



## THE QUEBEC TRANSCRIPT.

all in the trunk the night before. I then asked him if he would get Mr. Bolton to govern the calculations again, but he (prisoner) said it was of no use. I, however, for my own satisfaction, obtained Mr. Bolton's assistance; he counted the money over, and found an error of \$5. The blotter now produced is that which was kept by the prisoner. The items in it under the letter C, when summed up, make exactly the amount in his *borderaux* of the same year on which they were inserted in the blotter under the head "checks." In the *borderaux* there is an amount of £1537 set down as being in notes while in fact it was in specie; the Bank was not paying in specie at that time and the £537 was, I believe, a special deposit. When I found the result of Mr. Bolton's examination of the money, I told the prisoner that unless he accounted for the deficiency I should be under the necessity of calling a meeting of the Directors immediately. Prisoner said he knew I must do so, as it was my duty. I then took steps to obtain the meeting. Mr. Strang and Mr. Burnett were the two directors who first arrived; they asked the prisoner what had become of the money and he again gave for answer that he could not account for the deficiency, he was sure it was all there the evening before, and he was sure that it had not been touched by any one but himself. He said that he knew no one in the Bank had touched it and could not accuse any one. Mr. Bell, one of the Directors, shortly after arriving, asked the prisoner several questions as to whether the money might not have fallen on the ground and such like, but the same answer was still returned by the prisoner. Mr. Bell remarked "you left it right last night and brought it up yourself this morning, what can have become of it?" or something to that effect. Prisoner still said he could not account for it. A *borderaux* of what was found in the morning was made out by the prisoner himself, at my request, I now produce it. It agrees exactly with that which I made out. Prisoner was told that if he could not account for the deficiency, proceedings would be taken against him which he said, that of course he could expect nothing else. I then sent for Mr. Primrose, the Bank Solicitor, Mr. Wm. Phillips and Mr. Young, Superintendent of Police. Prisoner was searched in the presence of those gentlemen and myself but nothing of consequence was found upon him; he had only 25 or 30 dollars in his pockets. From the balance book now produced, it appears that the prisoner had in his possession on the 8th January, 1838, £14,479 in Montreal Bank notes payable at Quebec. With respect to the £10,000 received in the two parcels of Montreal notes, it was immaterial to me whether he returned the identical notes or others. When I received the £10,000 from Mr. Lowndes, it was with a request that being in somewhat bad order the notes might be counted immediately which I requested the prisoner to do and if the amount proved correct to hand it over to me the next day with some four or five thousand pounds more. On Feb. 28 1838, the house in St. Peter Street used as the Bank was occupied in part as a dwelling house by Mr. Jas Bolton the accountant of the Bank; he had occupied it for three or four years. The rent of the house is paid by the Bank. Mr. Bolton paid no rent being allowed by the directors to occupy the house without any deduction from his annual salary being made therefor; the Bank paid the assessment. Mr. Bolton had free access at all times to every part of the building with the exception of the vault.

**Cross examined by Mr. Black.**—The balance in the hands of Mr. Lindsay when the prisoner was appointed to fill his place, in 1829, was £12,047 10s 5d. The average amount of money passing through the hands of the prisoner, daily might be from £15,000 to £20,000 in the summer months; some days it might be £5,000 or £6,000 only, on others upwards of £30,000; during the last winter months it has averaged from £10,000 to £15,000; the capital of the Montreal Branch Bank is now £100,000. The gross amount of monies that passed through the hands of the prisoner during the period he was in the service of the Bank, must thus have been many millions of pounds. I recollect one occasion only on which the balance in the hands of the prisoner was regularly counted by me in detail: this was two or three years ago. The balance in the hands of the prisoner was not counted by me at the forming, on the 1st June, 1837, of the joint stock association when the charter expired. The shares in the association were transferable. Deficiencies do occasionally occur with the tellers, and I have known them in other tellers besides the prisoner. The situation requires great accuracy and care on the

part of the officer. There was a running account between me and the prisoner; the business of the bank as far as we were concerned was wholly in account during the year, the prisoner debiting himself with all sums received from me or the receiving teller, and crediting himself with the payments made by him. Whenever the balance in the hands of the prisoner exceeded the amount required for the daily business a portion of it was paid to me, and he credited himself with it. The floating balance daily in the hands of the prisoner was from £28,000 to £30,000. In 1829 the capital of the Quebec Montreal Branch Bank was only £30,000.

Mr. Black here asked the witness what were the yearly profits of the Bank. Some discussion ensued which resulted in the question being overruled, Mr. Justice Daval having interrupted Mr. Black, declaring that he had no right to put such a question.

The next question put by Mr. Black was—"Have the Bank not made larger profits than have been declared?" This was also not suffered to go to the witness.

Mr. Aylwin insisted upon the right to put such questions. If they could prove gross mismanagement in the conduct of the affairs of the Bank, the error in the accounts of the prisoner by which the other party would make it appear that he owes them £3000 odd pounds might be accounted for.

Mr. Justice Daval said that the prisoner was accused of a criminal charge. It was not as yet shown to be a mere matter of account between the parties for from the moment that could be made apparent the learned counsel for the prosecution himself would admit that the case must drop.

**Cross examination continued.**—Some new notes of the Bank at Quebec after the expiration of the Charter, were prepared in June 1837 and issued towards the latter end of the year. The business of the Branch at Quebec is under the management of a President and two directors residing in Quebec. The amount paid over to me by the prisoner on the 1st March, 1838, was £15918 10s, in Montreal Bank notes payable at Quebec. In this sum may or may not have been included the £10,000 received on the 28th Feby. from Montreal; I presume it was included. A portion of the deficiency was subsequently accounted for; it amounted to £4323 11s. This was done by payments from various persons, to whom the prisoner had advanced money, some of them in small sums paid for protesting notes left for collection &c., which were not entered to the debit of the parties in the books of the bank. There was £187 8s. 8d. from Mr. Bolton; £25 3s. 9d. by myself being for small sums paid at different times for me without my knowledge; £234 17s. 3s. from Mr. S. Macaulay; 10s. for a protested note; £1 4s. 1d. from Mr. Colin Bruce; £192 7s. 6d. from Mr. Maxwell; 18s. 7d. from St. George's Society; 10s. for another protested note; £1 3s. from Gobb & Shaw; 7s. 6d. Forsyth, Walker & Co; 10s. Mr. Noad; 7s. 6d. Mr. Dyde; £360 Capt. Walter Douglas; 2s. 6d. found over in a bag of money left by the prisoner; £253 17s. 8d. Mr. Maxham, a payment on account of £1300 previously advanced to Maxham & Bourne, the remainder secured to the Bank; £1424 19s. 7d. and £31 10s. advanced to Mr. Robert Simpson; £84 15s. which the prisoner had erroneously charged himself with; £440 17s. 5d. from Mr. Gully; a small amount advanced to the messenger on account of his salary and not charged by the prisoner; and two Scotch notes amounting to £15 3s. 4d. I was not aware of any of these sums having been advanced. There was £400 or £500 advanced, on my order, from the money in the prisoner's hands for the Scotch Manse; this was secured on my *bon* as treasurer, and was done with the knowledge and consent of the Directors. This *bon* was enumerated in the prisoner's *borderaux* as a cash draft; it remained unpaid for some days.

Mr. Black.—Did you not on another occasion obtain £500 from the prisoner for a private purpose of your own without the knowledge and consent of the Directors?

The court would not allow this question to be put to the witness.

**Cross examination resumed.**—I was not authorised as Cashier to take money from the funds of the bank without giving a voucher and obtaining the consent of the Directors.

It was now six o'clock, P. M. and there being no probability of the cross examination coming speedily to an end, the Court adjourned until 9 in the morning, and the Jury went under charge of constables, to pass the night at the City Hotel.

Wednesday, 28th Sept.

The Court met at half-past nine o'clock, and the Jury having been called over, Mr. H. Black resumed the

**Cross examination of A. Simpson, Esq.**—I derived my information respecting the sums due by persons mentioned yesterday in this way:—Mr. Maxwell, on the afternoon of the 1st March or following morning, handed me a purse which, as said to have been given him by the prisoner, trusting to his (Mr. M.'s) honor to have it returned to him, but he (Mr. M.) said he conceived it to be his duty to give it to me. The purse contained checks, bonds, and some private notes addressed to the prisoner; the checks were drawn by Maxham & Bourne; they had been received by the prisoner and paid by him, I presume, but the payment was not authorized by the Bank. After this I called upon the prisoner at the jail, and asked him whether he had been able to collect his ideas, and if he knew any thing about the money. He said he knew nothing beyond what he had stated the day before. I then produced the purse, and showing him one of the checks, asked him if he had not lent money to Maxham & Bourne. He asked me where did you get that purse? to which I answered that Mr. Maxwell had given it to me. He then admitted that he had lent the money to Maxham & Bourne. They have paid part and secured the rest to the Bank. On the 2nd of March the officers of the Bank gave information of the amounts which they had received; Mr. Macaulay, who had been an officer in the Bank, did the same. With respect to Robert Simpson & Co., I obtained information from papers at Mr. Ritchie's, to obtain which I had the prisoner's authority. The papers were examined in the presence of the prisoner, and among them were found the checks of R. Simpson & Co., Mr. Gully, and others, for the amounts mentioned yesterday as received by them. All the officers in the bank give security. (The witness is here shown a number of Montreal Bank notes of the different amounts.) The only difference in the terms of the new and old notes is, that the former are payable to order and endorsed; the latter are payable to bearer; there is a difference in the plates. Some of the new notes are made payable to the order of William Coates. The old notes and the new ones were made payable for the same sums. At the time the deficit was discovered, the prisoner said he could not account for the missing notes, that he had not taken them, and that he was sure no one else had touched them. The examination of the witnesses at the first investigation was conducted by Mr. Primrose, Mr. Young or Mr. Phillips, I cannot now say which. I authorized the publication of the advertisement in the Quebec Gazette, now produced, it was continued for a much longer time than was intended, as I neglected to notify the editor to discontinue it. (The advertisement in question was that offering a reward of £1,000 for the recovery of the notes. It was not read in Court, and considerable laughter was occasioned during the argument between the counsel, which resulted in both protesting against the paper being read, after one had moved it.) I have known the prisoner for the last twelve or fifteen years, and always, until this matter occurred, considered him a highly respectable man, and such was his general character in society. The officers of the bank were paid monthly if they wished it, on giving a receipt to the prisoner, by whom they were paid. I have not since yesterday been enabled to bring to my recollection the precise period on which the counting of the prisoner's balance was effected by me. I know of a few instances, during the suspension of specie payments, in which the prisoner was allowed to enter specie as notes in his *borderaux*. At the period the deficit was discovered the amount in my hands was counted by the Directors and several times during the nine years the prisoner was in the Bank. There is no register in Quebec of notes issued by the Branch Bank, there is one in Montreal but I have no knowledge of any specific notes being missing.

Mr. H. Black being called out of Court for a short time, Mr. Aylwin undertook the cross examination.

**By Mr. Aylwin.**—I remember one instance in which the prisoner stated in his *borderaux* a certain amount of notes when, in reality, the amount so acknowledged consisted of a written security; this was done without my consent and knowledge and I found fault with the prisoner for doing so. The prisoner was never allowed to enter bonds or checks as so much money in his hands, in the *borderaux*. A new lease of the building in St. Peter Street

used as the Bank was entered into on the 1st May, 1838.

**Re-examined by Mr. Primrose.**—None of the advances made by the prisoner were authorized by me. The paper now produced is in the hand writing of the prisoner; it is a list of the amounts advanced to Maxham & Bourne certified by the prisoner that the amount of £1300 was due by that firm to the Montreal Bank.

**By the Court.**—I had no reason to doubt the truth of the statement of the funds in the hands of the prisoner, on the 21st Feby. 1838, as it appears by the *borderaux*. I have no other reason to believe that the prisoner took the money, except from the statements made by himself in the *borderaux*.

**David Burnett, Esq. sworn.**—I am one of the Directors of the Branch of the Montreal Bank at Quebec. On the 1st of March 1838, Mr. Simpson called upon me, and stated that a large sum of money was missing. I went over to the bank and asked the prisoner if it was wrong? He said that his balance was perfectly correct the previous evening, and, as I understood, it was in the same state that morning. I asked him how the money could have gone; he said he could not account for it; he also said in answer to another question, that no one could have got to his box.

**Cross examined by Mr. Black.**—I was present at the examination of the prisoner. I think Mr. Young reduced the deposition to writing. It is the duty of the Directors to examine the balances in the hands of the Cashier, but I do not know how often. It was so examined to my knowledge in 1837; the parcels of money are all counted in such cases. I have known the prisoner for ten or twelve years, and always considered, up to the period of this accusation, that his character was irreproachable.

**John Strang, Esq. sworn.**—I was called to attend a meeting at the Branch of Montreal, on the 1st March, 1838, with the other Directors. The prisoner acknowledged to have had the money all right the evening before, and he said that he found it in the same state that he had left it. No one had touched his box, he said, but he could not tell what had become of the deficiency. He was perfectly satisfied no one could have touched it.

No cross examination of any importance.

**Hon. Matthew Bell sworn.**—The deposition of Mr. Bell corroborated those of the two preceding witnesses, with some additional particulars. I asked the prisoner if some one might not by false keys have got to his trunk. He answered in a very extraordinary manner, Oh! no; Oh! no, impossible. I then remarked to him that as he had commenced counting his money he might have let fall one or two of the bundles of larger notes, to which he made the same answer Oh! no. I then, I believe, said what had become of the money? to which he replied that he did not know. I requested him to take the *borderaux* drawn out by Mr. Simpson in pencil, and copy it. He went into the other room, and in a short time returned with the copy, with, to my great astonishment, a note at the bottom setting forth the deficiency, signed by himself. The prisoner was very cool and collected—more so than any one else that was present.

**Cross examined by Mr. Black.**—I know Mr. Coates, as teller of the Bank, and was one of his securities on his first being appointed. I had a very high opinion of his integrity.

**Mr. William Walden Martin, sworn.**—I am a messenger of the Montreal Branch Bank and have been so since July 1825. I attend the Bank every Banking day. On the 21st Feby. 1838 I left the Bank at about 4 p. m.; the prisoner remained after me. Previous to leaving I took down to the vault two trays with some silver and the prisoner's trunk containing the notes, &c.; I was constantly in the habit of doing so. The prisoner did not go down to the vault with me but I think he came to the head of the stairs. The trunk was locked. I placed it in the portion of the vault allotted for the first teller, which is within the two outer iron doors, and also a wooden door; I locked the latter and gave the key to the prisoner. The other (iron) doors were locked to the best of my recollection by Mr. Simpson, he keeping the keys. Immediately after this I left the bank, and did not return to it until the following morning, at about twenty minutes before 10. When I arrived the prisoner was in the act of unlocking the inner iron door of the vault, and he said, "Martin, you are rather late, Mr. Simpson has been here a quarter of an hour; here you finish unlocking the door so, you understand it better than I do." I did so, he having given me the key of the wooden

door. The money was carried to the proper place; I left the trunk; I cannot say the prisoner carried the trunk vault appeared in the same previous evening.

**Cross-examined by Mr. Ad.**—A green tin box belonging to the prisoner was found in the vault which notes were some have no recollection whether they been put in it on the 28th Feby.

**Mr. James Bolton, sworn.**—I am of the Branch Bank of situation I have held for many years. At the time of the question I resided in the bank; the other inmates and two servants. I had no part of the building or of the vault. On the 1st of the prisoner how his cash to he said Mr. Simpson had not and "what does he say you?" he answered "he shortly after Mr. Simpson my room and said he had Coates' cash, and that the deficiency of nearly £11 cannot believe it possible, if some mistake in your *borderaux* thought not and requested Directors' room to examine it, son that I owed the prisoner did not know the precise amount here described his proving the money, &c., corroborated son's evidence in this partition with the prisoner's (witnesses). I spoke to him of ter that would result from it made public, he said he c that he was a lost man. I re that unless he could acc might fall upon me as I liv said he could not help it, b To an observation from m might have arisen in his ca have been tempted to enc that he had not done so, observed a slight alterat particularly when he sai man. I advised him to str son, if he had appropriat Mr. S. would no doubt for him; to this, however hortations of the same kind variable answer—"I know The prisoner had a great pocket of which on being Phillips, Esquire, was small pistol; this on the Lieut. Russell of the Pol loaded with ball. I we 9 on the 28th February ) the house until the next near the vault that night not ring during the night into the house. On the March, a green box w drafts for collection wa room by Martin, I belie was discovered the prisoe seen any notes in the gre I had seen none, if there have seen them as he first self.

**Cross examined by Mr.** Banks are liable to losses after the prisoner entered Bank there was a trifling count which the Bank about £60. I received prisoner, I have receive quently. As far as salary knew that I got my regu receipt to the prisoner, at openly, not in a clandestine know if Mr. Simpson o aware of my drawing m I never informed them, it. I was responsible Douglas' for £260 whom soner's cash from some 1837, until the 1st Ma present to the amount ad in a running account be soner; and I had frequ me know how much h I knew was cross exam but nothing material v beyond the foregoing.)

**Mr. Robert Maxwell,** first teller of the Mont 28th February 1838,

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door. The money was carried up immediately to the proper place; I had the trays of silver, but I cannot say positively whether the prisoner carried the trunk or if I did. The vault appeared in the same state as it was on the previous evening.  
**Cross-examined by Mr. Aylwin.**—There was a green tin box belonging to Mr. Simpson, in which notes were sometimes kept; but I have no recollection whatever of notes having been put in it on the 28th February.  
**Mr. James Bolton, sworn.**—I am an accountant of the Branch Bank of Montreal, which situation I have held for more than twenty-one years. At the time of the defalcation in question I resided in the building leased for the Bank; the other inmates were my wife and two servants. I had access at all times to most parts of the building with the exception of the vault. On the 1st of March I asked the prisoner how his cash turned out to which he said Mr. Simpson had not done counting it, and "what does he say of what I owe you?" he answered "he don't know yet." Shortly after Mr. Simpson came to me into my room and said he had finished counting Coates' cash, and that there appeared to be a deficiency of nearly £14,000. I said "I cannot believe it possibly, you must have made some mistake in your bordereau." He said he thought not and requested me to go into the Directors' room & examine it. I told Mr. Simpson that I owed the prisoner something, but I did not know the precise amount. (The witness here described his proceeding in counting the money, &c., corroborating Mr. Simpson's evidence in this particular. His conversation with the prisoner was also stated to be similar to those reported by the other witnesses.) I spoke to him of the loss of character that would result from the deficiency being made public, he said his character was gone, that he was a lost man. I remarked to him also that unless he could account for it suspicion might fall upon me as I lived in the house, he said he could not help it, he suspected no one. To an observation from me that a deficiency might have arisen in his cash, & that he might have been tempted to increase it, he replied that he had not done so. Once or twice, I observed a slight alteration in his manner, particularly when he said he was a ruined man. I advised him to state all to Mr. Simpson, if he had appropriated the money, and Mr. S. would no doubt do all in his power for him; to this, however, and repeated exhortations of the same kind, he returned the invariable answer—"I know nothing about it." The prisoner had a great coat in the office the pocket of which on being searched by Wm. Phillips, Esquire, was found to contain a small pistol; this on being unsecured by Lieut. Russell of the Police was found to be loaded with ball. I went to bed at ½ past 9 on the 28th February 1838,—did not leave the house until the next night—did not go near the vault that night—the alarm bell did not ring during the night—and no body came into the house. On the morning of the 1st March, a green box which contained the drafts for collection was brought into my room by Martin, I believe. After the deficit was discovered the prisoner asked me if I had seen any notes in the green box. I told him I had seen none, if there had been any he must have seen them as he first opened the box himself.  
**Cross examined by Mr. Aylwin.**—Tellers in Banks are liable to losses, I think. Some time after the prisoner entered the service of the Bank there was a trifling deficiency in his accounts which the Bank made good; it was about £60. I received my salary from the prisoner, I have received it in advance frequently. As far as regarded myself I did not know that I got my salary in advance. I gave a receipt to the prisoner, and the thing was done openly, not in a clandestine manner. I do not know if Mr. Simpson or the Directors were aware of my drawing my salary in advance. I never informed them, but made no secret of it. I was responsible for a note of Capt. Douglas' for £260 which remained in the prisoner's cash from some time in September 1837, until the 1st March following. With respect to the amount advanced it was entered in a running account between me and the prisoner; and I had frequently urged him to let me know how much I owed him. (This witness was cross examined at great length but nothing material was elicited from him beyond the foregoing.)  
**Mr. Robert Maxwell, sworn.**—I am now first teller of the Montreal Branch Bank; and on the 28th February 1838, I was receiving teller. —The only part of the deposition of this wit-

ness that presented any novel feature was that his account with the prisoner on the 28th February 1838, had been examined and "ticked off" as usual by the prisoner; and that the (witness) had counted one of the three parcels from Montreal. The remainder was corroboratory of portions of the preceding evidence including the giving of the purse from the prisoner and without examining its contents, informing M. Simpson of the circumstances. The purse was deposited in the vault that night and only opened next day.  
**Cross-examined by Mr. Black.**—Explains the duties of the paying teller. The amount paid over to me by the first teller on 28th Feby. 1838, was £729, in Montreal Bank notes, among which there was one of £100 and six of £50. The sum of L.122 was paid to me by the prisoner, which payment I mentioned to Mr. Simpson the day after the defalcation was found out. This sum was subsequently credited to the prisoner. In receiving this money from the prisoner I did not conceive that I was acting in a clandestine manner; and it was never understood that the advances were to be kept secret. I settled with the prisoner very frequently. The general character of the prisoner was always thought very highly of.  
**H. LeMewier, Esq. sworn.**—On Sunday the 25th Feb. 1838, at Montreal I was entrusted with a large parcel of bank notes to convey to Quebec, where I handed it over to Mr. Lowndes to be paid to Mr. Simpson. The only question in the cross examination was as to the character of the prisoner, which, by the witness, was very highly spoken of.  
**W. B. Lindsay, Esq. sworn.**—I was receiving and paying teller of the Montreal Branch Bank from 1818 to 1829, when I was succeeded by the prisoner. I handed over the balance in my hands, amounting to L.12,047 0s. 8d., with the correctness of which the prisoner expressed himself perfectly satisfied.  
**Cross-examined by Mr. Aylwin.**—The business of the Branch Bank was very considerably increased since I left it. When I was there, in the summer months, and when business was brisk the average amount of transactions daily might amount to L.15,000 or L.20,000; the average for the year might be L.12,000 or L.15,000 per diem. I always gave in a daily bordereau; and there were no weekly bordereaux. No description of drafts were treated as securities, except government bonds, which were available at any moment. I should never have stated any other than warrants on the Receiver General and Commissary drafts as cash in my bordereau. Heavy losses are sometimes incurred by tellers. I have received spurious coins myself, but not to any great extent. The total amount of my losses, by overpayments and short receipts, during the eleven years I was in the Bank, was about £300. I once overpaid £300 upon one very trifling check, but I afterwards recovered the amount overpaid. I have known the prisoner many years, and as far as regards myself I would at the period of the defalcation have placed the utmost confidence in him.  
**Jean Baptiste Bolduc** having been called, Mr. Aylwin rose and enquired of the counsel for the prosecution if the examination of this witness was likely to be of any length. Mr. Primrose said that the examination would not be very short, upon which Mr. Aylwin observed that, at that hour (½ before 6) he was of opinion that the Court should adjourn. He was unwilling that the examination in chief should be entered into without an opportunity of cross examination being afforded immediately the counsel for the prosecution had done with the witness. He was the more unwilling that such an event should occur in consequence of part of the evidence of Mr. Simpson having found its way into one of the newspapers yesterday evening, without it being stated that the counsel for the defence had risen for cross-examination. Such an occurrence was calculated to put the counsel for the defence to great inconvenience, &c.  
 Mr. Primrose said he had remarked the publication alluded to, and regretted that it had taken place.  
 Mr. Justice Duval reproached the publication of part of the evidence before the trial was concluded. There was no objection whatever to persons taking notes, but he hoped that those connected with newspapers would bear in mind that, in England—and the power in the Court was the same here—proprietors of newspapers had on several occasions been mulcted in heavy penalties for publishing parts of the evidence on unfinished

trials. One newspaper, for instance, had been fined £1000 for so publishing the evidence in the case of Thistlewood.  
 Mr. Primrose—There are several other similar cases.  
 Here the matter stopped.  
 It was then agreed that the Court should adjourn, previous to which being carried into effect, one of the jurors arose, and on behalf of himself and the other eleven, made a complaint of the accommodation which had been afforded them last night at the City Hotel. The refreshments were not sufficient, there having been but one glass of beer allowed at supper.  
 The Sheriff stated that he had been obliged to restrict the landlord of the hotel to certain terms, in consequence of the large amount which a bill attained for the accommodation of a jury some time ago.  
 Mr. Justice Duval assured the Jury that directions would be given for their provision with every thing that was reasonable.  
 The Jury were then conducted back to the City Hotel for the night.  
**Thursday, 26th Sept.**  
 The Court opened at ½ past nine, and Mr. Primrose continued the case for the prosecution.  
**J. Ste. Bolduc, sworn.**—In the month of February 1838, I was in the service of Miss Ritchie at which time she was living in St. John Street; the prisoner boarded there. Previous to this, Miss Ritchie lived in St. George street, St. John suburbs, and I remained at the latter place. Miss Ritchie kept a horse and a cariole; I remember conveying the prisoner from the Montreal Bank to prison on the day after Ash Wednesday in 1838. I was six months and a half in Miss Ritchie's service, during which period I took the prisoner daily to and from the Bank. Usually I went for him in the afternoon at ½ past 3 or four o'clock. On the 1st March I had gone to the Bank as usual, but instead of conveying the prisoner home I had to take him to jail. I cannot say the exact hour at which I drove the prisoner from the Bank on the 28th February 1838; it was not dark, I believe. It appears to me that I had to wait a little longer for the prisoner on this occasion than on others. I do not recollect any thing particular that occurred except that the prisoner came down once, and was not dressed as he usually was when he came down to proceed to the Upper Town. He had a bundle with him similar to that which he generally brought with him. He told me to put it in the box of the cariole and take care of it. He then returned into the Bank, and shortly after came down with another parcel, I believe. I cannot say that I saw this second parcel in his hand when he came out of the Bank, but after we had taken a short tour in the suburbs, he took a parcel from under his feet; this makes me say that he brought two parcels from the Bank, as that which I had put in the box remained there. I do not remember any occasion on which the prisoner brought two parcels from the Bank with him. (The witness here asked to describe the size of the parcel; he does so, and from the manner in which he described it would appear to have been two to three fingers thick, a foot or a foot and a half long, and about three quarters of a foot broad.) There was not much difference in the size of the two parcels. I think the parcels were wrapped up in a brown paper, but I do not remember if they were tied.  
 By a Juror.—I took the first parcel in my hand, but I do not remember if it was hard or soft, I know not what it contained.  
 Resumed by Mr. Primrose.—We drove to the house formerly occupied by Miss Ritchie, in St. George's street, where the prisoner got out and entered the house. The parcel first given to me was still in the box. The prisoner remained in the latter place about ten minutes or a quarter of an hour, and then came out and got into the cariole again. On our return to town prisoner remained at Dr. Leslie's for about five minutes, and then returned to town on foot, having taken with him the parcel which was at his feet in the cariole. The other parcel remained in the seat of the cariole. I waited at Dr. Leslie's until Miss Ritchie, Mrs. Leslie and her little boy got into the cariole, and I drove them to Miss Ritchie's in town, where the prisoner resided. Arrived here I gave the parcel that had been in the seat, to Miss Ritchie or Miss Dick saying that it belonged to the prisoner. I had forgotten that it was in the cariole until I was about to go away.

**Cross examined by Mr. Aylwin.**—The difference in the dress of the prisoner alluded to was nothing extraordinary. It did not strike me as peculiar that the prisoner should have taken two parcels with him on the 28th February or that he should enjoin me to take care of what he had given me. I did not suppose for a moment that the parcel contained bank notes to the amount of £13,000. On the contrary it appeared to be the same as the one I usually had given to me. Prisoner always told me to take care of the parcels which he gave me; c'était sa façon. The usual parcel from the Bank he generally took care of himself. When we left Dr. Leslie's the cariole had a good load without the addition of the prisoner. It appeared to me that the prisoner went to town on foot in order not to accommodate the ladies who got into the cariole at Dr. Leslie's. It was the custom of the prisoner, occasionally, to cause me to take a short tour previous to going home. The parcel which was at his feet might have been lost if left in the cariole; it was much safer for the prisoner to take it with him.  
 Mr. Christian Julius Broten was again called, to prove the assignment, under the corporation seal of the bank, of all the property to the new joint stock association on the expiration of the charter; which Mr. Brown did. The various documents produced and proved by the witnesses having been read.  
 Mr. Primrose declared the case for the prosecution to be closed. (½ past 12, noon.)  
 Mr. Aylwin then rose and said that it now became his duty to urge a variety of points of law, either of which would be sufficient to put an end to the prosecution, and which taken together made it matter of surprise that it should have been instituted at all. The indictment rested upon two statutes, the first of which—that of Anne—made it a capital felony to steal above the value of £15 in a dwelling house. With respect to this he contended that neither the ownership nor the occupancy of the building was sufficiently proved to bear out the allegations of the indictment.  
 The Court intimated that it did not require any argument on this point from Mr. Aylwin unless the Counsel on the other side brought forward arguments on the point.  
 Mr. Aylwin.—The next point was that these notes as required by the second statute on which the indictment rested, namely, 2d Geo. II. c. 25, were not bank notes.  
 The Court.—It was unnecessary to argue this point there being counts in the indictment, describing the notes as promissory notes.  
 Mr. Aylwin.—Well then I shall proceed to the other points. In the first place these notes are not securities of such a kind as that the stealing of them can constitute larceny under the statute of Geo. II. 2ndly.—The facts adduced do not prove a larceny against the prisoner; assuming that every thing that has been sworn to is perfectly true, it does not amount to a charge of larceny; it would be a breach of trust only. 3rdly.—The ownership of the notes is not proved as laid in the indictment. 4thly.—There has been no proof as required by law of the larceny of any specific note or notes so as to satisfy the indictment. On these points Mr. Aylwin spoke at great length and with much ability but we have not room for even an outline of his remarks. The learned gentleman spoke for nearly three hours.  
 Mr. Primrose replied, also at great length, and was followed on the same side by Mr. G. O. Stuart, who spoke principally with respect to and in support of the allegation that the was committed in a dwelling house.  
 Mr. H. Black rejoined.  
 The Judges took the matter en délibéré and the Court adjourned. (½ past 7 p. m.)  
**Friday, 27th Sept.**  
 The Court being met the jury were called over, and found correct.  
 Mr. Justice Cochran proceeded to deliver judgment on the objections taken yesterday by the prisoner's counsel. With regard to the notes being of no value when in possession of the Bank the Court were of opinion that they were of value and the stealing of them would amount to larceny. The other points urged, that the facts as proved would not be sufficient to constitute the charge, that the proprietorship of the notes was not proved—and that the larceny of any specific note or notes had not been proved—were not in the opinion of the Court sufficiently made out, to warrant it from preventing the case to go to the Jury.  
 Mr. Justice Duval was proceeding to deliver his opinion, when,

Mr. H. Black rose and said that he had another objection to urge of a totally different character from those on which the opinion of Mr. Justice Cochrane was given, and one which must at once set aside the indictment. The prisoner was charged with stealing 228 notes of one dollar each, 292 of two dollars each, 1370 of five dollars each and so on to the \$100 notes. Now the Bank had never issued a note for one dollar, two dollars, five dollars or any other number of dollars, they were too knowing to do any such thing. The one dollar notes, as they were commonly called, were promises to pay five shillings, the 25 cent shillings, 5's one pound five shillings &c. If the Bank promised to pay one dollar they would have to give a dollar. This variance was fatal to the indictment and must at once stop further proceedings. The notes issued by the Branch Bank had been proved in the course of the prosecution and one of each denomination was in possession of the Court, and he (Mr. B.) craved reference thereto. He (Mr. B.) was surprised that the accusers of the learned counsel on the other side had not discovered the object with which the notes had been produced and proved by the counsel for the defence.

Mr. Justice Cochrane.—The note I have in my hand has "one dollar" on it in several places.

Mr. H. Black.—That is only the ornamental part of the note, that is the flourish on the margin. The note is distinctly a note drawn for five shillings.

Mr. Justice Duval.—The objection is that the allegations in the indictment are not descriptive of the character of the notes.

Mr. Aylwin.—Exactly.

After a few more words had passed, Mr. Aylwin argued the question at some length. Among other observations he noticed the fact that the value of the "dollar" is continually fluctuating while the value of a "pound" is always fixed. The variance was thus rendered not literal but substantial.

Mr. Primrose replied: The objection could not be sustained. These notes had not been read to the Court, and were, consequently, not proved. The prisoner in his *horedereu* admitted that he had in his possession a certain number of "dollar" notes of various denominations, and Mr. Simpson had proved that the Bank had been robbed of "dollar" notes. Until it could be proved, therefore, that the notes lost were not of that description the objection must fall. I object to answer the objection until the prisoner has entered upon his defence. The notes have not been read.

Mr. Aylwin.—They were read by Mr. Simpson. Mr. Primrose.—The notes have not been read as evidence. They were not produced for the prosecution, and were not read with the other documents produced on our side.

Considerable discussion ensued, in the course of which it appeared that some difference existed in the notes of the Judges with regard to a portion of the testimony of Mr. Simpson, who was again called, and shown the notes previously produced.

Examined by the Court.—The \$1 note is one of the new issue. There is a difference between the notes of the old and new issues, as stated by me in the second day of my examination. Some of the old notes were worded "one dollar," "two dollars," others were for "five shillings," "ten shillings"—some of them I think mentioned both *deux piastres* and "ten shillings" in the body of the note. There have been a great many plates of the \$5 notes of the old issue; the one now produced is for one pound five shillings, some of them were for five dollars. There were also many plates of the old issue of 10 dollar notes, the wording of some of them two pounds ten shillings, the other notes above that amount were worded twenty dollars, fifty dollars, hundred dollars, there may have been some worded five pounds, &c.

Mr. Justice Duval, before giving the reasons why the Court could not sustain the last objection, disposed of the question respecting the house which, the learned judge held could not be considered a dwelling house in the eyes of the law as it exists in this country. Mr. Bolton, it appeared from the evidence, was a mere tenant at will, liable to be turned out *de die in diem*, without receiving any remuneration from the Bank. The capital part of the charge must therefore fall.—In this opinion Mr. Justice Cochrane concurred.—Mr. Justice Duval then explained at considerable length his reasons for overruling the various objections raised by the prisoner's counsel to the case being submitted to the Jury

Mr. Aylwin addressed the Jury on the defence in a very powerful speech, in the course of which he commented with severity on the manner in which it had been proved that the affairs of the Branch Bank of Montreal at Quebec had been conducted. It was impossible, the learned gentleman stated, to convict the prisoner of the charge preferred against him, as specific notes or sums having been proved to have been lost by the Bank at all. With regard to the £10,000 received from Montreal it had been admitted that it had been handed over on the 1st March, by the prisoner.

Mr. H. Black followed, and in a speech of great eloquence commented on the evidence adduced. In the course of his remarks he observed that the defalcation of £13,000 would only amount to four pence per hundred pounds on the total amount that had passed through the hands of the prisoner since he entered the Bank. Mr. B. also dwelt with much force upon the fact that during nine years, the floating balance in the hands of the prisoner had been counted on by an solitary occasion by the officer whose duty it was to do so twice a month.

No witnesses were called for the defence. The Judges retired for a short time. On their return to Court, Mr. O. Stuart contended that the counsel for the prosecution had a right to reply.

This was overruled on the established principle, that when no witnesses are examined there can be no reply.

Mr. Justice Cochrane then summed up. At about six o'clock the Jury retired, and remained absent for one hour and ten minutes. On their return, they were asked the usual question, "Are you agreed upon your verdict, and who shall speak for you?" To this the reply was that they were agreed, and that Mr. Charles Phillips would speak for them. The sound of a pin falling on the floor might now have been heard throughout the apartment, but when the Foreman of the Jury pronounced the words "NOT GUILTY," an exhalation of feeling ensued, which was very unseemly in a Court of Justice.—Cheers, stamping of feet, and the violent contact of sticks and umbrellas with the floor and the benches, raised a noise that appeared to astound the very walls of the venerable chamber in which the unusual sounds were emitted. As soon as order was restored by the Officers of the Court, Mr. Justice Duval reproached, in very strong terms, the flagrant breach of decorum—the insult to a Court of Justice—which it had then been his misfortune to witness. He assured those present that he would spare no exertions in endeavouring to bring the offenders to punishment for their outrageous and disgraceful conduct; and he strictly charged the Officers of the Court to employ themselves actively in endeavouring to discover the delinquents—and until this was done he should hold all the Officers, from the Sheriff downwards, responsible for the outrage.

Notwithstanding the length to which the report of this trial has extended, much has, of necessity, been omitted, not of the evidence—for that is pretty full—but of the arguments of Counsel on an infinity of points of law mooted during the progress of the case. The defence could not have been better conducted, we think, than it was by Messrs. Black and Aylwin, who contested every debatable point of the case with great ability.

The persons convicted of high treason in Montreal and Upper Canada, arrived here yesterday, and are now on their way to Van Diemen's Land, the *Buffalo* having sailed this morning. The editor of the *Canadian* thus chronicles the arrival of his friends:—

*Finis coronat opus.*

THE POLITICAL EXILES.—58 of these unfortunate victims have arrived here from Montreal, and have been put on board the *Buffalo*.

The following is a list of those convicted at Montreal:—

- Jean Louis Thibert, Yeoman;
- Jean Marie Thibert, do.;
- Léandre Ducharme, Clerk;
- Joseph Guzman, Labourer;
- Louis Guerin dit Dussault, alias Blanc Dussault, Baker;
- François Maurice Lepailleur, Bailiff;
- Charles Haot, Yeoman;
- Achille Morin, Gentleman;
- Joseph Jacques Hébert, Labourer;
- Hubert Drossin Leblanc, Yeoman;
- David Drossin Leblanc, do.;
- Pierre Hector Monin, Gentleman;
- Joseph Paré, Yeoman;
- Paschal Pinsonneault, do.;

- Théophile Robert, do.;
- Jacques Longtin, do.;
- Ignace Gabriel Chevreuil, do.;
- Joseph Dumouchel, do.;
- Louis Dumouchel, Interpreter;
- Jacques Goyette, Yeoman;
- Toussain Rochon, Bailiff;
- Frs. Xavier Prieur, Merchant;
- Jean Laberge, Carpenter;
- François Xavier Touchette, Blacksmith;
- Pierre Lavoie, Yeoman;
- Antoine Coupat dit Larcene, do.;
- Théodore Béchard, do.;
- Théodore Riguesse dit Beaucaire, do.;
- Joseph Marceau dit Petit Jacques, do.;
- Louis Turcot, do.;
- Leino Bourbonnais, Labourer;
- Charles Roi dit Lapensee, Senior, Yeoman;
- François Xavier Prevost, Interpreter;
- André Papineau dit Montigny, Blacksmith;
- David Gagnon, Yeoman;
- Jean Bourdon, do.;
- Louis Baptiste Bousquet, Miller;
- Joseph Guérin, Yeoman;
- Charles Guillaume Houe, do.;
- Edmond Paschal Rochon, Carriage-Maker;
- Louis Defaillet, Yeoman;
- Jacques David Hébert, alias David Jacques Hébert, Yeoman;
- Hypolite Lanctôt, Notary;
- Monsieur Pinsonneault, Yeoman;
- René Pinsonneault, do.;
- Etienné Langueudo, Labourer;
- Moyse Longtin, son of Jacques, Yeoman;
- Nichel Alary, Joiner;
- Joseph Goyette, Carpenter;
- Basil Roy, Yeoman;
- Joseph Roy dit Laprise, son of Louis, Labourer;
- Frédéric Hudson, Bailiff;
- C. Bergeron dit Langevin, Yeoman;
- Jean Baptiste Trudel, Labourer;
- Samuel Newcomb, Doctor;
- Jérémie Rochon, Wheelwright;
- Benjamin Mott, Yeoman.—Total, 58.

**QUEBEC BRANCH, CITY BANK.**  
*The Bank is now open for Discounts and Deposits.*  
 EXCHANGE ON LONDON  
 AND DRAFTS ON NEW YORK SOUTH AND AFRICA.  
**G. GETHINGS,**  
 Cashier.  
 27th Sept.

**SURGEON DENTIST.**  
**S. SPOONER,** partner of Dr. W. Spooner, having arrived in Quebec, professes his professional services to the Ladies and Gentlemen of Quebec and its vicinity.  
 He will be found constantly at the Allion Hotel, Room No. 13. Hours from 9 to 12, and from 2 to 5 o'clock.  
 He is well furnished with superb Mineral Teeth, Tooth Brushes and Powder, &c.  
 Quebec, Sept. 16th, 1839.

**FOR CHARTER.**  
**THE A 1 Brig HARMONIS,**  
 JOHN ARNETT, Commander, 232 tons, will accept of a Charter to any safe Port in Great Britain or Ireland.—Apply to  
**WM. PRICE & CO.**  
 11th September.

**R. C. TODD, HERALD PAINTER,**  
 No. 16, St. Nicholas Street,  
**AUCTION SALES.**  
*Rice, Tobacco, Tea, Coffee, Whiskey, &c.*

**BY PETER SHEPPARD.**  
 On WEDNESDAY next, the 2nd October, at TWO o'clock, at the Stores of JOHN YOUNG, Esq. Gibb's Wharf, (late Goudie's.)  
**THIRTY-FOUR** Tierces best Rice,  
 10 Kegs, Plug Tobacco,  
 60 half do.  
 24 Boxes Cavendish Tobacco,  
 12 Tins Honey Dew do. 37½,  
 32 Chests Souchong Tea,  
 54 Boxes do do.  
 95 do do do 30 lbs each,  
 96 do Pecco Tea, 17 lbs each,  
 62 Chests Hyson Skin Tea,  
 24 Boxes Gunpowder do.  
 40 Bags Roasted Coffee.  
 54 Barrels do Java Coffee, very fine,  
 9 Bags superior Green Coffee,  
 10 Puncheons Whiskey, 17 per cent overproof.  
 150 Barrels Rosin,  
 100 do Pitch,  
 100 do Tar,  
 20 do Spirits of Turpentine,  
 140 Boxes Digby Herrings,  
 150 dozen Corn Brooms,  
 25 Boxes assorted fancy Soaps,  
 1 Case Liqueur,  
 12 dozen Painted Pails,  
 14 Barrels Cayenne Pepper,  
 10 do Hemp and Canary Seeds,  
 60 Boxes Bunch Muscated Raisins,  
 40 Half Chests Firroace Oil.  
 Quebec, 27th Sept. 1839.

**THEATRE ROYAL.**  
**THE THEATRICAL CLUB.**  
 ON MONDAY THE 7TH OCTOBER, WILL BE PERFORMED  
**THE FLOATING BEACON.**  
 After which the laughable farce of the **VILLAGE LAWYER.**  
 And on TUESDAY EVENING the **FLOATING BEACON** will be repeated with the soul-stirring and romantic Drama, called **GILDEROY, OR THE BONNY PLOT.**  
 Upper and Lower Boxes, 5s.—Pit, 2s. 6d.  
 Doors open at seven.—Performance to commence at eight.—For further particulars see small bills.  
 VIVAT REGINA.  
 27th September.

**NOTES UPON THE South Western Boundary Line OF THE BRITISH PROVINCES OF LOWER CANADA AND NEW BRUNSWICK, AND THE UNITED STATES OF AMERICA.**  
 A few copies of the above pamphlet, pp. 2s. 6d., just received and for sale by  
**WM. COWAN & SON.**  
 27th September.

**ST. GEORGE'S SOCIETY.**  
 THE MEMBERS are requested to take notice, that (Michaelmas day falling Sunday) the general Quarterly Meeting of the Society will be held on SATURDAY NEXT, the 28th Inst. at the Allion Hotel at 3 P. M.  
 Members are particularly requested to punctual in their attendance, as it is proposed that, before entering upon the business of the day, the Society shall proceed in a body to view the Portrait of HER MAJESTY, by the receipts arising from the exhibition of Painting, being in aid of the funds of the *Charitable Society of the Sons or St. George at Philadelphia*, for whom the Pictures originally painted.  
 Wm. PATTON, President.  
 28th Sept.

**SWOLLER BROS.**  
**THE Durham Lodge of Independent Fellows**, will meet at the Tiger Upper Town Market (Mrs. Corbett's) MONDAY EVENING NEXT, at 7 o'clock P. M., and it is requested members will attend as business of import will be brought before the Lodge.  
 By order,  
 M. N. G.  
 27th September.

**NOW LANDING, AND FOR SALE BY THE SUBSCRIBERS FOUR HUNDRED Bbls. FLOUR,** (of different qualities.)  
 20 Tierces Rice,  
 25 bbls. Roasted Coffee,  
 10 bags superior Cuba Green Coffee,  
 20 kegs superior Plug Tobacco.  
 AND IN STORE:—  
 Jamaica Rum, Hamburg ditto, 10 Leaf Tobacco, sweet Malaga Wine, Arrow Root, Spirits Turpentine, &c.  
**HENDERSON & CO**  
 Quebec, 23rd Sept. 1839.

**WATER-PROOF COATS.**  
**A LARGE ASSORTMENT OF MAC TOSH COATS, Cloaks and Capes,** received by  
**ROBERT CAIRNS**  
 No. 20, Mountain St.  
 25th Sept.

**J. BOOMER & CO.**  
*Cabinet-Makers, Upholsters, Undertakers, &c. &c.*  
 MOST respectfully intimate to the public that they have commenced business at the house, No. 12, St. John Street, St. J. Suburbs, (lately occupied by R. Bouché) where all orders will be received and executed in a superior manner, and at prices far less than usual.  
 Picture Frames neatly manufactured.  
 Quebec, 4th Sept. 1839.