

down Nelson Street, when witness lost sight of him. When the waggon turned down North Street saw men running across the ruins.

Cross-examined by Mr. Ritchie.—The building of which he stood was pretty high; not so high as the Court House, but should think it half as high. Stood on the front walk, leaning against the rafters, which were just put there. Stood on the bricks. Knew Kearney before, as he (witness) is an apprentice with Mr. Spiller, a blacksmith and is often sent to Mr. Carvill's store for iron, where Kearney is employed. Saw Boon fall as soon as Kearney fired. As Kearney was the only man he knew in the crowd, he kept his eyes upon him. As soon as he had thrown the missile he ran down to Raymond's store door. Did say upon a previous enquiry that there was some probability* he might have been mistaken, but when he said so he was bothered by a severe cross-examination. If there was another man there resembling the prisoner closely, it is possible he might be mistaken at the distance at which he stood. Knew the prisoner by his profile, and by an apron he wore, and usually wears.—Kearney was the man to the best of his knowledge.

Re-examined.—At the period of the previous examination had no doubt of the prisoner's identity, and has none now.

(Here the prosecution closed)

JAMES JOYCE.—Was standing at the corner of Union and Nelson Streets on the 12th of July when Boon's waggon passed. Kearney was standing near him, on Mr. Lawton's platform, and could not have been where the last witness said he seen him. Was not out of witnesses sight for some time previous, and while the waggon passed, and is positive he threw no missile, and took no part in the riot.

Cross-examined.—Witness was standing in the doorway of Mr. Raymond's Store, directly opposite where Kearney stood, and looking up Union Street towards the crowd. Saw the waggon come from Smith Street, and saw it attacked by a shower of Missiles; did not see Boon struck. One stone came over the waggon, and into Mr. Raymond's Store at the doorway. Did not see Boon fall. Had known Kearney for some time; he had crossed the street from Lawton's before the waggon came up, and was then in Mr. Raymond's Store; he ran across as the waggon was coming up Smith Street, and remarked to Mr. Raymond that the stone which came in the store was near striking him.

Re-examined.—Stood in such a position as to know that Kearney took no part in the affray. Should not have known him from the distance of Rankin's building.

THOMAS F. RAYMOND.—Keeps a store at the corner of Union and Nelson Streets. Saw the prisoner Kearney on that day before the procession returned from Portland, and some time before he saw Boon's waggon passing, Kearney during this time was not over twenty yards from his (witness's) store. Kearney is in the employ of Mr. Carvill, whose store is in Nelson Street, and quite near. At the time the waggon passed Kearney was in his store, where he had been a short time previous. The horses were at full speed. Kearney was not out of his sight during the time the waggon was passing, and remained there long enough afterwards for the waggon to reach King Street. He had no stone in his hand, and took no part in the affray, but appeared anxious to avoid it. If he had done anything witness must have seen it.—Has known Kearney for some time, and believes him to be a quiet young man.

Cross-examined.—Saw the waggon pass. Boon was in a leaning posture. There was a crowd of probably 100 persons in Union Street, and a great many stones were thrown. Saw a man run forward and seize the reins, and Boon attempted to whip him off. Coaches had passed previously, and had been attacked, but not so severely as Boon's waggon.

THOMAS G. BARR.—Is a Clerk in Mr. Carvill's store. Kearney is employed there. Saw him there on the morning of the 12th of July. He was out, and came in about fifteen minutes after Boon's waggon passed. Witness took him to task for being out, as he had received orders that morning not to allow any of the young men to leave the store. Prisoner spoke about the attack on Boon as a cowardly attack upon an inoffensive man.

JAMES CHAPMAN.—Knows the prisoner Driscoll, and was in his company on the 12th of July from between ten and eleven o'clock until twelve. Was at York Point after the procession went over, and Driscoll with him. Saw the waggon driving through Smith Street and pass Sweeney's corner; (Corner of Smith and Union Streets); witness and Driscoll were then standing at the head of Dock Street, corner of Dock and Union Streets. Did not see Driscoll with a brick-bat in his hand, nor anything else, nor did he see him throw anything all the time the waggon was passing. They had been standing there for some time before the waggon came up.

Cross-examined.—Could not swear positively that Driscoll did not throw a brick-bat. He might have done so as witness's head was turned.

Re-examined.—Thinks Driscoll did not throw any missile. Thinks he would have seen him if he had done so.

(Here the evidence closed)

MR. RITCHIE, in addressing the Jury, said this was another affair growing out of the unfortunate 12th of July. It was the result of that detestable party spirit which was kept alive by a portion of the community—these transactions were its legitimate fruit, and were of such a nature as to make the innocent portion of the community tremble for the ultimate consequences. He deplored and denounced the attack made upon Mr. Boon, but while the Jury no doubt did the same, they should take care not to punish the innocent for the guilty. Men were apt, when a crime was committed which they abhorred, to be satisfied with a smaller amount of evidence than in ordinary cases. That was wrong and the prisoners in all cases should be fairly and calmly tried according to the indictment and evidence. There was one remark he would make in connection with these riots, there were twenty policemen employed and paid by the city at the time the riots took place, and a police force in Portland, and it was an extraordinary fact that not one of them was present to preserve the peace—to prevent the row which much must have been anticipated, and to bear testimony against the guilty. Had any policemen been present, cases need not have been referred to the Jury upon such vague testimony as in this case. Mr. Ritchie censured Boon for the manner in which he had given his evidence, and then went through the evidence given, contending that the only two there was any proof against (Hagarty and Driscoll) were not together, and had no connection with the mob at the corner of Mill and North Streets, and the corner of Smith and Union streets, and therefore could not, on the first count, be found guilty of riot. He also contended that as neither of them had struck Mr. Boon, they could not, on the second count, be found guilty of a common assault.

THE HON. ATTORNEY GENERAL, in addressing the Jury, said this was a riot growing out of the memorable 12th of July, and one that was distinguished for its ferocity—a ferocious spirit, the existence of which must be regretted in any community. It was surprising that so many should collect together for such a purpose; and he was astonished that some two hundred men could remain there for hours, holding possession of the public streets and attacking every one who passed, while thirty-three Magistrates resided within the sound of their shouts.—Magistrates who are bound to preserve the peace—and not one of them present! It convinced him that a speedy revision of the Magistracy of St. John was necessary. With regard to the prisoners, two of them must be acquitted; and it was for the jury to decide upon the guilt or innocence of the other two; and he must say that it was a strange circumstance that after all the efforts of the law officers of the Crown, those two were all they could find any evidence against, out of the hundreds who were present. In reply to the Learned Counsel for the defence that, owing to the want of connection, the prisoners could not be convicted on the first count of the indictment, (riot) he contended that the shout given when the waggon first came up was the signal for action—a signal which was well understood, and acted upon all along the line. Those in the streets prepared themselves, while those in the houses ran out. They were as much connected as the different sections of a regiment. Hagarty heard the shout, and ran out of the house with a stone in his hand. Driscoll had also done his best to stone the waggon, and if he was drunk that was no extenuation.—The Learned gentleman wound up by condemning in unqualified terms the Orange Procession, of which he said this was the fruit, and exhorting all parties to a Christian spirit of forbearance, and virtuous emulation.

* Witness evidently meant possibility.

HIS HONOR JUDGE CARTER, in charging the Jury, explained the law, and directed the acquittal of McCarthy and Kearney. In reference to the other prisoners he said it was a question for the Jury to decide whether or not they were guilty on the first count. On the second count he thought there were doubts whether they could be convicted. If three persons had thrown brick-bats, it was a riot, for there was no doubt but the people assembled there to prevent others from passing along the public highway. The main question for them to decide was whether Hagarty and Driscoll were connected with those who assembled for the common purpose of obstructing the highway.—His Honour then read the evidence and commented upon it. The Jury then retired, and after about an hour's absence returned, acquitting McCarthy, Kearney, and Driscoll, and finding Hagarty guilty of a Common Assault.

REMARKS ON THE ABOVE TRIALS.

Nothing could be more bitter than the Attorney General's denunciation of Orangemen, and the party spirit which (he says) they keep up. Whatever may be Mr. Wilmot's opinion of the matter, we can tell him that all the Orange Lodges in New Brunswick have not, for the past year, done half so much to keep alive party spirit as he has done by his gratuitous and officious meddling with the duties of the local Magistrates. We would also recommend Mr. Wilmot to alter his manner of closing a speech.—as prosecuting officer in Court, at least, if he does not in the Legislature. It is in exceedingly bad taste for a speech, remarkable in some passages for its daring and threatening character, and in others for its bitter and insulting denunciations, to dwindle into a sermon at its close! And it is not only in bad taste, but a vain and foolish endeavour to deceive the community, for an orator to assume the garb of hypocrisy, and preach up Christian forbearance, when every one knows that he has been actuated by the most vindictive feelings.

As to Mr. Ritchie's conduct upon this occasion we shall say nothing. And as to the prisoners, in McCarthy's case there had been a most egregious blunder committed, in arresting the wrong man! Young Howe must have been mistaken with regard to Kearney. In Driscoll's case a doubt may possibly be entertained, and if so, he was entitled to the benefit of it. But in Hagarty's case it is singular that the Judge's instructions were disobeyed, and that he was found guilty on the second count of indictment instead of the first! The Jury was composed of eight Protestants and four Catholics, and this verdict looks very much like a compromise,—a practice which, we regret to say, is becoming quite common.

THE ENGLISH MAIL.

ARRIVAL OF THE CALEDONIA.

HUNGARY.

In the South, about Peterwardein, a good deal of active fighting is going on, but we have no positive information of General Haynau having joined the forces of the Ban; it is not unlikely that the Hungarians may, in that quarter, out-manoeuvre the Austrians after all. General Nugent, at the head of about 14,000 men has got as far as Funtkirchen, but there he is at a stand still, waiting till he hears from Haynau.—In the meantime we learn with tolerable certainty that the right bank of the Danube, between Vienna and Pesth, is entirely interrupted, and it is again reported that the Hungarians once more occupy Pesth. It seems from the little we have thus described, that in almost every position the Hungarians maintain their ground, and in several they are undeniably conquerors. If they can defy the Viennese so close to the capital as Raab, it is quite plain that the Russians and the Austrians have heavy work to get through before they can quell the "insurrection." Prince Schwartzembourg has proceeded to Warsaw, to have an interview with the Emperor on the state of affairs. It is reported that his object is to obtain additional aid from Russia, but that Nicholas declines plunging himself deeper into the affair. General Lamoriciere, the ambassador of France, has reached Warsaw, and has been received favourably by the Emperor. The influence of France, now thrown into the scale with England, might secure to the Hungarians an honourable peace, and the accomplishment of all their wishes. Venice holds out, and a feeling is rising amongst the French clergy, expressed through the Archbishop of Paris, who is moving to procure honourable terms for the noble Venetians. The Archbishop's letter to the Minister of Foreign Affairs on this subject is a noble and eloquent appeal in favour of oppressed humanity. Rome presents a gloomy aspect, and its immediate future destiny will prove we fear a sad one. The cardinals have forgotten nothing, have learnt nothing. General Oudinot is undoubtedly recalled; and it is said that part of the French troops are to be immediately withdrawn. But the Papal triumvirate, which has succeeded the Red Republican triumvirate, has restored the *status ante quo*, and all things portend, from the deep-seated resentment which is gathering strength among the Romans, that the moment the French troops are withdrawn there will be a fresh revolution. Mazzini is in Switzerland; Sergeant Boichot has joined him from England, and a little congress of Red Republicans has been held at Geneva, to promote the liberty, if not the peace of the world.

CHOLERA.

From the apparent decline of the mortality from cholera towards the close of last week, we were for a day or two in hopes that we had reached the crisis of the malady, and that a satisfactory change was occurring in the public health. We regret to say that the mortality seems to be spreading rather than diminishing; or, to speak more correctly, as it diminishes in its virulence in some places it breaks out in other and more distant localities, so that we have the melancholy duty to announce a considerable access to the daily number of cases.

PRUSSIA.

The Liberal members of the Chambers have held a meeting, and drawn up a sort of profession of faith, of which the following are the leading points:—immediate revision of the constitution, in such a manner as shall secure the public liberties from all curtailment; consolidation of the constitutional monarchy, through the medium of lawful order, based on constitutional liberty; speedy deliberation of organic laws on the principles projected by the Government; stringent support of the Government in its intended efforts to carry out the German constitution, as proposed in its project of the 28th of May last.

General Wrangel has been officially appointed governor of Berlin. In the Chamber of Deputies of Berlin, on the 11th, Count Schwerin was elected president by 176 votes out of 285. He thanked the Chamber, and stated its mission was to employ all its efforts to establish the unity of the great German nation. M. Simson was elected first vice-president by 140 votes, against 102 given to Count A. Boyzenburg, candidate of the extreme right. M. Lensing, of the moderate right, was elected second vice-president. It had previously been intimated that the election of M. Simson would not be agreeable to the Government, and that ulterior measures might be adopted in the event of its taking place.

LIVERPOOL TIMBER MARKET.

The contentions that have so much agitated the different states in Europe appear to be subsiding, and confidence as to the safety of extending commercial transactions is gradually being restored. It is gratifying to observe that those engaged in trade in the manufacturing districts are now enjoying a greatly increased demand for their productions for home use as well as for exportation. Importers of most descriptions of foreign produce, too, are experiencing an improved demand at better prices, but the supplies from Quebec of square Timber have been of late on so ample a scale that the market has become heavy, whilst from St. John the arrivals have been unusually limited, and are likely to continue so. Deals, however, are recovering from the very low prices at which they have been some time past.

It is reported that Chief Justice Haliburton (the author of "Sam Slick") intends to retire from public life, shortly, on a pension.