

THE
TRIAL, DEFENCE, &c.
OF
WILLIAM ROSS,
WHO WAS EXECUTED, TOGETHER WITH
ROBERT ELLIS, J. B. MONARQUE & W. JOHNSON,
AT QUEBEC, IN APRIL LAST,
FOR A BURGLARY AND ROBBERY COMMITTED AT THE HOUSE OF
MESSIRE MASSE, CURE OF POINTE LEVI,
ON THE NIGHT OF THE 29TH SEPTEMBER 1826:

*Raro antecedentem scelestum
Destruit pede pœna claudo.*
HORACE

QUEBEC:
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1827.

PREFACE.

IT was the intention of the Editor to publish the two Trials which have taken place for the Burglary committed in the House of Messire MASSE; but it being suggested that the Evidence given on the Trial of Ellice, the black, and the three others, in no degree essentially differed from that rendered on the Trial of Ross, he has been induced, in order to avoid repetition, to select the case of the latter, whose Trial and Fate have given rise to much general feeling and interest.

The Public need not be informed that of late years an organized Band of Robbers, who had nestled on the Province Line, have spread consternation throughout the Country, and that part of their system of plunder was to rob the Churches and the Ministers of our Holy Religion.

From these crimes being committed in disguise by Felons, who to prevent their Accomplices from betraying their secrets exacted a solemn Oath to secure silence, it is not surprising that they often eluded the vigilance of the Police, and that few, in comparison with the numbers associated in wickedness, had been brought to condign punishment: but it is not so surprising that some men who take every opportunity to calumniate the Government should have adduced this misfortune, to charge it with having either looked at their depredations with indifference, or of being too weak to protect its Subjects. Happily the peaceful Inhabitants of this Province, and particularly the Clergy, must be satisfied that the Government is neither indifferent to their security and happiness, nor has its arm been paralyzed by all the efforts of its enemies.

William Ross, who is the subject of this Trial, is reported to have been the son of a respectable Tea-dealer residing in More Street, Dublin, and it appears, that he left his Country about the memorable year 1798. Though possessed of a vigorous mind, not meanly cultivated, he does not seem to have applied his talents to any purpose useful to himself or beneficial to the Public, as there is no doubt but that for several years past he subsisted by Forgery, and had actually been confined in the State Prison of Massachusetts. He

was also an accomplice of the notorious Coiner and Forger Morrill Macgoon, and so expert was he at engraving, that in a few minutes, with a Shoemaker's awl, he engraved the Initials of Mr. Henderson, the Jailor's, name, on his watch, in as neat a manner as it could be executed by a first rate artist. When he was brought to Quebec, a Gentleman endeavoured to bring him forward as a King's Evidence, but he rejected the proposal with scorn, saying, in words that shewed the settled purpose of his mind, that if he were the base villain he was taken to be, he would deserve to die, but that if he had a thousand Lives to save, and there were a thousand Gibbets before him, he would die a thousand Deaths rather than betray his friends. He left behind him no account of his life, and he said that the secret of his birth should die with him.

The Copy of a Letter written by the unfortunate Ross, and which will be found in the Appendix, will serve to shew that he was a man of more than common acquirements.



COURT OF KING'S BENCH FOR THE DISTRICT OF QUEBEC.

CRIMINAL SESSIONS.—MARCH 1827.

Before the Honorable Mr. Justice KERR and the Honorable Mr. Justice BOWEN.

Tuesday, the 27th March.

THIS Day, William Ross, Robert Ellice, a black man, Benjamin Johnson, Jean Baptiste Monarque and Michel Monarque were put to the Bar for their Trial on an Indictment for burglariously breaking and entering the House of Messire MASSE, at Pointe Lévi, on the night of the 29th September last, and feloniously stealing therefrom Gold and Silver Coin to the value of £1800, the property of himself, and of his housekeeper and her niece, and the Pannel being called over, William Ross, declaring it to be his intention to sever in his challenges, the other four Prisoners were tried by Mr. Justice Bowen and convicted.

Wednesday, 28th March.

WILLIAM ROSS was this day placed at the Bar, and his Counsel producing an Affidavit, prayed the Court to put off the Trial to the next Criminal Term, on account of the absence of two material Witnesses. The Attorney General objecting to the Motion, Counsel were heard; but it appearing that the facts alledged in the Affidavit were not material to the charge of Burglary, that these Witnesses had gone to Upper-Canada, and that the Prisoner had used no diligence to obtain their attendance, although he had been in Jail since October last, and knew that his Trial would take place at these Sessions, the Court overruled the Motion, and ordered the Trial to proceed.

The following Gentlemen were sworn and charged with the Prisoner, who was tried by Mr. Justice Kerr.

Messrs.

The Attorney General opened the case which will be disclosed in the Evidence, and stated that the Indictment contained three counts wherein the Burglary was alledged to be committed; First—In the House of Michel Masse; Second—Of the Fabrique (Church) of the Parish of Pointe Lévi; and Thirdly—In the House of the Parishioners.

Mr. Masse, a venerable old Gentleman, was then called and sworn.

Messire *Michel Masse*,

I am Curé of Pointe Lévi; there I occupy the Parsonage House, a part of which has been in my occupation for 28 years; that, and the House for the use of the Parishioners are under one roof, and there is a separate door for the accommodation of the Curé. On the 28th and 29th September the House was occupied by me—the 29th September about half past one o'clock in the morning, I was awakened by the noise of glass falling on the chairs and floor from a window at the west gable end of the house; I got out of my bed, and proceeded to the place from whence the noise came. On entering the drawing room, I met two men disguised in every possible way, each having a lighted candle in his hand; one of them had a pistol; the other a bludgeon. One of them seized me by the arm with his right hand and presented a pistol to my heart with the other; the other man, raising his bludgeon, threatened me; at this moment I saw five or six persons enter by the window, who each lighted a candle which they carried. I immediately exclaimed, Good God what a Visitation! Threatening me with the pistol and bludgeon, the two men who came in first called out, silence, silence. Some of the party went to the door which separates my dining room from my drawing room, but as it was fastened by a bolt under the lock, they could not enter, and one of them gave the door a kick with his foot but did not succeed in forcing it open; he then broke one of the panes of glass and tried to open the door, not succeeding in this, he tore off the tin plates which were round a stove in the partition between the rooms. Foiled in this attempt to effect an entrance into the room, they returned to the door, and found means to open it; entering the room they went through it into the kitchen and other rooms. At this time some of them went into a room where Mrs. Dubuc, my house-keeper, and two young women slept, and after going about the house, they returned to me, who was guarded by two of the gang. Without speaking to me they went into my bed room, and I heard them breaking a wooden chest in which was my iron chest; not being able to break the latter, they returned to my drawing room, where I was still guarded, and they demanded the key; I hesitated a moment, but one of them holding the pistol to my breast, and the other threatening me with the bludgeon, and calling out, *Clef, Clef*, I entered into my bed room and took the key from behind some books and gave it to them. They then brought me back and made me sit down on a sofa, the two men still guarding me. I heard them open the iron chest, take out my money and hand it out of the window they had entered. In my iron chest there was a box of tin containing £1200 in Gold, which box was covered with leather and tied with a string: there were in it, 116 Doubloons, 3 Joes, 250 Guineas, 150 American Eagles, 150 half Eagles, 4 half Guineas, 100 half Joes and other pieces of smaller coin; these belonged to myself. Besides this there were in a small box belonging to Madame Dubuc, about 40 Doubloons, 10 Eagles, 10 half Eagles, 20 half Joes, 12 Guineas and other pieces of coin; there was also a bag containing £200 of Silver in Spa-

nish Dollars and French Crowns ; this also belonged to Mme. Dubuc. There was also a small varnished tin box containing £100, belonging to Camille Béjin ; in Gold, 12 Doubloons, 15 half Joes, 6 Eagles, 15 half Eagles and smaller pieces, 25 Spanish Dollars, 15 French Crowns, 25 American half Dollars, 10 French half Crowns and other pieces. I had put in Camille Béjin's box a list of the money and to whom it belonged. The gang, having taken out the money, left the House through the window by which they had entered. The person who had the pistol went out last, and when going he pointed to the bed and said "*Couchez, couchez.*" The candles, on their quitting the house, were put out, and the window shutters were closed by the gang. The bag belonged to me ; I observed the different statures of the gang ; they were of different sizes, and one was taller than the rest, who had on an old brown coat ; his face was so much muffled up that I could not discover his features ; he was a tall, lank man, and appeared to be very active. After they went away I examined the windows, and I found that they had closed the shutters of all the windows ; when they had been gone about ten minutes I went to the outer door, but my neighbours living at a distance, and being all asleep, I did not then give them the alarm, but as soon as it was day light I did. On the evening before the robbery I went to bed at 9 o'clock, having previously seen that all the doors were closed ; the window shutters I did not close, because this had not been my practice. In the morning my neighbours brought me half a Guinea and some pieces of money together with a wig and piece of cord they had found a few acres from the house.

Cross Examined by ANDREW STUART, Esquire.

The whole of the transaction occupied about half an hour ; not less than six persons were in my room when the door was forced, and I saw one person at the window who had his face blacked and was disguised. A space of 40 feet of the House is occupied by the Parishioners, the other, 30 feet square, is occupied as my dwelling house.

Madame Dubuc, housekeeper to Messire Masse, sworn,

I lived with Mr. Masse, as his housekeeper, in September last. A robbery was committed in his house on the 29th September last, about half-past one o'clock in the morning. Hearing a noise, I got out of bed and saw a man enter my room ; I was going to cry out when he raised a bludgeon and threatened me ; there were in the same room with me two young women who slept there—both of them were my grand children. One of the gang perceiving that some one had got out of one of the beds, asked who it was that had left the bed ? I told him it was my grand-child who had crept under the bed, and she immediately came out and begged her life. The person who guarded me I recognize as one of the Monarques.

Madame Dubuc confirmed the testimony of the former witness as to many circumstances, and she further stated that there was in the Iron

Chest of the Curé £500 of her money. This money was lost ; she could not say that she closely observed any of the gang but the one that guarded her ; the gang spoke French generally.

Camille Bejin sworn.

I lived in Sepr. last with Messire Masse when the robbery was committed ; I was in bed with my Grandmother when a person came into the room with the candle ; I covered my face, and only uncovered it when the men went away. When the man entered my bed-room his face was blackened—I was much alarmed ; the only persons who slept below were the Curé, my Grandmother, Luce Dubuc and a female servant ; the men servants slept above. There was in the Curé's strong box £100 belonging to me, which was taken off by the robbers.

Lucy Dubuc sworn.

I was sleeping upon a bodette near my grandmother, on the night of the 29th September, and was awakened by the breaking of glass ; a man came into the room where I was with a candle in his hand, and I got up and hid myself under my grandmother's bed ; the man put his stick under the bed and ordered me to come out ; I got from under the bed and went into my own bed, at the same time begging my life ; the man desired me to be quiet ; my bodette was near the door, and I saw from it several men going backwards and forwards, and I heard them say, "make haste, make haste." They were provided with candles ; the man who guarded me was in the room half an hour, and having had an opportunity of seeing him, I know him to be Michel Monarque. I recognized one of the men to be a negro, and I told this to the Curé after the robbery.

Cross examined by A. STUART, Esquire.

The person who guarded me spoke French ; they were so disguised with handkerchiefs and hats slouched down, that I could not recognize any of the gang excepting Michel Monarque, and the Negro who could not effectually disguise himself.

Francis McGuire, a young lad, sworn.

I live with my father, and I remember that in September last, about 8 o'clock in the morning, I found two tin boxes between the Quarry and the Suburbs, near tower No. 3. A woman in my father's house, on reading a paper found in one of the boxes, said these boxes must belong to the Curé who had been robbed. I gave them to my brother, William, to be given to the Revd. Mr. Paisley, a Catholic Clergyman.

William McGuire sworn.

Late in September, the morning after I heard of the robbery at the Curé's, of Pointe Lévi, my brother, Francis, brought two tin boxes and I gave them to Mr. Paisley, but he desired me to take them to the Police Office, which I did.

Jean Thomas Taschereau, Esquire, sworn.

I am the Police Magistrate of Quebec. The last witness brought to me two tin boxes and a paper which was found in one of them. The tin boxes and the paper now shown to me are the same which were delivered to me by William M'Guire.

Messire *Masse* recalled.

The boxes now produced are the same which were taken from my house the night it was robbed, and the paper is of my handwriting.

Patrick M'Ewen alias *Patrick Daly*, the King's witness, was called.

ANDREW STUART, Esquire, Counsel for the prisoner, moved that the Clerk of the Peace do now produce a record of conviction; it was produced and read by the Clerk of the Crown, and proved to be a conviction for Petty Larceny in the Quarter Sessions, in July 1824, of one Patrick Daly and Marie Gendron, who was admitted by the witness to be the same person as himself. The ATTORNEY GENERAL answered that the witness had obtained His Majesty's pardon, which he produced, and on being read :

Patrick McEwen was sworn.

I was confined in the jail at Montreal last September, and the prisoner was confined in the next room; there was an opening in the wall and I held conversation with him several times; towards the close of last September term I was discharged. I left Montreal next day for this place, and on my way down I saw Michel Monarque, Benjamin Johnson and Jean Baptiste Monarque in the jail at Three-Rivers. When in jail at Montreal I got acquainted with a man of colour of the name of Robert Ellis; he was confined in a cell opposite to mine, and I spoke to him several times; I saw him in Quebec about ten days after—I met him in the Upper Town; after my arrival in Quebec I also saw a man of the name of Beaudrie, together with Johnson, the two Monarques and Ellis; the prisoner met me in the Upper Town and asked me if I would go to Pointe Lévi with him; he told me there was *a job to be done which was not easy, and that there was a great deal of money in the same place*; he further said that Robert Ellis, Pierre Beaudrie, myself and he (the prisoner) *would be able to do it*; He brought me down after this proposal to meet Beaudrie & Ellis on the business; I went down and met them; Beaudrie said it was intended to rob the Priest's house at Pointe Lévi—that he had attended a trial and had seen the Priest take away from the Courthouse a bag of money, and he said that the Priest had a great deal more at Pointe Lévi; Beaudrie at the same time said that he would go over the river and see where the money was, and how we could most easily get into the house; he accordingly went, making us agree to meet him in the dusk of the evening; this was on the 27th September. We all went over the river, that is, Ellis, the prisoner, and myself, and in about half an hour afterwards Beaudrie joined us; he proposed that we should go into a barn, which we did, and when there

he told us to stop and he would go into the Priest's house ; he accordingly went, and on his return we all proceeded to the Priest's house ; the barn was about seven or eight acres from it ; we looked round the house, and seeing lights through the windows and several people in it, Beaudrie said that four persons alone could not accomplish the object ; the prisoner was one of the four. We remained in the barn all night, and next morning Beaudrie and myself went over in the first steam-boat, leaving Ellis and the prisoner in the barn ; we met the Monarques and Johnson in the Lower Town market, and I told them that Beaudrie wanted to speak to them ; I took them to him, near the bridge, and he told the most of the plan of robbing the Priest's house, and they agreed to be of the party, and on the same night we all went over, two at a time, as Beaudrie had proposed ; Beaudrie directed me to shew Michel Monarque who crossed with me where the barn was ; we all met on the other side and walked about the wharf for some time, after which we went into another barn nearer the Priest's house, for the purpose of cutting and burning the ends of the candles in order to make them light more easily when wanted ; we went by two and three together so as to be less remarked. Between eleven and twelve o'clock, perhaps later, on the night of the 28th September, we stopped at the back of the Priest's house, and hearing the barking of dogs Beaudrie said that it would not be prudent to attempt any thing whilst the dogs barked ; after the dogs were quiet Beaudrie and Ellis got a kind of box and put it to the end window, it being high from the ground ; Beaudrie lighted a candle, and Ellis and he after this got up and broke two panes of glass, through which they unbolted the window ; Beaudrie had previously directed that if any person made resistance or attempted to escape that they should be shot ; the prisoner and I objected to this, saying, that "no lives ought to be taken ;" Every person was ordered to light his own candle upon getting into the room ; the window was opened wide and Beaudrie and Ellis went in first ; we all went in excepting Johnson, who remained without to keep the shutters closed that the light might not be seen ; we all lighted our bits of candles, and I perceived the Priest in his shirt and drawers come into the room making a noise ; Ellis put a pistol to his breast and desired him to hold his tongue ; some of the party went into the other rooms ; Beaudrie and Ellis remained with the Priest ; Beaudrie said that he wished Ellis to stay with him as he had more confidence in him than any other person ; Michel Monarque gave me an axe, and I went into the room where the Priest slept and broke open a wooden box ; I saw within the wooden box an iron chest, and not being able to force it open, Ellis again presented the pistol to the Priest's heart and demanded the key of it, which was delivered to Beaudrie ; Beaudrie then opened the iron chest and took out two tin boxes containing money, and a bag of money and some loose coin ; Beaudrie delivered to me the bag which I handed out of the window ; the boxes were handed out of the window also. One of the party (Michel Monarque) said some person had escaped out of the house and that we had better get off ; we left the house and closed the shutters ; we went to the water side where we all entered into a boat and crossed the river

and landed at Munn's ship-yard, at L'ance des Meres ; the Monarques here left us and carried off part of the money in a stocking. Five of us went on the heights and on the plains of Abraham ; Beaudrie spread out his handkerchief and divided the money ; I got 170 dollars in silver and some gold—I do not know how much. Beaudrie said there would be a great row in town about the robbery, and that we had better stay for a day or two in a barn which is on the plains ; I did not follow this advice, but went with the prisoner out on the main road and parted with him there ; he said that he was going to the States ; the prisoner got his share both in gold and silver. Before and after the conversation I have spoken of as having taken place in the Upper Town, respecting the plan of robbery, I had a conversation with the prisoner in the inside of Louis Gate. Marie Gendron was present at this conversation and some other persons whom I know not ; none of the persons named in the indictment were there present. The prisoner told me he came down as a person selling apples—half an hour after this I met the prisoner in the Upper Town with the Monarques, but nothing was said of the intended robbery. At a subsequent conversation, when the robbery was spoken of between the Monarques, the prisoner, myself and Marie Gendron were present.

Cross examined.

I saw the Prisoner several times the same day that I met him when with Gendron ; none of the persons named in the Indictment were present ; I have been two years in the country ; I came here as a seaman in a merchant vessel, and I have been in the Navy ; I first saw the Prisoner in Montreal, where I was in Gaol for 28 or 29 days ; in the three conversations I have spoken of, the plan was concerted with the Prisoner ; I have said several times in the room where I am confined, that Ross, the Prisoner, had nothing to do with the robbery, but this was from fear of the Prisoners who were confined with me, particularly one Macdonald ; the Prisoner sent me money several times to induce me to say that he had not gone to the robbery, and had got none of the money, and he sent word that if I would say so I would save his life ; my life was threatened last night in the Jail ; the Prisoner has friends in the room with me, who have got money from him, and Macdonald brought me money from the Prisoner ; I invited the Monarques to enter into the plan by taking them to Beaudrie ; I was promised a pardon on condition of telling the truth, and I received the promise on the morning after I came from Three-Rivers.

Marie Gendron sworn.

I was in Quebec during the whole of last September ; I had occasion to see the Prisoner twice ; the first time I saw him was at Saint Louis Gate, the day before the robbery, he then spoke to McEwen, the last witness, and he asked him to go with him to Point Lévi as he had some business to do there ; after this I again saw him when he was going down the Côte d'Abraham, the day after the robbery, about 4 o'clock in the morning ; McEwen was with him ; I saw them on the road lead-

ing to the old bridge, and the Prisoner left him and walked upwards towards the town ; it was near Tower No. 4, where I saw the Prisoner and McEwen ; I heard of the robbery afterwards ; no person was present when the first conversation took place but the Prisoner and McEwen ; Ellis, the two Monarques and Johnson joined them at Saint Lewis Gate ; the Prisoner spoke first of the intended robbery ; I have known McEwen ten years, and I first became acquainted with him in Jail ; I have often been in Jail,

Cross examined.

Fifteen days after the robbery I went to Montreal, and after being there a short time I was committed to Jail, where I remained till Friday last, when I was brought here by Mr. Delisle, the High Constable of Montreal ; I have since my last coming here had no opportunity of seeing McEwen, although confined in the same Jail with him ; after the robbery I went to Saint Paul's Bay with McEwen, and remained with him some time.

Pierre Flamondon sworn.

I live at Quebec, and keep a Boarding House near the General Hospital ; in September last the Prisoner came to lodge with me ; towards the latter part of the month, or the beginning of October I heard of the robbery ; on the morning of the day on which I heard that the robbery at Pointe Lévi had been committed, the Prisoner asked me if I had any news ; I said that there had been a great robbery committed the night before at Point Levi ; he answered, " that might be the case, he had, I suppose, a great deal of money ;" I remarked that after going out at dusk he returned with a handkerchief in which was money ; he took a candle to his room and counted it ; he called me up stairs, and on his desiring me I counted 180 dollars in silver in different coins, namely French Crowns, half Crowns and American half Dollars ; I also saw in his hand a Doubloon and two half Eagles ; the Prisoner said he had received this money for timber which he had caused to be cut down on his land in Upper-Canada ; the Prisoner when he came to reside with me had no clothes other than those he had on, but he purchased a plaid cloak and a small portmanteau ; he told me that he was a Surveyor, and that he came from Upper-Canada ; he stated that when he was not employed as a Surveyor, he brought lumber to market. The Prisoner had on when he first came to my house a coat similar in colour to the one now shewn to me, but it did not appear to me to be so much worn ; the day after the Prisoner counted his money, the Prisoner went from my house with one Dubuc, a carter.

Cross examined.

The Prisoner whilst at my house behaved very quietly ; he did not appear to understand French ; he always spoke to me in English ; I do

not understand English well ; he desired me to count the money, and made no secret of having it.

Jacques Fluet sworn.

I live at Old Lorette and am a Farmer, and I keep a Tavern ; on Friday the 29th September the Prisoner came to my house, the Prisoner on entering said that he wished to see the new Settlements ; I took him to Saint Augustin the first night, to Belair's, where we first heard of the robbery ; mention was made to the Prisoner of the robbery, but he made no observation ; the Prisoner did not appear to me to have much money ; I took him to Saint Patrick, after that we returned to my house the next evening ; I then took him to Town, and afterwards drove him on an excursion to the Falls of Montmorency ; then I took him to the Townships, where I left him ; he was with me at a marriage before he left this side of the water.

Joseph Plamondon, Bailiff, sworn.

The latter end of October I was employed to bring the Prisoner from the Jail of Sherbrooke, and when I took charge of him he had on the coat now shown to me.

Cross examined.

I have seen many snuff colored coats.

Patrick McEwen recalled.

Robert Ellis had on a wig of the description now shown to me.

Messire Michel Masse recalled.

The wig which was brought to me some hours after the robbery is the one now shown ; on the Oath I have taken I think the coat now shewn to me is the same which was worn by the latter man of the gang when I was robbed ; I saw it taken off him at the Police Office.

Adolphe Delisle, High Constable of Montreal, sworn.

The prisoner was confined in the Jail of Montreal for a year after the summer of 1825 ; he was released from custody last September Term ; the coat now shown to me is like the coat the Prisoner had on when he was discharged.

Cross examined.

I am not certain that the coat is the same as the one he had on.

John McLean sworn.

I am a farmer, living in the Township of Ireland ; I remember seeing the Prisoner early in October ; he came to my house with another man in the evening ; I asked him where he had come from, he said from Quebec, and that he was a Lumber Merchant, and his name Wilson ; that he lived within ten miles of Boston, and was on his way there.

William Barnes sworn.

I live at Barnston, 23 miles from ~~Stanstead and the Line~~, I never heard of the Prisoner being engaged in the Lumber trade.

Cross examined.

I know that the Prisoner resided in the neighbourhood of Boston; I knew him 12 years ago in the State of Massachusetts; I am a farmer, and many people call at my house; a Mr. Lovejoy brought the Prisoner to my house; Mr. Lovejoy had some money transactions with me; the Prisoner asked me if I could convey him onwards; I have heard that the Prisoner is a good Surveyor.

Here the Evidence for the Prosecution closed.

The Prisoner being asked if he had any thing to say to the Jury, addressed them nearly in the following words:

Gentlemen of the Jury,

You are this day called upon to discharge one of the first duties to your country, and you are also to bear in mind that you have a serious and important duty to perform towards me, a prisoner at this Bar. I have no doubt but that you will weigh with great caution the evidence which has been rendered against me, and if you do so, I cannot entertain a doubt but that you will acquit me of the infamous crime of which I stand indicted.

Gentlemen of the Jury,—You were told by the learned Attorney General, on his disclosing the case to you, that I am a man somewhat above the common level, that I have received a good education, and that my talents fit me to become an honor to society, and after this admission, it will not be improper for me to ask you, whether you can for an instant believe that I would associate with those base and wretched men who were yesterday found guilty of the crime with which I now stand charged. It will be my endeavor to remark to you upon the Evidence of the two principal Witnesses examined on the part of the Crown, and I shall more particularly call your attention to the testimony of Patrick Daly, alias Patrick McEwen, and in doing so, I must imprint upon your minds that Patrick Daly is a *King's Witness*, and that his life would have been forfeited had he been brought to his trial. I shall also inform you what a King's witness is. A King's witness, Gentlemen of the Jury, is one of the most infamous, one of the most degraded, and one of the most abandoned of human beings; a wretch who, to save his life, would sacrifice the lives of his co-adjutors in guilt. It is probable that Patrick Daly and his accomplices in the Burglary at Point Levi bound themselves by solemn oaths not to betray their secret, and if so, what confidence can you place in the testimony he has this day rendered against me,—testimony, the most malicious, diabolical and false. I ask you, Gentlemen of the Jury, if it be not possible, nay probable, that among the accomplices of Patrick Daly, he has some friend, perhaps some relative,

whose life he is desirous to save, and in order to effect this, he has singled me out as a victim to supply that friend's or relative's place ; for after the testimony rendered by Mr. Masse, the Curé of Point Levi, it cannot but be presumed that Daly was aware that the number of his associates in the Burglary was known ; had he endeavoured to screen his friend or relative without supplying his place, he feared that an enlightened Jury, such as the one I now address, would have rejected his testimony, and his life would have justly atoned for the crime, in which he was, by his own account, one of the most desperate actors. I cannot but regret that the Court should have overruled the request I made, of putting off my trial until the next Criminal Sessions, for had my request been complied with, I would have shown to you that the little money which was seen in my possession was come by honestly and fairly, and not by that rapine and atrocity with which I stand charged. The character of Daly is that of an abandoned wretch, old in crime and hardened in iniquity, and I pray you to bear in mind that he has frequently been an inmate of the Jails in the Province, and has within two years been convicted of felony. As to the testimony of Marie Gendron, it will be unnecessary that I should make any other comment upon it, than that she has been for several years the prostitute of Daly, and that she was, with him, convicted of felony. I entreat you, Gentlemen of the Jury, to weigh the evidence of these two wretches with the greatest caution. Mr. Henderson's testimony against Marie Gendron, and her own admission of infamy, will no doubt stamp her equally undeserving of credit with Daly, and I most solemnly declare, in the presence of Almighty God, at whose awful tribunal, I must, in the course of nature, soon appear, that I never saw the woman until she appeared in the witness box as an evidence against me this morning. Had I been guilty of the crime of burglary, is it reasonable to suppose that I would not have endeavoured to escape from the hands of justice ?—but how did I conduct myself after the robbery was known ? Did I screen myself from public view ? did I endeavour to elude the pursuit that was immediately set on foot ? No, Gentlemen of the Jury, it is in evidence that I lodged at the house of a respectable man, that I shewed that man the money of which I honestly became the possessor—that I visited the different settlements about Quebec—that I went on a party of pleasure to the Falls of Montmorenci, and that I was present at a marriage in this vicinity. Did such conduct proceed from a disregard to that self-preservation which is inherent in the human breast ? No, Gentlemen ! had I been guilty of the enormity with which I am charged I would have endeavoured to escape—I would not have remained in the town and vicinity of Quebec where I could have had no reasonable hope that I should elude the vigilance of an active police. It is in evidence that I proceeded on my journey to my destination, not by forced marches, but in a way that I might be enabled to see the adjacent country and the settlements which have of late years been established on the south side of the Saint Lawrence. I arrived at the house of one Barnes, in the Township of Barnston, and I there remained some time until I was arrested as one of the persons concerned in the

robbery at Pointe Lévi, merely because I had in my possession a few dollars. I ask you, Gentlemen of the Jury, if you can seriously and in your consciences believe that I was engaged in the offence for which I stand here? Is there any testimony to support the evidence of that miserable man Daly and his prostitute Marie Gendron? There is none Gentlemen, none whatever! Had I been guilty, is it credible,—is it within the bounds even of probability, that concerned in so great a crime as that of burglary and robbery, I should have neglected self-preservation? recollect, Gentlemen, that I was taken within eight miles of the line which separates this Province from the United States—could I be so reckless of life as to remain at Barnes' even for an hour, when that hour would have placed me far beyond the reach of my enemies. Gentlemen, what has been sworn against me has been sworn falsely, diabolically and maliciously, and it is without fear or anxiety that I await your verdict, convinced as I am, that it must be a verdict of acquittal. It is my duty to express to you my thanks for the kind attention you have shewn in listening so patiently to my address. Ouce more, Gentlemen, I solemnly protest to you that I am innocent of the crime with which I stand charged—Gentlemen, I have done!

Then he called,
George Henderson, Jailer, who being sworn,
 Gave Mary Gendron a very bad character, and stated she was a common prostitute.

Judge Kerr's Charge to the Jury.

Gentlemen of the Jury,

It is a matter of congratulation that your deliberations are drawing to a close. This trial, which has been very long, and which you have listened to with great patience, has excited a deep interest; not only from the novelty in this country of the features which have characterized the crime and the number of persons concerned in the commission of it, but from the education and superior talents of the unfortunat individual who now awaits your verdict.

During the long period I have occupied this seat, I profess that I have never seen a case which under all circumstances has excited so great a share of public concern and expectancy.

Gentlemen,

The offence charged against the prisoner is what is called *Burglary*, that is the breaking and entering the mansion house of another in the night time, with the intent to commit a felony, whether such felony has actually been committed or not; and this crime from the earliest periods of our law has been considered one of the highest against society. The reason of it is to be found in this, that, the entering by force into the habi-

tion of another at a time when "Man's out-laboured sense repairs itself to rest," is calculated to excite terror and consternation, and is usually committed with a deliberate design to kill the assailed if resistance should be made. Gentlemen,—In stating these reasons why the crime has been considered as meriting death, it is far from my wish to prejudice your minds against the prisoner; it is only to explain the cause which has given rise to the severity of the Law, and I now entreat you to banish from your minds all that you have heard out of doors and all that you heard yesterday within these walls, on the subject of the offence of which the prisoner is accused, and to be guided only by the evidence which has now been rendered on his trial.

I shall read over the testimony of the witnesses, as well of the Crown as of the Prisoner, and make such observations on both of them as to direct your minds to a right conclusion on the subject.

(Here the learned Judge read the evidence as above detailed, and afterwards proceeded as follows.)

It is my duty to tell you that after a crime has been proved to have been committed, a prisoner may be lawfully committed on the testimony of an accomplice. Though not corroborated by other evidence, and infamous as the characters are of M^r.Ewen and Marie Gendron, still if you believe their evidence you may find the prisoner guilty; but perhaps you may think that their testimony has been confirmed by that of Messire Masse, who swears that a tall, thin active man (answering to the person of the prisoner) was one of the seven concerned in the robbery—that his representing himself to Plamondon, at whose house he went to lodge, as a stranger just arrived in town, and his going out in the dusk of the evening on the day the robbery was committed, and his returning with money in a handkerchief consisting of that sort of coin taken from the Priest; of his having told Plamondon that this money had been paid to to him by his agent for timber which he had caused to be felled on his land in Upper Canada—of his giving contradictory relations of his name and history. All these circumstances of themselves I submit to you to be calculated to awaken suspicions against the prisoner, which in addition to the positive testimony of the accomplice and Marie Gendron may perhaps guide your judgment to the belief that the prisoner is guilty of the Burglary. But, whilst it is my duty to lay these observations before you, it is equally so to direct your attention to such parts of the evidence as make in favour of the prisoner and to which he has with great ability directed your attention. These points are the smallness of the sum taken to Plamondon's (not amounting to £50) compared with the enormous sum of £1800 taken from Mr. Masse—of his having shown himself publicly after the robbery and particularly at a wedding—of his having been at Barnston, within eight miles of the Territory of the United States, where he might have found a safe refuge from his pursuers. These Gentlemen, are facts, which press with earnestness on your attention: but if, in reviewing the whole evidence, you should be of opinion that the Prisoner is guilty of the Burglary and Felony, it is your bounden duty

to find him Guilty, if you do not think him guilty, you must acquit him.

Gentlemen,
The Life and Death of the Prisoner are in your hands.

The Jury, after retiring for about 20 minutes, returned with a Verdict of *Guilty*.

Saturday, 31st March.

Sentence of Death was this day pronounced on *William Ross, Robert Ellis*, the black, *Benjamin Johnson, Jean Baptiste Monarque* and *Michel Monarque*, and the three first were ordered for execution on Saturday the 21st April, in front of the Jail, and the two Monarques opposite the Priest's House, at Point Levi, on Tuesday the 24th.

Ross on returning to prison after his Trial, admitted that the principal part of Daly's (or McEwen's) testimony was true. He afterwards acknowledged that he had planned the robbery, and had crossed the river with the intention of committing it, but said, that he had remained in the barn until they returned with the money, as if this representation could lessen his legal guilt or his moral turpitude; but when he went to the drop, he and Ellis denied their having had any participation in the crime for which they suffered, believing that strong protestations of innocence was the best course to interest the public in their favor, and to ensure an exercise of the Royal clemency.

Ross possessed very extraordinary powers of insinuation; no person who either heard him in his Address to the Jury, above recorded, in privately conversing with him, or was a witness of his execution, at which time he addressed the populace in an impressive speech, but felt a strong bias in his favor. Some Gentlemen high in the Church and Army, exerted all their influence to save him; but private safety and public justice required a sacrifice, and the Government could not have been justified by extending a pardon to one whose superior talents and acquirements had enabled him to lay the plan which was executed with such hardihood and so little regard to the sacred character of the Ministers of the Church.

APPENDIX.

Quebec, April 10th 1827.

Sir,

I have waited in expectation of having some information to write to you of my situation which might be gratifying to your humane feelings, but I am very sorry that nothing of importance has yet transpired to give you any encouragement as to my fate. I went through all the forms of sentence, which you of course must conceive was sorrowful and impressive; however, there yet remains one alternative between me and an ignominious death, and I hope your interest will be used immediately in my behalf, as the execution of the Law is to be put in force on Saturday the 21st instant. There is considerable interest and feeling in the public mind in my favor, and I have some reason to believe that a respectful Petition will in a few days be laid before His Excellency for pardon; yet I am not buoyed up with this hope, so as to cause me to neglect such an awful change as may take place, and I hope that such a preparation, through the assistance of God, may work a thorough repentance, and that I may, through the sufferings and blood of our Blessed Redeemer be admitted into everlasting life; such a hope makes death easy, and as the length of my time in this world is but short, were it lengthened out to the utmost of my hopes, I must expect ere long to be called to account with my Creator: yet my feeling in my present condition is to avoid an ignominy which may bring shame on my child and her posterity; this, I can assure you, is my greatest affliction, and I hope that my life may end in a better and more honourable way. I think you informed me you were to be in Quebec on the 16th. I hope you will do what you can for me. Indeed, I have no doubt of it, you yourself are the best judge where, and how, you may best serve me.

I am, Sir,

With the highest respect,

Your obedient servant,

(Signed)

Wm. ROSS.