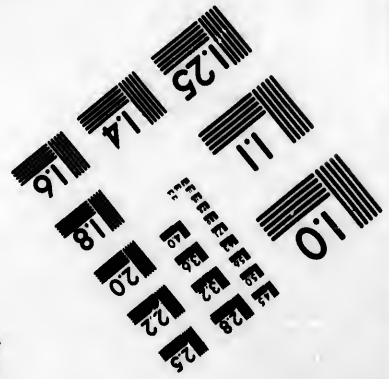
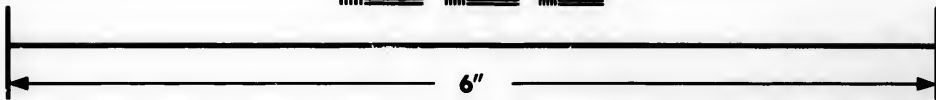
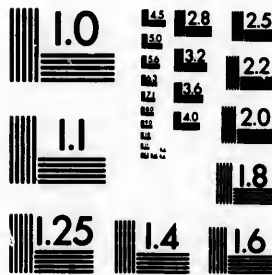


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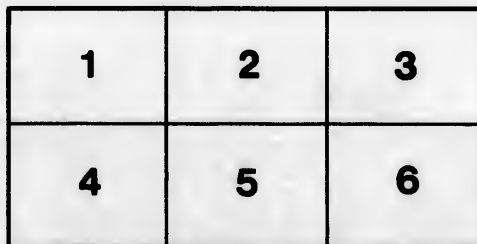
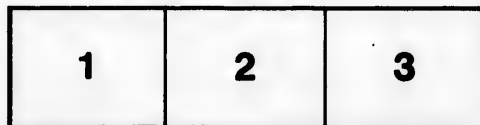
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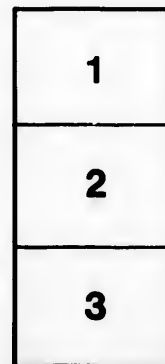
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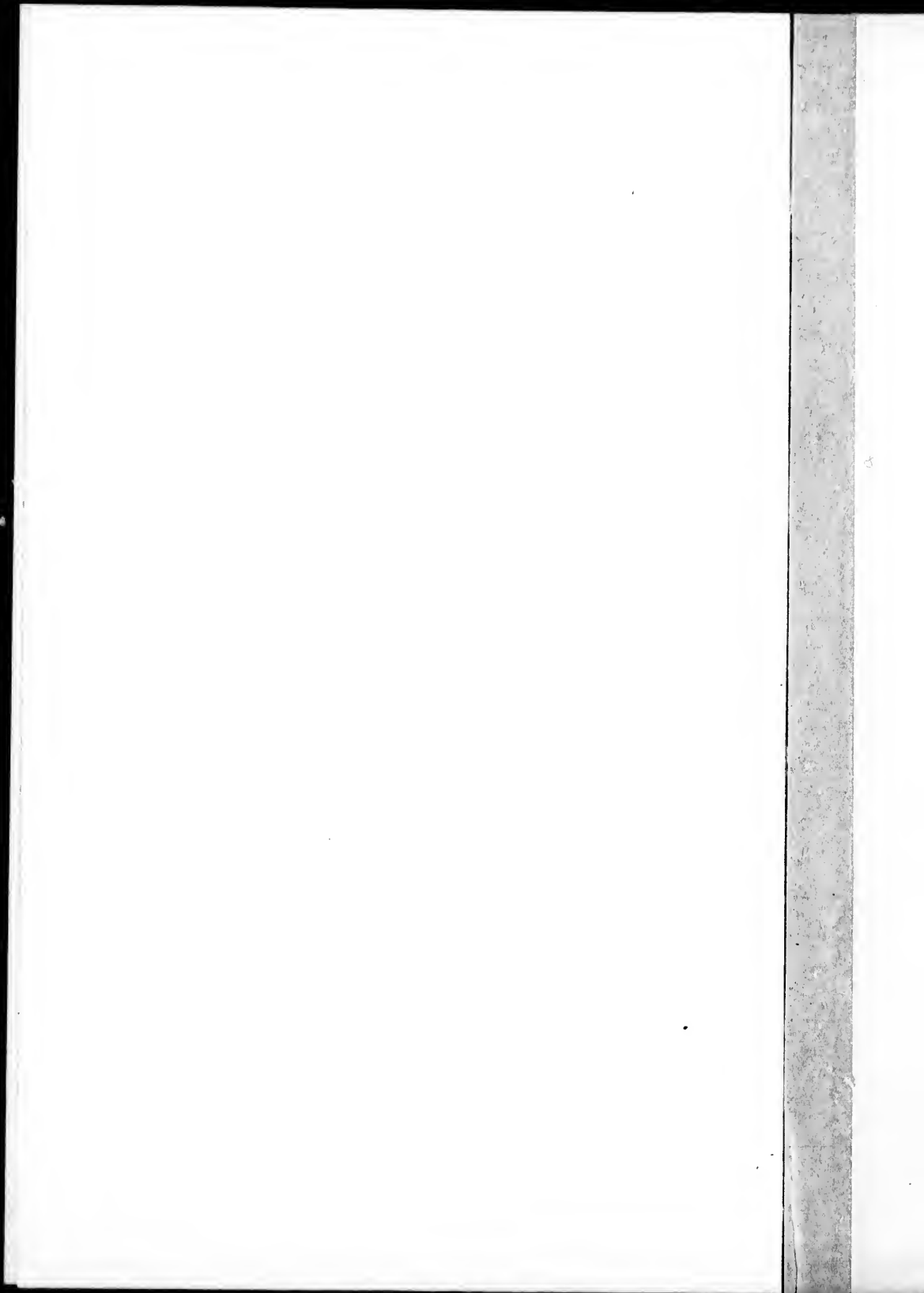
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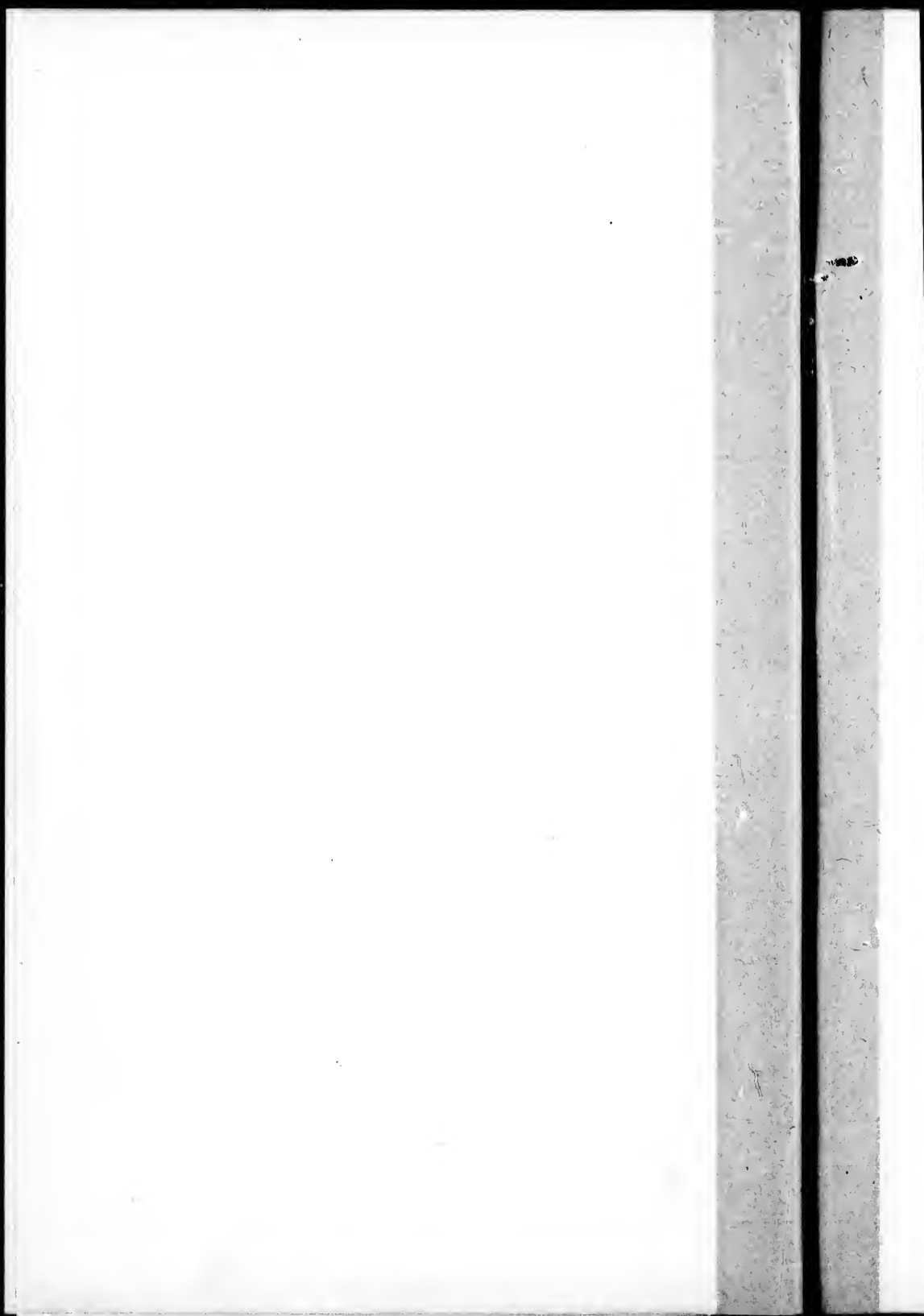
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REPORT

OF

W. G. Bean

THE STATE TRIALS,

BEFORE

A GENERAL COURT MARTIAL

HELD

AT MONTREAL IN 1838-9:

EXHIBITING

A COMPLETE HISTORY

OF

THE LATE REBELLION IN LOWER CANADA.

VOLUME I.

MONTREAL:

ARMOUR AND RAMSAY, SAINT FRANCOIS XAVIER STREET.

1839.

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COURT MARTIAL.

PROVINCE OF }
LOWER CANADA. } J. COLBORNE.

By His Excellency Sir John Colborne, Knight Grand Cross of the Most Honourable Military Order of the Bath, Administrator of the Government of the Province of Lower Canada, Lieutenant General and Commander in Chief of Her Majesty's Forces in the said Province, &c. &c. &c.

A PROCLAMATION.

WHEREAS there exists in the District of Montreal a traitorous conspiracy, by a number of persons, falsely styling themselves Patriots, for the subversion of the authority of Her Majesty, and the destruction of the established Constitution, and Government of the said Province; **And** whereas the said Rebellion hath very considerably extended itself, in so much that large bodies of armed traitors have openly arrayed themselves, and have made, and do still make, attacks upon Her Majesty's subjects, and have committed the most horrid excesses and cruelties;

And whereas in the parts of the said District in which the said conspiracy hath not as yet broken out in open rebellion, large numbers of such persons, so calling themselves Patriots, for the execution of such their wicked designs, have planned means of open violence, and formed arrangements for raising and arming an organized and disciplined force, and in furtherance of their purpose, have frequently assembled in great and unusual numbers; And whereas the exertions of the Civil Power are ineffectual for the suppression of the aforesaid traitorous and wicked Conspiracy and Rebellion, and for the protection of the lives and properties of Her Majesty's loyal subjects; And whereas the Courts of Justice in the said District of Montreal have virtually ceased to exist, from the impossibility of executing any legal process or warrant of arrest therein; And whereas the public safety requires that Law Martial should be exercised; Now, therefore, I have thought fit, by and with the advice and consent of Her Majesty's Executive Council of this Province, to issue this Proclamation, to the end that it may be made manifest, that I shall arrest and punish, and cause to be arrested and punished, all persons who have been hitherto, and who now are, or hereafter may be anywise acting, aiding or assisting in the said Conspiracy and Rebellion, and who hereafter may be anywise acting, aiding or assisting in any other Conspiracy and Rebellion within the said District of Montreal, according to Martial Law, either by death or otherwise, as to me shall seem right and expedient, for the punishment of all rebels in the said District.

Given under my Hand and Seal at Arms at the Government House in the City of Montreal, in the Province of Lower Canada, the fourth day of November, in the year of our Lord one thousand eight hundred and thirty-eight, and in the second year of Her Majesty's Reign.

By His Excellency's Command,

THOMAS LEIGH GOLDIE,
Acting Secretary of the Province.

ANNO SECUNDO

VICTORIÆ REGINÆ.

CAP. III.

An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's Faithful Subjects within the same.

WHEREAS a traitorous Conspiracy, for the subversion of the authority of Her Majesty, and for the destruction of the established Constitution and Government, hath unfortunately existed, within this Province, for a considerable time, and hath broken out in acts of the most daring and open Rebellion; And whereas His Excellency Sir John Colborne, Administrator of the Government of this Province, did lawfully, and by virtue of the authority in him reposed, by Proclamation, under his Hand and Seal at Arms, bearing date at the Government House in the City of Montreal, the fourth day of this present month of November, declare Martial Law to be in force in the District of Montreal, in the said Province, and as well before as since the said declaration of Martial Law in the said Province, the said Rebellion did greatly extend, inso-much that large bodies of armed Traitors did openly array themselves, and make the most daring and violent attacks upon Her Majesty's Forces, and upon other persons in authority, and committed the most horrid excesses and cruelties on the properties and persons of Her Majesty's loyal subjects; And whereas the said Rebellion still continues to rage in the said District of Montreal, and the parties therein concerned continue to desolate and lay waste the country, by the most savage and wanton violence, excess, and outrage, and the Civil Power is set at defiance, and the ordinary course of the justice and of the law of the land is stopped in the said District; And whereas it is expedient and necessary to provide a remedy for the speedy trial and punishment of persons offending in that behalf: Be it therefore Ordained and

Enacted by His Excellency the Administrator of the Government of this Province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, "*An Act to make temporary provision for the Government of Lower Canada,*" and it is hereby Ordained and Enacted by the authority aforesaid, that from and after the passing of this Ordinance, it shall and may be lawful for the Governor of the said Province, or the Person Administering the Government thereof, from time to time, during the continuance of the said Rebellion, whether the ordinary Courts of Justice shall or shall not at such time be open, to issue his orders to all Officers commanding Her Majesty's Forces, and to all others whom he shall think fit to authorize in that behalf, to take the most vigorous and effective measures for suppressing the said Rebellion in any part of the said District of Montreal, which shall appear to be necessary for the public safety, and for the safety and protection of the persons and properties of Her Majesty's peaceable and loyal subjects, and to punish all persons, who, before the passing of this Ordinance, that is to say, since the first day of the present month of November, have been, or were, or hereafter may be, acting, aiding, or in any manner assisting in the said Rebellion, or maliciously attacking the persons or properties of Her Majesty's loyal subjects in furtherance of the same, according to Martial Law, either by death or otherwise, as to him shall seem expedient for the punishment and suppression of all Rebels in the said District of Montreal, and to arrest and detain in custody all persons heretofore or now engaged in such Rebellion, or suspected thereof, and to cause all persons so arrested and detained in custody, to be brought to trial in a summary manner by Courts Martial, to be assembled under such authority, and to be constituted in such manner, and of such description of persons, as the said Governor, or

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Person Administering the Government of the said Province, shall from time to time direct, for all offences committed since the said first day of November, or hereafter to be committed, in furtherance of the said Rebellion, whether such persons shall have been taken in open arms against Her Majesty, or shall have been otherwise concerned in the said Rebellion, or in aiding or in any manner assisting the same; and to execute the sentence of all such Courts Martial, whether of death or otherwise, and to do all other acts necessary for such several purposes.

II. And be it further Ordained and Enacted by the authority aforesaid, that no act of this Ordinance, or of the powers thereby granted, which shall be done in pursuance of it, shall be questioned in any of Her Majesty's Courts of Justice in the said Province.

III. And be it further Ordained and Enacted by the authority aforesaid, that if any person, who shall be detained in custody under the powers created by this Ordinance, shall sue forth a writ of *Habeas Corpus*, it shall be a good and sufficient return to such writ, that the party suing forth the same, is detained by virtue, and under the authority of this Ordinance, and that in answer to any such writ of *Habeas Corpus*, it shall not be necessary to produce the body of the person or persons so detained in custody.

IV. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that nothing in this Ordinance contained shall be construed to take away, abridge, or diminish the acknowledged prerogative of Her Majesty, for the public safety, to resort to the exercise of Martial Law against open enemies or Traitors, or any powers by law vested in the Governor, or Person Administering the Government of the said Province, or of any other person or persons whomsoever, to suppress treason and rebellion, and to do any act, warranted by law for that purpose, in the same manner as if this Ordinance had never been made, or in any manner to call in question any acts heretofore done for the like purposes.

V. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful for the Governor, or Person Administering the Government of this Province, by Proclamation under his Hand and Seal at Arms, from time to time to extend all and every the provisions of the present Ordinance to any other Districts, or parts of this Province, for such period or periods of time as to him may seem meet.

VI. And be it further Ordained and Enacted by the authority aforesaid, that this Ordinance shall continue and be in force until the first day of June next, and no longer.

VII. And be it further Ordained and Enacted by the authority aforesaid, that an Ordinance of this Province, made and passed in the first year of the Reign of Her Majesty, intituled, "*An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor, or Person authorized to execute the Commission of the Governor and Special Council of this Province, shall take effect,*" be, and the same is hereby repealed, as to this Ordinance only; and that this present Ordinance shall commence and have effect within the said Province, so soon as the Governor, or Person authorized to execute the Commission of Governor of the said Province, shall have assented to and signed this present Ordinance.

J. COLBORNE.

Ordained and Enacted by the authority aforesaid, and duly passed in Special Council, at the Government House in the City of Montreal, the eighth day of November, in the second year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and thirty-eight.

By His Excellency's Command,

W. B. LINDSAY,
Clerk Special Council.

ANNO SECUNDO

VICTORIÆ REGINÆ.

CAP. IV.

An Ordinance to authorize the apprehension and detention of persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable Practices, and to suspend, for a limited time, as to such persons, a certain Ordinance therein mentioned, and for other purposes.

WHEREAS divers persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable Practices, are detained in Prison, or in custody in this Province, and it is highly expedient and necessary that means should be provided for the more easily apprehending and more secure detention of such persons for a limited time, and of others who may be suspected or charged with such crimes: Therefore, for the better preservation of the peace and of the laws and liberties of this Province: Be it therefore Ordained and Enacted by His Excellency the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, "*An Act to make temporary provision for the Government of Lower Canada,*" and it is hereby Ordained and Enacted by the authority of the same, that all or any persons that are or shall be in prison, or otherwise in custody in this Province, at or upon the day of the making and passing of this Ordinance, or after, by any warrant for High Treason, Suspicion of High Treason, Misprision of High Treason, or Treasonable Practices, may be detained in safe custody, without bail or mainprize, during the continuance of this Ordinance, and that no Judge or Justice of the Peace shall during such

continuance, bail, or try any person or persons so committed, without an order from the Governor, or Person Administering the Government of this Province, by and with the advice and consent of the Executive Council of the said Province, any Law, Ordinance, or Statute to the contrary notwithstanding.

II. And be it further Ordained and Enacted by the authority aforesaid, that the Ordinance of the Governor in Chief of this Province, made and passed by and with the advice and consent of the Legislative Council of the said Province, in the twenty-fourth year of the Reign of His late Majesty King George the Third, intituled, "*An Ordinance for securing the liberty of the subject, and for the prevention of imprisonment out of this Province,*" in so far as the same may be construed to relate to cases of High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable Practices, be suspended until the first day of June next, and that until the said day, no Judge, Justice of the Peace, or other Officer of the Law in this Province, shall liberate, try, or admit to bail any person or persons that is, are, or shall be in prison, committed or in custody within the said Province for such causes aforesaid, without an order from the Governor, or Person Administering the Government of the said Province: Provided always, that from and after the said first day of June next, the said persons so committed, in prison, or in custody, shall have the benefit and advantage of all Laws, Ordinances, and Statutes any way relating to, or providing for the liberty of Her Majesty's subjects in this Province.

III. And be it further Ordained and Enacted, that this present Ordinance shall continue unto the said first day of June next, and no longer.

IV. And be it further Ordained and Enacted, that it shall be lawful for the Governor, or Person Administering the Government of the said Province, from time to time, and at such times, and for and during such periods of time, as to him shall seem meet, to suspend this present Ordinance, and the operation thereof, in any one or more of the Districts of this Province, or in any part or parts thereof, by Proclamation under

the Great Seal of the said Province in that behalf, and that this present Ordinance shall be suspended as to any one or more of the said Districts or parts of the said Province, from the day of the date of such Proclamation or Proclamations, for and during the period or periods in such Proclamation or Proclamations, defined and declared.

V. And be it further Ordained and Enacted by the authority aforesaid, that an Ordinance of this Province, made and passed in the first year of the Reign of Her Majesty, intituled, "*An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor, or Person authorized to execute the Commission of Governor and Special Council of this Province, shall take effect,*" be, and the same is hereby repealed as to this Ordinance only, and that this present Ordinance shall commence and have effect within the said Province, so soon as the Governor, or Person authorized to execute the Commission of Governor of the said Province, shall have assented to and signed this present Ordinance.

J. COLBORNE.

Ordained and Enacted by the authority aforesaid, and duly passed in Special Council, at the Government House in the City of Montreal, the eighth day of November, in the second year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of our Lord one thousand eight hundred and thirty-eight.

By His Excellency's Command,

W. B. LINDSAY,
Clerk Special Council.

} HEAD QUARTERS,
} *Montreal, 17th November, 1838.*

GENERAL ORDERS.

No. 7.

A General Court Martial will assemble at the Court House, on Monday, the 19th instant, at eleven o'clock A. M., for the trial of such prisoners as may be brought before it.

President, Major General CLITHEROW.

7th Hussars will furnish one Field Officer.

2d Battalion Grenadier Guards will furnish three Field Officers and three Captains.

15th Regiment will furnish one Field Officer and one Captain.

Garrison of Montreal will furnish two Field Officers and three Captains.

Captain Muller, Royal Regiment, acting Deputy Judge Advocate, to whom the names of the Members, with the dates of their commissions, will be immediately sent.

JOHN EDEN,
D. A. G.

} HEAD QUARTERS,
} *Montreal, 27th November, 1838.*

GENERAL ORDER.

No. 6.

The General Court Martial, of which Major General Clitherow is President, which was to have assembled on the 19th instant, will meet tomorrow, at half-past ten o'clock.

JOHN EDEN,
D. A. G.

By His Excellency Lieutenant General Sir John Colborne,
Knight Grand Cross of the Most Honourable Military Order
of the Bath, and of the Royal Hanoverian Guelphic Order,
Commander of Her Majesty's Forces in the Provinces of

Lower Canada and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, &c. &c. &c.

To all whom it may concern, Greeting :—

WHEREAS, by Proclamation under my hand and seal at arms, bearing date at the Government House in the City of Montreal, the fourth day of the present month of November, I did, by reason of the rebellion before that time, then and since existing in the Province of Lower Canada, declare Martial Law to be in force in the District of Montreal in the said Province, and the said Martial Law still continues in force therein ; And whereas, in and by an Ordinance of the Administrator of the Government of the said Province, authorized to execute the commission of Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said Province, made and passed in the second year of the Reign of our Sovereign Lady the Queen, intituled, "*An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same,*" it was Ordained and Enacted, that it should and might be lawful for the Governor of the said Province, or the Person Administering the Government thereof, (amongst other things,) to arrest and detain in custody all persons before that time or then engaged in such rebellion or suspected thereof, and to cause all persons so arrested and detained in custody to be brought to trial, in a summary manner, by Courts Martial, to be assembled under such authority, and to be constituted in such manner, and of such description of persons, as the said Governor, or Person Administering the Government of the said Province, should from time to time direct, for all offences committed from the first day of the present month of November, or which should thereafter be committed in furtherance of the said rebellion, whether such persons should have been taken in open arms against Her Majesty, or should have

been otherwise concerned in the said rebellion, or in aiding or in any manner assisting the same, and to execute the sentence of all such Courts Martial, whether of death or otherwise, and to do all other acts necessary for such purposes ; Now therefore, know ye, that I, the said Sir John Colborne, Lieutenant General, Commander of Her Majesty's Forces in Upper and Lower Canada, &c. &c., and Administrator of the Government of the said Province of Lower Canada, do hereby direct and require, that a General Court Martial, for the trial, according to Martial Law, of all persons whomsoever, for all offences committed since the first day of the present month of November, or which have been committed since that day, or which may hereafter be committed in furtherance of the said rebellion, whether such persons shall have been taken in open arms against Her Majesty, or shall have been otherwise concerned in the said rebellion, or in aiding, or in any manner assisting the same, be forthwith held, and that the said General Court Martial do consist of Major General John Clitherow, whom I do hereby appoint to be President thereof, and of Lieutenant Colonel Sir John R. Eustace, K. H., 2d Battalion Grenadier Guards ; Lieutenant Colonel Henry Barnard, 2d Battalion Grenadier Guards ; Lieutenant Colonel William Grierson, 15th Regiment ; Lieutenant Colonel James Craufurd, Grenadier Guards ; Major Samuel D. Pritchard, Major of Brigade ; Major Henry Townshend, 24th Regiment ; Major Arthur W. Biggs, 7th Hussars ; Captain William B. Smith, 15th Regiment ; Captain Robert Marsh, 24th Regiment ; Captain William Thornton, 2d Battalion Grenadier Guards ; Captain Henry A. Kerr, 2d Battalion Royal Regiment ; Captain Augustus Cox, 2d Battalion Grenadier Guards ; Captain The Honourable George Cadogan, 2d Battalion Grenadier Guards ; and Captain Hugh A. R. Mitchell, Grenadier Guards ; all of whom, or the said Major General John Clitherow, President, together with any twelve or more of the said last mentioned persons and Officers, may constitute the said General Court Martial ; and I do hereby authorise and empower the said Court Martial hereby appointed, to

hear and examine all such matters and information as shall be brought before them, touching any such charges and offences as aforesaid, and to proceed in the trial and trials of such person or persons as shall be brought before it, for any of the offences before it, and in giving of sentence according to Martial Law ; And for so doing, this shall be to the said Court Martial hereby appointed, and to all others concerned, a sufficient Warrant.

Given under my Hand and Seal, at the Government House in the City of Montreal, this twenty-seventh day of November, one thousand eight hundred and thirty-eight.

J. COLBORNE,

Commander of the Forces.

By His Excellency's Command,

WM. ROWAN,

Colonel and Military Secretary.

By His Excellency Lieutenant General Sir John Colborne, Knight Grand Cross of the Most Honourable Military Order of the Bath, and of the Royal Hanoverian Guelphic Order, Commander of Her Majesty's Forces in the Provinces of Lower Canada and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, &c. &c. &c.

To the Honourable DOMINIQUE MONDELET, one of Her Majesty's Counsel in the Law ; CHARLES DEWEY DAY, Esquire, one of Her Majesty's Counsel in the Law ; and Captain EDWARD ANGLIER MULLER, of the 2d Battalion Royal Regiment.

WHEREAS, by Proclamation under my Hand and Seal at Arms, bearing date at the Government House in the City of Montreal, the fourth day of the present month of November, I did, by reason of the Rebellion before that time, then and since existing in the Province of Lower

Canada, declare Martial Law to be in force in the District of Montreal, in the said Province, and the said Martial Law still continues in force therein. And whereas, in and by an Ordinance of the Administrator of the Government of the said Province, authorized to execute the commission of Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said Province, made and passed in the second year of Her Majesty's Reign, intituled, "*An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same,*" it was Ordained and Enacted, that it should and might be lawful for the Governor of the said Province, or the Person Administering the Government thereof, (amongst other things,) to arrest and detain in custody all persons before that time and then engaged in such Rebellion, or suspected thereof, and to cause all persons so arrested and detained in custody to be brought to trial in a summary manner, by Courts Martial, to be assembled under such authority, and to be constituted in such manner, and of such description of persons, as the said Governor, or Person Administering the Government of the said Province, should from time to time direct, for all offences committed since the first day of the present month of November, or which should thereafter be committed in furtherance of the said Rebellion, whether such persons should have been taken in open arms against Her Majesty, or should have been otherwise concerned in the said Rebellion, or in aiding or in any manner assisting the same, and to execute the sentence of all such Courts Martial, whether of death or otherwise, and to do all other acts necessary for such purposes; And whereas I, the said Sir John Colborne, Administrator of the Government of the said Province, by my Warrant in that behalf, under my Hand and Seal at Arms, bearing date at the Government House in the City of Montreal, the twenty-seventh day of this present month of November, did constitute a General Court Martial, for the trial of all persons accused of or charged with any of the offences

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in the said Ordinance mentioned, and did appoint Major General John Clitherow to be the President of the said Court Martial, and Lieutenant Colonel Sir John R. Eustace, K. H., 2d Battalion Grenadier Guards; Lieutenant Colonel Henry Barnard, 2d Battalion Grenadier Guards; Lieutenant Colonel William Grierson, 15th Regiment; Lieutenant Colonel James Craufurd, Grenadier Guards; Major Samuel D. Pritchard, Major of Brigade; Major Henry Townshend, 24th Regiment; Major Arthur W. Biggs, 7th Hussars; Captain William B. Smith, 15th Regiment; Captain Robert Marsh, 24th Regiment; Captain William Thornton, 2d Battalion Grenadier Guards; Captain Henry A. Kerr, 2d Battalion Royal Regiment; Captain Augustus Cox, 2d Battalion Grenadier Guards; Captain The Honourable George Cadogan, 2d Battalion Grenadier Guards; and Captain Hugh A. R. Mitchell, Grenadier Guards, to be members thereof; and did order and direct that they, or the said Major General John Clitherow, President, together with any twelve or more of the said last mentioned Officers and persons, might constitute the said General Court Martial; Now I do hereby constitute, nominate and appoint you, the said Honourable Dominique Mondelet, one of Her Majesty's Counsel in the Law, Charles Dewey Day, Esquire, one of Her Majesty's Counsel in the Law, and Captain Edward Angier Muller, of the 2d Battalion Royal Regiment, to be, joint and severally, Deputy Judge Advocate at the said General Court Martial, to be holden at the City of Montreal, on the twenty-eighth day of November instant, for the trial of such prisoner or prisoners as shall be brought before it, with all and every the rights, privileges, power and authority to the said office appertaining, in which trial or trials you are to proceed according to Martial Law; And you are to order the Provost Martial, or his Deputy, to give notice, from time to time, to the said President and Officers, and all others whom it may concern, when and where the said Court Martial is to be held, and to summon such witnesses as shall be able to give testimony at the said trials, or any of them; the said Provost Martial and his Deputy being hereby directed to obey your orders, and give at-

tendance where it shall be requisite ; and you are to return to me all sentences of the said Court Martial in the behalf aforesaid ; and for so doing, this shall be, as well to you as to all others concerned, a sufficient Warrant.

Given under my Hand and Seal, at the Government House in the City of Montreal, this twenty-eighth day of November, one thousand eight hundred and thirty-eight.

J. COLBORNE,

Commander of the Forces,

By His Excellency's Command,

WM. ROWAN,

Colonel and Military Secretary.

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THE QUEEN
VS.
JOSEPH NARCISSE CARDINAL AND OTHERS.

PROCEEDINGS

OF A

GENERAL COURT MARTIAL,

HELD IN PURSUANCE OF AN ORDER AND BY VIRTUE OF A WARRANT FROM
HIS EXCELLENCY LIEUT. GEN. SIR JOHN COLBORNE,
G. C. B. & G. C. H.

COMMANDER OF HER MAJESTY'S FORCES IN THE PROVINCES OF LOWER
AND UPPER CANADA, AND ADMINISTRATOR OF THE GOVERNMENT
OF THE SAID PROVINCE OF LOWER CANADA, &c. &c. &c.

{ MONTREAL, LOWER CANADA,
} 28th November, 1838.

President :

MAJOR GENERAL JOHN CLITHEROW.

Members :

Lieut. Colonel Sir JOHN R. EUSTACE, K.H., 2d Batt. Gren. Guards.

“ HENRY W. BARNARD, “ “

“ WILLIAM GRIERSON, 15th Regiment.

“ JAMES CRAUFURD, 2d Batt. Grenadier Guards.

- Major SAMUEL DILMAN PRITCHARD, Major of Brigade.
 " HENRY TOWNSEND, 24th Regiment.
 " ARTHUR W. BIGGS, 7th Hussars.
 Captain WILLIAM BRUDENELL SMITH, 15th Regiment.
 " ROBERT MARSH, 24th Regiment.
 " WILLIAM THORNTON, 2d Batt. Grenadier Guards.
 " HENRY ALEXANDER KERR, 2d Batt. Royal Regiment.
 " AUGUSTUS COX, 2d Batt. Grenadier Guards.
 " The Hon. GEORGE CADOGAN, 2d Batt. Gren. Guards.
 " HUGH A. R. MITCHELL, 2d Batt. Gren. Guards.

The Hon. DOMINIQUE MONDELET, one of Her Majesty's Counsel in the Law ;

CHARLES DEWEY DAY, Esquire, one of Her Majesty's Counsel in the Law, and

Captain EDWARD MULLER, of the 2d Batt. Royal Regiment, jointly and severally Deputy Judge Advocate.

The Prisoners having been brought into Court, the Warrants are read, and the names of the President and Members called over ; the Prisoners do not object to any of the Members of the Court.

The President, Members, and acting Deputy Judge Advocate, having been severally sworn, and John Godard and Francis Godschall Johnson having been sworn in as Translators of French, and Gervase Maccomber having been sworn as Translator of the Indian language, the Court proceeds to the trial of

Joseph Narcisse Cardinal, of the Parish of Chateauguay, in the District of Montreal, in the Province of Lower Canada, Notary Public ; Joseph Duquette, of the said Parish of Chateauguay, Gentleman ; Joseph L'Ecuyer, of the said Parish of Chateauguay, Farmer ; Jean Louis Thibert, of the said Parish of Chateauguay, Farmer ; Jean Marie Thibert, of the said Parish of Chateauguay, Farmer ; Léon Ducharme, otherwise

called Léandre Ducharme, of the City of Montreal, Gentleman ; Joseph Guimond, of the said Parish of Chateauguay, Farmer ; Louis Guérin dit Dusault, otherwise called Blanc Dusault, of the said Parish of Chateauguay, Farmer ; Edouard Thérien, of the said Parish of Chateauguay, Farmer ; Antoine Coté, of the said Parish of Chateauguay, Farmer ; François Maurice Lepailleur, of the said Parish of Chateauguay, Bailiff of the Court of King's Bench for the District of Montreal ; and Louis Lesiége, otherwise called Louis Lesage dit Laviolette, of the said Parish of Chateauguay, Shoemaker, on the following charges exhibited against them, to wit :

Treason against our Sovereign Lady the Queen, between the first and seventh days of November, in the second year of the reign of our said Lady the Queen :

In this : That the said Joseph Narcisse Cardinal, Joseph Duquette, Joseph L'Ecuyer, Jean Louis Thibert, Jean Marie Thibert, Léon Ducharme, otherwise called Léandre Ducharme, Joseph Guimond, Louis Guérin dit Dusault, otherwise called Blanc Dusault, Edouard Thérien, Antoine Coté, François Maurice Lepailleur, and Louis Lesiége, otherwise called Louis Lesage dit Laviolette, being subjects of our said Lady the Queen, on the fourth day of November, in the second year of the reign of our said Lady the Queen, and on divers other days, as well before as after, in the said Parish of Chateauguay, and also at Caughnawaga, commonly called Sault St. Louis, in the District and Province aforesaid, did meet, conspire, and agree amongst themselves, and, together with divers others, whose names are unknown, unlawfully and traitorously, to subvert and destroy, and cause to be subverted and destroyed, the Legislative rule and Government now duly established in the said Province of Lower Canada, and to depose and cause to be deposed our said Lady the Queen from the Royal State and Government of the said Province ; and did, for that purpose, then and there, to wit, in the said Parish of Chateauguay, and also at Caughnawaga, commonly called Sault St. Louis, aforesaid, incite and assist in a Rebellion in the

said Province, and then and there, to wit, in the said Parish of Chateauguay, and also at Caughnawaga, commonly called Sault St. Louis, aforesaid, being assembled and gathered together, and armed with guns, swords, spears, staves, and other weapons, did, in furtherance of the said Rebellion, traitorously prepare and levy public war against our said Lady the Queen, and were then and there, to wit, in the said Parish of Chateauguay, and also at Caughnawaga, commonly called Sault St. Louis, aforesaid, found in open arms against her said Rule and Government in this Province, against the peace of our said Lady the Queen, her Crown and dignity, and against the form of the Statute in such case made and provided.

The Prisoners having been called upon to plead, make certain objections contained in a document marked A, hereunto annexed, which objections are overruled by the Court, the same having been first cleared to decide on the said objections.

The Court is opened, and the Prisoners, Joseph Narcisse Cardinal, Joseph Duquette, Joseph L'Ecuyer, Jean Louis Thibert, Jean Marie Thibert, Léon Ducharme, otherwise called Léandre Ducharme, Joseph Guimond, Louis Guérin dit Dusault, otherwise called Blanc Dusault, Edouard Thérien, Antoine Côté, François Maurice Lepailleur, and Louis Lesiége, otherwise called Louis Lesage dit Laviolette, severally plead not guilty.

The Deputy Judge Advocate addressed the Court as follows :—
May it please the Court,

The prisoners before the Court are charged with the crime of Treason, in having conspired to depose Her Majesty from the Government of this Province, incited a rebellion for that purpose, and in furtherance of such rebellion, having stirred up and levied a public war.

The crime is in its character and consequences the gravest which a man can possibly commit, and as it does not frequently come within

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the cognizance of a Court Martial, it may be advisable to submit to you a brief definition of the distinct heads of the offence of High Treason, under which it is conceived the prisoners fall, and then call your attention to the specific facts to be proved, that thus you may be enabled to see how far these facts come up to the legal definition of the crime.

The law of treason, then, in so far as its provisions are likely to be applicable to the case before the Court, declares, that when a man doth compass or imagine the death of the King, or if a man levy war against the King in this realm, he shall be adjudged guilty of treason; but in order to bring him within the operation of this law, he must be convicted of open deed or overt act, clearly amounting in its indication and character to a compassing of the King's death, or levying of war against him.

As to what *overt acts*, or in more familiar language, what conduct on the part of the accused will bring them within these branches of the offence, we have a precise and sufficient guide, for on reference to the highest authorities on the subject, we find a variety of overt acts specified, among which we select as useful to our present purpose: 1st, The deposing or taking possession of the King or Government, or preparing to do it; 2d, The direct levying and consulting to levy war; 3d, Joining with rebels in any act of rebellion; 4th, Giving assistance or intelligence to rebels; 5th, Constructively levying war by insurrection to reform supposed national grievances.

If any one of these acts be brought home to the accused, by the evidence of two witnesses, the Court will be called upon, in the conscientious discharge of its stern and important duties, to declare them guilty of High Treason.

Now the facts which will be proved against the prisoners are briefly these:—

That they, with a large body of armed men, were assembled at Chateauguay on the 4th of this month; that they took a number of prisoners, whom they kept confined; that there existed amongst them degrees of

command and other features of organization, which characterize a regular army ; that they avowed an intention to subvert the Government of Her Majesty, and to establish a Republic in its place ; that they proceeded from Chateauguay to Caugnawaga, and there demanded the arms of the Indians, with the intention above avowed ; and generally that they, with those by whom they were accompanied, were in intelligence and concert with rebels in other parts of the Province, and were engaged in acts of open warfare and rebellion against Her Majesty's Government here.

It may be added that the men selected for trial today, appear to have held stations of command, and to have exercised great influence amongst their companions.

With this explanation of the law, and these facts fully proved, the Court, it is presumed, can have little difficulty in forming an opinion upon the guilt or innocence of the unfortunate men now before it.

The Court then proceeds to examine the following witnesses, in support of the prosecution :—

JOHN LEWIS GRANT being called into Court, and the charge read to him, he is duly sworn, and states to the following effect :—

I am a resident at Lachine, and am a farmer. I know the prisoners Cardinal, Duquette, Ducharme, Lepailleur, and Jean Marie Thibert, the latter of whom I took myself. On Saturday, the third day of November instant, I embarked myself, my horse and gig, on board the Chateauguay steamer, on my way to Mr. John M'Donald's. On the night of the third of November, at about nine o'clock, I was taken by Duquette, who was in company with about thirty others. I was outside the house belonging to Duquette's mother, and was taken into the house by a body of men, variously armed, and apparently led by Duquette in person. I believe Duquette was not armed himself when I was taken. I asked Duquette what was the meaning of this proceeding, and he told

me, that, in two or three days, there were a body of Americans coming in, and that I should be made as free and independent as themselves. I was shown into a bed-room, and examined; they asked me if I was the bearer of despatches; they searched me, and took from me a pair of pistols. In the bed-room I saw, besides Duquette, Lepailleur and one Newcombe, who has made his escape. They put a number of armed men to guard me, and Duquette directed that I should be treated kindly; after that, I lost sight of Duquette. The sentries were placed over me by order of Duquette. In the night, Cardinal came to the house where I was confined, and removed me to his own office, where I found Mr. M'Donald a prisoner. I was escorted by a band of armed rebels; Cardinal appeared to be the commander of the party, and to be looked up to as such. I do not think Cardinal was armed. I remained in confinement with Mr. M'Donald until the afternoon of Sunday, the fourth, when I was removed to one Mallette's house, where I found Mr. Ellice and others in custody, having been taken prisoners at Beauharnois, as I understood. On Monday or Tuesday afternoon, the shutters were closed, and our apartment darkened. On the Sunday and Monday, I saw from two to three hundred men armed. I did not distinguish any of the prisoners before the Court among the armed men. On a report that the Indians were coming, they flew to the church, crying, "*Les sauvages viennent.*" On the Saturday week following the day on which I was taken, we were conducted, under a guard of two hundred men or more, to a place called La Pigeonnière; at which place, hearing that the rebels had been defeated at Napierville, they dispersed, and liberated us. We sent repeatedly, while in confinement, to have an interview with Cardinal, who, we understood from the sentries guarding us, was the principal leader. I have a recollection of having seen the prisoner Ducharme when he arrived at Chateauguay, in the company of one Brault; they were both armed with guns, and were welcomed by the rebels. Duquette, one Demarais, and the sentries, with Lepailleur and others, told me plainly that the Americans

were coming, and that they were going to take possession of the country ; that there would be a general rising that night, (Saturday, the third,) and that the present Government would be overthrown, and I should get my liberty. The men whom I have specified were resident at Chateauguay, with the exception of Ducharme. Cardinal is a Notary Public ; Lepailleur is a Bailiff. I observed degrees of command among the body of men by whom I was made prisoner ; that they mounted guard with an officer, and were organised as a military body.

Question from the Court—State to the Court whether you saw any of the prisoners besides Ducharme armed, between the third instant and the period when you were released ; and if so, mention their name or names.

Answer—I cannot saw that I did.

Q. from the prisoner Cardinal—Did you hear Mr. Cardinal give any order to the persons whom you say you saw in arms about the third day of November instant ?

A.—No.

Q. from the prisoner Cardinal—Is it not to your knowledge, that it was at the request of Mr. J. M'Donald, of whom you have spoken, that Mr. Cardinal went for you to Mr. Duquette's house ?

A.—It is not to my knowledge.

Q. from the prisoner Cardinal—Did Cardinal come to confer with you, on any of the occasions when you sent for him ?

A.—No.

Q. from the prisoner Duquette—Did you hear Joseph Duquette give any orders during the time alluded to by you in your examination in chief ?

A.—Men were put over me by his orders.

Q. from the prisoner Jean Marie Thibert—When and where did you take me ?

A.—I do not exactly recollect the day, but it was between nine and twelve in the morning, some days after my release. I went out with

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Mr. John M'Donald and one of the Lachine Cavalry, purposely to take you, at your own house, in the parish of Chateauguay.

Mr. JOHN M'DONALD, merchant, of Chateauguay, being called into Court, and the charge read to him, he is duly sworn, and states to the following effect :—

I know all the prisoners. Joseph L'Ecuyer, Jean Louis Thibert, Jean Marie Thibert, Joseph Guimond, Louis Guérin dit Dusault, otherwise called Blanc Dusault, Edouard Thérien, and Antoine Coté, are all of Chateauguay, farmers ; Joseph Narcisse Cardinal is a Notary, resident at Chateauguay ; Joseph Duquette also resides at Chateauguay, and is, I believe, a clerk with Mr. Cardinal ; Léon Ducharme, otherwise called Léandre Ducharme, resides in Montreal, and is a gentleman ; François Maurice Lepailleur is a bailiff, resident at Chateauguay ; and Louis Lesiége, otherwise called Louis Lesage dit Laviolette, is of Chateauguay, shoemaker.—On the night of Saturday, the third of November instant, as I was getting into bed, at my own house at Chateauguay, I heard a great shouting, at about ten o'clock. I immediately arose, and looked out at the window. I saw an immense concourse of men, to the amount of one hundred, or probably more, calling upon me to open the door to admit them. I asked them what they meant by coming at that unseasonable hour, and in such numbers. Jean Louis Thibert answered, that they were going to declare their independence that night. I replied, that I would not open the door until they told me what they wanted. Jean Louis Thibert said, "Open the door, and I will save your life ; if you do not, we will fire, and destroy your house." I went to the door with my servant, who advised me not to open the door, as there were a gun and a sword with which we could defend ourselves. I told him we could offer no resistance to such a body of men, armed as they were. At this time the noise, both behind and in front of the house, had greatly increased, and there was a great deal of yelling and shouting. I then desired the man to secrete himself under the bed, and, if possible, to go and communicate to Mr. Ellice that I

was made a prisoner. I then opened the door, and they rushed in, to the number of a hundred or more. Jean Louis Thibert was the head of the party; on that occasion I distinguished no others.

It being four o'clock, P.M., the Court adjourns until tomorrow, the twenty-ninth instant, at ten o'clock.

SECOND DAY, 29th November, 10 o'clock, A.M.

The Court meets pursuant to adjournment—present the same members as on the 28th.

Mr. JOHN M'DONALD's examination continued.—When I opened the door, Jean Louis Thibert followed me to my bed-room, and desired me to deliver him all the arms I had; to which I answered, that I had only the gun then in my hand. The man, in concealing himself under the bed, took the sword with him. They appeared to be in a great hurry, and ordered me to dress myself as quick as possible. After I had dressed, the said Thibert ordered me to go to the store, a short distance from my house. Accompanied by him, and others who were armed, I went to the store. Jean Louis Thibert himself was armed with a sword. I was ordered to deliver them all the powder and lead I had. There was a tin canister, containing about twenty-five pounds of powder, and also about fifty or sixty pounds of shot, but no ball. After retiring from the shop, I did not perceive that any thing else had been disturbed. When I got back to the dwelling-house, they insisted that I had more arms. Thibert was all along the spokesman and the chief of the party. They searched for more arms, from the cellar to the garret, but found none. Some person in the crowd, whom I could not distinguish, said that I ought to be tied. Jean Louis Thibert then came up to me, and said, that if I would go peaceably with them, they would not tie me. Thibert then took me by the arm, and conducted me to the rebel camp, near the bridge at *Chateauguay*. On our way down, the party increased to two or three hundred, all armed—making all the

inhabitants of British origin on the road prisoners. Thibert still continued to command. At one house, where one M'Lean lived, they inquired after him, and his wife said he had been out all the evening. It appeared from the conversation of the rebels, that they were aware M'Lean was in the house. Jean Louis Thibert then gave orders to one Giroux to light a candle, and set fire to the barn, unless M'Lean were delivered up. On this, I desired Mrs. M'Lean to discover her husband, and asked where he was; she pointed to the chimney, and I desired M'Lean to come out. Jean Louis Thibert and others instantly seized him, and used very harsh language to him. They then asked his wife for a rope to tie him; the woman gave one, and he was tied with his hands behind his back. After leaving M'Lean's house, Jean Louis Thibert requested me to ask all those of British origin to surrender, to avoid being killed. They put me on the advanced guard, and on approaching the houses of loyalists, I knocked at the windows, and they came out. Jean Louis Thibert commanded the advanced guard. On arriving at the camp, with all the inhabitants of British origin prisoners, to the number of about nineteen, we were taken to the office of Mr. Cardinal; this was between the Saturday night of the 3d and Sunday the 4th November instant. At this office I recognized, in arms, François Maurice Lepailleur; Joseph Duquette, also armed; Louis Guérin dit Dusault, Joseph L'Ecuyer, and the prisoner Thérien, all of whom were armed. Cardinal came into his office soon after we arrived. I saw him armed at one time with a sword, and at another with a gun. They held a consultation, of which Cardinal appeared the chief, and it resulted in the dismissal of all the prisoners but myself. Cardinal himself gave orders for their dismissal. I then requested Cardinal to send an armed party with me, to secure my books and papers, which I had left open. Cardinal refused the request. I asked Cardinal why I was detained, and the others set at liberty; to which he replied, that I was the only person he wanted. By this time, John Lewis Grant had been made prisoner, as I was told by Cardinal. Cardinal said, that on search-

ing Grant, they had found him well armed. I asked Cardinal to allow us to be put together ; he replied, that Mr. Grant was very high and noisy, and it would be better to keep us apart. In about half an hour after, I repeated the request ; to which he replied, by fetching Grant. On Sunday morning, at about daylight, I saw Jean Marie Thibert, in arms ; Léandre Ducharme and Antoine Coté, both armed. They all came to Cardinal, apparently, to receive orders. Joseph Guimond was also armed ; Louis Lesiége, otherwise called Lesage dit Laviolette, was also armed. After this, the only prisoners I distinguished in arms were Joseph L'Ecuyer, Jean Marie Thibert, Léon Ducharme, otherwise called Léandre Ducharme, Louis Lesiége dit Laviolette, and Edouard Thérien. They were giving orders, and drilling men, and appeared the chief commanders. This was on the morning of Sunday, the fourth of November instant. Between the hours of eleven and twelve on the same day, there was a great bustle among the rebels, hearing that the Indians were coming. A short time after this, the wife of Cardinal came to the house where I was confined, in tears. I asked her what was the matter ; she made no answer. I understood soon after, that Cardinal and some others had been taken prisoners by the Indians. As I did not see Cardinal, Lepailleur, Duquette, Coté, Guimond, Jean Louis Thibert, or Louis Guérin, I concluded it was true. I did not see these last mentioned persons after daylight on Sunday morning. Those I distinguished in arms after this, were L'Ecuyer, Jean Marie Thibert, Lesage dit Laviolette, Thérien and Ducharme. About this time, I saw Ducharme very active, in ordering about men, and even pushing them with his gun. On Sunday morning, the fourth November instant, I saw Mr. Ellice, Mr. Brown, Mr. Ross, Mr. Normand, and Mr. Bryson, all prisoners, and escorted by a band of about thirty or forty armed men. They were in Mr. Brown's carriages. On the Monday or Tuesday morning, I recognized L'Ecuyer and Ducharme, in arms, with ten or twelve others, who were under their command, escorting the last mentioned prisoners to a house belonging to one Mallette, at Chateauguay.

A few minutes after, Ducharme came to me, and told me that I was to be put with Mr. Ellice, as I requested. I was then escorted, by a band of armed men, commanded by Ducharn. to Mallette's house, where Mr. Ellice and the other prisoners were. When we were there, eleven prisoners in number, the window-shutters were closed. One morning, during our confinement, one of the shutters was accidentally opened, and I saw Ducharme commanding about one hundred men, who were armed and drilling. After dismissing his men, he came to the house, and observed that the shutter was opened. I heard Ducharme reprimanding the sentries, and saying that the first of us who opened a shutter was to be shot; he then closed the shutter himself. In obedience to Ducharme's previous orders, on the next morning, one of the sentries presented his gun, which was cocked, at Mr. Ellice, who was near a window that happened to be uncovered by the shutter. I pulled Mr. Ellice away, saying they would shoot him. After this, we were more closely confined, and were allowed candles. On the Saturday, the tenth of November instant, Ducharme came in, and stated that the Americans had taken possession of Napierville, and that we were to prepare to go there, as that was to be the principal camp, (*grand camp*.) At this time, carts were prepared, and we were, with the exception of Mr. Ellice, tied two and two. When we were in the carts, proceeding to the *great camp*, I recognized among our escort of armed men, L'Ecuyer, who appeared very active. Ducharme appeared to have the principal command, and I saw besides, Jean Marie Thibert, Louis Lesiége dit Laviolette, and Thérien. We were taken to La Pigeonnière. I recognized the above last named before starting; but our numbers increased so much, that I cannot say if they accompanied us there. On our arriving at La Pigeonnière, we were taken to a house belonging to one St. Germain.

Question from the Judge Advocate—What was the avowed intention of this body of armed men?

Answer—To subvert the Government, and declare their independence. Jean Louis Thibert and Cardinal said so expressly. Cardinal added, that on that night, (Saturday the third,) the whole Canadian population had risen, and would be in possession of all Canada except Quebec.

Q. from the same—Can you state what were the several degrees of command among these men, and specify the rank held by any of the prisoners?

A.—I only know that Jean Louis Thibert told me that Cardinal and Duquette were two *grands chefs*.

GEORGE DELORIMIER, of Caughnawaga, commonly called Sault St. Louis, being called into Court, and the charge read to him, he is duly sworn, and states to the following effect:—

On the fourth of the present month of November, I was in my bedroom, at Caughnawaga, at about eight in the morning. While there, I saw some one come into the parlour, and I recognized Ignace Giashon, who told me that the patriots had arrived at Caughnawaga wood; he told me to say nothing, and immediately retired. Ignace Giashon was my wife's uncle, and came to warn me that I might defend myself. At the same time, I perceived Joseph Narcisse Cardinal, the prisoner before the Court, and another man, pass my house to go into my shop. I called Cardinal and his companion to come into my room. I asked Cardinal what he wanted so early; he replied, that he wanted to speak to the Indian Chiefs, and asked if he could do so, and if there were any means of getting their arms. At the same time, he asked how many arms were in the village. I said about thirty. He said that so few were hardly worth coming for; he said he would go lower down, to Mr. Gervase Maccomber, to get some money. While I was dressing, I saw the prisoner Duquette go into my shop, and speak to my clerk. On going into the yard, I saw several men, who appeared to belong to Mr. Cardinal's party. I went to inform the Priest of these pro-

ceedings, then I went to the church, and told the congregation to get out; the congregation was composed of Indians. I notified them and all others I met, to arm themselves, as the enemy were coming: I mean the Canadians. In about five minutes, the Indians were all ready, and congregated round the May-pole. They decided on sending forward ten, of which I was one, unarmed. We went as far as the chapel, and met Lepailleur, the prisoner before the Court. Maurice Lepailleur came to me, and asked why the Indians had disarmed him, by taking away his pistol, as he meant no harm. At this moment, a large number of armed Canadians surrounded us; they were armed with spears and guns. I distinguished no other of the prisoners among these men. I called to the Canadians, to know what they wanted. They all cried out that they did not intend to do any harm, but that they wanted our arms. I answered, that we had nothing to do with that, but that they could confer with the Chiefs. I told four or five to come and speak to the Chiefs; instead of which, they came nearly all in a body, to the first house in the village. When we arrived at the village, the Indians were drawn up in line, and soon after surrounded the Canadians, made prisoners of them, disarmed them, and took them to the boat to cross the river. About an hour after, I saw Cardinal and eleven others, among whom was the prisoner Duquette, who had been made prisoners by the Indians.

Question from the Judge Advocate—Did Cardinal make use of any expression of fear or regret, in the course of his conversation with you, on the morning of Sunday, the fourth November?—if so, declare what that expression was.

Answer—I said to Cardinal, what will become of you, if you do not succeed in your undertaking? he replied jokingly, I suppose I shall be hung.

Q. from the same—Did the Canadians when you met them, make any declaration of their intention or object; or any offer to the Indians, in case they would not oppose them?

A.—They said, that if the Indians would give up their arms, they would not be injured by them, but would be permitted to retain their *seigneurie*; they said that Beauharnois was taken, and the southern shore of the St. Lawrence, and that *Pile aux Noix*, St. Johns and Laprairie were to be taken.

Q. from the same—From what place had this body of men come?

A. I do not exactly know by what road they came; they proceeded immediately from the wood which stretches to Chateaugay.

Q. from the same—Did those among them whom you recognized reside at Chateaugay?

A.—The three whom I have named were of Chateaugay; some of the others I knew, by sight, as people of Chateaugay; but only Lepailleur was among that band.

Q. from the same—Among the prisoners taken on Sunday, did you see any of the prisoners now before the Court, and which of them?

A.—Lepailleur was the only one whom I saw among the prisoners taken on Sunday; the others were crossed over without my seeing them.

Q. from the same—Did you, or did you not, see a man of the name of Louis Guérin dit Dusault, otherwise called Blanc Dusault, at Caughnawaga, on Sunday the fourth instant?

A.—I cannot swear that I saw him, but I heard that he was there.

Q. from the Court—Did you not see Cardinal or Duquette, on Sunday the fourth, after they were taken?

A.—I saw them both prisoners, in the house of an Indian, named Louis Shakohentetha.

IGNACE DELISLE, otherwise called IGNACE KANERATAHERE, being called into Court, and the charge read to him, he is duly sworn, and states to the following effect:—

I know the prisoners, Lepailleur, Cardinal, Lesiége, otherwise called Lesage dit Laviolette, Duquette, and L'Ecuyer; the others I know by sight, with the exception of Ducharme, Guimond, and Jean Marie Thi-

bert, whom I do not know at all. On Sunday, the fourth of November instant, at Caughnawaga, I saw Lepailleur, Duquette, and Louis Guérin dit Dusault. Duquette was not a prisoner when I saw him; the other two were. On Saturday, the third instant, I was in Montreal. On the Sunday following, at seven o'clock in the morning, the Chiefs came to my house, at Caughnawaga, to hear if there were any news from Montreal. About eight o'clock on the last mentioned day, the prisoner Duquette came to my house; he asked me where one Charles Giasnon lived. I told Duquette that some hay he had bought from me, was ready. At the first bell for mass, a Chief, whom I had left in my house, informed me that a woman had given notice that the rebels were coming. The last Chief who had remained at my house, returned in less than three minutes after he had left it, with another Indian, and told me to take my arms, and make as much haste as possible, adding that the rebels were within a mile of the village, and the woman had seen them. A man on horseback was sent to ascertain the truth of the woman's report; he returned, and said it was true. The Chief commanded all the Indians to take up arms. Six of us went forward unarmed, to see the rebels. On arriving at the chapel, behind the village, I saw two persons in the chapel door, who, on seeing us, ran away; one of them I recognized as Maurice Lepailleur. One of us ran after, and overtook, Lepailleur. I asked Lepailleur what he came armed for; Lepailleur told me he was coming from Laprairie, and was on his road home, and had nothing to do with them. He had a shot-belt on his shoulder, and, upon my attempting to take it off, he took a pistol from underneath his coat, and, before he could present it, we closed on him, and disarmed him. The person who was with Lepailleur escaped, and joined the rebels. When he got about three acres away from us, he called out to the rebels to advance. About a hundred or more advanced; they were all armed, and came out of the wood. Lepailleur told me not to be alarmed, for that I should not be hurt. Lepailleur advised me to lend the arms and ammunition of the Indians to the re-

bels ; he added, that we should be well paid if we gave up our arms ; and said, " as you are a Chief, use your influence, and you shall be well paid." I refused to make any such promise, and said that I would confer with the other Chiefs, but that I alone could do nothing. Lepaillieur said, if the Government is displeased, we will protect you. They then surrounded us, and turned towards us with their guna cocked. The person who had been with Lepaillieur, asked if he had been hurt. Lepaillieur answered, no. One of the crowd cried out, " we are ready, Lepaillieur—give the word." Lepaillieur answered, " no, we are not ready—be quiet, my friends." Lepaillieur said, that he would go to the Chiefs with me, and endeavour to get the arms. We went to the village, and Lepaillieur spoke to the Chiefs with me, and said that he wanted the arms. The Chiefs said no, they would not give them up, and would defend them with the last drop of their blood, as they had been given to them by the Government. The band of rebels advanced, and the Chiefs gave orders to surround and disarm them, which was done, and we took them prisoners. Delorimier told us not to take their arms away, but we obeyed the Chiefs.

Question from the Judge Advocate—Do you recognize among the prisoners, any of the persons whom you took at Caughnawaga ?

Answer—Lepaillieur and Guérin dit Dusault were taken among the crowd surrounded by us. Duquette was subsequently taken, I do not know when or where—it was, however, on Sunday.

Q. from the same—What did you understand to be the object of the rebels, either from their words or actions ?

A.—I thought they came to make war against us.

Q. from the same—Did the rebels make mention of any force acting in conjunction with, or being about to come to their assistance ?

A.—They said that a great many other people were coming from Chateauguay to help them. Lepaillieur's companion said so ; I don't know whether Lepaillieur heard his companion speak.

Q. from the Court—Why do you designate the people who came to Caughnawaga on the Sunday morning, as rebels ?

A.—They were sometimes called patriots, and sometimes rebels.

Q. from the same—What do you suppose was meant by the expression, “Lepailleur, give the word—we are ready,” as used by one of the crowd ?

A.—I thought at that time, that we were done for. Lepailleur did the best he could to prevent it.

Q. from Duquette—When Duquette came to your house, on the fourth of November last, did he not ask, the first thing, whether the hay you had sold him would soon be ready for delivery ?

A.—No.

Q. from the same—Did you see Duquette after he had left your house, on the fourth of November ?—if you did, state where.

A.—I saw him after he was a prisoner, in Montreal.

It being four o'clock, P.M., the Court adjourns until tomorrow, the thirtieth instant, at ten o'clock.

THIRD DAY, 30th November, 10 o'clock, A.M.

The Court meets, pursuant to adjournment—present the same members as yesterday.

Gervase Maccomber, Interpreter of the Indian Language, is permitted to retire, and Jean Baptiste Taio Ventakoveve is sworn in his stead.

JOSEPH TENIHATIE being called into Court, and the charge read to him, he is duly sworn, and states to the following effect :—

Question from the Judge Advocate—Do you know any of the prisoners before the Court ?

Answer—Yes, by name, I know Duquette, Cardinal and Lepailleur ; and I recognize by their appearance, Thérien and L'Ecuyer, although I do not know their names.

Q. from the same—When and where did you see these men together ?

A.—It was at the Sault St. Louis, on Sunday the fourth of November instant, I saw L'Ecuyer, Lepailleur, and Thérien ; Cardinal and Duquette were not then there ; it was at a chapel near the Sault St. Louis.

Q. from the same—Did you see Cardinal and Duquette at Caughnawaga, on the last mentioned day ?

A.—I saw Cardinal and Duquette on the same day, as prisoners, in the house of an Indian, about ten o'clock in the morning, at Caughnawaga.

Q. from the same—Were there any other persons, and how many, with Lepailleur, L'Ecuyer, and Thérien, when you saw them near the chapel ?

A.—Yes, there were about eighty, I think.

Q. from the same—Were they armed ?

A.—Yes, they were armed with guns and spears.

Q. from the same—What did these armed men want with the Indians ?

A.—Lepailleur said, they wanted to borrow the Indians' arms.

Q. from the same—Are you personally acquainted with Duquette, Cardinal, and Lepailleur ?

A.—Cardinal and Lepailleur are well known to me ; I was only slightly acquainted with Duquette.

Q. from the Court—Had any of the prisoners before the Court, arms in their hands, when you saw them on Sunday the fourth ?

A.—Lepailleur had a pistol, which was taken from him ; the others had no arms.

Q. from Thérien—Did you see me at the Sault St. Louis, on the fourth of this month ; if so, state at what o'clock, at what place, and in whose company ?

A.—I did not see you on that day, at the Sault St. Louis.

Q. from the same—Did you see me at the chapel, near the Sault St. Louis, on the fourth November instant ?

A.—No.

Q. from L'Ecuyer—Were there any other persons with me besides Lepailleur and Thérien, at the time you pretend to have seen us together, near the chapel, on the fourth of November instant ?—if so, state the names of such persons.

A.—I did not see L'Ecuyer at the chapel, nor do I know the names of any others whom I saw there, except Lepailleur.

Q. from the Court—Point out those among the prisoners whom you saw at the chapel, or at Caughnawaga, on Sunday, the fourth of November instant ?

A.—I saw Duquette, Cardinal, and Lepailleur.

Q. from the same—At what time, and where, did you see Cardinal, at the Sault St. Louis, on the fourth instant ?

A.—It was about half-past ten, A.M., in the house of an Indian, at Caughnawaga, on the fourth instant.

PIERRE REID, son of Antoine Reid, of Chateauguay, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

The habitans in the parish of Chateauguay were raised on Saturday, the third of November instant, to go to Caughnawaga, and get the arms belonging to the Indians. I did not hear any of them say that they intended to do any harm. When I went from my house, I did not know where I was going. We were conducted to the house of one Blanc Dusault, the prisoner before the Court, at the extremity of Chateauguay. Jean Marie Thibert was one of those who conducted us there. On arriving at Dusault's house, I, with some others, wanted to return. I was told by one Demarais, that whoever returned would have his brains blown out. This was on the Saturday night, and as it was very dark, I could not see how many people were there. From Dusault's we were conducted, on the same night, to the church at Chateauguay ; from the

church, we went to one Sanson's. We might have remained about two hours at the church. From Sanson's we started, at about an hour before daylight, to go to Caughnawaga. Soon after we got to Caughnawaga, a great many of our party ran away. I was among those who surrendered to the Indians. I cannot tell precisely how many went to Caughnawaga—I suppose about sixty.

Question from the Judge Advocate—Were the men with whom you went to Caughnawaga, armed?

Answer—They were not all armed; about thirty-six of them had guns, others had spears, and some staves.

Q. from the same—For what purpose did the habitans with whom you went to Caughnawaga, want the arms of the Indians?

A.—I do not know—they did not tell me what they intended to do with them.

Q. from the same—Whom do you mean by the expression “They?”

A.—I mean the people of our *Cote*, among whom were Jean Marie Thibert and one Jacques Tailli.

Q. from the same—Look at the prisoners now before the Court, and declare whether any, and which, of them were with you at Chateauguay, or at Caughnawaga, on the fourth of November instant?

A.—I recognize among the prisoners, who were with us at Chateauguay, on Sunday morning, the fourth instant, Cardinal, who proceeded to about within a mile of the Sault St. Louis, and then went in advance, with Duquette, who had been with us up to that time. Joseph L'Ecuyer was with the band at Chateauguay, on the same day, but I did not see him at the Sault. Jean Louis Thibert accompanied us from Chateauguay to the Sault St. Louis. Jean Marie Thibert left Chateauguay with us, to go to the Sault St. Louis; but in the wood near the Sault, he left us, to return. Léon Ducharme I did not see. Joseph Guimond accompanied the band from Chateauguay to the Sault St. Louis. Louis Guérin dit Dusault, otherwise

called Blanc Dusault, was with the band at Chateauguay, but did not see him at the Sault. Edouard Thérien I neither saw at Chateauguay nor at the Sault. Antoine Coté was one of the *brigade* at Chateauguay, but not at the Sault. François Maurice Lepailleur came with us to the chapel at the Sault St. Louis, but I did not see him after. I did not see Lesiége dit Lesage dit Laviolette, either at Chateauguay or at Caughnawaga. All those whom I have named, I saw on the first Sunday after All Saints Day of this year—it was in the month of November.

Q. from the same—Were the prisoners whom you have named as having seen, or any of them, armed—if so, which of them?

A.—Cardinal had a cane in his hand; Duquette had a sword; L'Ecuyer had a gun. I did not see Jean Louis Thibert with any arms. Jean Marie Thibert had his gun. I did not see Guimond armed. I did not see Dusault armed. Antoine Coté had no arms that I saw. Lepailleur had a pistol.

Q. from the same—Who were the leaders of the band with which you went from Chateauguay to Caughnawaga, as stated in your evidence?

A.—Cardinal and Duquette commanded; I do not know whether they were called chiefs.

Q. from the same—Who ordered you to join the band, on the night of Saturday, the third instant?

A.—Jean Marie Thibert.

Q. from the same—Were you drilled or exercised in the use of arms, or in marching or otherwise, at Chateauguay, and by whom?

A.—No; I left my house on Saturday, the third instant, at night, and was made prisoner the next day, in the morning.

Q. from the same—How were you employed during the two hours you were in the Chateauguay church?

A.—We were not in the church—we were near it, waiting for daylight.

Q. from the same—Were any persons placed as sentinels or guards at Chateauguay ?

A.—I know that there were, but I do not know who—as they were placed at some distance from me, and it was dark.

Q. from the same—Did you see any prisoners at Chateauguay, and whom ?

A.—I saw none.

Q. from the same—In what order did the band march from Chateauguay ?

A.—All in a body ; we marched in platoons of about twenty or twenty-five each ; where the roads were bad, we were obliged to divide.

Q. from the same—Were the platoons commanded by chiefs ?

A.—No ; the chiefs I have named were sometimes before, and sometimes behind.

Q. from the same.—Do you know what were the different degrees of command in the band in which you were ?

A.—I heard no different degrees of command mentioned.

Q. from the same—Did you receive any orders during the time you continued with the band, and from whom ?

A.—I received orders from Duquette and Cardinal, first, to assemble at the church at Chateauguay, and thence to Caughnawaga, to take the arms of the Indians.

Q. from the same—Was there, or was there not, any person in the band called a Racquette, or a Castor, or a Frère Chasseur ?

A.—No, not that I know of.

Q. from the same—Did you hear of no other reason for the habitants rising, except for the purpose of taking the arms from the Indians ?

A.—No.

Q. from Jean Marie Thibert—Does not the wood commonly called the Sault St. Louis wood, commence a league from the Sault ?

A.—It begins at about three quarters of a league from the Sault.

Q. from Cardinal—Did you mean to say that the band you pretend to have accompanied from Chateauguay to the Sault St. Louis, marched in regular order, or that they were thrown pell mell in bodies, or platoons, according to the nature of the roads?

A.—I meant to say, that we marched sometimes in twenties, and sometimes in fiftens. Mr. Cardinal ordered us to keep together where the roads were good.

Q. from Jean Louis Thibert—Is it not true that you are a prisoner in the common gaol of this district, under accusation, like the other prisoners, of high treason; and is it not true, that you have turned Queen's evidence?

A.—I do not know how to answer this question.

PIERRE REID, son of Joseph Reid, of Chateauguay, farmer, being called into Court, and the charge read to him, he is duly sworn, and states to the following effect:—

I live at Chateauguay. On Saturday, the third of November instant, at Chateauguay, one Newcombe came to my house, and ordered me to go to the house of the prisoner Duquette, that night. In obedience to this order, I went to Duquette's house, at six o'clock that night. When I arrived there, there were seven or eight persons there; afterwards, they increased to the number of about thirty or forty. At about eight o'clock, John Lewis Grant arrived, and was made a prisoner. Duquette took Mr. Grant prisoner. In about two hours after this, our numbers increased to about a hundred, more or less. We were commanded by Newcombe to go and disarm the Scotch people. About the half of us started, to go to the upper part of Chateauguay; the other half went lower down. We went to one Scotchman, whose name I do not know, and got his arms, which he gave willingly. We then returned to the bridge at Chateauguay. We remained there some time, when another party arrived from below, bringing Mr. M'Donald prisoner. After remaining some time

at the bridge, we decided on going to Caughnawaga, to disarm the Indians. We were commanded by Messrs. Demarais and Newcombe, and were forced to go to Caughnawaga. We were threatened to be fired on if we stayed behind. We started, and when we got to Caughnawaga wood, on Sunday morning, we scattered ourselves through the wood. We waited in the wood about two or three hours. The Indians, seeing that we were in the wood, came to us, to the number of four or five, with Mr. Delorimier. Lepaillieur and Delorimier conversed together, and Delorimier told him to come to the Sault, and make some arrangement. We advanced a little, when the Indians came and surrounded us. Some of us returned, and some were made prisoners by the Indians. I was one of those who went back, and was taken, with four others, afterwards.

Question from the Judge Advocate—Were the men with whom you went to Caughnawaga, armed, and how ?

Answer—Some of them were armed, but the greater part were not ; some had guns, some sticks, with iron points.

Q. from the same—For what purpose did the habitans with whom you went from Chateauguay to Caughnawaga, go there ?

A.—They were ordered to go, and demand the arms of the Indians.

Q. from the same—For what purpose did the habitans with whom you went to Caughnawaga, want the arms of the Indians ?

A.—We understood that the Indians were coming against us, so we wished to get their arms.

Q. from the same—From whom did you understand that the Indians were coming against you, and why were they coming ?

A.—From Demarais and Newcombe ; they said that the Indians were coming, with the Scotch, to massacre us.

Q. from the same—Did you hear, or in any way understand, what was the object of the chiefs of the band in which you were ?

A.—No.

Q. from the same—In whose name was John L. Grant made prisoner ?

A.—I was near Grant when he was made a prisoner, but I do not know in whose name he was taken.

Q. from the same—Look at the prisoners now before the Court, and declare whether any, and which of them, were with you at Chateauguay, or at Caughnawaga, on the fourth of November instant, and which of them were armed ?

A.—Cardinal went with us from Chateauguay to Caughnawaga, but, at the latter place, I went into the bush, and he was gone on ahead ; he was not armed. Duquette left Chateauguay with us, and was armed with a sword ; I do not know whether he took it with him to Caughnawaga. I saw Joseph L'Ecuyer in the Caughnawaga wood ; he left Chateauguay with us, and was armed with a gun ; he was one of those who returned with us. Jean Louis Thibert was both at Chateauguay and at Caughnawaga, but I did not see him armed. Jean Marie Thibert left Chateauguay with us, and went with us to Caughnawaga ; it was dark, and I could not see if he was armed. Léon Ducharme I did not see. Joseph Guimond was with us at Chateauguay and Caughnawaga ; I do not know if he was armed. Guérin dit Dusault was with us at Chateauguay and Caughnawaga ; I did not see any arms about him. I am not certain of having seen Thérien. Antoine Coté came with us from Chateauguay to Caughnawaga ; I cannot say whether he was armed. Lepailleur was with us when we got to Caughnawaga ; I did not see any arms on him ; I saw him at Chateauguay, but did not see him on leaving, until we got to Caughnawaga. Lesage dit Laviolette I did not see that day.

Q. from the same—Who were the chiefs of the band with which you went from Chateauguay to Caughnawaga, as stated in your evidence ?

A.—I received no orders except from Demarais and Newcombe ; I know no other chiefs.

It being four o'clock, P.M., the Court adjourns until tomorrow, the first of December, at ten o'clock.

FOURTH DAY, 1st December, 10 o'clock, A.M.

The Court meets, pursuant to adjournment—present the same members as yesterday.

Examination of Pierre Reid, son of Joseph Reid, continued:—

Q. from the same—In what order did the band march from Chateauguay to Caughnawaga?

A.—They marched irregularly; I was in the rear, and received orders from Newcombe; we started from Chateauguay *en brigade*.

Q. from the same—Was there any person in the band called a Racquette, or a Castor, or a Frère Chasseur; or did you ever hear those names?

A.—I heard speak of these names in the brigade, but I do not know by whom they were used, nor to whom they were addressed.

Q. from the same—Did you hear, or in any way understand, at any time, the reason given by the habitans for rising, except for taking the arms of the Indians?

A.—I heard of no other reason.

Q. from the same—Did you, or did you not, hear, or in any manner understand, while at Chateauguay, or on the way to the Sault St. Louis, or at any other time or place, that the habitans had risen in other places, and taken possession of Beauharnois and *l'Île aux Noix*, St. Johns, or other and what places?

A.—I heard, before leaving Chateauguay, that the habitans were rising in every direction. I did not hear any particular place mentioned as having been taken.

Q. from the same—Did you hear or understand this, while you were with the band with which you went to Chateauguay, or at any other and what time?

A.—I heard it said while at Chateauguay with the band, on the Saturday night.

Q. from the same—Do you believe in your conscience, that the only

object of the expedition was to take the arms of the Indians, and that, when that was done, the object of the expedition would be attained ?

A.—Yes, that is what I understood—I knew nothing further.

Q. from the Court—When you heard that all the country had risen, did you suppose that it was for the purpose of taking the arms from the Indians, and for no other purpose ?

A.—I understood that, in the other parishes, they had risen to disarm the Scotch.

Q. from the same—What was their object in taking prisoners ?

A.—I do not know.

Q. from the same—Do you know the last witness, Pierre Reid, son of Antoine Reid ; and if so, was he in the same band with yourself at Caughnawaga, on the fourth November last ?

A.—I know him, and he was with the band when we entered into the wood ; after we got in, we dispersed, and I lost sight of him.

Q. from the same—What was generally understood among the habitants with regard to this general rising ?

A.—I believe it was to take the arms of the Indians ; I do not know what the object was of the chiefs who commanded them.

Q. from the same—On your oath, did you, or did you not, receive orders, or hear orders given by any of the prisoners at the bar, during the evening of Saturday, the third, or Sunday, the fourth November last ?

A.—No ; the only order I received was from Duquette, when Grant was made prisoner ; I heard no orders given by or to any others.

Q. from Duquette—Is it not true that the house in which you pretend that a great number of persons assembled, on the night of Saturday, the third November, did not belong to Joseph Duquette, but to Madame Duquette, who kept an inn there ?

A.—It was a public house, kept by Madame Duquette, but Joseph Duquette resided there.

Constant Maccomber is here sworn as Interpreter of the Indian Language.

JACQUES TERONHIAHERE being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from the Court—Were you in Court any time during this trial?

Answer—I was in for a moment, but was turned out; I did not understand what was going on.

On the morning of Sunday, the fourth of November, I was in my house at Caughnavaga, and saw five persons coming from Chateauguay, about seven o'clock in the morning; I was surprised at seeing them come so early. I went out, shortly after this, towards the Maypole, with four others, on hearing that a body of armed men were approaching from the wood, and I saw, sitting at the chapel door, two persons, of whom I recognized one as Maurice Lepailleur, the prisoner before the Court. I went forward with Ignace Kaneratahéré, who, at my desire, asked Lepailleur what he wanted. Lepailleur said he had just come from Montreal, by way of Laprairie, and was resting himself. Lepailleur had a shot-bag hung over his shoulder. Ignace asked what it was there for; Lepailleur told him not to touch it. Ignace then said, tell the truth, what have you come here for? Lepailleur replied, you know very well what I came for; we have sent five of our chiefs to you: Cardinal, Giashon, Duquette, Bruyère, and Meloche. Those were the five I had seen in the morning. Ignace replied, we saw your chiefs, but they did not tell us what you wanted. Lepailleur then said, we have come to borrow your guns, and asked how many we had. Ignace replied, I do not know how many we have; but we cannot lend them to you; come and see our Chiefs—we are but children, and have no authority. Our party then proposed to take Lepailleur's shot-bag from him. On taking it off, Lepailleur unbuttoned his great coat, and in a belt under it, he had a pistol. Lepailleur tried to draw it out, but it got hooked fast, and, in the meantime, I seized him by the shoulder from behind; and if I had not seized him, I think he would have shot a man. The pistol was loaded with ten slugs. The

person who was with Lepailleur, ran towards the crowd of Canadians, and told them to advance. The crowd were all armed, but not all with guns. When the crowd advanced—some one among them cried out, Lepailleur, are you hurt?—they had their guns presented towards us; and some one, I do not know who, said, if you are hurt, give the word. Lepailleur told them he was not hurt, and not to be anxious, as they were settling matters as brothers. They then came and shook hands with us, telling us not to be frightened, they would not kill us. Lepailleur then asked us if we thought the Chiefs would give up the arms. We said, no. We asked them to come to the village. Lepailleur alone came to the village; there were already the five whom I have mentioned. The crowd said, perhaps, if we go to the village, you will make us prisoners. I answered, don't be frightened, I will take care of that. My object in getting them into the village, was to make them prisoners, as we could not do so by ourselves, where we were. The French wanted to take us prisoners; they could not do that; so we Indians took them prisoners. When we got close to the village, the Indians took the Canadians prisoners. The Indians told me to move away from the Canadians, as they, (the Indians,) were going to fire, that is, if the Canadians fired first. The Canadians were then surrounded, and made prisoners, and the Indians desired them to give up their arms. They asked if their arms would be returned to them; the Chiefs said, we will see by and by. When the Canadians first asked for our arms, they said, that if we did not give them up, they would take them by force. When they were made prisoners, the Chiefs directed us to take them to Lachine.

Question from the Judge Advocate—Look at the prisoners now before the Court, and declare whether any, and which of them, were at Caughnawaga, on Sunday, the fourth of November last, and if they were armed?

Answer—I saw Cardinal, unarmed. Duquette I also saw, unarmed. I did not see L'Ecuyer; I did not see Jean Louis Thibert, nor Jean

Marie Thibert. Léon Ducharme I never saw before. I cannot say that I distinguished Guimond. I saw Dusault, armed with a gun. I cannot say I saw Thérien. I saw Coté, armed with a gun, and spoke to him. I saw Lepailleur, armed with a pistol. I did not see Lesiége.

Q. from the same—Who appeared to you to be the leaders of the band of Canadians ?

A.—I thought it was Lepailleur, as far as I could understand. I asked the crowd who were the chiefs ; they said, Lepailleur, and the five who were in the village.

Q. from the same—Did you hear, or in any manner understand, from any among the body of men whom you saw at Caughnawaga, on the morning of the fourth of November last ; what their intention and object were, in coming to disarm the Indians ?

A.—I understood that they wanted to get our arms, to take Laprairie ; they said they were going to take Montreal the same day. They told me so after they had been made prisoners. Blanc Dusault was present when some one in the crowd said so.

Q. from the same—Did you hear, or in any manner understand, from them, or any of them, that the Canadians had risen in other parts of the Province, and had taken possession of Beauharnois, St. Johns, Isle aux Noix, or any other, and what places ?

A. Some of the crowd said, the Canadians had risen in other parts ; they did not say they had taken St. Johns, but that they had taken Isle aux Noix and Beauharnois, and added, if the Indians would give up their arms, they would take Laprairie.

Q. from the same—For what purpose, or with what intention, did you understand they had taken Laprairie, and were going to take Montreal ; what did they mean to do afterwards.

A.—I cannot say.

Q. from the same—What Indians went with you to meet the Canadians at the chapel ?

A.—Ignace Delisle, or Kaneratahéré, Joseph Tanehatie, and some other Indians ; George Delorimier came afterwards.

Q. from Coté—Are you positive in stating, on the oath you have taken, that when you pretend to have seen me at the Sault St. Louis, on Sunday, the fourth of November last, I was armed with a gun ?

A.—Yes, you were armed with a gun.

Q. from Lepailleur—Are you positive in saying, that Lepailleur said there were five of his chiefs in the village of Sault St. Louis ?—state whether he used the word “chiefs,” or the word “persons.”

A.—Yes, he said “chiefs.”

Q. from the Court—Were any of the arms taken from the Canadians, loaded ?

A.—I took two, and they were both loaded, besides the pistol ; the other arms that were taken were all loaded, and we laughed at the manner in which they were loaded.

NARCISSE BRUYERE, of the parish of Chateauguay, blacksmith, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the Judge Advocate—Look at the prisoners, and declare if you know any, and which of them, and declare also whether you saw any, and which of them, on the third or fourth of November last, and where ?

A.—I know all the prisoners. On the third, I saw Mr. Duquette, at his house at Chateauguay. Cardinal, Lepailleur, L'Ecuyer, and Jean Louis Thibert, I saw at the bridge at Chateauguay, on the third ; and I saw Jean Marie Thibert, on the morning of the fourth, on the road from Chateauguay to Caughnawaga. I saw Louis Guérin and Edouard Thérien at the Cote St. Jean Baptiste, in the parish of Chateauguay, on the afternoon of the third, between three and four o'clock. On the fourth, I saw, at the Sault St. Louis, Cardinal, Duquette, and Jean Louis Thibert.

Q. from the same—Were those whom you saw at Caughnawaga, alone, or with a band?

A.—We were all in a band when I saw them.

Q. from the same—Was this band armed, and of how many was it composed?

A.—They were armed, and there might have been about an hundred, perhaps more.

Q. from the same—Who were the chiefs of this band?

A.—I do not know them.

Q. from the same—Under whose orders did this band march?

A.—I cannot say.

Q. from the same—What was the intention of this armed band?

A.—They told me they were going to disarm the Indians.

Q. from the same—Did you understand that this armed band had any ulterior object, after having disarmed the Indians?

A.—I do not know what their plans were—they did not tell me what they wanted with the arms.

Q. from the same—Did there exist, about the third of November last, a secret political society in the parish of Chateauguay?

A.—Yes, such a society did exist.

Q. from the same—What was the object of this secret society—and were any of the prisoners, and which, members of it?

A.—They did not tell me what the object was, but I believe it was to defend themselves, in case of a revolution. Duquette was a member of the society; I know of no other of the prisoners who were.

Q. from the same—Did any one, and which of the prisoners, administer to you a secret oath, and what was the nature of such oath?

A.—Demarais administered the oath, and Duquette was present; the oath prescribed certain signs, by which the members were to be known, and imposed secrecy, under pain of death; it also obliged me to obey the orders of whoever might command me—I suppose they meant the orders of the secret society.

Q. from the same—Was the object of the society to support the Government, or was it not rather to overthrow it ?

A.—I was not told what their plans were.

Q. from the same—Did you hear any member of the secret society, or any of the prisoners, speak of the project of declaring the independence of the country ?

A.—When we got near the Sault, I asked Mr. Cardinal what his plans were ; he said, that as soon as they had taken possession of one place, the mark of independence would be put there, and the Americans would come in, and that they would not come before, because they would be considered as murderers if they were taken prisoners, and not as prisoners of war.

Q. from the same—Which of the prisoners before the Court were armed, on the road from Chateaugay to Caughnawaga ?

A.—I saw a great many armed people ; I cannot say whether any of the prisoners were armed.

Q. from the same—Did you see any of the prisoners armed, on the third of November last, at Chateaugay ?

A.—No.

Q. from the same—When you saw Guérin and Thérien at St. Jean Baptiste, did you have any, and what, conversation with them regarding the then existing troubles ?

A.—I told Guérin and Thérien, at St. Jean Baptiste, that I was going to Laprairie, and they told me not to go there, as there would be a blow struck there that night ; they asked me if I was not aware of the disturbances there was going to be everywhere that night ; they said that Laprairie was to be taken that night. I went on to St. Marie, in the parish of Chateaugay, where I saw a concourse of people, much excited ; thence I went to St. Isidore, and was stopped, and obliged to turn back again.

Q. from the same—Did you receive from any of the prisoners, and

which of them, any arms, when you left Chateauguay to go to Caughnawaga ?

A.—Yes, I think Cardinal gave me a gun ; I am not certain that he was the person.

Q. from the same—Who ordered you to march from Chateauguay to Caughnawaga ?

A.—Every one I met on the road. When I arrived at the bridge at Chateauguay, Mr. Cardinal gave me a gun, and told me to mount guard there.

Q. from the same—Can you not specify some person who commanded you to march ?

A.—Every one called out to go on ; a man by the name of Meloche asked me if I was afraid. I replied, not more so than he, and that if I was to die, I would do so in front as soon as behind, and then went to the front with my gun.

Q. from the same—Did you see Louis Lesage dit Laviolette, on the third or fourth of November last, and where ?

A.—No.

Q. from the Court—Did you see Léon Ducharme at Chateauguay ?

A.—No.

Q. from the same—When you were ordered to mount guard at the bridge at Chateauguay, what were you to take charge of ?

A.—I was to guard Grant and M^cDonald, who were prisoners in the house of Madame Boudria.

Q. from the same—What were your orders with regard to the prisoners whom you have mentioned, and who gave you those orders ?

A.—I was told to stand sentry by Cardinal, but he gave me no further orders.

The prosecution is here closed.

The Court is cleared to deliberate upon two paper writings hereunto annexed, respectively marked B and C, handed in by the prisoners.

The Court is opened, and the petition marked B is overruled by the Court. The prayer for delay, contained in the paper writing marked C, is granted by the Court partially, and the prisoners are given until Tuesday morning, the fourth instant, at ten, A.M., to prepare for their defence.

It being four o'clock, P.M., the Court adjourns until Tuesday morning, the fourth instant, at ten, A.M.

FIFTH DAY, 4th December, 10 o'clock, A.M.

The Court meets pursuant to adjournment—present the same members as on the first instant.

The prisoners being called on for their defence, an application for the discharge of Louis Lesiége, otherwise called Louis Lesage dit Laviolette, contained in the paper writing hereunto annexed, and marked D, is handed in by the prisoners, and rejected by the Court.

JEAN LOISELLE, of Chateauguay, farmer, being called into Court, and the charge read to him, he is duly sworn, and states to the following effect:—

Question from J. M. Thibert—Do you know Jean Marie Thibert one of the prisoners, and since when?

Answer—I have known him ever since he was born.

Q. from the same—Did you see me on the fourth of November last, where, and at what o'clock?

A.—I saw you at about half-past two o'clock, in the afternoon of Sunday, the fourth November last, in a field near the river side, at Chateauguay; we were running away together.

Q. from the same—Why did I run away?

A.—You were trying, like myself, to hide yourself.

Q. from the same—Why did I try to hide myself?

A.—You did not tell me.

Q. from the same—Where was I running—was it not towards home?

A.—Yes, you were running towards your home.

Q. from the same—Do you not know that I was running away to avoid the insurgents ?

A.—I believe that was the reason—you were running away because you were frightened.

Q. from the same—With whom were you when you met me ?

A.—I was with my brother, Joseph Loïselle, and one Paul Alleine.

Q. from the same—Are you acquainted with one Bastien Villain ?

A.—Yes.

Q. from the same—Did you meet Bastien Villain on the fourth November last, and was I with him ?

A.—I met Villain on horseback ; you were with me when I met him, and so was Joseph Loïselle and Alleine.

Q. from the same—Had not Bastien Villain a gun, and did he not command me to go to the camp ?

A.—He had a gun, and got off his horse, and cocked his gun, presented it at you, and commanded you to go to the camp.

Q. from the same—Was it not in consequence of Villain's threats that I followed him ?

A.—Yes, he made you go before him to the camp, and said, if you would not go voluntarily, he would make you go by force.

Q. from the same—Was I armed ?

A.—No.

Q. from the same—Am I not a quiet, peaceable man, enjoying a good reputation, and a father of a family ?

A.—Yes.

Q. from Lepaillieur—Do you know me, and since when ?

A.—Yes, I have known you for the last seven or eight years.

Q. from the same—Am I not a quiet, peaceable man, enjoying a good reputation, and father of a family ?

A.—I know you for a good fellow—you are father of a family.

Q. from Duquette—Do you know me, and since when ?

A.—I have known you three or four years.

Q. from the same—Do I not enjoy a good reputation ?

A.—You enjoy a good character.

Q. from J. L. Thibert—Do you know me, and since when ; am I not a peaceable man, of good character, and father of a family ?

A.—I have known you ever since you were born ; you bear a good character, and are father of a family.

Q. from Guimond—How long have you known me, and what is my character ?

A.—Fifteen years ; your character is good ; you are father of a family.

Q. from L'Ecuyer—Do you know me, and what is my character ?

A.—I do not know much about you.

Q. from Lesiége—Do you know me ; how long ; what is my character ?

A.—I have known you four or five years ; I never heard any thing against your character.

Q. from Coté—Do you know me—what is my character ?

A.—I have known you for ten years, for a good man.

Q. from Thérien—Do you know me—what is my character ?

A.—I have known you for three years ; I never heard any ill of you.

Q. from the Court—How many persons were taken to the camp by Bastien Villain ?

A.—Six were conducted there at the same time with Jean Marie Thibert, including him.

Q. from the same—Where was the camp you spoke of ?

A.—At Mr. Duquette's, near the bridge at Chateauguay.

Q. from the same—How far were you from Jean Marie Thibert's house, when you commenced running ?

A.—About a league, or a league and a half.

Q. from the same—Where was Thibert running from ?

A.—He came from the church at Chateauguay.

Q. from the same—How do you know that Thibert was running away from the church at Chateauguay, and how far is Jean Marie Thibert's house from the church ?

A.—Because we ran away together. Thibert's house is about a league and a half, or a league and three quarters, from the church.

JOSEPH LOISELLE, of Chateauguay, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Q. from all the prisoners—Which among us do you know ; and what are the characters of those who are known to you ?

A.—I have known Cardinal for fifteen years, for a good character. I do not know Duquette. L'Ecuyer has been known to me for seven or eight years, and enjoys a good character ; he is father of a family. I know Jean Louis Thibert since his childhood ; he is a good character, and is father of a family. Jean Marie Thibert I have likewise known since infancy ; he is father of a family, and enjoys a good reputation. Léon Ducharme I have known for three or four years ; his character is good ; I do not know whether he has a family. I know Joseph Guintond for a good character ; he is father of a family, and I have been acquainted with him for twenty years. Guérin dit Dusault I have known during four or five years, for a good character ; he is father of a family. Edouard Thérien I have known for ten years ; he has a good reputation, and is father of a family. I have known Antoine Coté for twenty years ; he bears a good character ; he is father of a family. I have been acquainted for seven or eight years with Lepailleur ; he is father of a family, and bears a good character. Lésiege dit Lesage dit Laviolette I do not know.

Q. from Jean Marie Thibert—Did you see me on the fourth of November last, and where ?

A.—I saw you near the mill at Chateauguay, on the fourth November last ; you were running away, and it was about three o'clock in the afternoon.

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Q. from the same—Were you alone when you saw me, and had I a gun?

A.—I was with five others, when I saw you alone—they were my brother and Paul Alleine—and two others whom I do not know; you had not a gun.

Q. from the same—Where was I going when you saw me?

A.—You were running away towards your home.

Q. from the same—Did I meet a man on horseback, and did I speak to him?

A.—Yes, you met a man on horseback, but I do not know whether you spoke to him.

Q. from the same—Was it Bastien Villaim that you met, and at what o'clock was it?

A.—I do not know; it was between two and three o'clock.

Q. from the same—Had not the person whom I met a gun with him; and did he not command me to go to the camp?

A.—He had a gun, and commanded you to go to the camp.

Q. from the same—Did not the person whom Thibert met, present his gun at him, and threaten to shoot him, if he would not go to the camp?

A.—He presented his gun, and threatened to shoot him; I do not know whether he intended to do so or not.

Q. from the same—Did Thibert then go to the camp?

A.—Yes.

Q. from the same—Has John M'Donald, of Chateauguay, endeavoured to dissuade you from giving evidence in this trial, in any way, by menaces or threats?

A.—He asked me why I had come; I answered, in obedience to an order of the Court; he did not say any thing more to me.

Q. from the Judge Advocate—How many persons were taken to the camp by the man on horseback, at the same time with Jean Marie Thibert?

A.—Five of us.

Q. from the Court—When Jean Marie Thibert was threatened to be shot by the person on horseback, had you no arms amongst you, or did you not make any attempt at resistance ?

A.—None of us had arms ; we wished to resist, but he threatened to fire if we would not come.

PAUL ALLEINE, of St. Charles, in the parish of Chateauguay, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from all the prisoners—Whom do you know amongst us ; what are the characters of those who are known to you ; how long have you known them ; and are they fathers of families ?

Answer—I have known Cardinal for ten years ; he is father of a family, and bears a good character. I have known Duquette for five or six years ; he enjoys a good reputation ; I cannot say whether he has a family. L'Ecuyer has been known to me for about eight or nine years ; he bears a good character, and is father of a family. I have known Jean Louis Thibert ever since childhood ; he bears a good character, and is father of a family. I can say the same with regard to Jean Marie Thibert. I do not know Ducharme ; I have seen him before. I have known Joseph Guimond for ten or twelve years, for a good character ; he is father of a family. Guérin dit Dusault I do not know much about. I have known Thérien, by sight, for two or three years ; I know him to be father of a family. I have known Antoine Coté for ten years ; he has a good character, and is father of a family. I have known Lepailleur for seven or eight years ; he is a good character, and father of a family. I do not know Lesiége dit Laviolette.

Q. from all the prisoners—Did John M'Donald attempt to dissuade you from giving evidence in this trial, this day, and where ?

A.—No.

PIERRE JACQUES BEAUDRY, of the city of Montreal, gentleman, be-

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ing called into Court, and the charge read to him, he is duly sworn, and states to the following effect :—

Question from Ducharme—Are you not the person in charge of the prisoners now in confinement in the new gaol, and how long have you been so ?

Answer—I am not.

Q. from the same—What situation do you hold in the gaol, relative to the prisoners ?

A.—I keep the books and other documents in the gaol ; from twelve to two, I have to examine the provisions brought to the prison, and things going out.

Q. from the same—On what day was Léon Ducharme committed to prison ?

A.—On the seventh of November last.

Q. from the same—Has the said Léon Ducharme, otherwise called Léandre Ducharme, since left the said gaol, otherwise than for the purposes of this trial ?

A.—I know that he has been out.

Q. from the same—In whose charge was he when he left the gaol, and by whom was he returned to the gaol ?

A.—He left the gaol in charge of the Provost Martial, and was returned by him.

Q. from the Court—Can you state on what night he was so taken out of the gaol ?

A.—I cannot specify the night.

Q. from the same—When, where, for what purpose, and by whose authority ?

A.—The Provost Martial came with a document to the officer of the guard ; in obedience to which, Ducharme and eleven others were taken away.

JOHN WILSON, Provost Martial, being called and sworn, he states as follows :—

Q. from Ducharme—Have Léon Ducharme and the other prisoners slept out of the new gaol, where, and when ?

A.—The prisoners slept at Pointe a Callière prison on the nights of the twenty-eighth and twenty-ninth of November last.

LAURENT LATOUR, of Lachine, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Q. from Ducharme—Did you not see Ducharme at Lachine, on Saturday, the third of November last, and at what o'clock did you sit up with him at Lachine, and at whose house ?

A.—I met Ducharme at his cousin's house, at Lachine, on Saturday, the third of November last, at about six or seven, and we spent the evening together.

Q. from the same—Did you see Ducharme on Sunday, the fourth of November last ; say where, and at what o'clock ?

A.—I saw him at Lachine, at the church door, between seven and eight in the morning.

Q. from the same—Are you aware that Ducharme's father lives at Chateauguay, and that Ducharme often goes there to see him ?

A.—Yes.

Q. from the Judge Advocate—What is the distance between Lachine and Chateauguay, and how long does it take to go from one place to the other ?

A.—The distance by water is about three leagues ; it would take about two or three hours to go there.

Q. from the same—How long does it take to go from Lachine to Chateauguay, in the steamboat ?

A.—About two hours.

Q. from the same—At what o'clock did the steamboat leave Lachine on Sunday morning, the fourth of November last, for Chateauguay ?

A.—It does not run on a Sunday.

MICHEL ROY PORTELANCE, farmer, of Lachine, being called into

Court, and the charge read to him, he is duly sworn, and states as follows :—

Q. from Ducharme—Did you see Ducharme at Lachine, on Sunday, the fourth of November last, and at what o'clock ?

A.—I saw him at Lachine the fourth November last, between eleven and twelve o'clock.

Q. from the same—Does the steamboat cross on Sundays from Lachine to Chateaugay ?

A.—At that time it had stopped ; it had ceased running on the Saturday.

Q. from the same—Does Ducharme's father reside at Chateaugay, and does Ducharme sometimes go to see him ?

A.—Yes.

Q. from the same—Was not the weather very bad on the night of Saturday, the third of November last ; was not the wind very high, and was it not raining very hard ?

A.—Yes.

Q. from the same—Was it not dangerous to cross the river from Lachine to Chateaugay, on such a night ?

A.—Yes.

ELIZABETH ST. DENIS, widow of Jean Baptiste Boudria, of Chateaugay, being called into Court, and the charge read to her, she is duly sworn, and states as follows :—

Question from all the prisoners—Do you know the prisoners, and how long ?

Answer—I know all the prisoners, since many years.

Q. from Ducharme—Did you see Ducharme at Chateaugay, on Sunday, the fourth of November last ?

A.—No.

Q. from the same—Were you at home, on Sunday, the fourth November, when a person came to fetch Mr. John M'Donald, who was a

prisoner there ; and say who that person was, and at what o'clock he came ?

A.—I was at home ; I do not know who it was that came.

Q. from the same—Was Ducharme the person who went to your house to get Mr. M'Donald, or was he one of those who went there to get Mr. M'Donald, on the fourth of November last ?

A.—He was not.

Q. from Cardinal—Did you see Cardinal in his office at Chateauguay, on Sunday, the fourth November, while Mr. M'Donald and Mr. Grant were there. Had Cardinal any conversation with either of them ?

A.—I saw Cardinal while M'Donald and Grant were there, but they had no conversation.

Q. from the same—Did Mr. Grant appear to have been drinking, and to be drunk, when you saw him at your house on Sunday, the fourth November last ?

A.—He appeared to be tipsy.

Q. from the same—When you spoke to Cardinal, did he not appear to be frightened at what was going on ?

A.—He did.

Q. from the same—Was Cardinal armed when you saw him, and did he give orders ?

A.—No.

Q. from the same—Did you hear one Meloche speak to Cardinal and others, on the morning of Sunday, the fourth, and what did he say to him or them relative to marching ?

A.—When Meloche came into the house, there were a great many persons there, and Meloche told them all that they must go, and enquired for a man named Boudria. Cardinal said, what is it ; he replied, I don't know myself. Mr. Cardinal having absented himself for a short time, returned.

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Q. from the same—Did you hear one Bruyère, blacksmith, of Chateauguay, speak to Cardinal and others, on the morning of the fourth November, relative to marching; and if so, what did he say?

A.—I did not hear him.

Q. from Guérin—Did I, or L'Ecuyer, go to your house, in the night of the third November last, with guns, or were we in Mr. Cardinal's office?

A.—No.

Q. from the same—Did you see us there on the morning of the third or fourth, armed?

A.—I saw you both, unarmed.

Q. from Lepailleur—Did you see Lepailleur at your house on the fourth November, while M'Donald and Grant were prisoners there, and was he armed?

A.—I saw him there; he was not armed.

Q. from the same—Had Lepailleur any conversation then, with M'Donald and Grant, and what was said?

A.—They had no conversation.

Q. from Coté—Did you see Coté, armed with a sword, at Cardinal's, on the morning of the fourth?

A.—No.

Q. from Guimond—Did Guimond go to your house on the fourth November, and was he armed?

A.—I did not see him at all.

It being four o'clock, P.M., the Court adjourns until tomorrow, the fifth instant, at ten, A.M.

SIXTH DAY, 5th December, 10 o'clock, A.M.

The Court meets, pursuant to adjournment—present the same members as yesterday.

Examination of Elizabeth St. Denis, widow of Jean Baptiste Boudria, continued:—

Question from the Judge Advocate—Is Mr. Cardinal's office in the house in which you reside ?

Answer—Yes.

Q. from the same—Was it on Saturday or Sunday that you saw Mr. Grant intoxicated ?

A.—On Sunday morning.

Q. from the same—How long did Mr. Grant stay at your house, and did he take any intoxicating drink while there ?

A.—Grant came to my house at about three or four o'clock in the morning of Sunday, and left at four in the afternoon ; he drank while he was there.

Q. from the same—How many times did you see Cardinal, on Sunday ?

A.—Once, at the office.

Q. from the same—Did you see Ducharme at any time on Sunday, at Chateauguay ; if so, say when, where, and how often ?

A.—I did not see him at all on Sunday.

Q. from the same—Did you see the prisoner Ducharme at Chateauguay, at any time subsequently to Sunday, the fourth November last, and when ?

A.—I saw him on the Monday following.

Q. from the Court—Was Grant tipsy when he was brought to your house, or did he become so after he came there ?

A.—Grant was tipsy when I came to my house, at four o'clock in the morning.

Q. from the Judge Advocate—Where had you been previously to re-entering your house, at four o'clock on Sunday morning ?

A.—I had been sitting up with a sick woman.

Q. from the same—Do you not keep a tavern ?

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A.—No.

Q. from the same—When you saw Ducharme, on Monday, was he armed, and was he with an assembly of armed men ?

A.—He was alone, and unarmed.

Q. from the same—Is there any other office in your house, and to whom does it belong ; is it hired by Cardinal only ?

A.—The office is hired by Cardinal and Demarais.

Q. from the Court—Do any persons lodge and board in your house ; if so, name them.

A.—No.

VITAL DUMOUCHEL, of the parish of Chateauguay, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

[An application from Antoine Coté, one of the prisoners, is here handed into the Court, to order the attendance of Alexis Menard and Jacques Lefevre, to give evidence essential to his defence. The application is granted by the Court, and Alexis Menard and Jacques Lefevre are ordered to be brought from the gaol.]

Question from Lepailleux—Did you go to Madame Boudria's on Sunday morning, the fourth November last ; at what o'clock ; did you see Lepailleux there, and was he armed ?

Answer—At four o'clock, or half-past, in the morning of Sunday, the fourth, I saw Lepailleux at Madame Boudria's ; he was not armed.

Q. from the same—Did you then hear any conversation between Lepailleux and Grant, and M'Donald ?

A.—No.

Q. from Cardinal—Did you see Cardinal at the same time ?

A.—Yes, I saw him there at four, or half-past four, in the morning of Sunday, the fourth November, at Madame Boudria's.

Q. from the same—Did Cardinal then give any orders, and was he armed ?

A.—I heard him give no orders ; he was not armed.

Q. from the Judge Advocate—Were you one of the band who made M^oDonald prisoner ?

A.—No.

Q. from the same—What business had you at Madaine Boudria's, at four o'clock on the Sunday morning ?

A.—I went there to guard the prisoners.

Q. from the same—By whom were you sent for to guard the prisoners ?

A.—I do not know who sent for me, but a young man came to tell me that I must go and guard them.

Q. from the same—What was Lepailleur doing at four o'clock in the morning, at Madame Boudria's ?

A.—He was doing nothing.

Q. from the same—Did it not appear extraordinary that Lepailleur should be at Madame Boudria's at so early an hour ?

A.—No ; I don't know what he was doing there.

Q. from the Court—When you were sent for to mount guard, at Madame Boudria's, over the prisoners, what did you do when you arrived there ; were you placed as sentinel any time after your arrival, and how many did the guard consist of ; who commanded the guard, and placed the sentinels ?

A.—I was not placed as a sentinel ; the guard consisted of ten men ; I do not know who commanded them, or placed the sentinels.

Q. from the same—Are you related to any of the prisoners ?

A.—No.

Q. from the same—How was Lepailleur dressed when you saw him, on Sunday morning ?

A.—I did not take notice.

Q. from the same—Were you armed when you were placed in charge of the prisoners ?

A.—No.

Q. from the same—Can you state what was the cause of so many persons assembling at Madame Boudria's, at that unseasonable hour ?

A.—I did not know then ; I think now that they wished to rebel.

Q. from the Court—How were you dressed yourself, on the morning of Sunday, the fourth ?

A.—As I am now, with the exception of my boots.

ALEXIS MENARD, of the parish of St. Isidore, labourer, being called into Court, and the charge being read to him, he is duly sworn, and states as follows :—

Question from Coté—Were you at the Sault St. Louis on the fourth of November last, and for what purpose, and where were you coming from ?

Answer—I came to Montreal on Saturday, the third of November, and left it on my return home, at four o'clock in the afternoon of the same day, and slept at Lachine. On Sunday morning, between seven and eight o'clock, I crossed from Lachine to Caughnawaga, in Laflamme's ferry-boat.

The prisoner being advised that the evidence of this witness is not relevant, do not press his examination further.

JEAN BAPTISTE LABELLE, Curate of Chateauguay, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from all the prisoners—Do you know the prisoners, and what are their characters ; are they not men of peaceable habits, and most of them fathers of families ?

I know Cardinal ; I always considered him a quiet, respectable man, until the occurrence of the troubles ; he is father of a family. Duquette I did not know much about. I know L'Ecuyer ; he passed for a worthy habitant ; he is father of a family. I know Jean Louis Thibert ; he is father of a family, and a person in whom great confidence was placed ; he is church warden in the parish. Jean Marie Thibert is a habitant

in my parish ; I never knew much about him ; he is father of a family. I do not know Ducharme. I have always believed that Guimond was a peaceable man ; I do not know much about him ; he is father of a family. Guérin dit Dusault has only been a year or two in my parish, and I am not much acquainted with him ; he is father of a family. I know Thérien ; as far as I know, he was always well behaved ; he is father of a family. Antoine Coté I always looked upon as a peaceable man ; he is father of a family. I knew Lepailleur ; I was surprised to see him meddle with the troubles ; he is father of a family. I do not know Lesiége very well ; I always was inclined to believe him a peaceable man.

Q. from the Court—Does the character you have just given to the prisoners apply to their general conduct since you have been acquainted with them, or does it apply to their conduct during the past year or two ?

A.—I speak generally—during the six years that I have been in the parish.

PIERRE ROCHON, of the parish of Chateauguay, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from Jean Marie Thibert—Did Jean Marie Thibert come to your house on Monday, the fifth of November last, and for what purpose ?

Answer—He came to my house a little before sunrise, to hide himself, at the end of the concession of Ste. Marguerite.

Q. from the same—Did he hide himself ?

A.—Yes.

Q. from the same—Why did he hide himself ?

A.—Because he was frightened, and did not wish to meddle with any troubles.

Q. from the same—Did you see him on the Tuesday, and following days ; did he hide himself all the time ; say where, and until what day, he remained concealed ?

A.—I saw him on Tuesday, and the following days ; he remained concealed from Monday to Saturday, in different places.

JOSEPH COUILLARD, of Chateauguay, merchant, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from all the prisoners—Are you not a Commissioner, a Justice of the Peace, and Captain of Militia, at Chateauguay ?

Answer—I am.

Q. from J. L. Thibert—Did you meet Jean Louis Thibert on the evening of the third of November last ; whnt passed between you, and where was it ?

A.—I met him at Chateauguay on Saturday, the third November ; he came to me crying, and said, my dear sir, tonight the people must be raised.

Q. from the same—Did he say who told him so ?

A.—No ; he said the authorities were arrived.

Q. from the same—Did you then go to Chateauguay, and did Thibert go with you ; and for what purpose ?

A.—I went to Chateauguay, to see who these authorities were ; Thibert did not come with me at that time. I told Thibert I would go, and strive to prevent it ; Thibert promised to come with me, but he was prevented.

Q. from the same—Whom did you see when you got to the village, calling himself the authority ?

A.—I saw about twenty people, some of whom I knew ; but I did not distinguish any authorities.

Q. from the same—Did you see Newcombe, and did he not say he commanded Thibert ?

A.—Yes, I saw Newcombe, and he told me he had commanded Thibert ; Newcombe came and told me so, in my granary, after I had seen Thibert.

Q. from the same—Did not Thibert appear in a great state of fear when he met you ?

A.—He was crying.

Q. from the same—Were any of the prisoners armed, whom you saw at Chateauguay, on the evening of the third November last ?

A.—I did not see any armed.

Q. from all the prisoners—Did John M'Donald endeavour to dissuade you from giving evidence in this case ; when, and in what way ?

A.—In coming up the Court-house stairs, with two or three habitans, yesterday morning, or the day before, to give evidence in this case, M'Donald asked us where we were going ; we replied, that we came to give evidence, in obedience to the summons of the Court ; he then said, if you do not go home, you will get yourselves into prison. I am not sure whether he said, *I will get you put in prison* ; but I am sure that we were threatened with a prison.

Q. from the Judge Advocate—Who were the habitans with you, when M'Donald said this ?

A.—Pierre Mallette, Jean Loiselle, Joseph Loiselle, and Pierre Rochon.

Q. from the Court—Did M'Donald mean it as a threat, or that the habitans would be likely to criminate themselves ?

A.—He gave them to understand that their evidence might criminate themselves.

Q. from the Court—You are represented as a Commissioner, and Justice of the Peace, and Captain of Militia ; did you take any, and what, steps to prevent the people assembled at Chateauguay, from proceeding to a breach of the peace ?

A.—I am a Commissioner, Justice of the Peace, and Captain of Militia. On Saturday night, the third of November, I went to see if there were any authorities. I made enquiries ; I found there was nothing, and being sick, I went home.

Q. from the same—Did you know that M'Donald and others were taken prisoners ; and what measures did you take, as a Justice of the Peace ?

A.—I heard so on the Sunday morning ; I was sick at home.

Q. from the same—When you went to Chateauguay on Saturday night, was it light enough to distinguish whether the people were armed ?

A.—No.

Q. from the same—Did any one or more of the twenty people, speak to you after your arrival ; if so, say who, and how many ?

A.—Yes, two, Cardinal and Duquette.

Q. from the same—For what purpose were the people to be raised, as alluded to by Thibert ?

A.—To take away the arms of the Scotch ; that is what Thibert told me.

Q. from the same—What was your opinion ?

A.—I know nothing about it.

Q. from the same—What did Cardinal or Duquette say to you ?

A.—Cardinal said, we are again in trouble ; I asked why ; he replied, he knew no more than I. Duquette then said, seeing that I was ill, that I had better go home.

Q. from the same—As a Magistrate, have you issued any warrants, or taken other means for bringing the people to justice, who were thus assembled at Chateauguay ?

A.—I could do nothing. I only saw about twenty men, doing no harm.

The evidence for the defence is here closed.

JOHN M'DONALD being recalled into Court, on the part of the prosecution, he states as follows :—

[The prisoners humbly submit, that John M'Donald cannot be examined in rebuttal, inasmuch as he has remained in the Court during the production of the evidence for the defence.]

Question from the prisoners—Were you not several times, during the evidence for the defence, at the inner door, particularly during Couillard's evidence ?

Answer--I was inside the door, but not for more than a second at a time.

The Court is closed, to deliberate on the above.

The Court is opened, and John M'Donald is recalled, to answer the following :--

Q. from the Court--You have stated in your examination of the twenty-ninth November last, that on Saturday, the tenth November, Ducharme came in, and stated that the Americans had taken possession of Napierville, and that you were to prepare to go there, and further, that you recognized among your escort of armed men, Ducharme, who appeared to have the principal command; declare to the Court, whether the Ducharme, so seen by you on the said tenth of November, is or is not Ducharme, the prisoner before the Court?

A.--I cannot positively swear that the prisoner before the Court was there on the tenth of November, I was so confused and excited.

The prisoners make application for delay, until tomorrow, at twelve o'clock, to prepare their address to the Court. At a quarter past three, P.M., the Court adjourns until tomorrow, at eleven, to give time to the prisoners to prepare their written defence.

SEVENTH DAY, 6th December, 10 o'clock, A.M.

The Court meets, pursuant to adjournment--present the same members as yesterday.

By the permission of the Court, the written defence of the prisoners, contained in the several documents hereunto annexed, and respectively marked E, F, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, is read by their assistants, Messrs. Drummond and Hart.

The Court adjourns till one o'clock, at the request of the Deputy Judge Advocate, to enable him to sum up the evidence, and reply to the defence.

1 o'clock.—The Court meets, pursuant to adjournment.

The Judge Advocate's reply is read, and annexed to these proceedings, marked G.

The Court is closed.

The Court having maturely weighed and considered the evidence in support of the charges against the prisoners, together with what they have, individually and collectively, stated in their defence, is of opinion, that they, the prisoners, viz: Joseph Narcisse Cardinal, Joseph Duquette, Joseph L'Ecuyer, Jean Louis Thibert, Jean Marie Thibert, Léon Ducharme, otherwise called Léandre Ducharme, Joseph Guimond, Louis Guérin dit Dusault, otherwise called Blanc Dusault, Antoine Coté, and François Maurice Lepailleux, are, individually and collectively, guilty thereof; and Edouard Thérien and Louis Lesiége, otherwise called Louis Lesage dit Laviolette, are not guilty.

It being four o'clock, P.M., the Court adjourns until Saturday morning, the eighth December, at eleven o'clock, A.M.

EIGHTH DAY, 8th December, 10 o'clock, A.M.

The Court meets pursuant to adjournment—present the same members as on the sixth December.

The Court having found the prisoners, individually and collectively, guilty of the charges preferred against them, with the exception of Edouard Thérien and Louis Lesiége dit Laviolette, and the same being for an offence committed since the first day of November last, in furtherance of the rebellion existing in this Province of Lower Canada, do sentence them, the prisoners, viz:—

Joseph Narcisse Cardinal, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding

the Forces in this Province, and Administrator of the Government, may appoint.

Joseph Duquette, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

Joseph L'Ecuyer, to be transported for life.

Jean Louis Thibert, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

Jean Marie Thibert, to be transported for life.

Léon Ducharme, otherwise called Léandre Ducharme, to be transported for life.

Joseph Guimond, to be transported for life.

Louis Guérin dit Dusault, otherwise called Blanc Dusault, to be transported for life.

Antoine Coté, to be transported for life.

François Maurice Lepailleur, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

That having found the prisoner, Edouard Thérien, not guilty, they do acquit him of the same.

That having found the prisoner, Louis Lesiége, otherwise called Louis Lesage dit Laviolette, not guilty, they do acquit him of the same.

JOHN CLITHEROW, *Major General,*
President.

D. MONDELET,

CHAS. D. DAY,

ED. MULLER, *Capt. the Royals.*

Joint and severally Deputy Judge Advocate.

NINTH DAY, 14th December, 11 o'clock, A.M.

The Court having met, pursuant to an order from His Excellency the Commander of the Forces, and Administrator of the Government, (see H, at the end of the trial,)—present the same members as on the eighth December—for the purpose of revising the sentence which has been passed on six of the prisoners, viz: Joseph L'Ecuyer, Jean Marie Thibert, Léon Ducharme, otherwise called Léandre Ducharme, Joseph Guimond, Louis Guérin dit Dusault, otherwise called Blanc Dusault, and Antoine Coté, and a letter from His Excellency, bearing date the fourteenth December instant, hereunto annexed, being read, the Court proceed to revise their former sentence, and do now sentence them, the prisoners, viz:—

Joseph L'Ecuyer, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

Jean Marie Thibert, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

Léon Ducharme, otherwise called Léandre Ducharme, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

Joseph Guimond, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

Louis Guérin dit Dusault, otherwise called Blanc Dusault, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

Antoine Coté, to be hanged by the neck till he be dead, at such time and place as His Excellency the General Commanding the Forces in this Province, and Administrator of the Government, may appoint.

The Court having passed judgment, begs leave to recommend the prisoners, Joseph L'Ecuyer, Jean Marie Thibert, Léon Ducharme, otherwise called Léandre Ducharme, Joseph Guimond, Louis Guérin dit Dusault, otherwise called Blanc Dusault, and Antoine Coté, for a commutation of the sentence of death, for a punishment less severe.

JOHN CLITHEROW, *Major General,*
President.

D. MONDELET,

CHAS. D. DAY,

ED. MULLER, *Capt. the Royals,*

Joint and severally Deputy Judge Advocate.

Confirmed.

J. COLBORNE,

Commander of the Forces, and Administrator of the Government.

A

THE QUEEN

vs.

JOSEPH NARCISSE CARDINAL AND OTHERS. }

The undersigned, who have been brought forward for the purpose, as they have been informed, of being tried upon a charge or charges of Treason, respectfully reserving the right of objecting to the competence of the tribunal assembled to try them; insisting, that, in their case, the ordinary laws of the Province cannot be repealed, nor the ordinary tribunal superseded; insisting also, that the Legislature, under the authority of which the present Court is constituted, has been expressly restrained by the Act of the Imperial Parliament of the 1st Victoria, cap. 9, from departing in any way from the practice of administering the Criminal Law of England, as introduced into this Province by the Act of the Imperial Parliament, of the 14th Geo. III. cap. 83, or abrogating the Statute of Treasons, of the 25th Edward III., or any of the various

legislative expositions of that Statute, by different laws enacted since that period; and contending, that the offence or offences with which they stand charged, are cognizable only by a jury of the country, and that, by the mode of trial, and the means resorted to upon the present occasion, they are deprived of all constitutional means of defence, in which are included—the right of the accused to have a list of the jury, to give him the benefit of the challenge; the list of witnesses, to enable him to detect conspiracy, and to prevent perjury; a copy of the charge, at least ten days before the day of trial, to enable him to prepare himself for the awful day; sufficient time to procure the assistance of a legal adviser, to speak for an unlearned man—in fact, all the arms and means of protection with which the humanity of the laws of England fortify the prisoner—beg leave to urge upon the attention of the Court, that, according to the practice of Courts constituted as the present, the accused is entitled to the following safeguards:—

1st. The crime or offence must be set forth with certainty and precision, including time, place and circumstances; in all which, the written accusation communicated to them is defective.

2d. The charge must be furnished in such time before the meeting of the Court, as that the accused may have full opportunity for preparing his defence. In fact, an Act of the Imperial Parliament, of the 3d and 4th Anne, c. 16, has expressly provided that persons tried by Courts Martial shall have the benefit of the Act for regulating trials in cases of Treason and misprision of Treason—thus securing to the party charged, an interval of at least ten days before the service of notice of trial and his arraignment; whereas, the charges were only communicated to them on the evening of Saturday, the twenty-fourth instant, at too advanced an hour to admit of any application to friends, until the following Sabbath day.

3d. The accused is entitled to a list of witnesses against him. Such has been withheld from the prisoners.

4th. He is entitled to a list of the persons appointed to sit in judgment upon him. No such list has been furnished to the prisoners.

5th. The accused is entitled to freedom of intercourse with his relations, connexions, and friends, whilst engaged in preparing for his trial. The relatives, connexions, and friends of the prisoners have been, and continue to be, denied all access to them. They have been treated as criminals, whose guilt had been taken by anticipation; and the restraints unjustly and illegally enforced upon them, have impaired their means of defence.

The prisoners, accordingly, claim the consideration of the Court to the matters submitted, and request that all proceedings may be deferred until the benefits which the practice of Courts Martial, constituted as the present, and for the like purposes, secures to the parties accused, shall have been extended to them.

J. N. CARDINAL.

F. M. LEPAILLEUR.

J. DUQUETTE.

L. DUCHARME.

LS. GUERIN.

JOSEPH L'ECUYER.

ANTOINE COTE.

JEAN LOUIS + THIBERT.
his
mark.

JEAN MARIE + THIBERT.
his
mark.

EDOUARD + THERIEN.
his
mark.

LOUIS + LESIEGE.
his
mark.

JOSEPH + GUIMOND.
his
mark.

H. W. HIND,
ALEXANDER BONIN, } *Witnesses.*

B

DISTRICT OF MONTREAL.

THE QUEEN

vs.

JOSEPH NARCISSE CARDINAL ET AL.

The prisoners respectfully, but formally, protest against being compelled to enter upon their defence, and humbly move that delay be granted to them until Monday, the third day of December instant, to shew cause why they should not be put upon their defence.

Montreal, 1st December, 1838.

F. M. LEPAILLEUR.

J. N. CARDINAL.

J. DUQUETTE.

L. DUCHARME.

JOSEPH L'ECUYER.

ANTOINE COTE.

LS. GUERIN.

JEAN LOUIS + THIBERT.
his
mark.

JOSEPH + GUIMOND.
his
mark.

EDOUARD + THERIEN.
his
mark.

JEAN MARIE + THIBERT.
his
mark.

LOUIS + LESIEGE DIT LAVIOLETTE.
his
mark.

C

PROVINCE OF LOWER CANADA, }
 DISTRICT OF MONTREAL. }

The prisoners, (without waiver of any objection or exception by them heretofore made,) respectfully move, that delay may be granted to them until Thursday, the sixth day of December instant, to arrange and prepare their defence, and to procure the attendance of witnesses in support of the same; and in furtherance of this, their humble request, the prisoners beg to urge on the attention of the Court, the extreme shortness of the time allowed to them to prepare for trial—which has been, in their instance, limited to two days: for it was not until a late hour on the twenty-fifth day of November, the Sabbath day, that they had an opportunity of conferring with Counsel; the unusual restraint imposed upon them during that brief interval, by having been forbidden all communication with their relatives and personal friends, although such intercourse was imploringly sought for; the difficulty of obtaining the attendance of their witnesses, who, almost without exception, reside on the southern shore of the St. Lawrence, at a distance of upwards of twenty leagues from this city, at a season when communication with those parts is next to impracticable, and in times when the utmost consternation prevails among the inhabitants of that section of the country; the practice of Courts Martial, as laid down in Simmons' remarks on the constitution and practice of Courts Martial, page 192, (2d edition,) in pursuance whereof, every prisoner, (though within reach of his witnesses,) is entitled to a day or two, or more, subsequent to the closing of the prosecution, to arrange and prepare his defence. Other considerations might be dwelt on, but the prisoners would deem it a work of supererogation to add any further reasons in support of a motion, upon the accorance or refusal of which their fate may depend. A Court, sitting to render justice,

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and composed of members, of men honourable in mind and humane in heart, must readily grant a request of such obvious and imperative justice:

J. N. CARDINAL.

F. M. LEPAILLEUR.

L. DUCHARME.

J. DUQUETTE.

LS. GUERIN.

JOSEPH L'ECUYER.

ANTOINE COTE.

^{his}
JOSEPH + GUIMOND.
mark.

^{his}
JEAN MARIE + THIBERT.
mark.

^{his}
JEAN LOUIS + THIBERT.
mark.

^{his}
LOUIS LESIEGE + DIT LAVIOLETTE.
mark.

^{his}
EDOUARD + THERIEN.
mark.

Montréal, 1st December.

C

LA REINE

vs.

J. N. CARDINAL.

Joseph N. Cardinal, après serment prêté sur les Saints Evangiles, dépose et dit, qu'il désire faire entendre entr'autres témoins François Laberge, Pierre Pitre, Jean Baptiste Boudria, tous cultivateurs de Chateauguay, qu'il a besoin de ces témoins pour contredire entr'autres

L

choses cette partie du témoignage de John M^cDonald, qui mentionne que M. Cardinal a dit qu'il et autres allaient Samedi, le trois du mois dernier, déclarer leur indépendance, que tout le pays excepté Québec s'était soulevé, que Cardinal était un chef, donnait des ordres, qu'il l'a vu avec un sabre et ensuite un fusil, que le déposant n'a pu prévoir qu'il aurait besoin de ces témoins avant le jour fixé pour les procès, et avant que le dit M^cDonald eut fait sa déposition, qu'en autant que ces témoins sont très essentiels pour sa défense, vu la saison et circonstances actuelles, il est très difficile de ce procurer ces témoins et autres dont il a besoin, il prie la Cour de lui accorder jusqu'au de ce mois, pour se procurer ces témoins.

Assermenté, Cour tenante, le 1er Décembre, 1838.

J. N. CARDINAL.

C

DISTRICT DE MONTREAL.

LA REINE

vs.

JOSEPH N. CARDINAL,

JEAN MARIE THIBERT,

ET AUTRES.

Jean Marie Thibert, cultivateur, de la Paroisse de Chateauguay, étant dûment assermenté, dépose et dit, que le témoignage de Pierre Rochon, cultivateur, de Chateauguay, celui de Michel Rochon, aussi cultivateur, de Chateauguay, celui de Joseph Loiselle, aussi cultivateur, du même lieu, celui de Jean Loiselle, aussi cultivateur du même lieu, celui de Paul Allen, aussi cultivateur, du même lieu, lui est essentiel et indispensable pour sa défense. Que les trois derniers pourront prouver que Dimanche, le quatre de Novembre dernier, sur les deux heures de l'après midi, ce déposant se rendait avec chez lui, lorsqu'un individu se présenta devant eux, et étant armé d'un fusil les cou-

cha en joue, et menaga de tirer sur eux à moins qu'ils ne retournassent sur le champ au pont de Chateauguay. Que les deux témoins en premier lieu nommés pourront contredire le témoignage de John M'Donald, en autant qu'ils pourront prouver, qu'au lieu de s'être trouvé sous les armes au pont de Chateauguay tous les jours que le dit M'Donald prétend être resté là, tel que l'a allégué le dit John M'Donald, ce déposant s'était caché avec les dits Pierre Rochon et Michel Rochon depuis Lundi, le cinq du mois dernier, au matin, jusqu'au soir du Samedi suivant, tantôt dans le haut de la paroisse de St. Regis, et tantôt dans la paroisse de Ste. Martine, dans la vue de se soustraire aux instances, menaces et violences de ceux qui voulaient le forcer d'aller au pont de Chateauguay. Que Pierre Rochon susnommé pourra aussi prouver que certains individus menacèrent de mettre le feu chez le déposant et d'emporter ses meubles et effets, à moins qu'ils ne demeurât au pont de Chateauguay.

Que ce déposant ne pouvoit prévoir avant que le dit John M'Donald eut été entendu, que ce témoignage lui serait nécessaire, en autant qu'il ne tendra qu'à prouver le contraire des faux allégués du dit John M'Donald, et le déposant ne dit rien de plus, sinon qu'il ne sait écrire ne signer.

Assermenté.

D

PROVINCE OF LOWER CANADA, }
DISTRICT OF MONTREAL. }

THE QUEEN

vs.

JOSEPH N. CARDINAL ET AL.

Whereas the evidence on the part of our said Lady the Queen, hath been duly closed in the said cause, and whereas no legal evidence hath been adduced to establish the charges laid against Louis Lesiege,

otherwise called Louis Lesage dit Laviolette, and whereas the testimony of the said Louis Lesage, otherwise called Louis Lesage dit Laviolette, is material, and necessary to the defence of the eleven other prisoners now under accusation, they, the remaining eleven prisoners, namely, Joseph Narcisse Cardinal, Joseph Duquette, Joseph L'Ecuyer, Jean Louis Thibert, Jean Marie Thibert, Leon Ducharme, Joseph Guimond, Louis Guerin dit Dusault, otherwise called Blanc Dusault, Edouard Therien, François Maurice Lepailleur, and Antoine Coté, having by law a right to avail themselves of, and so demand that the said Louis Lesage, otherwise called Louis Lesage dit Laviolette, be discharged forthwith, for the purpose of giving such testimony, (without recognizing the jurisdiction of the said Court over them, or any of them, and without waiver of any objection or exception of them, heretofore urged or pleaded,) humbly move, that the Court do take the case of the said Louis Lesage, otherwise called Louis Lesage dit Laviolette, into consideration instanter, and thereupon discharge the said Louis Lesage, otherwise called Louis Lesage dit Laviolette, from the accusation of High Treason, now pending against him as aforesaid, in order that he may, in due course of law, be examined as a witness in their behalf. And the said Louis Lesage, otherwise called Louis Lesage dit Laviolette, as well in his own behalf as in furtherance of the above application, thus preferred on the part of his fellow-prisoners, prays that his case may be taken into consideration instanter, and that he be forthwith acquitted and discharged.

The prisoners found their application upon the practice universally followed in all Courts of Law, and binding alike all Courts Martial in their proceedings, not otherwise regulated by the Statute, and would humbly refer the Court to all writers on the Rules of Evidence in Criminal Cases, and more especially to a case in point, namely, *Stafford and Case*, 1801, K. B. 1 East, 306, which is referred to in *Bacon's Abridgement*, under the word *Martial Law and Courts*

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Martial, No. 589, in the following terms: "The Mutineers of the
" Bounty were tried by a Court Martial at Portsmouth; there being
" no evidence against one of the prisoners accused, it was insisted,
" on the part of another of them, that he had a right to examine the
" first on his behalf. The Court, however, by the advice of the
" Judge Advocate, refused to let him be examined, saying, the prac-
" tice of the Court Martial had always been against it; and the pri-
" soner was condemned to death; but upon the sentence being re-
" ported to the King, execution was respited till the opinion of the
" Judges was taken—who all reported against the legality of the sen-
" tence, on the ground of the rejection of legal evidence, and the
" party was afterwards discharged."

Montreal, 4th December, 1838.

E

Arraigned before a tribunal hitherto unknown to all without the
precincts of a barracks or the limits of a camp—so formidable in ap-
pearance, so vague in its character, so unsettled in its proceedings;
and called upon to answer for life and liberty, or death and opprobrium
to our posterity,—we dared to demand the right of every British sub-
ject, a trial by our peers; we dared solemnly, but respectfully, to
protest against answering this accusation, against being compelled to
enter into our defence before a tribunal, whose right to try us as civil
subjects of the Crown of England, we could not recognize. And in so
doing, we acted in accordance with a principle maintained in every
Court of Justice in the known world, not solely in matters where the
lives, but even where the most unimportant rights of individuals are at
stake, namely, that the jurisdiction of such Court may be questioned by
the person cited before it, and the decision of the tribunal required as
to the absence or existence of the jurisdiction so shadowed with doubt.

This declaration was deemed an insult! Gentlemen of the Court, *we meant it not as such*. Men placed in the awful situation in which we stand, have no disposition to insult even the meanest of their fellow-creatures—much less to proffer outrage to a formidable tribunal, arrayed in judgment against them, and prepared to decide upon their fate.

With regard to you, Gentlemen, we impute it not to blame, if we have been arraigned under these forms; we are aware that the power you now wield has not been claimed by you; that you have not arrogated to yourselves the right to judge us; but we dared to assert our immunities as British subjects—to affirm, that the authority from which you hold your mandate had overstepped the limits prescribed to it by a superior power, which, with an eye ever watchful over the liberties and privileges of all who owe it allegiance, had forbade all interference with the mode hitherto followed in this country, in reference to trial of supposed criminals. And therefore, we called upon you to pause ere you proceeded to enregister a judgment against any one of us—not for ourselves alone, nor in the names of our wives and children, who, under presumption of our guilt, have been banished from their houses by the brand of the incendiary, to seek the roof of charity in the name of that God, who protects the shelterless; not only on behalf of the hundreds, who, lingering in the dark dungeons whence we have been dragged hither in chains, awaited with anxious ear and beating heart, a decision, to them of such vital importance,—but also, in the names of half a million of our fellow-countrymen, any one of whom may, at a moment's warning, on a bare shadow of evidence, be cited in judgment before you, and be there surrounded by all that can appal, deprived of all that can support the human heart in such a situation, and stripped of that armour with which the humanity of English law, as extended to this Province, had hitherto encircled the accused. But the fiat has gone forth; you have decided, or rather you have assumed, that you were duly empowered to judge us. Since, then, for the present, we must submit to the decision of a military tribunal, we deem ourselves fortu-

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nate in beholding, in the persons of our judges, many whose high reputation sufficiently warrant us that they will not stain their laurels with aught savouring of injustice—and others, who, bearing on their countenances the impress of high aspirings, will not cloud their rising fame by allowing any preconceived opinions, which the breath of malice may have wafted to their ears, to influence the decision which they have solemnly pledged themselves, before Heaven, to render according to the evidence. No, Gentlemen of the Court—in your consideration of the case now before you, you will discard from your memory all recollection of recent events—you will shew to the world that your minds are above being tainted with prejudice—you will set at defiance the blood-thirsty cravings of that passion of public opinion, which, alone, is not at this moment mute, and which so peremptorily demands, not only the death of the guilty, but of all accused; and you will be governed in your deliberation by the following propositions, upon which, before commenting separately upon the evidence adduced, as well against as in favour of each of us in this cause, we beg to rest our defence.

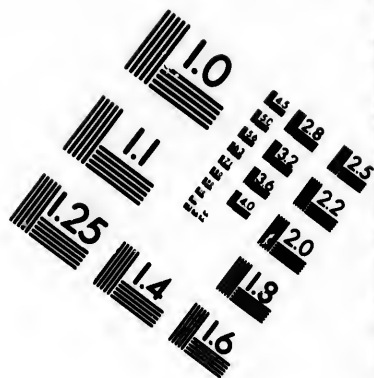
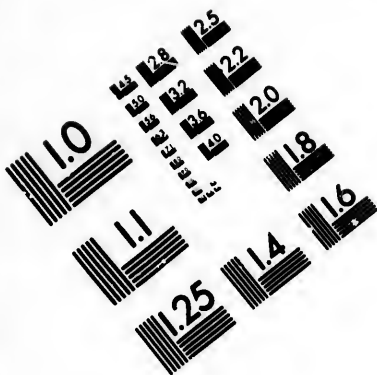
1st. The rules and doctrine of evidence, as admitted by law in all criminal cases, or on pleas of the Crown, are adhered to nearly in the same manner upon Trials at Courts Martial, the only exceptions being when the proceedings have been otherwise regulated by the Statute.

2dly. That cases of High Treason, being in no wise contemplated either as to the mode of trial, or the meed of punishment, must be regulated by the aforesaid rules and doctrine of evidence before Courts Martial, (if such Courts can ever be competent to take cognizance of crimes of this nature.)—M^rArthur, vol. 2, p. 44.

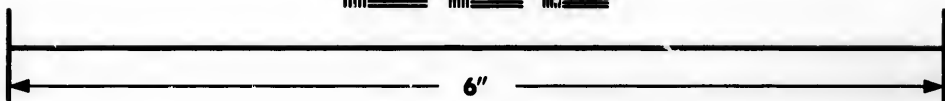
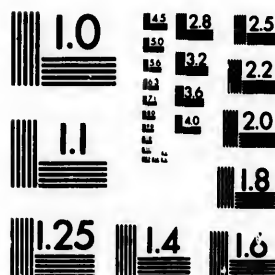
3dly.—That *two* lawful and (to use the language of the old authors,) *proveable* witnesses are required to convict a prisoner, in all such cases, of High Treason, as induce attainder and corruption of blood.—(See Statute, 7, 8, Will. III. c. 3. M^rArthur, p. 53, vol. 2.)

4thly. That there exists no crime, where the will counteracts the deed, or, in other words, that threats and menaces, *duress per minus*,





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which induce a fear of death, or of bodily harm, take away, for that reason, the guilt of apparent crime, at least before the human tribunal. (See Blackstone, vol: 4, p. 29, edition of 1795.)

No. 1.

COMMENTS OF LEANDRE DUCHARME.

It has been stated by John Lewis Grant, the first witness on the part of the prosecution, that he saw me in arms, at Chateauguay, on his arrival there, at an early hour on the evening of the third of November last. It is not astonishing, however to be regretted, that a man, who, as it has been proved by Madame Boudria, was in a state of intoxication, should make a statement so false, so positively disproved by two unimpeachable witnesses, Latour and Portelance—with whom, as given in evidence, I spent that night and a part of the following day, up to noon, in the parish of Lachine, at the distance of three leagues from the place where Mr. Grant pretends he saw me. But, that another witness, whom we must presume to have been in his sober senses, (since nothing to the contrary has been proved,) should have so far forgotten his duty as a Christian, bound not to bear false witness against his neighbour, as not only to declare positively, that I was in arms at Chateauguay, on the fourth of November last, at dawn of day, but also, on Saturday, the tenth of the same month—while it has been proved by my witnesses, beyond shadow of doubt, that on the fourth, at that hour, I was at Lachine, and on the tenth, in the common gaol of this district, which I entered on the eighth of that month, and have since inhabited.

But Mr. M'Donald presumed, no doubt, that the close confinement which I am subjected to, would preclude all possibility of procuring evidence to rebut these statements—that none but the eye of the Unseen could detect the fraud, which was so well calculated to effect his nefarious purpose. But, thanks to my friends, ample means have been af-

forded me, not only to convince you, Gentlemen of the Court, of the falsity of his testimony with regard to myself, but sufficient, no doubt, to induce you to reject all his testimony. True, after having heard his evidence contradicted by my witnesses, Mr. M'Donald stated, in answer to a question proposed to him by the Court, that owing to his excitement and confusion at the moment, he might have fallen into error, in stating that he saw me on the tenth. Such an error might possibly have occurred, were that statement taken alone; but when considered in connexion with the conversation which he asserted he had with me on that occasion, the averment that I was the leader of his escort on that day, the resentment and partiality displayed by him while giving evidence against us, and the threats held out by him to intimidate our witnesses, and deter them from appearing in our behalf—his false assertions cannot be considered as proceeding from a lapse of memory alone.

The above statements, made by John Lewis Grant and John M'Donald, the only witnesses who have attempted to impeach my character, having been directly contradicted and disproved, there remains but one other assertion, made by Mr. M'Donald. This statement, of itself, unsupported as it is by the testimony of any other witness, forms no legal proof to support an accusation of this nature, even supposing the Court should feel disposed to give the slightest credence to any of his evidence, and this I cannot for a moment presume; such evidence can have no effect in law; and in support of this position, I beg to cite the following authority:—M'Arthur's "Principles and Practice of Naval and Military Courts Martial, vol. 2, p. 47, London edition, 1806. The interest of a witness in the event of the trial or prosecution, an apparent influence on his mind, and various other circumstances, may render him unworthy of credit, even on his oath. So, the credit of a witness may be materially affected, or totally destroyed, by his manner of giving evidence. Resentment or partiality, when prevalent, are apt to shew themselves in the voice and countenance of a witness;

“ and, when they do, they are circumstances which must impress suspicion upon the mind of a Jury ; so it often happens, that a witness destroys the credit of his testimony by inconsistency, by prevarication, by the manner of his representing facts, and often, by intruding his own sentiments and opinions ; sometimes by an excess of warmth, sometimes by a solicitous reserve, and often by an affectation of candour. In all these, and similar cases, his credibility is, at least, questionable ; and, unless his testimony be supported by clear and unsuspicious collateral proof of the facts charged on the prisoner, *doubt* must arise in the minds of the Jurors, and, by the humanity of the law, where doubt is created, an acquittal is to be the consequence.’

I shall conclude, and await, with confidence, at your hands, that acquittal, which will restore me to the arms of an aged parent, whose gray hairs will not, I trust, go down in sorrow to the grave.

No. 2.

COMMENTS OF JEAN MARIE THIBERT.

Gentlemen,

I am another of the prisoners who have been so decidedly marked out by Mr. M'Donald, in his evidence, as having been in arms during the whole time that he was at Chateauguay a prisoner. Yet, Gentlemen, strange to say, I was, as I have proved by Pierre Rochon, a fugitive, and concealed in different parts of the Bois de Ste. Marguerite, from the fourth until the tenth. It is, however, not astonishing, that Mr. M'Donald's evidence should have been so flatly contradicted regarding myself, when it has been so positively set aside with regard to a fellow-prisoner, Ducharme, whom he, when first examined, distinctly swore to have commanded the party going to La Pigeonnière, on the tenth—when, at that very time, Ducharme was prisoner in the Montreal gaol. Now, Gentlemen, I must beg to be allowed, in order

to shew the weakness of Mr. M'Donald's testimony generally, to weigh even more heavily than my fellow-prisoner has done, upon that part of Mr. M'Donald's evidence ; and should the Court be of the same opinion as I am, it must be compelled, (justice to the prisoners demands it,) however it may be regretted, considering the respectability of Mr. M'Donald's character, to withdraw all confidence from Mr. M'Donald's testimony.

Gentlemen, you will recollect that Mr. M'Donald calmly and coolly swore, that Ducharme was the one who came in, and told them that the Americans had taken Napierville, and to prepare to go there ; that he was the one that caused them to be tied two by two, and caused them to be put into carts. He having afterwards ascertained that the *alibi* was clearly proved, stated, that owing to the hurry and confusion, and number of armed men, he could not swear to the identity of Ducharme upon that occasion. Gentlemen, is not that too strange an absurdity?—the one whom he identified as being under arms during all the week, and so active, to be mistaken—the one who comes into the room, alone, to tell them to prepare to go to a place taken by the Americans, to be mistaken. Gentlemen, Ducharme's is not a face to be mistaken—it is not a countenance to be forgotten, but by a witness like M'Donald, who, in his desire to be revenged for his own wrongs, hesitates not so lightly to swear that which may cause the forfeit of the life of a fellow-creature. Ducharme and myself, Gentlemen, he alike attempts to victimize : we both were seen by him drilling, we both were in arms all the week, according to his testimony—when, as has been clearly proved, the one was in prison, the other concealed in the woods. Thus, then, Gentlemen, the evidence of M'Donald, as regards me, being set aside, as it must be by you all, what remains against me ?

Pierre Reid proves that I was one of the band who went to Caughnawaga, but returned as I got to the wood ; that I ordered him to go to the Sault, and that I was armed with a gun. Gentlemen, this is false ; Bruyere saw me also—he does not say that I was armed. What,

then, is the fact? Does this evidence agree with that of the two Loiseselles, both of whom proved, that when trying to avoid being forced to join the disturbers, I was running away, with the intention of getting to my house, when arrested by one Villaim, and forced by threats, and even at the muzzle of a gun, to go to the camp? Gentlemen, adjuring you to give me the benefit of the objections urged by my fellow-prisoners to the evidence, I pray an acquittal.

No. 3.

COMMENTS OF JEAN LOUIS THIBERT.

Gentlemen,

Were the evidence of Mr. John M'Donald not so completely destroyed by the numerous false statements made by him, as clearly demonstrated by my fellow-prisoners who have preceded me, I should enter into a discussion of its merits. But, can you, Gentlemen, in adopting, as you necessarily must, the sacred principles of law upon which we rest our defence, give a moment's credence to a single statement made by that witness. No, Gentlemen of the Court, it would be an insult to suppose, for one moment, you could do so.

The two Reids and Bruyere have stated that they saw me at Sault St. Louis, in the morning of the fourth. But, Gentlemen, I ask you if it has been proved, in the course of the trial, what was the object that band had in view; that, whatever it may have been, was known to me; or that any person explained that object in my presence.

True, it has been asserted, that an individual in advance of the band, made some explanatory statements. But I humbly contend, that, as it has not been established in evidence that any such statements were made in my presence, I cannot be convicted of the traitorous intention of subverting the Government, even though the Court should be of opinion that the testimony of three witnesses, who gave their evidence

merely in the hope of obtaining pardon of a crime similar to that which is now imputed to me, could be considered sufficient in support of that accusation, the law requires a corroboration of such evidence.

Moreover, whatever may be the nature of the deed, there exists no crime where the outward man is not the free agent of the mind within him.

Had I met, and conspired, and agreed with others, traitorously to subvert the Government, as charged against me, should I have been seen agitated with fear, and weeping at the idea of being compelled to leave my home for an object to me unknown? I heard naught but the threats held out to me; I knew naught but the determined purpose of the individual who commanded me.

No. 4.

COMMENTS OF J. N. CARDINAL.

The imputations cast upon me by Mr. John McDonald, must, for the reasons set forth by my fellow-prisoners—reasons too obvious to dwell upon—be set aside. I would merely ask the Court, if it is not possible, may highly probable, that, had the Court questioned him as to his certainty with regard to all the material assertions made by him against us, he would have declared himself to be equally doubtful as in reference to his statement respecting Ducharme?

If after eight days of alleged imprisonment, excitement and confusion operated on his mind to such an extent, as to induce him to attest upon oath the purport and precise words of a conversation which he alleged he had held at Chateauguay with that individual, at a time when the latter was in this city, is it not to be presumed, that all his statements with regard to what occurred on the first night of his alleged imprisonment, when that excitement and confusion might be supposed to have been at the highest pitch, are wholly unworthy of credence? But this, though a strong argument against his testimony, dwindles into weakness

when compared with the startling fact, that he has been directly contradicted by positive and unimpeachable evidence in five material points.

The evidence of John Lewis Grant upon the ground assigned by Ducharme, is equally incredible, at least with regard to any thing which he pretended to have witnessed the night of the fourth November last.

The evidence given by Delorimier does not tend to establish the charges, inasmuch as no overt act alleged in the charges, nor any other, has been proved by him.

Tenihatie has named me, but merely to state that he saw me a prisoner in the house of an Indian at Sault St. Louis. This is the only legal testimony adduced against me, inasmuch as the evidence given by Pierre Reid, fils d'Antoine, by Pierre Reid, fils de Joseph, and by Bruyère, is of that nature which, by some legal writers, has been considered totally inadmissible, and cannot, at best, come under the designation of unimpeachable evidence, by which alone an accusation of this nature can be supported.

No. 5.

COMMENTS OF ANTOINE COTE'.

The evidence adduced against me, is so contradictory and imperfect, that the Court will not hesitate to declare it wholly insufficient to support the accusation preferred against me. The first witness, Pierre Reid, fils d' Antoine, stated distinctly, that I was at Sault St. Louis on the fourth of November last ; whereas Pierre Reid, fils de Joseph, proves that I was not there. The Reids both concur in affirming that wherever they pretend to have seen me, I was not armed ; on the other hand, Teronhiahere, the only witness who states that I was at the Sault St. Louis, said I was armed with a gun. If the evidence of the Reids be taken, that of Teronhiahere must necessarily be rejected. In that case, the accusation asserting my having been in the band, will be

supported by two witnesses, against whose testimony the strongest objections have been urged by some of my fellow-prisoners preceding me, tending to shew, that, supposing their evidence be admitted in support of other testimony, it cannot be considered as sufficient to convict, unless, as the laws of evidence require, it be corroborated by other evidence; if, on the other hand, the evidence of Teronhihere be taken, and that of the Reids rejected, there will be one witness against me. In either case, the intention has not been brought home to me, and relying on the justice and humanity of the Court, I confidently pray for an acquittal.

No. 6.

COMMENTS OF EDOUARD THERIEN.

Mr. M'Donald has alleged that I was at Chateauguay Bridge, under arms. The credibility of this witness has been utterly destroyed. Pierre Reid and Bruyère are the only other individuals who state that they saw me; they merely assert, that I was at the bridge, without connecting me with any armed band that might have been there; nor do either of them state that I was armed. Even supposing their evidence to be unimpeachable, there exists not of record sufficient proof to convict me of the crime laid against me. I, therefore, confidently claim from you, Gentlemen of the Court, that acquittal which, by law, I am entitled to.

No. 7.

JOSEPH LECUYER'S COMMENTS.

Five witnesses have mentioned my name in the course of this trial. Mr. M'Donald's evidence has already been sufficiently commented upon. Teronhihere stated in the first instance, that he saw me at Sault St. Louis on the fourth of November last, but on recollecting himself, said positively that he did not see me. There remains, then,

naught against me, save the testimony of the two Reids and Bruyère. This testimony is not of the unimpeachable nature which the law demands in support of a charge of High Treason, they being unsupported by other credible evidence ; moreover, the traitorous intent has not been proved against me.

No. 8.

COMMENTS OF LOUIS LESIEGE.

Gentlemen,

My name has been mentioned by only one out of the number of witnesses produced by the Crown, namely, by Mr. M'Donald. There is, therefore, no legal evidence before you to support the charges exhibited against me, and I await at your hand that acquittal which, in law, I am entitled to, and now humbly demand.

Nos. 9, 10, 11, and 12.

COMMENTS BY DUQUETTE, LEPAILLEUR, DUSAULT
AND GUYMOND.

As the hour fixed for the meeting of the Court rapidly approaches, we are compelled to unite in our remarks, and pray the Court to apply to our cases, in so far as they can be made to do so, the objections urged by our fellow-prisoners against the evidence adduced on the part of the prosecution.

F

The prisoners here jointly close their address to the Court by the following observations :—

Gentlemen,

We are now about to conclude our address to you, previous to closing our defence. That done, naught remains but for the Judge Advocate to answer us, and you will then be called upon to fulfil the most awful part of this imposing trial. Yes, Gentlemen, the most awful part, at which any human being must shudder when required to perform. To dispose not only of the lives and properties of twelve fellow-creatures, but perhaps to make their unprotected wives widowed, their innocent children fatherless,—to fill to overflowing that cup of human misery, which they, by the visitation of Providence, have already too deeply quaffed. Great God, in his mercy, we must hope, will temper the wind to the shorn lamb. For them, then, Gentlemen,—for the innocent, the unoffending, who but as yesterday were comparatively comfortable, now houseless, without refuge, likely shivering and starving on the highway,—and not for ourselves,—we appeal to you. We have been exposed to every disadvantage ; we have not been tried by God and our country, as we contend we should have been. The earthly tribunal to us has been a strange one : were we soldiers, accused of mutiny, we should be prepared to be tried by this Court—we should know what judges would sit in judgment upon us—we would know what fate must await us, should that crime be proved. But, Gentlemen, you will recollect, that we are civilians, tried for an offence not mentioned in the Mutiny Act or Articles of War. We are accused, as the copy of the charge served upon us states, with Treason committed against the peace of our Lady the Queen, her Crown and dignity, and remark, Gentlemen, against the form of the Statute in such case made and provided—that statute, according to the forms prescribed by which we have not been tried.

We adjure you, Gentlemen, not to forget that we are accused of Treason, not Mutiny,—the crimes are too widely different to be supposed the same, and we beg of you to remember, that the nature of the tribunal alters not the character of the offence.

We, Gentlemen, are the first who have been selected to be tried by this, to us, strange tribunal,—we are the first of the inhabitants of this Province, who, since the conquest of the Colony, have been subjected to the jurisdiction of a Military Court,—and who are we?—many of us peaceable agriculturists, poor and uneducated,—we are required for the slaughter, and had it not been that the usages even of military tribunals permitted us to have the assistance of counsel, how were we situated?—unable even to state our own defence, unable to combat the arguments of the learned men who have been for this occasion, contrary to the usual rule, selected to aid the military prosecutor,—unable to detect the inaccuracy, the inconsistency, of much of the evidence adduced against us. . Gentlemen, we have done; we leave our defence in your hands; you are called upon to judge of it—to scrutinize with a searching eye the evidence against us—to examine closely and strictly, whether the proof amounts to the establishment of the charge against us so clearly “that he who runs may read”—in case of doubt, to extend to us the benefit of that doubt.

You are our earthly judges—in that sacred character, removed above all earthly or commonplace prejudices, breathing, we may say, a different atmosphere from the vast herd of mortals whilst in the performance of your duty, you are called upon to decide, not only our fate, but the agony and everlasting misery of our wives and children, if we perish by your decision, for by it not only our lives will be forfeited, but infamy heaped upon them forever; should we be set at liberty, then prayers, then blessings shall attend you, and may the great and wise all powerful Being direct you and guide you in your judgment.

G

May it please the Court,

This protracted trial has at length reached the point at which it becomes the duty of those conducting it, to offer their closing remarks upon the proceedings before the Court, with a view of recalling to attention the legal definition of the offence charged, of examining how far the facts proved correspond with this definition, and, finally, of directing the enquiry, whether the crime of High Treason, as charged against the prisoners, has been brought home to each individual among them.

The duty in this instance, although of an important and, we may add, of a solemn nature, is by no means difficult of performance. The rules of the law are so precise, and the evidence adduced, embarrassed by so little of confusion or contradiction on material points, that the whole case may easily be thrown into a compact and intelligible form. Before, however, entering upon our task, we beg leave, respectfully, to premise, that, for its better execution, we have endeavoured to divest ourselves of the zeal of the Advocate, and to assume in its stead the impartial spirit of the Judge. Casting aside all desire to construct or strengthen a case by professional ingenuity, and feeling that human life may be in some degree hanging on our words, we would present that case, and that case only, which we truly and conscientiously believe to be made out in law and evidence before the Court; and we would further state, that although in accordance with the usual practice of Courts Martial, we abstain from referring to books of authority in support of the opinions which we may have occasion to express on legal points, yet that such opinions have been formed with deliberation and research, and under a full sense of the grave responsibility of our present position.

With these preliminary observations, we proceed to call the recol-

lection of the Court to the exposition contained in our opening address of the crime of High Treason. We then stated, in the precise terms of the law, *That when a man doth compass or imagine the death of the King, or if a man levy war against the King in this realm, he shall be adjudged guilty of Treason*; and we then also enumerated certain overt acts which have been declared by solemn decisions of competent authority to constitute sufficient evidence of a compassing of the King's death and of levying war against him.

The overt acts thus enumerated, were first, the deposing or taking possession of the King or Government, or preparing to do so; second, the direct levying of war, and consulting to levy war; third, joining with rebels in any act of rebellion; fourth, giving assistance or intelligence to rebels; fifth, constructively levying war by insurrection to reform supposed grievances. The overt acts laid in the charge against the prisoners, in some respects, correspond with those abovementioned, and in others are of a far more marked and decided character.

These specific acts are, first, that the prisoners met, conspired, and agreed to subvert the Government in this Province, and depose the Queen from her legislative rule in it; second, that for that purpose, they incited and assisted in a rebellion; third, that assembled and armed, they prepared and levied war against Her Majesty, in furtherance of the said rebellion; and fourth, that they were found in open arms against her Government.

These acts, or any of them, without doubt, amount in law to the crime of High Treason.

Having thus ascertained the nature of the offence, our next step is to enquire what facts have been established by the evidence before the Court; and this enquiry naturally divides itself into two branches: First, whether it be made out in evidence that the offence of High Treason, or, in the language of the charge, "Treason against our Sovereign Lady the Queen," was committed by any body of men, at

Chateauguay or Caughnawaga, between the first and seventh days of November last; and second, if such offence were committed, whether the prisoners at the bar have been identified as participators in it.

That the offence of High Treason was committed by a body of men, as well at Chateauguay as at Caughnawaga, between the first and seventh days of November last, we consider established beyond the possibility of a doubt, by the statements of the following witnesses—some of them deposing to the existence of assemblages of armed men, avowing an intention to overthrow the Government and declare independence; and others shewing, that such assemblages were acting in concert and intelligence with others rising in general rebellion throughout the Province.

First,—We advert to the testimony of John Lewis Grant, the first witness for the prosecution, who, after detailing his capture and detention as a prisoner at Chateauguay on the third, fourth, and following days in November last, by a large body of armed men, possessing, in a considerable degree, the organization of a military force, states, that Duquette, one of this body, told him that in two or three days there was a body of Americans coming in, and that he (Grant) should be made as independent as themselves; and again, that Duquette, one Demarait, and the sentries, with Lepailleur, and others, (all connected with the body of armed men alluded to,) told him (Grant) plainly, that the Americans were coming in, and that they were going to take possession of the country; that there would be a general rising that night (Saturday, third of November); and that the present Government would be overthrown, and he (Grant) should get his liberty.

Second,—John M'Donald, the second witness for the prosecution, after a detail of his capture and detention on the third, fourth, and following days of November, by a body of armed men, and after conjoining and extending Grant's narrative, declares that Jean Louis Thibert, one of the body alluded to, said to him, in answer to a question, "that they were going to declare independence that night (Saturday, third November);" and again, in answer to the question, what was the

avowed intention of this body of armed men? the witness states, "to subvert the Government, and declare their independence." Jean Louis Thibert and Cardinal said so expressly; Cardinal added that on that night (Saturday, the third,) the whole Canadian population had risen, and would be in possession of all Canada, except Quebec.

Third,—George De Lorimier, the third witness for the prosecution, gives a circumstantial account of the approach of a large number of armed men to Caughnawaga, for the purpose of disarming the Indians, and to a question proposed to him, answers, "They (meaning the armed men alluded to,) said, that, if the Indians would give up their arms, they would not be injured by them, but would be permitted to retain their seigniory;" they (the armed men) said, that Beauharnois was taken, and the southern shore of the St. Lawrence, and that Isle-aux-Noix, St. Johns, and Laprairie were to be taken.

Fourth,—Ignace Delisle, the fourth witness for the prosecution, after confirming Delorimier's statement, and in some respects extending it, says, that Lepailleur, one of the body of armed men, in urging the demand for the Indians' arms, said: "if the Government is displeased, we will protect you."

Fifth,—Pierre Reid, the seventh witness for the prosecution, who was in arms at Chateauguay, and in the expedition to Caughnawaga, and has given his testimony as Queen's evidence, confirms the statement of the previous witness relative to the large assemblage of armed men at Chateauguay and the expedition to Caughnawaga, and in answer to a question proposed to him, states: "that he heard, before leaving Chateauguay, that the habitans were rising in every direction; this he heard while at Chateauguay with the band on the Saturday night (3d November).

Sixth,—The Indian, Teronhahere, the eighth witness for the prosecution, confirms the evidence of the previous witnesses, who have spoken of the attempt to disarm the Indians, and he states, in answer to a question proposed to him: "that he understood that they (meaning

the body who came to disarm the Indians,) wanted to get the arms to take possession of Laprairie ; they said, that they were going to take Montreal the same day ; they told him (witness) so, after they had been made prisoners ; Blanc Dusault was present when some one in the crowd said so ; and again, some one in the crowd said, the Canadians had risen in other parts,—they did not say they had taken St. Johns, but that they had taken Isle-aux-Noix and Beauharnois, and added, if the Indians would give up their arms, they would take Laprairie.

Seventh,—Narcisse Bruyère, who has given testimony as Queen's evidence—a witness of great importance in all essential matters—confirms the evidence of the preceding witnesses ; and as to what occurred both at Chateauguay and Caughnawaga, in answer to a question proposed, he states, “that when we (meaning the band of armed men with whom he was,) got near the Sault (Sault St. Louis,) he asked Mr. Cardinal what his plans were ?—he (Cardinal) said, that as soon as they had taken possession of one place, the mark of independence would be put there, and the Americans would come in, and that they would not come before, because they would be considered as murderers if they were taken prisoners, and not as prisoners of war ;” and again, he says, that Guerin and Therien told him, that a blow was to be struck at Laprairie that night (Saturday, the 3d November,) and asked him if he was not aware of the disturbances there were going to be every where that night ; they said Laprairie was going to be taken that night.

Such are the facts before the Court relative to the existence of an armed body, assembled with treasonable designs and aiding in a general rebellion. They surely afford a full measure of evidence of each and all of the overt acts laid in the charge, viz. : the conspiring to subvert the Government, and depose the Queen from her legislative rule in the Province,—the inciting and aiding in a rebellion for that purpose,—the preparing and levying war against Her Majesty, and the being found in open arms against her Government. Were any further evidence necessary on this subject, we might urge, as indications of a treasonable

design, the military organization, which existed among this assemblage of men, the disarming of Her Majesty's subjects and making them prisoners, and the existence of secret societies and secret oaths, as established by Bruyère. But we feel satisfied that the Court can have no hesitation in arriving at the conclusion, that the crime of High Treason was committed by a body of men, as well at Chateauguay as at Caughnawaga, between the first and seventh days of November last.

We have now to enquire whether the prisoners at the bar have been identified as participators in this crime ; and in the examination of the evidence, with a view to the settlement of this question, we deem it unnecessary to quote those passages in which the various individuals before the Court are mentioned. Such a course would be exceedingly cumbersome, and serve only to embarrass and perplex. We shall, therefore, merely name the witnesses who depose to each individual, in order that the number by which he is identified may be at once ascertained.

We first take up Cardinal, whom we find identified as having been at Chateauguay on the third and fourth, among the armed body of men, by M'Donald and Grant, and as having been at Caughnawaga with the expedition there, by Delorimier, Ignace Delisle, and Teronhiahere, and as having been at both places, by the two Reids and Bruyère.

The offence is thus brought home to him by *eight* witnesses, exclusive of two or three who were examined on the defence ; and it may be remembered, that the whole evidence goes to shew that he was a man of much influence and activity, and held an important station in the rebel camp.

The next name on the list is Duquette. He is identified as having been, on the third and fourth, in the body of armed men,—first at Chateauguay, by M'Donald and Grant ; second, at Caughnawaga, by Delorimier, Delisle, and Teronhiahere ; and third, as having been at both places, by the two Reids and Bruyère,—*eight* in all, exclusive of two or three witnesses examined on the defence. He appears to have been

an active and influential man, and to have held a station of command.

L'Ecuyer was seen on the third and fourth November, at Chateauguay, in the body of armed men, by M'Donald, the two Reids, and Bruyère—*four* in all, exclusive of the widow Boudria, who speaks of him in her evidence given on the defence.

Jean Louis Thibert is shewn to have been at Chateauguay with the rebel force, on the third and fourth of November, by M'Donald, the two Reids, and Bruyère; the last three also saw him at the Sault St. Louis—*four* in all, exclusive of the mention made of him by the witnesses on the defence. It must be observed of him, that he appears to have been in authority, and that M'Donald was made prisoner by him.

Jean Marie Thibert was at Chateauguay, and accompanied the expedition to the Sault St. Louis, but stopped short of the latter place in the wood near it. This appears from the testimony of M'Donald, the two Reids, and Bruyère—*four* in number.

Joseph Guimond was seen on the third and fourth of November, among the rebel force at Chateauguay, by M'Donald and the two Reids, who also saw him in the expedition to the Sault. The witnesses against him are *three* in number.

Louis Guerin dit Dusault was seen among the rebel forces on the fourth of November, by M'Donald, at Chateauguay, and in the expedition to the Sault by the two Reids and Bruyère, and at the Sault only by Delisle and Teronhiahère—*six* in all.

Antoine Coté was seen on the fourth of November, at Chateauguay, by M'Donald, and there, and at the Sault, by the two Reids, and at the Sault alone, by Teronhiahère, *four* in number.

Maurice Lepailleur is proved to have been, on the third and fourth of November, at Chateauguay, by M'Donald, there, and at the Sault, by the two Reids and Bruyère, and at the Sault only by Teronhiahère, Delorimier, Delisle, and Tenihatie, making together *eight*. He is proved to have been an active man and to have held a station of command.

Edouard Thérien was seen at Chateauguay among the armed force on the fourth, and at St. Jean Baptiste, in the Parish of Chateauguay, by Bruyère, on the third, but not with a body of men. He was then with Guerin dit Dusault, and from his conversation evidently aware of, and implicated in the disturbances, then about to take place. The witnesses against him are *two* in number.

Leon or Leandre Ducharme was seen at Chateauguay, on the fourth, fifth, and sixth, by M'Donald, Grant, and veuve Boudria, a witness examined on the defence.

Louis Lesiege dit Laviolette is identified by but *one* witness, M'Donald.

Such is the evidence in support of the prosecution. A few words will suffice to dispose of that adduced on the defence, which appears to have a three-fold object. 1st. To shake the testimony of M'Donald, by contradicting some of his statements, and of Grant, by shewing he was intoxicated. 2nd. To prove that force was employed, particularly in the case of the two Thiberts. And 3rd. To establish an *alibi* in favor of Ducharme.

With regard to the testimony of M'Donald and Grant, it may be remarked that its entire rejection by the Court could not affect the position of any of the prisoners except Therien and Ducharme. The others, exclusive of Laviolette, are sufficiently identified without the assistance of these two witnesses. We shall therefore reserve what we have to say on the subject of their credibility, until we come to the examination of Ducharme's defence.

As to the question of force, it must be apparent to the Court, that no case has been made out, even in favour of the Thiberts, and much less in favour of the other prisoners.

Giving to Jean Marie Thibert the full benefit of the evidence on this point, we find it refers to a period subsequent to the commission of the offence which has been proved against him—the offence was committed on the night of the third and the morning of the fourth be-

fore ten o'clock. The force, if it can be called, which was exercised by *one* man against *six* was employed on the fourth, at half past two o'clock. This evidence does not meet the case, it might have been rejected when offered; it can now have no influence upon the opinion to be formed of this man's guilt or innocence.

As to Jean Louis Thibert, his pretence of having been forced is equally unsupported. The evidence of Couillard, who alone speaks to it, tends rather to criminate than justify the unhappy man.—Aware of the approaching crisis, trembling with apprehension of its consequences, with sufficient time to flee from a participation in its dangers and its guilt, he still goes on with a strange infatuation, and exhibits himself as an actor and leader, in the very enterprise which he professes to deplore.

We must declare then that the attempt to prove force, or compulsion, has failed so totally, that it becomes unnecessary to enquire minutely into the law, relative to the nature and degree of force which shall justify consorting with and aiding Traitors. It is enough to state, in the general terms of a writer of high authority, that "the only force that doth excuse, is a force upon the person and present fear of death, and this force and fear must continue all the time the party remains with the Rebels. It is incumbent upon men, who make force their defence, to shew an *actual* force, and that they joined, "*pro timore mortis, et recesserunt quam cito potuerunt.*"

We leave to the Court the application of this rule to the case before it.

We come to the consideration of the evidence adduced by Ducharme to prove an *alibi*, and to an examination of the incidental question, whether he has succeeded in destroying the credibility of the witnesses, M'Donald and Grant.

With regard to the *alibi*, Ducharme has proved by Latour and Portéance, that he was at Lachine on the third of November, and spent the evening there, and that he was seen there on the fourth between

seven and eight in the morning, and again between eleven and twelve, and that two or three hours are required to make the passage to that place and Chateauguay. M'Donald says that he saw him at Chateauguay on Sunday morning about daylight, on the same day about four o'clock, and on the Monday or Tuesday following, veuve Boudria states that he was at Chateauguay on Monday the fifth, and Grant swears he saw him there armed, with one Brault, without specifying the day, but as Grant was captured on the third, and Ducharme on the seventh, it must have been between those two days. The *alibi*, therefore, if proved on the fourth, which we much doubt, is not proved on the following days, and consequently cannot avail the prisoner. The evidence adduced in support of it resolves itself merely into a ground for impeaching M'Donald's testimony, which now calls for examination.

It must be admitted that M'Donald has been contradicted in his statement, that he saw Ducharme on the tenth of November, and that a strong doubt, if not an absolute contradiction, has been cast upon the accuracy of some other statements, not material to the case before the Court.

The rule to be applied to a witness so situated, is, that if without impeachment of general character, he be contradicted on an immaterial point, such contradiction will not discredit him. If he be contradicted on material points, his evidence, where uncontradicted, will not generally be altogether rejected, but it will be received with caution, and require to be confirmed. If the prisoner were on his trial for murder, and the evidence against him drawn solely from a witness situated as M'Donald now is, we should be disposed to say, that it would be insufficient to justify a conviction: we give this example as an illustration of our understanding of the rule, but after all is said, it is a question for the conscience of each individual member of this Court, to determine whether and how far he will believe or disbelieve M'Donald's testimony.

As to Grant, the only ground for the impeachment of his credibility is the statement made by veuve Boudria, that he had been drunk and was intoxicated, (*en train*)—we do not think this evidence has been carried far enough to shake your faith in his statement. He may have been intoxicated, and yet fully capable of observing and remembering what passed about him ; his story is uncontradicted, and generally confirmed by veuve Boudria, and, moreover, if intoxicated at all, there is nothing to shew that he was so after Sunday morning, the fourth November, and he does not swear that he saw Ducharme upon that day.

Upon the whole, therefore, the Court, although it will examine with care the statements of this witness, will not be disposed to declare him unworthy of belief.

We do not especially allude to the character of the witnesses upon the defence, because they have proved so little that can avail the prisoners. It ought not, however, to be overlooked, that those upon whom reliance is principally placed, viz : the two Loiselles, Alleine, veuve Boudria, Dumouchelle, and Rochon, appear from their own declarations to have been accomplices in the guilt of those, for whom they testify, and like them, liable to be accused before this Court.

And while on the subject of accomplices, it may be well, in answer to a remark from one of the prisoners, in reference to the two Reids, to satisfy the Court, as to the rule applicable to evidence of this nature.

The rule is this, that in strictness of law, a prisoner may be convicted on the testimony of a single accomplice, since where competent evidence is adduced, it is for the Jury to determine on the effect of that evidence. In practice, it is usual to direct the Jury to acquit the prisoners, where the evidence of an accomplice stands uncorroborated in material circumstances. This, however, is a matter resting entirely on the discretion of the Court.

And it may also be here noted, in answer to an allegation made by Coté, that no act of Treason was brought home to him, that the doc-

trine of the law, as applicable to all the prisoners, is, that when a connection between several parties is once established, by proof of their conspiring to act in concert together for the attainment of a common object, then, whatever is done in pursuance of the conspiracy, by one of the conspirators, though unknown perhaps to the others, is evidence against them all.

In conclusion of the entire case, we feel bound to declare our opinion. 1st. That the evidence of the offence charged is perfect against Cardinal, Duquette, L'Ecuyer, Jean Louis Thibert, Jean Marie Thibert, Joseph Guimond, Louis Guerin dit Dusault, Antoine Coté, and Francois Maurice Lepailleur. 2nd. That if the Court be of opinion that M'Donald is unworthy of credit, even in statements directly confirmed by Grant, and collaterally so by Boudria, the prisoner Ducharme will stand in a doubtful position, and the Court will determine how far he is entitled to the benefit of that humane rule, which says, that all doubts shall be resolved in favour of the accused. 3d. That if the evidence of M'Donald be rejected, the criminality of Therien rests upon the evidence of Bruyère alone. And 4th. As to Lesiege dit Laviolette, that the evidence is insufficient to warrant his conviction.

We have thus exposed for the consideration of the Court, the evidence bearing upon the present prosecution, and all material points connected with it.

In reply to the moving appeal from the prisoners to your humanity and compassion, we can only say that the duty resting on this Court, is one independent of, and above the impulses of feeling, and must be sternly performed, according to the law and evidence of the case.

With these observations, the Judge Advocates having endeavoured to fulfil their duties before this tribunal, to society, and to the accused, await the decision which your consciences may dictate, and which justice may approve.

H.

{ HEAD QUARTERS,
 { *Montreal, December 14, 1838.*

SIR,

I have the honor to return the proceedings of the General Court Martial, held for the trial of Joseph Narcisse Cardinal and others, and to acquaint you, with reference to the accompanying opinion of the Law Officers of the Crown, that it appears the sentence of transportation passed on several of the prisoners cannot legally be confirmed. I am, therefore, compelled to desire that the Court may be re-assembled for the purpose of revising the sentence of transportation passed on six of the prisoners.

I have the honor to be, Sir,

Your obedient servant,

J. COLBORNE,

Commander of the Forces, and Administrator of the Government.

Major General CLITHEROW

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THE QUEEN
vs.
CHARLES HUOT.

GENERAL COURT MARTIAL.

{ MONTREAL, LOWER CANADA,
} 17th December, 1838.

Members of the Court and Deputy Judge Advocates, the same as in the case of the Queen against Cardinal and others—(see page 17)—are duly sworn.

The prisoner is arraigned upon charges similar to those against Cardinal and others—(see page 19)—(except that the "Parish of St. Cyprien" is substituted for Chateauguay and Sault St. Louis, commonly called Caughnawaga)—and presents certain preliminary objections, similar to those made in the case against Cardinal and others, marked A—(see page 76)—and a declinatory plea, marked B, and annexed to these proceedings—and then pleads, Not guilty.

The Court then proceeds to examine the following witnesses:—
LOOF ODELL, merchant, of Napierville, being called into Court, and the charge read to him, he is duly sworn and states as follows:—

Question from the Judge Advocate—Did you see Huot, the prisoner, on Sunday, the fourth, Monday, the fifth, or Tuesday, the sixth of November last, where, on which of those days, and how was he occupied ?

Answer—I do not recollect having seen him on either of those days.

Q. from the same—On what day, after the sixth, did you see him, and how was he occupied ?

A.—I do not recollect having seen him until the following Saturday.

Q. from the same—Do you know the prisoner's hand writing, and have you seen him write and sign his name ?

A.—Yes.

Q. from the same—Examine the paper writings, marked respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, annexed to these proceedings, and say in whose handwriting they are, and by whom they are signed ?

A.—They are all, with the exception of No. 4, signed by the prisoner Huot. Those marked 2, 5, 6, 7, 8, 10, 11, 13, 14, are also in his handwriting ; No. 4 is not signed—but to the best of my belief, it is in the handwriting of the prisoner.

Q. from the same—Examine the paper writings, marked respectively 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32, annexed to these proceedings, and say in whose handwriting they are, and by whom they are signed ?

A.—To the best of my knowledge and belief, those marked 17, 28, 31, and 32, are both written and signed by the prisoner ; the others are signed by the prisoner, but are not, to the best of my belief, written by him.

Q. from the same—What do the letters "Q. M." and the letters "Q. Me.," written underneath the signature upon the said papers, mean ; what do you understand from them ?

A.—I understood they meant Quarter Master, inasmuch as Huot told me he was ordered to act as Quarter Master, and did so.

Q. from the same—To whom, or to what body, was he ordered so to act, and by whom?

A.—He told me he was ordered by Dr. Côte to act as Quarter Master to the rebel army whilst they occupied Napierville; Napierville is in the Parish of St. Cyprien.

Q. from the same—For what purpose were these paper writings given and used?

A.—They were given for getting things to supply the rebel army, under Nelson and Côte.

Q. from the same—Was there any assemblage of armed men at Napierville, in the Parish of St. Cyprien, at any time between the first and seventh of November last; if so, state the probable number, the description of arms which they had, and what their intention was?

A.—On Saturday the third of November last, there was a number of armed men—I should think from one hundred and fifty to two hundred; they were armed with guns, pikes, poles, spears with hooks to them, swords, and other sorts of arms. A man named François Trepannier, who appeared to command them, as well as a number of others, told me that they were going to overthrow the Government and establish an independent Government; Trepannier said they were better prepared than last year, as they had arms and ammunition, and so forth; they said they had commenced the right way by taking prisoners those who were their enemies, and they would never lay down their arms until they had established an independent republican government. Their numbers increased daily from Saturday, the third, until the following Thursday. Dr. Côte made his appearance on the Saturday evening, the third of November, and Dr. Nelson on the fourth; Gagnon came on the third; when Dr. Nelson came in, there was a number of carts and a waggon loaded with arms; the arms were taken out from the carriages before my door, and distributed among the men; within the time I have specified, there were about four thousand persons assembled.

Q. from the same—Was it for this body of armed men that the prisoner acted as Quarter Master ?

A.—Yes, it was to that body of armed men that he told me he acted as Quarter Master.

Q. from the same—Did Dr. Nelson bear any title, and did he make any address to this body of men ; if yea, state his title and the purport of his address, and declare when and where the same was made ?

A.—He bore the title of President among these men ; I saw printed proclamations with his name printed under them as President ; I understood he was President of the republican government which was to be formed. On Sunday, the fourth, the whole body was drawn up in a square, and Dr. Nelson rode up and addressed them ; I did not hear what he said, but the people cheered him ; this occurred in the square before my house ; most of the men he addressed were then armed in the way I have stated above ; I should judge there were about eight hundred or a thousand present when Dr. Nelson addressed them ; I was not sufficiently near to understand what Dr. Nelson said.

Q. from the same—Do you know any of the persons named in the paper writings, or any of the paper writings marked from 1 to 32, already exhibited to and proved by you ; if yea, declare which of the said persons you know, and whether they held any and what command in the armed body of men mentioned by you in your answer to the last question ?

A.—I know one Simon Pinsonault, mentioned in bon No. 5. He told me he was acting as Captain in the rebel army. I know one François Bigonnesse, mentioned in bon No. 11 ; he was armed with a sword, and I heard him called by the title of Captain, to which he answered. I know François Nicholas, mentioned in bon No. 16 ; I saw him armed with a sword and commanding men. I know Jacques David Hebert, mentioned in bon No. 17 ; I saw him armed with a sword and commanding. Julien Remillard, mentioned in bon No. 25, was also armed with a sword and commanding men ; he answered

to the title of Captain. I saw Pierre Boudreau, named in No. 27; Michel Langevin, named in No. 32; and Antoine Coupal, named in No. 31—all acting as Captains and answering to that name.

Q. from the same—Was there any flag or ensign in the rebel force?

A.—They had a sheet or something of the sort, on which they painted three black stars and hoisted it on the maypole before my door; It was on Monday, the fifth, I believe.

Q. from the same—Does the prisoner Huot reside at Napierville?

A.—Yes.

Q. from the Court—Referring to the bons signed by Huot, can you state upon whom they were drawn?

A.—I saw bons similar to those before the Court, which were drawn for bread, in the possession of one Casimir Martineau, a baker a Napierville.

Q. from the same—You say the prisoner told you he was ordered to act as Quarter Master—when did he tell you so?

A.—It was on Saturday morning, the tenth November; he told me he had been ordered to act as Quarter Master, and had done so.

Q. from prisoner—Has not the prisoner always conducted himself as a respectable, honest man since you have known him?

A.—I have had dealings with him for these five years, and always found him perfectly honest.

Q. from the same—Is he not a very inoffensive and peaceable man?

A. I always considered him as such.

Q. from the same—What was the prisoner's general character in the Parish?

A.—He always passed for a peaceable, honest man since I have been acquainted with him.

Q. from the same—In the conversations you have had with the prisoner, what opinions did he express in regard to politics before the last troubles and since?

A.—He told me before the troubles, that he preferred that they should remain quiet; he said he wanted reform, and not revolution,

and was more of a reformer than his brother at Quebec. I don't recollect having had any communication with him since the troubles, except on Saturday, the tenth; he then said, he had been ordered by Côte to act as Quarter Master, and had written bons for them, and that *that* was all he had done; he said he had been put in gaol by them, and supposed he would have been kept there, if he had not acted.

Q. from the same—Is it not within your personal knowledge, do you not know, that the prisoner Huot was made prisoner and detained in gaol by the patriots, on or before the third of November last, at Napierville, and when?

A.—I can't say I have any personal knowledge of it, but I heard he had been made prisoner by the rebels on Saturday evening, the third, at about four or five, and kept there till eleven or twelve o'clock; I heard so from different individuals, among whom was Henry Wilson, my clerk, who had been made prisoner himself.

Q. from the same—In what manner did I speak of the cause called the patriot cause?

A.—As though you preferred quiet, but were afraid that troubles would take place; this conversation was prior to the rebellion.

Q. from the same—Is it not within your personal knowledge, that in the autumn of 1837, the patriots of Napierville *charivariated* the prisoner because he was opposed to them in politics?

A.—I have no personal knowledge, but I was informed by him and others, that he was *charivariated* and had some of his windows broken, at the same time that I and some more were served in the same way.

Q. from the same—Have you not reason to believe, that if the prisoner did act in the manner stated, it was through fear of bad treatment from the patriots?

A.—I cannot say but that he was afraid of them; my opinion was, that he was one of them, he having acted as Secretary at their public meetings in the county of L'Acadie, in the spring of 1837.

Q. from the same—Did the people, thus armed, remain long at Napierville ?

A.—From the third to the tenth of November ; their numbers altered, as some went and some came every day.

JEAN BAPTISTE TRUDEAU, of Napierville, gentleman, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the Judge Advocate—Do you know the prisoner, and what is his usual place of residence ?

Answer—Yes ; he is a Notary, residing at Napierville, in the Parish of St. Cyprien, where he has resided for several years past.

Q. from the same—Did you see the prisoner at Napierville between the first and seventh of November last, and how was he employed ?

A.—Yes ; he was taken by the rebels on the third November, at about four or five o'clock in the afternoon, and put in gaol with myself and several others ; he was released the next day, and afterwards I saw him signing bons and acting as Quarter Master for the rebels, issuing provisions to certain persons calling themselves Captains.

Q. from the same—Was there, between the first and seventh of November last, an assemblage of armed men at Napierville, and what was their object ?

A.—Yes ; and I believe their object was to overthrow Her Majesty's Government—judging from their acts.

Q. from the same—Was the prisoner in the service of this assemblage of armed men, and in what capacity ?

A.—I saw him sign the bons of which I have spoken, but never saw him meddling in any other capacity.

Q. from the same—Did the prisoner, on any, and what occasion, allude to the capacity in which he was acting, for the purpose of enforcing obedience to his orders ?

A.—Sometimes difficulties arose, and Mr. Huot, on those occasions, said that he was Quarter Master, and knew his duty.

Q. from the same—Are you acquainted with the handwriting and signature of the prisoner ?

A.—Yes.

Q. from the same—Look at the paper writings, hereunto annexed, marked from 1 to 16, and state in whose handwriting they are, and by whom they are subscribed ?

A.—They are in my handwriting, and signed by Huot, the prisoner.

Q. from the same—Look at those marked from 17 to 32, and say in whose handwriting they are, and by whom subscribed ?

A.—They are all in my handwriting, with the exception of No. 17, and signed by Huot ; No. 17 is both written and signed by him. I was Huot's clerk, and ordered to make them. I was prisoner, by order of Dr. Côte, all the time I wrote them in Mr. Lukin's house.

Q. from the same—Were the said several paper writings written and signed on the several dates, respectively, mentioned on the face of each ?

A.—They were not all written on the same day—but they were signed on the days on which they were dated.

Q. from the same—What is meant by the letters "Q. M." and "Q. Me." following the signature of the prisoner on the said paper writings ?

A.—I am perfectly of opinion, that they meant "Quarter Master," and he was called so by the chiefs.

Q. from the same—Who held the chief command among the assemblage of armed men, and what title did such commander bear ?

A.—Dr. Robert Nelson ; he was called President, I believe, of the rebels, who intended to declare themselves independent, and to take possession of the country and the Government ; I understood it from Dr. Nelson's own words,—he said it was time to overthrow a Government so corrupt and arbitrary as was the British Government.

Q. from the same—What use was made of the said bonds, and what number of such paper writings was issued ?

A.—They were used to procure provisions for the rebels. Each Captain received them for the use of his company. I know there were great numbers issued,—above 1000—but I cannot say precisely how many.

Q. from the same.—How long did the assemblage of armed men occupy Napierville ?

A.—From the 3rd to the 9th of November last.

Q. from the same.—Were the rebels armed, and how ?

A.—Yes. Some had guns, some had swords, others had pikes, and some were unarmed. There was at one time as many as 500 guns.—On the 7th there were about 5000 rebels in Napierville.

Q. from the same.—Do you know any of the persons named in the paper writings, marked from 1 to 32, which you have already seen.—If so, declare which of the said persons you know, and whether they held any, and what rank in the armed body of men assembled at Napierville ?

A.—I know all the persons named in those marked 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 18, 21, 23, 25, 26, 28, 29, 30, 31, and 32. They were Captains of companies and had swords.

It being four o'clock, P. M., the Court adjourned until to-morrow morning, at 10 A. M.

SECOND DAY, 18th December, 10 o'clock, A. M.

The Court meets pursuant to adjournment. Present, the same members as yesterday.

Examination of Jean Baptiste Trudeau continued.

Q. from the Court.—You have stated that the prisoner was confined at the same time as yourself. Can you say when he was liberated, and on what terms ?

A.—I saw him at liberty on the fourth. I do not know on what terms he was liberated.

Q. from the Court.—Will you state to the Court the day you

heard Dr. Nelson say it was high time to overturn so corrupt and arbitrary a government as the British. Also, when and where, and, if you can, state if the prisoner before the Court was present or not?

A.—It was on the 4th November, between 11 and 1, in the market place, at Napierville, opposite Mr. Odell's house. The prisoner was in front of Mr. Lukin's door, with myself, close to the assemblage.

Q. from the prisoner.—How long have you known the prisoner?

A.—I have known him since 1824.

Q. from the same.—Was not the prisoner a timid man, and without energy, and one on whom fear and threats would have a great effect?

A.—I always knew Mr. Huot to be a peaceable man, but I do not know what effect fear and threats might have on him.

Q. from the same.—What was the general character of the prisoner, at Napierville and elsewhere?

A.—As much as I knew of him, I always thought him an honest man, and peaceable and quiet.

Q. from the same.—You pretended to have heard me say that I was Quarter Master. Say in presence of whom?

A.—To the best of my recollection it was in the presence of Dr. arault, and Mr. Lukin, and several others whom I do not recollect.

Q. from the same.—Do you think, if the prisoner acted, it was against his will?

A.—I cannot say. I do not know whether he was forced or not.

Q. from the Court.—Do you know for what reason the prisoner was confined?

A.—I do not. We were taken by common rebels.

Q. from the same.—Can you state if any pay or emolument was attached to the situation of Quarter Master, held by the prisoner, or was any promise of remuneration made, and what?

A.—I do not know anything about that.

Q. from the same.—During the whole time you were detained in

Mr. Lukin's house, were you a prisoner. If so, state under whose charge you were, or the nature of force used to detain you ?

A.—I was a prisoner by the order of Dr. Côte. I was in charge of Mr. Lukin and 50 or 60 rebels. The orders were not to let me out, or speak to any one, or else I would be fixed up.

Q. from the same.—Did the prisoner ever tell you by whom he was liberated ?

A.—Never.

Q. from the same.—Do you not know that the prisoner was in ignorance of the proceedings of the patriots ?

A.—Not that I know of. It is more than I can say. But the prisoner was a very particular friend of Dr. Côte, and often visited his house. I know him to have acted as secretary to him in many instances.

ORANGE TYLER, of Napierville, bailiff, being brought into Court and the charge read to him, he is duly sworn and states as follows :

Q. from the Judge Advocate.—Did you see Huot, the prisoner, on Sunday, the 4th, Monday, the 5th, or Tuesday, the 6th of November last. Where, on which of those days, and how was he occupied ?

A.—I did not see him at all during that week.

Q. from the same.—Do you know the prisoner's hand writing, and have you seen him write and sign his name ?

A.—Yes, very often—for he was Commissioner of the Court.

Q. from the same.—Examine the paper writings marked respectively, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32, annexed to these proceedings, and say in whose hand writing they are, and by whom they are signed.

A.—Those marked 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, and 32 are signed by the prisoner, Huot, but are not written by him. I cannot speak posi-

tively to the hand writing, or signatures, of those marked 1, 4, 7, 17, and 29.

Q. from the same.—What do the letters “Q. M.” and “Q. Me,” written underneath the signature upon the said papers, mean; what do you understand by them?

A.—These letters mean “Quarter Master.”

Q. from the same.—To whom, or to what body of men did he act as Quarter Master.

A.—He was Quarter Master to Dr. Nelson, Côte, Gagnon, and Trepannier.

Q. from the same.—For what purpose were these paper writings given and used?

A.—They were given for the purpose of supplying the rebel army with provisions.

Q. from the same.—Was there any assemblage of armed men at Napierville, in the parish of St. Cyprien, at any time between the 1st and 7th of November last, and, if so, state the probable number, the description of arms they had, and what their intention was, and by whom they were commanded?

A.—Yes, there was. To the best of my knowledge their numbers might amount to about 4000. On the 6th of November, about two-thirds of them were armed. They were principally armed with new American muskets, some muskets they took from the Volunteers, American swords, pitchforks, scythes, and poles with spears to them. Their intention was to overturn the British Government—it was told so by their commanders, Dr. Côte and Francois Trepannier, senior. Dr. Nelson was President, Lucien Gagnon held the rank of Colonel—Dr. Côte told me so, and I saw the declaration, in print, signed in print by Dr. Nelson as President.

Q. from the same.—Was there any flag, or ensign, in the rebel force?

A.—They hoisted a large white flag with two stars on it—I cannot say whether they were blue or black. It was hoisted, I believe, on Monday, the 5th, and remained so for two or three days.

Q. from the Court.—Did the prisoner, in his capacity of Quarter Master, perform any other duty besides issuing bread and meat?

A.—I don't know of his doing anything besides signing the bons.

Q. from the same.—How do you know that Huot was Quarter Master to Côte, Trepannier, and Gagnon.

A.—I asked, either on the 6th or 7th of November, what was the meaning of the letters Q. M. Some of the officers told me they meant Quarter Master. I could not say, positively, he was Quarter Master, because I was not one of that assemblage.

Q. from the prisoner.—How long have you known the prisoner, and what character did he bear at Napierville?

A.—I have known him about five years for a peaceable and honest man.

Q. from the same.—Was not the prisoner a timid man, on whom fear and threats would have great influence?

A.—I know he is a timid man, and easily persuaded?

Q. from the same.—Do you know that the prisoner was taken in custody by the patriots, and detained by them, and say at what time?

A.—I do not know it for certain. I heard that he was.

Q. from the same.—Is it not true that, in the autumn of 1837, the patriots *charivari*ed the prisoner, because he would not second their political views?

A.—I do not think that they *charivari*ed him for his political views, but to destroy the Commissioners' Court. Côte told me that he wanted a Court of his own.

Q. from the same.—Notwithstanding the *charivari*, did he not continue to hold the Queen's commission, and act as Commissioner?

A.—He did.

Q.—When did this *charivari* take place,—in what month?

A.—It was on the 9th of November, 1837.

Q. from the same.—Did you ever hear the prisoner express his opinion on politics, or the existing troubles ?

A.—No.

JOSEPH SARAULT, of Napierville, Doctor of Medicine, being brought into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the Judge Advocate.—Do you know the prisoner, Huot. Did you see him at Napierville, on the third of November last. If so, state under what circumstances you saw him there ?

A.—I know the prisoner. I saw him at Napierville, on the third of November last, in prison with myself, kept there by the rebels.

Q. from the same.—Was he shortly afterwards released. If yea, state when and by whom ?

A.—Yes, at between 10 and 11 o'clock the same night, by Dr. Côte, the rebel chief.

Q. from the same.—What reason did Dr. Côte give for releasing the prisoner ?

A.—Dr. Côte came in and asked if Huot was there ; we said yea. Thereupon, Dr. Côte said, go out Mr. Huot, this is not your place ; he then went out. I heard nothing more, and did not see Huot until the next morning.

Q. from the same.—When you next saw Huot, the prisoner, how was he occupied ?

A.—As Quarter Master General of the rebel force.

Q. from the Court.—How do you know that he acted as Quarter Master General ?

A.—By seeing him sign bons for provisions for the patriot army.

Q. from the same.—Was Huot the only prisoner released by Dr. Côte, the rebel General, when he came to the prison ?

A.—Côte made two visits. At the first, about 10, he released Huot,

and at the second, about 1 o'clock, he released me and several Americans.

Q. from the prisoner.—How long have you known the prisoner, and what character did he enjoy at Napierville?

A.—Since seven or eight years. He enjoys a very good character.

Q. from the same.—Was not the prisoner a timid man, and liable to be affected by fear and threats?

A.—Yes, he was a timid man. I do not know what effect threats, or fear, might have on him.

Q. from the same.—Do you not think that, if the prisoner acted, he was forced, like many others, by the patriots to do so.

A.—I cannot say that.

The prosecution is here closed, and the prisoner, being called on for his defence, hands in a paper writing praying for delay, until Friday, to prepare his defence.

The Court is cleared to deliberate on the petition thereof.

The Court is opened, and the prisoner is given until Friday morning, the 21st instant, at 10 o'clock, A. M., to prepare his defence.

Half past one o'clock.—The Court is adjourned until Friday morning, at 10, A. M.

THIRD DAY, 21st December, 10 o'clock, A. M.

The Court meets pursuant to adjournment. Present, the same members as on the 18th instant.

The prisoner, being called on for his defence, proceeds to call the following witnesses.

LOUIS ALBERT BENDER, of Napierville, Doctor of Medicine, being called into Court, and the charge read to him, he is duly sworn and states as follows.

Question from the prisoner.—How long have you known me.—
What is my general character?

A.—I have known you for about five or six years. You had the reputation of being a respectable man, (*honnête homme.*)

Q. from the same.—Am I not a timid, weak man, and liable to be easily persuaded?

A.—I cannot say.

Q. from the same.—Were you made a prisoner with me, by the rebels, at Napierville, in November last?

A.—I was, and I think you were with me. I think you were tied, and in the prison, when I got there.

Q. from the same.—Who made me prisoner, and what were the words he used to me?

A.—It was Julien Remillard, as I believe. He asked you who you were, you replied you were a patriot, and Remillard said he did not know you for a patriot, and you must go to prison.

Q. from the same.—Did not the person who spoke to me say, “you are a bureaucrat—go to prison?”

A. I believe he did.

Q. from the same.—Does not the word bureaucrat mean loyalist?

A.—Yes.

Q. from the same.—In the conversations you have had with the prisoner, did he not always appear attached to the Government, and do you not believe him to be a loyalist?

A.—Yes.

Q. from the same.—If the prisoner said he was a patriot, say, from what you know of him, for what reason it could have been?

A.—I think it was through fear of ill treatment.

Q. from the same.—In the autumn of 1837, when Dr. Côte caused the alarm to be sounded, at Napierville, for the people to go to Point a la Mule, and thence to St. Charles, what did the prisoner do?

A.—To the best of my knowledge, the prisoner did not leave the village of Napierville.

Q. from the same—When the rebels at Napierville had prisoners, how did they keep them ?

A.—They were guarded very strictly.

Q. from the Court—Were you confined in the same place as the prisoner, and how long did you remain in confinement ?

A.—I think the prisoner was confined in the same place with me. I was set at liberty at about twelve o'clock at night, and was imprisoned at about four o'clock in the same afternoon.

Q. from the same—You have stated that the term “bureaucrat” means loyalist ; is there no other interpretation of the word, and what is the general acceptance of it ?

A.—I know no other signification, and it is generally used as a term of reproach ; they employed it to force the people to join them.

Q. from the same—When Mr. Huot and yourself were made prisoners, were any violence or threats used to him ?

A.—Huot was made prisoner before me ; I think I saw him tied in the prison when I went in.

Q. from the same—You have stated you were released at about twelve o'clock ; were any others released at the same time, and by whom ?

A.—I do not distinctly recollect ; but I think the prisoner was released at the same time by Dr. Côte—I am certain it was Dr. Côte.

PIERRE HECTOR MORIN, of Napierville, gentleman, a prisoner in the common gaol, brought up at the request of Huot, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner—How long have you known the prisoner, and what has been his character since you have known him ?

Answer—I have known him thirty years ; I know him for a peaceable and honest citizen.

Q. from the same—Is not the prisoner a timid and weak man, and easily persuaded ?

A.—I cannot answer this question, having never had any transactions with him to put his timidity to the test.

Q. from the same—In the conversations you have had with the prisoner, what were his political opinions, and particularly before the last troubles ?

A.—I always knew the prisoner for a man attached to the Government, and very strongly opposed to the last troubles.

Q. from the same—If the prisoner acted during the late troubles, what motive induced him to do so ?

A.—I am disposed to think that it was the positive orders given by the chiefs that induced him to act.

Q. from the same—Do you know if these orders were threatening ?

A.—The orders were threatening.

Q. from the same—If any one had refused obedience to these orders, what would have been the consequence ?

A.—I do not know what penalty was attached to disobedience.

Q. from the same—Have you a knowledge that any one was ill treated for having disobeyed the orders of the chiefs ?

A.—No ; not within my personal knowledge.

Q. from the same—How long has Dr. Côte been absent from the Province ?

A.—Since November, 1837.

Q. from the same—Latterly, on what terms was the prisoner with Dr. Côte ?

A.—I know nothing about it.

Q. from the same—Had the prisoner and Dr. Côte much intercourse, while Dr. Côte was at Napierville last November ?

A.—Not to my knowledge.

Q. from the same—Do you know that Dr. Côte was dissatisfied with the prisoner, in consequence of their politics being opposed, before the last troubles ?

A.—I have reason to believe so.

Q. from the same—Do you know that Dr. Côte threatened the prisoner, in case he would not act in the late troubles ?

A.—Not to my knowledge.

Q. from the Court—Are you not a prisoner, under a charge of High Treason ?

A.—I am.

Q. from the same—What reason have you for believing that Dr. Côte was dissatisfied with the prisoner, before the last troubles ?

A.—Because I often heard it said at Napierville in general conversation.

JOSEPH BELLE, of Napierville, shoemaker, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from prisoner—Do you know me, and for what length of time ?

Answer—I have known you for seven or eight years past.

Q. from the same—Did you see me meddle with politics before the last troubles ?

A.—No ; not at any time.

The Court overrules the question from the prisoner as to general character, being satisfied on that head.

Question from the prisoner—What was my opinion and conduct, in political matters, before and during the last troubles ?

Answer—I cannot say. [The witness says, he was mistaken and desires to explain.] I knew him for a loyalist, from what I understood from the people.

Q. from the same—Did the rebels at Napierville ill treat any body, to your knowledge, in November last—whom, and for what reason ?

A.—I saw some who were ill treated, because they would not join the rebels ; I do not know their names.

Q. from the same—Where was I during that time, in the beginning of November last ?

A.—I do not know ; I did not see you.

Q. from the same—When Dr. Côte held political assemblies, in 1837, what did I do.

A.—I did not see you.

Q. from the same—Was it wished, before the last troubles, to force me to resign my commission as Commissioner of small causes ?

A.—Last year you were *charivarié*, to make you resign your commission.

Q. from the same—Do you know Jean Baptiste Trudeau, a witness who has been examined on this trial ?

A.—Yes.

Q. from the same—What is the character and conduct of the said Trudeau ?

A.—I know nothing about his character ; he passes for a man that drinks.

Q. from the same—Did you see Trudeau drunk at Napierville during the time the patriots were assembled there, between the first and seventh November ?

A.—No.

Q. from the same—Did you see Trudeau at all during the last mentioned period, and when ?

A.—I saw him at Mr. Lukia's ; I cannot say on what day.

Q. from the same—While the patriots were at Napierville, in November last, did they go round to the different houses, forcing all who were in them to join with them, and how ?

A.—Yes, they forced them, and those who would not go were threatened with death.

Q. from the same—Did you see me a prisoner in the hands of the rebels, and where ?

A.—I did not see you.

Q. from the Judge Advocate—Can you speak English, or any other language but French ?

A.—I can only speak French.

Q. from the same—Can you read and write. ?

A.—I can do neither.

Q. from the same—Were you at Napierville on the third November last, or any of the five following days, and were you a prisoner ?

A.—I was there on the third and five following days ; I was not a prisoner.

Q. from the same—What were you doing there ?

A.—I was working some days, and other days did like the rest ; I went about the village, but did not do any thing.

Q. from the Court—You state you did not see the prisoner at any political meeting ; what political meeting held by Dr. Côte did you attend ?

A.—I did not see him at any political meeting ; I was not present at any such meeting.

JULIEN CARDINAL, of the Parish of St. Cyprien, tanner, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner—Since when do you know me ?

Answer—Six years.

Q. from the same—Lately, and before the last troubles, what were my conduct and opinion in political matters ?

A.—I never saw you.

Q. from the same—Did I not pass for a loyalist, immediately before the troubles in November last, and do you not know me for a faithful subject ?

A.—From all I knew about you, I always thought you a loyalist ; I do not know if you were a faithful subject.

Q. from the same—Have I been persecuted for my political opinions, and say when ?

A.—I do not know.

Q. from the same—Did you see me detained as a prisoner in November last by the patriots ?

A.—No.

Q. from the same—Is it not within your knowledge, that the patriots at Napierville, in November last, forced people to join them, and how ?

A.—Yes, they did ; they came to my house, armed with swords, and wished to force me to join them.

Q. from the Court—What is the meaning of the word “loyalist ?”

A.—To be on the side of the Queen.

Q. from the same—Were you at Napierville on the third November and following days ; if yea, were you a prisoner ?

A.—I was there on the third November and four following days ; I was not a prisoner, but was in my shop.

The prisoner declares he has no further witnesses to examine, and applies for delay to prepare his written defence till tomorrow at ten, A.M.

The Court is closed to deliberate on the prisoner's request.

The Court is opened, and the prisoner is given till ten, A.M. tomorrow to prepare his address to the Court.

Three o'clock, P.M.—The Court is adjourned till tomorrow morning, at ten, A.M.

FOURTH DAY, 22d December.

The Court meets, pursuant to adjournment—present the same members as yesterday.

At the request of the prisoner, his assistant, Mr. Drummond, is permitted to read his address to the Court, which is hereunto annexed, marked D.

The address of the Judge Advocate is here read, and hereunto annexed, marked E.

The Court is closed.

The Court having maturely weighed and considered the evidence in support of the charges against the prisoner, together with what he has stated in his defence, is of opinion that he, the prisoner, Charles Huot, is guilty thereof.

The Court having found the prisoner guilty of the charges preferred against him—the same being for an offence committed since the first day of November last, in furtherance of the rebellion existing in this Province of Lower Canada, do sentence him, the prisoner, Charles Huot, to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government, may appoint.

The Court having passed judgment, begs leave to recommend the prisoner, Charles Huot, for a commutation of the sentence of death for a punishment less severe.

JOHN CLITHEROW, *Major General,*
President.

D. MONDELET,

CHAS. D. DAY,

ED. MULLER, *Capt. the Royal.*

Joint and severally Deputy Judge Advocate.

BONS PRODUCED IN THE COURSE OF HUOT'S TRIAL.

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| <p>No. 1. Bon pour 1 pinte d'huile pour le Gouvernement Provisoire. Par ordre, C. HUOT, 6 Nov. 1838. <i>Qr. M.</i></p> | <p>No. 7. Bon pour 10 lb de pain pour le Capt Largine. Par ordre, C. HUOT, 6 Nov. 1838. <i>Qr. M.</i></p> |
| <p>No. 2. Bon pour 22 lb de pain. Capt. Ant. Tranche. Par ordre, C. HUOT, 6 Nov. 1838. <i>Qr. M.</i></p> | <p>No. 8. Bon pour 30 lb de pain. Capt. C. Hebert. Par ordre, C. HUOT, 6 Nov. 1838. <i>Q. M.</i></p> |
| <p>No. 3. Bon pour 9 lb de pain. Sirius Couture Officier. Par ordre, C. HUOT, 6 Nov. 1838. <i>Qr. M.</i></p> | <p>No. 9. Bon pour 8 lb de pain. Capt. Narcisse Remilliard. Par ordre, C. HUOT, 6 Nov. 1838. <i>Qr. M.</i></p> |
| <p>No. 4. Bon pour 10 lb de pain. Capt. Jos. Langevin. Par ordre, (Not signed.) 6 Nov. 1838.</p> | <p>No. 10. Bon pour 34 lb de pain. Capt. Benony Verdon. Par ordre, C. HUOT, 6 Nov. 1838. <i>Qr. M.</i></p> |
| <p>No. 5. Bon pour 20 lb de pain. Capt. Simon Pinsonault. Par ordre, C. HUOT, 6 Nov. 1838. <i>Q. M.</i></p> | <p>No. 11. Bon pour 26 lb de pain. Capt. Frs. Bigonesse. Par ordre, C. HUOT, 7 Nov. 1838. <i>Qr. M.</i></p> |
| <p>No. 6. Bon pour 9 lb de pain. Capt. Dememb. Par ordre, C. HUOT 6 Nov. 1838. <i>Qr. M.</i></p> | <p>No. 12. Bon pour 26½ lb de pain. Capt. Ol. Hebert. Par ordre, C. HUOT, 7 Nov. 1838. <i>Qr. Me.</i></p> |

- No. 13.
Bon pour 25½ lb de pain.
Capt. Jos. Marceau.
Par ordre, C. Huot,
7 Nov. 1838. *Qr. M.*
- No. 14.
Bon pour 25 lb de pain.
Capt. Frs. Bourassa.
Pr. ordre, C. Huot,
7 Nov. 1838. *Qr. M.*
- No. 15.
Bon pour 24½ lb de pain.
Capt. Alexis Bisson.
Par ordre, C. Huot,
7 Nov. 1838. *Qr. M.*
- No. 16.
Bon pour 27½ lb de pain.
Capt. Frs. Nicholas.
Par ordre, C. Huot,
7 Nov. 1838. *Qr. M.*
- No. 17.
Bon pour 100 lb pain et 100 lb
bœuf, pour le Capt. J. D. Hebert.
Par ordre, C. Huot,
5 Nov. 1838. *Qr. M.*
- No. 18.
Bon pour 25 lb de pain.
Capt. Ant. Rousseau.
Par ordre, C. Huot,
6 Nov. 1838. *Qr. M.*
- No. 19.
Bon pour 12 lb de pain.
Capt. Louis Pinsonault.

- Par ordre, C. Huot,
6 Nov. 1838. *Qr. M.*
- No. 20.
Bon pour 8 lb de pain.
Capt. Alexis Rielle.
Vraie copie, C. Huot,
6 Nov. 1838. *Qr. M. G.*
- No. 21.
Bon pour 11 lb de pain.
Capt. J. B. Nonnardin.
Par ordre, C. Huot,
6 Nov. 1838. *Q. M.*
- No. 22.
Bon pour 8 lb de pain.
Capt. Paul Tremblay.
Par ordre, C. Huot,
6 Nov. 1838. *Q. M.*
- No. 23.
Bon pour 50 lb de pain.
Capt. Jos. Poirier.
Par ordre, C. Huot,
6 Nov. 1838. *Qr. M.*
- No. 24.
Bon pour 19 lb de pain.
Capt. C. Lussier.
Par ordre, C. Huot,
6 Nov. 1838. *Qr. M.*
- No. 25.
Bon pour avoine pour les che-
vaux.
Cap. Jul. Remillard.
Par ordre, C. Huot,
5 Nov. 1838. *Qr. Me.*

No. 26.
Bon pour 26 lb de pain.
Capt. Robert.
Par ordre,
6 Nov. 1838. C. Huot,
Q. M.

No. 27.
Bon pour 36 lb de pain.
Cap. Pierre Bourdreau.
Par ordre,
6 Nov. 1838. C. Huot,
Qr. M.

No. 28.
pour 25 lb de pain.
Alexis Bisson.
Par ordre,
6 Nov. 1838. C. Huot,
Q. M.

No. 29.
Bon pour 7 lb de pain.
Capt. Frs. Nicholas.

Par ordre,
6 Nov. 1838. C. Huot,
Qr. M.

No. 30.
Bon pour 25 lb de pain.
Capt. Jul. Ported.
Par ordre,
6 Nov. 1838. C. Huot,
Qr. M.

No. 31.
Bon pour 4 lb de pain.
Capt. Ant. Coupal.
Par ordre,
6 Nov. 1838. C. Huot,
Qr. M.

No. 32.
Bon pour 19 lb de pain.
Capt. Michl. Longevin.
Par ordre,
6 Nov. 1838. C. Huot,
Qr. M.

B

PROVINCE OF LOWER CANADA

THE QUEEN

vs.

CHARLES HUOT.

The prisoner, Charles Huot, respectfully but firmly excepts to the competence of the tribunal now assembled under the designation of a Court Martial, to take cognizance of the offence of Treason with which

he stands charged, or to sit in judgment upon him for the said offence, because he saith that by the Act of the Imperial Parliament of the 14th Geo. III. c. 83, it is enacted that the Criminal Law of England shall continue to be administered and shall be observed as law in the Province of Quebec, as well in the description and quality of the offence as the method of prosecution and trial, to the exclusion of every other rule of Criminal Law or mode of proceeding therein.

That the Statute of the Imperial Parliament of the 24th Edward III. c. 2, commonly called the Statute of Treasons, the Statute of the same Parliament of the 7th William III. c. 3, and the Statute of the same Parliament of the 7th Anne, c. 21, and divers other Legislative expositions of the said Statute of Edward III. by different laws enacted since that period, formed and still form part of the Criminal Law of England, introduced into the said Province of Quebec by virtue of the said Act of the Imperial Parliament of the 14th Geo. III. c. 83, and are yet in force in the Province of Lower Canada, by virtue of the said Act.

That by virtue of the Common and Statute Law of England, having reference to criminal offences, and forming part of the law of this Province, a party charged with High Treason is entitled to be tried by a Jury of his country, impannelled before the ordinary criminal tribunals, to the exclusion of every other mode of trial—to be furnished with a list of the Jury, to give him the benefit of the challenge, at least ten days before the day of trial, to be furnished with a list of the witnesses for the prosecution, to enable him to detect conspiracy, and to prevent perjury, in like manner at least ten days before the day of trial, and to have at least ten days to procure the assistance of counsel.

That by the Act of the Imperial Parliament of the 1st Victoria, c. 9, (under the supposed authority of which an Act, as it is said, hath been passed, by the Administrator of the Government, by and with the advice and consent of a Special Council, pretending to be constituted under the said last mentioned Act of the Imperial Parliament, authorizing the trial by Court Martial of all persons who, since the first day of November

last, had been, or were, or thereafter might be, acting or aiding, or in any manner assisting in the rebellion therein referred to,) it is expressly provided, that it shall not be lawful by the Governor and Council to repeal, suspend, or alter any provision of any Act of the Imperial Parliament of Great Britain, or of the Parliament of the United Kingdom, or of any Act of the Legislature of Lower Canada as then constituted, repealing or altering any such Act of the Imperial Parliament.

That it was not and is not competent to any local Legislature, created by the said Act of the Imperial Parliament of the 1st Victoria, c. 9, to sanction any departure from the practice of administering the Criminal Law of England, as introduced into this Province by the said Act of the Imperial Parliament of the 14th Geo. III. c. 83, or to abrogate any part of the Common or Statute Law of England having reference to the offences of High Treason, existing and in force at the time of the passing of the said last mentioned Act.

The prisoner, therefore, excepts to the competence of the Court now assembled, to entertain cognizance of the offence with which he stands charged.

The prisoner further excepts to the legality of the pretended Ordinance of the Administrator of the Government and Special Council, of the 2d Victoria, cap. 3, because he saith, firstly, that the Council, firstly constituted under the Act of the Imperial Parliament of the 1st Victoria, c. 9, was lawfully dissolved by Letters Patent of His Excellency the Earl of Durham, the then Governor General of the Province, on the first day of June last, and that the said Ordinance of the 2d Victoria, c. 3, was enacted with the sanction and advice of the persons composing the Special Council so dissolved as aforesaid, without the said Special Council having been re-constructed, and without any other Special Council having been constituted in the place and stead of the Council so dissolved, and secondly, that the said Ordinance of the 2d Victoria, c. 3, purports to have been enacted on the eighth day of November last, whereas the pretended Special Council, by and with whose sanc-

tion the said Ordinance was enacted, was convened by proclamation to meet only on the ninth day of November last.

And, therefore, the prisoner denies that there was any legislation in session on the said eighth day of November, when the said Ordinance purports to have been executed.

Wherefore the prisoner prays that he may be remitted to the custody of the keeper of the common gaol, to abide his trial for any offence with which he may stand charged, according to the forms of the Criminal Law of England, established in this Province by the Act of the Imperial Parliament of the 14th Geo. III. c. 83.

C. Huor.

Montreal, 17th December, 1838.

D

Mr. President, and Gentlemen of the Court Martial,

If I raise my voice before you, at this moment, in justification of my conduct as a British subject, think not that I mean thereby to recognize your right to judge me. When arraigned before you, I appealed to my God and my country for my defence,—I respectfully insisted that the limited Legislature, which now, alas! controuls our destinies, restricted in its attributions, as well by the spirit of the British Constitution as by the sage forethought of that superior power which gave it birth, could not set aside the known tribunals of the country,—that the so called Ordinance under which this Court is organized, is a law but in name—and that even supposing it bore the sacred character of a law, yet its powers could not extend to the trial of a supposed offence alleged to have been committed before the enacting of that Ordinance. I, therefore, once more solemnly protest against your proceedings, and declare before the world, that I do not, I cannot, consent to waive those rights which I was born to inherit.

Before the ordinary tribunals, my defence would be easily made out; and as it is, labouring under the innumerable disadvantages attendant upon a trial like this, the consciousness which I feel of my innocence, the trust I repose in your honour and integrity, still lead me to hope, with a hope amounting to confidence, that your deliberations will terminate in my acquittal. Peaceable and unambitious, my aversion for political commotion, springing not only from temperament, but also from a deep sense of the duty which I owed my God and my Sovereign, had ever been openly expressed. At a time when, in the section of the country where for many years past I have resided, every officer of the Government, almost without exception, had resigned his commission, I became an object of persecution to the very men whose cause I am now accused of having supported with heart and hand.

I proved my loyalty by retaining that office which our late Sovereign had honoured me with. I withstood the torrent, so long as my existence was not perilled; but nature, in abstaining from casting me in the stern mould of the conspirator, had also withheld from me that fortitude which might have enabled me to die a martyr in the cause of peace—yet my death could not have benefited that cause; and on the other hand, the act by which my life was saved, was not such as might bear prejudice either to the British Government or to any of my fellow-creatures. The witnesses who have been adduced against me, have proved that, previous to the late unfortunate commotions which have deluged the country with tears and blood, my expressions were ever in accordance with my conduct, and breathed naught but peace and loyalty,—that in wishing for reform, I deprecated all attempts to revolutionize the country; and you will bear in mind, gentlemen, that those expressions of loyalty and affection to the British Government cannot be impugned, inasmuch as they were elicited at a season when all was ripe for revolt in that neighbourhood, when but few were found who dared to raise their voice in favour of peace, when society was disorganized and anarchy had taken the place of law. Yet then I withstood—and

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when the tocsin was sounded in the autumn of 1837, and the inhabitants summoned to muster at Point a la Mule, thence to repair to St. Charles, I peremptorily refused to obey. The disastrous consequences of that outbreak contributed only to increase my abhorrence of political movements, and to strengthen my adherence to that peaceable and loyal line of conduct from which I had never deviated. The death-like calm which preceded the last commotion, had led me to hope that peace was finally restored—but the tempest burst over us again, with the suddenness and violence of the thunder-storm. On the third of November, my peaceful home was invaded by a band of armed men, who having bound my hands, as it has been established in evidence before you, cast me into a prison, *because I was a loyalist*. The men who treated me thus were not unknown to me—I was not unknown to them—and the fact of my being chained and imprisoned by those men for my loyalty, is of itself a sufficient proof of my opposition to their views. After several hours of incarceration, I was restored to my house, and compelled, under pain of death, to lend my hand to an act which my heart disapproved—and will this be imputed as a crime to me? Will it be said that I was bound to suffer death, rather than perform an act which could bear no prejudice to any of my fellow-creatures, and which constituted in itself no guilt, when unconnected as it was with any settled purpose. Positive proof of the violence exercised towards me after I was liberated from prison, could not be adduced before you. The reason is obvious, for the men who were the ruling spirits on that occasion could not, were they here, be made to confess their guilt before you, and moreover, they have fled, leaving behind them the victim of their crime. But you will hear his voice, and believe him when he affirms, as he does now in the face of Heaven and of the universe, that his heart acted not with his hand, and that he deprecated in his innermost soul the actions of those with whom he was connected, only in appearance. But, it may be asked, why did I not fly from the scene of guilt? A moment's reflection would render an

answer superfluous. Surrounded by four thousand men in arms, flight was impracticable, when every pass was guarded, when the threats of death momentarily held out to the refractory, taught me what I had to expect if I attempted an escape.

You will weigh these considerations, Gentlemen—you will remember that I sought not the storm, but was enveloped in its angry folds—that I loved not the danger, and should not, therefore, be made to perish in it, and you will be convinced of my innocence. If a doubt of that innocence still remains in your breasts, it cannot militate against me—a doubt even on the other side, should cause the scale to preponderate in my favour, for doubt of the culpability of a prisoner is, in every Court of Justice, synonymous to acquittal.

C. HUOT.

Montreal, December 22, 1838.

E

May it please the Court,

The case now under consideration does not require any very elaborate or extended comments on our part ; a few words will suffice to direct the enquiry, how far the charge has been proved against the prisoner, and whether he has established in evidence any matter entitling him to an acquittal, or substantially mitigating his guilt.

The form and nature of the charge now before the Court, are the same with that upon which convictions have recently been had against Cardinal and others ; it will, therefore, be unnecessary to repeat, in detailed terms, the exposition of the law already given in that case ; we merely recall to attention, as vital to the sufficiency of the charge and the legality of the judgment, that the offence laid against the prisoner must appear to have been committed in aid and assistance, or in further-

rance of the rebellion existing in this Province, during the period of time alluded to in the Ordinance under which the Court is constituted and acts.

The present prosecution rests upon the testimony of four witnesses—Odell, Tyler, Trudeau, and Sarault. From the combined statements of all, we gather, that from the third to the seventh of November, a large assemblage of men occupied Napierville—that most of them were armed in a warlike manner—that they had a flag or ensign—that their chief was known by the name of President, (meaning, it would appear, the head of some new Government to be established)—that his name appeared as such printed upon certain proclamations publicly circulated in Napierville—that inferior chiefs, known as Captains, held distinct commands—that a Quarter-Master's department for the supply of this force was regularly established and carried on—and, finally, that the intention of this armed body, as clearly and repeatedly avowed, was to overthrow Her Majesty's Government in this Province, and erect what they termed an independence in its place.

A traitorous conspiracy and the levying of war in connection with, and in furtherance of, the rebellion, are sufficiently made out.

The part taken by the prisoner in these proceedings is known with equal certainty; Odell and Tyler prove his signature to the bons produced, by which his capacity of Quarter Master appears certified under his own hand: these men, however, did not see him within the term specified by the charge, and in order to bring their evidence to apply to the time limited, we refer to the dates of the bons, which are of the fifth and sixth of November.

It appears, therefore, established, that the prisoner, between the days mentioned, held the office and performed the functions of Quarter Master, in connection with, and for the benefit of, the rebel force alluded to; that the holding of such an office for such purpose brings him within the terms of conspiring and agreeing to subvert the Government, and of levying war in furtherance of the rebellion, no doubt can be entertained.

We consider the charge fully proved against him ; but there remains for examination some evidence favourable to the prisoner to which it is a welcome duty to direct the attention of the Court. It must, however, be first observed, that if the prisoner intended to make out a case of compulsion, which in law would afford a justification for consorting and acting with traitors, he has not succeeded—he does not fall within, or approach the rule on this subject which we stated on a former trial ; but if, as we suppose, his object has been to establish general character and circumstances palliative of his guilt, he has not been unsuccessful.

We find evidence with which the Court has declared itself satisfied, that the prisoner is a quiet and respectable man of inoffensive habits, and it cannot be denied that his declaration to Odell, that he wanted reform, not revolution, appears consistent with this character.

We have the fact that he was *charivariéd* by the disaffected party in November, 1837, to make him resign his office of Commissioner for small causes—from which the fair inference would seem to be, that he did not then act in concert with that party ; we find him denied by the rebels as being one of them, at the time he was made prisoner, and with this, the broad fact that he was actually arrested by them. These circumstances combined, appear to us to justify a belief, that, however weak or insincere may have been the attachment of the prisoner to Her Majesty's Government, he did not take any active part in the schemes of the disaffected, or their preparatory arrangements for disturbing the public peace, and that up to the time of his appearance as Quarter Master, he was generally not considered as decidedly connected with their cause. This view of the prisoner's situation is confirmed by the evidence of Bender, Morin, Belle, and Cardinal.

With regard, however, to the three last named, Morin, Belle, and Cardinal, the Court will observe that they appear from their own declarations to have been more or less connected with the rebel force, and will judge with what degree of credit their testimony is to be received.

We have thus, we apprehend, afforded to the prisoner the full benefit of the evidence in his favour ; this evidence, however, is not to be received without certain qualifications derived from the following facts :

First,—Odell and Trudeau say the prisoner attended and acted as Secretary at some public meetings held by the disaffected party previous to the rebellion.

Second,—He declared himself to be a patriot when arrested, but accounts for it, perhaps satisfactorily, on the score of constitutional timidity and personal fear.

Third,—He exercised and asserted his authority of Quarter Master, in terms indicating that he held the office voluntarily, saying he was Quarter Master, and knew his duty.

In fine, upon justly balancing all this evidence, we feel obliged to express our opinion, that it is sufficient to justify a conviction of the prisoner ; but that his guilt appears to be accompanied by palliative circumstances, which may recommend him to the favourable consideration of the Court.

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THE QUEEN
vs.
GUILLAUME LEVESQUE AND OTHERS.

GENERAL COURT MARTIAL.

{ MONTREAL, LOWER CANADA,
24th December, 1838.

Members of the Court and Deputy Judge Advocates, the same as in the case of the Queen against Cardinal and others—(see page 17)—are duly sworn.

The prisoners, Guillaume Levesque, Pierre Theophile Décoigne, Achille Morin, Joseph Jacques Hebert, Hubert Drossin Leblanc, David Drossin Leblanc, François Trepannier, fils, Pierre Hector Morin, Joseph Parré, Louis Lemelin, and Jean Baptiste Dozois, are arraigned upon charges similar to those against Cardinal and others—(see page 19)—(except that the "Parish of St. Cyprien" is substituted for Chateauguay and Sault St. Louis, commonly called Caughnawaga.)

All the prisoners, except Guillaume Levesque, peremptorily challenge five of the Members; which document is overruled.

The prisoners being called upon to plead, Guillaume Levesque pleads Guilty, as contained in a document marked B, hereunto annexed; the remaining prisoners make certain objections, (similar to those in the case of Cardinal et al.—see A, page 76)—which objections are overruled by the Court.

The prisoners, with the exception of the said Guillaume Levesque, being again called upon to plead, make certain objections—(see B in Huot's case, page 138)—which objections are overruled by the Court.

The prisoner, P. T. Decoigne, pleads Not Guilty, and claims the right to sever from the other prisoners on his trial, and to be tried alone and separately. The request to be tried separately, is overruled by the Court, it having been first cleared to deliberate on this subject.

Achille Morin, Joseph Jacques Hebert, Hubert Drossin Leblanc, David Drossin Leblanc, François Trepannier, fils, Pierre Hector Morin, Joseph Parré, Louis Lemelin, and Jean Baptiste Dozois, Senior, severally plead Not Guilty.

The Court then proceeds to examine the following witnesses, in support of the prosecution :—

JEAN BAPTISTE TRUDEAU, of Napierville, gentleman, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the Judge Advocate—Did you, at any time between the first and tenth days of November last past, see, at Napierville, in the Parish of St. Cyprien, an assemblage of men?—if so, state on what

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days you saw such assemblage ; whether they were armed, and how ; whether they had flags or ensigns ; who were their chief leaders ; and what were their avowed designs.

Answer—I did see an assemblage of men at Napierville, from the third to the ninth November inclusive. They were partly armed, some with guns, some with swords, some with pikes, and others had nothing but bayonets. I saw no flag or ensign among them. Their chief leaders were Dr. Nelson, (it was said that he was the first chief,) Dr. Côte, and Gagnon. The greatest number I saw together was about four or five thousand, on the Wednesday, the seventh November. It appeared from the address of Dr. Nelson, that it was their intention to take possession of Canada, and form a republic of their own.

Q. from the same—Do you know any of the prisoners before the Court ; if so, state which of them, and declare whether you saw any, and which of them, in the assemblage of armed men mentioned by you in your foregoing answer ; declare also, whether the prisoners whom you saw there were armed, and how ; whether they, or any of them, held stations of command, and how were they employed ?

A.—I know the prisoners, Joseph Parré, Jean Baptiste Dozois, Guillaume Levesque, Pierre Theophile Decoigne, Achille Morin, Joseph Jacques Hebert. I know Hubert Drossin Leblanc by sight ; I know David Drossin Leblanc, also by sight ; I know Pierre Hector Morin and Louis Lemelin. I saw among the assemblage of armed men above mentioned, Joseph Parré, on horseback, and armed with a sword and pistol ; I saw him almost every day from the third to the ninth ; I saw Joseph Jacques Hebert, armed with a sword, during the same time ; I also saw Pierre Theophile Decoigne, during the same time, on horseback, armed with a sword, and I was present when he started for Odelltown battle, on the seventh November last. I also saw Mr. Levesque on horseback, but did not distinguish any arms about him ; I also saw Achille Morin, with a belt on, but I did not see any arms on him ; I saw Pierre Hector Morin in the village, but not

armed. Parré commanded a party of the assemblage of men ; Joseph Jacques Hebert called himself captain of a company ; I do not know that Levesque held any command ; I saw Pierre Theophile Decoigne, commanding. I did not see any others of the prisoners before the Court, commanding. This band of men was marching about the village in companies, and were exercising.

Q. from the same.—State how the prisoners were employed, who did not hold stations of command.

A.—They were employed as soldiers, except Levesque and Pierre Hector Morin, who did not act as soldiers.

Q. from the same.—Are you acquainted with the handwriting of the prisoner, Pierre Hector Morin ?

A.—I have frequently seen it, and have occasionally seen him writing.

Q. from the same.—Look at the paper writings marked 1 and 2, hereunto annexed, and state in whose handwriting they are, and whose signature is affixed thereto.

A.—To the best of my knowledge and belief, they are both written and signed by Pierre Hector Morin.

Q. from the same.—Did any, and which of the prisoners, state to you the manner in which subsistence was provided for this body of armed men ?

A.—I know that Joseph Jacques Hebert came very often to get provisions for his company. I do not remember that any of the prisoners informed me of the manner in which they obtained provisions for the assemblage. Joseph Parré came one morning to Mr. Lukin's house, and said, that he had got a pair of horses at Mr. Douglas's. He came several times during the week.

Q. from the same.—Did the said Parré ever procure carriages for conveying provisions to the assemblage of armed men ?

A.—Yes, four at one time. On Thursday, the eighth, at about twelve at night, Levesque came to Mr. Lukin's house, and enquired

for the prisoner Parré. Mr. Parré came, and Levesque desired him to procure as many carriages as possible, immediately, to take beef and bread to Odelltown camp. Parré went out, and when he came back, he told me he had provided him with four carriages.

Q. from the same—Did an action take place at Odelltown, and on what day?

A.—I have reason to believe that on Friday, the ninth, there was an engagement at Odelltown, as I saw the wounded brought into Napierville.

Q. from the same.—Have you any, and what knowledge, that any, and which of the prisoners, took part in the action at Odelltown?

A.—Pierre Theophile Decoigne said, in my presence, that he had been there. Achille Morin was wounded, but he did not tell me whether he got wounded there or not.

Q. from the Court—Did you see all the prisoners at Napierville, between the first and tenth November?

A.—I saw them all, at different times, during that period.

Q. from the same.—Where were you from the third to the ninth November last?

A.—In the house of Mr. Lukin, Notary, at Napierville.

Q. from the same.—What were you doing there.

A.—I was doing nothing; there was no business done; all business was stopped.

Q. from the same—Was that your usual place of residence?

A.—Yes, since 1835.

Q. from the same—Were you in full enjoyment of your liberty from the first to the tenth November last?

A.—I was not.

Q. from the same—State how you were deprived of it, by what authority, and what nature of restraint you were under?

A.—Dr. Côte sent word that it was better for me to remain in the house, and not to speak, or else I would suffer for it; so I kept the

house until the tenth. Considering Dr. Côte as one of the chiefs, I had reason to fear the consequences if I disobeyed ; there was, besides, a company of armed men in the house.

Q. from the same—Were any of the prisoners before the Court in the company of armed men you have alluded to ; if so, name them ?

A.—Joseph Parré was frequently in the house, and slept there ; he was one of the company of armed men.

Q. from P. T. Decoigne—Do you not know, that for many years past I have been, and on the third of November last was, resident with my family in the village of Napierville ?

A.—Yes, you were there on the third November, and since 1832 you have resided there.

Q. from the same—How do you know that I commanded ; when and where did you see me commanding, and over whom ?

A.—I saw you commanding, with my own eyes, on the market-place at Napierville ; I was at the door of Mr. Lukin's house, and I heard you commanding ; you were commanding a parcel of rebels ; you were on horseback, armed with a sword. I saw you at different times between the first and tenth November.

Q. from all the prisoners, except Levesque—From what period did you first consider yourself under restraint, and when did you receive the message from Dr. Côte, to which you have alluded ?

A.—I was first arrested on the third November, by a parcel of rebels ; I received Dr. Côte's message on the fourth November.

Q. from the same—To what place did the parcel of rebels convey you, when they so arrested you ?

A.—I was conveyed to Mr. Odell's store, at which place I saw Mr. Decoigne, armed with a sword. There were some loyalists there, tied with cords.

Q. from the same—Did not Dr. Côte hold out similar threats to all, as well as to you, in case they did not remain in the village ?

A.—I have every reason to believe it.

Q. from Decoigne—Am I not a Notary Public, and on the third November, was not my *notairiat* at Napierville ?

A.—You are, and your *notairiat* was at Napierville on the third November.

Q. from David Drossin Leblanc—Were not all the inhabitants of the village of Napierville in great alarm, in consequence of the assemblage of armed men there ?

A.—Whatever loyalists there were, were in great alarm.

Q. from Achille Morin—Was not Lucien Gagnon accompanied by a large body of armed men, when he entered Napierville, and when did he arrive there ?

A.—He arrived there about four o'clock on the third November, in company with a body of armed men.

Q. from the same—Do you not know that guards had been stationed around Napierville, previous to Gagnon's arrival, and were they not so stationed with a view to prevent all egress from the village ?

A.—There were guards stationed in different places round the village before Gagnon arrived ; I believe they were so stationed for the purpose of preventing egress from the village.

Q. from the same—What do you mean by the word "belt," used in your examination in chief ; do you not mean to define the red sash, or *ceinture rouge*, commonly used by the habitans ?

A.—I mean a black leather belt.

Q. from Pierre Hector Morin and Achille Morin.—Do you not know, that for ten months past we have been, and on the third November last were, residing with our family, in the village of Napierville ?

A.—I do.

Q. from P. H. Morin—Do you not think that the paper writings, marked 1 and 2, may have been counterfeited ; do I not write a much better hand than that which appears in the said paper writings, and is not my usual signature, P. H. Morin ?

A.—They might have been counterfeited, but the writing resembles very much that of Pierre Hector Morin. Pierre Hector Morin's usual signature is P. H. Morin ; but the signature "Morin," on the said papers, very much resembles his.

Q. from the same—Do you not use the word captain in connection with my name, because I was captain of a steamboat ?

A.—I do.

Q. from all the prisoners, except Levesque—Were you permitted to go freely about Lukin's house, while you remained there, as you pretend, between the third and the tenth of November last ?

A.—Yes, I was.

Q. from the same—Did you not give bons yourself to the persons assembled at Napierville, between the third and tenth of November last ?

A.—I acknowledge that I wrote bons, but never signed any.

Q. from Trepannier—Do you swear that you saw me at Napierville, between the first and tenth November last ?

A.—I am not well enough acquainted with you to swear positively that I did see you there.

Q. from the Court—You have stated that you were made a prisoner and conveyed to Mr. Odell's store ; you have also stated that you kept the house until the tenth November, in consequence of a message from Dr. Côte ; explain now, whether it was after your return from Odell's store that you so kept the house ?

A.—It was after my return from Odell's store, on the same day that I had been taken prisoner, that I went to Mr. Lukin's house, and remained there afterwards.

Q. from the Court—From whom did you receive Dr. Côte's message ?

A.—From Mr. Lukin.

Q. from the same—Who placed the guards at Napierville, previous to the arrival of Gagnon ; were any of the prisoners employed on that duty ?

A.—I do not know who placed them.

Q. from the same—Did any of the prisoners arrive with Gagnon?

A.—I do not see any that arrived with Mr. Gagnon.

Q. from the same—Was any resistance offered to the entrance of Gagnon and his armed party, and how were they received?

A.—There was no resistance offered; I believe they were received in a friendly manner.

Q. from the same—Did you, at any time, deliver bons for provisions during the time you were at Lukin's house; if so, by whose orders did you do so, and to whom did you deliver them?

A.—I delivered some to different persons; Joseph Jacques Hebert was one; I did so by the orders of the Quarter Master.

THOMAS M. THOMSON, of Napierville, merchant, being called into Court, and the charge read to him, was duly sworn, and states as follows:—

Question from the Judge Advocate—Did you, at any time between the first and tenth days of November last past, see at Napierville, in the Parish of St. Cyprien, an assemblage of men; if yea, state on what days you saw such assemblage; whether they were armed, and how; whether or not they had flags or ensigns; who were their chief leaders; and what were their avowed designs?

Answer—I saw an assemblage of men at Napierville on the third of November last and following days up to the ninth; they were armed with guns, bayonets on poles, and spikes; they had two small blue flags with white spots; it was on the sixth I saw the flags. Gagnon and Côte were their chief leaders. Parré and Decoigne, two of the prisoners, were armed as officers, having swords and were on horseback. Dr. Nelson, I was told by Côte, was the superior in authority. Dr. Côte informed me that their intention was to form a republic. I also saw, on the Sunday or Monday, the fourth or fifth November last, when a prisoner, a flag hoisted on a maypole belonging to a Captain of Militia; it was a large white flag with two blue spots.

Q. from the same—Did you see any, and which of the prisoners before the Court, in the assemblage of armed men mentioned by you in your foregoing answer; if so, declare whether the prisoners you saw there were armed, and how; whether they, or any of them, held stations of command, and how they were employed?

A.—I saw Guillaume Levesque; he was not armed; he was apparently connected with the Commissariat; he came to the room where I was a prisoner, and asked if we were comfortable—if we had firewood and provisions, and said, if not, we should be better provided. I saw Pierre Theophile Decoigne on the third and other days up to the sixth; he was armed with a sword; he appeared to me to hold a command in the rebel force. I saw Achille Morin at that time; I did not see him armed; I saw him in the street one day when I got leave to quit the prison under a guard, to go to my own house. I think it was on Tuesday, the sixth November. I saw Pierre Hector Morin on Monday the fifth or Tuesday the sixth, in the evening; he was armed with a gun and bayonet; it was in the gaol I saw him; he appeared to be one of the sentinels belonging to the guard of the gaol in which I and others were prisoners. I saw Joseph Parré on the night of Saturday the third, and I think also on the fourth and fifth; he was armed with a sword; he appeared to have a command, for he carried a sword and went on horseback, but I never heard him give any orders.

Q. from the same.—You state that Côte told you the intention was to establish a republic. What was the design of these armed men, as generally understood among them?

A.—They were there to obey the orders of their superiors. I understood they were going to take Odelltown, and I heard a party was going to take St. Johns. Côte himself said, that St. Johns either was, or would be, taken in a short time. Their ultimate object was, as I believe, to establish a republic. I had very little intercourse with any but Dr. Côte, and he told me so.

Q. from P. H. Morin.—Might you not have mistaken the fact of my being armed when I went to the jail ?

A.—No, I could not be mistaken, I think.

Q. from the same.—Who were the persons in prison with you, at the time you pretend you saw me armed, and on guard over the prisoners ?

A.—I cannot mention all their names, they were too numerous—they were about thirty. I recollect James Fife, a miller, of Napierville ; John Steel, my clerk ; a young man named Henri Roussi ; and others I do not remember.

Q. from the same.—Were not the inhabitants of Napierville, and its neighbourhood, in great alarm, in consequence of the arrival of Gagnon, with a large body of men, on the 3d of November last ?

A.—The loyal portion of the inhabitants, with whom I was acquainted, appeared very much alarmed.

Q. from all the prisoners but Levesque.—Were there not guards stationed around Napierville, during the third of November last, to prevent all egress from the village ?

A.—There were, as I understood, in the latter part of the afternoon, but not when a body of men approached, at about one o'clock. Major Richard M'Ginnis and Mr. Isaac Coote, two loyalists, left Napierville at about two o'clock, consequently, the roads could not have been guarded—one west, towards Douglas'—and the other towards L'Acadie—after this some persons were intercepted. Those whom I saw were loyalists.

Q. from the Court.—When, and why, were you and the thirty others you alluded to, made prisoners ; when were you released, and by whose authority ?

A.—I was made prisoner between three and four o'clock, on Saturday, the third of November. I suppose because I was a loyalist,—there was no reason given. I was released on Saturday, the tenth. A young lad, who assisted the turnkey, let me out after the village

was deserted. The rest were liberated at the same time, about an hour and a half before the troops came in.

It being four o'clock, P. M., the Court adjourns until Wednesday morning, the twenty-ninth of December.

SECOND DAY, 26th December, 10 o'clock, A. M.

The Court meets pursuant to adjournment. Present, the same members as on the twenty-fourth instant, with the exception of Captain Cadogan, reported sick.

JAMES UMPLEBY, of Napierville, carpenter, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the Judge Advocate.—Did you at any time between the first and tenth days of November last, see, at Napierville, in the parish of St. Cyprien, an assemblage of men. If yea, state on what days you saw such assemblage; whether they were armed, and how; whether they had flags, or ensigns; who were their chief leaders; and what were their avowed designs?

A.—On Saturday, the third of November, I saw an assemblage of men at Napierville. They took me prisoner, and when I asked them where they were going to take me to, they said they would go and ask Captain Morin. They took me to Mr. Odell's, and there I made my escape. They were armed with guns, swords, pikes, pitchforks, &c. They hoisted a flag on Sunday morning, the fourth. On the Saturday night, orders were given, by Dr. Côte and Trepannier, to get carriages to go and meet Dr. Nelson, and bring in arms and ammunition. On Sunday morning, about twelve o'clock, they brought in the arms, and I saw them delivered. They threw down their pikes and took good guns. I did not know what they wanted to do. On Monday, the fifth, they numbered about two thousand—all armed. I understood their avowed design was, to kill us and cut off our heads. When they took me pris-

oner they tied me. Their chief leaders were Parré, Decoigne, Trepannier, senior. Joseph Jacques Hebert, he had a sword by his side. Hubert Drossin Leblanc was a Captain. I believe David Drossin Leblanc was a Captain, too. I saw him dressing his company. Francois Trepannier, fils, was on horseback, with a sword and pistol, on Sunday and Monday, the fourth and fifth. He was riding by the side of his father. I saw Pierre Hector Morin, when Dr. Nelson came in, with others, paying his addresses to him.

Q. from the Court.—Did you hear the address made by Pierre Hector Morin, and others, to Dr. Nelson; and did you hear Dr. Nelson's reply to it?

A.—I did not hear what they said, but I saw them pay their addresses to him. I did not hear what Dr. Nelson said, but I saw him give them a speech.

Q. from same.—Had Nelson an aide de camp, and did any of the prisoners act in that capacity?

A.—There was a gentleman came with Nelson. They said he was a Frenchman, and an officer. They both had swords by their sides. None of the prisoners before the Court acted as his aide de camp, that I knew of.

JOSEPH SARAUULT, of Napierville, Doctor of Medicine, being called into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the Judge Advocate.—Did you at any time between the first and tenth of November last, see, at Napierville, in the parish of St. Cyprien, an assemblage of men. If yea, state on what days you saw such assemblage; whether they were armed, and how; whether they had flags, or ensigns; who were their chief leaders; and what was their avowed designs?

A.—I did see, at Napierville, between the first and tenth of November, an assemblage of men. I saw them on the 3rd of November. They were armed with sticks with points on them, guns, and swords. I did not see any flags. Dr. Nelson was their chief. Dr.

Côté and Gagnon were also leaders. Their avowed design was to subvert the British Government, and declare a republic. This I understood from Dr. Nelson.

Q. from the same.—Did you see any, and which, of the prisoners before the Court in the assemblage of armed men, mentioned by you in your foregoing answer. If so, declare whether the prisoners you saw there were armed, and how; whether they, or any of them, held stations of command; and how they were employed?

A.—I saw among the said assemblage of armed men, Guillaume Levesque, unarmed; Pierre Théophile Decoigne, armed with a sword; Achille Morin, not armed; Joseph Jacques Hebert, armed with a sword; Hubert Drossin Leblanc, armed with a sword; David Drossin Leblanc, not armed; Francois Trepannier, fils, armed with a sword, and on horseback; Pierre Hector Morin, unarmed; Joseph Parré, armed with a sword and pistol; Louis Lemelin, armed with a sword; and Jean Baptiste Dozois, pere, without arms. I do not know whether any among them held stations of command. They were all employed as soldiers.

Q. from the Court.—Did you see the body of armed men alluded to, at any other time between the first and tenth, than the third November. If you did, say how often?

A.—I saw them every day from the third to the tenth.

Q. from Trepannier, fils.—Was I not at the time, when you say you saw me armed with a pistol and on horseback, riding in company with my father?

A.—No. I saw you alone.

Q. from the same.—Do you not know that my father compelled me to arm myself.

A.—I do not know that, at all.

Q. from all but Levesque.—Do you mean to say, in your examination in chief, that those whom you say were armed, and those alone, were acting as soldiers.

A.—They all acted as soldiers, except *Levesque*.

Q. from the Court.—Can you state the age of the prisoner, *Trepannier*, fils ?

A.—I think he is about seventeen or eighteen.

PIERRE GAMELIN, of *Napierville*, Notary Public, being brought into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the Judge Advocate.—Did you at any time between the first and tenth of November last, see, at *Napierville*, in the parish of *St. Cyprien*, an assemblage of men. If yea, state on what days you saw such assemblage ; whether they were armed, and how ; whether they had flags, or ensigns ; who were their chief leaders ; and what were their avowed designs ?

A.—I did see an assemblage of armed men, at *Napierville*, every day, from the third to the ninth of November last. Some were armed with swords, others had muskets and bayonets. I did not see any flag, or ensign. I understood that *Dr. Côte* was their General. *Dr. Nelson* was named as President. I saw a proclamation which was handed to the prisoners, of whom I was one, by *Dr. Côte*. We were made prisoners by this assemblage of armed men. From the tenor of their proclamation, I understood, their intention was to subvert the government, and establish laws of their own. The name of *Dr. Robert Nelson* was printed at the foot of this proclamation, as President.

Q. from the same.—Did you see any, and which, of the prisoners before the Court in the assemblage of armed men, mentioned by you in your foregoing answer. If so, declare whether the prisoners you saw there were armed, and how ; whether they, or any of them, held stations of command, and how they were employed ?

A.—I saw, in the said assemblage of armed men, *Guillaume Levesque*, unarmed ; *Decoigne*, armed with my own sword and belt that had been taken from my house while I was prisoner ; *Pierre Hector Morin*, armed with a gun ; he appeared to be sentry at the gaol ; I

spoke to him myself. Joseph Parré, armed with a sword. He came into our apartment and spoke to me in the gaol. He made some harsh remark to me, to shew his authority over me as a prisoner, intimating that I was where I ought to have been long ago as a bureaucrat. They were employed as soldiers, or commanding soldiers.

Q. from the same.—Are you acquainted with the handwriting, and signature, of Pierre Hector Morin, one of the prisoners ?

A.—I have seen him sign his name once, and acknowledge his signature on another occasion, several years ago.

Q. from the same.—Look at the papers now shown to you, annexed to these proceedings, marked 1 and 2, and state in whose handwriting the said papers are, save the letters J. C. P., and whose signature is affixed to these papers ?

A.—I could not say, positively, that the writing, or signature, of these papers is Mr. Morin's. The signature does not correspond with the one I saw him write.

Q. from Pierre Hector Morin.—When you say you saw me, did I not shake hands with you, and from the lobby being narrow, and crowded with armed men, may you not have been mistaken as to the fact of my being armed with a gun ?

A.—I do not recollect your shaking hands with me. You spoke to me, and, I am positive, you were armed with a gun.

LOOP ODELL, of Napierville, merchant, being brought into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the Judge Advocate.—Are you acquainted with the handwriting, and signature, of the prisoner, Pierre Hector Morin, and have you seen him write and sign his name ?

A.—I am acquainted with his handwriting and signature, and have seen him both write and sign his name.

Q. from the same.—Look at the paper writings, marked 1 and 2, annexed to these proceedings, and say in whose handwriting they are,

with the exception of the letters J. C. P., and state whose signature is subscribed to them ?

A.—To the best of my knowledge and belief, they are both of them written and signed by the prisoner, Pierre Hector Morin, with the exception of the letters J. C. P. ; he usually signs his name P. H. Morin.

Q. from the Court. Did you see any of the prisoners wounded. If so, state which, and when, and where such wound was received ?

A.—I saw Achille Morin, on the ninth of November, who told me he had been wounded at Lacole, or Odelltown. I saw he walked a little lame.

The prosecution is here closed, and the prisoners, being called on for their defence, apply, with the exception of Guillaume Levesque, for delay, until the 31st instant, to prepare for their defence.—The Court is closed.

The Court is opened, and grant the prisoners until Saturday next, the 29th inst., to prepare for their defence.

Half past one o'clock.—The Court is adjourned until Saturday next, at 10 o'clock.

THIRD DAY, 29th December, 10 o'clock, A. M.

The Court meets pursuant to adjournment. Present, the same members as on the 26th inst.

The prisoners, being called on for their defence, proceed to the examination of the following witnesses :

The Honorable ROCH DE ST. OURS, Sheriff of the District of Montreal, being brought into Court, and the charge read to him, he is duly sworn and states as follows :

Question from Levesque.—Do you know the prisoner, Guillaume Levesque. For what length of time have you known him ?

A.—I have known him for the last two years.

Q. from the same.—Have your opportunities been such as to en-

able you to speak with confidence of his character, disposition, and habits ?

A.—Yes, they have.

Q. from the same.—What are his character, disposition, and habits. In what light is he regarded by all those to whom he is known ?

A.—I have always known him to be a good, quiet, and very industrious young man.

Q. from the same.—What is the age of the prisoner ?

A.—I cannot exactly say, but he always gave me to understand that he was between eighteen and nineteen.

Q. from the same.—Are his parents, or either of them, alive ?

A.—His father is dead, but his mother is still living.

Q. from the same.—Was he ever confidentially employed by you ; in what capacity, and for what length of time ?

A.—He has been employed in my office, as writing clerk, since May, 1837.

Q. from the same.—Are his connections numerous, and do they move in a respectable sphere of life ?

A.—His connections are numerous, and, I believe, he is related to some of the most respectable families in the country.

Q. from the same.—Was his situation one which implied much confidence. Had he any custody of monies. Was his conduct exemplary ?

A.—He was employed in enregistering the deeds in my office.—He used, also, to take my deposits to the bank, sometimes to a very large amount, and I never had any occasion to complain of him.

Q. from the Court.—After the high character you have given the prisoner, Levesque, can you assign any reason for the part he has taken in the late unfortunate rebellion ?

A.—No, I could not.

Q. from the same.—Are his connections generally loyal and attached to the government ?

A.—I believe they are ; and a great many of them have held situations, of the greatest importance, under the government.

Q. from the same.—Can you state how long since he lost his father ?

A.—I believe it is five or six years since.

JOHN CLARKE, of Montreal, gentleman, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Question from Levesque.—Do you know the prisoner, Guillaume Levesque ; for what length of time have you known him ?

A.—I have known him for several years, and intimately for the two last years.

Q. from the same.—Have your opportunities been such as to enable you to speak, with confidence, of his character, disposition, and habits. If yea, state what they are ?

A.—He was in the habit of visiting us, in the country, for the last two years ; he was looked upon by us as a boy, and behaved himself with a great deal of propriety ; upon all occasions his habits were perfectly steady.

Q. from the same.—What is the age of the prisoner ?

A.—I cannot say positively ; I think it cannot be more than eighteen.

The Hon. JEAN ROCH ROLLAND, one of the Justices of the King's Bench, for the District of Montreal, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Q. from Levesque.—Do you know the prisoner, Guillaume Levesque ; for what length of time have you known him ; have your opportunities been such as to enable you to speak, with confidence, of his character, disposition, and habits ?

A.—I have known him since his early youth. I believe I have had the best opportunities of judging of his character, disposition, and habits, that is, as an intimate friend of the family. I have always entertained the highest opinion of him, as a young man of good,

moral character,—sedate and of studious habits,—and of a mild disposition.

Q. from the same.—What is the age of the prisoner ?

A.—I could not tell exactly. I should suppose between seventeen and eighteen.

Q. from the same.—Are his parents, or either of them, alive ; how long is it since his father died ?

A.—His father died about eight or nine years ago, to the best of my recollection ; his mother is still alive.

Q. from same.—Had his father been suffering and infirm, from any, and what cause, and for any, and what length of time previous to his decease. Did not his infirmity incapacitate him from discharging the ordinary duties of life ?

A.—He was struck with palsy several years before his death, and remained paralytic the rest of his days ; his infirmities were such that he had to give up his situation as Prothonotary to the King's Bench. As a parent, of course, he could not oversee the education of his child, otherwise than as a sick person at home.

Q. from the Court.—To what cause do you ascribe the part which the prisoner took in the late unhappy outbreak ?

A.—It is very difficult to find out a cause for it. I never could have expected such a thing from him. From the knowledge I had of his education, and the principles of loyalty he must have imbibed from his parents, and from his uniform good behaviour, I would almost be inclined to attribute it to something like an aberration of the mind, under the influence of such a seduction as may be practised upon youth. I cannot answer this question in any other way.

Q. from the Court.—Is the prisoner, Levesque, an only child, or what family is there of them ?

A.—He has three brothers ? he is the second of the family.

The Hon. PIERRE DE ROCHEBLAVE, of Montreal, being called into

Court, and the charge read to him, he is duly sworn and states as follows:

Question from Levesque.—Do you know the prisoner, Levesque; for what length of time have you known him; have your opportunities been such as to enable you to speak, with confidence, of his character, disposition, and habits? What are his character, disposition, and habits?

A.—I have known him since infancy. I have had the best opportunities of judging of his character, disposition, and habits: He is a young man of studious habits, mild, and well brought up.

Q. from the same.—Are his parents, or either of them, alive; how long is it since his father died; were not the infirmities of the father, for many years previous to his decease, such as to put it out of his power to take any share in the instruction or education of his child?

A.—His mother is alive; his father died about five or six years ago; the infirmities of his father from paralysis, for five or six years previous to his death, were such, that he could not superintend the education of his child.

Q. from the same.—To what causes do you ascribe the part which the prisoner took in the late unhappy outbreak?

A.—It would be very difficult for me to assign any reason but the infatuation which appeared to have seized many, who, by their age and experience, should have been wiser.

Q. from the Court.—Did you ever hear the prisoner, Levesque, express any political opinions previous to the late outbreak. If so, state to the Court what they were?

A.—I do not remember to have heard him ever express any political opinions.

Q. from the same.—Was the prisoner, Levesque, connected, either by blood or friendship, with any of the leaders of the late unfortunate rebellion; or who were the persons that led him into such errors?

A.—He was not related to any of them, to my knowledge.—

I cannot say who led him into such errors, for if I had, I certainly should have tried to prevent it.

The prisoner, Levesque, declares he has no further witnesses to examine.

The remaining prisoners hand in a document, hereunto annexed and marked E., containing an application for delay, until the second of January, on the grounds therein set forth. The Court is closed to deliberate thereon.

The Court is opened, and the application is declared to be rejected.

The prisoners hand in two documents, respectively marked F. and G., hereunto annexed, which are overruled.

CHARLES SERAPHIN RODIER, of Montreal, gentleman, being called into Court, and the charge read to him, he is duly sworn and states as follows.

Question from Pierre Hector Morin.--Have you had any opportunities of knowing me. If so, state how long you have known me?

A.--I have known you for twenty-five years.

Q. from the same.--During your intercourse with me, what opinion did you form of my character, habits, and disposition?

A.--I have already stated that I knew you for twenty-five years, but for the last five years you have been my neighbour. I always knew you for a respectable citizen, a good husband, and a good father.

Q. from the same.--What opinion did you form of my loyalty, previous to the last troubles?

A.--I was always under the impression, that you were attached to the government, and I have reasons to prove the grounds of my opinion. You were connected with Dr. Côté, and he often came to see you. I had occasion to speak with Dr. Côté on politics, at your house, very often. Dr. Côté and myself never agreed on that subject, and in all the conversations that I had with Dr. Côté, you were almost always on my side.

Q. from the same.--Am I not father of a large family, and

have I not resided for the last ten months at Napierville ?

A.—Yes, you are. I think you have been at Napierville about that time.

Q. from the same.—Recollect whether I did not ever express my detestation of the revolutionary opinions expressed by many in Canada, and likewise of the idea of active resistance to the will of the Executive Government ?

A.—Yes, you certainly did, and even a very short time before the troubles at St. Cyprien. On one occasion, about a month before the outbreak, I recommended you to come to town, for fear of the influence of Dr. Côte, who was a man likely to lead you to your ruin ; you answered that your pecuniary means would not allow it. I think you also said that you knew Dr. Côte to be a *bavard*. You asked me several times to endeavour to get you a situation in Montreal, and said you would take almost any situation. I tried to do so, but unsuccessfully.

Q. from the same.—Are you acquainted with my handwriting and signature ?

A.—Yes, I have received letters from you, and seen you write.

Q. from the same.—Look at the paper writings, marked 1 and 2, and say whether you believe the contents of the same, except the letters J. C. P., or any part of them, to be in my handwriting ?

A.—I cannot swear either that it is, or is not. I am inclined to think that it is not, because his signature, generally, is P. H. Morin, and written in a smaller hand.

Q. from the same.—Look at the two letters “M” of the word “Morin,” which are written in a different way, and is the “M,” which you have remarked in my signature, of the shape of either of them ?

A.—I cannot say.

Q. from Achille Morin.—Do you know me, and what opinion have you formed of me ?

A.—I have known you for a good child, living with your father, but I never knew what were your political opinions. I was surprised to hear that you had been wounded in the rebellion.

Q. from the Court.—Do you know what induced Pierre Hector Morin to remove into Napierville ten months ago, and where did he reside previously ?

A.—Yes, I know the reason very well. He lived opposite to me in the Recollet suburbs of the city of Montreal. He went to Napierville to occupy a farm that Dr. Côte procured for him. I think I saw the letter from Dr. Côte to Morin's wife.

ALEXIS PAINCHAUD, of Montreal, ship master, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Q. from P. H. Morin.—Do you know me ; and how long have you known me ?

A.—I have known you for twenty-five years.

Q. from the same.—What character have you known me to enjoy since you have been acquainted with me ?

A.—I have known you for a good father, and a respectable man, and should have thought you the last person to take up arms against the British government.

Q. from the same.—Have you not always known me to be a perfectly loyal subject ?

A.—Always. You have often told me so.

Q. from the same.—Are you not well acquainted with my handwriting and signature ?

A.—I think I would know it. I have seen it very often.

Q. from the same.—Are the paper writings now shown you, marked 1 and 2, in my hand writing, or signed by me ?

A.—I do not think they are written, or signed by you.

Q. from Achille Morin.—Do you know me ; and what is my disposition ?

A. I have always known you for a well behaved young man.

Q. from the Judge Advocate.—Is there no resemblance between the ordinary writing and signature of P. H. Morin, and the writing and signature of the papers now shown to you ?

A.—There is, perhaps, some resemblance. Captain Morin's signature is, usually, smaller.

Q. from the Court.—Do you not think that the agitation produced by the position in which P. H. Morin was, on the eighth of November, might account for the difference in the handwriting ?

A.—I do not know what was his position at that time.

Q. from the Court.—Do you not think it probable that a person, in a state of rebellion, might disguise his hand writing, and signature, and is it not possible that the handwriting shown to you, might have been written by P. H. Morin, in such a manner ?

A.—It is possible. The reason that confirms me in my opinion, that the signatures are not his, is, that he always signs "P. H. Morin."

Q. from the same.—How long is it since you last saw P. H. Morin sign his name ?

A.—I have not seen him sign his name for many years, but I saw his signature ten months ago.

Q. from the same.—You state you consider Morin to be the last man who would take up arms against the government ; you also state him to be a loyal man ; can you assign any reason for his taking up arms ?

A.—I do not know that he took up arms, but I can assign a reason for his doing so. Since the last four years he has had no employment, and was obliged, about eighteen months ago, to take refuge in Dr. Côte's house, to take care of his father-in-law, who was an aged man about eighty-three, or eighty-four, years of age. Dr. Côte had left his father in embarrassed circumstances, having been obliged to leave the Province, and, I think, it is from the bad counsel he has received from Dr. Côte, and from his indigent circumstances, that he

took up arms. About ten months ago, P. H. Morin came to my house, and said that Côté was a bad man, to take up arms against so generous a government.

Q. from the same—Is not the house you speak of as being Dr. Côté's house, where P. H. Morin took refuge eighteen months ago, in Montreal ?

A.—It is at Napierville.

[The certificate of baptism of the prisoner François Trepannier is here handed in, and annexed to the proceedings marked H.]

CHARLES HINDENLANG, a prisoner under accusation of offences committed in furtherance of the rebellion, brought up at the request of all the prisoners, except Levesque, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from P. H. Morin—Do you know me, and did you see me at Napierville between the third and tenth November last ?

Answer—I do know you, and I did see you at Napierville between those days.

Q. from the same—Did I, in any way, interfere with any assemblage of persons at Napierville, or did I, to your knowledge, ever bear arms between the third and tenth November last ?

A.—I never saw you but in your own house, unarmed.

Q. from the same—Did I not, on the contrary, wholly abstain from so doing, and confine myself to the performance of my domestic duties ?

A.—I always saw you occupied at home, and never elsewhere ?

Q. from the same—Do you not recollect my once going to the gaol, and why, on that single occasion, did I go out ?

A.—Yes, I think you went out once to see a person who was sick in the prison.

Q. from the same—Was I then armed in any way ?

A.—I never saw you armed.

Q. from the same—On what day did I so go out ?

A.—I cannot say.

Q. from the same—Was I in Napierville at the time of Dr. Nelson's arrival ?

A.—I did not know you then ; I don't think you were there.

Q. from the same—At what hour, on the fourth November, did Dr. Nelson arrive ?

A.—I think about eight or nine o'clock in the morning ; I am not certain, not having taken any notice.

Q. from the same—Did you not see me arrive from Montreal, with some necessaries for my wife and family, at about noon that day ?

A.—I recollect having seen some one come with provisions ; I do not know whether it was you or not. Mr. P. H. Morin was not at breakfast with us that morning ; I do not recollect having seen him before.

Q. from the Court—Did you remain at Napierville during the whole period from the third to the tenth November ; state what days you were absent ?

A.—No ; I left on the sixth and returned the next day ; on the seventh, I left and returned no more.

Q. from the same—Where did you reside during your stay at Napierville ?

A.—In the same house with P. H. Morin ; it was Dr. Côte's house ; it was Dr. Côte that asked me to stay there.

Q. from the same—Do you remember when you saw P. H. Morin for the first time, and under what circumstances ?

A.—It was on the third, when we were going to take our meal in the evening.

Q. from the same—Was the prisoner, P. H. Morin, employed in any way by Dr. Nelson, Côte, or any other of the rebel chiefs ?

A.—I do not think he was.

JEAN DUTEAU, of Napierville, labourer, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from Decoigne——Do you know me ?

Answer—Yes.

Q. from the same—Did you see me on or about the third of November last, and under what circumstances ?

A.—I saw you on the Sunday morning after the patriots arrived ; you appeared very much dejected. A Captain Trudeau told you that you must go to the different houses and command the people to leave their houses, or they would be forced ; you said you would not go, and Trudeau replied that if you did not, your life must be the forfeit.

Q. from the same—When Trudeau addressed these words to Decoigne, was Trudeau armed, and how ?

A.—He was armed with a sword and a pistol.

Q. from the same—Is not Trudeau a very determined character ?

A.—I think, on my oath, that if Decoigne had not obeyed Trudeau's orders, Trudeau would have killed him.

Q. from the same—Is Trudeau, of whom you speak, any connection or relation to you ?

A.—He is my brother-in-law.

Q. from the same—Is Decoigne a timid character ?

A.—He is.

Q. from the same—What was Decoigne's moral character ?

A.—I never heard any thing against him.

Q. from the same—Has Decoigne a wife and children, and how many ?

A.—He has a wife and two children.

Q. from the Judge Advocate—Was Trudeau alone, or accompanied by a body of armed men, when he commanded Decoigne to march ?

A.—He was alone.

Q. from the same—Could not Decoigne have escaped from Napierville on the third or fourth November ?

A.—He could have escaped if he had chosen.

Q. from the same—Did Trudeau threaten you as well as Decoigne ; and what did you do on the occasion ?

A.—He did not order me at all.

Q. from the same—What is the Christian name, and the occupation of Trudeau, of whom you speak ?

A.—His Christian name is Joseph ; he is a blacksmith.

Four o'clock, P.M.—The Court is adjourned until Monday morning, the 31st instant, at ten, A.M.

FOURTH DAY, 31st December, 10 o'clock, A.M.

The Court meets pursuant to adjournment. Present, the same members as on the 29th instant.

DENIS BOUCHARD, of the parish of St. Valentine, farmer, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from P. H. Morin—Do you know the prisoner, P. H. Morin, and since when ?

A.—I have known him for the last two years.

Q. from the same—Are you not Captain of Militia, and where do you live ?

A.—I am ; I live at St. Valentine.

Q. from the same—Where were you between the fifth and tenth November last ?

A.—I was a prisoner in gaol at Napierville, taken by the rebels.

Q. from the same—While you were a prisoner, did you see P. H. Morin, and on what day ?

A.—I saw him on the sixth November, in the prison where I was confined.

Q. from the same—Was he armed then ?

A.—No.

Q. from the same—Was not *that* the only time that P. H. Morin came to the prison ?

A.—Yes, that is the only time I saw him.

Q. from the same—If the prisoner, P. H. Morin, had come to the prison where you were confined, at any other other time, would you not have seen him ?

A.—I think I should probably have seen him, as there was a grating in the door, through which I could see the guard.

Q. from the same—Did you see P. H. Morin [standing sentinel at the prison where you were confined ?

A.—No.

Q. from the same—Are you acquainted with Pierre Gamelin. Notary, a witness examined in this cause ?

A.—Yes.

Q. from all the prisoners but Levesque—While Gamelin was in prison, in what state was he ?

A.—I only saw him on the third ; he did not appear indisposed.

Q. from the same—Do you know Jean Baptiste Trudeau, Notary's clerk ?

A.—I do.

Q. from the same—What is his general character ?

A.—I cannot say much about it, except that he is a man who passes for being fond of drink ; I have seen him occasionally heated with liquor.

Q. from the same—From the conduct of Jean Baptiste Trudeau, would you believe him on his oath ?

A.—Yes, I would believe him on his oath.

Q. from P. H. Morin—What is the character of P. H. Morin ?

[The Court overrules the question, and declares itself satisfied on this point.]

Q. from the same—Did you see P. H. Morin in July last ; did you speak to him then on politics, and what was his opinion on political matters ?

A.—I saw him in July last ; and from the conversation we had on politics, I thought he was a true loyalist like myself.

Q. from David D. Leblanc—Do you know at what distance Umpleby resides from David Drossin Leblanc ?

A.—I do not know exactly where David Drossin Leblanc lives ?

Q. from the Judge Advocate—While you were in prison at Napierville, were you continually watching to see who came to the prison, and could not P. H. Morin have come there without your knowledge ?

A.—No, I was not always watching ; he could have come without my knowledge, though we paid a great deal of attention as to who came.

JEAN BAPTISTE FRANCHERE, of the city of Montreal, watch-maker, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner, P. H. Morin—Do you know the handwriting and signature of P. H. Morin ?

Answer—Yes.

Q. from the same—Say if the handwriting and signature on the paper writings marked 1 and 2, are those of P. H. Morin ?

A.—I do not think that either of them are written or signed by him. I have received a number of letters from Mr. Morin, but they are none of them signed in that way.

Q. from the Judge Advocate—Did you ever see P. H. Morin write and sign his name, and when for the last time ?

A.—I have seen him write and sign his name ; the last time I saw him do so was during last summer.

Q. from the same—Are you related or allied to the prisoner, P. H. Morin ?

A.—I am his first cousin.

Q. from the same—Why do you believe the papers shown to you not to be in the handwriting and the signature not be that of P. H. Morin ?

A.—The reason is, that the writing is not the same as I have been in the habit of seeing.

Q. from the same—Is there not some resemblance between the handwriting and signature of the papers now shown you, and the usual handwriting and signature of P. H. Morin ?

A.—There may be some letters resembling his usual writing, but not for the most part.

Q. from the Court—Will you swear that the handwriting you have just seen is not the handwriting of P. H. Morin, or his signature ?

A.—Certainly.

TIMOLEON QUESNEL, of St. Philippe, physician, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from Decoigne—Do you know Pierre Theophile Decoigne, and since when ?

Answer—I have known him for about six or seven years, perhaps a little more.

Q. from the same—What is the general character he enjoys ?

A.—I know nothing against his moral character.

Q. from the same—Was he a peaceable and quiet man ?

A.—I believe he is—I know nothing to the contrary.

Q. from the same—Is he a married man, and how many children has he ?

A.—I know him to be a married man, but I do not know how many children he has.

Q. from the same—In the course of last summer, had you occasion to speak on politics with him at your house, and what were his political opinions ?

A.—I do not recollect to have had any conversation on politics last summer, but last year, in the autumn or winter, I had frequent conversations with him, and from his expressions I had reason to believe that he did not participate in the opinions of the disaffected.

JEAN BAPTISTE MAGON, of Montreal, merchant, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :

Question from P. H. Morin—Do you know P. H. Morin, and since when ?

Answer—I have known him since 1815.

Q. from the same—Do you know that one of his sons is a volunteer in Her Majesty's service in Upper Canada ?

A.—I do not know it directly ; but from a letter I received in January last, I understood that Lucien Morin, his son, was at the taking of the schooner Anne, and was told by Col. Elliot that Lucien Morin and Hector Morin, two of his sons, were both in the Militia.

LAURENT ARCHAMBAULT, of L'Acadie, Notary and Justice of the Peace, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from Decoigne—Do you know the prisoner, P. T. Decoigne, and since when ?

Answer—I have known him for sixteen years.

Q. from the same—What is his character, from your knowledge of him ?

A.—His moral character is good.

Q. from the same—Is he not a timid character, and a quiet, peaceable man ?

A.—I could not say he is very timid ; he never appeared so to me. He is a quiet and peaceable man.

Q. from the same—Have you had occasion to know what were his political opinions since the last troubles, and say what you know of them ?

A.—During the first troubles last year, I met with Mr. Decoigne, and he manifested opinions contrary to those of the patriots.

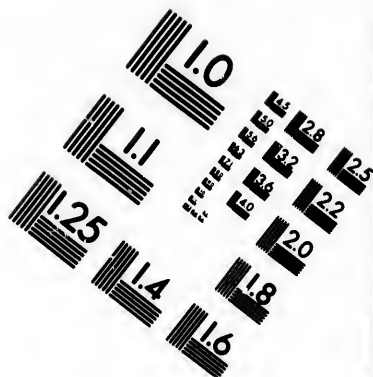
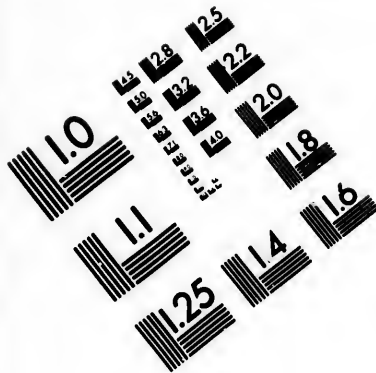
Q. from the same—Is he married, and has he any children ?

A.—He is married and has children—I think two.

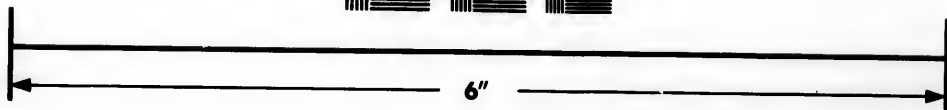
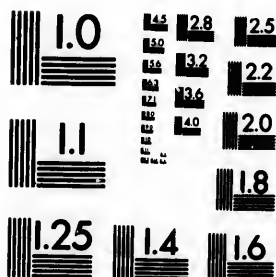
Q. from Jean Baptiste Dozois, pere—Do you know Jean Baptiste Dozois, pere, and since when ?

A.—I have known him for about sixteen years.





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Q. from the same—What are his character and reputation ?

A.—He is a respectable man.

Q. from the same—Is he a quiet and peaceable man ?

A.—Yes ; he always appeared so to me.

Q. from all but Levesque—Do you know James Umpleby, of Napierville, carpenter, and what character and reputation does he enjoy ?

A.—I do not know him.

Q. from the same—Do you know Jean Baptiste Trudeau, a Notary's clerk at Napierville : if so, state what are his character and reputation ?

A.—I do not know him.

Q. from Parré—Do you know the prisoner, Joseph Parré, and say whether he passes for a man in his senses ; and if not, say how and when he is affected ?

A.—I know him ; he appears to be a little deranged, and scarcely able to transact his own business. I think he has been thus affected for about ten years.

Q. from the same—Does he appear more affected at one season than at another ; and in what season ?

A.—I cannot say.

Q. from David D. Leblanc—Do you know David Drossin Leblanc ; what are his character and reputation ; is he a quiet and peaceable man ?

A.—I do not know him.

Q. from the Judge Advocate—Was the prisoner Parré ever interdicted ; is it not true that he attends to his own affairs ?

A.—He never was interdicted to my knowledge ; I do not know whether or not he attends to his own business.

Q. from the Court—Are you in the habit of very frequently seeing the prisoner Parré, and do you live in the same village with him ?

A.—Since three or four years I have hardly seen him. I live in the adjoining parish, three leagues from where he lives.

Q. from the same—Can you say that Parré is unable to distinguish between right and wrong ?

A.—I have not been with him often enough to decide.

Q. from the same—Is it not notorious that those engaged in the late unfortunate rebellion, disguised their political opinions up to the time of their breaking out in November, and since the troubles of last year ?

A.—It is notorious that they did so.

Q. from the same—Can you inform the Court if there is a respectable medical man living in the parish or neighbourhood of where Parré resides ?

A.—Dr. Bender lived in the same parish ; I cannot say at what distance from Parré's ; I think about a league.

NELSON H. GOSLIN, of Montreal, trader, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from P. H. Morin—Do you know P. H. Morin ; when did you see him last before the fourth November last, and where, and at what hour ?

Answer—I do know him ; I saw him on the third of November in my store in Montreal, at about twelve o'clock in the day.

Q. from the same—Did he purchase any goods from you ; of what kind, and in what quantity ?

A.—He purchased cloths, vesting, and cotton goods, to the amount of between four and six pounds.

Q. from the same—Had you any conversation with him relative to the reported arrest of Dr. Lacroix and others, and state what was the tenor of such conversation ?

A.—I had some conversation with him ; I asked him why Dr. Côte did not return ; he said he thought he was only waiting to see the reception of those who had returned ; and in reply to a question from me, as to whether he thought there would be any troubles this winter, said, he thought and hoped not, as he did not see any probability of it.

Q. from the same—Did not P. H. Morin receive the rent as the agent of, and had he not a power of attorney from, the owner of the house ; and who was the owner ?

A.—I believe the owner of the house was the father of Dr. Côte. P. H. Morin showed me a power of attorney, which authorized Dr. Côte to transact the business, which had been transferred to P. H. Morin.

Q. from the same—Do you know the handwriting and signature of P. H. Morin ?

A.—I have seen him write frequently ; I think I should know it.

Q. from the same—Look at the paper writings marked 1 and 2, and say, do you believe the handwriting and signature thereof to be those of P. H. Morin ?

A.—From what I have seen of his writing, I do not conceive I should be justified in saying they are in his handwriting ; I can see no similarity between the writing of these papers and the writing of P. H. Morin which I have in my possession.

Q. from the Judge Advocate—When did you see P. H. Morin write for the last time ?

A.—I saw him write on the third November last.

DR. TIMOLEON QUESNEL is recalled, on behalf of Joseph Parré, by permission of the Court.

Question from Joseph Parré—Do you know Joseph Parré ; and is he sane or not ; since what period, at what time of the year is he so affected ; is he capable of managing his affairs, and do you consider him capable of distinguishing between right and wrong ?

Answer—I have no personal knowledge of the man at all.

PIERRE HENAUT, of St. Valentine, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from P. H. Morin—Where were you between the third and fourth of November last ?

Answer—I was in the prison at Napierville.

Q. from the same—Did you see me at any time during that period, and when, at the gaol in Napierville, and was I armed?

A.—I saw him in the gaol on the sixth November; he was not armed.

Q. from the same—Were you always enabled, in the day-time, to see who was guarding the gaol during that period; if so, did you ever see Pierre Hector Morin guarding the gaol?

A.—Yes, we could see those who guarded the gaol in the day-time. I did not see P. H. Morin standing sentry.

Q. from the same—Did you see Pierre Gamelin, Notary of Napierville, in prison, and was he in a sane state of mind while in prison?

A.—I saw him there; he was sound of mind when he came in, but the next day he lost his senses from fright. I spent the night of the eighth in watching him; whenever the sentry came near the door, he thought he was going to be killed; a cloak fell down, and he was so frightened that he jumped over those who were in bed; I saw him last week, and he told me he had not then recovered from his fright, and had still something in his head that prevented him from getting along as he used to.

Q. from the same—Did you see P. H. Morin speak to Mr. Gamelin at the gaol, and when?

A.—I did not see him speak to Gamelin at all; and I think that I was in another room that day.

Q. from all but Levesque—Do you know Jean Baptiste Trudeau, Notary's clerk, and what is his general character and conduct?

A.—I know him, and he always appeared quiet and sober when I saw him.

Q. from Parré—Do you know Joseph Parré?

A.—I know him by sight only.

Q. from the Court—Describe to the Court the nature of the place in which you were confined, and the number of prisoners confined in the same cell with you?

A.—The first room where I was confined was smaller than this Court; in the night we were removed to another apartment as large as this room; our numbers varied at times from thirty to forty-four; there was but one window in the first room, two in the second, and one door to each room. We could see out of the window in either room.

WILLIAM SOUTHWARD, of St. Valentine, inn-keeper, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from P. H. Morin—Do you know P. H. Morin, one of the prisoners?

Answer—Yes.

Q. from the same—Were you at Napierville between the third and ninth November last; and if so, state under what circumstances?

A.—Yes, in prison, confined by the rebels; I was in prison for seven days.

Q. from the same—While in prison, had you any, and what opportunity, of seeing the persons who stood as sentinels over you?

A.—We had every opportunity in going out and in, once or twice a day—besides we could see through the bars.

Q. from the same—Did you, while you remained in prison, ever see me armed and acting as sentinel over the prisoners?

A.—Never.

Q. from the same—If I had stood as sentinel over the prisoners, do you not believe, upon the oath you have taken, that you would have seen me?

A.—I have every reason to believe if he were there, I should have seen him. I was not always looking.

Q. from the same—Did you see me at the prison while you remained there; if so, state upon what day and for what purpose I went there?

A.—I did; to the best of my recollection, it was on the sixth; I

expect you came in to see me ; I do not know of any other business that you came in for. I sent for you on the fifth.

Q. from the Court—Look at the prisoners, and state whether you saw any, and which of them, at Napierville, between the third and tenth November, and whether any one of them acted as guard or sentry over the prisoners ?

A.—I saw Decoigne ; he was armed ; it was on Sunday, the fourth.

Q. from the same—Did you send for P. H. Morin as one who had authority among the rebels ?

A.—No ; I sent for him as a friend.

Q. from the same—Did you see any persons in the prison who were opposed to the rebels, otherwise than as prisoners, and did you not consider every one who had access to the prison as being connected with them ?

A.—It appeared that every one who came in had more authority than ourselves ; a great many of the prisoners' wives and connections came in with passes ; when Morin came in, he had no pass that I saw.

Q. from the same—By whom did you send to P. H. Morin, and by whose authority was he admitted to you ?

A.—I sent for him by Dr. Côte ; I suppose he was admitted by the same authority.

Q. from the same—Where were you taken prisoner, and by whom ?

A.—At Pointe a la Mule, by a man named Fournier and one Lafontaine, on the fourth November. Pointe a la Mule is about nine miles from Napierville. I was taken at about 18 acres from my own house.

Q. from the same—Do you know or not, personally, if Morin was engaged in the outbreak at Napierville, in any manner whatever ?

A.—I know nothing about it.

MARIE FOURNIER, wife of Maturin Hebert, of Napierville, being brought into Court, and the charge read to her, she is duly sworn, and states as follows :—

Question from David Drossin Leblanc—Do you know the prisoner,

David Drossin Leblanc ; since when ; and what is his character and reputation ?

Answer—I have known him about two years ; all I know about him is that he is a respectable man.

Q. from the same—Did you see me between the third and ninth November last, and under what circumstances ?

A.—Yes ; I saw him between the third and the ninth ; from Wednesday the seventh to Friday the ninth, he was at his own house, about twenty-five acres higher up than the village of Napierville, while the battle was going on above, at the lines.

Q. from the same—What was the object of your visit to him, and how long were you with him ?

A.—They sent for me because Mrs. Leblanc was sick ; I remained there three days.

Q. from the same—How was he occupied during that time ?

A.—He was occupied with his household affairs, and tending his farm and cattle.

Q. from the same—Is it to your knowledge that he was ever mixed up in political matters ?

A.—I have no knowledge that he was.

Q. from Parré—Do you know Parré ; does he pass for a man in sound mind ?

A.—No.

Q. from the Court—Are you related to any of the prisoners before the Court ?

A.—Joseph Jacques Hebert is distantly connected with my husband, **ADELLE PARADIS**, of Napierville, spinster, being brought into Court, and the charge read to her, she is duly sworn, and states as follows :—

Question from David Drossin Leblanc—Do you know David Drossin Leblanc, and what character and reputation does he enjoy ?

A.—I know him ; he enjoys a good character.

Q. from the same—At what distance from Napierville does David

Drossin Leblanc reside, and say also how near you live to him ?

A.—He lives about twenty acres from the village of Napierville ; I live with him.

Q. from the same—Have you a knowledge that David Drossin Leblanc went to Napierville on the third of November, and for what purpose ?

A.—He went to Napierville on the third November, to a meeting of the family, (*assemblée de parens*) to divide a succession.

Q. from the same—Did you reside during the whole week of the troubles, from the third to the ninth November last, at David Drossin Leblanc's house ; if not, say when you left it, and when you returned ?

A.—I did not remain there all the week ; I left on the third and returned on the fifth.

Q. from the same—Where was David Drossin Leblanc all the time you remained there ?

A.—He was at his house (four days) on Wednesday, Thursday, Friday, and Saturday, between the third and the tenth.

Q. from the same—Did you remain at David Drossin Leblanc's on Monday, the fifth, and Tuesday, the sixth November last ?

A.—I left on the third, came back on the fifth, and left again on the same day, and came back on the seventh ; I remained half the day on Monday, the fifth.

Q. from the same—Did you know him for a peaceable man ?

A.—Yes.

Q. from Parré—Do you know Joseph Parré ?

A.—No.

Q. from the Judge Advocate—In what capacity have you lived with David Drossin Leblanc ?

A.—As servant.

AUGUSTIN GUERNON, of St. Cyprien, farmer, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from David Drossin Leblanc—Do you know David Drossin Leblanc, and how long ?

Answer—I have known him for fifteen or sixteen years.

Q. from the same—Do you know if I went to Napierville between the third and tenth November, and for what reason ?

A.—I met him three times in Napierville, in search of a midwife ; it was about the fifth, sixth and seventh.

Q. from the same—Do you know where I was during the period between the third and tenth, with the exception of the three occasions mentioned by you ?

A.—I do not know.

Q. from Parré.—Do you know Joseph Parré, and do you know any thing particular about his health.

A.—I know him for the last seven or eight years ; from harvest time to the beginning of December he has been crazy.

Q. from the same—During that period do you consider him insane and incapable of distinguishing right and wrong ?

A.—I believe so.

Q. from Trepannier, fils—Do you know Trepannier's father.

A.—I do not know much of him.

Q. from the Judge Advocate—Is Parré interdicted, and do you know whether he conducts his own affairs, or whether others do so for him ?

A.—I do not know whether he is interdicted ; I believe his wife generally conducts his affairs.

Q. from the same—What were you doing at Napierville between the third and tenth November last.

A.—I went there on business.

Four o'clock, P. M.—The Court is adjourned till tomorrow morning, at ten, A. M.

FIFTH DAY, 1st January, 1839, 10 o'clock, A. M.

The Court meets, pursuant to adjournment. Present, the same members as yesterday.

The Court adjourns till tomorrow morning, the 2d January.

SIXTH DAY, 2d January, 1839.

The Court meets pursuant to adjournment. Present the same members as yesterday.

The prisoners declare they have no further witnesses to examine.

The Judge Advocates here make application to the Court for permission to adduce evidence in rebuttal of the evidence adduced by Joseph Parré, tending to shew that, during the time laid in the charges against him, he was insane.

The application is granted by the Court.

ALEXANDER BUCHANAN, Esquire, Q. C., one of the Commissioners of Enquiry regarding the Prisoners now in Gaol, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the Judge Advocate—Have you, in your capacity of Commissioner, seen or examined the prisoner, Joseph Parré ; if yea, did you discover in him any symptoms of insanity ?

Answer—I was present at the examination of the prisoner, Joseph Parré ; he was examined by Mr. Fisher, my colleague, and, so far from perceiving any symptoms of insanity in him, I was struck with his more than ordinary intelligence and sagacity, as compared with the others who were examined.

Q. from the same—Did the said Parré relate any matter or thing done by him between the first and tenth November last ; if yea, did his memory appear to be clear and coherent as to his conduct and actions during that period ?

A.—The narrative he gave concerned the public events that took place between the first and tenth November, and appeared to me perfectly clear and distinct ; after he had given his narrative, he requested an almanack might be given to him, to see how soon the days began to lengthen, to settle a bet between him and another prisoner ; he appeared particularly cool and collected.

Q. from Parré—How often did you see Parré ?

A.—I saw him twice on the day of his examination, the fourteenth December.

Q. from the same—Would a sane man prefer such conduct towards those whom he knew to be his judges, as to borrow from them the means of deciding a trivial bet ?

A.—We were not his judges ; he saw an almanack on the table, and asked for it, as the question of when the days began to lengthen had been discussed throughout the ward in which he was. I see nothing extraordinary in such conduct.

Q. from the same—Did he not exhibit a ridiculous degree of exultation, at the question you have alluded to with regard to the shortness of the days being decided in his favour, and did he not state his delight at his success, to yourself, when he returned the calender ?

A.—After being absent for a few minutes with the calendar, he returned with a smile on his countenance, and said he had convinced the others he was right. I did not see an extraordinary degree of exultation ; as he was superior in intelligence to most of the other prisoners, he appeared gratified at having established his pre-eminence among them ; he did not address himself to me in particular.

Q. from the same—You say you were not his judges—must he not have seen that you were clothed with some sort of authority ; state how many Commissioners were present at the examination of Parré ?

A.—I think that the four Commissioners were present ; he might have been aware that many prisoners were lib^{er}ted on our recommendation ; we made it a point to acquaint all the prisoners we ex-

amined, that they were at liberty to undergo an examination, or not, as they thought proper, that their answers would be voluntary ; we mentioned this generally ; I cannot say if it was mentioned to the prisoner Parré ; he may have thought we possessed some authority.

Q. from the same.—From your experience, and from your knowledge of medical jurisprudence, can you not state that lunatics often exhibit the brightest perception, and the most superior intelligence, and clearness of intellect, during their lucid intervals ?

A.—That would depend on the species of insanity.—The term lucid interval implies merely a restoration to the natural state of the mind. In violent cases of insanity, the mind would, I should think, be exhausted and weakened. In cases of quiet imbecility, the mind would return to its usual tone of vigour.

DUNCAN FISHER, of Montreal, Advocate,—one of the Commissioners of Enquiry regarding the Prisoners now in Gaol,—being called into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the Judge Advocate.—Have you, in your capacity of Commissioner, seen, or examined, the prisoner, Joseph Parré. If yea, on what day did you discover in him any symptoms of insanity ?

Answer.—I took his examination on the 14th December. So far from discovering any symptoms of insanity, I found him of extremely sound mind, and a man possessing a much greater share of intelligence than five-sixths of those who came under my notice. When he came up, he exhibited some degree of trepidation, and seemed desirous of telling the truth, with the suppression of what might criminate himself. When he left the room, I remarked to Mr. Buchanan that he was a very intelligent man.

Q. from the same.—Did the said Parré relate any matter, or thing, done by him, between the 1st and 10th November last. If yea, did his memory appear clear and coherent as to his conduct and actions during that period ?

A.—He related many things done during that period, and his memory appeared to be most clear and sound.

Q. from Parré.—Did Parré require from you, the means of deciding a trivial bet, during, or immediately after, his examination, and did it not appear to you extraordinary, that a man in his awful situation should do so ?

A.—He did. The question between him and the other prisoners was not unimportant. I do not know what the bet was. He endeavoured to appear cool and collected, during his examination, although he was not so. It was some astronomical question to which I did not pay much attention. His conduct did not appear extraordinary to me.

Q. from the same.—From your experience in medical jurisprudence, can you not state that a person, naturally of superior intellect, who has become a lunatic, or periodically deranged, often resumes his mental powers to their full extent, during his lucid intervals ?

A.—Oh, yes.

Q. from the same.—Are you not aware that lunatics often exhibit an extraordinary degree of cunning, in attempting to conceal their mental derangement ?

A.—I am not aware that it is the case. I believe that, in many instances, a lunatic has shown the greatest art to deceive his keepers, where he was desirous of doing some particular thing which he knew he would be prevented from doing, if he showed his desire for it ; but as to concealing the fact of his being insane, I have no knowledge of such an instance having occurred.

Q. from the same.—Did you not, by virtue of your commission, hold, in conjunction with your colleagues, a species of court of enquiry over the prisoner, Joseph Parré, preparatory to trial before this Court ?

A.—No, we held no court ; we acted under a commission of enquiry, but this commission gave us no authority but to take voluntary

examinations. It was under that commission that I took the examination of Joseph Parré, and to him in particular I repeatedly explained that it was purely voluntary on his part ; that, if he chose, he might decline saying anything ; but he declared, in the most solemn manner, that he was desirous of telling the truth, and only the truth.

Q. from the Court—From your experience, do you consider that a man, during his lucid interval, can correctly state and recollect circumstances that occurred during his state of mental aberration ?

A.—In a few cases he might have an indistinct recollection of them ; it would depend, altogether, on the degree of insanity.

Q. from the same.—Why did you think it necessary to repeat your caution to Parré in particular ?

A.—Because he was a man of great intelligence, and I expected that he might have been a leader, and I did not wish him, out of his own mouth, to condemn himself, without knowing exactly the position in which he stood.

The evidence in rebuttal is here closed.

The prisoner, Parré, makes an application, contained in a document marked I, hereunto annexed, which is overruled.

The prisoner, Parré, makes another application, which is granted, and the prisoner, Parré, is allowed one hour to prepare his defence.

Quarter to one o'clock, P. M.—The Court is adjourned till two o'clock, P. M.

Two o'clock, P. M.—The Court meets pursuant to adjournment. Present, the same members.

By permission of the Court, Messrs. Hart and Drummond, assistants to the prisoners, read their written defences, contained in the docu]

ments hereunto annexed, and severally marked J, K, L, M, N, O, P, Q, R, and S.

The address of the Judge Advocate is here read, and annexed to these proceedings, marked T.

The Court is closed.

The Court having maturely weighed and considered the evidence in support of the charges against the prisoners, together with what they have individually and collectively stated in their defence, is of opinion that they, the prisoners, viz: Guillaume Levesque, Pierre Theophile Decoigne, Achille Morin, Joseph Jacques Hebert, Hubert Drossin Leblanc, David Drossin Leblanc, Francois Trepannier, fils, Pierre Hector Morin, and Joseph Parré, are individually and collectively guilty thereof. That Louis Lemelin and Jean Baptiste Dozois, senior, are not guilty.

The Court having found the prisoners individually and collectively guilty of the charges preferred against them, with the exception of Louis Lemelin and Jean Baptiste Dozois, senior, and the same being for an offence committed since the first day of November last, in furtherance of the rebellion existing in this Province of Lower Canada, do sentence them, the prisoners, viz.:

Guillaume Levesque to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Pierre Theophile Decoigne, to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Achille Morin to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Command-

er of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Joseph Jacques Hebert to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Hubert Drossin Leblanc to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

David Drossin Leblanc to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Francois Trepannier, fils, to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Pierre Hector Morin to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Joseph Parré to be hanged by the neck till he be dead, at such time and place as His Excellency the Lieut. General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

Having found the prisoners, Louis Lemelin and Jean Baptiste Dozois, senior, not guilty, it does acquit them, each and severally, of the charges preferred against them.

The Court, having passed judgment, begs leave to recommend the prisoners Guillaume Levesque, and Francois Trepannier, fils, for a commutation of the sentence of death, for a punishment less severe.

JOHN CLITHEROW, *Major General,*
President.

D. MONDELET,

CHAS. D. DAY,

ED. MULLER, *Capt. the Royal,*

Joint and severally Deputy Judge Advocate.

B

THE QUEEN

vs.

GUILLAUME LEVESQUE AND OTHERS.

The prisoner Guillaume Levesque is desirous of relieving the Court from the necessity of entering upon an investigation of the offence imputed to him.

He cannot conceal from himself, that the accusation preferred against him can be established by competent testimony; and he considers it to be due to himself, and to the interests of truth and justice, that he should avow the charge.

He pleads guilty, and respectfully places himself at the discretion of the Court. He entreats of its members to believe, that in what he has done or attempted, he was influenced by no sordid or dishonourable views; none such can be justly imputed to him—his immature age—and a character, until the late unhappy occurrences, free from stain or reproach—forbid the supposition that he could be governed by any de-

grading motives. He yielded to a generous, though mistaken enthusiasm, and he trusts that his conduct will be estimated by this tribunal in a spirit of merciful consideration—for the brave is ever a humane man.

The Court may be desirous of receiving information with respect to his character—his age—his previous prospects—the standing and position of his family and connexions—and the anguished feelings of a widowed mother—and he may be permitted to indulge the expectation, that his present avowal will not be taken to preclude him from the benefit of any favourable consideration which an enquiry upon those heads may suggest, or from any advantage which might arise to him, in common with others, from a re-examination of the questions already agitated with respect to the powers and constitution of the Court.

GUIL. LEVESQUE.

1.

Permis au Capt. Narcisse Racine de transporter la munition de chez Dumais, a la grange du Dr. Côte.

MORIN.

Judi matin, 8 Nov. (J. C., P.)*

2.

Allow each men of the present division one glass of rum.

MORIN.

8th November, 1838. (J. C., P.)*

* Initials of the President of the Court Martial.

E.

PROVINCE OF LOWER CANADA, }
 DISTRICT OF MONTREAL. }

THE QUEEN

vs.

P. T. DECOIGNE ET AL.

Lewis Thomas Drummond, of the city of Montreal, Advocate, being duly sworn, deposeseth and saith :—That, as Counsel for the prisoner, he hath been informed, that Joseph Alexander Sabotté, of the Parish of L'Acadie, inn-keeper, is a material and necessary witness to Joseph Parré, one of the prisoners now under trial, inasmuch as it is said the abovenamed Sabotté has it in his power, from an intimacy with the said Joseph Parré, to prove that the said Parré is a lunatic. Further the deponent saith not, and hath signed.

LEWIS T. DRUMMOND.

Sworn before me at Montreal, this twenty-ninth day of December, 1838. D. MONDELET, J.P.

PROVINCE OF LOWER CANADA, }
 DISTRICT OF MONTREAL. }

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To Joseph Alexander Sabotté, of L'Acadie, inn-keeper ; Frederick Hart, Esquire, of St. Valentine ; Marie Fournier, wife of Mathurin Hebert ; Traveen Belanger, yeoman ; Marie Mailloux ; Jean Pierre, labourer ; Jean Duteau, labourer ; Etienne Brunelle, bailiff ; Michel L'Huissier, yeoman—all of Napierville ; Terence Murphy, of Burtonville, farmer ; Messire Amiot, prêtre de la dite paroisse de St. Cyprien.

We command you, that all excuses and causes of delay whatsoever being laid aside, you be, and appear, in your proper persons, before the Court Martial, now convened at the Court House in the city of

Montreal, on Saturday, the twenty-ninth day of December instant, at ten of the clock in the forenoon, and there to attend from day to day, until you shall be legally discharged, to give evidence on the trial of a certain charge of our Sovereign Lady the Queen, against P. T. Decoigne and others.

ED. MULLER, *Capt.*

Deputy Judge Advocate.

Dated at Montreal, this 25th day of December, 1838.

Je huissier soussigné certifie sous mon serment d'office avoir signifié et laissé copie du présent ordre à tous et à chacune des personnes y mentionnées en parlant comme suit savoir, Frederick Hart, Marie Fournier, François Belanger, Marie Mailloux, et Etienne Brunelle, Michel L'Hussier, et L. Amiot, parlant à eux mêmes, et à Jean Pierre, Jean Duteau et Terence Murphy, parlant à des personnes raisonnables de leur domicile, le vingt-septieme jour de Décembre, l'an mil huit cent trente-huit.

Montreal, le 28 Décembre, 1838.

M. JACQUES VILBON, H.B.R.

PROVINCE OF LOWER CANADA, }
DISTRICT OF MONTREAL. }

Before a Court Martial, assembled at Montreal,
29th December, 1838.

DOM. REG.

vs.

P. T. DECOIGNE ET AL.

The prisoners respectfully pray, that the Court will not compel them to enter upon their defence until Wednesday next, the second January, or that if obliged to proceed with the examination of witnesses, they may be furnished with a sufficient authority to enforce the attendance of their witnesses, and be enabled to procure that the subpoenas to their witnesses may be served without interruption or interference, and the prisoners be assured by the Court, that they will not be compelled

to close their defence until Wednesday next, the second of January, for the reasons contained in the affidavit of Jacques Vilbon hereunto annexed.

Montreal, December 29, 1838.

PROVINCE DU BAS CANADA.

LA REINE

vs.

THEOPHILE DECOIGNE.

Jacques Vilbon, Huissier de la Cour du Banc du Roi de ce District, après serment prêté sur les Saintes Evangiles, depose et dit, qu'ayant été chargé de signifier, en sa capacité d'Huissier, un certain nombre d'ordres de témoignages à bon nombre de témoins, il n'aurait pas réussi à signifier l'ordre de témoignage adressé au nommé Joseph Alexandre Sabotté, aubergiste de la paroisse Ste. Marguerite de Blairfindie, parcequ'il en auroit été empêché par une sentinelle un faction à l'entrée du village de L'Acadie où demeuroit le dit Sabotté, laquelle sentinelle lui auroit dit "qui va là?" et sur la réponse du déposant "Ami," lui auroit demandé la contresigne; que le déposant ayant répondu à la dite sentinelle qu'il ne connaissait pas la contresigne, la dite sentinelle lui aurait intimé l'ordre de s'en retourner. Qu'en conséquence le dit déposant s'est vu forcé de retourner sur ses pas. Que tout ce la se seroit passé le vingt-sept du courant.

Et le dit déposant ne dit rien de plus, et a signé, lecture faite.

M. JACQUES VILBON.

Assermenté pardevant moi, ce 29 Décembre, 1838.

S. BELLINGHAM, J.P.

PROVINCE DU BAS CANADA, }
DISTRICT DE MONTREAL. }

Jacques Vilbon, Huissier de Montréal, après serment prêté sur les Saintes Evangiles, dépose et dit que l'heure à laquelle il a été forcé par

une sentinelle de s'en retourner, tel que mentionné dans son affidavit donné devant Sydney Bellingham ce jour, était neuf heures du soir.

Et le témoin ne dit rien de plus, et a signé.

M. JACQUES VILBON.

Assermenté pardevant moi, ce 29 Décembre, 1838.

H. EDMOND BARRON, J.P.

F

PROVINCE OF LOWER CANADA, }
DISTRICT OF MONTREAL. }

THE QUEEN

vs.

PIERRE THEOPHILE DECOIGNE ET AL.

Whereas the evidence on the part of the Crown hath been duly closed in the said cause, and whereas the evidence adduced against Jean Baptiste Dozois, senior, is wholly insufficient, in law, to convict the said Jean Baptiste Dozois, senior, of the crime he stands accused of, and whereas the said Jean Baptiste Dozois, senior, is a material and necessary witness for seven of the prisoners now under trial; therefore they, the said seven, namely, Joseph Parré, Pierre Hector Morin, François Trepannier, fils, Hubert Drossin Leblanc, Jean Jacques Herbert, Achille Morin, and Pierre Theophile Decoigne, having, by law, a right to avail themselves of the testimony of the said Jean Baptiste Dozois, senior, and for that purpose to demand and obtain his discharge, without waiver of any thing by them heretofore pleaded, respectfully pray, that the Court will now take the case of the said Jean Baptiste Dozois, senior, into consideration, and therefore discharge the said Jean Baptiste Dozois, senior, from the accusation now pending against him, in order that he may be, in due course of law, examined as a witness in their behalf.

The said seven abovenamed prisoners found this application upon the practice universally followed in all Courts of Criminal jurisdiction, binding alike all Courts Martial in their proceedings, when not otherwise regulated by the Statute, and for a precedent would refer the Court to the following case, alluded to in Petersdoff's Abridgment, *verbis* Martial Law and Courts Martial : -

Stratford's case, H. T. 1801. K. B. 1 East, 306.

"The mutineers of the *Bounty* were tried by a Court Martial, at Portsmouth; there being no evidence against one of the persons accused, it was insisted, on the part of another of them, that he had a right to examine the first on his behalf. The Court, however, by the advice of the Judge Advocate, refused to let him be examined, saying, the practice of the Court Martial had always been against it, and the prisoner was condemned to death; but upon the sentence being reported to the King, execution was respited till the opinion of the Judges was taken, who all reported against the legality of the sentence, on the ground of the rejection of legal evidence, and the party was afterwards discharged." And they would beg further to refer to the case of Muspratt, reported in Simmons, p. 431 and seq., in which it was laid down, that even when evidence was adduced against one of the prisoners, but insufficient to convict him, his fellow-prisoners had a right to obtain his discharge and the benefit of his testimony.

Montreal, 29th December, 1838.

G

PROVINCE OF LOWER CANADA, }
DISTRICT OF MONTREAL. }

THE QUEEN

vs.

PIERRE THEOPHILE DECOIGNE AND OTHERS.

Whereas the evidence on the part of our said Lady the Queen, hath been duly closed in the said cause, and whereas, upon the charges laid

against Louis Lemelin, one of the said prisoners, the evidence adduced against the said Louis Lemelin is wholly insufficient to convict him of the crime of High Treason, of which he is accused, and whereas the testimony of the said Louis Lemelin is material and necessary to seven of the remaining prisoners now under trial.

Therefore they, the said seven, namely: Joseph Parré, Pierre Hector Morin, François Trepannier, fils, Hubert Drossin Leblanc, Jean Jacques Hebert, Achille Morin, and Pierre Theophile Decoigne, having, by law, a right to avail themselves of the testimony of the said Louis Lemelin, and for that purpose to demand and obtain the discharge of the said Louis Lemelin, without recognizing the jurisdiction of the said Court over them, or any of them, and without waiver of any thing by them heretofore pleaded, respectfully move that the Court do now take the case of the said Louis Lemelin into consideration, and therefore discharge the said Louis Lemelin from the accusation now pending against him, in order that he may be, in due course of law, examined as a witness in their behalf.

The said seven abovenamed prisoners found this application upon the practice universally followed in all Courts of Criminal jurisdiction, binding alike all Courts Martial in their proceedings, when not otherwise regulated by the Statute, and for a precedent would humbly refer the Court to the following case, alluded to in Petersdoff's Abridgment, *verbis* Martial Law and Courts Martial:—

Stratford's case, H. T. 1801. K.B. 1 East, 306.

“The mutineers of the *Bounty* were tried by a Court Martial at Portsmouth; there being no evidence against one of the persons accused, it was insisted, on the part of another of them, that he had a right to examine the first on his behalf. The Court, however, by the advice of the Judge Advocate, refused to let him be examined, saying, the practice of the Court Martial had always been against it, and the prisoner was condemned to death; but upon the sentence being reported to the King, execution was respited till the opinion of the Judges

AND OTHERS.
Queen, hath
charges laid

was taken, who all reported against the legality of the sentence, on the ground of the rejection of legal evidence, and the party was afterwards discharged." And the prisoners would further refer the Court to the case of Muspratt, reported in Simmons, p. 431 and seq., wherein it was decided that prisoners were entitled to obtain the discharge and the advantage of the testimony of one of their fellow-prisoners against whom evidence was adduced, but not such as to convict him.

Montreal, 29th December, 1838.

H

PROVINCE DU BAS-CANADA, }
DISTRICT DE MONTREAL. }

Extrait du registre des actes des baptêmes, mariages, et sépultures, faits dans la paroisse de Ste. Marguerite de Blairfindie, pendant l'année mil-huit cent vingt-deux.

Le vingt-neuf Mars, mil huit cent vingt-deux, nous prêtre soussigné avons baptisé François, né hier du légitime mariage François Trepannier, cultivateur du lieu, et de Judith Chêne, son épouse. Parrain Joseph Hebert, Mairaine Suzanne Mercier, qu'ainsi que le père n'ont su signer.

B. B. DECOIGNE, *Ptre.*

Nous soussignés Prothonotaires de la Cour du Banc du Roi pour le District de Montréal, certifions, que l'extrait ci dessus est en tout conforme à l'original qui se trouve dans le registre des actes des baptêmes, mariages, et sépultures, faits dans la paroisse de Ste. Marguerite de Blairfindie, pendant l'année mil huit cent vingt-deux, le dit registre déposé dans les archives de la dite Cour.

Montréal, le 28me jour de Décembre, mil huit cent trente-huit.

MONK & MORROGH, *Prots.*

I

LOWER CANADA, }
DISTRICT OF MONTREAL. }

DOMINA REGINA

vs.

P. T. DECOIGNE ET AL.

As it has been attempted to establish, on the part of the Crown, that since the time of his incarceration, Joseph Parré was in a sane state of mind, and as the proof adduced in the defence did not apply to that particular period, the prisoner's Counsel humbly conceive they have a right to call up witnesses to prove, that during the period now referred to, he was in a state of mental alienation, and therefore pray that they may be allowed to adduce evidence to that effect.

One of the witnesses required is the Reverend Mr. Turcotte, now confined in the common gaol of this district; and Parré's Counsel would, therefore, move that he be ordered to attend.

J

THE ADDRESS OF P. H. MORIN.

Mr. President, and Gentlemen,

I am, at this stage of the trial, called upon to address the Court in my defence, and in doing so, were prejudices and suspicions to decide your opinion of my guilt, or to direct the finding of the Court, he who at this moment raises his voice, might possibly feel some apprehension with regard to his future fate. But, Gentlemen, the sacred nature of the oath which you have sworn to—your profession—your honourable character—your intelligence—and your humanity—are safeguards, which secure me from an unjust and prejudiced decision. Without

fear, therefore, will I proceed to comment upon the evidence which has been produced before you, and to endeavour to convince you, that you cannot be justified in pronouncing me guilty of the high charge brought against me.

As it is my intention, Gentlemen, boldly to front the testimony, which would apparently, at the first blush, cast some shadow of culpability upon my conduct, I will call your attention to such points as are presented for the consideration of the Court, in order that it may be seen how far I am affected by the evidence of the witnesses, and how implicated in the late unhappy rebellion.

Firstly,—It has been distinctly proved, that between the third and tenth of November last, a numerous assemblage of armed men invested Napierville, for the purpose of levying war against Her Majesty's Government.

Secondly,—That various loyalists were arrested and imprisoned.

Thirdly,—That at this period, I was at Napierville, unimprisoned and at liberty.

Fourthly,—That two orders, signed "*Morin*," have been produced, which, if established to be in my handwriting, and of my signature, and found in my possession or produced by the one to whom I delivered them, would uncontrovertibly prove, that I held some post of authority in the rebel camp.

Fifthly,—That, as Thompson and Gamelin have stated, I was stationed, armed with a musket, as a sentinel, at the gaol.

Sixthly,—That I was seen, at the arrival of the rebel chief, Nelson, *paying my addresses to him*, as stated by Humpleby.

This, Gentlemen, you must be forced to admit, is all that appears against me, with the exception of the naked, but to me, perhaps, the most dangerous, fact—that I am the brother-in-law of Dr. Côte. Is it not so?

That the rebellion existed to an alarming extent at Napierville, I admit—that I knew of its approach, I solemnly deny; else why was I at Montreal on the very day of its outbreak? How came it, at the

very time when I should have been there at my post, I was quietly purchasing winter provisions, for my family, in this city. That I dreaded the effect of the agitations of Dr. Côte is true, and were it not that stern necessity, which knows no law, compelled me to remain at Napierville, to assist my aged father-in-law and my family, I would never have remained where his machinations might have endangered my prospects in life. To the fact of my being at Napierville, I answer, that on Saturday, the fourth of November, at about one o'clock in the afternoon, I arrived at Napierville; there, to my astonishment, I found men in arms, and, on arriving at my residence, discovered Dr. Côte, Nelson, Hindenlang and others, who had made the house, which belonged to Dr. Côte, their head quarters. Once, in the village, there was no alternative,—guards were placed around in all directions, and egress was not permitted,—remain I must, but never to aid in that which in my heart I abhorred. This, before the great Being who now regards this Court, and the miserable, but innocent man who now addresses you, I solemnly protest. From expressions which have fallen from several members of the Court, I must observe, it is plain that the fact of my being at Napeirville appears to be considered as proof of the crime imputed to me, an idea which must be repudiated by every person acquainted with the laws of the country. If any overt act had been proved against me, I certainly would then be liable to a conviction, but I contend, as I shall shew, that no overt act has been established, and the simple fact of my having remained at Napierville, with my family, must be viewed not only as a natural, but as a matter of absolute necessity. What are the circumstances, then, that implicated me in the rebellion, and would render me liable to a conviction of the charge preferred against me? The orders,—the standing sentinel,—the receiving Nelson,—the being allowed to pass freely to the gaol, and about Napierville, when others were prevented. By law, gentlemen, (as I challenge the Judge Advocates to deny,) were I inclined to make that mode of defence, I would say, I am accused of high treason, and no writings

can be produced against me, unless found in my possession, or proved by the individual to whom I gave them ; for, as it is clearly laid down in the fourth volume of Burrow's Reports, as quoted by Blackstone, fourth volume, page 358, "The proof of handwriting is not evidence in high treason, unless the papers are found in the custody of the prisoner." But of this I do not avail myself, and the Court will recollect that I have not shrunk from submitting the paper writings, 1 and 2, to the inspection of witnesses. I assert that they are not my handwriting and signature. I allege that the handwriting and signature has not been established to be mine, but that the contrary has been proved.— True, that Trudeau and Odell have stated that they believed them to be so, but Mr. Rodier and Painchaud more fully deny such probability ; in this they are supported by Franchere, and the fact of the handwriting not being mine is distinctly proved by Goslin.

Then comes the assertion of my having acted as sentinel. This I have disproved by Southward, Bouchard, and Henaut. True it is, that two witnesses, Thompson and Gamelin, have insisted upon the fact that they saw me armed as a common soldier, at the gaol, on Tuesday, the sixth, and, as some of the members of the Court observed, I might have come to the gaol without the knowledge of the witnesses examined by me ; such is, indeed, a "*might be*," but is, I ask, a *probability* to decide my fate ; and is it not extraordinary, that the only time I was seen in arms, was when a motive of humanity, as Hindenlang has proved, led me to visit the gaol.— Did I thereby insult, or shew my supposed authority and power over the prisoners ? No. I spoke kindly and regrettingly to them ; but it was supposed by a member of the Court, yesterday, that I was admitted without a pass, and that again is considered a crime. Has it been proved that I had no pass ? Could I have proved it here, Gentlemen, I might have established that when I went to the gaol to see the sick man, Kavanagh, I had every difficulty in obtaining admission, and was even allowed to remain there for a few minutes only, and to

the gaol I never returned. I would here call the attention of the Court to Gamelin's evidence, and ask, can his testimony be received for an instant? From the evidence of Henaut, it appears that that man was terrified into insanity, and, surely, he whom the falling of a cloak drove almost out of his senses, may have converted the unarmed man into a warrior, armed *cap a pie*. If, however, Gentlemen, it be supposed for an instant that I did act as sentinel, armed as a common soldier, what was I doing all the rest of the time from the fourth to the tenth. Trudeau, Sarault and Hindenlang positively swear that they saw me, but never armed, in any way. I do not impute, nor wish it to be supposed, Gentlemen, that I desire to impute wilful, false swearing to Thompson and Gamelin, but I insist that they have been mistaken in the confusion of the moment, and in the peculiar situation in which they were; and, I likewise pretend, that the evidence of Southward and Henaut, aided and confirmed by the positive testimony of Trudeau, Sarault and Hindenlang, must convince you that they were mistaken. Besides, if it were to be supposed that I did, or would, take part in the rebellion, my station, I may suggest safely, in the rebel force, would have been of a higher grade than that of a simple soldier.

Lastly comes the startling and extraordinary fact of a common soldier issuing Commissariat, or Quarter Master's orders. The two positions are so contradictory, that, if you believe in the correctness of the one, you must abandon, altogether, your hold upon the other.

But one fact more has been stated against me, namely, my having with the others, received Dr. Nelson. This is proved by one witness, and I might pass it over, but, Gentlemen, it is not the fact; so far from being so, I solemnly protest that I had not arrived at Napierville, from Montreal, when Nelson came there. But by whom is it proved that I received Nelson? By Humpleby, one of the most incautious witnesses that ever deposed before any Court. Who can forget his first wholesale declaration that he knew all the prisoners, that they were

all leaders ; and the next moment he is found unable to identify the first prisoner, Levesque, and the last one, Dozois.

Thus, then, Gentlemen, have I endeavoured to do away with the testimony which apparently made against me, and I now ask, can any one of you, Gentlemen, upon your honour, upon your oaths, declare me guilty of the crime of which I stand accused, and consign the father of a family, in the decline of years, who has ever borne an unimpeachable character, to ignominy and death ? Have there been witnesses to prove that I ever led my fellow subjects to rebellion ; that I had aided in levying war against my Queen ; that I had been seen actively engaged amongst the insurgents ? I would not have troubled you with any remarks, I would not have detained your attention, had not justice to my family, and regard for my own character, required that I should uplift my voice in my defence. It may be urged, I repeat, that I was the brother-in-law of Dr. Côté. I cannot deny it. I have seen throughout this trial, that this was the great head and front of my offending, and it was on that account that I removed from the mind of the Court that I acted as his agent in collecting Goslin's rent. Yes, Gentlemen, I am his brother-in-law, but when I married his sister he was not even born, and hard would be my fate if the misdeeds of a connexion should be the means of destroying his relative, whose principles, whose politics, and whose conduct prove, incontrovertibly, his abhorrence of the course pursued by Dr. Côté.

Gentlemen, I have done. Had my trial been before any ordinary court, there is not a judge of the land who would not charge the jury to acquit me. You are my judges as well as my jury ; my fate is in your hands ; I leave it there with confidence, knowing that never will British officers permit prejudice to cause them to consign a fellow being to a horrible and ignominious end.

K.

ADDRESS OF PIERRE THEOPHILE DECOIGNE.

Gentlemen of the Court :

If the facts proved against me had been the result of premeditated design, or even of a sudden and desperate impulse of my own breast, I admit that they would be sufficient to induce the Court to convict me of the crime whereof I stand accused.

It has been proved that I was in arms, I disguise not the fact, but I declare that the influence of fear, and that alone, induced me take part in the unhappy events which occurred at Napierville, between the third and tenth of November last. You will remember, Gentlemen of the Court, that I have resided in the village of Napierville for upwards of a year ; that I was there at the time of the outbreak ; that the village was surrounded on the third of November last, by armed guards, in order to prevent all egress from within ; that the threats of destruction held out to me, by the fierce and determined Trudeau, would, as Duteau has told you, have been undoubtedly put into execution had I refused to take up arms and act in concert with the patriots. I need not attempt to combat that exploded doctrine, taken from the Roman law, which went to establish that no degree of violence could justify an unlawful act, save that which would intimidate a strong hearted and brave man. It is not surprising that such a doctrine should have been recognized, as law, amongst the sternest people of ancient times, in a military republic where every man was a soldier, but the spirit of Christianity, which demands of no man more than his Creator has given him power to perform, having gradually infused itself into the codes of modern jurisprudence, has caused that unjust mandate to be eschewed. I say I need not combat the doctrine, because the violence exercised against me was such as would have intimidated even the bravest man. How much more was it calculated to drive into apparent error, one

whose misfortune since his birth has been a deplorable weakness and timidity of character? It was not only on the fourth that I was threatened with death, should I refuse to aid the desperate cause. On the first arrival of the patriots--who were desirous of securing, by every means in their power, the assistance of all those whose situation in life might be supposed to give them any influence,--I was threatened in an equally violent manner, and compelled to take up a sword, which I cast from me on the first opportunity, and would never have resumed it had I not been compelled to do so, by Trudeau. The absence of an important witness, who failed to appear although duly summoned, has deprived me of the advantage of proving that fact. But it has not been proved before you that I was in arms on the third; all the witnesses who mentioned my name, having stated that they saw me in arms between the third and tenth of November; the circumstance of those witnesses having been imprisoned on the evening of the third shews clearly they did not intend to allude to that day, and if you take my admission as proof, it must be coupled with the exculpatory declaration, that, in so doing, I did not act from inclination, but through compulsion. My character previous to the late disturbances, my peaceable habits, my avowed disapproval of the revolutionary movements which occurred last year, as proved by Messrs. Archambault and Quésnel, and the fact that among all the witnesses produced against me, not one has proved a single act of violence, or oppression, in reference to me, concur to establish the absence, on my part, of any desire to overthrow the British Government in this Province.

But it may be said my crime consists in not having fled from the theatre of revolt. True, Duteau says he thought I might have escaped, but since his examination, he has declared, most distinctly, that it was through misapprehension of the question put to him, that he expressed such an opinion. It is, however, but an opinion, and no proof; moreover, how could I, surrounded as I was by armed men, effect an escape? and, if flight had been practicable, should I have abandoned the papers

of my *notariat* to destruction, notwithstanding the sacred oath of my profession which bound me carefully to preserve and watch over them? Could I have left my wife and helpless children behind me to pay the forfeit of my defection?

No, Gentlemen, you will not condemn me for having taken up arms merely to save my life, you will not consign me to an ignominious end, my wife and children to destruction, my posterity to dishonour, merely because the voice of nature and of duty was not extinct within my breast.

I therefore leave my case with confidence in your hands, and as you will view my actions with an eye of mercy, may the great Being, before whose tribunal the judges and the judged must one day appear, decide with equal leniency upon your eternal fate.

L.

F. TREPANNIER'S ADDRESS.

Gentlemen of the Court :

Had such evidence as is required by law to establish the accusation preferred against me, namely, that of two proveable witnesses, been adduced, I should still have been exculpated, in the eyes of the Court, in the consideration of the effect which the exercise of parental authority must produce over one so young and inexperienced.

But the only witnesses who have stated that they saw me at Napierville, in arms, are Humpleby and Sarault. The evidence of the former cannot be received. The reckless manner in which that witness delivered his evidence would alone have been sufficient to cast a shade of discredit upon his statements, but his contradictions, when coupled with his demeanour, must cause his testimony to be totally rejected. What a fierce joy was depicted on his countenance, at the moment when he

must have supposed that the lives of eleven of his fellow creatures were depending upon his words? What a determined desire to injure us did he not evince, when he declared to you that we were all chiefs, although when called upon to designate each of us, he avowed that Levesque and Dozois were totally unknown to him, that in fact he had never seen either of them before. Is this the credible witness which the law exacts, in conjunction with another, to establish such heavy charges as those exhibited against me.

No, Gentlemen of the Court, I feel convinced that you will not consign me, in the dawn of my life, to an opprobrious death, or to any punishment whatever, upon the faith of a witness such as Humpleby. The disreputable character of that individual could have been established by one of the witnesses produced on the part of the Crown, but the Court will remember that we were prevented from entering into evidence of that tendency in cross examination, and although duly summoned, that witness failed to appear on the defence.

Under these circumstances I submit my case to your deliberations, with a firm hope that they will result in my acquittal.

M.

DAVID DROSSIN LEBLANC'S ADDRESS.

Gentlemen of the Court :

In raising my voice to defend myself from the accusation preferred against me, my intention is not to trespass upon the attention of the Court, by entering into detailed remarks upon evidence, which, as it must be apparent, is wholly insufficient to convict me.

Humpleby believes that I acted as captain, as he saw me addressing a company. Sarault states he saw me between the third and ninth of November last, in the village of Napierville, in the immediate vicinity of which I reside. My appearance there has been satisfactorily ac-

counted for by Adelle Paradis and Augustin Guernon. On the third, I went thither in company with my mother, unarmed, and totally ignorant of the approaching events, for the sole purpose of entering upon certain family arrangements before a Notary, resident in the village.— During the week, my visits thither were of absolute necessity, having, for object, to obtain the succour which the situation of my wife so imperiously demanded.

You will not, therefore, hesitate, Gentlemen of the Court, to restore me to her and to my children, for even if the evidence of Humpleby could be received, (and it has been shewn, by my fellow prisoners, that it cannot,) still he would be the only witness to prove an overt act against me.

N.

DEFENCE OF J. J. HEBERT.

Gentlemen of the Court,

The humble individual who now raises his voice in his defence, knowing that three witnesses, namely, Trudeau, Humpleby and Sa-
 muel, have deposed against him, would be overwhelmed with dread, were he not confident that the Court will duly weigh the character of the witnesses adduced on the part of the Crown, and the peculiarly unfortunate situation in which he stands, deprived, as he has been, of all succour from his friends since the time of his incarceration, and, consequently, of the advantage which was afforded his fellow prisoners of adducing evidence in their behalf. The incredible character of Humpleby's evidence has already been sufficiently dwelt upon. Trudeau's character has also been attainted by Bouchard, as well as by the suspicious position in which he stood at Napierville, having, according to his own avowal, given his services as Assistant Quarter Master. These considerations must induce you to receive with caution the statements made by him, and should conviction be based upon the more than exceptionable testimony brought against me, your

feelings of justice and humanity must lead you to present to Her Majesty, the case of an individual so obscure and unfortunate as he who now appeals to you for mercy.

O.

DEFENCE OF HUBERT D. LEBLANC.

Gentlemen of the Court,

The only witnesses who accuse me of having appeared in arms at Napierville, during the late unhappy disturbances, are Humpleby and Sarault. I avail myself of the remarks already made by my fellow prisoners relative to the testimony of the former, and if rejected, as it doubtless will be, there will remain but the evidence of one unimpeached witness to establish the charges exhibited against me. I cannot suppose, for a moment, that just and generous men would peril the life of a fellow being, upon the faith of a witness so ill deserving of belief as Humpleby; I therefore submit my case with confidence, trusting that you will not hesitate to acquit me.

P

ADDRESS OF J. BTE. DOZOIS, SEN.

Gentlemen of the Court,

It is to be regretted, that my character and peaceful habits should not have shielded me from the sufferings and privations I have been exposed to, in consequence of the accusation preferred against me, since that accusation has been wholly unsupported, I do not say by the evidence required by law, but by any evidence at all.

Sarault saw me at Napierville unarmed. Does that constitute the crime of High Treason?

I have only to pray for my acquittal.

Q

ADDRESS OF JOSEPH PARRÉ

The assistants of Parré submit to the Court the following remarks :

The defence of the prisoner, may it please the Court, rests upon the fact of his periodical derangement ; and we consider that his lunacy has been made out distinctly by the witness Guernon, whose testimony stands unimpeached before you, and is confirmed by the evidence of Mr. Archambault. Guernon has proved clearly to the Court his insanity during the fall, his being incapable to watch over his affairs—in fact, that he is at times a confirmed lunatic. We would remark, then, to the Court, that as all crimes are considered universally to be offences against our Maker, should, by his divine will, the power of reason be taken away, even periodically, from one whom he hath created, it would be barbarism to take advantage of that over which the mere mortal can have no power, and declare the lunatic to be as capable as the man in full possession of all his mental perceptions, and responsible to God and his country for all his acts. But, Gentlemen, you may ask, in answer to this remark, have you shewn that the prisoner is, or was, incapable of distinguishing right from wrong, and does the law contemplate that man as exempt from punishment, who knows that he is committing an offence when he performs the evil act. To this we answer, the question is correct, but have we not decidedly proved his derangement, that his wife is compelled to manage his affairs, and it is easy to be supposed, that a man so affected, would not only join in any desperate undertaking, but commit the most absurd extravagances, when once embarked in it, as the witnesses for the prosecution have proved that he did. We most respectfully submit, that, by law, one witness is sufficient to prove the fact of insanity, and though had we been enabled to obtain adequate instructions, we might have supported the testimony of Guernon and Archambault by numerous witnesses, still as the point upon which the defence rests, is positively established from

personal knowledge, by one witness, and from public report by a second, we may with justice claim an acquittal, on the prisoner's behalf, from the Court. The above remarks composed the address with which we this morning were prepared to furnish the prisoner; since the opening of the Court, however, evidence has been adduced, not in rebuttal of the testimony establishing the prisoner's periodical derangement, but, to our astonishment, to shew, by the examination of two Commissioners, that he was sane at the time of his examination on the 14th December—a singular confirmation of the evidence of Guernon, who stated that he had been deranged annually, from the harvest time to about the month of December. If, may it please the Court, the defence of lunacy is to be set aside, by proof of lucid intervals, then are the laws of nature, and the merciful principles that have hitherto governed judges, violated, and the drivelling idiot, or the babe who knows not what it does, is as liable to be made responsible for the senseless, the infantile acts which either may commit, as the foul and blackened villain, or the man who, at once reasoning and in no way justifiable, departs from the path of virtue, and plunges, with open eyes, into the abyss of crime. The principle is so unfounded, so unjustifiable, that it were useless to dwell longer on it. The evidence of Mr. Buchanan and Mr. Fisher, we might have objected to,—their connexion with Parré were either as members of a Court of Enquiry or as Grand Jurors, and upon their report he was put upon his trial; the witnesses then might have been objected to, as surely they could not be expected to say that they caused the trial of a lunatic; but confidence in their honourable character withheld us from so doing, and strange it is, that though giving their testimony in the most candid way, the evidence of the two Commissioners is not in all respects agreeing. Mr. Buchanan's answers would lead us to believe, that Parré was cool and collected during the examination, while Mr. Fisher says, that the man tried to appear cool, but did not succeed in so doing, and, in fact, evinced a great deal of trepidation,

We would here, with all deference to the opinion of Mr. Fisher, suppose that it is less a matter of necessity to warn repeatedly an intelligent person than one ignorant and unwary, that he is not to criminate himself. As to the sanity of the prisoner at the time he was examined, we think clearly, that what the two gentlemen felt to be a mark of his saneness, affords the greatest proof of his derangement; he may have been clear upon many points with regard to past events, but suddenly resumes a portion of that active madness which cannot be resisted; as who but a lunatic or an idiot, after a lengthened examination upon matters closely affecting his existence, would beg the favour of an almanack from the judges or persons examining him, to decide (what Mr. Fisher considers, by the bye, as the proof of his superiority of mind,) a bet as to some astronomical question, highly important, no doubt, to a man about to be brought to his trial for High Treason. We would refer the Court to the thousand of cases which have occurred of the sudden cessation of lunacy, when the parties are in the presence of those they dread, and the actual resumption of all their powers of perception in such lucid intervals. Had the surgeon of the gaol been in continued attendance of Paré, he might have proved, that even now he is insane, and we ourselves have been, throughout his trial, seriously incommoded by his silly and annoying interruptions. Upon the whole, we respectfully submit, that as the evidence of Mr. Buchanan or Mr. Fisher cannot be even strained so as to contradict the positive testimony of Guernon or Archambault, the prisoner must, on the ground of lunacy, be acquitted..

R

DEFENCE OF ACHILLE MORIN.

Gentlemen of the Court,

During the evidence adduced in this cause, my name has been mentioned by several witnesses—but does their evidence tend to convict me of having been an actor in the recent revolt at Napier-

ville? No, Gentlemen, you cannot think so. Trudeau, Thompson, and Sarault state that they saw me in the village of Napierville from the third until the ninth, but always unarmed. My presence there is easily explained: it was the place of my residence, and so long as I acted not in concert with the bands of armed men then assembled at that place, no crime could be imputed to me for remaining there. Not one of the witnesses has stated that I acted either as commander or as a common soldier in the patriot ranks. But it may be said, it has been proved by Loop Odell, that you acknowledged having been wounded at Odelltown or at Lacole; I admit it; supposing, however, that evidence to be of a legal character, (and that it is not, I shall hereafter establish,) I would ask if it has been proved, that a battle actually took place at Odelltown or at Lacole, or if so, who were the conflicting parties? by whom the wound was inflicted—whether by a patriot or a loyalist—or how? whether by a generous adversary, struggling for his life against me, or in stealth, by the hand of the assassin? If public report could be substituted for, or coupled with, the evidence, then, Gentlemen of the Court, you would, no doubt, assume, not that I *actually confessed*, but that I *meant* to acknowledge I had been wounded, when fighting in the ranks of the insurgents against Her Majesty's troops. But you are called upon, Gentlemen, by law, and by the sacred oath you have taken, to discard in your deliberations, all recollection of past events—your judgment must be uninfluenced by any personal knowledge you may have of the facts referred to in the course of the trial. *You must try me, not by prejudice or public report, but as you have pledged yourself before Heaven to do, according to the evidence.* I would deem it an insult proffered you, to apprehend for a moment, that you could so far forget your duty as to allow prejudice to bias your decision—to assume, for the purposes of conviction, facts which have not been proved. I have no such apprehension; but if such a result were possible, still what would the supposed confession amount to? to a proof of Trea-

son? most indisputably not. Such evidence could only be taken in corroboration of the testimony of two other witnesses, and could never, of itself, suffice to establish an overt act. I might, in support of this principle, enumber my defence, (which, from the absence of evidence against me, may be considered wholly superfluous,) with citations from every writer on Criminal Jurisprudence, but I shall confine myself to the following authority, which will be found in Archbold's Summary of the Law, relative to pleading and evidence in criminal cases, page 105: "In Treason the confession of an overt act, upon an examination before a Magistrate, or other person having authority for that purpose, if proved at the trial by two witnesses, is sufficient to convict the defendant." *Rex vs. Francia*, 1 East, P. C. 133, in Fost. 243. "*But evidence of a person not having such authority, although proved by two or more witnesses, can only be received in corroboration of the other evidence in the case, and the Treason must still be proved by two witnesses notwithstanding.* *Re vs. Wells*, T.R. 250-255, Fost. 243.

Now what evidence would this supposed confession of guilt, assuming it was such—and I have shewn that it is not—what evidence, I ask, would it go to corroborate? Where are the overt acts of Treason proved by two witnesses against me? There is no proof before you of the crime I stand charged of.

I appeal not, therefore, to your feelings, Gentlemen of the Court—but in the name of justice and of law, I do demand that acquittal, which you cannot, in honour, or in accordance with your oath, withhold from me—and I feel confident that it will be granted with heartfelt satisfaction by the gallant and generous, who are sitting in judgment upon me.

S

ADDRESS OF LOUIS LEMELIN.

Gentlemen of the Court,

One witness alone, namely, Sarault, has deposed that he saw me acting in concert with the patriots at Napierville, between the third and tenth of November last. The testimony of one witness is a nullity in accusations of High Treason. I, therefore, humbly require that acquittal which, by law, I am entitled to.

T

May it please the Court,

The evidence adduced in this case, connects all the prisoners with the largest assemblage of insurgents which the last rebellion has exhibited. The scene of their operations appears to have been the spot selected by their principal leader and chosen chief magistrate, for his head quarters. There he is proved to have been received with a certain honorific ceremonial by his infatuated followers, and to have published a proclamation, avowing his and their determination to subvert Her Majesty's Government in this Province, and to establish a republic in its stead. It is proved, that no less than four to five thousand armed men were at one time assembled at that point. It is established, also, that they were abundantly supplied with arms, and that the greatest exertions were made by their leaders to effect their organization as a military force. Nor is there wanting evidence to shew, that in the full confidence of being able to maintain their usurped ascendancy, they did not hesitate to assume the exercise of supreme authority, taking prisoners, levying contributions, and doing other treasonable acts, a participation in which constitutes the offence of the prisoners now under trial.

Of the prisoners, eleven in number, the majority seem to have held stations of command in the rebel army.

Respecting Guillaume Levesque, who stands foremost on the list, little need be said, as he has fully acknowledged the truth and justice of the accusation preferred against him, but has thrown himself on the mercy of the Court, relying on his youth and inexperience as palliations of his offence.

François Trepannier is another youth, whose age is strongly urged in extenuation of his crime; the proof against him is as perfect as the evidence of alleged parental compulsion is weak and unsatisfactory.

The other prisoners—Decoigne, the two Morins, Parré, Hebert, and the two Leblancs, are deeply implicated by the testimony of from three to six witnesses each. Pierre Hector Morin, as having issued orders for the conveyance of ammunition, and for the distribution of rations to the rebel soldiers, and as having stood sentinel over a number of loyalists who were prisoners. His son, Achille Morin, by his own acknowledgment, appears to have been wounded in an engagement at Lacole or Odelltown, between the subjects of Her Majesty and a body of the rebel force. The others are sworn to as captains or leaders, and their participation in the guilt of this affair is but too clearly established.

Lemelin and Dozois are identified by two witnesses each (Sarault and Trudeau) as having been seen at Napierville from the third to the ninth of November, and are classed by Trudeau among those who did not hold stations of command, but acted as soldiers. Sarault describes Lemelin as having been armed with a sword, and Jean Baptiste Dozois as being without arms, but among the body of armed rebels, and in apparent belligerent association with them at Napierville.

In considering the defence of the prisoners, we find that P. H. Morin has adduced several witnesses, for the purpose of neutralizing the evidence of the prosecution, respecting his signature to two paper writings, produced on the trial. If the Court are not of opinion, that under the very trying circumstances in which Morin was placed, his handwriting

may have exhibited a totally different appearance from its usual character, considerable doubt will have been thrown on the fact, whether or no the papers in question be in the handwriting of Morin. Respecting another overt act proved against the same individual, namely, of being stationed as sentry over the gaol of Napierville, it has been attempted to be established that Gamelin, one of the witnesses swearing to that fact, was insane during a part of his confinement in the gaol. It is, perhaps, unnecessary to discuss to what extent Morin has succeeded in effecting his object in that respect, as the testimony of Gamelin is corroborated by that of Thompson, who likewise saw Morin armed at the gaol. But it is for the Court to judge how far the evidence of Gamelin stands impeached, combining also with that consideration the very strong proof adduced by Morin of his anti-revolutionary and even loyal opinions.

The prisoner Parré, after pleading to the charge, and thereby waiving all questions as to his sanity of mind, has, in the course of his defence, endeavoured to prove mental aberration at particular periods. This impotent attempt has made it desirable, though not absolutely necessary, for the Judge Advocates to call several witnesses, by whom the question of Parré's soundness of mind and memory has been entirely set at rest.

Upon a review of the whole defence, we find no reason materially to change the opinion stated by us, before coming to the consideration of the matter and reasoning addressed by the prisoners to the Court, in justification of their conduct. The case of P. H. Morin, however, being entitled, perhaps, to a more merciful consideration, for the reasons above stated. We do not consider it necessary to add, that we are satisfied that the prisoners should receive the benefit of all doubts that may arise in the minds of the Court in respect to their guilt.

THE QUEEN

vs.

JOSEPH ROBERT AND OTHERS.

GENERAL COURT MARTIAL.

{ MONTREAL, LOWER CANADA,
3d January, 1839.

Members of the Court and Deputy Judge Advocates, the same as in the case of the Queen against Cardinal and others—(see page 17)—are duly sworn.

The prisoners having been brought into Court, the warrants are read, and the names of the President and members called over. The prisoners do not object to any of the members of the Court.

The President, members, and acting Deputy Judge Advocates having been severally sworn, and Edward Macgauran and Francis Godschall Johnson having been sworn as translators of the French language, the Court proceeds to the trial of Joseph Robert, of the parish of St. Philippe, in the district of Montreal, in the province of Lower Canada, farmer; Jacques Robert, of the parish of St. Edouard, in the said district and province, farmer; Ambroise Sanguinet, of the said parish of St. Philippe, farmer; Charles Sanguinet, of the said parish of St.

Philippe, farmer ; Pascal Pinsonneau, of the said parish of St. Edouard, farmer ; François Xavier Hamelin, otherwise called Petit Hamelin, of the said parish of St. Philippe, farmer ; Theophile Robert, of the parish of St. Edouard aforesaid, farmer ; Joseph Longtin, of the parish of St. Constant, in the said district and province, farmer ; and Jacques Longtin, of the said parish of St. Constant, farmer—arraigned and brought to trial on the following charges :—

By order of His Excellency, Sir John Colborne, Knight Grand Cross of the Most Honourable Military Order of the Bath, Administrator of the Government of the Province of Lower Canada, Lieutenant General and Commander-in-Chief of Her Majesty's Forces in the said Province, &c. &c. &c.

For offences committed between the first and tenth days of November, in the second year of the reign of our Sovereign Lady the Queen, in furtherance of the rebellion which had then broken out and was existing in the said Province.

To wit: *First charge*, Treason against our said Lady the Queen in this: that the said Joseph Robert, Jacques Robert, Ambroise Sanguinet, Charles Sanguinet, Pascal Pinsonneau, François Xavier Hamelin, otherwise called Petit Hamelin, Theophile Robert, Joseph Longtin, and Jacques Longtin, being subjects of our said Lady the Queen, on the third day of November, in the second year of the reign of our said Lady the Queen, and on divers other days, as well before as after, in the said parish of St. Constant, did meet, conspire, and agree amongst themselves and together with divers others whose names are unknown, unlawfully, and traitorously, to subvert and destroy, and cause to be subverted and destroyed, the legislative rule and government now duly established in the said province of Lower Canada, and to depose and cause to be deposed our said Lady the Queen from the Royal State and Government of this Province ; and did, for that purpose, then and there incite and assist in a rebellion, to wit, the last rebellion in the said Province ; and then and there being assembled and

gathered together, and armed with guns, swords, spears, staves, and other weapons, did, in furtherance of the said rebellion, traitorously prepare and levy public war against our said Lady the Queen, and were then and there found in open arms against her said rule and Government in this Province, against the peace of our said Lady the Queen, her Crown and dignity, and against the form of the Statute in such case made and provided.

Second charge, Murder; in this: that the said Joseph Robert, Jacques Robert, Ambroise Sanguinet, Charles Sanguinet, Pascal Pinsonneau, Francois Xavier Hamelin, otherwise called Petit Hamelin, Theophile Robert, Joseph Longtin, and Jacques Longtin, together with divers others whose names are unknown, on the third day of November, in the second year of the reign of our said Lady the Queen, in the parish of St. Constant, in the said district and province, being armed with guns loaded with leaden shot, bullets, and gunpowder, did, in furtherance of a rebellion, to wit, the said rebellion which had then broken out and was existing in the said province, make an assault upon one Aaron Walker, in the peace of God and of our said Lady the Queen, then and there being, and then and there in furtherance of the said rebellion, feloniously, wilfully, and of their malice aforethought, did shoot and discharge the said guns, so loaded as aforesaid, upon the said Aaron Walker, and him, the said Aaron Walker, with the leaden shot and bullets aforesaid, by the force of the gunpowder aforesaid, discharged and sent forth then and there, in furtherance of the said rebellion, did feloniously, wilfully, and of their malice aforethought, strike, penetrate, and wound in the right breast, giving to the said Aaron Walker then and there, with the leaden bullets and shot aforesaid, by means of shooting off and discharging the said guns as aforesaid, and by such striking, penetrating, and wounding the said Aaron Walker, as aforesaid, one mortal wound in the right breast of him, the said Aaron Walker, of which said mortal wound the said Aaron Walker then and there instantly died.

The prisoners being called upon to plead, make certain objections, similar to those contained in a document in Cardinal's trial, marked **A**—(see page 76)—which objections are overruled by the Court.

The prisoners being again called on to plead, make certain other objections, similar to those contained in a document in Huot's trial, marked **B**—(see page 138)—which objections are overruled by the Court.

The prisoners being again called upon to plead, severally plead Not guilty.

A document, marked **C**, is handed in, and overruled by the Court.

The Court then proceeds to examine the following witnesses:—

DAVID VITTY, of the parish of St. Constant, farmer, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

On Saturday night, the third November last, I and my wife were in bed, and a voice came to the window and said: "Mr. Vitty, you must get up, as the rebels are coming." I got up and I opened the door; there was a cart at the door, with Mr. Walker, his wife, and four children, and Mr. North, his wife, and three or four children; this was about ten o'clock at night; Mrs. Fletcher and a child were there also; they came into the house; took the children out of the cart—they were naked. I took them into my bed-room, leaving the horse and cart at the door; I then shut the door and fastened up the house, as by this time the rebels were up at the house. One person among the rebels called out to me by my name, in English, to open the door; I said, if he would tell me what he wanted with me, I would open the door—this was not the time of night for me to open my door; the voice cried out, "I want you;" I asked what he wanted with me; he repeated the demand to open the door; I refused again, and immediately after several shots were fired into the house. Aaron Walker, the deceased,

was at one side of the door, and I was at the other ; we both took our guns as soon as the others began to fire ; we stood there till the outer door was split ; the balls then came through the inner door, and Walker and myself then fired ; the inner door was soon knocked open by the firing. By this time the rebels were all round the house ; they fired in on every side—the balls came in in every direction, and I desired the women and children to lie down on the floor ; the inner doors, by the shaking of the partition from the effect of the firing, opened of themselves, and I expected the house would come down. The women and children screamed out, and I also cried out for mercy, but nobody would listen ; Walker then said, “ I am gone,” and fell down and died instantly. I stood in one place all the time, and when the door was opened I stood in the entrance, with my bayonet fixed on my musket ; I was wounded then in four places, but did not know it ; I asked them then to come in, to let me have the pleasure of running one of them through ; they past round to another part of the house, behind me, and fired ; the ball passed through my shoulder ; my gun dropped out of my hand, and I ran away—I ran up into the garret, and lay down on the floor. The rebels came into the house as soon as my gun fell, crying out, “ where is he ?”—they soon found me, and called for a captain to counsel what was to be done with me. The captain gave orders that I should be dragged down stairs before him into the kitchen. He came to me and handled me, and said, in good English, “ he’s all over blood ;” they all surrounded me then, and one had a long spear—I expected he was going to run me through with it, but he did not. I was getting faint from loss of blood ; I asked for water—somebody brought me some, but another prevented him and dashed it down—it was one of the rebels who did this. The house was then full of armed men ; they went into the women’s room, and treated one of them very ill, and sick as I was, I heard her screaming. They began to plunder the house, and in a cupboard in the bed-room, they found about a pint and a half of

spirits ; they made my wife take it down, and serve it out to them as far as it went, then called for more. They made the women kneel down and cross their arms ; they said something that I could not understand, as it was in French. They searched the house all over ; I cannot say exactly what they took, but they got three military muskets and one gun of my own ; they took all the ammunition in the house, and all the materials belonging to the gun ; I had five rounds of ball cartridge and my servant had six. I forgot to mention, that before the arrival of the rebels, I sent my servant out by the window to go and alarm the barracks at Laprairie. After this, the rebels left the house. [The witness here produces to the Court the jacket, waistcoat, and trowsers he wore on the third November ; there are twelve shot holes in the jacket and two in the trowsers, and both are covered with blood ; there are six shot holes in the waistcoat.] All these shot holes were made by the firing abovementioned.

Question from the Judge Advocate—What did you understand to be the object of these men in assembling together and attacking you and others of the British inhabitants, in the manner you have stated : what did they mean to do afterwards ?

Answer—I have lived for nine years in La Tortu on good terms with all my neighbours ; I don't know what they could have against me ; but they wanted to murder us all. I believe they wanted to kill all the loyal inhabitants, and take their property.

Q. from the same—Why do you call these men rebels ?

A.—I call them rebels because they neither fear God nor the Government, and set themselves up in opposition to the Government and wish to rule over those who are innocent of their designs.

Q. from the same—Look at the prisoners before the Court, and state whether you saw any, and which of them, among the assemblage of armed men who fired into your house on the night of the third November ?

A.—I cannot swear to any who were there that night, I was so

sick from my wounds, and unable to distinguish—by the word “sick” I mean faint from loss of blood.

Q. from the Court—Were there any other men in the house besides Walker and yourself, after you had sent your servant away ; and what became of Mr. North.

A.—Mr. North went up into the garret. Mrs. Fletcher’s boy went with my servant to the barracks.

Q. from the same—In what part of the body was Aaron Walker shot ?

A.—I cannot speak as to that, except from hearsay. I never saw his body after he was shot.

Q. from the same—You say you were wounded, but did not know it. Describe what sort of wounds they were you then had, and whereabouts, and by what given ?

A.—The wounds were all by balls,—there were four,—one on the right wrist, one on the left knee, and two on the left arm. These wounds I received before I was aware of it—my spirit was up and I did not feel them. A fifth wound was given from behind, which disabled me.

Q. from the same—Do you know in what manner the guns of the rebels were loaded ? If so, state the nature of the charge ?

A.—I do not know.

ROBERT NORTH, of the parish of St. Constant, farmer, being brought into Court, and the charge being read to him, he is duly sworn and states as follows :

On Saturday night, the third of November last, I and my wife and family, and Mr. Walker and his family, were endeavouring to take flight to Laprairie, to escape from the rebels whom we heard approaching very near, and could get no further than Mr. David Vitty’s house, as our horse fell down, owing to the badness of the roads.—When we got there, Vitty and his family were in bed, and got up to let us in. He made his man get up, and sent him to the other side of the river to get some volunteers, who were there, to come to our aid,

and got his guns ready. He told us to take courage, as we should be able to keep the house. I had already told Vitty that the rebels were approaching; we remained prepared to receive them, and in about twenty minutes they arrived, and demanded from us to open the door, at which they knocked. Vitty told them he would not open the door, and that if they had any business with him, they must come in day time. They said, that if he did not open the door, they would break it open. Vitty told them, that if they broke open the door, we were well armed, and would fire upon the first who dared to come in.— They repeatedly told us to open the door. Vitty as often refused, and said, that if they broke open the door, he would fire. They then broke the outside door open, and as soon as they broke open the inside door, Vitty fired. I cannot say how they broke the door; they made a great deal of noise, as if with a piece of wood. When Vitty fired, Mr. Walker stepped into the next room, and I retreated into the passage. I did not see Vitty any more after that until the fray was over, when I saw him up stairs, wounded, and helped to carry him down; but I saw Mr. Walker, who was at the end of the passage. Immediately upon Vitty's firing, I heard a great number of shots, twenty or more, fired into the house in every direction. I did not see Walker any more after I saw him at the end of the passage, about midway of the firing. I was in the kitchen with my wife, and others; I told them to lie down on the floor, to avoid the balls, which they did, and I was with them; we remained so until we heard an alarm that Mr. Walker was shot, or killed, and then got my wife and children together, and we went up stairs, as we heard the rebels advancing into the house; we remained up stairs until Vitty's servant girl came up stairs, with a candle in her hand, accompanied by a man who made us all prisoners, and ordered us to go down stairs; I asked him, if he would kill us if we came down stairs, he said no, but they were going to set the house on fire; I followed them down stairs, and Mr. Vitty still remained up stairs, and while I was speaking at the

foot of the stairs, my wife called out to me that they were ill treating her, and threatening her life, to make her help to bring Vitty down stairs, and she asked me if I would not go and help to bring Vitty down stairs, as she was not able to do it; I went with another man and fetched him down to the kitchen. Two men of the rebel party then took me, one by each arm, out of the house, and made me prisoner. I did not see Walker after he had received his wound. They took me into the road, and I was delivered to a man they called captain, who had a sword at his side. The captain ordered me to be tied. We then left the house, and went about a mile towards Laprairie, with many others, I suppose the whole party, stopping at every house and getting the men to join them, saying to me that they did not wish to hurt us, but that we must join them, and every man must stand by them until he was killed. I was in the front. The prisoners taken by the rebel party, and who were with me, were Mr. Hood, Mr. Bradford, and a servant man, who, I believe, stays with him—we were four. When we had gone about a mile towards Laprairie, we crossed the La Tortu River. Two men on horseback then approached the party, and we turned about and went up. I understood, from what they were saying, that these men told them the troops were approaching. We then went into a barn belonging to one Giroux, to shelter ourselves, and remained about half an hour. We heard the troops coming up on the other side of the river, we heard the sound of the horses' feet, and all among the rebels who had guns were placed on top of the hill. We four prisoners, who had sheltered ourselves under some straw, were left alone by the rebels, and we escaped. This was about twelve o'clock on the night of the third November last.

Question from the Judge Advocate.—What did you understand to be the object of these men in attacking Vitty's house, and taking you and others prisoners? What did they mean to do afterwards?

A.—I believe their object was to take the men and arms, and go

to Napierville and take the barracks. We understood that they were going to fight against the British troops.

Q. from the same.—Why do you call these men rebels?

A.—We call them rebels because they are against the British subjects, and wished to take their lives and properties, which they have done. I mean they are against the Crown, and against us for supporting the Crown.

Q. from the same.—Look at the prisoners before the Court, and state whether you saw any, and which of them, among the assemblage of armed men, who fired into Vitty's house, on the night of the third of November last, or who took you prisoner on that night; and state how those, whom you so saw, were employed?

A.—I saw Charles Sanguinet in the road when I was brought out a prisoner. He was among the party of armed men, and appeared to have a great command among them. He appeared to be very busy in front of the men, and concerned as a leader. I know Joseph Robert by sight; I did not see him, to know him, there that night.

Q. from the same.—Who was the man who was called captain. If you do not know his name, state of what stature and size he was?

A.—He was a very low sized man. I did not see his face. I did not recognize him so as to name him. He had a sword by his side.

Q. from the Court.—When you heard the troops pass by the barn, did you hear any firing?

A.—We did hear some odd shots, but the troops were on the other side of the river.

Q. from the same.—Do you mean to say that the first shot was fired from Vitty's house?

A.—I can't say I heard any before I heard Mr. Vitty's gun go off. There was a great deal of confusion at the time.

Q. from the same.—After you had crossed the River La Tortu, in the manner you have stated, was the party who held you prisoner joined by any other body of men?

A.—I can't say. I believe they were, as the party appeared more numerous when we got to the barn.

Q. from the same.—Did you see Mr. Vitty fire first?

A.—I saw him fire, and I did not hear a gun shot before I heard his.

Q. from the prisoners—Was the night of the third of November dark, and was it not raining very much?

A.—It was raining, by times, very much, but it was not very dark. People could distinguish each other very well, at least I could.

JOHN HOOD, of the parish of St. Philippe, engineer, being called into Court, and the charge read to him, he is duly sworn and states as follows:

On the third of November last, about nine in the evening, I was taken prisoner by about twelve armed men, at my own house, at St. Philippe. They were variously armed with guns, swords, and pikes. They allowed me to ride on horseback with another. The prisoner, Francois Xavier Hamelin, otherwise called Petit Hamelin, led the horse. One Rousseau, also a prisoner, was on horseback with me. The party, with myself as prisoner, went down the road until we arrived at Mr. Charles Bradford's, the first loyal inhabitant, whom they made prisoner, and took his gun. They continued calling at all the houses on the road, and made prisoners of the loyalists; they called at the houses of the habitans, and those who would not go, had to go—others went voluntarily. I mean to say, that they made prisoners of the loyalists, and made the French join them. When we got to Aaron Walker's house, we found it empty. The prisoner, Hamelin, entered Walker's house, with a number more, and brought out his musket and volunteer accoutrements, and divided them among themselves,—one man put on one part, and another another,—an old man put on the pouch. Arrived at a bridge that crosses the River La Tortu, they held a consultation, and those who had not arms, received them. These arms were plundered at all the houses on the road. We went

on till we got opposite the gate of Mr. Vitty's house, when the prisoner, Joseph Robert, who was called Captain Robert from being a captain of militia, ordered the men to advance upon the house and order the door to be opened, and if it was not opened, to shoot and set on fire, (*liver et flamber,*) from which I understood that he meant to shoot, and then burn the house. Immediately after the advance of these men, I heard about twenty shots fired, and then I, with the other prisoners and our guard, retreated to the barn. The persons whom I distinctly saw, and swear to having advanced on the house, were Charles Sanguinet, Ambroise Sanguinet, Theophile Robert, and Hamelin. They were all armed with guns. As I was near the barn, I did not see who fired, and who did not. One Jacques Robert, (but not the prisoner before the Court) brother to Joseph Robert, said, in the name of God, will they never stop firing. We were then brought forward, and I saw North brought out of Vitty's house, a prisoner. The women in Vitty's house were directed to go to a neighbouring house. Among them I saw Mrs. Fletcher, a girl named Anne, and Mr. Vitty's servant girl, and another I did not know. I saw four women altogether. They came out screaming. When we got into order to march away again, Charles Sanguinet, Ambroise Sanguinet, and Hamelin boasted, among themselves, which had been the bravest in shooting through the door. We then went towards Laprairie. I remarked to Joseph Robert, who was commanding in chief the band, that he had made a good beginning of the Sabbath morning by shooting my countryman, and asked if he intended to shoot us all. He said no. I was ordered to go and interpret for them to an old Scotchman named Stevenson, and tell him to give up his arms, which he did. We moved on without interruption for about half a mile, when we were stopped by a man on horseback, who apparently brought them some intelligence, and they were ordered, by a number of voices, to retreat and cross the river, which we did. We rested about half an hour on the other side of the river, and we heard the cavalry ad-

vance on the other bank, and heard three or four shots fired, and the command "Halt dress." We then all run different ways—I to the barracks. The last man I saw rallying his company, and calling upon them to attack the Hussars, was Jacques Longtin, the prisoner before the Court.

Question from the Judge Advocate—What, to the best of your knowledge, was the number of the rebel party at Vitty's house ?

A.—Betwixt forty and fifty in number, to the best of my knowledge. All who were not prisoners were armed, but in different ways.

Q. from the same—What did you understand to be the object of these men in attacking Vitty's house, and making you and others prisoners ? What did they mean to do afterwards ?

A.—They told me it was to overturn the British Government, that I should have the pleasure of seeing the Laprairie barracks on fire, and the steamboat Princess Victoria burned. I mean the rebel party among whom the prisoners were, told me so. I cannot say that any of the prisoners before the Court said so.

Q. from the same—Who first fired at Vitty's house ; those who were in the house, or the rebel party ?

A.—I could not see, because the house door does not face where I stood, but from the faint sound of a musket, I think it came from the house.

Q. from the same—After you crossed the river, was the party who held you prisoner joined by any other party ?

A.—They were joined by a party consisting of the people who lived on the opposite bank. They were armed in the same manner as the first party.

Q. from the same.—Of what party had the prisoner, Jacques Longtin, the command.

A.—I cannot tell what number of men he was commanding, but it appeared from his being on the other side of the river, that he com-

manded a party on that side. He was crying out and trying to rally his men to act against the cavalry. I did not pay attention whether he had a sword on or not.

Q. from the same.—Look at the prisoners before the Court, and declare whether you saw any others than those you have already named, at any time on the night of the third, or morning of the fourth of November.

A.—No, I saw no others.

Q. from the same—How broad is the River La Tortu opposite Vitty's house, and state, to the best of your knowledge, whether the two parties which you have mentioned, were acting in concert and intelligence with each other?

A.—The river is about twenty feet broad, and eighteen inches deep, and fordable. The two shores are connected by a bridge. The two parties were certainly acting in concert with each other. Consultations were held upon the bridge.

Four o'clock, P. M.—The Court is adjourned till ten o'clock, A. M. to-morrow.

Examination of JOHN HOOD, continued.

Question from the Court—Does Captain Joseph Robert talk English?

A.—I expect not. I never heard him.

Q. from all the prisoners—Do you understand the French language?

A.—I do not speak it correctly, but I understand it in common conversation.

Q. from the same—Was not the night of the third of November extremely dark, and was it not raining very hard?

A.—It was very dark, and raining in showers. In the intervals between the showers, it was not very dark.

CHARLES BRADFORD, of St. Philippe, farmer, being called into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the Judge Advocate—Were you, on the night of the third of November last, at the house of one David Vitty, of St. Constant; if yea, state the circumstances under which you were there, and what passed?

Answer—I was taken prisoner from my house down to Vitty's house; I was taken prisoner by Captain Robert's orders—I mean Joseph Robert, the prisoner before the Court, who commanded the party to stop when they got to Vitty's house—I mean by "they," the armed party by whom I was taken prisoner. Vitty was asked to open the door, but refused—upon which Joseph Robert gave orders to fire and force the door; they immediately commenced firing; I asked leave to go into the house and was refused. This was, I think, about eleven o'clock at night.

Q. from the same—What was the avowed object of this body of armed men in taking prisoners and attacking Vitty's house—what did they mean to do afterwards?

A.—To declare their independence, and destroy the British Constitution.

Q. from the same—Who fired first at Vitty's house—those inside the house or the party outside?

A.—The party outside the house.

Q. from the same—Look at the prisoners before the Court, and declare whether you saw any others besides Captain Joseph Robert, at any time on the night of the third or morning of the fourth November last, and where?

A.—I saw Ambrose Sanguinet at Vitty's house, armed with a gun, on the night of the third, and Charles Sanguinet, on the same night and at the same place, armed with a gun; Francois Xavier Hamelin, otherwise called Petit Hamelin, was there also, armed with a gun that he had taken from Aaron Walker's house, the door of which he had forced open; it was a military musket. I also saw Theophile Robert, at Vitty's house on the same night, armed with a gun. I saw Jacques

Longtin afterwards, when we had left Vitty's house, trying to rally his party round a pea straw stack, on the opposite side of the river from Vitty's house, near a barn. All these men, with Captain Joseph Robert, on horseback with a drawn sword, commanding them, were among the party of armed men who attacked Vitty's house, with the exception of Jacques Longtin, whom I saw afterwards as above stated.

Q. from the same—Was the party commanded by Jacques Longtin, acting in concert and intelligence with the party by which Vitty's house was attacked, and for what purpose was Jacques Longtin rallying his party ?

A.—Yes, they were acting in concert ; I do not know that Jacques Longtin commanded the party, but he was rallying his party at the time the Hussars were coming from Laprairie.

Q. from the same—Did you see the body of Aaron Walker at any time after the night of the third November ; if so, state when and where, and by what means he appeared to have met his death ?

A.—I saw the body at Laprairie on the fifth or sixth November ; I rather think it was on Tuesday, the sixth ; he appeared to have met his death by a musket ball received in the breast.

Q. from the Court—Can you state how long Joseph Robert has been a Captain of Militia ?

A.—I cannot say how long ; I have lived at La Tortu four years, and he has held that rank all the time ; I belong to his company.

Q. from the same—Did you hear Vitty or any person crying out for mercy from within the house, during the time the firing was going on ?

A.—No, I could not hear anything of that kind ; I was too far from the house.

Q. from the same—Did you, after the firing at Vitty's house had ceased, hear any conversation by any, and which, of the prisoners before the Court, as to which had been most active and brave ?

A.—Charles Sanguinet said it was good for the old fellow—he had no business to fire ; when North came out, he said Vitty was killed,

and Sanguinet spoke of him ; some were exulting and others regretting that the murder had been committed ; I cannot say that I heard any thing more than I have stated from the prisoners.

Q. from the same—State what description of house it was in which Walker's murder took place ; and did you see any of the prisoners enter the house after the firing had ceased ?

A.—It was a common Canadian wooden house, clapboarded ; I did not see any of the prisoners enter the house after the firing had ceased.

Q. from the two Sanguinets, Hamelin, and Theophile Robert—Was not the night of the third November dark and rainy ?

A.—It was not what I call a dark night—I could distinguish persons at four or five yards off ; it rained in showers.

Q. from Jacques Longtin—Did you, when you spoke of me in your examination in chief, mean to swear that I was in command of a party on the third November instant, on the side of the river, opposite to Vitty's house, or elsewhere ?

A.—When the Hussars came up, you were rallying a party on the side of the river, opposite to Vitty's house ; I do not know whether you commanded the party, but the party was acting in concert with the party that fired into Vitty's house.

ELEANOR NORTH, wife of Robert North, of St. Constant, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from the Judge Advocate—Were you in the house of David Vitty, of St. Constant, on the night of the third November last ; if so, state if any person, and who, was killed then and there, and by what means ?

A.—I was ; Aaron Walker was killed there that night by a ball from a gun, fired from outside the house, by a person among a party of the rebels ; the wound was received in the right breast. This occurred on the night of the third of November—I believe between eleven and twelve o'clock. Mr. Vitty was wounded, but not killed.

Q. from the same—Who was in Vitty's house at the time this occurred ?

A.—My husband (Mr. North), and five children, Mrs. Walker, her servant girl, and four children, and Mrs. Fletcher ; I think these were all ; Mr. and Mrs. Vitty were there themselves.

Q. from the same—Did you recognize among the rebel party any of the prisoners before the Court ; if yea, state which of them, and how they were employed ?

A.—I recognized among the rebel party at Vitty's house, on the night of the third November last, Joseph Robert, with a sword by his side—he was in the house when I saw him. I did not distinguish any others. When I saw Joseph Robert, he was standing by the door where Walker was killed.

Q. from the same—How soon after Walker was shot, did you see his body, and where ?

A.—He was lying on the floor where he fell when shot ; it was about fifteen or twenty minutes after he was shot that I saw him.

Q. from the Court—Did you see Vitty after he was wounded ; if you did, say when, and under what circumstances ?

A.—I saw him, after he was wounded, crawling on his hands and feet up stairs ; I saw him also when they dragged him down stairs ; one Lanctot put a spear to my breast and ordered me to bring Vitty down stairs ; I could not do it, and I called Mr. North and one St. Germain, who came and did it for me ; they left him at the foot of the stairs, and were going to tie him, but desisted, upon his begging them not to do so, on account of his wounds. Lanctot put a spear to the breast of two of my children, and made them beg their lives.

MARGARET PIRNIE, of Laprairie, spinster, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from the Judge Advocate—Were you in the house of David Vitty, of St. Constant, on the night of the third November last ;

if so, state if any person, and who, was killed then and there, and by what means ?

Answer—I was ; Aaron Walker was killed there that night ; he was killed by a gun shot ; the shot came from the outside of the house—from the party of persons gathered together in arms against us ; he was wounded through the breast—I am not perfectly sure which side. It was between eleven and twelve o'clock at night that this occurred. I saw Walker about two minutes after he had been shot.

Q. from the same—Where was the first shot fired from—from the inside or the outside of the house ?

A.—From the rebels, outside the house.

Q. from the same—Do you recognize any of the prisoners before the Court, as having been among the armed party at Vitty's house, on the night of the third November last ?

A.—I saw, among the armed party at Vitty's, on the night of the third November, Joseph Robert ; he was on a grey horse, armed with a sword ; I heard one of the party call him captain, and he answered to that name. Ambroise Sanguinet—I am not sure whether he was armed, I was so confused at the time ; he was standing on the step of the outside door at Vitty's house. I do not recognize any others.

ANNE ARMAND, of St. Remi, spinster, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from the Judge Advocate—Were you in the house of David Vitty, of St. Constant, on the night of the third of November last ; if so, state if any person, and who, was killed there that night, and by what means ?

Answer—I was ; Aaron Walker was killed there that night, between eleven and twelve o'clock ; he was shot ; the shot came from outside the house, in at the door.

Q. from the same—Who fired the first shot ?

A.—I believe it was the party outside the house—I am not certain.

Q. from the same—Which among the prisoners before the Court do you recognize, as having been among the rebel party at Vitty's house on the night of the third November last ?

A.—I saw among the party at Vitty's house, on the third November last, Joseph Robert ; I saw him in Vitty's kitchen with a spear in his hand. Ambroise Sanguinet, in the same place ; I did not see any arms on him. Charles Sanguinet, also in the kitchen ; I did not perceive that he had any arms. I did not see any of the others there that night.

A.—Did you hear Joseph Robert, while armed with a spear, threaten any body, and whom, and how ?

A.— He was demanding of Mrs. Vitty to show him the way to the cellar, but he did not threaten her.

Q. from Joseph Robert—In what part of Vitty's house were you, when you heard the first shot fired on the night of the third November last ?

A.—I was in Mrs. Vitty's bed-room, at the west end of the house—neither at the front nor the back.

Q. from the Court—What light was there in the house when the rebels entered it ?

A.—To my knowledge, there were two or three candles lighted.

SARAH BROWN, widow of Aaron Walker, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from the Judge Advocate—Were you in the house of David Vitty, of St. Constant, on the night of the third November last ; if so, state if any person, and who, was killed then and there, and by what means ?

A.—I was ; my husband, Aaron Walker, was killed there that night, by a ball that entered his right breast ; the shot came from the outer door ; I did not see the person who fired it ; it came from some one among a party of armed men outside the house. It occurred, as

near as I can recollect, a little after eleven. I saw my husband when he fell ; he fell into my arms ; he died instantly.

Q. from the same—Who fired the first shot—those inside or outside the house ?

A.—The first shot I heard was from the outside, and came through the end window of Vitty's room, and passed over my head. A great many shots were fired ; I cannot say how many. It lasted about ten minutes.

Q. from the same—Were any menaces made to you, or did you experience any ill-treatment from any of the party, immediately or soon after your husband's death ; if yea, declare the same ?

A.—Yes ; as soon as my husband fell, a great number of armed men came in and trampled over me and the children ; they took Walker's gun, and then went into an inner room ; they then returned. I was sitting by the stove with my child in my arms ; one of them opened the stove door, and the other presented his bayonet, and made me kneel down and clasp my hands, but after I had done so, one of them said, "*c'est bon.*" There was one who was a neighbour, to whom I spoke and said, "you have murdered a man who never injured you ;" he replied, "it is good for him and for you too." His name is Francois St. Germain, the father. He pushed me on saying this. I cannot say why they opened the stove door ; the man who did it pushed the baby with his foot, at the time he opened the stove ; it was an infant of nine months old. The man who pushed the infant was Joseph Robert, the prisoner before the Court.

Q. from the same—Which among the prisoners before the Court do you recognize, as having been among the party of armed men at Vitty's house on the night of the third November last ?

A.—I do not recognize any but Joseph Robert as having been among the party at Vitty's house on the third November last.

Q. from Joseph Robert—Do you mean to say that the person who you say pushed the child, did so intentionally, or accidentally, in passing before it to open the stove door ?

A.—I cannot say.

Q. from the Court—Where was the child at the time?

A.—We were both on the floor; the infant was lying on my left arm.

LOUIS HAMELIN, of the parish of St. Philippe, farmer, being called into Court, and the charge read to him, is duly sworn, and states as follows :—

Question from the Judge Advocate—Did you see any, and which, of the prisoners before the Court, on the night of the third of November last, and where; and relate fully what passed between you and such of the prisoners as you then saw?

Answer—I saw Ambroise Sanguinet the night of the third of November last; I do not remember where; he was armed with a gun; I heard him say that he had a side view of Mr. Walker, near the door, and in that position fired at him. I heard him disputing with one Bachant, which of the two had killed Walker, each declaring he did it; it was then that Ambroise Sanguinet described how he had shot Walker as above stated.

Q. from the same—Were you commanded by any, and which, of the prisoners, on the night of the third of November last, to march?

A.—The prisoner, Joseph Robert, passed by my house on Saturday, the third November last; the sun was not very high; I do not know exactly the hour. He told me to hold myself ready for the night; he is Captain of Militia; I am in his company. When night came on, I went to bed, and Bachant came and made me get up, and ordered me to go; I went and marched behind. I do not know how many there were, but there was a great number.

ASA T. ALEXANDER, of Laprairie, Doctor of Medicine, being called into Court, and the charge read to him, is duly sworn, and states as follows :—

Q. from the Judge Advocate—Did you, at any time on or after the third of November last, examine, professionally, the body of one

Aaron Walker, deceased. If yea, state when and where, and what, to the best of your knowledge, was the cause of his death ?

A.—On the morning of the fourth of November last, at five in the morning, I was called to examine David Vitty, of St. Constant, who was badly wounded. I arrived at his house at about six o'clock. I there found the body of Aaron Walker, lying on the floor, dead. I examined the wound sufficiently to ascertain that it was a gun shot wound, and had struck him on the right breast without passing through, but had remained in the body. The ball must have penetrated the right lung, and must have caused instant death by injuring the pulmonary arteries. The wound appeared to have been recently inflicted ; there was a great deal of blood on the floor, and his clothes were saturated with blood. There was no other wound upon him.

Q. from the same—Where, and of what nature, were David Vitty's wounds ?

A.—He received four different wounds. There might have been others so slight that I did not examine them—I only dressed four.—They were gun shot wounds. I saw one or two bullets picked up in the room ; and the windows and doors were riddled with bullets.

Q. from all the prisoners.—You say the ball entered Walker's right breast, how, if you only saw the external orifice, can you state that the ball penetrated the lungs ?

A.—Because I examined the wound sufficiently to satisfy myself on this subject, expecting to be called as a witness.

Q. from the same—Did you open the body, or make use of a probe, or any other instrument, with a view to ascertain the direction and extent of the wound ?

A.—I did not open the body, but examined the wound with a probe, sufficiently to satisfy myself.

FRANCOIS ST. DENIS, of the parish of St. Philippe, farmer, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the Judge Advocate—Look at the prisoners before the Court, and say if you saw any, and which of them, on the night of the third of November last, when, where, and how employed?

A.—I saw Joseph Robert on the road to Mr. Aaron Walker's; I did not see him armed; he was on horseback. I saw Ambroise Sanguinet, a short time before, on the same road; he was walking, with others, and armed with a gun. I saw Charles Sanguinet on the same road, a league and a half above Mr. Walker's; he was armed with a gun. I saw Francois Xavier Hamelin on the same road, at Mr. Rousseau's house; he was with the brigade; I did not see him armed; many of the brigade were armed. I saw Theophile Robert in the high road, opposite Mr. Pinsonneau's house; I cannot swear that he was armed; he was also with the brigade. I saw Jacques Longtin on the other side of the River La Tortu, when I escaped from the brigade; he was with another brigade; I did not see him armed; this occurred at about ten o'clock at night. I was taken prisoner on my road home from Montreal, at about half past seven; I was taken by the party of which I have first spoken; I cannot name the persons who took me. I escaped at about eleven or twelve o'clock; it was then I saw Jacques Longtin.

Q. from the same—Did you, on the night of the third, hear any shots fired at the house of David Vitty, in the parish of St. Constant?

A.—Yes, several. I can't say how many.

Q. from the same—Were any persons, beside yourself, made prisoners by the party you met. If yea, state their names?

A.—Yes: Eugene Rousseau, John Hood, and Charles Bradford. I did not see any others.

Q. from the same—What did you understand to be the intention of these armed parties; what was their ultimate object?

A.—I do not know what they intended to do. I understood that they wanted to take Laprairie—they told us so.

Q. from the prisoner Jacques Longtin—When you saw me, as you assert, with a brigade, do you intend to say that I appeared to have any command ?

A.—No, you had no command, to my knowledge.

Q. from the same—Had I held any command, would you not have perceived it ?

A.—Yes, I should have perceived it, as I marched about a mile with the brigade before I made my escape ; but I did not see that you had any command.

Q. from the Court—Did any alarm take place in the brigade you were marching with, before you made your escape ?

A.—Not to my knowledge.

BASILE ROY, of the parish of St. Philippe, day-labourer, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Q. from the Judge Advocate—Did you see any, and which of the prisoners before the Court, on the night of the third of November last, and where, and relate fully what passed between you and such of the prisoners as you then saw ?

A.—I saw Joseph Robert on the night of the third of November last, at Vitty's house. I saw Ambroise Sanguinet the same night, on the other side, from Vitty's house, of the River La Tortu, armed with a gun. I also saw Charles Sanguinet, before arriving at Vitty's house, armed with a gun. I saw Petit Hamelin in the upper part of La Tortu ; I saw him leading a horse on which was one Rousseau, a tavern keeper ; Rousseau was a prisoner with Mr. Hood. All the prisoners whom I have mentioned were with a party variously armed.

Q. from the same—Were you commanded to march by any, and which, of the prisoners that night.

A.—I was commanded to march, not by any of the prisoners, but by Constant Bachant. He was in the same party with the prisoners whom I have named.

It being four o'clock, P. M., the Court adjourned until to-morrow morning, at 10 A. M.

FOURTH DAY, 5th January, 1839.

The Court meets pursuant to adjournment. Present the same members as yesterday.

Examination of Basile Roy, continued.

Q. from the same—Had you any, and what conversation with Ambroise Sanguinet, on the night of the third, after the firing at Vitty's house ?

A.—Yes, I had a conversation with him that night. He said that he had seen a man in Vitty's house, and had reached round the door to shoot at him, and as he thought had killed him.

Q. from the same—Did you see either of the prisoners whom you have named, at Vitty's house, on the night of the third of November.

A.—Joseph Robert is the only one of those whom I have named, that I saw at Vitty's house.

RICHARD BOYCE, of the parish of St. Constant, farmer, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Q. from the Judge Advocate—Look at the prisoners before the Court, and declare if you saw them, or any of them, on the night of the third November last, when, where, and how employed.

A.—I saw Pascal Pinsonneau on the night of the third November, at about ten o'clock. He came to my house, in company with a body of about two hundred armed men ; he had a weapon in his hand—I cannot say what it was ; he told me to open the door—I did so, and he took me prisoner, undressed as I was ; he asked me for my fire arms, I told him I had none. I was taken to the next neighbour's, and thence conducted, in the direction of Laparairie, about a mile and a half down the road, to a house directly opposite David Vitty's house. There one

Lanctot, one of the party, proposed to let me go, but Pascal Pinsonneau would not allow it. While we were at Lanctot's house, the firing commenced at Vitty's house, and the captain of the gang that held me prisoner, directed all those with guns to go there. It required about three minutes to get there—about fifteen yards. It was further to go by the bridge, but they forded the river. A good many went over; I should think about thirty or forty of them. I do not know who the captain of the gang was. I think I should know him if I saw him. The firing at Vitty's house may have continued about twenty minutes, I cannot say exactly. They were firing in every direction all around the house. They took me down about two miles further, when two men were sent in advance towards St. Pie, to ascertain, as I understood from the party, whether the company was coming from that place,—I mean another party of the rebels that they were expecting,—and shortly after this, I made my escape. I saw Jacques Longtin on the same night, with a weapon in his hand,—I believe it was a gun,—and a shot belt over his shoulder,—it was a white bag;—I suppose it contained powder and shot. He was with the armed party who came to my house and made me prisoner. He came up and spoke to me, and ordered me to march, saying, they were going to take Laprairie barracks. I remonstrated, and he said there was no danger, and that they would not have to fight, as there were ten thousand to meet them at La Tortu bridge. He told me, also, that they expected the Yankees in that night. I understood that they wanted to take Laprairie barracks, and to have a Government of their own choosing. I did not see that Pascal Pinsonneau exercised any authority among them, any more than by what he did to me. I do not know that Jacques Longtin held any command, but he was running about very actively.

Q. from the Court—Did Pascal Pinsonneau cross the river when the firing took place?

A.—I did not see him.

ELIZABETH BOYCE, wife of Richard Boyce, of St. Constant, being

called into Court, and the charge read to her, is duly sworn and states as follows :

Question from the Judge Advocate.—Look at the prisoners before the Court, and declare if you saw them, or any of them, on the night of the third of November, when, where, and how employed ?

A.—I saw Pascal Pinsonneau on the night of the third of November last, at my door, at La Tortu, in the parish of St. Constant.—He was with a body of armed men. I could not swear whether he was armed. He took my husband by one arm, and another man took him by the other, and took him prisoner. Some one in the party proposed not to take him prisoner, but Pascal Pinsonneau said every body must go. They said they would not hurt him or me. They took him away undressed, and I sent his clothes after him. I asked leave to take my child to his father, at the next neighbour's, where they had taken him. They let me do so, and when I got there, they were in the act of making the inmates prisoners in the same way. Some of the party, I cannot swear which, asked my husband for arms, while they were at our house, but we had none to give them. I heard but one gun discharged that night, but it was not till after my husband returned, and not in the direction of Vitty's house. When they came to our house, my husband asked them what they were going to do. They said that they were going to take Laprairie. I supposed from their appearance and what they said, that their intention was to destroy the Constitution. The neighbour to whose house my husband was taken, was Robert Boyce.

Q. from P. Pinsonneau—Did you hear any one of the party with whom you pretend you saw me, mention the Constitution, or the Government, in any way, on the third of November last ?

A.—I did not hear those words used, but from their declaration that they were going to take Laprairie, I concluded that they were going to destroy the Government.

ROBERT BOYCE, of St. Constant, farmer, being called into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the Judge Advocate—Look at the prisoners before the Court, and declare if you saw them, or any of them, on the night of the third of November, when, where, and how employed?

A.—I saw Pascal Pinsonneau on the night of third of November last. About ten or eleven o'clock that night, I heard a great noise. I got up and saw that it was caused by a body of men, some armed, about fifty or one hundred in number, at my next neighbour's, Richard Boyce. They came to my house, and ordered me to get up. Before I could do so, some one thrust something through the window, and threatened to force the door. I opened the door without lighting a candle.—My wife asked them what they wanted? they said they wanted me to come with them and take Laprairie barracks; my wife got betwixt me, saying, I should not go, and Pascal Pinsonneau cried out for two ropes to tie me and my wife; they made me a prisoner. In dressing myself I could not find my shoes, and Pascal Pinsonneau said, "damn him, take him away, he is well enough without shoes;" he said so in good English. They asked for a gun, but I had none. Some one asked for a pitchfork; I had a good one, but I would not tell them so; they took one pitchfork out of my barn. One man, I do not know who it was, said, "damn you, and your Queen, and your Government." We were then taken to one Lanctot's, opposite Vitty's. One of the captains was willing to let me and my comrade, Richard Boyce, go, but Pascal Pinsonneau said he would not let us go. On the first gun being fired at Vitty's house, some one cried out to all those who had guns to march there; all those with guns then went to Mr. Vitty's. I am not certain whether Pinsonneau went to Vitty's; I think he did not. They crossed the river, but not by the bridge. I can't say whether Pinsonneau had a gun or a spear in his hand, but he had one or the other. I saw Jacques Longtin with the body of armed men; he had a white shot bag on; I can't say whether he had a gun or a spear, but he had one or the other; he pushed me on and said, "*marche donc.*" Pascal Pin-

sonneau seemed to hold some command in the party. The bag which I called a shot bag, was made of white cloth.

Q. from the Court—Are you quite certain that you saw Pascal Pinsonneau, and that he was the man who said “Damn him, take him away, he is well enough without his shoes,” and that he said this in English.

A.—Yes, I am positive that I saw him, and that he was the man who said so.

Q. from the same—Were you personally acquainted with Pascal Pinsonneau before the third of November ?

A.—I had been acquainted with him for seven years. I had occasionally spoken to him in English, and he sometimes answered in English.

Q. from the same—Did they bring the ropes with them with which they threatened to tie you ?

A.—Yes, they did.

Q. from the same,—Does Pascal Pinsonneau speak English tolerably well ?

A.—Yes.

Q. from the same.—Do you know, or did you hear, who gave the command to the men with arms to cross over to Vitty’s house ?

A.—I do not know who it was.

Q. from Pascal Pinsonneau—Do you understand French ?

A.—I understand it a very little ; I cannot speak it at all.

Q. from the same—When one of the party cursed the Queen and the Government, as you said, did he speak in French ?

A.—No, he spoke in English.

The Judge Advocates declare they have no evidence to produce against Jacques Robert and Joseph Longtin, two of the prisoners before the Court, they having been mistaken for other men of the same name.

The prosecution is here closed.

The prisoners apply for delay until Wednesday, the ninth instant, to prepare for their defence.

The Court is closed to decide on their request.

The Court is opened, and the prisoners are allowed until Tuesday, the eighth instant, at ten, A.M., to prepare for their defence.

Four o'clock, P.M.—The Court is adjourned until Tuesday morning, the eighth instant, at ten, A.M.

FIFTH DAY, 8th January, 1839, 10 o'clock, A.M.

The Court meets, pursuant to adjournment. Present, the same members as on the fifth instant.

The prisoners being called on to proceed with their defence, call the following witnesses :—

CLEMENCE ROBERT, of the parish of St. Philippe, spinster, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from Theophile Robert—Are you not the sister of the prisoner, Theophile Robert; where did he reside on the third November: is he married, and where did you see him on the said third of November?

Answer—I am his sister; he resided in the parish of St. Edouard on the third of November; he is married, and I saw him at his father's house, in the parish of St. Philippe, on that day, at about six o'clock in the evening.

Q. from the same—In what state did he appear to be when he arrived at your father's house?

A.—He arrived at our house on horseback, and appeared to be well. We asked him where he was going; he said he was running away from the parish of St. Edouard, in consequence of a general order having been given to rise (*marcher.*)

Q. from the same—Did he make use of the word “ patriots,” in speaking of the rising or *commuement de marcher* ?

A.—I cannot say whether he used that word ; I believe that he did.

Q. from the same—Did he remain at your house, and for what length of time ?

A.—Yes ; he went to bed, and remained there till ten o'clock at night, when a number of persons, armed with guns, sticks, and pitch-forks, came and ordered him to go, and threatened to kill him if he did not. They said that Missiskoui Bay was taken, and St. Johns and Chambly, and that those who refused to act, or hid themselves that night, would be found out after the troubles, and killed if they resisted. He then went with them. I saw he was very much troubled, and begged them not to take him—but they said all must go.

Q. from the same—Did those persons state that they had already been to his own house to find him ?

A.—I did not hear them say so ; I was asleep when they came in.

Q. from the same—Was my father's house visited by other parties in search of me and other males of the family on the same night ?

A.—Armed men were passing by the house throughout the night, and they frequently stopped at the house ; about two hours after my brother's departure, a very large body of armed men stopped at the house for that purpose ; one of them, Constant Boyer, entered the house and searched it.

Q. from the same—When did I return to the house ?

A.—Between three and four o'clock in the morning ; the people were still passing downwards towards Laprairie when my brother returned.

Q. from the same—Did he remain the rest of that night ; and where did he go in the morning ?

A.—He went to bed as soon as he came home, at about three and four o'clock in the morning ; in the forenoon the same morning, he went to his own house.

Q. from the same—Did he take any part in the subsequent troubles ?

A.—No ; he remained quiet at home, to the best of my knowledge.

Q. from the same—What is his disposition ?

A.—He is of a quiet and peaceable disposition.

Q. from the same—Was he armed with any weapon when he went out or when he returned ?

A.—When he first came to the house, he had no arms ; when he came back, I am unable to say whether he was armed or not ; but he had no arms when he left the house the second time.

Q. from the Judge Advocate—Was your father, Thomas Robert, commanded to march ?

A.—Yes ; I cannot say whether he went or not.

Q. from the same—What is the distance between your father's house and David Vitty's ?

A.—About three quarters of a league.

Q. from the Court—Did you know any of the individuals among the different armed parties which came to look for your brother ? if so, say if any of the prisoners before the Court were there ?

A.—I did not see any of the prisoners before the Court among the armed men who came that night.

FRANCOIS DEMEULE, of St. Philippe, farmer, being called into Court, and the charge read to him, is duly sworn, and states as follows :

Question from Joseph Robert—Do you know Joseph Robert, since when, and what is his disposition ?

Answer—I have known him about twelve years ; he is an honest man of mild disposition—weak-minded, like the habitans in general. He is Captain of Militia in our *arrondissement*.

Q. from the same—Is he not a man of very limited powers of mind ?

A.—Yes, he is a man you may do what you like with.

Q. from the same—Do you not know that for a month previous to the third of November, the prisoner was in a very feeble state of health ?

A.—I did not see him, and I cannot say.

Q. from P. Pinsonneau—Do you know Pascal Pinsonneau, and does he speak English ?

A.—Yes ; he does not speak English ; a pedlar came along, and Pinsonneau's mother wanting to buy some articles, Pinsonneau could not understand the price when stated in English.

Q. from the same—Had you not a conversation with him, immediately preceding the third of November, with regard to political troubles, and what did he say to you ?

A.—I had. He said the refugees in the United States were scoundrels, who went there and found others.

Q. from the same—Did he mention anything to you with regard to his own intentions, if troubles should arise ?

A.—He said he should never obey the orders of such scoundrels.

Q. from the same—Are you not aware that Pinsonneau surrendered himself as a prisoner to the authorities, when he heard from you that there were reports against him ?

A.—I saw him at his mother's house on Sunday, and she told him they were looking after him to make him prisoner, whereupon he said he would surrender himself, and went to the manor house and surrendered himself to Captain L'Estrange of the 71st Regiment, and has been a prisoner ever since.

Q. from all the prisoners—Do you not know that on the third of November, a band of armed men entered almost every house in your parish, and forced the males, under threats of death, to march with them towards Laprairie ?

A.—A body of armed men visited every house in the parish ; they came to my house, to the number of about forty, and said, that there were orders for every one to march, and those who refused would be tied and shot.

Q. from Pinsonneau—Do you know whether Pinsonneau stayed at his own house during the subsequent troubles, and what he was doing ?

A.—He stayed about half a league from me ; I saw him several times at his father's house ; when the volunteers took Captain Robert, Pinsonneau appeared among them without any apparent apprehension.

Q. from Theophile Robert—Do you know Theophile Robert, and did you see him on the third of November, at what hour, and where ?

A.—I know him ; about one or two o'clock in the night between the third and fourth of November, I had escaped with my family into the woods, and was coming to my house for some clothing, when I met Theophile Robert with three or four others ; I thought I was going to be made prisoner, but Theophile Robert said, "It is I." He said, "What a pity ; I heard some shots fired, and I think some one is killed."

Q. from the same—Did he surrender himself voluntarily or not ?

A.—He told me he was going to do so ; I don't know whether he did or not. A few days afterwards, I saw him a prisoner at St. Constant.

Q. from François Xavier Hamelin—Do you know Francois Xavier Hamelin ; what is his character and disposition ; and to what political party were he and his family reputed to belong ?

A.—I know him ; I have always thought him a peaceable man, to the best of my knowledge ; his family all belong to the Government party ; I believe that unless he had been compelled by force to act with the rebels, he would not have done so.

Q. from all the prisoners—Have you seen any violence committed, and persons forced to march against their will, during the last troubles ?

A.—Yes ; I saw the rebels capture three quintals of flour, and took the drivers prisoners.

Q. from Jacques Longtin—Do you know Jacques Longtin ; what is his character and disposition ?

A.—I know him ; he is a peaceable man ; I think he would not have marched but by compulsion.

Q. from the Judge Advocate--Were you, at any time between the first and tenth of November last, at Napierville ; if yea, state how you were engaged there ;

A.--No, I was not.

Q. from the same--Did you march when ordered on the night of the third ?

A.--No, I ran away.

Q. from the same--Are you related to Pinsonneau, Joseph Robert, or Theophile Robert ?

A.--No.

Q. from the same--Can you speak English ?

A.--Very little.

Q. from the same--Can you swear that Pinsonneau cannot speak any English words ?

A.--I cannot ; he may be able to say a few words.

Q. from the same--Did Theophile Robert state to you, at what time he heard shots fired and thought some one was killed ?

A.--No, he did not state the hour.

EUGENE ROUSSEAU, of St. Philippe, tavern keeper, being called into Court, and the charge read to him, is duly sworn, and states as follows :--

Question from Hamelin--Were you, on the third of November last, made prisoner, and under what circumstances ?

Answer--I was made prisoner on that day, under the following circumstances :--At about ten at night, one Lefebvre entered my house ; he laid his pistol on the counter and said, give us drink and prepare to march ; I said I would not march ; Lefebvre then went out and submitted to the captain of the band, whether I should be made to go or not ; he said to the captain, make him go--if he does not go, tie him and give him a bullet. Cords were then brought to tie me ; before they did so, I dressed myself, and said I would go. They told me to take my arms ; I said I would not ; I asked to go

on horseback, and they ordered Francois Xavier Hamelin to bridle my horse and lead it with me on its back.

Q. from the same—What did I say to you at the time, and how did I lead the horse ?

A.—He said, I am forced like yourself ; I am sorry to be compelled to march myself ; but I hope we shall not catch any harm.

Q. from the same—From what passed upon that occasion, are you not of opinion that Hamelin was really a prisoner like yourself ?

A.—I cannot say that he was a prisoner ; when he took my horse, he was not armed in any way.

Q. from the same—Did he appear to have any authority, or to act in concert with Lefebvre ?

A.—He did not.

Q. from the same—How many were with Lefebvre when he took you prisoner ?

A.—Between thirty and forty.

Q. from Pascal Pinsonneau—Do you know Pascal Pinsonneau, and does he speak English ?

A.—I cannot say that he does, for I have had occasion to interpret for him twice within the last ten mouths ; the last time was a few days before he was taken.

Q. from the same—Who was the individual designated by Lefebvre by the denomination of captain ?

A.—It was Joseph Robert.

Q. from the Judge Advocate—Did the prisoner, Hamelin, enter the house of Aaron Walker, and take any, and what, arms from it ?

A.—He did not enter, for he did not let go my horse.

Q. from the same—Do you swear that Pinsonneau cannot speak some few words of English ?

A.—I cannot say that he does not know some words, for it is rare to meet a person who does not ; he might make use of such words

without understanding them. I do not know whether he did or not ; I never heard him speak English.

Q. from the Court—Did you see François Xavier Hamelin armed at any time during the night of the third to the fourth November last, and did he remain near you during the greater part of the time you were a prisoner ; if he did not, say when he left you, and under what circumstances ?

A.—No ; I did not see him armed when he left me ; I do not know how far we were from Vitty's house ; he was near me, from my house to within four or five arpents, I can't say exactly how far, from Vitty's house ; there he left me, and I did not see him afterwards.

Q. from the same—On what occasions did you interpret for Pinsonneau ?

A.—Last spring, when he returned from the United States, he wanted to tell one Moss, an American, where he came from, and I interpreted for him. On the last occasion he tried to speak English to some soldiers.

JOSEPH MOLL, parish priest of St. Edouard, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from Theophile Robert—Do you know Theophile Robert ; what is his moral character, and do you know whether he meddled with politics during and before the last troubles ?

A.—I do not know him by sight, but only by reputation ; he enjoys a good reputation and moral character. I know nothing as to whether he ever meddled with politics or not.

FLORENCE LONGTIN, of St. Constant, spinster, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from Joseph Robert—Do you know Joseph Robert ; what are his character and morals ?

Answer—I know him to be a good character and of a peaceable disposition.

Q. from Jacques Longtin—Is it to your knowledge, that a great number of armed men came to Jacques Longtin's on the third of November; if yea, say what they there did and said?

A.—Yes, it is to my knowledge, that about fifty armed men came there that night, with one Lefebvre at their head, at about ten o'clock. Lefebvre said, that Jacques Longtin must march, and that those who would not march would be shot; he showed a paper, which, he said, came from Dr. Nelson; he was armed with a pistol. They took my father, Jacques Longtin, away.

Q. from the same—Did you see them force other persons to march with them?

A.—No.

Q. from the same—Who commanded the party, and what title did he bear?

A.—Hubert Lefebvre commanded them, when at my father's house—they called him General.

Q. from the same—Was any violence committed opposite your house on the drivers of the carts?

A.—They took the horses from a cart that was passing by the house, and captured the driver.

Q. from the same—Before Rigoche Lefebvre took away Jacques Longtin, did he come to his house, and was he armed?

A.—He came about seven o'clock for the first time, and was armed with a pistol. Hubert Lefebvre and Rigoche Lefebvre are the same.

Q. from the same—After Jacques Longtin was taken away, did any other armed persons come to his house, at different times, and what did they say?

A.—Yes; after his departure, other bodies of armed men stopped at the house, and enquired if he was gone; they said, "take care

and don't lie—if your father is not gone, as you say, something will happen to you.”

Q. from the same—Is it to your knowledge, that Jacques Longtin meddled with politics before the troubles in November last ?

A.—No ; he never did, to my knowledge.

MARGARET FAILLE, wife of Francois Pinsonneau, and mother of the prisoner, Pascal Pinsonneau, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from Joseph Robert—Do you know Joseph Robert ; what is his character and disposition ?

Answer—I know him for a good man.

Q. from P. Pinsonneau—Is it within your knowledge that a great number of armed men stopped at your house on the third of November last ; at what o'clock, and what did they say and do there ?

A.—Yes ; about nine or ten o'clock they came there, and said that my son Pascal Pinsonneau must march with them ; he was in bed ; he rose and threw himself in tears at my feet, and said, that if he went, he would not hurt any one ; the General, Rigoche Lefebvre, said he must go, and they menaced him with death if he did not go ; he was thus forced to accompany them.

Q. from the same—Can Pascal Pinsonneau speak English ?

A.—No.

Q. from the same—After the third of November, was P. Pinsonneau quiet during the subsequent troubles, and how was he occupied ?

A.—Yes ; he was attending to his ordinary business, working on his land.

Q. from the same—Do you know if Pascal Pinsonneau surrendered himself a prisoner to the authorities, and when ?

A.—Yes, he did, about a month after the murder of Walker, on a Sunday.

Q. from Jacques Longtin—Do you know Jacques Longtin ; what is his character and disposition is he father of a family, and of how many children ?

A.—I know him for a good fellow (*bon garcon*) ; he is father of a family, and has twelve children.

Q. from the Judge Advocate—Did the party who took away Pascal Pinsonneau, tie him ?

A.—No.

Q. from the same—Can you speak English ?

A.—No, not a word.

VITAL ROBERT, of La Tortu, labourer, being called into Court, and the charge read to him, is duly sworn, and states as follows :—

Question from Joseph Robert—Do you know Joseph Robert ; what character does he enjoy in the parish ?

Answer—I know him ; he is Captain of Militia, a good man, and a peaceable character.

Q. from the same—Were you taken by a band of armed men on the third of November last, and where did they take you ?

A.—I was taken prisoner by a band of armed men, who conducted me to Captain Robert's house.

Q. from the same—Did you see Joseph Robert threatened by these armed men, and what did they do and say ?

A.—I heard Hubert Leblanc tell Joseph Robert, that if he refused to obey him, he had a weapon which he knew how to use.

Q. from the same—Did these armed men go to Joseph Robert's for the purpose of getting him too.

A.—I cannot say ; they went into his house ; I don't know what for.

Q. from the Court—Where did you hear Lefebvre threaten Joseph Robert, if he would not march ?

A.—In Joseph Robert's house.

Q. from the same—Are you related to either of the prisoners before the Court ?

A.—No.

CYPRIEN BOYER, of St. Philippe, farmer, being called into Court, and the charge read to him, is duly sworn, and states as follows :—

Question from Joseph Robert—Do you know Joseph Robert, and did you see him conducted by a band of armed men ; at what time, and was he armed ?

Answer—I know him ; he was taken along with the rest of us ; I saw him at his own house with a body of armed men ; he was not armed.

Q. from the same—Did you hear any one, and who, threaten Joseph Robert, and when ?

A.—Yes, Lefebvre told him that if he did not do his duty, he would send a ball into his body ; this was at Rousseau's house.

Q. from the same—Was this Lefebvre armed, and did he command a great number of persons then ?

A.—Yes, he was armed with a sword, pistol, and rifle ; there were some with him who were armed ; I do not know who they were.

Q. from the two Sanguinets—Do you know Ambroise and Charles Sanguinet ; what characters and dispositions did they enjoy in the parish ?

A.—They passed for good, honest fellows.

Four o'clock, P.M.—The Court is adjourned until to-morrow morning, at ten, A.M.

SIXTH DAY, 9th January, 1839, 10, A.M.

The Court meets pursuant to adjournment. Present, the same members as yesterday.

Examination of Cyprien Boyer continued.

Question from all the prisoners—Have you, to the best of your knowledge, ever seen either of the prisoners order or excite to revolt, about the third of November last ?

Answer—No.

Q. from Pinsonneau--Since when have you known Pinsonneau, and say what was his conduct, immediately before the troubles, in November last ?

A.—I have known him for the last twenty years. His conduct was that of a just and honest man.

Q. from the Judge Advocate--Were you at David Vitty's house on the night of the third, with the party who attacked it, and by whom Walker was killed ; if yea, how were you engaged there ?

A.—I was not there ; I was four houses further on.

Q. from the same--Were you with any party of armed men, on the night of the third November last, and where ?

A.—No, I was not.

Q. from the Court--What were you doing four doors further on than Vitty's house ?

A.—We were waiting for the others, who were behind us. I heard no shots fired. We were waiting for our Major, Rigoche Lefebvre. I was not armed.

MARGARET PINSONNEAU, of St. Constant, spinster, sister to the prisoner, Pascal Pinsonneau, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from Pinsonneau—On the night of the third of November, where was Pascal Pinsonneau, and who made him leave his house ?

Answer—He was in bed between nine and ten that night, at my father's house ; a number of armed persons, assembled at the door, told him to march, saying, that if he would not, they would kill him, and he might as well take poison as refuse.

Q. from the same—After these menaces, was not Pascal Pinsonneau frightened, and what did he do ?

A.—Yes, he was very much frightened, and appeared very sorry, throwing himself at his mother's knees, and saying, that if he marched, he would not hurt any one. He then went with them, through fear of being killed.

Q. from the same—During the same night, are you aware that armed men, in great numbers, were forcing every one in the neighbourhood to march with them ?

A.—I am aware that such was the case.

Q. from the same—Is it to your knowledge that Pascal Pinsonneau meddled with politics before the third of November last, and did he stay at home at his work during the last troubles ?

A.—He never meddled with politics ; he was at home at his work during the last troubles, coming to see us now and then. So far from meddling with politics, he declared, that if a rebellion should be brought about by the Americans, he would never obey their orders, as they could only proceed from scoundrels.

Q. from Jacques Longtin—Do you know Jacques Longtin ; is he the father of a family, and of how many children ?

A.—I know him ; he is the father of twelve children.

JOSEPH BABY, of Montreal, Notary Public, being called into Court, and the charge read to him, he is duly sworn, and states as follows :

Question from Joseph Robert—Do you know Joseph Robert, one of the prisoners ; how long have you known him ; say what are his character and habits ; and whether, previous to the third of November last, he ever took any part in exciting the people of his neighbourhood to rebellion ?

Answer—I have known him for eight years past, and always thought him a worthy, peaceable man. I have no knowledge of his having ever excited to rebellion ; I know nothing about it.

Q. from Pinsonneau—Do you know Pascal Pinsonneau ; if so, state how long you have known him, his character and habits ; and whether previous to the third of November last, you ever knew him to take any part in politics ?

A.—I have known him for three or four years for a quiet young man. I have no knowledge of any of the prisoners having meddled with politics before the troubles of November last ; I know nothing about it ; I don't live there ; I live in Montreal.

Q. from all the prisoners—Are you not agent for the seigniory where the greater number, if not all, the prisoners, reside, and would you not have had a knowledge of it, if the prisoners had taken an active part in politics ?

A.—I am agent for the seigniory. I had occasion to see them all except Hamelin and Jacques Robert, whom I do not know at all, during the week preceding the last revolt, and they did not appear to me to have anything to do with politics.

Q. from the Court—Is it not within your knowledge that the whole country remained quiet and peaceable up to the third of November last, apparently taking no part in politics, and yet prepared, at any moment, to rise in revolt ?

A.—When I left, the week preceding the revolt, all appeared quiet. I was much surprised to hear there had been any disturbance ; they had been all quiet up to that period.

ZELIE PAGE^s, of St. Constant, spinster, being called into Court, and the charge read to her, is duly sworn, and states as follows :—

Question from Theophile Robert—Do you know Theophile Robert ; did you see him on the fourth of November last ; if so, state where you saw him, and relate the conversation you had with him ?

Answer—I saw him at my father's house, in the parish of St. Constant, on Sunday morning, the fourth November, at between eight and nine o'clock. He asked, on entering the dwelling house, if any one was dead, saying, I thought some one must be dead ; he said, that he thought the mischief (*coup*) had been done at our house. I said, no harm had been done at this side of the river. Our house is on the opposite side of the river, and about three acres distant from Vitty's.

Q. from the same—When Theophile Robert said, that he thought the mischief had been done at your house, did you understand that he spoke of what had passed the preceding night at Vitty's ?

A.—I understood from it, that he was not there. I did not understand that he referred to what had passed at Vitty's.

Q. from the same--What did you understand when Theophile Robert spoke of the deed that had been done ;

A.--I understood that he thought some harm had happened, as he had heard shots fired.

Q. from the same--Is Theophile Robert related or allied to you in any, and what degree ?

A.--He is my brother-in-law.

JOSEPH BOIRE, of St. Philippe, farmer, being called into Court, and the charge read to him, is duly sworn, and states as follows :--

[The Court declares itself satisfied with the evidence of general character of Joseph Robert.]

Q. from Jacques Longtin--Since when have you known Jacques Longtin ; what is his character, and how did he conduct himself, to your knowledge, before the last troubles ?

A.--I have known him for forty years, for a good, worthy man. I have never known him conduct himself otherwise than as an honest man.

Q. from Joseph Robert--Do you know that Joseph Robert was very ill about the time preceding the last troubles, and how long before the third of November last ?

A.--I know he was very sick about a month before the troubles, and on the third of November was still very ill.

Q. from all the prisoners--Do you know the other prisoners, and can you say what is the reputation and conduct of each.

A.--I know them all. They are all excellent characters.

The prisoners declare they have no further evidence to adduce.

The prisoners make an application for delay, until the eleventh instant, to prepare their written defence, which is overruled by the Court, it having been cleared to deliberate thereon.

Half past one.--The Court is adjourned until twelve o'clock to-morrow.

SEVENTH DAY, *10th January, 1839.*

The Court meets pursuant to adjournment. Present, the same members as yesterday.

By permission of the Court, the assistants of the prisoners, Messrs. Drummond and Hart, read their written addresses to the Court, hereunto annexed, marked 1, 2, 3, 4.

The Judge Advocate's address is read, and annexed to those proceedings.

The Court is closed.

The Court having maturely weighed and considered the evidence in support of the charges against the prisoners, together with what has been stated in their defence, is of opinion that they, the prisoners, viz : Joseph Robert, Ambroise Sanguinet, Charles Sanguinet, Pascal Pinsonneau, Francois Xavier Hamelin, otherwise called Petit Hamelin, Theophile Robert, and Jacques Longtin, are individually and collectively guilty of the first charge.

That the said Joseph Robert, Ambroise Sanguinet, Charles Sanguinet, Francois Xavier Hamelin, otherwise called Petit Hamelin, and Theophile Robert, are individually and collectively guilty of the second charge.

That Pascal Pinsonneau and Jacques Longtin are not guilty of the second charge.

That Jacques Robert and Joseph Longtin are individually and collectively not guilty of either the first or second charge.

The Court having found them, the prisoners, viz : Joseph Robert, Ambroise Sanguinet, Charles Sanguinet, Francois Xavier Hamelin, and Theophile Robert, guilty of both the charges preferred against them, and the same being for offences committed between the first and tenth days of November last, in furtherance of the rebellion which had then broken out and was existing in this Province of Lower Canada, and having found Pascal Pinsonneau and Jacques Longtin guilty of the first charge, and the same being also for an offence in further-

ance of the said rebellion, committed between the said last mentioned days, do sentence the prisoners in manner following, viz :

That Joseph Robert be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Ainbroise Sanguinet be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Charles Sanguinet be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Pascal Pinsonneau be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Francois Xavier Hamelin, otherwise called Petit Hamelin, be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government in the said Province of Lower Canada, may appoint.

That Theophile Robert be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Jacques Longtin be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

The Court having found the prisoners Jacques Robert and Joseph Longtin not guilty, it does acquit them, each and severally, of the charges preferred against them.

JOHN CLITHEROW, *Major General,*
President.

D. MONDELET,

CHAS. D. AY,

ED. MULLER, *Capt. the Royal,*
Joint and severally Deputy Judge Advocate.

C.

DOMINA REGINA

vs.

JOS. ROBERT, ET AL.

LOWER CANADA, }
DISTRICT OF MONTREAL. }

The prisoners respectfully move that a list of the witnesses to be produced against them, be communicated to them:

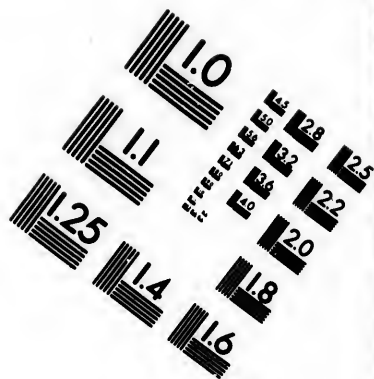
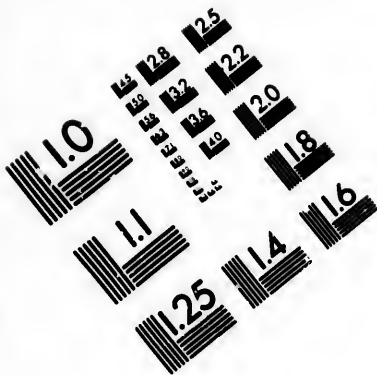
Montreal, 3rd January, 1839.

1.

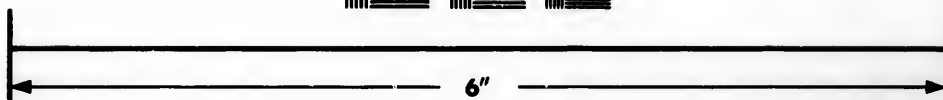
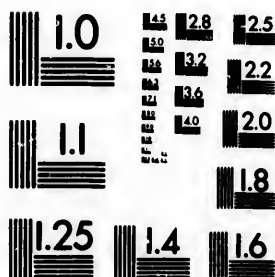
The prisoners, Joseph Robert, Ambroise Sanguinet, Charles Sanguinet, and Francois Xavier Hamelin, beg humbly to submit the following considerations:

1stly. That with regard to the crime of murder charged against them, the evidence is insufficient, in Law, to justify the Court in finding them, or any of them, guilty of that crime.



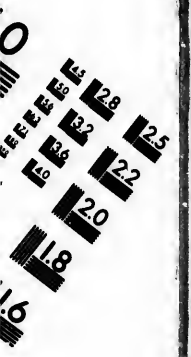


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They must either be considered as principals or accessories. They are charged broadly with having perpetrated the murder as principals, yet the deed has not been brought home to any one of them in particular. The only portion of an evidence which would appear to fix the crime upon Ambroise Sanguinet, is his alleged declaration that he had done the deed, but is not the proof of that declaration coupled with the fact that Bachant boasted having fired the fatal shot? The evidence must be taken in its totality, and the identity of the supposed murderer still remains in doubt. Assuming this position, we appeal to the learned Judge Advocate, who will answer us, as to whether, in cases of murder, a person assisting in any way in the commission of the crime, can be found guilty of it, while the person who dealt the blow from which death ensued, still remains unknown?

2ndly. We shall pass to the first part of the accusation, which charges them with High Treason, the only crime that they can be found guilty of, and would beg the Court to take into its merciful consideration, the extreme degree of violence exercised towards the inhabitants of that section of the country generally, by the hands of armed men, which, on the night of the third of November last, poured down from the interior of the country, under the command of, perhaps, the most desperate man amongst all those who stood prominent leaders in the late unhappy disturbances; and would beg to urge more particularly on your attention, the extreme age of the unfortunate Robert, the frightful menaces held out to him by Régoche, the reluctance with which he obeyed, the state of ill health in which he was at that period, tending totally to disorganise a mind already verging on dotage, and in behalf of all the accused, the good character they had previously enjoyed, and the unnatural degree of excitement which the extraordinary events of that ill fated night must have produced on the minds of ignorant men, like those who stand accused before you.

2

The prisoner Jacques Longtin begs respectfully to submit to the Court his extreme age, his weakness of intellect, proceeding as it is evidently from incipient, if not confirmed, dotage. Did I not, indeed, after having been forced to join a body of men, whose object I could not comprehend, display the conduct of a dotard on the arrival of the Hussars, persisting alone, as it is said, in the no doubt idle bravado of calling my comrades, who had fled, to attack a formidable body of highly disciplined Cavalry. Add to the weak state of my mind, the violence which was exercised towards me, and which could have been brought home to me by a witness in attendance yesterday, who had been compelled to join the armed band at the same time. The example of two other witnesses having been arrested, in consequence of their having given evidence of a similar tendency, deterred the prisoner's Counsel from exposing the safety of that individual, by compelling him to come forward. But the glaring improbability of a man of my age and weakness of intellect, forming, or acting knowingly in, any project of revolt, will, I trust, induce the Court to believe that nothing could have caused my appearance in that unlawful assemblage, but that extreme degree of violence, which appears, by the evidence, to have been exercised towards all the inhabitants of the northern part of St. Phillippe and St. Edouard, by the armed force which proceeded from the interior, on the night of the third of November last, sweeping all before it. The evidence does not tend to connect me, in any way, with what occurred at Vitty's house, so that second accusation must be considered as totally unsupported with regard to me, and, if found guilty of Treason, I confidently trust the Court will, at least, recommend to the mercy of our gracious Sovereign, the case of a wretched old man, the father of twelve children, who has, already, by his long imprisonment, expiated any guilt which may appear in his conduct.

3.

THE ADDRESS OF PASCAL PINSONNEAU.

May it please the Court :

I feel that in addressing you that I labour under many disadvantages, and am affected by the evidence of three witnesses, Boyce, his wife, and his father, with regard to the fact of my having made them prisoners, and having opposed their release.

Gentlemen, I will not impute to the witnesses, wilful false swearing, but I solemnly declare before you, that they were mistaken in the identity of the person. I was not in the houses of the Boyces, on the night of the third of November last. I will not deny that I was with the band of armed men before their doors ; I was there, I freely admit, but unarmed, and, in the confusion of the moment, they may have mistaken some other person for me, but I was not the man who, speaking in English, as the younger Boyce says, told him that he might be damned, and that there was no need of giving him time to put on his shoes. Gentlemen, the fact which I have distinctly proved to you, that I cannot speak English, must convince you of the error under which the Boyces' labor. And, I ask you, how is it that persons whom I scarcely know, should so distinctly identify me, when Hood and Bradford, who know me perfectly, say, the one, that he did not see me that night; and the other, that, although well acquainted with me, he did not see me on the night of the third of November last. I will now, Gentlemen, freely state to you what was the fact with regard to me on the night of the third of November.

Awakened out of my sleep by a band of armed men, headed by one Régoche, a determined and ferocious ruffian, who burst into my father's house and compelled me, under threats of instant death, to accompany them, I went in tears, as my aged mother and my sister have proved to you, and accompanied the band. Arrived at Vitty's house, I met about forty others, under the command of Régoche Lefebvre, crossed

the river, and after the lapse of about a half an hour, during which we distinctly heard the shots at Vitty's house, I made my escape and returned home, where I remained, tranquilly occupied with my daily vocations, for nearly a month, when, on hearing that persons were in search of me, I went to the manor house and surrendered myself to Captain L'Estrange. Was my conduct, Gentlemen, I ask of you, that of one who thinks himself guilty of the high offence of which I stand charged? No, I felt that I was innocent. I knew that the mode in which I had been dragged into accompanying Régoche and his band, would be sufficient to justify me, and exempt me from any blame.

Gentlemen, I leave my case in your hands, confident, that by your judgment, I will be restored to the arms of aged parents, who await, with anxious hearts, the result of your deliberations.

4.

ADDRESS OF THEOPHILE ROBERT.

Gentlemen of the Court,

When a man, accused of the highest political crimes which can be imputed to a member of society, stands up to utter the last words he may be allowed to address his judges, in his defence, he can be supported by one hope alone, which is, that those who have been constituted the arbiters of his fate, will decide between him and his accusers with care and deliberation, without passion or prejudice, and with a deep sense of the awful responsibility of the task imposed upon them. That hope now animates my breast, and induces me to submit, in a few words, my case as it now stands before you, trusting, as I confidently do, that every circumstance which has been established in my favour, will be allowed to have its full effect upon your deliberations, while, on the other hand, the statements, which would, unconnectedly, appear to militate against me, will be so scrutinized, contrasted with, and accounted for, by other portions of the evidence, as to insure me a

fair and impartial decision. I stand before you, Gentlemen of the Court, charged, not only with the crime of High Treason, but also with wilful and premeditated murder, perpetrated in the view of effecting a rebellion. As the latter charge tends, perhaps, more immediately to affect my fate, I shall meet it first.

The only evidence adduced, which can tend, in the most remote degree, to establish a participation, on my part, in the alleged murder of Aaron Walker, was taken from the lips of John Hood and Charles Bradford. Hood states, that being a prisoner in the hands of a band of armed men, he saw me on the night of the third November last, with some of my fellow-prisoners, and other individuals, advancing to attack the house of Vitty, where the deed is said to have been done. Charles Bradford has told you, that he saw me with the band of armed men before Vitty's house, but did not see me advance to the attack. That I was compelled that night, by immediate violence and threats of death, to join a band of armed men, I admit; but I as positively deny that I advanced, either alone or accompanied by others, to the attack of the house alluded to, or had any participation in the deed which was perpetrated therein.

The witnesses I have referred to had seen me accompanying, though with reluctance, the armed band—and in the darkness of that stormy night, in the multitude of persons collected together, in the confusion of the moment, in the alarm naturally consequent upon their situation—may they not, without any desire to injure their fellow-creature, by bearing false witness against him, have presumed that I still continued in their midst, when, in fact, I had fled and concealed myself. I ask, would this not appear probable, even though their statements were to be taken unconnectedly with any of the facts elicited in my favour.

But if an actor in the struggle, would it not have been natural that I also should have entered the house to view the result of the conflict? Yet amongst the many who were in the house at the time, and who have been heard before you, not one has stated that I was there; nor

has it been pretended by any one of the witnesses, that I was seen with the assemblage of armed men after that time. Again, if I had attacked Vitty's house, should I have expressed my alarm on the following morning, with regard to the fate of my father-in-law's family, under the impression that the shots fired upon Vitty's house (the noise of which alone reached me) had been against his? That expression of my fears, upon two occasions—established as it has been by two witnesses, and corroborated by the testimony of Mr. Demeule—must shew clearly that I was in total ignorance of the scene of contest and its results, and it cannot be attributed to a consciousness of guilt. For why, I would ask, had I felt myself guilty, should I have made so paltry an attempt to conceal my crime from my own relations, from the last individuals in the world who would have attempted to fasten such an imputation upon me—why should I have sought to screen myself by falsehood, when I might have insured my safety by flight? But so far from dreading an enquiry into my acts upon that fatal night, has it not been proved that I returned to my home, and remained there, unalarmed, until the close of the month of November, when, hearing that imputations were cast upon my character, and relying upon the result of a fair and impartial trial, I delivered myself, voluntarily, into the hands of the authorities. Was this, I ask, the line of conduct likely to be pursued by a man, whose conscience reproached him with the death of one of his fellow-creatures? Did the murderer ever withdraw from the scene of blood to sink in peaceful rest upon his pillow? Your experience of human nature must teach you, Gentlemen of the Court, that if such recklessness has ever been recorded in the annals of human guilt, it can have been manifested only by the hardened villain, whose heart had been steeled to remorse, whose eyes had become inured to the effusion of blood—but never by the novice in crime. No man has been ever known to leap with one desperate bound into the abyss of guilt—its depth is ever reached by slow and measured steps; and is it to be presumed, for a moment, that one, so young and peaceable in his

habits, so irreproachable in his character, previous to that period, could have evinced such a monstrous degree of torpor in the consciousness of crime, as you must necessarily impute to me, before you can convict me of having participated in that deed of blood.

My appearance amidst the armed men, who are presumed to have had in view the overthrow of the British Government in this province, cannot be construed into evidence of the crime of High Treason, when accounted for by the threats of personal violence and death which were held out to me, and would have, no doubt, been carried into effect had I refused to accompany them. Reason, as well as law, proclaims that no man can be considered guilty, for doing by compulsion that which his judgment and his heart disapproves. Compulsion was never more clearly established than in my case. Did I not fly from my own house, on the approach of the bodies of armed men who were scouring the country upon that night, and dragging with them every inhabitant capable of bearing arms, in the hope that they would pass by my father's house—and was I not followed thither, dragged from bed, and compelled, by threats of death, to accompany them? This fact was established by my sister; none but a member of my father's family could prove it—and it is, moreover, corroborated by the testimony of Demeule, Rousseau, Hood, North, and others, who have proved that Lefebvre's company stopped at every house in St. Edouard, St. Philippe, and that neighbourhood, and held out the most appalling threats to all who evinced the slightest hesitation in joining them. In order to convince you, Gentlemen of the Court, that the degree of violence exercised towards me comes up to the most rigorous interpretation of the law on that subject, I shall beg your attention to that passage in Blackstone, which you were referred to, as I am informed, on a former occasion, by one of the learned Judge Advocates:—"Another species of compulsion or necessity is what our law calls *duress per minas*, or threats and means which induce a fear of death, or other bodily harm, and which take away, for that reason, the guilt of many crimes and

misdemeanors—at least before the human tribunal. But then, that fear which compels a man to do an unwarrantable action, ought to be just and well grounded, such *qui cadere passit in virum constantem non timidum et meticulosum*, as Bracton expresses it, in the words of the Civil Law. Therefore, in time of war or rebellion, a man may be justified in doing many treasonable acts by compulsion of the enemy or rebels, which would admit of no excuse in the time of peace. The fear of having goods burnt, or houses spoilt, is no excuse in the eye of the law, for joining or marching with rebels. The only force that doth excuse, is a force upon the person, and present fear of death, and this force and fear must continue all the time the party remains with the rebels. It is incumbent upon men who make force their defence, to shew an actual force, and that they joined, *pro timore mortis et recesserunt quum cito potuerunt.*” My flight to my father’s at the approach of the armed band—the degree of force exercised upon me to compel me to join them—the fact of my having been seen at one of the clock by Mr. Demeule, flying from the crowd at the first opportunity of escape which offered—my return to my father’s, so soon as I could reach his dwelling, and before the armed bands had been dispersed ;—all these circumstances are, I repeat, more than sufficient to meet the most rigorous interpretation which can be given to the law in this respect : I, therefore, leave my case, Gentlemen of the Court, in your hands, trusting that neither I nor my afflicted relations shall have hereafter to regret the confidence which led me to seek an enquiry into my conduct, upon the third of November last.

JUDGE ADVOCATES’ ADDRESS.

May it please the Court,

The case about to be submitted, is the first of its class which has come under your cognizance, and it is marked with features of a peculiarly harsh and revolting character. In preceding trials, we have been called upon to consider offences, which, although the gravest known to

the law, were yet unattended with any strong circumstances of personal malignity or active moral guilt. So much has this been the fact, and so favourable has been the evidence of character regarding many of the prisoners formerly before you, that to an unreflecting mind, or one biassed by deceptive prepossessions, treason has almost seemed a venial error, and we have heard claimed for it, at the hands of this Court, that the virtuous severity which reproves guilt, should give place to the compassion which the generous and humane accord to misfortune.

It was necessary that a case should be laid before you, developing circumstances which, with a startling and unavoidable force, should call to the conviction of every man within and beyond these walls, that the crime of treason, exhibited in acts of open and unprovoked rebellion, is pregnant with every enormity to be found in the long catalogue of guilt. That murder, rapine, and violence are its legitimate and necessary offspring, and that daily and hourly we may expect to see, springing from its bosom, the ruin and desolation, moral and physical, which fierce and excited passions naturally generate.

By the assemblage of large bodies of armed men, that confidence is created which numbers generally give, and the traitor, in the intoxication of conscious and unaccustomed power, violates that maxim invoked by the prisoners, which holds that no man plunges at one step from innocence to crime, and becomes, from a peaceful and virtuous citizen, at once a robber, an incendiary, and a ruthless assassin.

The case which it is now our duty to submit to the Court, will be found of a nature to justify the foregoing remarks, and to press home upon the comprehension of all, the frightful tendencies of that offence upon which too many are disposed to look with dangerous tenderness, or a viciously compassionate toleration.

The charges, as technically laid against the prisoners, are for offences committed between the first and tenth of November last, in furtherance of the rebellion which had broken out and was then existing in this

province, and the offences, as specified, are twofold, viz : first, Treason, and second, Murder.

The first, Treason, rests upon overt acts of the same character with those on which the former trials have taken place, and is set forth in the same manner. The rules and definitions relating to this offence have already been laid down with some degree of minuteness and precision ; and it is deemed unnecessary to fatigue the Court with a repetition of them.

We turn at once to the evidence, to enquire whether the charge of Treason, in furtherance of the rebellion, has been satisfactorily made out. We have, then, from all the witnesses on the part of the prosecution, except Dr. Alexander, (seventy-four in number,) that on the night of the third November last, a large body of men were assembled together in the parish of St. Constant, armed in a warlike manner, and bent upon some enterprise of a violent character, requiring the assistance of physical force.

Hood, Bradford, St. Denis, Roy, Richard Boyce, his wife, and Robert Boyce, speak also of another armed party on the opposite side of the River La Tortu from David Vitty's house, in full intelligence with the first named body of men, and acting in concert with them ; the numbers are variously stated at from fifty to one and two hundred men, and upwards, and probably were continually varying. To satisfy ourselves as to the character of the enterprise in which these men were engaged, we would advert, first, to the testimony of Vitty, who says, he calls them rebels, "because they neither fear God or the Government, and set themselves up in opposition to the Government." And second, of North, who says, their object was "to take the men and arms, and go to Laprairie and take the barracks, and to fight against the British troops ; he calls them rebels, because they are against the Crown, and against us for supporting the Crown. Third, Hood declares, "they told him their object was to overthrow the British Government." Fourth, Bradford, that it was "to declare their inde-

“pendence and destroy the British Constitution.” Fifth, Richard Boyce declares, “they said they were going to take Laprairie barracks, —that ten thousand men were to join them at the bridge—that they expected the Yankees in that night, and he understood they wanted to have a Government of their own choosing.” Sixth, one of the party said to Robert Boyce, “Damn you, and your Queen, and your Government.” There are various other portions of the evidence, bearing more or less directly upon the same subject—but enough has been cited to show the treasonable character of the two assemblages of armed men, to which the witnesses have spoken.

The second charge is Murder, which in law is defined to be—
“Where a person of sound memory and discretion unlawfully killeth any reasonable creature in being and under the King’s peace, with malice aforethought, either express or implied.”

The tenor of the charge, as set forth in precise terms, is, that the prisoners, with others unknown, on the third of November last, in the parish of St. Constant, assaulted one Aaron Walker, and inflicted upon him a gun shot wound, in the right breast, of which he instantly died. The testimony of one witness is sufficient to warrant a conviction for this offence. It will be borne in mind, that we have already established the existence of an assemblage of armed men on the night of the third of November last, avowing designs, which bring them within the definition of the offence of High Treason, and in order now to arrive at a minute detail of the circumstances on which the charge of Murder is based, we cannot refer to a better source than the narrative of David Vitty, followed up by that of Sarah Walker. [The evidence of David Vitty and Sarah Walker is here read.]

The evidence of these two witnesses, as to the firing and killing, is abundantly confirmed by that of North, Mrs. North, Pirnie, and Armand, who were in the house—and as to the firing alone, by Hood, Bradford, Hamelin, Roy, and others less in detail, who were outside; add to this, the evidence of Dr. Alexander, that he examined the body

of Walker, professionally, and found he had died of a gun shot wound in the right breast, and the proof of the killing in the manner alleged in the charge is complete.

There is one point upon which some difference appears in the statements of several of the witnesses. We allude to the question who first fired—Vitty, or the rebel party. On the one side, we find North positive that Vitty fired first, and Hood is under the same impression, though less decided. On the other, Vitty, Bradford, Pirnie, Armand, and Mrs. Walker, state that the rebel party fired first. The balance of evidence is, therefore, in favour of the latter position. We have adverted to this discrepancy merely, in order that the Court may not suffer any embarrassment from it, and not because we deem it material—for Vitty had a right, nay it was his duty, to resist in defence of his allegiance and his dwelling; and killing by these men, in the prosecution of their treasonable purposes, is murder, whether they fired first or not; and further, a killing by one of the party is murder in all, and this whether the party killing be known or not. There can thus be no difficulty in coming to the conclusion, that on the third of November, murder was committed on the body of Aaron Walker, in furtherance of the rebellion, by the armed party at Vitty's house; and we must now enter upon the important enquiry, whether these crimes of treason and murder, or either of them, have been brought home to the prisoners now before the Court. The first of them is Joseph Robert, whom we find identified as having been at Vitty's house, by Hood, Bradford, Mrs. North, Pirnie, Armand, Mrs. Walker, Hamelin, and Roy. We gather from the testimony of several of these witnesses, that he was armed, that he commanded the party, that by him they were ordered to fire, that he was active in searching the house, and that he exhibited no symptom of regret or pity on beholding the scene of death and distress of which he had been a principal author. In short, the guilt of treason and murder, to the fullest extent imputed by the charges, weighs upon the

head of this miserable old man, by an accumulation of direct evidence which it is impossible to doubt.

Against Ambroise Sanguinet, we have the evidence of Hood, Bradford, Pirnie, and Armand, that they saw him at Vitty's house; of Roy, that he saw him on the opposite side of the river, after the firing at Vitty's; and of St. Denis, that he saw him on that night near Vitty's house; he was armed with a gun; Hood states he heard him disputing with Charles Sanguinet and Petit Hamelin, who had been bravest in the firing at Vitty's house. Roy and Hamelin both swear that he declared himself to be the person who shot Walker, and disputed with one Bachant on the subject. The evidence is more than sufficient for the substantiating of both the charges against him.

Charles Sanguinet is identified by North, Hood, Bradford, and Armand, as having been at Vitty's house, and by St. Denis and Roy, as having been in its vicinity with the armed party; he was armed with a gun, and is one of the persons who, with Ambroise Sanguinet, claimed distinction for bravery in the firing. Against him, also, the evidence is complete under both charges.

Francois Xavier Hamelin appears, from the positive and circumstantial evidence of Hood and Bradford, to have been at Vitty's, armed with a gun, which he took from Walker's house, to have been one of those who advanced on the word having been given to fire, and afterwards to have disputed with Ambroise and Charles Sanguinet, as already stated. St. Denis and Roy speak of him as being with the armed party by which Vitty's house was attacked; he is also mentioned as being with this party, by one or two witnesses on the defence, and the evidence against him, we consider complete under both the charges.

Theophile Robert is spoken of by Hood and Bradford, as having been at Vitty's house, armed with a gun, and by Hood alone, as having advanced upon the command to fire. St. Denis also speaks of having seen him near Vitty's house with the armed party, and his

connection with it appears from two or three witnesses on the defence. There is nothing to show any remarkable activity on his part—still the proof is sufficient to bring him within both the charges.

Pascal Pinsonneau does not appear to have been on the side of the river on which Vitty's house is situated. He is, however, fully identified by Richard Boyce, Robert Boyce, and Elizabeth Boyce, and as having been on the opposite side of the River, actively engaged with an armed party of about two hundred. He seems to have been conspicuous in making the two Boyces prisoners, and they state that he was armed.

Jacques Longtin was in the same party with Pinsonneau, and appears to have taken an active part—Hood, Bradford, St. Denis, Richard and Robert Boyce establish this. He appears to have been armed, to have exercised some command, and to have exerted himself to rally his party on the approach of Her Majesty's troops. The evidence of Hood, Bradford, and the two Boyces, clearly shows that these two parties were acting in concert and intelligence with each other, and that there was a constant intercourse and passing, from the one to the other, across the River La Tortu. Upon this fact a question might arise, whether the two last named prisoners were constructively present at, and aiding and abetting, the murder of Walker; we are not, however, disposed to press an argument on this subject, we give to these prisoners, Pinsonneau and Longtin, the weight of the doubt as to the charge of murder, at the same time declaring our opinion, that the charge of treason is fully made out against them.

Having thus disposed of the evidence for the prosecution, a careful attention must be devoted to the examination of that adduced on the defence, and in entering upon this examination, it must at once be admitted that good general character has been established in favour of all the prisoners, although the sources from which this evidence has been drawn are, in many instances, fairly liable to suspicion. No other evidence, of any importance, appears in behalf of Joseph Robert, the two San-

guinets, or Jacques Longtin. Hamelin, Pinsonneau and Theophile Robert have endeavoured to make out a defence grounded on compulsion; we shall briefly examine the evidence adduced by them.

Eugene Rousseau has deposed in favour of Hamelin, that he said to him, on the night of the third, "I am forced like yourself, I am sorry to be compelled to march myself, but I hope we shall not catch any harm;" but the witness afterwards declares, "I cannot say that he was a prisoner." This evidence, therefore, amounts to little, when collated with the strong and circumstantial statements made by the witnesses for the prosecution.

The witness, Rousseau, also states, in direct contradiction to Hood and Bradford, that Hamelin did not enter Walker's house. There is evidently an error in this matter, on the one side or the other, and, as Rousseau is alone, we must presume that it rests with him. Whatever may be the fact, however, it is of little importance to the issue, and, in all other respects, Rousseau, in so far as he has gone, substantially corroborates the testimony of Hood and Bradford.

The circumstances upon which Theophile Robert seems to rely, are fully detailed by Clemence Robert, his sister. She lives in her father's house, at St. Phillippe; the prisoner came there on Saturday, at six o'clock, and stated he had run away from his own house, at St. Edouard, in consequence of a command to join in the insurrection. He remained at his father's house until ten, and, after he had retired to rest, a body of armed men called at the house, and, with menaces of death, compelled him to go with them. He remained absent until three or four o'clock, then returned, and remained at his father's house until some time in the forenoon. There is something plausible in this narrative, and the circumstance of the prisoner having left his house, to avoid the insurgents, is certainly strongly in his favour. The source of this evidence is, however, doubtful; and the questions naturally arise, why did this man, if compelled to go, not go as a prisoner, like Hood, Bradford, Rousseau, the Boyces, and others? why did he carry arms?

why, in the darkness of the night, and with a knowledge of the country, did he not escape like St. Denis? We fear these questions cannot be satisfactorily answered, and that the evidence of compulsion, which has been invoked, falls far short of that required for the justification of offences so heinous as those now imputed to him. We have not adverted to his conversation with his sister-in-law, Zélie Pagé, because it is obvious that his declaration, after the crime was committed, cannot be received as evidence in his favour.

In behalf of Pascal Pinsonneau, it is stated that, previously to the third of November, he declared himself opposed to the insurrection, characterizing those exciting it as scoundrels, and saying he would not join them, when ordered. His mother and sister prove that he was menaced with death, and that he was agitated, even to tears, on leaving the house. This is good evidence, so far as it goes, if it can be relied upon; but a mother, and a sister, giving testimony to save a son, and a brother, from an ignominious death, can scarcely be supposed free from bias; and we see in the defence of this prisoner, as in that of Theophile Robert, an absence of all proof of that continuance of compulsion, which the law requires, and, it may be added, that the idea of compulsion is totally irreconcilable with the alacrity and zeal, which three witnesses swear he displayed, in the service of the insurgents.

There are certain expressions imputed to this prisoner, by Robert Boyce, as having been uttered in English, and evidence has been adduced to establish that he cannot speak that language. His mother swears, positively, he cannot, and others, two or three in number, corroborate her assertion to a certain extent, admitting, however, that he may be able to speak a few words. If this were a matter of importance to the prisoner, Pinsonneau, we should be disposed to say that he had cast serious doubt upon the fact of having used the words imputed to him, but as Robert Boyce's deposition, with the exception of this part of it, is fully corroborated by Richard Boyce and Elizabeth Boyce,

the exclusion of this statement, or even of the whole of his testimony, would not essentially impair the case against the prisoner.

We have thus endeavoured to expose to the Court, fully and impartially, the evidence on record in this cause.

In review of the whole, we are of opinion that the guilt of Joseph Robert, Ambroise Sanguinet, Charles Sanguinet, and Francois Xavier Hamelin, under both the charges, is of an aggravated character. That the criminality of Theophile Robert, though clearly established under both the charges, is not attended with any circumstances of a particularly unfavourable nature. That Jacques Longtin and Pascal Pinsonneau have been proved conspicuously guilty of the treason, but must be acquitted of the murder. Jacques Robert and Joseph Longtin must, of course, be acquitted.

We were unwilling to close our address to the Court, without remarking, that it must be a matter affording much relief, in the discharge of its painful duties in this case, that in rendering judgment, which in all probability will consign the unfortunate men before it to an infamous death, such judgment will not rest upon circumstantial or ambiguous testimony, admitting of a variety of constructions, or a possibility of error, but will be founded upon direct, positive, and incontrovertible proof, that treason, tending to an overthrow of all the institutions of society, and foul murder, upon an innocent and unoffending man, have been committed, and committed by those upon whom that most terrible sentence which man can pronounce against his fellow man, is about to fall. In such a case, there is no room for sickly sentiment; the sternest aspect of justice is alone fitted for it, and society requires that those who have so grievously violated her compact, should pay the fatal penalty, and leave to others, a warning none may forget or disregard.

THE QUEEN

vs.

JEAN BAPTISTE HENRI BRIEN AND OTHERS.

GENERAL COURT MARTIAL.

{ MONTREAL, LOWER CANADA,
January 11, 1839.

Members of the Court and Deputy Judge Advocates, the same as in the case of the Queen against Cardinal and others—(see page 17)—are duly sworn.

The prisoners having been brought into Court, the warrants are read, and the names of the President and members called over. The prisoners do not object to any of the members of the Court.

The Judge Advocates declare that they will not proceed to the trial of James Perrigo, on the charge now before the Court. The said James Perrigo is accordingly remanded and withdrawn from the Court. The prisoner is accordingly withdrawn.

The President, members, and acting Deputy Judge Advocates having been severally sworn, and Edward Macgauran having been sworn as translator of French, the Court proceeds to the trial of the following prisoners: —

Jean Baptiste Henri Brien, of the parish of St. Martine, in the district of Montreal, in the province of Lower Canada, physician and surgeon ; Ignace Gabriel Chevretils, of the said parish of St. Martine, farmer ; Joseph Dumouchelle, of the said parish of St. Martine, farmer ; Louis Dumouchelle, of the said parish of St. Martine, inn-keeper ; Jacques Goyette, of the parish of St. Clement, in the district and province aforesaid, farmer ; Toussaint Rochon, of the said parish of St. Clement, carriage-maker ; Francois Xavier Prieur, of the parish of St. Timothé, in the district and province aforesaid, trader ; Joseph Wattier dit Lanoie, of Soulanges, in the district and province aforesaid, trader ; Chevallier De Lorimier, of the city of Montreal, in the district and province aforesaid, notary public ; Jean Laberge, of the said parish of St. Martine, carpenter ; and Francois Xavier Touchette, of the said parish of St. Martine, blacksmith ; arraigned and brought to trial on charges similar to those in Cardinal's case.

The prisoners before the Court being called upon to plead, make certain objections, similar to those contained in a document in Cardinal's trial, marked A—(see page 76)—which objections are overruled by the Court.

The prisoners before the Court having been again called upon to plead, make certain other objections, similar to those contained in a document in Huot's trial, marked B—(see page 138)—which objections are overruled by the Court.

The prisoners before the Court having been again called upon to plead, Jean Baptiste Henri Brien pleads guilty, and hands in a paper marked C, hereunto annexed ; Ignace Gabriel Chevretils pleads not guilty ; Joseph Dumouchelle pleads not guilty ; Louis Dumouchelle pleads not guilty ; Jacques Goyette pleads not guilty ; Toussaint Rochon pleads not guilty ; Francois Xavier Prieur pleads not guilty ; Joseph Wattier dit Lanoie pleads not guilty ; Chevallier de Lorimier pleads not guilty ; Jean Laberge pleads not guilty ; Francois Xavier Touchette pleads not guilty.

The Court then proceeds to examine the following witnesses :—

LAWRENCE GEORGE BROWN, of Beauharnois, Esquire, being called into Court, and the charge read to him, he is duly sworn, and states as follows :—

On Sunday morning, the fourth of November last, at about the hour of half-past one, some person knocked at the door of my house, in the village of Beauharnois. I went to see who it was, and found an individual of the name of Normand, and another of the name of Bean. I enquired what they wanted? They informed me that the Canadians had risen in rebellion on the south side of the Chateauguay, and had taken John M'Donald prisoner, and that they were making all the British population prisoners down the road. I first doubted their intelligence, but afterwards believed it, and requested them not to make a noise to alarm the people of the village. I went up to the seigniori house, where Mr. Ellice and the ladies of his family were, and on my way, crossing from the seigniori farm-yard, I met Toussaint Rochon, the prisoner before the Court, followed by two other persons whom I did not know. I did not see any arms about him. I communicated to Mr. Ellice the intelligence which I had received; I put on my sword, which was in the house, and called up the rest of the family, and sent two persons to rouse the British population. On leaving the house, I met John Bryson, and proceeded to the house of John Ross; at the corner of Ross's house, I found ten or twelve of the volunteers, under my command, under arms. My attention was directed by John Ross, who was Captain of volunteers, to an orchard where we saw a number of men armed; Captain Ross and myself approached these men, upon which they presented their fire-arms at our breasts. I told them not to fire. On looking round, I discovered my groom, Robert Fenny, a prisoner with them. We ordered the volunteers to advance, upon which the rebel party immediately dispersed, with the exception of one, who fell upon his knees and begged for mercy. He was taken to Ross's house, and bound. I do not know his name. On advancing

further, the volunteers took another prisoner, whose name I do not know, and brought him to Ross's house, and bound him. The volunteers soon after returned, and I formed them in front of Ross's house; immediately after, I was informed that a large number of armed men, amounting from one hundred and fifty to two hundred men, were assembled on the height near the Catholic Church. I am Lieutenant Colonel of the Beauharnois Loyal Volunteers. I said to Captain Ross that we must march up, and endeavour to cover the seignior house. We accordingly advanced, and I formed the men, at the farm yard gate, close by the office attached to the seignior house. I had hardly joined them, when a body of men rushed down from the height, of which I have spoken, upon us, with a tremendous yell, and a discharge of, I should think, at least seventy or eighty fire arms. I received a shot in the thumb. A man of the name of Scott, a farm steward, declared that his clothes were perforated with balls, as did also Captain Ross. A number of balls passed through the windows of the office, and the clapboarding of another house was very much cut up. I desired the volunteers to return the fire, which they did. My men amounted to about ten or twelve in number, and on discovering that the numbers opposed to us were very great, I considered it useless to risque the lives of my men, and ordered them to retire into the seignior house, which we did. On entering the inner kitchen, I found Mr. Ellice putting the females of the family into the cellar for protection from the shots, of which several had passed through the house. I told Mr. Ellice that their numbers were so great, that it was useless resisting, and that I had better go and say to them that we surrendered, and claim protection for the females. This I did in company with Captain Ross. In the meantime the rebels had surrounded the house. Some were armed with guns, and others with pikes. After surrendering, we asked who were the leaders? upon which Joseph Dumouchelle and Jean Baptiste Henri Brien, two of the prisoners before the Court, came forward as the leaders. I claimed protection at their hands for the

ladies and females of the house, who were in a state of great apprehension. Upon which both of them, and particularly Brien, declared that no injury would be done to persons or property. I thereupon asked what they meant by such conduct, whereupon a considerable number of voices, perhaps ten, twelve, or twenty, proceeding from some of the party who had withdrawn into a shed, called out, "We have suffered long enough—we want no more of the present Government—the Canadians must have their rights." Brien, apparently apprehensive that his party would commit themselves, told them to hold their tongues, for that they had not come there to speak but to act. Brien said to me, they understood that we had a large depot of arms and ammunition there, viz: three hundred stand of arms, three pieces of cannon, and a large quantity of gunpowder, which I must deliver up immediately. I stated that the muskets were in the hands of the volunteers, whom they saw—that we had no cannon, although there was a small quantity of gunpowder. Some of them said, they would not take my word for this, and demanded my keys. I told my farm-steward, Scott, to get the keys and a light, and that I would accompany them in the search. I went with them to the stable to search in the first instance, whereupon a large number of the party rushed in, when the prisoner, Brien, desired them to keep back, saying that two or three were sufficient. I mention this, to show the complete command which Brien had over the party. One of the prisoners, Joseph Dumouchelle, declared that if I would be candid with them, and show them where the arms and powder were, they would not search. I replied, that I had told them what was correct, and that what we had would be delivered. Joseph Dumouchelle replied, they had been informed by one of my own people, that three hundred stand of arms were concealed in the sheepfold; whereupon we proceeded, with a considerable number of the rebel party, through the piggery, to the sheepfold. They pulled up some of the planks, and found nothing. I had several Canadians in my employment at that time. I then desired my man, Scott, to declare

where the powder was concealed, and to deliver it up. The powder was then given up. It was so dark in the barn where it was, that I could not recognize any of the individuals there. On leaving the barn, and proceeding through the shed, to the house, one of the party, whom I did not know, opened my cloak, and took from me my scabbard and sword belt, saying that I did not want it. My sword had some time before been knocked out of my hand. Shortly after, I met Brien, who said he must make us prisoners, and that we must get ready for marching. Brien consented that we should go in a carriage, and I ordered my groom to get the waggon ready. Brien then appeared to be in haste, urging us very much, and declaring that they had other business to do, and ordered two double carts to be turned out for the guard, who were to accompany us, which was done. I asked permission to go and see my family before I went, and get some necessary articles; to which he consented. I accordingly went, with four guards, armed with guns and sent by him. On reaching my house, I desired the guard not to enter, as their appearance would very much alarm Mrs. Brown. One of the guard said they must go in and search the house for arms, whereupon another person (not of the guard) called out, "we have searched already, and found one gun." One of my guards then said to me, "Gentlemen like you generally have pistols." I replied, "I will be candid with you; I have two in my pocket." I pulled them out, and gave one to one of them and the other to another. I returned to the yard of the seignior house, and Mr. Ellice got into the waggon there; I also got into the waggon; my servant, Robert Fenny, drove, and Dr. Brien was seated by his side. During a short detention, we thought we heard firing, and Brien said that there were six thousand American troops entering the province, and that three battles were going on at that time—one at Chambly, one on the River Richelieu, and one at Laprairie—that the affair might be considered decided, for that the whole province had risen in arms—that a large body of Canadians had gone up the River Chateauguay, to disarm the British inha-

bitants. We asked what was to be our destination? He said he could not exactly say, but the immediate intention was, to take us somewhere to the frontier, where was a great meeting of the chiefs. He enquired for Colonel Campbell, who commands the volunteers of Beauharnois District; he expected to find the Colonel in the village, but he had gone to Huntingdon. We were then joined by several other prisoners, viz: Captain Ross, John Bryson, and Mr. David Normand. These are all I recollect. We left the village between four and five on the morning of the fourth, and proceeded to Chateauguay village, where we arrived about seven o'clock, and found a large body of armed men, about one hundred in number, collected. They took us to a small tavern, kept by a person whose name, I understand, was Duquette. We remained at this house until about three o'clock, when we were removed to a house of a better description, kept by one of the name of Mallette. Brien put us in charge of one Moyses Dalton.

[The prisoners make an objection, set forth in a document marked D, hereunto annexed, which is overruled by the Court.]

At Brien's request, I sent him in my waggon to a place called the "Stone Tavern," which is the last I saw of him. We were detained prisoners from that day until the following Saturday, the tenth of November.

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or at any other time up to the tenth, you saw any of the prisoners before the Court; if yea, declare when, and where, and how they were engaged?

Answer—I saw the prisoner Dr. Brien, as I have stated above. I saw Ignace Gabriel Chevrefils among the armed party who surrounded the house, when I went out from the signiory house to declare that we had surrendered; I cannot swear that he was armed; my impression is that he was. Joseph Dumouchelle I have already spoken of; he was not armed, as I saw, but he was a leader. Louis Dumouchelle, I saw in the farm-yard of the signiory house, with the armed party; he

was not armed, that I saw ; he appeared to be actively engaged. I saw Toussaint Rochon, as I have stated before, and I also saw him in the yard of the seignior house, with the armed party ; I cannot say he was armed ; I cannot state precisely what part he took, but I believe he was in the barn when the powder was given up. Jean Laberge I saw standing with Chevretils in the yard, with the armed party ; he seemed to be taking an active part ; I cannot say that he was armed. The party had grounded their arms, and it was too dark to perceive distinctly who had arms and who had not. François Xavier Touchette I saw taking an active part amongst the armed men ; I cannot say whether or not he was armed ; he was also in the yard of the seignior house. All these men I saw at Beauharnois, in the parish of St. Clement.

Q. from the same—From all that you heard and observed, what did you understand to be the intention and object of these men ?

A.—A complete rebellion—the subversion of the Government, and taking possession of the country, and establishing another Government.

Q. from the same—Do the prisoners you have already spoken of reside in the village of Beauharnois, or in the neighbourhood ?

A.—The prisoner, Rochon, lives in the village of Beauharnois ; Brien, Chevretils, Joseph Dumouchelle, Prieur, Laberge, Touchette, and Wattier dit Lanoie, reside at from eight to ten miles from Beauharnois ; Louis Dumouchelle lives about four miles and a half from Beauharnois ; and Goyette, about two miles from Beauharnois—all in the province of Lower Canada. Beauharnois is about twenty-five miles from the province line.

Q. from the prisoner Brien—Was it not after we had left Beauharnois, and proceeded a considerable distance towards Chateauguay, that I enquired after Colonel Campbell ?

A.—I think it was after we left Beauharnois ; but I cannot exactly say where it was asked—I rather think it was just after we had left the village,

Q. from the same—Did you mean to say, that I ordered carts to be turned out for the guards; did I not request you or Mr. Ellice to provide the guards with vehicles?

A.—Brien asked civilly for the carts; others came up rudely and said, "If you think we are going to walk after you, you are mistaken—we must have carts."

Q. from the same—Did I not behave towards you, and the other prisoners, with as much humanity and kindness, as the unfortunate enterprise I had embarked in would allow of?

A.—His conduct was very civil.

Q. from the Court—Are the prisoners before the Court, tenants or *cessitaires* to the seignior of Beauharnois, and is St. Martine in the seignior?

A.—The whole of them, except Dr. Brien, Chevallier De Lorimier, and Prieur, are *cessitaires* of the seignior of Beauharnois, and St. Martine is in the seignior of which I am agent.

ROBERT FENNY, groom to Mr. Brown, of Beauharnois, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Between twelve and one o'clock on Sunday morning, the fourth of November, as I was going down to Mr. Brown's house, I was taken prisoner by an armed party of six men. I was kept by these men about half an hour, when I was released by Mr. Brown and Mr. Ross, who told me to take two of these men prisoners and tie them; the others ran away. I then went down to Mr. Brown's office, where I found some of our own volunteers, in rank, in front of the office. About one hundred and fifty or two hundred rebels came down from the French Church, and commenced to fire upon us. Our party then dispersed; I got into the hay-loft. Shortly after this, I understood that Mr. Ellice and the rest of the party in the house, were taken prisoners. The first of the rebel party that I saw was Joseph Dumouchelle, going across the yard with a candle in his hand. Shortly after

this, Mr. Brown called me down from the hay-loft, to put the horses to, to take him to Chateauguay. Dr. Brien kept us in the yard for about half an hour, until he could get a sufficient guard ready to take charge of us. Mr. Ellice and Mr. Brown got into the waggon, and Dr. Brien and myself. We went to Chateauguay, and went to the house of Mrs. Duquette. There were three other carts—two double carts and one single—went with us, containing prisoners and a guard. At Chateauguay, I received some letters from Mr. Ellice, Mr. Brown, and the others, to take back to Beauharnois to their families, as I was going back with the waggon; but Dr. Brien, the prisoner before the Court, told me to take him to St. Martine; I went eight miles in that direction, and he got out at the prisoner, Louis Dumouchelle's house, and I returned with the waggon to Beauharnois. Between one and two o'clock on the afternoon of Sunday, the fourth, I was taken prisoner by order of François Xavier Prieur, the prisoner before the Court. He seemed to be a leader, and wore a sword. I was taken to Prevost's, where I was put into a cart, and was sent to Chateauguay with other prisoners, but returned, as a prisoner, to Beauharnois the same evening. I was put into one F. X. Prevost's house, at about eleven o'clock on Sunday. I was detained there until Monday, at twelve o'clock. Captain Gagnon then permitted me to go to Mr. Ross's, where I was kept until Wednesday, between two and three o'clock, when I was given over by Gagnon to the charge of Joseph Wattier dit Lanoie, who had a drawn sword, who took me to Uno's house. I was kept there until Saturday, when the arrival of the Glengarries released us.

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth, or on any other day up to the tenth, of November, you saw any, and which of the prisoners before the Court; if so, declare when, where, and how they were engaged?

Answer —I saw Dr. Brien and also Joseph Dumouchelle, as I have

stated ; neither of them were armed ; Joseph Dumouchelle seemed to have command in the armed party, and was very active ; it was he who cried out to the men, on their descent from the French Church, " Ho, mes amis, en avant !" I knew his voice, and afterwards saw him. I saw Jacques Goyette from Sunday, the fourth, to Wednesday, the seventh ; he was armed with a sword ; he seemed to have a good deal of authority among the armed men, with whom I saw him. I saw Toussaint Rochon, from Sunday, the fourth, to Wednesday, the seventh, and I afterwards saw him on the tenth ; he came into Uno's house with a double barrelled gun ; he pushed them out with his gun ; he seemed to have a good deal of authority among the armed men, and desired all those with arms to turn out, because the troops were coming ; he seemed to be active, indeed, in every respect ; he was active on this occasion as well as on the previous days which I mentioned ; on these days he was drilling the men and drilling with them. I saw Prieur ; he was armed with a small volunteer sword, as I have stated, and also on the fourth, fifth, sixth, and seventh ; he appeared very active, and to have a command. I saw Joseph Wattier dit Lanoie, as I have already stated ; he also came in on Saturday, the tenth, and told us to get ready to go to the Cote—that Mr. Papineau had a guard of six hundred men and a prison there. I saw Chevallier De Lorimier there ; he then wore spectacles ; he appeared to be much consulted by the armed party, and appeared to hold a command among them ; I saw him on Sunday evening, the fourth, in Prevost's house, also on Monday, in the street ; he seemed to have a great deal to say. I saw Jean Laberge in Mr. Brown's stable, at Beauharnois, on Sunday, the fourth, with a gun in his hand ; he was with numerous other armed men ; he seemed to act as a private on guard.

It being four o'clock, P. M., the Court adjourned until to-morrow morning, at ten o'clock.

SECOND DAY, 12th January, 10 o'clock, A.M.

The Court meets pursuant to adjournment. Present, the same members as yesterday.

Examination of Robert Fenny continued.

Question from the prisoner Joseph Dumouchelle—How long had you known me, and how often have you conversed with me before the third of November ?

Answer—I have known you for eleven years ; I have often conversed with you, and been often in your house.

Q. from the same—Was it raining when you saw me, as you pretend, crossing the yard to go to the stable with a candle ; and say also, was the night of the third stormy or not ?

A.—It was not raining when I saw you crossing the yard with a candle ; it rained before I saw you very heavily, and the night was partially stormy.

Q. from the prisoner Brien—At the time that Messrs. Ellice and Brown wished to send letters to the ladies, was it not refused them, and did I not insist upon their being allowed to send the letters ?

A.—They refused to let me take them, but you said they were of no consequence—you had seen them. I mean by “they,” the armed party standing round the door.

Q. from the same—Did I not endeavour to prevent your being taken prisoner, when at Mrs. Duquette’s house, at Chateauguay, and did I not, in fact, after much exertion, succeed in obtaining permission for you to go back with me to St. Martine, and from thence to Beauharnois, with the letters ?

A.—You might, but I did not see you ; you gave me permission to go with you to St. Martine, and from thence to Beauharnois with the letters.

Q. from the same—Did I not do every thing possible to alleviate the condition of Mr. Brown, Mr. Ellice, and the other prisoners ?

A.—I do not know.

Q. from the prisoner Chevallier De Lorimier—Did you ever see me before the third of November, and did you ever hear me named on the two occasions when you pretend to have seen me ?

A.—I had seen you, in Montreal, before that time. I knew you by sight, but not by name, and I did not hear you named on these two occasions I alluded to.

Q. from the prisoner Wattier dit Lanoie—Are you positive in saying that you saw me on Saturday, the tenth, at Beauharnois ?

A.—Yes, I am positive.

Q. from the prisoner Prieur—Did you see me, before you were taken prisoner the second time, on the fourth.

A.—Yes, I saw you at Prevost's door.

JOHN ROSS, Esquire, of Beauharnois, merchant, and Captain of the Beauharnois Loyal Volunteers, being brought into Court, and the charge read to him, he is duly sworn and states as follows :

On the third of November, at about twelve at night, a young man of the name of Bean, a farmer, of Chateauguay, arrived at my door, and enquired for the residence of Mr. Brown. After he left my house, curiosity tempted me to call him back, to enquire if there was any news, by his enquiring for Mr. Brown at that late hour. He told me, that he came to tell Mr. Brown that the Canadians had risen, and taken Mr. M'Donald, and all the old country farmers, prisoners, and also to put us on our guard. I immediately awoke my people, (I mean my clerks and servant men,) and told them to get the arms ready, and I went down to Mr. Brown's, to apprise him. I met him at his own door, he having previously been warned. I sent my servant to Mr. Normand's, for some arms, he being Quarter Master of the Volunteers. After some time, I was surprised that he did not return. On Mr. Brown's return from Mr. Ellice's, I was standing at the corner, and I saw a considerable number of people, about twenty or thirty, collected together. I mentioned to Mr. Brown, that we had better go and see what so many had assembled together for, at that time of night. When we got to the cor-

ner of the orchard, a part of them appeared to run away, but I met one man with a musket, which he presented at us. This man not being able to give an account of himself, I called some of the Volunteers, and made him prisoner. He was taken up to my house and tied to the garret stairs. We went on a little farther and met two men, one armed with a pike, and the other with a gun. There I found my servant man, who had been so long absent, and Mr. Brown's coachman, Robert Fenny, prisoners. One of the two men escaped; the other I made prisoner. I sent to the end of the road then, to see if any of the others, who had run away, were there, and, if so, to take them prisoners. On reaching the end of the street, I found Louis Dumouchelle, the prisoner before the Court, on horseback. He was in charge of one of the Volunteers, Robert Johnson, who had detained him. I did not perceive that Dumouchelle was armed. This occurred between twelve and one on Sunday morning, the fourth. I went to rouse some other Volunteers, and left Dumouchelle in charge of one of the Volunteers. Several of the former party, who had run away, jumped out from the orchard, and this Volunteer, trying to secure them, Dumouchelle put spurs to his horse and escaped. He galloped to the foot of the street and gave a yell, which was responded to from behind the Church apparently, by from between two hundred and three hundred people. The people who responded to the yell, immediately advanced, and I collected the Volunteers and marched down to Mr. Brown's office. We had not been there many minutes before they fired sixty or seventy shots on us. Our men returned the fire, but having but nine or ten men, I thought it was folly risking their lives. I consulted Mr. Brown, and then went into Mr. Ellice's. We thought it advisable, as our numbers were so small, to surrender to these men. I then went out with Mr. Brown and found these men, after the first volley, which was fired at the office, to have surrounded the house, and had fired several shots into the dwelling house, which is a different building from the office. On arriving at the door with Mr. Brown, and finding that these men had surrounded the house, I called for the chiefs, to surren-

der to them, and, on doing so, Dr. Brien, Joseph Dumouchelle, and Chevretils, the prisoners before the Court, came forward as the leaders of the party, and we told them that we surrendered, and hoped they would respect the lives and properties of the British of the village. These three said, their object was not to injure any person, that all they wanted was arms and ammunition. They then stated to Mr. Brown, that they understood, he had a large quantity of arms concealed in a sheep pen. Mr. Brown told them that it was not the case, that they were at liberty to search—which they did. They found some ball cartridge in Mr. Brown's stable, or barn, and they took some few arms from the Volunteers, which they distributed among their own people. I was then a prisoner, and they immediately requested to search my house; I went there, accompanied by Chevretils and Laberge, the prisoners before the Court, who appeared to be leaders, accompanied also by a large body of armed men, and I gave over, to Chevretils, four or five fowling pieces, and my sword, to another man of the name of Laberge, but not the prisoner before the Court. I then went with the two above named prisoners, Laberge and Chevretils, to the shop; they took a cannister of powder. After that, we were taken as prisoners to Chateauguay. This was about three or four o'clock, on the morning of Sunday, the fourth. We were detained prisoners, at Chateauguay, until the Saturday following, the tenth; another armed party then took us through the woods to Lapigeonniere, where the party dispersed, and left us to ourselves.

Q. from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or at any other time up to the tenth, you saw any of the prisoners before the Court. If yea, declare when, where, and how they were engaged?

A.—The prisoner Brien, I saw as I stated; also, Chevretils and Joseph Dumouchelle. Louis Dumouchelle I have spoken of. Chevretils was armed. The other three above named, were not armed, that I saw. Brien and Joseph Dumouchelle distributed the arms taken from Mr. Ellice's house; Louis Dumouchelle was, also, present at the distribution

of these arms in the yard. I saw Jean Laberge, as I have already stated; he was armed with a gun. I saw Francois Xavier Touchette, armed with a spear; he is a blacksmith by trade; he was very actively employed on Sunday morning, the fourth.

Q. from the same—From all that you heard and observed, what did you understand to be the intention and object of these men?

A.—To overthrow the Government. Some persons among the party at my house, on the morning of the fourth, told me that the rising was general, and they expected a large body of Americans, some said thirty thousand, to come in and join them.

Q. from the prisoner Brien.—Do you not consider that I was instrumental in preventing you and the other prisoners from being harmed, and did I not exert myself to prevent violence to the prisoners.

A.—You were instrumental, and did exert yourself.

WILLIAM COUSINS, servant to Mr. Brown, of Beauharnois, being brought into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or any other time up to the tenth, you saw any of the prisoners before the Court. If yea, declare when, and where, and how they were engaged.

Answer—I saw Toussaint Rochon, the prisoner before the Court, on the morning of the fourth of November last, at Mr. Bryson's house, at Beauharnois. He was at the head of a body of men who were variously armed—some with guns, and some with pikes. He was not armed at this time. I saw him several times during the same day, unarmed; but he got my double barrelled gun and shot bag under the following circumstances. He came to my house unarmed. I was then a prisoner outside the house, under the custody of two men. Rochon was accompanied by an armed party. He demanded, quietly, that I should give him up my gun, which he was aware I had. I went into the house, brought out my gun, and gave it to him. He demanded my shot belt, which,

with my powder horn, I had endeavoured to conceal in the house, whereupon I returned and brought out the shot belt, but not the powder horn, with which he was satisfied. He delivered the gun over to some other person of his party. He then asked me whether I would join the party, or remain a prisoner; I told him I would join the party. I was allowed to go into the house and dress myself, and I afterwards accompanied them. Rochon told me, that unless I discovered where the arms and ammunition belonging to Government, and individuals, were concealed, I would meet with some great injury, by which I understood that he menaced me with death or bodily injury. The first house at which he stopped was Duncan's, the baker; he ordered his men to go in and take the arms belonging to him and his son. There were two or three military muskets, belonging to volunteers, taken at this house. By order of some of the party, Duncan was made to accompany them. We proceeded to the store of David Normand, where there was a light. Normand was aware of the movement, and approached us on foot as we arrived at the store. Rochon demanded his arms;—Normand, as Quarter Master of Volunteers, had a large quantity of arms in his store, of which the rebels were aware. He refused to give them, or to open his door. Rochon threatened Normand, unless he opened the door, saying, he should be sorry for it. Normand persisted in his refusal, saying, that there was the door, they might break it if they chose. Whether they did so or not, I cannot say. I afterwards, at Normand's request, proceeded to his dwelling house, to quiet the apprehensions of his family, and on coming out of his house, I saw Rochon at the door with the armed party, apparently commanding them. He endeavoured to allay the fears of Mrs. Normand, by assuring her that no violence would be offered. Normand's house is at the lower end of the village. We went from it up into the village, where we met the main body of the party, and I then lost sight of Rochon for the time. I went into the house of one Jacques Dumouchelle, where I heard the plot formed, by a body of men who went in with me, to take the steamboat Brougham.

After remaining there about fifteen minutes, I went alone to Bryson's house, where I saw Mrs. Brown, who was desirous of obtaining protection from one Masson. In order to effect this, it was necessary that I should see Rochon, and speak to him on the subject. As I was in front of the door, I saw Rochon and another passing, with a part of the machinery of the steamboat Brougham in their possession. One of them was carrying it; which of them I cannot say. Mrs. Brown asked Rochon's advice, what to do; he recommended her strongly to remain in the village, saying, that she should experience no ill treatment. He gave me permission to remain to assist Mrs. Brown, and then proceeded to his house, with the machinery of which I have spoken, and deposited it in his house. His house is next to Mr. Brown's, so that I saw him enter. This all occurred upon Sunday morning, before mid-day.

I saw the prisoner, Francois Xavier Prieur, on Sunday morning, the fourth of November, after day-light, on the gallery of Masson's house, armed with a sword. He was alone when I first saw him—afterwards he was joined by Masson. There were other people on the gallery; I cannot say whether they were armed. I cannot say positively whether I saw him afterwards or not.

I saw a man wearing green spectacles, he had a grey stuff coat, which, to the best of my knowledge, was of Canadian manufacture, standing on the threshold of the front door of Prevost's house, armed with a sword; he kept his face concealed; he was very much muffled up, but from what I saw of him, he appeared to be a dark man. I observed the man, as I thought he was a particularly vicious looking man. I made enquiries about him the same day, and was informed that his name was De Lorimier; I enquired of a good many of the rebel party; I cannot state who in particular; I had a difficulty in ascertaining his name, as he was a stranger; he was not present at the time I made these enquiries. I cannot say that the prisoner Chevallier De Lorimier is the same man; I believe that he is; but without the spectacles, and with the change he has undergone, I cannot be positive.

It was either on the sixth or seventh of November that I saw him, I think the seventh. Prevost's house was at that time full of armed men.

Q. from the Court—You say the man whom you suppose to have been De Lorimier, was muffled up: describe how?

A.—He had a handkerchief drawn more than usually high up on the chin, his cap was drawn down over his eyes, he held his head down, and his neck was drawn close down to his shoulders. The coat worn by him was a capot, or surtout; I cannot say whether it had a hood or not.

Q. from the same—In what respect as to figure and height does the person they called De Lorimier, differ from the prisoner, De Lorimier?

A.—The prisoner looks taller. This appearance may have been caused by the difference of dress, and the way in which he stood. I cannot say what sort of a cap he wore.

Q. from the prisoner, De Lorimier—Are you positive that the person you speak of as being at Prevost's, and supposed by you to be me, wore a sword?

A.—I am certain.

JOHN BRYSON, of Beauharnois, bailiff, being brought into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or on any other day up to the tenth, you saw any of the prisoners before the Court. If yea, declare when, where, and how they were engaged?

A.—I saw Jean Baptiste Henri Brien, the prisoner before the Court, at one o'clock on Sunday morning, the fourth of November. I first saw him on the road, before the seignior office, at Beauharnois. He was with a body of, as near as I could say, about two hundred men, armed with guns and pikes. I cannot say whether he was armed at this time, he had no gun. I saw him twice after this, on the same morning. When Mr. Ellice and Colonel Brown went into the waggon, I saw the prisoner, Brien, armed with a pistol; he said that no guard

was necessary as he had pistols in his possession, and held one in his hand. One of the party took me to my house; Mr. Brown and Mr. Ellice followed in the waggon, with the prisoner, Brien, who had the pistol in his hand. I went to my bedroom, to change my clothes, and the prisoner, Brien, followed me with a pistol in his hand.

I saw the prisoner, Ignace Gabriel Chevrefils, with the armed party on the same morning; he was armed with a gun; he was one of the party that fired upon us in the yard.

I saw Joseph Dumouchelle, at the same time, with the same party, but unarmed. He was the person who demanded the arms and ordered me to take a light and shew him the place where the arms were, and I did so. Got a light and went with the party, ordered by Joseph Dumouchelle to attend me, to search the outbuildings for arms. We reached the coach-house, to which Joseph Dumouchelle accompanied us, and there he left; and on arriving at the barn, we found him there, with another party, taking possession of the powder, which had been shown to them by Scott, Mr. Brown's farmer; Mr. Scott had the light in his hand, inside the barn. To the best of my recollection, the casks, eleven in number, some containing ball cartridge, and some flints, were given over to them.

I saw Jean Laberge with the armed party, on Sunday morning, the fourth. He was armed with a gun. He was among the party who fired on us and afterwards surrounded the seigniori house.

I also saw Francois Xavier Touchette on the same morning, with the same party, armed with a pike. He insisted that I should go and show him where the cannon were. He said he knew from good authority that there were three pieces. I was with the prisoners (Mr. Brown, Ross, and Ellice,) who were taken to Chateauguay, on the morning of the fourth. I was in the same cart with Mr. Ross.

Question from the Judge Advocate—From all that you heard and observed, what did you understand to be the intention, and object, of these men?

A.—On my enquiring, they told me, they wanted the country ; they were going to take us to the Cote ; they said, they wanted their rights. I did not hear them speak of the Government. They said they had all risen, and taken possession of the south side of the St. Lawrence.

Q. from the prisoner Chevretils—Recollect yourself, and say whether you may not have been mistaken in stating that you saw me armed with a gun ?

A.—No ; I know you perfectly well, and I saw you armed with a gun.

Q. from the prisoner Joseph Dumouchelle—Did I not treat you, while a prisoner, with kindness and humanity, and did I not protect you and the other prisoners from insult ?

A.—You took me prisoner, and went with me to my house and bedroom, and did not treat me with any rigour ; you told my wife that no harm would happen to me, but I do not know that you afforded me any protection ; I did not see you afterwards until you were taken prisoner.

Q. from the prisoner Brien—Did not the guard of volunteers, which has been stated to be drawn up before Mr. Ellice's office, on the arrival of the band of armed men, fire the first shot ?

A.—To the best of my knowledge, and I was at their head, the volunteers did not fire at all. The slugs and balls from the fire of the rebel party passed over our heads. I was on the right of Mr. Brown, about fifty yards. Some men, not of my party, might have fired ; I do not know whether they did or not.

DAVID NORMAND, merchant, of Beauharnois, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or at any other time up to the tenth, you saw any of the prisoners before the Court ; if yea, declare when and where, and how they were engaged ?

A.—I saw J. B. H. Brien, on the morning of the fourth November, about two o'clock, about one acre from my own house, in the village of Beauharnois, in the parish of St. Clement. I was informed, about one o'clock on Sunday morning, that there had been a general rising in rebellion of the Canadians on the Chateaugay River. I went and informed Mr. L. G. Brown; measures were taken to rouse the British population; I went to my store to get some arms to serve out, being Quarter Master of the Volunteers; I went from my store to the house of a man named Newlove; while knocking at the door, Brien, the prisoner, took hold of me, and made me prisoner; he was at the head of an armed party of twelve or fifteen men. I saw Toussaint Rochon, the prisoner before the Court, on the same day and at the same place, and with an armed party, armed with a double-barrelled gun; I saw him about an hour after I was made prisoner, at the head of forty or fifty men; they called him Captain, and he said that he was so. Rochon, with his party, came to my store, and demanded the arms there, and upon my refusal to give the key, two of his men, by his order, broke open the door, took the arms of the volunteers, and also a barrel of powder belonging to me; the arms were distributed among them.

Q. from the Judge Advocate—From all that you heard and observed, what did you understand to be the intention and object of these men?

A.—They said that they wished to abolish the "*lods et ventes*," and that they were now for Nelson and Papineau, and were resolved to succeed or die. They said the rising was general—that they expected five thousand Americans in to assist them—that Montreal, Chateaugay, and Laprairie were taken; this was said by the party generally, not by the two prisoners.

OVIDE LEBLANC, notary public, of Beauharnois, being called into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from the Judge Advocate—Look at the prisoners before

the Court, and declare whether, on the fourth of November last, or at any other time up to the tenth, you saw any of the prisoners before the Court; if yea, declare when and where, and how they were engaged?

Answer—I saw Jacques Goyette, on Monday, the fifth, in the village of Beauharnois, in the parish of St. Clement, about one o'clock in the afternoon, outside my own house; he came to make me prisoner; he was armed with a sword; I invited him to enter my house; when I first saw him, he was not with an armed party; on leaving my office to go to my dwelling house, I saw five or six men, all armed—I thought they came to make me prisoner; Goyette declared that he came for this purpose. There was at this time a body of armed men in the village. I saw the prisoner, Prieur, on the same day, at the Curé's of Beauharnois; he was armed with a sword; I saw him the day after, at the house of Prevost, with a number of persons; there was a large number of armed persons in another apartment; I did not observe whether those in the apartment with the prisoner were armed.

It being four o'clock, the Court adjourns until Monday morning, at ten o'clock.

THIRD DAY, 14th January, 10 o'clock, A.M.

The Court meets, pursuant to adjournment. Present, the same members as on Saturday, the twelfth.

Examination of Ovide Leblanc continued.

Question from the Judge Advocate—Did Prieur appear to be connected with the armed party?

Answer—He did appear. I saw the prisoner, Joseph Wattier dit Lanoie; he was armed with a sword; the last time I saw him was on Saturday, the tenth; I saw him three times between the fourth and tenth; I do not know that he was armed with a sword on Saturday, but he was armed with a sword on the previous occasions on which I

saw him ; when I saw him, the armed party to which I allude was in the village of Beauharnois, and I believe he was connected with them. I saw the prisoner, Chevallier De Lorimier, to recognize him, on Tuesday, the sixth ; I am not perfectly positive as to the day, but I believe it was on Tuesday ; I had seen him once before, without having recognized him at the time ; the first time I saw him, I was not thinking of him, although I had heard he was in the village ; it was raining hard, and he was a good deal muffled up ; I believe his ordinary residence is in Montreal ; he is a notary public ; he was not armed at the time I saw him ; I am not aware that he held any command ; I did not see him with the body of armed men.

Q. from the Court—Had you been previously acquainted with the prisoner De Lorimier before you saw him, as stated, and are you certain it was him you saw at St. Clement ; how was he dressed ?

A.—I saw him in July, 1837, at Montreal ; I believe it was he ; I have no doubt but it was he that I saw ; he had on a *manteau* with a collar standing up, and a shawl over his chin ; his coat was something of a dark colour ; to the best of my knowledge, he had spectacles on ; his coat was blue or brown, or of some dark colour.

Q. from the prisoner De Lorimier—Do you not know my brother Jean Baptiste Chamilly Chevallier De Lorimier, barrister at law ; if so, do you not know that he bears a striking resemblance to me ?

A.—I do not know your brother very well ; your brother, I believe, is a stouter man. I do not believe I made any mistake between the two.

ROBERT ORR WILSON, of Beauharnois, carpenter, being brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or at any other time up to the tenth, you saw any of the prisoners before the Court ; if yea, declare when and where, and how they were employed ?

Answer—I saw the prisoner, Jacques Goyette, on Monday, the fifth, and on the two following days, of November last, in the village of Beauharnois, where I was a prisoner in the hands of the rebel party ; a party of the rebel body was taking away iron from the store of Capt. John Ross, on Tuesday, the sixth, and Goyette, the prisoner, appeared to be superintending the removal of the articles ; he was armed with a sword at that time, buckled on with a patent leather belt ; the sword was a volunteer sword ; I saw him on the following day, the seventh, with a company of the rebels, acting as Captain ; they addressed him by that title, and he answered to it ; I saw him moving off his company, and understood from those who were on guard over me, that he was going with them to George Baker's. I saw the prisoner, François Xavier Prieur, on the night of Sunday, the fourth ; I had been taken prisoner on the afternoon of the same day, and had been obliged by the rebels to drive some of the prisoners, whom they had taken in the steamboat *Brougham*, to Chateauguay ; we were obliged to return the same night to Beauharnois, when I was taken to the house of François Xavier Prevost, an inn-keeper in Beauharnois ; arrived there, I was desirous of returning home, and asked who had the command there ; I was referred by the steamboat passengers to a man with specks, whom I could not find ; being acquainted with François Xavier Prieur, the prisoner, I addressed myself to him ; Prieur, on my request, gave me leave to go home, accompanied by a guard, but I was afterwards prevented by another of the rebels ; Prieur appeared to have authority ; he was not armed, I believe, on this occasion ; I saw him afterwards on the seventh, before Prevost's house, with the rebel party ; most of those who were armed, left the village of Beauharnois for George Baker's ; I cannot say that he was then armed, but I had seen him armed on a previous part of the day ; Prevost's house was the place where we were shut up, and where the rebel party always mustered. I saw the prisoner, Joseph Wattier dit Lanoie, on the seventh of November, in the village of Beauharnois ; he, with a drawn

sword, and a party of rebels, escorted me and Fenny from a house belonging to Mr. Ross, where we had been confined, to one Uno's; I saw him afterwards, on the Saturday following.

Q. from the same—From all that you heard and observed, what did you understand to be the intention and object of these men?

A.—They said, we should not suffer any harm—that the *lods et ventes* and the rents were to be abolished, also the tithes. They told me that all the country was taken, except Quebec, and that they were going to starve them out of Quebec; they said great numbers of the Americans were coming in to assist them.

Q. from the prisoner Wattier dit Lanoie—At what hour did you see me, on Saturday, the tenth?

A.—It was some time in the forenoon; I cannot exactly say the hour—some time between eleven and twelve, I believe.

ALEXANDER THOMPSON, engineer of the steamboat *Brougham*, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or on any other day up to the tenth, you saw any of the prisoners before the Court; if yea, declare when and where, and how they were employed?

Answer—I saw the prisoner, François Xavier Prieur, on the fourth November, in the morning; he came with an armed party on board of the steamboat *Brougham*, which was then lying at the wharf at Beauharnois, by which party the boat was taken possession of; he was then armed with a sword; I and the passengers on board the boat were made prisoners and taken out of the boat, but the crew was left on board; I was taken to the house of one Masson, at the end of the wharf, and put into the room where was Mr. Commissary Lister, one of the passengers, also a prisoner; I was afterwards sent back to the boat; Prieur came, on the next morning, on board the boat, and took breakfast in the cabin; he was then also armed; he took off his sword;

and put it on the cabin table ; I invited him to sit down and rest himself ; he said no, he must go and join his men ; I saw him once or twice during the same day ; I do not remember to have seen him after that day. I saw the prisoner, Joseph Wattier dit Lanoie, on the eighth and ninth of November. He came into the house of the Curé of Beauharnois, where we were held as prisoners : he was armed with a sword at this time ; I cannot say what he came in for ; there was a guard over us, but I did not hear him give any order ; I thought he was one of the rebel party. I saw the prisoner, Chevallier De Lorimier, on the fourth of November, twice ; I saw him the first time a little after the steamboat was taken, in the cabin ; this was a little after day-light, and the candle was still burning ; the boat was then fast to the wharf at Beauharnois ; I cannot say precisely what he was doing ; he had some papers in his hand, and there was a good deal of confusion among the passengers ; he afterwards came, at about one or two o'clock of the same day, into the room where Mr. Lister and myself were confined, he was accompanied by Mr. Masson, and had some papers in his hand ; one of them, I believe Mr. Masson, asked Mr. Lister his name, and on his declaring it, he, De Lorimier, referred to his paper which he held in his hand ; Masson appeared to me to be acting as an interpreter to him ; Mr. Lister demanded of Masson the name of the prisoner, De Lorimier, and Masson replied, " He is a stranger, and I do not know." He was not armed.

Q. from the same—Did the rebel party remove any portion of the machinery of the steamboat *Brougham*.

A.—They did.

Q. from the same—Did you see Toussaint Rochon there ?

A.—I did ; he was with the party who took possession of the steamboat *Brougham*, on the morning of the fourth ; he took Lieutenant Parker's (of the Royal Artillery) sword, who was one of the passengers on board of the *Brougham*.

Q. from the Court—Describe how Chevallier De Lorimier was dressed when you saw him ?

A.—He was dressed with a dark coloured coat, buttoned up tight, collar standing up ; he had a shawl round his chin, and a pair of double blue spectacles on.

Q. from the same—Did De Lorimier appear to you to be one of the rebel party who had taken possession of the boat ?

A.—Without doubt, he belonged to the rebel party.

Q. from the prisoner De Lorimier—Is it not in consequence of having heard the person you took for me at Beauharnois, say he was De Lorimier, that you now say I am the same individual ?

A.—I was not acquainted with you previously, but I recognize you by sight, and can swear you are the same individual.

Q. from the prisoner F. X. Prieur—Was I not invited by Captain Whipple to breakfast with him ?

A.—You might have been ; I did not hear it.

ETIENNE LEBOEUF, mason, of St. Clement, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or on any other day up to the tenth, you saw any of the prisoners before the Court ; if yea, declare when and where, and how they were employed ?

Answer—I saw the prisoner, Wattier dit Lanoie, on the fifth or sixth of November last, in the village of Beauharnois ; he caused guard to be mounted, and posted sentinels ; I saw him altogether about three times during the week ; I saw him command in the way that I have mentioned. I have seen a person who resembled the prisoner, Chevallier De Lorimier ; I cannot swear to him positively ; I saw him on the seventh or eighth ; he was not armed ; he was moving about in a crowd of people, some of whom were armed ; I saw him on one oc-

occasion writing on a trunk intended for Chateauguay ; it was stated in the party, that the trunk was to be delivered at Mr. Maurice Lepailleur's, or Mr. Cardinal's, at Chateauguay ; on one occasion, some time between the first and tenth, a man, who was standing as sentry, complained to the person resembling the prisoner, De Lorimier, that he had been too long on his post, and he said he would try to get him relieved.

Q. from the same—Did you put any question to the person resembling the prisoner, De Lorimier, as to the ultimate object of the assemblage of men, whom you have stated to be in the village of Beauharnois ?

A.—I had heard that Mr. De Lorimier had just returned from the States ; I asked him, “ what is intended by all this disturbance ? ” he answered, “ the Americans want us to make way for them, and that done, all would go well.”

Q. from the same—By what name did the person whom you designate as resembling the prisoner, Chevallier De Lorimier, and with whom you had this conversation, pass, at the village of Beauharnois, at the time by you abovementioned ?

A.—He passed under the name of Mr. De Lorimier ; he was addressed as such, and answered as such.

Q. from the Court—Describe how the man resembling Chevallier De Lorimier was dressed when you saw him ?

A.—He had on a blue great coat, and wore spectacles.

Q. from the prisoner Wattier dit Lanoie—Are you not a prisoner in the common gaol of this district, detained under accusation of having participated in the supposed acts for which the prisoners before the Court are tried ; and have you not been induced by promise of reward, or hope of pardon, to give evidence against them ?

A.—Certainly yes ; I am a prisoner ; I have been told that if I rendered a fair and just evidence, I would be released from prison.

HYDE PARKER, Esquire, Lieutenant of Her Majesty's Regiment of

Royal Artillery, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth of November last, or on any other day up to the tenth, you saw any of the prisoners before the Court; if yea, declare when and where, and how they were employed?

Answer—I saw the prisoner, Chevallier De Lorimier, about twelve o'clock on Sunday, the fourth November last, in the village of Beauharnois; I was one of the prisoners made, on board of the *Brougham* steamer, by the rebel party at Beauharnois, and De Lorimier came, accompanied by the prisoner, Prieur, and Mr. Masson, as interpreter, to the house of one Prevost, an inn-keeper, where the prisoners taken on board of the steamboat were detained; he asked our names and professions, and I went down, at his instance, to the steamboat, to open my box there, in order that he might examine my papers; there were but two letters in my box, which he did not open, on my informing him that they were private; we were afterwards taken to Chateauguay, and brought back to Beauharnois the same night. On Monday, one of the passengers represented to the rebel party that we should be much more comfortable on board of the steamer, there being no beds in Prevost's house, and we obtained permission to go on board of the steamboat; the same night, however, about eleven o'clock, the passengers (prisoners) were made to disembark from the boat, and go up to the house of the priest of Beauharnois; on my way up, I saw De Lorimier, the prisoner; he walked up with me, and informed me that the whole country had risen—that they had taken Montreal, and had fought at some other places, and that Government was deliberating about giving up the Canadas altogether; I saw him several times afterwards in the course of the week. I am enabled to swear to him positively, from his having come several times into the priest's house, and having one day taken off his fur cap and a pair of green spectacles

which he wore. He was not armed at any time I saw him; my sword was in the box when he examined it; I called his attention to it, saying he might take it if he thought proper—but he declined doing so, saying it was private property. He and Prieur seemed to be the two leading men among the rebel party; he said that he was made prisoner, and had no authority over them, but his actions belied his words. There were at Beauharnois, during the time we were there, about four hundred or five hundred armed men, composing the rebel party.

Q. from the Court—Who took your sword from you?

A.—It was Toussaint Rochon, the prisoner before the Court.

Q. from the same—How was the prisoner, De Lorimier, usually dressed?

A.—Fur cap, green spectacles, dark blue pea-jacket, with a blue sash round his waist, and dark trowsers.

Q. from the prisoner Chevallier De Lorimier—Did you request of the person of whom you speak as being De Lorimier, to take great care of your trunk; and if so, was not your trunk sent on to Chateauguay to you by the person whom you say was the prisoner, De Lorimier?

A.—Yes, because they said they would not touch any private property; it was sent on after they opened and examined it.

LOUIS MAHEU, of the parish of St. Martine, farmer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from the Judge Advocate—Look at the prisoners before the Court, and declare whether, on the fourth day of November last, or on any other day up to the tenth, you saw any of the prisoners before the Court; if yea, declare when and where, and how they were engaged?

Answer—I saw the prisoner, Ignace Gabriel Chevretils, in the camp at Baker's; I did not see him armed; I cannot say what day

precisely, but it was between the fourth and tenth of November ; it was in the camp of the Canadians. I saw Jacques Goyette, between the fourth and tenth of November last, at the camp of the Canadians, at Baker's. They were strangers to me ; I know nothing particular about them. I saw the prisoner, Chevallier De Lorimier, at the camp at Baker's, between the fourth and tenth of November last ; I cannot specify the precise day ; I saw him on a couple of days within this period, and on the evening of one of those days, he read a letter three times to the people who were assembled there, which it was understood among us had been received from Dr. Côte ; the letter asked reinforcements to go to Odelltown ; the first time he read the letter at James Perrigo's, the second time at George Baker's, and the third time at Louis Lessier's. I cannot say how many men there were there, perhaps one hundred, or one hundred and fifty.

[The prisoners here make certain objections, in a paper marked E, hereunto appended, which is overruled.]

I saw the prisoner, De Lorimier, after the people of Beauharnois had arrived to reinforce the camp ; I do not know whether he came from Beauharnois with them. The commanders of the camp lodged at the house of James Perrigo ; De Lorimier lodged there.

Q. from the Court—Did reinforcements, to your knowledge, go to Odelltown, in consequence of De Lorimier's reading the letter you spoke of ?

A.—I left the camp on the same evening on which the letter was read, and I do not know.

Q. from the same—What is the distance from Baker's camp to Beauharnois ; and did the two parties keep up constant communication, and act in concert ?

A.—Two leagues ; I cannot say whether they did or not.

Q. from the prisoner De Lorimier—Are you not a prisoner in the common gaol of this district, detained under accusation of having participated in the supposed treasonable acts for which the prisoners are

being tried ; and have you not been induced, by promise of reward or hope of pardon, to render evidence against them ?

A.—I am a prisoner ; I have not been induced by promise of reward, or hope of pardon, to give evidence against the prisoners ; I was brought here to state what I knew.

Q. from the same—Is it not by promises of pardon, that you have been induced to give evidence against the prisoners ?

A.—Nothing was promised.

The prosecution is here closed ; and the prisoners being called on for their defence, hand in a paper writing, hereunto annexed, marked F, and apply for delay until Friday next, the eighteenth instant, to prepare for their defence.

The Court is closed to deliberate.

Delay is granted until Wednesday next, the sixteenth instant, at twelve o'clock, to prepare their defence.

Three o'clock.—The Court is adjourned until Wednesday, the sixteenth instant, at twelve o'clock.

FOURTH DAY, 16th January, 12 o'clock, M.

The Court meets, pursuant to adjournment. Present, the same members as on Monday, the fourteenth, except Captain Mitchell, Grenadier Guards, reported sick.

The prisoners are called upon for their defence.

ELEAZER HAYS, of Soulanges, farmer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Wattier dit Lanoie—Do you know me ; for how long, and what is my character and disposition ?

Answer—I have known you for twelve years, since which time you have been my neighbour ; you appeared an industrious and honest man in your dealings.

Q. from the same—Have I not a store at the parish of St. Timothé de Beauharnois ?

A.—Yes.

Q. from the same—Are you not aware, that, up to Wednesday, the seventh November, I was at my house at Soulanges ?

A.—I cannot say that.

Q. from the same—Did you not see me going to mass on Sunday, the fourth November last, at the Cedars, at ten, A.M. ?

A.—I cannot say.

MARGUERITE HENAULT, veuve de Louis Julien, having been brought into Court, and the charge read to her, she is duly sworn, and states as follows :—

Question from the prisoner Wattier dit Lanoie—Do you know me ; how long have you known me ; where did you see me on the fourth November last, and at what hour ?

A.—I do know you ; I have known you for thirty-eight years ; I understood that you had crossed from the Cedars to St. Timothé ; to assure myself of the fact, I sent for you to your store, and you came to my house at four o'clock on Sunday evening, the fourth of November. You have a store at St. Timothé, but you live at the Cedars or Soulanges.

Q. from the same—Is not the parish of St. Timothé de Beauharnois, where the prisoner's store is, exactly opposite the village of the Cedars or Soulanges, and how far distant from St. Clement de Beauharnois ?

A.—The two villages of St. Timothé and Soulanges are directly opposite to each other ; you have a store and a piece of land at St. Timothé. The churches of the villages of St. Timothé and St. Clement de Beauharnois, are three leagues distant from each other.

Q. from the same—What conversation took place between us, on the occasion of my going to your house on the fourth November ?

A.—I asked you what news on that side (the Cedars or Soulanges

side of the river); you replied, "all is perfectly quiet there;" you added, that on the preceding night, your man with a horse was taken away from St. Timothé; you said, "Tomorrow I must try to find them." It was from St. Timothé that the man and horse (meaning your clerk) were taken. You said you would be glad to find the key to open your store; your key, you said, was worth your man. You then left me to go to your store.

Q. from the same—How was I occupied during the year preceding the troubles, which took place in November, and did you ever know of my meddling in politics during that time?

A.—You were engaged in cultivating your land and keeping your store. I do not know that you ever meddled in politics.

Q. from the same—Do you know whether I was sent for to cross to St. Timothé, on account of my man and horse being taken away, and how do they cross from Soulanges to St. Timothé?

A.—I know that a person went across to the Cedars to tell you that your man and horse had been taken away; I am certain, for it was a man of my own house. They cross by canoes; it takes about an hour to cross.

Q. from the Judge Advocate—Are you related to the prisoner, Lanoie, or to any of the other prisoners before the Court, and if so, in what degree?

A.—No.

AMBROISE JULIEN, of the parish of St. Timothé, farmer, having been brought into Court, and the charge read to him, he is duly sworn and states as follows:—

Question from the prisoner Wattier dit Lanoie—Did you, on Sunday, the fourth November, go to Soulanges, in search of me, and for what purpose?

A.—At eight o'clock, A.M., of Sunday, the fourth November, I crossed from St. Timothé to the Cedars, to inform you, that your man and horse had been taken away, and I did so; you

told me, that you would cross to St. Timothé at two o'clock, and you did so.

PAUL PILON, of the parish of St. Timothé, labourer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Lanoie—Are you not in my employ ; state in what capacity, and how long you have been in my employ ?

A.—I have been a labourer in your employment for the last three years, and am so now.

Q. from the same—Did you see me at my store in St. Timothé, on Monday, the fifth November last ?

A.—Yes, during the whole day.

Q. from the same—How was I occupied, immediately previous to the late troubles ?

A.—You were about your store and farm.

Q. from the same—Have I not a store and a farm at St. Timothé, and was I not in the habit of remaining there all the week, and going to the Cedars on Saturday ?

A.—Yes, you have a store and farm there ; you usually remain at St. Timothé during the week, go to the Cedars on Saturday evening, and return on Monday morning.

Q. from the same—Did I not spend the whole day of Saturday, the third November last, at my plough ; if so, did you hear me say that I intended to continue my ploughing during the following week ?

A.—I saw you, and you said so.

Q. from the same—Do you know what caused me to abstain from ploughing on Monday, the fifth November last ?

A.—Your plough horse was taken from you on Saturday night, the third ?

Q. from the Court—Were you at Beauharnois between the seventh and tenth of November last ?

A.—No.

SOPHIE LAMESSE, wife of Francois Julien, of the parish of St. Timothé, having been brought into Court, and the charge read to her, she is duly sworn and states as follows :

Question from the prisoner Wattier dit Lanoie—Do you know me ; how long have you known me ; where do I reside ; at what distance from your house is the farm I own at St. Timothé ?

Answer—I have known you for the last eight years ; you live at the Cedars ; your house and farm are adjoining mine, at St. Timothé.

Q. from the same—Did you see me on Tuesday, the sixth of November last. If so, state how I was occupied, and where I went to on that day ?

A.—Yes, I saw you. You came to my house a little before twelve o'clock, and you left it, with my husband, at two P. M., to go to the Cedars.

Q. from the same—Do you not know that I remained all the forenoon of Tuesday, the sixth of November, at St. Timothé ? Do you know for what purpose I went to the Cedars ?

A.—I do not know. You came, at about ten, A. M., to my house. You crossed to the Cedars, on business, for potash kettles.

Q. from the same—At what distance is the Cedars from the village of Beauharnois. How far is the Cedars from St. Timothé ?

A.—The Cedars are distant, from Beauharnois, three leagues and a half, and from St. Timothé, about half a league.

Q. from the same—Did you see me, on Wednesday, the seventh of November, at St. Timothé.

A.—Yes, I did.

Q. from the same—Where was I coming from, and how was I engaged, when you saw me on the seventh.

A.—You had just come from the Cedars, and were engaged about your ordinary business, in your house. This was about half past six in the morning, and before daylight.

Q. from the same—How was I occupied during the summer and

autumn preceding the late disturbances. Did you ever know me to meddle with politics, previous to the late disturbances?

A.—You were occupied with your usual labour, as a habitant. I have no knowledge that you meddled with politics.

Q. from the Court—Do you and the prisoner live in the same house. If not, what took you to the prisoner's, Mr. Lanoie's, house, so early as between six and seven o'clock of the morning of the seventh.

A.—We do not. I had occasion to go to my mother-in-law's, and passing Lanoie's and seeing a light, I went in.

Q. from the Court.—How do you know that Lanoie came from the Cedars?

A.—Because my husband came with him.

JOHN SIMPSON, of Coteau du Lac, Esquire, Collector of Customs, having been called into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the prisoner Wattier dit Lanoie—Are you not a magistrate residing in the neighbourhood of Soulanges. How long have you resided there, and how long have you been a magistrate. Do you know me, and how long have you known me, and what is my general character and disposition.

A.—I am a magistrate, and do live in the neighbourhood of Soulanges, and have resided there for nearly seventeen years, and have been a magistrate nearly as long. I have known you for nearly the same period. You are good and harmless, as far as I am aware. I have never had a complaint, as a magistrate, against you.

Q. from the same.—Had I been an agitator, previous to the late troubles, do you not think you must have known it?

A.—I might have known it, but I do not mean to say, as a matter of course, that I must have known it.

Q. from the same—Do not I bear a high character as an industrious and peaceable man?

A.—Exceedingly so.

JOSEPH LADEROUTE, of the parish of St. Timothé, farmer, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :

Q. from the prisoner Lanoie—Do you know me, and did you see me on the seventh of November. Say when, where, and at what hour ?

A.—I do know you. I saw you on the seventh of November last, at your store, in the parish of St. Timothé, at eight A. M.

Q. from the same—What was I doing when you saw me ?

A.—You were at breakfast.

GEDÉON BRAZEAU, of St. Martine, farmer and trader, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the prisoner Brien—Do you know me. Did I not live in the same house with you, at St. Martine, for some months immediately preceding the last troubles ?

A.—I do know you. You did live with me, then.

Q. from the same—Did I not arrive, on the third of November, from a visit at my father's, in the parish of St. Martin, in the Isle Jesu, and, being sick and tired, did I not go early to bed ?

A.—Yes.

Q. from the same—Why, and when, did I leave the house that night, and under what circumstances ?

A.—I do not know when. You were taken away by others whom I did not know.

Q. from the same—When did I return to the house, and what proposition did I make, to your brother, in your hearing ?

A.—You returned on Sunday, the fourth, and proposed to my brother, that he should go away with you.

Q. from the same—What reason did I assign for desiring to go away ?

A.—You asked my brother to accompany you to the States, because you did not wish to meddle in the disturbance.

Q. from the same—Did I not, in fact, leave, with your brother, for that purpose, and when, and with what other person besides your brother.

A.—Yes, you left on the same day, with my brother and a man named Duquette.

Q. from the same—What was my character, and disposition, and had I not a high character for being peaceable, respectable, and industrious in the exercise of my profession?

A.—Good character and reputation in the parish. Yes, you were considered very industrious in your profession.

Q. from the same—Did I, or did I not, appear agitated on my return, on Sunday, the fourth, and did I express my regret at what had taken place at Beauharnois. If so, in what terms? I mean previous to my leaving, with your brother, for the States?

A.—You appeared to be very sorry, and you said you deeply regretted what you had done, and expressed your determination to go to the States. To the best of my recollection, this was between two and three o'clock on the afternoon of the fourth.

Q. from the Judge Advocate—Was any force used to compel Brien to go from home, on the third of November.

A.—He was induced to go by the force of entreaty. If he had not gone, they would have threatened him.

Q. from the same—Are you not a prisoner in gaol, on a charge of treason.

A.—I am a prisoner, but I am ignorant under what charge.

JOSEPH OCTAVE BASTIEN, of the parish of Vandreuil, notary public, having been brought into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the prisoner Prieur—Do you know, and how long have you known me, and what is my character and disposition?

A.—I have known you since the beginning of eighteen hundred and thirty-five. Your character is that of a peaceable and honest man.

Q. from the same—Did I not reside at Vaudreuil during the troubles of eighteen hundred and thirty-seven. Did I, in any way, take part with the agitators in their political assemblies?

A.—You did not reside at Vaudreuil; you lived at St. Timothé. I have no knowledge that you took any part.

AMABLE DUQUETTE, of the parish of St. Martine, farmer, having been brought into Court, and the charge read to him, he is duly sworn and states as follows:

Question from the prisoner Brien—Do you know me, and did you see me at Mr. Brazeau's, on Sunday, the fourth November last.

Answer—I know you; I have seen you once, and only once, which was at Mr. Brazeau's house, at St. Martine, but I cannot say on what day.

Q. from the same—Was it on the day after the taking of Beauharnois, that you saw me?

A.—It was the day after; I think on Monday, the fifth.

Q. from the same—Did you not engage to take me to the States, and did I not tell you, that I was leaving the country in order to withdraw myself from the disturbances existing in those parts?

A.—You did ask me if I would go with you, saying, that you wished to get away from the troubles.

Q. from the same—Where did I go to afterwards, and on what day did I leave St Martine, to leave the country?

A.—We crossed the river, at St. Martine, and walked about one hundred acres together; you then left me, to go, I know not where; I believe it was on Monday.

It being four o'clock, P. M., the Court is adjourned to Friday, the eighteenth instant, at ten o'clock, A. M.

FIFTH DAY, 18th January, 10 o'clock, A. M.

The Court meets pursuant to adjournment. Present, the same members as on Wednesday, the sixteenth.

ADELAIDE LEBOEUF, of the parish of St. Clement, having been brought into Court, and the charge read to her, she is duly sworn and states as follows :

Question from the prisoner Goyette—Have you any and what knowledge where I spent the night of the third November last.

Answer—You passed the night at our house, a mile and a half from the village of Beauharnois.

Q. from the same—Do you not live with me, and how long have you lived with me ?

A.—I do. I have lived with you for nine years, as servant.

Q. from the same—When did I leave my house, on the fourth of November last, and under what circumstances ?

A.—You left for Church, at half past eight o'clock, on Sunday morning.

Q. from the same—Did you see any persons come to my house, on the fourth of November last, before I went to the village of Beauharnois, If so, state what they said ?

A.—Yes, I did. They told you, you must march, otherwise your houses would be burned.

Q. from the same—Did you hear them make use of any other, and what threats towards me ?

A.—No.

Q. from the same—How was I occupied during the week which preceded the third of November last ?

A.—You were at your work.

PAUL AUGUSTIN SARAULT, of the parish of St. Clement, teacher, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :

Q. from the prisoner Goyette—At what distance do you live from my house. Have you had any, and what opportunities of making yourself well acquainted with me. If so, state what are my habits, character, and disposition ?

A.—An acre and a half, from my house. I was an inmate of your house for two years and a half, up to October, 1837. You are a man of good character, industrious and quiet.

Q. from the same—Do you know that I ever meddled with politics ?

A.—No. You spoke on politics with indifference. You appeared to be in favour of the Government.

Q. from the same—How did I spend the week immediately previous to the rising at Beauharnois ?

A.—I do not remember having seen you during that week.

Q. from the prisoner Rochon—Do you know me ; how long have you known me ; what are my character, habits, and disposition ?

A.—I have known you about three years, since you resided at Beauharnois. You are of good conduct in life, and good character.

ALEXANDER DOUGLAS, of North Georgetown, merchant, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :

Q. from the prisoner Joseph Dumouchelle—Do you know me ; how long have you known me. What were my habits, character, and conduct previous to the late disturbances ?

A.—I do know you. I have known you for eight years. You bore a respectable character, and were, in all respects, a decent and peaceable man.

Q. from the prisoner Louis Dumouchelle—Do you know me ; how long have you known me. What were my habits, character, and conduct previous to the late disturbances ?

A.—I have known you for eight years. I do not know so much of you as of Joseph. You always passed as a respectable man. I never heard any thing contrary to your being a peaceable, quiet man.

Q. from the prisoners Chevretils and Laberge—Do you know us ; how long have you known us. What were our habits, characters, and conduct, previous to the late disturbances.

A.—I do not know Chevretils. I have known Laberge for eight years. He was a peaceable, quiet man, of good character, previous to the late disturbances.

Q. from the prisoners Joseph Dumouchelle, Louis Dumouchelle, and Jesu Laberge—From all you know of us, did you not, previous to the late disturbances, believe us to be loyal subjects ?

A.—I knew nothing to the contrary.

JOSEPH GENDRON, labourer, of the parish of St. Clement, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :

Question from the prisoner Goyette—At what distance from my house do you reside. How was I occupied during the time, which immediately preceded the late rising at Beauharnois ?

Answer—Close to your house, on your farm. You were occupied at your trade of mason. I do not know that you designed evil.

Q. from the same—Had you occasion to see and converse with me often previous to the late troubles. If so, say whether you understood, from my conversation, that my mind was occupied with politics, or that I had any knowledge of the approaching disturbances.

A.—I often conversed with you. I never knew you had any knowledge of the approaching troubles, or that your mind was occupied with politics. I saw you almost every day.

Q. from the same—Did you see me on the morning of the fourth of November last. If so, state where, at what hour, and whither I was going ?

A.—Yes, I did, at your house, between seven and eight o'clock in the morning. You were on the point of starting for mass. You had on your Sunday clothes.

MARGUERITE HEBERT, wife of Pierre Leduc, of the parish of St. Clement, having been brought into Court, and the charge read to her, she is duly sworn, and states as follows :—

Question from the prisoner Goyette—At what distance from my

house do you reside ? How was I occupied during the late disturbances ?

A.—I am your next door neighbour. You were occupied quietly at your work.

Q. from the same—Did you see me on the fourth November, when, and where was I going ?

A.—Yes, I saw you, about three o'clock of the afternoon of the fourth, you were then returning from church. I heard you say, in reply to your wife, you had been dining at your sister-in-law's.

Q. from the same—Did you see me at my own house, during the week of the troubles, from the third to the tenth of November last.

A.—Yes, I saw you at your house, on Tuesday, the sixth, and on Wednesday, the seventh, in the forenoon and in the afternoon. I cannot say that I saw you at any other time.

Q. from the Judge Advocate—Does the prisoner, Goyette, live in the village of Beauharnois, if not, how far from it ?

A.—A mile and a half beyond Beauharnois.

Q. from the same—How long did you see him on the occasions you mention ?

A.—For about quarter of an hour on Tuesday morning, on Wednesday morning, for about two or three hours, and in the afternoon, I simply saw him.

PIERRE LEDUC, of the parish of St. Clement, farmer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner, Goyette—Do you know me, and did you see me on the 4th November last ? At what hour, and where was I going ?

A.—I do know you, and saw you on the fourth, between seven and eight o'clock in the morning, on your way to mass. I accompanied you.

Q. from the same—How was I dressed ? and did I, or did I not, appear surprised, on entering the village, to find it taken ?

A.—In your Sunday clothes. You seemed to be very much surprised, although you had been informed that it would be taken, by persons before we left home.

Q. from the same—What do you mean by saying that I was surprised, although I had been notified? Was it not that I did not believe that the village would be taken?

A.—You did not believe it cou'd happen.

Q. by the Judge Advocate—When, and by whom, were you informed that the village would be taken?

A.—It was about seven or eight o'clock, A. M. that we were informed the village had been taken; I was in bed, when two persons came to the door and gave this information, and commanded me to march with them, and I told them to go away.

Q. from the Court—Did you inform Goyette that the village was taken, or was he ignorant of the fact until he went to mass, when you say he was surprised.

A.—I did not tell him. He was, I believe, notified in the same manner that I was; I believe the same people awoke him, as myself; I was told that by Goyette himself, who added, "let us proceed to mass, and we shall know."

CHARLES SMALLWOOD, of St. Martin, Isle Jesu, surgeon, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows:

Question from the prisoner Brien—Do you know me; how long have you known me; what is my character and disposition?

A.—I have known you for five years, three of which you were a pupil of mine; you had an excellent character; you were not stable or very firm, liable to be persuaded, which, perhaps, might be attributed to your youth.

Q. from the same.—Had you an opportunity of seeing me during the last year frequently, and did I, at any period, express myself desirous of agitating or meddling with politics.

A.—I saw you during the period ; you seemed very much to regret the political state of the country ; I do not know that you meddled in politics ; you left me two years since, but I saw you frequently during the interval.

Q. from the Court—Do you know what is the age of the prisoner, Brien ?

A.—I do not know, exactly, his age ; I believe he is about twenty-two years old.

JAMES PARK, of St. Martin, innkeeper, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Brien—Do you know me ; where have I been living during the past year ; and what is my character and disposition ?

A.—I do know you ; you, for about two or three months, resided at your father's house in St. Martin ; your character, from all that I knew of you, and I knew you intimately, was excellent, and you appeared to be a fine young man ; as to your political opinion, I knew nothing of it, as our sentiments did not agree. When I saw you, last spring, you told me, you were to meddle no more with politics, as you were done with them.

PAUL JOSEPH FILIATREAU, notary public, of St. Martin, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Brien—Do you know me ; how long have you known me ; what is my character and disposition ; during the past year, have you known me to meddle with politics ?

Answer—I have known you since you were nine years old ; your moral character was good, you had a light character, but were mild. I do not know that you meddled with politics during the year 1837 ; I only saw you once, on your return from the United States, and we did not then converse on politics.

Q. from the same—Did I not reside at St. Martin during a month last summer, in the same village with yourself, and did I, during that time, in any way meddle with politics ?

A.—You did reside with your father, and during that time, you did not meddle, to my knowledge, with politics.

PIERRE HEBERT, of the parish of St. Martin, inn-keeper, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Brien—Do you know me, and how long ; state what passed before you, at the house of Grand Bois, at St. Martin, on Saturday night, the third November last ?

Answer—I have known you for five or six months ; I saw you dressing the wound of a man of the name of Henderson, at the house of Grand Bois, on Saturday evening, the third, at nine or ten o'clock, when several persons came and made you go away in spite of yourself, although you appeared desirous of remaining with the wounded man. On the following morning, Sunday, I saw you at a neighbour's house, and you said you would have nothing more to do with the troubles—that you were going to the United States.

Q. from the same—Did I not make every effort to remain with Henderson, and frequently beg that I might be allowed to stay behind, when you saw me at Grand Bois' house ?

A.—Yes, you did.

Q. from the Judge Advocate—Are you not now a prisoner, confined under a charge of treason ?

A.—I am a prisoner, but am ignorant under what charge.

FRANCES JULIEN, wife of Joseph Laderoute, of the parish of St. Timothé, having been brought into Court, and the charge read to her, she is duly sworn, and states as follows :—

Question from the prisoner Prieur—Do you know me, and if so, where did you see me on the fifth November last ?

Answer—I do know you ; I saw you pass our house at St. Timothé

on horseback, on the morning of the fifth, at ten o'clock ; you were going in the direction of your own house, towards the upper part of St. Timothé.

Q. from the same—Have you not frequently seen me during the last year ; how was I occupied during the week preceding the troubles, and, in fact, during the whole summer ?

A.—I have frequently seen you ; you were engaged at your ordinary business about your store ; I saw you once during the week which preceded the troubles ; I was mistaken in saying that I saw you on Monday ; it was on the afternoon of Tuesday, the sixth, that I saw you on horseback.

Q. from the Court—How far is your house from Beauharnois village, and how far from Pricur's house, at St. Timothé ?

A.—It is two leagues from Beauharnois, and Pricur's house is forty acres farther.

ALEXANDER GRAHAME, of North Georgetown, county of Beauharnois, farmer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Joseph Dumouchelle—Do you know me ; how long have you known me, and what was my character ?

Answer—I have known you for upwards of fourteen years ; you bear a good character.

Q. from the same—Did you ever know me, previous to the late troubles, to have meddled with politics, and have you not had frequent conversations with me on the subject of politics, and the troubles which agitated the country ?

A.—I never knew of your meddling with politics in the slightest degree ; after the troubles of last year, seeing the name of Dumouchelle appear in the paper, I jokingly asked you if they were your relations ? and you said, “they were damned fools for their trouble.” You do not speak very good English.

Q. from the prisoner Louis Dumouchelle—Do you know me ; how

long have you known me, and what is my character and disposition ; did I pass for an agitator in the parish ?

A.—I do not know you so well as I do Joseph Dumouchelle ; I never heard anything against you.

Q. from the prisoners Chevretils and Laberge—Do you know us ; how long have you known us, and what are our characters and dispositions ?

A.—I know Mr. Laberge, but not Chevretils ; I have known him for several years, and always considered him an industrious and honest man, and was much employed by us, old country people.

DAVID GAGNON, of the parish of St. Timothé, joiner, having been called into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Prieur—Where were you at midnight on the night of Saturday, the third November ?

Answer—At your house, at St. Timothé ; I was working for you then in the shop.

Q. from the same—Did any, and what number of persons, come into my shop at that hour, and what did they say and do ?

A.—A number of persons came to the house and said to you, “ you must come with us.” They compelled you, by threats, to accompany them ; they said, “ we shall always find you wherever you go.” They threatened to make you a prisoner if you did not go willingly, but you did go without being made such.

Q. from the same—What were the words made use of, or what was their general tenor ?

A.—I do not recollect what the words were ; the threats were to the effect that they would burn your house and injure you personally.

Q. from the same—Were any of these men armed ?

A.—Some were armed.

Q. from the same—Did they speak of Beauharnois, when they came in, and what did they say ?

A.—I do not remember.

Q. from the same—Was Beauharnois taken at that time ?

A.—I cannot say.

Q. from the same—How long had you been resident in the house of the prisoner before the third of November, and did you ever hear him speak of politics during such time ?

A.—About a month ; I never heard you speak on politics.

Q. from the Judge Advocate—Are you not a prisoner, confined on a charge of high treason ?

A.—I am a prisoner, but I know not under what charge.

Q. from the Court—Who was the person that made use of the expression, “ we shall always find you wherever you go ;” and were any of the prisoners before the Court among the men who came to Prieur’s house ?

A.—I do not know his name ; he did not belong to the parish. I do not see one of them among the prisoners.

Q. from the same—Was there any other person or persons up at midnight on the third November, at Prieur’s house, and where was Prieur himself at that late hour ?

A.—Myself and Prieur’s clerk were up ; Prieur was in bed.

Q. from the same—Did Prieur go with the party which threatened him, and were you compelled to go also ?

A.—Yes, he did ; I made my escape an hour and a half before they went ; I learned afterwards, by hearsay, that he accompanied them.

CYPRIEN CHOLETTE, of the parish of St. Timothé, clerk to Mr. Prieur, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Prieur—Do you know me ; how long have you known me, and how long have you been in my employ ?

A.—I have known you for sixteen years ; I was three months in your employment.

Q. from the same—Have you any knowledge that, immediately previous to the last troubles, I took any part in politics ?

A.—I do not know that you did.

Q. from the same—Where did I spend the day and evening of the third November last ?

A.—At home ; at eleven or twelve o'clock at night, some people came and took you away ?

Q. from the same—Have you a knowledge that, on the evening of the third November last, certain persons were occupied in forcing the inhabitants of St. Timothé to leave their houses ?

A.—Yes, I have.

Q. from the same—Did you entertain any, and what apprehensions, in consequence of remaining at your own home ?

A.—I was afraid of being burned in the house.

Q. from the same—Were you present when Prieur was taken away, on the third November last ?

A.—I was so.

Q. from the same—Did you hear what passed on that occasion, or were you so occupied as to prevent your hearing it ?

A.—I did not hear ; I was so troubled and occupied, that I could not hear.

Q. from the same—Did you see me during the week which elapsed from the fourth to the eleventh of November last ; if so, state on what day, and where ?

A.—Yes, I saw you on Tuesday or Wednesday evening ; you went away from home on that evening, apprehending some evil ; the next morning, either the sixth or seventh, you returned. You left your house, as I have mentioned, for fear of being taken by the rebels.

Q. from the same—How did I conduct myself since you have known me, and more particularly since you have been in my employ ?

A.—Very well ; I am not at present in your employment.

Q. from the Court—Did David Gagnon, the last witness, remain

at the house with you, or was he taken away at the same time as the prisoner Prieur ?

A.—He slept next house to Prieur's; he and I were sitting up together. I cannot say which of the two left the store first.

Q. from the same—Who took Prieur away, and were any of the prisoners now before the Court amongst those who took him away ?

A.—I do not know; I do not believe that any of the prisoners before the Court was among them.

Q. from the same—Will you swear, upon your oath, that David Gagnon did not leave the house before Prieur ?

A.—He left before Prieur, to go to the neighbouring house, where he usually slept.

Q. from the same—When you say that Gagnon went to the neighbouring house, before Prieur, on the night of the third, do you allude to the first part of the night, or to the time when Prieur went away with the armed men ?

A.—I allude to the first part of the night.

Q. from the same—Did Gagnon return to the house that night—I mean the third November; if he did, at what hour ?

A.—I do not recollect.

It being four o'clock, the Court adjourns to ten o'clock, A.M. to-morrow.

SIXTH DAY, 19th January, 10 o'clock, A.M.

The Court meets pursuant to adjournment. Present, the same members as yesterday.

JAMES MILLAR, of the parish of St. Martine, trader, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :—

Q. from the prisoner Chevretils—Have you had any, and what,

opportunity of making yourself acquainted with my character, habits and disposition ; if so, state what they are, and how I conducted myself previous to the late disturbances, as well in a moral as in a political point of view ?

Answer—Before the fourth of November, I found you to be a good, peaceable neighbour and a respectable man ; since then, I cannot say anything about you. I do not know whether you meddled in politics or not.

JOHN SMITH, of the parish of Chateauguay, farmer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoners Joseph Dumouchelle, Louis Dumouchelle, Laberge, Touchette, and Chevretils—Do you know us ; if so, how long have you known us, and what were, previous to the fourth November last, our habits, character, and conduct, respectively ?

Answer—I have known you all for the last twenty years ; I knew nothing wrong about your character ; you were as good, honest lads as we have in our parish.

Q. from the prisoner Chevretils—Do you not know that I am of a particularly mild, and even simple, cast of disposition ?

A.—I do.

The Court is satisfied as to the evidence adduced in favour of the characters of the two Dumouchelles, Touchette, Chevretils, and Laberge.

LEON LEDUC, of the parish of St. Timothé, labourer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Prieur—Did you see me at St. Timothé, on the third day of November last ; if so, had you any, and what conversation with me, on the subject of politics ?

Answer—I did see and converse with you, at St. Timothé, on the afternoon of the third November, about four o'clock; I remarked to you, that there were rumours of disturbance, and you replied, "Do not believe them, they are common lies."

Q. from the same—Did I, or did I not, give you any, and what advice, how you should conduct yourself, in case of disturbance?

A.—No; you said but what I have already stated.

Q. from the prisoner Lanoie—Do you know me, and where did you see me on Saturday, the tenth November last; at what hour, and where was I going?

A.—I do know you; I met you on the highway, in the parish of St. Timothé, about four, P.M.; you said you were going home.

Q. from all the prisoners—Look at us, and say whether you know that we, or any, and who of us, gave ourselves up to the authorities voluntarily; if so, state when, and to whom?

A.—I know that F. X. Prieur gave himself up on the Tuesday, after Colonel Grey arrived at Beauharnois. Joseph Wattier dit Lanoie surrendered himself voluntarily, on the morning of Tuesday, to Colonel Grey, or officer commanding the 71st Regiment.

CASIMIR D'AOUT, of the parish of St. Clement, farmer, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows:—

Question from the prisoner Rochon—Do you know me; how long have you known me; what are my habits and character, and what was my conduct previous to the third November last?

Answer—I have known you for three or four years; your habits and character were those of an honest man, and your conduct, up to third November, was perfectly good. I live about three miles from you.

Q. from the same—Were you in the habit of seeing me often?

A.—Almost every week.

MICHEL ALARIE, of the parish of St. Clement, joiner, having been

brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner Rochon—Can you say who took the arms from Mr. Normand's house on the night of the third of November last ; if so, say who, and who commanded the party which entered Mr. Normand's store ?

Answer—It was Mr. Boyer ; I do not know who commanded the party ; I heard Boyer ask for the keys, and Mr. Normand refused him :

Q. from the same—Have you a knowledge that there were guards stationed round the village of Beauharnois, on the night of the third November last ?

A.—Yes ; after the rebels entered the village, it would have been impossible to have escaped from it.

Q. from the same—Is Benjamin Boyer nearly of the same stature as I am ?

A.—Nearly the same.

Q. from the same—Do you mean to say, that you could not escape during the third of November only ?

A.—At all times ; from Saturday to Saturday, no escape was possible.

Q. from the prisoner Goyette—Did you have any, and what conversation with me, on Tuesday, the sixth November last, and on what subject ?

A.—I had ; I met you at a house in the village on that day, and you asked me if I would leave the village with you and another man, who said that he would enable us to pass the guards ; our design was discovered and frustrated.

Q. from the same—Did I say where we were to go ?

A.—Yes ; you said you would go to the Salmon River, where there is no disturbance.

Q. from the Judge Advocate—How far were the guards stationed from the village of Beauharnois ?

A.—About four acres all round, from the centre of the village.

Q. from the same—Are you not a prisoner, confined in the gaol, under a charge of treason ?

A.—I am a prisoner ; but I do not know what for.

Q. from the Court—Did you remain constantly in the village of Beauharnois, from the 3d to the 10th November ?

A.—I did, with the exception of two days.

Q. from the same—Upon what occasions did you leave it, and did you pass the guards ?

A.—I went to visit my wife, and asked for a pass, but could not get it, and used the pass of another man.

Q. from the same—By whom was that pass signed ?

A.—I do not know ; I cannot read.

Q. from the same—Can you swear that Rochon was not at Normand's house when the arms were taken by Boyer, as you have stated ?

A.—When Rochon arrived, the arms had been already distributed ?

JOSEPH ROY, of the parish of Saint Clement, farmer and captain of militia, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :—

Question from the prisoner De Lorimier—Were you present at any and what conversation which took place between me and Mr. Quintal, Priest of Beauharnois, during the late disturbances ; if so, state the purport of such conversation ?

Answer—I was present, on Monday or Tuesday, and heard the Curé, or some other person, ask you, if you were taking part in the troubles, and you said, no.

Q. from the same—Did the Curé ask me for provisions for the prisoners ? if so, what was my answer ?

A.—I do not know.

Q. from the same—Had you any and what conversation with me, on or about the 6th of November last, concerning the disturbances then

existing at Beauharnois ? if so, state whether I expressed any and what opinion with regard to the disturbances ?

A.—On Monday or Tuesday you called at my house, and I asked you how you came there, and you replied, “accidentally ;” and said that you did not meddle with the troubles.

Q. from the same—Did I advise you not to meddle with the troubles ?

A.—You did not ; you said you would advise nobody to meddle with them.

Question from the Judge Advocate—Are you not a prisoner confined under a charge of treason ?

A.—I am a prisoner ; but I do not know under what charge.

LOUIS HENAULT, of Saint Clement, notary, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner De Lorimier—Had you any and what conversation with me at Beauharnois relative to the troubles ? if so, state what was the tenor of such conversation, and when did I so speak to you ?

A.—About the 7th or 8th of November I met you, about ten or twelve acres above the village. Amongst other things, which I do not recollect, you asked me if I had taken any part in the troubles, and I said no, when you replied, “You could not have done better.”

Q. from the same—Did I say anything to you about myself, in connexion with the subject of the troubles then existing ?

A.—I do not recollect.

Q. from the Judge Advocate—Are you not a prisoner confined under a charge of treason.

A.—I am.

NICOLAS BENJAMIN DOUCET, Esquire, of Montreal, notary public, having been brought into Court, and the charge read to him, he is duly sworn and states as follows :—

Question from the prisoner De Lorimier—Do you know me ; how

long have you known me, and what is my character and disposition?

Answer—I have known you for many years. You enjoy a good reputation as a notary, and you are of a peaceable disposition.

JEAN BAPTISTE CHEVALLIER DE LORIMIER, of the city of Montreal, gentleman, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner De Lorimier—What relation exists between you and me, and state, have you had an opportunity of well ascertaining my habits and disposition?

Answer—We are second cousins. I have known you from a child. I have always known you to be a generous and excellent hearted young man, and well conducted.

Q. from the same—Have I not, frequently, during the past year, in your hearing, expressed my determination never to meddle more with politics.

A.—No; I do not recollect.

JOSEPH BELLE, of Montreal, notary public, having been brought into Court, and the charge read to him, he is duly sworn, and states as follows :—

Question from the prisoner De Lorimier—Do you know me? have you been upon intimate terms with me, and if so, state what are my habits and disposition?

Answer—I have known you for thirteen or fourteen years. I have known you for an honest man and of mild disposition; you were my neighbour, and I have known you intimately.

The Court is satisfied with the evidence adduced in favour of the general character of the prisoner De Lorimier.

The prisoners here pray for delay until Tuesday, the 22d January, to prepare their written defence.

The Court is closed to deliberate on the prayer.

The Court is opened, and delay given until Monday, the 21st, at ten o'clock:

Quarter-past one, P. M.—The Court adjourns until Monday next, the 21st instant, at ten o'clock.

SEVENTH DAY, 21st *January.*

The Court meets, pursuant to adjournment. Present, the same members as on Saturday, the nineteenth.

By permission of the Court, the assistant of the prisoners, Mr. Hart, reads their written addresses to the Court, hereunto annexed, marked G. H. I. J. K.

The Judge Advocate's address is here read, and annexed to the proceedings marked L.

The Court is closed.

The Court having maturely weighed and considered the evidence in support of the charges against the prisoners, together with what they have stated in their defence, is of opinion that they, the prisoners, viz. Jean Baptiste Henri Brien, Ignace Gabriel Chevretils, Joseph Dumouchelle, Louis Dumouchelle, Jacques Goyette, Toussaint Rochon, François Xavier Prieur, Joseph Wattier dit Lanoie, Chevallier de Lorimier, Jean Laberge, and François Xavier Touchette, are individually and collectively guilty of the charges preferred against them.

The Court having found the prisoners guilty, as above stated, and the same being for an offence committed between the first and tenth days of November last, in furtherance of the rebellion which had then broken out and was existing in the Province of Lower Canada, do sentence the prisoners in manner following, viz :—

That Jean Baptiste Henri Brien be hanged by the neck till he be dead,

at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Ignace Gabriel Chevreuil be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Joseph Dumouchelle be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Louis Dumouchelle be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Jacques Goyette be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Toussaint Rochon be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Francois Xavier Prieur be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper

Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Joseph Wattier dit Lanoie be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Chevallier de Lorimier be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That Jean Laberge be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

That François Xavier Touchette be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Commander of the Forces in the Provinces of Lower and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, may appoint.

JOHN CLITHEROW, *Major General,*
President.

D. MONDELET,

CHAS. D. DAY,

ED. MULLER, *Capt. the Royal,*

Joint and severally Deputy Judge Advocate.

SATURDAY, 26th January, 1839.

Half past three o'clock—The Court re-assemble agreeably to the orders of the Commander of the Forces, as contained in a letter from the Deputy Adjutant General, dated 26th January, which is read and attached to these proceedings, marked M.

The Court does now sentence the prisoners in manner following, viz :

That Jean Baptiste Henri Brien be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief and Commander of the Forces, may appoint.

That Ignace Gabriel Chevretils be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

That Joseph Dumouchelle be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

That Louis Dumouchelle be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

That Jacques Goyette be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

That Toussaint Rochon be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief and Commander of the Forces, may appoint.

That Francois Xavier Prieur be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

That Joseph Wattier dit Lanoie be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General Governor in Chief and Commander of the Forces, may appoint.

That Chevallier de Lorimier be hanged by the neck till he be dead, at

such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

That Jean Laberge be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

That Francois Xavier Touchette be hanged by the neck till he be dead, at such time and place as His Excellency the Lieutenant General, Governor in Chief, and Commander of the Forces, may appoint.

JOHN CLITHEROW, *Major General,*
President.

D. MONDELET,

CHAS. D. DAY,

ED. MULLER, *Capt. the Royal,*

Joint and severally Deputy Judge Advocate.

C.

May it please the Court :

Called upon at this moment, to plead to the charges preferred against me, I feel the utmost embarrassment as to the course which I should adopt.

Were I to follow the advice of my counsel, I would, by pleading my innocence, hazard the success of a protracted trial ; but conscious of my guilt, yet knowing that it has not been of a character which would present features of revolting deformity, and that my conduct has not been degraded by cruelty or malignity, I feel that I should not protract the trial, by denying the charges, and, therefore, consider myself bound to plead guilty.

In so doing, Gentlemen, I trust that when you find that in my case there are many extenuating circumstances,—that I was not aware of the coming outbreak until the very moment when awakened from sleep,

and called upon to join the desperate enterprise, then contemplated, I gave way to a mistaken enthusiasm,—to delusive dreams of national independence,—and, unhappily, forgot the allegiance which I owed to my Queen ; and when it will be shewn, that soon conscious of my error, and regretting deeply the unfortunate course I had pursued, I returned to my home, and was in no way implicated in the after proceedings, which took place during that week—may I trust, that you, Gentlemen, in considering, with an indulgent eye, an offence committed in the impulse of the moment, will not condemn my young years to an ignominious end, but recommending my case to the favorable consideration of His Excellency the Administrator, will afford me an opportunity of making amends hereafter, by my faithful and loyal conduct, for that momentary and infatuated departure from my allegiance.

D.

The prisoners object to this evidence as being irrelevant to the accusation preferred against them,—that accusation having reference only to facts alleged to have taken place at St. Clement, while this evidence tends to establish circumstances which occurred without the limits of that parish.

E.

The prisoners, respectfully insisting on the illegality of this evidence, as referring to facts which occurred without the limits of the parish of St. Clement, humbly pray, that, if the Court do not reject this evidence, the objection which they now formally make to it, may, at least, be registered, in order that they may hereafter avail themselves of it, as by law entitled.

F.

DISTRICT DE }
MONTREAL. }

{ LA REINE,
vs.
J. B. HENRI BRIEN ET AUTRES.

François Xavier Prieur, un des prisonniers, étant duement assermenté, depose et dit : Que le nommé Cyprien Cholette, de Saint Polycarpe, est un témoin essentiel et nécessaire à la défense du déposant, en autant que le dit Cholette peut prouver que le dit deposant est demeuré chez lui, à Saint Timothé, pendant une partie de la semaine qui s'est écoulée, entre le trois et le dix de Novembre dernier, et autres faits qui, au meilleur de la connaissance du deposant, pourront lui être d'un grand secours sur sa défense. Que le dit lieu de Saint Polycarpe est situé à la distance de vingt lieues de cette ville, ou environ. Et le deposant ne dit rien de plus, et à signé. (Deux mots rayés sont nuls)

F. X. PRIEUR.

Assermenté devant moi, }
ce 14e Janvier, 1839. }

D. MONDELET, J. P.

G.

ADDRESS OF TOUCHETTE, ROCHON, GOYETTE, CHE-
VREFILS, AND LABERGE.

Gentlemen of the Court :

The brief interval allowed us to prepare our defence, coupled with the indisposition of one of our Counsel, has deprived us of the advantage of fully discussing the evidence produced before you, which may affect us, either to incriminate or to justify.

But the high character of our Judges, and the indulgence extended

towards us during our trial, warrant us to expect that every circumstance developed in the course of the tedious, and to us anxious, investigation, which may tend, in the slightest degree, to militate in our favour will have its due weight upon your deliberations.

As brave men, you must regard with an eye of generous compassion, the humble and unfortunate individuals who stand before you, charged with the greatest political crime, although, from their ignorance, wholly unconscious of the criminal character of the acts which have been imputed to them. We know that ignorance is no excuse for crime, before the human tribunal ; but we feel confident, that though you may be convinced we participated in the late insurrectionary movements, which we so deeply deplore, you will, nevertheless, deem us worthy to be recommended to the clemency of our gracious Queen, whose noblest prerogative consists in the power of tempering with mercy the severity of the law towards those, who, though convicted, may yet be considered as victims, rather than criminals. Peaceable as we were in our habits—reproachless in our characters—unconscious of the plots previously formed against the Government—though found guilty, if we may be, of a momentary error, we will not, assuredly, after all our sufferings—not only in the loss of liberty and property, but in the persons we hold most dear, our houseless wives and starving children—we will not, assuredly, be condemned to a more severe punishment than a continuation of the painful imprisonment we have already endured.

H.

DEFENCE OF DE LORIMIER.

Gentlemen of the Court :

The evidence adduced before you in the course of this trial, although it goes to establish that I was in the company of the insurgents, during the late unfortunate disturbances in and about the neighbourhood

of Beauharnois, cannot be so viewed as to convince you that I took an active part in the revolt; but rather tends to demonstrate the fact, that I remained with reluctance, and held no command whatever in the rebel ranks. For, although Feeny, in his testimony, states that I took an active part, and Lieutenant Parker says I appeared to be a leader, still, the assertion of the one, and the presumption of the other, are wholly incompatible with the fact that I openly declared my disapproval of what was going on at that time, as established by Roy, Henault, and Lieutenant Parker himself. Is it, indeed, to be supposed for a moment, that I could have been a leader of that party, while I lauded those who kept aloof, and openly disapproved of all that was done by it. I feel confident that the gallant young officer who testified against me, believed that I was a leader, but he only supposed me to be such, and you will not, Gentlemen, assume that as a fact, which has only been presumed by a witness. Cousins, it is true, has asserted that an individual he took for me, was armed with a sword. I had no means of disproving this assertion, which I solemnly declare to be false; but is it not rendered incredible by the fact of all the other witnesses, even those who remained during the whole week in the village, having declared that I was unarmed. There is one circumstance, however, which might lead you to infer that I *did* take a prominent and interested part in that unfortunate movement—I refer to the letter which Thayer has told you I read to the people at Baker's camp. This letter, says the witness, was said to come from Côte, and demanded a reinforcement for Odelltown. I will not dwell on the absence of all proof that Côte was one of the chief springs of the late insurrectionary movement, or that any rebel force was then in the vicinity of Odelltown, although the absence of that proof renders the testimony of the witness wholly nugatory in so far as regards the pretended letter; but I ask you, Gentlemen, whether, (if you believe any such letter was read,) the accompanying statement, that I gave no order for the reinforcement to be dispatched, and did not express any opinion as to the expediency or in expediency of the proposed measure, would not,

of itself, afford sufficient proof of the fact, that I held no station of command whatever. The only inference you can, in justice, draw from the testimony of that witness, whose evidence stands in so suspicious a point of view, (bound as he was, by his hope of pardon, to say something against some one of the prisoners, and having said naught but this,) is, that the letter, though not addressed to me, was referred for perusal to me, as one of the few individuals present who could read. In fact, the whole tenor of the evidence adduced in this case, goes to shew most clearly that I was not a leader. I was not present at the taking of the steamboat, or of the arms of the prisoners; I gave no command of any kind whatsoever. Lebœuf's evidence, instead of proving that I had any controlling power, establishes most clearly, that when I found a sentinel wearied at his post, I could only answer to the complaint he made, that I would *endeavour* to obtain him a relief.

You find that the influence I may have attempted to exercise was not that of a commander in the rebel ranks, but solely that persuasion by which I obtained, not only the relief of the sentinel, but the protection of the persons and property of the prisoners. My entrance into the village after it was invested, was due to accident alone, and my only crime was that of being induced to remain for a few days in the midst of the insurgents—not to encourage any excesses which they might have been disposed to commit, but to repress, if possible, all acts of violence. I shall not complain of the briefness of the time allowed to prepare for my defence: your conduct towards us, Gentlemen of the Court, since the opening of this trial, warrants me, that the feebleness of my defence will be supplied by the patience, impartiality, and justice, which will accompany your deliberations.

I

ADDRESS OF JOSEPH AND LOUIS DUMOUCHELLE.

Gentlemen,

Two unhappy men, brothers, allied alike by ties of blood and in the bonds of misfortune, are now compelled to address you, not in our defence—for to deny our guilt were useless and false—but to endeavour to obtain the recommendation of our case, Gentlemen, to the favourable consideration of His Excellency the Governor General.

In so addressing you, Gentlemen, we must look at the evidence produced against us, and see how far there are grounds for granting our request.

The evidence against me, Joseph Dumouchelle, is derived from the testimony of Colonel Brown, Ross, Feeny, and Bryson, who establish clearly, that on the night of the third of November, I acted as one of the leaders of that band of armed men, who took possession of Beauharnois.

It is but too true, Gentlemen, that, urged on by violent men, who now are in safety, whilst I am here to expiate my own offence, and atone for theirs—I, who had ever lived in good fellowship with all around me, and had ever borne an irreproachable character, did put myself at the head of the insurgents; but I trust that my after conduct, the endeavours which I used, and happily with success, to prevent all destruction of life, and the character which I have established here before the Court, will recommend me to your merciful consideration.

The testimony produced against me, Louis Dumouchelle, Gentlemen, is that of Messrs. Brown and Ross, who prove,

1st, That I was seen actually employed amongst the insurgents on the night of the third of November.

2dly, That Ross saw me a prisoner in the hands of the volunteers, and that on my hailing the band behind the church, they answered my cry, and advanced upon the village.

My being among the rebels, I cannot, and it were useless to deny ; but Mr. Ross's evidence was, I assure you, Gentlemen, partially, though I am confident, unintentionally, incorrect. I was not the person whom he saw a prisoner, but the confusion of the moment may satisfactorily account for the error into which he has fallen.

My good character and inoffensive habits, I have proved beyond all doubt, and I trust, Gentlemen of the Court, that your favourable consideration of my case will not be withheld from me.

J

BEAUHARNOIS, *21st January*, 1839.

I hereby certify that Joseph Dumouchelle, of St. Martine, now on his trial for High Treason, delivered himself up to me voluntarily, on the twenty-sixth of November last, throwing himself on my protection, and appearing to be excessively sorry for his past conduct, and expressing much contrition and repentance.

I have given this certificate at the request of his wife, she having stated to me that it was not known that he had constituted himself a prisoner, to enable him to claim any advantage to which this circumstance may entitle him.

R. H. NORVAL, J.P.

THE ADDRESS OF F. X. PRIEUR.

Gentlemen,

My address to you will be but in few words, as it would be only wasting your valuable time to attempt to combat the proof which has been adduced before you against me. That I admit to be sufficient to justify you in finding me guilty of the crime laid to my charge.

Still, Gentlemen, the fact of my utter ignorance of the views of the

rebels, until the instant when awakened from my sleep in the dead of night, I was compelled to leave my home and join with the insurgents, the extremely good character which I have ever borne, and, above all, my youth, will, I trust, obtain for me the merciful consideration of the Court.

K

THE ADDRESS OF JOSEPH WATTIER DIT LANOIE.

Gentlemen,

I am now called upon to address you, in defence of the charges exhibited against me, and for which I have been put upon my trial; and although the evidence produced is of that positive nature, that not being disproved, it will, no doubt, be deemed sufficient to justify you in finding me guilty of the crime of High Treason—yet I trust that the testimony which I have brought forward will be considered so materialy to have affected the view which you, Gentlemen, may have previously taken of my conduct, in the disturbances which took place during the week from the third to the tenth of November last, at Beauharnois, that I will be deemed a fit object to be recommended by you to the clemency of His Excellency the Governor General—a recommendation, which I can safely assert, will be backed by the unanimous prayers of all those, whether of Anglo or French Canadian origin, who have, during my past years, been acquainted with my peaceable and inoffensive habits, and with my upright, honest, and industrious life.

At the close of the prosecution, Gentlemen, it might have been supposed, that I had been a participator in the taking of Beauharnois, and in the conduct pursued by a large party of armed men, on the night of the third of November—a night disastrous in its consequences, not only to my unhappy fellow-prisoners, but most ruinous to the unfortunate man who now addresses you—once possessed of a sufficient

competence, now deprived of all, save those whose sole support he has ever been—his peaceful home reduced to ashes, himself a prisoner, distracted alike with the recollection of past sufferings, and the prospect of a terrible punishment before him, even though that punishment be reduced from death, to a long and withering imprisonment.

But, Gentlemen, I feel confident that I have most clearly and satisfactorily proved, by various witnesses, and testimony incontrovertible, that I not only was not at Beauharnois on the third of November last, but that I was not there until Wednesday, the seventh, late in the afternoon. The *alibi* on the other days, is thus proved :—

On Sunday, the fourth, by Madame St. Julien and her son.

On Monday, the fifth, by Mrs. Lamesse.

On the morning of Wednesday, the seventh, by the same witness.

Thus, Gentlemen, I have brought safely before you, the proof that I was not one of those, by whose means the village of Beauharnois was taken. You naturally would, then, ask—How could you, who evidently appear to have been ignorant of the intended revolt, to have, three days after the outbreak, participated in the offences committed by the rebels, and thus rendered yourself as guilty as themselves ?

To this, Gentlemen, I must answer by contrasting the evidence against me with that produced in my favour, and then assigning the reason of my being seen amongst the rebels, and apparently participating in their views—a reason which may, I fondly hope, recommend me to the favourable consideration of the Court.

It has been proved by the Crown witnesses,

1st, That I was in the village of Beauharnois, after it had been invested with rebels, and while in their possession, not only armed, but even in charge of prisoners.

This is established by Feeny, Leblanc, Wilson, and Lebœuf.

2dly, That I was armed with a sabre,—proved by the same witnesses.

The only discrepancy which appears in the evidence of the wit-

nesses, you will find in the testimony of Lebœuf, who, like all prisoners, who have become Crown evidence, in the hope of making the proof against the prisoners more complete than it was required to be, in order to ensure his own safety, went the length of deposing that I was at Beauharnois on the Monday or Tuesday, and placing sentinels—a most palpable perjury, and one which has been easily disproved.

The actual fact, that I did not leave my own home at Soulanges, or that at St. Timothé, to go to Beauharnois, until the seventh, about mid-day, will shew you, Gentlemen, that Lebœuf has not stated the truth with regard to me.

I will now, Gentlemen, candidly state to you, how I came to Beauharnois, and why I was seen by the three English Crown witnesses armed with a sword, and guarding the prisoners: the relation will be plain, but true, and easily conceived to be the truth by you, Gentlemen of the Court:—

On the morning of Sunday, the fourth of November, at the instant of leaving my house to go to divine service at Soulanges, I was informed by the young man, St. Julien, who had crossed the river for the purpose, that my clerk had been taken away by a party of the armed men, who had likewise possessed themselves of my horse; I answered, that I would go across in the afternoon, and I did so, at about two or three o'clock in the afternoon. I there found the statement of St. Julien to be correct. I saw his mother, and the conversation which she has reported to you took place, when I said that on Monday I would go to look after the horse.

On Monday and Tuesday, I could not go, nor could I till Wednesday; but on that day, although I admit, Gentlemen, (as it is far from my intention to disguise anything from you,) that I had heard of the insurrection at Beauharnois, still scarcely thinking that it was so extensive and of so violent a nature, as to endanger the safety of any individual who might approach the scene of rebellion, I left St. Timothé at about four, and went to St. Clement, near which place I

was stayed by a guard, who compelled me, on entering Beauharnois, to go to Prevost's house—there I found a large party of armed men, and however unwilling I was to join in their designs, I was compelled to appear to participate in their proceedings, and within an hour of my arrival, I was presented with a sword, and ordered to escort the prisoners, Wilson and Feeny, from Prevost's house to Henault's.

This, Gentlemen, forms the extent of my crime. For three days I was compelled to remain with the insurgents at Beauharnois, but on the fourth, I made my escape, and long before the arrival of the troops at Beauharnois, I arrived at my home. There I remained peaceably for about three weeks, when I surrendered myself to Major Denny, and received a letter of protection to my wife, and one assuring the safety of my property, which, however, availed but little, as the very day after my arrest, my property, both at St. Timothé and at the Cedars, was reduced, by the brand of the incendiary, to ashes.

Gentlemen, I have done. I have proved satisfactorily before you, the good character I have ever maintained. My fate, it is your lot to decide. God grant that your decision be tempered with mercy to one already stricken by the direful hand of misfortune.

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THE QUEEN VS. BRIEN ET AL.

May it please the Court,

Another case is completed for your consideration, and the duty again recurs of presenting the evidence in a compact and regular form, and of marking out those points which are calculated to guide and assist you in the formation of the judgment, which you are called upon to pronounce.

The charge against the prisoners now before the Court, is for Treason, committed between the first and tenth of November last, in

furtherance of the rebellion then existing in this province. The offence is set forth in the form and words with which you have become familiar on former trials, and is based upon overt acts, differing little in character from those upon which the Court has already had frequent occasion to decide. The leading facts, as disclosed by Messrs. Brown and Ross, and confirmed by many other witnesses, may be briefly stated.

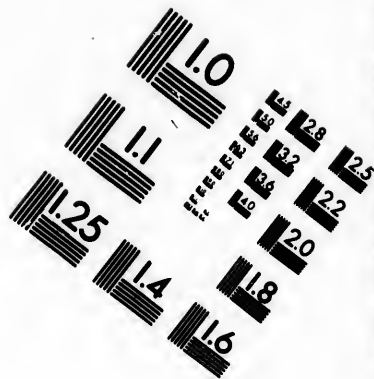
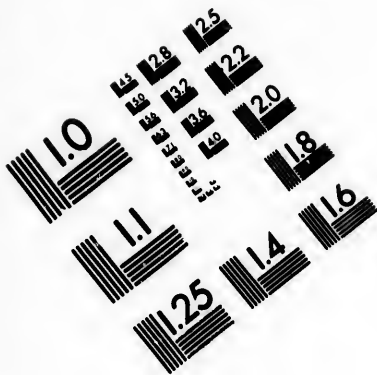
It appears that early on the morning of the fourth of November, a party or parties of armed men were assembled in the village of Beauharnois, in the parish of St. Clement—that so early as between twelve and one o'clock of that morning, a small number, probably an outpost or a detachment from the main body, were seen in front of Mr. Ross's store, two of whom were made prisoners, and the rest dispersed; and very shortly afterwards, the main body of the party descended from the height upon which the church stands, in the immediate vicinity of the seigniori house, and made a fierce attack upon the small party of loyal volunteers, some fifteen or sixteen in number, who had been drawn up for the protection of the house—that numerous shots, stated by Mr. Brown at about seventy or eighty, were discharged by the attacking party, from one of which he received a slight wound, and that the clap-boards of a neighbouring building were much cut up by the bullets, which, from the relative position of the two parties, probably passed too high to do any serious mischief. Upon the firing, it would appear, the volunteers, perceiving the great disparity of numbers, retired, and the attacking party advanced upon the seigniori house, and made prisoners of its inmates, consisting of Messrs. Brown, Ross, Ellice, and others. They demanded arms and ammunition—searched the premises—and seized a considerable quantity of the latter, belonging to Government, and some few stands of the former, in the hands of the volunteers. They afterwards despatched their prisoners to Chateauguay, where they were taken charge of by another large body of armed men, there

assembled, evidently to the knowledge of, and in intelligence with, the Beauharnois party. We further learn from the testimony of Thompson, Lieutenant Parker, and one or two others, who mentioned it incidentally, that the Beauharnois party captured, and took possession of, the steamer *Brougham*, at the wharf of Beauharnois, and removed a part of its machinery, and from the statements of Wilson and Mahen, that this party were in intelligence with a third armed party, assembled at a place known by them as Baker's camp, and clearly engaged in a common enterprise with them.

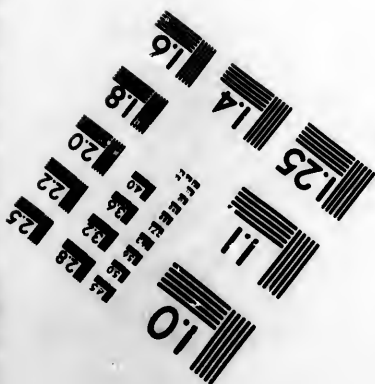
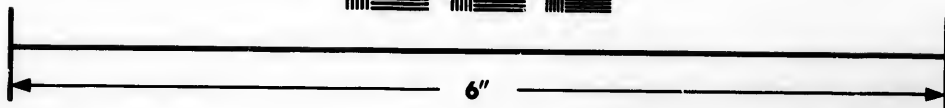
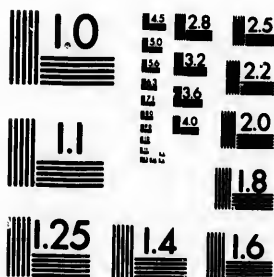
That the intention of these men, at Beauharnois, was to subvert the authority of Her Majesty in this Province, and establish an independent Government, is apparent from the declaration *made by them*, at the seigniory house, from the direct testimony of Brown and Ross, Bryson, Norman, and Parker, from their connexion with the other several parties alluded to, and, in fact, from the whole tenor of the evidence, nothing can be more conclusively established, than that the overt acts charged, were committed, and that the intention and design of these acts imparted to them a treasonable character. The treason, then, and that of an aggravated nature in furtherance of the rebellion, is fully made out. Were the prisoners before the Court participators in the crime? In endeavouring satisfactorily to reply to this question, we shall observe the order heretofore followed, by taking up the case of each individual consecutively.

The first name which occurs, is that of J. B. H. Brien, who has pleaded guilty, and who is, moreover, identified as a conspicuous and active leader in the attack on the seigniory house, by Brown, Feeny, Ross, and others. There are in the case of this prisoner, however, some circumstances which ought not to be overlooked, and which may be considered in some degree to counterpoise that aggravation of guilt, which, from his superior intelligence, and supposed knowledge of his duties to society, attaches to his conduct. It is, we think, satisfactorily established in evidence, that his connexion with





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the rebel party was not preconcerted, or intended by himself. He appears to have yielded to their urgent importunities on the night of the third, and to have been struck in the forenoon of the fourth, with the folly and guilt of his conduct. He has endeavoured to shew that on the last mentioned day, he abandoned the cause in which he had embarked, and departed or intended to depart for the United States. In this attempt he has but imperfectly succeeded, yet it must be observed that after the forenoon of the fourth, we find no further trace of him, and have no reason to believe that he continued his connexion with the rebel party.

Chevrefils is identified by Brown, and Ross, and Bryson, as having been at the attack on the seigniory house ; he was a leader there ; and he was also seen by Mahen at Baker's camp.

Joseph Dumouchelle was at the attack on the seigniory house ;—he is identified by Brown, Feeny, Ross and Bryson ;—he was a leader, and, according to Feeny's testimony, gave the order to the rebel party to advance to the attack—“ *Ho ! mes amis, en avant.*”

L. Dumouchelle is identified by Brown and Ross ; he was first seen with the party of six, opposite Ross's store ; he gave a yell on his party being dispersed, apparently a signal to the main body ; he was also seen in the farm yard of the seigniory house.

Goyette was seen by Feeny, Leblanc, and Wilson ; they all speak of him as conspicuous and active ; he was not at the attack of the seigniory house ; he appears to have been a leader, and Mahen swears to having seen him at Baker's camp.

Rochon is the next name. Against this man the evidence is very strong ; he was at the attack on the seigniory house ; he commanded the party who took the arms from Norman's store ; he was among those who took the steamboat, and appears to have been, in all respects, a conspicuous and active partizan. The evidence relating to him, is drawn from Brown, Feeny, Cousins, Norman, Thompson and Parker.

Prieur appears to have been in authority ; his guilt is clearly estab-

ished by Feeny, Cousins, Leblanc, Wilson, and Thompson ; he was implicated in the capture of the steamboat.

Wattier dit Lanoie is fully identified by Feeny, Leblanc, Wilson, Thompson, and Lebœuf ; he appears to have held some degree of authority, but was not particularly conspicuous for activity.

De Lorimier is positively sworn to by Feeny, Thompson, Parker, and Leblanc, who are supported by Cousins and Lebœuf, and by one or two witnesses on the Defence ; Mahen also saw him at Baker's camp. We cannot conscientiously pass from the name of this man, without dwelling, for a moment, upon the circumstances of strong criminality which mark his case. He appears, from the evidence, to be a resident in this city. We find him at Beauharnois, on the fourth and following days of November, without ostensible business, but, as he himself declares, "accidentally"—his person is partially disguised, he sedulously declares (as he has been universally careful to prove before the Court) that he took no part in the disturbances, and yet we find, from the evidence of Feeny, that he was much consulted by the rebels at Prevost's, and appeared to hold a command among them—from Thompson and Parker, that he attended and took down the names of the steamboat prisoners—from the latter, also, that he searched his chest for papers, and that he declared that the whole country was in the possession of the insurgents, and that Government was deliberating about the propriety of relinquishing Canada—from Lebœuf, that he had recently returned from the United States, and appears to have been aware of the unprincipled schemes and designs originated and ripened there—and from Mahen, that he read, three times, at Baker's camp, a letter, which he said was from Cote, demanding reinforcements for Odelltown. This is an array of testimony which cannot be broken down, or shaken, by any declarations of the prisoner.—Such declarations, in the face of such testimony, must be regarded as insincere and hypocritical,—his acts, in the apt expression of one of the witnesses, belied his words. We would avoid, with anxious soli-

citude, any unnecessary severity of remark upon men in the awful situation of those before the Court, but we feel we cannot, in the just performance of a public duty, withhold our opinion, that there is evidence to warrant the belief that the prisoner, De Lorimier, is one of that most dangerous class of offenders, whose machinations have raised up the rash and wicked rebellion, which has left so broad a tract of destruction and social misery in the land, and who are morally accountable for the lives, as well of those victims of civil war, who have fallen in the field, as of their own less intelligent brothers in guilt, who, on the scaffold, have paid the forfeit of their lives to offended justice.

We pass now to Laberge, who was present at the attack on the seignior house, as appears from the evidence of Brown, Feeny, Ross, and Bryson. He does not appear to have held any command, or to have been conspicuously active.

The same may be said of Touchette, who is identified by Brown Ross, and Bryson.

It may be observed of those of the prisoners who composed or were among the party which fired in the attack upon the seignior house, viz : Brien, Chevrefils, Joseph Dumouchelle, Louis Dumouchelle, Rochon, Laberge, and Touchette, that they have narrowly escaped imbruing their hands in the blood of their fellow-creatures, and that not to any forbearance on their part, but to that power which overrules all human actions to its own wise purposes, is to be ascribed, that they stand not here polluted by a second and damning crime, the offspring of the first. How powerfully does this impress upon the mind a truth, to which we have, on a former occasion, directed attention, and which can never be too frequently repeated—that Treason, in its various developements, includes all possible modifications of guilt, and that he who, forgetting his duty to his Sovereign and his fellow-subjects, leagues with traitors, knows not into what abyss of crime his perilous course may lead him.

A brief notice will suffice for the evidence adduced on the defence. The prisoners have called upon no less than thirty-four witnesses,

many of whom are useless, and some, we fear, worse than useless. The testimony as to general character is abundant, and satisfactory. The only individuals who have carried their proof beyond general character to any extent, requiring remark, are Goyette, Rochon, Prieur, and Lanoie. The first of these, Goyette, has endeavoured, we know not for what purpose, to shew that he was at home on certain portions of certain days of the week, during which Beauharnois was in possession of the rebels.

We accordingly learn from Marie Hebert, that she saw him at his house, a mile and a half distant from the village, on the morning of the sixth, for a quarter of an hour, and also on the morning and afternoon of the seventh—two hours in all. This fact, if fact it be, in no degree contradicts or impairs the evidence against the prisoner, and we are at a loss to discover what inference favourable to the prisoner can be drawn from it. The reflection which it appears to us most obviously to suggest, is, that Goyette was on such terms of confidence or authority with the party at Beauharnois, that he was left at full liberty to go and return to and from their position, as might suit his convenience. But the evidence of this woman is weakened by that drawn from another witness on the defence. We are informed by the latter, that Goyette with him, on the morning of the sixth, endeavoured to pass the guard of the rebels stationed at about four acres distant from the village, and was unable to do so, and that their object was to abandon the rebel party. Now if this evidence can be credited, it is favourable, to a certain extent, to the prisoner; but how can it be reconciled with the evidence of Marie Hebert, that he was at home on the morning of the sixth, and the uncontradicted statements of Feeny and Wilson, that he was at the village on the seventh, armed with a sword, and actually engaged. The statements of Hebert neutralize the beneficial tendency of those of Alaire, and connected with the evidence of Feeny and Wilson, as it stands of record, bears an aspect decidedly unfavourable to the prisoner.

The witness, Alaire, has also testified in favour of Rochon, that he was not the person by whom the arms were taken from Normand's store—this is a contradiction by one witness of doubtful credibility, for Alaire was himself one of the rebel party, of the circumstantial statement of two who are obnoxious to no suspicion, and had equal opportunities of observing with the contradicting witness. The balance of evidence here is clearly against Rochon, and the Court will not discredit the evidence which the two witnesses for the prosecution have given on this point. If, however, the fact of seizing the arms were clearly abandoned, there still remains enough to shew that this prisoner was a zealous, active, and unscrupulous partizan of the rebel force.

Prieur has endeavoured to establish, and we think not without success, that menaces of a violent and alarming character were made use of on the night of the third, by a band of armed men, to induce him to join them; it appears, also, that on the night of the sixth or seventh, he returned home, and slept out of his house for fear of being again forced away. We give him the full benefit of these facts, in mitigation of his guilt; but we must, at the same time, remark, that his activity and general conduct, while at Beauharnois, established by Feeny, Cousins, Wilson and Thompson, is utterly destructive of the most remote presumption, that he was acting otherwise than from his own volition. The case against him is no wise impaired.

Wattier dit Lanoie has proved that he was at his farm or store at St. Timothé, nine miles from Beauharnois, on the fourth of November, all of the fifth, and has accounted for himself there from ten o'clock till two, on the sixth. The woman, Sophie Julien, further states that, at two o'clock, he went to the Cedars, and returned on the morning of the seventh, when she saw him again at seven o'clock. Her husband went with him to the Cedars, and from him she derived her knowledge that Lanoie was there. This latter statement is clearly not evidence; and when we consider the inconsiderable dis-

tance between St. Timothé and Beauharnois, we are disposed to say, that this evidence is insufficient to discredit the testimony of Lebœuf, who says that he saw Lanoie at Beauharnois on the fifth or sixth. It is, however, a question of little importance, as Lebœuf's testimony may be dispensed with altogether, and there will still remain the evidence of Feeny and Wilson, that they saw him on the afternoon of the seventh, of Thompson as to the eighth and ninth, and of Leblanc generally from the fourth to the tenth. We are at a loss to understand the object of Lanoie in adducing this evidence—it can scarcely be intended in mitigation of guilt, for the fact of his having gone to Beauharnois three days after it was in possession of the rebel force, has evidently a contrary tendency. He has, however, offered in his address an explanation of his conduct in this respect; you have just heard his statement, and it bears a strong impress of probability, but if true, it is to be regretted that it does not appear in the evidence of record, for upon that evidence alone can the Court decide.

We have thus, at the risk of being somewhat tedious, followed out in detail the evidence of record on the defence. We have done so, in order to simplify the whole case, and not because we attach any importance to it—with the exception, indeed, of that portion of it which goes to general character, and some facts connected with Prieur, the impression on our mind is, that it has operated rather against, than in favour, of those prisoners, in whose behalf it was invoked.

To conclude, we have no hesitation in declaring, that the offence charged, is clearly brought home to all the prisoners before the Court. All, except Laberge and Touchette, and, perhaps, L. Dumouchelle, appear to have held authority of various degrees in the rebel camp—Rochon and Prieur alone, were proved to have been implicated in the capture of the steamboat *Brougham*; Chevretils, Goyette, and De Lorimier were at Baker's.

We are disposed to say, that of them all, Brien, from his intelligence and presumed knowledge of social and relative duties; De Lo-

rimier, for the same reason, connected with the circumstances already alluded to; and Joseph Dumouchelle and Rochon, distinguished as active leaders, appear to be conspicuously guilty.

We dwell no longer on the case, but here commit it to your deliberation.

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{ Dpy. ADJT. GENL.'S OFFICE,
Montreal, *January* 26, 1839.

SIR,—I am directed, by the Commander of the Forces, to transmit to you the accompanying proceedings, on the trial of Jean Baptiste Brien and others, and to inform you, that as His Excellency was sworn in, on the 17th instant, as Governor in Chief, it will be more regular, that that part of the sentence which leaves to the “ Administrator of the Government” the time and place of carrying into execution the punishment awarded the prisoners, respectively, shall be framed accordingly.

I am, therefore, to request, that the Court will revise this part of the sentence.

I have the honour to be, Sir,

Your most obedient servant,

JOHN EDEN, *Dpy. Adjt. Genl.*

Major General Clitherow, &c.

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