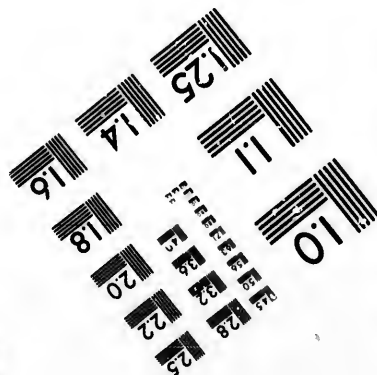
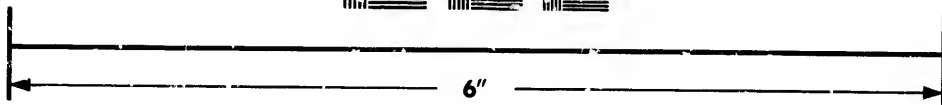
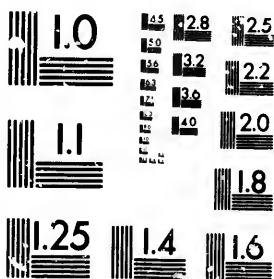


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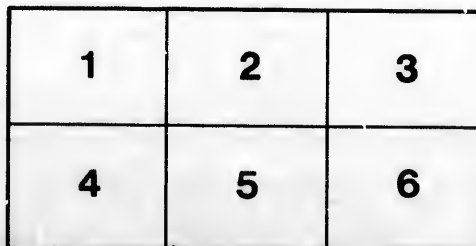
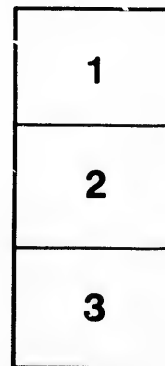
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TRIAL

OF

PATRICK J. WHELAN

FOR THE MURDER OF

THE HON. THOS. D'ARCY MCGEE

WITH A PHOTOGRAPH OF THE ACCUSED.

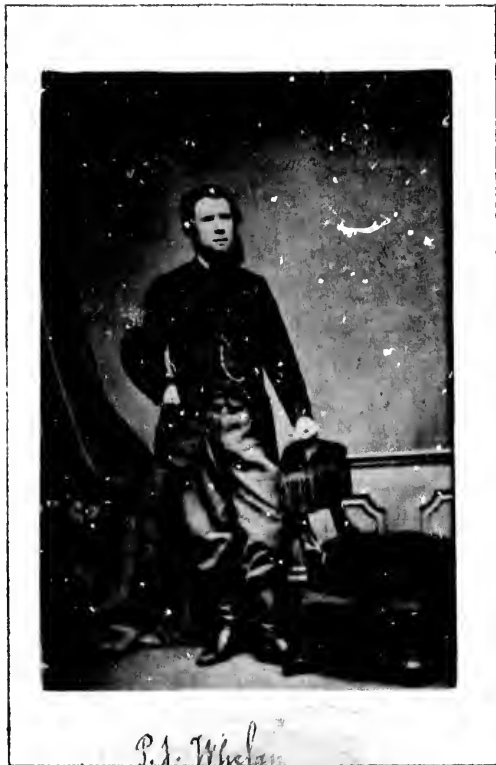
REPORTED FOR THE OTTAWA TIMES BY GEORGE SPAIGHT, ESQ.,
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OTTAWA:

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1868.

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P. J. Whelan

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TRIAL OF PATRICK J. WHELAN.

PATRICK J. WHELAN was born near the city of Dublin about the year 1840. At 14 years of age, he was bound apprentice to a tailor in Dublin, with whom he served the full term of his apprenticeship. After learning his trade and obtaining his majority, he seems to have led a wandering life, travelling to and fro and working in several of the principal towns in England; and his restless disposition finally led him to seek fresh adventure and better fortune on this side of the Atlantic. His arrival in this country was probably about the year 1865, and the first traces of his movements were in the latter part of that year, in the city of Quebec. In that place he seems to have worked somewhat industriously at his trade, and in the beginning of the following year he joined the Volunteer Cavalry. On the breaking out of the Fenian excitement his sympathies seem to have been in favor of that organization; and being unable to restrain his feelings, he was led into the commission of some rash act which brought him under the notice of the authorities. He was arrested, but from want of evidence, he was allowed to depart unpunished. We next find traces of him in the hot-bed of Fenianism—Buffalo—and possibly he had some connection with the band of marauders who left that city in June 1866, bent upon the destruction of the British Empire, using Canada as their base of operations.

It is supposed that he afterwards appeared in Hamilton. The papers of that city give an account of a tailor who appeared there in the latter part of 1866, who was a full-blown Fenian, and who, for using treasonable language, was arrested and afterwards liberated, and the description given fully answers to the appearance of Whelan. From Hamilton he appears to have again gone to Buffalo, and from the latter place he went to Montreal where he remained for about twelve months and worked in the establishment of Mr. Anderson. While in Montreal he entered the matrimonial state, choosing for his spouse a lady who was of undoubted respectability and possessed of a snug property; and who is, according to the statements of the witness Turner, about thirty years his senior. The union, as far as the lady was concerned, was an unfortunate one. The prisoner has impaired her property, and by his manner of life and associations has given her much cause to grieve. His strong Fenian proclivities led him to associate with that element of the Irish party in Montreal, whose proceedings in connection with the St. Patrick's Society, were marked with suspicious circumstances. He was a prominent member of that society; and it is probable that his hostility towards Mr. McGee took deep root in his heart owing to the uncompromising exposures which the deceased made of the doings of the Society.

In the fall of 1867, Whelan came to Ottawa, and while here his associations have been such as to stamp his character with the very strongest suspicion. As to personal appearance, Whelan is by no means a bad looking man, but is a person of violent temper and strong impulse; and his expression of countenance, which bears the indelible furrows of passion, fully bears out the accounts which are given of him in that respect. As point after point of evidence was brought out during his trial, his uncontrollable restlessness of body, his constant turning of the head, his knitted brows, his staring eyes and twitching mouth, gave evident marks of his anxiety.

MONDAY, 7th September, 1868.

Before the hour appointed for the opening of the Court, quite a number of people had gathered in the neighbourhood; but to prevent overcrowding, it had been wisely arranged by the Sheriff that admission should be gained only by ticket.

At about half-past nine o'clock the Hon. Chief Justice Richards, preceded by the Sheriff, entered the court room, and the crier thereafter opened the court in due form.

Around the bar were seated James O'Reilly, Esq., Q. C., who appeared for the Crown; the Hon. J. H. Cameron, Q. C., Hon. M. C. Cameron, Q. C., Kenneth McKenzie, Esq., Q. C., prisoner's Counsel, with whom were associated, P. J. Buckley, Esq., Barrister of this city, and, unofficially but most actively, and no doubt efficiently, John O'Farrel, Esq., of the Quebec Bar.

There were also present the Hon. Col. Gray, M. P., His Worship the Mayor, His Honor Judge Armstrong, His Honor the Police Magistrate, J. M. Currier, Esq., M. P., R. W. Scott, Esq., M. P., Robt. Lyon, Esq., M. P. P., and a large number of the members of the Ottawa Bar; besides Major Alexander, Colonel Coffin, Major Moore, and later in the day, the Hon. Mr. Mitchell, with many leading citizens, and others of note who evinced a deep interest in the proceedings.

The Clerk of the Court called over the panel of *petit* jurors, almost every one of whom answered to their names.

At the instance of Mr. O'Reilly, the Crown witnesses were then called, and due process entered for the production of a few absentees.

The prisoner, Patrick James Whelan, was brought into Court, as on the occasion of his arraignment, in charge of Detective O'Neill and four policemen, preceded by the Governor of the gaol and the Deputy Sheriff, and secured as before with "the nippers" on his wrists. Whelan walked with a jaunty step across the yard of the Court House and up the steps, coming into Court with a countenance somewhat paler than before, but otherwise unchanged. He wore an irrefragable, well brushed black silk hat, black frock coat, white vest with narrow gold chain and black pants. He watched the proceedings with great apparent interest, but very little change of countenance, though when one of the jurors was charged by his Counsel with having said that if on the jury "he would hang him," he certainly did give the juror in question one of his sternest looks.

On the Clerk calling upon the prisoner to stand up, he responded, "Yes, sir," and being asked by the same functionary was he ready for trial, he responded, after a moment's pause, "I am, sir." At this time, as generally throughout the proceedings, there was great stillness in court.

Summoning the Jury—Interesting Points in Procedure, &c.

On the Clerk's proceeding to empanel the jury,

HON. J. H. CAMERON addressed the Court, and said he wished the full jury to be summoned to the box before any challenge would be made, and that the prisoner have the right of challenge on each juror's being presented with the book to be sworn.

THE COURT—What have you to say to that, Mr. O'Reilly?

MR. O'REILLY—I think this is quite an unusual course, in our courts, your Lordship, and I would ask the learned Counsel if he has any authority to cite in its favor?

CAMERON, J. H.—This is the correct course, and I desire the point to be brought before the court. He then cited his authority.

MR. O'REILLY—The panel has already been called.

CAMERON, J. H.—Only to see if the jurors are all present in court, but my object is to have the full jury in the box, before being called upon to exercise the prisoner's right of challenge.

THE COURT read the authority, shewing that this course had been followed in the English Courts, and explained at the same time that such had not been generally followed in this country, challenge being usually made when the juror was called.

MR. O'REILLY—Of course, if this rule is adopted, the Crown will have the same right as the defence.

CAMERON, J. H.—Of course.

The Clerk proceeded to call the jurors, when the following answered to their names, and took their seats in the box: Alexander Huston, William Boucher, Richard Smith, Robert Smith, Thomas Morland, Laurie Alexander, Robert Little, John Fudpa, Richard Kempt and William Purdy.

On proceeding to administer the oath to this panel, the following jurors were peremptorily challenged by the defence, viz :

A. Huston, Boucher, Alexander, Little, Kompt and Hugh Huston—6.

By the Crown the following were ordered to "stand aside," viz : Potter, Richard and Robert Smith, Morland and Fudpa—5; and William Purdy was duly sworn.

The Clerk then summoned the following :

Robert Hood, Thomas Weatherley, William Morgan, Patrick Mears, John Cosgrove, Wm. Rowatt, Robert W. Brown, John Eccles, Patrick Daly, junior, John Wilson, junior, and Wm. Hodgins—11.

The defence challenged the following, viz: Hood, Rowatt and Hodgins—3.

The Crown challenged or "set aside"—Mears, Cosgrove and Daly—3.

The following were duly sworn : Thomas Weatherley, Wm. Morgan, Robert W. Brown, John Eccles and John Wilson, jr.—5.

The clerk then called—Matthew Heron, Wm. Wilson (Huntly,) John Weathers, Albert Clothier, David Hartin and William Arthurs—6.

Of these were challenged by the defence : Wilson, Clothier and Arthurs—3.

By the Crown, Weathers and Hartin ; and Matthew Heron was duly sworn.

There were still five jurors lacking to complete the panel, and the following jurymen were called, viz : Charles Brunette, Patrick Manyon, Jonathan Sparks, Wm. Gamble, Patrick Baxter—5.

The Crown set aside Brunette, Manyon and Baxter—3.

A Challenge for Cause.

CAMERON, J. H., claimed that though the defence had not exhausted its right of peremptory challenge, it desired to test the point whether, at the option of the prisoner, he could not challenge for cause. He therefore desired to challenge Jonathan Sparks for cause.

Mr. O'REILLY—Did not think that prisoner had the right to challenge for cause until his right of peremptory challenge was exhausted. Had the learned Counsel any authority to cite in favor of his claim?

CAMERON, J. H., had no authority, but wished to obtain the ruling of the Court, and therefore challenged Mr. Sparks for cause.

THE COURT—For what cause, Mr. Cameron?

CAMERON, J. H.—That the jurymen in question is not indifferent. He has said that if on the jury he would hang the prisoner.

The Court suggested that the Crown should put in objection to right of challenge for cause until right of peremptory challenge was exhausted, and that the defence should put in demurrer on which he would give judgment.

Mr. O'REILLY then filed his objection to the claim, and Mr. Cameron put in his demurrer, upon which the Court delivered judgment on demurrer, holding that the prisoner not having exhausted his right of peremptory challenge had no right to challenge for cause.

CAMERON, J. H., intimated that if the prisoner's right to peremptorily challenge twenty were exhausted, he would take the opportunity of bringing the point up again.

THE JUDGE explained to Mr. Sparks on his leaving the box, that at that stage of the proceeding there was no need of his saying anything, because the ruling of the court had been on the broad principle of law, regulating the rights of the prisoner, and not on the question of the truth or falsehood of the statements said to have been made by him.

Mr. Sparks then stepped aside, as challenged peremptorily by defence, and William Gamble was duly sworn.

Another Challenge for Cause.

Four jurymen were still wanting, and the following were called and severally challenged, viz : Albert Derrick, by the Crown ; and John Beamen, James Rolston and John White (3) by the defence.

The next attempt was no more successful, one juror having been called by a wrong name, (Glennig instead of Glenny) was told by the Court that he need

not answer, and the following, viz: William Wilson (Fitzroy), William Croskery, James Gilchrist and James Watt, (4), were challenged by the defence.

The following jurors were then summoned by the clerk, viz: George Cavanagh, James Tierney, Robert McDaniel and Benjamin Hodgins (4).

The defence claimed the right to challenge another juror, without cause, but it being found that (including Mr. Sparks) twenty had already been challenged peremptorily, this was refused, and

Hon. CAMERON, J. H., challenged George Cavanagh, for cause, in that he had expressed an opinion as to the guilt of the prisoner, and required that the juror be examined.

Mr. Cavanagh was thereupon sworn, and the Hon. J. H. Cameron examined him.

CAMERON, J. H.—Have you ever said that the prisoner at the bar was guilty of the crime of which he stands charged?

JUROR—I have not.

CAMERON, J. H.—What have you said in regard to this case?

JUROR—I said that, according to what had appeared in the papers, it looked like it.

THE COURT—Have you made up your mind as to what verdict you ought to give?

JUROR—I have not made up my mind either way.

Mr. O'REILLY—The juror had said only that from what he had seen in the public prints, it looked as if the prisoner was guilty, and if such an expression of opinion, upon mere newspaper reports, was a valid objection, then the whole people of the country might be similarly objected to.

In reply to the Court, the juror stated that he had not formed any opinion upon the actual guilt of the prisoner, and that he was prepared to listen to the evidence he might hear on the trial, and judge of it independently of what he had read in the newspapers.

THE COURT—Have you any other evidence to offer, Mr. Cameron?

CAMERON, J. H.—No, My Lord, the statement made by the juror that the case, as reported by the papers, looked like as if, the prisoner were guilty, was all that he had to offer, and that had been admitted.

The two first jurymen, William Purdy and William Morgan, were then sworn as "tryers" and his Lordship briefly explained to them, the case they had to determine, viz., whether Cavanagh is an indifferent and fair juror, in fact to try the issue. He then recited the statement of the juror, and invited them to retire and talk the matter over between them, and then to inform the Court of their decision.

After a brief retirement the "tryers" returned to Court, and gave their finding that Cavanagh was unobjectionable.

George Cavanagh was then duly sworn in as juror. James Tierney was challenged by the Crown. Robert McDaniel was sworn in, and Benjamin Hodgins being called to be sworn, the Hon. Mr. Cameron claimed the right of peremptory challenge as against him, because the defence had been compelled to challenge Jonathan Sparks without cause, when prepared to do it with cause.

The Judge took a note of the objection, and Hodgins was sworn.

There being but one juror now required to complete the panel, Samuel Conn was called and sworn in, without objection from either side.

The Jury.

The following twelve "good men true" then answered to their names as being "sworn," viz:

William Purdy,	Thomas Weatherley,	John Eccles,
Matthew Horon,	George Cavanagh,	Benjamin Hodgins,
William Morgan,	Robert W. Brown,	John Wilson,
William Gambie,	Robert McDaniel,	Samuel Conn.

The Indictment.

The Clerk read the indictment as follows: }
County of Carleton, } The Jurors of our Lady the Queen, upon their oaths
to wit: } present, that Patrick James Whelan, on the 7th day of

April, in the year of Our Lord, 1868, at the city of Ottawa, in the county of Carleton, did, feloniously, wilfully and of his malice aforethought, kill and murder one Thomas D'Arcy McGee.—A true bill.

Crown Witnesses.

At the instance of the Hon. J. H. Cameron, the witnesses for the Crown, except the physicians and some officers of the court, were called, and removed from court in charge of a constable, to the clerk's room. The following answered to their names; William Trotter, Mary Ann Trotter, John Jordan, J. B. Lacroix, A. J. Turner, James Inglis, Joseph Faulkner, John Joseph McGee, (brother of the late T. D. McGee,) Mrs. McKenna, John McLaughlan, Edward Starr, William Graham, L. Roy Desjardin, Andrew Cullen, E. J. O'Neill, Fred. Davis, Robert Hess, John Dolan, Eliza Tierny, John Little, Paul Frechette, John Down, Jane Tynan, B. Hollbrook, which, with the coroner, the physicians, and a few others, make up the number of Crown witnesses to thirty-two.

The Prosecution—The Case stated for the Crown.

Mr. O'REILLY, being called upon by the Court, stated the case for the Crown, commencing as follows: May it please your Lordship; gentlemen of the jury: The prisoner at the bar stands charged with the crime of murder, and the language of the indictment, which is plain, tells you who the person murdered was. That language, he continued, ran thus—that Patrick John Whelan did on the seventh of April last in this city of Ottawa feloniously, wilfully, and with malice aforethought, kill and murder one Thomas D'Arcy McGee. The crime of murder, as understood by the authorities, and as defined by Lord Coke, consisted in a party unlawfully, wilfully, and with malice aforethought, killing a person of reasonable discretion living under the King's peace. It was therefore necessary, to establish the charge of murder, that the Crown should prove all the allegations set forth in the indictment, and fix their guilt upon the prisoner at the bar. First, that the death was unlawfully caused, secondly, that it was the result of malice aforethought, and thirdly, that it was that of a reasonable being living in the King's peace. At the present stage he would simply narrate the history of the tragedy in as few words as possible. The only object the Crown could have in tracing out this murder was that of bringing its guilt home to the guilty party, and ascertaining who the murderer really was, and if the evidence to be adduced shewed the prisoner to be the party it would be the duty of them, the jury, to find him guilty. If the evidence failed to bring conviction to their minds it would be their duty, their pleasant duty, to acquit him. God forbid that in the trial of this case, or of any case where a human being is on trial for his life, a subject of the Crown should in this our country be found guilty, except on the clearest evidence. It was well known to them, and, not only to them, but to everybody, if not within the Queen's whole dominions, at least within the Dominion of Canada, who Thomas D'Arcy McGee was. On the seventh of April last he was attending his Parliamentary duties here, and on the evening of the sixth was present, in good health and spirits, in his place in the House of Commons. On that occasion a most important question was under debate, and Mr. McGee delivered, he believed, one of the most eloquent speeches ever heard within the Chamber. At about half-past two in the morning, after a long and anxious Session, Mr. McGee left the House for his lodgings in Sparks street, accompanied by Mr. Robert MacFarlane, M. P., a gentleman of distinction at the bar of Upper Canada. At the corner of Metcalfe street Mr. MacFarlane left him in the bright moonlight, which made the night almost as bright as day. Mr. McGee then turned up Sparks street until he reached his lodgings, in the house kept by a person named Trotter. It was charged against prisoner at the bar that he had been in the House of Commons on that same night, and had left before Mr. McGee, and waited for him, concealed in a gateway near his lodgings. That, when Mr. McGee passed his place of ambush, the prisoner followed, going out into the street, and, when Mr. McGee was opening the door of his lodgings, had come behind and shot him through the back of the neck, the ball passing out through his mouth, and carrying away some of his teeth. That Mr. McGee had, in consequence, died

almost instantly, within, in fact, a few seconds. Aye, in less than one minute, in less than sixty short seconds after that fatal shot was fired, the soul of Thomas D'Arcy McGee stood before his Maker. It was charged that the prisoner was the person who fired the shot, and he (Mr. O'Reilly) undertook to prove in evidence that he was the emissary of a conspiracy of wicked men, whose nefarious plot had been hatched in Montreal, their first hellish scheme having been to kill Mr. McGee in his own house. That the prisoner had, in fact, gone for that purpose at night to Mr. McGee's house, when the door was opened to him by Mr. McGee's brother, who was there in court to give his evidence. The prisoner alleged on that occasion that he had come for a friendly purpose, namely, to give intelligence that the house would be fired at four A. M. that day. Seeing that his errand purported to be of this friendly nature, Mr. McGee received the prisoner in his library, young Mr. McGee having locked the front door after admitting him. Mr. McGee believed the prisoner's warning because at that time, unfortunately for the city, there was a strong political feeling existing, and animosity ran high between two parties, of which Mr. McGee led one, and Mr. Devlin the other. Mr. McGee consequently gave prisoner a note to take to the police, informing them of the projected incendiarism. This was at about 2 a. m., and prisoner, although he had been so anxious for Mr. McGee's safety and protection, first appeared with it and delivered it to the police at 4-45 a. m., and this, although the crime against which it carried a caution, and against which he desired to guard, was, by his own statement, to have taken place three quarters of an hour earlier. At this very period it could be proved that violent language had been used by the prisoner against Mr. McGee, whom the former had charged with being a traitor to his country, as having received the pay of traitors, and as deserving to receive the death of traitors. Too well, if they believed the evidence, would they find that such threat had been carried out. It would be proved also that at meetings held shortly before this occurrence at the house of a party in Montreal, where prisoner and some of his intimate associates resorted, one of the parties present had addressed prisoner by the name of Sullivan, saying "Sullivan is the man to do the deed." That when Mr. McGee came up to his parliamentary duties in Ottawa, the prisoner also made his appearance here—the first occasion of his ever doing so. That when Mr. McGee, from sickness, went home, prisoner also left Ottawa, returning subsequently after Mr. McGee's recovery and return. These visits to Ottawa were paid notwithstanding the fact that prisoner had employment in Montreal, at his trade of tailoring, at good wages—he was, it was said, an excellent workman—and that his house was in Montreal where his wife lived constantly, and he was himself comfortably established. Still he, who had no need for other occupation, they found coming up coincidentally with Mr. McGee to Ottawa, and taking employment with Mr. Eagleson, a merchant tailor here. The prisoner was found attending the House of Commons constantly while Mr. McGee was in his place there, but not while Mr. McGee was sick or absent. It would be proved that in November, or perhaps in October, he had purchased a pistol, with which he had practised shooting, and, if the evidence which he would adduce were true, he became undoubtedly an accomplished shot. On the night preceding that of his murder, Mr. McGee was speaking in the House; and prisoner was present in the gallery with a pistol in his pocket, and was seen so armed by a gentleman whom he would produce, who was himself in attendance at the Capital as a witness in the Kamouraska election case. On the night of the murder, prisoner was also in the gallery, entering about nine p. m., and frequently going in and out with much restlessness. It would be proved that the prisoner was noticed in the gallery while Mr. McGee was speaking—while he was delivering that last speech that was now famous. That speech was with regard to the proposed recall of Dr. Tupper, a gentleman who had co-operated with himself in bringing about the Canadian Confederation, and this recall, Mr. McGee said, would be like striking a man below the belt. The prisoner then gnashed his teeth, and shook his hand menacingly, of which evidence would be laid before them. The prisoner afterwards occupied other positions in the gallery, and he (counsel) feared that he had accomplices even there. He was, in fact, observed convers-

ing with a person near him, and with others behind. Later on when Mr. McGee was about leaving the House, prisoner was again seen, this time concealing himself behind a pillar near the entrance, and watching for Mr. McGee's egress. There was no doubt as to his presence in the House up to its adjournment; what he did with himself afterwards they would have as reported by himself. The prisoner's own statement on this point was that he did shoot Mr. McGee, and this would be repeated to them by witnesses from whose lips he (counsel) preferred that they should hear it without his anticipation. Beyond all that he would prove by a witness named Lacroix, a Frenchman, that the latter had seen the shot fired. This witness would describe the prisoner as he who fired it, would tell the circumstances under which it was fired, and would relate the entire occurrence in such a manner, as to leave no doubt whatever, in case they believed him, of the guilt of the prisoner at the bar. But, even if they choose to set aside this evidence there was still ample to support the case for the Crown. The selection of the prisoner for a certain act; his close following on the track of the murdered statesman; his being among the audience of Mr. McGee's last speech, and there publicly and audaciously pointing his finger and gnashing his teeth, while the latter was pleading the cause of his country, and probably then and there determining that his victim's soul should be that night in Elysium. These were the leading points of the evidence, which, if they believed, they would give a verdict accordingly, under the obligation of their oath, and the obligation of their conscience.

At the conclusion of the learned Counsel's address, the Hon. J. H. Cameron formally repeated his demand for right peremptorily to challenge the juror Hodgins. Mr. O'Reilly demurring was sustained by the Court, by whom the point was entered on the record.

The subjoined testimony was then offered for the Crown, Mr. O'Reilly examining all the witnesses.

The Evidence.

PAUL FRÉCHETTE, sworn—Was in the city on the 6th April last, employed in the Post Office of the House of Commons. Recollects the evening of the 6th. The House was then in session, adjourning, as he thinks, about a quarter, or twenty minutes, past two, on the following morning.

TO THE COURT—Was in the House at the time of its adjournment. Means the House of Commons of the Dominion.

TO MR. O'REILLY—Witness saw Mr. McGee after the adjournment, walking with Mr. MacFarlane down the centre board walk from the main entrance, and about half way from the building to the gate, leading to Wellington and Metcalfe-streets. Witness was then behind both gentlemen.

TO THE COURT—When witness left the house he observed that Mr. McGee and Mr. MacFarlane were in front of him, having left just before. Parted from Mr. McGee's vicinity at the corner of Metcalfe and Sparks streets, witness going on straight thence to his house on Queen-street. Mr. MacFarlane left Mr. McGee just before witness did, at the other corner of Metcalfe and Sparks streets, going towards the Russell House, while Mr. McGee turned Sparks street, westwards.

TO MR. O'REILLY—Mr. McGee crossed Sparks street to the south side.

TO THE COURT—There are two fronts to Russell's Hotel, one looking to Sparks and the other to Elgin streets, which are at right angles. Metcalfe street is the street which witness came down.

HON. J. H. CAMERON here explained the topography of some of the streets referred to, plan of which was handed in.

Witness continued—Mr. McGee, proceeded from the corner alone towards his lodgings on Sparks street.

TO THE COURT—He was walking towards the *Canada Gazette* Office—i.e. westwards.

THE COURT—Are these buildings marked on the plan, Mr. O'Reilly?

MR. O'REILLY—Yes, my Lord. They are there called Desbarats' Block, part of which is marked as in occupation of Mrs. Trotter.

Witness continued—Mr. McGee was alone. It was a moonlight night. When witness overtook Mr. McGee in going from the Parliament Buildings he

(witness) was accompanied by the two Buckleys, John and Pat, and by another messenger named Brice.

To THE COURT—These parties witness left at the corner of Metcalfe and Queen streets. Brice and Buckley were in front of witness, and nearer to Mr. McGee.

To Mr. O'REILLY—They were all employees of the House, and all parted from Mr. McGee at the corner of Sparks and Metcalfe streets. Witness then lived at Mrs. Robitaille's, on the south side of Queen street, and turned thitherwards at the corner of Metcalfe and Queen, the Buckleys and Brice going on straight towards their home on Metcalfe street. This must have been about five or six minutes after the adjournment. In seven or eight minutes after (adjournment) witness heard a shot. As they parted with Mr. McGee at the corner, young Buckley said, "Good night, Mr. McGee." Mr. McGee said, "Good morning—it's morning." Left the Buckleys and Brice at the corner of Queen and Metcalfe streets, and when he had got near Mr. Steele's (next where he was boarding) heard the report of a revolver shot. Cannot say exactly how long after parting from Mr. McGee. It would about have given him time to get to his boarding house, which was nearly opposite witness's. When he left Mr. McGee, the latter was apparently in good health. Did not see Mr. McGee that night again, living or dead.

Cross-examined by Hon. J. H. Cameron—Thinks it was from 2.15 to 2.20 a. m. when the House adjourned. Did not remain any time after. Left immediately on adjournment. When he left there were some members in the hall. There were, as usual, a number of members walking down. The night was not cold, what might be called a mild night. Did not see any body behind witness. Looked when he got outside the gate, and saw nobody, but had left people in the hall. Came out of the main entrance. Did not see any one standing there, nor carriages; if there had been any they had gone. Left the House with Mr. Godin, M. P., who left witness immediately after leaving the terrace by the diagonal walk towards Elgin street. Then joined the Buckleys. Mr. McGee was walking slowly with Mr. MacFarlane down the board walk in front, and witness' party, accommodating their pace in consequence, walked down the west side of Metcalfe street. Mr. MacFarlane parted from Mr. McGee opposite Hunton's store on the north side of Sparks street.

To THE COURT—Walked down Metcalfe street, on the right hand side.

To Hon. J. H. Cameron—All crossed (after Mr. MacFarlane had turned eastward) Sparks street together. Did not stop at the further corner, where the "good night" passed. Went on at the same side, travelling faster after they left Mr. McGee at the corner. Parted with the others at the corner of Queen street. Did not delay, and continued to walk briskly. The place witness was then living was pretty nearly directly in rear of Mr. Trotter's, and considers that, at his pace, he had arrived at his lodgings at about the same time as Mr. McGee at his; Mr. McGee walked as though lame, with the aid of a stick. The night was bright moonlight without clouds, and he could see to a great distance. Did not return in consequence of hearing the shot. Looked round and saw nobody, and then went up to bed. At Hunton's corner witness looked up westward and saw nobody in the direction Mr. McGee was going. Does not remember if the moon was near setting. From the adjournment of the House till he heard the shot was about seven or eight minutes. Brice lived with Buckley. Did not see anything of Sir G. E. Cartier or Mr. Galt on the other side of the street.

Wm. Trotter sworn and interrogated by the Judge as to the nature of an oath, stated that he was 13 years old, and would be liable to punishment here and after death if he should swear falsely. He then proceeded to give evidence as follows: Is a son of Mrs. Trotter where Mr. McGee lodged, and was employed as page in the House of Commons. Was in the House on the night of 6th April; left about five minutes after the adjournment, which was about 2 a. m. Mr. Ross, (clerk in Mr. Lindsay's Office), Mr. James Connell (messenger), and James Kennedy (page) accompanied him, all leaving together. They left through the west door and went down O'Connor street, crossing Wellington

street, came down the left side (east of O'Connor street.) When opposite the door of the Public Works Department, West Departmental Building (side entrance,) heard a shot. Those with him said they were shooting crows. Witness said: "not at that time of night." The others left him at Wellington street, proceeding westward, witness going on down O'Connor street, towards Sparks street. When he got to Sparks street, and was at the corner, saw something dark at the door of his mother's house, on the sidewalk. Thought it was a Newfoundland dog. It was not above a foot from the private lodgings door. Witness saw some person with a light come to the door, which, after a few seconds, witness saw closed. Then called out to his mother, and no one answering, continued up, towards the Times office on the opposite side (north side of Sparks street,) from his mother's. Went into the Times office, not knowing meanwhile what the object was, which he had seen. Went up stairs in the Times office, and told the men working there that something was lying at his mother's door. The men then came down with him, and found Dr. Robitaille and other boarders outside his mother's door. Saw Mr. McGee lying on the sidewalk with his head to the road, his face turned upwards covered with blood, and his hat on his head. There was blood on the sidewalk and in the gutter. Mr. McGee appeared to be then dead. Does not know who took up the body for removal.

Cross-examined by Hon. M. C. CAMERON.—Has no idea how long it would take to go from the Department of Public Works to the corner of O'Connor and Sparks streets. Saw nothing at this corner but the black object described. Coming down from the Public Works saw nobody on O'Connor street. From the time of his leaving the others saw nobody until he went to the Times office, and disturbed those there. Saw no one at the door of his mother's house, and only knew it was opened from having seen the light. Is certain that he was opposite the centre of the Public Works Department when he heard the shot. Could not see O'Connor street from there. Did not notice anybody outside the buildings on leaving. There were some people going towards the Russell House, but witness could not tell who they were. Could not, from the O'Connor street corner, recognize what was lying on the sidewalk, and did not know that it was Mr. McGee until after having been at the Times office. Recognized the body when within ten feet. Could not previously distinguish the color of the hat. Saw nobody on the west side of the parliamentary grounds. When coming down witness' party did not stop to talk. Followed the west side-walk right down to the gate.

To the COURT.—Some persons had gone down the west side ten minutes before witness left.

To Hon. M. C. CAMERON.—One of these was Mr. McCarthy, a messenger.

MARY ANN TROTTER SWORN.—Lives on Sparks street. Has done so for two years and a half. Keeps a boarding-house and tavern there. Her house is in the Desbarats block. There are three entrances to it from Sparks street, by the bar door and by two private doors. Mr. McGee had come to board with witness about a month before he was shot. Not quite a month. That was the first time he boarded with her. He generally entered by the hall door next the bar door (which was towards the Russell House), from which it was separated by the large window of the dining-room. There is an entrance from the bar into the dining-room, and from the dining-room into the small hall into which the hall door opens. Mr. McGee called at her house about seven or eight o'clock that night, but had not dined there. He went up to his room for some papers which he said he wanted to take to the House with him. Cannot say in what direction he went on leaving. He was then in apparent good health. Witness did not retire for the night until her boarders had all returned. Waited for them in the dining-room where she had a couch. Cannot say who was the first to return from the House. Dr. Robitaille, (M. P.,) was the last. He went straight up to his room. Witness then lay down in the dining-room again, she cannot say for how long, when she heard as it were a quick run passing the large dining-room window. Witness said to herself: "That is my boy coming home." Heard then a tapping as at the door, like a person playing with fingers as on a piano. Called out, as she supposed to her son, to be quiet, as she was coming to open

the door for him. The noise was not loud but quick. (Witness here imitated it with her fingers on the edge of the witness box.) Witness went to open the hall door. Opened first that leading from the dining-room to the hall, when the noise ceased. Opened the hall door about half, sufficiently to admit the boy, but, finding that no one entered, closed the door slightly to ascertain the meaning of the hesitation. Then a flash passed across her face accompanied by a smell of powder. Witness thought it was a fire-cracker. Still held the bolt of the door in her hand, and, opening it somewhat, saw, on looking out, a man in stooping position on the right hand side of the door. Not seeing her son, witness closed the door and went back into the interior of the house to call her daughter. Thought that the man she had seen at the door-post had been stunned in some riot, and told her daughter that some one had been wounded. Then taking a lamp found blood scattered all over the floor inside. Then opened the door again, and observed that the figure, which was still against the stone door-post, was considerably more stooped than when she had first seen it. On presenting the light the figure instantly fell backwards, and from the glimpse of the face in falling, she knew that it was that of a dead man. Did not recognize it as Mr. McGee's. Then witness shut the door and called up Dr. Robitaille and the other boarders, who came down and found that it was Mr. McGee. His hat was on his head, and there was blood on the side-walk.

To the Court.—The blood appeared quite fresh, not coagulated.

To Mr. O'REILLY.—Believes that the coroner and a doctor were sent for, but does not know by whom; has seen the prisoner before. Saw him twice in her own house. One occasion was five or six days before the murder, when he came in after tea with a man named Brice, each having a glass of wine. Saw the prisoner again at her house some short time afterwards, perhaps two or three nights before the death of Mr. McGee. This second visit was about 11 p. m. He was then alone. Witness was in the dining-room. Prisoner entered, after knocking, by the hall door next the dining-room. Witness, thinking the knock was that of one of her boarders, opened the door, and found that it was the prisoner. Prisoner then asked for a glass of wine. Witness said that it was rather late, but, from having seen him with Brice, (a messenger in the House), thought that he, too, was a messenger, and, as he was already inside, consented to serve him. Prisoner asked witness for a pen and ink (she had herself been writing in the dining-room) which she refused to give him. He then asked for a pencil, also refused, and for another glass of wine, which witness would not give. Prisoner pointing out that witness had pen and ink on the table, she replied that it was her privilege to give it or not, as she pleased. Then asked prisoner to go out, opening the door for him. Prisoner did go out, and witness saw him no more until the inquest.

Cross-examined by Hon. J. H. Cameron.—Her house has a public bar where other people than those living there may drink. Knew Brice, the messenger, with whom the prisoner first entered. On the occasion of his second visit only refused him drink on account of the lateness of the hour, not because he was intoxicated. There was a light at the head of the stairs on the night of the murder. Does not know what o'clock it was when Dr. Robitaille entered. Had no occasion to remark the hour that night. Witness' daughter was with her all the night lying down in the dining-room. The footsteps, which witness had heard passing the window swiftly, came from the direction of the Russell House. Witness had directed her son previously to tap at the door when he came home, lest he should by ringing disturb the boarders. He had so tapped on previous nights. Heard no other step at the time. When she first went out took no lamp. Heard no sound as of a latch-key being inserted, nor any other noise than that described. There was a brass bolt on the hall-door which could not be opened by a latch-key, and this bolt was shot on the night in question. The door was locked sometimes, but cannot say if it were that night. Witness admitted Dr. Robitaille herself, afterwards shooting the bolt as before. There was not so much as the breadth of the hall-door between it and the dining-room door, and the hall-door, when opened, would cover the dining-room door. Witness was standing in the opening of the latter, when opening the former

partially. Could not look round the door into the street from that position. Returned into the dining-room on finding that her son had not entered. Was not at all frightened at seeing the flash. Did not consider the report that of a pistol. [Some misunderstanding occurred here as to the occasion of witness first observing deceased in a stooping position, but it was finally understood that she had not done so until her second opening of the door.] No one came to the door with a light until she herself did so afterwards. Did not hear any footsteps running away. Witness brought the lamp immediately after seeing the flash, merely going to the further end of the dining-room table. The couch on which witness lay was at the further end of the dining-room from the window. There are four or five buildings between witness' hall-door and the end of Desbarats' block. There is no gateway into witness' premises, nor any nearer than within about 30 feet eastward. Witness did not look out into the street when she opened the door, nor did she see anybody except the stooping man.

Re-examined by Mr. O'Reilly.—The second time that prisoner visited her house the bar was closed.

GEORGE PERRY.—I am City Engineer. I made the plan now produced. The Parliament and other buildings are properly placed on that plan. The scale of this plan is about 66 feet to an inch. From actual survey, the distance from the main entrance to the Parliament buildings and Mrs. Trotter's, is 1,620 feet. The distance from the centre door of the Board of Works to the corner of O'Connor and Sparks streets, is about 578 feet.

The defence did not cross-examine this witness.

MICHAEL MCCARTHY, Chief Messenger of the House of Commons.—After the House had adjourned on Tuesday morning, (7th April) I came down to the west block to Wellington street, and then continued on to the corner of the Scotch Church, Upper Town, and then turned into Sparks street to my house beside Mr. Skead's. Met no person or heard no shot on his way home.

DONALD MCGILLIVRAY, M. D., was called on to attend at Mrs. Trotter's at about half-past two o'clock on the morning of the 7th April, when I saw the late T. D. McGee, and found the body lying obliquely about four or five feet from the door sill on the sidewalk, and saw the blood flowing down the sidewalk into the gutter. I found the glove of the right hand at a little distance from the body on the sidewalk. The blood appeared florid and red, and appeared clotted recently. The body was warm. I discovered the wound on the back of the head, immediately to the right of the spinal column, caused by a pistol shot, and saw the mark of the pistol shot, which passed obliquely through the door towards the key-hole, a few inches above it. I also found the cigar. I performed the *post mortem* examination, assisted by Dr. Wolff, and found the cause of death to be, beyond doubt, the pistol shot wound from the back of the head, and passing through the mouth. No cross-examination.

DR. VANCOERTLAND.—I am coroner and surgeon; on the morning of the 7th of April last, about 3 o'clock in the morning, I was called to visit the body of the late Mr. McGee. On turning over the body on its face, I saw the wound produced by a pistol shot which must necessarily have been fatal and caused almost instant death. Dr. McGillivray handed me the bullet which was found in Mrs. Trotter's door, and I handed it to Detective O'Neill by order of the Court after I marked it. No cross-examination.

ROBT. MACFARLANE, Esq., M. P.—I am a member of the House of Commons. On the evening of the 6th of April last, there was an important debate in the House on the recall of Dr. Tupper from England, on a motion by Dr. Parker. The late Mr. McGee made one of his most eloquent speeches on that occasion, attacking Dr. Parker as being one of the members of the House elected on the "fair play" ticket, and that he never lost an opportunity of striking under the belt, and said it was unfair to attack an absent member who had no chance of defending himself. The late Mr. McGee was in excellent health and spirits that evening, and spoke with great animation—speaking nearly two hours. The House adjourned about five or seven minutes after two o'clock. When the late Mr. McGee and I left the House it must have been about fifteen minutes after two o'clock. Sir John A. Macdonald had robed himself, and had left the

House some minutes before we did. Messrs. Cartier and Galt went out of the House by the west door, and Mr. McGee and I passed out by the Post Office of the House, and out through the main door under the main tower. We then walked down to the corner of Sparks and Metcalfe streets—we parted there—I, going to the Russell House and the deceased going towards Mrs. Trotter's. At the corner of the street as we were parting I saw John Buckley. I did not see Patrick Buckley then. I then saw Messrs. Cartier and Galt at Isaac's hardware store, opposite the Ontario Bank. I looked back and heard John Buckley speaking at Hunton's corner, and on the Sappers' bridge I met Mr. Lapin, a member of the House of Commons. I saw the late Mr. McGee on the morning following about three-quarters past seven o'clock, dead at Mrs. Trotter's.

Cross-examined by Mr. M. C. Cameron.—Did not hear the shot until I passed the Russell House, when I heard a noise like a shot, but I paid no attention at the time. I saw some of the messengers when we were leaving the House, but don't remember any others. I met Buckley's carriage with the grey horses, returning from Sir John A. Macdonald's, on the Sappers' Bridge. When Mr. McGee and I were going down to the saloon for cigars I saw Sir John A. Macdonald putting on his coat at his wardrobe. We only stopped a few minutes in the saloon, and then came up and left the House for our lodgings.

Dr. MCGILLIVRAY was here recalled by the Crown, and said the pistol wound was unquestionably fatal, and must have caused almost instantaneous death.

JOHN ROOHR—I am, and was on the 7th April last, sub-foreman at the *Times* office. On the morning of the 7th of April, about 2 o'clock, I heard a shot of a pistol, and in a few minutes Mrs. Trotter's son came running up stairs, and said there was some man lying on the sidewalk, and he was afraid to go into his mother's house. All the hands in the office ran over to Mrs. Trotter's and I saw the late T. D. McGee dead, and could see no movement in the body. I then ran for Dr. McGillivray and brought him, and then went for Mr. Robertson, the editor of the *Times*.

JEAN BAPTISTE LACROIX sworn—Lives in Ottawa. [This witness explained that he spoke English imperfectly, and desired to be examined by interpreter. He was, however, examined at proceeding in English.] Lives on Grey Nun street, in Lower Town. Last spring was living in the house where his father died, Deschappelles house, in Lower Town. Knows where the Chaudière flats are. They are "up that way," in Upper Town. Had business at the Flats one Monday night in April last, but cannot say in English the day of the month.

THE COURT—Say it in French.

WITNESS—*Six, Sept. Avril.* It was Monday evening that he went to the Chaudière, and he returned about 1.30 a. m. Came back "this way." Does not know the name of the street in front of the Parliament Buildings. Came along that street for some way, until he came near the buildings, when he turned off. Does not know where the theatre is.

MR. O'REILLY—"You say you came along Wellington street, and then crossed over by some other street. Now where was this street by which you crossed?"

WITNESS—"I cannot speak well in English. I wish to be asked in French."

HON. J. H. CAMERON—"Never mind; you are doing very well."

TO THE COURT—The street into which he turned was the second from the Parliament Buildings.

[Mr. George H. MACAULAY then called upon to act as interpreter, the examination proceeded.]

WITNESS took the first street from the bridge over the creek near the Chaudière. Does not know its name. Followed it until opposite the first Parliament Building when he turned off, and took the next street. There were houses on this next street. One very large one at the corner. There was a fence at the opposite corner, (the left) about a quarter of an acre before you come to houses. Witness took the left side of the street. He saw something—a man dressed in black with a beaver hat on his head walking on the other side of the street, evidently with the intention of opening a door. The man was going up towards the Chaudière. The door was opposite—half the distance of the fence and oppo-

site the telegraph post. Witness was from twelve to fourteen yards from the telegraph post when he saw the man on the other side. He also saw another person on the other side, about seventeen or eighteen yards from the first person, both on the same side. They were both going in the same direction. Saw a man (following the first man) with lightish pantaloons, dark coat and a cap. Heard a pistol shot fired. The men might have been five or six feet apart then. The man in the rear left the sidewalk, made a circuit in the street, and came behind the first man, firing at him while the latter appeared to be trying to open the door. The first man was at the door, and his face close to it when the shot was fired. The second man had come round in a semi-circular way, and raised his arm, when behind the first man. Then witness heard the shot and gave a jump from surprise. The first man fell backwards towards the wall of the house—head first. [Witness then gave a pantomimic description of the falling of the man, from which it seemed that the fall was forwards on one knee, and sideways against the door post.] The second man returned by about the same course as he had taken in coming, behind the other, and striking on the smaller of the posts, on that side of the street, exclaimed "Jesus!" Then went up on to the "parapet" (sidewalk) and, going a little further, entered a gateway on the same side. Witness was standing all this time near the doorway of a brick house opposite. This house is nearer the Sapper's Bridge than where the man was shot. After firing the shot the second man came a short distance towards witness and then turned round to the sidewalk until he struck the post. When witness saw this he started at once and went home. He did not cross over to see the man because he was too much frightened.

To THE COURT—The second man came to about within six or seven yards of witness before he wheeled and struck the post.

To Mr. O'REILLY—Witness could not see his face. Does not know whether he saw him (witness) or not—thinks not. Witness afterwards saw the man in the office of the gaol. He was then dressed differently—darkly. There were others with him. The prisoner is the man. [Prisoner here ordered to stand up and identified by witness.] Witness did not say much about it until after conversation with Mr. Parent. Worked at home after returning that morning, and afterwards moved to the Flats, to the place of a man named Lafleur, living near the small bridge over the creek. Then went to work a day with Mr. Harris, below the Chaudiere bridge. Afterwards worked at the Duchesne Rapids, said to be nine miles from the Chaudiere. Went there to work for his livelihood. Some body brought him away from there. It was Pinard, a policeman, and some body else. They brought him to the town hall, he believes, before a magistrate: since then he has been here. It may have been seven or eight days after the murder. He had been before a magistrate four or five days before this second appearance. It was after being before the magistrate the first time, that he went to the Duchesne Rapids. The first appearance was five or six days after he had seen the shot fired. The first time he was arrested for examination he was sleeping in his bed at the Chaudiere. The second time he was at Mr. Eddy's shanty at the Duchesne. He did not expect to receive anything for giving evidence, nor does he expect to do so now. He never saw the person who fired the shot before then, nor after, until he saw him in gaol, and picked him out there. Witness moved from Lower Town to the Chaudiere Flats, on Tuesday, the day following the firing of the shot. Did not see the prisoner again until he saw him in gaol. The Sheriff was present when he pointed out the prisoner. There might have been thirteen, fourteen or fifteen persons then present, all strangers to witness, out of whom he had no difficulty in identifying prisoner.

Cross-examined by HON. J. H. CAMERON—Had been ten or eleven days in Ottawa at the time, since he came from below. That is from Rigaud, beyond Grenville. Lived here with his brother-in-law. Is married, and his wife is in Ottawa. His wife came up with him. Had been in Ottawa several times before, working about the Chaudiere for the past sixteen years. Knows the city quite well, but does not know the names of any of the streets. Left his brother-in-law's house in the afternoon of the 6th of April, but cannot say at what hour.

Left home alone. Went straight to the Chaudiere to get a house, but did not get one. Met several people at the Chaudiere that day. Does not know the names of any. Knows one personally, but not his name. [Witness being interrogated repeatedly regarding this man could not give any description of him, nor information as to the others.] Witness was enquiring for work and for houses until he left at half-past one in the morning. Cannot tell the name of a single place at which he asked for houses, or of a single individual he asked for work except Mr. Eddy and another gentleman. This was on Monday between four and five in the evening. Did nothing afterwards but ask for work and houses. Had taken his dinner before he left home in the afternoon between two and three o'clock, but cannot say at what hour exactly. He had stated before (in examination in chief) that he had left home in the afternoon. Recollects being in his uncle's house in the afternoon, and other houses which he does not recollect. Had no watch, but saw several clocks in the houses. Did not mark the time at any. When he passed his uncle's door coming home, he asked the latter was it late, to which his uncle replied that it was about one or half-past. Had spent all the time in the street and in houses making enquiries. Met no one from the time he left his uncle's until reaching the Parliament buildings. Saw some body coming down or standing about the steps coming from the Parliament hill. Does not know how many, nor whether they were walking or standing. It was opposite this spot that he turned down into the second street. Did not stop at the corner, nor until he came to the door of the brick house. Cannot say how long it was after he had turned the corner that he saw the men. He had gone seven or eight yards from the corner, when he saw the first man. It was bright moonlight. He could see the color of the first man's hat. It was a black beaver. The second man had a black cap. Witness did not stop at all until after he heard the shot fired, when he tried to hide himself in the doorway. He had got a little past the first man when the shot was fired. Up to that time he had not noticed the faces of either. Never noticed the first man's face at all. Cannot say whether the door in which he stopped, on hearing the shot, was open or not. It was closed. Witness crept in sideways to the door, concealing himself there, with his back to the door. Witness was about fifteen yards further down the street (nearer the bridge) than the men when he stopped. From ten to eleven yards further down. The second man, immediately on firing the shot, turned round and walked off fast without running. The man was nearer the Sappers' bridge (further east) than witness—five or ten yards—when he turned into the sidewalk. Had no opportunity of noticing the man's face except when passing him after the shot. The archway through which the man disappeared was on the other side of the street from witness. Witness remained in this doorway three, four or five minutes after the man disappeared. Witness was too much afraid to go over to the fallen man. After the man had fallen forwards on the post, he fell on the sidewalk with his head to the door. From where witness was standing he could see quite plainly the door which the first man sought to enter. Did not see the door opened at all while he stood opposite. Did not pay very particular attention. It might have been opened. Witness stood on the first step of the doorway in which he was concealed, but cannot say if he were higher than the sidewalk. Going home he met a man in Parent street, on the other side of the French Cathedral. Does not recollect passing a carriage and horses. Does not know the Russell House; knows a large house near the bridge, and the Post Office. Does not know the hotel; saw nobody after he got home, except those who were in the house. Did not say anything to any of them then, because they were all in bed. Did not say anything to them next day. Thinks that it was on the Wednesday that he first spoke of it to Mr. Lapierre. Heard some mention of a reward, but not on the Wednesday. Cannot precisely state the particular time when he first heard that a reward was offered, nor what the amount was said to be. Heard several people speak of it, some saying it was a large, and some that it was a small reward. Did not hear whether it was large or small. [Great difficulty was experienced in extracting definite and relevant answers upon this subject.] The only person he heard mention the reward was Mr. O'Reilly. In conversation

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with Lapierre about the late Mr. McGee, Lapierre said that a reward had been offered. That was on Wednesday. Cannot state positively whether the conversation took place on Tuesday, Wednesday or Thursday, but thinks Wednesday. Lapierre did not say anything to him about it. Lapierre told witness of the death of Mr. McGee before witness told what he had seen. Lapierre said nothing of the reward. [This last point witness repeatedly affirmed.] Lapierre remarked that it was a great pity that the poor man should be dead, and then witness said that he been very much frightened, having heard a pistol-shot in coming from the Chaudiere. Lapierre did not tell him how Mr. McGee had been killed. If so witness does not recollect. Witness did not tell Lapierre that he had seen anybody, but merely that he had heard a shot, not seen it fired. Did not see Lapierre again before he was first brought before the Magistrate. Pinard was the person to whom witness spoke upon the matter. Cannot say whether he knows a man named Paul Leveque. Cannot say precisely whether he told Leveque and a man named Barnabé that he did not see the shot fired, but only heard it. May have said so. Did not tell anybody that he had seen the shot, until he showed Pinard the place. He did not tell Lapierre. The first person to whom he told this may have been Pinard. Pinard asked him, and he (witness) showed him the place where the shot was fired. There was no conversation between the two men who accompanied him until they came to the place of the murder. When he came to the gaol they brought him to the corridor where the prisoner was. He saw prisoner in his cell before he saw him up stairs. Prisoner was in a shirt sleeves. Nobody told him that was the prisoner. There was nobody in the cell but the prisoner. Did not say he could not recognise him, but that it was difficult to recognise him in his semi-naked state. He did not ask that prisoner should be dressed, and does not know whether anybody else asked that or not. He recognised the man's face and mode of walking. In answer to a question why he could not recognise him distinctly, witness said he only saw him that evening, and was frightened. He had recognized the man, but asked that he should be presented as he was before. The prisoner was pointed out to him by an elderly man in the gaol, who told him to look towards the outside and go forward, and told him to look into other cells, then he took him outside, and asked him (witness) if he was there. He (witness) replied, it was very difficult to recognize a man half-dressed. It was after he saw the prisoner upstairs. When he saw prisoner afterwards, he was dressed in the same clothes as he wore the night he had seen him before. He did not recognise him from his dress, he had recognized him before by his appearance and mode of walking. He did not like to say whether he recognised him at first, not knowing the people who were with him. He was under fright, both on the night when he heard the shot, and on the day when he was in gaol. Knows a man named Cosgrove, of Buckingham, and Richard Kane and Patrick Kane of Grenville. He may know André D'Acoust, of Hull, and he may know Olivier Latour, of Hull. Does not know a man named Brown in gaol. Did not say to any man in gaol that he would receive a large sum of money if Whelan was hanged, and nothing if Whelan got off. He has remained at the gaol for some time.

Examination in chief resumed by Mr. O'Reilly—Saw the man from whom he got the house at the Chaudiere on the Saturday, and also on the Monday. His name was Lafleur. At that time the mills were only commencing to work. He went to Hull on Monday afternoon. He did not tell Lapierre all about the affair at first, because he was not obliged to tell him. He just told him that he had heard a shot and been frightened, in Upper Town. Did not go to any magistrate or the authorities to say anything about it, nor did he make any enquiry about the reward offered. Did not give himself any trouble in any way about the reward. When brought down by the police officers, there was no force used; he had left word at his own house, that if wanted he would come. He had gone up to Duchesne Rapids to work. He recollected before he saw the man in gaol, the kind of clothes the man wore on the night of the murder. The man who took him to the cells did not tell him it was to recognize Whelan. When he saw Whelan he recognized him, without any explanation. He was not told for what purpose he had been brought there. He had only desired to see

him dressed for his own satisfaction. Nobody had offered witness any reward or recompense. He shewed the parties who accompanied him to the spot where the shot was fired, how the man came up behind the man who was shot. The prisoners at the gaol have asked him questions several times; when they bothered him too much he used to go away from them.

SIR GEORGE E. CARTIER, Bart., Minister of Militia, was then called by the Crown.—He recollected the adjournment of the House of Commons about two o'clock on the morning of the 7th April. When going out of the House he (Sir George) saw Mr. McGee smoking, with his overcoat on. Mr. McGee asked him, "Are you not going out, Cartier?" Witness said, "No, I am waiting for Galt." He (Sir George) then bade Mr. McGee good night, and in about four minutes Mr. Galt came out; and they (Cartier and Galt) left the House together, going to their lodgings on Metcalfe street. Left the House by the principal entrance and went down Metcalfe street. There were four or five parties ahead of them, and he and Mr. Galt walked slowly, because their conversation was private. They walked on the right side of Metcalfe street to Sparks street, but seeing the parties still going on before them, they crossed to the left side; stopped at the corner of Sparks and Metcalfe streets, a minute or two to finish the conversation with Mr. Galt. By that time some of these parties ahead of him had reached the middle of Metcalfe street. He (witness) then walked along the left side of Metcalfe street towards Maria street, pretty fast, and reached his home, but heard no shot. He passed Buckley's stables, and then had to go to Maria street, when he turned to the right.

In reply to Hon. M. C. CAMERON—Lost sight of Mr. McGee in the corridor of the House. Most of the parties he had seen before Mr. Galt and himself, continued on the right side of Metcalfe street. He could not say whether any of them turned off to the west.

TUESDAY, Sept. 8, 1868.

JOHN JORDAN was the first witness sworn.—Is on the city police. Was on duty on the night of the 6th April, and morning of 7th. Was in the City Hall at 2 o'clock A. M., of the 7th (Tuesday.) The City Hall is back of the Russell House. At 2.10 A. M., left the City Hall for the Russell House, and thence across the Sappers' bridge, towards Sussex street, in search of a party in Lower Town. In coming towards the Russell House, he saw some person near the corner, as though coming from the Parliament Buildings. Witness then crossed the bridge, going on to the corner of Sussex street, which is the first street running north towards the railway after crossing the bridge. Knows Michael Starr's tavern which is on the street next the market (Clarence,) parallel with Rideau street, and at right angles to Sussex street. Witness noticed nothing unusual in Sussex street, until he got as far as the pump, on George street. Met constable Pinard there, and also saw a man running down Rideau street, a little below Pat. O'Meara's tavern, where there are some houses burned down. The man was running in the middle of the roadway, and was dressed in a long black coat and cap.

To the Court.—The man was running, and witness could not be positive that the coat was long.

To Mr. O'Reilly.—That was not the way to Michael Starr's. Starr's might be reached that way. It was as near a way as any. Witness went on down Sussex street, towards Lapierre's tavern, which is between Clarence street and Murray street, and on Sussex street. It is thus below the street on which is Starr's tavern. When witness was part of the way down saw a man walking after him. On arriving at Lapierre's door, Pinard entered that tavern, while witness stood outside, and looking up the street, saw another man following the first man. This first man was about opposite the barracks (old British Hotel) when witness saw him. When witness stopped at Lapierre's this man was nearer to him than when witness first saw him. Did not know then who he was. Knows him now as Labelle, a Frenchman, as witness understands.

To the Court.—He got to within fifty feet of witness.

To Mr. O'Reilly.—This man Labelle had two pails in his hand. The other man was a little in the rear of him, coming on faster, and did not come up close

to witness. Not closer than 75 or 80 feet. The night was unusually bright. Witness saw the second man afterwards. Takes him to have been the witness Lacroix. Is positive it was Lacroix. Witness went into the tavern where Pinard was all this time. Labelle followed witness into the tavern. When in the tavern Labelle informed witness that some one had been hurt in Upper Town—that Mr. McGee had been beaten. Witness immediately proceeded to Upper Town, the other policeman proceeded also. When witness crossed the Sappers' bridge, he sent Pinard to the City Hall for the other policemen there, while witness went to the Russell House corner to await the others there. Pinard returned, saying they had gone up already. Two men then came running down saying that Mr. McGee was dead. Witness waited where he was for his Sergeant, and it was twenty minutes before he arrived at the Toronto House. There he found Mr. McGee lying dead on the sidewalk, and a quantity of blood on the platform. The doctor was there, and the coroner soon arrived and they carried the body in, leaving it in witness's charge. Witness saw a bullet with Dr. McGillivray. Saw no keys. Observed a mark on the door near the hole of the latch-key. Saw blood on the door sill, and on Mrs. Trotter's dress, as well as on the wall, and in the gutter. Has seen Lacroix since then. Was present when he described what he saw, witness having gone for him that night. Witness found Lacroix on the other side of Pooley's bridge, on Le Breton's Flats. Lacroix was living there then, and was in bed when witness found him. [Mr. O'Reilly proceeding to ask witness what passed between him and Lacroix was interrupted by Hon. M. C. Cameron, who denied that answers to such examination could be made evidence, although the defence might put such questions in cross-examination. Hon. J. H. Cameron supported this view, and the Crown desisted from pursuing the line.] Knows the brick building on the north side of Sparks street, in which Mrs. McKenna's house is situated, and which is next the corner of O'Connor street. There is but one house between Mrs. McKenna's and the corner. This house is Mr. Offord's, as shown on plan. Between Offord's and the fence to O'Connor street there is no building. Does not know whether the Times office is in the same building. When witness took Lacroix out of bed, and brought him into Sparks street, nothing was said to him (Lacroix) beyond his being asked to describe what he had seen. Witness did not then know him as the person he had seen in Sussex street. Recognized him when he saw him in the Police Court, and giving evidence there; when witness took particular notice of him, and of his dress, which was poor. This was, witness thinks, five or six days after the death of Mr. McGee.

Cross-examined by Hon. M. C. CAMERON.—Knew nothing of Lacroix until witness saw him that night. Recognized him in the Town Hall by his clothing. Only remembered in regard to this, that he had a dark coat and hat. Witness cannot say how many hundred men he had seen that day so dressed. Is positive that it was this same man whom he had not seen nearer than 80 feet, that he now recognized by the coat and hat alone. The man was poorly dressed. Does not know that a dark coat is a sign of poor dress. [Witness here created a laugh by explaining that policemen looked more keenly after people poorly dressed than others.] It was exactly 2.10 a. m. when witness left the City Hall that night. It would take eight minutes to go from the City Hall to where witness saw the man. It was more than 2.18 when witness saw the man, because witness made delays on the road. Five minutes at the Russell House. Some time at George street. Witness desired to reach Lapierre's before the Parliament people came down, desiring to effect the arrest at Lapierre's before his boarders came in. Had started expressly to make this arrest, but delayed five minutes at the Russell House notwithstanding. Was one of those who went for Lacroix at the Flats. Does not remember if this was before or after Whelan's committal. Pinard went with witness. It was Lapierre who first put them on Lacroix's track. After searching for him in Lower Town, found him on the Flats about 10 p. m. This was five or six days after Mr. McGee's death. Witness asked Lacroix if he saw Mr. McGee shot. Pinard had seen Lacroix first. Supposes this was witness's first question. Lacroix said he saw a man shot upon Sparks street. He did not name Sparks street. Witness asked if he saw the man

who shot him. Lacroix answered "Yes." Witness then asked whence the latter had come. Lacroix replied, from the same quarter as the other. Pinard had conversation with Lacroix before witness, who did not go into the bed-room at first. Witness heard Pinard tell the man Lacroix to get up as the police magistrate wanted him. Lacroix said that it was too late, and he would go next day. He also asked what he was wanted for. Pinard asked if he (Lacroix) had not told Lapierre that he had seen Mr. McGee shot. Lacroix said he had seen a man shot. Witness repeated Pinard's questions to Lacroix, although he had previously heard them answered. Pinard had put these questions in English. Witness had been admitted to the house by a woman, with whom he had some conversation after they came out. Not while Pinard was in the bed-room. Afterwards witness asked the woman at what hour the man came home. She spoke little English. Does not know what cabman they employed. Discharged him about 100 yards from Sparks street. Walked up thence with Lacroix by the Victoria hotel. Lacroix had told witness the road by which he had come. [Witness here repeated the evidence given by Lacroix as to what he had seen, which Lacroix narrated to him before leaving the house on the Flats.] Cannot say how they sat in the cab coming into town. Thinks it was a covered cab. Witness does not recollect who sat beside him, nor whether he sat on the front or back seat, nor where Lacroix sat. Recollects as they came along asking Lacroix where he was on the Monday night. Lacroix said he had been at the Flats in his uncle's house, and at others. Witness sent away the cabman so soon, so that he might not overhear the conversation. Walked up O'Connor street so that Lacroix might show them how he had come. There had been nothing spoken in the cab about Mr. McGee. It was Lacroix took witness up O'Connor street. There was light in Lacroix's house, but witness did not recognize him then, because he did not pay sufficient attention. Had seen Lacroix's face on the night of the murder at 80 feet distance. Lapierre's is not considered a doubtful resort, but witness has been often there, for beer, for pipe-lighting, or for warmth. Had no conversation with Lapierre on the subject of Lacroix. Pinard always asks witness's advice. Pinard went into Lapierre's five or six days after the murder to ascertain who it was that told them on that night of the occurrence. Witness remained outside with John Litle, another policeman, while Pinard made this enquiry. Lapierre communicated to Pinard that this was Labelle. Labelle had reached Lapierre's on the night of the murder, and gave the intelligence there, while Lacroix was yet behind him. Did not make enquiry for Labelle until after Pinard's return from Prescott, where he was some days absent. Witness gave his testimony on this point, however, to the coroner, the magistrate and others. When witness found Mr. McGee's body, it had two coats on. Cannot say exactly the color of the coats. Believes that he searched his (Mr. McGee's) pockets. Is positive that Mr. McGee's hat was white. Witness was present at Lacroix's examination. Witness understood him although speaking in English.

Re-examined by Mr. O'Reilly.—Does not remember if there was any black cloth or cape on Mr. McGee's hat. There was not a great deal of conversation at Lacroix's house on the night they went there. Witness desired to express, when he said that he brought Lacroix up O'Connor street, that he wanted the latter to show where what he had seen happened. There is a vacant lot between Wellington and Sparks streets. Started from the Victoria Hotel, coming down in an angular way, (after crossing over to the theatre) across this vacant lot, and thus reached the north-east corner of Sparks and O'Connor streets junction. Lacroix was leading the party, and there described what he had seen in the same locality. [Witness again described what Lacroix related to him much in the same words as before.] Lacroix said that the man who fired the shot was separated from the man he killed by the whole breadth of the platform, when he fired. Lacroix showed witness the post against which the man struck in retreating, and the gateway into which he disappeared. He showed witness also the doorway in which he himself was concealed. The door-jambs of Mrs. Trotter's project so that it is possible that the door might have opened without Lacroix seeing it. Lacroix took witness to Mrs. Trotter's door and showed how he had

seen the man fall. He also described the dress of the man who had the pistol, saying he had light pants. Lacroix ran away after the first time he had given evidence, and hid himself, so that there was some difficulty in finding him again. All that witness understood of the conversation at Lapierre's tavern was Labelle's saying that some was beaten or hurt—Labelle spoke in French, which witness does not understand. Mr. McGee was mentioned as the person hurt, but there was no mention of murder.

Cross-examined by Hon. M. C. Cameron.—The post which Lacroix shewed witness was about three feet high, and was the one furthest from Trotter's. There are two archways. Lacroix described the man with the pistol as having come out of the one nearest, and gone into the one farthest from Mrs. Trotter's. Did not notice that Mr. McGee's hair was singed, but smelled powder on his outside collar. It was in Mrs. McKenna's door that Lacroix concealed himself, not Offord's. It was only after the shot was fired that Lacroix (as he told witness) so concealed himself in terror at seeing the man come out into the roadway.

PATRICK BUCKLEY sworn.—Was employed early in April last as a sessional door-keeper of the House of Commons. Was posted at the main lobby door. There are two galleries—ladies' and gentlemen's. The entrance to the latter is to the right of witness's door, that of the former to the left. The latter is called the public gallery. Both entrances are immediately outside witness's post. Knows the prisoner at the bar. Has known him since the Tuesday or Wednesday before St. Patrick's day last. Saw him then at the Russell House, when prisoner told him that he was one of the marshals for the procession, and asked witness if he could let him have a horse. St. Patrick's Day was on the Monday following. There was no further conversation. Witness was Grand Marshal of the St. Patrick's Day procession. Prisoner came on St. Patrick's morning for the horse he wanted. Saw him on the Friday before in the street. Prisoner did not ask witness to lend him anything. In the procession witness rode in front, and prisoner in the rear. Witness assigned him that station. Did not see prisoner that day after the procession. Prisoner left a saddle cloth at witness's place after the procession, not in witness's charge nor with his knowledge. Left also a pair of rosettes. Saw him at the House of Commons about a week after, when he came to the door and spoke to witness. Did not then go away together to drink, but have done so. Saw him next in the lobby with Mr. Brice. This was another night. Brice is Speaker's messenger; saw prisoner again in the same place, he cannot say how soon after. Prisoner came up to speak to witness, and asked for tickets. Witness gave him two, and prisoner applying afterwards, witness gave him altogether three or four. The last time he gave any was on the Wednesday, Thursday or Friday previous to Mr. McGee's death. There was no one with prisoner then. Thinks this was Friday. Does not know if prisoner went up to the gallery then. Did not see the prisoner during the Monday before Mr. McGee's death. Saw him on Tuesday morning about the time of adjournment. Witness was then leaning against his own door waiting for Sir J. A. Macdonald. Saw prisoner come down from the public gallery and go out towards the main entrance. Saw Sir John coming out three or five minutes later. Witness conducted Sir John to his carriage, and saw prisoner standing then alongside the main door, inside. Prisoner went out through the door before witness, who went to call Sir John's carriage, had reached it. This was going quite out of the building. Did not see prisoner after that. While witness was standing at his door waiting for Sir John and saw prisoner, witness thinks Mr. McGee was in the lobby inside near the Post Office. Thinks he heard Mr. McGee's voice. [Witness here described his and Whelan's respective positions.] Witness had his eye on Whelan for about three minutes, while the latter was standing against the outer porch below him, with his eyes fixed on witness's door, behind which Mr. McGee was. From Whelan's post he might see perhaps half the persons in the lobby. Did not see the prisoner after his disappearance through the porch until in the Police Court. Did not then know his name, nor when he got the horse, or took the drink, or asked for the tickets. First, heard prisoner's name on the Tuesday afternoon, the day that Mr. McGee was shot. The same day took the saddle-cloth that Whelan had left at his place

to Starr's. Did not go on to the railway. Had no suspicion then of anybody. Had, that morning, had some suspicion, when asked if he had seen any one from Montreal, of a man he had frequently seen with Mr. McGee, but had no suspicion whatever of Whelan. Had said that the man at the door had a red beard. Did not know this man's name when witness told the magistrate of him at one o'clock, but ascertained by enquiry on coming out. Whelan was the last man of whom he had suspicion.

Cross-examined by Hon. J. H. Cameron.—There was nothing unusual in witness giving the prisoner tickets. All the doorkeepers were in the habit of giving strangers tickets, with which members supplied them. There were always a number of strangers in the galleries when the House adjourned, even when sitting to the latest hour. Witness was not a doorkeeper of either gallery, but kept the door of the Post Office lobby. The Marshals for St. Patrick's Day were appointed at open meeting on recommendation of committee, one of the members of which called on witness, and asked him to act. Had never been in company with prisoner at any other times than those already stated, and had no other knowledge of him beyond these, except that he knew him as a tailor. Had never heard him mention Mr. McGee's name in any shape. Witness returned to messengers' room after seeing Sir John leave, put on his overcoat, and went home in company with Mr. Frechette, Mr. Bryce and my brother. They were all in the messengers' room with overcoats on ready to go home. Saw Messrs. Cartier and Galt on the street. The time which elapsed from the departure of Sir John, when witness came back into the messengers' room, put on his coat and left it again, was about ten minutes, he having delayed a few minutes speaking to the chief messenger. Witness could not speak positively as to the time or what o'clock it was, but somewhere in the neighborhood of two o'clock or after. Saw many persons going across the square. Mr. McGee and Mr. MacFarlane went before witness; overtook them when a little more than half way down. Saw Mr. Cartier and Mr. Galt near the Queen restaurant crossing Wellington street, on the east side of Metcalfe street. Witness was then going down the west side. Saw them stop at Isaac's corner. Both parties crossed the street about the same time. Mr. MacFarlane left Mr. McGee on the north side of Sparks street, at the corner of Metcalfe street, and went eastward towards the Russell House. Mr. McGee then crossed the street to the south side. Witness's brother John bade Mr. McGee "Good night." Mr. McGee replied, "Good morning—it is morning now." Messrs. Cartier and Galt had parted at that time, Galt going towards the Russell House and Cartier down, on the east side of Metcalfe street. Witness and friends were going in the same direction on the opposite side of the street. They had to cross to his (witness's) house, and they held back a little to allow Mr. Cartier to pass. Did not at the corner of Sparks street stop when his brother spoke to Mr. McGee. Witness then looked westward up Sparks street; it was very bright, and he saw no one on the street. Knew the person to whom his suspicion had at first been directed by sight, but had no knowledge of his name.

LOUIS ROY dit DESJARDINS sworn, testified—[Mr. EDWARD KIMBER, interpreter.] I reside at Kamouraska. I came to Ottawa at the end of last March as a witness in the contested election for Kamouraska County. I was in the House of Commons, in the gallery, on the 1st of April last. I remember that the prisoner looked nervous and excited, and therefore I took particular notice of him. I saw a pistol in his side coat pocket, towards the bottom of the coat. The prisoner went out of the gallery, returned in two or three minutes, and stood in front of me, and then he had the pistol in his breast coat pocket. This was on Wednesday, the 1st of April. I am positive. Then the prisoner left the gallery.

Cross-examined by KENNETH MCKENZIE, Esq., Q. C.—The pocket was on the outside of his coat. It was not an overcoat, though it might be over another coat or alone. The coat was not buttoned. I never saw prisoner before that. I remember I saw him again in some days in the Ottawa prison. I told the circumstance to Mr. Gaudette, a member of the House, as very singular that I had seen a wild, excited man in the gallery with a pistol in his pocket. This must

have been in a day or two afterwards, and before Mr. McGee's death. I clearly saw four or five inches of the barrel of the pistol. I did not count the number of barrels. The pocket handkerchief, which was in the breast pocket with the pistol, prevented me from seeing well the number of barrels.

EDWARD STORR sworn—Lives in Maria street, Ottawa, and is a messenger in the House of Commons. The last session commenced in November. Knew the late Mr. McGee. Mr. McGee attended the first part of the session. The second part commenced in February or March. Mr. McGee attended then also. Witness (referring to a memorandum) said that the second session commenced on the 12th of March. Recollects evening of 6th April when the House was in session and witness on duty. The evening session commenced at 7.30 p. m. Saw Mr. McGee a few minutes before eight that evening entering the House and taking his seat. Mr. McGee's seat was about the fifth of the front row on the Speaker's right. Mr. Cartwright occupied the other seat at the same desk. Has seen the prisoner at the bar at the House of Commons. The first time witness saw him was between the hours of 9 and 10 p. m. on the 6th April. [Witness here referring to memorandum was directed by Hon. J. H. Cameron to speak without such reference.] Prisoner was in the gallery nearly opposite the Speaker's chair. Witness going into the gallery by the south-west door heard Mr. McGee, who was then addressing the House upon Dr. Parker's motion, use the words, "Strike below the belt." Witness, at the same moment, observed prisoner lean over the front of the gallery, and shake his fore finger in the direction in which Mr. McGee was sitting. This action called witness's attention. Observed prisoner's face. The lips were parted and the teeth set. The action of the fore finger, with the others closed seemed to witness to be that of a threat. Noticed a small light complexioned man in light clothes on prisoner's right. Immediately afterwards prisoner lifted both hands up to his breast, and put his right hand inside his coat, towards his left breast pocket, as though feeling something there, and then nodded to his companion. Then felt his right breast with his left hand. The other party answered the nod, and also felt up and down his coat in the same way. Witness was then called away, and left the two men in the gallery as described. Saw the prisoner again near midnight standing in the main lobby on the same level as the floor of the House. This was near Buckley's door. Prisoner was standing with his arms folded (his back being towards witness, who came from the west side) leaning on his left leg, and with his head turned over his shoulder, looking down the east corridor towards the library. Buckley was not there. Witness walked up to him and looked in his face, saying, "You have no business here; this is not your place." Prisoner did not reply, but walked out and sat down on the stone steps outside the lobby, near the entrance to the public gallery. This entrance is immediately outside the lobby door, and on the left going out. Witness passed prisoner there and went on to the messengers' room down another flight of steps. Saw him again in returning from the messengers' room in 15 or 20 minutes, still standing in the same place. Prisoner was then half leaning against, half sitting upon, the stone coping of the stairway. The next time witness saw prisoner was in the north gallery on the Speaker's left. This was after 1 a. m. Prisoner and the man witness saw first with him were sitting together whispering. Cannot say how long they remained there. Mr. O'Reilly then came in and asked for Mr. Cameron, and witness went out to send for Mr. Cameron. Witness next saw prisoner about 1.30 a. m., on the steps near Buckley's and the gallery door, almost in his former position. Buckley was not there. This would be four or five feet from Buckley's chair. Witness passed and went to the messengers' room, where he found Buckley. On his return the prisoner was gone. Saw him next in the gallery nearly opposite the Speaker. Mr. McGee was not in the House then. This was near two o'clock. Prisoner remained there only a few minutes, when witness lost sight of him. At two o'clock, when witness was posting a newspaper, saw prisoner leaning against the left side of Buckley's door. Buckley was then in his chair. The two were alone, conversing together. Wm. Graham, doorkeeper to public gallery, was outside. Witness saw prisoner again that night, having gone into the reporters' gallery, when the motion for adjournment was being

put a few minutes past two. Prisoner was then in the passage to the public gallery, leaning over the back of the Senators' gallery. From that position Mr. McGee's seat could not be seen. After adjournment witness went down stairs and prepared to go home. Did not see prisoner afterwards. There was a party of four (of whom the prisoner was one) to whom witness's attention was first called, in the gallery. The two others were dark, one with a thin face. Witness's attention was called to the party from prisoner's motion with his hand. The others were talking with him. There are no police in the galleries. Witness asked some of the doorkeepers how it was that such persons, whom he considered suspicious, were admitted. The others answered that all who had tickets should be admitted, and saw nothing extraordinary in their presence.

Cross examined by Hon. J. H. Cameron—The parties to whom witness made this complaint were Joseph Brown, Robt. Neil and John Buckley. The House was very full that night. There was nothing to draw his attention to the party of four, but the action of the two who felt their breasts. It was unusual to see anybody standing in the lobby with folded arms. Witness saw other people in the gallery, Mr. O'Gara among the number. Is satisfied that it was between nine p. m., and ten p. m., that he heard Mr. McGee use the words "Strike below the belt." Made the memorandum to which he had just referred for the hour about ten days ago. Is sure that Mr. McGee sat down before 11 p. m. The prisoner was leaning on the front of the gallery when witness saw him from the gallery door pointing his finger, and with a grin on his face. There were not a great number of people in the galleries when the House adjourned. Not more than thirty. There are not generally so many as thirty people when the House sits late. There were not more than seven or eight in the public gallery. Had never seen the prisoner before that evening. Prisoner had an overcoat on that night. It fitted tight, and came to his knees. It had one outside breast pocket, There were no other outside pockets. It was buttoned by the second or third button.

Re-examined by Mr. O'Reilly—Keeps a diary, in which he made an entry regarding what he noticed that night in the gallery. His diary entries are always made at close of each day, and this entry was so made before he slept that morning. [Diary handed in.] The following is from the entry relating to the occurrence: "April, Monday 6, 1868. At the House; sat very late. Noticed four men in the gallery near Speaker's; very restless, one young man, fair complexion the worst; adjourned at 2.10 a. m."

To Hon. J. H. CAMERON—The restlessness of the others (of the four) consisted in their leaning together and speaking across. Did not hear of Mr. McGee's death until 7 a. m. of Tuesday. Did not note anything of the prisoner's threatening manner. The House adjourned at 2.10 a. m. It was not from the diary that witness ascertained the hour when he first made the observation, but from a memorandum made ten days ago.

GEORGE R. GREGG sworn—Is a reporter on the staff of the *Toronto Leader*. Was in the Reporter's Gallery of the House on the night of 6th April last. Knew Mr. McGee, who addressed the House that night. To the best of witness' recollection Mr. McGee rose about 9.40 p. m., and closed about 11 p. m.

Cross-examined by Hon. J. H. Cameron—Does not know if Mr. McGee spoke twice that night.

ADOLPHE PINARD sworn—Is one of the city policemen. Was on duty on the night of the 6th April with policeman Jordan. Was at the police station that night, leaving it at 2.10 a. m. Walked as far as the corner of the Russell House. Did not know that the House was adjourned then. Saw some persons coming from there. Witness and Jordan walked down together to the corner of Sussex and Rideau streets. Then down Sussex street to Lapierre's tavern. Did not notice any person on the way. Witness entered Lapierre's in search of a prisoner, while Jordan remained outside for about a minute. Then Jordan entered, and witness said there was no one there. Then a little Frenchman named Labelle entered, and told them that "McGee is after getting beat." He first told this to Lapierre and afterwards to witness. Jordan and witness, being of opinion that Mr. McGee had been knocked down, started immediately

for Upper Town, where they understood the occurrence to have happened. On the bridge they (the policemen) met a man, whom Jordan knew, and who gave him (Jordan) some information. The latter then despatched witness for constable McVeity at the Town Hall. Witness found that McVeity had left, and, on subsequently reaching the spot where Mr. McGee was lying dead, saw McVeity and others there. Subsequently got information as to the murder. This was at Lapierre's, while witness was hunting for Labelle, whom he did not then know. It was on Tuesday or Wednesday that witness commenced his search for Lacroix. Lapierre, in the course of this, told witness that a man named Lacroix had happened to pass by when the shot was fired. Lapierre's wife tried to stop her husband from giving this information, but was over-ruled by witness. Commenced then a search for Lacroix, whom witness did not know, and, with Jordan, found him on Le Breton's Flats. That was on the second day following, about 11 p. m. or midnight. Lacroix was in bed. Thinks this was on Wednesday night. It must have been on Tuesday evening that witness first heard of Lacroix. It seemed like a day and part of a night between the time witness got the information and the time he found Lacroix. Whelan had then been arrested. Witness had been at Prescott in the meantime. It must have been Thursday or Friday that he found Lacroix. A woman admitted him to the house, where he saw Lacroix in bed. Witness spoke to him (in English), and said that he had better come off to the magistrate. The wife began to cry, and hoped they were not going to do her husband any harm. They three then started in a cab, coming up Wellington street, to McCullough's corner, and then turning into Sparks street. Drove up Sparks street some way and left the cab. Either witness or Jordan asked, when they had walked as far as Clark's corner, in what direction Lacroix had come. The latter then started up O'Connor street, as if he was about to clear homewards. He stood and looked at the policemen when at the theatre corner, and then set out to walk across the vacant lot there, to the corner (N. E.) of O'Connor and Sparks streets. He then walked along close to the fence, down Sparks street, eastwards. After he had walked a piece, he shewed witness where he had first seen the "big man"—the first man. The big man must have been then 40 or 50 feet from Mrs. Trotter's door.

Mr. M. C. CAMERON here objected that this line of examination was not evidence.

Mr. O'REILLY said that Pinard was called on demand of the defence, and that he could not understand their present objection to his examination, which had only been suggested by a gentleman who was not a member of that bar.

Mr. P. J. BUCKLEY—I beg your pardon; it was I who suggested it.

The objection being insisted on, Mr. O'Reilly abandoned the examination on this point.

Cross-examined by Mr. M. C. Cameron—Recollects distinctly the circumstances of the night when Mr. McGee was killed. Made no memoranda of any of these circumstances, but did of the date. Recollects distinctly that it was 2.10 a. m. by witness's watch when he left the Town Hall. Witness's watch generally regulates the town clock. (Laughter). Did nothing out of the way at the Russell House corner. Saw nothing particular there. Walked on to Lapierre's, stopped for a few seconds at the corner of Sussex and Rideau streets, looking behind and before, to the right and the left, as a policeman always does. (Laughter.) Witness's eyes are as good as Jordan's. Did not see anybody running on Rideau street, nor did Jordan tell him of any body. Might have looked down George street for the man they wanted. Had arrested young McCormick at Letter O, Redpath street, the same night, and saw a light in Lapierre's coming back. Did not go in there, because they had a prisoner already, and their practice here is to make sure of one first. (Laughter). Does not know what o'clock it was when they returned to the station. Went back with the intention of calling at Lapierre's on their way again to Redpath street. Did nothing when he entered Lapierre's but take a glass of water at the bar, and said nothing until Jordan entered. Ran into the bar-room and found there young Eagleson, Germain and Lapierre. When Jordan entered, witness said there was nothing there. Labelle came in after Jordan, not five minutes after. Made no enquiry as to

the party they desired to arrest. Lapierre knew of the matter, because witness had been there before that night about 11 or 12 o'clock. Lapierre knew that witness was looking after a prisoner, but did not know who the prisoner was. Witness was out from 11 to 1. Labelle told those in the house that Mr. McGee had been struck or beat (*S. appé.*) Witness made no further enquiries, but went up town at once. Witness went to Prescott the same day, returning in the evening. Heard of Lacroix next day. Did not previously know Labelle, except by sight. Jordan and witness were kept on duty while the other policemen were allowed to go round. They therefore resolved to hunt up Labelle. Had no idea of getting any portion of the reward. Had not seen the proclamation when he went to Lapierre's. Preferred to get evidence of the murder to doing regular duty, because he wished to get a name up like many others. (Laughter.) If Jordan said that it was five or six days later that they went to Lapierre's, he must have been mistaken. It was seven or eight o'clock when they reached Lapierre's. Asked Lapierre who the little man was who had told them of Mr. McGee's hurt. He said a man called Labelle, a government messenger. Jordan and Little were outside. Lapierre's wife called him up stairs, and witness returned to ascertain Labelle's street. Lapierre said on Bolton street. Don't recollect how Lacroix's name was brought in. Lapierre said Lacroix had been in there either "to day or yesterday." Witness asked if Lapierre knew him, and Lapierre said that Lacroix had seen a man shot. The wife then said "What will you be talking of next?" Witness reported to the police magistrate, who sent him to search for Lacroix. Went to do so to Parent's, on Church street, who knew nothing of the man. Got information of him in Bolton street, he thinks, from a man named Bown. He said that witness could get information near the gas-house. Found an old woman there, whose name witness does not know, who directed them to go to the Chaudière. This was between eleven and twelve o'clock. Went the same night to the Chaudière, but not right off. Had then the watch that regulates the town clock in his pocket (laughter). Got to the Chaudière pretty near twelve. After seeing the old woman Jordan and witness agreed to get a buggy, being tired. Got the buggy on the stand. It was Mr. McIntyre's buggy. Knows the driver. It would take 15 or 20 minutes to drive up. The people were all in bed. A woman came to the door when they knocked. When witness entered he asked for a man named Lacroix, who the woman said was there. Found the house at the Chaudière from the information of the old woman, who directed them to the first little house past Pooley's bridge. Does not know her name. She had never been at the house, which is in a hollow. The place is called *Le Gales* in French. When witness entered the house, Jordan was close to him. Had no conversation with the woman. Lacroix put out his head, the woman having disappeared into an inner room, and answered for himself. There was a candle lit after witness had said there was nothing to be afraid of. No conversation passed till then. [Witness hesitated for a long time on being asked if the light was lit before he answered.]

MR. M. C. CAMERON—Reflect a little. Don't balance \$20,000 and this man's life.

MR. O'REILLY—I object to that remark. It is one Counsel has no right to make.

Cross-examination continued—Witness could not tell whether the candle was lit or not when he entered. Did not go into the inner room. Asked if the man's name was Lacroix. He said "Yes." Lacroix answered from the bed. There were two women there. Witness asked, "Are not you the man who was passing at the time of the row in Upper Town?" [Witness "disremembered exactly" some of this conversation.] Lacroix "kind of said yes." Witness then told him to put on his cap and come along. The woman then began to cry. There was no other conversation. If Jordan said there was, that might be too. Witness never had a picture of prisoner or of Mr. McGee. [Witness hesitated a very long time on being asked how he sat in the cab, and was cautioned by the Court that he must not make up any story, but say that he did not recollect, if he did not.] There was no conversation in the cab. When the cab stopped, it must have been twelve or later. It is about a mile to the Flats.

Witness and Jordan stopped the cab on Sparks street. Thinks it was he who told the cabman. Stopped above the corner, perhaps three blocks of 66 feet each—it might have been more. Sent a ray the cabman, because they did not want him to know what they were after. [Witness hesitated on being asked if Whelan was then in gaol.] Knows that Whelan had been arrested. It was not very dark when they brought in Lacroix, not very light, half and half. Disremembers if it was moonlight. Either witness or Jordan asked Lacroix "Where was it that you saw the row.?" Lacroix then started off down the street towards Desbarats' block, and turned up in a hurry to Wellington street. Witness followed at a distance, and found him standing at the theatre corner. He then doubled back—the constables watching him from the vacant lot—to the corner of the fence, where he turned short and walked down Sparks street. [Witness hesitated again, and repeated many of the questions put to him, when interrogated as to whether he crossed to the south side of Sparks street.] Witness then described what Lacroix told him of his observations on the night of the murder. Lacroix was east of Mrs. Trotter's when he stopped first to show where he had first seen the big man. It was nearly opposite Mrs. Trotter's. Lacroix walked about 30 feet before he stopped to indicate where he had seen the second man. The men were 25 or 30 feet apart, the first man being about 25 feet from Trotter's. Lacroix heard the shot when he was near Mrs. McKenna's door. Showed witness which archway the man came out of. There are two. He came out of the nearest to Mrs. Trotter's. The post against which the man ran was nearer to Mrs. Trotter's than the archway. Knows Edward Germain, a tanner. Never said to Germain that witness wanted a good witness against Whelan, and that if he had a good witness he would get part of the money. Never said this to him or any other man. Had no conversation with Germain about the murder. Does not recollect asking about witnesses in any house where Germain was. After having made the examination of the ground with Lacroix, took him to Mr. O'Gara's, getting there a little after 12. Mr. O'Gara was at the station. The evidence was taken down that night. The prisoner was not then committed for trial. Lacroix was never brought up to give evidence in presence of the prisoner. Prisoner was not committed for some time after. Lacroix was examined a second time.

Mr. M. C. CAMERON here demanded from Mr. O'Reilly the deposition of Lacroix before the Magistrate.

Mr. O'REILLY declared that none had been taken.

Witness continued.—Was sent nearly two weeks after to hunt up Lacroix. On the first occasion there was no formal examination of Lacroix. Witness did not tell Mr. O'Gara anything of what Lacroix had said. Witness was surprised at his having been sent away. The next day some policemen mentioned this matter of Lacroix's laughingly, and witness thought that it would be different when Mr. O'Reilly came home. Told the Chief of Police what Lacroix had said. All the conversation with Lacroix was in English. Lacroix could have explained it equally to Mr. O'Gara as to him. Witness told the Chief of Police the second day that Lacroix had been brought there, that he said he had seen the man shot, and that witness believed him. This was before Lacroix was taken the second time. Told the Chief of Police that Lacroix had seen the man "fall," not shot. Mr. O'Gara had told witness to bring up Lacroix, and when he did bring him up Mr. O'Gara discharged him. Witness heard them laughing during their conversation with him. Sergeant Davis was there, and a Montreal detective. Mr. O'Gara had not promised to remain until witness brought back Lacroix. Never saw a photograph of Whelan with Jordan. Never saw any such photograph except in shops. Never showed one to anybody. Jordan never showed one to Lacroix in witness's presence.

Re-examined by Mr. O'Reilly—Does not know the conditions of the reward spoken of by Mr. M. C. Cameron. It would be hard for witness to read it, being no scholar. Does not therefore know that Mr. M. C. Cameron's name was attached to the proclamation; that, in fact, Mr. M. C. Cameron had himself signed this very proclamation of which he is now speaking. (Applause in court.) It was Mr. O'Reilly who sent witness the second time for Lacroix, who was found

some nine or ten miles from town. Germain, Eagleson and Lapierre were playing cards together when witness saw them, on the night of the murder in the bar-room. They went out with witness on the news being given by Labelle. Lacroix had told witness that the man who fired the shot had run out into the road and frightened him. That he had struck a post in retreating, and exclaimed, "Jesus!" The post was one for tying horses to. Lacroix had said that he was afraid to tell the story lest he himself should be accused of the murder.

JOHN JOSEPH MCGEE sworn.—Is half brother of the late T. D. McGee, and lived with him in St. Catherine street, Montreal. Mr. T. D. McGee was at home on New Year's night last. Between 1 and 2 A. M. two men came to the house. Witness's brother had just retired. There was a ring at the door which witness opened, and saw the two men, one of whom he recognised in the prisoner at the bar. Prisoner said he wanted to see Mr. McGee on particular business. Witness said it was an unusual hour, and that he would convey the message. Prisoner said that he must see Mr. McGee himself. Witness then shut the door, and went up to consult his brother, who told him to let the men in, but to stand by in case of need. When witness returned to the door prisoner was there alone. Brought him up to the library, locking both doors and putting the keys in his pocket. Prisoner saw witness do so. Prisoner took a chair in the middle of the library, and told Mr. McGee that an attack would be made that night about four o'clock on the house. That he heard this from his friend, whose name he could not give. Gave his own name as "Smith, of the Grand Trunk." Mr. McGee remarked that prisoner's friend was outside, and directed witness to go down and open the door. Witness did go down and opened the door, and observed the man leaning against the fence 22 paces away. Hailed the man loudly, who did not answer, but moved away down the street. Returned to the library, locking both doors as before. His brother was in the act of writing a letter to the chief of police, he believes, when he returned. [Letter produced and identified.] After the letter was written Mr. McGee handed it to the prisoner. The letter ran: "Information has been brought here of an intention to fire this house at 4 A. M. At this hour (2.30 A. M.) I cannot see the proper officer, but I request a guard of two men, or more if deemed necessary." It was addressed to the Superintendent of Water Police. Witness had told Mr. McGee that it was then half-past two, which was the reason that this time was mentioned in the note. On letting prisoner out, however, witness looked at the clock, and found that it then wanted a quarter to two. No persons came to attack the house. The police came between five and six. Saw prisoner next in gaol. Recognized each other mutually. Prisoner said, "You're John McGee." Witness asked, "How do you know?" Prisoner said, "I met you at the house of your late brother." Witness had been looking at prisoner before the latter spoke from a distance of five or six feet.

Cross-examined by Hon. J. H. Cameron.—Is quite sure that it was prisoner who said that he was Smith of the Grand Trunk. It was Mr. McGee who asked the name, and prisoner did not refuse to give it or any. There was nothing said about the house being set on fire in witness's presence. Witness was absent, calling the other man, while most of the conversation was going on. Have no distinct recollection of the prisoner saying anything in the presence of witness, except that he had an important communication for Mr. McGee. Heard nothing whatever of the information which resulted in the note written by his brother. Has no distinct recollection of any words used by prisoner to Mr. McGee about a projected attack of incendiaries.

Re-examined by Mr. O'Reilly.—On the prisoner first going up to the library, he took a seat, but witness did not hear the first communication he made. In half a moment after he gave his name as Smith, and then referred to his friend being outside, requesting witness to admit him. When witness returned, prisoner was saying that he had been at a dance, where his friend had communicated the information he had just been imparting to Mr. McGee.

GEORGE HUNTER sworn.—Is a water police officer of Montreal. Recollects New Year's night last. His chief was Chief Constable McLaughlin, to whom Mr. McGee's letter (produced) is addressed. That letter was delivered at the

police station by prisoner at 4.45 a. m. on the second January. That letter was handed to witness by constable Holbrook and taken up by witness to McLaughlin. The prisoner was present when Holbrook gave witness the letter. The Chief asked witness when he had received the letter, and witness replied just then. Saw the prisoner on coming down stairs, and asked him to wait. Witness went again upstairs for a couple of revolvers, intending to take two men with him to Mr. McGee's. Prisoner said that his friend was waiting for him, and he could not stop. Witness then went on to Mr. McGee's house, which is about a mile away. Met no one on the way.

Cross-examined by Hon. J. H. CAMERON—The other police station nearest that of witness's is about a quarter of a mile. The chief station of city police is also a quarter of a mile distant down the river.

To Mr. O'REILLY—The city police station is nearer to McGee's than witness's, and is passed on going to the latter.

Constable BENJAMIN HOLBROOK sworn—Is one of the Montreal water police. Was on duty on the wharf on New Year's night. Knows the prisoner. Met him on the morning of the 2nd January at the corner of Grey Nun and Common streets, about 4.45 a. m. He was then with constable Choquette, who told witness that prisoner had a letter for the Superintendent. Witness asked for the letter. Whelan pulled it out and gave it, saying that he had been looking for Chief McLaughlin. Witness said, "You are all right now," and asked whom the letter was from. Prisoner said from Mr. McGee. Witness asked if there was anything up. Prisoner said no. Witness asked how it was he had not brought the letter before. Prisoner said he had been to Chaboillez-square station, and had been sent thence to the Central Station, and fooled about all round. Witness asked prisoner to wait to see if there would be an answer. Prisoner said, "I don't think it." Witness left him in the station. It is about half a mile thence to the Central Station. Never saw the prisoner before.

Constable CHOQUETTE sworn—(the Court intimating that it did not see the necessity of his evidence)—Was on duty as one of the police of Montreal on the morning of 2nd January. Saw prisoner coming down the wharf as from the Bonsecours Market. At the corner of Grey Nun and Common streets, prisoner handed Holbrook a letter in witness's presence.

To Mr. M. C. CAMERON—Does not know if there was any report then current as to Mr. McGee's health.

JOHN McLAUGHLIN sworn—Is Chief of the Water Police of Montreal. Sergeant Hunter handed him a letter on the morning of the 2nd January. [Letter produced and identified.] This was at twenty minutes to five o'clock.

PIERRE LABELLE sworn—Was in Ottawa in April last employed as messenger in the House of Commons. Recollects the night Mr. McGee was killed. Was at the House until its adjournment. Then went home about 2.30 a. m., to Bolton street, Lower Town. Went home by the Russell House. Saw a crowd taking Sparks street going up. Went on across the bridge. A man overtook and passed him. The man said in passing "Have you heard the news? Mr. McGee is shot." It was a man witness knew, and whom he addressed as John. It was John Buckley. When witness addressed him saying, "Is that you John?" he made no reply, but ran across the bridge, which they were just coming to. The man ran, and disappeared in a straight direction. Witness turned up Sussex street, and saw Mr. Pinard, whom he told that Mr. McGee was shot. This was at Lapierre's. The word witness used was *live*. He spoke in French. Buckley was not running fast.

Cross-examined by Hon. J. H. CAMERON—The man who ran had a low-crowned black hat. There was a messenger walking down the street after witness, who joined the latter before reaching Lapierre's, which he entered with witness. This messenger's name was Roberge. It was three or four acres from Lapierre's that they joined company. Both constables were inside the tavern when witness came up. He did not know either of them was there when he entered. Saw nobody else coming down Sussex street, although he looked up and down before going in. Saw nobody in front either. Is quite positive of this. Did not then know Lacroix, and did not see him that night.

To Mr. O'REILLY—Recollects that he looked behind, because the messenger, Roberge, called him. This was opposite York street.

WEDNESDAY, 9TH SEPT., 1868.

JOHN DOWNES who being sworn gave the following evidence:—Lives on Metcalfe street. Is a cabdriver in the employ of Patrick Buckley. Drove Sir J. A. Macdonald to the House of Commons on the evening of the 6th April last. Reached the House about 7.45 p. m. When Sir John had entered the House witness drove home to feed his horses, returning to the House in about an hour. Knows the prisoner slightly. Knew him first in Quebec under the name of Sullivan. This was about three years ago. Does not know what his business was. Recognized prisoner in Ottawa as the same person. The last time witness saw him here was on the night mentioned when he brought Sir John to the House. Saw prisoner that night standing leaning against a buttress of the main entrance tower. This was about 9 p. m. or 9.30 p. m. It was after witness had fed his horses. Prisoner was leaning against the buttress when witness drove up. After doing so, prisoner went thence into the House. Witness saw him again in about an hour coming out. Prisoner went down, this time, in the direction of the Russell House. Witness saw prisoner enter the House again, about an hour and a half later. Is not very sure of the time. Prisoner was then alone. He came out again, and stood about the door, and then turned in again. He was not very long standing about the door before he turned in. Could not say how long. It might be a quarter of an hour. Saw prisoner coming out of the House again in four or five minutes afterwards. The House was then adjourned, and witness drove away. Witness asked prisoner, when he was going in the last time, if the House was adjourned. Prisoner said he did not know. When prisoner came out again (the last time) he told witness, "they were all coming out." Sir John was then coming out, Buckley with him to open the carriage door. When witness drove off he left Buckley standing there. Prisoner was then going straight down the centre walk, and was about 20 yards from Buckley. Saw no persons that night in prisoner's company. Prisoner was the first man to come out after the House adjourned. Witness drove Sir John home to Daly street. His house is not a mile from here. (The Court House.) It took about five minutes to drive from the Parliament Buildings to Sir John's house. Witness drove back, at a walk, after leaving Sir John at home, and met plenty of people coming from the House on his return. It was exactly 2.15 a. m. when witness passed McGillivray's clock on Sparks street on his return. Russell's Hotel was all lit up. Witness went home straight to put up his horses. Saw Buckley there and spoke to him. This was Pat. Buckley. He brought a light to the coach-house.

Cross-examined by Hon. M. C. Cameron—Used to see the prisoner at Quebec, when witness was driving for a man there, to whose house prisoner sometimes came. Knew that prisoner was then in the Volunteer Cavalry there, but not that he was a tailor. Does not recollect speaking to him in Quebec. Recollects no conversation with him here except at the door of the Parliament House as narrated. Was not near enough prisoner during the quarter of an hour during which he remained outside the Parliament entrance to converse with him. Witness kept his eye on prisoner during that time. Plenty of other people whom witness knew entered the House during this interval. Witness cannot name any of them. There was nothing suspicious in prisoner's actions. Witness drove away by the east road past the Council Room. Prisoner was then going towards the centre walk. He had not got as far as the steps. There were other people going down—perhaps a dozen—all going down together. The others were going down after prisoner. When Sir John entered the carriage prisoner was about 20 yards away. Witness's carriage was then under the archway. When prisoner came out and said they were coming out, witness's horses heads were inside the archway, and witness then drove the carriage under, while the prisoner walked slowly away. Mr. Macdougall came out with Sir John, and drove home with him. Could not have driven from the House to Sir John's and back to McGillivray's in less than fifteen minutes. If the clocks were alike must therefore have left the House at two. Does not know if prisoner was

called Sullivan in the Quebec volunteers. Has seen him in uniform—cavalry uniform. Prisoner came to the house where witness lived in Quebec to see a sergeant of volunteers—his sergeant—who lived there.

To MR. O'REILLY—Prisoner wore a dark coat and cap that night!

To MR. M. C. CAMERON—Had deposed to the magistrate that it had struck three after witness had done up his horse. Had also deposed to its being 2.15 a. m. when he passed McGillivray's.

WILLIAM GRAHAM SWORN—Was employed last April as sessional door-keeper of the House of Commons. Was then door-keeper of the public gallery. The door kept by witness is not more than four feet from where Buckley sits at his door. Has seen the prisoner several times. Does not recollect the first time. Prisoner was a general visitor to the House during the latter part of last session, particularly when Mr. McGee was well and able to come to address the House. Prisoner was a general night visitor. He did not come when Mr. McGee was sick and absent. Recollects particularly that on the night of the 6th of April prisoner gave him three different tickets for admission to the gallery—which he thus entered three times—between 9 P. M., and midnight. Prisoner first went up between 9 and 10 P. M., remaining up about a quarter of an hour. Prisoner had a general conversation with Patrick Buckley on every time witness saw him in the House, before going up to the gallery. Buckley and prisoner appeared to be very intimate acquaintances, and generally spoke so low that witness could not overhear them. Prisoner spoke to Buckley each time he came down that night. There was about three quarters of an hour interval between each time of his going up. He attracted witness's attention more than usual that night, from seeming more excited. He was dressed in a long black coat, light pants, and a cap. The coat had green braid round the neck. It was 11.45 P. M., when prisoner gave witness the last ticket. There is no other entrance to the public gallery except by witness's door. There are other ways of getting to the other galleries. Witness does not recollect seeing Mr. McGee that night, but understood that he was in the House.

Cross-examined by Hon. J. H. Cameron—Does not remember the day on which the session began. Does not remember seeing Mr. McGee at all during the first part of the session, nor when the session opened. Thinks that he was not there at the opening of the second part, but is not certain. From the opening of the second part of the session up to the time of his murder, Mr. McGee was frequently at the House, frequently spoke there, and seemed to be getting better. Does not know that Mr. McGee was constantly at the House from the 12th March to the 6th April. Never saw him address the House but once. He might have done so every night without witness's knowledge. In witness's deposition before the magistrate, had stated that prisoner went up to the gallery four times, and gave witness four tickets. That was wrong. [Witness's deposition before the Police Magistrate here produced, and witness examined as to its correctness. Witness had deposed then that prisoner wore a light coat, and that he could not recollect what sort of hat.] The description witness now gives of prisoner's dress and appearance is the correct one. Witness does not know how it happens that his depositions say otherwise. If so, they say wrong. Has never had any altercation with Buckley but once, when the latter took witness's chair and seemed crusty about giving it up.

To MR. O'REILLY—If witness's depositions seem at variance with his present evidence, they must have been wrongly taken down.

EDWARD J. O'NEILL SWORN—Is a detective officer of the city, and was so on 7th April last, the morning of Mr. McGee's death. Got information of his death between 2 a. m., and 3 a. m. Witness made search for the murderer. Received information from several parties—among them Patrick Buckley—which induced him to arrest the prisoner. Found him in Michael Starr's tavern, in Clarence street, behind the market. This was at about 9.30 p. m., on the 7th, after dark. Saw prisoner immediately after entering Starr's, at the bar. Davis, Cullen and others of the force accompanied witness. Witness instantly accosted prisoner, who was sitting down, and asked his name. Prisoner replied, James Whelan. Witness then said, "You are my prisoner." Davis then came

up, and he and witness then searched prisoner. Found a box of cartridges in his pocket. (Cartridges produced.) Found also some papers, tickets, the *Irish American* newspaper, of date of the 7th March, 1868; found also a badge of the "Toronto Hibernian Benevolent Society." [Badge produced, is of green silk, bearing the phoenix, the sunburst, and other such devices in gold,] found also a card of the St. Patrick's Benevolent Society, which seems to intimate that prisoner's dues have been paid up to 26th of December; found also a photograph of a lady, a ticket from the St. Patrick's Literary Society, two tickets of the Shamrock Quadrille Club, signed W. D. O'Brien, Secretary, one of them in blank, the other favoring Mr. Jas. Whelan and lady. (All these articles produced.) There is no date on these last tickets; the second of which is endorsed "not transferable." [In reply to the Court, Mr. O'Reilly intimated that he did not consider these sufficiently important to require noting down.] Found also a revolver, which witness saw Sergeant Davis take. Witness had previously felt it in prisoner's pocket. There was also a cleaner, like a ramrod. All these were found on prisoner's person. Nothing else.

To THE COURT.—The revolver was taken from the right hand side pocket of prisoner's coat, in front.

To MR. O'REILLY.—Brought prisoner up to his room, and asked him to point out his clothes. Prisoner did so, and witness took possession of them. Also of the saddle-cloth and trappings produced. [These are green and gold, and were used by prisoner as Assistant Marshal of the St. Patrick's day procession.] The cartridges produced are known as "Leet" cartridges, and fit the Smith and Wesson revolvers.

[Sergeant DAVIS here produced the revolver, and was put into the witness box, to identify it as the one found on the prisoner. In reply to Mr. O'Reilly, Davis gave the following evidence: Assisted O'Neill in the arrest and search of prisoner. Took the revolver produced out of his pocket. Knew him before, having seen him last winter with Mr. Eagleson, the tailor. Witness pointed him out at the time of the arrest.]

O'Neill's examination resumed.—The revolver produced has every appearance of the one witness saw taken from prisoner, and then examined. Found then that five of its cartridges (six chambered cylinder) had the appearance of having been in for some days, while one seemed recently inserted in the chamber. On the top of each of the balls was fresh grease pressed in on every side of the chamber. The grease was then much more obvious than now. This was quite new grease, while the cartridge grease was old and of a different color. If this grease had been put there by the revolution of the cylinder, it would have been on one side only, not all round the balls. The inside of the barrel appeared to have been recently greased or cleaned, but at the mouth showed the appearance of a fresh discharge of powder. [Witness here pointed out the cartridge which he believes to be the newest, but which was much brighter at the time of his first examination.] Five of the cartridges had some dirt on the ends, as if old; the sixth was free from all dirt, from which witness inferred that it had been recently inserted. Its flange was a little thicker than those the others. The new cartridge was very easily distinguishable at the time from its brightness. Dr. Vancortlandt gave witness a bullet and some teeth (produced). The bullet is of the same size as those in the cartridges. Witness asked prisoner to account for himself when bringing him up to the station, telling him that he had been seen in the gallery of the House that night. Prisoner said that he had left before the adjournment, and came right home, across the grounds, by the Post office, and over the Sappers' bridge, and down Sussex street. Said also, "Why should I be remarked for going there that night when I was there often before?" Does not recollect prisoner saying anything further. [Mr. O'Reilly here proposing to question witness as to the newspaper found on prisoner, Mr. M. C. Cameron appealed to the Court to say whether such examination could be brought into evidence. The defence felt it dangerous to object to anything, but left it to the Court to say whether such matters could fairly be connected with the crime charged. Hon. J. H. Cameron argued also in support of this view, and Mr. O'Reilly desisted.] Found also a pair of light pants (produced). Found no cap.

Cross-examined by Hon. J. H. Cameron—It is on the assumption that the revolver had been carried about, that witness considers that he could judge of the grease on it being fresh or otherwise. The stain of powder will last perhaps two days after the discharge. Witness does not say now what barrel it was that had been most recently discharged. If the barrel were now empty, and were to be fresh loaded, it would not be in the least like the others in appearance. This witness swears positively. [Witness here went into an elaborate explanation of the greasing of pistol cartridges.] The grease he found on the balls was certainly applied after they had been put in. Cannot say how long the grease would remain noticeably fresh. It was as white as snow when witness found the revolver on prisoner. The coat produced (which prisoner had worn at the time of his arrest) is not what would be called a very long one. Prisoner had no other coat on. This coat had no inside pockets. Revolvers are numbered as to the sizes. Any revolver of that number would carry such a ball.

SERGEANT DAVIS re-called—Noticed the chambers of the revolver when witness took it from prisoner; noticed one cartridge fresher than the others.

Cross-examined by Hon. J. H. Cameron—Witness shoved one of the cartridges right out with his thumb after he got up to the City Hall. Identifies the cartridge which he shoved out. This cartridge was looser than the others, and peculiar in make.

ELIZA TIERNEY (stating in reply to the Court that she was fourteen years old, lived at Starr's, never went to school, but learned her catechism, and has some idea that she will be punished after death as well as here in case of telling untruths under oath) sworn—Lived as a servant at Mr. Starr's at the time of Mr. McGee's death. Had lived there for six weeks; knows the prisoner at the bar; saw him first at Starr's six weeks before Mr. McGee was shot. Prisoner was boarding at Starr's when witness came there. His room was a little one on the first flat. Witness has been in the room. Has seen a pistol in the prisoner's looking-glass drawer there. This was about three weeks after witness came there. Did not look at it particularly. Saw nothing again there. Saw a pistol on the chair there while prisoner was in bed. The pistol was on a chair near the head of the bed. This was about half-past seven in the morning, about a week after witness had seen the pistol in the drawer. Has heard of a person being hurt at Starr's, but did not see her. Recollects the Monday night before Whelan's arrest. Saw Whelan in the house that night. He went out after supper. He wore then light pants, light vest, and black coat, and a cap. Saw him no more that night. Witness went to bed about ten. Saw him next morning coming down stairs. This was the usual time, between six and seven. Breakfast is at half-past seven. Prisoner went out without waiting for it. Prisoner washed himself in the dining-room on coming down stairs and then went out. Mr. Dillon came in and told Whelan and the other girl in the kitchen that Mr. McGee was shot. Witness did not hear prisoner say anything. Prisoner then went up stairs and dressed himself before he went out. Mr. Starr and Mr. Kilby were in the bar-room when Whelan came down. Did not see Whelan before dinner time, about twelve o'clock. The back door of Starr's house was never fastened at night. Did not know what time Whelan came in that night.

Cross-examined by Mr. M. C. Cameron—The prisoner asked witness that morning if breakfast was ready. Witness said "No," and prisoner went out. Witness knew prisoner to be a tailor working for Mr. Eagleson.

JOSEPH FAULKNER sworn—Lives at Huntingdon, C. E. Has lived in Montreal. Lived there until last March when he went to Huntingdon. Is a tailor by trade. Had lived four years in Montreal up to March last. Knows the prisoner. First made his acquaintance in Montreal in June, 1867. Recollects the Montreal election between Devlin and McGee about a year ago. Witness and prisoner were then in Montreal. Both worked in the same shop—Anderson's, Great St. James street. Has occasionally conversed with prisoner, and heard him talking in the shop. Knew Mr. McGee by sight. His name was often mentioned in the shop by every one in it. Has heard the prisoner mention it, and say that Mr. McGee had deserted his principles and that prisoner was opposed to him for that. That was the principal thing he said. [Here Mr. J. H. Cameron

objected. To Mr. O'Reilly—[Treated this witness as a hostile witness.] Once reading a newspaper, a speech of McGee's, witness thinks, prisoner said the latter was a traitor and deserved to be shot. This was during the election, and several months before witness left the place. Heard prisoner say nothing more on the subject, except in general opposition to Mr. McGee's political principles. Heard prisoner say once that McGee had inoculated himself with his principles when young, and then blamed him for sticking to them. Recollects a pic-nic in Montreal shortly after the election. Whelan informed witness that he was going there. That was on the same morning. Whelan had a pistol in his hand, which he had taken out of his pocket. It was a common revolver, resembling the one produced. Prisoner asked witness to look at the pistol. Witness replied that he was not acquainted with such fire-arms, and asked prisoner why he took it to the pic-nic. Prisoner said that he expected a row on the boat, and took it for protection. If there was no row they would stop on an island and practice with it. Some of the men of the shop spoke out, while the pistol was in prisoner's hand, and said that he (prisoner) would shoot McGee with that like a rat. There was nothing said before that about killing anybody. Whelan did not do much work during the election. He was mainly occupied attending the election. Thinks he was employed in the shop by the week. [Witness being asked as to prisoner's political principles, prisoner's counsel emphatically objected to any question as to prisoner's political animosity to Mr. McGee, while admitting the right of bringing evidence of private hostility. The Court sustained the objection. Mr. O'Reilly was consequently unable to elicit, as he desired, any proof of the prisoner having avowed himself a Fenian.]

This witness was not cross-examined.

JAMES ENGLISH SWORN—Lives in Montreal, where he collects accounts on commission. Has known the prisoner since April twelve months, when he met him at his own house in Montreal, where witness went to board, having just arrived from Dalkeith, eight miles from Edinburgh. Recollects a conversation with the prisoner some time before the election. Prisoner said that McGee was elected, but would not take his seat, or if he did, would not reign long. Witness remarked, "Who would do anything to him?" Prisoner said "I would, if nobody else." Did not then call him (McGee) by name. Called him a short time afterwards a traitor to his country. Recollects prisoner coming to witness's room after the election. This was at the end of September, or beginning of October. He was then cleaning a revolver. It was one like that produced. Prisoner remarked that he had been up as far as McGee's house last night. Prisoner left the room immediately after. On the occasion of prisoner's calling Mr. McGee a traitor he represented all that had been done for him by the Irish of Montreal. [Mr. J. H. Cameron here objected to Mr. O'Reilly as attempting to lead the witness.] Remember prisoner making no other threats. Has been at Mrs. Scanlan's, and played cards there in Whelan's presence. Recollects New Year's night last. Was not then stopping at Whelan's, which witness had left in the middle of October. Was stopping at 24 Hermine street.

Cross-examined by Mr. M. C. Cameron.—Witness was perfectly unconcerned in the election. Never discussed about Mr. McGee with the prisoner. Does not think that he ever gave prisoner to understand that he was opposed to Mr. McGee. Witness is a Scotchman. Political excitement ran very high at the election, the candidates speaking very bitterly of each other. Afterwards heard many people speaking harshly of Mr. McGee, few in his favor. Witness was then in business in the city, as book-keeper. Never told anybody what prisoner had said, not thinking much of it at the time.

To Mr. O'REILLY—Never heard the prisoner make any other threats, or use any other language which, as an honest man, witness ought to tell in that box.

LEON DIXON SWORN.—Is working for Mr. Davis at the Rideau Bridge. Recollects the morning Mr. McGee was killed. It was a Friday or Saturday, saw him lying dead on the sidewalk nearly three o'clock on his way to the Chaudière to work. Had been living alone on Church street with Mr. Lapierre. Had had no sleep that night, and left for the Chaudière, about two in the morning, calling first at Mr. Lapierre's, and leaving that a good spell after two. Crossed

the Sappers' Bridge, and met a man on this side of it. The man was just walking along and said nothing to witness. It was dark and witness could not swear who the man was, he looked something like Lacroix. Witness knew Lacroix, and afterwards thought it was he. Thought nothing about it at the time. The man resembled Lacroix in size and build. Went up Mrs. Trotter's street, and saw Mr. McGee's body being carried in. He seemed dead.

Cross-examined by Hon. J. H. Cameron.—Had seen Germain and two or three others at Lapiere's. Came thence straight up Sussex street, seeing nobody on the way until reaching Rideau street, and meeting this man. Did not then think anything of the man, nor who he was, but after passing thought it was Lacroix, and was sorry for not having spoken to him. Cannot say how he was dressed, and will not swear that it was Lacroix. Went on straight, walking fast the whole time, up Trotter's street.

MARY McKENNA sworn.—Lives in Sparks street, on the opposite side of the road from Mrs. Trotter's. Knows the prisoner by sight. Saw him first to recognize him with a man, who is now in jail, named Doyle. This was about a week before the murder, and was in witness's bar. Both men remained about two hours. Saw prisoner again the next night, or the night after, when he came in to the bar alone about 8 or 10 P. M., saying that he was waiting for Doyle. Witness said that she did not think Doyle would come at that time of night, and witness left about eleven. On the following night prisoner came in very late, after twelve, by the side door, and asked for a glass of hot gin. Witness could not give it to him, having no hot water, but got some spirits for him, and allowed him to come into the kitchen where there was a light. He told witness, in answer to her question, that the House had closed at twenty minutes past 12. Prisoner remained until about 2 P. M. Witness did not try to get rid of him. Noticed nothing particular about him then. This was on the Thursday preceding the Tuesday of the murder.

ALEXANDER J. TURNER, sworn.—Lived in Montreal last year, was employed in the St. Lawrence Hall. Knows the prisoner well, having become acquainted with him in 1866, at Barney Tanzy's in Montreal. Witness went to board at prisoner's house. Has been often in Whelan's company. Was at the theatre with him a few weeks before the election. Heard threats used that night by prisoner, at Mr. MacDonald's. Prisoner said he would take McGee's life as quick as drink a cup of tea. Heard prisoner also make such remarks at his own house. Once when reading Mr. McGee's remarks upon Fenianism, just before the election; Prisoner, who had had a few words with his wife, seemed very much enraged, and stated that he would go up and blow McGee's bloody brains out. Saw the shape of a revolver in his pocket, at the time Whelan left the house that night, not returning till the following day. Had some conversation with him at a restaurant in Flag street, after he returned. Prisoner said that he had been up to Mr. McGee's house the night before, in company with Enright. Recollect seeing Mr. McGee passing by Notre Dame street in a carriage two or three days after the election. Witness was in Notre Dame street then; and went thence to Mrs. Scanlan's, about three quarters of a mile distant. Saw Whelan there. Whelan said "It is a good job McGee's house wasn't in flames last night." Nothing farther. Two or three nights after, between seven and eight, prisoner said, "Although McGee is elected, the bloody old pig will not reign long, and I will blow his bloody brains out before the session is over." (Sensation.) Gave no reason for saying that. Often noticed prisoner's animosity to Mr. McGee, and warned Mr. McGee of it on Notre Dame street about a fortnight after the election. Told Mr. McGee that there were parties accumulating at Scanlan's, who meant, if not to take his life, at least to do him bodily harm. Mr. McGee asked witness if these parties were interested for Mr. Devlin. Witness replied "Yes," when Mr. McGee said that it was only an election excitement which would die away, and then wished witness good morning, and walked away. Witness knew him well. Saw him afterwards here speaking in the House of Commons. Witness had heard prisoner say that Mr. McGee had received money from the Fenian organization, that he was a traitor to his country, and had gone over to the Protestants. Witness believes that he was seen speaking

to Mr. McGee by Kinsella, one of the parties who met at Scanlan's. After that the witness was called "the bloody informer," and prisoner would no longer speak to him. Witness had warned Kinsella previously that prisoner would get into trouble if he made such a fuss about McGee. Witness has stopped at the Russell House here. Know a man named Doyle, also staying there, who was a chum of Whelan, and is now in prison. Has seen Doyle frequently at the prisoner's house in Montreal. There was great intimacy between them. Witness left Montreal for Ottawa on 1st November. Saw Whelan for the first time here either in November or December. Recollects that Whelan started from here for Montreal in December or January. Thinks before Christmas. When Whelan returned witness was still at the Russell House. Doyle was also there, and Whelan several times came to see him. Saw him afterwards in close conversation with Doyle in one of the passages of the Russell House. Witness was then in the glass pantry washing his hands. Doyle then asked Whelan if he had been up to D'Arcy McGee. The prisoner stated yes, that he had just come up from Montreal after visiting McGee. "Did D'Arcy open the door?" asked Doyle. Prisoner said "No, by Jesus, he did not, or I would have shot the b——r like a dog." (Sensation.) Prisoner said that McGee's brother opened the door and brought him up stairs, adding "the bloody bastard locked the door before he would let me up." Prisoner then stated that he went to McGee with information that some one was going to set fire to his house on the following morning, and that McGee gave him a letter, telling Doyle also that they opened the bloody letter before taking it to the police station, and had a good laugh over it. Doyle then saw witness looking through the "nick" of the door, and both ceased talking of McGee, and went elsewhere. Witness went into the dining-room. Witness comes from London, in the old country. Is two years from London. Has been in India as a soldier. Has left the service, coming back to London. Was discharged at Chatham. Was about 16 when witness enlisted. Was about four years in the service. His regiment was the 48th. Left the service through sickness, at Lucknow. Col. Ritchie then commanded the 48th. He died at Allahabad. Witness was not under fire at Lucknow.

Cross-examined by Mr. M. C. Cameron—Is now about 24 or 25 years old. Was born in London, and lived there until he entered the service. Went after enlistment to Cork, where the depot was, and sailed thence for headquarters in Calcutta. This was in 1858. Was seven or eight months in Ireland. Has not his discharge with him. Has left it with his parents—some of whom live in London. Has only one parent—his mother. Left his discharge with her. Brought no testimonial with him to this country. Was never in a cavalry regiment, and never said he was. Returned to London in 1863, and then worked for his uncle, who lives in Liverpool. His uncle's name is Cope, a travelling agent, and witness kept his books. Stayed with him about 16 months. Then went to his sister at Dudley. Did nothing there, being in ill-health. Was discharged on account of a broken arm and of liver complaint, and with a pension for nine months. Went from his sister's to London, remaining there twelve months doing nothing. Then sailed from Liverpool to America, having got money to do so from his mother. Came to Canada in 1866, and got employment as waiter in the St. Lawrence Hall, Montreal. Never was a waiter before. Boarded there till July, 1867. Boarded nowhere else, except with Whelan. Was dismissed by the head waiter at the St. Lawrence, and then went to Whelan's. There were two young men there, just come from Ireland, who remained there only two days afterwards, thence going to Chicago. Those boarding at Whelan's on 1st July, were Mary Johnson, James Inglis, and two young men, a bookkeeper and a shoemaker. The bookkeeper went away, because of a row with prisoner's wife. He served the same firm as Whelan. Does not know the name of these two young men. The others all remained until after prisoner had left. Witness lived from July to December with these people, and did not know their names. From 1st to 21st of July, witness boarded regularly with prisoner, seeing these men every day. About some time in July went to work at the Ottawa hotel as waiter, remaining there until November. Witness's hours were from 6 or 6.30 a. m. to

10 p. m. The dining-room was never kept open till 10 p. m., except on rare occasions. There were three watches—the first going on at 6 a. m., remaining all day. The others went from 7 to 10 a. m. Going off till one o'clock. After dinner, at 2.15 or 2.30 p. m., they could go off till 6 p. m., and again off for the night about 7.30 p. m. Witness was generally away from the Ottawa hotel after 7.30 p. m. It was while witness was working at the Ottawa hotel that the threats related had taken place. During the first three weeks Whelan had shewn animosity to Mr. McGee, but not threatened him. The first threats were before the election, at Mr. McDonald's. That night witness and prisoner, who got half a dollar from his wife, went to the theatre together. Met a man named Kelly there. Witness knew Kelly, having been introduced to him by a waiter of the St. Lawrence Hall. Cannot fix the date of this night, but knows it was a few days before the election. A month is not a few days. Had something to drink at McDonald's. Witness did not drink much. Thinks prisoner was under the influence of liquor when he spoke of McGee. Prisoner began talking of the election to witness. Witness was a supporter of Mr. McGee, but did not tell prisoner so. Had never spoken of the election before. McGee's name had been mentioned in the theatre, where prisoner had insulted a man, who told him to "hush." Prisoner choked the man. The man said prisoner was one of Devlin's men. There was a little row, but no arrest made. It was two hours after that the play was over. Witness had taken a horn before going to McDonald's. So had prisoner. Was at McDonald's about half an hour before McGee's name came up. They had been talking of Whelan's wife, and prisoner said that he was in love with a young girl in Quebec, and did not care for his wife, but that he would take McGee's life as soon as drink a cup of tea. Prisoner said this openly while Kelly was speaking to Mrs. Macdonald at the bar. Witness and prisoner were in a separate room. They went home together about four in the morning, all pretty "swipey." It was just before the election—two or three days—that prisoner threatened to go up to McGee's house and take his life. No one was present except witness and Mrs. Whelan. Cannot say how long after the theatre night this was. [Witness here repeated what he had stated of this second threat in his examination in chief.] These were the only two threats of taking McGee's life before the election. Had seen prisoner's revolver before then. Did not know that prisoner had served in the volunteers or regulars, and never knew him by any other name than Whelan. What prisoner said the third time after the election was, "that he would blow McGee's bloody brains out." This is what witness had said before. [Depositions before the Police Magistrate here read over, from which it appeared that witness had then stated the threats of prisoner somewhat differently. Witness adhered to his latest version.] Witness had never told the Police Magistrate about the conversation with Doyle. [Deposition of witness further read, from which it seemed that Turner had never given any information of Whelan's threats, which he did not consider made in earnest.] Had heard of the letter given by Mr. McGee in this conversation, but made no mention of it to the magistrate. [Witness here described minutely the situation of himself and the speakers while this conversation was going on.] The conversation took place one morning in January between twelve and one o'clock while the House was in session. It was between twelve and one in the afternoon. There would be many people about, but no one in the glass pantry. [The Jury and the Court retired for refreshments, with which the prisoner was supplied in the dock. After half an hour's interval Turner's cross-examination was resumed as follows.]

There are usually about twenty servants in the Russell House dining-room, some of whom dine at 12.30, the rest at 1. Witness could not see into the dining-room from his position. The passage door into the dining-room was shut. Witness on going into the dining-room opened that door. Doyle and Whelan were then speaking upon other topics. The prisoner at the bar turned all colors, and Doyle too, when they saw witness. The glass pantry is on the right going towards the dining-room, and its door opens to the left. The door was not open more than ten inches, through which witness saw the two speak-

ing low. Witness made no noise washing his hands. Does not think that Doyle and Whelan heard him. Did not see them go into the passage. There were five or six roads by which the passage might be entered. Witness did not see them go in. They turned red in the face on seeing him. Witness heard prisoner first mention McGee's name, that was all witness caught. Doyle then asked if he (prisoner) had been up to McGee's house. Witness went as a servant to the Russell about the 4th November, and was there during the session. [One of the jurors being here compelled to leave the court, some delay was occasioned in the proceedings.] There is a kind of head waiter in the hotel. He who was there then was called Doran. He kept a boarding-house at which Doyle, Kinsella and witness, the latter for a short time only, stopped. Recollects strangers coming in to see the waiters. Does not recollect their names. Witness was not in Pat. Eagleson's on the afternoon of the day after Mr. McGee was shot. Was there that morning—that was Wednesday. Whelan was not then arrested. It was on Tuesday, not Wednesday, morning, witness was at Eagleson's. Witness did not speak of Whelan's arrest there. Was not speaking of Whelan at all. Did not say anything on going in of poor Jim having been arrested. Was not asked what Jim? and did not answer, James Whelan. Did not say anything about the reward, or its being a large sum. Said nothing to Eagleson, Rowsell, White or Goulden. [Witness denied knowledge of the last three,] as to Doyle's being likely to get a large sum of money for giving evidence. Said nothing at all of a sum of \$16,000, nor did witness say that for such a sum he [witness] would hang his grandmother.

Witness was asked no questions before the Police Magistrate regarding Doyle's and Whelan's conversation. On being told of McGee's murder, witness exclaimed, "Good God! it was nobody but Whelan shot him." Would give £2,000 now if he (witness) were out of the business, and told nothing about it except in reply to the questions put to him. Mr. O'Reilly had asked witness what he knew of the affair, and witness told everything except about this conversation. Witness had spoken to Mr. Burnham and Mr. Buck about Whelan before going before the magistrate. Told them about the conversation in the pantry. [Mr. M. C. Cameron demanded that witness should relate exactly what he had said to Mr. Burnham. The Court held that it would be impossible for him to do so.] Only told Mr. Burnham of the conversation, not what it was. Never told anybody what it was until after Mr. John McGee had given his evidence. Was frightened, and did not want to get into trouble. Had, on his first examination, told Mr. Buckley that he had informed Mr. McGee, or Notre-Dame street, of a plot against him. Told the Hon. Mr. Johnson, and others, of his having warned Mr. McGee, who might have saved his life had he attended.

To Mr. O'REILLY.—In examination before the magistrate, witness confined himself to replying to the questions put to him. The play on the night witness and prisoner attended the theatre, was *Arrah na-pogue*. [Mr. P. J. Buckley—A translation of Shakespeare's *As you like it*, into Irish, (laughter).] It was in connexion with the phrase *Wearing of the Green* that the row arose. Whelan, in speaking of the young lady with whom he was in love cried: The photograph produced represents a wedding party. Those present are the prisoner, witness, George Payne, James Inglis, and the two other young ladies (laughter.) [In reply to the Court, Mr. O'Reilly said that he considered this evidence as of importance in showing the intimacy between witness and prisoner.] Prisoner was about "half gone" when he cried about the young lady, and threatened Mr. McGee at Mr. MacDonald's.

VAUGHAN BRYCE sworn—Resides in Ottawa, and has done so since last November. Had known the prisoner for about eighteen months or two years previous to Mr. McGee's murder. Knew him first in Quebec, afterwards in Montreal, and here. Witness is a messenger of the House of Commons. Has seen prisoner there. Did not see him there on the night of Monday, the 6th of April. Saw him there on the Thursday or Friday previous. He was then standing talking to Buckley at Buckley's door. This was about nine p. m. Had seen him there several times previously. Had never seen him in the Speaker's rooms, or further inside the House than at Buckley's door. Had had a drink

with prisoner and Buckley at the Senate bar about eight or ten days before the murder. Thinks a messenger named Greer was along with them. Was in the House to its adjournment on the Monday night. Lodged then at Pat. Buckley's. After the adjournment started for home with John and Pat. Buckley, meeting with Frechette outside. Left by the messengers' door. This was about five minutes after the adjournment. Several messengers remained behind after witness. Witness's party went straight down the centre board walk. Overtook Messrs. McGee and MacFarlane at the corner of Sparks street. Mr. MacFarlane there bid good night to Mr. McGee, and proceeded towards the Russell House on the left side. Some pleasantries passed between the gentlemen on parting. Mr. McGee crossed to the south side of Sparks street, witness's party following. Passed him at Hunton's corner, where John Buckley bade him good night, Mr. McGee replying, "It is morning." There was something said of its being a fine night. Witness went on straight home. First heard of the murder when in bed, about half-past three o'clock in the morning.

To HON. J. H. CAMERON—Witness wore dark pants that night. Does not recollect his other dress. Witness never wore a moustache.

To MR. O'REILLY—Saw Whelan in Buckley's house on the Sunday after Patrick's Day, engaging a buggy. Does not know if a buggy was engaged there on the Monday after Patrick's Day, to go to Aylmer.

REUBEN WADE sworn—Lives in Montreal. Lived last year at London, C. W. Was a constable there, and a detective of the G. W. R. Was in Montreal last December on his way back from Nova Scotia. Stopped at a house in William St. kept by Michael Duggan. It is a corner house with two entrances [Sketch produced representing the locality.] The private entrance (the other is a shop entrance) is on William street. Remained there eleven days, forming an intimacy with Duggan, who was a guager and kept a grocery and groggery. Duggan was not at home for two or three days after witness came, on the 17th December. There were four rooms upstairs. The sitting-room was entered by way of the front of the house, that is from William street, and the three sleeping rooms were entered from it. [Plan of the house submitted to the court, as having been drawn by witness.] Saw the prisoner there on the night of the 21st December, about seven o'clock. Two others, besides the prisoner, came to witness's room with the landlord. Witness was reading. There was conversation going on between them. When they had been warmed up (they were drinking whiskey) the landlord said, "Had there been a few more like my brother John, he could not have been returned." Prisoner then spoke up warmly and said "It was Government money procured his election. Only for Government money he never would have been elected." Does not know that there was a person named Smith, of the Grand Trunk there. Prisoner said further, "D'Arcy has sold his friends and those who have done so much for him like a dog. He must and should be had out of that." That what could not be done there must be and should be done elsewhere. He might see the New Year come in, but not pass out. One of the other strangers then got up, clapped prisoner on the back, and said "Smith, here is our man, he is sound on the goose, and a better man could not be had for the job." He addressed prisoner as Smith. The man did not rise from his seat to say this, merely put out his hand to take prisoner's arm. The conversation was continued for fifteen or twenty minutes in a lower tone, and witness heard no more of it. It was a man with a lightish complexion and large nostrils who did most of the talking. His lips were thick and mouth large. They had two glasses of whikey round, and appeared to have some before they came. The fourth man had lightish brown hair and sandy whiskers, about five feet seven inches high, with an oval face, and large light blue eyes. It was he who had said that prisoner was the man for the job. These parties met there again about the same hour next evening. There was a fifth man on this occasion. It was Sunday night. The talk was on election matters. The landlord said "My brother John thinks two could go in and two or three outside would be sufficient." There was something said about going in different directions. Witness heard no more. The next witness remembers was some saying "D'Arcy,

the poor devil! If he only knew the fate that awaits him he would fly, and it would not be the first time either." The conversation then turned on the Fenian delegates. There was nothing further about McGee. Nothing was then said about Sullivan. On Tuesday, the 24th, about the same hour of the evening, the parties came again—the first four, and the fifth man. There was conversation about the Orange Hall. The fifth man said "Sullivan, how was that job done at the Orange Hall?" This was to the prisoner. The landlord interrupted, saying, "Why, sometimes you call him Smith, sometimes Sullivan, when you know his name is Whelan." The prisoner replied "At the head or under the foot of the stairs." One of the others said "I have not heard how it was done." Witness left Montreal on the following Friday, and on arrival in London, which he reached on Saturday evening, communicated these facts to the Hon. John Carling by letter.

Cross examined by HON. J. H. CAMERON.—Has lived in London about eight years, and about fifteen years in Canada. Is unfortunately an Englishman. Was a station-master of the Great Western Railway in 1857-8. Mr. Brydges was then managing director. Left the G. W. R. employ of his own accord. Has followed the occupation of detective from early boyhood. Has been acting as a private detective since leaving the G. W. R. eight years ago. On first going to London went into the lumber trade. Was county constable of Middlesex and Kent for about six years. Was sworn in as a constable at Chatham in 1865. Is still on the roll, but has done no service for the last year. Has done so for Kent within the last two years, while living at London. The occupation of constable has been witness's only one since leaving the G. W. R.

In July last year left London for Halifax, remaining there two months. Went thence to St. John, N. B., remaining there some two or three weeks, coming up to Quebec by Grand Rapids and Rivière du Loup. Reached Quebec in December, stayed there a few days, and reached Montreal on 17th of December. Saw a woman at Duggan's door who invited him in, and provided him with lodgings there. Until the 21st heard or saw nothing while the prisoner was present. The 21st was Saturday. Had some conversation quite long with Duggan, either on the Friday afternoon or the Saturday. Did not hear the names of anybody present at the conversation of the 24th, except that of the prisoner. The room was 16 feet by 17 or 18 feet, lit by a good lamp holding a quart of oil. There was only one table, at which witness was reading. It was on the first floor. No notice was taken of witness by this party on entering, except that they seemed a little shy until the landlord said, "He is all right," referring to witness. Witness cannot suppose that it was in consequence of the long conversation he had had with the landlord that the latter vouched for him. Thinks it likely that it was so. Heard only snatches of the conversation while the men were off their guard. They were rather shy. Not so much so on the subsequent occasions. Cannot recollect what sort of letter, long or short, witness wrote to Mr. Carling on the subject. Got no answer to it, and never spoke to Mr. Carling about the matter.

To MR. O'REILLY—Was a police constable in England. The documents produced prove his service as such. They are signed by "Scarborough" (Lord Scarborough), by the Speaker of the Imperial House of Commons and others. [Mr. O'Reilly was proceeding to comment upon these testimonials, when Mr. M. C. Cameron intimated that the defence had not attacked the witness's character, who was then allowed to go down.]

ANDREW CULLEN sworn—Is a detective officer, living at Montreal. Will be three years a detective next November. Got the news of Mr. McGee's death about six a. m. on the same morning and came to Ottawa by the midday train. Was present at the prisoner's arrest, in company with O'Neill. Has been in the Ottawa jail, and know the corridor and cell where prisoner was confined. It was the first corridor to the left as you go in. There are two doors at head of the stairs, one leading to the corridor. That one, the right, led to prisoner's cell. Prisoner was confined on the second floor, on the south side of the building, in the first cell nearest the stairs. The windows are to the right of the corridor, and the cell to the left. Exam-

ined with the turnkeys and the jailor the prisoner's corridor. Doyle was confined in the same corridor, about 30 feet away, in cell No. 7. Outside the corridor there is a landing, and an iron gate between the passage in front of the cells and the exit by the stairs. You could get within two and a half or three feet of the prisoner upon that landing. On the evening of the 16th April, heard a conversation between prisoner and Doyle. Witness remained on the landing that evening between 5.30 and 8.30 p. m., with a man named Hess. Heard Doyle say, "James, I'm sorry you ever done it." Heard Whelan say, "I don't care a damn, I'm prepared for the worst; I'll either swing or go to penitentiary for life; I don't care a damn only for one thing." Doyle asked him what was that. Whelan then made allusions to the old woman. Doyle said, "the whole world would know it." Whelan answered, "Yes, I am a great fellow; I shot that fellow; you are here, poor b——r, and here am I, which makes three of us." Doyle said, "What's that Jim?" Whelan repeated, "I shot that fellow like a dog; you are here and I am here, which makes three of us; my name will go down to posterity." Both Cullen and Hess were standing close to the wall with their boots off, and Cullen had signed to Hess to listen attentively, just before Whelan used the last words. Doyle then said, "James, I am sorry for you." Doyle had said before, "I am sorry you did not tell me that you were going to do it that night or I would not have let you do it." Whelan then whistled, he danced, and he sang. He and Doyle afterwards talked of different matters. Witness remained a long time after outside, and heard Whelan sleeping, dreaming and snoring. Witness made a minute of the conversation on coming down stairs and signed it. [Minute produced and identified.] Recollects no other such conversation.

Cross-examined by Hon. J. H. Cameron—The handwriting in the body of the minute is not that of witness's. Does not know whose it is. Thinks it is the Sheriff's. Thinks it was the Sheriff who took down the notes when witness came down. Witness was three hours upstairs. Had gone to overhear, if possible, something which might be said about the murder. Neither Doyle nor prisoner knew of witness's presence. The conversation commenced as soon as the steps of the turnkey had died away. It commenced a few minutes after witness went up, and continued for two hours and a quarter, with several minutes of silence. Witness and Hess together only recollected between them what is written on the minute. There is more there than witness said to-day. Whelan said, "I only care for my poor mother. There are more of us in trouble. John, one of my brothers, for firing the police barrack, in Tallaght, Ireland." Prisoner then spoke of Turner having sworn very hard against him, and said that they were all Fenians. The last thing he said was that he once had saved witness's life when he (witness) was covered at fifteen paces by a fellow in Grifintown. Witness is the man who was shot by a man named Garner. Does not know where Garner is now. Never gave two accounts of that affair. Witness received five hundred dollars from Mr. Devlin, who is here now, but not for the purpose of compounding the felony. Witness may recollect some other words which passed, but does not know that any other words passed relating to the murder. Whelan said further, "I was nailed bloody tight to-day." "How?" said Doyle; and "Who do you think was the informer," said Whelan. "I don't know," said Doyle. "Alex. Turner," said Whelan. "No!" said Doyle. "Yes," said Whelan, "and I would not give a six pence for him; there were lots of the boys in from Gloucester who spotted him." A voice then call from the other corridor, "How did you get along?" Whelan answered, "Bloody hard." The voice then answered, "I'm sorry to hear it." Whelan then said, "I had a nod from your brother to-day." The voice, "Is he in town?" Whelan, "Yes." Then Whelan called out to him, "You must keep as mute as a mouse here. Do you understand?" and the voice said "Yes." Then afterwards witness heard Whelan telling Doyle that he had a nod from Slattery's brother to-day. He also said to Doyle, "John, you and me must quit talking here about 'what you know; we must be as mute as a mouse, for these b——s might be 'around listening.'" There was a little more conversation than this. Doyle asked Whelan what were they doing with him (D.) Whelan assured him they

could do nothing with him. They might keep him a week or a fortnight. Doyle then asked what would his wife and two children do? Whelan said, "They're all right. They'll get your pension." Doyle said, "No." Whelan then assured him (Doyle) that his children would be all right; that as long as Mrs. Whelan had anything his (Doyle's) children would be all right. Witness did not think this part of the conversation was in his former deposition. As far as witness believed these were substantially the words which passed in so far as he could now recollect them.

W. F. POWELL, Esq., sworn—Is Sheriff of the County of Carleton. Selected detective Cullen, for the purpose of listening to the prisoners, from the detective force, believing him to be about the most intelligent, and from the fact of being from Montreal he would be more likely to know the names of parties in Montreal than any member of the local force. He also selected a man named Hess, who had been committed for assault, but he (witness) believed him a trustworthy man. The statement put in and signed by Cullen was taken down by witness, word for word, as a person accustomed to reporting would do. It was exactly as the statement had been made at the time by Cullen and Hess.

Cross-examined by Hon. J. H. Cameron.—Prisoner Hess had been committed for assault. His term was up in April last. Hess had worked in the yard of the governor of the gaol, which is private property. Was not aware that prisoner had been allowed to work round town. Did not believe it.

To Mr. O'REILLY—Had the permission of the Minister of Justice to make use of Hess either as turnkey, or in any other capacity in which he might find him useful.

HON. J. H. CAMERON—We do not want to know anything about that.

Mr. O'REILLY—But I desire to have the position of the witness (Hess) fully understood.

Mr. Sheriff Powell then withdrew from the stand.

ROBERT HESS sworn.—On the 16th of April about half-past five o'clock witness [who narrated his story in a slow sing-song, as though learned by heart] accompanied detective Cullen into a corridor of the jail, and took a station there near prisoner's cell. Heard prisoner say "Are you there Jack?" Doyle answered "Yes." Prisoner said, "They nailed me bloody tight to-day. That b——r Turner swore bloody hard against me." Doyle said, "You don't say so." Prisoner said, "He swore we were all a pack of Fenians. I would not care a damn only for one thing." Doyle asked what was that. Prisoner said, "The old woman," (using a coarse expression to indicate the extent of her distress.) Said also "I don't care a damn, I'm prepared for the worst. I'll swing or go to penitentiary for life. I shot that fellow. I shot him like a dog." Witness had a conversation with prisoner on 4th May. Prisoner asked if any other prisoners had come in that day. Witness said yes, some for drunkenness. Whelan said, "Whiskey is the devil. If it was not for whiskey I never would have shot McGee. I was as drunk as the devil when I did it."

Cross-examined by Mr. Mackenzie.—Has been a prisoner in gaol for twelve months, until last Thursday, since when witness has been living at Johnny Graham's. Was sentenced at the Recorder's Court for assault. Has been, while in gaol, (where he was thirteen months and eight days) permitted occasionally to go outside to the Sheriff's and other places. Supposes this was in consequence of his good conduct. Had been so permitted before he heard Whelan's talk with Doyle. The Sheriff went security for the suit of clothes now worn by witness, for which witness promised to repay him. Never saw Whelan until he was brought to gaol. It was the Governor, Alick Powell, told witness to go into the corridor. The Governor told him for what purpose. Witness took off his shoes of his own accord. Came in behind Cullen and the turnkeys. [Witness here described his position in the corridor.] Had been in the corridor while Whelan was under examination that day. Had spoken to Whelan before bringing in his (prisoner's) meals and water to him. Witness was at the head of the stairs, in front of the corridor, when Whelan was brought in. Saw him enter the corridor. The governor, two turnkeys, and O'Neill were with him. Doyle was in before.

Had seen him put in. Knew that the person he heard addressing "Jack" was Whelan, by his voice, although witness had spoken to him only once before. Whelan was in the first cell, which witness saw him enter, and saw the door locked behind him. Knew then that he was there, although witness could not see him. Knows a man named Casey, also a prisoner. Had no conversation with him about this matter. Never told Casey that he (witness) had been promised a situation if he would swear against Whelan. Knows a person named Townsend. Had not only particular conversation with him about the matter. Had been in Townsend's house during his imprisonment. Never told him that he (witness) must stretch Whelan's neck or have his own stretched. Would be out of his head to say any such thing. Knows a man named Brown. Said nothing particular to him of Whelan. Did not say that he had been promised a suit of clothes for swearing against Whelan, nor has witness ever said so to anybody else. Has got a suit of clothes, but has promised to pay for them. When Doyle asked Whelan what Turner swore—that is when Doyle said "You don't say so?" prisoner, after a few minutes, went on to say, "That b— —r Turner swore bloody hard against me to-day, and all he knows about us is what went on in Montreal." [The witness was pressed very strongly on these points for the defence, but gave his evidence firmly and decidedly, and without variation throughout.]

To Mr. O'REILLY—Is an engineer by trade, and took charge of the prison engine, wore out his own clothes, doing work in jail, the county not having furnished him with prison clothes. Determined, if possible, not to go out of jail without some clothes.

JOHN LITTLE sworn—Lives in Nepean. Was employed as a turnkey in the county jail in April. Knows where Whelan was placed in jail. Heard a conversation between him and Doyle on the 19th April, between 8.30 and 10.30 p. m. Doyle asked Whelan was he sleeping. Whelan said no. Doyle asked what was he doing. Whelan said thinking about his trial. He said also. It is true there were three of us, but I was alone when he was murdered. Doyle asked, "Where were the other two?" Whelan said "They skedaddled home, and if I had not been drunk I would have gone home too." Witness made the minute (produced) of this conversation in his own writing.

Cross-examined by Hon. J. H. Cameron—Was not then on my duty as inside turnkey. Was on special detective duty there that night. There was no other turnkey there, and there was no light in the corridor.

JOHN McLAUGHLIN, Chief Montreal Water Police, sworn—Did not notice anything particular in the envelope he had received on the 2nd January. Did so after Mr. McGee's murder, when noticed that it had been tampered with, and opened previously.

To Mr. J. H. CAMERON—Never noticed this until April last. It might have been opened by one of the police.

FRANCIS KILBY sworn—Lives in York street, Ottawa. Recollects the morning of Mr. McGee's death. Heard of the death about 5.30 a. m. at witness's own place. Went, about half an hour after, to Mr. Starr's. This was about 5.45 a. m. Saw there Mr. Starrs and the prisoner. Asked Starrs if he heard of the murder. Starrs said yes, he had done so some time before. Had a conversation with Starrs in prisoner's presence, about the murder. Witness said the man who committed such an act should be torn limb from limb. Prisoner thereupon wheeled round, with a curious smile or grin, leaned upon the counter, and asked Starrs for something to drink. He had a long black surtout coat on, and light pants. It was 6 a. m. (the bell ringing at that moment) when witness left Starrs.

This witness was not cross-examined, and on the conclusion of this evidence, Mr. O'Reilly said "This closes the case for the Crown, my Lord."

THE HON. J. H. CAMERON addressed the Court, being understood to request an adjournment until ten o'clock next morning. To this his Lordship assented, and addressing the Jury, told them that although the case for the Crown had closed, they must remember that they had as yet heard no word of evidence in defence, and that it was quite possible that the Crown would bring other evi-

dence to rebut any offered in behalf of the prisoner. They must, therefore, keep their minds quite free to receive all the testimony which might yet be offered, and not proceed to any decision upon what they had yet heard.

THURSDAY, September 10, 1868.

The Evidence for the Defence.

ANTOINE QUESNEL (speaking in French) examined by Hon. J. H. Cameron, (Mr. G. H. Macaulay acting as interpreter)—Lives at Hull. This is the third summer he has lived there. Knows a man named Lacroix. Would recognize him if he saw him. Does not know the man Lacroix who was examined in this case, but a man named Baptiste Lacroix, who boarded with witness two summers. [The Sheriff was here requested to bring up the witness Lacroix.] Has known this Lacroix for thirteen or fourteen years. Witness would not believe Lacroix upon his oath, from his general knowledge of the latter for truth and veracity. Witness could not believe Lacroix upon his oath because he is a general liar. [The Court here intimated that witness should be definitely interrogated as to Lacroix's general character for truth and veracity.] Lacroix passed for a good-for-nothing where he lives. On witness's oath he does not believe Lacroix has anything good about him. If it is the same Lacroix that witness means, when he came along the neighbours used to hide their things for safety. Lacroix never passed among the neighbours for a man who spoke the truth. Witness being asked if he saw the man Lacroix in Court, answered at first, "No, Sir." In a moment or two, the question being repeated, answered distinctly in English, "Oh! yes I do. There he is," pointing out Lacroix with his finger.

Cross-examined by Mr. O'Reilly—Has lived three summers in Hull. Before then lived at Rigaud, Lake of Two Mountains. Witness works for his living. Has kept a boarding-house in Hull. Lacroix has boarded with witness two summers. The first summer for two or three months—nearly all summer—nearly all the second summer also. Lacroix paid for the board of the first summer, not for the second. Lacroix owes witness about \$3. Witness did not get any money from Mr. O'Farrell, nor did Mr. O'Farrell promise him the \$3. Has known Lacroix fourteen years as a liar. He never did anything but lie. He worked by lying, and no one believed him. Has sometimes three or more boarders in his house. Although Lacroix was a thief and a liar, witness kept him as a boarder because he had paid the first summer. Witness has a wife and family. Kept Lacroix living as one of the family although knowing him for a thief and a liar.

Examined by J. H. Cameron—Knows Lacroix, the witness on the trial. Has worked with him two months in the shanty. Lacroix, during that time, has borne a very poor character for truth. From his general character for truth, witness would not believe him on his oath.

Cross-examined by Mr. O'Reilly—Lives in Hull. Has lived there nine years. First became acquainted with Lacroix going up the river to Des Joachims. This was the winter before last. In the fall. There were about 12 men there. Witness worked with Lacroix, and was with him all day. Witness was six months and a half in the shanty, and Lacroix was two months there. That is all witness knows of him. He took things that did not belong to him, and is a liar and a boaster (*menteur et vanteur*.) Said he ran the "big kettle" three times. Witness would not believe him for that reason.

TO HON. J. H. CAMERON—By a boaster means a man who says that he could do and has done things out of his power.

PIERRE MORIN sworn and examined by Hon. J. H. Cameron. Lives at Hull. Has lived there two years, and known Lacroix for that time. Among the neighbours Lacroix's character is a little low. With respect to truth, his name is very low. Witness would not believe him on his oath.

Cross-examined by Mr. O'Reilly—Has seen Lapierre, a French lawyer here, a couple of times. Did not see him at Hull last night. Saw him on Thursday at Grenier's. Did not speak to him about this case. The first person who spoke to witness of it was Mr. Simon Laferrier at Hull. Saw Mr. O'Farrell last night. Mr. O'Farrell said nothing to him. Witness was brought there, but Mr. O'Far-

rell told him nothing except directing witness to tell the truth of all he knew about the matter. Did not promise witness any money, but gave him some. Gave him \$5. Mr. O'Farrell gave him these \$5 to tell the truth. Witness did not ask for the money. Mr. O'Farrell gave it before he said anything.

Mr. O'REILLY—That will do I think.

Hon. J. H. CAMERON—It will not do Mr. O'Reilly. You have cast unjust imputations upon Mr. O'Farrell, and we must have something more upon that point.

Hon. J. H. CAMERON (Mr. O'Farrell communicating with him privately), to witness: "Did you not receive the \$5 from Mr. O'Farrell for carriage hire, for driving him around?"

Witness—Am not a carter; have not driven Mr. O'Farrell, nor for Mr. O'Farrell.

LOUIS ROY sworn and examined by Mr. J. H. Cameron—Lives in Hull and knows Lacroix. Has known him from boyhood, in the place both were brought up together. Never wanted to have any transactions with him, nor has had any because witness had no confidence in his character. Since he has become a grown man his character for truth has not been good. For witness's part he would not, from Lacroix's character for truth, believe him on his oath.

Cross-examined by Mr. O'Reilly—Knew Lacroix as a boy. Lived first in his company in Grenville. Never saw Lacroix sworn in Court. Never knew of him being sworn since he was a grown up man. Never knew of Lacroix being brought up before a magistrate charged with any offence, because perhaps he never had an opportunity. Never knew that Lacroix stole, but knew that people would not trust things near him. Lacroix has worked in shanties, up the river, and about Hull. His business was generally that of a shantyman, or day laborer. Knows a French lawyer named Lapiere, but not to point him out. Somebody came for him about eleven o'clock last night. It was Mr. Larose and Mr. Laferrier. Witness got no money, and was not promised any. Witness is married. His wife does not know Mr. Laferrier. Does not know that she was promised anything. Does not know a young man named Berichon. The first he heard of the matter was on Quesnel passing his door and saying he was going to prove the bad character of Lacroix. Said he was glad for he knew the man for a long time. Lacroix had once boarded two years with witness's father, and witness therefore knew him well, and recognized him again. Has never been in Lacroix's house since he became a man. Knows him only for the last two years. Has spoken to him this spring, but has had no transactions with him. They did not work together. Does not know what Lacroix was doing, but met him once with an axe, and Lacroix said he was working for a man.

JOHN COSGROVE sworn, and examined by Hon. J. H. Cameron—Lives at Buckingham. Knows a man named Lacroix. [Identifies Lacroix in court.] Lacroix lived in witness's neighbourhood. He had no character for telling the truth, but had the character of being a general liar. From his general character of veracity witness would not believe him on his oath.

Cross-examined by Mr. O'Reilly—Only knew Lacroix for a month, last winter. Does not know what Lacroix's business was, but thinks his principal business was to get goods under false pretences, and go away with them. Witness was subpoenaed the day before yesterday. Witness had been speaking of Lacroix having swindled him. Did not prosecute him, because he left Buckingham. He was not worth following. Does not know that there was a "misunderstanding" between them. Lacroix understood perfectly what he was about. Witness did not understand. The misunderstanding was all on his part. Does not know of Lacroix ever being brought before a court. Heard of many things against him before his name appeared in connection with McGee's murder. There is not to witness's knowledge any sympathy with Whelan in Buckingham. Would not be so until he is proved innocent. Witness came up from Buckingham at his own expense.

SIMON LAFERRIER sworn and examined—Lives at Hull. Has lived there for three years. He knows Lacroix well. Has known him for one year previous to last winter. His general character for speaking the truth is very bad. From his general character in that respect he would not believe him on his oath.

Cross-examined by Mr. O'Reilly—Does not understand English sufficiently well to carry on conversation. Has never learned to read English. Never went to an English school. [In reply to question, "Can you speak English?" from Mr. O'Reilly direct, the witness answered, "I do."] Had been in the United States for two years, following his trade as painter, and had also been a soldier. Had been nineteen months in the American Army; had received bounty money, but never jumped the bounty. Could speak English for his own business, not for occasions of this kind. Had been up in the shanty for two months and had sometimes worked at his trade since his return from the United States. Knows Lapierre the lawyer. Went round with him, but could not say whether it was to get witnesses. They had been round Hull for eight hours, but witness did not know what for. They spoke to Mr. Latour, also to a good many people. The whole was a trip of pleasure, something like a "burst" together around Hull. Lapierre did speak to him about Lacroix. Saw Mr. O'Farrell on the evening of the day before yesterday at Michael Starr's tavern near the market. They (Mr. Lapierre and witness) were then going round. Mr. O'Farrell came in after he did. Could not say whether they had a drink there or not. He had received a subpoena.

FRANCIS MARIIGNY sworn and examined by Hon. J. H. Cameron—Lives at Hull. This is the third year. Knows J. B. Lacroix. Was two months with him in the shanty. Has heard it said that the man had not a good character for truth. That is all witness knows about it. From what witness has seen, he would hardly believe Lacroix on his oath. While witness knew him at the shanty, knew neither good or evil of him.

To Mr. O'Reilly—Witness did not get any money.

EUPHÉMIE LAFRANCE sworn and examined by Hon. M. C. Cameron—Was a servant at Michael Starr's, while the prisoner Whelan boarded there. Witness met with no accident during that time, except that she took a pistol in her hand, and the ball went off and entered her arm. The pistol resembled the one produced. It was between the palliase and the feather-bed. It might be two months since this accident. Witness has been three months away from Starr's. The accident happened before then. Witness had heard of McGee's murder. The accident happened before then, witness does not remember how long. The accident left a mark on witness's arm. [Witness here bared her arm shewing a scar near the elbow.] It was after New Year, about a month and a half after.

WILLIAM GOULDEN sworn and examined by Hon. J. H. Cameron—Lives in Sussex street, Ottawa. Knows the prisoner Whelan. Has worked with him in Mr. Eagleson's shop. Witness was clerk and book-keeper there on the 25th December, 1867. Continued to work there about two months steadily. Remembers last Christmas. Cannot say whether prisoner was in Ottawa on Christmas. Thinks not. Is sure he was in Ottawa on the 24th December. He came into the shop that day and bid some of the hands good-bye. That was the day before Christmas. Saw him next in about a fortnight when he came back work. Recollects seeing a revolver in his possession after his return. Prisoner had it at the shop. This was before Mr. McGee's murder. Saw the revolver twice, once in the middle of winter, the other the beginning of spring. The last occasion was about a week before Mr. McGee's death. Did not handle the pistol. It was like the revolver produced. It had six chambers. When witness saw it on the second occasion all the chambers were not charged. One was empty. It was said that a girl at Starr's had been handling the pistol carelessly, and the charge had exploded, the bullet lodging in her arm. That was about a week before Mr. McGee's death. Has seen the witness Turner. Recollects his being in Eagleson's shop the day after the murder. This was about 2 p. m. There were present Pat Eagleson, Wm. Rowsell, Wm. White, Jno. White, and James Kinsella. Turner spoke himself first. He said, "Patrick Eagleson, so Jim is arrested." Eagleson asked: "What Jim?" Turner said, "Jim Whelan; poor fellow I have known him for a long time, and always found him a decent fellow; he would not hurt a child." [Reference was here made to Turner's cross-examination, Mr. O'Reilly failing to recollect that he had been

interrogated as to having made such statements. The Court read from its notes from which it appeared that Turner had denied the facts to which witness here testified.] Turner said that he heard a member of Parliament say at dinner at the Revere House that the Government had offered \$16,000 to Doyle if he would swear against Whelan. [The Court intimated that it did not see the utility of this line, but Mr. Cameron persisted.] Also a free passage for himself and family to any place where he wished to go, and would be unknown. Some one said it was a large sum. Turner said Doyle was a bloody fool if he would not take it. That he (Turner) would hang his grandfather for half the money. Had no doubt whatever of this conversation.

Cross-examined by Mr. O'Reilly—Has known Whelan since he came to work at Eagleson's on 25th of November. He came at night and came to work next day. Witness belongs to the St. Patrick's Society. Has done so for more than three years. Was present at the meeting at which Whelan was proposed for marshall. Eagleson recommended him. Does not know that Kinsella spoke of him. That meeting took place about 1st March. Witness had been here then three months. Prisoner was not known here previously, to witness's knowledge. Witness did not attend any dance clubs of which prisoner was a member. Prisoner was a member of the Shamrock Quadrille Club. Did not see a pistol with prisoner until after his return from Montreal. It was loaded then. That was in the shop. Never saw a pistol with any other tailor. Prisoner offered the pistol for sale to witness on this occasion. This was about six weeks after his return, about the middle of February. Does not remember exactly when he came back. The books do not show it. [Witness persisted in his non-recollection although pressed strongly by Mr. O'Reilly.] Witness again saw the revolver about a week before the murder, when prisoner was showing in the shop how the girl was shot. There were others present then. Saw the chamber empty then. Heard Whelan once speak of Mr. McGee in the shop. He was reading a newspaper, and said "McGee is not such a bad fellow after all." Whelan was a quiet, good man. When McGee was shot people round Eagleson's appeared sorry. They thought Whelan was innocent. Witness was not asked to subscribe for prisoner's defence. Does not know whether his father was. The girl was shot in the latter end of February. Whelan shewed the pistol the second time, about a month after. Witness had not the cylinder in his hand then. Recollects when Turner was assaulted. That was in May. It was near the Canada House. Witness was not there. Had passed that way about two hours before. Heard nothing of it till next morning. Saw Whelan on the morning of the murder about eight o'clock. Was speaking to him. Did not see the pistol then. Saw Turner in the back shop the same morning. Did not see him speak to Whelan. All hands were there. Turner frequently went there. Is not quite positive of his being there on the Tuesday. Took particular notice of what he said there on the Wednesday. Believes that Doyle was arrested on the same night (Tuesday) as Whelan. Did not see him in the shop on Wednesday. It was about 2 p. m. of Wednesday that Turner came in. Whelan was arrested then. Did not make any note of this visit of the Wednesday. It was spoken of in the shop. Witness spoke of it first when Turner appeared against Whelan at the investigation. No one asked witness to remember it. Did not see Turner again in the shop. Turner got clothes at Eagleson's during the winter. He was not getting any on the occasion of his last visit. He then expressed sympathy with "Jim" as Whelan was generally called. Does not know of any other person of the name of Jim being arrested at the time. Pat. Eagleson, Peter's brother was there. He knew Whelan well. Never heard him nor Pat. Eagleson call Whelan Jim. Whelan was a favorite there. The Whites were at the shop getting clothes. He was one of the parties arrested at the time. [Mr. M. C. Cameron, "They arrested everybody they found about there." Mr. O'Reilly, "Oh, not everybody. We did not arrest you." Mr. M. C. Cameron, "I was not at Eagleson's. If I had been, I dare say there would have been suspicion on me too."] There was some conversation going on on the Wednesday, when Turner came, in which Rowsell (a cutter), took part. Witness was busy making out accounts, and did not listen.

to it. The Whites were there before Kinsella, who entered about 1.30 p. m. They were there about 15 minutes. Witness was in the back shop about twenty minutes. Pat. Eagleson came in near 2 p. m. The Whites were then there about half an hour. They were waiting for clothes. They might not have been more than a quarter of an hour there altogether. Eagleson and Turner did not come in together. Witness noticed Kinsella first when the latter said that it was a large sum of money. Had spoken to him before. Kinsella said he was about going away to Montreal. Does not know he was then a waiter at the Russell House. Saw Doyle at Eagleson's on the afternoon of the murder, (Tuesday.) Does not know why, or with whom, he came. It was about 3 p. m. Thinks Whelan was at large then. Heard nothing of a defence fund. Witness was not the boy who brought the clothes from Eagleson's to the jail for Whelan. Did not see Whelan on St. Patrick's night, nor know where he was. Recollects a banquet being given that night at the Russell House to Mr. McGee. The day after the marshals were up getting their likenesses. Whelan went back to work within a week after St. Patrick's Day. Cannot say on what day. Was never in the House of Commons with Whelan. Whelan left work sometimes late and sometimes early. Does not know where he frequented.

To Hon. J. H. CAMERON—Whelan was at work on the morning of the murder.

Mrs. MARY MURPHY sworn, and examined by Hon. J. H. Cameron—Lives on William street, Ottawa. Knows the prisoner, who boarded in her house in November and December, 1868. Prisoner left witness's house on the afternoon of Tuesday, 24th December, between 12 and 1 o'clock, going by the afternoon train. Recollects the date as Christmas Eve. Has no doubt whatever. Prisoner was absent one day, or from one meal while he boarded from witness. [This was elicited by suggestion from Mr. M. C. Cameron.] Prisoner said he was going to Montreal to see his wife.

Cross-examined by Mr. O'Reilly.—Prisoner boarded either five or six weeks with witness. Said he was working at Eagleson's. Did not say how long he had been there. He first came in the afternoon, engaged his board, and returned in the evening. Is almost certain that this was on a Monday. Will not swear, but is almost certain, that he was there five weeks. He paid weekly \$3.50. Witness kept no account. He went away in the middle of a week, paying witness \$1.50. This would be for Sunday, Monday, and a part of Tuesday. [Witness being repeatedly interrogated declined persistently to swear positively that prisoner boarded five weeks or more with her.] Saw prisoner perhaps a month after his return. Had no row with him. Never saw a pistol with him. Prisoner kept regular hours in her house, and was quiet and well-behaved always; gentle and not excitable. Probably did not return to board with her because her terms may not have suited him.

JOHN LYON sworn, and examined by Mr. J. H. Cameron—Lives in Ottawa, and has been in the grocery business for the past twelve months. Knows the prisoner at the bar. Knows that he was in Ottawa last December, leaving on the afternoon of Christmas Eve. Witness was in the habit of seeing prisoner daily, his place being next door to Eagleson's. Prisoner had intimated his intention of going away before, but had been too busy. Is certain he left on 24th December.

Cross-examined by Mr. O'Reilly.—Saw prisoner, he believes, the first day he arrived. He was brought into witness's shop to buy some tobacco that evening, never knew him before. Prisoner brought no letter of introduction to witness. Was not very intimate with Whelan. Knew all the men working for Eagleson. Remembers the day of prisoner's leaving, because it had been spoken of before, and chiefly because it was Christmas eve. Saw him going away about nine o'clock that morning. Witness and prisoner were both members of the same society. Was in Montreal when Whelan was chosen a marshal. Did not speak of old Ireland together. Never heard him speak of McGee, nor of the Montreal election. Had not very much to say to prisoner, and thought him a man who had little to say. Never spoke to Whelan of Mike Murphy who came here to establish a society. Certainly he did not the first day he saw Whelan. Witness did not think much of McGee as a politician. Is partly the agent of the *Irish Canadian* here.

To Hon. J. H. Cameron.—Cannot possibly be mistaken about the date of prisoner's leaving.

PATRICK KELLY sworn and examined by Hon. J. H. Cameron.—Lives in Ottawa and has been a tailor here for three years. Was employed at Eagleson's. Knew Whelan there. Whelan was in Ottawa in December last. Left on Tuesday, Christmas Eve. Prisoner had been making and overcoat for himself on Monday, and getting it finished on Tuesday morning, bade witness good-bye and left as though for Montreal. Saw him no more that month. Prisoner returned nine or ten days after New Year.

Cross-examined by Mr. O'Reilly.—Witness was working at Eagleson's when prisoner came. Prisoner came there at the end of November. Remembers the month because it was the month before December. Witness also went there in November. They both came about the same day. Witness had been working for two other shops outside. Was not very unusually intimate with prisoner. They both worked at the same bench. Did not speak of Irish affairs. Has heard McGee's name mentioned by the prisoner who said he was a smart man and a good orator, and that he liked him well. Never saw prisoner reading McGee's speeches. That was during the season. Cannot say in what month. Does not remember that McGee's name was mentioned by prisoner more than once. Never heard prisoner say anything against McGee. Does not remember prisoner speaking of McGee in April. Witness never was in the House of Commons in his life. Has heard prisoner say that he has been there. It was then he spoke of McGee. Witness belongs to the St. Paul and St. Vincent Society, and to the St. Patrick's Society. Has seen Whelan at meetings of the latter. Did not vote for his being marshal. Was not there at the time. Does not know how long Whelan belonged to the Society. Saw him before St. Patrick's Day. Thinks it was after Little Christmas that prisoner returned, after the holidays. Don't think he was here on Twelfth Day. To-day witness nothing of his exploits at Montreal, nor of having been up to warn Mr. McGee of his house being set on fire. [Mr. O'Reilly, pressing the witness to admit of having heard prisoner speak more than once of McGee, repeatedly put the question, "If Whelan spoke of Mr. McGee upon more than the single occasion, which will you swear to: he spoke of him in terms of commendation?" endeavoring to elicit an affirmative reply. Hon. J. H. Cameron interfered and objected, and Mr. O'Reilly desisted.]

MICHAEL DUGGAN sworn and examined by Hon. J. H. Cameron.—Witness's place of residence is in Montreal. Is at present in custody here. Does not know prisoner, and has never seen him except in gaol. Had never any communication with him at Montreal. The conversation and interview sworn to by Wade, as having passed between witness and prisoner, at the former's house, corner of Mondelet and William streets, is entirely a fabrication. Prisoner never was in witness's house in December, or at any other time, and witness never spoke to him except in gaol. Scarcely knows him now. Never has seen him before so clearly.

Cross-examined by Mr. O'Reilly.—An old man stopped at witness's house about last Christmas. Witness returned home about the 17th or 21st of December. Witness had been absent at his business, as gauger. His wife then managed the grocery. Witness's house is a corner one. [Mr. O'Reilly here requested the Sheriff to send for Wade.] The shop is entered by one door, the private dwelling by another, the latter on William street. There is a kitchen up stairs; it was not used in December as a kitchen. Witness then cooked down stairs. Witness does not call this up stairs place a room—never used it as such. It may be ten feet by fifteen. There are three bed-rooms off it. It is a kitchen now, and has been so before. Witness calls it a passage. There is one bed-room on the right of the kitchen, and a door between. There is another room at the other end. There are three rooms. There is no passage from the stairs into the kitchen. There was old way of entering the house from the rear. There was no ladder, but was a stairway there in December. There was no windows in the rear. There is a half-glazed door nailed up in the upper "kitchen." The back stairway leads from the back kitchen door. There is no other room, not a bed-room upstairs. There is no table there. There may be chairs.

To the Court—There are four apartments in all upstairs.
[A juryman retiring, here caused a long delay.]

To Mr. O'Reilly.—Witness saw this door nailed up in March, 1867. Does not know whether it was nailed up from March '67 to April last. Does not know how many nails were in it. Tried it when witness's home was burned after December last, when the door was certainly nailed. Thinks the fire was in March last. Witness's brother-in-law and himself could not open it. The stairs were for accommodation of the landlord. Witness moved into the house in December last. It was Mrs. Duggan who rented it. They have since left. Witness's wife carries on the business of grocery and liquor selling there. There is a bar there, and liquor in decanters and beer down stairs. Witness attended to his own business. Drank brandy himself not whiskey. Saw the man Wade (identified) in witness's house about 17th—19th December, after witness's return home. Witness thinks he was home on 21st. Wade was a boarder sleeping up stairs. Thinks he was there at Christmas. Cannot say how long after Christmas Wade remained. Does not think he was there three or four days after. Does not remember him there then. Witness did not find Wade boarding there when he came home. Wade arrived two or three days after. There is a stairway going up stairs from William street. No one could go up without notice by those in the house. Those in the shop might or might not know. There was a lock to the door. It might not be always locked. There was no place to receive anybody up stairs, and none of witness's visitors ever went upstairs. Has only seen his own boarders go up—no one else. Witness is not certain of the names of his boarders in December. Had been away from home a year and 18 days previously. Lived there in Montreal. Was never on the spree. Used not to be out at night at this time. Remember McGee's election. Took no interest in it. Never heard that there was an Orange Hall in Montreal, or that it was burned. Remembers Norcumber's building burned. Did not know there was an Orange Hall there. Knows Doyle, Kinsella and Slattery "over the way" in prison, but never saw them in Montreal. Did not know Tom or Henry Murphy either. Doody is the only man in gaol known previously by witness. Was employed gauging and measuring liquors while away from his wife. Knows nothing whatever of a Fenian conspiracy in Montreal. Wade had run away from witness's house, and witness pursued him, bringing him up to the station-house. Finally recovered 8s. 9d. from him. That was the amount witness's wife had said to be due. When witness caught him, Wade said that Mrs. Duggan had not change of a \$10 bill, which was the reason he had not paid her. Belongs to no society whatever in Montreal.

To Hon. J. H. CAMERON—Swears positively that he never saw the prisoner until at gaol here. The man Wade had absconded without paying money due from him.

Mrs. DUGGAN, sworn and examined by Hon. J. H. Cameron—Lives in Montreal. Lived there at the corner of William street in December last. Never saw the prisoner at the bar before in her life. He was never in her house on any occasion. Has only come up from Montreal this morning.

Cross-examined by Mr. O'Reilly—Did not hear her husband's evidence. Has seen Wade (identified) before. Saw him on Saturday in December last. Wade came to her shop and asked for lodging. She asked for payment in advance, and he said he should first go up town to change bills. Wade paid her \$1 two days afterwards on her asking for it. One of her boarders, Hawkins, an Englishman, was about to beat Wade on Christmas morning, and told her that he was about to leave without paying. Wade left on Tuesday. Did not send the Englishman to bully him. There is a side door from William street—a private door for Sundays—leading upstairs. The door was only used for Sundays. It is not opened on week-days. There is no lock to it. If Duggan swore that there was a lock to it perhaps there was. Witness knows more of her house than Duggan does. Witness would like to know if there was a lock to Counsel's door. (Laughter). If there was a lock, supposes the key was in it. There are three rooms and a kitchen upstairs. Also another kitchen down stairs. The house was intended for two dwellings. There is a stove upstairs, but the cook-

ing of the house was done down stairs. There were no chairs in the apartment upstairs. There were one or two chairs and a sofa. (Laughter. Mr. O'Reilly having stated that Duggan acknowledged chairs.)

PETER A. EAGLESON sworn, and examined by Mr. M. C. CAMERON—Resided in Ottawa at the time of Mr. McGee's death. Knows prisoner. Is now confined in gaol, does not know for what. Was arrested on 7th April, and afterwards on 16th, and has been in gaol since. Prisoner was in witness's employ in November and till April last. Believes that he went to Montreal in this period. Does not know exactly when. Knows Turner. He was in witness's place after Mr. McGee's death. This might be a week, fortnight, or three weeks after. Does not know who else were present. Witness's brother, clerk, and cutter, were usually there. Nothing was said in witness's hearing by Turner about prisoner. Cannot say when prisoner returned from Montreal.

JOHN DOWNEY sworn, and examined by Mr. M. C. CAMERON—Lives in St. Nicholas street, Ottawa. Does not know the prisoner, personally. Never lived in Montreal.

Mr. M. C. CAMERON—"You must be the wrong person."

THE COURT—"He says his name is John O'Donnell." (Laughter.)

Mr. CAMERON—"Oh, then, you may go down."

The real witness was then brought forward and examined by Mr. M. C. Cameron.

JOHN DOWNEY sworn—Lives with Michael Duggan, in William street, (No. 301) Montreal. Has lived there three years. Was there last December. Never to witness's knowledge saw the man in the dock before. Prisoner never was in their place in Montreal. Has seen Wade before. He was boarding at Duggan's. That was near Christmas. He paid his board, but had to be followed to the depot for the money. Is satisfied that Wade's story of five men meeting up stairs is entirely untrue. Mrs. Duggan had as boarders then, a boy named Hynes, one Hawkins, an Englishman, Wade, and witness. The prisoner was not there then. Witness never saw him. Duggan is and was then a gauger. The house was a grocery. Does not know if Duggan was there when Wade came. Thinks he returned home a few days after. There were no other persons about the house. Wade sat some times up stairs, some times below. They got up stairs through the shop, except on Sundays. Wade slept in one room up stairs, witness and Hynes in another, Duggan in the third. The fourth was unfurnished, except for a stove, a table and a few chairs. It was not used, nor lighted at night. It might have been twelve feet square.

Cross-examined by Mr. O'Reilly—There was no lamp there. One was carried there at night when they were going to bed. There was no sofa there. There was a sort of bunk. There was a sort of lock, a bad one, to the Sunday door, which might be opened from outside. Persons could not enter by this door without being noticed by persons in the shop. Witness was always in the shop in the evenings except Sunday evening. Christmas eve was not a very busy night in the shop. Witness was employed there making up books until 10.30 p. m. The business was mostly "on tick." Duggan was not up stairs. Does not know where the key of the Sunday door was. It was often lost for days together. The room up stairs was the main sitting room (laughter.) No one in particular sat there. Never knew anybody sit there but the boarders.

Mr. O'REILLY—"You said just now it was the main sitting room."

Mr. M. C. CAMERON—"He said it was a 'mean' sitting-room. You are an Irishman and ought to have understood what he meant."

WITNESS—"I meant it was a sort of low sitting room." Duggan came home about a few days before Christmas. Thinks Wade had been three or four days there before Duggan came back.

Mr. M. C. CAMERON—"Duggan represented that he had been absent from town for 14 months before that time. His return before Wade's arrival was his permanent return, not that from a short subsequent temporary absence at Prescott."

Mr. O'REILLY—"You can put that to the jury by and bye, Mr. Cameron."

Examination continued—The back door of the mean room was always nailed

to keep the children in. Never knew that the nails could be drawn. There is an outside stairs leading to this door. If the nails were drawn from the inside a person might come in from those stairs. There was no one there on Christmas eve, that is upstairs. Duggan could take his liquor, anything that came to his hand. Liked gin best. His swiping was the cause of his quarrel with, and long separation from his wife, while he lived in a hotel in town.

Mrs. MARY ROGERS, sworn and examined by Mr. McKenzie.—Is married, and has a family. Was living last December opposite Duggan's house in William street, Montreal. Was often in there, being like a sister to Mrs. Duggan. Was there about Christmas last. There were boarders there then—all of whom witness most likely knew. Never saw prisoner in her life. He could scarcely be at Duggan's without her notice. Saw Wade there often. Saw him the first day he came there.

Cross-examined by Mr. O'Reilly—Has three children; no servant. Always brought the children with her to Duggan's. May have been up stairs in Duggan's in the day time. Was not so at night.

SUSAN WHEATLEY SWORN and examined by Hon. J. H. Cameron.—Lives in Ottawa. Knows Eagleson's establishment. Knows a man named Turner. Recollects being at Eagleson's once when Turner came in there. This was the day after Mr. Whelan's arrest. Witness going into the shop, then heard Turner say that poor Jim was the last man he would suspect of the murder. Kinsella and Rowsell were in the shop, but witness cannot say whom in particular Turner addressed. Turner also said that he would swear his grandfather's life away for half the money. Pat. Eagleson, young Goulden, and other gentlemen whom witness did not know, were present. Witness went away with these words of Turner in her ears. Is certain of the words and the date.

Cross-examined by Mr. O'Reilly.—Witness came to give her evidence of her own accord. Told Mrs. Whelan she would come. Never had been examined as to what she would swear. Mr. O'Farrell had not asked witness what she would swear to. He asked if she was the person named by Mrs. Whelan. Told Mr. O'Farrell that Turner had said that. Mr. O'Farrell had told her to tell nothing but the truth in court. Nothing was said about money. In Eagleson's store, Turner had said he would swear his grandfather's life away for half the reward, which was either \$10,000 or \$20,000. Did not hear Doyle's name mentioned, nor about \$16,000. Nor of his leaving the country.

To Hon. J. H. CAMERON.—Has no doubt whatever of the statement of Turner that he would swear away his grandfather's life for half the reward.

Mr. O'REILLY.—But there was no reward offered at the time. That's enough. (Laughter.)

JOHN WHITE sworn and examined by Hon. J. H. Cameron.—Lives in Hull. Was in Eagleson's shop the day following Mr. McGee's murder. Turner came in there while witness was there. Never saw him before. He said then, "So Jim's arrested." Some one said, "What Jim?" Turner said, James Whelan. It was a shame to arrest him. He would not do harm to anyone. He also said that he had heard one of the members say at the Revere House that the Government had offered Doyle \$16,000 to give information. Some one said that that was a great sum. Turner said yes, that he would swear his grandfather's life away for half the amount. Heard nothing more of importance.

Cross-examined by Mr. O'Reilly.—There had been something said about a reward before Turner came in. Nothing was said of getting \$10,000 or \$20,000. Turner only spoke of \$16,000 for Doyle who was to be sent out of the country with his family. Does not know Kinsella or Doyle. Witness's brother was there. He used to work on the Hill, and was arrested afterwards. Rowsell was there, and Goulden. Had no business there that day. Merely went in there for gossip and enquiry, not to get clothes. Had got clothes there before, but was not doing so then. Had dined between 12 and 1 with his brother. Rambled round afterwards, and got to Eagleson's between 1 and 2. Remained there 45 minutes or an hour, and went thence to the Government workshop, returning to Eagleson's later in the day for news. This was the day following the murder of Mr. McGee. Thinks it was Wednesday. Believes he was down at Eagleson's on the day of the murder

also, and may have met his brother there, and spoken to him of the murder. Does not know where Whelan was then. If witness was there on the day of the assassination it must have been in the evening.

[Mr. O'Reilly having asked how it was that Eagleson's was headquarters for news about the murder, Mr. M. C. Cameron submitted that the Crown prosecutor should not put words into the witness's mouth.]

Examination continued.—Had no knowledge whatever of the prisoner at the bar. Never met him in the society, and was not marshalled by him on St. Patrick's Day.

To Hon. J. H. CAMERON.—Has no doubt whatever of Turner's words.

WILLIAM WHITE SWORN, and examined by Hon. M. C. Cameron.—Lives in York street, Ottawa. Knows Eagleson's, and knows Turner. Saw him at Eagleson's after the prisoner's arrest. The day after. On Wednesday. Turner said that that he was very sorry for Whelan's arrest. That he had always found him a very decent man, and never heard him use any threats. He remarked also that he had heard at the Revere House a member of Parliament say that the Government had offered Doyle \$16,000 to tell what he knew, and that they would send him and his wife and family wherever they desired to go. Some person present said that it was a very large sum. Turner said he would swear his grandfather's life away for half the money. Witness recollected the words from having heard Turner swear quite differently at the police investigation. Had been arrested and discharged.

Cross-examined by Mr. O'Reilly—Had gone to Eagleson's that day after dinner, and remained there about an hour and a half or two hours. That was about 12.20 p. M. Went there on business, to get some clothes. Witness's brother was with him, but had no business there. [Mr. O'Reilly stated that the other White had sworn that neither of the brothers had any business there. Mr. J. H. Cameron denied that the former witness had spoken for any but himself. Mr. O'Reilly appealed to the Judge's notes from which it appeared that no such question was recorded. Mr. J. H. Cameron complained of being rudely interrupted by Mr. O'Reilly, and there was some exhibition of warmth exhibited, calling for the Judge's request to Counsel to keep silence.] Witness remained at Eagleson's, not finding his clothes finished. Does not remember Doyle there. His brother and him were then on their way up to get their tools from the Government workshop. Thinks Kinsella was there. Did not notice a young girl there. First met Whelan at St. Patrick's Hall in the winter. This was at a meeting of the society. Not when Whelan was elected marshal. Was not there when Whelan joined. Did not see Whelan on the Tuesday. Was not in Eagleson's that day. Was there on Monday night. Peter Eagleson, Keogh and Whelan were there. Nobody else but witness. This was between 7.30 and 8 p. m. Cannot recollect how Whelan was then dressed. Cannot say what they were talking of. Did not hear of Mr. McGee being about to speak. Witness remained until 9.40 p. m. Whelan left about 8 p. m. Is not certain of the hour. Cannot say how long Whelan was there. Did not speak to him at all. Was not speaking of business, nor of the affairs of the society. Frequently went in of an evening to see the paper. Cannot tell of anything that was said that evening among them all. That was the last time witness saw Whelan before his arrest. Did not meet him at all that night. Was not near the Parliament buildings after 6 p. m. that day. Did not see him (Whelan) again until witness saw him marched up by the soldiers to the inquest on the Hill. That was on Wednesday. Does not know at what hour. Witness was at the corner of the street. Was not talking of McGee's death on Wednesday at Eagleson's until Turner came in. Was there for an hour and a half talking of nothing. Simply asked for his pants and vest which were not finished, and then remained silent by the counter. Cannot give any information as to the conversation that day, except Turner's words. Knew Mr. McGee; was not much opposed to him. Has not expressed unfavorable opinions of his policy. Has been collecting money at the Chaudiere for the defence of Mr. Whelan.

To Hon. M. C. CAMERON—Witness had been himself arrested, and knowing that he was charged unjustly was disposed to assist Whelan.

To Mr. O'REILLY—The last time witness had been collecting was on Thursday last. [Mr. M. C. Cameron objected to the question as to how much money witness had collected, and it was not pressed.] There were two Turners present at Eagleson's on the Wednesday. The other one was a clerk in Mr. Lyon's store. It was of witness's own motion he commenced collection for Whelan. Mr. Lyons collected with him. [Mr. M. C. Cameron objecting to some of this cross-examination, was told by the Court that the witness was competent to protect himself.]

JAMES KINSELLA being sworn—Said he is under arrest. Does not know what for, at one time he was told it was for Fenianism, at another for shooting Mr. McGee. Had been five months at the Russell House, before Mr. McGee's death, as waiter. Was at Eagleson's the day after the death of Mr. McGee at about four o'clock, was not there very long. Knows Alex. Turner, the waiter. He came into Eagleson's that afternoon. Other parties came in, whom he did not know. Knows one of the Whites, but does not know whether he was in then. Turner did not say anything in reference to Whelan at that time. Whelan was not then arrested. Had a little business at Eagleson's that afternoon. Whelan was arrested the same evening. Witness does not think was at Eagleson's on the day following. If he was there, he does not remember it.

Cross-examined by Mr. O'Reilly—It was on Tuesday that the conversation took place about the reward. Some party said the reward was very high, and Turner said he would swear away his father for half the money. Did not say his mother or his grandfather, but his father. This conversation took place on Tuesday afternoon, about four o'clock, but was not positive as to the time. Could not say whether the taller White was there. Believed Goulden was there. Did not see Whelan on Monday. Was at the Russell House on the Monday from about seven in the morning until about eleven in the day. Could not exactly say how long it is since he has become acquainted with Whelan, but is more than a year. He made his acquaintance in Montreal. Knew Doyle, and had seen him with Whelan. Had gone with Whelan himself. Had gone with him to Scanlan's, and also with Turner. Turner and Whelan were a good deal together. They seemed to be great friends. Had played cards twice at Scallan's with Turner and Whelan. Does not remember to have seen Murphy there. Witness came from Montreal to Ottawa on the 13th of November. Does not know when Whelan came. Whelan came here some time before witness saw him. Whelan often came to the Russell. Had sometimes seen Whelan and Doyle talking together in the carving room, but not in the glass pantry. There is only a passage between them. It is but a very small distance from the pantry to the carving room. Had seen Whelan there talking with Doyle several times; could not say when was the first time, nor how many times he had seen them. Doyle and witness came together to Ottawa, and went to the Russell House on the same day. The first time they came, they put up at Mrs. McKenna's. Doran was there. Alex. Turner was the first who told him that Whelan was in town. The first time he saw Whelan was on the street, the next time in the carving room of the Russell House. This was not a fortnight from the first time he had seen him. It was a week after and more before he saw him there again. He saw him then in the carving room. Had never seen him in the glass pantry. Did not know how he came in, he did not come through the dining-hall. He may have come up the back stairway. Witness had seen him going out by that way. There were several waiters there, when Whelan was in. Could not say whether Doyle was among them. Could not say when he next saw him there. He (witness) had only seen Whelan there four or five times altogether. Did not remember when Whelan left for Montreal about Christmas time, nor when he came back, but it was after the holidays. Did not remember when he had seen Whelan in the carving room the third time. It was in the day time, about ten o'clock. Had seen Whelan the last time before the murder a couple of days before it occurred, at Eagleson's. Was at the Russell House on the night of the murder, but did not see Whelan there. He (witness) was home before

eleven o'clock, having gone straight home from the Russell House. He did not go up to the Parliament buildings that (Monday) night. Could not say how long before that since he had seen Whelan at the Russell House. Does not remember when Doyle came home. Witness left Doyle at the Russell House. Witness heard of the murder, because Doyle woke him up and told him of it about three o'clock in the morning. Witness left for Montreal at noon, on the Thursday after the murder. Never discussed any matters of politics with Whelan. Does not remember having said that Turner was a traitor. Remembers that Turner had said that Whelan was a Fenian. Witness never told Whelan that Turner had informed Mr. McGee of the threats made against him at Scanlan's. Left the Russell House because he was wanted in Montreal. Had told Whelan he was going to Montreal two weeks before that time. Did not see Whelan on the Tuesday after the murder. Does not know whether Whelan called at the Russell House to see him. Did not see Whelan there, though he wanted to see him. Witness then went to Whelan's boarding-house, at Michael Starr's but did not see him there. To the knowledge of witness Whelan was not at the Russell House that day. Witness knows nothing of the talk said to have taken place at Scanlan's. Never went to McGee's house with Whelan; never heard Whelan say anything about plot against McGee's house. Has heard Whelan say he knew McGee when he saw him in the corridor. This was in the corridor of the gaol here. They (witness and Whelan) were there together for some weeks—about seven cells apart. They could talk to each other at that distance. Had spoken to each other on several matters. Whelan complained that he had been put in wrongfully, that it was too bad for him to be in there for shooting McGee when he did not know anything at all about it. Witness believed Whelan to be innocent. Whelan had never told him where he was on the night of the murder. Thought he told him he was out drinking with a fellow that night. Does not remember that Whelan ever told him anything of where he was that night, except that he was drinking with one Marshall. Could not say what conversation Whelan and he ever had about how McGee came to be killed. Does not remember that they had ever said anything about it. Does not exactly remember what Whelan said to witness about McGee's murder. Witness (after severe pressure) remembered that he damned the man who did the deed, and Whelan said he damned him too. Whelan said of young McGee that he recognized him, he (Whelan) having gone to his house with a letter. Witness does not know what Whelan did with that letter, or whether he said he had delivered it. Does not think that Whelan ever told him when he had gone to McGee's. He had told witness that he had a pistol, and that one of the barrels went off and hurt the girl's arm. Never had a pistol himself, and never saw a pistol with Whelan. Never knew of Whelan and Doyle meeting each other at Mrs. McKenna's. Heard nothing about the progress of the trial while in jail, except what was told him by the turnkey. Knew a prisoner by the name of Hess, but does not know that he and Whelan ever had a conversation. Never spoke to Whelan about conversation between Whelan and Doyle, which had been published. It was known among the prisoners that Cullen had made a statement which was published, but does not remember having spoken to Whelan about it. Remembers Whelan having said there was a statement in the papers, but he does not know what it was about. Whelan was not then talking to him, and witness could not say to whom Whelan was speaking. Witness might have warned Whelan not to speak, lest he might be overheard. Does not know whether he did or not. Does not know any reason why he should have done so. Does not know whether Whelan made any statement to witness about the affair. Does not know whether he would have remembered it or not, provided it had been made. He does not recollect of any such statement.

To HON. M. C. CAMERON.—Whelan always professed to be innocent of the crime charged against him. The carving-room of the Russell House would be pretty well filled by half a dozen waiters at work, and there would be little chance of carrying on a private conversation in it, except by whispering. There were

about twenty waiters at the Russell House. They dined between twelve and one o'clock. Does not remember how the door of the dining-room was usually kept. During the time of carving, the door of the carving-room was left open. There was a passage down to the kitchen from the door of the carving-room. Doran was the head-waiter at the Russell House at that time. Never knew that Turner had communicated any information to Mr. McGee. Never heard any threats by Whelan or anybody else towards Mr. McGee.

PATRICK EAGLESON sworn and examined by HON. M. C. CAMERON—Lives in Ottawa. Has lived here about eight years engaged in the dry goods business, as clerk to his brother. Knows Alex. Turner. Has seen him in Peter Eagle-son's store. Turner was a waiter. Saw him after the death of Mr. McGee—the day after—second day after—on Wednesday. That was at the store, and after dinner, about 2.30 p. m. There were present Mr. Rowsell, the two Whites, and Goulden, also Kinsella. Is pretty certain Kinsella was there. Turner said then, "So James is arrested!" Witness said, "What James?" Turner said, "Poor James! he was very sorry for him; that he was not a man to do a thing like that, that he would not hurt any person no more than the child unborn. That he (Turner) had known him for a long time. Turner said also that he heard an M. P. say at the Revere House, that the Government had offered Doyle \$16,000 to tell what he knew about Whelan, and a free pass to any part of the world for himself and family. Some one remarked that it was a large sum. Turner said yes, Doyle was a bloody fool if he did not take it; that he (Turner) would swear his grandfather's life away, or would hang his grand-father, for half the money. Witness was at the store till 7.30 p. m., on the night of the murder. Then went down Sussex street with the intention of going to a meeting. Met some young men at Lapierre's door, who asked him in. Lapierre's is a hotel. Remained there till early in the morning, when the constables heard the report of the assassination. They heard it from the messengers from the buildings. The police were Pinard and Jordan. They had come in about 10.30 or 11 p. m., and had gone out again in search of some parties who had assaulted Mr. Mosgrove. They came back about 1.30 or 2 a. m., and were in the house an hour before the news of the murder came. They were talking and enjoying themselves. They were drinking—something more than water. One of them played a few games of cards. That was Pinard. It was not for any stakes. There is no doubt whatever of that. Lapierre and Germain were present. Witness was playing with Germain, who was teaching witness "Seven up." Stopped playing when the policemen entered, and Pinard asked witness to play a game of "forty-five," and witness did so. When the news came witness asked Lapierre to go up street with him. He would not. Witness then started alone after the police. Met a man opposite Mr. Storey's who said that he was a bar-keeper in the Buildings. The man said he had heard nothing. Met Maloney, a printer, running very fast near Wilkinson's flour store. Asked him what was the matter. Maloney said Mr. McGee was shot as dead as a herring. Witness was himself arrested, but finally discharged.

Cross-examined by Mr. O'Reilly—Saw Whelan in Eagle-son's store on Monday a few minutes before eight p. m. He was leaning against the counter reading a paper. Never saw a pistol with Whelan. Has collected no money for this trial. The first news brought to Lapierre's, witness understood to mean that McGee was mobbed, not shot. Witness did not say then that Cartier would be the next—let him look out! Witness said nothing but "My God!" Did not drink too much that night. Was six hours at Lapierre's smoking cigars, and drinking different sorts of drinks. Was playing for the drinks latterly. The shutters were up. Witness did not say "Is he got at last?" Never said anything there about McGee or Cartier. Was a member of the St. Patrick's Society. Met Whelan once at a party at the Hall. Was not present when Whelan was proposed as marshal. Was not more intimate with him than with any other workman. Did not propose him as marshal. Understood that he was made marshal because he was a good horseman. Went to bed about five o'clock on the morning of the murder. Got up about nine. Was in the store only a few minutes on Tuesday. Did not see Whelan that day. Witness did not go to the

store because he was arrested at 9 a. m., and not freed till 10.30 p. m. Was at the shop on Wednesday. Generally went about seven in the morning. Did not send things to Whelan in gaol, and does not know who did. Did not subscribe or collect a shilling for the defence.

FRIDAY, 11th September, 1868.

Mrs. SCANLAN sworn, and examined by Mr. McKenzie. Lives at the corner of Durie and Hermine streets, Montreal, where she keeps a grocery and tavern. Her husband is in the employ of the Grand Trunk Railway, and is in the volunteer force. He is absent all day, and witness attends to the business. Her house has a bed-room and kitchen besides the store. Knows the prisoner, and also Alex. Turner. Remembers McGee's election. They were both in the habit of coming to witness's house at the time. Turner came to drink. Prisoner's wife came for groceries. Witness often heard the conversation passing between prisoner and Turner. Never heard prisoner make any threats against Mr. McGee. They generally sat at the bar. The house is all one flat. The kitchen adjoins the bar-room. They went in there sometimes. If witness was attending her business outside, she could not hear what went on inside. Her house was not a resort for Fenians, and there never was a meeting there. Her husband is a loyal man. The witness Inglis was often at her house, and thinks he would speak the truth of it.

Cross examined by Mr. O'Reilly—Takes no special interest in prisoner. Did not give any money for the defence, nor aided it by taking tickets for the picnic. Did not send him any things. Murphy, Doyle (once), Kinsella, and Enright have been at her house.

To Mr. McKenzie—Doyle was there but once. The others had no meeting there, but came in for drinks merely.

To THE COURT—Inglis was often there with Whelan.

MARTIN O'GARA sworn, and examined by Hon. M. C. Cameron—Is the police magistrate of Ottawa, and took the depositions of the witnesses for the prosecution. Took some statement in writing from the witness J. B. Lacroix, does not know whether on oath or not, and handed it to Mr. O'Reilly.

Mr. M. C. Cameron—Now Mr. O'Reilly I ask you for that statement.

Mr. O'Reilly—It was not taken before the prisoner.

Mr. M. C. Cameron—I did not ask you that. I want the statement.

Examination continued. (Mr. O'Reilly meanwhile searching for the document.) The statement now shewn me is not the first one I took and gave to Mr. O'Reilly. The first one was very shortly after the murder. Cannot say how long a time elapsed between taking the two. Do not remember the dates. The first was taken before, and the second after, the prisoner's committal. There was more than eight days' interval between the two. There had been an adjournment of the examination for eight days.

To THE COURT—The first statement was made pending the adjournment.

To Mr. M. C. CAMERON—The first adjournment (witness here consulting the depositions) was on 9th April. The committal took place on the 18th April. Witness gave Mr. O'Reilly the first statement of Lacroix, and spoke to him also on the subject. It had taken place in Mr. O'Reilly's absence. The policeman Pinard and Jordan made a statement to witness about Lacroix on the night the latter was first brought in. Thinks that they represented the main facts of Lacroix's evidence as given in court by the latter. What Lacroix did say was reduced in writing. He gave his statement in French, Pinard interpreting. Pinard was not sworn as interpreter. Witness does not understand French, and took Lacroix's statement as Pinard represented it. The second statement, witness thinks, was interpreted also. By the depositions witness finds that Pinard then interpreted also. As a matter of fact remembers that Pinard first gave him information respecting Lacroix. Will not swear that Pinard was interpreter on this first occasion, but presumes so. [Depositions of Wm. Graham handed to witness.] This is in my hand-writing and signed by Graham. [Mr. O'Reilly here expressed a hope that no witness for the defence might be allowed to be present. Two had just been turned out.] It is represented in

these depositions that prisoner had given Graham four tickets and gone up four times (to the gallery) on the night of the murder. Believes that this is the evidence Graham then gave. Believes that he (witness) wrote down correctly Graham's first description of the prisoner's clothes, which does not tally exactly with his evidence in court. Took the depositions down with as much care as possible, and read them over to witness. The deposition states that prisoner wore a light coat and pants, and that Graham could not remember what sort of hat. This was in the House on the night of the murder. The word "colored" is interlined after light in the depositions. This correction was made before witness had signed it. It seems, therefore, to have been read over for correction before signature. It was the colour, not the material that was light. [Graham swore in court that the coat was dark, and that Whelan had gone up to the gallery only three times, with three tickets.] Witness took down Turner's deposition also. Thinks upon the 15th April. Don't remember if Turner was before him prior to that. Saw him with Mr. O'Reilly, but did not take any of his evidence then. [Deposition of Turner here examined by witness.] There is no conversation mentioned in Turner's deposition, as having been overheard by him, between prisoner and Doyle at the Russell House. Mr. O'Reilly examined Turner. Mr. John McGee was examined. Was not examined until after Turner. Immediately after Turner, on the same day. Mr. McGee's deposition refers to a visit from Whelan to his brother's place in Montreal and the giving of a letter there. There is no deposition of policemen Pinard and Jordan among these. Does not recollect any being made.

Cross-examined by Mr. O'Reilly—Lacroix's first statement was made after the adjournment of the examination on the 19th. There was no examination before the prisoner again until the 15th. Lacroix's statement was taken at the lock-up. Not under oath, and not signed. It was rather a memorandum for witness's guidance, and Mr. O'Reilly's information, not a formal statement. [Mr. M. C. Cameron here stated that he could cite authority to demand production of such a statement.] Told Mr. O'Reilly the particulars on his return. Mr. O'Reilly at once directed the police to search for Lacroix. He was brought in after Whelan's committal. Lacroix's second deposition was not taken before Whelan. It was taken in French, Pinard interpreting as he generally does. There was nothing unusual in his acting as interpreter on this occasion.

Mr. O'Reilly was understood to state that no affidavit of Lacroix had been withheld from the defence as had been stated. [He also was understood to deny possession of Lacroix's statement.]

Mr. M. C. Cameron had desired to have Lacroix's first statement. There was a great deal of prejudice against prisoner, and everything tending to clear up the case ought to be produced.

MICHAEL CASEY sworn, and examined by Mr. McKenzie—Has been in jail for eight months for stealing a watch. Knew a prisoner named Robert Hess. Hess and witness went into the corridor with the dinner for prisoner. Hess said it was good enough for the latter, who would have his neck stretched one of these days. Has heard Hess said subsequently that the Sheriff promised him the best suit of clothes in the city if they cost \$50. Does not know if that was in reference to Whelan.

Cross-examined by Mr. O'Reilly—Has been in gaol once before for stealing, and two or three times for drunkenness. Never sent up anything to those who are called the Fenian prisoners. Does not know if he is under punishment for having done so. Has been allowed to assist the cook in the kitchen, but was sent out of it by the gaoler on account of such an accusation. Never confessed it, or expressed contrition for it to the gaoler.

JAMES YOUNG sworn and examined by Mr. M. C. Cameron.—Resides in Montreal. Has known Michael Duggan for six years. Has boarded at his house. This was in September last—for three weeks or so. The house was at the corner of William and Mondelet streets. Slept there as well as boarded. There were other boarders there. Michael Hynes, Wm. Sherry and Hawkins. Went away after three weeks or so, returning in December. On the day of his return a "mixed-haired" man came into the shop asking for board. Witness remarked

that he was a peculiar looking character. [Reuben Wade here called for in Court.] Did not hear the name. He came in himself and asked for board when inside. The people in the house usually sat down stairs. There were three rooms up stairs, and a kind of passage with a stove used as a kitchen.

To THE COURT.—There was a table there. Does not know if there were chairs. To Mr. M. C. CAMERON—The room was about 12 x 10. Never saw anybody there but the boarders. Never saw the prisoner before now.

Cross-examined by Mr. O'Reilly—Duggan was not at home the first time. Was not boarding there while the old man was there.

Mr. O'REILLY—That will do. Mr. M. C. CAMERON—We will see whether it will do. To the witness—Did you ever board there again? Witness, I did; Duggan was there then. That was in January.

JOHN SHERRY sworn and examined by Mr. M. C. Cameron.—Resides at Montreal in Duggan's House, William street. Has boarded at his house at corner of Mondelet street in December last. Is Mrs. Duggan's brother. Knows a man named Wade. That is the old man—pointing him out. I guess he knows me too. Thinks it was about the 19th December he came to board with Duggan. Never saw the prisoner until last evening. There was never any one except the boarders occupying the upstairs room with Duggan in December last.

Cross-examined by Mr. O'Reilly—Did not drink any in Wade's time. Had the pledge then. Broke it at the time of the fire, coming on spring, having been out in the cold. [A question here put at Wade's suggestion.] It was Hawkins that knocked down the stove one night going to bed. He had not the pledge. Did not associate with him or Wade. Neither of them had clothes enough to cover them. Was not at the election. Was not walking with Whelan at that time. Can easily swear that. It is easy to swear the truth. Did not subscribe for the defence. Is stopping at Starr's. Did not see Mr. O'Farrell there last night. Did not tell any one what he would swear here.

JOHN CANTX sworn, and examined by Mr. M. C. Cameron—Is a carter of this city. Knows Hess (the witness) since about 14 years, when witness worked with him. Has known him in jail. Witness had contracted for the jail water-supply. The most witness knew of him was when they both worked together on the timber. This was but for three weeks. Hess was turned off the timber by the foreman for being quarrelsome and telling tales of the others. Has not known of him since.

Cross-examined by Mr. O'Reilly—Hess is not very strong or powerful. Nothing but human flesh after all. Expects he is human.

JOHN WETHERS sworn, and examined by Mr. M. C. Cameron—Is one of the jurors of this Court. Does not know Hess personally. Witness has lived in Goullbourne; Hess also. Has seen him there. Knows nothing of him but his reputation there. A young man named Wm. McKay told witness that Hess broke a gate on him. Knows nothing of his reputation for truth.

Cross-examined by Mr. O'Reilly—Witness was told to "stand aside," as a juror in this case. Hess never thrashed him. Witness never spoke to Hess. Knows nothing more about him.

JAMES DURAN sworn, and examined by Mr. M. C. Cameron—Was head waiter in the Russell House in January. Was discharged yesterday morning, simply because he came to court to give evidence. Has seen prisoner, but not to know him. Has spoken to him twice in Montreal, and once or twice in the Russell Hotel. Was head waiter at the Ottawa Hotel for five years and a half. Turner was there then, and at the Russell Hotel also with witness. Knows every inch of the Russell House, except upstairs. Turner waited at the Russell from 1st of November to 10th of March. Witness had power to discharge and hire waiters then. If he had not left witness would have discharged him. Witness yesterday morning at 10.30 sent an English waiter, E. Williams—a disinterested party—into the glass pantry to represent Turner washing his hands. The door was left about 16 inches open. Spoke to another waiter (Long) at the head of the stairs, between the carving-room and the glass pantry, as near as possible to the latter without touching the door. Asked

Long "Did you get up those stores? Is everything all right? Are you sure of that?" Spoke nearly as loud as now to Counsel. Williams, inside, told him that he could hear only the sound, not the words. Witness did not go in himself. Thinks there was a girl washing things in the pantry. Everything had been made as silent as possible intentionally. The waiters are all supposed to be on duty at noon, lunch going on till two. There were nine waiters and witness in January. All the waiters are in and out the glass pantry from time to time. There is a girl whose business it is to be always there. Unless she were absent on other business she would be there from 10 to 1. At lunch time (these hours) the doors of the carving-room and of the pantry should be open. The door of the passage is opposite the pantry door. The other doors should also be open, from the glass-room to the carving-room, and to the dining-room. The steward carved in slack times. The waiters dine in the carving room at their own table. The meats come from the kitchen to the carving-room. The head of the stairs is between the carving-room door and the pantry door. That place, between 12 and 1, would be secluded. Persons speaking there would not be heard in the pantry. Persons in the passage could not be seen from the pantry with the door ten inches open. Not through the "crack" thus made. Witness tried the experiment yesterday. The door should be opened nearly half. The door of the pantry to the passage opens to the right going in; to the left coming out. The place for washing dishes (a sink) is right behind the door. It is not for washing hands. Witness made this experiment before he was dismissed. The Hon. Mr. Cameron tried it, too, and asked witness to try it.

Cross-examined by Mr. O'Reilly—Did not suggest the experiment to Mr. O'Farrell. The "disinterested party" witness sent in was Williams, who waits on the Judge. The "interested parties" are the Counsel for the defence. Did not himself suggest it in the first instance to anybody. Used the words "disinterested" from having read the newspaper reports. Has seen many persons conversing in the passage. Never saw Doyle and Whelan there, nor in the pantry. Saw them in the carving-room about five feet away. Came to Ottawa on 7th November. Came with a young man, James Fitzgerald, another young man, and witness's family. Doyle was not with him. Doyle came about the 13th November. Witness telegraphed to him that day. Witness has been here without absence since November. Telegraphed also for Kinsella. This was with the proprietor's consent. Thinks he has seen Mr. McGee here in November. When Doyle and Kinsella came up they stopped a few days with Mrs. McKenna. They afterwards went to board at witness's, and were boarding there when Mr. McGee was killed. First knew Whelan in the fall of 1867. Had no intimate acquaintance with him. Saw him half a dozen times at the Russell House—more in company with Turner than anybody else. Also with Doyle. Turner was generally present when Doyle and Whelan were together. This was principally to the carving-room. Witness sent many letters to the prisoners in the gaol with his (Counsel's) permission. Has sent refreshments there. Would send anything a particular person wanted—not Whelan. Takes no great interest in the trial. If he did would not be here. Has no prejudice regarding it. If he had so on the Crown side he would be all right.

JOHN DUGGAN sworn, and examined by Mr. M. C. Cameron—Resides in Montreal. Is an advocate there. Michael Duggan is his brother. [Mr. O'Reilly here objected to a question as to whether witness ever said to his brother that "two inside and two outside would be sufficient," Mr. M. C. Cameron proposed to put the question to contradict the inference sought to be drawn from Wade's evidence. Hon. J. H. Cameron maintained the same view, arguing that the question was legitimate. The Court allowed the question.] Witness never told his brother anything about two outside and two inside being enough for anything. Never used any such expression.

Cross-examined by Mr. O'Reilly—Was not one of the Committee who expelled Mr. McGee from the St. Patrick's Society. Did not assist in the expulsion.

JAMES FITZGERALD sworn, and examined by Mr. M. C. Cameron—Has been a waiter at the Russell for eight or nine months. Came there in November with James Doran, head waiter, from Montreal. Was discharged yesterday, he sup-

poses, for having come to court to give this evidence. Witness asked the reason of his discharge. Mr. Gouin said, "Fitzgerald, I have nothing against you, but I am compelled to do so." Witness tried whether speaking in the passage could be heard in the pantry. He remained outside while Long was washing his hands. Voices must be very loud and plain (especially when the hot joints surrounded by escaping steam, are in the carving-room) in the passage, to be heard in the pantry. There are always waiters passing in and out of these passages and rooms. There is almost always a girl in the pantry from morning to night. January is not a very busy time. The girl does not come down so early, but her business there is the same. Lunch always goes on from noon to 2.30 or 3 p. m. Has stopped three days in prisoner's house in Montreal. This was the first time witness came to know him. Has seen him often in the Russell, enquiring for Turner, Doyle or Kinsella.

RICHARD QUINN sworn, and examined by Mr. M. C. Cameron—Lives in Ottawa. Has done so for ten years and some months. Knows the prisoner. Saw him at the House of Commons on the Monday night Mr. McGee was shot. Saw him about 11 p. m., standing up in the east gallery, two or three seats from the front. The gallery was crowded. Saw him next coming under the tower, as witness came out about 12. Prisoner was then returning to the House. Reuben Lawrence was with witness then. They had all been in the gallery together. Prisoner and witness were there when the House adjourned. Prisoner walked down among the crowd before witness. There were about thirty people in the gallery at adjournment. Saw prisoner last outside the House going eastward. Witness went straight down. Witness lives next the theatre, nearly opposite the West Departmental Buildings. When witness got near the Western block going home, he heard a noise as of a fire-cracker. Was then on the plank sidewalk within the grounds. Left the grounds by the west gate. Witness observed two or three people before him, as he went out. There were persons going along the walk before him going westerly. There were none behind him as he left the grounds. Knew nobody whom he saw leave by the west gate. Had left Whelan behind. Is satisfied he was not one of these persons. One party went down O'Connor street. Witness also was charged with McGee's death, was taken into custody and released. Did not know Whelan till he came here. Knew him about three months before his arrest. Is satisfied that the noise he heard resembled the report of a fire-cracker. Witness was then nearing the western block. Imagined the noise to be somewhere near the theatre.

Cross-examined by Mr. O'Reilly—It was about 10 p. m. when witness went into the gallery that night. Did not see Whelan when he got there—not till nearly 10.45 p. m. Has known Reuben Lawrence since he has been in Ottawa. He was one of the marshals on St. Patrick's Day with Whelan. Never saw him in company with Whelan. Lawrence came to the House with witness. Witness heard that McGee was to speak that night. Heard it in the street meeting many people going to the House. Lawrence keeps a shop at the corner of York and Sussex streets. Witness went to Lawrence's before 10 p. m. Told Lawrence he was inclined to go to the House. Would have gone whether McGee was to speak or not. Had heard that he would do so. Heard it after nine. Whelan was standing north of witness and Lawrence when witness first saw Whelan. They were all standing up, not having been able to get seats, about five or six feet from the front. Whelan was ten or eleven feet from witness and Lawrence who were close together. Witness left the House about 12, and met Whelan coming in under the tower. Spoke to him then. Bade each other good night. Did not ask Lawrence if he was going home. Asked them both if they were not going in. Lawrence said he was going home, having to get up to work early. Witness said to Whelan that he was returning. Did return in a few moments, a few feet behind Whelan. Witness had occasion to go out. Whelan delayed a short time for witness at the door. Had met him first at the buttress. Whelan remained inside the door for witness, who had told him he was going back, and both went up to the gallery together. Lawrence had gone home. Whelan got a seat, third from the front, when they went in. Witness stood up

within two or three feet. Prisoner seemed to go off in a sort of slumber shortly before the adjournment. Witness had got a seat before the adjournment. Witness does not say prisoner was asleep, but drowsy, and seemed to slumber. Drowsy is the word most applicable. He was about twenty minutes drowsy. [Mr. O'Reilly here created a laugh by leading the witness to say that Whelan "woke up" before the House adjourned, claiming thence the admission that prisoner had slept.] Witness was listening to the speeches, and was to the left of prisoner. Witness was at the extreme left of the gallery. Prisoner could not have left the gallery without witness seeing him. He did not leave. Prisoner was paying attention to the speeches, about 11, 12, and 1 o'clock, and never left the gallery, nor his seat, between midnight and the adjournment. Witness came down the stairs, and out of the porch about six feet behind prisoner. Witness did not see the latter lean against the porch and look towards Buckley. Prisoner went out straight, disappearing eastward. Witness walked at the ordinary pace, straight home. Did not leave instantly on the adjournment. Waited until a good many got out before him. Knows nothing at all of what Downes says. Heard of McGee's murder at 6.30 or 7 a. m. next day. Went to see the body; could not see it, but saw the blood. Enquired the particulars. Saw Whelan about noon that day in the house of witness's mother. Whelan mentioned the arrest of his "boss." Witness asked him no questions about the murder. There was nothing strange in not having done so. Whelan was there some five or six seconds talking to witness's mother. Witness was there, in the bar, when prisoner entered. It appeared that Peter Eagleson had been arrested that day. Whelan said, "It's too bad about my boss being arrested this morning." Witness's mother expressed much surprise at the arrest, and said it was a cruel murder of poor Mr. McGee. Whelan made some remark in reply, witness cannot say what. Witness saw him no more. Prisoner took a cigar and paid for it.

His Lordship here put a number of questions to the witness, relating to the hour at which Mr. McGee spoke, and the time of witness leaving, the answers to which were not easily caught in the gallery. It was understood, however, that witness had left the house, the first time, almost immediately after Mr. McGee had sat down, and had seen Mr. McGee after he (witness) returned. He did not see him after the adjournment. There were several speeches after witness went back, on Dr. Parker's motion. The speeches interested witness.

Cross-examination resumed—Never saw Whelan's pistol. Whelan never told him that he had a pistol. Never spoke to him about a pistol. Did not see Whelan again after leaving his mother's house, until he was arrested. Had no conversation with Whelan then about the murder. Does not recollect prisoner's remarks to Mrs. Quinn. Witness was then a member of the St. Patrick's Society. Was there on the evening when Whelan was elected marshal. Does not know who proposed him. Witness was much interested in Mr. McGee's speech. Is a great admirer of Mr. McGee. Witness's mother takes the *Irish People*. Has been ten months in the States.

Re-examined by Mr. M. C. Cameron—Had no reason to suspect Whelan from anything the latter said at his mother's. He saw many people dozing in the House. Thought it nothing remarkable to see people slumbering there. Is quite certain prisoner was there and left as witness has represented.

PATRICK QUINN sworn, and examined by **MR. M. C. CAMERON**—Is a brother of last witness. Lives with his brother next the theatre. Was out till eleven o'clock on the night of Mr. McGee's death. His brother was out that night—witness believes at the House of Commons. He returned after two o'clock. Witness had been aroused by his dog barking and noted the time. Saw his brother after he returned.

ALFRED BROWN sworn, and examined by **MR. M. C. CAMERON**—Lives adjoining Desbarats' block. The first archway east of the block is between witness's premises and Dr. Brown's. There is a gate to the archway, and two posts in front. The posts are now as they were in April last. The gate of the archway is kept shut and fastened. Witness's men had orders to keep it shut. The gate lead into witness's yard, which is closed behind by a shed. There is no egress behind,

unless over the top of the shed. Witness's clerks were Robert and David McKillar. They are now in Nepean. Witness has no recollection of the gates (there is a small door in the large gate) that night. It was not witness's habit to look to the gates, except in the boy's absence. Witness left it to them to see to this duty.

To HON. J. H. CAMERON—Believes the gates were shut that night. Has no reason to suppose otherwise.

The Hon. J. H. Cameron here addressed the Court stating that the defence had but one more witness which they proposed calling—except one which they might or might not use as they should determine later. This witness had been sent for, but had not yet arrived, having unfortunately missed the train, and being incapable of arriving before that evening or next morning. They had had a telegram from him at Cobourg, saying he was coming on. Under these circumstances Counsel asked the postponement of the further hearing of the case to the following day.

His Lordship enquiring as to the particulars of the expected testimony,

Mr. M. C. Cameron read an affidavit of Mr. O'Farrell's, affirming that this witness Mitchell, had been absent in Cincinnati at the commencement of the trial, and had been summoned thence for the defence, to give evidence, for which he is now on his way, having reached Toronto yesterday.

Mr. O'Reilly asked whether any steps had been taken to secure the attendance of this witness before the trial commenced.

Mr. M. C. Cameron replied that the defence were not then aware of the importance of his testimony. Much of the evidence for the Crown, and all that given by Wade, had taken them by surprise, and they could not tell until the case had made some progress, of the necessity for the attendance even of the witnesses they had brought from Montreal.

His Lordship doubted the reasonableness or propriety of delaying the case from day to day as witnesses might be said to be needed.

Hon. J. H. Cameron urged the unfairness to the prisoner of his being compelled to go on with his defence, in a case where his life was at stake, under the deprivation of the assistance of material testimony which the course of the prosecution had made it impossible to procure earlier.

Mr. M. C. Cameron would have much preferred having been sufficiently aware of the line to be taken by the Crown in time to have applied for a postponement of the whole trial. It would have been far more to the advantage of the defence, and might have given time for the popular prejudice, which now ran so strongly against the prisoner, to subside.

His Lordship finally consented to the adjournment, upon an affidavit being filed to the effect that Mitchell's evidence was considered requisite, and that his presence was expected in court to-morrow.

Hon. J. H. Cameron undertook to supply such an affidavit, believing from his instructions in the necessity for Mitchell's presence.

Hon. J. H. Cameron, with the consent of the Crown, then applied for permission for the jury to examine the locality of the murder, and familiarize themselves afresh with the topography referred to so much in evidence. He read from the act shewing the Judge's powers to grant such permission, and stated that the defence and Mr. O'Reilly had agreed to let the jury go under the guidance of Mr. Geo. Kennedy and the Sheriff, whose duty it would be to see that their visit was used only for the purpose stated.

His Lordship consented, and it was understood that the jury were to go after they had dined.

After an adjournment for this purpose, Mr. O'Reilly addressed the Court, intimating that he found by the second affidavit of Mr. O'Farrell that the evidence expected from Mitchell related to the conversation between Doyle and Whelan, overheard by Hess and Cullen. Under these circumstances he would make no opposition on behalf of the Crown to the proposal for adjournment.

The Court, while consenting to an application to which the Crown had agreed, desired to express the opinion that these adjournments were undesirable, and established a very doubtful precedent.

The case was then formally adjourned, and the prisoner removed, while the jury went to view the scene of the crime. Hon. J. H. Cameron undertook to examine no other witness than Mitchell (if the Crown should object,) with whom he would confer immediately on arrival, and ascertain whether his testimony were really of importance.

SATURDAY, 12th September, 1868.

WILLIAM MITCHELL SWORN, and examined by Mr. M. C. Cameron.—Lives in Toronto. Has just now come from Cincinnati. Was in Ottawa at the time of Mr. McGee's death, working at his trade as cabinet-maker. Has been 18 or 20 years in Canada, living chiefly in Toronto, and has been conductor on the Grand Trunk Railway. Has also been employed on the Northern Railway. Was arrested in Ottawa after McGee's death. Did not know upon what charge until committed. Found then that it was on a charge of Fenianism. Was in jail about two weeks, and then discharged. In jail heard a conversation between Doyle and Whelan. That was on the day the prisoner came from the Court House. After the man from Montreal (Turner) had appeared against him there. Doyle and prisoner were in the corridor next witness. Cannot say whether they were locked up or not. It was near six o'clock that witness heard the conversation. Witness was close to the gate of his corridor, and could hear distinctly what was being said in the other, from which witness's position was not far distant. Did not see prisoner's corridor. Has seen Doyle in prison, and prisoner on the day he was arrested. Doyle was in company with witness (in jail) for about four hours, they being brought down together. Witness was not in a cell but in the corridor, near the gate, when he heard the conversation. Knew Doyle's and prisoner's voice well. Doyle asked prisoner how he got on that day. Prisoner replied, "Damned bad;" that fellow from Montreal (Turner) swore damned hard against him. He (prisoner) said he did not care a damn, however, so long as he got a fair trial. Doyle asked what they could do to him. Prisoner said—nothing; that Doyle need not fear, he had only to keep quiet and he would be safe. Then Slattery, who was confined in the same corridor with witness, asked prisoner the same question, as to how he got on that day. Whelan made the same reply as to Doyle. Whelan then asked Slattery who was in along with him. Slattery said a man named Mitchell was. Whelan said, "Poor b——r." Whelan after that, whistled and sung a little. The conversation lasted ten or twelve minutes. Certainly was not prolonged for three hours. Whelan never said he had shot McGee like a dog, nor anything like it. Could not have said it without witness hearing it. Said nothing about Turner except what witness has stated. Witness had taken the oath of allegiance immediately on leaving the Northern Railway. Was discharged upon the grounds that he had refused to take it as a means of retaining his situation. It happened thus: When the Fenian disturbance arose there was a cry raised by the employes away in camp against the Catholic employes. The former demanded the dismissal of the latter; unless which were complied with, they would not go to work on their return. The manager, Mr. Cumberland, refused to accede to this, but suggested, to make things easy, that all the employes should take the oath of allegiance. Witness declined to do this upon such compulsion. Would have taken the oath willingly at the suggestions of the Directors or Superintendent, but not as the means of keeping his situation, and upon intimidation by his fellow workmen. Was dismissed in consequence of his refusal. Went the following day before Mr. Baxter, a magistrate, and took the oath to show that he was actuated by no sentiment of disloyalty. Went back to the Railway station and told what he had done, when Mr. Cumberland said that he should have done it before, and so kept his place. Witness would not, however, submit to such coercion, and resented the slight so unjustly cast upon his co-religionists.

Cross-examined by Mr. O'Reilly—Witness was standing near the corridor gate between five and six when he heard this conversation. Was locked up in his cell at six. Did not hear any conversation while in his cell. Slattery was with witness in his corridor. Whelan was in the adjoining corridor. Heard pri-

soner singing after the conversation. Does not recollect what he was singing. Nothing like this,

"With the greatest of glee
I heard of the murder of D'Arcy McGee."

He did not sing or whistle the "Wearing of the Green." Did not cheer him. Heard other prisoners cheer him. Is certain Whelan never used such words as those of the couplet in witness's hearing. Witness went last to Cincinnati to work at his trade there two weeks ago. Heard of the trial first by telegraph from Mr. O'Donoghue of Toronto. That was on Tuesday night. The telegraph told witness to come up from Cincinnati to Ottawa to give evidence—all his travelling expenses paid. Witness should have left Toronto on Tuesday night, but missed the train, and did not leave till Friday morning. Saw no one witness knew at Prescott. Did not see Mr. O'Farrell there. Met him at Kemptville; Mr. O'Farrell returning to Ottawa with witness. Met young Egleson also. He returned too. Is positive the conversation took place between five or six. Prisoners were all locked up immediately after. [Mr. O'Reilly here conferred with Detective Cullen.] Supposes it was about 5-30 p. m. [Witness here repeated his former statement of his position at the time.]

To THE COURT—Witness thinks his cell was the fourth or fifth from the gate. Slattery's was the first or second.

HON. J. H. CAMERON—That is the case for the defence, my Lord.

Rebutting Testimony.

Mr. O'Reilly then called witnesses to rebut the evidence for the defence.

ALEXANDER POWELL SWORN—Is Governor of the gaol here. Recollects the evening of the 16th April. Locked up the prisoners at 5-30 that evening. This was half an hour earlier than usual, because witness intended placing Hess and Cullen in the other corridor. The last witness was among those locked up. Kept no memorandum of the fact. Mitchell had been locked up before Hess and Cullen were stationed. That was at 5-30.

Cross-examined by Mr. M. C. Cameron—The prisoner had been some time back from the Court House before Cullen and Hess were stationed. Witness went in with the latter. The other corridor had been locked then. The turnkeys locked it. There were only two in Whelan's corridor, and four or five in the other. Of these Mitchell and Slattery were two. Witness had some conversation with them. Therefore recollects them. Does not remember what the conversation was. Witness said, "Good evening, Mitchell; good evening, Slattery." It was McEwen and Nihil who locked the corridor. Is certain the corridor was locked up before Hess and Cullen were posted. Had intentionally locked the corridor early, because witness had other business to attend to. There is no regulation as to the hours of locking up beyond witness's pleasure. The corridors were never locked up before six on any other occasion. Prisoners in the corridor of Mitchell could hear footsteps in the other. The plan was all witness's own. The Sheriff knew nothing at all about it until a week after. Means that he had been carrying out this plan of detection for a week before. The Sheriff knew of it first this day when he took down Cullen and Hess's testimony. The idea was exclusively witness's own. This occasion in question was the only one witness had been there himself. Hess had been there frequently before, and witness desired Cullen's testimony to strengthen Hess's. Hess and witness had previously heard Whelan singing:

"It was with the greatest of glee,
I heard of the death of the bloody traitor,
D'Arcy McGee,
D'Arcy McGee."

The witness delivered the words of this ditty in recitative.

Also heard him say or sing:

"I furnished my house, and they took me to gaol,
But the bloody villains will have brown beer to drink."

Witness made a memorandum of this circumstance. [Memorandum produced by Mr. O'Reilly, and read by Mr. M. C. Cameron.] The words ran in

doggerel about sweet McKenzie furnishing a house nice and fine, the informer getting down ale to drink, and Mary considering prisoner a broth of a boy. Also about "glee" and "McGee," as before. There were other conversations which witness and Hess also overheard. Did not get Cullen to overhear them, not thinking them of much importance. Got Cullen first because he wished him to interpret some Irish songs. The voice of Slattery or Mitchell cried "bravo" to the songs. [Another memorandum here handed in by Mr. O'Reilly, and read by Mr. M. C. Cameron. This second was taken down by witness, and contained snatches of conversation, not very clearly attributed to any body in particular, but presumedly between Whelan and Doyle, in which the former comforted the latter. Said that Peter Eagleson would provide for Doyle's family. That he would see to that. Eagleson was going to Montreal, and would get \$1,000 from somebody. That it was a damned strong old gaol, but that Whelan could easily get out if he liked. That he would have thrown away the pistol if he had any suspicion; and that there would have been none but for the little black fellow along with the other.] Witness repeatedly affirmed that the listening to the prisoner's conversation, about the corridors, was entirely his own idea, and not suggested by any other person whatever. It was not to corroborate himself he brought in Cullen, but to interpret some Irish songs (Cullen's father had known Irish) from which witness thought something of importance might be gleaned.

(*Re-examination*)—*Mr. O'Reilly*—What McKenzie is that alluded to. He is not the learned counsel here? (Laughter.)

WITNESS—Certainly; did not think so. (Laughter.) Thought it was on the day that Whelan was examined in the Court House that Cullen and Hess were placed in the corridor to listen, but was not positive. Had commenced to watch prisoner's conversation himself for a week or more before that. Believes that the Sheriff had taken down statements made by Cullen and Hess immediately after they left the corridor.

WM. McEWEN is turnkey in the gaol. Remembers the night when Cullen and Hess went into the corridor. Locked up the prisoners that day about half past five o'clock.

TO HON. J. H. CAMERON—Could not say particularly when prisoner was returned to gaol that day. Thought it was a considerable time before Cullen and Hess went into the corridor.

WM. H. FALLS sworn—Went to the Russell House yesterday to ascertain whether conversation could be heard in low tones in the passage of the Russell House from the glass pantry. Went with Detective Cullen and Mr. Dawson. Witness went into the glass pantry and commenced to wash his hands, turning the water on the sink. Detective Cullen spoke to Mr. Burnham outside in a low tone, and witness heard him distinctly. Could see through the opening in the door who were in the passage. The door was open about 18 inches.

TO MR. M. C. CAMERON—Did not try the experiment at ten inches. Did not place the door himself. It was Detective Cullen who did so. Cullen said, "Doyle said to Whelan, have you been up to D'Arcy's. Whelan said yes, and 'his bastard of a brother locked the door and put the key in his pocket.'" When washing his head was about a foot from the door. Supposed the parties standing in the passage would obstruct it.

DETECTIVE CULLEN sworn—Was up yesterday at the Russell House with the last witness, whom with two others, he placed outside the pantry door saying, "You are now Whelan and Doyle for the time being." Witness then went into the pantry to wash his hands, representing Turner. Kept the door open by a broom about 15 or 18 inches. Witness then came out and spoke to the gentleman with him—both being outside, and the last witness having gone inside, witness said in a low tone, "Doyle asked Whelan if he was at McGee's that night. Whelan said yes—that bastard of a brother of his locked the door." Witness then entered the glass pantry a second time, when last witness told him what had been said outside. The sink for washing is 12 inches from the door, to which anybody washing his hands would lean. Such a person could see anybody in the passage night or day. There were girls going in and out of

the pantry. While the last witness was listening the water was running and making considerable noise.

Cross-examined by Mr. M. C. Cameron—Entered the pantry from the dining-room for a short cut. Came out the same way. When witness entered the pantry he fixed the door at the opening he desired, placed the broom to mark the space, went out through the same door to the passage, and then closed the door against the broom. Cannot explain why he selected 15 or 18 inches as the opening. Had not noted that Turner had spoken of ten inches. The wider the opening the larger would be the "crack." Witness spoke unusually low, and stood sideways, about two feet from the door, with his face toward and near the larger opening. The gentleman with him stood looking at witness in the face. They two filled up the doorway, which is about 3½ feet wide. Witness had placed the broom so that no person inside could close the door tighter or try any experiment with it.

Silas Burnham sworn—Was one of those who accompanied Cullen to the Russell House. Witness and Cullen stood outside in the passage while Mr. Falls was inside washing his hands. Witness and Cullen stood two feet from the door, which was twelve or eighteen inches open. Falls was about a foot from the door inside. Witness stood with his back to the stairs, rather behind the crack. Witness then detailed the remarks made by Cullen to him as given by the former.

Cross-examined by Mr. M. C. Cameron—Witness said to Cullen the words, "What did he say?" These were the only words used. He spoke them low. Cullen always speaks slowly and distinctly. Witness afterwards went into the pantry himself, and listened to Falls and Dawson speaking. Heard all that was said. Does not think he and Cullen were obstructing either door. Did not move the door at all to try experiments. Does not know whether a person inside could be seen from the outside. Thinks if that door were to be opened at ten inches, a person inside could see out. Witness did not see any broom.

Edward J. O'Neil sworn—It was 3 a. m. of the 7th April when witness came to Trotter's, where the body of Mr. McGee was lying. Pinard came for him. There was a gateway near Trotter's.

Mr. M. C. Cameron here took objection to this evidence; upon which the defence had evidence to offer also. This of O'Neil's was properly evidence in chief.

Hon. J. H. Cameron argued in favor of the objection. The defence had consented on the previous day to examine no other witness but Mitchell, although having subpoenaed Brown's two clerks to prove their point. These young men had been brought in from the country, and were in court that morning, but had not been called because the Crown had exacted this (J. H. Cameron's) promise (that Mitchell should be his last witness) as a condition of assenting to the adjournment of Friday. If the Crown had given any warning of its intention to call evidence on the point, the defence would have, as of course, offered their testimony upon it. Finally, Mr. Cameron formally objected that the evidence sought to be now put in was evidence in chief, and could not be offered at that stage.

Mr. O'Reilly conceding to the point, O'Neil was told to stand down.

Dr. Hill sworn—Is consulting physician to Protestant Hospital. The girl at Stair's (Laforce) was received into the Nunnery Hospital on 19th February, suffering from a gunshot wound.

Daniel Buck sworn—Had boarded at the Revere House. Knew Turner, who was head waiter there in April. Recollects the day of Mr. McGee's death. Saw Turner at the Revere House that day between 12 and 1 o'clock. He was then attending to his duties. Witness had also seen him early that morning, about seven. Saw him again later on in the afternoon of that day.

To Hon. J. H. Cameron—That was on the Tuesday. Saw him at the house on Wednesday, Thursday and Friday also.

W. H. Sawyer sworn—Is one of the proprietors of the Revere House. Turner was head waiter there at the time of McGee's assassination. Recollects Tuesday 7th, and Wednesday 8th, of April. It was Turner's duty to be in the hotel on

those days between 12 and 2. Will not swear that he was there at those hours. Work would not be over until between 2 and 3 p. m.

To Hon. J. H. CAMERON.—Will not swear that Turner might not have been away within these hours.

This closed the evidence upon both sides. Mr. J. H. Cameron was preparing to address the jury, when one of them expressed a wish to retire. Mr. Cameron then suggested the retirement of the whole body for refreshment, so that the addresses of Counsel might be secured from interruption. This was agreed to and the jury accordingly retired.

MONDAY, 14th September, 1868.

Address for the Defence.

At thirty-five minutes past nine, amid a breathless silence and universally strained attention, Hon. J. H. Cameron rose to address the Jury for the defence. Commencing—"May it please your Lordship: Gentlemen of the Jury: I have never presumed to address a jury in the whole course of my long and varied experience at the bar, upon any case regarding which I felt so deep and so solemn a responsibility as the case upon which I am now about to address yourselves." A great crime, he continued, an undoubted crime, had been committed, a noble name had been blotted from out the roll of the living; the name of a great man who had set a grand example by his wise and patriotic counsels to his countrymen. The country had showed its gratitude to him who had thus fallen by its stern demand for atonement for the crime, and had, by the almost unanimous shout of its press and people pronounced the prisoner at the bar Guilty! He could not, therefore, but be deeply sensible of the great responsibility devolving upon him, and the gentlemen who were acting with him, in examining into the circumstances of the crime. The Crown had, undoubtedly, every right to examine into every motive which could have actuated the prisoner to its commission. They (the Counsel for the defence) had felt that never, in so great a case, had a prisoner come to his trial, for life or death, under circumstances so unfairly arrayed in prejudice against him. There had been, as he had just stated, a shout ringing through the length and breadth of the land, proclaiming, that the prisoner must be guilty, before anything whatever had been adduced in evidence against him. It was an old truth, dwelt upon immemorably alike by Judges and by Counsel for the Crown, that juries should come to the consideration of the cases with whose issue they were charged, with minds wholly unprejudiced, and with no man among them biased by anything which might have been said on either side outside. They (the jury) could themselves determine, because they were intelligent, how far that principle had been acted on here—how far the case of the prisoner at the bar had been freed from such influences as could be brought to bear against him from the clamour of the press and people. The press had been filled with comments upon the course taken in the prosecution of this trial, and the just practice of the Court which enabled them, (the defence) to exclude the presence of witnesses from the court room, had become practically valueless, because the newspapers had, day by day, reported fully everything that had been offered in testimony almost as soon as the evidence had been taken. Therefore, and for all these reasons, was it that he stood there impressed with the solemn responsibility of his position in pleading the cause which did not, just then, find favour with the multitude. The Counsel for that cause had been violently interfered with; their lives had been actually threatened, and anything that could be suggested by popular resentment had been brought into play to prejudice the cause of the man who was now on trial for life or death. It was not, however, upon him the advocate, or upon His Lordship the Judge, but upon them, the Jury, that the responsibility of the issue weighed most heavily. It had been said, and well said, in language which admitted of no doubt, that it was impossible for any man to secure a clear defence, unless his case were to be tried by a fair and impartial jury; unless, too, those who were to act in his defence were permitted to pursue their course without cajolment or coercion, and it would ill become those who were the leaders of the bar if they were to allow themselves to

swerve from the high duties of their profession, and from their conscientious and fearless discharge, under the intimidating influences exerted either through the angry frowns of power or through the less definite rage, and, perhaps, madness of the people. Advocates had certain obligations to bind them: the definition of which he would read to them from one of the greatest of legal authorities, so that it might go forth through the public press, that men in his (Counsel's) station had no option but to give their services where they might be required. What would have been the result if, when the prisoner demanded his (Mr. Cameron's) services in his behalf, as the services of one upon whom people are pleased to look as a leader of the bar of Upper Canada, he had thought proper to decline his advocacy, and had so—in as far as he could effect it—prejudiced the prisoner still further, were it possible, in the estimation of the public. Had he (Mr. Cameron) thus withheld his services, he would have proved himself unworthy of the position which he held, and a craven to the profession to which he belonged. [Mr. Cameron then read from authorities passages defining the position of advocates, from which it seemed that the duty of defending the accused is to be held among the most sacred duties of the bar, from which they must not be swerved by any personal passion, and in which they must be influenced by no popular outcry. Advocates were not to be deterred from the fulfilment of their obligation by any hesitancy at being mixed up momentarily with the prisoner, or even confounded momentarily with the crime. They were not to tremble at the dread of misrepresentation, or at the frowns of power. They were, not unfrequently, called upon to defend—not so much the accused as the position of the defender, and that they must unflinchingly guard from being in any case tampered with. If to any such weaknesses they were to sacrifice the prisoner whom they should defend they would be equally guilty before man and before God. The man who took upon himself these obligations of a barrister, that he would refuse to defend none by whom he might be called upon under influences of favour or of fear, would, in his base subserviency to the varying and unstable breath of popular outcry, cease to enjoy, and deserve to forfeit, the rights of the bar which he had dishonored. Take the opposite case. If the man upon his trial were one in whose favour popular opinion ran high, how glad would any one be to undertake his cause! And if it were well to defend a man who asserted his innocence in one case, it was surely well to do so in another. In the present, the press, which was so mighty a power for good or for evil, had, as it had often done before, forgotten for a moment its own glorious mission, and had endeavored—perhaps indeed, involuntarily and unknowingly—to diffuse among the community, sentiments adverse to the prisoner, which it had been the duty of both journals and of people to have reserved for his conviction. When the prisoner at the bar had had all these influences to contend with, it became impossible for jury and for Counsel not to feel deeply the gravity of the case, and for the former to be unconscious that they must come to its consideration with minds open to every argument, and with a sense that not merely the life of the prisoner hung upon their deliberations, but that in their instances, as in that of so many other juries, were mingled with their verdict, the great interests of justice dependent upon their order as one of the great guardians of the public liberties. So much then depended upon their voice that they must pardon him for making these preliminary remarks at length, and for maintaining the necessity of their coming unprejudiced to their deliberations. They were called upon to recollect that, although a great crime had been committed and must be atoned for, yet that the law demanded justice, not vengeance—the life of a criminal, not the death of a victim. Turning from these observations upon the position of Counsel and of jury, he had to refer to those which had been made upon the management of the case throughout. When it had been said in the public press that the advisers of the Crown had been unwise in leaving this exclusively in the hands of his learned friend, who was a comparatively young member of the bar, he felt called upon to express his contrary opinion. And he said that the Crown, in its selection of an advocate, had acted wisely and well, for that no one could possibly have acted throughout with greater judgment and discretion, both with regard to the prisoner and the Crown, than had

the prosecuting Counsel, whose comparative novelty to the bar proved no drawback to his efficient conduct. This much he said because he felt it due to the able Counsel who opposed him, and because it had been said, without foundation, that the Crown had not given to the latter the amount of assistance he had reason to rely upon. Such assistance, had it been offered, could have proven of no really material value, and would have only been effective in robbing his learned friend of the merited reputation which his conduct of the cause had earned. The Crown had been compelled from its stand point to endeavour to attribute to the prisoner certain motives inductive of his guilt, and to trace his action for some time previous to the crime, in the light of the suggestion of certain principles which it had found it necessary to attribute to him in order to bring home the charge upon which the prisoner had been indicted. It was admitted that the latter had no personal animosity against, or even knowledge of, the deceased, and to supply the omission of the inference of ordinary motive, the Crown had stated that it would bring grounds to shew that the case was far removed from the category of ordinary murders. That it was in fact an instance of political assassination, resulting from the unmeasured and uncontrolled fanatical hatred of a faction—he might say a fraction—of the community, to whom, upon public grounds, the murdered gentleman had made himself fatally distasteful. The Counsel for the Crown had made this statement, in opening the case, from his instructions, and as a statement of something which he was prepared to establish in evidence, as a proof of the prisoner's motives. They had been told of the existence of a conspiracy, and that lots had been cast, by which arbitration it had devolved upon the prisoner to execute the fiat of the council. He would read an extract from his learned friend's speech upon this point:

"It would be proved that in November, or perhaps in October, he had purchased a pistol, with which he had practised shooting, and, if the evidence which he would adduce were true, he became undoubtedly an accomplished shot. It would be proved also that at meetings held shortly before this occurrence at the house of a party in Montreal, where prisoner or some of his intimate associates resorted, one of the parties present had addressed prisoner by the name of Sullivan, saying 'Sullivan is the man to do the deed.'"

These were the words in which his learned friend had addressed them at the outset—in the opening speech—in which he had traced what he declared to have been the course of the prisoner from the July preceding the moment of the tragedy. The question for them to determine was—did the evidence bear out these statements, and did it establish the motives ascribed? for although not exactly what the jury had to devote their main attention to, yet the existence of such imputed motives could not but form a large portion of their enquiry. It was always admitted that such evidence of motive formed a considerable consideration in attributing the guilt of a crime. They were told, and they knew from what passed in the world outside, and which they could not ignore, that the association which was known under the name of Fenianism, had pursued its criminal and detestable machinations by the destruction, in various quarters of the world, of persons belonging to the Queen's service, and even of the Queen's family. It was said that this deed of assassination had resulted from the conspiracy of such an association, because no other motives could be assigned for its perpetration, but, although the workings of this Fenian conspiracy were notorious from the news of the events of the world outside, and although hints of its suggestion had been offered here, no evidence connecting the crime in any way whatever with such organization had been adduced, and although their minds might be filled with fearful accounts of the machinations of such an engine of disloyalty, they must not allow their judgment to be influenced against the prisoner except from the facts of evidence, and unless such facts were made indisputably clear by proof. Now there had been no evidence, no proof whatever, even offered upon which to substantiate the ground for such a statement. There was thus no evidence of motive established, for there had been no attempt made by the Crown to suggest even the possibility of existence of feelings of revenge or a personal

hatred from any cause. They would have to take up the cause on the grounds presented by the Crown in a three-fold aspect. He would attempt to separate these three aspects, and would endeavor to make each of them clear, and if in taking this course he should occupy more time than they might think necessary, they must remember how grave was the responsibility resting upon both him and themselves. The motives then which had been hinted at, not proved, might be put upon one side, and he could now come to facts, and ask into what shape they resolve themselves, and in what shape they present themselves to our minds, or to the minds of any by whom they are to be impassionately judged. They embraced three distinct phases which he would separately take up. Firstly, that of the circumstantial evidence; secondly, of the direct evidence; and thirdly, of the evidence of admission; the whole evidence offered resolved itself under one or other of these headings. The gentlemen of the jury would understand that, with regard to the first, many persons considered that circumstantial was the strongest possible evidence. It has been said that circumstances could not lie, and therefore that such testimony was the most convincing which could be submitted to a jury. But, though it were true that circumstances cannot lie, it is certain that they may fail to tell the truth! How such failure could affect the prisoner two celebrated cases showed. One (which counsel here read) was that of a man who, after a quarrel with an acquaintance, had been found dead, run through the body, with the scabbard of the latter's sword lying by his side, and with the tracks of the latter's shoes found leading from the body. Here had been perfect circumstantial evidence—the evidence of the primary quarrel, of the subsequent death, of the scabbard and even of flying footprints. The accused was accordingly tried and *executed*, and it had been ascertained afterwards, by the confession of a third party, that he—the murderer—had had an old grudge against the victim, had known of the quarrel, had stolen the scabbard and the boots of the other, and had succeeded in this manner in diverting suspicion from himself. In that case the circumstances had all been true, but they had lied concerning the accused. There was another instance where a poor old woman had been murdered in her bed, and had been found dead with locks of hair and a fragment of a cravat in her hand, both hair and cravat admitted by being those of a servant of her own. This servant, had moreover a scratch on one hand, presumed received in the struggle with his victim, with whom he had a quarrel some little time before. That man, upon the infallible proof of circumstance, had been tried and executed, and it had been proved afterwards that the guilt really belonged to another, who having knowledge of the quarrel, and intention of the crime, had sought to shield himself at the expense of the other, whose hair having frequently trimmed he had had an opportunity of preserving, and whose cravat he had stolen, placing both between the dying clutch of his victim. In this case, also, true circumstances had lied? Circumstantial evidence therefore, though undoubtedly useful frequently, is not always to be relied upon, and in this case, the circumstantial evidence offered here was not of the kind which would prove the prisoner guilty, when it came to be carefully examined and to be sifted, as it was their duty to have it sifted. They must remember that there was no dispute as to the fact of Mr. McGee's death, no doubt suggested that that death had been occasioned foully, and that some midnight assassin had struck him darkly down. But they must pause to enquire if this had been done by the prisoner, and what were the circumstances of the crime. They must undoubtedly understand that persons going about late at night, coincidentally with the commission of a great crime, presented a suspicious aspect. People did not go about so under ordinary circumstances, except in pursuit of those excessive pleasures which disreputable orgies give. But such ordinary circumstances were not the case here. There was an occasion for men being abroad then, and an assumption from such admission might point, with equally unsatisfactory index, to them or to him, or to anybody else in the House of Commons, as being the guilty party. There was, therefore, absolutely no weight at all to be given to the fact of the prisoner's admittedly late hours upon the night in question. There was many a man in the House that night,

who could, if arrested, give no clearer account of himself, whether he was a messenger of the building, or was one of the thirty or forty present in the gallery. The argument from the prisoner's being out late came absolutely to nothing. It shewed simply that he was one out of many men, who were then abroad, and one out of many men *might* have committed the crime. The fact was merely that those abroad were numerous, and there was nothing in this whatever to single out any one of them more than another as the assassin who was guilty. There had been nothing in the debate that night to excite the imaginative anger of a man so excitable as the prisoner was said to be, nothing whatever upon the subject of Ireland, — a subject upon which it had been hinted that his enthusiasm was peculiarly accessible—nothing more or equally exciting as had been said upon many other nights before; nothing whatever to arouse the animosity of the prisoner. They had, then, so far, *no* fact against the prisoner. He was not then, but on another occasion to which Counsel would again refer, seen with any weapon in his possession; there was nothing argued in his disfavor, but that he was seen pointing with his finger presumedly towards Mr. McGee, but as he might have pointed to any one. There had been nothing in the debate or the discussion to affect prisoner more than anybody else present there. It was said that he had gone to and fro several times. There were natural reasons for such conduct, irrespective of crime. And yet, this it was, that had been adduced as proof of uneasy restlessness, and of guilty purpose! But all these circumstances—take them singly or take them in connection—came absolutely to nothing. They were, each and all, consistent equally with innocence, as with guilt, and the jury were bound to view them from the point of view which established innocence, where such point of view existed at all. But they had in connection the threats which were said to have been used, and which were charged to have been used by prisoner, in presence at different times of the witnesses, Faulkner, Wade, Inglis and Turner. These were put forward not so much as circumstances as though proving motives. Let the jury fairly examine how much weight should be attached to them. Neither Faulkner nor Inglis attached any weight to them at all. Those to which they testified had been made in the heat of election times, when party spirit ran high. There was not one among the jury but had known, in election times, statements made which could never have been made in cold blood, and things said—aye, and done too—which on other occasions no man would have been capable of, more than of flying. Therefore, if those who listened to these "threats" at first had placed no weight upon them, they need scarcely do so now. But when we come to the evidence of threats spoken of by Wade and Turner, we come to something of a different nature, because these latter seemed to indicate a more settled purpose to which they could not but accord a graver attention. And first as to Reuben Wade, who is he, whence has he come, and what is his character? He had been sprung upon them at the eleventh hour, and had then come forward to make statements of so grave an import, when there was no opportunity of ascertaining, in proper time, who he was, by the results of the investigation by which he was being that moment tracked. This was the man—he would desire to say *who* was the man—who had thus come there to detail, with a minuteness which was scarcely in his favour, as he (Counsel) might venture to predicate, even of the estimation of the jury, those material circumstances upon which he had been so fully contradicted, and who, if his testimony were to be found to fail upon one point, must be held utterly unworthy of credence upon all. The story of this man was that he had come to Montreal on the 17th December last, that he had taken lodgings at Duggan's, and had stayed there until the 27th. On the 21st, and day by day subsequently to the 24th, this man swears that he saw the prisoner on several occasions at this same house (Duggan's). That he heard on each of these occasions some of the threats upon which the prosecution took so much of their ground. That he had heard the prisoner spoken of as "Sullivan," and as "Smith," and as the man who was to "do the job" whatever that might be. He would ask them just to look at the possibilities of such testimony. Did they

believe that a party of men, secretly banded together for the purpose of taking the life of a prominent statesman would meet for consultation in a room 16x18, in the presence of a man of whom they knew nothing, who should by such extraordinary coincidence, be invariably present at their conversations, ready to listen, to observe, to take note, and subsequently to testify? Did they believe that these secret conspirators should have deliberated with such little common care or caution as to allow this witness Wade to overhear all the points of importance on which they touched, and—to allow him to hear nothing of unimportance besides? Wade was, in fact, unable to repeat a syllable of the conversation of which he had spoken, except those syllables which told against the prisoner. They were, therefore, asked to believe that the voices of the conspirators were low and guarded when discussing topics of no consequence, but were high and sonorous when employed in uttering such language as might condemn them! And why was it that all these conversations, upon such a subject, should have been carried on so fearlessly in the presence of a stranger such as Wade? His (Wade's) account was that Duggan had vouched for his friendly discretion, and that the party had consented to ignore his presence upon Duggan's kindly representations in his favor. They were represented then to have taken him on Duggan's responsibility, and without further caution or enquiry. Was all this story, so far, so obviously true or consistent, or even probable, as to make it a worthy test by which to take the life of any man? But, supposing that intrinsically it was so, when they came to test it day by day what did they find its standing? These meetings of conspiracy, at which prisoner had been always present, had been sworn to as occurring between the 21st and 24th December. But witness after witness had been called—five had been called in all—to tell them that the prisoner had been here in Ottawa from the 21st to the 24th December, and had only left in time to reach Montreal at midnight of Christmas eve. Were they to suppose that all the witnesses on behalf of the prisoner were telling a joint lie, and that of those appearing for the Crown were telling truth; were they to be so blinded by vulgar prejudice, and by some frenzy which had got abroad, that no one who ventured upon testimony for the defence was to be credited, no matter what his character otherwise? He would tell them that the evidence he had offered upon this point had, like the grinding of a mountain, crushed down the testimony which had been adduced by the Crown upon this subject. That testimony was but the testimony of this Wade, to which they could attach no weight whatever, because that which they (the defence) had offered in opposition had borne it down as might have Pelion massed upon Ossa. They had next to consider the evidence of Turner, and they had to deal with him and his position—and with the position of every witness placed as he is—upon the principles which he had made applicable to the credibility of Wade. If such a witness were to be found failing on one point he must be held to have failed on all, and be deemed unworthy of any credence throughout the complete story. And let them just consider what was the salient point of Turner's tale. Passing by such matters as the mention of casual expressions of ill will at Mrs. Scanlan's, the great point of this witness's evidence is regarding the conversation at the Russell House between the prisoner and Doyle. They must not forget the presumed circumstances of that conversation, or of the examination of Turner. At each step of that examination his learned friend (Mr. O'Reilly) had been present throughout, searching laboriously and exhaustively for complete evidence for the Crown (whose case he had consistently conducted so ably and so fairly) and taking every care, as he was so well able to take care, that the case was brought out fully and unmistakably, and that no evidence which could possibly be urged in support was on any account omitted. All Turner's evidence had been given at the investigation under his learned friend's superintendence, and nobody knows better what his witnesses will swear, before he puts them in the box. And yet they had the fact that at this first examination Turner had said nothing at all regarding this conversation with Doyle. They had—at that stage—the election "threats"—the utterances of exasperated political feeling, passing away as the excitement died out, and subsiding as the

noisy warfare settled down. In the peace that followed they had no threats mentioned by anybody, until they suddenly turned up in the evidence of Turner. He had been brought there to speak to threats—they must never forget that—a man who had been a soldier—a loyal man—yet, although Whelan's friend, could not keep silent upon his guilt, and had come forward to contribute his assistance to track the footsteps of the assassin? Under those impulses of public duty Turner had come forward, and having been seen and conferred with, by his learned friend, had been examined before Mr. O'Garra, and made his statement of all he had then to say upon the matter. Then, and immediately after Turner had gone down, Mr. John McGee had taken his stand in the box, and related his story of Whelan's appearance at New Year at Mr. McGee's house. It was only then, only after he had listened to this new feature of the case, that we had Turner coming in with a tale of which he had given no hint heretofore, a tale which was more damning than any that had been told before. The stories of election threats, as well as the assumed points of circumstance, he (Counsel) had already shewn must go for nothing, and it was at the moment that the Crown failed in its chain, that the man who knew the difficulty, came forward to pick up the link he was aware of being required, and which was yet wanting to fix the guilt upon prisoner. It was at this crisis that Turner was ready to come forward with what he had before omitted to mention. Did they (the jury) believe that his learned friend had not at the outset ascertained all that Turner knew, or that, with all his tact and discrimination, he did not know that it was necessary to prove that threats had been made in cold blood as well as in the heat of passion? To suppose such a marvel would be against all evidence, and would be to contradict his whole experience during a practice of many years. He would put it as a truth that Turner never heard a word of this conversation, and, if this were their belief, and he could not see how it could be otherwise, there was no credence to be placed upon the statements of this witness Turner, from beginning to end. They had heard his learned friend state in opening, that the prisoners had purchased a pistol in October or November, and that he had practised shooting with this weapon afterwards. Now, where was the proof of this purchase, or of this practice with the pistol, which had been in possession of the prisoner since he had been in the volunteers? On all of this ground they had only the statement of this Turner, that the prisoner had once said that he might go to practice, and there was no evidence whatever of that skill in marksmanship which had been spoken of. Is the evidence of the possession of the pistol evidence of guilt, remembering that there was none of its presumably guilty purchased? Was it concealed? The evidence proved that it was openly shewn. All the evidence then resolved itself into this—and on this point, although he would read to them from those whose names are authority, they must remember that it was not from him, the advocate, but from His Lordship the Judge, that they were to take the law—that the circumstances proved were equally consistent with innocence as with guilt, and His Lordship would tell them that the law bears more strictly upon circumstantial evidence even than direct, and that where the evidence is equally consistent with innocence, as with guilt, it must be taken to prevail for innocence. There was no principle in law more sacred, or one which the Courts were more anxious in insisting upon. Now all the circumstantial evidence in the case was of this nature, and he would read to them the reports of certain cases analogous, where the question of identity was confused. [Counsel then read to the jury the reports of six remarkable instances in which a mistaken identity had resulted in false conclusions, occasioning the undeserved death of innocent persons, against whom there was not even any malice on the part of the prosecution.] He would next read to them the opinion of the best authorities regarding the value of threats, from which it seems to have been held: firstly, that these are not always prompted by malice; secondly, that they are not always even remembered by the party uttering them; and thirdly, that it was possible that others who might have heard them should take advantage of their covert. There was a curious instance of this recorded among the *causes celebres*, where a woman of bad character having threatened a man that he would get his hands

cut across, and he being subsequently found murdered with his hands so cut, the woman was executed for a crime which, as was subsequently ascertained, had been committed in this particular fashion by a listener who desired to avert the suspicion from himself. Mr. Cameron then proceeded to read another extract shewing that the fine administration of justice was not always to be guaranteed in court, and suffered occasionally from the formidable misconduct of the public press, which, actuated by a horror, or pretended horror, of the crime, but more probably by an anxiety to pander to the morbid excitement of the public, occupied itself in giving minute descriptions of the accused, and elaborate accounts of his conduct, and even in offering a history of his boyhood's crimes, until the minds of the people had become so far inflamed that the man who should have been brought to trial had only walked to martyrdom. He did not desire to argue from all this that circumstantial evidence or evidence of identity, was unworthy of attention, but, on the contrary, that the cases in which it was adduced, called for the greatest scrutiny lest they should be allowed to fall within the category of the unfortunate instances he had cited. These instances were recorded as the guides and sign posts by which to avoid error, and all point alike to the establishment of the maxim that where such evidence points equally to the innocence as to the guilt of the accused they were bound to accept the former theory. He would next revert to the evidence given by Lacroix, in which the question of identity was sought to be established by testimony in part direct and in part circumstantial. This man they had seen in the witness-box, and the prisoner had the disadvantage of being compelled to cross-examine him through an interpreter. He (Mr. Cameron) was not an adept in the French language; but he could have undertaken the cross-examination in that language if the Court could have permitted it, but that was of necessity impossible, because the jury would not then have understood the evidence. That the necessity for interpreting Lacroix was a great disadvantage to the prisoner they would see, almost without his (Counsel's) explaining it: The value of cross-examination depended upon the rapidity with which questions might be asked, the successive answers to which might involve the witness who had been giving false testimony in a contradiction which he had been unable to foresee. The practice of an interpreter tended to give such a witness, who understood both languages somewhat, time to make up his story, and reflect upon the probable result of each reply which he was making. Notwithstanding such an advantage, in his favour Lacroix had proved utterly incredible. He had said that he was a stranger here, knowing nothing of the town, not even the name of a single street, but merely the general direction from Lower Town to the Chaudiere Flats. There was nothing else that he could tell of the knowledge of the town. But he said that on the 6th April he had left this side sometime after dinner, and had gone over to the other side where he had wandered until one or half-past one the following morning. He would read from the evidence of Lacroix's as follows: "I had a roll of paper. Went straight to the Chaudiere to get a house, but did not get one. Met several people at the Chaudiere that day. Does not know the names of any. Was enquiring for work and for houses until he left at half-past one in the morning. Cannot tell the names of a single place at which he asked for houses, or of a single individual he asked for work." "If it is an indictment here of no show. They saw thus that he could tell nothing of his doings all the time he was away. But he had proceeded to tell them of his return through Wellington-st. He had come up its whole length on the right hand sidewalk, until reaching O'Connor-st., where he had turned down. Supposing then his story to be true, the first point of importance was as to his coming up. He had come up the whole way without meeting anybody. But if he had really come up that way he must have met Mr. McCarthy, the messenger of the House of Commons. McCarthy had left before the boy Trotter and had walked to his home, past the Club and the Scotch church. If it were true that Lacroix had thus come up and seen the shot, it was inevitable that he must have met McCarthy. But McCarthy met no one. These two men, who had walked towards each other under the bright moonlight, had seen nobody on the road of either. With all the horrible

circumstances of the night, and with all the anxious enquiries of the morrow to rivet their attention, they had each been unable to recollect having met the other in his path through the street that was empty and distinct, and still It became then of interest to trace the steps of Lacroix further on and see if he met anybody else. When they came to trace him, they found he had seen the murder committed, had passed on, and had met nobody. But if his story had been true he must have met Buckley's carriage returning across the bridge, which he had sworn positively that he had not seen. He had, in fact, met no one until near the French church, nor had he seen the vision of anybody except of the two men on Sparks-st., who were those alone of whom he could give account, or even mention. The Crown had endeavored to supplement and corroborate Lacroix by the evidence of Jordan. Now what did Jordan say? "This man Labelle had two pails in his hand. The other man was a little in the rear of him, coming on faster, and did not come up close to witness. Not closer than 75 or 80 feet. The night was unusually bright. Witness saw the second man afterwards. Takes him to have been the witness Lacroix. Is positive it was Lacroix."

Now let them see what Labelle says, and whether he carried these pails, and what he knew of the other man in his rear. Labelle says: "There was a messenger walking down the street after witness, who joined the latter before reaching Lapierre's, which he entered with witness. This messenger's name was Roberge."

[The learned Counsel made his quotations of evidence from the report of the Times.] They had before Labelle to prove that Jordan mistook—he did not desire to impute anything more to him—the observations of that evening; that he was wrong in saying that Labelle carried pails, and that he was wrong in taking messenger Roberge for Lacroix. All corroborative evidence therefore failed, unless they could find it in the testimony of Leon Digeux. He would read the latter:

"Crossed the Sappers' Bridge, and met a man on this side of it. The man was just walking along and said nothing to witness. It was dark and witness could not swear who the man was; he looked something like Lacroix. Witness knew Lacroix, and afterwards thought it was him. Thought nothing about it at the time."

This was the only evidence that Lacroix had been met upon the road. But it was evident that if he had been at the bridge he could not be also at the church, and the simultaneous presence which had been thus sworn to destroyed the credibility of both the witnesses. Let them take the rest of the testimony, and see how it hangs together. They (the jury) had had the advantage of examining the locality, and observing all the distances, and calculating the probabilities. They had thus the opportunity of seeing the gates and posts referred to, of observing Mrs. McKenna's, and noting how all the parties had come down. The House had adjourned at 2:10 and was almost empty at 2:20. Young Trotter had heard the shot when opposite the West Departmental Building, and had seen the light flashing from his mother's door before he had run upstairs in the Times office. He must, therefore, have come up immediately after the commission of the crime. Trotter's evidence, which the learned Counsel then went on to read (quoting as all through from same report) was as follows: "Coming down from the Public Works, saw nobody on O'Connor street. From the time of his leaving the others, saw nobody until he went to the Times office, and disturbed those there. Saw no one at the door of his mother's house, and only knew it was opened from having seen the light."

Now, they must recollect that point about the opening of the door, and compare it with Mrs. Trotter's statement. Here was what she said: "Was not at all frightened at seeing the flash. Brought the lamp immediately after seeing the flash, merely going to the further end of the dining room table. Lacroix did not see this light at all while he was crouching at McKenna's. He had not stopped at the corner, nor at the door of the brick house, but he had distinctly seen the two men coming up the street, and the first of them, the

big man, wore a *black* beaver. That might seem but a small discrepancy, for they all knew that Mr. McGee's hat had been *white*, but it was of importance here, and they must attach proper weight to its coming from a man who had been so minutely circumstantial in recounting his other observations. Lacroix had been, he said, hiding in Mrs. McKenna's door. Now they had seen that door, and knew how far any person might conceal himself there—about as far as in any closed doorway within that Court-room. [The learned Counsel here read very fully from Lacroix's and Mrs. Trotter's evidence which he argued to be irreconcilable.] Mrs. Trotter had sworn that the quick step she had heard came along the sidewalk from east and west, and the statement was entirely inconsistent with Lacroix's, who states the second man, overtaking by his quick steps the first man, never to have been in front of the latter at all, but to have come behind him from the middle of the road. The shot was, therefore, not fired as Lacroix says, and his statement is not to be relied on. He says that he never saw the man except at the moment of his passing by him; and, having been admittedly mistaken in the color of the hat, should we now believe his recollection of the features only then momentarily observed. Observed too, when Lacroix was covering with fear in the doorway, and just before he had entered a gateway to his (Lacroix's) east side. That gateway the jury had seen to have been far to the westward of Lacroix's supposed position. In contrasting the points of difference between Mrs. Trotter and Lacroix they must not forget the former was calm and collected throughout, that her senses had been sharpened by watching for her son, and that she was never frightened during the whole time. Would they hesitate whether to believe her, or, in preference, the man who crouched trembling in the doorway, and who had been content to leave Mr. McGee, had he been but wounded, to die from want of help, while his skulking cowardice led him slinking from the exaggerated danger. Was this the sort of a witness upon whose evidence to hang the life of a dog, much less of a man? He who could not recognize the colour of a white hat, but swore that it was a black one, could nevertheless, from his memory of this one furtive glance, identify the man from whom he had cowered in abject fear, when called upon to do so. And how had he recognized him? According to his first statement among sixteen or eighteen persons, but, as it turned out on cross-examination, in walking up and down the corridor and looking into the cells. Even there he could not identify, and required the man to be dressed before he would swear to him. In the face of these facts was it possible to rely on this man's statements? Why, if there was no other witness for the prosecution, His Lordship would tell them that the cause was unsupported, and that they must find a verdict of acquittal. Had he given any information of the deed he had witnessed? Had he told Jordan when he saw him at the hotel? No, but he afterwards told different parties that he had heard a shot, and, not until the policeman came to him, that he had seen it. Would the life of any man rest safely on the words of such a character, or would they send, not to death but to penitentiary or to jail, any accused being against whom such testimony might alone be offered? He emphatically protested against the acceptance of any twelve men in their senses, of such an inconsistent fable of so unmanly and contemptible a coward, weighed, as it might be weighed here, against the life of their fellow-man. Even under the pressure of the most dreadful prejudice, and in the most excited times, no jury would leave the issue upon such evidence one moment doubtful. Passing on the evidence connected with the pistol, it had been said that this had been freshly discharged, and had one chamber freshly loaded, with a cartridge which had been said to have been twisted in the chamber, which it fitted ill, so far as to leave upon it a mark unmistakable. They could take with them the pistol and the cartridge, and could make the experiment for themselves, and say whether any amount of twisting round would be sufficient to make the mark relied upon. Now let them try this with the evidence of Goulden. There could certainly be no doubt that the girl had been wounded, and it appeared in evidence that the pistol had been seen uncharged a week before the murder. Let them consider how this point matched with the other evidence, and let them

weigh fully what that other evidence was. There had been a number of witnesses who testified that they would not believe Lacroix upon oath, that he was a *claqueur*, a liar and a boaster. He had heard it said that these were not people to depend upon, but the fact was that they were just the people of the class of Lacroix himself, by whom it was but natural to suppose that he was best known. What account did the prisoner himself give of the night by the mouth of the Counsel who were permitted to defend him freely? He says that he was there, that he returned home, entering by the back way as he had permission, and giving in fact the same account of himself as might any body else who was called upon to defend himself on his own testimony. And while every fact had been pressed against the prisoner, who could say what other evidence had not been lost, and what traces had not been left unfollowed, while the party whose guilt was real had been escaping! And what further had been the prisoner's attitude? Did he refuse to recognize Mr. John McGee? No; at once when he met him in the gaol, he had addressed him, and spoken to him unhesitatingly upon the subject of that visit to his brother, upon which so much stress had been laid. That visit had been paid by the prisoner, believing that he was doing right, and now the warning which he had then given was brought up against him, and an attempt made to twist it into proof of his guilt. The prisoner's own statements were all through reasonable and satisfactory, and had been confirmed convincingly, and it might be fearlessly asserted that apart from the third head into which the enquiry had resolved itself, the prisoner stood as free from guilt as could be necessary for his acquittal, providing only they discredited the testimony of Lacroix. The third phase of the prosecution had next to be considered. Evidence as to admissions had always been received in law, and they could not, therefore, technically object to it, but it had been so received with the maximum of scrutiny and suspicion. Let them take a different case. Suppose a case occurring in times of popular excitement, when a man, who had espoused the popular cause and was identified with its fortunes, were cast into prison to take his trial. Suppose that he, instead of being hounded down from every side, were supported by the acclamation of popular encouragement, and so far contrasted in his good fortune with the prisoner at the bar. Suppose that the Crown finding their evidence against him insufficient, and aware that something else was requisite to make their case complete,—fancy the Crown, he said, surrounding this man while immured within his cell with an ambush of turnkeys, penal-serving prisoners, and detectives, to listen for such chance admissions as the Crown required. Fancy such a fact getting abroad through the press! What words could be found too hot, or too full of fire to brand the men who could be guilty of such a scheme! Everything that could be said on behalf of justice and of freedom would be uttered in words of print, and in language of fire. But reverse the circumstance. The public believed here that a great man had been cut off by a vile and cowardly conspiracy. That it had in its clutches the man who was the instrument of the crime. That, therefore, it did justly and well in lying in wait for him, and in catching what evidence it could against him from the admissions of his own mouth. Such conduct was said to be fair because murder was treacherous, and any sort of weapon might be employed in its punishment. Only let them be sure that they do not thus find the accused guilty first, and proceed to search for evidence against him after! Let them remember that they had been watching the prisoner for a week, and had heard nothing to criminate him. But after all this watching and waiting without result, the detective comes at last, and then, and not till then, is heard the conversation that was needed. He would read what the highest jurists said upon the subject of admission of such confessions, which they would only receive in any case with the utmost caution. [Mr. Cameron here cited the recorded opinions of Mr. Justice Foster, Baron Parke, Baron Alderson, and others, respecting the class of evidence in question, which the authorities agreed in regarding dubious from its liability to misrepresentation, and from the immunity from punishment which almost necessarily accrued to its reporter. In the American Courts also, it appeared that this class of evidence was looked upon with high disfavour, and Counsel cited numerous instances where its recep-

tion had tended to the defeat of the ends of justice.] These extracts did not show that such evidence was inadmissible—if it were they would not have permitted its reception—but did show pretty clearly what weight the most eminent jurists attached to it. They had heard the witness Mitchell say that he had heard no admission of the prisoner's guilt, and they had heard it argued in contravention that he had been locked up at half-past five o'clock, and could therefore have heard nothing. But, setting him aside, there was a witness whom the Crown might have called to show if the evidence of the detective and penal-servant prisoner could be otherwise substantiated—and that witness was Doyle. The Crown need not ask him any questions the answers to which might criminate himself. The prisoner could not call him, because, if asked for the defence, anything he were unwilling to answer, such unwillingness might be construed as marking a point against himself hereafter. The prisoner's statement as regards the conversation, was that his remarks were all in reference to what had been sworn by Turner—that he had thus said, not "that he had shot McGee like a dog," but that Turner had sworn that he had said "he had shot or was ready to shoot McGee like a dog." The prisoner asserts that these words of his have been perverted—through misadventure alone, he hoped, but still perverted—and to them, as thus perverted, a weight had been attached which they were unworthy of bearing according to the maxims he had read. In addition to those cases of false confession which had been exacted under torture, they should recall that recent one of Constance Kent, the particulars of which were notorious all through the world. In that case a man had come forward and falsely confessed the girl's crime, the proof of which would have consigned the deponent to the gallows. They had heard even there different persons swearing to different accounts of the same circumstance, and they could not but be sensible how easily words might be distorted through the influence of inadvertence or of malice. They must remember that the prisoner had been for days—almost weeks—watched by men in every corridor, all alike ready to pounce upon him if he sang, or if he danced, or if he whistled, which in some peculiar manner they looked upon as the signal for an Irish song of dangerous import, where it could only be understood. Everything the prisoner had said in gaol had been watched and waited for—aye, he had almost said longed for—by the men by whom he was surrounded. It was not very wonderful that some of these at last should bring down some tale against him! They (the jury) he continued, in conclusion, had the prisoner's life, or the prisoner's death, to mete out to him with their own hands. Upon them, and not upon him or any other, rested the responsibility of his being condemned or acquitted. They had had the opportunity of hearing the evidence from the beginning, and he had observed that they listened attentively. They would now have an opportunity of hearing the case for the Crown, and the observations of the Judge. They would then have to decide between the Crown and the offence, between the prisoner and the crime. They must remember that it was upon nothing but the most convincing evidence that they could find a verdict, and that however abhorrent the crime might be to them or to himself, still Justice was not Vengeance, and that here it was Guilt that was to be punished, and not a Victim who was to be immolated because the nation had demanded a victim. They must remember that with them hung the awful issue—that with them lay the awful choice of life or death. He (Counsel) had done his duty—it was for them (the jury) to do theirs. He had defended the prisoner to the best of his ability, and he had been glad to do so in the vindication of a lofty principle, and in the assertion that the stronger the public prejudice of disfavour the more necessity was there for exertion in defence, and for opposition to the deflected current of popular clamor, whose very fickleness was its only safe guard, but whose continuous unchecked career might carry with it the most fatal dangers. "I have done my work," he concluded, "I have placed everything in the best way in which I was capable of doing to establish the prisoner's innocence. Of that innocence I have been solemnly assured. May God guide you to a right and just verdict, whatever be the issue, or whoever be the sufferer." The hon. and learned gentleman, who had spoken throughout with

earnestness and emotion, and whose magnificent oratory had carried every listener with him from the beginning, resumed his seat at a quarter past twelve amid some involuntary ebullitions of applause, having spoken for exactly two hours and forty minutes.

The Address for the Crown.

At 12.30 o'clock JAMES O'REILLY, Esq., Q. C., Crown Prosecutor, rose to address the jury on behalf of the prosecution. He said: May it please the Court: Gentlemen of the Jury: He (Mr. O'Reilly) had been delighted to hear the frank admission of the learned Counsel for the prisoner that the accused had had a fair trial. It was most gratifying to him to have heard such an admission from that eminent gentleman. The duty of conducting this investigation was an onerous one. It was also gratifying to find that the most eminent and able Counsel at the bar of Upper Canada, had been employed to defend the prisoner, so that no injustice could be supposed to have been done to him. Gentlemen, (said Mr. O'Reilly) you have had the proof of that ability in the very able address which you have just heard—an address which was one of the most eloquent ever delivered at this or any other bar. It was his (Mr. O'Reilly's) duty to caution the jury to consider the facts; he must caution the jury not to allow their attention to be carried away by the eloquence of his learned friend. His learned friend had referred to the prejudices excited against the prisoner. There may be prejudice against the foul deed—prejudice against the crime—but assuredly there was no prejudice against the prisoner, unless that if he was guilty he should suffer for his crime. There was a prejudice, if so it might be called, that the man who took the life of Mr. McGee, the man who had stolen up behind him in the dead hour of midnight, and fired the fatal shot, from which as they had heard by the evidence, his blood had run into the gutter, should be punished; but beyond this, he (Mr. O'Reilly) was unaware of the existence of any prejudice which could injuriously affect the prisoner. The whole desire of the press and the public had been to lay bare every fact in connection with the foul and atrocious crime which had deprived the country of one of its greatest lights. If he (the learned Counsel) had been instrumental in any way in laying bare these facts, he should go down to his grave with the conviction that he had shared in a good work. If it was true that the prisoner at the bar had shot down the Hon. T. D. McGee, then he should not go unpunished. It has been said by the learned Counsel that the case for the Crown is not such as to warrant twelve men in finding a verdict against the prisoner. But after he (Mr. O'Reilly) had recited the facts of the evidence, he would show that no jury could hesitate in giving a verdict in favor of the Crown, unless, indeed, the prejudice were found on the other side. Great efforts had been made to excite sympathy on behalf of the prisoner; learned Counsel, the most eminent at the bar of Ontario, had been brought to defend the prisoner, not merely, perhaps, to obtain a fair verdict, but to make a feeling in favor of the prisoner. Efforts had been made to create sympathy for the prisoner, but he (Mr. O'Reilly) believed the jury had come to their duty with their minds like a sheet of clean white paper, without a single record on it regarding the case and that they would return their verdict strictly in accordance with the evidence they had heard, without reference to any outside impressions or influence. The responsibility of that verdict did not rest with them; it was for them merely to say whether, according to the evidence, the prisoner at the bar was guilty or not guilty. There was circumstantial as well as direct evidence to connect the prisoner at the bar with the crime for which he is charged. In order to establish his guilt it would only be necessary to follow up his history from the first time they had made his acquaintance in this country. They had heard a witness swear that he knew the prisoner in Quebec two years ago as Sullivan. The next they heard of him was in Montreal, where he was known under his present name of Whelan. At that time there was an election contest going on between Messrs. McGee and Davlin. Political feeling ran very high and strong expressions were indulged in by the friends of the candidates on both sides. It is customary during times of election excitement to use strong language; but he (Mr. O'Reilly) ventured to say that no such expressions were ever uttered at any other election as those which were

sworn to as having been used by the prisoner during this one, according to the testimony of the witnesses Faulkner and Turner. When they found, as they had found by the evidence, that the prisoner had left his shop and devoted himself exclusively to the work of opposing Mr. McGee's return, they would see that a more than ordinary feeling of hostility was manifested by the prisoner towards him. The prisoner tells the witness Faulkner that McGee "is a traitor and deserves to be shot." He is found with a pistol going to a picnic; the pistol to be used in a row if one should take place; or if not, it is to be used for practice on a lonely island, where the prisoner could try his proficiency in its use unobserved. Then, they had Mr. Inglis, the witness who told them of threats used by the prisoner, and referred to the prisoner's having been up at McGee's house on a particular occasion. The same witness had told them that the prisoner said McGee was elected, but that he would not take his seat, or if he did that he would not reign long. How was this? Why would not McGee take his seat, or why would he not reign long? The witness had given the answer, when he asked: "Who would do anything to him?" The prisoner at the bar had said, "If nobody else would do it, I would." They found that the prisoner had made a visit to Mr. McGee's house, and it was only fair to assume that this visit was for no friendly purpose. The learned Counsel for the defence had raised no question as to the correctness of the evidence of Inglis and Faulkner, that evidence had not been impeached. These witnesses had spoken of the threats many times reiterated against the life of the Hon. T. D. McGee. As to Turner's evidence the learned Counsel said it should not be believed—but why? Merely because Turner had made a fuller statement before the Court than he had before the Police Magistrate? Because he had said more in his second examination than had appeared in his first? He (Mr. O'Reilly) would first see what Turner's evidence was, and would then discuss its value. It had been shown when Turner and Whelan became acquainted—their intimacy had been established by a photograph, in which they had both appeared together. Now, the prisoner had used expressions before Turner, such as that he would himself go up and shoot McGee, if nobody else would do it. Then, again, he had admitted that he had been up to McGee's house with Enright. Why should he go to McGee's house? Why should the prisoner at the bar feel indignant with McGee, for having denounced Fenianism? Was he (the prisoner) the special guardian or protector of Fenianism; that he should undertake to destroy McGee's life for having denounced it? Surely it was a duty for the Hon. Mr. McGee, as a representative of the people, to have denounced that vile conspiracy; and yet they find that the very day the prisoner had read that speech he denounced Mr. McGee, had a quarrel with his wife, and remained out all night. They heard of the prisoner declaring that he would "blow McGee's bloody brains out before the session was over." The Crown relied upon these declarations, to show the intention of the prisoner. Again it had been testified that when McGee passed in his carriage, the phrase had been used by the prisoner, "It was well we did not get the bloody old pig that night." What night? The night, no doubt, that the prisoner had gone up to Mr. McGee's house with another. The Crown relied upon these expressions, not because they had been used in a few solitary instances, but because they had been made use of time and again over a considerable period of time; because several witnesses had sworn to them; and because of these reiterated accumulations of testimony sworn to by witnesses from Montreal, and because subsequent facts had justified the estimate placed upon these expressions. For these reasons the Crown had relied upon this testimony to prove the intention of the prisoner at the bar. He (Mr. O'Reilly) had been accused of having failed to fulfil the promise which he made in his opening address that he would prove that the death of McGee had been planned by a conspiracy in Montreal. But if the evidence of the witness Wade was to be relied on, what other conclusion could they come to? That evidence was of the most damning character against the prisoner. Wade had given a full description of the parties who met together in Montreal and planned the murder of Mr. McGee, and it appeared, from the evidence of this witness, that the prisoner at the bar was the man who had been appointed

to carry out their purpose. The words had been used in the presence of the witness Wade—"If he cannot be taken out of the way here, he must be else where." The evidence had shewn that the attempt had been made in Montreal, but it had failed, because the time had not yet come. The stranger in the company, according to Wade's evidence, had indicated who was going to do the deed. He had clapped the prisoner on the shoulder, and said "Smith here is the man for the job. He is sound on the goose!" Then to give meaning to this expression another of the company says "D'Arcy, poor devil! if he knew what was in store for him, he would run away as he did before." As to the name of Smith, which had been used to designate the prisoner in this instance, they would find its connection with other evidence hereafter. The landlord of the tavern said then "Why do you call him Smith and Sullivan, when you know that his name is Whelan." These facts, sworn to by Wade, shewed the existence of a conspiracy, of which the Crown might not have the full particulars, but they had facts enough of the existence of which the country little dreamed, to establish the existence of that conspiracy. The evidence still accumulated at Montreal. They found that on New Year's night, when every one was supposed to be paying visits of friendship to his neighbor, the prisoner had gone to the house of Mr. McGee, according to the evidence of Mr. McGee's brother. Why did he go there that night? It was evident that Mr. McGee was on his guard. When his brother told him that two men wanted to see him, he said, "Let them in, but you must stand by me." Why should he say "you must stand by me," were it not that he knew he had been threatened, and that he should be on his guard. He had thus shown his consciousness of danger. Mr. McGee's brother returned to the door, but only found Whelan alone, the other man had gone away. The prisoner then went upstairs with Mr. McGee's brother, and reported that an attack was about to be made on his house. Mr. McGee then wrote the letter, about two o'clock a. m., which the prisoner, representing himself as "Smith of the Grand Trunk," had taken in charge. But though he left McGee's house before two o'clock it had been proved that he did not deliver the letter to the police until nearly five o'clock. Why was it not delivered before? Could it be possible that the prisoner did not know where to find the police station? He would hardly be believed if he said so. There he had been actively engaged in an election contest which required that he should know the people, and it could not supposed that he would be ignorant of where the letter ought to be delivered. Why did he not ask the first policeman he met? It had been argued that this was a friendly visit, but the Crown held that it was a diabolical visit—a visit for a diabolical purpose. They had heard by the evidence of the witness Turner, that that visit had been undertaken for the purpose of shooting Mr. McGee, but that the "bastard brother" of McGee's had opened the door and put the key in his pocket. The question might be asked, why did not his confederate stand to him like a man. He had disappeared when Mr. McGee's brother came down stairs, and perhaps God might have softened his heart, as He does sometimes the hearts of those who are about to commit great crimes. They had thus seen the prisoner in Montreal threatening the life of Mr. McGee, going to his house, and otherwise carrying himself as a man who had some design upon his existence. Next they found him at Ottawa when McGee came to Ottawa; they found that when McGee went to Montreal, Whelan returned to Montreal, and when McGee came back to Ottawa, they found that the prisoner still dogged his footsteps. In Ottawa they found the prisoner with a loaded pistol in his drawer, and the pistol was loaded under his pillow. They found him going to the House of Commons with this pistol in his pocket. Why should the prisoner carry a pistol? Why should it be with him all the time? Is society so bad in Ottawa that a man requires a pistol to defend himself? According to the evidence of Faulkner, who himself is a tailor, men of the prisoner's class seldom carry such a weapon. Why then should the prisoner have carried it? Why have had it about him? Having now followed the prisoner from Montreal to Ottawa, we find that he is a frequent visitor of the gallery of the House of Commons. On the fatal night he is seen to come in there about half-past nine o'clock. He is

noticed by one of the witnesses as being restless and anxious. On that night he had three or four companions. Mr. McGee was speaking, and he (Mr. O'Reilly) had heard that never on any occasion was he more eloquent. He was defending the question of the Union of these Provinces, a question which may perhaps engage the attention of our public men for years. He was speaking at the time against Dr. Parker's motion for the recal of Dr. Tupper, and he happened to have occasion to allude to that motion as being, if carried, like "striking below the belt." At that very instant the prisoner had been seen to make a threatening demonstration towards Mr. McGee. He pointed to the speaker and passed his hand over his pocket, and one of his confederates went through the same motion. Who was this man, who had thus threatened McGee? Why! the very man who said in Montreal that McGee was a traitor, and ought to be shot—who had said that if nobody else would do it then he (the prisoner) would—who had indulged in all the threats that they had heard brought out in evidence against him. McGee was then noticed to have left the Chamber, and the prisoner left the gallery. Why this watch upon McGee's movements? Why should the prisoner have gone down stairs because McGee happened to have passed into the Library? And then when the House had adjourned the prisoner is seen at the outer porch, watching for somebody! And he alone! No person was near him then. What was he there watching for? In three minutes afterwards Sir John A. Macdonald leaves in his carriage, accompanied with his colleague, the Hon. Mr. Macdougall, and the prisoner has left his watching place—not in the direction of his own home—but by the main thoroughfare. Is not this another cause of suspicion? He (Mr. O'Reilly) might refer to another suspicious circumstance. A few nights before the murder the prisoner went into Mrs. Trotter's by the side door, after the house had been shut. He went in there ostensibly for a glass of wine. But, seeing Mrs. Trotter writing, he tried to get the opportunity to stay there awhile by pretending that he wished to write something, and only left after he saw Mrs. Trotter was angry at his presence. Why not have gone to his boarding-house at Michael Starr's, where, according to one of the witnesses, the back door was always left open? It had been proved also that he had gone to Mrs. McKenna's, almost opposite Mrs. Trotter's. Why had he gone there? And on the fatal night, it had been shewn that he did not go from the Parliament buildings in the direction of his home. Who saw him on that fatal night, after he left the Parliament buildings? Gentlemen, the Hon. Thomas D'Arcy McGee saw him that night! or the shadow of the murderer crossed the Hon. T. D. McGee's path! Thomas D'Arcy McGee saw Patrick James Whelan that night; or he saw his shadow across his track; and the quick footsteps which the learned Counsel referred to as having been heard by Mrs. Trotter were the footsteps of the Hon. Thomas D'Arcy McGee trying to elude his murderer! And the quick raps which Mrs. Trotter heard at the door, were the raps of the Hon. Thomas D'Arcy McGee trying to escape from his murderer whose shadow he saw upon his path! And the sharp tapping at the door (the learned Counsel suiting the action to the word) which Mrs. Trotter heard, was poor McGee's last effort to escape from his murderer, who, with pistol in hand, and within five feet of his victim's head, had fired the fatal shot! The Crown charged that the prisoner at the bar had done this damning deed which called upon heaven and earth for vengeance (Sensation.) To connect the prisoner directly with this part of the frightful tragedy the Crown offered the evidence of the witness Lacroix. That witness's testimony has been attempted to be discredited. But Lacroix was a simple-minded French Canadian, incapable of concocting the narrative he had told before the jury. It would have been easy to have established the fact if Lacroix had not come from the Chaudière that night. It would have been easy to have shewn that he was not there to have seen the one man following the other man, and shoot him in the act of opening the door of his own lodging-house. Yet this witness Lacroix had detailed the whole circumstances of that event; he had seen the one man come in behind the other; had heard the pistol shot; had seen the prisoner turn away, and come in collision with a post and exclaim "Jesus," a phrase which from other evidence, they would understand, was one

in very familiar use by the prisoner. This witness was very much afraid—especially when seeing the detour the prisoner had made after firing the fatal shot—thinking himself in danger, he had gone home. His learned friend had said that the gate of the lane into which the prisoner escaped was shut; but surely, he who could have done the deed which had just been described could open or shut the gate at his pleasure. It had been said why, did not Lacroix arrest the prisoner, or fly to the assistance of the murdered man? But gentlemen, test the case by your own experience. Would any of you—being strangers in the city, and afraid of appearing in court—have done otherwise than the witness Lacroix? His learned friend had said that this was a damning fact against Lacroix; yet he (Mr. O'Reilly) was prepared to meet him on that ground. No man, being a stranger, would expose himself to the risk of being caught alone by the side of the murdered man; still less might he be expected to do so, when he was but a simple-minded French Canadian, afraid of having to be called upon as a witness. It had been attempted to discredit the evidence of this witness, Lacroix, by getting a number of men there to swear—with the holy gospel in one hand and five dollars in the other—that they would not believe him on his oath. But gentlemen, that evidence should be discredited at once. Had they not had witnesses before them to swear positively that they had seen Lacroix on the street on that night? And they had had the evidence that on that night he had mentioned what he had seen. But even dismissing the testimony of Lacroix, when the prisoner was arrested there was found a chain of circumstantial evidence sufficient to connect him with the murder. His pistol found to have one chamber just freshly loaded; and the bullet which had been found in Mrs. Trotter's door, was found to correspond exactly with the other balls in the prisoner's revolver. Then compare Lacroix's description of the manner in which Mr. McGee fell with the evidence of Mrs. Trotter. There they would find that Lacroix had described exactly what had taken place; and it appeared to him (Mr. O'Reilly) providential that such a foul murder should not have gone unavenged, and that, therefore, an humble instrument in the person of the poor French Canadian Lacroix should have happened to have seen the deed. The learned Counsel for the defence had warned them against attaching any value to circumstantial evidence. But the cases he had quoted were held under threats or prospects of reward; there were promises of some advantages or the pressure of punishment, such as the thumb screws and other tortures used in olden times. But in this case no such parallel could be established. No pressure had been put upon the witnesses in this case to make such statements as that which they had sworn to. Did they think that Andrew Cullen was a perjured witness? They could not believe anything of the kind; it was impossible to suppose that he could be so. Yet what did Cullen swear to? He testified that from half-past five until half-past eight o'clock, he and the other witness—Hess—had listened to the conversation of the prisoner with his confederate Doyle. [Mr. O'Reilly here read over the evidence of Cullen and Hess, and commented thereon.] Why should the evidence of Cullen and Hess be doubted? Why, if the prisoner were not guilty, should he have laid the blame on the use of whisky? But in addition to the evidence of these two men, they had heard the testimony of Mr. Litle, a respectable farmer of Nepean. He had sworn to the conversations overheard as coming from the prisoner; and if these three men—Cullen, Hess and Litle, had sworn falsely, and if the jury pronounced a verdict on their evidence, the blood of the prisoner would be upon their heads, not upon the jury. The learned Counsel for the defence had said, "Why did not the Crown call the prisoner Doyle?" He might reply, why did not the defence call Doyle? His learned friend had waited half a day for the witness Mitchell, who knew nothing at all about the conversation—who was locked up by six o'clock before the conversation had commenced. Why, then, did not the defence call Doyle? Doyle knew who murdered McGee, for he had said, "Jim, I'm sorry you done it," and that was a reason why the Crown had not called him. But why had the defence gone all the way to Cincinnati, when there, in the very goal, almost within the sound of his voice, was the man who could have testified as to that conversation.

Mitchell's testimony amounted to nothing, as he had admitted that he was removed to the cells at least by six o'clock, and he (Mr. O'Reilly) thought he might retort on his learned friend by saying, why did not the defence call Doyle? The learned Counsel for the defence had not thought it worth their while to refer to Quinn's evidence. It was well that he had not done so, for it would not bear discussion. If that were true then Storr's evidence must be false, and Graham's evidence must be false, and Buckley's evidence must be false. The evidence of Storr was most remarkable and direct, and the memorandum he had taken was one of the most remarkable ever produced on a criminal trial. It showed that the prisoner was flitting about the House like an uneasy spirit. In conclusion the learned Counsel said that in conducting this case he had discharged what he felt to be his duty to his country, and he would not, in closing his address, indulge in any figure of speech; but merely remind the jurymen in the words of their oath that they should well and truly try the prisoner at the bar—and true deliverance make, according to the evidence—and may God help them. Mr. O'Reilly spoke for about an hour and a half, and was listened to with breathless attention.

The Judge's Charge.

He warned the Jurors of the importance of divesting their minds of all foregone conclusions, either for or against the prisoner, and to approach the consideration of the evidence which they had heard sworn to, in a spirit of candor and fairness, discarding from their memories all that the eloquence of the Counsel for the prisoner and for the Crown may have said which is not put before them in evidence, as the duty of these gentlemen was to present their different views of the case in the best possible light, and as great care and ability were displayed in the addresses they had heard from the able Counsel in this case. Having done their duty, the jury and his now began. To aid them in arriving at a correct verdict, he would read over the evidence from beginning to end. Nothing requiring notice appeared until he reached Mrs. Trotter's evidence, where she described the noise at the door which was fair to presume was caused by the murdered gentleman, who had in all probability got a glimpse of his assassin, and hoped to gain admission into the house, and escape with his life, and this must have been the cause of the attention of the witness and inmates being attracted to the door. Then the circumstance of the prisoner hovering around that house and neighborhood, sworn to most positively, forcing his way into the house of the witness on pretence of obtaining liquor and writing materials, and other pretexts; but was not all this with the purpose of meeting the deceased, and if so, for what object? The Judge then referred to the plan drawn by Mr. Perry of the localities mentioned in the testimony, and also to the evidence of Mr. McCarthy who did not see any one or hear any shot. Dr. McGillivray subsequently testified to the shot and its effects, and Mr. McFarlane's (M. P.) evidence was then commented on. The learned judge then read from Lacroix's evidence at great length, comparing his statements with those of other witnesses. Doubtless dress had a great deal to do in the identification of a person as well as the features of the face. The jury must see by the efforts made by the defence to destroy or weaken this witness's testimony, the importance they must very justly attach to it. Did they shake his credibility by the witnesses they produced, who certainly appeared here to no greater advantage than this poor ignorant Frenchman whom the defence seemed to despise so much? If they believed the testimony of Lacroix in the main, the same circumstances may not be correct in every minute detail, then there is an end of this enquiry, as he swears positively that he saw the prisoner fire the fatal shot. They would see by the evidence for the defence how far this evidence was contradicted or destroyed. It was also a fair subject for reflection if a simple-minded man of the character of this witness could fabricate such a story, and if so, could he carry out his narrative in every detail, as seems here to be done. The jury were the judges of these facts. The evidence was read down to that of Storr's with few or no comments referring to facts sworn to by this witness as to the threatening attitude of the prisoner in the gallery on that

fatal night, and the expressions of his countenance. These were often fallacious, as indicative of the state of the feeling passing through the mind at the time, but the restlessness of the prisoner on that occasion was a much surer criterion to judge him by. The entry made in the diary of this witness on that night before he went to bed or heard of the murder, if they credit it, seems to point conclusively to this prisoner.

Constable Pinard's evidence seems to agree in the main with that of Constable Jordan's, but they were both subjected to a long and embarrassing cross-examination by the defence. Their evidence was very important in deciding the fate of this prisoner. It is worthy of remark here that the same facts do not strike the minds of all men alike, one notices what another overlooks or disregards. Some forget dates, names, and places, which others remember very clearly. The turn of mind of this class of men must also be remembered in sifting their evidence, and the reasons or motives they could have in doing or saying anything wrong.

John J. McGee's evidence seems very important, as it raises the question of the prisoner's purpose in visiting Mr. McGee's house on New Year's night last—was the motive a friendly or sinister one? Why was the letter delayed so long if his motive was good or laudable? Or if the precautions had not been taken of locking the door, did they believe the prisoner would have made an attempt on the life of the deceased, then and there, in accordance with previous threats? If the motive were friendly, why have delayed the letter until a period when all assistance would have been useless to save life or property, or why use the name of Smith?

Then reaching Faulkner and Inglis' evidence, the Judge remarked that the defence seem to have allowed the testimony of these two witnesses to pass unchallenged, and so they must now fairly assume them credible witnesses. Let us see how damaging their testimony is to the prisoner. He then cited authorities to show how much previous threats affect a prisoner, similarly situated to the present one.

Mrs. McKenna also proves that the prisoner, with one or two other associates, were frequenting her house in the vicinity of the deceased gentleman's boarding-house. Was this also with a mischievous design?

We now come to Turner's evidence, which, if they believe, is most damaging to the prisoner. The defence objects that this witness in his depositions before the Police Magistrate and prisoner, said nothing of the conversations in the glass pantry at the Russell House in this city between prisoner and Doyle, and so throw doubt on his other statements. The Crown meets this by proving from witnesses that he thought he was only interrogated with regard to events in Montreal solely, and so did not relate this circumstance either to Mr. McGee in his lifetime, or to the authorities then. Neither did he tell Mr. McGee that this prisoner was dogging his steps here in Ottawa since his arrival, after his visit to his house on New Year's night, apparently with a friendly motive, though under an assumed name—but it was only proved after the fatal act that the prisoner was the same party who paid that visit under such circumstances.

The defence called a number of witnesses to contradict some portions of this witness's evidence, and it will be for the jury to say how far they have succeeded.

They all seem to have one object in view, to prove that his evidence was given for the reward, and that for that or a less sum, he would swear away his grandfather's life, though they will observe even a discrepancy amongst themselves on this point. Wade's evidence is also very important, and though he may be mistaken as to some dates of the meetings of the prisoner and his associates at Duggan's, in Montreal, (where undoubtedly he did board for the time so stated), still there were material facts sworn to which were not attempted to be contradicted. But it must be remarked, that many of the witnesses for the defence, if not all swear they never saw the prisoner before in their lives, there or elsewhere; though Wade swore that they met and had these different conversations which he detailed. These flat contradictions are often met in such cases, and it is for the jury to decide between them. Then comes the confession of the prisoner with Doyle in the jail. Cullen details this conversation very

minutely, and if they believe it true, it is almost conclusive against the prisoner.

The learned Judge here read extracts which if not law, was sound reasoning, in which it was stated that confessions extorted by detectives from criminals under threats, &c., were to be guarded against, that detectives reverse the dictum, that all men are to be presumed innocent until found guilty. Confessions are very dangerous if obtained by unworthy motives, but not so if fairly obtained and honestly quoted. Are they satisfied that the prisoner used those terms, and are they such as he might probably have employed—and were they used in a clear, distinct voice, not ambiguous. It was said by the defence that Turner's evidence was based on this confession, but they will remark that there is nothing said by Turner of the notoriety that this act would give the prisoner, whilst the is in the conversations. These are some of the facts that will strike the jury themselves, and it is to assist them in unravelling the web of intricacies that the Court dwells on these minutiae.

The evidence for the defence was read over carefully by the Judge, but there were few new points which called for any comments. Having finished the reading of the entire evidence, the learned Judge proceeded to remark that now having heard all the evidence they would see it was not disputed that the prisoner carried around on him a pistol with one of the barrels recently discharged, and reloaded with a ball cartridge, such as those found on the prisoner at the time of his arrest. That the ball resembled in every particular the fatal bullet. That he was in the House of Commons that night, and left in time to do the wicked deed. There was no reason proved why he carried such a weapon recently discharged, and greased, and reloaded with a bullet different from all others in the pistol, but identical with those found in the cartridge box on prisoner when arrested the day of murder.

The defence pretends that this barrel was empty from the 19th February until the 7th of April, being from the time when the ball lodged in the servant girl's arm, until the fatal day of the murder. Prisoner was proved to be hovering around the locality continuously. If they believe the witnesses Faulkner and Inglis (and there is no reason why they should not, that he could see) they swear distinctly to threats of vengeance in strong and unequivocal language. Now, could the prisoner have committed the deed? The Crown say they have proved it. Lacroix says he saw it. The natural language of every man is truth. What motive can Lacroix have for swearing falsely? Can it be the reward, as the defence pretends? Having seen the localities mentioned by him in his evidence you can judge of its correctness. Turner next appears, intelligent and truthful, who seems to have been friendly and well disposed towards deceased, and did hear these threats made. The defence says that the reward influenced his conduct also. He proves that he warned Mr. McGee, in Montreal, of prisoner. If you believe the experiments made quite lately to test the truth of his statements about the conversations he heard between prisoner and Doyle in Russell House, and I see no reason for doubting them, this circumstance also will go far to prove his credibility as a witness. It may be possible that Wade might be mistaken as to the person and date of the alleged meetings of the prisoner with his associates at Duggan's house in Montreal, though they must have remarked the suspicious manner in which the evidence of some who were produced to contradict his statements was brought before them. The confessions seem to supply any possible lack of evidence, if they believe the statements made frequently and unreservedly, and when the prisoner was off his guard. The language is clear. They were confederates. The prisoner seemed to think he was immortalized by this deed. If they believe these statements they must act on them regardless of any consequences. Now let the Jury ask themselves as men, is the prisoner innocent of the crime laid to his charge? if they can bring themselves to that belief they will gladly say so, he was sure, as a pleasing duty.

Don't stretch your imaginations, but as twelve honest men have the reasonable doubt. Don't trifle with your consciences, or seek for doubts where there are none. Society looks to you for justice; no matter what the consequences you are bound to declare fearlessly of the prisoner, guilty or not guilty of the heinous crime with which he is charged.

The Jury then retired.

TUESDAY, 15th September, 1868.

The Court opened this morning at nine o'clock, at which hour His Lordship took his seat upon the bench. The prisoner Whelan was then sent for, and soon after was brought into Court in charge of Constables Davis, Atkinson and Jordan. He appeared unusually calm and self-possessed, and was attired altogether in plain black.

The Jury, which had been locked up all night, were soon afterwards admitted into Court, and in answer to the question, what was their verdict, replied, "*Guilty!*"

JAMES O'REILLY, Q. C., the Crown prosecutor, then moved for the judgment of the Court upon the prisoner.

His LORDSHIP then ordered the prisoner to stand up, and asked him if he had any reason to urge why the judgment of the Court should not now be pronounced against him?

The prisoner at once advanced to the front of the dock and said:

"MY LORD AND GENTLEMEN OF THE JURY—I have been tried and found guilty of this crime, and of course I am held to be a murderer. I am here standing on the brink of my grave, and I wish to declare to you and to my God that I am innocent, that I never committed this deed, and that, I know in my heart and soul. In the next place I have been charged with being a Fenian. I assure you and every living soul that I never was so at any time—at home or abroad. I certainly did belong to a society—the St. Patrick's Society here—not to the Montreal Hibernian Society. It has been said that I was a marshal of this Society. I was so; I was asked if I could ride, and I said I could, and I was accordingly elected. The prisoner then detailed his residence in Quebec, and his going into drink, when on his way to the Citadel, and continuing; I went into a tavern with O'Brien, and during the conversation which ensued, O'Brien offered one of the P. C. O.'s \$20 to join the Fenians. I was arrested and brought before Judge Maguire and discharged. I gave my name as Sullivan—my mother's name—not wishing to have it in the papers. It was my mother's name. I was a Sergeant in the Quebec Volunteer Cavalry. Captain Scott knows my character. I still retained the same name. But I had gone by the name of Whelan in Quebec, the name I go by now, and thousands know it. I left Quebec and went to Montreal, where I was twelve or eighteen months. I did not assist in the McGee-Devlin election. I was asked by a man to act as scrutineer in that election; I did not know what "scrutineer" meant, as it was the first election I ever was in. I was there until November, and then went to Ottawa. That ended my antics, I took a house on the market and intended to settle here. I wrote several letters, all to my wife, telling her I would be down on Christmas certain. On the day before Christmas I left the shop, starting at half-past one by the train for Montreal, where I got between 12 and 1 on Christmas morning. I called at Mrs. Scanlan's first. I stopped there three or four days after New Year. On New Year's night I was drinking in a house, which is well known, with two friends. I am speaking pure facts. When there, I heard them talking about a plot to burn McGee's house. There was a board between me and the men. The men said these words: "This is the night McGee's house is to be burned. I said to my friend nothing would do but to go there, as my friend can testify if he is to be found to-day. I went to Mr. McGee's house and told him. John McGee was not there when I told Mr. McGee. He did not hear a word. I did not give my name as Smith, but my friend who stood at the door did. I knew that I was watched, and that several times my life had been threatened. Two or three days after that, I came here and went to work, never thinking of McGee. I had never a thought of him in my mind. I went out several nights to the House after my work was done. On the 6th, the night Mr. McGee was murdered, I was at the House. I had got three, four or perhaps five tickets from Buckley. I got tickets from him that night. I went there from ten to eleven the first time, and came down several times, for a reason which Dr. Sweetland who has since attended me at gaol could explain, I did not wait round the porch. I did not stand like this. [Prisoner here imitated the witness who had testified to his threatening McGee.] While I was there McGee did not speak neither pro

nor con. I went down stairs and saw Buckley. I stood with my back to the door, thinking that he was coming down. I saw him in the passage while I stood there. I saw John A. Macdonald drive away. I went round by the platform to the left. I never went down the centre walk. I had left work at eight o'clock that day. I washed my hands and dressed. I wore the coat I do now. It has no breast pockets (showing it to the Court). There is a pistol pocket in my trousers which I made to carry my pistol in. I went back to my boarding-house and slept there. I came down stairs at seven o'clock in the morning. The night before, when I was going up to the Parliament Buildings, I called in at the Russell House and saw Doyle. I told him I was going to leave P. A. Eagleson's. He said, "No, don't leave now. What's the use when you're leaving in a few days to set up for yourself." That was all the conversation we had between us. I had been at Mrs. McKenna's on two nights waiting for Doyle, one night till two o'clock—that I don't deny. He (Doyle) boarded there. I was also at Mrs. Trotter's, but I did not know that Mr. McGee boarded there more than the sun in heaven. That's the only thing I had to do with it. That night I was arrested, I got up at seven o'clock. I did not take breakfast. Breakfast should have been ready at 7 o'clock, but often was not, and then I often went away without it. I was working on a pair of trousers which were promised to a man. I worked till twelve, and came back to dinner. I went to the shop, and heard that Peter Eagleson was arrested. I went to the Town Hall, but would not be admitted, I wished to see Eagleson; then I went to Mrs. Quinn's. Then I went to another tailor's shop, next door to Mrs. Trotters where Mr. McGee boarded, and I staid there some time. After that I went home and went to work. That evening I went to the Society. I put on my overcoat, my revolver was in the right pocket, the box of cartridges in the left pocket and the rammer on the outside pocket. I took my coat off the nail. I came back from the Society to the House, and was there a very few minutes when O'Neil came in and arrested me. O'Neil asked me what was the time I left the House. I said it was about twenty minutes (prisoner forgot to say what hour) when I left the House. He never indicated what I was arrested for until I had been incarcerated two hours. Then he told me Mrs. Trotter's son had seen me running round the Queen's Printer's block after shooting McGee; but I know in my heart and soul I did not. I know better than any man. After they had got all they could out of me—you know what I mean—they alleged I had been seen in the yard, and that my boots corresponded with the shoe marks in the snow—my left boot-print. But these charges have not been preferred against me at this trial. On the 22nd of April, when I was in my cell, they brought Lacroix upstairs, and I was pointed out to him. Lacroix said: *je ne le connais pas!* He said he never saw me. I know he never saw me. Three hours after this; they shewed this man my clothes. He was detained in the office. I was brought down stairs, and placed between eight or nine respectable citizens of Ottawa. Mr. Powell there, (pointing to the Sheriff,) ordered us right-about face. Then he done injustice—in the sight of God—he deliberately pointed me out to that man (Lacroix). Then he turned us round, and the man comes over, and touching me, says: "That's him." His deposition was taken. I asked to see it, but could not ask him a question. I was run out of the office. I know in my heart and soul he did not see me. He did not say he saw me. I could ask that man one question which he could not answer. He could not say he saw me. I knew the minds of the people. I knew that they were prejudiced against me; and men of opulence, too, and why? Because I am a Roman Catholic. These are men would I whom scorn to treat as I have been treated. He (pointing to the Sheriff) came to me on the 4th of May, and said to me, "I'll get a fee for you before I'm done with you!" I have been ill-treated in my cell. They have gloated over me. He (the sheriff) came and said to me, "I could beat seven Fenians like you!" I would spend the last drop of my blood for that noble woman whose picture is there above your Lordship (Queen Victoria.) I served her nine years and six months, four of them in India, and to-morrow, if she called me, I would go for her, and, like a loyal Irishman, shed my last drop of blood in her defence. Now I am charged

with being an accursed, foul assassin ; but I am innocent. I never took that man's blood. I never owed him spite. I knew that he was talented and clever, and the pride of his country. This is my impression, that we Roman Catholics are looked on as traitors ; and why, because there is a feeling in this country and it is a curse to any country—party. I stand here a victim to it in all its shapes. I may be accused ; I may be found guilty, but I know I am innocent. If I had been in the same place of the jury, getting the same evidence, I would very likely bring in the same verdict. I exonerate them from all blame, but if they knew the way the evidence for the Crown was manufactured they would form a different opinion. I am accused of being a Fenian. Every Irish Roman Catholic has to stand just the same imputation. Any man is welcome in England to say what he likes, but if a poor starved Irishman dares to lift his voice in favor of Irish liberty, he is seized charged with assassination, hanged, drawn and quartered, or sent in chains to an English gaol, to a terrestrial hell—one of the living damned—

Chief Justice Richards interruption :—I have given you plenty opportunity to express—

Whelan—I am speaking facts—

Chief Justice Richards—I have heard you patiently on matters incidental to the trial, but we are not in England !

Whelan—But these things were practised on me ; God knows it. He and me knows all.

CHIEF JUSTICE RICHARDS—You have been found guilty after a full and impartial trial. Regarding the mode in which the evidence against you was obtained, your counsel had an opportunity of commenting on it. While, by the provisions of our law, a man is held innocent until the law pronounces him guilty ; now that you have been pronounced guilty by the jury, the law holds you to be such, and so must I. So far as I am concerned, regarding the observations which you have made here as to the Administration of Justice, I, as a native of the country, and knowing more of it than you, must be permitted to say that every man in this country is equal in the eye of the law, and that as far at least as regards the practice of the courts, is no man especially disregarded on account of his religion or country. Your countrymen are on the same level as others, and he himself, whom you just now have said you appreciated, said in language which you well characterize as eloquent, that in this country Irishmen were well treated. In this Province, your sect is equal to any other, and only across the river, you will find it actually superior, as the priests there have rights by law established which they enjoy in no other country on the northern part of this continent. This commends itself calmly to your more reasonable countrymen. You should realize the terrible position in which you are placed. In the evidence as to your crime there are some facts entirely uncontradicted, and from these the jury have drawn the judgment of your guilt. This being the case, the law and all practice readily pronounce you guilty. I have only to warn you of the dreadful position into which you have been led by your natural impetuosity and violent temper, to murder a man whom you now eulogise. I implore you now when yet in life to consider it. There is but one alternative in the power of the Court. This sentence will be ratified as it must be if the verdict of the Jury is considered to be well founded. There is no possible hope on this side of the grave. Let me then urge you to make your peace with God.

Sentence.

The sentence of this Court is that you, Patrick James Whelan, having been accused and found guilty of the murder of Thomas D'Arcy McGee, be taken from this place to the place from whence you came and be thence removed on Thursday, the tenth day of December, between the hours of nine in the morning and four in the afternoon, to the place of execution, and there be hanged by the neck until your body be dead, and may God have mercy on your soul.

The condemned man received his sentence, still standing in the front of the dock, without any manifestation of feeling, resuming his seat immediately upon His Lordship's conclusion. But, as he was being led out, a few minutes later, he lingered, brushing his hat with his coat sleeve, and for the last time spoke, turning to the Bench, "All that sentence, My Lord, cannot make me Guilty."

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