

THE ST. JOHN RIOT.

TRIALS OF THE RIOTERS.

[REPORTED EXCLUSIVELY FOR THE CARLETON SENTINEL.]
ST. JOHN CIRCUIT COURT.

August 15th, 1849.

Joshua Corchray, Charles Hegan, and John Hagarty were arraigned at the bar and charged with violently and feloniously assaulting His Worship the Mayor, of St. John, on the 12th day of July last; and pleaded *Not Guilty*.

The jury were called according to the panel, and the prisoners exercised their right in rejecting some three or four. When Mr. Francis Collins came up to swear; the following conversation took place.

ATT. GENERAL.—Have you ever expressed an opinion on this case? (A pause.)
ATT. GENERAL.—I ask you, Mr. Collins, if you ever expressed an opinion on this case? (Mr. Collins evaded the question.)

ATT. GENERAL.—Did you not say that "the Mayor did not get half enough of it?"
MR. COLLINS.—Yes, I did.

ATT. GENERAL.—Then you cannot serve.

In the course of calling over the panel the name of John Dever was called, but he was not in Court, and the jury was made up without him, the last person called and sworn being Mr. Henry Fotherby. The twelve Jurymen (not one of whom had been objected to) were sworn, and had taken their seats, when Mr. Dever came in Court. Mr. Ritchie, counsel for the defence, then objected to the jury, saying that Mr. Dever ought to have been on it. The Attorney General objected at first to any change, but at length consented to substitute Mr. Dever for Mr. Fotherby, which was accordingly done, not, however, without considerable demur on the part of the jurors.

The Hon. Solicitor General opened the case. The prisoners were indicted under an Act passed at the last session of the Legislature, one count being for "attempting to do Robert Duncan Wilnot some serious bodily harm;" and the other count being "for striking the said Robert Duncan Wilnot with a stone, or brick-bat, thereby manifesting a design to kill." Both of these acts under the law are felony, the first being punishable to the punishment of imprisonment for a term not exceeding four years; and the second liable to imprisonment for a term not exceeding seven years. His Honor's address was calm and dignified. He explained the law to the jurors minutely; he then quoted from authorities to show that the arch, or festoon, thrown across the street at York Point was a nuisance, which any one of Her Majesty's subjects had a right to remove, or even to cut away,—that the mayor very properly attempted to remove it, in doing which he was violently assaulted, and his life endangered. He then proceeded to the examination of the witnesses.

R. D. WILNOT, Esq.—Is Mayor of St. John; was so on the 12th day of July last, and acted in that capacity. Was on South Market Wharf on the morning of that day, about 10 o'clock, or nearly, heard shots in the direction of York Point; immediately went and told H. Gilbert, Esq., a Magistrate, and asked him to go with him to the spot. Went to the Police office expecting to find several policemen, as he had, on the previous day, given orders for them to be assembled there: found only one man, whom he took with him. Walked faster than Mr. Gilbert; met Josiah Wetmore, Esq., one of the Aldermen; got him to accompany him; also met Nixon and another policeman in Dock Street, and took them along. On arriving at York Point saw an arch extending across the South end of Mill Street; passed under it, went to a house and enquired of the people standing there who put it up, but got no definite answer. It was an inverted arch, supported on either side of the street by a pole: these poles were probably 16 or 17 feet high; judged the centre of the arch to be about ten feet high. Had heard of this arch having been erected before he heard the shots fired.—There was a crowd in the street, mostly on the sides of the street, many standing near the poles, and people scattered all along the street. Told the people the arch was contrary to law, and must come down. One man said it was a shame he would allow the Orangemen to walk. Then told the crowd that he'd have the arch down, and then he endeavored to prevent the Orangemen from walking. Then told Nixon, the policeman, to take down the arch; he went to do so, but a crowd gathered around him, and Nixon returned towards him (the Mayor) and said he had been resisted. Went himself to the pole on the west side of the street, and said it must come down. The crowd made a rush towards him, saying it should not come down. The prisoner Hagarty was one of the foremost, and most violent of the crowd. They came on and pushed him. Hagarty was one of them, talking loud, and saying "it shant come down." As they pressed upon him very violent language was used, such as swearing, and "down with him," and "drive him out of that." He faced the mob, and they pushed him backward towards an open cellar; they appeared determined to push him off the platform into the cellar. They pressed him to the very brink, when Nixon caught him and flung him round past himself, where the crowd was not so dense. There was brick, stone, and rubbish in the bottom of the cellar; judged it to be eight or nine feet deep. Could not say positively whether the crowd pushed him merely by advancing in a body, or whether the foremost laid hands on him. After he escaped the cellar, and got into the street, they commenced throwing missiles at him. Did not see Hagarty then. Cannot identify the other prisoners. The faces of the people in the crowd were not familiar to him. Was struck in the side of the head by a stone, which must have come from the crowd he had just emerged from. Others had stones in their hands, with which they struck him on the top and back parts of his head; his hat was cut, he was stunned, and nearly knocked down. Messrs. Wetmore and Gilbert were there; they were the only Magistrates besides himself. Mr. James Gilbert and Mr. James N. Thain were also there. He was much hurt, when Mr. Frederic Coster came to his assistance, and got him away; came off down Dock Street, leaving the arch standing, as he had not force enough to take it down. Got his wounds dressed, and then went to the barracks for the military.

Cross examined by Mr. Ritchie.—Knew the prisoner Corchray previous to the riot; did not see him in the crowd. Did not see Hegan in the crowd so as to identify him. Had heard of the arch about fifteen or twenty minutes before he heard the shots fired. Had been told on the 11th of July, by Mr. Gallagher, a Magistrate, that the Orangemen were going to walk, and that if they did walk there would be bloodshed. Saw the Orangemen walking on the morning of the 12th, in Prince William Street; they wore their scarfs, &c., and had a band of music with them, and banners flying. Judged their number then to be from eighty to an hundred. There was not a great crowd following at that time, nor was the street occupied so as to prevent any one from passing about his ordinary business. There was at that time twenty-one policemen in the city, and he had given orders to the Captain to have as many of them as possible in Market Square. Some time afterwards saw the Orange procession come out from Cooper's Alley; their numbers had much increased, and they must then have numbered several hundreds. They had their bands, flags, &c., with them. Did not think at that time there were people in the country bad enough to shoot each other for wearing either green or orange. Thought it possible there might be a breach of the peace, and had in consequence given orders to the police to be prepared. The procession and the crowd of spectators were so numerous that they might possibly obstruct people from passing to and from their ordinary occupations. Consulted with his legal advisers as to whether, as Chief Magistrate he had the power to prevent the procession, and they told him he had no right to interfere until there should be a breach of the peace. Did endeavor to prevent the procession by persuading some of the leaders. Saw no arms in the procession but a sword in the hands of the person who led on horseback. Did not see the procession pass through York Point—it had passed before he got there. Went there immediately after hearing the shots. Thought it probable the crowd he found there had assembled in consequence of the procession. If all had passed off quietly he should not have gone there to pull down the arch. The crowd at York Point appeared composed chiefly of laboring men, and there were some women and children in the street. Before he got there he heard that a breach of the peace had been committed, but did not know it by personal observation. Thought the centre of the arch so low that high vehicles could not pass without lifting it. Could not say that it obstructed the street as much as the procession did.

Mr. RITCHIE.—"Did it never occur to you that it was a strange law which empowered you to remove the lesser obstruction and not the larger?"

WITNESS.—"When I went to pull down the arch, I had determined to prevent the procession from coming back." Mr. Gilbert was considerably excited; heard him say "the authorities must be obeyed." Did not see any other person so much excited at the time. Can't say that was the cause of producing corresponding excitement in others. Did not think it made any difference, as the mob were determined to resist the destruction of the arch, and would have done so though all had kept perfectly cool. Was quite cool himself. Cannot say positively if hands were laid on him at first, or whether he was pushed by the onward pressure of the crowd; but thinks that hands were laid on him. Mr. Gilbert's manner was excited, and his voice loud. The crowd increased after the discussion began. Did not think there would have been any riot then, if the arch had not been interfered with. The whole affair was over in about six or seven minutes. The only precaution he took on account of the procession was to order out all the police. There were five or six policemen stationed in Dock Street. Saw the cellar spoken of the evening after the riot, and again the next morning; judged it to be eight or nine feet deep. Saw Hagarty in the riot, and he was very violent. Can't swear positively that it was he who made use of the expressions he (witness) had repeated. Saw the Orange procession on their return from Portland; some of them were then carrying guns. Saw that if he persisted in the attempt to take down the arch he would lose his life. There had been no contention between the police and the people previous to the attempt to pull down the arch.

To the Solicitor General.—Mr. Gilbert was not excited until after the policeman had been resisted in the attempt to take down the arch. Mr. Gallagher the Magistrate was not present during the riot,—he (the Mayor) was accompanied by two Magistrates only.

JOHN NIXON.—Is a policeman. On the morning of the 12th of July received orders to go on duty,—it being his turn to be off duty,—and to remain about Market Square. Heard a great noise up Dock Street, and there was a rush of people down the street. Went to Sharp's corner and from thence saw the arch; the procession was passing under it; they were obliged to lower their flags as they passed. Saw a shower of stones fired on the procession from each side of the street, and then followed up Dock Street. Did not think a coach could pass under the arch. Saw that the crowd were not very well disposed, and seeing no other policemen there, turned back. Met the Mayor and Mr. Wetmore, was ordered to go with them, and did so; passed under the arch; there was a large crowd of people there; received orders from the Mayor to pull down the arch, and proceeded to do so. Went up to the pole on the west side of the street; it stood in a cellar, and was tied there. Took hold of it to take it down; there was a crowd in front of the pole, the prisoner Hagarty among them, who told witness to be off. Replied that it was the Mayor's orders the arch should come down; Hagarty said "I don't care a damn for the Mayor; we put it here, and we'll keep it here." The crowd then moved up saying "give it to him; clear him out of that;" while others said "no; he's a watchman, don't injure him." Retreated towards the Mayor, whom he met, and told the Mayor in a low voice it was foolish to attempt to take down the arch; Mr. Gilbert then said "the authorities shall be obeyed." The Mayor then went towards the pole; the crowd were becoming violent, and making use of very violent language. The Mayor spoke to them calmly, but they cried "drive him off." Hagarty was then in front of the crowd. They then began to push the Mayor towards the cellar; Hagarty had hold of him by his clothes, or was pressing his hands on his breast, which, he (witness) could not tell. Just as the Mayor was on the point of falling into the cellar, witness caught him and swung him round into the street; thinks that saved him; the words the crowd were then making use of were "give it to him," "drive him out of there," and "he'd better be selling flour." Thought the cellar was six or seven feet deep; did not see the other prisoners there. Had hard work to save himself. Saw men with bricks in their hands, and saw one thrown. Got separated from the Mayor by the crowd, and did not see him again till all was over. At the time he seized the Mayor, he (witness) put out his hands expecting to fall into the cellar, as he lost his balance saving the Mayor; but some one held him. The crowd then rushed past him, and afterwards seeing the Mayor's hat on the ground he took it up, and carried it to him; found him in Market Square, and then saw that he had been beat, and that his head was bloody. The mob was very large and violent.

Cross examined by Mr. Ritchie.—Was off duty on the morning of the 12th. Went to see the procession, but was not with it. Saw it pass Market Square, and supposed it to contain some hundreds of men. Saw three or four flags; some of them very large. One of them had a man on horseback (supposed it represented King William) on one side, and the Queen on the other. There was one Union Jack. It was the first Orange procession he ever saw. Did not belong to the society himself, although he once was a member; it is several years since he left them. Saw a man on horseback in Market Square, but did not see him at the head of the procession, until after they returned from Portland. Thinks that when the last of the procession left Cooper's Alley, the first were in Dock Street. Thought the shots were fired from pistols, and that they were fired in Mill Street. Did not hear more than two shots, and does not know by whom they were fired. Heard Mr. Wetmore first say the arch should be taken down. When Mr. Gilbert came up saw him making way with his hands. All the persons there appeared to be more or less excited, except the Mayor. Does not think Mr. Gilbert was so much excited as the persons who composed the mob. Did not see Corchray or Hegan in the mob, although they might have been there and he (witness) not see them, there was so much confusion. Does not think any persons who were in the procession, or the spectators who accompanied them, were in the mob, thinks the spectators either went on with the procession or turned back when the shots were fired; met many of them coming down Dock Street.

HARRY GILBERT, Esq.—Is a Magistrate. Was called upon about 10 o'clock on the morning of the 12th of July, by the Mayor, to accompany him to York Point; went there with the intent to see the leaders of the Orange procession, and endeavor to prevent the parties from coming into collision. The Mayor out-walked him, and went ahead. Found a crowd at York Point; supposed them to be about 200 persons. Passed under the wreath and did not observe it at first; then looked around and saw it, and remarked to the Mayor that it had better be taken down. The Mayor agreed with him, and issued his orders to the constables. Went forward to assist the constables, as the crowd showed a disposition to resist; was struck, and a rush was made to carry him towards an open cellar. Witness's son James was there, and remarked "we have been here long enough;" replied "I think so too." Crossed over to the eastern side of the street; saw a boy strike a man, thinks it was the Mayor who was struck; seized the boy, but the crowd rescued him. Saw the Mayor again with his face bloody, and upon his return to Market Square found his own face bloody, his jaw hurt, and his hat cut. Saw a man in the crowd with a cartman's whip in his hand, and thinks his head was cut with a blow from that whip. Had since ascertained that man was Hagarty. The mob said "this is our district and we'll defend it." Cannot identify the other two prisoners.

Cross examined by Mr. Ritchie.—Had heard of the procession, and thought it possible there might be a collision. When he arrived at York Point understood that the procession had just passed through. The people were very much excited. When the constable went to take down the wreath, saw Hagarty as one of the most active in resisting him. Saw no stones in the hands of the mob, nor any weapon among them but the cartman's whip.

THE CUBA EXPEDITION.—The Philadelphia North American says, in its comments on the Proclamation:—

"Intelligence has reached us, from a reliable source, that a force numbering between five hundred and eight hundred men, has recently been assembled at Round Island, opposite Pascoungala, under the command of a Colonel White, who figured not long ago at Yucatan. It is said that the sum of \$250,000 has been deposited in Mobile, to promote this nefarious movement, the particular direction of which is not yet distinctly ascertained, though its destination is supposed to be Cuba. Rendezvous, with the view of enlisting men have been opened at Baltimore, New York, and Boston, as well as at Mobile and New Orleans."