cannot you answer respecting such details?—Because they are frivolous.

“Ordered, That the witness withdraw.”

Your committee afterwards received the following letter addressed to the chairman; and having learnt from the latter the nature of the witness's request and his wish to recall the term (*oiseux*) “frivolous,” which he had made use of, your committee transmitted to the witness, under the signature of the clerk of the committee, the answer whereof a copy follows the witness's letter:

Mr. Guky's Letter.

“Sir,

“I am desirous of making some slight alterations in the evidence given by me yesterday before the committee of which you are chairman; I beg therefore you will inform me at what time I can appear before the committee for that purpose.

“I have, &c.

(signed) “*LS. Guky.*”

“O. Perrault, Esq. M. P. P.

“House of Assembly, 11 January 1836.”

Answer of the Committee.

“House of Assembly, Committee-room,

“Thursday, 14 January 1836.

“Sir,

“In answer to your letter addressed to the chairman of the committee appointed to inquire into the circumstances preceding the death of John Collins, and into the state of the Montreal gaol, I am commanded by the committee to inform you, that it is usual to accede to the request of witnesses desirous of making alterations with regard to the matters of fact contained in evidence which they may have rendered before a committee of the House; if, therefore, your object at present were only to correct any statement which you may have made to the committee, they would not at all object to it; but as the committee are informed that the alteration you are desirous of making has reference not to matter of fact or an error, but to an act of your own, which the committee considers to be a breach of the privileges of the House of Assembly, the committee cannot allow you to make any change in your answers which would have the effect of removing an offensive expression, without your offering to the House

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of Assembly, and particularly to the committee, to apologize for an insult which the committee considers to be a violation of the privileges of the House of Assembly, and respecting which they feel themselves bound to report to the body to which they belong.

“The Hon. Ls. Gogy.”

(signed)

“I have, &c.

“Charles Turgeon.”

In answer to this letter, your committee have since received the following letter, which they submit to your Honourable House with the foregoing :

“Sir,

“Albion Hotel, 16 January 1836.

“I have to acknowledge the receipt of Mr. Turgeon’s letter in answer to the one which I had the honour to address to you expressing a desire to correct my evidence; in which letter Mr. Turgeon informs me that an act of mine is considered by the committee to be an insult, and that for that reason the committee does not grant the permission I solicited. As the only means now left to me, I address you again in order to assure you that I had not the smallest intention to violate the privileges of the House, or to give offence to the committee; and as I presume that Mr. Turgeon’s letter has reference to the term “frivolous,” (*oiseux*) used by me, I beg leave to assure you, as well as the committee, that I regret having made use of such an expression, and that I wish and earnestly solicit permission to retract it.

“My wish to go to Montreal, which place I am anxious to reach as soon as possible in consequence of sickness in my family, induces me to request as early an answer as possible.

“I have, &c.

(signed)

“Ls. Gogy.”

“O. Perrault, Esq. M. P. P.

“Chairman of the Committee on the death of J. Collins.”

Your committee submit the following statement as a summary of their inquiry :—That notwithstanding the bad state of the gaol, there is no doubt that at the time of Collins’s death, those who had the management of the gaol had the usual quantity of fuel and provisions sufficient for the proper maintenance of the gaol, and the preservation of the lives of the prisoners: That as the death of Collins must be attributed more especially to the want of one of these articles, according to the report of the coroner’s jury, the officers whose duty it was to provide them for the inmates of the prison, have manifestly been guilty of unpardonable negligence: That the physician of the gaol has also been guilty of negligence in not attending to the health of the prisoners: That the gaoler, Edward Holland, is a man incapable of fulfilling his trust and unworthy of holding it; as are also his two sons who are employed as turnkeys: That the sheriff of the district of Montreal has not discharged the duty which the law has entrusted to him, and that in consequence of his want of knowledge of everything concerning the gaol, and the safe keeping and health of the prisoners, he is manifestly incapable of fulfilling the duties of that office: That the coroner of the district of Montreal has also violated his trust and the laws, and allowed himself, as did also the said physician of the gaol, to make use, on a solemn occasion, of unbecoming language, in contempt of His Majesty’s Government, of his Excellency the Governor in Chief, and of your Honourable House.

The whole nevertheless humbly submitted,

16 January 1836.

C. Ovide Perrault, Chairman.

#### MINUTES OF EVIDENCE.

Thursday, 17 December 1835.—C. OVIDE PERRAULT, Esq., in the Chair.

Francis Perry, Esq., called in; and Examined.

WERE you not, under a late Act, deputy sheriff for the district of Montreal, and since the expiration of that Act are you not employed as principal clerk in the sheriff’s office in Montreal, and have you not had frequent opportunities of visiting the common gaol for the district of Montreal?—I was deputy sheriff of Montreal during the existence of the late Act to regulate the office of sheriff. I am employed in the sheriff’s office as principal clerk, and I have frequent opportunities of visiting the common gaol.

Under whose care and superintendence is the said gaol?—The sheriff and gaoler.

By whom is the gaoler appointed, and under whose orders does he act?—The present gaoler was, I believe, appointed by the administrator of the Government, and acts under the orders of the sheriff, magistrates and courts.

What is the quantity of fuel usually placed by the sheriff at the disposal of the gaoler for the prisoners under his custody?—The sheriff contracts annually, or as often as may be necessary, for firewood for the gaol. I believe there is seldom less than 50 cords delivered at a time, and at the gaoler’s disposal.

What is the quantity of food usually placed by the sheriff at the disposal of the gaoler, for the prisoners under his care?—I believe the only food allowed by law to the prisoners is one pound and a half of bread *per diem*, and water: the bread is very regularly given, and the water is at all times within their reach.

Was there on or about the 9th December instant, the usual quantity of fuel and food at the disposal of the gaoler for the prisoners confined in the said prison?—There was, I believe.

Are

Are you well acquainted with the gaoler, Captain Holland?—I am.

What is his temper?—It is rather a hasty one.

Is not Mr. Holland a man of a violent temper?—His temper is rather violent.

Have you not heard frequent complaints against the gaoler on that account?—I have sometimes heard persons complain of his temper, but generally speaking, the prisoners, as well as debtors as criminals, give him credit for a goodness of heart and a kindness to them to the extent that is consistent with their safe custody.

Does the gaoler exercise his discretion in inflicting punishment on the prisoners whenever they are, in his estimation, noisy or troublesome?—There is no punishment except leg bolts inflicted on the prisoners, and that is only resorted to when they are turbulent, and when they injure the building, which they frequently do to a great extent.

How are the prisoners kept in the Montreal gaol: what is the extent of the apartments in which they are kept?—In large apartments generally. There are seven criminal wards with a few small rooms off each; there are also some apartments in the basement story, formerly used as a house of correction, and some cells in which persons under sentence of death are confined.

How are those apartments heated?—By large stoves.

Is there not a stove in each ward, on one side of which are the cells in which the prisoners sleep, and into which they are sent and the door locked at a certain hour of the night?—There is; the prisoners are confined in the rooms at, I believe, eight o'clock in the afternoon and the doors locked; in each door there is a grating to admit heat. I have invariably found the wards very warm.

How are the prisoners kept during the day, and how during the night?—There the prisoners are allowed to walk at large in the wards in which the stoves are placed during the day; at night they sleep in the small rooms above referred to.

Is any person employed to keep the stoves warm in each ward during the night?—The stoves are very large; the prisoners make large fires before they are locked up. I believe no person is employed to make regular fires at night. A large supply of wood sawed and cut up is at all times kept in the wards.

How is the heat admitted into the cells of the prisoners during the whole night?—Through the grating in the door.

At what hour in the morning are the prisoners permitted to leave their cells, and are they set at large in each ward?—At an early hour.

What is the usual allowance of straw and blankets furnished by the sheriff for the use of the prisoners?—When straw or blankets are required, the gaoler notifies the sheriff, who must apply to the governor for an authority to purchase them; the sheriff being prohibited from going to any expense exceeding 5 l. without such authority.

Has the sheriff been notified by the gaoler on or about the 9th of December instant, that straw and blankets were required, or at any time previous or since the said date?—The gaoler has demanded blankets and bed cases on or about the 1st December instant; and I have a knowledge that the sheriff immediately made a demand for the necessary authority, which had not been given up to the 11th instant.

When was the demand made by the sheriff for the necessary authority?—The demand was first made on one of the last days of the last month. I believe a second demand was subsequently made.

When was the sheriff prohibited from going to any expense exceeding 5 l.?—Some years back.

Have not the sheriffs the keeping of the gaols in their respective districts, and that by law?—I believe it is generally understood so.

Is not the gaoler more immediately under the orders of the sheriff for the custody and keeping of the prisoners?—He is.

Does the gaoler sleep in his apartments in the prison?—I believe he does.

Have you any knowledge of the circumstances which have accompanied the death of John Collins, who died in the gaol at Montreal on or about the 9th December instant?—John Collins was committed, I believe, as a common vagrant. Persons of this description are generally in a state of great destitution, and are most commonly persons whose constitutions have been ruined by drunkenness and debauch. I know nothing of the immediate cause of his death; there is no apartment set apart for the sick; invalids are, when their illness is serious, sent to one of the hospitals. I believe it has frequently occurred, that persons of Collins's description die in prison; to the best of my recollection, a very great portion of the deaths in the prison are of common vagabonds, such as he must have been.

How often does the sheriff visit the gaol?—Frequently.

Does the sheriff visit the gaol every week?—I cannot say; he often goes daily.

Do the magistrates often visit the gaol?—I have not known the magistrates visit the gaol in a body; individuals go there when required.

Is there a medical attendant for the prisoners, and are his visits regular to the gaol?—There is; I believe his visits are regular.

What is the name of that medical gentleman?—Dr. Arnoldi, senior.

Are you aware if Dr. Arnoldi visited the gaol when the deceased, Collins, was confined in it?—I believe so.

How large are the wards in which the prisoners are confined?—I believe they are between 50 and 60 feet long by about 30 feet wide in the whole.

At what distance are the cells in each ward from the stove?—In the centre of the space, say about eight or ten feet.

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At what distance is the most remote cell from the stove?—I do not recollect; the stove is necessarily placed on a pavement prepared for it.

Is not the grate through which the heat is admitted in the prisoners' cells very small?—It must necessarily be small to prevent escape from the rooms.

If the prisoners are confined to their cells at eight o'clock in the evening, who keeps up the fire in the stove during the night?—I am not aware what arrangements are made for that purpose; I do not recollect a complaint from cold.

*Friday, 18 December 1835.*

*Francis Perry, Esq., again called in; and Examined.*

Was the deceased, Collins, brought sick to the gaol?—I do not know.

Was not Collins in the cell the most remote from the stove when he was found dead?—I do not know.

You have stated that the prisoners are permitted to leave their cells at an early hour of the morning, state at what hour?—I believe at eight o'clock.

What quantity of fuel and food was there at the time of Collins's death, at the disposal of the gaoler?—I do not know the exact quantity.

Was there a sufficient quantity of food and fuel at the gaoler's disposal, at the time of Collins's death?—I must suppose the gaol allowance was at his disposal.

Do you suppose that this man died from want of food and of fuel, and that the fault is to be ascribed to the gaoler?—As I stated above, I do not know the cause of Collins's death. I do not suppose the gaoler was in fault.

Have you any reason to believe that the usual allowance of bread was given to this man, and that there was a sufficient quantity of wood in the prison, and at the gaoler's disposal, to prevent the death of this individual by want of fire?—I have no reason to believe that the allowance of bread was withheld from this man, nor do I suppose the gaoler had no wood; I am nearly positive he had some.

Had you no opportunity of seeing, in front of the gaol, at the time of Collins's death, a large quantity of wood at the gaoler's disposal?—I had an opportunity, but I cannot recollect, not having supposed it would become a subject of inquiry.

What was the nature of the application made by the sheriff to the governor, in November last?—I suppose it was for an authority and warrant for the purchase of blankets and bed cases.

Was this application made in writing, or how?—I do not know.

What was the nature of the second application made by the sheriff to the governor, to which you have previously alluded?—The same as the first; it was, I believe, in writing.

When was this second application made?—I do not recollect; I believe it was early in this month.

Are you aware if any answers have been made to these applications?—I have been informed since my arrival in Quebec, that an answer to Mr. Gogy's application has been given.

When was that answer given?—I do not know.

What are the periods of Dr. Arnoldi's regular visits to the gaol?—I believe in the forenoon of each day, and as often as he may be sent for.

Unless required for some judicial services, are the magistrates in the habit of visiting the gaol?—No; I believe not.

Are not often the prisoners, when turbulent in the estimation of the gaoler, chained to the wall in a place called the black-hole, in the lower flat of the gaol?—The prisoners are sometimes ironed, and the irons fastened to a ring-bolt in the wall, when very turbulent; generally, they are allowed to walk about.

Who are employed as turnkeys in the gaol?—Two of the gaoler's sons with assistants, two men.

What is the character of these sons of the gaoler?—Their character as to many points is not good: they have been found faithful turnkeys.

Are they not addicted to liquor and debauch?—I believe they sometimes drink and debauch too much: one of the orders to the gaoler from the sheriff is, not to admit any spirituous liquors into the prison.

Have you not heard several complaints against them on that account?—They are disliked by many persons; the prisoners have not, to my recollection, made any complaint of them.

Are you not aware that the gaoler has been often compelled to incarcerate them with the prisoners?—The gaoler has, I believe, sometimes confined one of his sons for disobedience of his orders and commands; the younger of the two.

Has the sheriff advanced any and what sums of his own money towards procuring wood and food for the prisoners?—He has, to the amount of several hundred pounds, as I believe.

How were these sums advanced by the sheriff; was it not on the authority of Government?—Partly, and partly in the discharge of his official duties; the wood and other regular supplies for the gaol is paid for without a special order.

For what objects are these special orders required?—For the repairs of the prison, and generally for all things required above the expense of fuel, bread, and water.

To what does the prohibition of Government to expend more than 5*l.*, apply?—I believe the sheriff has always considered it applied to the purchase of every thing beyond the fuel, and bread and water.

Has the sheriff made any application to Government for advances to buy fuel and food for the prisoners?—I believe he has made application for the payment of his accounts generally.

generally, those for these things included. I am not aware that he ever made special application for advances for the purchase of these articles.

Who visits the gaol when the sheriff attends to his legislative duties in the legislative council?—I do.

How often do you then visit the gaol?—Very frequently.

Do you mean daily, weekly, or monthly?—I have no regular periods; very frequently in the absence of Mr. Gagy I go to the gaol several days successively. I always go when the gaoler or the prisoners require my presence.

You have stated also, that the sheriff visited the gaol frequently, and that often he went daily; are the committee to infer from that answer that the sheriff has no regular periods for visiting the gaol?—I believe the sheriff has no regular periods for visiting the gaol.

Does the sheriff visit the gaol daily, weekly, or monthly?—I cannot say; whenever he is required he goes there.

Do the judges of the Court of King's Bench ever visit the gaol?—Very seldom.

Can you give to the committee a return of the number of blankets that were at the disposal of the gaoler for the prisoners on or about the 9th of December instant, as also a return of the number of the prisoners at this period?—I can send it to the committee, and will do so.

Is it not the custom in the Montreal gaol to put in irons the persons accused of murder, and that previous to their trial?—Sometimes.

What is the rule followed in such cases, and to whose discretion are the prisoners left on such occasions?—I am not aware of any rule. The sheriff gives the orders in these matters.

Does not the gaoler also exercise a certain discretion in such cases?—He does.

Are persons accused of felony subject also before trial to this treatment?—I believe not.

Have not any and what sums of money been lately transmitted by the governor to the sheriff of Montreal for the use of the gaol?—I have understood that the governor has transmitted either money or an authority to the sheriff to purchase blankets for the prisoners to the amount of I believe 200 l.

What is the amount advanced by the sheriff for food and fuel, and for which he has not been reimbursed by government?—I believe it amounts to some hundred pounds, perhaps one or two; it being charged with the other items, I cannot state it exactly.

What are the annual expenses of the gaol?—I should suppose between 500 l. and 700 l.

*Monday, 21 December 1835.*

Mr. Amury Girod, Agriculturist, of Varennes, called in; and Examined.

WHAT are the facts which have come to your knowledge with regard to the state of the gaol at Montreal?—The facts which have come to my knowledge with regard to the state of the gaol at Montreal are few in number, but are not the less important, because my knowledge of them is not founded on my personal observation. In the month of January or February last, I learned that a man of the name of Kellerstein, who had been sent out of the country in pursuance of a sentence to that effect, had returned without permission, and was not recognized until after he had, by an act of great hardihood, materially aided in saving the cargo of the brig Sarah, which had run ashore and sunk during the preceding season in the port of Montreal. Without any trial, he was thrown into a dark, damp and unwholesome dungeon, so ironed as to have all his limbs paralyzed, badly fed, and worse treated; he was indebted solely to his robust constitution for being still alive at the period of which I am speaking. It appears that the public press called the sheriff to account for this inhuman (and, as many persons thought, illegal) conduct. A few days after the article above alluded to appeared in the Vindicator, the prisoner Lalanne, whom the sheriff suspected, if not of writing the article which had brought him before the tribunal of public opinion, at least of having furnished the information, requested the editor of the Vindicator, by a letter in that journal, to declare that he was not the author of the article complained of, because the sheriff had, in consequence of his said suspicion, thrown him into irons, and treated him with inhumanity.

What became of the said Kellerstein?—It appears that he is still in the Montreal gaol; at least the public papers mentioned him as one of those who attempted last summer to escape from the said gaol.

*Monday, 4 January 1836.*

The Honourable Lewis Gagy, a Member of the Legislative Council, called in; and Examined.

ARE you not sheriff of the district of Montreal; and is it not one of the duties attached to that office to take charge of the common gaol of the said district?—Yes.

Whom do you employ as gaoler of the said prison?—One Edward Holland.

How are the prisoners warmed and fed in the said gaol?—They are fed on bread and water, and warmed with excellent hard wood. They receive a great many donations from the charity of the public, and of the religious communities, more especially of the seminary, and from divers other persons.

What is the quantity of food and firewood at the disposal of the gaoler for the use of the prisoners?—The quantity of wood has never been limited, and they have never wanted for it. With regard to food, the Government has never, to my knowledge, made any other allowance to the prisoners than a pound and a half of bread.

Had the gaoler at his disposal, on or about the 9th December 1835, the usual quantity of food and fuel for the prisoners under his care?—Yes, abundantly.

Correspondence  
respecting  
Mr. Gagy.

Are you well acquainted with the gaoler, Mr. Holland; what is his character?—Mr. Holland is rather quick and passionate, but has an excellent heart, and is generally liked by the prisoners.

Is not Mr. Holland extremely quick and passionate?—He never, to my knowledge, allowed himself to proceed to excesses, that is to say, to blows.

Whom does the gaoler employ as Turnkeys?—He employs his two sons as turnkeys.

What is the character of his said two sons?—Their character is not good.

Why then have the said two sons of the gaoler continued to be employed as turnkeys?—Because, as I had not the means of paying them, I was unable to get rid of them. I have made it a condition, that when we take possession of the new gaol, they shall not be employed there.

How happens it that you have not the means of paying them?—Because I receive nothing from the Government.

How are the prisoners warmed?—In each room in which they are confined, there is a stove, and abundance of wood.

How is this stove placed?—It is placed in the room so as to diffuse the heat through it.

What is the size and description of the apartment in which the prisoners are confined?—I cannot tell the size of it.

Is there not a large apartment in the gaol containing several cells, in which the prisoners are locked up during the night?—None are locked up during the night except persons accused of felony, as far as I know; but I am not perfectly certain of this.

How long is it since the practice of locking up other prisoners than felons has been discontinued?—I am unable to state that from memory.

Was it not the custom, previous to the death of Collins, to lock up the prisoners in cells at eight o'clock in the evening, and not to let them out until the following morning?—I know nothing about it; I do not recollect.

Was not Collins locked up in a cell, and was he not found dead in the same cell in which he had been shut up for the night?—I cannot answer positively; I went to the gaol and found him dead in a room in the building, the door of which was open.

Are not the prisoners accused of minor offences also locked up?—If they are, I have no knowledge of it.

Have you given orders to the gaoler not to shut up any of the prisoners in cells, except those charged with felony?—I have given no particular orders to the gaoler. There are general regulations, which he is obliged to follow.

What are these general regulations?—The general orders are to shut up the prisoners in their cells at a certain hour.

Do these orders include prisoners charged with minor offences?—The prisoners ought to be properly secured; there are no exceptions.

You stated, in answer to a question, that none but those charged with felony were locked up during the night; you say now that there are no exceptions to the general order for locking up the prisoners; how do you reconcile these two answers?—The fact is, that I do not know which of them are locked up for the night. When the gaol is full, the prisoners must of course remain in the common apartment.

Why then, if you do not know whether the prisoners are locked up at night, did you answer to the fifteenth question, that none were locked up except those charged with felony?—I did not rightly comprehend the fifteenth question; all the prisoners are locked up, but those charged with felony with more particular care.

What do you mean by more particular care?—That the doors are shut upon them, and the bolts drawn.

Do you mean by this particular care, that those charged with felony are shut up at night in the cells which are round the large rooms or wards in the gaol?—I suppose so.

Do you think that the case is otherwise with the prisoners charged with minor offences, and that these last are exempted from being locked up in the cells at night, and allowed to remain at liberty in the large rooms?—I know nothing about it. These are matters of internal management which belong to the gaoler.

In what manner are the prisoners warmed during the night, who are shut up in the cells in the large apartments?—A certain quantity of wood is given to them, and they keep up the fire during the night.

How can the prisoners keep up the fire during the night if they are confined in cells the doors of which are closed and bolted, and if the only stove, which is in the large apartment is outside of these cells?—I believe they have access to the stove. I cannot answer all these questions from memory; they relate to localities.

Are you well acquainted with the different apartments of the gaol, their relative situation, and the way and order in which they are kept?—My answer to the preceding question is an answer to this one.

How long have you been sheriff of the district of Montreal; and how long has the prison in question been under your care?—Since the year 1827.

Have you since that time frequently had occasion to visit the gaol?—Yes; I have visited the gaol frequently, but not at fixed times.

Have you visited the gaol once a day, once a week, or once a month?—I have just said that I had no fixed times. I visited the gaol whenever my presence was necessary, or I thought it was.

Have you visited the gaol sufficiently often to acquire a knowledge of these said "localities," and of the different apartments?—When I am there, I know the localities perfectly well; but I cannot describe them from memory.

Do you know at what hour in the evening the prisoners are locked up in the cells, and at what hour they are released in the morning?—I cannot answer, as I am not there at these hours.

Correspondence  
respecting  
Mr. Gogy.

Are there not any regulations on this subject made by you and followed by the gaoler?—The same regulations which were made by my predecessor in office are continued in force.

Are these regulations reduced to writing?—I believe they are.

Have you a copy of these regulations?—No.

Who has a copy?—I suppose the gaoler may have one.

Have you ever seen or read these regulations?—Certainly I have read them.

Can you recollect the provisions they contain, and state them to the committee?—No; I cannot do so from memory.

Could you furnish the committee with a copy of these regulations?—I can, if I am allowed sufficient time, furnish a copy of these regulations.

Could you between this time and the 12th instant procure for the committee this copy of the regulations of the gaol?—Yes, I will do so, if possible, within that period.

Have you any knowledge of the circumstances which preceded and accompanied the death of John Collins?—I have no personal knowledge of the circumstances which preceded his death. I learned from the gaoler that he was dead, and ordered the latter to inform the coroner without delay.

Within how many days before the death of this man did you visit the gaol?—Two or three days. I cannot say whether the said Collins was or was not in gaol at that time.

In what do your usual visits to the gaol consist?—In informing myself of the number of prisoners, of the casualties which may have occurred since my last visit, and of all other matters relative to the gaol with which it is necessary that I should be acquainted.

That would suppose a general knowledge of the state of the gaol and of those confined in it; could you communicate to the committee the knowledge you possess, that is to say, the way and order in which the apartments in the gaol are kept, the rules followed with regard to warming the prisoners and providing food for them, and to their safe custody during the night?—I know that the apartments are not kept as I could wish, for want of funds. The rule with regard to fuel, is to keep them reasonably warm; and they have the food above mentioned. There are sentries in the interior of the gaol.

To what do you attribute the death of John Collins?—Principally to drunkenness.

Did you see this man while he was alive?—I am not sure that I ever saw him.

Do you attribute the death of this man to the want of fuel and food in the gaol?—Most assuredly it was not owing to want of fuel; nor do I attribute it to want of food.

Did the gaoler explain to you the cause to which he attributed the death of this man?—Both the gaoler and the physician of the gaol told me that it was owing to his drunkenness.

Who is the physician of the gaol, and how often does he visit it?—Daniel Arnoldi. I have reason to believe that he goes there every day.

Is it not the custom for the physician of the gaol to send the sick prisoners to one of the hospitals of the city?—They are sent there when the people of the hospital are willing to receive them; and I have frequently sent them to the general hospital in my quality of one of the governors of that institution.

Have you thus sent sick persons whenever you have been made acquainted that they were sick?—I have sent them whenever I have thought that they would be admissible.

Were you informed of the sickness of John Collins previously to his death?—I was informed of it the evening before, but too late to take any steps for conveying him to the hospital; and the next day he was dead.

Who gave you that information?—The gaoler.

What is usually the quantity of wood at the disposal of the gaoler, and the quantity annually consumed in the gaol?—When Collins died, there was about 18 cords at the disposal of the gaoler; and the quantity consumed annually is, I think, from 200 to 250 cords.

Who furnishes you with this wood; is it furnished under contracts given to the lowest bidder after public advertisement?—It is furnished by a private contractor of the name of Glasford; the contract is given without public advertisement.

Was the deceased, Collins, sick at the time he was committed to Montreal gaol?—I have reason to believe he was.

Who informed you of that circumstance, and how long before Collins's death were you aware of it?—I was not informed of it until the day before, or the day but one before his death.

Did not Collins die in the cell furthest from the stove, in which cell he had been locked up the evening before?—I am not able to answer that question.

In what condition were the windows of the apartment in which this man died?—I have reason to suppose that the windows in the apartment in which this man died were in good condition; the weather was such at that time that it would have been impossible to live in the cells if the windows had been in bad order; I have never heard that they were in bad order at that particular time.

Had you occasion to examine the windows before the death of Collins, and when?—I did not examine them; I did not suppose it necessary to do so.

Had it ever come to your knowledge that prisoners, other than those accused of felony, have been confined in cells or irons?—That may have happened; the prisoners are sometimes so violent in their conduct that we are obliged to use coercion.

Does Mr. Holland act at his own discretion with regard to the punishment of prisoners?—The gaoler or keeper of the prison has no penal jurisdiction except according to the necessity of the case.



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respecting  
Mr. Gogy.

Do the magistrates visit the gaol?—I do not know whether they do. I have, however, seen some of them there sometimes; but I think they go at the special request of the prisoners.

Do the judges of the Court of King's Bench frequently visit the gaol?—I have no knowledge that they go there; except in one particular case which occurred lately, when the chief justice went there at the special request of the prisoners. I accompanied him on that occasion.

Thursday, 7 January 1836.

Mr. François Pigeon, Tavern-keeper, of the City of Montreal, called in; and Examined.

WERE you one of the jurors at the coroner's inquest held at Montreal on the 10th of December last, on the body of John Collins, who died in the gaol in that city?—Yes.

Do you know where and how that man came by his death?—In the gaol of Montreal; Collins died of hunger and cold, according to the finding of the jury.

How was the jury who returned that verdict chosen?—The jury was composed by six or seven individuals who happened to be in my house when the coroner summoned them, of three debtors confined in the gaol, and of two other individuals, the two Messrs. Beaudry.

What were the other proceedings of the coroner?—We visited the body of the deceased. The upper part of his breast and his neck were extremely black. According to the evidence we heard, Collins after having been brought to the gaol complained frequently of a sore throat. After we had heard the evidence, we returned the verdict in question.

Did the coroner make any and what remarks while the jury were sitting, to ascertain the cause of this man's death?—When we gave our verdict, in which we inculpated the gaoler and the physician, the coroner remarked, that we ought to take care what we did; that he (the coroner) found it hard that we should wish to inculpate the gaoler as well as the physician; that they (the jury) might find that the gaol was in bad order, and that the prisoners suffered from cold, without attributing the fault either to the gaoler or to the physician: that the gaoler was under oath, and that it appeared that he had furnished wood according to the orders he had received. I persisted in causing it to be recorded in the verdict, that Collins died of cold, and in consequence of want of care on the part of the gaoler and of the physician. The coroner consented to record this in the verdict, but said that it appeared to him to be hard, and that they (the jury) ought to take care what they were doing. The coroner did not read the verdict to us; but after having received our finding, he said, "This is what we get by the conduct of our good patriots and of our good governor, who make idle speeches and pass bills which are not half as much wanted as those for putting the gaol upon a proper footing, and for paying to the gaoler and to the sheriff the money which is due to them." These are not perhaps the exact words made use of by the coroner, Mr. Mondelet; but I am certain they contain the substance of the remarks made by him after having received our verdict.

What remarks did Dr. Arnoldi make at the said inquest?—The Doctor said that he had found Collins very ill the day before his death, and that he had ordered that he should have some soup. I remarked to Dr. Arnoldi upon this, that he ought to have sent the deceased to the hospital when he found him in great danger, and that he should have sent for the minister or the priest. The coroner thereupon said, "Do you know whether the doctor was bound to do that." I replied, that whether he was bound or not, it seemed to me that charity ought to have induced him to do it.

Who was the foreman of the jury?—I was told that it was Mr. Pierre Jacques Beaudry; but I did not see him sworn, for which reason I cannot positively say he was the foreman.

Were the jurors unanimous in their verdict?—I myself asked the other jurors whether their opinion was the same as mine, and they answered in the affirmative.

Do you remember the verdict in substance?—We said that we found the gaol in bad order, and that there had been a want of care on the part of the gaoler, who, according to the evidence given before us by the prisoners, gave them but little wood to warm their apartments. Their evidence proved that the prisoners frequently asked the gaoler for wood, and that he told them to go to the devil; that at six o'clock in the evening he brought them two small sticks of wood to put into the stove, and that at eight o'clock the embers were covered up, after which the prisoners were taken and shut up in a cell until eight or nine o'clock the following morning; that in this cell they had an empty mattress to lie on, and a small blanket for three prisoners. We therefore stated in our verdict that we attributed the death of the prisoner to the bad order which prevailed in the gaol, and to the want of care on the part of the gaoler, and that we found the physician in fault for not having rather sent the prisoner to the hospital, and for not having sent for a minister or priest to attend him.

Read the following declaration: "That the deceased has no marks of violence upon his body; he died through the want of food, and by cold and misery; he had in his prison neither clothes, bed, nor any covering by which he could keep himself warm; nor had he even any straw on which he could lay down." Is that what you returned to the coroner as your verdict?—No; it was as I have stated it. On the same day I took the precaution to write the following memorandum, to enable me to remember the coroner's proceedings. I communicated this memorandum to several of the jurors, and among others to Pierre Mathurin, Eustache Arcan, Léon Bricault, and Pierre Beauchamp, who all found it to contain the truth; it is in these terms: "We (twelve jurors) were requested to go to the gaol to view a dead body; we found the dead body, and to the best of our knowledge, and according to the evidence we received, we found the prison in very bad order, and that the prisoners complained of want of care on the part of the gaoler, who allowed them to freeze with cold; and that he

scarcely



scarcely gave them wood enough for the day; that at six o'clock in the evening he brought them two small pieces of wood; at eight o'clock the embers were covered up and remained so until eight o'clock in the morning, and that the prisoners were put into a room where they were shut up without seeing either fire or stove, with an empty mattress and a small blanket to cover three persons; and that they were not let out of this room until eight or nine o'clock in the morning. We also found, to the best of our knowledge, and according to the evidence presented to us, that this was enough to cause his death; and we found that the physician was in fault for not having sent him to the hospital, since he thought him in great danger, and also in not sending for a priest or minister to attend him. The coroner did not read our verdict over to us, and did not make us sign it, and I doubt whether he wrote it down as we returned it."—Such is the memorandum which I drew up on my return after the inquest on the death of John Collins.

Why were you induced to make this note of the coroner's proceedings?—Because the coroner appeared to hesitate to take down our verdict as we returned it, and I made the memorandum because I thought it singular that the coroner did not read the verdict to us. Some of the other jurors and other persons being of the same opinion as to the singularity of the proceedings of the coroner, I made the memorandum in question.

*William Burns Lindsay, Esq.*, Clerk of the House, called in; and Examined.

HAVE you in your possession the copy of the proceedings of the coroner on the body of John Collins, transmitted to this House by his Excellency the Governor-in-Chief?—No.

Has this copy been missing?—I am informed by the clerk of the committee that these papers are wanting.

*Friday, 8 January 1836.*

*Mr. François Pigeon*, again called in; and Examined.

WHO summoned you to be a juror at the coroner's inquest?—The coroner himself, who came to my house to summon me as a juror.

In what state did you find the gaol and the apartment where the body of John Collins was?—I found the prison in a bad state, and the apartment where Collins was in very bad order.

Did the prisoners complain to you of the gaoler and of the treatment they received from him?—When I went into the gaol, the prisoners who were on the same floor with the deceased called me, and told me unanimously to call them forward, for that they had many complaints to make against the gaoler. They added that the gaoler made them suffer a great deal from cold by not giving them the quantity of wood necessary to warm them.

Do you know the gaoler of the Montreal gaol, and have you had occasion to see him, and to visit the gaol frequently?—I know the gaoler; I have had occasion to see him, and to visit the gaol sometimes.

What is the character of the said gaoler?—This man is far from enjoying an excellent reputation; he is reputed and generally known to be a violent and passionate man, and I have heard complaints against him, not only on the part of the prisoners, but also from a great number of persons who have had occasion to go to the gaol; and I have frequently, while passing through the street in front of the gaol, heard the gaoler raging and swearing.

Do you know the two sons of the gaoler?—I know one of them, the youngest.

What is the character of this young man, the one whom you know?—He is a young vagabond and a debauched fellow.

Is not this young man employed in the gaol?—Yes.

Can you describe the apartment in which you found Collins dead?—There are in each story of the gaol four large apartments or wards in which the prisoners are confined, and within each of these apartments there are cells or small rooms. In each of these large apartments there is a large stove; the cells communicate by doors with the large apartments; it was in one of these cells that we found the body of the deceased Collins.

Are you very certain that the memorandum you made of the coroner's proceedings is correct?—Yes; I made it immediately after I left the gaol, for the singularity of the coroner's proceedings had struck me, and I was in doubt whether he would record the verdict exactly as we rendered it.

Did the whole conduct of the coroner appear to you to be directed to prompt the jury from throwing any blame on the gaoler and physician or imputing any fault to them?—Yes, certainly: the coroner appeared desirous of inducing the jury to find that the death of Collins was occasioned by severe privation, without adding that the gaoler and the physician were in fault. It was upon this point particularly that the coroner insisted, telling us to be on our guard; that it was hard that blame should be imputed to the gaoler and the physician. Thereupon I answered, that according to what we had seen and heard, it was impossible to blame any other than these officers.

Are you certain that this was the unanimous opinion of the jury?—I am certain that the other jurors partook this opinion, for I asked them the question and they told me so. It was at their request that I spoke and addressed the coroner.

What was Mr. Pierre Jacques Beaudry doing while you had this conversation with the coroner?—He was present, and he took very little part in the proceedings, so little that I doubted whether he was on the jury, as I had not seen him sworn. There were some other persons mingled with the jurors who were present. We (the jury) retired to a little distance, and after having conferred together, I went to announce our opinion or verdict to the coroner, on behalf of the other jurors, who had deputed me for that purpose. It was at this time that the coroner wished to enter into an argument with me on the opinion or verdict we were

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giving. I am sure that at this moment Mr. Pierre Jacques Beaudry was among the jurors and near me. He did not appear to differ from us. When the coroner asked the jury whether they were unanimous in the verdict they had returned, I am sure that several of the jurors said loudly—"Yes." I do not know whether they all answered "Yes," but I am certain that no one expressed dissent.

*Francis Perry, Esq.*, again called in; and Examined.

CAN you furnish the statement of the number of prisoners and blankets required by the committee on a former examination?—I produce the same.

Return of the Number of Prisoners and Blankets in the Montreal Gaol, on the 9th December last, as given by the Gaoler.

Prisoners	-	-	-	84		Blankets	-	-	-	54
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*Mr. Joseph Gallipot*, called in; and Examined.

WHAT is your name, surname, profession and place of residence?—Joseph Gallipot labourer, of the city of Montreal: I am employed at the Montreal gaol to take in wood, and saw it, and I have frequently charge of the keys of the gaol, and perform other duties, according to the orders of the gaoler.

In what state was the said gaol on the 9th of December last, and in what state is it at the present time?—In a very bad state.

To what cause do you attribute that?—The gaol is too old and is falling into ruin.

Is the gaol kept by the gaoler as it ought to be?—The gaoler does his utmost in that respect.

How does the gaoler treat the prisoners?—Rather brutally.

What is the character of the gaoler?—He is extremely quick and passionate.

Are there not a number of women of bad character confined in the gaol?—Yes; when I left Montreal there were 37.

What is the conduct of the gaoler and his sons with regard to those women?—The gaoler behaves very well with regard to them; it often happens that his sons go into the apartment where these women are and play with them. I never saw them do anything wrong.

What is the character of the gaoler's said sons; how many are there of them, and what do they do in the gaol?—The gaoler's said sons are two in number; they are debauched vagabonds; they are of bad character; they are turnkeys; they amuse themselves, however, for the most in playing, getting drunk, or in rambling about.

Have you heard any complaints on the subject of the gaoler or his two sons?—Many persons complain of the rude way in which the gaoler receives them when they visit the gaol. With regard to the gaoler's sons, I have heard many complaints.

Did the prisoners, before the death of Collins, complain of the want of wood and of fire in their apartments?—The prisoners have several times asked for wood and complained. The gaoler was not willing to accede to their demands, saying, that the prisoners used the wood to make skewers, which they sent to be sold in the market; for this reason the prisoners were limited in their allowance of wood.

Was there on or about the 9th of December last a certain quantity of wood at the disposal of the gaoler for the use of the prisoners?—There were about 15 or 20 cords; sufficient for the use of the gaol.

What is the usual quantity of wood at the disposal of the gaoler for the use of the prisoners?—The wood is brought to the gaol by 30 or 50 cords at a time; there is never any want of wood.

What is the quantity of wood allowed to the prisoners for each apartment?—In very cold weather about a quarter of a cord of wood is allowed to them.

Has this rule always been followed?—This rule has always been followed, except during the present year. Before the death of Collins only about half a quarter or an eighth of a cord of wood, sawed fit for the stove, was carried to the prisoners. Since the death of that man the quantity has been increased one-half. The prisoners have not complained since we have followed the old rule.

Why was the old rule departed from this year?—I do not know why. The gaoler told me that it was because the sheriff had not money to buy wood, and that it was necessary to be sparing of it; there was also some talk of removing to the new gaol, and in that case it would have been necessary to convey the wood from the old gaol to the new one.

Was there not always at the disposal of the gaoler in the prison-yard so much wood that the sheriff even caused a quantity to be taken out of it and carried elsewhere?—Yes.

Do you know that wood was taken from the gaol and carried elsewhere; to whose house, and in what quantity?—The wood which was taken from the gaol and carried elsewhere did not belong to the gaol; it was wood which the sheriff told me belonged to him, and which he had caused to be placed in the prison-yard.

Have you any knowledge of the circumstances which preceded and accompanied the death of John Collins in the said gaol; relate them in detail?—Collins was brought to gaol in a very bad state; he was a drunkard, burnt up by liquor. At the time he was imprisoned there were no blankets for him. Fourteen prisoners were brought into the gaol a few days before his death. Collins was confined in one of the large apartments, or ward No. 4. He did not complain of being ill when he was brought in; I think he was a couple of weeks in gaol before he died. Some days after he came into gaol Collins complained that he was ill; the doctor looked at him; I do not know whether the doctor administered any remedies to

him

him. On the day he died his death was announced to me on my arrival at the gaol in the morning. I think that this man, from the state he was in when he came into the gaol, and the little care that was taken of him in gaol, died of privation.

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respecting  
Mr. Guky.

*Monday, 11 January 1836.*

Mr. *Joseph Gallipot*, again called in; and Examined.

Is it not usual when prisoners are as ill as Collins was to send them to one of the hospitals at Montreal?—Yes, it is the practice followed at the Montreal gaol; but in order to do this the certificate of the physician is necessary; and as the physician of the gaol is himself a magistrate, he has the power of sending the prisoners to the hospital when he thinks it necessary.

Do you think that Collins's illness, some days before his death, was such that he ought to have been sent to the hospital?—I did not pay much attention to Collins's illness, nor do I exactly know whether he was very ill or not; all that I know is that he complained very much of a sore throat some days before his death.

In what apartment or ward of the gaol was Collins confined; have the goodness to describe it, and say how it was warmed?—Collins was in one of the large apartments, or ward No. 4. There are in the first and second stories of the gaol eight of these large apartments, four in each story; they are warmed by a large stove in the middle of the apartment; there were three cells in the apartment in which Collins died; these cells are shut up in the evening by a door with a very small grating in it; Collins died in one of these cells; the one nearest to the stove; the middle one. These cells are small rooms of 12 feet square, and are lighted by windows of about seven feet by four; the squares of glass are 8 by 10.

In what order was the cell in which Collins died?—In bad order; the window was in a bad state; a great deal of cold air came in by the lower part of the window.

Had the bad state of this window been pointed out to the gaoler or to the sheriff; did the prisoners complain of it, to your knowledge?—Not to my knowledge.

What is the rule followed with regard to the prisoners, in as far as relates to the warming of the apartments in the night?—There is no fire; they are shut up in their cells at eight o'clock in the evening in winter, and at nine in summer. When the prisoners are locked up at night the ashes are thrown over the fire to prevent accidents; when there is too large a quantity of hot ashes the fire is put out by throwing water on it. The prisoners are consequently without fire from eight in the evening till eight in the morning. They are even obliged to put out their candles for fear of accidents. The prisoners are divided among the said cells. In the cell in which Collins died they had only one small blanket among three to cover themselves with.

How many prisoners were shut up with Collins in his cell?—Two.

Did these two prisoners complain of cold in that cell?—Yes; one of them was sick; but after the death of Collins the doctor sent him to the hospital. This man did not appear to be so ill as Collins.

Has the treatment of the prisoners been changed since the death of Collins?—Much.

In what?—A blanket and straw mattress has been given them for every two men; and the quantity of wood has been doubled.

At the time of Collins's death were the blankets unequally distributed?—Blankets were given to all those to whom it was possible to give them; there were not enough for all the prisoners.

Where were you the day before Collins's death?—At home. I had hurt one of my hands, and did not go to the gaol until the day after (the 10th of December); it was then that I learned the death of Collins; I had seen the latter a day or two before his death.

Were you present at the coroner's inquest?—No; I was afraid I should be called as a witness, and should be asked too many questions about the state of the gaol, and I refrained from going there.

Does the sheriff, Mr. Guky, frequently visit the gaol?—Sometimes once a week, and sometimes once a fortnight.

In what does his visit consist?—In asking the gaoler whether there is anything new.

Does the sheriff himself visit the wards or apartments in the gaol?—No; if he is told that there is nothing new he goes away again; but if he is told that there is anything broken, that is to say, if any of the prisoners have tried to cut away any of the bars, or to make any holes in order to escape, he then goes himself to look.

But does the sheriff visit the apartments when he is told that the prisoners suffer from cold and from the bad state of the windows?—No.

What does he do in this last case?—If the prisoners complain of cold, or that there is any opening in the windows, he contents himself with telling the gaoler to send for the man who does the work of the gaol.

Does the gaoler exercise his own discretion with regard to punishing the prisoners or putting them in irons?—Yes.

Does he ever put the prisoners in irons before they have undergone their trial?—That sometimes happens when the prisoners make any attempt to escape, and sometimes when they are charged with murder.

You say that prisoners charged with murder are sometimes put in irons before their trial; have any exceptions been made with regard to this?—There have been exceptions.

Can you recollect these exceptions?—I have been about the gaol for six years; during the last two years I recollect the following prisoners accused of murder who have not been

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put in irons before trial: Gagnon, Goodman, Desrochers, Isaac Jones and his brother, charged with the murder of Marcoux.

Do you also recollect the prisoners charged with murder who have been put into irons during the last two years?—Yes, I recollect them: Dewey, Walsh, (from the townships) Joseph Monarque and François Chapleau; the two last were in irons for a certain time. Their irons were afterwards taken off in consequence of a representation made by the grand jury at the court of quarter sessions held in April last.

Do you know Lalanne; is he one of the prisoners confined in the Montreal gaol, and how many times has he been put in irons?—I know Lalanne, who was one of the prisoners confined in the Montreal gaol; he went out last autumn; he was put in irons twice while he was in gaol; the first time after sentence of death had been pronounced on him, and the second time for having made a hole with the intention of escaping.

Was this Lalanne put in irons on another occasion, at the same time with one Kellerstein?—When Lalanne was put in irons the first time it was at the same time that Kellerstein was in irons.

How are the prisoners chained?—They are chained to a large ring fixed in the wall, by a chain three feet long, to which the prisoner is fastened by both feet, so that he can lie down, sit or stand up, but he cannot move except through a very small space.

Do you know Mr. Pierre Jacques Beaudry, one of the jurors on the coroner's inquest; what is his connexion with the gaoler?—I know Mr. Pierre Jacques Beaudry; he is the intimate friend of the gaoler, and does his writing for him. The gaoler's sons told me that he had 40s. a month for performing this duty. Mr. Beaudry only performs this work at odd hours, because he is one of the prothonotaries' clerks.

Wednesday, 13 January 1836.

The Honourable *Lewis Gogy*, again called in; and Examined.

HAVE you the copy of the regulations of the gaol asked of you at your last examination?—Yes; I produce it.

To what person in the gaol is the punishment of the prisoners left when they are disorderly or break the peace?—I cannot answer this question, because I am not always at the gaol.

By whose order are the prisoners sometimes put in irons?—Sometimes by mine, on reports made to me of their bad conduct; and sometimes the gaoler uses his discretion, and subsequently makes his report, according to the urgency of the case.

What is the practice followed in the gaol with respect to those who are committed on a charge of murder; are they put in irons before trial?—They are put in irons at first, but almost in every instance we are induced by their subsequent good conduct to remove the irons. If the gaol were perfectly secure, we should never have recourse to such rigorous measures.

Is that the rule generally observed in the gaol under your care?—That is the general rule; but there is no rule without exception.

Have you occasionally made exceptions, and in what cases?—I have never been guilty of partiality. I have an unpleasant duty to discharge, and I execute it with all the humanity in my power.

Have you always and invariably directed that those charged with murder should be put in irons before trial, until such time as an opinion could be formed of their conduct?—I cannot answer with respect to such details.

Why cannot you answer respecting such details?—Because they are frivolous.

Ordered, that the witness withdraw.

Thursday, 14 January 1836.

The chairman informed the committee that the following letter had been handed to him yesterday, in one of the passages of the House, by *Lewis Gogy*, esq., sheriff of the district of Montreal, and a witness before the committee on Wednesday the 13th instant; and that the said *Lewis Gogy* told him verbally that he wished to alter the word "frivolous" (*oiseux*) used by him in the last answer he gave at his last examination:

" Sir,

" I am desirous of making some slight alterations in the evidence given by me yesterday before the committee, of which you are chairman; I beg, therefore, you will inform me at what time I can appear before the committee for that purpose.

" O. Perrault, Esq., M. P. P. House of Assembly,  
11 January 1836."

I have, &c.  
(signed "*Lewis Gogy*."

Ordered,—That the clerk attending this committee do transmit the following answer to the said *Lewis Gogy*, esq.:

House of Assembly, Committee Room.

" Sir,

" In answer to your letter addressed to the chairman of the committee appointed to inquire into the circumstances preceding the death of John Collins, and into the state of the Montreal gaol, I am commanded by the committee to inform you, that it is usual to accede to the request of witnesses desirous of making alterations with regard to the matters of fact contained in evidence which they may have rendered before a committee of the House; if, therefore,

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therefore, your object at present were only to correct any statement which you may have made to the committee, they would not at all object to it; but as the committee are informed that the alteration you are desirous of making has reference, not to matter of fact or an error, but to an act of your own, which the committee considers to be a breach of the privileges of the House of Assembly, the committee cannot allow you to make any change in your answers which would have the effect of removing an offensive expression, without your offering to the House of Assembly, and particularly to the committee, to apologize for an insult which the committee considers to be a violation of the privileges of the House of Assembly, and respecting which they feel themselves bound to report to the body to which they belong.

"I have, &c.

(signed) "Charles Turgeon."

"The Honourable Lewis Gugy."

Saturday, 16 January 1836.

Mr. *Pierre Jacques Beaudry*, Clerk in the Office of the Prothonotaries at Montreal, called in; and Examined.

WERE you one of the jurors at the coroner's inquest held on the body of John Collins at Montreal?—Yes.

What was the verdict of the jury?—That John Collins died for want of necessaries, such as a mattress, straw, blankets, wood, and the allowance usually made to persons in his situation, such as soup, meat, &c. and by reason of the bad state of the gaol.

Was Mr. François Pigeon also one of the jurors?—Yes.

Had Mr. Pigeon any conversation with the coroner on the subject of the verdict returned by the jury?—Yes.

Did you hear this conversation; state it in detail to the committee?—The conversation was to the effect, that the fault and neglect committed in not sending for a priest or a minister were to be attributed to the officers of the gaol.

Did not Mr. Pigeon speak at that time as the organ of the jury?—The jurors were all of that opinion, and Mr. Pigeon only spoke as their organ.

Did not Mr. Pigeon also tell the coroner that the jury found that the gaoler and physician were in fault, and did the coroner thereupon address any answer to Mr. Pigeon?—Mr. Pigeon remarked to the coroner that the jury found that the gaoler and the physician were in fault; Mr. Pigeon even wished that this should be taken down in writing; but the coroner replied that we were called to decide upon the death of Collins, and not upon the responsibility of the gaoler or of the physician.

Read the following question put to Mr. Pigeon, and his answer:—"Did the whole conduct of the coroner appear to be directed to prompt the jury from throwing any blame on the gaoler and physician, or of imputing any fault to them?—The coroner appeared desirous of inducing the jury to find that the death of Collins was occasioned by severe privation, without adding that the gaoler and the physician were in fault. It was upon this point particularly that the coroner insisted, telling us to be on our guard; that it was hard that blame should be imputed to the gaoler and the physician. Thereupon I answered, that according to what we had seen and heard, it was impossible to blame any other than these officers." Is this the conversation which you heard between Mr. Pigeon and the coroner, and can you corroborate what he states?—To the best of my knowledge, that is the conversation which Mr. Pigeon had with the coroner; and the facts stated by Mr. Pigeon are true, to the best of my knowledge.

Did not Mr. Pigeon insist that this opinion expressed by the jury should be recorded in the verdict?—Yes; the coroner said we ought to take care, and not to bring an accusation against the officers; that there were other authorities to look after these things; that it was not the business of the jury.

Did the jurors unanimously partake the opinion of Mr. Pigeon?—Yes; we were all unanimous.

How happened it that Mr. Pigeon spoke to the coroner; was he the foreman of the jury?—He was not foreman of the jury, I was the foreman; but out of consideration for his age, and because he was evidently anxious to find out the truth on all sides of the question, I was unwilling to prevent his speaking, and he addressed the coroner on behalf of the jurors, who were all of the same opinion, and consented that Mr. Pigeon should apply to the coroner and demand that the verdict should be recorded in the manner in which Mr. Pigeon wished that it should be.

Do you know whether the coroner read over the verdict as he had recorded it; are you sure that all the jurors heard it read?—The coroner read the verdict as he had recorded it, in English and in French; but I cannot say whether all the other jurors heard it read, although they were near enough to that officer to hear it.

Are you sure that Mr. Pigeon heard the verdict read by the coroner?—No, I cannot say that he heard it; but he might have heard it. Mr. Pigeon and some of the other jurors were at that moment pre-occupied with the refusal of the coroner to record the verdict as they had asked him to do.

The witness after reading over his evidence wished to add what follows:—The gaoler, Holland, being called by the jurors, said, that he had done his duty as he had engaged to do it, and had followed the orders given him by the sheriff; for the evidence of the prisoners proved that they had not had as much wood as was necessary to keep them

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warm; to which the gaoler answered that he gave them the same quantity as had been always given since he had been gaoler, and that the time from the hour when the prisoners were shut up to that at which the doors were opened in the morning was certainly too long for the prisoners to be without fire; that he shut the doors at eight o'clock in the evening, and did not open them before eight in the morning; that he acted thus in accordance with the orders he had received; that he had applied to the sheriff for advances to purchase the necessary articles, and that the sheriff had replied that the province owed him upwards of 4,000 *l.*, and that he could advance nothing. The physician stated that having visited the gaol as usual, he had found the said Collins sufficiently ill to order that he should be put upon the sick list, and that the gaoler had answered that there were no funds to provide soup, and that beef was usually given in such cases, because the sheriff had refused the advances usually made; and that he (the physician) had applied at the hospital and had not been able to procure admission for him: that seeing the state of the said Collins, he had gone to the sheriff for the purpose of representing the state of the prisoner to him, and that the sheriff had given him the same answer as he (the sheriff) had given to the gaoler: he further stated that he had written to the sheriff, with a petition to the governor, to procure what was necessary for the gaol. It was for these reasons that he was not willing to give any medicine to Collins, who had nothing but bread and water to take them with.

Have you had any conversation with the sheriff about the gaol, and at what time, and what was this conversation?—Yes; about the 12th of December, I went to the sheriff's office to ask him whether he would allow me to use a large boiler which was in the lower part of the gaol, and as much wood as would be necessary to make soup for the prisoners twice a week. He told me that he did not wish that this should be done every day, for that it would increase the number of the prisoners; that he could do nothing himself, because he had made advances of more than 4,000 *l.*, for which the province was indebted to him, adding, "God knows when I shall be reimbursed, and for that reason I do not wish to advance a penny, although" (continued he) "I have lately received 50 *l.*; you know how far that will go. I have bought 50 cords of wood, which will take all the 50 *l.* You may go to the gaol and tell the gaoler that I have given you the permission you have asked me for."

Did you hear any remarks made by public officers at the time of the coroner's inquest?—Yes; Dr. Arnoldi, sen., said to me, that it was time these things should be brought to light; that it was melancholy to see a man die in such a deplorable state; that it was the fault of our good governor and the House of Assembly, who paid no attention to the applications which had been made to them for the support of the gaol; that notwithstanding the petitions presented by himself and by the sheriff, they had been refused; he hoped that this case would open their eyes. The coroner stated he coincided in this opinion, and said, in presence of all the jurors, that he hoped that a great change would take place, for it was high time. This conversation took place in a loud and an audible voice before all the jurors at the time of the examination of the physician, Mr. Arnoldi; it formed the close of Mr. Arnoldi's examination.

The Chairman laid before the committee the following letter, received by him from Lewis Gogy, Esq.; and informed the committee that he had acknowledged the receipt of that letter, and had sent an answer to that effect to Lewis Gogy, Esq.:

"Sir,

Albion Hotel, 16 January 1836.

"I have to acknowledge the receipt of Mr. Turgeon's letter in answer to the one which I had the honour to address to you, expressing a desire to correct my evidence; in which letter Mr. Turgeon informs me that an act of mine is considered by the committee to be an insult, and that for that reason the committee does not grant the permission I solicited. As the only means now left to me, I address you again in order to assure you that I had not the smallest intention to violate the privileges of the House, or to give offence to the committee; and as I presume that Mr. Turgeon's letter has reference to the term "frivolous" ("*oiseux*") used by me, I beg leave to assure you, as well as the committee, that I regret having made use of such an expression, and that I wish and earnestly solicit permission to retract it.

My wish to go to Montreal, which place I am anxious to reach as soon as possible, in consequence of sickness in my family, induces me to request as early an answer as possible.

"I have &c.

(signed)

"Lewis Gogy."

"O. Perrault, Esq. M.P.P.

"Chairman of the Committee on the Death of J. Collins."

#### APPENDIX.

No. 1.—Regulations of the Montreal Gaol.

No. 2.—Letter from the Sheriff of Montreal to the Civil Secretary, dated Quebec, 7 November 1835.

No. 3.—Letter from the same to the same, dated Montreal, 25 November 1835.

No. 4.—Warrant of Commitment of William Stuart, John Collins, and Charles Fortier, as Vagrants, dated Montreal, 27 November 1835.

No. 5.—

- No. 5.—Copies of all Correspondence between any Public Functionaries and the Executive Government, since 1st December 1835, relative to the Common Gaol for the District of Montreal.
- No. 6.—Declaration of Charles Fortier and two others confined in the Montreal Gaol, respecting the Death of John Collins.
- No. 7.—Certificate of Dr. Arnoldi, Physician attending the Montreal Gaol, respecting the Death of John Collins, dated Montreal Gaol, 10 December 1835.
- No. 8.—Inquisition on view of the Body of John Collins, 10 December 1835.
- No. 9.—Extract from a Presentment made by the Grand Jury in the District of Montreal, respecting the State of the Gaol in that District.

Correspondence  
respecting  
Mr. Gogy.

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(No. 1.)

REGULATIONS of the Montreal Gaol.

1st. Prisoners' names shall be entered in the gaol book as soon as they shall come to the gaol, or be brought to the gaol, specifying the crime they stand charged with, by whom committed, and for what period, if that is specified in their commitment.

2d. The gaol allowance to be regularly delivered to the prisoners.

3d. Prisoners may be visited, unless prohibited by the committing authority.

4th. No spirituous liquors are, on any pretence, to be introduced into the gaol, except by order of the gaol physician.

5th. Visitors, if suspected, will be searched previous to being admitted.

6th. The time of visiting prisoners will be from 10 till 12 A. M. and from 2 till 4 P. M.

7th. Persons convicted of bringing spirituous liquors, or implements to facilitate escape to prisoners, when detected, shall be noted and refused admission into the gaol in future.

8th. The time and cause, or authority of discharge, shall also be entered in the gaol-book.

9th. No fee or charge shall ever be made by the gaoler on any pretence whatever.

10th. The prisoners shall be shut up in their cells in their wards at 8 o'clock P. M., and allowed to go at large in the wards at 8 o'clock A. M.

(certified) *E. Holland*, Gaoler.

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(No. 2.)

LETTER from the Sheriff of Montreal to the Civil Secretary.

Sir,

Quebec, 7 November 1835.

I have the honour to request you will inform his Excellency the Governor-in-Chief, that there will be immediate necessity of furnishing the gaol at Montreal with the following articles heretofore procured (as to fuel) without any special communication with government, but now specified, in order to obtain the necessary funds, viz.:—100 cords firewood, 50 pair blankets, 25 paillasses, or bed cases.

These articles have been long wanted, but I forbore applying for them sooner, in hopes that some arrangement, whereby the financial difficulties of the province might have been so far settled as to permit the contingent expenses of the gaol, as well for the present as the past, to have been liquidated; but this not being yet the case, I am reduced to the present course, namely, applying for an advance of 200 *l.* currency, for procuring the abovementioned articles, on the best terms I can possibly make. Which sum (if granted) shall be hereafter duly accounted for, in the usual manner.

Please to observe that the supply of firewood was not mentioned as long as any hope remained of the new gaol being completed; by reason of this delay I apprehend that the articles will be somewhat risen in price, and that it has been estimated accordingly.

I have &c.

(signed) *L. Gogy*, Sheriff.

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(No. 3.)

LETTER from the Sheriff of Montreal to the Civil Secretary.

Sir,

Montreal, 25 November 1835.

Be pleased to acquaint his Excellency the Governor-in-Chief, that the sufferings of the prisoners confined in the common gaol of this district are becoming extreme since the setting in of the cold season, and that an advance of money is absolutely necessary to procure blankets, bedding and other articles, of which I had the honour of presenting to you a list in the early part of the present month, to the amount of 200 *l.*, including a supply of fuel.



Correspondence  
respecting  
Mr. Gagy.

The report and remonstrances of the attending physician, Dr. Arnoldi, stating the state of utter destitution in which the inmates of the gaol at present are, in addition to the verbal promise of his Excellency Lord Gosford, that the matter should be taken into consideration at an (then) early period, induces me to repeat the same application with an increased degree of earnestness, as the sufferings of these poor wretches become greater every day.

I have, &c.  
(signed) L. Gagy.

(No. 4.)

WARRANT of Commitment of William Stuart, John Collins and Charles Fortier, as Vagrants.

District of Montreal. S. S. Peace Office.

James Millar, Esquire, one of the justices of our Lord the King, assigned to keep the peace within the said district,

To the keeper of the common gaol of the said district, greeting:—

Whereas William Stuart, John Collins and Charles Fortier stand charged on oath with being vagrants and a public nuisance, being in the habit of disturbing the public peace most every night; these are therefore to authorize and command you to receive into your custody the said William Stuart, John Collins and Charles Fortier, and them safely keep to be dealt with according to law.

Given under my hand and seal, at Montreal, this 27th day of November, in the 6th year of His Majesty's reign.

(signed) James Millar, J. P. (L. S.)

(No. 5.)

Copies of all CORRESPONDENCE between any Public Functionaries and the Executive Government, since 1st December 1835, relative to the Common Gaol for the District of Montreal.

LETTER from Dr. *Arnoldi* to the Governor-in-Chief.

May it please your Excellency,

Montreal, 8 December 1835.

It becomes my imperious duty to apprise you of the deplorable state of destitution of the prisoners in the Montreal gaol.

This morning a man of the name of Laroche, sentenced to six months' imprisonment (I believe in the last sessions), being so far recovered from an inflammatory complaint, that I judged it necessary to order him a little soup twice a day, his diet during the preceding week not requiring but the lowest, he is now so weak that if a more generous diet is not afforded him he must inevitably sink, not only from this cause but from the utter want of covering. The gaoler, Capt. Holland, told me he was unable to supply the soup or covering, not having any funds from which either could be procured.

I have also been repeatedly solicited by the poor naked rheumatic and destitute prisoners to order them bedding, neither of which, not even straw, were afforded them, being reduced to the necessity of lying on the cold damp floor, especially the females being confined in the vaults below. I have several times reported these circumstances to the sheriff: I now appeal to your Excellency's Christian charity.

Besides the above, Michael Lachance, James Loukis, Alice Cameron, Mary Quin and Catherine M'Donell, all poor emaciated creatures, have yesterday been stopped the soup ordered for them.

I have, &c.

(signed) Danl. Arnoldi, Physician, Montreal Gaol.

(A true copy.)

(signed) S. Walcott, Civil Secretary.

Letter from the Civil Secretary to the Sheriff, Montreal,

Sir, Castle of St. Lewis, Quebec, 10 December 1835.

I have the honour to acquaint you, with reference to your letter of the 25th ultimo, and to one this day received from the physician of the Montreal gaol, that his Excellency the Governor-in-Chief has been pleased to issue a warrant in your favour for 50 l. sterling, for the



the purchase of indispensable articles of food and covering for the temporary relief of the destitute prisoners, and that the warrant has been taken up by your attorney.

Correspondence  
respecting  
Mr. Gugy.

I have, &c.

(signed) S. Walcott, Civil Secretary.

(A true copy.)

(signed) S. Walcott, Civil Secretary.

Letter from the Civil Secretary to the Sheriff, Montreal.

Sir,

Castle of St. Lewis, Quebec, 16 December 1835.

His Excellency the Governor-in-Chief has directed me to acquaint you, with reference to your letters of the 7th and 25th ultimo, and to mine of the 10th instant, that he has been this day pleased to issue his warrant in your favour for 150 l. sterling, in addition to the 50 l. advanced to you by warrant on the 10th instant, for the purpose of enabling you to provide for the immediate and indispensable wants of the prisoners under your charge.

I have, &c.

(signed,) S. Walcott, Civil Secretary.

(A true Copy.)

(signed,) S. Walcott, Civil Secretary.

Letter from the Sheriff of Montreal to the Civil Secretary.

Sir,

Montreal, 18 December, 1835.

I have to acknowledge your former letter containing a warrant for 50l., and this day another for 150l., the whole for the purpose of providing for the wants of prisoners confined in the common gaol of this district. Since your last communication on this subject, private charity has not been idle, so that the inmates of the gaol have been in a state of comparative comfort, to which until very lately they had been strangers. His Excellency Lord Gosford may depend upon my best exertions to employ the resources so left at my disposal to the best advantage of the prisoners under my charge.

I think it my duty to report, that I have thought myself justifiable in retaining out of this seasonable supply the price of 50 cords of firewood, which I have purchased lately at my own risk, under an apprehension of falling short of firewood, so that the gaol never was suffered, under any circumstance, to fall short of that indispensable article; if therefore I receive no directions to the contrary, this item will appear in the next contingent accounts I shall send to Government.

I have, &c.

(signed) L. Gugy.

(A true copy.)

(signed) S. Walcott, Civil Secretary.

(No. 6.)

DECLARATION of Charles Fortier and two others confined in the Montreal Gaol, respecting the Death of John Collins.

District of Montreal.

Charles Fortier, Antoine Moyen, and Charles Willer, all three confined in the common gaol of the district of Montreal, declare under oath, that the deceased, John Collins, occupied the same room with us, from the time he was incarcerated, about 15 days ago. He was already unwell at the time he was taken to gaol. After that he complained of illness, and yesterday Dr. Arnoldi visited him; he however experienced no relief, and he died in that room this morning, between one and two o'clock. He was very ill last night, when he was shut up in that room with the deponents at eight o'clock, without fire, without a bed, without bed clothes, or any clothing, in a very cold night, and in a room very much open to the weather.

The deponents say, that they have not a sufficient quantity of wood to heat the stove of which they are permitted to make use during the day; that the fire is put out every evening at eight o'clock; that they receive no warmth during the night; that the room in which they

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pass the night is not opened until eight o'clock in the morning ; and that they are suffering from a total want of beds, bedding, fuel and clothing ; they add, that the death of Collins must be attributed in a great measure to these privations.

Sworn to before us, at Montreal, the 10th December 1835.

(signed) *J. M. Mondelet*, His Majesty's Coroner.

True copy of the original in my office.

(signed) *J. M. Mondelet*, His Majesty's Coroner.

Montreal, 11 January 1836.

(No. 7.)

CERTIFICATE of Dr. Arnoldi, Physician attending the Montreal Gaol, respecting the Death of John Collins.

I hereby certify that I was called yesterday to see a most miserable object, by name of John Collins, in the last state of destitution, evidently sinking from the want of food and raiment ; he died this morning, and was found dead about half-past six o'clock.

(signed) *Dr. Arnoldi*, Pn. M. G.

Montreal Gaol, 10 December 1835.

Sworn at Montreal, 10 December 1835.

(signed) *J. M. Mondelet*, H. M. C.

A true copy of the original remaining in my office.

(signed) *J. M. Mondelet*, His Majesty's Coroner.

Montreal, 11 January 1836.

(No. 8.)

INQUISITION on view of the Body of John Collins.

An inquisition indented, taken at Montreal by *J. M. Mondelet, Esq.*, His Majesty's coroner in and for the district of Montreal, on the behalf of our said Sovereign Lord the King, on view of the body of John Collins, a prisoner confined in the common gaol, deceased, on the oath of *Pierre Jacques Beaudry, François Pigeon, Pierre Mathurin, Pierre Beauchamp, Léon Bricault, Eustache Arcand, Alexis Talor, Bernard Beaudry, Charles Couture, John L. Grant, Robert Betly, Samuel B. Gelton*, twelve good and lawful men of the city of Montreal, in the said district of Montreal, who being sworn and charged to try and inquire on the behalf of our said Sovereign Lord the King, how, when, where, and in what manner the said John Collins came to his death, say and declare, on view of the body of the said deceased, and according to such testimony of evidence, and to such circumstances as were brought before them, they find that the said John Collins has been confined in the common gaol as vagabond since the 27th day of November last ; he was sick at that time ; yesterday in the afternoon his indisposition gained ground so rapidly that medical advice was called in but afforded no relief. In this miserable situation he was placed under lock key with the two other prisoners, in an apartment by no means calculated to keep out the inclement weather, without a bed, without straw, without a blanket, without clothes, without fire. This morning he was found dead in sight of the two other prisoners, who were unable to grant him the slightest relief.

The jurors do declare, that the room in which John Collins was incarcerated last evening was uninhabitable ; the window is so faulty that the cold penetrates in every direction ; the cold last night must have been very severe in that room, sufficient to have caused the death of any person enjoying the best health, and more particularly the prisoner, as he was perfectly destitute of everything necessary. Therefore the jury aforesaid, on their oaths aforesaid, do say and declare that the deceased has no marks of violence upon his body ; he died through the want of food, and by cold and misery. He had in his prison neither clothes, bed, nor any covering by which he could keep himself warm ; nor had he even any straw on which he could lie down.

In testimony whereof, as well the said coroner as the said foreman of the jurors aforesaid, have subscribed their names to this inquisition, and affixed their seals at Montreal, this 10th day of December 1835.

(signed) *Pierre J. Beaudry*, Foreman. (L. s.)

(signed) *J. M. Mondelet*, His Majesty's Coroner. (L. s.)

A true copy of the original remaining in my office.

*J. M. Mondelet*, His Majesty's Coroner.

Montreal, 11 January 1836.

(No. 9.)

Correspondence  
respecting  
Mr. Gogy.

EXTRACT from a Presentment made by the Grand Jury in the District of Montreal, respecting the state of the Gaol in that District.

District of Montreal.

"The state of the prison of this district has frequently been made the subject of the presentments of preceding grand jurors, that consequently the present grand jurors refrain from any particular remarks thereon, as the new prison is on the point of being finished. The only subject to which they would call the attention of the court, is the situation of the women confined in the prison: they are abandoned to themselves, living in idleness, and mutually encourage each other in vice, and are attended upon solely by men, which offers a singular contrast with the practice followed in the prison for the district of Quebec, where the females are under the superintendence of a respectable woman who makes them work, gives them lessons and examples of virtue. The system followed in Quebec should be introduced here, and great benefit would result from it."

Enclosure 5, in No. 1.

To the Right Hon. *Archibald* Earl of *Gosford*, &c. &c. &c.

The Memorial of *Lewis Gogy*, of the City of Montreal, Sheriff of and for the District of Montreal, in the said Province of Lower Canada,

Humbly showeth,

THAT your memorialist, in obedience to the commands of your Excellency, signified to him by a letter from Mr. Secretary Walcott, has been, with as little intermission as the fulfilment of his official duties would admit of, engaged in obtaining evidence to support his answer to the charges exhibited against him by the House of Assembly of this province, which your Excellency caused to be communicated to your memorialist; and your memorialist now humbly submits for your Excellency's consideration such a statement, substantiated by such evidence as, he ventures to believe, will justify those passages in his official life which the House of Assembly have impugned.

Upon the inquiry instituted by the Committee of the House of Assembly into the circumstances which preceded and accompanied the death of John Collins, who died in the common gaol of the said district, and into the state of the said gaol, that Honourable House adopted the following resolutions as part of the grounds of their petition to your Excellency, for your memorialist's removal from his said office of sheriff:—

1. That the Legislature of this province has already exerted itself to improve the physical and moral condition of the accused persons and those under sentence in the gaols in this province, and that until its efforts and labours can be followed by immediate effect, it is expedient to remedy the abuses which may exist in the keeping and management of the common gaols in the several districts of this province.

2. That by the common law of the country, as well as by the Act passed in the 45th year of Geo. 3, c. 13, the common gaols in and for the several districts of this province are placed under the care of the sheriffs in their respective districts; and that by virtue of the said laws it is the especial duty of *Lewis Gogy*, Esq., sheriff of the district of Montreal, to keep and superintend the common gaol of the district of Montreal, and to see that it is healthy and secure.

3. That the officers to whom the keeping, security and healthiness of the said gaol were entrusted had at their disposal, on the 9th of December 1835, the usual and sufficient allowance of provisions and fuel to maintain and preserve the lives of the said prisoners.

4. That the death of the prisoner John Collins, which happened in the said common gaol of the said district of Montreal, on the night between the 9th and 10th December 1835, is to be attributed chiefly and in a great measure to the culpable negligence of the subordinate officers who had the care and keeping of the said gaol, and whose duty it was to watch over the health of those whom it contained; and that the sheriff of the district of Montreal was bound to superintend the said officers, and is responsible for their conduct, and has been guilty of violating his duty in not superintending them with sufficient care, and in neglecting to see that said gaol was kept in proper order, and the health of the said prisoners duly attended to.

5. That, by his answers before the Special Committee directed to inquire into the circumstances which preceded and accompanied the death of the said John Collins, and the state of the said gaol, the said *Lewis Gogy* has shown himself ignorant of the state, keeping and management of the gaol under his charge. That the said *Lewis Gogy* has permitted the existence of various abuses, and of vicious regulations in the said gaol under his care, and has not taken any means to remedy them; and that he has permitted and authorized the continuance in office as turnkeys of the two sons of the gaoler, notwithstanding their bad conduct and immoral character, with which circumstances the said *Lewis Gogy* was acquainted.

To these supposed delinquencies, as being of a graver and more criminal character than the

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the others attributed to your memorialist, your memorialist humbly solicits, in the first place, your Excellency's indulgent attention while your memorialist, with all due regard for the value of your Excellency's time, proceeds as briefly as the importance of the subject will allow, to lay before your Excellency those considerations which, he trusts, will evince the absence of any just grounds for the offences so imputed to him.

The first of the resolutions above transcribed, as your memorialist apprehends, is so purely of an introductory nature that it will not need any exculpatory observations, for it contains no precise charge against your memorialist, and sets forth only a declaration of the past exertions of the Provincial Legislature to improve the physical and moral condition of the prisoners, and of the expediency of remedying the abuses which may exist in the keeping and management of the common gaols in the several districts of this province; positions which it would be as unbecoming in your memorialist as it is unnecessary to his defence to question or deny.

By the second of the said resolutions the House of Assembly have endeavoured to subject your memorialist to the performance of duties more arduous than those which, according to his conception of the laws of the land, are imposed upon the office which he has the honour of holding; the House of Assembly have by that resolution declared that, as well by the common law of the country as by the Act passed in the 45th Geo. 3, c. 13, the common gaols are placed under the care of the sheriffs in their respective districts; and that by virtue of these laws it is the especial duty of your memorialist to keep and superintend the common gaol, and to see that it is healthy and secure.

As far as the common law of the land is concerned, your memorialist is compelled to state, that he cannot admit the accuracy of the principle assumed by the House of Assembly, nor can he easily divine to what part of our jurisprudence they make allusion, for the office of sheriff is wholly unknown to that portion of our laws which was introduced from France; the only officer in that country having the custody of prisoners being of a character nearly allied to that of the keeper of a gaol as understood in England.

In the humble opinion of your memorialist, it will appear manifest that the creation of the office of sheriff, having many of the attributes of such an office in England, was almost a natural consequence upon the changes in the form of administering justice generally which were made subsequently to the cession of this province to His Majesty, and upon the adoption here of the English criminal law after that event.

Adverting, therefore, to the laws of England, from which the office of sheriff was evidently borrowed, your memorialist cannot discover in that system of jurisprudence that anything beyond a general superintendence of the gaols forms part of a sheriff's duty, it appearing, on the contrary, to be incumbent upon the gaoler or keeper to perform many of the duties which the House of Assembly would, under a mistaken view of the common law, allot to your memorialist.

A proof this state of the law of England, as to the person upon whom the said responsibility rests, particularly with regard to his care of the prisoners, will be seen in the ordinary occurrence that it is the gaoler or keeper against whom all proceedings are directed in case of ill usage or cruelty to the prisoners. Nor does your memorialist find any provision in the 45th Geo. 3, referred to by the House of Assembly, that subjects the sheriffs to the performance of new duties, for its granting the keeping of the gaol to the sheriffs was merely a confirmation of the common law.

At the utmost, then, the said Act does not, as it seems to your memorialist, impose upon him any more onerous duty than that of such a general superintendence of the gaol as would produce a salutary control of the subordinate officers subject to his command.

That a general superintendence, calculated to keep in due subjection, and to insure a proper discharge of duty in the officers connected with the management of the said gaol was practised by your memorialist, he thinks is sufficiently demonstrated by the testimony of Dr. Arnoldi, Mr. Perry, Mr. Glassford and Mr. Spears, respectable and credible persons, having the best means of observation, whose depositions, taken under oath, your memorialist herewith brings under your Excellency's consideration, by which it will appear to your Excellency that your memorialist did at all times, with such means as were lawfully placed within his reach, provide for the health and security of the said gaol, and that the gaol, by constant vigilance, was made as secure as its imperfect structure and decayed state rendered practicable.

Proceeding now to the third of the said resolutions, your memorialist admits that on the 9th December last the officers to whom the keeping, security and healthiness of the said prison were entrusted had the usual and sufficient allowance of fuel and provisions to maintain and preserve the lives of the said prisoners, and your memorialist conceives that it is incontestably proved by the evidence he now adduces before your Excellency, that at the said period the lives of the prisoners were not exposed to any danger by withholding from them the quantity of fuel and provisions usual and sufficient to maintain and preserve them.

Your memorialist, in the preceding observations, assumed that the House of Assembly by the word provisions meant food; but if the House of Assembly intended by that word to denote such raiment as is generally allowed in gaols, that is to say, blankets, it must be acknowledged that at that time the usual number of blankets was not in the hands of the gaoler, and that therefore the comfort of the prisoners must have been diminished. Yet your memorialist believes it to be well established, by the evidence now adduced, that the absence of the whole usual number of blankets did not endanger or affect the health of the prisoners, nor was the cause of the death of John Collins, as your memorialist will be hereinafter able to show.

It is not within the province of your memorialist to inquire what considerations may have induced the Executive Government of this province to withhold, until after the 10th of December,

ber the means to purchase blankets, for which at a much earlier period he applied, as appears by the correspondence published in the report of the committee of the House of Assembly; an application which was in accordance with your memorialist's former practice, as the pecuniary advances which he found himself authorized to make upon the faith of reimbursement by the Government without an order to that effect were restricted to the ordinary supply of fuel and food, and never embraced the payment of clothing and other extraordinary expenses.

Your memorialist would, however, humbly represent, that happily it is not the want of blankets, as compared with the usual supply in the gaol, according to the evidence now exhibited to your Excellency, that the death of John Collins can, with any show of reason, be attributed, and it does not appear that the other prisoners experienced from that cause any danger, or even discomfort.

By the fourth of the said resolutions, the House of Assembly attribute the death of John Collins chiefly, and in a great measure, to the culpable negligence of the subordinate officers who had the care and keeping of the said gaol, and whose duty it was to watch over the health of those whom it contained.

That there was no such culpability in the said subordinate officers is amply proved by the proceedings of the grand jury who attended at the session of the Court of King's Bench for the said district, having criminal jurisdiction, holden in February and March last, now humbly submitted to your Excellency, from which it appears that an indictment preferred against Captain Holland, gaoler of the said gaol, for the murder of the said John Collins by rigorous treatment, was rejected after a thorough investigation, by testimony given under oath, relative to the whole circumstances of the affair; the inquiry having been conducted with more than usual solemnity and care, as is manifest from the presentment of the same grand jury in that behalf, also now respectfully presented for your Excellency's consideration by your memorialist.

The subordinate officers of the said gaol having thus been absolved from all blame in the affair of the death of Collins, it must necessarily follow, as your memorialist humbly conceives, that the responsibility for their supposed neglect and cruelty, which by the subsequent part of the last-mentioned resolution the House of Assembly wished to fix upon your memorialist, will by your Excellency, in the due dispensation of the justice you are called upon to administer, be regarded as wholly devoid of foundation.

At the same time that your memorialist feels sensible that the proceedings of the grand jury will suffice to exculpate the gaoler from all criminality, and consequently produce in your Excellency's breast a conviction of the innocence of your memorialist, it seems to your memorialist not improper to enter upon the evidence which led the House of Assembly to implicate your memorialist's character with regard to Collins's death.

The evidence upon which the crimination of the House of Assembly seems chiefly, and indeed wholly, to rest, is that taken before the coroner at the inquisition held on view of the body of John Collins, which consists, firstly, of the testimony of three individuals confined for infamous offences, if not already convicted of them, as is shown as well by the depositions as by the records of conviction accompanying this memorial; secondly, of the certificate, under oath, of Dr. Arnoldi.

With regard to the three prisoners, whom the coroner, it might be said with some degree of indiscretion, admitted as credible, if not competent witnesses, your memorialist would barely remark, that independently of the suspicion, if not the utter want of weight to which their testimony is obnoxious, and of the evidently natural inclination they must have experienced to vilify the character of him whose coercion, however humanely administered, they hated in common, that testimony is expressly contradicted by the observations, under oath, produced by your memorialist, of Dr. Arnoldi, Glassford, Spears and others, whose characters and veracity are unimpeachable.

That inanition and exposure to cold while in the gaol were not the immediate or remote causes of Collins's death is proved beyond controversy, as well by the testimony of Dr. Arnoldi as of others, by which it is established, that after years of dissolute habits and exposure in so severe a climate as this, he was introduced, in the last stage of disease, beyond the hope of medical relief, into the gaol, where he declined until the day of his death, and then not more rapidly than he would have done with all the advantages of the best instituted hospital.

The same evidence disproves the assumption that your memorialist had the right or authority to have Collins conveyed to an hospital or other public place suited to the reception of sick persons; and although your memorialist, as member of an institution supported chiefly by private contributions, has in a few instances been enabled to induce those having the care of that institution to admit sick prisoners, whose removal was deemed necessary by a physician, it cannot be laid to his charge that it was out of his power on all occasions to induce the exercise of that benevolence.

Your memorialist would observe, with regard to the attested certificate given by Dr. Arnoldi before the coroner, that he does not ascribe the death of Collins to any want of the common necessities of life during his confinement in prison, but, as it appears by his deposition, now laid before your Excellency, he assigns such destitution to the period antecedent to his confinement.

Upon the subject of this resolution your memorialist begs leave further to remark, that the testimony of Dr. Arnoldi and Glassford abundantly prove the fact, that one-eighth part of a cord of wood each day is more than sufficient for the consumption of a large stove, even in the severest weather; a fact of some moment, as the testimony upon which the accusation of

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the House of Assembly rests, in some degree, gratuitously ascribes to such supposed limitation of the quantity of fuel the termination of Collins's existence.

Your memorialist, with a view of enabling your Excellency to judge how far he should, under any circumstances, be deemed liable for the conduct of the gaoler, to whom by law the direct management of the gaol is entrusted, would, in addition to the preceding observations, respectfully pray your Excellency to consider that long before your memorialist was appointed sheriff of the district of Montreal, Captain Edward Holland, the individual for whose supposed crimes the House of Assembly would willingly see your memorialist sacrificed, had been appointed gaoler of the said gaol by Sir Francis Burton, then lieutenant-governor of this province; because your memorialist feels confident that your Excellency, in dispensing justice in his case, will duly appreciate that sound rule of law, by which it is declared that the acts of subordinate officers are chargeable to their superior officers, by whom they are appointed, but not where the superior and subordinate officers hold their appointments independently of each other from paramount authority.

The rights to appoint and dismiss from office are and must be co-extensive, and reside in the same authority, and it would ill become your memorialist to deprive a person of an office to which he had been appointed by the head of the provincial executive power.

The situation in which your memorialist was thus placed with regard to Captain Holland, even supposing his faults not to have been venial, affords a striking contrast to that of a sheriff in England, for in that country the sheriffs have the privilege of appointing and discharging their gaolers, as appears by statute 14 Edw. 3, c. 10, which enacts that "the gaols shall be rejoined to the sheriffs, and the sheriffs shall have the custody of the same, as before, and they shall put in keepers for whom they shall answer."

Your memorialist would further observe, with regard to Captain Holland, that the accompanying evidence clearly proves him to have been very humane and charitable in the exercise of his duties, qualities for which he has been more than once commended by grand juries; and that the occasional warmth of his temper was the inevitable consequence of the irritating misconduct of the prisoners.

By the 5th of the said resolutions your memorialist is charged with having permitted the existence of various abuses, and of vicious regulations in the said gaol, and with not having taken any means to remedy them.

What the abuses and regulations so complained of are the House of Assembly does not specify in its resolution; but from the proceedings before the committee, your memorialist conjectures that the regulations regarding the locking up of the prisoners in their cells during the night, and other modes of restraint used in case of necessity, are the objects of reprehension; but your memorialist indulges in the belief that the evidence now brought forward will satisfy your Excellency, that from the peculiar construction of the gaol, the security of the prisoners, and the maintenance of order and discipline amongst them, justified, as well those regulations as the other modes of coercion occasionally employed.

It is also worthy of remark, that those regulations were established and practised for many years previous to the time of your memorialist's appointment to the said office.

The last-mentioned resolution further attaches blame to your memorialist for suffering the gaoler's two sons to be continued as turnkeys; a fact which is sufficiently accounted for by Mr. Perry, who states in his deposition that the said two individuals were retained after their conduct became the subject of complaint, because there were no funds to pay them their arrears of wages, or to provide other turnkeys; and your memorialist cannot see the justice or propriety of requiring your memorialist to dismiss those individuals unpaid, or of expecting your memorialist out of his own money to provide the means of paying such arrears, or of engaging the services of others; and least of all at a period when, as is known to your Excellency, the advances made for other objects by your memorialist, and his other allowances, had been suffered to accumulate without being paid for an unprecedented length of time.

The committee of the House of Assembly, in their said report relative to Collins's death and the state of the gaol, aver that it is established by the evidence of Mr. Perry, that a sum of 100 *l.* or 200 *l.* is the utmost which is due by the province to the sheriff of the district of Montreal for advances made by him for fuel and provisions for the prisoners under his charge.

Your memorialist humbly conceives that the testimony of Mr. Perry, taken before the committee, when fairly considered, does not warrant such a conclusion, for he there acknowledges his inability to answer on that head with any degree of exactness; and the conjecture which he seems to have hazarded was made on an erroneous principle, as is shown by the following passage in his deposition, accompanying this memorial:

"The answer given by the deponent before the committee of the House of Assembly, that the amount due for advances for bread and fuel was between 100 *l.* and 200 *l.*, was founded upon his crediting specially against those items the proportion received by the sheriff from the amount advanced from the military chest, instead of applying the payment generally to the advances made by the sheriff."

Humbly presuming that the foregoing statement will, in the opinion of your Excellency, be a due vindication of your memorialist's character, and establish that he has always superintended the gaol in every particular in the degree which the laws of the land require, your memorialist now entreats your Excellency's patience during his answer to the other charges brought against him by the House of Assembly, of which your  
memorialist

memorialist cannot refrain from declaring his impression that they are not sustained by any evidence which demands at the hands of your memorialist any confutation.

Prompted, however, by an anxiety to meet every ground of accusation against him, however unfounded, and desirous of obeying your Excellency's commands, by which he was placed under the obligation of giving his defence and explanations upon all the charges preferred against him by the House of Assembly, he now proceeds, with your Excellency's gracious permission, to enter upon the subject of the remaining heads of complaint.

These remaining articles of complaint against your memorialist are contained in the following resolutions:—

Resolved,—That Lewis Guky, Esq. in his quality of sheriff of the district of Montreal, received large sums of money in the shape of fees; and that being required by His Majesty's Executive Government in this province yearly to lay before it true and exact statements or returns of the amount of the fees and emoluments received by him in his said quality of sheriff, the said Lewis Guky, instead of acting frankly and in good faith towards the said Executive Government, and affording it the information required of him, has, on the contrary, purposely, deliberately, and corruptly deceived the said Government, and practised towards it a system of fraud and deceit calculated to degrade His Majesty's Government in this province, and to deprive it of the confidence and respect of His Majesty's faithful subjects therein.

Resolved,—That in pursuance of this system of fraud and deceit, the said Lewis Guky deliberately and corruptly concealed from the knowledge of the said Executive Government a great part of the emolument of his office, amounting to about 5,264 *l.* 11 *s.* 11 *d.* currency for the years 1830-1-2-3 and 1834, by transmitting to the said Government during the said years unfair and false returns of the amount of the fees and emoluments received by him as sheriff of the district of Montreal.

Resolved,—That by the said system of fraud and deceit so practised by the said Lewis Guky towards His Majesty's Executive Government in this province he deliberately and corruptly allowed the said Government to remain ignorant that a portion of His Majesty's subjects were taxed by a mere tariff of fees made by the Court of King's Bench to an enormous amount, and at a rate utterly disproportionate to the services by him performed.

Resolved,—That the said Lewis Guky wilfully and maliciously gave false evidence in his examination before the Special Committee of this House, appointed "to inquire concerning the fees and emoluments received by the sheriffs, prothonotaries and criers of the Court of Appeals, and of the Courts of King's Bench of this province, in virtue of their respective offices," and that in so doing, the said Lewis Guky has been guilty of a high misdemeanor and of a breach of the privileges of this House.

Resolved,—That by such false evidence, the said Lewis Guky intended, deliberately and corruptly, to conceal from the knowledge of this House the enormous and disproportionate amount of the fees and emoluments which he received as sheriff of the district of Montreal, and thereby to prevent this House and His Majesty's Government from applying an effective remedy to the great abuses and grievances aforesaid under which his Majesty's faithful subjects in this province are suffering.

With regard to the first of the last series of resolutions, your memorialist would respectfully observe that he never did deny a fact so notorious, that his said office was, and continues to be, productive of a large amount of fees, which fees, however, do not constitute more than half his income.

Your memorialist made the yearly returns of his salary and fees alluded to in the report of the committee as nearly accurate as your memorialist could make them from the imperfect notes and memoranda of his accounts which he kept privately, your memorialist humbly acknowledging that he is not capable of keeping what are called regular books of account.

If your memorialist, in the exercise of his judgment as to the statements required of him at the hands of the Executive Government, should appear to your Excellency to have fallen into error, he solemnly asseverates that it was unconsciously, and he fondly cherishes the hope that a fault of mere omission will be deemed worthy of your Excellency's lenity.

The second of the said series of resolutions contains, in the first place, nothing more than particulars of the supposed wilful misconduct of your memorialist alleged in the first resolution, and, therefore, your memorialist entreats your Excellency to extend to the said resolution the observations which he has above offered in answer to the first resolution; your memorialist feeling some degree of confidence that your Excellency will deem them a satisfactory apology to His Majesty's Executive Government, to whom alone in that respect he deems himself answerable for his unintentional error.

As to the remaining part of the said resolution, by which he is accused of deliberately and corruptly allowing His Majesty's Government to remain ignorant that a portion of His Majesty's subjects were taxed by a mere tariff of fees, to an enormous amount, and at a rate disproportionate to the services by him performed, your memorialist, lamenting this disposition to impute to him as a crime the exercise of his just rights as established by law, respectfully brings under your Excellency's observation the 17th section of the Statute 41 Geo. 3, c. 7, constituting the courts of judicature as they now exist, by which it is enacted "that the courts of criminal and civil jurisdiction within this province shall have power and authority within their respective jurisdictions to make a table of fees for the officers of the said courts, the which table the said courts of justice may alter and correct from time to time, as they shall see necessary, and the officers of the said courts respectively are hereby required to conform to the same," in virtue of which enactment, the Court of



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King's Bench for the district of Montreal, so long ago as the term of June 1815 established a tariff of the fees to be received by the sheriff of that district, a certified copy of which tariff is now herewith submitted to your Excellency.

Upon comparing this tariff with the fees mentioned in the report of the committee as having been taken by your memorialist, your Excellency will, he conceives, see just reasons for deciding that he exacted no more than he was legally entitled to demand.

Your memorialist cannot, therefore, but question the propriety of laying to his charge any design of concealing the supposed fact that His Majesty's subjects were taxed by a tariff of fees, for that tariff of fees was openly and publicly established by a court of justice, acting under especial legislative authority; a tax, therefore, if it may correctly be so termed, which was virtually, if not directly imposed by the Legislature, while it could not be expected, as he conceives, that the disproportion, if any really exist, between his fees and the corresponding services by him performed would be corrected by him, or on his suggestion, but by the courts of justice, or by the paramount authority of the provincial Parliament.

Besides, your memorialist would respectfully observe that no complaint was, to his knowledge, ever made to the Court of King's Bench that the said tariff of fees, which for 12 years before your memorialist's appointment had been acted on by his predecessor, was unreasonable.

The fourth of the said series of resolutions requires from your memorialist, as he humbly conceives, but a brief explanation, although it charges him with the heinous offence of giving false evidence before the special committee of the House.

The burthen of the accusation is, that there is some discrepancy between the evidence of your memorialist and that of Mr. Perry, as regards your memorialist's income, but upon an impartial examination of the answers of both, your memorialist cannot hesitate to presume that your Excellency will not find in them any inconsistency, and certainly not the wilful and corrupt falsity, the odium of which the House of Assembly have attempted to cast upon his reputation.

Your memorialist respectfully ventures the assertion, that his declaration before the Committee as to the gross amount of his income, which he gave at the moment unprepared, and without the means of accuracy within his reach, is as nearly equivalent to the amount established by the more competent knowledge of Mr. Perry, duly apprized of the objects of his examination, as could reasonably have been expected.

In his answers before the committee your memorialist frankly declared that the average gross amount of his income exceeds 2,000*l.*; and your memorialist humbly represents, that admitting a latitude of some hundreds of pounds, more or less, according to fluctuation of business, this will be found to correspond nearly with the result of the investigation of the committee, which fixed the average net income of your memorialist at 1,999*l.* 0*s.* 2*d.*; especially if your Excellency will take into account the expenses of the office to be deducted from the gross income. The candid admission so made by your memorialist as to the gross amount of his income, and which he could not have made even to that amount but from a recent investigation of his affairs having afforded him some insight into the extent of his income, will prevail, he sincerely hopes, in convincing your Excellency that a person placed at a distance from his office, without his papers or his confidential book-keeper and clerk, called suddenly to answer as to the amount of his income, did not, by conjecturally arriving at the point so near the truth as that which exists between a gross income of 2,000*l.* and upwards, and a net income of 1,999*l.* 0*s.* 2*d.*, incur the guilt of the high crime of perjury, or wilful false swearing, with which his fame has been assailed. The last of the said resolutions being predicated upon those preceding it, your memorialist humbly trusts that the foregoing observations will prove to your Excellency's satisfaction that he was not actuated in his conduct before the committee of the House of Assembly by the base and dishonourable motives with which he has been unworthily reproached.

Your memorialist would conclude by respectfully begging your Excellency to reflect, whether there is any degree of probability that a person arrived at your memorialist's time of life, after having maintained throughout an unsullied character for honour and integrity, after having filled the high office of sheriff for 30 years, after having had the honour of commanding a battallion of incorporated militia, with which he served during the late war with the United States of America, and after having in other respects enjoyed the confidence of His Majesty, would, without any imaginable motive, peril his well-earned reputation and his valuable office by deliberately committing the degrading actions of which he stands accused.

Having thus, to the best of his ability, answered the several charges brought against him by the House of Assembly, your memorialist humbly entreats your Excellency, as to the general character of the complaints preferred against him, to consider that they were based upon the supposition that your memorialist should give his personal attention to the minutest details of his official business; but your memorialist is not without hope that your Excellency will, by reflecting on the numerous, arduous and responsible duties of the office of sheriff of the district of Montreal, arrive at the conclusion, that in order to insure a regular discharge of duty there existed, notwithstanding the efficiency which an experience of more than 30 years in the office of sheriff of Three Rivers and Montreal must have imparted to your memorialist, the utmost necessity for the employment of subordinate agents; and your memorialist is pleased to see that no evidence has been adduced showing any reason for want of confidence in the ability, regularity and integrity of Mr. Perry, to whom your memorialist committed the care of his accounts, while the general conduct of your memorialist in executing the duties of his office in the civil and criminal departments is, by the accompanying evidence, exhibited as not undeserving of some degree of commendation.

Wherefore, your Excellency's memorialist, placing full dependence in the wisdom and justice of your Excellency, humbly prays your Excellency graciously to take the foregoing statement

statement and evidence into your consideration, and that your Excellency will receive the respectful assurance that he places his case within the jurisdiction of your Excellency with the sure conviction that even-handed justice will be awarded to him.

Montreal, 7 May 1836.

(signed) *L. Gugy.*

Correspondence  
respecting  
Mr. Gugy.

LIST of the Documents and Depositions transmitted by Mr Sheriff *Gugy*, with his Memorial, addressed to the Right Honourable the Earl of *Gosford*, &c. &c. in answer to the Charges of the House of Assembly.

No. 1.—Deposition of Francis Perry, Esq.

No. 2.—Deposition of Daniel Arnoldi, Esq. M.D.

No. 3.—Deposition of Mr. James Spears.

No. 4.—Deposition of Mr. Glassford.

No. 5.—Deposition of Mr. Terroux.

No. 6.—Affidavit relative to John Collins, a Vagrant.

No. 7.—Record of the Conviction of Charles Wheeler for Grand Larceny.

No. 8.—Record of the Conviction of Antoine Hoyen, of Sacrilege.

No. 9.—Exemplification of Indictment of Edward Holland for the Murder of John Collins.

Returned no Bill.

No. 10.—Presentment of the Grand Jury (as far as it relates to Collins's death).

No. 11.—Certified Copy of the Tariff of the Court of King's Bench, Montreal, regarding the Sheriff's Fees.

No. 12.—Deposition of John Boston.

No. 13.—Deposition of J. B. Shiller.

(signed) *L. Gugy.*

No. 1.—Deposition of *Francis Perry*, Esq.

Province of Lower Canada, District of Montreal. Ss.

ON the 13th day of April in the year of our Lord 1836, at the city of Montreal, in the province of Lower Canada, personally came and appeared before me, the Hon. James Reid, Chief Justice of the Court of King's Bench for the district of Montreal, in the said province, Francis Perry, of the city of Montreal, in the said province, Esq. who being duly sworn, did depose and say, that he has been employed at the sheriff's office in Montreal since March 1823; that he is by profession an advocate, duly commissioned to practise in all the courts of justice in this province; that he has filled the office of deputy-sheriff of the said district during the existence of the statute creating that office.

This deponent further saith, that he is not wholly dependent on the emoluments arising from the said office; that he is acquainted with the gaol establishment at Montreal, and thinks the sheriff should have the general superintendence thereof; that the gaoler, Edward Holland, has many good qualities, some of which render him fit for his situation; he is of rather a violent temper; it does not however lead him beyond verbal abuse; that this deponent hath not known a single instance when said Holland resorted to blows, and that his humanity has been frequently commended by grand juries and others. The said Holland was appointed gaoler by the governor of this province about the year 1824; the said gaoler appointed his two sons turnkeys, who conducted themselves well for some time after their appointment; the reason why they were retained after their conduct was the subject of complaint is that there were no funds to pay them their arrears or provide other turnkeys. The practice of locking up prisoners in their cells at night has prevailed in the gaol since the deponent first became acquainted with its regulations. It is necessary that such a rule should obtain, because if all the prisoners in a ward were allowed to be together at night they would not fail to make their escape, the building being insecure, and the repeated attempts, sometimes successful, of the prisoners to escape justifying the scheme of dividing their strength. The stoves in the several wards are placed on permanent stone pavements in the wards, pursuant to the original design of the building, and deponent does not think they could be well placed otherwise. The sheriff has been in the habit of purchasing the allowance of bread and fuel as required, but all other wants requiring an expenditure exceeding 5*l.* must be authorized by the administrator of the Government, in consequence of orders received from the Provincial Government some years ago, and the forms for the accounts of the sheriff for the contingent accounts of the gaol were accordingly transmitted to the sheriff, copies of which forms are hereunto annexed, marked (A.) and (B.) Invalids are sometimes sent to the Montreal General Hospital, an institution supported by private charity, by the sheriff, who is one of the governors of that institution. The authorities there have sometimes refused to receive sick prisoners, and the prisoners are regularly attended to in the gaol by the physician commissioned for that purpose. There is no place out of the gaol to which the sheriff, gaoler or physician can, by authority, send a sick prisoner. The sheriff's visits to the gaol were such as a superintendent would make in exercising a general control over subordinate officers, and there was, and is, a standing order to the gaoler to report to the sheriff anything remarkable that may occur in the prison. The sheriff has been always punctual in regarding the call of the gaoler in that respect. The cell in which John Collins died is the nearest to the stove in the ward, the door being nearly opposite to it. Straw

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respecting  
Mr. Gogy.

beds were introduced into the gaol, by the present sheriff. He has understood they were disallowed by the former sheriff, by reason that the prisoners had frequently attempted by means thereof to set fire to the prison, and did actually succeed in so doing upon one occasion, an offence for which they were convicted and punished. The present sheriff has made advances for the public service to the amount of about 3,000 *l.* during the last three years, which have not been repaid to him. Before that time the advances made by the sheriff for those purposes were refunded to him half-yearly. The greater portion of these advances has been made for the prison. The answer given by deponent before the committee of the House of Assembly, that the amount due for advances for bread and fuel was between 100 *l.* and 200 *l.*, was founded upon his crediting specially against those items the proportion received by the sheriff from the amount advanced from the military chest, instead of applying the payment generally to the advances made by the sheriff. Mr. A. Girod, whose testimony appears in this matter, is a person, a foreigner, who it is understood lives by the profits of political excitement. That individual cannot know any of the circumstances connected with the prison. Lalanne, the person alluded to, was, at the time referred to, convicted and under sentence for the crime of forgery. A short time previously, he made an attempt to effect his escape from prison. The prisoner, Kellerstein, alluded to in the evidence given before the committee, is a person of infamous character. He is now confined in gaol, having returned from banishment, to which his sentence of death had been commuted. He is not paralytic, and has not, to the knowledge of this deponent, been ill in prison. The firewood, after having been sawed into a convenient length, is carried daily into the wards, where the prisoners use it at their discretion. It is not probable that the gaoler would, on any given night, take two sticks from without the ward to put into the stove just as the prisoners were retiring into their cells. Prisoners are put in irons when they are turbulent and unruly. They do not seem to care much or suffer any inconvenience from such restraint. The irons are generally taken off in a few days, upon the manifestation of better conduct. The deponent further saith, that the said Lewis Gogy was for many years sheriff of the district of Three Rivers, before his appointment as sheriff of the district of Montreal. That the said Lewis Gogy is not well acquainted with the keeping of accounts, and that the magnitude and number of the money transactions connected with the exercise of the office of sheriff of the district of Montreal would render the management of books of account of the same by the said Lewis Gogy a matter of great difficulty. The deponent, since the said Lewis Gogy came into office, has kept the books and accounts relating to the affairs of the said Lewis Gogy, as sheriff, which said books and accounts were under the immediate and sole control of this deponent, and have been kept by him in an apartment distinct from that occupied by the said Lewis Gogy as his office; and that the said Lewis Gogy has not been in the practice of referring to or examining the said books and accounts, the said Lewis Gogy, from deponent's long experience in the office, and from entertaining a good opinion of the deponent, having placed implicit confidence in him. The deponent verily believes that the said Lewis Gogy, from his want of familiarity with accounts, could not at any time within the last seven years, by reference to the said books kept by this deponent, have made an accurate return of his official income, and that the returns of the income of the said Lewis Gogy as sheriff, made by the deponent to the committee of the House of Assembly, were done after much labour and time expended on the subject by this deponent; that the deponent opened and kept the said books and accounts of his own motion, and without any directions given in that respect on behalf of the said Lewis Gogy, and that the said books are, by the clerks in the office, familiarly styled "Mr. Perry's books." And the deponent further saith, that the said Lewis Gogy since he has held the said office has not himself kept any books or accounts, as he relied wholly on deponent's regularity and punctuality. That the fees taken by the said Lewis Gogy as sheriff have always been such as are allowed to that officer by the tariff established by the Court of King's Bench for the district of Montreal, in the year 1823, under the authority of a provincial Act, (41 Geo. 3, c. ) and deponent does not recollect a single instance in which any complaint was made with regard to the fees he so received, and in which any deduction from the same was claimed. And the deponent further saith, that the duties which the said sheriff is required by the laws of the said province to perform are arduous and are various in their nature, embracing many which are not imposed upon sheriffs or their deputies by the laws of England; and in consequence thereof the said sheriff of Montreal, in the discharge of the said duties, besides the unremitted attention of the deponent, has necessarily had the assistance of three clerks, besides a gaoler, many bailiffs, constables and other inferior officers, without whose aid it would not be possible for any person to execute the said office.

The deponent further saith, in proof of the regularity and propriety with which the said Lewis Gogy has fulfilled the duties of the said office, that since he has held it no judicial proceedings have ever been brought against him for nonfeasance or misfeasance in office; a fact which the deponent regards as unprecedented in that office, for the predecessor of the said Lewis Gogy, although a person of great regularity and integrity, and of great experience, from having conducted the office for about 30 years, was frequently subjected to litigation by reason of his official acts.

(signed) *Francis Perry.*

Sworn before me, at Montreal, the day and year first above written.

(signed) *J. Reid, Ch. J. K. B.*

Correspondence  
respecting  
Mr. Guky.

(A.)

STATEMENT of DISBURSEMENTS made by \_\_\_\_\_, Esq., Sheriff of the District of Montreal, between the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, and the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, both inclusive, in payment of the usual Contingent Charges of the Gaol and its Dependencies.

Date of Payment.	To whom Payment is made.	Description of the Disbursements.	Voucher.	Amount Paid.
				£. s. d.

(B.)

STATEMENT of DISBURSEMENTS made by \_\_\_\_\_, Esq., Sheriff of the District of Montreal, between the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, and the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, both inclusive, in payment of Work done and Materials furnished for the use of the Gaol, on approved Estimates.

Date of Payment.	To whom Payment is made.	Particulars.	Date of the Governor's Approval.	Voucher.	Amount.
					£. s. d.

No. 2.—Deposition of Dr. Arnoldi.

Province of Lower Canada, District of Montreal.

ON the 14th day of April, in the year of our Lord 1836, before me, the Hon. George Pyke, Esq., one of the justices of His Majesty's Court of King's Bench for the district of Montreal, personally came and appeared Daniel Arnoldi, of the city of Montreal, in the said district of Montreal, Esquire, doctor of medicine, who being duly sworn, maketh oath and saith, that for about 18 months past he has attended, as physician, the persons confined as prisoners in the common gaol of the said district, situate in the said city of Montreal; that from his frequent visits there, he has become acquainted with the manner in which the said gaol has been managed; that the deponent knows Edward Holland, who has for many years been gaoler of the said common gaol; that although the said Edward Holland is given to the use of rough language towards the prisoners, which the deponent conceives to be inevitable, if not politic, the said Edward Holland is a man of humane disposition, against whom deponent never heard any of the prisoners complain on the score of ill-treatment or of want of kindness; that deponent knows the Honourable Lewis Guky, sheriff of the said district, and has frequently seen him at the said gaol, and that the deponent conceives that the said Lewis Guky visited the said gaol sufficiently often to insure the exercise of a wholesome control over the gaol in the way of superintendence, and that deponent has always known the said Lewis Guky to be ready in obeying any call upon his attention made by deponent, or the persons connected with the management of the said gaol; that the deponent having occasion to visit one of the prisoners named Louis La Rochelle, who was sick about 10 days before the death of John Collins, the person that died in the said gaol on the 10th December last, this deponent while attending on La Rochelle saw the said John Collins every day during that period staggering about the ward in which the said John Collins and other prisoners were confined, and that said Collins requested deponent to obtain a more generous diet for him; that at that time the said Collins had no specific complaint, but was completely worn out in constitution, and was evidently declining so fast that he must have died, even in the best hospital, within a few days, and that the said Collins was then, in the estimation of deponent, in the last stage of existence, and beyond the reach of medical aid; and deponent further saith, that the death of the said John Collins is not ascribable purely to any coldness in the cell in which he was confined at night, although the said

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said John Collins's clothing was imperfect and ragged, and that the temperature of the said cell was such that water did not at any time freeze therein ; that there is a stove in the centre of the ward adjoining the said cells, in which much more fuel is used by the prisoners there confined than is necessary for the comfortable warming of the said ward and cells, and that the heat is admitted into the cells by leaving the doors open during the day ; that during the space of time aforesaid before the death of the said Collins, when the deponent attended the said prisoner in the same ward as Collins, the deponent never observed the temperature of the cells to be too low, but that, on the contrary, the same was moderate and adopted to the nature of the complaint under which the said prisoner was labouring ; that deponent having lived in this province all his life, and having had the experience of housekeeping here for upwards of 40 years, he is firmly of opinion that even in severe winter weather one-eighth part of a cord of firewood is more than a sufficient allowance each day for a large stove.

(signed) *Daniel Arnoldi*, P. M. G.

Sworn before me, at Montreal, the day and year above written.

(signed) *George Pyke*, J. K. B.

No. 3.—Deposition of Mr. *James Spears*.

Province of Lower Canada, District of Montreal. Ss.

On the 14th day of April, in the year of our Lord 1836, before me, the Honourable George Pyke, one of the Justices of His Majesty's Court of King's Bench, for the district of Montreal, personally came and appeared James Spiers, of the city of Montreal, in the said district, blacksmith, who being duly sworn, maketh oath and saith, that this deponent has known the Honourable Lewis Gogy since he the said Lewis Gogy was appointed sheriff of the said district ; he has also been acquainted with Edward Holland since he was appointed gaoler of the common gaol of the said district of Montreal. That for about eight years last past this deponent hath been solely employed by the said Lewis Gogy to do the necessary blacksmith's work in and about the said gaol, consisting in occasional repairs, and the making of leg-chains and handcuffs for refractory prisoners, and in other particulars ; and that being so employed, this deponent, during the space of time aforesaid, hath had occasion to visit the said gaol almost daily, and to observe its condition and the conduct of the said gaoler and prisoners. That the said Holland is a man of violent temper, and uses harsh words, which deponent considers few tempers, however good, could scarcely refrain from using, as the misconduct of many of the prisoners, and their contempt of authority, are very exasperating ; that he never saw the said Holland strike or maltreat any prisoner but once, about six years ago, or more, when one Bellerose, a prisoner, under sentence of death, having removed one or two iron bars from the door of his cell, had released himself from his irons ; and deponent having been sent for to secure the said Bellerose again, that individual first struck said Holland a violent blow in the face with a stick of wood, and the said Bellerose having attempted to strike deponent, thereupon the said Holland gave him a blow. That said Bellerose was a very unruly and dangerous character. The deponent further saith, that he never knew the said Holland to be guilty of inhumanity towards the prisoners ; but, on the contrary, has seen many instances of his charitable and considerate bearing in their favour. The deponent has often seen the said Lewis Gogy at the said gaol, both by day and by night, sufficiently often in the way of control and superintendence of the subordinate officers ; and the said Lewis Gogy was at all times ready to answer the call of the deponent or of the gaoler. That the said gaol has been for many years insecure and insufficient to prevent the occasional escape of prisoners, and deponent conceives that the prisoners would easily effect their escape if they were not, during the night time, locked up in their cells according to the practice which has obtained in that institution ; for if they were permitted to stay together at night in the wards, their united strength, and the experience of many of them in such practices would render their escape inevitable. And deponent further saith, that without the occasional application of handcuffs and leg-irons, such as are put on prisoners in the said gaol, the said gaoler could not assert his authority and keep order in the said gaol, or prevent their escape ; and that for four or five years past there has been a standing order from the sheriff to deponent to examine the iron bars to the openings of the said gaol three or four times a week, to discover if the prisoners had cut through them, or been endeavouring to do so, for the purpose of escaping, and that the cutting of the bars has been of frequent occurrence. And deponent saith, that another reason for frequently securing the said prisoners is to prevent a practice which they sometimes follow, if free in the ward : when respectable persons may appear in the said gaol, they inveigle such persons to the grated door and take the opportunity of robbing them of articles about their persons ; and the old offenders are sometimes so put in irons, because they have plundered new comers among them of all their clothing. That in each of the wards of the gaol there is a large double stove placed on a stone pavement originally designed for it, and the pipe is conducted into the only pipe-hole in the ward, there being no fire-place, and that heat is admitted into the said cells by the doors thereof being left open during the whole day, and at other times through a grating of about a foot square in the door of each cell ; and the said stoves, by the means aforesaid, are quite sufficient to heat the two nearest cells to the stove in those wards which contain three cells, and that the said prisoners, even in the severest weather, frequently open the windows for the purpose of communicating with their fellows in the street. That the deponent knows the cell in which John Collins died in

December

December last, and which is in ward No. 4, and that it is the centre cell, to which the stove is nearest, and deponent saith that the said cell must have been sufficiently warmed by the said stove. That the said deponent knew the said John Collins for more than 20 years before his death, and that for more than 15 years before his decease he was a common vagabond by day and night, and given to the excessive use of ardent spirits, and in a state of drunkenness would often lie out at night on rafts and in boats at the river edge; and that long before his death the constitution of the said Collins was ruined by intemperate habits and by exposure. That deponent saw said Collins in the cell on the morning of the day on which he died, and perceived that he was then dying from the effects of an exhausted constitution and diseased body. That deponent has known the said Collins to be two or three days at a time without food, which deponent often gave him to relieve his distress, deponent having some consideration for said Collins as a former fellow-apprentice. That the said Collins on the said morning of his death was very barely and ill-clothed, and that at and before the time of his death the said cell was as warm as usual. That there were in the said cell at the same time three prisoners, Charles Fortier, Antoine Moyen, and Charles Miller, the two former old offenders, who had been frequently apprehended for robbery, and the last confined upon some other charge, and that deponent would not believe the said three individuals if they were examined under oath. And deponent further saith, that at and before the time of Collins's death there was as much firewood ready for use at the said gaol as there used to be in previous years, and that the sheriff contracted with one Glassford to supply wood for the said gaol, and that that person delivered the wood from time to time as required, sometimes in quantities of 50 cords, and that during the present season, which has been unusually severe, deponent has known upwards of 10 cords used in the said gaol in a week. And deponent further saith, that Dr. Arnoldi, physician of the said gaol, was in daily attendance at the said gaol since his appointment, and deponent knows that the said Dr. Arnoldi was so in attendance at the gaol on the day of Collins's death, but deponent conceives, for days before his death Collins was beyond the power of medical relief; and further saith, that the said Collins for some time before his death was subject to fall into fits.

(signed) *James Spears.*

Sworn before me, at Montreal, the day and year first above written.

(signed) *George Pyke, J. K. B.*

No. 4.—Deposition of Mr. *James Glassford.*

Province of Lower Canada, District of Montreal. Ss.

ON this 14th day of April, in the year of our Lord 1836, personally came and appeared before me, the Hon. George Pyke, one of the Justices of His Majesty's Court of King's Bench for the said district of Montreal, James Glassford, of the city of Montreal, in the said district, a captain in the militia in the said province, who being duly sworn, maketh oath and saith, that for five or six years past this deponent has, by agreement with the Hon. Lewis Gagy, sheriff of the said district of Montreal, contracted for the yearly supply of firewood for the use of the common gaol of the said district, situated in the said city of Montreal. That during the last summer the said sheriff, complaining that he had received no money from the Government for refunding the advances already made to him, said that he was unwilling that deponent should, as in former years, deliver as large a quantity of firewood, it having before that time been the practice to lay in during the summer season a quantity nearly sufficient for the whole year; that during the last summer up to the 10th day of October last past, the deponent delivered at the said gaol upwards of 100 cords of said firewood; and that from the 10th day of October to the present time deponent has at different times delivered there 150 cords more; and that during the whole of this winter there has always been at the said gaol a quantity of firewood sufficient for the purpose of the said gaol. And the deponent further saith, that from his having had frequent occasion to visit the said gaol he became acquainted as well with the character and conduct of Edward Holland, keeper of the said common gaol, as with the mode in which the said gaol was managed; that although the said Edward Holland is a person of warm temper, yet the deponent never saw any harshness practised by him towards the prisoners confined in the said gaol, with the exception of strong expressions, which deponent considers almost excusable on account of the irritation produced by the demeanour of many of the prisoners, who are often unruly, and contemn the gaoler's authority; and that deponent has often heard persons who had been in the said Holland's custody acknowledge the kindness experienced at his hands. And the deponent further saith, that a cord of wood is a sufficient supply for a week for the use of a stove of a large size, even in severe weather; and that deponent has understood and believes that during the coldest season of the year from eight to ten cords of firewood have, for years past, been the total weekly consumption of wood for all the stoves in the said gaol; and deponent believes that there have been at least seven or eight stoves in constant use in the said gaol in the winter season. That the deponent did not know John Collins, who died in the said gaol in December last. And deponent further saith, that in the month of July last past, this deponent having in his hands a quantity of 45½ cords of firewood which he was willing to dispose of, informed the said Lewis Gagy thereof, with the view of ascertaining if he the said Lewis Gagy would permit the same to be taken under the contract for the purposes of the said gaol, and the said Lewis Gagy said that he did not



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wish that, but would purchase it for his own use; that thereupon this deponent sold the said wood to the said Lewis Gogy for his own use, and was paid for the same by the said Lewis Gogy out of his own means; that the deponent never included the said quantity of wood in his account against the sheriff for wood supplied for the use of the gaol; that the said Lewis Gogy, alleging that he had not room enough at his own house to receive the said quantity of wood, directed deponent to place it in the yard in rear of the gaol, which direction was followed by the deponent, the wood delivered for the use of the gaol having been placed during this last year in front of the said gaol; that deponent desired the gaoler and men employed to carry in the wood not to touch that quantity, as it was the private property of the said Lewis Gogy; and that deponent was informed by the gaoler, that upon the orders of the said Lewis Gogy he had sent the said quantity of wood bought by the said Lewis Gogy for his own use, partly to the said Lewis Gogy's house, and partly to the house of his daughter, Mrs. Willan; and the deponent further saith, that he has frequently seen at the said gaol, as well the said Lewis Gogy as Francis Perry, Esq., formerly his deputy, who, since the expiration of the Act authorizing the appointment of a deputy, has acted as the said Lewis Gogy's chief clerk, and that deponent conceives their visits were sufficiently frequent for the exercise of a wholesome control over the gaoler and subordinate officers of the said gaol.

(signed) *James Glassford.*

Sworn before me, at Montreal, the day and year first above written.

(signed) *George Pyke, J. K. B.*

No. 5.—Deposition of Mr. *James Terroux.*

Province of Lower Canada, District of Montreal.

On the 15th day of April, in the year of our Lord 1836, personally came and appeared before me, the Hon. George Pyke, one of the justices of his Majesty's Court of King's Bench for the district of Montreal, James Terroux, of the city of Montreal in the said district, gentleman, who being duly sworn, maketh oath and saith, that since September in the year of our Lord 1834 deponent has been a permanent clerk in the office of the Hon. Lewis Gogy, sheriff of the said district of Montreal, and that for about two years before that time he was occasionally employed in the said office; that the books of accounts and accounts of receipts and expenditure in the office of the said sheriff have been during all the time aforesaid exclusively kept in his own room by Francis Perry, of Montreal, esq., now the principal clerk of the said Lewis Gogy, and during the subsistence of the Act of Parliament authorizing such appointment the deputy sheriff of the said district; that the said Francis Perry was some years ago admitted as an advocate at the bar of this province, and from his legal knowledge and the great experience in such matters acquired by the said Francis Perry during more than 10 years in the sheriff's office of the said district, as well while the said Lewis Gogy has been sheriff as in his predecessor's time, the said Francis Perry is, in the opinion of deponent, eminently well qualified to keep the said accounts and to render every other assistance which the said Lewis Gogy from the number and variety of his duties necessarily requires; that the said books of account are familiarly in the office called Mr. Perry's books; and that the said Lewis Gogy has not kept any books of account or accounts relative to the affairs of his said office, as he has always placed well-merited confidence in the regularity and integrity of the said Francis Perry; that besides the unremitting assistance of the said Francis Perry and of this deponent, the said sheriff in the execution of his various duties is forced to depend upon the aid of two other clerks, of the gaoler, and many bailiffs and other inferior officers; and deponent further saith, an accurate return of the official income of the said sheriff could not be made without great labour and a familiar acquaintance with the books and accounts kept by the said Francis Perry, and from the manner in which the said books and accounts are kept, deponent is of opinion that nobody but the said Francis Perry could make therefrom such accurate statement; the deponent is perfectly satisfied that the said Lewis Gogy personally could not by means of the said books and accounts make an accurate return of his official income; that the amount of the official income of the said office fluctuates yearly in some degree, as its amount is more or less according to the extent of property sold in execution during the year, the said sheriff being entitled by law to a poundage of 2 l. 10 s. per cent. on the proceeds of such sales.

(signed) *James Terroux.*

Sworn before me, the day and year above written, at Montreal.

(signed) *George Pyke, J. K. B.*

No. 6.—Deposition of *T. Bertrand.*

District de Montreal.

Toussaint Bertrand, un des hommes du guet de la cité de Montreal, après serment prêté sur les Saints Evangiles, dépose et dit, que les nommés William Stuart, Charles Fortier et John Collins sont dans l'habitude de venir se réfugier à la maison du guet, et souvent dans un état



état d'ivresse; qu'ils sont tous trois errants et vagabonds; qu'ils sont ramassés presque toutes les nuits par les hommes de guets de la dit cité, qu'ils sont exposés à périr de froid et de misère, étant dans un état de nudité presque complet; qu'ils sont une nuisance publique. Pourquoi il demande qu'ils soient confinés et traités suivant la loi en pareil cas.

Correspondence  
respecting  
Mr. Guky.

sa

*Toussaint* × *Bertrand*.

marque.

Assermenté à Montreal, pardevant moi ce 27 Novembre 1835.

(signé) *James Millar, J. P.*

No. 7.—Record of the Conviction of *Charles Wheeler* for Grand Larceny.

Province of Lower Canada, District of Montreal.

Be it remembered, that at His Majesty's Court of King's Bench, begun and holden at the court-house in the city of Montreal, in the district of Montreal aforesaid, in the province of Lower Canada, for the trial of crimes and criminal offences, on Thursday the 25th day of February 1836, and continued by adjournment until Thursday the 10th day of March of the same year, before the Honourable James Reid, chief justice of the said court, and the Honourable George Pyke and Samuel Gale, esquires, justices of the said court, assigned to hold pleas before the King himself, and also to hear and determine divers felonies, trespasses and other misdeeds in the said district committed, upon the oath of Austin Cuvillier, Charles Lambert Dumont, Joseph Antoine Gagnon, John Hetrick, Etienne Guy, John Torrance, Edouard M. Leprohon, John Fisher, John Crebassa, Peter Morgan, Olivier Berthelet, John Clarke, François Coyteux, Urgele Archambauet, Thomas M. Smith, Pierre Edouard Leclerc, George D. Arnoldi, John Jamieson and Andrew Shaw, good and lawful men of the district of Montreal aforesaid, then and there sworn and charged to inquire for our said Lord the King for the body of the said district, it is presented in manner and form as follows; that is to say,

Province of Lower Canada, District of Montreal.

At His Majesty's Court of King's Bench for the district of Montreal, begun and holden at the court-house in the city of Montreal, for the cognizance of all crimes and criminal offences, on Thursday the 25th day of February in the sixth year of the reign of our Sovereign Lord William the Fourth, by the grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, before the Honourable James Reid, esquire, chief justice of the said Court of King's Bench, and the Honourable George Pyke, Jean Roch Rolland and Samuel Gale, esquires, justices of the same court.

Montreal, to wit.—The jurors for our Lord the King, upon their oath, present that Charles Wheeler, late of the parish of Montreal, in the county of Montreal, in the district of Montreal, labourer, on the 27th day of November in the sixth year of the reign of our Sovereign Lord William the Fourth, by the grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, 12 shawls, of the value of 2 *l.* sterling money of Great Britain; nine stocks, of the value of 12 *s.* sterling money aforesaid; three caps, of the value of 5 *l.* sterling money aforesaid; three pair of gloves, of the value of 20 *s.* sterling money aforesaid; one pair of shoes, of the value of 6 *s.* sterling money aforesaid; three books, of the value of 5 *s.* sterling money aforesaid; two pieces of soap, of the value of 6 *d.* sterling money aforesaid; one purse, of the value of 3 *s.* sterling money aforesaid; and six spoons, of the value of 3 *s.* money aforesaid, of the goods and chattels of John Ogilvie Brown, then and there being found, then and there feloniously did steal, take and carry away, against the peace of our said Lord the King, his Crown and dignity.

(signed) *A. M. Delisle*, Clerk of the Crown.  
*C. R. Ogden*, Attorney-General.

Whereupon the said Charles Wheeler, under the custody of Lewis Guky, sheriff of the said district, (into whose custody in the gaol of our said Lord the King of the district aforesaid, for the cause aforesaid, he was before committed) being brought to the bar here in his proper person, who is committed to the said sheriff for the said district, and him the said Charles Wheeler forthwith concerning the premises in the said indictment above specified and charged on him as above, being asked in what manner he would be acquitted thereof, saith that he is not guilty thereof; and hereupon, for good and ill, he puts himself upon the country, and Charles Richard Ogden, esquire, attorney-general, who presents for our said Lord the King, doth the like, whereupon the said Charles Wheeler is remanded to the common gaol of the district aforesaid, and afterwards, to wit, on the 29th day of February 1836, the said Charles Wheeler being brought to the bar, before the said justices of the said court

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under the custody of the said Lewis Gogy, esquire, sheriff of the said district, and being ready for his trial; therefore let a jury thereupon immediately come before our justices of our said Lord the King last above named here, by whom the truth of the matter may be better known, and have no affinity to the said Charles Wheeler, to recognise upon their oath whether the said Charles Wheeler be guilty of the premises in the indictment aforesaid above specified or not; because as well the said Charles Richard Ogden, esquire, attorney-general as aforesaid, who presents as aforesaid, as the said Charles Wheeler, put themselves upon the said jury; and the jurors of the said jury by the said sheriff for this purpose impanelled and returned, to wit, Antoine Boivin, James Parks, Charles Groux, Pierre Groux, Michel Gaudry dit Boerbonniere, Daniel Moorin, George Coldie, Samuel Sneddon, George Etherington, Laurent Dufresne, Augustin Crevier and Joseph Ledue, being called, come, who being chosen, tried and sworn to speak the truth of and upon the premises aforesaid in the indictment aforesaid above specified, do say upon their oath that the said Charles Wheeler is guilty of the felony and robbery aforesaid in the indictment specified charged upon him above, in manner and form as by the said indictment above against him is supposed; and upon this it is required by the court here if the said Charles Wheeler hath or knows anything to say for himself why the court here ought not to proceed to judgment and execution concerning him upon the said verdict, and the said Charles Wheeler pleads benefit of clergy, which is granted; whereupon all and singular the premises being seen and understood by the court here, it is considered and adjudged that the said Charles Wheeler be taken from hence to the common gaol of this district, and that he be therein confined during the space of six calendar months.

A. M. Delisle, Clerk of the Crown.

No. 8.—Record of the Conviction of *Antoine Hoyer*, of Sacrilege.

Province of Lower Canada, District of Montreal.

BE it remembered, that at His Majesty's Court of King's Bench, begun and holden at the court-house, in the city of Montreal, in the district of Montreal aforesaid, in the province of Lower Canada, for the trial of crimes and criminal offences, on Thursday the 25th day of February 1836, and continued by adjournment until Thursday the 10th day of March of the same year, before the Honourable James Reid, chief justice of the said court, and the Honourable George Pyke and Samuel Gale, esquires, justices of the said court, assigned to hold pleas before the King himself, and also to hear and determine divers felonies, trespasses and other misdeeds in the said district committed, upon the oath of Austin Cuvillier, Charles Lambert Dumont, Joseph Antoine Gagnon, John Hetrick, Etienne Guy, John Torrance, Edouard M. Lepuhon, John Fisher, John Crebassa, Peter Morgan, Olivier Berthelet, John Clarke, François Coyteux, Urgele Archambault, Thomas M. Smith, Pierre Edouard Leclerc, George D. Arnoldi, John Jamieson, and Andrew Shaw, good and lawful men of the district of Montreal aforesaid, then and there sworn and charged to inquire for our said Lord the King for the body of the said district; it is presented in manner and form as followeth; that is to say,

Province of Lower Canada, District of Montreal.

At His Majesty's Court of King's Bench for the district of Montreal, begun and holden at the court-house in the city of Montreal, for the cognizance of all crimes and criminal offences, on Thursday the 25th day of February, in the sixth year of the reign of our Sovereign Lord William the Fourth, by the grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, before the Honourable James Reid, esq., chief justice of the said Court of King's Bench for the district of Montreal and the honourable George Pyke, Jean Roch Rolland, and Samuel Gale, esquires, justices of the same court.

Montreal, to wit.—The jurors for our Lord the King, upon their oath, present that Antoine Moyen, late of the parish of Sainte Anne of Verennes, in the county of Verchers, in the district of Montreal, labourer, on the 5th day of October, in the sixth year of the reign of our Sovereign Lord William the Fourth, by the grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, about the hour of nine in the night of the said day, with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, a certain church there situate, commonly called the church of Sainte Anne of Verennes, feloniously and burglariously did break and enter, and one taper, of the value of 1*d.* sterling money of Great Britain; two surplices, of the value of 30*s.* sterling money aforesaid; one cord belt, of the value of 2*s.* sterling money aforesaid; four sashes, of the value of 30*s.* sterling money aforesaid, of the goods and chattels of the parishioners of the said parish of Sainte Anne of Verennes, (in the custody of Louis Beauchamp, Augustin Jaudin, Antoine Jaudin and Louis Prevost, then churchwardens of the said parish) in the said church then and there being found, then and there feloniously and burglariously did steal, take and carry away, against the peace of our said Lord the King, his Crown and dignity.

And the jurors aforesaid, upon their oath aforesaid, do further present that the said Antoine Moyen, on the said 5th day of October in the sixth year aforesaid, about the hour

of

of nine in the night of the same day, with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, a certain church there situate, commonly called the church of Sainte Anne of Verennes, feloniously and burglariously did break and enter, and one taper, of the value of 1*d.* sterling money aforesaid; two surplices, of the value of 30*s.* sterling money aforesaid; one cord belt, of the value of 2*s.* sterling money aforesaid; four sashes, of the value of 30*s.*, sterling money aforesaid, of the goods and chattels of one Jean Baptiste Prevost, then and there being found, then and there feloniously and burglariously did steal, take and carry away, against the peace of our said Lord the King, his Crown and dignity.

And the jurors aforesaid, upon their oath aforesaid, do further present that the said Antoine Moyon, on the said 5th day of October in the sixth year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, one taper, of the value of 1*d.* sterling money aforesaid; two surplices, of the value of 30*s.* sterling money aforesaid; one cord belt, of the value of 2*s.* sterling money aforesaid; four sashes, of the value of 30*s.* sterling money aforesaid, of the goods and chattels of the parishioners of the said parish of Sainte Anne of Varennes, (in the custody of Louis Beauchamp, Augustin Jaudoin, Antoine Jaudoin and Louis Prevost, then churchwardens of the said parish) in the church of the said parish then and there being found, then and there feloniously and sacrilegiously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of our said Lord the King, his Crown and dignity.

And the jurors aforesaid, upon their oath aforesaid, do further present that the said Antoine Moyon, on the said 5th day of October in the sixth year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, one taper, of the value of 1*d.* sterling money aforesaid; two surplices, of the value of 30*s.* sterling money aforesaid; one cord belt, of the value of 2*s.* sterling money aforesaid; four sashes, of the value of 30*s.* sterling money aforesaid, of the goods and chattels of one Jean Baptiste Prevost, then and there being found in the church of the said parish of Saint Anne of Varennes, then and there feloniously and sacrilegiously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of our said Lord the King, his Crown and dignity.

(signed) A. M. Delisle, Clerk to the Crown.  
C. R. Ogden, Attorney-General.

Whereupon the said Antoine Moyon, under the custody of Lewis Gogy, sheriff of the said district, (into whose custody in the gaol of our said Lord the King of the district aforesaid, for the cause aforesaid, he was before committed,) being brought to the bar here, in his proper person, who is committed to the said sheriff for the said district, and him the said Antoine Moyon forthwith concerning the premises in the said indictment above specified and charged on him as above, being asked in what manner he would be acquitted thereof, saith that he is not guilty thereof; and for good and ill he puts himself upon the country, and Charles Richard Ogden, esquire, attorney-general, who presents for our said Lord the King doth the like; therefore let a jury immediately come before our justices of our said Lord the King last above named here, by whom the truth of the matter may be better known, and have no affinity to the said Antoine Moyon, to recognise upon their oath whether the said Antoine Moyon be guilty of the premises in the indictment aforesaid above specified or not; because as well the said Charles Richard Ogden, esquire, attorney-general as aforesaid, who represents as aforesaid, as the said Antoine Moyon, put themselves upon the said jury; and the jurors of the said jury by the said sheriff for this purpose impanelled and returned, to wit, Daniel Gorrie, William Adams, John Riddel, William Porter, John Orr, Edward Perry, Richard Wright, James Hodge, William Taylor, George Coldie, Robert Hislop, and Edward Moore, being called, come, who being chosen, tried, and sworn to speak the truth of and upon the premises aforesaid in the indictment aforesaid above specified, do say upon their oath that the said Antoine Moyon is guilty of the felony and robbery aforesaid in the indictment specified, charged upon him above, in manner and form as by the said indictment above against him is supposed; and upon this it is required by the court here of the said Antoine Moyon if he hath or knows anything to say for himself why the court here ought not to proceed to judgment and execution concerning him upon the said verdict, who says nothing besides what at first he had said; whereupon all and singular the premises being seen and understood by the court here, it is considered by the court here that judgment of death be not pronounced by the court here against the said Antoine Moyon, but be recorded against him the said Antoine Moyon, and is now recorded in the manner and form following; that is to say, That the said Antoine Moyon be taken from hence to the common gaol of this district from whence he came, and from thence to the common place of execution of this district, and that he be then and there hanged by the neck until he be dead.

A. M. Delisle, Clerk of the Crown.

No. 9.—*The King v. Edward Holland.*—Indictment for Murder.

Court of King's Bench, Montreal.

Province of Lower Canada, District of Montreal.

At His Majesty's Court of King's Bench for the district of Montreal, begun and holden at the court house in the city of Montreal, for the cognizance of all crimes and criminal offences,

Correspondence  
respecting  
Mr. Gogy.

offences, on Thursday the 25th day of February, in the sixth year of the reign of our Sovereign Lord William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, before the Hon. James Reid, esq., chief justice of the said Court of King's Bench, and the Hon. George Pyke, Jean Roch Rolland and Samuel Gale, esquires, justices of the same court.

Montreal, to wit.—The jurors for our Lord the King, upon their oath, present that Edward Holland, late of the parish of Montreal, in the county of Montreal, in the district of Montreal, esquire, from the 27th day of November, in the sixth year of the reign of our Sovereign Lord William the Fourth, by the grace of God, of the United Kingdom of Great Britain and Ireland King, Defender of the Faith, to the 9th day of December next following, and long before and after, was keeper of the common gaol for the district of Montreal aforesaid, situated in the parish of Montreal, in the county and district of Montreal aforesaid; and that the said Edward Holland being a person of a cruel nature and savage disposition towards the prisoners then being in the said gaol, on the said 27th day of November, in the sixth year aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, made an assault upon one John Collins, then being a prisoner in the same gaol, under the custody of the said Edward Holland, and him the said John Collins then and there with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, unlawfully, feloniously, wilfully and of his malice aforethought, and without the consent of the said John Collins, took, and him with force and arms to a certain room within the gaol aforesaid, then being moist, cold and unwholesome, unlawfully, feloniously, and of his malice aforethought, conveyed and led, and him the said John Collins, with force and arms, at the parish aforesaid, in the county and district aforesaid, in the said room for a long time, to wit, for the space of 15 days then next following, unlawfully, feloniously, and of his malice aforethought, imprisoned and detained, and him the said John Collins then and there with force and arms, at the parish aforesaid, in the county aforesaid, in the district aforesaid, for all the time last-mentioned, in that room without fire, without covering, without bed and bedding, and without food, unlawfully, feloniously, and of his malice aforethought, forced to remain and be; the said room, and the walls and floor thereof, at the aforesaid time of the imprisonment of the said John Collins in the same being very moist and cold, and the windows thereof being broken open and pervious to the air, by reason whereof the room aforesaid was very unwholesome, and greatly dangerous to the life of any person detained in the same.

And the jurors aforesaid, upon their oath aforesaid, do further present that the said Edward Holland at the same time of the imprisonment of the said John Collins in that room, well knew that the said room, and the walls and floor thereof, were then very moist and cold, and that the windows thereof were broken, open and pervious to the air; and that the said John Collins, during the imprisonment and detaining of the said John Collins as aforesaid in the said room, to wit, on the 9th day of December, in the sixth year aforesaid, at the parish aforesaid, in the county aforesaid, in the district aforesaid, by duress of the said imprisonment and detaining became sick, and thereby from the same 9th day of December until the 10th day of December in the said sixth year, at the parish aforesaid, in the county aforesaid, in the district aforesaid, in the room aforesaid, languished, on which the said 10th day of December, in the sixth year aforesaid, the said John Collins, by duress of the imprisonment and detaining aforesaid, in the room aforesaid, at the parish aforesaid, in the county aforesaid, in the district aforesaid, died. And so the jurors aforesaid, upon their oath aforesaid, do say that the said Edward Holland him the said John Collins, in the manner and by the means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of our said Lord the King, his Crown and dignity.

(signed) C. R. Ogden, Attorney-General.  
A. M. Delisle, Clerk of the Crown.

Witnesses :

(signed) Daniel Arnoldi, Esq., M.D. Charles Wheeler.  
Charles Fortier. Pierre Jacques Beaudry.  
Antoine Moyen.

(No bill.)

(True copy.) Austin Cuvillier, Foreman.  
A. M. Delisle, Clerk of the Crown.

No. 10.—EXTRACT from the Presentment of the Grand Jury to the Court of King's Bench holding Criminal Jurisdiction for the District of Montreal, in the February and March Criminal Term 1836, respecting the Death of Collins.—Filed 10th March 1836.

AMONG the subjects which have occupied the attention of the grand jury was a bill of indictment for murder, preferred by His Majesty's attorney-general against Edward Holland, keeper of the common gaol of this district. The evidence furnished by the Crown officer, as well as that called for by the grand jury, was insufficient to fix any guilt on the accused. But the grand jury cannot dismiss this subject without adverting to the causes as they appeared in evidence which led to the death of the unfortunate prisoner, John Collins. When the prisoner was committed as a vagrant he was badly clothed, and in a state of great debility;

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debility; and the grand jury have it in evidence, that such was the ruined state of his constitution from habitual intemperance and misery that he could not have long survived, even if provided with all the comforts of life. But there can be no doubt that from the state of destitution in which the prison then was, and still is, as regards the necessary bed-clothing, and the manner in which the heat is introduced into the cells from the stove in the centre of the ward, his death might have been accelerated; for the grand jury have called before them prisoners who were his companions in the cell, and are still in confinement, who must have suffered equally with the deceased at that particular period, which was the coldest experienced this winter, and they appeared robust and in good health.

The grand jury considered it their duty to examine the sheriff and his principal clerk upon the indictment in question, and from them learned that an application had been made to his Excellency the Governor-in-Chief as early as the 7th day of November last, being more than a month before Collins died, for the means of procuring firewood, blankets and bedding for the prisoners, which means were furnished only to the extent of 50 l. sterling, on the 12th of December, being two days after the death of Collins; a sum of 150 l. was subsequently received by the sheriff for these purposes; the whole of which sums have been already expended, and that functionary has been forced to make further advances from his private resources, although it would appear that he has not yet been reimbursed by the Legislature for a large amount previously advanced for the support of the prisoners.

The grand jury have visited the gaol and found the tenement in a state of dilapidation impossible for them to describe within the limits of a presentment. They would therefore urge the imperative necessity which exists for the removal of the prisoners to the new gaol, which the grand jury have ascertained by evidence might be ready early in April for their reception, provided the small amount of money required for its completion were advanced under the sanction of Legislative authority, or upon the responsibility of the Executive, and when that removal shall have been effected, the grand jury hope that the classification of prisoners, so frequently recommended by former grand juries, will be carried into effect.

Grand Jury Room, 10 March 1836.

(signed)	<i>Austin Cuwillier</i> , foreman.	<i>E. Masson.</i>
	<i>Charles Lambert Dumont.</i>	<i>O. Berthelet.</i>
	<i>J. A. Gagnon.</i>	<i>John Clarke.</i>
	<i>John Hittrick.</i>	<i>T. Mitchell Smith.</i>
	<i>Etienne Guy.</i>	<i>P. E. Leclerc.</i>
	<i>E. M. Leprohon.</i>	<i>G. D. Arnoldi.</i>
	<i>John Fisher.</i>	<i>J. Jamieson.</i>
	<i>Peter Morgan.</i>	

(A true copy.)

(signed) *A. M. Delisle*, Clerk of the Crown.

No 11.—TARIFF OF FEES.

Court of King's Bench, Wednesday, 7 June 1815.

Present:—The Honourable James Reid, the Honourable L. C. Foucher, Esquires, Judges.

WHEREAS an Act of the provincial Parliament, passed in the 41 Geo. 3, c. 7, clause 17, intituled "An Act to amend certain Forms of Proceedings in the Court of Civil Jurisdiction in this Province, and to facilitate the Administration of Justice," hath authorized this court to sit and establish such fees as may be reasonable and just to be taken by the several officers of this court, employed in and about suits at law; it is therefore ordered, that all rules and orders of this court heretofore made respecting the fees to be claimed and taken in this court by the officers of the same be, and the same are hereby rescinded, (except the fees allowed to the bailiffs by the order of the 20th February last, which said order continues to remain in force,) and that the said officers who may be employed in any civil suit now pending, or hereafter to be prosecuted or defended in this said Court, shall and may claim and take the respective fees hereafter mentioned to be taxed in any suit for several duties and services performed in such suits, and no others, under the penalty of a contempt of the court, and being further liable to the party injured for his damages in that respect ascertained.

SHERIFF'S FEES.

	£.	s.	d.
Art. 1. For the service of every writ of summons, including a copy of the same, in personal actions, not exceeding 20 l. currency	-	-	5 -
Art. 2. For the like, in actions above 20 l. currency, and not exceeding 30 l. currency	-	-	6 8
Art. 3. For the like, in actions above 30 l. currency, and in real and mixed actions	-	-	8 4
Art. 4. For every additional copy, when more than one defendant, one-half more.			

Correspondence respecting Mr. Guky.	Art.	Description	£.	s.	d.
	5.	For the service of every writ of attachment or saisie arrêt, saisie gagerie or entiercement (writs of attachment in the hands of third persons after judgment excepted), exclusive of the service of summons as above regulated - - - - -	-	6	8
	6.	For the service on tiers saisie of every writ of attachment after judgment (the service of summons to the said tiers saisie included), exclusive of the service of summons on the defendant - - - - -	-	3	4
	7.	The same fee for such service on every other tiers saisie when more than one - - - - -	-	3	4
	8.	Warrant on every such writ and on every execution against the chattels, the body or real property - - - - -	-	2	6
	9.	For the service of every writ of <i>capias ad respondendum</i> , exclusive of the warrant and of the service of summons, according to the above cases - - - - -	-	6	8
	10.	For drawing and engrossing a bail-bond and execution thereof - - - - -	-	6	-
	11.	For the assignment of the same - - - - -	-	2	6
	12.	For the service of a <i>venire facias</i> for a special jury - - - - -	-	2	-
	13.	Ditto in causes above 50 <i>l.</i> - - - - -	-	2	10
		The above to include all the duties on such service together with the returns.			
	14.	For every return of <i>nulla bona</i> or <i>non est inventus</i> , on every writ of execution - - - - -	-	3	4
	15.	For the execution of every order to re-deliver goods attached, or for the discharge of a person arrested - - - - -	-	5	-
	16.	For the entry of every opposition - - - - -	-	5	-
	17.	For the return of the same - - - - -	-	2	6
	18.	For the return of every writ of execution when proceedings have been had thereon, with the said proceedings - - - - -	-	5	-
	19.	For the service, levy and sales, on every execution, whereby chattels or realties have been sold, two and a half per cent on the amount of sale.			
	20.	For every deed of sale of lands not exceeding 30 <i>l.</i> currency - - - - -	-	1	-
	21.	For ditto above 30 <i>l.</i> currency, and not exceeding 100 <i>l.</i> - - - - -	-	1	10
	22.	For ditto above 100 <i>l.</i> - - - - -	-	2	-
	23.	For the service of a writ of possession and return - - - - -	-	1	3
	24.	For ditto with the aid of <i>posse comitatus</i> - - - - -	-	2	6
	25.	For drawing advertisements and copies for the printer, and to publish at the church door - - - - -	-	16	8
	26.	Ditto conditions of sale - - - - -	-	6	8

A true extract from register of Court of King's Bench for the District of Montreal.

(signed) *Monk and Morrogh*, Prothonotaries.

No. 12.—Deposition of *John Boston*.

Province of Lower Canada, District of Montreal.

On the 10th day of May in the year of our Lord 1836, personally came and appeared before me, the Hon. James Reid, chief justice of His Majesty's Court of King's Bench for the district of Montreal, John Boston of the city of Montreal, esq., who being duly sworn, maketh oath and saith, that he has been practising as a barrister in this province for the space of 26 years now last past, during which time he has chiefly acted professionally within the said district of Montreal. That this deponent having been, during the period aforesaid, engaged in extensive practice, has had good opportunities for observing how the office of sheriff for the said district has been fulfilled, and the deponent conscientiously bears testimony to the regularity, honesty, and integrity with which Lewis Guky, esq., now sheriff of the said district has executed the various and highly responsible duties of his office. And the deponent further states that, in his estimation, Francis Perry, esq. some time deputy of the said sheriff, and subsequently his chief clerk, and since the late Act of the Provincial Parliament again appointed as his deputy, is a gentleman possessed of valuable estate, worthy of all confidence, and eminently qualified not only to keep the pecuniary accounts of the said Lewis Guky, but also to assist him in other departments of his said office.

(signed) *John Boston*.

Sworn before me, at Montreal, this 10th day of May 1836.

(signed) *James Reid*, Chief Judge, K. B.

No. 13.—Deposition of *B. J. Schiller*.

On the 10th day of May in the year of our Lord 1836, at the city of Montreal, in the province of Lower Canada, personally came and appeared before me, the Hon. George Pyke, one of the justices of the Court of King's Bench for the district of Montreal, Benjamin J. Schiller, of the city of Montreal, gentleman, who being duly sworn, maketh oath and

and saith, that he has known the Hon. Lewis Guky, sheriff of the said district of Montreal for upwards of 30 years; that during the last war with the United States of America this deponent served as an officer, at first as lieutenant and afterwards as captain in the third battalion of Incorporated Militia; and that for the last two years of the said war the said Lewis Guky was lieutenant-colonel commanding the said battalion, and that he had much influence over the said battalion, arising from the kind and proper treatment which they experienced at his hands.

Correspondence  
respecting  
Mr. Guky.

(signed) B. J. Schiller.

Sworn before me, this day and year above written.

George Pyke, J. K. B.

— No. 2. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Gosford*.

My Lord,

Downing-street, 16 Nov. 1836.

I HAVE had the honour to receive your despatch of the 11th of August last, relative to the case of Mr. Guky. To that communication and the numerous documents by which it is accompanied, I have given the most attentive consideration.

In proceeding to acquaint you with the view which I have taken of the charges preferred against Mr. Sheriff Guky by the House of Assembly, I may observe that, unlike the cases of several of the other public officers of the province whose dismissal has been called for by the House, that of Mr. Guky is connected with no political question or subject of public controversy, the settlement of which would necessarily be preliminary to, or at all events concurrent with a decision on its merits. There is no reason, therefore, why I should postpone the review of a case which your Lordship has placed before me in a most complete and satisfactory shape.

The charges preferred against Mr. Guky have arisen out of the proceedings of two committees of the House of Assembly; the one appointed to inquire concerning the fees and emoluments of judicial officers, the other to inquire into the circumstances attending the death of a person named Collins in the common gaol of Montreal, and further to inquire into the state of that gaol.

The result of these investigations, so far as they implicate Mr. Guky, has been embodied by the Assembly in the same address to your Lordship, but it is necessary that I should advert to them separately. They are, in truth, entirely distinct from each other.

1. The first series of charges against Mr. Guky relate to the returns of his emoluments which he has furnished for insertion in the Blue Book, and to the nature of the evidence given by him before the committee on judicial fees.

Under this head he is accused by the Assembly of having purposely, deliberately and corruptly deceived the Government of the province, and of having practised towards it a system of fraud and deceit, in having concealed from its knowledge a great part of the emoluments of his office by furnishing unfair and false returns thereof for several successive years.

To this accusation Mr. Guky replies, that the yearly returns alluded to were as nearly accurate as he could make them, from the imperfect notes or memoranda of his accounts which he kept privately; that he is not capable of keeping what are called regular books of accounts, and that if he has fallen into error, it was unconsciously.

With this explanation I am far from being satisfied.

The returns furnished by Mr. Guky for the Blue Book, for the five years from 1830 to 1834, inclusive, give an average income of 1,382 *l.* 9 *s.* 2 *d.* currency per annum. It is not stated in these returns whether the amount so returned of the sheriff's emoluments was gross or net. The committee seem, however, to have arrived at the conclusion that it was intended to represent the gross amount of the sheriff's emoluments, and Mr. Guky does not dispute the correctness of their decision on that point.

The expenses of the office, stated by Mr. Guky himself to amount to 514 *l.* a year, being therefore deducted from the above average would, according to the Blue Book, leave the net annual amount of the sheriff's emoluments at the sum of 868 *l.* 9 *s.* 2 *d.*



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Mr. Gogy.

It is proved by evidence adduced before the committee that the annual net income of the sheriff during the years in question was 1,999 *l.* 0 *s.* 2 *d.* currency.

The discrepancy between these two sums is so great that it is scarcely possible to suppose that the returns furnished by the sheriff for the Blue Book were made in error; that year after year the same error was committed; that the amount of his emoluments were "unconsciously," and yet systematically, placed at a scale under one-half of their actual amount.

In his examination before the committee, Mr. Gogy stated that he thought the gross income of his office exceeded 2,000 *l.* In his defence addressed to you he endeavours to explain away the inference, which is so readily deducible from this admission when contrasted with his annual return to the Government, by averring that he could not have made that statement "but from a recent investigation of his affairs having afforded him some insight into the extent of his income." I am thus to understand that, not only did Mr. Gogy live from year to year in perfect ignorance of the extent of his income, but that, in preparing his annual return he had taken no trouble to ascertain its real amount, and that it was an accidental investigation of his affairs that enabled him to arrive at that knowledge.

Upon this attempt at explanation, I make no further comment than that I think His Majesty's Government were entitled to more respect from the sheriff of Montreal, and that he has evinced anything but a praiseworthy disposition to requite that confidence on their part to which he must have been indebted for his appointment.

Yet Mr. Gogy states in his defence, that his annual returns were as perfect as he was able to make them from his private memoranda. It is difficult to reconcile this assertion with the evidence of Mr. Perry, his chief clerk, who stated to the committee that not only were all the fees of the sheriff regularly entered in books kept for that purpose, but that these books were so kept with the knowledge of the sheriff.

Although, therefore, Mr. Gogy was aware that an entry of all his official receipts was regularly made by Mr. Perry, whom he styles in his defence his "confidential book-keeper," yet when Mr. Perry was asked by the committee from what materials the sheriff made his annual return to the Government, the answer was, "I do not know how the sheriff made the returns alluded to, I have not made any."

I must own also that I can place no favourable construction on Mr. Gogy's statement, that he is unable to keep what are called regular books of account. For all the purposes which the present question involves, the most simple rules of arithmetic would have amply sufficed. If Mr. Gogy professes his ignorance of these, I must assume his inefficiency for the discharge of many of the duties of his office. In his capacity of sheriff he is charged with the realizing and custody of large sums of money; he is entitled to the receipt of a commission on sales of goods and lands under writs of execution. To calculate that commission, to administer the deposits placed officially in his hands, must surely require as much knowledge of accounts as the mere entry and addition of his receipts of office.

The address of the Assembly next declares "that by the said system of fraud and deceit so practised by the said L. Gogy towards His Majesty's Executive Government in this province, he deliberately and corruptly allowed the said Government to remain ignorant that a portion of His Majesty's subjects were taxed by a mere tariff of fees made by the Court of King's Bench to an enormous amount, and at a rate utterly disproportionable to the services by him performed."

With regard to this resolution, Mr. Gogy complains that the exercise of his just rights, as established by law, is imputed to him as a crime.

This interpretation of the terms of the resolution, is I think unfair. The legality of the fees which he received is not once questioned throughout the whole proceedings of the committee. I collect that the investigations of that body were undertaken with the view of determining whether the amount of fees received by several judicial officers was not disproportionate to their services, and that in their inquiries with regard to the office of sheriff of Montreal they found, on reference to the Blue Book, the amount of his income recorded on a scale which tended at least to mislead, if not defeat them in the object of their inquiries.

The next resolution charges Mr. Gogy with having wilfully and maliciously given false evidence before the committee, and that by such false evidence he intended

intended to conceal from the knowledge of the House the enormous and disproportionate amount of his fees and emoluments as sheriff.

The substance of Mr. Guky's defence on this point is, that his statement before the committee that the gross amount of his income was upwards of 2,000 £., nearly corresponded with the result of the investigations of the committee which placed his net income at 1,999 £., and he pleads the disadvantages under which he laboured, in being called upon to make an answer on the subject suddenly and "at a distance from his office, without his papers or his confidential book-keeper and clerk." To the striking discrepancy between the amount of his income so stated by Mr. Guky under all these disadvantages, and the amount as annually returned by him for the Blue Book, I have already adverted.

The charge of false evidence is grounded more exclusively, however, on that part of Mr. Guky's examination where he declares that, even if he were in his office, he does not think that he could state what the amount of the gross income of his office was; that he did not keep a separate book of receipt for each of the sources of his income; that he could not furnish a statement of these several sources, even if he were in his office; that he did not keep a general book of receipts, but that he had the means of ascertaining the income of the office when necessary.

Contrasting the nature of this evidence, so contradictory in itself, with that which was given before the committee, by Mr. Perry, who not only asserted that books were kept in the sheriff's office, with Mr. Guky's cognizance, from which exact statements of his fees could have been made, but who actually prepared and produced to the committee such statements in detail, and bearing in mind that not the least doubt is attempted to be thrown on the correctness of Mr. Perry's evidence, I must confess myself at a loss in what light to view the evidence of Mr. Guky.

Indeed it is impossible for me to regard the whole of the circumstances arising out of this investigation otherwise than with pain. Without participating in the attacks which the Assembly have made upon Mr. Guky's motives, and which so far as he is charged with malice and corruption, are warranted neither by the evidence nor the necessity of the case, I am bound to admit that the result of the inquiries by the committee is not creditable to Mr. Guky. The systematic return of his emoluments at less than one-half of their actual amount; that return made, too, with an apparent regard to fractional sums, and otherwise evidently intended to bear the marks of accuracy; his declared inability to supply statements for which he knew that there existed ample materials; his own acknowledged ignorance of the simplest form of account; the contradictory and unsatisfactory nature of his evidence before the committee; all assure me that if Mr. Guky has not been actuated by a wish to deceive the Government, or is not equal to the proper discharge of his duties, he has at least been guilty of a laxity of conduct and expression which I consider to be highly reprehensible in any public servant, and particularly in one holding the responsible office which Mr. Guky holds.

2. I now pass to the charges which have been brought against Mr. Guky, in connexion with the death of the prisoner Collins, and the state of the gaol in Montreal.

I gather from the papers before me that Collins was committed to gaol as a vagrant on the 27th of November last. The information on which the warrant for his commitment was granted describes him as being almost naked and likely to perish from cold and want. On the evening of the 9th of December he became so ill that the physician to the gaol was called in, when it was found impossible to relieve him, and he died at an early hour on the following morning. A jury being summoned to hold an inquest on the body, there appeared as evidence three prisoners who occupied the same room in which Collins died, and who swore that he was shut up the previous evening without fire, without bed, and without any clothing in a very cold night, and in a room very much open to the weather.

These witnesses further declared that no measures were taken for securing the warmth of their apartment when locked up at night, and that they themselves were then suffering from a total want of beds, bedding, fuel and clothing, privations to which in a great measure they attributed the death of Collins. A certificate was also produced from the physician of the gaol, in which he stated

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that he had been called the previous day to see Collins, "who was in the last state of destitution, evidently sinking from the want of food and raiment."

Upon this evidence the jury found that the deceased "died through the want of food, and by cold and misery." A bill of indictment was in consequence preferred against the gaoler for the murder of Collins, but was ignored by the grand jury of the district. The matter was however taken up by the House of Assembly, who appointed a committee to inquire into the circumstances of the case and into the state of the gaol. The result of the investigations thus instituted has been to attribute the death of Collins in a great measure to the culpable negligence of the subordinate officers of the gaol, and to charge the sheriff with a violation of his duty in not superintending these subordinate officers with sufficient care, and in neglecting to see that the gaol was kept in proper order. He is also accused of having, in his examination before the committee, shown himself ignorant of the state, keeping, and management of the prison, and of having permitted the existence of various abuses and vicious regulations in the gaol without any attempt to remedy them.

Mr. Gogy commences his defence by complaining that the House of Assembly have attempted to impose upon him more arduous duties than legally belong to his office, many of them appertaining to the gaoler, and he contends that the law requires no more of him than such a general superintendence of the gaol as would produce a salutary control of the subordinate officers. But I cannot discover that the Assembly and Mr. Gogy are at all at variance with regard to the nature and extent of this part of the sheriff's duties.

It is not necessary, nor would it answer any useful purpose to attempt an inquiry into the immediate causes of Collins's death, further than as they involve the question of the alleged culpability of the gaoler, &c., and the inefficiency of the sheriff's superintendence. Confining myself within these limits, I observe that Mr. Gogy refers to the fact of the indictment of the gaoler for the murder of Collins having been quashed, and he contends that as the gaoler has been by that proceeding absolved from culpability, the charge of the Assembly against himself falls to the ground. He proceeds to complain, that the verdict of the coroner's jury rested entirely upon the evidence of three prisoners, who were not only confined on charges of a highly criminal nature, but must have had a natural inclination to vilify the character of the person in whose immediate custody they were placed.

Against the evidence of these prisoners, Mr. Gogy places the affidavits of Dr. Arnoldi and others which accompany his defence. The doctor deposes, that it was about the 1st of December, when attending another prisoner, that he first saw Collins staggering about the ward in which he was confined. That at that time Collins had no specific complaint, but, with a constitution completely worn out, he appeared to be declining so fast that the doctor considered him to be in the last stage of existence, and beyond the reach of medical aid; that his death was not purely ascribable to coldness in the cell, and that the gaol was always sufficiently well warmed. The other depositions referred to speak to a sufficient supply of fuel; and one of them, that of James Spears, who had known Collins for many years, represents him to have been a great drunkard, that his constitution had been ruined by intemperate habits, and that he was subject to fits.

To whatever cause the death of Collins may have been more immediately owing, I am surprised to find that on the evening preceding his death, and when he was so ill as to require the attendance of Dr. Arnoldi, no provision seems to have been made for his comfort during the night. The physician describes him as in the last stage of existence and nearly destitute of clothing, yet he was locked up in the same manner as the other prisoners, without the slightest precaution being taken for securing him any degree of attention, for it appears that he died between one and two o'clock in the morning, and was not found by the officers of the gaol to be dead until six. This one fact in itself is conclusive as to the existence of gross negligence, if not of inhumanity, on the part of the officers of the gaol. It gives much colour to the statement made before the committee by a labourer employed about the gaol as to the brutal treatment of the prisoners by the gaoler, an officer whom all parties, and amongst the rest the sheriff himself, concur in representing as a man of a hasty and violent temper. It is a circumstance, moreover, which could not have occurred in a properly

properly regulated establishment, or among officers who were subjected to any thing like an efficient control.

In proof, however, of his having exercised a vigilant superintendence of the gaol, Mr. Guky refers to the affidavits of Mr. Perry, his chief clerk; of Dr. Arnoldi, the physician to the gaol; of J. Spears, the blacksmith to the gaol; and of J. Glassford, who supplied the gaol with fuel. It may be said that the evidence of parties, whose connexion with the gaol was so much at the pleasure of the sheriff, could hardly be given without considerable bias in favour of that officer, but I am aware that the internal arrangements of such an establishment can only be thoroughly known to those whose occupation leads them constantly there; and I should therefore feel bound to accept the testimony of the four individuals in question as conclusive, did not the tenor of Mr. Guky's own evidence before the committee convince me that his alleged frequent visits to the gaol were made to very little purpose. Of all the most important regulations of a gaol, the degrees of restraint under which the different classes of prisoners are placed, their classification, the means taken to secure their health, and their safe custody; in fact, of the entire system of prison discipline pursued in Montreal gaol, Mr. Guky proves himself to have been in complete ignorance.

Mr. Guky states that he was satisfied with the conduct of the gaoler. It would therefore seem unnecessary to examine that part of his defence in which he claims to be relieved from all responsibility for the conduct of that officer, because appointed by the head of the Government. But on that statement I have to remark, that if Mr. Guky felt any difficulty in enforcing his orders to the gaoler, or had been impressed with a conviction of that officer's unfitness for his duties, his course was a clear one: if it was not in his power to remove him it was his duty to represent the case to the Government.

I remark that Mr. Guky passed by without comment the charge of ignorance shown by him before the committee respecting the state of the gaol. I have already given it as my opinion that that charge is well founded, and it follows that the abuses and vicious regulations to which the Assembly advert, may have existed without his knowledge. He seems, however, to have been perfectly aware of the bad character of the two turnkeys, whose continuance in office is made a special ground of accusation against him by the Assembly. For not dismissing these men, whose infamous character and practices were notorious, he excuses himself by asserting that he had no money with which to pay their arrears of wages, or to provide other turnkeys. Here again it appears to me that his course was clear. If on application to the Government of the province it might not have been possible to furnish him with the means of paying the turnkeys, he would at least, by a representation of their conduct and of the difficulty in which he was placed, have relieved himself from the responsibility of retaining their services.

There are many topics which have arisen out of this investigation to which I have purposely refrained from adverting; to the insecure and general bad state of the gaol, for example, which is no longer a question for discussion, because the necessity for a new building has been admitted and acted upon; to the deficiency of beds and clothing, and other necessaries; because, after the sanction which has been given by the Assembly to the supply of such articles of this nature as may be indispensable, your Lordship can no longer have any difficulty in authorizing a compliance with the requisitions which you may receive under this head.

Nor have I entered upon any review of the treatment of the prisoners, their classification, or the general regulations adopted in the gaol, because the restraint to which it has been usual to subject prisoners, and the want of proper means for classifying them, as well as for promoting the salubrity of their apartments, have been all attributed to the insecurity and imperfections of the building, and the accommodations of the new building, will probably permit of a satisfactory remedy to all these subjects of complaint.

But the projected removal to a new gaol points this out as a proper time for instituting a rigorous inquiry into the regulations which are at present observed in Montreal gaol, with a view to the establishment of an unobjectionable system of prison discipline. I leave it to your Lordship to decide in what manner and by whom this inquiry should be prosecuted. But such a new system being established it will remain to be considered whether its operation should be left to the superintendence and control of Mr. Guky. His ignorance of all the internal

Correspondence  
respecting  
Mr. Gogy.

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regulations which have prevailed in the old gaol, his inadequate supervision of the subordinate officers, who are proved to have been exceedingly culpable, and his apparent apathy with regard to the continuance in office of men the most unfit to be employed about a gaol, all incline me to doubt whether His Majesty's Government would be justified in continuing to confide to Mr. Gogy the performance of duties, than which, in his capacity of sheriff, he is called to the discharge of, none more important.

When, however, I combine my view of these charges of remissness against Mr. Gogy, with the opinion which I have been compelled to express on his conduct in relation to the inquiries of the committee on judicial fees, I confess that I do not see how I should be able, if called on, to defend Mr. Gogy's continuance in office. It is with the deepest regret that I arrive at this conclusion with regard to a gentleman so far advanced in life and who has been in the public service for so many years. His claims on these grounds to my respect induce me to pause in instructing your Lordship to resort to a measure which would stain the termination of his official career. But you will acquaint Mr. Gogy with the unfavourable view which I have formed of his case, and I have no doubt that he will voluntarily pursue that course which a sense of propriety will at once dictate to him.

If, however, he should show any hesitation in resigning his office into your Lordship's hands, then, with whatever reluctance and pain it is that I convey to your Lordship such an instruction, I must impose on you the duty of intimating to Mr. Gogy that His Majesty dispenses with his further services.

I have, &c.

(signed) *Glenelg.*

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