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**CHRISTIAN GUARDIAN:**  
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SCIENCE, COMMERCE, AGRICULTURE, DOMESTIC  
ECONOMY, AND GENERAL INTELLIGENCE.

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## TRIAL OF JOHN MONTGOMERY, FOR HIGH TREASON.

On Monday the 2nd instant, at 10 o'clock,  
JOHN MONTGOMERY, [who was the proprietor  
of the large Inn on Yonge Street, occupied  
by the rebels as their headquarters during the  
recent insurrection] was brought to the bar,  
and arraigned for the crime of High Treason.  
The indictment contained two counts—the  
compassing or imagining to levy war against  
the Queen in this Province, and the actual  
levying of war for the purpose of overthrowing  
the Constitution and Government. On his ar-  
raignment the prisoner pleaded "Not guilty."

The case on the part of the Crown was  
conducted by Mr. ATTORNEY GENERAL, and  
Mr. SHERWOOD, Queen's Counsel; and on  
the part of the prisoner by Messrs. BALDWIN,  
DOWELL, McDONALD, HITCHINGS, BELL,  
and ELLIOT.

On enpannelling the Jury, the prisoner,  
availing himself of the right secured to him  
by our humane laws, challenged twenty of the  
jurors. The Jury to whom the case was sub-  
mitted was composed of the following respect-  
able and intelligent gentlemen; all, if we  
mistake not, inhabitants of this City, viz:

D. M. Patterson, G. Moore,  
J. M. Murchison, J. Rogers,  
W. Andrews, T. Champion,  
J. Ross, W. Ross,  
P. Patterson, jun., G. B. Willard,  
W. Osborne, G. Denholm.

The case was opened by Mr. Sherwood, in  
a concise and able Address, of which, as well  
as of the addresses of the other learned gen-  
tlemen, our limits only allow us to present  
a brief outline.

The learned Counsel in addressing the Jury  
stated, that the prisoner stood before them as  
a Jury of his country, charged with the offence  
of High Treason—the highest offence known  
in law. The circumstances of the horrid and  
unnatural rebellion in which the prisoner was  
accused of having taken a prominent part  
were well known; they had been much dis-  
cussed, and had of course created much sen-  
sation and interest. With any thing, however,  
which had come to their hearing out of doors,  
the Jury had nothing to do. It was their  
bounden duty, under the solemn oaths they  
had taken, to decide impartially upon his guilt  
or innocence in view only of the evidence  
which would be adduced, and to convict or  
acquit him accordingly. After the able ad-  
dress of the learned Chief Justice to the Grand  
Jury at the opening of the Special Commission,  
it was not necessary to enlarge upon the law  
as applying to High Treason. He might, ne-  
vertheless be allowed to offer a few observa-  
tions. In the common law, Treason had  
always been considered an offence of the  
highest magnitude; and previous to the pas-  
sing of the Statute of Treasons in the reign of  
Edward III. many acts were liable to be ad-  
judged Treason which by that Statute are not  
recognized as such. That Statute was the  
basis of the Provincial Statute under which  
the prisoner was arraigned, and its definitions  
of Treason were simple and clear. Three  
things were set forth as constituting that of-  
fence. First, the compassing the death of the  
King;—this species of Treason is the most  
intricate; and the investigation of it often be-  
comes a very difficult and painful duty. Into  
that, however, the Jury would not in the  
present case be called to enter. The second form  
of the offence consists in adhering to the  
King's enemies,—this included the furnishing  
them with provisions, arms, or even informa-  
tion. The third, and most easy to determine,  
is the levying of war against the King,—this  
was the offence of which the prisoner was in-  
dicted. The duty of the Jury would therefore  
be resolved into two enquiries,—had war been  
levied against the Queen in this Province? and  
if so, had the prisoner been a party con-  
cerned in the act? The nature of the evidence  
on the part of the Crown would obviate all  
difficulty, and render the discharge of their  
duty simple and easy. It would be satisfac-  
torily established that a war was actually le-  
vied, with the avowed object of overthrowing  
the constitution of the Province. It would  
also be satisfactorily proved that the prisoner  
was present at the headquarters of the rebels—  
that he was aiding them—that he was one of  
them—that on their defeat he fled and con-  
cealed himself—was afterwards made a prison-  
er—and was now arraigned for trial. These  
facts would be established by the testimony of  
gentlemen of undoubted veracity, most of  
whom were taken by the rebels, and kept in  
confinement where they had an opportunity to  
observe their movements, and sometimes to  
overhear their conversations. It might be  
thought by some that if a person were not seen  
in arms he could not be convicted of levying  
war; but this was a great mistake; as the  
learned Chief Justice would undoubtedly in-  
struct them. Nor would it be necessary to  
prove all the particulars stated in the indict-  
ment—as, that there were 500 persons in arms,  
or that they had colours flying, &c. Many of  
these particulars were mere matters of form.  
It was not even strictly requisite to prove that  
any number of persons were under arms. If  
it were shown that persons were assembled  
for the purpose of overthrowing the govern-  
ment, this would be sufficient. If, from the  
evidence the Jury should be satisfied that the  
prisoner was present with persons assembled  
for such an object, it would be their duty to  
find him guilty of the treason charged in the  
indictment, unless the prisoner should prove  
that he was detained by force, and compelled  
to act without his own consent. (The learned  
counsel here read from legal authorities to  
show what description of force or intimidation  
would be required to acquit a person so acting  
with traitors.) The exercise of constraint  
upon the prisoner would probably be the ground  
of the defence; if so, the duty of the Jury  
would be to determine, under the direction of  
the Court, how far the defence could be per-  
mitted to apply according to the acknowledged  
principles of law. In the progress of the trial,  
every possible indulgence would undoubtedly  
be extended to the prisoner by the Court, his  
counsel would do their best in his defence, and  
he felt assured that the Jury would decide im-

partially in view of all the facts, according to  
the honest dictates of their consciences.

**Capt. Hugh Stewart sworn.**—Resides in Mark-  
ham. Has known the prisoner a long time. Knows  
that a body of insurgents assembled at prison-  
er's house on the 4th of last December; thinks  
they were about 150 in number. Their avowed  
object was to take Toronto, capture the Govern-  
ment, take his life, and establish a new order of  
government. This object was communicated by  
Mackenzie, Lount, Lloyd, and other leaders of  
the band. Witness heard of the rebel move-  
ment on Monday evening, and started for the  
City to give information. Was in company  
with Colonel Moody, and as they proceeded,  
found guards stationed on the road near Mont-  
gomery's. They passed the first guard, but  
found it impracticable to pass the second. On  
being intercepted, Colonel Moody drew a pistol  
and fired on the guard, on which four rifles were  
discharged at him and he fell mortally wounded.  
Some of the rebels then seized witnesses' bridle,  
pulled him from his horse and made him a  
prisoner. This was about a quarter past 10, P. M.  
The guards spoken of were placed across the  
highway. He was detained until about 12  
o'clock on Thursday, when the rebels were  
attacked by the loyalists from Toronto. On the  
firing of the first gun, witness, and other  
prisoners, he thinks 62 in number, were marched  
up a side road by Gibson, under guard; and on  
the taking of Montgomery's house by the  
loyalists, Gibson released them. During his  
confinement witness frequently saw the rebels  
drilling. Frequently saw the prisoner, appar-  
ently very busy with the rebels. Did not see him  
armed, or drilling. On Tuesday the rebels  
marched to Gallows Hill, and the prisoners were  
all taken with them, and thence to Capt.  
Baldwin's. After a short time they were  
marched back again. Thinks they were marched  
down to swell the numbers, for effect. The  
prisoner at the bar did not go down with the  
party; he did not appear to be under any con-  
straint, and might have got away, especially  
that day. A large party was marched off towards  
the City on Tuesday evening. When they  
returned, witness heard they had a skirmish  
with some loyalists. The first time witness saw  
the prisoner during the insurrection was on Mon-  
day night, or perhaps early on Tuesday morn-  
ing. Prisoner was at the bar of the Tavern,  
when witness asked for pen and ink to write for  
a Surgeon to come and examine Col. Moody's  
wounds, which privilege was a long time denied  
him. Saw the prisoner every day, he appeared  
frequently to be giving directions to the team-  
sters as they drove up, and witness observed to  
his fellow-prisoners that Montgomery seemed to  
be Quarter Master General. Witness saw a  
light wagon drive towards the City, on Tues-  
day, with two ladies in it, and the prisoner  
by the guard; the prisoner went out and spoke  
to them, when the wagon was turned back.  
Could not hear what prisoner said, but he seemed  
to be vested with some authority among the  
rebels. The prisoners were kept under guard in  
a large room. Witness never saw the prisoner  
at the bar in that room. Prisoner never ap-  
peared under any restraint. Was allowed to go  
where he pleased, as far as witness could judge.  
When the loyalists came up, Montgomery was  
not marched off with the prisoners. He was  
allowed to run away. Did not run towards the  
loyalists, but towards a new house he had  
erected near the woods. Never saw prisoner  
armed. He was very active, and witness thought  
he was a leader; thought he acted as Commis-  
sary and Quarter Master. Saw no particular  
difference between his general conduct and that  
of the other rebels.

**Cross-examined.**—The rebels generally wore  
white badges. Does not recollect that the  
prisoner wore one. They were not universally  
worn by the insurgents; chiefly by the lower  
classes.

**George D. Reed sworn.**—Was taken prisoner  
by the rebels on the 4th of December, at Hogg's  
Hill, and was detained until Thursday the  
7th. Had an opportunity to observe the  
conduct of the rebels, and the conduct of the  
prisoner at the bar. He understood it was the design  
of the party to take Toronto, and the Banks; and  
to send the Governor, and the "bread and  
butter men," as they called certain persons, out  
of the Province. This was Mackenzie's plan.  
The rebels were generally armed, with muskets,  
rifles, pikes, &c. Saw the prisoner frequently,  
but had no conversation with him; prisoner  
seemed to avoid witness intentionally. The  
principal persons in command seemed to be  
Mackenzie, Fletcher, Lount, Gibson and Lloyd.  
Saw prisoner frequently in conversation with  
the loyalists, but his conduct was very similar  
to theirs, only that he did not draw a pistol.  
(Witness corroborated Capt. Stewart's testi-  
mony as to prisoner seeming to act as Commissary  
General.) Saw him particularly giving direc-  
tions when a wagon load of beef arrived; could  
not hear what he said, being inside the house.  
The rebels marched the prisoners to  
Gallows Hill and Dr. Baldwin's on Tuesday.  
Prisoner was left at the Tavern, without any  
guard. Witness saw prisoner conversing with  
Gibson and Mackenzie on Wednesday, and  
with Gibson on Thursday morning for about 15  
minutes, after which they walked up to the  
house together. Concurs in Capt. Stewart's  
statement as to the transactions of Thursday  
and the release of the prisoners when the loyal-  
ists came up.

**Cross-examined.**—Understands by a Commis-  
sary General one who furnishes provisions for  
an army; and believes the prisoner acted in that  
capacity. Witness and his fellow-prisoners fre-  
quently conversed about him by that name.  
Saw prisoner paddling across the field as fast as  
he could, when the loyalists were coming up.  
This was just after the firing commenced, but  
before any shot struck the house.—Witness  
thinks he should have run too, if he had been at  
liberty,—but he should have run towards the  
loyalists, while the prisoner ran from them.  
Did not see prisoner armed, or wearing a badge.  
Most of the rebels had badges on, but not all.

**Wm. Cymer sworn.**—Has not been long in  
this country. Was hired as a hostler by Mr.  
Lincoln, who had rented Montgomery's  
Tavern on the 1st of December. Prisoner was  
still living at the Tavern when the rebels as-  
sembled there, and was engaged in removing  
his furniture to his new house. Prisoner re-  
mained at the Tavern all the time the rebels  
were there, and seemed very active. The rebels  
were very saucy to witness, ordering him about  
when they came with their horses. Sometimes  
20 or 30 of them coming in 5 minutes; they  
kept witness stirring. Prisoner frequently di-  
rected witness to take their horses. Two loads  
of hay were brought there. Some oats were  
wanted, and prisoner ordered some men to go  
to Mr. Snider's and get some. The oats were  
brought and were given to the rebels' horses.  
Prisoner also ordered some men to go to Hogg's  
Hill, and get some flour. On Thursday, when  
intelligence arrived that the loyalists were  
coming up, prisoner ran over to the driving house,  
where there were 30 or 40 of the rebels, and  
cried "turn out, turn out, all you that have  
guns, and do your best for the Tories are com-  
ing." Witness did not see prisoner fed any of  
them, but he ordered three men to help  
witness to attend the stables, and sent his own  
hostler also. Prisoner came alone to the driving  
house to give the alarm.

**William Clark sworn.**—Was taken prisoner  
by the rebels about 8 o'clock, P. M., on Monday.  
Was coming from his home in Markham, and  
on approaching Sheppard's Inn saw a consider-  
able number of men there, whom he suspected  
to be insurgents. He pushed on with speed and  
passed them. Near Montgomery's he saw a  
guard of men on the road, who told him no  
person could be allowed to pass. He turned  
back and attempted to get into another road by  
the side line. He was followed, and Mackenzie  
came up and said "I am glad to see you." On  
witness attempting to speak Mackenzie ex-  
claimed "Not a word, you scoundrel!" and with  
others pulled witness from his horse. Was  
taken into Montgomery's, where he saw one  
other prisoner; saw a great many more after-  
wards. They were put in a room under a guard  
of armed men. Some of them said it was  
intended to take the City by firing it in four  
places, to declare independence, and make all  
the loyalists give bonds to leave the country in a  
given time. Witness said "if you burn the City  
you will destroy the property of the radicals  
also." They replied that there was plenty  
of property to make it good. Witness has  
known the prisoner for fourteen or fifteen  
years; saw him frequently in active conver-  
sation with the rebels; he did not seem to be  
under any restraint. On Thursday morning,  
about half an hour before the battle, witness  
saw prisoner conversing with Mackenzie, Gibson,  
Lount, and Fletcher. Witness was unavoidably  
led to consider the prisoner one of the insur-  
gents. The rebels marched to Gallows Hill on  
Tuesday, and took all their prisoners with them.  
The prisoner at the bar was left behind, and  
witness thinks he might have gone away without  
much difficulty.

**Cross-examined.**—Did not hear prisoner ex-  
press regret that he (witness) was a prisoner.—  
Did not hear Mackenzie use any harsh language  
to prisoner. Saw them through the window  
conversing together, but could not hear what  
was said.

**John Linford sworn.**—Kept Montgomery's  
Tavern; was there when the rebels arrived on  
Monday night; rented the Tavern in half. Was  
took possession on 1st December; prisoner lived  
still in the house; he had two rooms which he  
intended to occupy for two weeks; witness had  
no conversation with prisoner regarding rebels  
before their arrival, and did not know they were  
coming; about 20 rebels first arrived about 7  
o'clock, P. M. Monday; they came down Yonge  
Street, witness thinks from Lloyd's down; their  
numbers increased during the night to 150.  
Mackenzie came about 9 o'clock with Fletcher  
and Lount and demanded accommodation for  
the party; he offered witness, stating that  
Mackenzie, Montgomery intended to use him  
harshly; Montgomery intended to use him  
harshly; witness was landlord; he was in conse-  
quence released from being a close prisoner, but was  
nevertheless closely watched afterwards in the bar.  
Witness went across to Snider's house with his  
wife, and while there the rebels sent an armed  
force for him, and brought him back; witness  
was detained in the Tavern against his will;  
prisoner walked about and conversed with the  
leading rebels, but witness did not hear him give  
any particular orders; witness was not allowed  
to see much of their movements; the leaders  
talked with him; there was no guard over the  
prisoner. On Thursday morning prisoner took  
breakfast with Mackenzie, Fletcher, Lount, and  
Van Egmont, in his private room. Prisoner moved  
part of his things to his new house on Tues-  
day and Wednesday; prisoner might have made  
his escape if he chose. Does not know where  
prisoner went after the battle.

**Cross-examined.**—Rented the house from 1st  
January, but was to enter on 1st Dec. Lease  
was signed in July; prisoner was to board with  
witness till the new house was ready; saw  
nothing in prisoner's conduct before fourth Dec.  
to lead him to suppose that he took part in the  
proposed insurrection; never saw him with arms  
or badge. Prisoner could not prevent the rebels  
from entering his room. Prisoner might have  
run away, and so might witness on Tuesday, but  
not after Mackenzie gave the order for propi-  
ations and promised payment; witness's servants  
provided supper for about 100 men. Was not  
aware of the object of the insurrection until  
Col. Moody was shot. Furnished liquors from  
bar to rebels, but not by order of Montgomery.  
Prisoner got some bottled porter and ale for  
Mackenzie. Prisoner was chiefly employed in  
removing his furniture, and witness did not hear  
him give orders to the rebels. Prisoner was in  
the bar a few minutes on Monday night, but  
not serving the people. Did not hear Mackenzie  
express himself harshly to prisoner, and never  
told any person. Witness was under re-  
straint to supply the rebels, and the prisoner might  
have been so likewise; witness asked prisoner  
the object of the meeting on Monday night, but  
he gave no explanation. Prisoner finished re-  
moving his furniture on Wednesday.

**By the Attorney General.**—Thought prisoner  
countenanced the rebels while there.

**James Severs sworn.**—Is a shoer's bailiff.  
Knows the prisoner; saw him on morning of 4th  
Dec. in front of the Tavern; he looked earnest-  
ly towards the north as if he expected something.  
Witness spoke to him, and prisoner said that he  
kept bar outside now. When witness afterwards  
met the rebels coming from the north, he consid-  
ered that the prisoner was probably looking for  
them in the morning. Heard the prisoner rid-  
dle persons for being Tories.

**W. B. Crew sworn.**—Was taken prisoner near  
Richmond Hill by Lount and Fletcher on 4th  
Dec.; was first taken to Sheppard's farm, where  
there was a party casting bullets and making  
spears; they wore white badges. Was taken  
from there to Montgomery's, was not there  
when Col. Moody was shot. Was put in a  
room with the other prisoners. Saw the pris-  
oner in the Tavern on Monday night, and also on  
Tuesday, when returning from Capt. Baldwin's.  
The avowed object of the rebels was to destroy  
the government. Concurs in the testimony of  
Captain Stewart and Mr. Reed, as to prisoner  
giving directions, and appearing to take an active  
part among the rebels; saw him several times  
in conversation with Lount; saw him on Thurs-  
day go towards the stable when the alarm was  
first given, and afterwards saw him go towards  
his new house; prisoner appeared under no re-  
straint, but seemed to be providing provisions  
for the rebels. All the prisoners thought so.

**Thomas Nightingale sworn.**—Is a butcher.  
Lives not far from Montgomery's, and was  
required to furnish meat for the rebels. On  
Tuesday morning, an armed party came to his  
house and demanded his meat. They took from  
him some pork and beef, and said an order  
would be given him on the new Constitution  
for payment. Only knows one of the men  
named Walker. Two of witnesses' boys (Mc-  
Causland and Purdy) went up with a wagon  
to carry the meat to Montgomery's. A paper  
was sent back, which the boys said was given  
them by the prisoner; it contained a statement  
of the weight of the meat. [The paper was  
here given into Court.] Witness then came  
into the city, and kept out of the way. Did  
not see the prisoner during the rebellion.

**McCausland** was called, but his testimony  
could not be given; his name having been  
incorrectly spelled in the list of witnesses.

**James Purdy sworn.**—Is in the employment  
of Thomas Nightingale. Corroborates the tes-

timony of preceding witness. (Nightingale) and  
further states that when the armed party came  
for the meat, he (witness) helped to put it into  
Nightingale's wagon, and went with it to  
Montgomery's. When he arrived there, he  
went into the bar, and spoke to Linford, who  
said that the meat was for Montgomery, and  
not for him; and directed witness with it to the  
kitchen. Witness saw young Watson, who  
showed him the prisoner; witness went with  
him to his room, and told him he had brought  
the meat. Prisoner said, "Very well, how  
much is it," and cast up the account on paper,  
and gave it to witness, stating that he would  
pay for it; said there was some account between  
him and Nightingale, and that they would set-  
tle it between them. Prisoner asked witness if  
Nightingale had more meat, as probably he  
would require more; witness mentioned this to  
Nightingale, who said he might have more by  
paying for it. On Tuesday afternoon prisoner's  
boy came and said he was sent for more meat.  
Witness went up, with a side of beef; saw  
prisoner, and told him the weight of it. Prison-  
er said he should send for more. On the same  
afternoon two of Snider's boys went to Night-  
ingale's, and said they were sent for more  
beef. Witness went up with a side, which was  
all they had; saw prisoner moving a table out  
of a room. Prisoner said he should want more,  
and would probably send a beast to be killed.  
On Wednesday morning, prisoner's hired boy  
came with one; which witness killed, and took  
up. In the afternoon, witness went up the  
road for a load of straw. Was met by Macken-  
zie, with the stage wagon, who presented a  
pistol at him, but after some questions allowed  
him to pass. On Thursday morning, Night-  
ingale sent word that he had no more meat. Two  
beasts were then sent down; one was killed,  
and a side sent to Watson's by the boy Mc-  
Causland. Witness took the other side to  
Montgomery's. Saw the prisoner standing at  
the back door. Soon after he got there, wit-  
ness heard a cry of "turn out, the Tories are  
coming," and soon heard the cannon firing.  
Witness rode home as fast as possible. Prisoner  
was looking towards Gallows Hill; did not  
speak to witness at that time; they were several  
yards distant from each other.

**David Briggsford sworn.**—Was taken pris-  
oner on Wednesday to Montgomery's. When  
he went there, saw prisoner in the bar room.  
Corroborates other witnesses as to prisoner con-  
versing with the principal rebels. About eight  
or ten days before had a quarrel with prisoner,  
who accused witness of his being the head of an  
Orange party, which witness denied. Witness  
told him he would always do all in his power to  
counteract revolutionary movements. Prisoner  
said they would not have it long in their power  
to do so. Witness always knew prisoner to be  
one of Mackenzie's party; saw him at po-  
litical meetings acting with Mackenzie; saw  
him at Finch's tavern about two weeks before,  
where Mackenzie was present, but they adjourned  
from thence to Gibson's; heard prisoner say  
that the reason of their adjournment was that  
there were too many Tories at the meeting. Pris-  
oner did not seem to be under any restraint  
during the insurrection; witness is satisfied  
from all he saw that prisoner was an active  
party in it. Has had political disputes with prisoner  
but there was never any personal quarrel.

**Archibald Cameron sworn.**—Was taken pris-  
oner by the rebels. Saw prisoner on Tuesday  
night in a room, where there were several per-  
sons, men and women. Saw him again on  
Thursday, running away after the firing com-  
menced. Witness believes prisoner was one  
with the rebel party. Prisoner was not marched  
to Baldwin's on Tuesday.

**Cross-examined.**—Did not see Linford while  
he (witness) was in custody.

**Wm. Ketchum sworn.**—Says he was at the  
house formerly known as Montgomery's Tavern,  
on Tuesday morning, the 5th of Dec.; he saw  
the prisoner there and conversed with him for  
a few minutes. He (witness) went up Yonge  
Street on his own private business. Has a farm  
a short distance beyond Montgomery's, where  
he had had a man employed digging up stumps;  
witness paid him a certain amount for each  
stump taken out, and had been desired several  
days before to go up and count them, and settle  
with the man. On Tuesday morning took his  
horse and gig and went up; on the way met  
Mr. Ware, who informed him that the rebels  
were at Montgomery's, in great force. As he  
went the road seemed to be clear, and he thought  
he would proceed; he did not see the rebels  
until within shot of a party as he ascended a  
hill. Lount levelled his rifle, and ordered him  
to stop; on coming up, Lount asked if his name  
was not Ketchum, and on being told it was,  
he allowed witness to pass; witness went to Mr.  
Finch's house, and found the family greatly ex-  
cited and alarmed. Price's is beyond Macdon-  
ald's. On his return saw the prisoner stand-  
ing at the door of the tavern; drove up to  
enquire the particulars of the death of Ander-  
son and Col. Moody; prisoner asked witness  
to walk in,—having no objections, he complied;  
prisoner said Col. Moody attempted to pass the  
guard stationed on the road, and being inter-  
cepted, fired a pistol at them, on which several  
riders were fired at him, and he fell; pris-  
oner said Mr. Powell shot Anderson, having  
previously said he was unarmed. Prisoner  
asked witness what assistance the reformers  
were likely to get in the city; witness said he  
thought they might get none. The whole aff-  
air was not to witness, and such a movement was  
not expected by him; told the prisoner it was  
a dangerous experiment, and could not succeed  
without a very large force. The conversation  
took place in a room occupied by the prisoner.  
A person came into the room and asked pris-  
oner if there were any guns or other arms there  
to be given out; prisoner said there were none;  
witness saw one gun in the room; does not  
recollect whether prisoner said the arms had all  
been given out. Witness asked the prisoner  
what force the reformers had there—whether  
they had 1500? Prisoner thought not. Had  
they 1000? He thought not. Had they 500?  
Prisoner did not know the exact number; wit-  
ness learned they were not very strong; wit-  
ness told prisoner it would be useless to attack  
the city with so small a force. Witness got his  
gig and started for the city; he met Dr. Rolph  
and Robert Baldwin, bearing a flag of truce.  
Lount was there, and Rolph asked who were  
the leaders; Mackenzie and some others came  
down, and had conversation with Rolph and  
Baldwin. Rolph came to witness and sent the  
other persons aside; Rolph then said to witness,  
"when you go into the city, be sure to repre-  
sent that the force out here is very strong."  
[In answer to a question from the Court, wit-  
ness said that attempt was made by the rebels  
to arrest witness; but there was a great bustle and  
excitement, during which he was enabled to get  
himself away.] On his way to the city he met  
the Sheriff Mr. Thomson, and some other gen-  
tlemen. Prisoner told witness the reformers  
intended to take the city by attacking it in three  
places; witness thought it was nonsense, and  
did not inform. There was no other person in  
the room besides witness and prisoner when the  
man came in and asked for arms; prisoner did  
not appear to be in custody or under restraint.  
Witness did not think it necessary to give in-  
formation when he came to the city—he sup-  
posed every body knew the state of affairs as

well as he; he had always been friendly to the  
reform party, and did not wish to injure them;  
did not intend to take part with either side.  
Witness did not think prisoner would have made  
such disclosures to a person who had not been  
known as a reformer. Witness heard on Mon-  
day that the city would be attacked on Monday  
night; did not believe it, and therefore gave no  
information.

**Cross-examined.**—Witness did not hear pris-  
oner advise any of the party to go home; did  
not hear prisoner say he had done so. Thinks  
any person on the spot would have known all  
that prisoner communicated to witness, as the  
plane of the party were freely talked about.

**The case on the part of the Crown closed here.**

**Mr. ROBERT BALDWIN**, in opening the de-  
fence, remarked to the Jury, that he hardly  
thought it necessary to remind them of what  
had undoubtedly occurred to their own minds,  
—the necessity of divesting themselves of all  
that prejudice which so naturally presented  
itself in this case against the prisoner. Several  
circumstances occurred to place the pris-  
oner in a disadvantageous light, however  
innocent he might be of the charges contained  
in the indictment. He was known to have  
formerly acted with the party known as Re-  
formers, of which many of the prominent  
leaders had taken a conspicuous part in the  
insurrection; the Inn so long kept by him,  
and which was known by his name, was cho-  
sen by the insurgents as their headquarters;  
the battle was fought upon his farm; indeed  
his name was associated with all our thoughts  
in reference to the treasonable assembling on  
Yonge Street. It ought not, however, to be  
overlooked that all these things might have  
occurred, and yet the prisoner be perfectly  
unconnected with the rebellious movement.  
The duty of the jury would therefore be to  
rest their decision upon a dispassionate con-  
sideration of the evidence before them, with-  
out regard to any thing they had heard, or  
any thing they had thought of the prisoner,  
before they entered the box. In order to  
warrant the conviction of the prisoner, it was  
necessary that the evidence should be of that  
direct character, to leave no shadow of  
doubt on their minds as to his having been  
treasonably engaged; nay, more was required  
—they must be perfectly satisfied that in any  
part which he had taken he had acted volun-  
tarily, for the intention of the mind was  
necessary to constitute treason. It would  
also be necessary that any particular reason-  
able act with which the prisoner was charged,  
should be substantiated by the distinct testi-  
mony of at least two witnesses, independent  
of each other. The law required the case to  
be thus doubly made out, or they would not  
be entitled to convict him. Unless this prin-  
ciple were kept constantly before their minds,  
the jury would be in danger of being misled  
by vague impressions and inferences, drawn  
from the testimony of individual witnesses.  
In the present case the jury would have no  
difficulty in concluding that the evidence on  
the part of the Crown was exceedingly weak  
and defective. The witnesses were prin-  
cipally persons who were made prisoners by  
the rebels. They were confined in a room, and  
were incapable of judging correctly of the  
prisoner's conduct. They saw him, occasion-  
ally, it was true, going about, and apparently  
conversing with the rebel leaders, but could  
not hear what was said. Their vague con-  
clusions could never be proof of his guilt.

With regard to any acts of the prisoner to  
which other witnesses had deposed, and on  
which the prosecution would probably place  
the greatest stress, the prisoner would prove  
satisfactorily that he acted under constraint  
and fear—that in those acts he was not a free  
agent. Some of the witnesses seemed to think  
that the prisoner must be guilty because he was  
formerly of the party, but such conclusions  
were too absurd to have weight with an in-  
telligent Jury, where the life of a fellow creature  
was involved in their decision. It would be  
clearly shown that in giving directions to  
teamsters, he was only engaged in removing  
and securing his own property. At any rate  
it would be proved that he was the whole time  
under the constraint of force. (The learned  
counsel here read from legal authorities to  
show that such constraint would be a sufficient  
justification of the prisoner.) If the rebels  
came to prisoner's house without his know-  
ledge, and had power to enforce their orders,  
this would excuse him. It was not necessary  
that the prisoner should desert his property.  
This great distinction should be kept in view,  
that while a fear of the loss of property would  
not justify a man in joining and marching with  
the rebels,—but only fear of death,—yet a man  
may remain to take care of his property, if he  
takes no willing part with the traitors. The  
evidence on the part of the Crown showed that  
the prisoner was taking care of his property,  
and all the evidence of his acting with the  
rebels was founded on the impressions of per-  
sons who saw him occasionally through the  
window. The prisoner would prove that he  
was threatened with violence for refusing to  
assist the rebels. Had he been one of the  
conspirators, he would undoubtedly have joined  
them, and done all in his power to induce  
others to do so; but it would be shown that  
he advised persons who had joined them to go  
home. It was not pretended that he took  
arms, and the witness (Ketchum) proved that  
he told a man there were no arms there, when  
Ketchum saw at least one gun in the room.  
He (Mr. Baldwin) would not enter at greater  
length into the case; that would be done by  
his learned friend Mr. Dowell at the close of  
the evidence for the prisoner. He should  
therefore proceed to call the witnesses, and  
leave the case to the impartial decision of the  
Jury.

**Amelia Gray sworn.**—Was housemaid at  
Montgomery's. Was not at the tavern on the  
Monday, as at the new house; family were  
not there, the house not being finished. None  
of the rooms were dry. Was at tavern about  
8 or 9 o'clock on Tuesday morning. Met pris-  
oner in the hall. Saw only Fletcher there  
then. Could not say the number of men that  
were assembled. Prisoner came into the room  
where his things were, and commenced moving  
them. Does not think that prisoner knew the  
rebels were coming. Thinks he was cast down  
by their having come. Did not see him take  
any active part with the rebels. Never saw  
him with Mackenzie before the rebellion; he was  
occupied on Tuesday about his ordinary busi-  
ness. Prisoner is generally very lively, but was  
then cast down and talked little. Expressed  
fears that he would lose his property. Witness  
first saw Mackenzie on Tuesday afternoon.  
Heard him afterwards threaten prisoner, and say  
if he did not assist it might be worse for him.  
Heard these threats so often that she did not  
particularly mark his words. Prisoner made no  
previous preparations for the rebels. Witness  
thought he seemed to avoid them. Did not see

him get any thing for them, and believes if he  
did, he was forced to it. Witness was engaged  
with prisoner at the tavern on Wednesday re-  
moving furniture. Witness remained in tavern  
that night with Linford's servant girl, but did  
not sleep at all. Prisoner slept on the first  
floor in the corner of his own room that night,  
and snored much. Mackenzie enquired fre-  
quently for him, but witness did not tell where  
he was. Some of his goods were still in the  
room. The family had gone to the new house on  
Tuesday; the door of prisoner's room was some-  
times fastened. Mackenzie asked witness on  
Thursday morning to get breakfast for himself  
and Van Egmont, and once or twice others. Witness  
served breakfast in prisoner's room for them, as  
she had no other convenient place. Prisoner  
was in with them, witness thinks against his  
wish; he did not open his head. Mackenzie  
talked all the time during breakfast. Witness  
heard no conversation between prisoner and his  
wife. Prisoner had no gun or badge, and gave  
no directions to the rebels.

**Cross-examined.**—Witness had been in pris-  
oner's employment, but was not at that time.  
Went to the tavern of her own accord, to see  
what was doing, and to remove furniture.  
Went frequently backwards and forwards, car-  
rying furniture to new house. Prisoner's family  
left the tavern on Tuesday. Prisoner had his  
virtuals sometimes in the new house. Witness  
went to the tavern to be company for the  
servant girl. Did not help her. Sometimes  
carried things up stairs for her. Did not go  
back to the new house. Was going backward  
and forward between the tavern and new house  
all the time. Heard Mackenzie accuse prisoner  
of looking more after his own affairs than his  
—prisoner made no reply—he was moving a  
cupboard at the time. Witness heard of Ander-  
son being killed; did not see him taken to be  
buried. Saw the prisoner on Thursday, but not  
after the battle. Does not know where he went.

**John Bishop sworn.**—Lived with prisoner a  
year and eleven months. He was at his new  
house on the Monday on which the rebels as-  
sembled. Witness had an opportunity of see-  
ing prisoner often. Never saw a gun in his  
hand, or in his house. Did not see him while  
the rebels were at the tavern give directions  
about any wagons but his own, which were  
engaged in removing his furniture. Witness  
was sent for prisoner on Tuesday evening by  
prisoner's wife, and found him sleeping in the  
corner of his room at the Inn. Prisoner never gave  
witness any advice, nor asked him to take arms.  
Did not desire him to join the rebels. Never  
said any thing to witness on the subject either  
way. Witness heard some of the rebels say that  
prisoner said he wished they were at home.  
Never heard him say so. Some of the rebels  
said that they wished themselves at home.  
Heard that prisoner sent some boy home again  
who had come from Albion.

**Cross-examined.**—Does not know where pris-  
oner slept during the rebellion. Thinks pris-  
oner knew nothing before of the intended rebel-  
lion. Cannot speak as to the number of rebels.  
When the rebels marched down Yonge street  
on Tuesday, witness heard prisoner say, "What  
a pity they should burn the house," meaning  
Dr. Horne's. Witness took no part in the  
rebellion; had enough of his own business to  
attend to. Does not know what the rebels in-  
tended to do. Never saw the little fellow (Mac-  
kenzie) but once. Many people were there in  
arms. Witness never spoke to any of them.  
Does not know whether any oxen were sent  
down to be killed. Does not know how many  
rebels were left behind on Tuesday when the  
body marched to Gallows Hill. Does not know  
any thing about the rebels, because he always  
minded his own business. (The behaviour of  
this witness while giving his testimony was  
such as to call forth a severe reprimand from  
the Court.)

**Major Amos Thorne sworn.**—Has known the  
prisoner at the bar for some time. Prisoner  
was at witness's house about four o'clock on the  
Monday night. He went there for some beds  
which witness sometimes before had borrowed  
from him, and to settle some accounts. He  
remained there about an hour. There did not  
seem to be any thing in prisoner's manner to  
lead witness to suppose that he was then aware  
of the rising. He appeared to do his business  
as usual, and made an appointment with a well-  
digger to call next day to settle some account.  
Shortly after this, two of witness's neighbours  
(Lawrence and Bond) called at his house, and  
told him the rebels were coming. Was aston-  
ished



a man ought to be shot," or words to that effect; ordered prisoner out of the room, and he went. Prisoner soon returned, and lay down upon a box, seemed to be in bad spirits. Seemed apprehensive of the loss of his property. Witness heard prisoner's wife say to him, "God knows, you have got enough of Mackenzie now!" Prisoner made no answer.

**Cross-examined.**—Is a niece of the prisoner. Mackenzie swore at the prisoner because he would not go out of the room with him. Does not know whether any other rebels were there at that time. Prisoner was in the house when Col. Moody was brought in wounded. On Thursday, when the rebels were dispersed, prisoner went home to his new house; does not know where he went afterwards. He did not sleep there that night; his wife did. Witness did not see him again until Sunday. He was sent to the house on Sunday, as a prisoner.

**Edmund Wilson sworn.**—Is one of the prisoners counsel. Examined one of the former witnesses (Lincoln) a few days ago, in company with Mr. R. Baldwin, as to what he knew of the matter. Lincoln gave witness a favourable statement of prisoner's conduct; said that Mackenzie threatened prisoner; and that he (Lincoln) thought prisoner took no part with the rebels. Witness took Lincoln's statement in writing, and read it to him, and he said it was correct.

**Abraham Foot sworn.**—Is brother-in-law to Lincoln. Went to Montgomery's on Tuesday morning to see what the rebels were doing. Heard the night before that they were coming, and intended to burn the city. Witness was told he must either take arms or be considered a prisoner. He was ordered to attend the bar. (This witness testimony agreed with that of some of the others, that the prisoner had no arms; wore no badge; took no active part; and seemed to fear the destruction of his property.)

**Cross-examined.**—Does not know whether prisoner was compelled to remain there. Saw no compulsion used toward him. Never heard prisoner forbid the rebels to remain there; nor heard him threaten to inform against them. When the alarm was given on Thursday, thinks prisoner was on the platform before the house. Does not know where he went afterwards.

**Henry Edmundson sworn.**—Was in the custody of the Sheriff's deputy on Monday night, on his way to town, and was taken by the rebels and kept at Montgomery's. Saw prisoner, and asked him for something to drink. Prisoner said he had rented the tavern. Prisoner asked him if he was going to join the rebels, and said he would advise him to go home. Witness made his escape on Tuesday; and started for home.

**Cross-examined.**—Went away on Tuesday morning. Saw Col. Moody, after talking with prisoner.

**Johanna Dunnington sworn.**—Is a joiner, and lives near Montgomery's. Prisoner sent for him to unscrew some cupboard doors while the rebels were there. Prisoner seemed to be about his own business. Did not seem to be under any constraint.

**Daniel Faragher sworn.**—Was at Montgomery's while the rebels were there. Saw prisoner standing at the front door. Did not see him take any active part with the rebels, but the reverse. Witness accosted him, but he did not answer.

**Cross-examined.**—When he saw the prisoner, the rebels had gone down to Gallows Hill. Prisoner was at liberty to have gone where he pleased. Heard it was the intention of the party to take the City, and set up a new government. Was there again on Wednesday; went to see a friend who had been taken by the party. Never saw prisoner conversing with the leaders.

**Abraham Wilson sworn.**—Says that he went on Thursday forenoon to settle an account of his father's with prisoner. They were in the bar-room drinking some ale or porter, when the alarm was given that the Tories were coming. Did not hear prisoner join in it. Did not see him go to the driving house; but saw him retreating towards his new house.

**Cross-examined.**—Witness went upstairs when the alarm was given, to look down the street for the loyalists. Remained there till a cannon shot struck the house. Then went down and saw prisoner retreating. This was 8 or 10 minutes after they were ordered.

**Charles Dams sworn.**—Was concerned in the late rebellion; went to Montgomery's with Louie and his party, arrived there about 9 or 10 o'clock on Monday night. They had supper in the house. Witness asked Montgomery for a bed, who replied that he had no concern with the house. Prisoner appeared not as if he expected the party at the house. Witness remained there till Thursday morning. Did not observe the prisoner during that time take an active part with the Rebels, nor did he seem to act as commander. He did appear to witness as one of the party at all. He was engaged about his own private affairs, removing furniture, &c. Witness cannot say that prisoner could have made his escape from the place; there were guards placed along the road through which he would have to pass. Witness does not know that Montgomery had any concern in the late rebellion.

**Cross-examined.**—When on their march down Yonge Street, witness considered either Gibson or Montgomery's might have been their place of rendezvous. When they arrived opposite to Gibson's, Mackenzie directed them to go on to Montgomery's. Witness did not hear any conversation on their march, as to the place at which they were to halt. Montgomery was not made prisoner, nor did he join the rebels. Witness did not see prisoner in conversation with the leaders.

**For the prisoner.**—Considers that after Col. Moody was shot, the prisoner had but poor encouragement to attempt to make his escape. The size of Montgomery's house might have had some weight with the rebels in choosing it as their halting place.

**W. D. Edmondson is a prisoner,** having been concerned in the late rebellion, and petitioned under the late Act for pardon. He went to Montgomery's on Monday evening, alone. Witness was not armed when he went there. He saw the prisoner there; did not ask witness to arm himself, but advised him to go home, and not to join the party. Prisoner seemed to take no active part with the rebels. Heard prisoner express his regret to several at what had taken place, and advised them to return home. Some took his advice and went home. Prisoner gave no orders for provisions; Mackenzie gave orders he sent for flour. Witness says that the prisoner took no part in the rebellion; that during the time that he was at Montgomery's, prisoner attended to his own business.

**Cross-examined.**—Witness understood the reason why prisoner advised them to go home to be, that he disapproved of the insurrection. Does not know who shot Col. Moody—does not know that there was an order given to fire by any one when Col. Moody was shot. The prisoners taken were Loyalists. Montgomery was not made prisoner at any time. Supposes Montgomery might have been taken had he attempted to escape through the guards. Neither Lincoln, nor his brother-in-law, nor the hired men at Montgomery's, were put among the prisoners.

**Luther Elton.** Was one of the rebels at Montgomery's, arrived there on Monday night. Paid Lincoln for what he called for. Saw Mackenzie there on Monday evening; Mackenzie gave orders for provisions on Tuesday morning, and remonstrated with Lincoln for not having bread. Lincoln said he had no money to purchase it, when Mackenzie gave him \$5, and said if necessary he might have \$10, or any sum he wanted. Heard Mackenzie on Tuesday advise prisoner for not joining in the rebellion, and said to him, "Don't you, I can tell you that will." Montgomery was at the time moving furniture; he could not make

his escape through the guards; and had he done so his property might have been destroyed. Col. Moody was shot for offering resistance to the rebels, and he considered that had encouraged prisoner for Montgomery to attempt to make his escape. Prisoner, on being asked to furnish drink, said he had nothing to do with the house. Witness thinks prisoner took no part in the rebellion; and he heard him advise some of those who were there to return home. Does not believe he took any part in the rebellion.

**Cross-examined.**—Witness has been in the country for five years. He came to Montgomery's in company with Louie. Their purpose was to take Toronto, but cannot say what was their object for so doing. Witness was in Toronto on the Wednesday—went in to see a friend of his. Did not know Montgomery before.

**Hugh G. Wilson sworn.**—Is a prisoner, and was engaged in the rebellion. Prisoner seemed surprised when the rebels came to the tavern. Did not see him give assistance; heard Mackenzie's house was chosen as a rendezvous. Does not know how many men were there at once. Believes prisoner took no part.

**Cross-examined.**—Did not see prisoner converse with Mackenzie. On Tuesday prisoner told witness he thought the party had better go home again; witness thought so too. He (witness) thought they would not succeed. Perhaps prisoner thought so too, but witness did not hear him say. Witness thinks the rising was not to have taken place till Thursday. Mackenzie said prisoner ought to let them more, he would neither fish nor cut bait. Sometimes prisoner was conversing with the rebels and sometimes not. Does not think he was a prisoner, he probably went where he pleased.

**Philip Wideman sworn.**—Was one of the party at Montgomery's. Prisoner did not seem to take part with them. Witness was present when some oxen were sent for from Keichum's. Thinks Gibson sent for them.

**William Rockford sworn.**—Has been acquainted with prisoner since he (witness) first came to the province. Thinks prisoner did not know the rebels were coming. Always considered him one of the most humane men he ever knew.

**Cross-examined.**—Was present when Mr. Bridgford and prisoner had a political dispute; but were very warm. Does not recollect prisoner saying the Tories would not have power much longer.

**Hon. W. Allen sworn.**—Knew prisoner during the late war; he was on militia duty, and acted as a good subject.

**Cross-examined.**—Knew Peter Matthews and Philip Wideman during the last war; they were then loyal men.

**Samuel Ridout sworn.**—Prisoner served under his command in the last war, and did his duty satisfactorily.

**On the part of the Crown.**

**Lincoln recalled.**—Recollects Mr. Baldwin and another gentleman calling on him, as counsel for the prisoner, to enquire what he knew of the rebels coming. Always Mr. Baldwin was the person who accompanied Mr. Baldwin, but he asked witness no questions. Mr. Baldwin examined him.

**Cross-examined.**—Does not recollect all he said at the time spoken of. Thought there was some design to entrap him. Not being under oath, some of his replies might have differed from the testimony he had given to day. The testimony he had given in court to day was true. Does not know what Mr. Hinchings might have written when with Mr. Baldwin, but Mr. H. asked witness no questions.

**Wm. Gymer recalled.**—Is positive that a former witness (Thorne) was ordered by prisoner to go with some other person to get out for the horses of the rebels. Recollects distinctly that a prisoner came to the driving house, and ordered all who had guns to turn out and do their best.

**W.B. Green recalled.**—Distinctly recollects seeing prisoner go to the stables when the alarm cry was raised; but could not hear what was said. Heard one of the witnesses (Edmondson) swear to day that he had no gun at Montgomery's; but witness heard him ask one of the leaders (Nelson Gorham) for a gun, and Gorham told him he had better go home, as he was not in a state to be trusted with one.

**Mr. Boswell, on behalf of the prisoner,** said, he rose under the most embarrassing circumstances under which he had ever addressed a jury. A man of whom no one had before heard any thing that was ill or disreputable, stood before them charged with the highest offence cognizable by the law; for which, if convicted, he must answer with his life. He expected that the learned Counsel for the Crown, (Mr. Sherwood) in opening the case, would have stated distinctly the facts to which particular importance would be attached by the prosecution;—that had not been done. He (Mr. B.) was therefore left in the dark, and should have to depend upon the chance of anticipating the arguments which would be offered by the learned Attorney General, when no reply could be made. He regretted this unusual course having been taken by the Crown Officers; it was unjust. He (Mr. B.) was also aware that the jury must be under the influence of prejudice, which it would be exceedingly difficult, almost impossible, to lay entirely aside. He spoke it not reproachfully; he had the fullest confidence in the integrity of the jurors. But he was himself prejudiced;—every good man must be so. The recent diabolical rebellion, in which the safety of life, and property, and every thing dear to British subjects was endangered, had excited the honest indignation of every virtuous member of the community. Any man who was unmoved, unexcited by prejudice, was not worthy to be called a British subject, or to enjoy the privileges of one.

(The learned Counsel here dwelt at great length upon the advantages derived by this Province from its connection with Great Britain.) In the wicked attempt to sever that connection, the name of the prisoner had been associated by circumstances beyond his control, which had been adverted to by his learned friend (Mr. Baldwin) in opening the defence. It was well known that the prisoner had been a reformer; and now, the terms reformer, radical, liberal and rebel were become synonymous. Nevertheless, it would be wrong to convict the prisoner of high treason because he had been a reformer. Any man had a right to be so; but if he went beyond proper bounds he ought to be punished. The peace of society required it. But the fact of the prisoner having gone beyond those bounds ought to be clearly proved; and this, he (Mr. B.) had no hesitation in saying, had not been done. Quite the reverse. The charge of treason was not sustained. It had been proved, to be sure, that the prisoner remained at the Tavern where the rebels were assembled; but it could not be proved that he had joined them in any of their proceedings. In his defence, the prisoner would prove satisfactorily that he had not joined them—that he merely remained there in order to save his property from destruction. If this were made to appear, the prisoner could not be convicted; for although the law makes it criminal for a man to join and march with traitors in order to save his property, yet, the law acknowledges his right to remain to take care of it. This was clearly the proper construction of the law, and on the correctness of this opinion he was willing to stake his professional reputation. (Here Mr. B. read from authorities and commented on the law as applying to the case, and proceeded to

comment on the evidence at great length.) He concluded by an impassioned appeal to the Jury, declaring that all he demanded for the prisoner was justice;—an impartial verdict according to the evidence, and to the application of the law in relation to treason, under the direction of the learned judge.

**THE ATTORNEY GENERAL addressed the jury.** Said he felt deeply the painful duty which devolved on them as well as on himself, a duty, however, the discharge of which was imperatively required for the preservation of the order of society. It was, to enquire into the conduct, and pronounce upon the guilt or innocence of the prisoner at the bar, charged with a crime of the highest magnitude which a British subject could commit, and against which the law had always directed its severest penalty—death. His learned friends (Baldwin and Boswell) had very properly cautioned them against the indulgence or prejudice to the injury of the prisoner. It became his duty to remind them that there was another description of prejudice, against which it was equally their duty to guard themselves. Most of them had probably been long acquainted with the prisoner; some had probably been in kindly intercourse with him; knew he had a large family, and was of loyal parentage; and they must take care that their regard for these considerations did not conceal from them the criminality of his conduct. They owed a duty to themselves, to their country, to their peaceable and well disposed neighbours, as well as to the prisoner, and he had no doubt that it would be honestly performed. One of prisoner's learned Counsel had thought proper to remark upon the manner in which his learned friend (Mr. Sherwood) had opened the prosecution; he (the Attorney General) thought his learned friend's course was highly commendable. He was right in not entering into the details of the case before the evidence was produced, feeling satisfied that the intelligence of the Jury would enable them to judge of the testimony as it should be given. A general statement was sufficient, and was certainly not less favourable to the prisoner.

The counsel for the prisoner had laid much weight upon the fact that he was charged with the highest grade of crime. The Jury, of course, were aware that that was of no consequence as respected their duty. It was simply to enquire, whether the witnesses have sworn the truth, and if so, whether the facts proved involve the prisoner in the guilt with which he is charged? Evidence had been brought on behalf of the prisoner to prove his former loyalty and good conduct; but this could not affect the case otherwise than injuriously to the prisoner. For if it were proved that he is now a traitor, then, the more established his former character for loyalty may have been, the more he deserves to be punished; for his bad example would be the more likely to mislead his neighbours.

The more exalted the situation of a traitor, the more flagitious is his crime. History shows the power which great men have to mislead the ignorant and unwary. With reference to the crime charged in the indictment, it was simple—the levying of war. The Court had in a former case explained that it was not necessary to bear arms in order to be guilty of this offence. A multitude of persons may assemble and levy war, without a single weapon. It is only necessary that force of any kind be used. Or if a few are armed, and followed by others, who cheer, or otherwise encourage them, all are equally guilty in law. His learned friend (Mr. Boswell) had laid down the doctrine, and voluntarily staked his professional reputation on it, that "a man is justifiable in remaining with rebels to save his property." He (the Atty. Gen.) begged to deny it in the most positive terms. He called on all who heard the assertion to repudiate it. It is contained in no book. On the contrary it is the duty of every man to put down rebellion at every risk. Nay, more, if rebellion be only in its incipient stages, it is imperative on any person acquainted with it to make disclosures to the authorities;—and if he do not, he is guilty of treason. On this his learned friend and himself were fairly at issue. It was possible that he (the Attorney General) might be in error, but he should be surprised to find that he was. His Lordship, (the Chief Justice) however, would instruct them on that point. (Read various authorities to show that nothing but actual force, or fear of death, will justify a man in remaining with traitors; and that if actual force be proved at any particular time, yet the person must embrace the first opportunity to leave them.) But did the prisoner do this? Far from it. Every witness proved that he might have gone away. Others would have done so. Capt. Stewart and others would have done so, and the rebels knew it, and therefore put them under guard. But was prisoner put with them? It was not even pretended. It was said that prisoner was depressed in his spirits. Nothing was more natural. He must soon have seen the hopelessness of the attempt to destroy the government! He must have been horror-struck when he saw the bleeding body of the gallant Col. Moody, who had bravely fought on many an embattled plain! The exclamation of his poor wife must almost have paralyzed him, "God knows, you have had enough of Mackenzie now!" What man, whose heart retained a single spark of humanity, could avoid relenting when he saw his house made the head quarters of a band of murderers. Still, did the prisoner leave them? No; but remained there, in free and familiar intercourse with them, away from his family, day and night. Did he not know the intention to burn this city, and involve thousands in utter destruction, who had always offered him the hand of friendship, and would have gladly shown him any act of kindness? Did he attempt to save them? Was he not left behind on Tuesday? Could he not have easily got into the city, and disclosed the more than diabolical schemes of the insurgents? The passes were not all guarded. Hundreds came in by the back roads. He might at least have tried. And had he failed, he would not have been now at the bar as a traitor; but, like some of his more loyal and humane neighbours, in the box as a witness. But the prisoner not only remained there, but he furnished them with provisions. Could that be denied? There was his own hand, writing acknowledging the quantity of the meat procured by his orders. This was assenting to the treason, and made him a principal. (Read authorities on this point, with comments.) The learned counsel would not attempt to deny the correctness of this reasoning. The learned counsel had appealed to the sympathies of the Jury in behalf of the large family of the prisoner, and had expressed his confidence that he (the Atty. Gen.) would not urge the case with unnecessary severity. Far from it. He felt the sincerest pity for any unhappy woman and her children, who were brought by the madness of her husband to be the advisers and protectors, into such circumstances of misery and disgrace. God forbid that the

Queen should entertain the most distant wish to punish the innocent; it was often painful enough, under the circumstances, to punish the guilty; but justice must be done. High crimes of this nature could not be passed over lightly;—they ought not to be,—regard to the peace and safety of society forbid it, and required justice at times to assume its sternest aspect.

His learned friend had treated the evidence on the part of the crown with lightness. He (the Atty. Gen.) would only say that to him it was perfectly convincing; and even were the whole of it blotted out, the evidence given on the defence would satisfy the Jury of the prisoner's guilt. (The Attorney General here commented freely upon the evidence, to show that the prisoner remained with the rebels when he might have escaped—that he was never under guard—that on Tuesday he was left alone—that he furnished them with provisions—that in conversing with Ketchum he did not express his disapprobation of their proceedings—did not recommend him to give information—rallied out the armed traitors to give battle to the Queen's supporters—did not attempt to join the loyalists, on their arrival from them, and remained in concealment.) All these considerations, he was constrained to say, made out so clear a case against the prisoner, that it would be a reflection upon the intelligence or the integrity of a Jury to suppose they could return a verdict of acquittal. He should therefore leave the case before them begging them to reflect, that under no consideration should any traitor be acquitted by a verdict of his country, when proved guilty. Every officer of the crown was solemnly bound to demand justice sternly. The evils necessarily connected with rebellion were too dreadful to be lost sight of; they had been clearly exhibited during the recent outbreak. Such purposes as were contemplated by the traitors could not be accomplished without acts of murder, arson, and robbery. Every person who dies by the sword of a traitor is murdered;—every contribution levied by traitors is an act of robbery. The lives and the property of peaceable and innocent persons are constantly endangered by the acts of ruffians. Who could have believed, six months ago, that in this favoured Province, into whose lap Providence has lavishly poured every blessing needed to make life happy—where the laws are founded on the most humane principles—where justice is administered with a purity and impartiality not surpassed in any part of the world—who could have believed that, in the immediate vicinity of this City, five hundred men could be found deliberately importing rifles, and whetting their knives and other instruments of death, for the destruction of their innocent and unoffending neighbours. Yet such was the case! Such a cold blooded plot had been contrived! And nothing but a kind superintending Providence had saved us in midwinter from the most dire catastrophe,—a general conflagration. If the prisoner were, indeed, the kind hearted person which had been represented, why did he not exert himself to save us, with our wives and children, from so fearful a calamity? If it were proper, he would ask the prisoner why he did not interpose, and what right, under such circumstances he had to look for mercy from the law, to which thousands look for protection, who might have been involved in ruin by him and his guilty associates. He (the Atty. Gen.) could not restrain his deep sense of the barbarity of the plot, and the unparalleled wickedness of all who were parties to it. Far, however, be it from him to wish for the unnecessary infliction of capital punishment. But, still, that was a court of law and of justice; the fountain of mercy was elsewhere, and under our happy constitution of government, was always open. If on the mind of the Jury there rested the slightest doubt of the prisoner's guilt, by all means let him have the benefit of it fully. But he (the Atty. Gen.) could not perceive the slightest reason for such doubt; nor could he believe that either the prisoner, or his learned friends, who had so credibly exercised their ingenuity in his defence, could look for a verdict of acquittal. He should leave the case to the dispassionate consideration of the Jury, satisfied that, under the direction of the Court on any legal points bearing on it, they would discharge their duty as upright and conscientious men.

The evidence was then summed up by His Honour the Chief Justice with his usual ability. He charged the Jury at great length, explaining the law, in its application to the present case, and confirming the opinions offered by the learned Attorney General. In remarking on the evidence, his Lordship took occasion to comment severely on the conduct of one of the witnesses (Ketchum) during the rebellion, as stated by himself. The facts detailed by the witness, relative to his interview with the prisoner,—the information which he obtained as to the number of the insurgents, and the plan of operations projected for the capture of the City, and his knowledge of the perfidy of Dr. Rolph, as displayed in his counselling Ketchum to make an exaggerated statement of the strength of the rebels, together with his confessed previous knowledge on Monday that it was the intention of the rebels to attack the City that night, all which he kept in his own breast, making no disclosures to any of the public authorities,—these facts, his Lordship stated, were sufficient to convict the witness of High Treason. His Lordship also expressed his deep regret that the witness still appeared desirous to justify himself for the commission of so criminal an offence, and to manifest no compunction of conscience on account of it. His Lordship took occasion to state, for the information of all who heard him, that any person obtaining intelligence, by any means, of a treasonable conspiracy having been commenced, is sacredly bound by his allegiance to make immediate disclosures, and that the failure to do so is alone sufficient to convict him of the capital offence of Treason, and to subject him to the fearful penalties of the law, as fully as if he had been found actually in arms against his Sovereign.

After the charge the Jury retired, and after a few minutes returned, with a verdict of "GUILTY," recommending the prisoner to mercy; which recommendation His Lordship assured them should be transmitted to the proper quarter.

During the trial the prisoner appeared to be sensible of his unhappy condition. We understand that he has a wife and eight children. O! how must the iron enter into the souls of the guilty co-conspirators of the diabolical plot, who have

fed from justice. By their base intrigues and misrepresentations, multitudes are now involved in disgrace and infamy, and their innocent families overwhelmed with poignant distress, who might have been living in domestic plenty and quiet, and in the peaceful enjoyment of all the blessings guaranteed to every faithful subject by our unequalled constitution and laws.

(Sentence of death was passed on the 10th of April, to be executed on the 24th.)

## COMMUNICATIONS.

Colborne, March 29, 1838.

To the Editor of the Christian Guardian.

REV. AND DEAR SIR,—I will thank you for an opportunity of explaining to our friends, that though I readily acceded to Br. Stinson's friendly proposal that Br. John Ryerson should accompany him to the Missionary Meetings in the Niagara District; and was also, by subsequent engagements, for some weeks, at Kingston and elsewhere, prevented attending similar meetings in other places; yet, I feel undiminished interest in all their affairs and proceedings. It is my intention to embrace the earliest opportunity of paying a preaching visit to each place where I was expected during the winter. Already I have been enabled in a few instances so to do, and have made arrangements to complete the design.

The state of the roads has rendered my present journey rather an arduous and laborious undertaking. But by the blessing of God, and the kindness of several affectionate friends, I have been thus far conducted in peace, and with but a few slight accidents incident to such circumstances. The latter, however, has been more than counterbalanced by the very excellent congregations which have almost invariably attended the several appointments, and by the sacred and sanctifying seasons of spiritual refreshing with which we have often, at those times, been favoured from the presence of the Lord.

It gives me peculiar pleasure to bear testimony to the laborious and devoted attention of our brethren, the preachers, stationed on this circuit; to the solemn duties of their holy office. Well is their time employed (to adopt the forcible words of our venerable Founder) in "seeking, in order to save," the wandering souls of men. They have taken up new appointments in the back country, which I believe they are conscientiously punctual in attending. In some places they have held protracted meetings, and in others frequent prayer meetings, after the usual preaching services; in which they have been faithfully aided by our zealous brethren the local preachers and leaders. These efforts, together with their prayerful intercourse among the people of their charge, have been greatly helpful to the spiritual interests of the Church, and have been encouragingly owned of God in the conversion of many sinners from the error of their ways.

The principal object of my present visit has been, in conjunction with the respected Chairman of the District, to encourage and cooperate with our brethren in some of their special efforts for a religious revival in this neighbourhood; and which have been almost too much for their constitutional strength to sustain. At several of the appointments in the circuit, both in town and country, the spirit of conviction and supplication has been greatly poured out from on high. This has led to an increase of the congregations at those places, and to increased seriousness on the part of the hearers. Many have sought the Lord with tears and cries, and have come forward to request the prayers of the people of God for their conversion. Among these are a goodly number of interesting young people; of whom not a few are the children of praying parents; whose salvation is at once an ample recompense for all the pains and the care of their christian education, and an encouragement to parents in general to be steadfast and unmovable and always abounding in that immensely important work of the Lord.

Some pleasing instances have occurred of persons in advanced life, and of the most confirmed habits of sin, and even of profligacy, having been brought to God. The gracious change in these is most strikingly and delightfully apparent. Their expressions of gratitude for the mercy they have received, and of real enjoyment in the ways of religion, are often affecting and solemnly impressive; while the increased comfort of their domestic connections, to whom in days past their sins were so largely a source of various sorrow, has occasioned results which no philanthropist could behold without the most lively emotions of joyous sympathy. Another engaging feature of this revival, is the quickened pursuit of gospel holiness on the part of some who have, for many years, maintained a christian profession. Several are truly hungering and thirsting after righteousness; while a few are unexpectably happy in the habitual exercise of "the faith which casts out sin, and purifies the heart."

With but few solitary exceptions, here and there, there is but little ungracious opposition to this good work; which by the grace of God, will furnish its own best defence, in the blessedness of its fruits, for days to come. Since in this neighbourhood, I have had the pleasure of personal communication with several of the individuals who have recently been converted, both in town and country; and I am bound to say they have afforded the most rational and scriptural grounds for believing in the saving character of the change they have been brought to experience in their souls. And, making a due allowance for any individual cases of failure, which may possibly or even probably occur, I have had from truly respectable sources, the most satisfactory assurances, that some dozens of persons, by their holy and consistent conduct and conversation, are daily proving the genuineness of the faith they now exercise "on the Lord Jesus Christ."

The truly cheering letter from the esteemed Principal of our Academy, which appeared in a recent number of the Guardian, will have gladdened the hearts of the numerous friends of that invaluable Institution, besides those whose family connections specially interest them in the information it contained. It gives me pleasure to say that my own intimate inspection of the various departments of the Academy, enables me, (however unnecessarily) to add my own cheerful confirmation of those gratifying statements. I have spoken individually with such of the young people as have received religious benefit during the revival, and have been more than satisfied with their artless and unpretending narratives. All of them give a very rational account of the progress of the work of grace in their hearts, and anxious concern for their souls' safety, to the happy enjoyment of acceptance in the beloved Father. Their solicitude to be found faithful in the service of God, evinces their actual entrance upon that service; and will, it is hoped, ensure their persevering attention to those means of grace which are adapted to promote a final fidelity.

Their spirit and deportment, and even their appearance, bespeak the sincerity of their professions. At the family-prayers in the lecture-room of the Academy, there was the most becoming decorum and the most evident religious interest. Conversations, which I have had with the Principal, and with his respected co-adjutors in scholastic labour and responsibility, have been very confirmatory of my own impressions in favour of our young friends. Their orderly behaviour, and their temper of mutual conciliation and kindness, are exemplary. And while a temporary and allowable interruption of some of their religious studies took place during the period of their religious anxieties, yet have they since applied to their various duties with a solicitude for improvement which some had not previously displayed, and with the urgings of a tender conscience in addition to the advantages of an enlightened understanding.

Though there are some of the students who have not professed any religious improvement, yet there is in all that decided and obvious predominance of reverence for religion which is so usefully and properly characteristic of a Christian Institution. In the amusements and recreations of the young people, in the midst of a good degree of buoyancy and activity, it was pleasing to see so good a degree of harmlessness and self-government. In going through the premises, at various times, it has been truly gladdening to behold so many cheerful yet chastened countenances; and I took my leave with the gratifying conviction, that the Institution, family, altogether, exhibits the general features of a happy and improving community.

Within the last two or three weeks, there has been a hopeful revival in progress at the town of Port Hope. Several have sought the Lord, with genuine repentance and faith in Christ; and some have been brought into the happy enjoyment of heartfelt religion. The attendance at the successive services has been encouraging; and to the credit of the inhabitants of the town; with the exception of one violent man, who dragged his daughter from the communion-rails, where she was kneeling at prayer; I have not heard of any unseemly opposition to God's work of saving sinners. I hope it may be in the power of our brethren of this Circuit to give you more ample particulars at a future day.

These indications for good, as it respects the hopes both of the Church and the country, are specially valuable at the present time. They encourage past exertion, and prompt to future and more faithful effort in the Redeemer's service. And viewed in connection with those similar communications with which you have recently animated us from several others of our devoted brethren in different parts of the Province, they strongly call upon us, all, with the great Apostle to the Gentiles to thank God and take courage.

I remain, Dear Sir, Yours, affectionately,

W. M. HARVARD.

St. Clair Wesleyan Mission, 24th March, 1838.

To the Editor of the Christian Guardian.

DEAR SIR,—It is with feelings of deep regret that I find myself obliged, in justice to the cause of Missions, and to that class of men with whom I am appointed by the Church of God to labour, to bring before the public any remarks on the subject of Indian temporalities; but, from their intimate connection between their civil improvement and their spiritual welfare, I consider that my longer silence would be a crime. Confident I am, that a fair and simple detail of facts respecting the treatment of the Indians must produce a favorable feeling toward them, and serve to correct the impression which an uncontradicted perusal of the lately published Despatch of Sir F. B. HEAD would naturally create in England.

I do not enter on the consideration of these matters rashly. They have been the subject of long and serious reflection, and I have only been deterred from an earlier presentation of them by the political disturbances which have for some months past unhappily distracted the Province;—aware that any remarks which could possibly be made to bear unfavourably on the conduct or character of the head of the Provincial Government would be eagerly seized upon by a certain class of political malcontents, and wielded by them to the injury of the public. I have kept silence; but now, when those disturbances have been suppressed, I conceive that no harm can arise from a statement of the true causes of dissatisfaction existing among the Aborigines.

It will be my desire and endeavour to pay all due respect to Sir F. Head's exalted office, and to make no statements but such as I am fully prepared to substantiate; but I am sorry to say, that in noticing his treatment of the Indians, and the injurious imputations which he has thrown on their characters, I shall be compelled, perhaps, in some instances, to appear severe. I trust the following correction of his opinions, and relation of his conduct, may render some service to the Indians; and counteract those effects which must be the consequence of following his recommendations as to their future treatment. I am, dear Sir, yours truly,

JAMES EVANS.

Remarks on the late surrender of the Sauguey Territory;—and the general treatment of the Christian Indians, under the Administration of Sir F. B. HEAD, Lieut. Governor of U. Canada, K. C. H. &c. &c.

No. I.

In the month of July 1836, in company with, and by the appointment of, the Rev. Joseph Stinson, General Superintendent of Wesleyan Missions in Upper Canada, and Representative of the Wesleyan Missionary Committee in London, England, I visited the Munedoelin Islands, for the purpose of imparting christian instruction to the aborigines who might have assembled at the general delivery of the presents annually issued by the British Government. We found assembled, on a small Island in Hayward's Sound in the Sauguey with their people from the Sauguey Village. On the Sabbath his Excellency Sir F. B. HEAD arrived, and on the following day, the Chiefs and principal men of the Sauguey tribe were summoned to his presence, and informed that it was the wish of their Great Father, that they should relinquish their claim to the Sauguey territory, and repair to the Munedoelin Island as their future residence; The Indians were confounded at the proposal.



Toronto, April 6, 1898.



## PROVINCIAL PARLIAMENT.

## HOUSE OF ASSEMBLY.

SATURDAY, March 3rd.  
(CONTINUED.)

Mr. Secretary Joseph brought down several messages and documents from his Excellency, containing a copy of the report received from the Civil Engineer who was to examine and survey the tract of country lying between Lakes Ontario and Seagow, and between the latter and Lake Simcoe, for the purpose of ascertaining the practicability of forming a navigable communication between those Lakes; and a copy of a despatch and its enclosures, received from his Excellency Henry S. Fox, Esq., Her Majesty's Minister at Washington, relative to the destruction of the Caroline; which was read.

Mr. Robinson moved that 500 copies of His Excellency's Message with the despatches of Mr. Fox, and accompanying documents, be printed.—Carried.

The Committee to wait on His Excellency with the Address to transmit certain resolutions to the Receiver and Inspector General, reported the following answer:—

GENTLEMEN—I will cause the resolutions of the House of Assembly which accompany this address to be communicated to the Officers therein mentioned for their guidance respectively.

The Committee to wait on His Excellency with the address to remove certain Collectors in default, reported the following answer:—

GENTLEMEN—I will give the necessary directions towards carrying into effect the desire expressed by the House of Assembly in this Address.

Mr. Attorney General brought in a Bill to authorise the appointment of Commissioners to proceed to England on the affairs of the Province, which was read twice and committed, reported without amendment, referred to a committee of the whole on Supply to add a clause providing for the remuneration of the Commissioners, reported with the clause attached, and ordered for a third reading to day.

A Message came from the Legislative Council transmitting a resolution on sending Commissioners to England, and sundry resolutions respecting the Parliament Building, in which this House was requested to concur, which were severally read as follows:—

Resolved—That this House have given due consideration to the Message sent up from the House of Assembly in answer to the reasons which induced the Legislative Council to refuse concurring in the resolution to send Commissioners to England, and although they feel themselves compelled with much reluctance to differ from the views of the Assembly in a matter of this importance, they do nevertheless still continue to think it expedient, for the reasons already stated, to concur in the measure suggested by that Honorable House.

Resolved—That it is proper to enquire what steps are necessary to prevent the destruction of the Parliament Buildings and the adjoining offices by fire, and to ascertain the cause of the alarming accident which happened last Sunday.

Resolved—That the foregoing resolution be communicated to the House of Assembly, with a request that they will agree to a joint committee with power to send for persons and papers, to take the matter into consideration, and report to both Houses.

The amendments of the Council to the Bill to appoint Commissioners on the losses by the rebellion, were read the first time and concurred in, and the Bill was returned to the Council.

The Committee on Printing presented a final Report, recommending the payment of sundry accounts for Printing done and papers furnished—which was adopted.

The Bill to define the route of the Welland Canal was read the second time and committed, and reported amended.

Mr. Richardson moved that the Bill be read a third time to day, but that it be Resolved, That in the present state of the Province and its finances, it is inexpedient to pass any positive Act in relation to the Welland Canal or its particular route, more especially as many members have absented themselves, leaving the decision of important questions of this nature to less than one half of the House legally constituted.—Lost.

Mr. Robinson moved that the Bill be read a third time to day.—Carried.

The Glenelg Township Bill was read the second time and committed, and the Committee rose thereon.

The Bill to relieve Sheriffs and Gaolers in certain cases of escapes was read the second time and committed, reported without amendment, and ordered for a third reading to day.

The Bill to determine the route of the Welland Canal was read the third time. On passing,

YEAS.—Messrs. Burwell, Caldwell, Chisholm, of Halton, Chisholm, of Glengary, Dunlop, Gamble, Kearnes, McDonnell, of Northumberland, McDonnell, of Stormont, McKay, McLean, Merritt, Richardson, Rutlan, Rykert, Salmon, Shaver, Sherwood, Thomson.—17.

NAYS.—Messrs. Cook, Duncombe, Kearnes, Malloch, McIntosh, McKay, Richardson.—7.

Bill passed, majority 10.

Mr. Robinson moved the title of the Bill.

In amendment Mr. Richardson moved that it be entitled this day three months.—Lost.

Original question carried.

The bill, to authorise the sending Commissioners to England was read the third time.

YEAS.—Messrs. Burwell, Caldwell, Chisholm, of Halton, Chisholm, of Glengary, Dunlop, Gamble, Kearnes, McDonnell, of Northumberland, McDonnell, of Stormont, McKay, McLean, Merritt, Richardson, Rutlan, Rykert, Salmon, Shaver, Sherwood.—19.

NAYS.—Messrs. Cook, McIntosh, Robinson, Thomson.—4.

Bill passed, majority 15, and sent to the Council.

The Bill to protect Sheriffs and Gaolers in cases of escapes, was read the third time and passed and sent to the Council.

The Address to Her Majesty respecting Port Dalhousie was read the third time and passed, and is as follows:—

To the Queen's Most Excellent Majesty.

MOST GRACIOUS SOVEREIGN:—

We Your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, beg leave to represent to Your Majesty, the importance of so improving the Harbour of Port Dalhousie at the western extremity of Lake Ontario, as to render it safe and commodious for Steamboats and Vessels of War. By a recent survey by eminent Civil Engineers, it is pointed out as capable of being made, at no very considerable expense, one of the best and most useful Harbours on Lake Ontario.

The Welland Canal Company, aided by the funds of the Province, have expended large sums of money on this Port—it being the outlet to Lake Ontario of the Welland Canal; and although sufficiently commodious for such Vessels as pass through the Canal, it is not capable of admitting Vessels of War or Steamboats, drawing more than eight feet water.

The River Niagara, twelve miles to the south of Port Dalhousie, is undoubtedly an excellent Harbour, and can afford accommodation to any number of Vessels drawing twelve feet water, or more, but the entrance to it is so completely commanded by the American Fort Niagara, that in time of war not one of Your Majesty's Vessels could find shelter there.

The want of a secure Port at the west end of Lake Ontario, was much felt during the late war with the United States of America; and we earnestly entreat Your Majesty to instruct the Commander in Chief of Your Majesty's Forces in the Canadas, to cause a survey to be made by a competent officer, and an estimate of the expense for Your Majesty's further information—and should his report prove favorable, which we cannot doubt, we hope no time will be lost in commencing a work, which we consider of great national importance.

ALLAN N. MACNAB, Speaker.  
Commons House of Assembly.  
March 3, 1838.

Mr. Speaker reported having received two communications from the Clerk of the Crown in Chancery.—The first reporting the return of Roger Rollo Hunter, Esq., for the County of Oxford, in the room of Charles Duncombe, and the other reporting that a writ of Election had been issued for the County of Grenville, to take place on the 2nd April.

Adjournd.

MONDAY, 5th March, 1838.

The Sergeant-at-Arms brought to the Bar Messrs. Shade, Ferrie, and Aikman, in obedience to the orders of the House.

Mr. Robinson moved that the Speaker do call on them for their defence—having left the House and returned home without leave.

Carried, and the Speaker called on those gentlemen for their defence, whereupon they severally addressed the Speaker.

Mr. Boulton moved that the house having asserted its privileges in sending for Messrs. Shade, Aikman, and Ferrie, they be discharged, and that the Speaker be directed to explain to those gentlemen the impropriety of their absenting themselves from their duties at this important period of the Session without leave.

In amendment Mr. Richardson moved that all after the word "moved" in the original be expunged, and the following inserted:—"that the reasons assigned by Messrs. Aikman, Shade, and Ferrie, for absenting themselves from this House on the 3d instant be entered on the Journals, and that the Speaker do require that those gentlemen do forthwith resume their seats as members of the Assembly."

—Lost.

In amendment Mr. Merritt moved, that Messrs. Aikman, Ferrie, and Shade, having been heard in their defence, they be forthwith discharged.—Lost.

In amendment Mr. Richardson moved that all after the word "moves" in the original be expunged, and the following inserted:—"that the resolution of this House, passed on Saturday last, in relation to Messrs. Aikman, Shade, and Ferrie, be expunged, together with the subsequent proceedings thereon."—Lost.

Original question carried, and Mr. Speaker accordingly explained to Messrs. Aikman, Ferrie, and Shade, the impropriety of their conduct—and those gentlemen took their seats.

A message came from the Legislative Council with an Address to His Excellency to Her Majesty, which that Honorable House had passed—and with the Militia Bill as amended—and stating that that Honorable House had passed the Bill to remunerate William Huest—the Bill to pay certain persons for work done on the Parliament Buildings—the Bill to erect a Dwelling House for the Point Peter Light House Keeper—the Bill granting a sum of money for the support of the Civil Government for 1838—and the Bill granting a certain sum of money for the purposes therein mentioned.

The amendments to the Militia Bill were read twice and amended, reported, and ordered for a third reading to day.

Mr. Robinson moved that the Address to Her Majesty on Port Dalhousie be

sent to the Honorable the Legislative Council for their concurrence.—Carried.

Mr. Boulton brought up the Petition of the President and Directors of the Bank of Upper Canada, which was read forthwith,—praying for authority to the Chartered Banks to issue Notes to twice the amount of their paid up capitals.

Mr. Boulton referred the Petition to Messrs. Cartwright and Ferrie, and the Committee reported a Bill to authorise the Chartered Banks to issue Notes to double the amount of their paid up capital during the suspension of specie payments, which was read twice and committed, reported amended, and ordered for a third reading to day.

Mr. Speaker reported having received a communication from Mr. Secretary Joseph stating that His Excellency would prorogue the Legislature at four o'clock to-morrow.

The Bill to restrain Private Banking was sent down from the Council amended, and the amendments were read and concurred in, and the Bill was returned to the Council.

The amendment of the Council to the Militia Bill, as amended, was read the third time and passed, and the Bill was sent to the Council, with a request for that Honorable House to concur in the amendment.

The Address to His Excellency sent down from the Council, praying him to transmit the Joint Addresses to Her Majesty, was read the third time and passed.

Mr. Sherwood moved that it be Resolved, That in the opinion of this House the Adjutant General's department should be placed upon a more respectable and efficient footing than heretofore, and particularly as this Province now depends in a great measure upon its Militia for defence and support against the machinations of domestic and foreign enemies; and that this resolution be communicated to the Honorable the Legislative Council, in order that that Honorable House may be made acquainted with the importance this House attaches to the passing of an Act similar in its provisions to the Bill sent up by this House to the Honorable the Legislative Council, entitled "An Act granting a salary to the Adjutant General of Militia of this Province, and for other purposes therein mentioned."

In amendment Mr. Robinson moved that the House resolve itself into a Committee of Supply respecting the Adjutant General's department.

Carried, and the House was put into committee of supply, and the committee rose thereon.

At 5 o'clock the House adjourned for two hours, and met again at 7.

The Bill to authorise the Chartered Banks to issue notes to twice the amount of their paid up capital, during suspension, was read the third time.

Mr. Merritt moved that the following be added as a rider:—And be it, &c. That in case the Governor, Lieutenant Governor, or person administering the Government, should require further aid for the public service, the different Chartered Banks which may or have availed themselves of the provisions of this Act, or the Act of last Session, authorising the suspension of specie payments, shall on the requisition of the Governor, Lieutenant Governor, or person administering the Government, take up the Debentures heretofore authorised to be issued, in the following proportions, and not exceeding the following amounts:—The Bank of Upper Canada, the sum of Fifty Thousand Pounds—the Commercial Bank, the sum of Fifty Thousand Pounds—and the Gore Bank, the sum of Twenty-five Thousand Pounds,—which debentures shall not bear an interest during the continuation of the suspension of specie payments: Provided nevertheless that the said Banks shall not be compelled to resume specie payments until the Debentures taken by said Banks after the passing of this Act shall be first repaid by the Provincial Government.—Carried.

Mr. Burwell moved that it be Resolved.—That a humble Address be presented to His Excellency, the Lieutenant Governor, stating that there is reason to believe that measures deeply affecting the future interests of the Provinces of Upper and Lower Canada will be brought under the consideration of the Imperial Parliament during its present Session, and that the presence in England of authorised agents deputed by this House to represent the opinions and wishes of Her Majesty's faithful subjects residing in Upper Canada on subjects in which their interests are involved, is of the utmost importance; and praying that His Excellency will be pleased to appoint the Hon. John Beverley Robinson, Speaker of the Honorable the Legislative Council, & the Honorable Allan Napier MacNab, Speaker of the Commons House of Assembly, Commissioners on the part of this House to proceed to England for the purposes before mentioned.—Lost.

Mr. Robinson brought in a bill to authorise the Receiver General to raise by loan, on the security of the Provincial Stock in the Bank of Upper Canada, a sum sufficient to meet any deficiency in the Revenue for the present year, which was read twice and committed, reported without amendment, and ordered to be read a third time to day.

The bill to authorise the raising of a loan in London at a reduced rate of interest was sent down from the Honorable the Legislative Council amended, and the amendments were read the first time, and ordered for a second reading to-morrow.

(To be continued.)

## ADVERTISEMENTS.

TERMS OF ADVERTISING.—Six lines and under, 2s. 6d. for the first insertion, and 7d. for every subsequent insertion. Above six and under ten lines, 3s. 4d. for the first insertion, and 10d. for every subsequent insertion. Over ten lines, 4d. per line for the first insertion, and 1d. per line for every subsequent insertion.

A liberal discount made on all advertisements continued for more than six months.

Advertisements without written directions will be inserted until forbidden, and charged accordingly.

The GUARDIAN is extensively circulated in all parts of the Province, and among all classes of society, rendering it a very desirable medium for advertising.

Upper Canada Academy.

The Committee of the U. C. Academy are impelled by the state of their finances, and more earnestly to urge upon those who are in arrears for Board or Tuition, the necessity of their prompt attention, to a subject so vitally connected with the maintenance of the Institution. The Royal bounty, though so munificent, has been found inadequate to meet pre-existent claims.

In order to preclude in future the embarrassment which has hitherto encumbered their operations, the committee find it imperative necessary to render operative the Regulation which requires payment for a Term in advance, by all who enter. From the period of the approaching examination, therefore, no student will be introduced into the classes, without a previous certificate from the Accountant that the above regulation has been complied with.

ANSON GREEN, Treasurer.

Cobourg, March 30, 1838.

APPLE TREES.

The Subscriber begs to inform the public, that as he is desirous of closing his Nursery, he will dispose of the whole of his Stock of Fruit Trees, on advantageous terms.

Among his Stock is a great variety of GRAFTED APPLE TREES, of some of the very best sorts, which he will sell at the low price of One Shilling each.

He has also a large number of Apple Trees in their Natural Growth, from 2 to 8 feet high, some of them bearing, which will be sold at Six Pence each.

Also, Several Thousand of Seedlings.

ROBERT JONES.

East side Yonge Street, Lot No. 4, 2d Concession, Township of York, March 30th, 1838.

STRAYED OR STOLEN.

FROM Richmond Hill, a SOLE HORSE, with silvery mane and tail, a white stripe on the face, and a large lump on the right side of the neck. Had on a saddle and bridle, and part of a cart harness. Any person who will return the said Horse to the Subscriber, Lot No. 4, 3d Concession, Markham, will be liberally rewarded.

ISAAC APPLEFORD.

Markham, April 3d, 1838.

INFORMATION WANTED.

THE Subscriber is anxious to receive intelligence of JAMES and SARAH SEARCE, formerly resident in Albion, in the Home District. When Messrs. McCULLAGH parted with them, it was her intention to go to the States; but she has since settled in Goderich, where a letter addressed to her would be thankfully received.

ELIZABETH McCULLAGH.

Goderich, March 19th 1838.

Upper Canada Academy.

THE ANNUAL EXAMINATION of this Institution will take place on Wednesday and Thursday, the 15th and 16th of April. The Exercises will commence at eight o'clock each morning.

The YOUNG LADIES' BAZAAR, the proceeds of which are devoted to the Missionary Cause, will be open during the recess, at noon.

The friends of the Institution, and the public generally, are respectfully invited to attend.

M. RICHIEY, Principal.

Cobourg, March 17, 1838.

WANTED.

A SITUATION in a Dry Good Store, by a young man perfectly acquainted with the business, in all its different branches, and willing to make himself generally useful. The most respectable references can be given. He will have no objection to either town or country.

Address B. Y. Guardian Office.

March 27th 1838.

NOTICE is hereby given that a meeting of the Stockholders of the Grand River Navigation Company will be held at this Office, on Monday the 7th day of May next, for the purpose of electing Directors to serve for the ensuing year.

JOHN JACKSON, Secy G. R. N. Co.

BOOK BINDING.

EVERY description of Plain and Ornamental Binding executed to order, on moderate terms, at 185 King Street.

R. BREWER.

February 1, 1838.

Mr. WOOD, Dentist.

HAS removed to the late residence of G. Walton, Esq., Chevre's Buildings, King Street.

Toronto, Oct. 31st, 1837.

184.

MONEY! MONEY!!

LATE ARRIVALS, at the CHEQUERED STORE, 106 King Street, of FALL AND WINTER GOODS, which will be sold CHEAP FOR CASH.

GEO. D. SEWELL.

Toronto, Oct. 19, 1837.

151.

WILLIAM AUGUSTUS, FANCY DYER, and Renovator of Gentlemen's and Ladies' Apparel, takes this opportunity to inform his numerous patrons that he has removed from his old stand in King Street, to No. 6 York Street, where he hopes to continue to merit a liberal share of public patronage.

417.

BOOT & SHOE STORE.

JOHN DODSWORTH tenders his grateful acknowledgments to his friends and the public of Toronto and its vicinity, for the liberal patronage he has received since his commencement in business, and begs to apprise them that he has removed to 192 King Street, three doors East of Yonge Street, where he hopes, by strict attention to business, to receive a continuance of their favours.

Toronto, Nov. 6, 1837.

417.

STRAY STEER.

CAME into the enclosure of the subscriber, 4th Concession West of Yonge Street, Township of York, last Fall, a Three year old Steer, Black and White colour.

The owner is requested to prove property, pay charges and take him away.

JOHN BOAKE.

March 9, 1838.

35.3w.

## Swords!! Swords!! Swords!!

THE Subscriber respectfully informs the Military Gentlemen throughout the Country, that he is now prepared to execute any order he may be favoured with for Swords of every description. New Regulation Swords constantly on hand, with Steel or Leather Scabbards; also, Sword Belts and Scales for the Shoulders made to order, and forwarded to any part of the Country.

SAMUEL SHAW, No. 120, King Street, Toronto, March 16, 1838.

## Fresh Importations of New Goods.

WHOLESALE AND RETAIL WAREHOUSE, 173 King Street.

S. E. TAYLOR, having opened his New Brick Warehouse, 173 King Street, four doors East of his former well-known stand, begs to inform his customers, and the public generally, that he means to continue his old system of Low Prices, which heretofore has given so much satisfaction.

S. E. T. has now on hand an extensive assortment of STAPLE DRY GOODS, comprising every variety of Fine and Superfine Broad and Narrow Cloths, Fancy CASSIMERES, VESTINGS, MOLESKINS, BARAGONS, and FUSTIANS; Grey and White COTTONS, Printed CALICOES, MUSLINS, LINENS, FLANNELS, BEDTICKS, &c. &c., which he intends very materially to enlarge by his Fall importations.

Merchants from a distance are earnestly requested to call and examine the Qualities and Prices of his Goods before purchasing elsewhere, as he feels confident they will bear comparison with those of any Establishment in the Province.

N. B. The lowest price which can be taken will be asked at once, from which no abatement will be made.

Toronto, August 1st, 1837.

## CLOTHING PANOPTICON, AND FASHIONABLE TAILORING ESTABLISHMENT;

77 KING STREET, third house East of the Market Square.

THE Subscriber, in returning thanks to his friends who have favoured him with their patronage, and the public generally for the support which he has hitherto received, begs leave to announce the arrival this week of a splendid assortment of West of England Broad Cloths, Cassimeres, Debonair Kerys, and Backings; together with Trimmings, Vestings, and Summer Goods; of a quality not usually offered here, and such as he feels confident will render ample satisfaction, as he had them particularly selected at Home for this market.

Mr. THOMAS EDMUNDS, his Foreman Cutter, whose experience in the Trade, having been in a similar situation with Backmaster, New Bond Street, London, warrants the subscriber in saying, that a trial will, on his part, ensure success; and he hopes, by punctuality to business, to render general satisfaction.

N. B. All orders executed with neatness and despatch.

ROBERT HAWKE.

Toronto, May 7th, 1837.

## NOTICE.

THE Undersigned, having authority to arrange the affairs of the Estate of the late SIMON WASHINGTON, Esquire, deceased, requests that all persons having claims against the said Estate, will send them to the Subscriber, properly authenticated, with every necessary information concerning the same. And it is also requested that those persons who are in any manner indebted to the Estate will make immediate settlement, otherwise steps will be taken to enforce payment.

JOS. C. MORRISON.

Toronto, 9th October, 1837.

## OLD COUNTRY AGENCY.

THE Subscriber intending to leave Canada about 20th April next (to return in the Fall) on his second Tour in the Old Country, visiting London, Birmingham, Liverpool, Hull, and Norwich, again offers upon reasonable terms to take charge of Powers of Attorney, and to transact such Law Business and other reputable Commissions as may be entrusted to him.

Unexceptionable references and further information may be obtained by personal application, or by letters (post paid) addressed to Glasgow, Dublin, and Belfast, should sufficient Commissions offer.

EDWARD B. PALMER, Notary Public, &c.

Oakville, Gore District, U. C.

1st February, 1838.

## Superior Patent Pumps.

FOR WELLS, CISTERNS, TANKS, &c.

THE Subscriber invites the attention of the Public to the above article—an assortment of which he has now on hand, at his Manufactory in St. Catherine's U. C., where he is also prepared to execute all orders for the same, at wholesale or retail, on short notice.

The superiority of these pumps over all others, consists in their cheapness, durability, the quantity of water and ease with which it is raised, and their not being liable to freeze in the coldest weather. They occupy but a small space, do not injure the purity of the water, and are not liable to get out of order.

N. B.—It is necessary that all orders for Wells or Cistern Pumps should give accurate measures of the same, from the top of the platform to the bottom of the Well, &c., so that the length may be formed suitably, at the Shop.

A low, but uniform and fixed price is put on these pumps, when taken at the shop; or, as is more common, they will be conveyed wherever ordered, and set in operation at a moderate charge.

M. MILLS, St. Catherine's, Jan. 4th, 1838.

The following named Gentlemen will act as Agents, for the sale of the above Pumps, at their respective places of business, viz:—

Messrs. WATKINS & HARRIS, Toronto.

A. CARPENTER, Hamilton.

All kinds of Iron Turning, Drilling, Cutting Screws and Spur Gears, done to order, at the above Establishment, with neatness and despatch.

The above Pumps may be seen in operation at the Stores of SAMUEL E. TAYLOR.

WILLIAM WARE, and WATKINS & HARRIS.

Price for Cistern Pump £3 0 0, and 7½ per foot for pipe.

Price for Well Pump £3 10 0, and 7½ per foot for pipe.