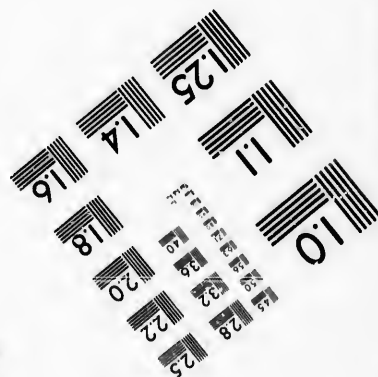
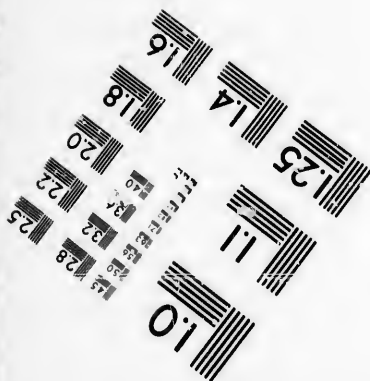
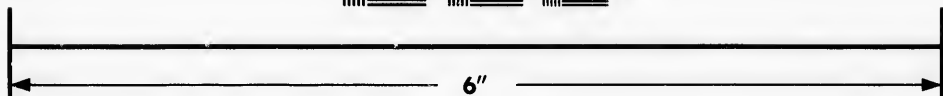
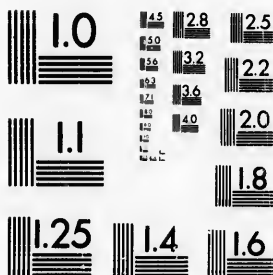


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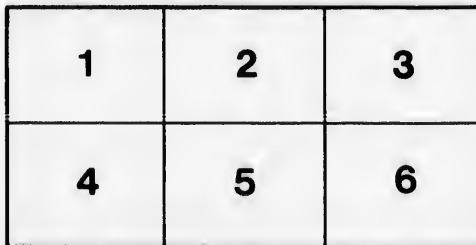
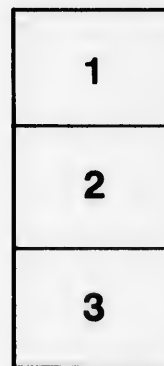
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THE ST. ALBANS RAID.

INVESTIGATION

BY THE

POLICE COMMITTEE,

OF THE

City Council of Montreal,

INTO THE CHARGES PREFERRED BY

COUNCILLOR B. DEVLIN,

AGAINST

GUILLAUME LAMOTHE, Esq., Chief of Police ;

AND THE

PROCEEDINGS OF THE COUNCIL

IN REFERENCE THERETO.

MONTREAL :

PRINTED BY OWLER & STEVENSON, 41 ST. FRANCOIS XAVIER STREET:

1864.

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THE ST. ALBANS RAID.

Upon the 19th of October last, a number of persons (between 20 and 30) made an attack upon three Banks situate in the town of St. Albans, in the State of Vermont, one of the United States of America, and stole therefrom, in money and securities, upwards of \$200,000. After the perpetration of the robbery, the persons engaged in it fired upon several citizens, killing one, and wounding another almost fatally. They then fled to Canada, and upon its having been made known to the Government here that these outrages had been committed, and that the perpetrators of them sought refuge in Canada, prompt and efficient measures were ordered to be taken for the apprehension of the offenders. The result was, that 13 of the gang were arrested within a few hours after the commission of the crimes charged against them. Immediately afterwards, their extradition was demanded by the United States Government; but as this demand could not be complied with without the observance of the stipulations of the treaty for the surrender of persons so accused, an investigation into the criminality of the acts with which they were charged, was commenced before Chas. Jos. Coursol, Esq., Judge of the Sessions of the Peace. During the progress of this investigation it was proved that \$90,000 were found in the possession of the prisoners, which were fully identified as a part of the larger sum stolen from the St. Albans Banks. By order of Judge Coursol, this sum of money was placed in the hands of Mr. Lamothe, Chief of Police, for safe keeping. Upon the 13th day of this month, after several weeks spent in the examination of witnesses in support of the demand for extradition

the accused were suddenly and unexpectedly discharged by Judge Coursol, upon (considering the existence of a positive law to the contrary, the extraordinary pretension that our courts are without jurisdiction in this matter.

The moment this judgment was rendered, and before the arguments of Counsel to which it gave rise, and which immediately followed the judgment, had been concluded, Mr. Lamothe had handed over to Mr. John Porterfield, a friend of the prisoners, every dollar of the money stolen from the Banks which had been previously placed in his custody for safe keeping.

Thereupon Mr. B. Devlin, who had acted throughout the investigation as Counsel for the United States Government, and also for the St. Albans Banks, proceeded to the City Council, and before that body, of which he is a member, preferred two charges against Mr. Lamothe.

Firstly, With having unlawfully and designedly delivered the money so placed in his hands to the prisoners : and Secondly, With having refused to execute a warrant for their re-arrest, issued by His Honor Judge Smith.

An investigation into these charges was immediately ordered by the Council, and the attention of the reader is now respectfully directed to the extraordinary circumstances developed in the course of the evidence which hereafter follows.

The foregoing remarks it must be understood, but briefly and indeed imperfectly introduce the subject. But as the facts connected with the St. Albans raid, and the discharge of the prisoners accused of it are now so notorious and so well known, more extended observation is unnecessary. Besides the very able and eloquent speeches delivered before the Council, when the evidence taken during the investigation, was submitted to them, contain so complete a history of the entire transaction as to dispense with the neces-

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sity of prefatory observations. It may, however, be added, that the Government of this country has done all in its power to carry out the stipulations of the Treaty to the letter, and that the people of Canada heartily regret the unaccountable and unprecedented failure of justice which has characterized the investigation into the crimes of the St. Albans Raiders.

Montreal, December, 1864.

PROCEEDINGS OF POLICE COMMITTEE.

Investigation before the Police Committee of the Council of the City of Montreal, into the charges preferred by B. Devlin, Esq., against Guillaume Lamothe, Esq., Chief of Police, for alleged improper delivery by him of the monies stolen from the St. Albans Banks placed in his hands for safe keeping.

WEDNESDAY, December 14, 1864.

PRESENT:—His Worship the Mayor; Aldermen Rodden, Leclaire; Councillors McCready, McGibbon, Devlin, Labelle, Leduc.

Councillor DEVLIN stated that before entering into the investigation of the written charge submitted by him yesterday evening, he desired to add another charge which he had omitted, to the following effect:

That the Chief did refuse to execute a warrant issued yesterday by a Judge of the Superior Court, for the arrest of several parties charged with criminal offences.

Thereupon the question was put to the Committee whether or not this further charge should be received now?

Yeas—McCready, McGibbon.

Nays—Labelle, Leduc.

The votes being equally divided, the Chairman gave his casting vote that the charge should be received, but the Chief should have sufficient time to enter upon the defence thereon.

The Chief stated he was prepared to enter upon his defence upon the said charge.

The following charge, which was made by Councillor Devlin yesterday evening, was then read.

The undersigned Councillor charges Guillaume Lamothe, Esq., Chief of

Police with having upon this 13th day of December, at the City of Montreal, without authority and by design, dispossessed himself of a large sum of stolen money, amounting to between eighty and ninety thousand dollars, which was placed in his hands for safe keeping, to await the result of legal investigation ; which sum of money the Chief of Police it is further charged, delivered to some person or persons not the legitimate owners of the same, and to the great loss and damage of the persons from whom the same sum of money was stolen.

B. DEVLIN.

In reply to the charge, the Chief of Police submitted the following statement ;—

The undersigned, in reply to the charge preferred against him by Councillor Devlin, the accuser, and member of this Committee, begs leave to state—

That the accusation is one over which the Council or Police Committee can have or exercise no jurisdiction whatever. That he never received the sum of money alluded to as an officer of the Corporation, but that he was entrusted by the Judge of Sessions with a certain amount of notes and bills found upon the persons of certain parties arrested under the accusation of having stolen the same.

That having heard the delivery of the judgments in this matter, declaring that the Judge had no authority or jurisdiction in the case, that the warrant under which the accused had been arrested and dispossessed of the said notes was illegal, and discharged the said parties from such arrest, he thought himself legally bound—advised as he was by professional men—to restore *immediately* the property to the parties who were in possession of it at the time of the arrest, and who had been declared to have been illegally arrested, such as is usually done in such cases.

That he was requested by the said discharged parties to deliver to them the money which had been taken from them at the time of the said illegal arrest and entrusted to him, which he did under the impression, not only that he had a right to do it, but that it was his duty so to act.

If it is the intention of the accuser, who acted as Counsel before the Judge of Sessions, to elicit from the Committee an opinion or a decision upon the legality or illegality of the conduct of the undersigned, he hopes that a sense of justice will prompt the Committee to afford him the opportunity of being heard by Counsel before the Committee.

GUIL. LAMOTHE,
Chief of Police.

The Chief stated he had no verbal statement to make in addition to the said document.

The Chairman put the question whether the Committee would proceed with the complaint as against an official act of the Chief or not, and whether or not they would admit an attorney on his behalf in this matter.

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Councillor Labelle moved, seconded by Councillor Leduc, that the point of law raised by the Chief of Police in his answer to the charges made by Coun. Devlin, relative to the question of jurisdiction of the Committee, to enquire into the facts connected with the same charge, be now referred to the Attorney of the Corporation.

The question being put, the following division resulted:—

Yeas—Labelle, Leduc.

Nays—Leclair, McCreedy, McGibbon.

It was then admitted that the Chief should be allowed to be heard by an Attorney; the Chief said he would so be heard at a later stage of the proceedings.

Coun. Devlin claimed to have the right to examine the Chief, which was granted.

The Chief being called upon to take the oath declared he was not ready to do so unless he had his Attorney with him, as the matter now before the Committee was a serious one, and, although perfectly satisfied that he was right he may require the advice of such attorney.

EDWARD CARTER, Esq., Q.C., and Clerk of the Peace appeared, and being sworn, saith:

Q. Did you, yesterday, authorize or advise Guillaume Lamothe, Chief of Police, to deliver up to the prisoners discharged by the judgment of His Honor Mr. Justice Coursol, known as the St. Albans Raiders, the whole or any part of the moneys placed in his hands for safe-keeping, as Chief of Police, namely, the moneys alleged to have been stolen from the St. Albans' Banks by the Raiders?

A. I am happy to have this opportunity of answering this question, as I was much surprised to see in this morning's papers, a statement to the effect that after the judgment was rendered, Mr. Lamothe had been advised by Judge Coursol and myself to give up the money; and no such advice was so given; but I deem it right to add that upon asking Mr. Lamothe this day for an explanation, he informed me that some eight or ten days ago, feeling anxious about this money, he asked Mr. Coursol what he should do with it if the prisoners were released, and that Mr. Coursol answered that he could not hold the money, and that I was present when this occurred, and had acquiesced in Mr. Coursol's opinion. I had at the time no recollection of this, but have since been assured by Mr. Coursol that the question had been so put in that general form, and that answer given. It is, therefore, very probable that such a question was put in that general manner, and that answer given and acquiesced in, upon the assumption, however, that the discharge of the prisoners was a discharge upon the merits of the case. I desire also to add, that this occurring in the course of a conversation, such an opinion would in all probability be the one given by any lawyer to whom a similar question was put. In conclusion, I wish to state, that pending an argument after Judge Coursol's judgment, Mr.

Devlin begged of me to see that no order was given for the restitution of the money. I, immediately upon Mr. Coursol leaving the Bench, asked him not to give an order for the money, and his answer was, that no application had been made, and no order given, or that he had no order to give, or words to that effect.

Q. Were the charges preferred against the said raiders disposed of by Judge Coursol upon the merits?

A. The decision of Judge Coursol is now known to have been one entirely turning upon his jurisdiction, and therefore, assuming that he had no jurisdiction he could not very well make any order respecting the money, his decision did not touch the merits of the charges.

Q. At what hour was the judgment of Judge Coursol rendered?

A. As far as I recollect, at about half-past three o'clock.

Q. Have you been informed by the Chief of Police to whom he delivered the money so placed in his custody, and at what time the delivery took place?

A. The first intimation I received that the money had been handed over by Mr. Lamothe was from Mr. Devlin himself yesterday afternoon, and I heard him upbraid Mr. Lamothe for having delivered over the money; my conversation with Mr. Lamothe this day related to the newspaper report above adverted to, but he never told me to whom or where he had delivered the money. I understood from what he said to me generally, that he had delivered the money to such of the prisoners from whom the money had been taken, considering that he had no right to hold the money after Judge Coursol's judgment.

Q. Is it not the practice and the duty of public officers charged with the safe-keeping of large sums of money to await the result of legal investigation, and particularly that of an officer charged with the safe-keeping of between eighty and ninety thousand dollars alleged to have been stolen by the parties from whose possession it was taken, to apply for advice and authority to a Judge of the Court having cognizance of the matter, or to an officer of the Crown before delivering to the alleged thieves such sums of money?

A. I answer the question without reference to the amount of money, as that cannot affect the case. As to the practice, it is usual for the High Constable, in whose custody stolen property may be placed, to do as is stated in this question. In so far as this question relates to the duty of the officer, I can only answer it by stating what is the law on the point in this country, which is somewhat different from the law as it exists in England, namely—That our Courts do not in criminal cases, possess the power of making any order relating to stolen property, except in cases where the thief has been convicted of the crime charged. By recent legislation in England greater powers are given to the Court, but this Statute not applying to this country cannot be enforced here.

Q. Are you therefore of opinion that Chief Lamothe was justified in disseminating himself of the large sum of money entrusted to him, the proceeds of

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the robberies committed at St. Albans, and in delivering this money without any order, judgment or other authority requiring him so to do, to the persons accused of the said robberies, considering that the charges preferred against them were not disposed of on the merits, and without obliging them under the circumstances to revendicate the same for the establishment of their claim to it?

A. My impression was that Mr. Lamothe would await some order before delivering up the money, and it was with the view of preventing any order being given, that upon the suggestion of Mr. Devlin, immediately after his decision, believing it very probable that an application would be made for the money to be restored to the prisoners, I asked Mr. Coursol not to give any order; and it was not until I heard Mr. Lamothe's explanation to-day, referring to the question be put to Judge Coursol some eight or ten days ago, that I could understand why he had so paid over the money.

Q. If you knew as a fact that the Chief of Police had left the Court during the rendering of Judge Coursol's judgment, and that he had designedly absented himself from his office, and that finding a judgment rendered in favor of the raiders accused of murder and robberies, and that he had contrived to obtain admittance into the bank after office hours with the view of obtaining from such bank the money by him deposited there, and alleged to have been stolen by the raiders, and for the purpose of restoring it to them, or to others before the legitimate owners could adopt proceedings for its recovery; could you with your experience look upon such conduct as the discharge of a legitimate trust, or an outrageous violation of his official duty?

A. I can barely answer this question upon the assumption made by it, that such a course could not be considered as a legitimate discharge of the trust.

And further deponent saith not, and hath signed.

ED. CARTER.

This closed the examination in chief of this witness.

The Chief being called upon to cross question the witness, stated he could do so when he had the assistance of his Attorney.

CHAS. J. COURSOL, Esq., Judge of the Sessions of the Peace, being sworn, saith;

Q. Is it true that by your order or authority, Chief Lamothe was directed to retain in his custody the moneys taken from the persons charged with murder and robberies at St. Albans, by you discharged yesterday.

A. The Chief of Police was entrusted with the safe-keeping of all the moneys, pistols and other effects taken from the raiders and produced in Court during the enquiry, by the different witnesses who were then and there examined; such moneys and articles to be kept by him until judgment should be rendered in the case.

Q. Is it true that the monies so entrusted to the Chief of Police, were placed in his custody by other parties than the raiders?

A. The articles being produced in Court before me were handed over to the Chief. He did not receive them from the raiders, with the exception of one whom I understood he arrested himself in Montreal.

Q. At what hour did you render your judgment yesterday in the raiders case?

A. I believe it was a few minutes before three o'clock, but cannot swear positively.

Q. At what time did you leave the Bench?

A. About half-past three.

Q. Did you inform Chief Lamothe at any time before the rendering of your judgment, that you would discharge the prisoners on Tuesday, the 13th instant?

A. As I have been informed this day that at a meeting of the City Council held last evening, it had been reported that I had made known my judgment to the Chief before it was rendered, I shall answer the question to vindicate myself from such a calumnious assertion, otherwise, I should consider it impertinence to ask such a question. I never at any time before the rendering of the judgment informed the Chief, or any one else, what would be my judgment, as my mind was with difficulty made up on the point raised after I left the Bench to consider the objection made by the Counsel for the defence. I had no conversation with the Chief, nor even saw him on that day after half-past nine in the morning, when I asked him for certain information concerning a shop-lifting case which I had seen published in the papers, and which has not yet been brought before me to investigate. Ten or fifteen minutes after four o'clock the same day (yesterday) whilst in a conversation with Mr. C. S. Cherrier, my step-father, which took place in Notre Dame Street, in front of the Court House, the Chief came in the direction in which I stood, and, after entering into conversation with us, he told me that Mr. Devlin was angry at him. I asked him why. He told me because he had delivered the money which had been placed in his hands. I was not aware up to that moment that the money had been delivered. I gave no order, by judgment or otherwise, for the delivery of the money in question. The Chief did not say to whom he had given the money, nor when nor where.

Q. Do you believe that the Chief Lamothe, knowing that the prisoners were not discharged, by reason of innocence of the crimes preferred against them, was justified in delivering to the raiders, or to others on their behalf, the large sum of money which was entrusted to him for safe keeping, without communicating with you, and without receiving any directions from you as to its disposal?

A. I am not prepared to say that in delivering the money after I had declared by a judgment that I possessed no jurisdiction in the cases, that he acted illegally, and in justice to Mr. Lamothe I am bound to declare that he might have interpreted the answer which I gave him some eight or ten days ago, in Mr. Carter's office, and which is mentioned in Mr. Carter's deposition, as a reason for giving up the money without referring to the Court.

Q. Are we, then, to understand that it is your opinion that Chief Lamothe, in delivering up to the raiders the large sum of money which they were accused of having stolen, and which you entrusted to his safe keeping, upon your judgment declaring that you had no jurisdiction in the matter, acted with becoming propriety, and in a way to commend the act to your favorable consideration?

A. As I may yet be called upon to express an opinion from the Bench on this very point, I feel that I cannot give a decision at the present moment.

Q. By Alderman Leclaire—What are the words that were used in the conversation held in Mr. Carter's office, above alluded to?

A. Mr. Lamothe asked me what would become of the money deposited in his hands in the event of the prisoners being discharged, I answered that the money would have to be given back to the prisoners, except an order should be given to the contrary by the Court.

Q. By the Chairman—Are the words "and dispossessed of the said notes and bills was illegal" underlined in the document now shown to you, and submitted by Chief Lamothe as his answer to the charges made by Councillor Devlin, contained in and forming part of your judgment rendered in the Court?

Answer reserved until to-morrow.

And further deponent saith not, and hath signed.

CHS. J. COURSOL:

The Chief declines cross-examining the witness for the present.

EDWARD ADAM SOWLES, Counsellor, of St. Albans, being sworn, deposes and saith:—I represent the St. Albans Bank and the National Bank in the matter of the raiders. I had a conversation with the Chief of Police on Friday or on Saturday last in relation to the monies belonging to the St. Albans Banks, that had been placed in his possession, and which I had seen in his possession. In this conversation, the question in regard to the safety of the monies arose. Mr. Lamothe then assured me that he should not deliver up the monies except upon an order and a discharge in writing from the parties to whom it should be delivered; I had had some misgivings in regard to the safety of the monies, and I wished to satisfy myself by calling upon him, that the monies would be safe, in case that any inquiry that might arise during the progress of the investigation relative to the robberies and murder committed at St. Albans. I had come here at that time for the purpose of taking steps to secure these monies in case of any unexpected disposal of that case by Judge Coursol, and from assurances that the Chief of Police gave me at that time and on former occasions at St. Johns and elsewhere, I did not insist upon such steps being taken to secure those monies as I otherwise would have done.

On the same day the Chief stated to me that one of the gentlemen representing one of the St. Albans banks came to him and had in his hands an instru-

ment for punching, and in conversation in regard to the monies belonging to the bank this person represented, he inferred that this gentleman would like to Punch a hole through them for the purpose of identification, although that gentleman said nothing directly upon the question. While at St. Johns I was told by Judge Coursol that the monies had been entrusted to the Chief of the Police, and gave us the assurance that the monies would be safe in his hands.

And further deponent saith not, and hath signed.

EDWARD A. SOWLES.

Ordered, That the proceedings, so far, be submitted to the Council this evening, and that the Committee stand adjourned until three o'clock to-morrow afternoon.

THURSDAY, December 15, 3 p.m.

PRESENT :—Aldermen Rodden, Leclaire ; Councillors McCready, McGibbon Devlin, Leduc.

The Chairman stated that he had received an application from several members of the Press for permission to be present at the investigation. It was thereupon

Resolved—That the Press be not permitted to attend the meeting, but that the proceedings be communicated to the gentlemen of the Press as they go on.

The Chief appeared with his Attornies, Messrs. Abbott and Laflamme.

KIRKMAN FINLAY LOCKHART, of the City of Montreal, accountant in the Ontario Bank, being sworn, deposeth as follows :

Q. Is it within your knowledge that Mr. Guillaume Lamothe, Chief of Police, deposited in the Ontario Bank, in which you are accountant, at any time during this month, and if so, upon what day, any parcel or sum of money or other effects ?

A. On Monday or Tuesday last, in the morning, Mr. Lamothe left in the Ontario Bank a carpet bag sealed, contents unknown, for safe keeping, and to be delivered to himself or his order.

Q. Did the Chief of Police inform you of the contents of the said bag at the time of its deposit, or since ?

A. He did not inform me of the contents at the time or since.

Q. At what hour was that bag left with you, and did any person accompany the Chief at the time of the deposit ?

A. I think it was after two o'clock, and to the best of my knowledge he was alone.

Q. Have you delivered the said carpet bag to any person since its deposit, and if so, state when the delivery was made, and to whom ?

A. I delivered it on Tuesday last after three o'clock in the afternoon to John Porterfield.

Q. Who is John Porterfield, where does he live, and what is his occupation ?

A. He is an American gentleman, an exchange broker, on the Place d'Armes, I think, and I believe he resides in the Prince of Wales Terrace.

Q. Is this Mr. Porterfield known as a Southern sympathiser, and is it to your knowledge that he has been aiding and assisting in any way the persons who stood lately accused of the crimes of murder and robbery at St. Albans, and who have been discharged from imprisonment by Mr. Justice Coursol ?

A. I know him as a Southern gentleman, but would not say whether he is a sympathiser with the South ; he was not, to my knowledge, assisting the persons in question.

Q. Upon whose order did you deliver the said carpet bag to John Porterfield was the order in writing, is it in your possession, and can you produce it ?

THE ORDER.

Montreal, Dec. 13, 1864.

Mr. Henry Starnes will please deliver to Mr. Porterfield, or order, the carpet bag put in trust into his hands.

(Signed) GUIL. LAMOTHE,
Chief of Police.

Q. What did Mr. Porterfield say at the time he made his application for the carpet bag, so deposited by the Chief of Police ?

A. Nothing in particular.

Q. How long after banking hours was this application made ?

A. Between three and four, I cannot precisely say, but I think it was about half past three ; the bank closed at three.

Q. Is it true that the Chief of Police has been in the habit of making deposits of stolen property in the Ontario Bank for safe-keeping ?

A. I believe he has left money for safe-keeping in the bank on previous occasions. We are in the habit of taking parcels, it may be plate, money, or other articles for safe-keeping, which we deliver over during or after bank hours ; our cash accounts alone are always closed at three.

Q. Do you remember Mr. Porterfield when he applied for the carpet bag, having remarked that the St. Albans raiders had been liberated ?

A. No.

Q. What kind of carpet bag was it ?

A. It was a middle sized carpet bag, rather much worn, and heavy for me to carry in one hand.

Q. Have you any knowledge of any circumstance that would enable you to say what were its contents of that carpet bag ?

A. Nothing but hearsay.

Question by the Chairman—When this bag was delivered to you or at any

subsequent time, were you informed by the Chief of Police or by any other person what were the contents?

The latter part of this question which tended to obtain the evidence as to other persons than the accused having given information, was objected to by the Counsel for the accused.

The objection was overruled.

A. Neither at the time of the bag being left in the bank nor at any subsequent time did the Chief of Police inform me what were the contents of the carpet bag; I have not been informed of the contents of that bag by any other person.

Question by Councillor McCready.—Is it within your knowledge that Mr. Porterfield mentioned above, keeps an account with the Ontario Bank?

A. I don't keep the deposit ledger, but I think he does keep an account with the Bank.

Q. Has it come to your knowledge that that gentleman (Mr. Porterfield) deposited any amount of American money since Tuesday last, in the Ontario Bank and to what amount?

Question overruled.

Further the deponent saith not and hath signed.

K. F. LOCKHART.

JUDGE COURSOL having been sworn, in answer to the question held over yesterday answered by saying.

A. Those do not form part and are not included in the judgment. I mean the words "and dispossessed of the said notes and bills was illegal."

Question by Councillor McCready.—At the time the Chief of Police met you in Notre Dame street opposite the Court House, when stating to you that Mr. Devlin was very much annoyed at him for giving the money to the raiders, did you make any remark concerning the Chief of Police's conduct or expression of approval or disapproval of the act?

A. I did not, as the Chief went on in one direction, and taking leave of Mr. Cherrier I went in another. The Chief went in the direction of Jacques Cartier Square and I went toward Notre Dame street west.

Cross-examined by Mr. Laflamme.—Q. After judgment pronounced by you discharging the prisoners and declaring that you had no jurisdiction, could you legally give an order for the money?

A. My opinion is that I had no such power.

Q. Do you not consider that the Chief could have been made liable to damages for retaining the money after the judgment; and was he not justifiable in believing so?

A. This being a question relative to civil law more than to criminal law, I am not prepared to say what would be the opinion of the judges of the civil courts, but as I am called to give an opinion, I believe that he might.

Q. Is it not a fact that the Chief of Police did ask you if he could legally retain that money after the judgment discharging the prisoners?

A. I have already answered a similar question; it is to be found in my examination in chief.

Q. Did you not tell him in conversation several times when he asked you if he was bound to give over the money after the judgment discharging the prisoners, that such was the law, or something to that effect?

A. Questions to a similar effect having been made so often to me by different parties not interested in the case, I cannot really recollect whether I made such an answer to Mr. Lamothe more than once, but it is possible that I might have done so.

Q. From your opinion already expressed, would not your answers in every such case have been the same as you state?

A. Certainly.

Q. Do you believe that from the nature of the observations made by you to him on this point that he was perfectly satisfied that it was his duty immediately after the judgment discharging the prisoners, to deliver all the money if so requested?

A. I have known Mr. Lamothe and every member of his family since many years, and I have no doubt in my mind that when Mr. Lamothe delivered the money he was under the full impression that he had a right to do so. When I placed the money in his hands I had full confidence in his honor and integrity, and I have still, knowing that he would never commit a dishonorable act.

Q. Did not your observations on that point lead him to such a conviction?

A. They certainly might.

Q. Is it not a fact of frequent occurrence that monies are given back to the prisoner without an order when the property is in the custody of the Chief of Police, upon his knowledge of the discharge of the prisoners?

A. It is not the general practice, but is of frequent occurrence, a fact of which many members of the bar are fully aware.

Q. Was the money attached in the Chief's hands?

A. I received no intimation whatever to that effect. I always expected that it would, and I may add, I am astonished that it was not.

Q. Could not the money so put in the Chief's custody have been attached a long time previous to the thirteenth instant, and during the whole of that day up to the final rendering of the judgment?

A. I know of no law to the contrary.

Q. Was the Chief in any way bound to give information of the application for the money on the part of the prisoners to facilitate the issue of any such attachment?

A. The duty of the Chief would have been to report to the court that such

money had been attached, in the event of court making an order for the restitution of the money.

Q. In your opinion do you consider the Chief liable for having delivered the money after the judgment discharging the prisoners?

A. This is a point which a court of justice alone has the right to decide.

Q. According to your opinion do you consider him liable?

A. I do not.

Mr. Laflamme declared he had no other questions to put to this witness.

Re-examined by Councillor Devlin.

Q. You have stated it as your opinion in answer to a question by Mr. Laflamme that the Chief would be held liable in damages if he retained the money after your judgment. I therefore ask you to whom you think he would be liable?

A. He might be liable to the parties from whom he had illegally kept the money; I mean the parties having a claim on the money.

Q. Do you allude to the persons who were arraigned before you upon charges of murder and robberies, and who have been discharged by you?

A. I can make no distinction between these prisoners and any others; and if such a right of action existed, the civil courts of justice would have decided whether the claims were right or wrong.

Q. I wish you to state definitely what you wish the Committee to understand that in your saying that the Chief would be liable in damages if he retained the money, he would be so liable to the raiders who were accused before you of having stolen the same from the Banks of St. Albans?

A. The members of the Committee will form their opinion on that point as they see fit.

Q. Do you decline to answer the question?

A. I have already answered the question in my answer before the last.

Q. Do you seriously believe that the thirteen persons who were accused before you upon charges of murder and robbery, and from whose possession the money in question was taken, upon the ground that it had been by them feloniously stolen from the St. Albans Banks, would have any legal claim to damages against the Chief of Police, if, knowing as you know he did, that there were other claimants for the monies entrusted to him, he refused to deliver the same to the said thirteen persons until their right to it was established by a solemn judgment of a Court competent to determine upon the legality of their claims to such money?

A. On the assumption that such a case would have been brought before the Court and legally tested, it is impossible for me to give an opinion as to the decision that might have been given by the judges or the jury.

Q. As you have already given it as your opinion that the Chief of Police

would have been liable in damages if he detained the money after your judgment, do you wish the Committee now to understand by your former answer that his liability would have been doubtful?

A. Being called upon to give opinions as I have already been, a course which I believe, with due deference to this Committee, to be extremely irrelevant, I have said that the Chief might have been liable in an action for damages, without expressing an opinion as to the result of such an action.

Q. Your judgment having been pronounced between the hours of three and four o'clock of the afternoon of Tuesday last, permit me to ask you if it is your opinion that the Chief of Police would have rendered himself liable to the raiders or to any other persons if he had refused to deliver to them the money in question before the opening of the Bank in which the money had been deposited, the said Bank having been closed before judgment was rendered?

A. I am not aware whether the money was deposited in the Bank, except from hearsay, since the opening of this investigation; but if the prisoners were legally entitled to the money, they had a right to be put in possession of it as soon as possible after their discharge.

The re-examination was here discontinued, to be resumed at three o'clock to-morrow afternoon.

FRIDAY, December 16, 1864, 3 p.m.

PRESENT:—Aldermen Rodden, Leclaire; Councillors McCready, McGibbon, Devlin, Leduc.

Councillor Devlin stated that before proceeding with the investigation, he desired to ask for an adjournment of the Committee until 11 a.m. to-morrow, the 17th inst. The application being assented to by the Counsel for the accused, it was ordered that the Committee stand adjourned until 11 a.m. to-morrow.

SATURDAY, Dec. 17, 1864, 11 a.m.

PRESENT:—Aldermen Rodden, Leclaire; Councillors McGibbon, Leduc, McCready, Devlin, Labelle.

The Chief, through his Attorney, Mr. Laflamme, submitted the following reply to the charge preferred against him for refusal to execute a warrant for the arrest of the raiders after the judgment rendered by Judge Coursol, viz. :—

The Chief of Police in answer to the second accusation brought by B. Devlin, Esq., against him, respecting his refusal to execute a warrant, &c., begs respectfully to state:

That he is not a constable, or in any manner subject to the orders of the Superior Court or Judges of the Court of Queen's Bench, and never received any since he was appointed, but is solely the Chief of Police of the City, bound to

see to the execution of warrants and orders issued from the city authorities. That nevertheless he never did intend to refuse to execute the warrant in question, but merely asked for three quarters of an hour to ascertain how he could legally execute a warrant issued by a judge and not by a governor, when a competent court of criminal jurisdiction had a few hours previous declared every such warrant null and void. That if such judgment was to be respected, and if the principle therein expressed was admitted, he had, and could have, no authority to arrest or order the arrest of the parties, and they would be entitled to resist by all means in their power.

Under such circumstances, he was bound to ascertain whether he could execute such a warrant legally, and three quarters of an hour, the delay demanded, could not be considered more than was necessary, and could not be refused him.

Montreal, 17th Dec., 1864.

GUIL. LAMOTHE.

The Counsel for the Chief also submitted the following declaration :—

That no other party than the discharged prisoners preferred to him any claim to the amount deposited in his hands, that no attachment had been issued to stay the delivery of the said securities, nor any notice given to him not to deliver, nor any order or judgment entitling any other person to the property or possession thereof, was ever made. That the Chief is entirely willing to abide the judgment of the judicial tribunals as to his course, and to encounter any and all liability therefor. That so believing as he does, he further adds that he has been informed that those who have represented the Confederate Government, in whose service and in whose behalf the said accused claimed to have acted in capturing such securities, have offered to the party complaining, to deposit in any banking institution or judicial tribunal, the whole amount, or its equivalent in value, to abide the result of any such judgment against the Chief, to be delivered to the party entitled to recover it in the hands of the Chief of Police, and have been refused. That after such declaration, the Chief can be no more subjected to any investigation without such complainant having previously shown the order of the judge and established the refusal on the part of the Chief of Police to deliver over the amount.

Therefore, the said Chief, through his Counsel, respectfully demands that this, his declaration, be submitted to the Council, and that all proceedings be stayed until such order or judgment be rendered.

R. LAFLAMME,
Counsel for the Chief of Police.

Montreal, Dec. 17, 1864.

The Chief stated that he desired to make a statement under oath, and asked the Committee to be allowed to do so, to establish certain facts in connection with this investigation.

The application was granted.

STATEMENT OF THE CHIEF OF POLICE.

GUILLAUME LAMOTHE, Chief of Police, being sworn, deposeth and saith :—

The public, at this stage of the proceedings, having been led to believe, that I have refused to take the oath on the first day of the investigation, because I felt that I was guilty of the accusations brought against me, I think I owe it to the Committee and the Council to state emphatically that I have never received, neither was I promised anything directly or indirectly, nor have I benefited in any way by the delivery of the moneys in question; that when I did deliver these moneys it was after having the advice of competent lawyers, corroborated by conversations with Judge Coursol and Edward Carter, Esq., and consequently I considered myself perfectly justified, under the circumstances, to act as I have done. I further state that I received the order for the delivery of these moneys after the judgment was rendered by Judge Coursol.

And further deponent saith not, and hath signed.

GUIL. LAMOTHE,
Chief of Police.

The Chief after signing the above declaration, stated verbally, that having made that declaration he wished to submit his resignation in writing, as Chief of Police, which he did, and which is as follows :—

The question as to the legality of my conduct in delivering over the money heretofore in my custody as having been taken from the persons commonly called the St. Albans raiders being a purely legal question, I have offered to submit it for decision to the highest legal tribunal of the land, and have stated that satisfactory security can be furnished, that if the judgment of that tribunal be adverse to me, the value of these moneys will be paid over to their owners. This offer having been refused I am not disposed to submit to any further discussion of the question before this Committee, which cannot be supposed to be familiar with questions of law, the member who is my accuser being the only lawyer but one on the Committee; and feeling that personal motives and enmity do not allow me to expect fair justice from the Committee, I therefore resign the office of Chief of Police.

GUIL. LAMOTHE,

The Chief having been called on by Councillor Devlin to submit to cross-examination, he declined doing so at present, whereupon Councillor Devlin called upon the members of the Committee to enforce the authority vested in them by law to require him to answer such questions as shall be legally submitted to him by the members of this Committee. The Chief having been called upon to state if he was disposed to answer such questions, he said he was not prepared to do so at present.

Moved by Councillor Labelle, and be it resolved,—That, considering that the accusations brought by Councillor Devlin, that the Chief of Police, having on the 13th December instant, without authority and by design, dispossessed himself of a considerable sum of stolen money, amounting to about \$80,000 or

\$90,000, which had been placed in his hands for safe keeping, to await the result of legal investigation, which sum the Chief of Police is also accused of having delivered to a person or persons who were not the legitimate owners of it, and that to the great injury and damage of the persons to whom the said money belonged. Considering that the said accusation resolves itself into a purely legal question, viz: if the Chief of Police was legally justifiable under the circumstances in which he was placed to return the money in question to the persons from whose possession it had been taken, and considering that that question can only be decided by a Court of Justice, therefore the Committee declares itself incompetent to inquire into such a question and to continue this investigation.

The Chairman declared the motion out of order as tending to open the question of legality of a point which the Committee had previously determined not to refer to the Attorneys of the Corporation, and as tending to declare the incompetency of this Committee to proceed with a subject which they have under consideration by order of the Council, and with which they have already proceeded.

Councillor Labelle moved an appeal from the decision of the Chairman, upon which the Committee divided.

For the decision—Messrs. Leclaire, McGibbon, McCreedy, Leduc.

Against it—Mr. Labelle.

The Chief through his Counsel objects to any further proceedings in this matter, inasmuch as the same are directed against him as a public officer, he having resigned his office, and this Committee having to await the decision of the Council upon the said resignation before they can proceed any further.

The objection was overruled.

EXAMINATION OF MR. PORTERFIELD, BY MR. DEVLIN.

John Porterfield of the City of Montreal, gentleman, being sworn, deposeth as follows;

Q. What is your occupation ?

A. I am not engaged in any business at present.

Q. Are you in any capacity the representative in Canada, of the Confederate States ?

The question was objected to by Mr. Lafamme as irrelevant. The objection was maintained on the following division; for the objection; Leclaire, Messrs. Leduc, Labelle; against: Messrs. McCreedy, McGibbon.

Q. Do you know Guillaume Lamothe, Chief of Police, and if so, how long have you known him ?

A. I know him since Monday or Tuesday last.

Q. Had you, at any time before Monday or Tuesday last, any conversation with the said Chief of Police touching the arrest, or discharge of the prisoners lately discharged by Judge Coursol, and known as the St. Albans Raiders ?

A. None whatever.

Q. Were you introduced to the Chief of Police, and if so by whom ?

A. I was introduced to him by George N. Sanders.

Q. When and where were you introduced by Geo. N. Sanders to the Chief of Police ?

A. At my office, some time in the middle of, I believe, Monday last, but I am not certain.

Q. Were you upon that occasion informed that the prisoners would be discharged the following day, and if so by whom ?

A. I was not informed that they would be by either of the parties.

Q. Had you any reason to believe that they would be discharged upon that day, namely Tuesday last ?

A. I have always had reason to believe that they would be discharged, not on any particular day, but I always believed that they would be discharged.

Q. Is it not a fact within your knowledge, that arrangements were made on Monday last for the escape of the prisoners, in anticipation of a judgment being rendered in their favor the following day ?

Objected to by the counsel for the accused as being irrelevant, and the witness not being bound to answer such questions as would criminate himself.

Yeas—Labelle, Leduc.

Nays—McCready, McGibbon.

The votes being equal, the Chairman voted in favor of admitting the question as one of the means of getting at the facts connected with the investigation.

A. I was aware of the fact from Lieut. Young himself, that he expected to be released during the week, and he asked me if I would assist him in getting off from the city immediately after his discharge.

Q. When were you informed by Lieut. Young of the fact ?

A. On the eighth of December instant.

Q. Permit me again to ask you if it is true that you were aware that arrangements were made on Monday last, and on the following day, Tuesday, for the escape of the prisoners, in expectation of a judgment favorable to them being rendered in the afternoon of the latter day ?

Objected to by the counsel for the accused as being illegal and irrelevant, and unconnected with the charge brought against the Chief, and for the sole purpose to obtain information from other parties not connected with this investigation, and for entirely different charges from those mentioned in the complaint.

For the objection—Leclaire, Leduc, Labelle.

Against—McGibbon, McCready.

Q. Were there to your knowledge any arrangements made on Monday or Tuesday last, for the escape of the prisoners ?

Same objection made and sustained by the same division.

Q. Had you any conversation on Monday last with the Chief of Police when introduced to you by Mr. Sanders, respecting the delivery to you of the moneys alleged to have been stolen by the St. Albans raiders from the St. Albans' Banks, and which moneys were then in the possession of the Chief of Police ?

A. The Chief called on me to know if I had any authority to receive the moneys in case the prisoners should be discharged.

Q. I ask you to state the particulars of that conversation to this committee ?

A. The conversation took place in a room where there were several persons. We went to a corner of the room and spoke in an undertone. His, the Chief of Police's object was to know if I had any authority to receive money or property ; I replied that I would bring an order for it when the raiders were discharged. I do not know that he made any particular reply ; there was none required and that was the end of the conversation.

Q. State what moneys were referred to in this conversation ?

A. It was money in his hands that was captured by the raiders.

Q. Did the Chief of Police inform you how much money he had in his possession ?

A. I did not ask him nor have I any recollection of his mentioning anything of the kind.

Q. Did he not tell you where the money was then placed, and did he not say that he would have it removed and deposited, or left in the Ontario Bank where delivery could be promptly made to you ?

Objected to by counsel for the accused as illegal, the same being a leading question.

Mr. Devlin waived the question.

Q. In the conversation referred to were you informed and if so by whom where the moneys were then deposited ?

A. No sir ; I do not recollect having been so informed.

Q. Were you in that conversation informed that the money would be left or deposited in the Ontario Bank for the purpose of delivery to you ?

A. I suggested to Mr. Sanders, the gentleman who was present and who introduced me to Mr. Lamothe, to have it placed in the Ontario or some other Bank.

Q. Was the money deposited, as suggested by you, in the Ontario Bank, and if so state when it was deposited, and when you were informed of the fact ?

A. I have no knowledge of the time of its being deposited in the Bank ; and when I heard that the Court had adjourned, and that the prisoners would probably be discharged on a legal technicality, I then called at the Bank to see whether the package was there, and I was told by Mr. Starnes that it was.

Q. When you speak of the adjournment of the Court, have you reference to the time when Mr. Justice Coursol took the application made to him on behalf of the prisoners *en deliberé*?

A. I do not understand the nature of the proceedings in the Court, but it was between eleven and twelve o'clock, I think.

Q. Were you not informed on Tuesday that the prisoners would be discharged?

A. I was not aware of it before the adjournment of the Court referred to, and it was then reported by the Southerners and friends of the prisoners that they would be discharged.

Q. Did you receive the money deposited in the Ontario Bank, and if so, at what hour did you receive it, and by whom was the delivery made to you?

A. I received it at about half-past three o'clock in the afternoon of Tuesday. It was handed to me by the book-keeper or clerk of the Bank.

Q. Had you any order for the delivery of this money, and if so, when was this order given to you, and whose order was it?

A. I had an order for it; it was given to me after the decision was rendered, and it was Chief Lamothe's order; it was given to me by himself in the lobby or aisle of the Court Room where I was standing. I had my sleigh at the door and I drove immediately to the Bank and got the package.

Q. Had the prisoners left the Court Room before you received this order from the Chief?

A. I do not think they could have left the Court Room. I was the first man out.

Q. Were you in Court when I addressed a request to Judge Coursol not to dispose of more than one of the charges against the prisoners?

A. I cannot say, as I did not know Mr. Devlin nor any of the other members of the bar present. There were several talking.

Q. Is it not true that you received the order from Chief Lamothe the very moment Judge Coursol rendered his judgment, and before the prisoners had actually left the Jury Box in which they were sitting, and before they had separated?

A. I was standing behind the Jury box where the prisoners were, but could not hear the language of Judge Coursol; but as soon as it was repeated to me by the by-standers that the prisoners were discharged, I went immediately to the Chief and demanded the property. He was in the outside passage of the Court Room, and there he gave me the order.

Q. Were you informed that in the event of a favorable judgment being rendered, you would find the Chief waiting for you in the passage to give you his order for the money?

A. No sir; I did not know he was in the Court Room or in the house.

Q. Was there a place of meeting between you and the Chief agreed upon before the rendering of judgment ?

A. There was not.

Q. When you received the order from the Chief for the delivery of the money, did you give him any discharge, or acknowledgement, or receipt of any kind therefor ?

A. I gave him a receipt perhaps in the shape of an order, signed by Lieut. Young and others, perhaps all the others. This was the only acknowledgement I gave.

Q. At what time did you receive this receipt signed by Lieut. Young and others ?

A. It was after two o'clock and before the judgment was rendered.

Q. How much money did you receive, upon the strength of Chief Lamothe's order, from the Ontario Bank ?

A. I do not know, it was in a sealed and labelled carpet bag, which I did not open.

Q. Is this carpet bag still in your possession or custody, or under your control, together with its contents ?

A. No, sir.

Q. To whom have you delivered it, and when ?

A. I delivered it to the owners that night as soon as I could find them.

Q. Who do you call the owners ?

A. Lieut. Young and party.

Q. Was this carpet bag opened in your presence ?

A. I was present in the room when it was opened.

Q. Can you now say how much money it contained ?

A. I cannot say directly ; but there were several raiders present. I heard them remark that there were eighty-five or six thousand dollars that should have been in the carpet bag, and that there was more than they expected.

Q. Was Chief Lamothe present when it was opened ?

A. No, sir.

Q. Have the raiders taken with them the contents of the carpet bag ?

A. I cannot say what they carried with them. I did not see them start.

Q. Did they divide the money amongst themselves, or did they restore it to the carpet bag after having examined it.

A. I cannot say as I left the room before they got through the examination.

Q. Was George N. Sanders, who introduced Chief Lamothe to you on Monday last, present when the carpet bag containing the money which had been stolen from the St. Albans banks by the raiders, was opened, and when the division of the spoils took place ?

A. He was not.

Q. Have you any reason to believe that the carpet bag and its contents are now in the possession of any person or persons in the City of Montreal?

Objected to by the counsel for the accused as illegal and unconnected with the subject of this investigation.

The objection was overruled by following votes:—Yeas, Labelle, Leduc, Nays, McCreedy, Leclair, McGibbon.

A. I do not know that it is in the city, nor have I a right to believe anything about it.

Q. Is it within your knowledge that the carpet bag or its contents have been forwarded to any place outside of Montreal?

A. Not within my knowledge.

Mr. Devlin declared that he had no more questions to put to this witness.
By Councillor McGibbon:

Q. When Mr. Lamothe called upon you to know if you had authority to receive the money, what answer did you give him?

A. I told him that I had.

Q. From whom did that authority come?

A. I had it from the chief of the raiders, who had made arrangements with me to receive it.

By the Chairman:

Q. Had the Judge left the Bench at the time you got the order from the Chief of Police?

A. I suppose not. I could not see from the place I was in.

Q. You say there was not a place of meeting agreed upon between you and the Chief before the rendering of the judgment; will you then state to the Committee how you knew where to find him on the instant the Judge rendered the judgment.

A. I went to the Court House to hear the decision, and intended if the prisoners were discharged, that I would send to Mr. Lamothe for an order, and I did not expect to find him in the Court House, and I did not know how to find him,

Q. If you did not know how to find him, by what means did you so speedily find the Chief of Police, and by whose assistance?

A. Having had an introduction to him I knew him by sight; I saw him standing in the lobby, and I went to him without assistance.

Q. Who was present with the Chief of Police or with yourself when he gave you the order on the Ontario Bank for the money?

A. I do not remember of any person in particular being present.

Q. Am I to understand you to swear that you did not know any of the persons then and there present with yourself and the Chief?

A. I went there by myself and I spoke to all the Southerners I met there present; the room was crowded.

Q. In this answer you do not state who was present with yourself and the Chief on that occasion; will you do so?

A. I am not aware of any particular person being present; the lobby was crowded.

Q. Was the order delivered to you by the Chief, written in your presence?

A. It was not written in my presence.

Q. Did the Chief ask for time to consider the matter and make the order, or was it ready?

A. He handed me the order as soon as I went up to him.

CROSS-EXAMINATION BY MR. LAFLAMME.

Q. Were you not made aware of the nature of the objection that was to be made on behalf of the prisoners? Was it not considered by their counsel and so stated to be decisive? and was it not from that fact that they expected their discharge?

A. So I understood; I did not learn the fact until the adjournment on the morning of the trial.

Q. Did not the raiders declare to you that the amount and even more than the amount which was mentioned as taken from them, was in the bag in question?

A. They did.

Q. Are you not aware that the Chief received no consideration whatever, and was promised none to your knowledge for the delivery of the said money, and if such had been the case would you not have been cognizant of it?

A. I am perfectly satisfied that he was promised, and got nothing, and it is impossible that he could have got anything without my knowledge; and I think it was impossible for any body to approach him having authority from the raiders to bribe him.

Moved by Councillor Labelle, that the Committee do now adjourn until Monday next at three P.M.

Yeas—Leclaire, Leduc, Labelle.

Nays—McCready, McGibbon.

Councillor McGibbon then moved, to re-consider the vote just taken, and the Committee do stand adjourned until eleven A.M., on Monday.

Yeas—Leclaire, Leduc, McGibbon, Rodden.

Nays—Labelle.

Adjourned until eleven A.M. to-day, Monday.

MONDAY, December 19, 1864, 11 a.m.)

PRESENT:—Aldermen Rodden, Leclaire; Councillors McGibbon, Leduc, McCready, Devlin, Labelle.

Mr. Justice Coursol's examination having been taken up,

A question was put to him by the Counsel for the accused (Mr. Laflamme) and put down in writing, and after some consideration, the Chairman stated, having considered such question he decided that it should not be admitted as forming part of the minutes of this Committee, inasmuch as the same in no way referred to the conduct of the Chief of Police or to the charges which the Committee are called upon by the Council to investigate.

The Committee being called upon to then pronounce their opinion on that decision, the Committee divided:

In favor of the decision—Messrs. McGibbon, McCready and Rodden.

Against it—Messrs. Leclaire and Leduc.

Decision maintained.

OREN B. KEMP of Frelighsburg, farmer, sworn.

Q. Did you, after the raid at St. Albans, receive from the raiders, or in any other way, any part of the moneys alleged to have been by them stolen from the St. Albans Banks, and if so, to whom did you deliver it?

A. I received from George W. Wallis, Bailiff of Frelighsburg, on the 21st day of October last, the sum of \$16,979, mostly in Franklin County Bills. Upon the same day I received a further sum of 75 50-100 from the hands of one Marshall Masson of St. Albans, Vermont, a further sum the same day of \$101 in Franklin County Bank Bills from one Harlow Chandler of St. Armand East, farmer, said to have been found by him on the road near Frelighsburg; a further sum upon the same day from the said Geo. W. Wells, of \$1272. Upon the 22nd day of October, I received a further sum of \$1200 from one Ambroise Hall, of Frelighsburg, hotel-keeper; upon the same day a further sum of \$200 from one C. C. Burton of St. Albans. I deposited the amount of the aforesaid sums before the Court at Montreal, about the 4th day of November last. For the last four mentioned sums I gave my receipts to the aforesaid parties as having received the same on deposit.

Q. Were the moneys so put in the hands of the Court by you, placed in the custody of any person, and if so, in whose custody, and by whose order?

A. I left the money in the hands of the Court. I understood that the money was put into the hands of the Chief of Police.

Q. Is it within your knowledge that the said sums of money were claimed by the St. Albans banks as their property?

A. The money was claimed by several parties from St. Albans, at Frelighsburg, as having been robbed from the banks at said St. Albans.

Q. Did not some of the prisoners, arrested and charged with the robbery of the said moneys, admit that they had taken them from the banks?

A. Not to me.

CROSS-EXAMINED.

Q. Was not the whole amount which you mention as having been delivered to the Court so delivered as property taken from the banks by the prisoners brought before Judge Coursol, and was it not so admitted by the parties representing the banks?

A. As I said in my examination in chief, the money was claimed by some parties from St. Albans as having been robbed from the banks, and was brought by me to the Court for the purpose of being identified.

Q. Was not the whole of that money ordered by the Judge to be deposited as part of the money taken by the prisoners from the banks of St. Albans on the occasion of the raid on the 19th of October, and for which they were arrested?

A. The money was deposited by order of the Judge, pending the trial of the parties in question.

Q. You are asked to answer this question, whether it was not deposited as money robbed from St. Albans banks by the raiders then brought before the Court?

A. It was deposited as money having been claimed by the representatives of the St. Albans banks. In my examination before the Court, I then and there stated from whom I received the respective amounts, four of the said parties holding my receipts for those respective amounts deposited by them with me.

Q. You must answer yes or no, whether that money was deposited by the order of Judge Coursol as money robbed by the prisoners from the St. Albans banks?

A. I do not know.

Q. Was it not claimed by the parties at St. Albans as having been robbed on the occasion of the raid in question?

A. I have answered the question, and I repeat that it was claimed at Ferrisburgh by several parties from St. Albans. I am not aware whether the money was identified before the Court as having been robbed from the St. Albans banks.

Q. Do you know where that money is, and in whose hands it was deposited?

A. I do not know where the money now is, nor in whose hands it was deposited; but as aforesaid understood, it was in the hands of the Chief of Police. The last I saw of it, the money was on the table lying before Judge Coursol.

Q. Do you know what was the total amount taken from the parties arrested connected with the St. Albans raiders?

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A. I do not know.

This closed the cross-examination of this witness.

Ques. by Coun. McGibbon: Do you consider yourself legally responsible to the parties who hold your receipt for the monies deposited in your hands?

Question objected to by the counsel for the defence as tending to obtain from the witness a legal opinion on a question the result of which cannot affect the guilty misconduct of the party now under accusation.

For maintaining the objection: Messrs. Leclaire, McGibbon, McCreedy.

Against it: Messrs. Leduc, Labelle.

Objection overruled.

A. I consider myself bound in the sum of \$2,773, amount of my receipts.

Q. Do you consider, then, that you have a claim against the parties to whom you delivered the said sum of money?

A. I do.

And further deponent saith not, and hath signed.

O. B. KEMP.

Councillor Labelle moved—That the Committee is of opinion that every member of this Committee has a right to take communication, and, if he thinks proper, to copy any of the proceedings of this Committee, and therefore that the mover be allowed to take communication of and copy any of the proceedings adopted by the Committee.

Yeas: Labelle.

Nays: Leclaire, McGibbon, McCreedy, Leduc.

GEORGE NICHOLAS SANDERS sworn—

Q. Are you the representative or agent of the Confederate States in this city?

A. I am not.

Q. Is it a fact within your knowledge that upon the 19th October last a number of persons had found their way into the town of St. Albans, State of Vermont, and there put to death one man, and also took from the banks in the said town a large sum of money, amounting to about \$200,000?

Objected to by the Counsel for the defence as irrelevant and not within the scope of this investigation, and involving the question of legality of the acts of the persons engaged in them whether they did so by instructions of their government.

For maintaining the objection—Leclaire, Labelle, Leduc.

Against it—McGibbon, McCreedy.

Objection maintained.

Q. Is it within your knowledge that upon the thirteenth day of December,

inst., thirteen persons charged with crimes of murder and robbery at the town of St. Albans, in the State of Vermont, were discharged at the city of Montreal, from their alleged liability to law, by a judgment pronounced by Mr. Justice Coursol.

A. Mr. Justice Coursol did discharge the prisoners. I heard his very able opinion, and I do not think they are now amenable to law.

Q. Were you aware that a sum of money, amounting to between \$80,000 to \$90,000, was found in the possession of persons so discharged, and who are not now, in your opinion, amenable to law, and that such sum of money was subsequently deposited in the hands of Guillaume Lamothe, Chief of Police, for safe keeping?

A. I know nothing more than has appeared in evidence during the trial, and by the admission by the Chief that such sums of money were in his hands.

Q. Did you introduce the Chief of Police to Mr. John Porterfield, one of the witnesses examined in this investigation, and if so state when and where, and all that transpired on that occasion?

A. I introduced the Chief to Mr. Porterfield at his office, on Monday the 12th inst., at about four o'clock in the afternoon. I was advised by the Counsel for the prisoner that they expected to quash the proceedings upon the motion to be made by Mr. Kerr; failing in that, that they had movements to make which were certain to secure the release of the prisoners. This was two weeks since. I was also advised that the money would have to be surrendered with the prisoners; but it was liable to attachment then and after the decision. Lieut. Young addressed a letter to Mr. Abbott on the subject, and he answered in the same manner as Messrs. Kerr and Laflamme did verbally to me; they all said that it was the duty of the Chief immediately to surrender the money upon the discharge of the prisoners, unless previously attached. It then became my duty to have the receipts and everything prepared, and an order upon the Chief from Lieut. Young and comrades, that no delay might occur in the transfer; being also advised that it would not take, probably, over half an hour to issue such attachment after the decision was known by the opposing Counsel, I was directed by our Counsel to tell the Chief that if he did not immediately deliver the money upon such order, he would be held responsible. I saw the Chief, and said to him, in the event of the discharge of the prisoners, that immediate application would be made to him for the money, and that he would be personally responsible if he threw any obstacle in the way of its delivery; that our enemy had some six weeks or more to attach the money, and that all we asked was the simple half hour of impartial action on his part, and that he should be in open Court, where he could be seen by every one. As I did not consider the money more secure from attachment in my hands than in his, I asked the favor to introduce him to those of the friends of the prisoners who had the confidence of the Confederate Government and my own, to release the money. That gentleman was Mr. John Porterfield. They not knowing each other, it was important that no explanation should take place at the time of

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the transfer, and that they should know each other personally; it was also important for the Chief's reputation and safety that a gentleman of character should receive the bag from him, lest we might fear that some of the contents might disappear in the transfer. Mr. Porterfield was simply introduced to the Chief for this particular duty; no conversation took place except as to the manner of doing it, which I left entirely to the Chief and to Mr. Porterfield. When I first went to the Chief on the subject, which was on or about the Thursday preceding the day of the judgment, the Chief said it was too serious a matter for him to answer, until he took the advice of counsel. I said I would hold him personally answerable by the advice of our counsel, and on Saturday following he informed me that he had asked the opinion of Judge Coursol and Mr. Carter, Q.C., as to his duty in such a contingency, and that they told him he would have to give up the money. I saw the Chief standing near the prisoners in the passage on the day of the judgment. I was near him, and upon the decision being delivered by the judge, the prisoners were advised by the counsel that they should be off and not wait a moment; on Mr. Devlin's rising to address the judge after the judgment, I discovered that Mr. Devlin was repeating and reiterating against time apparently, and I called on Mr. Laflamme to put a stop to it if possible. I had understood that Mr. Devlin was very sharp, and that I would have to act like lightning to get the money. He thus managed to waste some twenty-five minutes of my supposed half hour. The Chief, greatly to my alarm, was standing in a most conspicuous place, and holding back the prisoners, I thought, most unjustifiably. I went with the crowd, which did not disperse until the prisoners left the box; I did not see Mr. Porterfield, but presumed he was at the proper place, and would act with promptitude, and that Mr. Devlin would attach me for the money when he would find I had none; that is the reason of my introducing Mr. Porterfield to the Chief; I did not know that the bag containing the money had been received until I went to Mr. Porterfield some four or five hours later in the evening; I did not speak to the Chief from the time I introduced him to Mr. Porterfield until after the next day after the judgment; the prisoners reported to me "the money all right, and a little *plus*;" I did not offer the Chief any inducement; my interview with him was rather acrimonious, threatening to prosecute him, as above related, if he did not do his duty.

Q. Was it suggested by Mr. Porterfield, during the interview with him when the Chief was present, that the money should be deposited in the Ontario Bank, so that he might obtain the delivery of it without delay, so soon as Mr. Justice Coursol's judgment was rendered?

A. No, as I before said I did not want to hear what transpired between them, (Mr. Porterfield and the Chief), for the reason that I did not wish to know where they intended to put the money, so that if I should be afterwards called upon as a witness, I should be in a position to say I knew nothing about it. All the arrangements respecting the delivery of the money were made between the Chief and Mr. Porterfield, if any were made; I have no personal knowledge of any being made.

Q. Do you know where the money was kept by the Chief of Police before its delivery to Mr. Porterfield ?

A. I had no knowledge on the subject.

Q. Did not the Chief inform you ?

A. No.

Q. When did you receive the order of Lieut. Young to the Chief, for the delivery of this money ?

A. I never received that order; it was given to Mr. Porterfield.

Q. When were you informed for the first time, and by whom, that the prisoners would be discharged on the thirteenth ?

A. By Judge Coursol's judgment.

Q. Were you not informed by the prisoners some days before the judgment was rendered, that they expected to be discharged on that day ?

A. The prisoners never gave me any information on the subject. I believe they had no knowledge on the subject except what was communicated to them by their counsel or myself.

Q. Is it not true that some days before the judgment was rendered, arrangements had been made for the escape of the prisoners so soon as the judgment should be delivered ?

A. Being assured by Counsel of the almost certainty of the success of their movement, I made every arrangement that suggested itself to my mind for their safe retreat.

Q. Was or was it not arranged to your knowledge that the Chief of Police should have an order already prepared for the delivery of the money ?

A. No, but he could not have acted with great promptitude without having the order ready.

Q. What has become of the money ?

A. I have no knowledge at all, nor do I know where it now is.

Q. Have you any knowledge of the way in which the money delivered by the Chief of Police to Mr. Porterfield was disposed of ?

The witness refused to answer this question.

The question being put to the Committee whether the question put to the witness was a legitimate one which he should answer.

The Committee allowed the question to go to the witness on the following division: Yeas—Leclaire, Leduc, McGibbon. Nays—Labelle.

A. No portion of this money so far as the Chief of Police is concerned, has, to the best of my knowledge, gone to him. I decline further to answer what has become of it.

Q. Were you present when the bag was opened, and have you seen any of its contents since the rendering of the judgment ?

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A. Not over a few thousand dollars, if any, nor could I swear that it was a portion of it. I believe it must have passed through several hands before I saw it.

Q. Did you know the persons who were discharged by Judge Coursol, and who were accused of having committed the raid on St. Albans previous to its commission?

Objected to by Mr. Laflamme as having no connection whatever with the investigation.

Objection maintained.

Q. Did you meet the Chief of Police by appointment on Monday last, previous to your introduction to him of Mr. Porterfield, and if so, where?

A. I had no appointment with him. I sought him and caused one or two friends, Mr. Laflamme among the number, to advise him I wanted to see him, and I discovered him near the St. Lawrence Hall, Great St. James street.

Q. Did you meet the Chief of Police on Tuesday evening, after the discharge of the prisoners?

A. I think not. I think it was the next day.

Q. Will you state precisely what conversation you had with the Chief of Police on Monday last previous to your introduction of him to Mr. Porterfield, respecting the delivery of the money, and your reason for desiring to introduce him to Mr. Porterfield?

A. My reasons have been explained already for introducing the Chief to Mr. Porterfield. The conversation which took place at that time contained nothing material from what I have already stated.

Q. Was the certainty you had of the prisoners' discharge on Tuesday last the cause of your having made arrangements for their escape that evening, and did you not, in anticipation of their discharge, cause their clothing and other effects to be removed from the jail previous to the rendering of the judgment?

A. I hardly hoped for the discharge of the prisoners on Tuesday. I had supposed that the counsel for the prosecution would make some opposition, and I understood the Hon. John Rose had a speech in type, of some thirty odd pages, to be delivered, and Mr. Devlin to be very earnest and eloquent, and likely to occupy the Court for an hour or two, at any rate; but my duty was to have everything ready lest they should be caught napping; and I ordered the boys to have their things put in their trunks, with their names written upon them, so that they could be delivered to my order, and the most of them are now in charge of the jailor.

Q. What day did you instruct the boys to have everything ready?

A. Sunday or Monday, previous to the judgment.

Mr. DEVLIN applied for the postponement of the investigation until 11 o'clock a.m., to-morrow, which was carried unanimously, and the Committee adjourned accordingly.

TUESDAY, 20th Dec., 1864, 11 o'clock, a m.

PRESENT—Alderman Rodden, Councillors Leduc, Devlin, McGibbon, and McCready.

George N. Sanders' examination continued.

Q. You have stated that you had hardly hoped for the discharge of the prisoners on Tuesday, as you supposed that the counsel for the prosecution would make some opposition, permit me now to ask you if it is that opposition was made to the discharge of the prisoners by Mr. Devlin, and that after he had concluded his address to the Court, the Hon. John Rose rose for the purpose of speaking on the same side, and was refused a hearing by Mr. Justice Coursol.

A. From what I heard and saw, the counsel for the prosecution were perhaps thrown off their guard by Messrs. Abbott and Laflamme not appearing to give any importance to the movement of Mr. Kerr, and rather enjoying the laugh at Mr. Kerr, and they were not paying much attention to Mr. Kerr, while the Judge to my mind was giving all his attention. Mr. Devlin made a speech in opposition rather apologetic to the Court for taking a serious notice of the application. Messrs. Rose and Devlin both rose after judgment was rendered and endeavored to stay the effect of the judgment. Soon after Mr. Rose arose, the debate was put a stop to.

Question by the Chairman: When were you first introduced to the Chief of Police, by whom were you introduced, where did the introduction take place, what persons were present then, was the delivery of the money in his possession then talked of?

A. I was introduced to the Chief of Police on the Sunday after the St. Albans raid by Mr. Jno. Brune of Baltimore, at the Donegana Hotel, in the presence of Mr. Justice Coursol; my friend Brune seeing them in the street, and knowing my anxiety to know something of the raiders, brought them in and introduced them to me; nothing transpired at that interview except information to us in regard to the capture of the prisoners and their condition; no allusion whatever was made to the money except as regards the capture of it, but nothing as to the disposition of it.

Question by Chairman: When and where did you first speak with the Chief of Police in reference to the delivery of the money in case of the discharge of the prisoners?

A. I think it was on or about Thursday preceding the 13th instant, at the St. Lawrence Hall or at Dolly's.

Question by Chairman: Have you had any other interview with the Chief of Police than those mentioned in your previous examination?

A. None special or material.

CROSS-EXAMINED BY MR. LAFLAMME.

Q. Are you positive that the Chief never received anything; never was promised anything to your knowledge for the delivery of this money; and if such

had been the case, do you believe it possible that you would not have known it?

A. I have been the acting representative of the prisoners here, employed their counsel, and am very sure that no one could have made overtures to him without my knowledge, and I have no knowledge of any compensation or promise being made by any one, certainly not by myself, and had the prisoners given any such compensation or promise they certainly would not have concealed the fact from me.

Q. Is it to your knowledge that a proposition was made to the party complaining in this matter, to have the amount, or the equivalent in value of the amount, which was deposited in the Chief's hands, put in a banking institution of this city, to abide the decision of a Court of Justice, declaring the liability of the Chief for having given up the money as he did, and declaring the right of any party to claim it?

A. Messrs. Kerr and Laflamme were authorized to make such offer.

Q. Is it not to your knowledge that the complainant has admitted that such proposition was made?

A. It was admitted by him with a slight qualification, which qualification he has not explained.

Q. Are you aware that this proposition was refused?

A. I was informed by Messrs. Kerr and Laflamme.

Q. Did not the Chief on every occasion when you spoke to him about being prepared to deliver the money on the discharge of the prisoners, tell you that he would do so only if he was legally bound to do so?

A. I had only two interviews with him on the subject, and he was very cautious in not giving me any encouragement, and emphatic in saying that he would not do so unless advised by Counsel.

Q. Do you know if such Counsel was consulted, and who was the Counsel?

A. The Chief informed me that he had consulted Mr. Justice Coursol and Edward Carter, Esq., Q.C., and that they had told him it would be his duty to return the money of the prisoners who were discharged before an attachment.

RE-EXAMINED BY MR. DEVLIN.

Q. Do you wish the Committee to understand that you are personally cognizant of all the circumstances connected with the delivery of the money and its causes, and that nothing took place in reference to its disposal without your knowledge?

A. I mean the Committee only to understand from my relation to the prisoners and their Counsel, that nothing would probably have taken place without my knowledge and consent.

Q. How then do you account for not being able to inform the Committee what became of the money after its delivery, recollecting, as you no doubt do, that you have stated it may have passed through several hands; if then you

knew everything connected with it, can you not now state through whose hands it passed ?

A. I saw a few thousand dollars which I suspected was part of the raiders' money in the hands of the Confederate Government agent here ; he did not admit that it was. I supposed it passed through several hands before we got it.

Question by Councillor McCready :—Since you have made mention of the agent of the Confederate States here, can you inform the Committee who that agent is ?

Objected to by the Counsel for the defence as being entirely foreign to the subject matter now under investigation, and for the sole purpose of enabling the party who ought to have taken an attachment on the money to do so now.

For maintaining the objection—Messrs. Leduc, Leclair, Rodden.

Against it—Messrs. McGibbon, McCready.

Question by Councillor McCready—Are you aware that the Chief of Police had any interview with the agent of the Confederate States, as you call him, previous to the judgment of Judge Coursol, concerning the said judgment or the delivery of the money that was robbed from the St. Albans banks ?

A. I do not believe that the Chief has any idea who the Confederate agent is, and I don't think it possible he could have had any interview with him ; he may know him personally, but not as agent ; he has had no interview with him to my knowledge.

Q. Is it not to your knowledge that the Confederate agent, so called by you, received from the Chief of Police the carpet bag or order for the same, which you heard was the contents of the plunder from the St. Albans banks ?

A. I have it from the agent himself that he has no knowledge of the subject whatsoever, and it is notorious that said carpet bag was received by Mr. Porterfield, who is not the agent of the Confederate Government.

Q. Is it not to your knowledge that the Chief of Police was ever introduced to the agent, as such agent, or in any other capacity ?

A. No.

And further deponent saith not, and hath signed

GEO. N. SANDERS.

O. A. BURTON, of Burlington, State of Vermont, banker, sworn :

Q. Are you connected with any of the Banks of St. Albans, and if so, in what capacity ?

A. I am President of the Franklin County Bank of St. Albans.

Q. Was there any money stolen from that Bank on the 19th of October last, and if so, how much ?

A. There was ; some seventy-five thousand dollars ; large amounts were also stolen from the St. Albans, and the First National Bank at St. Albans, as I was informed.

Q! Is it within your knowledge that a large part or portion of the money so stolen was found in the possession of the persons recently discharged by Mr. Justice Coursol, and that the same had been put in the custody of Mr. Lamothe, Chief of Police?

A. Yes.

Q. Had you any conversation with the Chief of Police respecting the retention and safe keeping of this money, and if so, state what transpired upon each occasion when you had such conversation, and relate all particulars within your knowledge respecting this matter?

A. I heard that there were ten thousand dollars of the Franklin County Bank bills found in the hands of a man of the name of Hutchinson, by Mr. Lamothe, Chief of Police. I came into Montreal and called on the Chief, whom I asked to let me see the money. He took me into his house, where he kept the money, and I examined it. Before I left the city, this Mr. Hutchinson was called before some officers of the city in order to get his discharge. A short time before the decision was given, the Chief requested me to have my attorney (Mr. Devlin as the attorney for the Banks) stand near him at the time of the decision, and if he was discharged and the money ordered to be given up, for Mr. Devlin to take the bag from his hands and he would not resist him, as he thought we were entitled to the money. I did speak to Mr. Devlin, and told him of the request of the Chief, and the decision was made to remand the prisoner back to custody, and there was nothing more done that day about the money. Some days after this, I was in Montreal for the second time while all the raiders were on trial. I asked Mr. Lamothe, the Chief, to let me examine the amount of the Franklin County Bank bills, that I had an interest, while the Court had adjourned for dinner. Mr. Lamothe and myself stepped into a back room of the court, and he had all the money as he said, in two valises, that was taken from the raiders, which he said was from eighty thousand to ninety thousand dollars. I took memorandums of the amounts of the Franklin County Bank bills as marked on the wrappers of the different packages, which amounted in the aggregate to some thirty-five thousand dollars. I asked the Chief if this money was kept safe, as there was a large amount of it; he replied that it was in the government officers' hands, or the city officers' hands, (I do not remember which), and that it could not be safer. I requested that he should let me mark the Franklin County Bank bills; he said I might do so but that I should let it be until after he got through conveying them to court for identification, and he would let me know then the proper time for doing it. I therefore went home, and have not seen him until he spoke to me this morning.

Q. Did he say anything to you in reference to what he would do in the event of the prisoners being suddenly discharged?

A. I cannot say that he did.

Q. Were you informed by him that he would not give up the money, without communicating with Mr. Devlin?

A. I cannot say that he did.

Q. Did you claim any portion of the monies that were put into his hands, as your property?

A. I did, to the amount of some \$35,000, which I could identify.

Q. Were you not informed by Mr. Devlin when you expressed to him doubts about the ultimate safety of the money, that he reposed full confidence in the integrity of the Chief, and that he would not act dishonorably or hastily in the matter, no matter what the result might be?

A. He informed me the money was safe in the hands of the authority who held it, and I should have a chance of marking the money before it left the hands of such authority. On that assurance I had the utmost confidence and returned home.

CROSS-EXAMINED.

Q. When you asked the Chief to allow you to mark the bills of the St. Albans Bank, did he not answer you that he was bound to keep intact the bills which he had received in deposit, and that he could not allow any person to alter them, so long as he should have them in his custody, by order of the Court or something to that effect?

A. He did not, but said that I should have the privilege of marking them before they parted from his hands, if they were not handed over to the Banks.

Q. Are you not aware that it was his duty not to allow any marks to be put on such Bank bills so long as he had them in his custody, and that he was bound to restore them such as he received them to the parties who might be legally entitled to them after the judgment?

A. I was not aware that he could not let me mark them.

And further the deponent saith not and hath signed,

O. A. BURTON.

The Committee adjourned until this evening at half past seven o'clock.

EVENING SESSION.

7 O'CLOCK, P.M.

Present:—Alderman Rodden; Councillors McGibbon, Leduc, Labelle, Devlin.

THOMAS W. RITCHIE, of the City of Montreal, Advocate, being sworn, deposes as follows:

I am the partner of the Honorable John Rose, and one of the Counsel in the case of the St. Albans raiders. About the third November last Mr. Rose and myself were retained by the United States Government in the matter of the St. Albans prisoners; but we were not retained by any of the local American authorities, nor by the St. Albans Banks. On the 13th December instant I was

present in Court when the Judge of Sessions rendered his judgment, declaring that he had no jurisdiction. As soon as he had finished reading his judgment, and before it was finally declared by him that the prisoners were to be discharged, not only in the case of the alleged robbery of the St. Alban's banks, but also in the five other separate and distinct charges pending against the prisoners, but the enquiry upon which had been by the Judge of Sessions kept in abeyance, and which had not been argued, and upon which as I believed, the judge refused to hear any argument on behalf of the prosecution, I left the court, accompanied by Mr. Sowles of St. Albans, and prepared a fresh complaint against the prisoners, for the robbery of the first National Bank of St. Albans. As soon as the complaint was filed, that is in about fifteen minutes, I went to the Judges' Chambers to have it sworn to by Mr. Sowles. Not finding any judge in Chambers, I drove to Judge Berthelot's residence and found him absent, and was told that he was still at the Court House. I returned there but failed to find him. I went back to his residence, accompanied by Mr. Sowles, and finding the Judge at home, I laid the written complaint before him, and asked for a warrant for the re-arrest of the prisoners. After stating the case as fully as I could, and also the grounds, as I understood them, upon which Judge Coursol had discharged the prisoners, Judge Berthelot declined to take the responsibility of issuing the warrant at that time, but preferred we should delay the application till next day. I then drove to Judge Smith, and after explaining the matter to him, he readily signed the warrant, which I applied for. I then drove, in company with the Hon. Mr. Edmonds who was acting on behalf of the United States Government to the residence of High Constable Bissonette; we found him absent, and were told by his wife that he had gone to the gaol. Driving to the gaol we found he was not there, and returned to his house, but he was still absent. After returning to my office in Little St. James Street, I again left at half-past six o'clock, accompanied by Mr. Edmonds, and drove to the Police Station on Jacques Cartier Square, and asked for Mr. Lamothe, Chief of Police; but was told that he was at his own residence. Mr. Flynn, sub-Chief of Police, was at the Station, and calling him into the passage I exhibited to him the warrant issued by Judge Smith, and required him to execute it forthwith, and to use all the force under his command for the purpose. Mr. Flynn said that he would not act without the order of the Chief of Police, but with such order he would act at once, having plenty of men under him. I asked if he was not a constable, and he said that he was; exhibiting the warrant again to him I told him it was addressed to any constable or peace officers and repeated my request that he should execute the warrant at once. He still declined to act without the order of the Chief. Mr. Edmonds and myself then went to Mr. Lamothe's residence. Upon inquiring for Mr. Lamothe we were shown into the front room; the gas was not lit, but the room was partially lighted by the fire in the grate. Mr. Lamothe was lying on the sofa, apparently asleep; after he had been aroused and came forward to meet us, I stated to him the object of our visit, and handed to him Judge Smith's warrant, and requested him to execute it at once. He then said: "I am sorry, gentle-

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men, but the money has been delivered up." By this I supposed he thought the warrant had reference to the monies taken from the St. Albans Banks, and of which he had had the custody. I explained to him that the warrant had no reference to the money; but was for the arrest of the parties discharged by Judge Coursol. As I thought Mr. Lamothe seemed a little annoyed at our visit, I told him that we had first gone to the Police Station expecting to find him there; that I had requested Mr. Flynn, the sub-Chief, to execute the warrant, but that he had declined to do so without his (Mr. Lamothe's) orders. Mr. Lamothe answered, "He did quite right; if any of the men had executed that warrant without my orders, I would dismiss him in the morning." He then took the warrant into another room and remained a few minutes, as I supposed, to read it. Upon his return he said if he was bound to execute the warrant, he would do so, but not otherwise; that he had no orders to receive from me or any one else. I answered that I did not pretend to give him any order, but that I wished him to execute Judge Smith's warrant. He said that he had no orders to receive from any Judge; that he was not bound to execute Judge Coursol's order, and that he was independent of the Government. I pressed him for an immediate answer, whether he would execute the warrant or not, telling him that the case admitted of no delay, as it was thought the parties might leave by the quarter past eight o'clock train for the West; he said that he had to dine, and that he wished to take advice as to his liability to execute the warrant, and that he would not give us an answer before three-quarters of an hour. As it was then seven o'clock, I considered this answer as a virtual refusal to execute the warrant, and consequently I did not leave it with him. In the course of the previous conversation, Mr. Lamothe said there had been accusations of wrong in the matter, but that whoever might have done wrong he had not; that he had been for several days pulled this way and that, about the money, some persons saying that he ought to give it up, and others that he ought to retain it, but he did not care for either the North or the South; that if he had retained the custody of the money the South would have found fault with him, and that as he had given it up, no doubt the North would blame him, and that he thought he had done right in giving it up. Mr. Edmonds was present during the whole of this conversation. We then left Mr. Lamothe's residence, drove to Mr. Bissonette's, and found him going into his house; I went in with him, Mr. Edmonds remaining in the sleigh, and placing the warrant in Mr. Bissonette's hands, I requested him to execute it at once, with all the men he could command, and asked him to apply to Mr. Lamothe for men. He drove at once to Mr. Lamothe's residence and Mr. Bissonette went in alone. In ten or fifteen minutes Mr. Bissonette returned saying that Mr. Lamothe had told him that he wanted half an hour to decide whether he would give him assistance to execute the warrant or not. Mr. Edmonds had walked on in advance and before he joined us in the sleigh, Mr. Bissonette told me that Mr. Lamothe had said to him that the parties to be arrested were not leaving by the Western train. I answered "how did he know that?" I then drove with Mr. Bissonette to Mr. Coursol's house and he went to get Mr. Coursol's order to the Government Police for assistance.

He returned in a few minutes saying he had received a verbal order from Judge Coursol to Mr. McLaughlin to place the Government Police at his disposal. We then drove to the Water Police Station and saw Mr. McLaughlin, who said he would give all the assistance possible. There appeared to be only four or five men at the Station. I then went away from the Station, leaving my sleigh for the high-constable and police.

Q. Isn't it your opinion that if Chief Lamothe had executed the warrant in question with that promptitude which the exigency of the case required, that the raiders or some of them would have been arrested?

A. It is.

Q. Is it your belief then that the escape of all the raiders after their discharge by Mr. Justice Coursol, is due to the refusal of Chief Lamothe to comply with your urgent request that he should immediately execute the warrant which you caused to issue so soon after the discharge of the prisoners?

A. I certainly do think so. I was utterly amazed at the position assumed by a constable in deferring the execution of such a warrant issued by a Judge of the Superior Court, from any motives of personal convenience, or for the purpose of obtaining advice as to his legal responsibility, the more so, that during the whole time I was connected with the investigation, Mr. Lamothe acted under the direct order of Judge Coursol, and, as I believed had been actively instrumental in the arrest of the prisoners or some of them. It was mortifying in the extreme for me to find, accompanied as I was, by a gentleman in Mr. Edmond's position, that it was apparently an absolute impossibility to execute a Judge's warrant in the city of Montreal, merely owing to the delay or reluctance to act, of the Chief of Police.

Question by Councillor McGibbon.—From your experience as a lawyer, in these matters, was it not the duty of Chief Lamothe to execute without any delay whatever, the warrant signed by Judge Smith, and which was placed in his hands by you?

A. I did not, at the time, when Mr. Lamothe delayed on account of his alleged doubt as to his responsibility, know precisely what his liability was, but presuming him to be a constable or Peace Officer, I consider it was his duty to execute Judge Smith's warrant without hesitation or delay. No doubt, Mr. Lamothe's oath of Office was that of a Constable of Peace Officer, and I think it very extraordinary if he is entitled to disregard the warrant of a Judge of the Superior Court.

CROSS-EXAMINED.

Q. Did not Judge Berthelot give you as his reason for refusing to issue the warrant, the judgment rendered by Judge Coursol requiring the warrant of the Governor for the arrest of the prisoners; if not, state the reasons he gave you.

A. I did not consider it necessary to state in my examination in chief all the conversation that took place at Judge Berthelot's residence, but as the question is put to me, I give the substance of the reasons assigned by Judge Berthelot

for wishing to delay until the next day. The Judge said that it was after the usual hours of business; that he could not then look fully into the matter; that it was possible Judge Coursol's judgment was right, and that he did not wish to assume the responsibility of issuing the warrant at that time.

Q. Is not Judge Berthelot a Judge of the Superior Court, as Judge Smith, and having like jurisdiction?

A. Yes.

Q. When you applied to Judge Smith for this warrant, did he tell you that he was prepared to say that the decision rendered by Judge Coursol was erroneous, but did he not on the contrary tell you, that he was not prepared to give his opinion in the matter, and that the warrant he could give you would be only provisional, and that you were bound to return it, on the next morning at ten o'clock, if not executed, then to await his consideration of the matter; if not, state what was said on the matter?

A. When I made the application to Judge Smith we had not the extradition treaty nor any of the statutes passed to give it effect, before us. Judge Smith stated that he was not familiar with the procedure under the treaty or the statutes, as he had not had occasion, as a Judge, to consider the treaty and statutes particularly; that he thought it was his duty, in the interest of justice, to issue the warrant. The only hesitation he showed in the matter arose from his apprehension that upon the re-arrest of the prisoners he would be himself required to undertake the whole enquiry, which he said his ordinary judicial duties would not permit him to undertake. As my wish was to obtain the warrant immediately, and fearing that he would otherwise decline to issue it, I took the responsibility of saying to him, that I did not intend to give him the trouble personally to take the investigation, but my object was to get the warrant at once, so as to get the prisoners re-arrested; and that arrangements would no doubt be made to relieve him from the responsibility of going into the investigation himself. As I noticed that the warrant had a blank for its return, I filled in the day and hour without stopping to reflect whether the prisoners would be arrested before the hour or not; there was nothing said about the warrant being a provisional one; nor did I understand Judge Smith to say that the warrant was to be returned at the hour named in it. I think I said that if the prisoners were arrested, the matter would come up for his consideration the next day. Judge Smith expressed no opinion as to the correctness of Judge Coursol's judgment. From what Judge Smith said I inferred that he was not positive as to his obligation to issue the warrant, but when I urged that we were entitled to consider the statute of 1861 as fully in force, he consented to issue the warrant.

Q. Supposing the judgment of Judge Coursol to be in accordance with law, was Judge Smith's warrant valid?

A. I cannot suppose Judge Coursol's decision to be according to law, for I believe that no instance can be found in which a Police Magistrate has assumed to declare a public statute unconstitutional or void. Besides, he had acted

under it for a considerable time, and, as I believe, under the advice and direction of the Government; but assuming, as I am asked to do, that his judgment in the case of the St. Albans Banks was according to law, his discharge of the prisoners upon all the other charges which had not been fully enquired into, and in which no application based upon a supposed want of jurisdiction was made, was, in my opinion, manifestly illegal, and, as I have before said, the new warrant issued by Judge Smith, was for the robbery of the First National Bank of St Albans, in respect to which the enquiry was incomplete, and no application for the discharge of the prisoners had been made. Even supposing Judge Coursol's judgment to be entirely correct, I do not consider Judge Smith's warrant absolutely invalid, although not preceded by a warrant from the Governor General, and certainly I consider that no constable was entitled to treat it as being invalid.

Q. Are we to understand that you say, that if by law, these parties could only be arrested under a warrant issued by the Governor, that a warrant issued by any other party, judge or magistrate, would be of any effect, and would entitle the officer executing it to the protection of the law, if met by resistance?

A. The question asks for a legal opinion as to what resistance a party named in a warrant which might be declared invalid, would be entitled to make, and I am not prepared to answer it without reference to authorities; particularly as I consider the question does not arise under this enquiry. If Judge Smith's warrant was an absolute nullity, I suppose any officer might, upon his own responsibility, refuse to execute it.

Q. Will you state that any officer of a court of justice after hearing a judgment pronounced by that court, declaring a warrant null and void, could be bound to execute or be in any way liable for refusing to execute a warrant of the very same description three hours after this judgment, or at least to ask for three quarters of an hour to enable him to look up for authorities to ascertain his right to act?

Q. The case put in the question is not the one applicable to the facts in this matter. Judge Coursol is the Judge of an inferior court, although having concurrent jurisdiction, under the statutes, for giving effect to the extradition treaty, with the judges of the Superior Court; the judgment was rendered by him, and not by a judge of the Superior Court, and I consider, as I have stated in my examination in chief, that the delay asked for by Mr. Lamothe before he would give an answer whether he would execute the warrant, amounted, under the circumstances, to a refusal to execute it, and I consider that he had no right to hesitate before executing the judge's warrant; and I certainly think he is liable for such virtual refusal to execute such warrant.

Q. Please answer the question, assuming the facts to be such as are stated in the question.

A. I have stated before, that if Judge Smith's warrant was an absolute nullity, I thought an officer might take the responsibility of not executing it. I

consider that the officer would be bound to execute the warrant, and I consider the pretension of a constable to pretend to judge as to the validity of a Judge's warrant entirely unwarrantable.

Q. Will you please answer "Yes" or "No" the question put to you—that is: Whether any officer of a Court of Justice, after hearing a judgment declaring a warrant null and void, could be bound, under any penalty, to execute a warrant of the same description three hours after this judgment, or would he not be justifiable in taking three quarters of an hour for considering his liability. Answer without reference to study Judge Smith's or Judge Coursol's judgment; yes or no?

A. To answer that a constable would be entitled to the delay demanded, would be to assume that every constable or peace officer to whom a warrant is addressed would be entitled to decide a question of jurisdiction which had been decided in one way by one Judge, and which, in so far as the ministerial action of the constable is concerned, had been decided in an opposite sense by another Judge of concurrent jurisdiction. I consider the question fully answered by my answers to this and the previous questions.

Q. Is that all the answer you can give to the question?

A. I refer to my previous answers as fully answering the question.

Q. So you cannot say, or will not say yes or no to that question?

A. I have already said that I consider the question to be fully answered, and I consider it a mere waste of time to repeat what I have said.

Q. So, if Judge Coursol had been of the same jurisdiction and rank as Judge Smith, you believe that in that case the officer could have hesitated to execute a second warrant of the same description?

A. I do not consider that the question whether Judge Coursol has the same jurisdiction and rank as Judge Smith is material, in so far as the action of the Chief of Police is concerned.

Q. Did not Mr. Lamothe tell you, when you called upon him to execute the warrant in question, that it was the first time that he was called upon to execute a warrant of the Judges of the Superior Court or of the Court of Queen's Bench since he was appointed Chief; that they were always given to the High Constable, or other officers of that Court?

A. I have no recollection of his saying anything of the kind; I made a written memorandum the next morning, of all the material parts of the conversation that took place at his house on the occasion above referred to, and I have no note of any such statement. It is very likely that he said he was puzzled to know how to act under the circumstances. Ten minutes did not elapse after we left Mr. Lamothe's house until we found Mr. Bissonnette. The High Constable went to the Bonaventure Station before the train left.

And further deponent saith not, and hath signed,

THOS. W. RITCHIE.

The Counsel for the prosecution stated that the investigation was closed in so far as he was concerned, with the reservation of putting in a written statement in answer to statements produced by the defence.

Adjourned to 2 o'clock to-morrow.

WEDNESDAY, Dec. 21, 1864, 2 p.m.

PRESENT:—Aldermen Rodden, Leclaire; Councillors McGibbon, Leduc, Labelle, McCready, Devlin.

The Counsel for the accused asked until 2 p.m. to-morrow to produce witnesses. Application granted.

Councillor Labelle moved that the proceedings of this Committee be not submitted to the Council at the meeting this evening, inasmuch as they are not completed, but that delay be asked to complete them. Carried.

Councillor Labelle moved that this Committee have noticed with regret that some newspapers of this city, both English and French, have taken upon themselves to publish certain proceedings of this Committee, which this Committee deemed inexpedient to publish, the more so as these proceedings have been published by these newspapers in an entirely incorrect form, and that this Committee deem it their duty to declare incorrect the statement that His Honor Mr. Justice Coursol did answer in the affirmative the question relative to a pretended conversation between Mr. Justice Coursol and Mr. Devlin. Carried unanimously.

The Committee adjourned until 2 o'clock on Thursday.

THURSDAY, Dec. 22, 1864, 2 p.m.

Present:—Aldermen Rodden, Leclaire; Councillors McGibbon, Devlin, Leduc.

THE DEFENCE.

Mr. Laflamme, Q.C., proceeded to examine witnesses for the defence.

Francois Cassidy, Esq., Q.C., Advocate, being sworn, deposed:

Q. Do you consider that Mr. Lamothe was bound to deliver over the money to the parties arrested after their discharge pronounced by the judgment of the Judge of Sessions in the matter of the St. Albans Raiders?

A. If Mr. Lamothe was present when the judgment was delivered, as I assume that he was, and if then he was not notified not to deliver up the money either by the judge or by the parties interested in such moneys, I consider that he was bound forthwith to deliver up the money.

Q. Do you believe, that after hearing a judgment declaring that no warrant could give the right to arrest the parties unless one signed by the Governor, that he was justified in asking for half an hour or three quarters of an hour, to ascertain whether he could legally execute a warrant other than one signed by the Governor?

A. Under these circumstances I am of opinion that Mr. Lamothe was fully justified in claiming half an hour, and even three quarters of an hour, to examine the expediency of executing the last warrant signed. Assuming that Mr. Lamothe did hear in Court from the Judge, that the Governor General alone could grant a warrant for the arrest of these gentlemen, I am of opinion that he would have acted contrary to his duty had he forthwith, without taking time to consider, executed the last warrant. It was his duty before executing this last warrant, to go and inform the gentleman who had signed it of what had passed in Court, or to consult with some person of experience in such a matter as to the course he should follow. There might be instances in which a constable should not be bound to execute an order given even by one of the Judges of our Superior Courts; for instance, if through a mistake *a cupias ad respondendum* in a civil suit was addressed to a constable by our Superior Court, with injunction to execute it, I consider he would only be doing his duty in refusing to comply with such an order.

Q. Is not the High Constable the ordinary officer of the Criminal Courts?

A. Yes.

CROSS-EXAMINED BY MR. DEVLIN.

Q. Have you any knowledge of the way in which the money was given up, or the means resorted to for the purpose of its delivery to the Raiders?

A. I have not.

Q. If you were aware that the money delivered by Chief Lamothe had been claimed by several persons, who had sworn that it was their property, that it had been feloniously stolen from them, would you entertain the opinion that its delivery to the persons who were accused of having stolen it was justified by a judgment simply affirming that the Court before whom the accused were tried had not jurisdiction in the matter, without an order from the Judge who had cognizance of the case?

A. If there were for Mr. Lamothe proper affidavits shewing that the money in question had been stolen, and if Mr. Lamothe without any intimation whatever, either from the Clerk of the Crown or from the Judge, who had just declared his want of jurisdiction, to try the case, and if the parties concerned in such moneys had not been present at the rendering of said judgment, in order to protect their own rights by giving notice to the Chief of Police to retain the money, I would consider that it would have been the duty of Mr. Lamothe not to disregard the affidavits, and to retain the money alluded to.

Q. Assuming that it had been satisfactorily proved before you that the money in question had been delivered up to the persons accused of having stolen it or some person acting on their behalf, before the judgment referred to had been recorded, or say within a minute or two afterwards, or during the time that the judgment was the subject of discussion in Court, and that all this had taken place by pre-arrangement with the friends of the accused, would

you, under such circumstances, consider the delivery of the money justifiable?

Objected to by the counsel for the accused, as being entirely suppositious and affirming facts which are not proved. Objection overruled.

A. If the payment of the money had been made under circumstances of this kind, I would say that it has not been proper.

Q. Is it your opinion that an officer charged with the execution of warrants is justified, under circumstances, in questioning the validity of a warrant entrusted to him for immediate execution, when he knows that such warrant has issued from a judge competent to issue the same, and to command its execution?

A. As a general rule a constable ought not to question the validity of a warrant so placed in his hands for execution, but I consider there are exceptions, and the present case is an instance of it.

Q. Do you not believe that if a constable were to be permitted to make exceptions in one case and constitute himself for the time being the judge of the validity of a warrant signed by a Judge of the Superior Court, that he might reasonably make exceptions in every case in which his judgment led him to differ from that of the judge signing the warrant?

A. I am of the opinion that when a constable finds that there is a total want of jurisdiction in the party who signed a warrant, he is not bound to execute it, and I may say that according to my views, this is the only instance in which a constable would be justifiable in refusing to act, and applying this principle to the present case, I say that Mr. Lamothe, after hearing what he had heard in Court, was justifiable in thinking that the gentleman who signed the last warrant had no power whatever to sign it.

Mr. Devlin declared he had no other questions to put to the witness.

BY THE CHAIRMAN :

Q. Considering your answers in reference to the hesitation of the Chief of Police in executing the warrant of Judge Smith, will you tell the committee how you account for the fact that so soon as the High Constable was found, he consented to execute the warrant, and how do you account for Justice Coursol himself, the moment he was called upon, ordering that the Water Police should promptly assist the High Constable in making these arrests?

Objected to by the Counsel for the accused as being irrelevant, and asking the witness to state why other parties have acted differently from the party accused. Question allowed on division.

A. Of course I cannot account for the motives that actuated these two gentlemen when they so acted, assuming as I now do that they have acted so. It may be that having reflected over what had passed, they might have thought that the decision which had been given in Court by Mr. Coursol was not entirely proper; Mr. Coursol subsequently to the decision given in the case might have consulted with some friend who might have told him that his de-

cision was not proper ; and this might account for his conduct respecting the order given to the Water Police. As to the High Constable it may be that he was not in Court when the Judge delivered his judgment, hence his readiness to execute the warrant. If Mr. Lamothe had some time to reflect over the new proceedings that were adopted as above stated, he might possibly upon advice have been convinced that the judgment rendered by Mr. Justice Coursol was not a bar to another proceeding of the same nature under a warrant of one of the Judges of the Superior Court.

Q. When stolen money is in the possession of an officer holding it, pending the trial of prisoners, to whom should he deliver it on prisoners being released, and what precautions should the holder of the money take after the judgment of the Court, to satisfy himself to whom he should give it, and when it should be given out? Will you also state the custom which prevails in the Court, in the disposal or delivery of stolen money, and to whom it is usually given?

A. According to our laws when a party is convicted of having stolen money, so soon as the trial is over, the owner of the money applies to the Court for an order that the money be restored to him. And a demand of this kind being according to law is always granted. If the party charged with the larceny is declared not guilty, then the mode to be followed is the following with respect to the property, viz: the party who lays claim to the money or at whose instance the prosecution was carried on, resorts to a civil process by way of attachment in the hands of the officers of the Court; and if such a proceeding is not forthwith adopted, the money is paid back to the party in whose possession it was found.

BY COUNCILLOR LABELLE.

Q. Irrespective of this usage followed in certain cases, and which consists in asking an order from the Court to have the effects restored to the person in whose possession the same have been found, is there anything in the law by which these persons are bound to apply to the Court for such an order, to be put in possession of the said effects?

A. As to the party who has been acquitted of a charge of this nature, there is nothing in our criminal code authorizing the Court to make an order that the money be restored. He is left to his civil remedy.

BY COUNCILLOR M'GIBBON.

Q. Considering that the St Albans Raiders were not acquitted of the charges of murder and robbery, but were discharged by reason of want of jurisdiction by the presiding judge, was it not the duty of the Chief to retain the money until the question should be decided on its merits, or without an order from the Court?

A. If Mr. Lamothe had received a proper order not to dispossess himself of the money, it was his duty to obey such an order given either by the judge or by the parties claiming property in the money.

And further the witness saith not and hath signed,

F. CASSIDY.

TESTIMONY OF A. A. DORION.

The Hon. A. A. DORION, of the City of Montreal, Q. C., was sworn, and examined by Mr. Laflamme, Q. C.

Q. After the judgment discharging the prisoners for the St. Albans Raid, was not Mr. Lamothe bound to give up the money if called on so to do?

A. After the discharge of the prisoners Mr. Lamothe had no authority to retain the moneys in his possession, and he was bound to deliver them over to the parties from whom the moneys had been taken, unless he received an order from the Judge or Court to the contrary.

Q. If Judge Coursol's judgment was according to law, was the warrant issued by Judge Smith null and void, and was the Chief of Police justifiable in refusing to execute it?

A. I understand Judge Coursol's decision to be, that the Provincial Statute of 12th Vic. and that of the 24th Vic. concerning the arrest and extradition of certain offenders not to be binding; if that decision was correct, I consider that no legal warrant could have issued for the apprehension of parties accused of having committed a crime in the United States, unless the Governor General had previously issued, under authority of the Imperial Statute, his warrant, signifying that a demand had been made by the authorities of the United States for their extradition, and requesting all Justices of the Peace and Magistrates to assist them in having them arrested.

Q. Is the Chief of Police bound to execute any order or warrant except those issuing and having reference to the City of Montreal?

A. The Chief of Police is an officer appointed under the provisions of the Act 14 and 15 Vic., chap. 128; he is a peace officer, and has power to execute all warrants, the same as the other constables, but he is only bound to act under the directions of the City Council, who have the authority to assign to him the duties which he has to perform. I cannot further answer the question, not knowing what instructions or orders may have been given him by the Council.

CROSS-EXAMINED BY MR. DEVLIN.

Q. You have stated that after the judgment discharging the prisoners for the St. Albans Raid, Mr. Lamothe had no authority to retain the moneys in his possession, and that he was bound to deliver them over to the parties from whom they had been taken unless he had received an order from the Judge or Court to the contrary; now suppose that the prisoners discharged by Judge Coursol had been tried before him for having feloniously stolen \$90,000 from any of the banks of this city, instead of from the St. Albans Banks, and that during the progress of the trial a defect fatal to the jurisdiction of the Court was discovered, which prevented further investigation, and consequently led to the discharge of the prisoners, do you believe that the officers charged with the custody of the money would in such case be bound to restore it forthwith to the alleged thieves so discharged?

F. CASSIDY.

A. At the very moment a decision had been given discharging the prisoners, I consider that they, the prisoners, were entitled to have an attachment for the moneys taken from them when arrested, and it would make no difference as to their right to obtain such attachment whether the money was supposed to have been taken from a bank in Montreal or from a bank at St. Albans. It is difficult, however, to suppose a case where an absolute want of jurisdiction in our Courts would arise, if the cause of offence had originated in this country.

Q. Suppose that it had been satisfactorily proved before you, that the parties claiming the money in question were not afforded a delay of even five minutes, after the rendering of the judgment pronounced by Judge Coursol, for attaching the money by the officer having charge of it, what would be your opinion in case of the delivery?

A. I might have an opinion as to the prudence of making the delivery so soon after the judgment as is stated in this question; but the delay made no difference as to the right of the prisoners to claim the money immediately upon their liberation.

Q. Do you believe that a peace officer or other person sworn to execute warrants entrusted to him for execution, has a right to put in question the validity of a warrant issued under the hand and seal of a Judge of the Superior Court, and requiring immediate execution?

A. I consider he has no such right, or, at least, it would be a very extreme case that would justify him in doing so; that is, supposing the officer was bound by virtue of his office to execute it.

And further deponent saith not, and hath signed

A. A. DORION.

The Committee adjourned until seven p.m.

EVENING SESSION.

PRESENT—Messrs. Rodden, chairman; McGibbon, Devlin, Leduc, and Labelle.

JOHN O'LEARY, Detective Officer, being sworn, deposes and saith:—

EXAMINED BY MR. LAFLAMME.

Q. How long have you been connected with the Police Force of this city?

A. It is about twelve years. Since my connection with the force, whenever property was taken from the parties arrested, I never remember a case where a written order from the court was sent to me or to the office to give up property taken from the parties arrested, when discharged by a judgment of the Court. I have several times given up the property upon written orders given by the prisoners to third parties.

Q. Are you aware that on several occasions you have delivered property or money to the complainant in this cause upon a written order given to him by

the parties arrested without any order of the judge of the Court before whom the parties arrested had been brought and by them discharged ?

A. I have ; both property and money.

Q. Is it not the usual and universal practice, to your knowledge, followed with respect to every party arrested by you and discharged by the competent authorities ?

A. I give up the money or property, on the prisoners giving me a receipt for the same.

Q. Do you remember any particular occasion where you so gave up large sums of money, and if so, state some to the best of your recollection ?

A. The last case I arrested was a prisoner accused of stealing \$10,000 ; he had at the time of his arrest between two and three hundred dollars in his possession : the prisoner's name was John Connors. He gave to Mr. Devlin an order for two hundred dollars ; he, the prisoner, said he was a raider belonging to Morgan's band ; the money was American money. I was sent with him from this City to Toronto, where he was discharged, and his property was given to him without any order.

Q. Do you remember any case where the order for the delivery of the money was addressed to you at about the very moment when judgment was rendered discharging the prisoners, to avoid the attachment of the money or property immediately after the judgment discharging the prisoners ?

A. No, not to my knowledge. There is however a case of one Foulds, in which the money was attached in my hand to prevent its being given up to the prisoners. In several cases, I got orders for the delivery of the money before the judgment discharging the prisoners was rendered. In some of these cases the complainant received such orders.

Mr. Laflamme declared he had no other questions to put to this witness.

The complainant declines cross-examining the witness.

Question by the Chairman.—Have you assisted the Chief in making arrests without a warrant, and have you alone arrested without a warrant for crimes committed out of Montreal or in a neighbouring country ?

A. I do not remember assisting the Chief in making any such arrest, but I frequently myself made such arrests upon receiving telegraphs from the States : generally these parties are discharged ; in fact they were all discharged but one.

Question by Mr. Labelle.—Is it to your knowledge that any former Chief of Police refused on any occasion to execute a warrant.

A. On several occasions the late Chief, Mr. Hays, refused to execute warrants from the upper court.

BY MR. M'CREADY.

Q. As one of the Police force and a detective, are you aware that according to the oath of office, he is bound to execute warrants ?

A. I am not exactly aware of the precise terms of the oath taken by the Chief of Police.

Q. From the following oath of office being read to you, don't you consider that he is bound to execute any warrant that may be placed in his hands, and more especially one signed by a Judge of the Superior Court, viz:—

“I, as Chief of Police of the City of Montreal, do swear on the Holy Evangelists, that I will faithfully, impartially and honestly, according to the best of my skill and knowledge, execute all the powers and duties of Chief of Police and Constable, for preserving the peace and preventing robberies, and other felonies, and apprehending offenders against the peace, in the District of Montreal, so help me God.”

28th November, 1861.

A. I do not exactly know what the Chief should do. And, further deponent saith not, and hath signed.

JOHN O'LEARY.

TESTIMONY OF MR. KERR.

W. H. Kerr, Esq., Advocate, being sworn was

EXAMINED BY MR. LAFLAMME.

Q. As you know all the matters connected with this investigation, please state whether you believe the Chief of Police justified in his conduct with respect to the charges brought against him, and if so, state for what reason?

Objected to by Councillor McCready, on the ground, 1st, that Mr. Kerr having been one of the attorneys who defended the St. Albans Raiders, when they were liberated by Judge Coursol, and being interested in their behalf as well as their friends, cannot be examined as a witness.

For the objection—Messrs. McCready and McGibbon.

Against—Messrs. Labelle and Leduc.

The votes being equal, the Chairman considered the evidence of Mr. Kerr should be received.

A. The St. Albans Raid case was not an ordinary case of crime committed within the jurisdiction of our Provincial Courts. It was in fact an exceptional case, cognizable solely by certain officials whose powers and duties were in my opinion, in the existing state of our law, defined by the Imperial Statute 6 and 7 Victoria chap. 76.

Under that statute, in order to give jurisdiction to any of those officials, it was necessary that the Governor General should first issue his warrant. No such warrant having issued, the arrest of the raiders and the taking of the property from them were both illegal. Consequently the claimants and the Raiders being subjects of States recognized as belligerents *quoad* each other, on the arrest being declared by the Judge before whom the investigation was proceeding as unauthorized under the statute, they were entitled to the money and securities deposited in Mr. Lamothe's hands as having been taken from them

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JOHN O'LEARY.

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by their captors, and had Mr. Lamothe retained that money and those securi-
ties after demand by the Raiders or their agent after their discharge, thereby
affording facilities to the subjects of the other belligerent to attach the money,
he would have acted in an unjustifiable manner and rendered himself liable in
damages at the suit of the Raiders or of the Confederate Government.

With reference to Mr. Lamothe's position as the *depositaire* of the money in
question, I do not consider that he acted as Chief of Police when the money
was confided to his charge. I am rather inclined to believe that he must be
looked upon as the private agent of Judge Coursol with reference to that
Depot.

With reference to his request for a delay on executing Judge Smith's war-
rant, I do not consider that he is liable to blame; he had heard but a few hours
before the Judge of Sessions, who has in these extradition matters, under our
Provincial Statute 24 Vic., cap. 6, if it be in force, concurrent jurisdiction with
Judge Smith, declare that his warrant similar, as I believe, in all respects to
that issued by Judge Smith, null and void, consequently the time asked was
not extraordinary, in order to afford to Mr. Lamothe an opportunity of satisfy-
ing himself as to its validity. Mr. Lamothe is, I believe, a magistrate for the
District of Montreal, and would not therefore be called upon to execute a war-
rant issued by any Judge in an extradition matter. He was, moreover, Chief
of Police of the City of Montreal; his duty is to attend to the Police of the
City, and if he be liable to be ordered away to serve warrants in criminal or
extradition cases, it is impossible that he can execute the proper duties of his
office. There is an officer attached to our Courts whose special business it is
to execute warrants in criminal matters of this kind. That officer is the High
Constable, and to him should have been entrusted the execution of the warrant
in question. I would merely remark in conclusion, that in my opinion, Judge
Smith's warrant is null and void.

Q. Was not the Chief of Police, pending the investigation, and previous to
the judgment, repeatedly notified that in case of the discharge of the prisoners
he would be held responsible for any delay occurring in the delivery of the
money, and to have the same in readiness?

A. I can only speak from my own personal knowledge, as I did not take
upon myself the task of regulating that portion of the affair. I spoke to the
Chief once, and then I told him, I believe, that we must have the money so
soon as the prisoners were discharged. I opened the conversation with him by
asking him, as if I had reference to the production of the money in the course
of the examination of witnesses for the defence, how long it would take him
at any moment to produce the money in Court, and he then answered me, five
minutes. This is all the conversation I remember having had with the Chief
on the subject. This, if I am not mistaken, was soon after the adjournment on
the 15th of November.

Q. Are you aware of any arrangement offered to the complainant by which
the equivalent in value of the money delivered by the Chief to the parties dis-

charged, was to be deposited in a banking institution of this city, to abide a judgment of our Courts declaring the liability of the Chief to the parties establishing their right thereto. If so, state it; and also whether the same was accepted or refused?

A. I had a *pourparler* with Mr. Devlin on the subject, either on Thursday or Friday last; I communicated with the Southern gentlemen who were interested for the Confederate government here, and they authorized me and Mr. Lafflams, or either of us, to make the following propositions: that the value of the notes and securities delivered by Mr. Lamothe to the agent of the raiders, should be estimated by arbitrators at their value; that that value in gold should be deposited in one of the banks here, and that the bank should execute a bond, by which it should become bound to pay over to the plaintiffs in any suit directed against Mr. Lamothe, founded on his delivery of the said notes and securities to the raiders, either the actual amount of the said judgment in principal, interest and costs, or the then value of the said notes and securities, the amount to be paid on the judgment, not to exceed in any case the sum deposited. Mr. Devlin told me that he would make known the proposition to his clients, and that if they agreed to it, we should draw out articles embodying the proposition, and he appointed an hour and place, when and where I was to meet him that evening. On his arrival at the place appointed, he told me it was no use, that his clients would not condescend to such an arrangement.

CROSS-EXAMINED BY MR. DEVLIN.

Q. As it has been stated that you know all matters connected with this investigation, can you inform me where the carpet bag containing the money in question now is, or what has become of it or its contents?

A. I have not the remotest idea as to where the bag is, or who has the money.

Q. You have stated Mr. Lamothe would have acted in an unjustifiable manner, and rendered himself liable in damages at the suit of the Confederate Government or the raiders if he had retained the money and securities taken by the raiders from the St. Albans Banks, after demand made upon him by them or by their agent, permit me therefore to ask you if you believe he would have rendered himself so liable, if the Bank in which the money was deposited, being closed at the time of the judgment, he had refused to make delivery until the opening of such Bank on the following morning?

A. Had any damage been suffered by them in consequence thereof, I consider that he would have been liable.

Q. Are you therefore of opinion that notwithstanding it was after banking hours when the judgment was rendered, the Chief of Police was nevertheless bound to obtain the money from the Bank in which it was deposited, before the opening of such Bank the following morning, for the purpose of delivering it to the raiders or to any other person in their behalf?

A. I am of opinion that Mr. Lamothe was bound to have the money in Court

during the progress of the whole investigation, consequently I think that he would have been bound to deliver over that money to the raiders on the judgment being pronounced. His depositing it in a Bank was his own affair, and he was bound to get it.

Q. Do you seriously believe that if the Chief of Police had informed the raiders or any one on their behalf, making a demand to him for that money, that he had deposited it in the Bank, and that it was after banking hours, and that he could not obtain possession of it until the opening of the Bank on the next morning, that he would have thereby rendered himself liable to them for damages?

A. No falsehood that the Chief might have told them, would have relieved him from his responsibility.

Q. In stating that in your opinion Judge Smith's warrant is null and void, are we to understand thereby that the officer requested to execute it was justified in regarding its nullity and in refusing to execute it immediately?

A. I have already given an answer with respect to the Chief of Police which meets this question, I am not here to give a general opinion on *quoad* all officers, though I do not believe that any officer can be forced to execute a warrant which is null and void.

Q. Have you any knowledge of any arrangements having been made for the delivery of the money before the judgment discharging the prisoners was rendered, and if so, state what you know of such arrangements and by whom they were made?

A. I contented myself with telling the raiders, Mr. Sanders and my colleagues that as soon as we opened our defence, they (the raiders and Mr. Sanders) must have everything ready at any moment to demand from the Chief of Police, in legal form, the money and securities. Having so told the raiders and Mr. Sanders, I considered that it was no part of my duty, either to see the Chief of Police, or to draw receipts for the money and securities. I told them at the same time that they should be prepared, at any moment, for a break down in the prosecution, so that these securities and money might be claimed as soon as possible after any judgment discharging the prisoners, and I am not aware of any arrangement save what has appeared in this investigation, having been made for the delivery of the money.

Question by the Chairman—You have spoken very freely your opinion of the duties of the Chief of Police in this matter, are you prepared to say it was any part of his duty to hold private interviews with the Attorneys of the raiders or talk with Mr. Sanders or Mr. Porterfield acting for the raiders, and at their suggestion, remove the money from the place where he kept it, putting it into the Ontario Bank the day before the dismissal of the raiders and leave it there during the sitting of the Court, or to otherwise arrange with them, in advance of the decision of the Court, for the delivery of the money?

A. The question which I am asked to answer contains inquiries about so many facts, that were it not for a portion of it in which I am asked whether all

the acts therein mentioned are not part of his duty, I should be puzzled for time to answer it, but *quoad* his duty, he was not acting as Chief of Police at the time, in my opinion, and, consequently, no answer is required to the question.

Q. By the same.—I am not disposed to accept this as an answer for the information of this Committee in reply to the opinion asked of you by me on their behalf; will you please give such an answer as is expected. If you are not prepared to answer our questions in the usual way of such enquiries, you will please say so.

A. As the Chairman apparently has misconstrued my answer, I say that even if Mr. Lamothe had acted in his capacity of Chief of Police on the occasion in question, though the acts cannot be considered as part of his duty, he not being bound to perform them, I do not see that there is anything criminal or worthy of serious blame in his conduct.

Q. Do you not think, when Mr. Porterfield addressed the Chief of Police in the lobby of the Court House, while the Judge was yet on the Bench, and the prisoners in custody, for the purpose of obtaining the money, that the Chief would have been justified in saying to Mr. Porterfield that in as much as the Judge did not, in giving his judgment, declare that the money should be given up to the raiders, and as a large portion of the money is said to have been taken from persons not raiders, he, the Chief, wished for sufficient time to consider the matter and be advised as to where, when and to whom he would deliver it?

A. Decidedly not; had he done so he would have been playing into the hands of the other party. The whole of the money was deposited in Court as taken from the raiders, either by the parties who gave their depositions or by others who delivered to the witnesses certain sums as having been by them taken from the raiders, or found in or about the places when they were arrested.

Q. Is it not a fact within your knowledge, that Mr. Lamothe assisted in arresting the St. Albans raiders in October last, and if such be the case, what are we to understand when you say he could not be called upon to execute a warrant issued by any Judge in an extradition case?

A. Mr. Lamothe's authority as Chief of Police did not extend to the district of Bedford and Iberville, he did not even act as magistrate on that occasion, because his commission is only for the district of Montreal. I am not aware that he arrested one prisoner, I believe that he went there merely to assist Mr. Coursol.

Q. Were you present with the St. Albans raiders when the carpet bag containing the stolen money was opened and distributed?

A. In the first place, it was not stolen money, it was booty; in the second place, I was not present.

Question by Mr. McCready.—Do you consider that Judge Coursol would

have placed ninety thousand dollars in the hands of Mr. Lamothe if it were not for the fact of his being Chief of Police ?

A. I cannot judge Judge Coursol's intent. And further deponent saith not, and hath signed

WILLIAM H. KERR.

CHS. PHILLIPE NAEGLE, sub-chief of Police, being sworn upon the Holy Evangelists deposed and said :—

EXAMINED BY MR. LAFLAMME.

I am sub-chief of Police and I have been connected with the Force since ten years. I never remember, during all the time I was connected with the Force, a single instance where a written order was required for the delivery of money or property taken from discharged prisoners. It was always delivered upon an order from the prisoners or to the prisoners themselves. I remember the late Chief on several occasions refusing to execute warrants from the Courts, because he did not think himself bound to do so, and that it would interfere with his duties of Chief of Police of the City of Montreal. I am aware that the present Chief of Police has expended some money for the arrest of parties connected with Johnson's Island matter, which has never been refunded to him by the Government. And further deponent saith not, and hath signed.

C. P. NAEGLE:

It being now half-past twelve o'clock in the morning, and the complainant conceiving that a further examination would protract the investigation beyond the time fixed by Council for its determination to-morrow evening, declines all further cross-examination of witnesses, and also believes that no further light can be thrown on the subject by so doing.

The counsel for the accused also declared that he now closed the defence.

The Chief requested to be represented by his counsel at the meeting of the Council at which the subject matter of this investigation is to be discussed, which request the Committee agreed to recommend to the Council.

Moved by Councillor Labelle.—That the Committee adjourn until to-morrow afternoon at 2 o'clock P.M.

Yeas—Leduc, Labelle.

Nays—McCready, McGibbon, Rodden. Lost.

Councillor McCready moved that a report be prepared and submitted to Council.

The Chairman of the Committee submitted a report, to the effect that the Committee had, in accordance with the resolution of Council, taken the charges of Councillor Devlin, against the Chief of Police into consideration, and devoted several days to the investigation of the said charges. The Committee were, however, unable to agree upon any recommendation to the Council, and would therefore submit the evidence and the documents laid before the Committee.

This was adopted by the Committee, by the following vote:—

Yeas—McCready, McGibbon, Leduc.

Nay—Labelle.

And it was resolved that the Committee do now adjourn.

Proceedings of the City Council.

FRIDAY EVENING, December 23, 1864.

A special meeting of the City Council was held on Friday evening, His Worship Mayor Beaudry in the chair. There was a full attendance of members, and the galleries were crowded with strangers.

The special business of the meeting was the consideration of the report of the Police Committee upon the charges brought against the Chief of Police in reference to the delivery up by him of the money taken by the Raiders from the St. Albans Banks.

The Mayor having called the meeting to order, requested the City Clerk to read the minutes of the meeting at which the charges against the Chief were made, which was done.

Alderman RODDEN said that before presenting the report of the Police Committee, he had to request, on behalf of the accused, that he should be heard before the Council by his Attorney. The Committee agreed that he should, and he wished the Council to say whether it was their wish. It was only fair that this permission should be granted, in order that the Counsel for the Chief might have a full knowledge of everything that took place.

Permission having been granted by the Council, Mr. Laflamme, Q.C., the Chief's Counsel, took his seat at the table beside the City Clerk, and the Chief was also admitted with him.

Alderman RODDEN then said that, on behalf of the Police Committee, he herewith submitted their final report, and a motion for the reception of the same. It was not necessary for him at that moment to say anything further. He would be prepared to do so as soon as the report was read.

The report was then read, it being to the effect that the Police Committee had carefully and impartially investigated the matter in accordance with the directions of the Council at the meeting of the 13th inst., and that being unable to agree upon any recommendation upon the merits of the case, they had determined merely to present the report of the proceedings, so that the Council might take such action as they thought proper.

Alderman RODDEN moved, seconded by Alderman LECLAIRE, that the report be received.

Alderman RODDEN then said that the question under consideration that night was one of the greatest importance, not only to the Council and this community, but to the whole country, from one end to the other. Therefore he might be excused if he dwelt at some length upon the evidence which had been laid before them. In the first place, a charge was made by a member of that Council, and the point of that charge was that there was dereliction of duty on the part of the Chief of Police, and that there was design on his part in divesting himself in the manner he did, of the money placed in his hands for safe keeping. Another charge was afterwards made of that officer having refused to execute a warrant of a Judge of the Superior Court. To these charges the Chief simply replied that he did not receive the money as an officer of the Corporation or as Chief of Police, but merely as an individual; that he did not dispossess himself of it in an improper way; that he did not refuse to execute the warrant, but merely asked a reasonable time for reflection; and that he was not bound to answer to the Council for these matters, as they involved points of law which could only be decided by a Court of Justice. This being put to the Committee, they determined that he had received the money as Chief of Police; that he had also laid himself open to the other charge, and that they were bound to proceed with the investigation of the case. The Chief was afforded an opportunity of making a verbal statement, which he declined to do in the absence of his counsel. Mr. Rodden then went on to give a review of the evidence of Mr. Carter and the other gentlemen whom the Committee had proceeded to examine, concluding by saying that his object was merely to call the attention of the Council to the facts. The complaint had been made by Councillor Devlin, and it was for the Council to say whether there was ground for it or not. One thing in justice to the Chief it was his (Mr. R.'s) duty to call attention to. There was no evidence of his having been offered any reward for giving up the money in the way he did. Mr. Rodden thought the bulk of opinion went to show that the money could not be kept, but that it failed to show at what time it should be given up, or that the Chief was bound to make such preparations as he did for its delivery before the Judge left the Bench, while the attorneys were engaged addressing him, and before the prisoners were liberated. His own opinion was that, after the judgment of the Court, the Chief should have said to the Judge, "what shall I do with this money?" This it appeared to him (Mr. R.) would have been the most judicious course, it would have enabled the parties claiming it to assert their rights and the delivery would have been made in a

legal instead of a clandestine manner. The Chief, however, says he thought he was doing his duty in getting everything ready, in placing it in a bank, and in providing himself with an order for its delivery to the discharged parties, the moment the judgment was rendered, while at the same time, it was shown in the evidence that he had arranged to have the bag in his hand in the Court and would allow it to be taken by the representatives of the St. Albans Banks. These were the matters the Council had to decide and not a question of law. He (Mr. R.) would say nothing further at that time, but would claim the right of reply to any point that might be raised during the discussion.—He would not do so, however, unless he was attacked. He was heartily tired of the affair. He had been working at it for ten days, and was anxious to get rid of it as speedily as possible.

Councillor Higginson then offered the following resolution, seconded by Ald. Bellemare :

“ That this Council having taken communication of all the proceedings of the Police Committee in reference to the investigation made by them into the charges made by Councillor Devlin against the Chief of Police must declare, that it assumes no responsibility in the acts which are the matter of these investigations, and is of opinion,

“ That during the whole course of the investigation into the conduct of the said Chief of Police, no proof whatever has been adduced by which his well known reputation, as an upright and honest man can in any wise be tainted or destroyed, nor the well earned confidence placed in his honor by this Council and the public generally lessened ;

“ That in absence of any such proof, the first charge brought by Councillor Devlin to the effect, that the Chief of Police had, on the 13th day of December inst., without authority and by design dispossessed himself of a large sum of money, amounting to between \$80,000 and \$90,000, which was placed in his hands for safe keeping, to await the result of legal investigation, which sum of money it is further charged the Chief of Police delivered to some person or persons not the legitimate owners of the same, and to the great loss and damage of the persons from whom the said sum of money was stolen, becomes a pure question of law, namely, whether the Chief of Police was legally justifiable under the peculiar circumstances under which he was placed to deliver up the money to the persons in whose possession the same had been found ;

“ That a question of this nature it is not competent for this Council to decide, but should be brought before a Court of Justice for determination ;

“ That while not giving its approval to the hasty manner in which the Chief of Police has acted on this occasion, this Council deems it its duty, however, to state that according to the opinion expressed by mostly all the eminent men learned in the law, who have given their evidence during this investigation, there is nothing in the conduct of the Chief of Police in this case which is contrary to law, and that moreover it has been proven that the Chief of Police before acting as he did, had taken previously the advice of competent

persons, which advice had received the tacit assent of Edward Carter, Esq., Clerk of the Crown, and more specially that the said Chief of Police had consulted with His Honor Justice Coursol, who deposited the money in his hands, and who told him formally, that he, the Chief should deliver up the money to the prisoners in case they were discharged, unless he received an order to the contrary, which order was never given.

"That the second charge brought by Councillor Devlin, to the effect that the Chief of Police had refused to execute a warrant, issued from the Superior Court, is not founded, inasmuch as there is no proof that the Chief of Police ever refused to execute said warrant; that it has been proven on the contrary that the Chief simply asked a delay of three quarters of an hour in order to take advice from competent persons as to the course he should pursue, is such an exceptional case—a similar case never having come before him—and warrants of the Superior Court being not usually entrusted for execution to the Chief of Police. And whereas under these circumstances the Chief of Police was justifiable in asking for a short delay;

"Be it therefore resolved, that the resignation of the Chief of Police be not accepted by this Council; and that he be invited to continue the duties of his office with the same zeal, activity and integrity as heretofore."

Alderman Bulmer said that he hoped now the question was fairly before the Council, his Worship would direct Mr. Laflamme, if he had any remarks to make, to offer them at once.

Speech of R. LAFLAMME, Esq., Q. C., in vindication of Chief Lamothe from the charges preferred against him.

Mr. Laflamme said he was ready to proceed, and went on to express his great astonishment at the course pursued in so grave a matter by the gentleman who had made the complaint, in declining to come forward to support it. How was it that that gentleman did not rise and support the grave accusation he had made in order to give to the party accused the only opportunity he could have of answering the charge. It was for the defence to ask what the accusation meant. The Chief was charged with having dispossessed himself of the money "without authority and by design." What design? Well it had been stated that dodges had been resorted to. He would have liked that these dodges had been pointed out. Nothing but a fair defence had been resorted to that he knew of. When the party accused was called upon he made the plainest statement he could. He said the matter was one "over which the Council or Police Committee could have no jurisdiction whatever." That was certainly the question that ought to be taken up. Then the Chief also said that he never received the money as an officer of the Corporation, but that he was entrusted by the Judge of the Sessions with a certain amount of notes found upon the persons of certain parties arrested under the accusation of having stolen the same. Was that not a fact? Could any one say he received it as an officer of the Corporation? If he acted as an officer of the

Council they were bound, and it was their duty to have ascertained that fact first, because if he did not, it was not for the Council to investigate the matter. Then the Chief said that having heard the judgment of the Court discharging the prisoners, he felt himself legally bound, advised as he was by professional men, to restore the money immediately. The correctness of this course had not been impugned, and no legal man could be brought to do so. Then having been requested by the discharged parties to deliver to them, the money, he did so under the impression not only that he had a right to do it, but that it was his duty to so act. Was there anything more precise than this defence? Then he said he had no verbal statement to make. He (Mr. Lafamme,) would like to see what any one else would do under similar circumstances. Was it surprising or a matter of reproach, that the Chief of Police, facing a man of legal knowledge, the first counsel in criminal law at the Bar, should refuse to make a verbal statement, or proceed any further without advice? Was not the accusation one that comprehended something like robbery, and if it left him obliged to defend himself against any possible charge, was he to stand there without counsel and without advice, and not claim time to see what was the nature of the evidence? Because there was no lawyer even who could see how far this complaint might not go. Well, that was the "dodge" to which the party accused resorted. Then the party complaining, finding that this was not enough to satisfy his vengeance against the Chief, brought another accusation. It was perhaps less comprehensive in its character, because it maintained but one specific allegation, that the Chief refused to execute a warrant. Well, in reply to this there was a plain statement of the fact. He, Mr. Lafamme, contended that the question was one of law, and that the Chief could not proceed at the outset without first ascertaining that legal point; and if it had not been under the impression of anger and fear which prevailed in the community, and which stifled every man, there could not be one man in that Council who would entertain a different view from his (Mr. Lafamme's.) But it was because it might be taken as a peace offering, that it was felt that some sacrifice should be made. (Hear, hear.) But if they were to make peace offerings and sacrifices, let them not make a sacrifice of principle. Let them examine calmly and impartially a matter of this description, and not put upon his trial a man who had never been subjected to a suspicion of fraud or dishonesty, but had discharged his difficult duty without showing any partiality or favor. (Hear, Hear, and cheers.)—The learned counsel maintained that the first question was one of law.—The Chief acted as a depository, and the first question was whether he was right in delivering over the money. Because if he acted illegally he was either civilly or criminally responsible. But the learned counsel contended that he acted legally, and that if he had not delivered over the money he would have been responsible, and would have been made responsible to the parties claiming it. It certainly was the first time he (Mr. Lafamme) had heard that a man who acted legally was to be held responsible. (Hear hear.) As the complainant did not enter into an examination of this legal point

could the Council proceed in the matter? The learned gentleman did not see how they could. Nevertheless that was the only "dodge" by which the Chief wished to avoid this investigation. He only wished to have the question properly decided. Was a public officer to be held criminally responsible to that Council, without resorting to the proper tribunals? No body corporate could convict him, except the legally constituted tribunals of his country, and yet here he was brought up without a shadow of a ground. Such was the necessity or vagueness in the charge in order to bring it home to the Chief of Police that it had to be brought in such a way as to induce the Council to investigate the complaint. The act of the Chief was perfectly legal, as he (Mr. Laflamme) would establish by reference to the evidence; and on this point he thought the report of the Committee would establish it completely. There had not been one witness produced to prove that this act of dispossessing himself of the money was illegal. Therefore he was not bound to produce any evidence in support of the legality of the act. But he thought fit to remove every suspicion by bringing up the most competent lawyers, occupying the highest positions. And besides the evidence of those gentlemen, he (Mr. Laflamme) could have obtained the written opinions of others of equally high standing, and of every religion and nationality, to corroborate the evidence given by Messrs. Dorion, Cassidy and Kerr. But the learned gentleman would go further, and say, that even supposing the Chief had acted illegally, he could not be made amenable to that Council, because acting as he did as the depositary of the Judge of Sessions there was no other authority to whom he should have applied, at that time than to the Judge himself. The Judge in his examination said the Chief had only one duty, which was to deliver the money immediately to the parties if discharged, if there was not in the judgment an order to the contrary. Was there any one knowing that the Judge was supposed to be acquainted with the law,—was there any man who would hesitate to act under the judge's advice in such circumstances. Mr. Coursol even said that he had made a similar statement to every person who asked him the question, as several did. Could they make an officer responsible for acting under such advice, confirmed as it was by Mr. Carter, though with some hesitation. Had it not been for the excitement caused by the affair, he (Mr. L.) had no doubt Mr. Carter would probably have remembered the fact that he did positively declare to the Chief that he was bound to give up the money. Here then they had the Judge and the Crown officer representing the prosecution on behalf of the parties suffering the loss, stating to the Chief of Police that it was his formal duty to give up that money the moment the prisoners were discharged, if no order to the contrary was given. And he (Mr. L.) said without hesitation that if they took any other officer and let him be accused in the same way—let him be brought before a commission of the Government, and he would ask the Council, if they were acting as jurymen, could they hesitate for a moment to acquit him of any guilt or responsibility in the matter. He supposed it would be stated that the seeming calculation in the Chief's acts in favor of the parties to whom the money was delivered, made him liable. The learned gentleman

supposed that would be the point as the one of the legality of the delivery could not apply. If the accusation was that he had gone beyond his ordinary duties in this way, it resolved itself into this, that in a case where the Chief of Police was made the depository of money, and when a City Councillor happened to be retained for the prosecution, and failed to take out an attachment, the Chief of Police was to be made responsible for his omission. If the Chief of Police had held a different relative position to the counsel complaining; and if he had then acted as the party complaining would have had him act on the present occasion, there would in that case have been another complaint of his having held on to the money, and the learned Councillor would not have hesitated for a moment to call upon the Chief of Police to hand over the money. The order would probably have been given beforehand, and if the Chief of Police had hesitated to give over the money, then the thunders of the learned gentleman would have fallen on him indeed. (Hear, hear.) This was not a case of robbery, however parties might differ on the question. The parties suffering had not so viewed it. They had advertised it as a "raid." It was bad and irregular warfare he acknowledged, but still it was war. The discharged parties committed the act as soldiers, and brave soldiers too, notwithstanding that they had committed something irregular. (Hear, hear.) It was the invariable practice for parties going to the Chief first, to receive the money, in the absence of any order. And the parties looking for this money took the necessary precautions, and told their clients to get everything ready and not be taken by surprise. He (Mr. L.) supposed that it would also be brought out that the Chief of Police had an interview with Mr. Porterfield. That was something very serious! What was it? Some conspiracy? No, but he was called upon after the Chief was told he would be held responsible for any delay in the matter, and Mr. Porterfield was pointed out as the gentleman to whom the money was to be delivered. Was it the duty of the Chief to disclose to the other party that this had been done. No other conversation occurred at the interview, and after the judgment had been rendered Mr. Porterfield showed his authority to receive the money, and he got it. They would find nothing showing any other disposition on the part of the Chief than to do what he was told and believed was his duty. If a man's character was to be taken away on evidence such as that submitted in this case, then it would be dangerous indeed to be an officer of the Corporation. The Chief had not entered by the "back door." There was no back door to the Bank. But the question was not whether he entered by the front or the back door, but at what time he received the order. It had been proved beyond a doubt that the party who gave the order only gave it half an hour after the delivery of the judgment. The learned gentleman next proceeded to the second charge, of the refusal to execute the warrant. On this there could be no difficulty. Here was a Court of Justice, legally established, declaring that a warrant of such a description was null and void. Three-quarters of an hour afterwards another party goes to the Chief with a warrant of the same description. The Chief did not decline to execute it, but only asked for some time to think over his position, which was altogether strange to him.

The party who brought the warrant had actually been to a Judge of the Superior Court, who refused to issue the warrant without time for reflection, and he asked till the next day, because, he said, Judge Coursol might be right. Was then the Chief of Police to sit on three judges, namely, Judges Coursol, Berthelot and Smith, and decide who was right. If an officer was not entitled to three-quarters of an hour's delay in a case of that description, he would have no protection whatever. Every one knew that killing a person executing a warrant which was null and void was no murder. In this case an officer was called upon to execute a warrant against several persons, who might be together and desperate. If he had taken upon himself to execute that warrant, and the lives of some of his force had been taken, would they not rather then be responsible for his conduct? Was everything to be changed because of this particular case? But there was another point. The Chief of Police was a paid officer of the city. There were officers attached to all Courts of Justice to execute warrants. There was the High Constable and the Water Police. The higher Courts would be very glad if the Chief would execute such warrants as this, because he would have men at his disposal. Then the country would benefit, and the city would be at the cost. If then the Chief was not bound to execute such a warrant in any case, surely it was in this case. If he had sent out his men to arrest these persons, and left the city unprotected, would he not have been asked where are your men? Ten minutes afterwards the High Constable was found and asked to execute the warrant, and he goes to the Chief of Police for men! That was all the assistance the Government afforded. Moreover, this was the very first warrant of the kind the Chief had been called upon to execute. The learned gentleman, in conclusion, said he regretted having occupied the attention of the Council so long. He was confident no commission would condemn on such evidence—upon the bearing of the facts upon the accusation. He felt sure they would not be swayed by any private feeling, but would do justice in the matter, and not condemn when condemnation would be high injustice.

The learned gentleman afterwards spoke to the same effect in French, occupying about two hours altogether.

Speech of B. DEVLIN, Esq., in reply and in support of his charges against Chief Lamothe.

Councillor DEVLIN said—I beg to assure your Worship and the gentlemen who compose this Council, that I approach the discussion of the question which is the object of our meeting here this evening, with a feeling of profound regret—regret occasioned by a knowledge of the fact that the accusation engaging our attention involves the reputation and integrity of a man with whom I have been for many years upon the most intimate terms. A man in whom, up to the 13th day of this month of December, I placed unlimited confidence. But, Sir, upon this occasion, I cannot, I dare not, yield to the dictates of friendship; nor however pleasurable it might be to me, aid in exculpating the offend-

er without a sacrifice of principle and a betrayal of trust of which it must not, through any act of mine, be said that I have been guilty. Fully appreciating the importance of the subject brought under our notice; and convinced as I am that great good or great evil will mark the result of this discussion, it shall be the object of my remarks, with my knowledge of all the facts and circumstances relating to the accusation preferred against the Chief of Police, to aid my colleagues in arriving at such a conclusion as will not, I trust, shock the moral sense of the community in which we live; nor do violence to the immutable principles of justice. And now to advert to these facts and circumstances. What are they? It is known to all of us that, a little over three years ago, certain States forming part and parcel of the United States of America suddenly withdrew themselves from their allegiance to the Union created by the genius and patriotism of the immortal Washington, and having unfurled the standard of rebellion, boldly proclaimed to the world their determination to erect for themselves a new nation and a new government. It is also known to us that shortly after this deplorable rebellion had attained a certain magnitude, the parties engaged in the contest were recognized by Her Majesty as belligerents, and that our good Queen forthwith issued her royal proclamation commanding all her subjects, at home and abroad, to abstain from participating in the conflict, and to observe strict neutrality between the parties. And here, Sir, the line of argument pursued by the learned counsel who has addressed us in vindication of the conduct of Chief Lamothe, obliges me to ask, have we truly and faithfully obeyed the commands of our Sovereign in this matter? or have we not, on the contrary, if not directly, indirectly aided, countenanced and sanctioned aggression upon the United States by the emissaries and agents sent here from the South for that purpose? Sir, I regret to be obliged to say that the conduct of some of our people has laid us open to this charge. I feel, however, that this is not the proper time or place to discuss this question, and I shall, therefore, abstain from further reference to the subject, and will now call your attention to the facts upon which the accusation against the Chief is based. For this purpose I must remind you that upon the nineteenth day of October last a party of men (between twenty and thirty) suddenly appeared in the peaceful town of St. Albans, and taking advantage of the unsuspecting citizens, rushed upon their Banks, and being armed to the teeth, demanded from the officers of these establishments every dollar contained in them. Resistance being out of the question, the robbers found no difficulty in plundering the Banks of all the money which was accessible, and inside of three quarters of an hour they found themselves in possession of a sum of money exceeding \$200,000. Here it is necessary that I should state that while one part of the gang were engaged in robbing the Banks another part of them—their accomplices—were occupied in stealing horses for the purpose of enabling them more readily to escape with their ill-gotten booty. The result of their operations show how well planned their movements were, for no sooner had the robbers succeeded in their attack upon the Banks, than they were seen mounted upon horses stolen for them by their associate thieves. Now mark

what followed. The robbers being mounted and well armed, not content with their plunder, commenced an indiscriminate fire upon every person so unfortunate as to be within the reach of their deadly weapons. And as you well know, the result of this murderous onslaught upon our unoffending neighbours was the putting to death of a Mr. Morrison, a most respectable and inoffensive citizen of St. Albans, who, at the moment he received his death wound was engaged in conversation with a friend, little suspecting that in a few moments he would be carried to the happy home he had left but a few hours before, the victim of as cowardly assassins as ever disgraced the laws of humanity. And now we are gravely told by the Counsel of Chief Lamothe, that the men who perpetrated these fiendish outrages are brave fellows, true soldiers, and that if we were not afraid of the consequences, we would stand ready at this moment to clasp them to our bosoms, and exclaim, "Well done, noble patriots"! But to proceed, the unfortunate Morrison was not the only victim of the St. Albans raid, for it is well established that other citizens were dangerously wounded, while very many narrowly escaped the same fate. Sir, the robbers and murderers having at last accomplished their wicked purpose, fled with their plunder to this Province. So soon, however, as the outrages committed by them had been made known to the Government of this country, every means at the disposal of the Judicial and Police authorities were ordered to be put into immediate execution for the arrest of the criminals, and the result was that in a very short time thirteen of the gang were made prisoners, the extradition of whom was immediately afterwards demanded by the U. S. Government. An investigation into the criminality of their acts was then commenced before Mr. Justice Coursol, and during that investigation it was proved that a sum of money amounting to about \$90,000, a part of the proceeds of the robberies committed on the Banks, was found in the possession of the robbers. This money was identified by the officers of the Banks as their property in the presence of Mr. Lamothe, who was in Court when they swore to the fact. And by order of Mr. Justice Coursol, it was placed in his hands for safe keeping. How well he kept it will hereafter appear. The investigation proceeded, and after the expiration of a month spent in the examination of witnesses, the enquiry into one of the crimes committed by the prisoners, namely, the robbery of the St. Albans Bank was declared closed. An application was then made on their behalf for a delay of thirty days to enable them to obtain evidence from Richmond, which they conceived to be necessary for their defence. This delay was accorded by Judge Coursol. But, mark, upon condition that the Counsel for the prosecution should not, if they so desired it, be required to adduce evidence in support of the remaining six charges pending against them, nor until the St. Albans Bank case—the only one then before His Honor—had been finally heard and determined upon its merits. It is well known, that immediately upon the rendering of this judgment, I rose in my place in Court and, in language that admitted of no misunderstanding, stated to the Judge that we would not proceed with any other case than that of the St. Albans Bank before its final determination by him upon its merits. This was agreed to

upon both sides, and confirmed by a solemn judgment of the Court. An adjournment to the 13th day of this month was then ordered, upon which day the court was re-opened, but instead of hearing witnesses for the defence, as had been previously ordered by the Court, the Counsel for the prosecution, to their astonishment, found that a change had taken place in the order of the proceedings, the result of which was that we were suddenly and unexpectedly called upon to argue a question involving the jurisdiction of the Judge. To follow up my narrative, I must state that the learned gentlemen with whom I was associated attached very little importance to the objections urged by the prisoner's counsel, and in fact regarded them as a means resorted to for the purpose of obstruction and delay. The question raised, however, was taken *en delibere* by the Judge, who announced that he would give his decision at two o'clock the same day, which was by him afterwards postponed to three o'clock. At that hour the Judge came into court, and I must say, to the astonishment of the United States Counsel and the Counsel representing our government, maintained the objection of our legal opponents, declared that he had no jurisdiction, and ordered the discharge of the prisoners not only in the St. Albans Bank case, which was the only one he said he would take notice of; but, to our amazement, from the six other pending charges, notwithstanding that he had solemnly bound himself, by his own judgment, not to consider them, or in any way recognize their existence until the St. Albans Bank case had been finally heard, and determined *upon its merits*. Mr. Mayor, what I said when that judgment was pronounced, it is unnecessary for me here to repeat, as it is not the judicial conduct of Judge Coursol that we have to deal with, but the charge preferred against the Chief. Having brought down my narrative to the time when the delivery of the money by the Chief took place, I will now briefly inform the Council of the means adopted by Mr. Lamothe, to put it out of the power of the legitimate owners of that money to obtain its restitution. From the evidence of record it appears that in some way or other it became known to the prisoners and their friends that they (the prisoners) would be discharged on the 13th of this month. Acting upon this information it is proved beyond all doubt that Mr. George N. Sanders had communication with the Chief of Police, and that upon the day before the judgment was rendered he accompanied him to the office of Mr. Porterfield, a Southern gentleman, for the purpose of making such arrangements with the latter as would enable him to lay hold of the money the very moment Judge Coursol pronounced his judgment. It is further proved by Mr. Sanders himself, that so soon as he introduced the Chief to Mr. Porterfield he left the room. He was asked by me "Why did you so?" And with great frankness he replied that he did not want to hear the conversation that took place between them, so that if he were afterwards called upon as a witness he would be in a position to state that he had no knowledge of what had transpired between them. What admirable caution in the rebel Ambassador. It is further proved that upon that occasion, Mr. Porterfield suggested to the Chief the advantage of leaving the money in the Ontario Bank to make it more accessible to him. The Chief did so. What further

arrangements were made in this secret conference we know not. It is also proven, and by Mr. Porterfield, that he attended in Court to hear the judgment, and that the very moment the last word had escaped the lips of the judge, he went to the Chief whom he found in the passage way outside the Court Room, and there received from him an order which he (the Chief) had previously prepared in anticipation of the judgment for the delivery of the money. What a thoughtful and delicate act of courtesy this was! But I will be told it was a mere error of judgment on the part of the accommodating Chief. Of course it was. The comely of courtly errors had to be enacted to the end. And it only required this performance on the part of our Chief to conclude worthily this last act in the international farce. But, to continue.—Mr. Porterfield's evidence further proves that he had a sleigh in waiting for him at the door; that he was the first man out of the Court, and that he jumped into his sleigh and drove hurriedly to the Ontario Bank, and there was put in possession of the money stolen from the St. Albans banks. It is also proved that immediately after the discharge of the prisoners, a warrant was obtained by Mr. Ritchie, the partner of the Hon. John Rose, from His Honor Judge Smith, for the re-arrest of the prisoners, and that he requested the Chief to execute the warrant. He was, however, informed by that officer, that he must have three quarters of an hour for considering whether he would or would not recognise the validity of the Judge's warrant. Mr. Ritchie, finding that the Chief was unwilling to execute it, placed it in other hands, and we are now aware that five of the raiders have been arrested under that warrant, the validity of which was questioned by the Chief of Police. Mr. Mayor, the record of our investigation contains many other facts to which I might advert, but I feel, considering the lateness of the hour, and the certainty that I have, that a majority of the Council will sanction the conduct of the Chief, that it would be mere waste of time for me to do so. I cannot, however, take leave of this subject without warning you of the consequences of the vote which you are seemingly so anxious to record. You may, as I have no doubt you will, acquit the Chief of having acted with partiality, and with a total disregard of the trust reposed in him; but I tell you, that your verdict will be condemned by every impartial and honest thinking man in this community. It is true that lawyers have given it as their opinion that the Chief was bound to restore to the prisoners the stolen money immediately upon their discharge. I regret, however, to be obliged to say that I dissent *in toto* from the opinions so expressed, not only in reference to the delivery of the money, but also to the Chief's refusal to execute the warrant. Sir, disguise it as you may, it will ever appear that Mr. Lamothé conspired with Southern agents for the delivery of this money. If he did not, why put himself into the hands of Mr. Sanders? why hold private interviews with Mr. Porterfield? why deposit the money in the Ontario Bank the day before the judgment for Mr. Porterfield's convenience? why wait in the passage leading into the court room with an order already prepared for the delivery of the money? Is it to be supposed that these facts can be ignored, and that thinking men will look with approbation upon

the conduct of an officer, sworn to act impartially, who has thus acted? For my part, I have no hesitation in saying that knowing the judgment of Mr. Justice Coursol before its delivery, he conspired with Southern agents for the defeat of the ends of justice, and with the express object of putting it out of my power to recover back the money which had been stolen from my clients. It has been said on behalf of the Chief that I ought to have attached the money. My answer is that I did not for an instant doubt the integrity of the Judge or of the Chief of Police. Had I had any reason to do so, I would have taken care to render ineffective the conspiracy which has led to such sorrowful results. Justice Coursol I have known well for many years, and never had I reason to suspect his fairness either in his judicial or his private capacity. In him I trusted largely as I also did in the integrity of the Chief, never supposing for a moment that Judge Coursol would have forgotten his own judgment, which as I have already stated, pledged him to a decision in one case only. Here I must not omit to mention that the name of Mr. Edward Carter, Queen's Counsel, has been freely used during this discussion, with the object of proving that he advised the delivery of the money. It is due to that gentleman to state that the contrary is the fact, and I willingly avail myself of this opportunity to say that the prosecution so unhappily terminated was greatly indebted to the professional zeal and well known ability of that gentleman for the success that attended it up to the moment of its unexpected and unfortunate termination. Mr. Mayor, with this statement of the events which led to the charge against the Chief, I will commit the matter to the judgment of the Council, still confident from what I have seen and heard here this evening, that the enemies of the United States will achieve a second triumph at the expense of justice before this tribunal. Permit me, however, to warn you that it is quite possible a day of reckoning may come, when upon sober reflection, gentlemen may find reason to regret the hastiness of their decision. For I believe that so soon as it becomes known in the United States that it is useless for the people of that country to apply for justice to our tribunals, they will in their own defence, adopt means to secure themselves against a repetition of the injustice which they have already experienced at our hands. Hitherto they have been our friends. Notwithstanding the terrible conflict in which they are engaged, involving as it does the life of their nation, they have not for a moment forgotten their friendly relations towards us. They have maintained their social and commercial intercourse with Canada intact. They have bravely fought their own battles, asking no greater favour from us than that we should remain neutral spectators of the national struggle. But, sir, I tell you once more, that so soon as they find out that the murderers and robbers of their peaceful citizens can find not only shelter and protection, but also sympathy in this Province, the people of the United States will never tamely submit to be thus trampled upon, and the result will inevitably be, that for our mistaken and ill-judged sympathy with the wily agents of the South, who are here plotting and planning as to how best they can embroil England and the United States in war to subserve their own purposes, we in Canada will be

made to feel and to suffer no inconsiderable part of the horrors which such a conflict would be certain to entail. I will say no more; let the responsibility fall upon those who are prepared to do their part in bringing upon us a calamity so sad and terrible—one which every Christian man ought to pray God to avert. (Hear, hear, and loud applause.)

Ald. Bulmer said it was not because a learned lawyer had come here and made an eloquent speech for the defence that the Council should, in this matter, allow dust to be thrown into their eyes, so as to be blinded in regard to the simple question of right and wrong, or as to the real facts of the case. The Counsel for the accused told them they were moved to their present action against him by their fears as to consequences, while Councillor David charged us with a desire to make a national matter of the question.

Coun. David—I don't say you do.

Ald. Bulmer said he was influenced by neither motives, but by a desire for British fair play, which we expected to act upon and be governed by in Canada. (Hear, hear.) He would appeal to any member of the 13 in this Council, understood to be in favor of sustaining the Chief by their votes, to say whether he would conscientiously state, in private, that he did feel satisfied with Mr. Lamothe's conduct in giving up the money in the manner described. He (Ald. B.) had spoken to nearly every one of them, and had yet to learn there was one who would say privately the Chief had acted right. The facts were brief and clear. The evidence showed plainly that the charge as to the Chief having acted "by design" was borne out. It was not proved the Chief had received any reward therefor—far from it—and he (Ald. B.) was glad to find it so. But the Chief, moved "by design," allowed his sympathies and friendship for the raiders to put him in a position he ought not to occupy. What were the facts? There was a great discrepancy in the evidence, which he was surprised the legal gentlemen had not noticed—with reference to the time at which the Chief had had a conversation with the Judge of the Sessions in reference to the disposal of the money in case of the raider's discharge. The Judge deposed that eight or ten days before the judgment was given he had a conversation with the Chief on the subject; while Sanders swore he spoke to the Chief on the Thursday before the judgment, or only four or five days previous thereto, and also on the Friday following; and that it was on the Saturday succeeding, or only three days before the judgment, that the Chief told him (Sanders) of his having just consulted Messrs. Coursol and Carter, who had told him that in case of the raiders' discharge he must give up the money. When we considered that Sanders had taken Lamothe to Porterfield's office, and that there it was arranged the money should be placed in the Ontario Bank, and when we know that the Chief had been made aware for some time previous to the judgment what it was going to be: when we know that the Chief had given his word of honor (as was sworn to by the honest men from St. Albans) that he would not give the money without an order from the Court, what could we think of Mr. Lamothe's conduct in providing that the money should be

ready at the Bank on Tuesday; and when on the delivery of the judgment Mr Porterfield, whose office was next the Bank, should be the first to leave the Court and meet Mr. Lamothe in the passage, and immediately give the order for the delivery of the money? Was that fair play? It was well known that Mr. Lamothe found himself in a difficult position. He wanted legal advice, and where did he go for it? It was ridiculous to think he should have gone to the attorneys for the raiders therefor. All things considered, it appeared to him (Ald. B.) that the Chief acted in a very injudicious manner, and "by design" in this matter; and that he gave up the money to the wrong parties.— He tried to make out that he was not in this affair, acting as an officer of the Corporation. But if not, whose officer was he? Judge Coursol stated he gave him the money as Chief of Police. If he wanted legal advice, why not have gone to the proper quarter—the Attorneys of the Corporation, or the Mayor? He didn't do so, however. He (Ald. B.) must record his conviction that by the Council's adopting Councillor Higginson's amendment, Montreal, through its representatives, would be endorsing the act of the Chief and that of the raiders also. It would be very unjust for 13 members to put the city in this false position. Whatever the result, he would vote against the amendment, though he regretted being compelled to take this position as regards Chief Lamothe; but in a matter of this kind, private feelings must give way before a matter affecting the public interest. (Applause.)

Ald. RODDEN could not give a silent vote in this question. The Alderman proceeded to comment upon the salient points of the case from the appointment of the Police Committee to conduct the investigation, and to reply to some of the arguments for the Defence, contending there was evidence of the Chief's having acted by design, and of having favoured one party to the injury of the other, and expressing his belief that none could question that he had allowed himself to be drawn into a net by his friend Mr. Laflamme, one of the counsel for the raiders. He (Alderman Rodden) could not overlook the evidence contained on another page, given by Barton, to the effect that if the prisoners brought up before the Court were discharged, Mr. Devlin was to take the bag out of the Chief's hands and he would not resist. This was playing fast and loose, and sufficient to justify an accusation of design against the Chief. The Chief found himself placed in a difficult position, and the party for the defence got the soft side of him, and induced him to leave the money in the Bank in order that it might be the more easily removed by those acting for the raiders, without the knowledge of the claimants and in a manner which effectually prevented the discovery of the holder of it, in time to cause its seizure before finally distributed. If design was not proved by this portion of the evidence, what proof was wanting? Another question was that of delivery. In this there was clearly a design of depriving the real proprietors of the money. Had there been no intention to favour one side, the Chief would have made the delivery in a public manner and thus given both parties an opportunity to establish their claims. If the design had not been carried out, the money would have been seized, and the Chief's friends, among whom was Mr. Laflamme,

would not have gained their point. In regard to the execution of the warrant, he (Ald. Rodden) did not hesitate to say, that if the Chief had executed that warrant the first thing, and had he desired to make the arrest, his knowledge of the parties and the delivery of the bag to their agent, we suppose should have led him to Mr. Porterfield's house, and he might have laid his hands both on the money and the raiders. They had it from the evidence of Mr. Ritchie that the Chief spoke very sharply, to the effect that he was not going to take orders either from him or any one else. He (Alderman Rodden) was astonished Mr. Laflamme should attempt to throw dust in their eyes. What were the circumstances? Instead of the Chief wandering about the Province with his men, as Mr. Lyman stated, he had only to go to Porterfield's to recapture both raiders and money. Mr. Laflamme had endeavoured to shroud them in a mist of legal arguments as to the liability or non-liability of the Chief. He had not fulfilled his oath of office. (The Alderman here read the oath.) The Chief swore faithfully to execute all duties as constable, but he had said he was not a constable.

Alderman CONTANT—He was not under oath then ?

Alderman RODDEN—The Chief, as chief was under oath and was bound to exercise the best of his judgment in performing his duties in the city and district of Montreal at least, but on many occasions he had left the district. Some time ago, on a mere telegram, he walked into an hotel and arrested a respectable man. He risked the matter then because he had no design, but in the present case had refused because he had a design. On the Chief's election to office, he (Ald. R.) had felt great pleasure in reposing all confidence in him, directing and assisting him in the management of the force. He had felt this confidence until 12 months ago, when circumstances occurred which led him to believe that the Chief was weak, and liable to be imposed upon, and to be led out of the hands of his Committee into those of designing persons. There was only one thing more. A question had been brought up that evening, and he regretted it as introducing sectional feeling. As for himself he was not influenced by national feelings, as he believed justice ought to take precedence of them; and he trusted all would be done in fairness. But he must repeat a circumstance which had fallen under his observation. A councillor making a remark to another, which was not however intended for the speaker's ears, had said, "We must not let our compatriot be sacrificed, though we know he has done wrong." Was it possible it had come to that? The remark thus made had led him to believe that an inducement had been held out to an Englishman of the Council to go with his French Canadian friends. What follows? One gentleman sits down, writes a motion, but does not want it to be seen in his hand-writing, so he goes to the mover to have it re-copied, and it is presented as a production of a Councillor of the Centre Ward, while in reality the author is a Councillor of St. Mary's Ward. He would not dwell further on this subject, but enter his solemn protest against anything like getting up a patched-up case to save the Chief. He (Ald. R.) stood there to do his duty faithfully and honorably. Chief Lamothe had thrown down the gauntlet. He had told the Committee they had

no right to enquire into his conduct. But were this sanctioned, he would soon be independent of the Council, and not only he, but 100 men, with bayonets, under his command. The Council must shew by its wisdom that they know how to manage such men ; and wisely direct their Police Force. He (Ald. Rodden) had no desire to deprive the mover of the motion put in his hands by another member, of his right to reply, and would then bring forward a motion to accept the Chief's resignation. By an opposite course they forced him to retain power, and were doing him a manifest injustice by seeking to keep him in an office wherein he had lost public confidence. If he was capable of filling a better position than that of a mere Chief of Police, with some £300 a year, his friends whom he had thus served would no doubt provide him with a better. The Council, out of respect to itself, ought to accept his resignation. (Hear, hear.)

Alderman LYMAN thought that if the members of the Council reflected on the question they must come to the conclusion that the charges preferred by Councillor Devlin had been fully proved. The question was, that without authority and by design, the Chief had dispossessed himself of a large sum of money, stolen from the banks of St. Albans. The Attorney for the accused tried to make out that this was a legal point. He (Ald. L.) did not think it was. It concerned the conduct of an officer of the Council and the Council consequently had the right to investigate it. They had been told that there was no proof of any consideration having been offered or taken by the Chief. He (Ald. L.) did not expect, nor did any one else, that any such proof would be made. In all such cases there were many ways of making things pleasant. In Parliamentary elections there were many such things. (Of course City Council elections were pure,—laughter.) It appeared that on the Thursday previous to the judgment the Chief met Mr. Sanders at the Donegana Hotel. The Council might suppose that the conversation had was in relation to the matters of so much interest to them both. It was also very clear that Mr Sanders on calling upon Mr. Lamothe must have alleged some reason for it. They might suppose that Mr. Sanders told Mr. Lamothe that if the money were in his (Mr. S.) hands, it would be no safer than if it remained in those of the Chief, inasmuch as he (Mr. S.) was so "notorious." Therefore he (Mr. S.) would take the Chief to a gentleman in whose hands it would be safe. Now did not this look something like design? Else why such plotting? From his (Ald. L.'s) experience, he believed that all men were actuated by some motive in their conduct. It was very plain that Mr. Lamothe went with Mr. Sanders to deliver up this money. Was this not design? What reason did Mr. Sanders allege for the interview with Mr. Portefield? Why he said he thought Mr. Devlin was so very smart that unless prompt action were taken the money would be seized. Was not this design? If there had been no design what would have been the conduct of the Chief? It was a very important matter, and it would be supposed that he would consult his attorney. But instead of that he consulted the very man most interested in its delivery. He (Ald. L.) must say the Council

would be going very far from their duty if they failed to record such a decision in this case as they would not be ashamed of hereafter. The counsel for the accused tried to make it appear that the Council were acting under some feeling of fear. Coun. Lyman looked at the matter in a different light. It was an important case. There was no threat held out; but they were there to do justice. The impression created here and in the neighboring country by what had occurred, was that there was some collusion or design. He certainly should not be in favor of whitewashing the Chief of Police in this matter.

Upon which evening it was further adjourned till Tuesday Evening, January 3rd, 1864, when upon the following motion the Chief's resignation was accepted:—

After some further remarks, which were inaudible.

Coun. STEVENSON moved, seconded by Coun. BOWIE.

“That this Council adjourn until seven o'clock this evening.”

Coun. MCCREADY said if the mover would make it Wednesday he would vote for it.

Coun. DEVLIN requested the mover of the motion to withdraw it.

Ald. RODDEN thought that a week's reflection would do good, and was in favor of Wednesday next.

The votes being taken, the motion was lost—7 for and 18 against.

It was then moved by Coun. STEVENSON, seconded by Coun. BOWIE,

“That this meeting adjourn till Wednesday evening next, at 7 o'clock.”

Carried on the following division:

Ayes—Messrs. Bulmer, Gorrie, Rodden, Lyman, Donovan, McCready, McGibbon, Devlin, Lamoureux, Stevenson, McNevin, Bowie, McGauvran—13.

Nays—Leclair, Bellemare, Grenier, Contant, Martin, Poupart, Labelle, Goyette, Rolland, David, Higginson, Leduc—12.

The Council then, it being near three o'clock, A. M., adjourned till Wednesday next.

Moved by Coun. STEVENSON, seconded by Coun. BOWIE:—“That this Council, having duly considered the evidence produced in support of the charges preferred by Councillor Devlin against Guillaume Lamothe, Chief of Police, hereby declares its opinion that the Chief acted precipitately and imprudently in giving up the monies entrusted to his care, and although nothing has been shown to warrant the Council in believing that the action partook in any degree of dishonesty or corruption, yet nevertheless, taking all the circumstances into consideration, it is deemed desirable to accept the resignation of his office tendered by Mr. Lamothe, and the said resignation is hereby accepted.”

Yeas—McGauvran, Higginson, Bowie, McNevin, Stevenson, Devlin, McGibbon, McCready, Broadson, Donovan, Lyman, Rodden, Gorrie and Bulmer—14.

Nays—Leduc, David, Rolland, Goyette, Labelle, Lamoureux, Poupart, Martin, Contant, Grenier, and Leduc—11.

THE UNIVERSITY OF CHICAGO
PRESS

**Justice Coursol's Judgment over-ruled by Judge
Smith.**

This morning, the 7th of January, a most elaborate Judgment was rendered by his Honor Mr. Justice Smith, upon the same question of jurisdiction raised before Mr. Coursol. His Honor's decision completely disposed of the objection to his jurisdiction, and established beyond all doubt, the incorrectness of the grounds upon which Mr. Coursol based his judgment. His Honor held that our Legislature had provided the most ample means for the execution of our Treaty relations with the United States.

