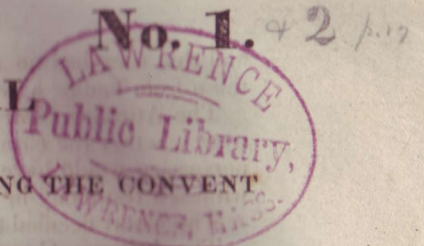


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Charlestown Convent.

Trial of
Persons charged with
burning the Convent
in Charlestown, Mass.

[TO BE PUBLISHED IN NUMBERS.]



THE TRIAL
OF THE
PERSONS CHARGED WITH BURNING THE CONVENT
IN THE
TOWN OF CHARLESTOWN, (MASS.)

BEFORE THE
SUPREME JUDICIAL COURT,
HOLDEN AT EAST CAMBRIDGE, ON TUESDAY, DEC. 2, 1834.

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SUPREME JUDICIAL COURT,
CAMBRIDGE, DEC. 2, 1834.

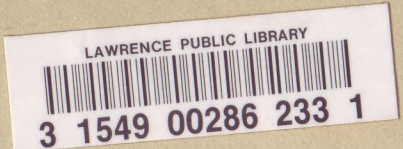
THIS day came on the trial of the persons indicted as being concerned in the Burning of the Ursuline Convent, at Charlestown. Their names are as follows :

JOHN R. BUZZELL, Charlestown.	AARON HADLEY, Boston.
PRESCOTT P. POND, Boston.	BENJAMIN WILBUR, Boston.
WILLIAM MASON, Charlestown.	ISAAC PARKER, Cambridge.
NATHAN BUDD, Boston.	ALVAH KELLEY, Charlestown.
MARVIN MARCEY, Cambridge.	EPHRAIM G. HOLWELL, Charles-
SARGENT BLAISDELL, Charles-	town.
town.	THOMAS DILLON, Boston.

Chief Justice SHAW, presiding ; PUTNAM, and MORTON, Associate Justices.

Forty jurors answered to their names. Many of those afterwards called were challenged ; but the following individuals were eventually impannelled—Abner Albee, Hopkinton ; Nathan Brooks, Acton ; Joseph Bigelow, Natick ; Artemas Cutler, Malden ; John Cotting, Weston ; Perry Daniels, Hopkinton ; Osgood Dane, Lowell ; Thomas J. Elliott, Charlestown ; Wm. Ferris, Natick ; Reuben Haynes, Sudbury ; John Jones, Weston ; Wm. Rice, Sudbury. Each of the above were then sworn, and declared that they had not formed an opinion either as to the guilt or innocence of the prisoners, or of any of the individuals who committed the outrage at Charlestown ; that they (the jurors) were without any particular interest or prejudice in relation to this trial,

Duplicate



and that they had no conscientious scruples capable of deterring them from finding a verdict in a capital case.

The Attorney General was desirous that each of the jurors should state whether the circumstance of a witness being of the Catholic persuasion would have the effect of lessening the weight of such witness's testimony in his (the juror's) mind.

The Court decided that this question could not be put.

The Attorney General then stated that two material witnesses in this case were absent, and the Government was not therefore fully prepared; he was however loath that the preparations which had been made upon this occasion should be made in vain, and would therefore call *John R. Buzzell*.

CASE OF BUZZELL, *Brickmaker, Charlestown.*

Buzzell was accordingly brought in, and the indictment read to him. He had previously pleaded NOT GUILTY. Ashel Huntington, Esq. the District Attorney, then rose and addressed the jury. He informed them that the prisoner at the bar was indicted, with several others, for the crimes of arson and burglary, both of which crimes, committed under the circumstances set forth in the indictment, were capital offences by the law of this commonwealth. He was charged, 1st, with the commission of arson during the night time; 2dly, with entering with intent to steal, having at the time in his possession a dangerous weapon; 3dly, with breaking and entering with intent to burn; and either of these offences was punishable with death.

Mr. H. then gave a brief outline of the Charlestown events, and said he should call witnesses to prove that the prisoner at the bar had been a leader and an active participator in the outrages of that period. With reference to the feeling existing in relation to this matter, the learned attorney remarked, that much prejudice had been attempted to be excited against that sect to which the aggrieved parties in this case belonged: more had been written within the last few months in this vicinity, on the subject of Mormonism, Convents and Catholics, than had been written for years previously; he had almost said since the Reformation. It was not, however, for him or the jury to say whether an institution such as that at Charlestown ought to be encouraged or not; it was enough for them that the law knew no distinction between members of the Catholic religion or those of any other sect of Christians. All sects were regarded by the law with equal complacency; and if the Catholics of this country chose to have such an institution as the one which had been burned, they were at full liberty to do so. No set of men had a right to destroy it. If, when the doctrines of any particular sect become unpopular, a mob was to be permitted to destroy the property of that sect, no man would be safe. It was the duty of

every good citizen to set his face like flint against such practices, and to go with the law against criminals in such cases, whatever might be the ultimate consequences. If juries suffered themselves to be intimidated by popular feeling, or influenced by the number of the prisoners, the most lamentable consequences to the community must ensue.

Mr. Huntington said he should now proceed to adduce the evidence for the government.

The first witness called was *Mary Anne Ursula Maffatt*, otherwise called *Mary Edward Saint George*, the Lady Superior of the Ursuline Community. This lady appeared in Court in the costume of her order, and closely veiled. One of the Counsel for the prisoner (Mr. Farley) expressed a desire that she should unveil. Upon this requisition the witness hesitated to comply; but on being informed by the Court that it was absolutely necessary for her to do so, in order that her voice might be distinctly heard, she reluctantly removed the veil from her features, and gave her testimony as follows:

I am the Superior of the Ursuline Community in this State. I had the entire jurisdiction of the institution at Charlestown. Have held my present rank ten years. There was a school in our establishment, of which I was the director. On the Thursday preceding the day on which the outrage was committed, I was told that the Convent would be pulled down, and on the Saturday following, several papers were sent to the institution concerning the 'Mysterious Lady.' On Sunday one of the Selectmen of Charlestown called upon me and told me the Convent would be destroyed if the 'mysterious lady' could not be seen. By the 'mysterious lady,' I understood him to mean Miss Harrison. On Monday the Selectmen, five in number, came, and were shown over the whole establishment; they remained three hours and searched the building from the cellar to the highest apartment, looking into every box (even the paint boxes,) and into all the drawers and closets. Two of the sisters went with me; one of these was the 'mysterious lady,' Miss Harrison. I do not know whether the outbuildings were examined. The selectmen went away at about 6 in the afternoon, and at little after 9 I heard a great noise on the Medford road, and distinguished the words—'Down with the Convent—down with the Convent.' I sent to tell the Community that I thought we were in danger. There were fifty-four pupils (from the age of six to eighteen years,) and ten sisters in the establishment at this time. Two of the latter were novices. One of the sisters has died since.

When ladies take the white veil as novices, they also assume a name different from that which they have borne in the world, and by this second name they are ever after called in the Community.

After I had alarmed the inmates of our house, I went into a room on the 2d story, opened the window, and asked the people outside what they wanted. I told them they were disturbing the peaceful slumbers of the pupils, some of whom were the children of their most respectable fellow citizens. They then asked to see 'the nun that had run away,' and I went up to fetch her, but found her lying insensible in the arms of four of the sisters. She had fainted with fright. I returned to the window, and told the people that this was the case. She was incapable of showing herself to them that night, but if they would come the next day they should receive every satisfaction.

I also told the mob that the Selectmen had examined our institution, and were satisfied; but that if they (the mob) were not satisfied, they might come on the following day and investigate for themselves. I said the report of the Selectmen would appear in the Morning Post. They replied, that all I said was false; that they had one of the Selectmen with them; and that he had opened the gate for them. They asked if we were prepared to receive them? And I told them that did not concern them. I did not wish them to know that our male domestics had left us. The mob shortly after this went away, saying they would not return till Thursday, when they would pull down the Convent. Before they went, they fired a gun from under a willow tree near the house. I told them at the time they were making a noise, shouting and screaming, that my sister was ill of a consumption, and that the state of alarm they had thrown her into, would cause her death. They replied, 'so much the better.' My sister is since dead. When they were gone, I thought there was no longer any cause for apprehension, and told the pupils and sisters to retire to their dormitories. They had no sooner done so, than the men returned, and began to break the fence to make a bonfire. At this time, Mr. Runey, the Selectman, came up with another person and told me he did not think he could quell the mob, but that if I and the pupils would throw ourselves on his protection, he would do the best he could for us. I told Mr. Runey, if he wished to show himself friendly to us, to go and tell the people to desist from breaking the fences. He said he would go and do all in his power to prevent them. About five or six minutes after this, I heard renewed shouts of 'Down with the Convent,' and I then told the pupils and sisters it would be best for them to go to the summer house; but before the former had time to leave their dormitories, the mob commenced breaking the doors and windows. I went to each of the dormitories afterwards to see if all the pupils had escaped. I called at every door and found they were all gone. I then went down to my own room, in which was a drawer containing valuables, but when I opened the door, I saw the mob had already entered.

I turned to go away, and saw twenty or thirty men in the same passage with me; they were about ten or twenty feet from me. I then went to the summer house, where I found about forty of the pupils, some in their fright having climbed over the fence and gone to Mr. Carter's. I sent the remainder after them, and went myself to Mr. Adams's, whither all the pupils were eventually brought. I never recovered any of the property of the Institution excepting a few articles of very small value. There was a desk in my room containing upwards of \$1000. The desk was locked. The money was in United States notes and silver. It belonged to, and formed part of the receipts of the Institution. I had not accounted for it because the desk had not seemed for me to do so. I was the last person who opened the house, and fully satisfied myself that none of the pupils remained in the dormitories. Miss Harrison was called the 'Mysterious Lady,' in consequence of a paragraph which appeared in a newspaper. She left the Convent without my knowledge on the 20th of July, at 4 in the afternoon, and was absent twenty-four hours. She was brought back by her brother and Bishop of Exeter. The Bishop interfered at my repeated solicitation. Miss Harrison's conduct was caused by weakness of mind, great debility and fever of the brain. These complaints resulted from excessive application to music. She gave fourteen or fifteen lessons per day, each lesson occupying twenty-five minutes or more. When she returned she appeared much excited, said 'she did not know what it all meant.' The property destroyed in the Institution was worth about \$50,000. The Spanish children, of whom there were three, had a great quantity of jewelry. Each pupil comes provided with silver plate. There were four harps in the establishment worth about \$100 or \$150 each; nine or ten pianos,—three quite new,—worth from \$200 to \$300 each, and a harmonicon that cost \$110. The principal articles of silver [a silver ornament was shown to the witness and recognized by her as being the pedestal upon which the cross stood previously to the destruction of the institution. It was presented to the Community, she said, by the Archbishop of Bordeaux.]

The Court here adjourned till to-morrow at 9 o'clock.

CAMBRIDGE, DECEMBER 3, 1834.

The Lady Superior continued her testimony as follows:—
The Community sometimes call me 'ma mere,' (mother.) The words *divine mother* are never applied to me. Confessions are never made to me, but to the Rt. Rev. Bishop, or, in his absence, to some other clergyman. I confess to the Bishop. The confessions are made once a week. We apply the word *divine* only to the Divinity. I do not represent the Virgin Mary, but am considered in the light of the mother of a family.

Mr. Farley, for the defence: What is the nature of auricular confession?

The witness intimated that she thought the subject of auricular confession had nothing to do with the present case.

The Court were of opinion, that the question put by the learned counsel, was a proper one, and ought to receive a reply.

Witness: We are bound to address ourselves to those ministers of the Catholic Church who are regularly ordained by the bishop to receive confessions. Auricular confession certainly means words addressed to the ear of a second person, but something always interposes between the ear of the priest and the lips of the confessing party. In our community, a partition divides the individuals. The confessor is in one room, and the penitent in another. The nuns never prostrated themselves on the ground, to me or the bishop. They only occasionally asked his blessing. They are allowed to converse freely with each other. Two nuns never sleep in the same bed. There are hours of silence, and hours of recreation. They never converse after 7 o'clock. When confessions are made, pardon is proclaimed, by the bishop, through power given to him. He repeats the words of pardon, but does not take upon himself to say, that *he* pardons. I was born in Montreal, Canada. Two ladies who had taken the veil, left our convent subsequently. Their names are Miss Alden and Miss Kennedy. I know Miss Reed of Charlestown: she was in our Community, and left without my knowledge. She was only a pupil, and would not be likely to know all the proceedings of the nuns. She would know everything which took place during the time she was with us, excepting what occurred in the school-room. She was older than pupils usually are; her education had been neglected, and she did not like to go into the school-room. She slept in the same apartment as the nuns. She confessed slight faults to me as the Superior of the Convent. We do not call these communications confessions, but declarations or assemblies. They are made by all, and the Superior, after hearing them, gives her counsel and advice. Miss Reed was received among us from motives of charity; was to remain with us six months on probation, and if, at the expiration of that time, we found her to possess strength of mind, courage and capacity, she was to become a member of the Community. If she had not these qualifications, we were to procure her reception into some other society. The nuns are allowed to read the Bible when and where they please. We have no rules to prohibit the reading of any part of the Scriptures. No individual received from motives of charity ever became a member of the institution. Five or six pupils were taken from charitable considerations.

I discovered symptoms of derangement in Miss Harrison two or three days prior to her leaving us. She acted very extravagantly,

acquired new instruments, and wished all the doors to be kept open. We soothed her, and took great care of her. On the 28th of July, she left the institution, and went to Mr. Cutter's. She afterwards went by a carriage with Mr. Runey, his wife and daughter, to West Charlestown. I do not remember saying anything to the mob about the hundred Irishmen. They asked, if we were protected? and I said, 'Yes! by legions!'—for I supposed the Celestial Court was looking on. I did say something about Irishmen to Mr. Cutter, on the Saturday previous to the destruction of the Convent; and I thought that if they did, the Right Reverend Bishop's intention was not to show favour to Irishmen, but that of others also.' I said this without much thought. Mr. Cutter saw Miss Harrison, and said he was satisfied, and wrote a piece for the newspaper, saying that he was so. I saw Mr. Cutter and another person on the night of the outrage. They took me by the arm, and tried to force me into Mr. Cutter's house. He said my life was in danger, and that if I would come in, every accommodation should be offered to support me in the Community. I told Messrs. Runey and Cutter that they had not acted a friendly part, in hurrying themselves so much in this affair, and that I did not wish for their protection. I blamed them for having reported that Miss Harrison had left us, and for having received her when she came to them. These were my only reasons for considering that the gentlemen I have named acted in an unfriendly manner.

By the *Attorney General*. Miss Harrison has frequently begged me to receive her again. I wrote to her father, but got no answer from him. I then consulted with her friends, and finally consented to take her again into the establishment. Our Community was supported by the profits arising from our school. We were not out of debt; we had nothing for the land or buildings at Charlestown. We have no other fund than that created by our receipts for schooling. Pupils live in the Community two years and three months before taking the black veil, and three months before taking the white veil. The vows taken, are those of obedience to superiors, poverty, chastity, and separation from the world.

Mrs. Ann Barber, otherwise *Sister Benedict Joseph*, was next called. [This lady is very beautiful. She gave her testimony with great eloquence and self-conviction, and her manner and language were those of a highly educated and accomplished female.] I have been some time eight years in the Ursuline Community. I was in the Convent on the night of the 11th of August. Was awaked from sleep, by the Superior, who told me to dress quickly, and attend the Community. I did so, and went afterwards to a window, from which I saw the mob, and heard them using abusive

language towards the Superior. They called her 'a figure-head,' and said that she was made of brass.

[The remainder of this witness's testimony was similar to that of the lady who preceded her. She identified a work-box and cross, as forming part of the property taken from the Convent.]

MISS ELIZABETH HARRISON, otherwise *Mary St. John*, (the individual who left the Convent,) examined. I have been a member of the Ursuline Community for thirteen years. I was the teacher of music in the establishment. I did not leave the Convent in consequence of any difficulty with the Lady Superior. The cause of my leaving was mental derangement. Had any one told me I should have done what I did, I should have thought it impossible. Everything was done in the institution to contribute to my happiness and that of the other inmates. I had never before felt any desire to leave the Convent. I gave fourteen lessons per day, of thirty-five, forty and forty-five minutes each. The witness further stated, that her recollection of what took place after she left the Community was very indistinct; she was bereft of reason.

Mr. Farley was proceeding to put other questions, when she suddenly covered her face with her handkerchief and burst into tears. Mr. F., under these circumstances, and considering what had been said respecting the witness's state of health, expressed his willingness to refrain from further interrogations. Miss Harrison was therefore suffered to retire from the Court, which she did, under the escort of the Russian Consul.

The Rt. Rev. Bishop Fenwick was next called, and advanced to the Clerk's table to be sworn. He objected, however, to the manner in which it was proposed to administer the oath, saying it was different from the form adopted on a previous occasion. He had no objection to be sworn in any way, but wished to know the reason of the alteration. Heretofore he had only been called upon to raise his hand; now he was directed to place it on the Bible.

The Court informed him that Catholics were usually sworn on the Evangelists, as it was believed they considered that form more obligatory than any other.

The Bishop repeated, that he had no objection to take the oath in any way. He had spoken on this occasion because he believed a stigma rested on Catholics in relation to this matter. It was supposed that a Catholic would not consider himself bound by an oath unless sworn on the book. This was an error. The Catholic religion taught that an oath, administered in any way by a magistrate in a court of justice, was binding to the fullest extent.

The Court had no doubt that the matter would be considered in this light by every intelligent individual; but with the uninformed class of persons it might be different. Both in our courts, there-

fore, and in England, that course was pursued, with reference to the religious belief of the parties, which seemed most likely to conduce to the attainment of truth.

The Bishop was then sworn on the Bible, and took the stand. I went to Miss Harrison, in company with her brother,—found her at Mr. Cutting's, in West Cambridge. She appeared much excited. I considered her in a state of derangement. Her looks were haggard, her expressions incoherent, and she laughed and wept almost in the same moment. My object in going for her was to take her to the Convent, clothe her properly, and send her home to her family. I presumed she left because she was dissatisfied with her mode of treatment at the Convent. I proposed to send her home some days after she had returned to the Convent; but she begged and entreated me to let her remain. I should think the property destroyed at the Convent was worth between \$50,000 and \$100,000, exclusive of the personal property of the pupils. There was a house for myself near the Convent, but entirely insulated from it. It was for me to retire to whenever I went out alone, and in order that I might not incommode the community in the performance of their official duties. Part of my library, consisting English, French, Latin and Greek Classics, was destroyed. It was my own property.

Cross examined.—The religious exercises of the Convent are performed partly in English and partly in Latin. I attended there for every spiritual purpose. I have been Bishop of Boston since 1825. I was formerly President of Georgetown College, D. C., and am a native of Maryland. I receive confessions, as any priest does. Neither bishop nor priests can marry. We wish to live as did our Saviour, of whom the bishops are the successors. The Roman Catholic community here is the same, or nearly so, as the community of the same order in Europe. A bishop cannot be a Jesuit, but a Jesuit can. The priests subordinate to me are not Jesuits. I presented a certain number of the Bible to two Courts in this State. It is true, as I said before, that any oath, prescribed by a magistrate, is binding; that the essence of an oath consists in appealing to God; and that it is equally obligatory, whether taken by raising the hand, or by touching the book. The members of the Catholic Church may have Bibles, if they choose to purchase them; but we discourage them from reading any but our own. We do not consider the Protestant version a correct one.

The Catholic religion has never prohibited the use of the Bible, as a general rule. The clergy have only exercised a discretionary power in relation to it. If they thought the persons under their charge were abusing the Bible, they then denied them the perusal of it. [On being asked, by Mr. Farley, to say what he meant by abusing the Bible, the Bishop replied,—Suppose you were a mem-

ber of the Catholic Church, and I knew you were in the habit of reading the Bible for the purpose of attempting to disprove its truth; using it as a handle to destroy the faith of others; I would say to you that you must lay it aside, because you were abusing it. If you would not obey me, I could do no more, but warn others against your company.] I should wish every member of the Catholic Church to have a Bible, but I should be sorry to see children or young persons reading certain parts of it. The Jews of old, prohibited certain parts until their children arrived at a proper age. The nuns of the Ursuline Convent are at liberty to use the Bible, and I believe have it. In speaking of 'certain parts' of the Bible, I do not allude to the doctrinal parts. I will not mention the parts I mean, lest I should provoke curiosity to read them. I object to their perusal by children on the score of morality. When I saw Miss Harrison at Mr. Cotting's, she did not express any dissatisfaction in relation to her treatment while at the Convent.

Warren Draper, the reporter for the Mercantile Journal, and a member of the fire department, described the events of the night of the 11th August, as they came under his observation. He stated, that there was a search made by the rioters throughout the whole building, in order to ascertain if the women and children were in safety, before fire was applied. Some even went out upon the roof to be certain in this respect. There was a crowd of about three hundred men standing round the front entrance of the building, and responding to the shouts of those who were engaged within. The firemen who were present, frequently remarked, that if they were certain this crowd was not connected with the rioters inside, they (the firemen) would be strong enough to secure the latter parties, and save the building. The firemen could not act without the direction of a magistrate from Charlestown. None of the police of Charlestown were present. Witness did not see so much as a tip-staff, until all was over, when he heard one of the latter corps order a little boy to go home.

Mr. Hooper, one of the Selectmen of Charlestown, gave a description of his visit to the Convent, which he said he found in perfect order. He was satisfied with every thing he saw there. He also described what he witnessed of the destruction of the building.

Mr. H. was followed on the stand by *Mr. Thaxter* and *Judge Fay*, gentlemen who had daughters in the institution, and who spoke highly of the manner in which it was conducted. They had both heard of the excitement in relation to the Convent, and apprehending danger to their children, drove thither in a chaise. This was on the 11th of August. On reaching the Convent gateway, they found it occupied by several individuals, who were conversing together. They (the witnesses) stopped and talked with them, and while so engaged, a man, whom they believed to be the

prisoner at the bar, rushed into the middle of them, and said 'He had beaten his children, and was able to beat as many more as they could bring about at a time.'

Mr. Hooper could not positively identify the prisoner; but *Judge Fay* was more certain. He said the man was in his shirt sleeves, and appeared like a brickmaker, being bespattered with clay. He (the prisoner) alluded to one of their (the Convent) husbands, whom he had whipped near the canal; and said, turning to a bystander, 'Didn't I treat him well?'

The Court here adjourned till to-morrow morning at 9 o'clock.

Continued, Dec. 4, 1834.

Judge Fay was examined. [We would here mention, that the man whom *Judge F.* alluded to, as having said that he 'whipped one of the Convent Irishmen,' also refused to give his name; and instead of telling it, in reply to a question from *Judge F.*, made use of certain obscene words. *Judge Fay* also stated, that after he had left the party assembled in the Convent gateway, he made inquiries, in order to find out the name of the man who whipped the 'Convent Irishman,' and was told it was Buzzell.] The men in the gateway were talking about Convents, and one said, 'If the Catholics get the upper hand of us, they will crush us to the earth.' The tall man, (the who spoke of fighting with the Irishman) said they 'knew him well enough up there, and they should know more of him soon.' It is my impression, that by 'up there' the man meant the Convent. I am not absolutely certain as to the words used, but am quite sure he alluded to the Nunnery.

Mr. Thaxter, of Charlestown, examined. I live within eighty yards of the Convent, nearly opposite the gateway. I heard some of the rioting there. Heard one person say to another, 'Mr. tall man, didn't you whip him?' A reply was made, but I cannot repeat it now. I thought the voice of the man who replied to the question was that of John W. Russell. I have known him about a year, and frequently heard him speak. I was at my chamber window. I heard the man say, 'A neighbor who came to me afterwards, asked me if I would Buzzell give his name to *Judge Fay*. I told him I would what Buzzell said; and asked him if he knew what it was. He said he did, and told me the very words that I had heard myself.'

Judge Thaxter here said it was of importance that the precise words should be taken. Several ladies, however, being in court, the witness was directed to write upon a piece of paper what he had heard, instead of reading it from the stand. This was done, and the paper passed to *Judge Fay*, who also wrote upon it the reply made to him by the 'tall man'; it was then handed to the jury. We believe the words written by *Judge Fay* were the same as those

written by Cutter.] There were about eight persons talking with Messrs. Fay and Thaxter. It was pretty light, but not so much so that I could recognize any one by sight. I do not remember hearing any other words, than those I have mentioned. I did not go out of my house till 12 o'clock that night. There was a collection of about one thousand people at that time. They had been coming together since 9. I had no idea of that being done which was done. I did not retire to bed, but sat at my window till the bonfire was kindled. I sat from 9 till 12, without lifting my hands to stop the proceedings of the mob. I had heard that there was great excitement existing on the subject of the Convent. One of the nuns came to my house. I am the brother of Edward Cutter.

Dr. Thompson called. I attended an Irishman named Rossetter at the Convent, I think it was in July; he was a good deal beaten, much bruised about the face and breast; his breathing was seriously affected. Prior to the 11th of August, I was also in attendance upon a sick nun, Mrs. St. Henry. She was suffering from pulmonary consumption. Her death was hastened by the shock received from the events of the night above mentioned.

Cross-examined.—Her disease was more active after the alarm she had sustained. Her strength sunk more rapidly than it had previously done. She was carried out of the Convent that night under the influence of great terror. Her whole system was in a state of tension; she lay in a cold rigor all night. The next morning I found her powers extremely prostrated. The afternoon previous I had been with her. She came into the music room and sat down by me. She was cheerful, and I told the Superior it was very probable she would continue through the winter. The nerves, in cases of consumption, are not more sensitive than ordinary; rather less so. The shrinking up of the skin was in this case caused by the night air and terror. I am not aware that terror ever operates excepting through the nerves, but through them it acts upon the extreme vessels and produces rigor.

Joshua B. Stearns. I live in the second house from the Convent and next door to Kelly. I know Rossetter, one of the Irishmen of the Convent. I was within 20 feet of him when he was knocked down and beaten. I was in my garden, and he came to ask me for some plants. Buzzell came up, with some others, knocked him down, threw himself upon him and beat him after he was down. I immediately left my garden, but before I could reach the parties, Buzzell had got up and walked off. Rossetter was much injured. There was a large bunch upon his temple, and blood was flowing from his mouth. When I speak of Buzzell I mean J. R. Buzzell. He did not say a word—gave no reason for beating Rossetter. The affray took place in the high road. The canal is about fifty rods from the spot.

Peter Rossetter. I am an Irishman. Have been two years in the Convent. I was beaten some time last June by the prisoner at the bar. Never spoke to him before, and do not know what I was beaten for. I was talking to Joshua Stearns when Buzzell came up, said something about some women, and knocked me down; he then got upon me and beat me as much as he pleased.

Cross-examined.—Two or three ladies were crossing the Convent grounds the evening before, in order to get into the turnpike road. The Superior told me to bring them back and direct them to go the same way they came. I went towards them, when two of them got over the fence, but the other, who was not so spry, remained behind. I took hold of her arm to talk to her. She seemed alarmed, made a noise, but did not scream out. I let her go, and she went away. We keep a dog; but I did not set him at her. The dog did not go after her. I did not hear her cry for help. She might have done, but I 'disremember' it. I did not apply to any magistrate for a process. O! yes I did, I just only talked to Justice Soley. I went merely to talk to him. Did not apply for a process; might have been in the notion of it. It was not what I did to the ladies that prevented me from prosecuting.

[The witness was here asked by Mr. Mann what reason he had for going to Justice Soley, if he did not intend to prosecute?—when he replied, 'I think that a very mysterious question; I am a stranger; am out early and late, and did not know where these fellows might meet me; so I just went to 'Squire Soley's, to talk to him about it. Went merely out of curiosity.']

Col. Elbridge Gerry, of Stoneham. Was present during the greater part of the night of the 11th of August. When he first reached the Convent, there were about sixty persons there. They tried to lift the door from its hinges, but not succeeding, broke it to pieces. They then called 'to order,' and formed themselves into a ring in order to make arrangements for attacking the building. Some proposed to discontinue the attempt that night, as they were not properly organized. They thought they had not help enough to do the thing in a proper manner. Others swore the institution should come down then, and proposed to make a bonfire with tar barrels, which would produce an alarm of fire, and bring a sufficient number of people together for them to go on with it. A tall man and three or four more then went off, and returned shortly afterwards with some tar barrels, which were then set on fire. Never saw the tall man before or since, until I saw him in this Court at a previous examination. I then thought I recognized him. On the night of the fire he had on either a light colored frock or was in his shirt sleeves. He was dressed like a brickmaker; his clothes had dirt on them. Prisoner at the bar is the man, as near as I am capable of judging. It might be as late as 10 o'clock when I saw him.

Edward Phelps confirmed the testimony of the last witness.

Richard Osborne, of Charlestown. I know Buzzell; have heard him called by that name, but have also heard him called 'old R.'—don't think I ever heard him so called before the burning of the Convent.

David Kelley. I know Buzzell; have heard him called 'tall man' and 'old R.' since the Convent was burnt.

George R. Barrett was present at the time Judge Fay spoke to the people under the archway. I heard a man tell him what his name was. The man used vulgar language, and said he was ready to be the first to break in the door; 'and then,' said he, 'we will make some fire with some tar barrels on the hill to give a light for the Boston boys.' I heard him say, (pointing to a house below the Convent) 'call there for old R., he is on hand for Thursday-night.' The man who said this had on a tarpaulin hat, and was without his coat and I believe his vest. There was mud on his hat, and I thought he looked like a brickmaker. The prisoner at the bar is the man. I was close to him, and looked full in his face. I am sure he had whiskers.

George Sissons corroborated the testimony of the last witness, but was unable to identify the prisoner.

Henry Buck, [an accomplice in the destruction of the Convent, but who has been received as State's evidence, was next called:] I came from Claremont, N. H. and resided near two months with Capt. Adams of Charlestown. I knew the Convent was to be burned a fortnight before the event took place. Soon after Miss Harrison left, this was threatened by a good many people, who met to talk over the matter. They met at the School-house. The first night there were not many. The next night there were thirty. At the first meeting there was a talk of getting help to do it that night; but it was not done. They determined on notifying others. The second night the discourse was much of the same character. I saw Buzzell at the first meeting, but not at the second. He might have been there and I not see him. At the second meeting they wanted to destroy the Convent at once; but Kelly recommended them to wait three weeks, and if Miss Harrison was still detained, they would, at the expiration of that time, liberate her by force. Nothing was done till a fortnight afterwards. On the night of the fire I went down about 9 o'clock. There was a large assemblage of people. Buzzell seemed to be at the head of them, and had a large stick in his hand. He told them every now and then to give three cheers, which was done. They then said they would bring a tar barrel, and set fire to it, which would raise the engine companies, and there would then be enough people to go on with. This was accordingly done. The tar barrel was brought, and Kelley told them to build the fire on his ground. He

afterwards directed them to get a light from his house to kindle the fire with. They pulled down the Convent fences and heaped them on the tar barrel. The bells were then rung, and the engines came altogether and stopped against the Convent. They [the witness did not specify whether he meant the enginemen or the mob] then began to throw stones.

The Court then adjourned till to-morrow morning at 9 o'clock.

CAMBRIDGE, DECEMBER 5, 1834.

Henry Buck, the State's evidence, continued his testimony. When the engines came up to the Convent, the court was full, and they (not the engine-men,) began to throw stones, and break the windows with clubs. Two men went into the house through the windows. The doors had not then been broken. Some of the people went on the top of the house. The crowd on the outside then jammed the door open. They used pieces of wood taken from the stairs and banisters of the chapel. Several (forty or fifty,) went in and began to throw out the furniture. I went in and helped. I saw a desk broken to pieces. Saw Buzzell in different parts of the house. He helped to slam the doors down, and told the rest to 'Go ahead, and down with the Convent.' He had a piece of wood in his hand. I did not speak to him, nor hear his name called. Lights were brought soon after the doors were broken. One light (a torch,) was brought from an engine. There were candles in the building, and these were lighted from the torch. Did not see Buzzell with a light. The people then went round the building. I stayed nearly an hour, by which time the Convent was on fire. The papers found in the building were piled up in the middle of the rooms, and fire put to them. A great many books were also burnt. They were thrown on the fire. Do not know whether the Bible was among them. Fire was applied in four or five different parts of the building. Did not see Buzzell seeing the fire. Did not hear any of the selectmen tell the mob to go away. Fires were made in the lower part of the building, and also in the third story. The first I saw was in the chapel. Saw a great many put things in their pockets. Do not know what the things were. Saw one fellow take a watch. They broke open a writing-desk, which I think contained drawing materials. Know nothing of any silver vessels or money having been taken. The stick was principally used to break open the inside doors of the building. I saw Buzzell again, after the building had been set on fire. He was in the yard. There was another fellow taking fire towards the building adjoining the Convent, and some one called to him 'not to set that building on fire.' The man got into the place, and an engineman then called to him to put the fire out, and asked him his name. The fellow on the inside then got out of the

window, and was going off, when the engine-man called out 'stop him.' The other then cried for help; upon which Buzzell came up, and said, 'Don't meddle with him.' Did not hear Buzzell called by his name in the building. Did before he went in. I spoke to him at the beginning of the affair,—asked him if there would be any more men there that night? He said, 'Yes, the folks would all come as soon as they saw the tar barrel.' There was a good deal of female clothing burnt.

[The witness was cross-examined, at great length, by Messrs. Mann and Farley. Their object was to show, that his testimony was wholly unworthy of credit. They brought out the fact, that he had broken gaol at Concord, after having previously given his testimony at Charlestown, and before the Grand Jury. He states his age to be 19. At one of the meetings, preliminary to burning down the Convent, he said he observed a man named *Cutter*, who was appealed to and gave advice. Messrs. Fitz and Edward Cutter both came forward during the day, but the witness said neither of them was the individual to whom he alluded. The only man he knew at the school-house meetings was this man named Cutter.] He (witness) agreed to pull down the Convent with the rest. He helped to pull up the fence. Did not see Buzzell bring a tar barrel. He (witness) helped to throw out the desks, chairs, &c. Threw out a harp. Saw Buzzell throw out the furniture and help break the doors. Witness had nothing to do with the fire. Saw a man named Spear in the road. Don't think I saw him in the building, or throwing stones. [Mr. Mann here stated, in reply to an observation from the Court, that Spear had been confined in goal three months, in consequence of the witness's having testified against him as having been concerned in the destruction of the Convent. This was also the case with several other individuals.] The second meeting at the school-house took place on the next evening after the first.

Lorenzo Birbank confirmed the testimony given yesterday by *Fitz Cutter*, as to the vulgar language used by some person to Judge Fay, on the evening of the 11th of August. Witness thinks the person who used this language was Buzzell. Can't say positively whether he thought it was Buzzell's voice at the time. Asked Cutter, on the following morning, if he heard what *Buzzell* said in reply to Judge Fay, when the latter put the question, 'Mr. tall man, what is your name?'

Forrest Littlefield. I think I saw Buzzell on the night of the fire. He had on light trowsers, and was in his shirt sleeves. Did not think him more active than the others. Think I heard him tell the people to wait fifteen minutes, and he would fetch a tar barrel. I saw Mr. Runey among the people: He was persuading them to go away: Said he had inquired about the Convent, and all was right.

Cross-examined.—I went round the building. Saw a lady, who asked me who I was. Replied, 'Nobody who wished to injure her.' She then asked me what the mob was doing? I told her they were tearing up the fence. She inquired if I thought they would do anything more; and I said, 'No, I did not think they would.' When I got back into the crowd, I found them still engaged in destroying the fence. I told them to let it alone; that they were doing wrong. Upon which they said, 'No, no; this is the way to begin.' I have been in Court during the whole of the trial,—have also been examined before the Committee of Investigation.

By the Attorney General. I am not a voluntary witness here; quite the reverse.

James Hogan was with Littlefield on the 11th August. Confirmed the statement of the latter as to the dress of the 'tall man.' Heard the tall man tell the people to wait 15 minutes. Saw him afterwards bring a tar barrel, which he carried in front of his person.

James Logan. I was at the fire in Charlestown. I went at the first alarm of the bell. Went alone. I proceeded through the crowd to the building, and stood some time with my foot upon the last step of a staircase which leads up to the second story. There were a great many persons on the stairs between me and the door, which opened into the Convent. They were pushing against the door, and trying to force it. They did not succeed; and then some one called for a light. A light was brought shortly afterwards, and they asked where it came from. The person who had it, said, 'from No. 13.' The engines had gone off. Soon after, a voice cried out, 'There's a way found to get into the house.' All then ran round to the east side, and got into the building. I believe the door was opened from the inside. I went in as quick as any of them. Only about four or five were in before me. We had no light with us excepting one torch. There was a number of small lamps on a table, and also some candles. These were lighted, and we then 'travelled' round the house. The first care of the mob seemed to be to find the sick nun; but she could not be discovered. We hunted round, from room to room, till I and they were satisfied that there were no females in the building. They then commenced breaking the furniture. I saw them go to the drawers, bureaus, and desks, take things out, and put them into their pockets and hats. After they had broken all the small articles, such as chairs, tables, &c., they threw the rest out of the windows. I believe the first fire was built in the chapel; the second one I saw was on the east side. I saw Buzzell in the house; he had a lamp or candle in one hand, and a club in the other. This was just before the fire was made. Did not see him help to build the fire. I saw him breaking the furniture with others. I heard some one

called 'old R.', but can't say whether the prisoner was the person so called. I went into the Convent with the mob, because I supposed they were on no good design. I knew there were helpless women and innocent children in the building, and I went to protect them as well as I was able. This was my only object.

Cross-examined.—I never saw the prisoner before that night.

Counsel. Are you an Irishman?

Witness. Why, I suppose that's mixed in a little with me. [The witness was here asked some questions in relation to individuals by whom he had been employed, or with whom he was connected in business. The Attorney General objected to these queries.]

Witness, (To the Counsel for the defence.) Ah! I know what you're after, with your manœuvres. I've no objection to tell all about it; but if *he* (pointing to the Attorney General) says I need n't, why, I sha'n't.

I picked up some articles at the Convent, and put them under my arm. I saw two sets of priests' vestments on the fire,—snatched them off. Somebody d—d me, and asked me if I wanted to discourage the work? I saw two more sets of vestments on the outside of the building, and picked them up also. What I saved was worth, I am told, between 3 and \$400. I secured also a couple of silver candlesticks. I carried them to the house of Mr. Dubois, in Charlestown, whence they were taken the next morning to the Rev. Mr. Burns, and I finally delivered them, about three days after the fire, to Bishop Fenwick, at Boston.

[The witness was here asked by Mr. Farley, Who his confessor was? He replied sharply, 'I'd make a confessor of you, if I thought well of you.'

Mr. F. was proceeding to press his question, stating that his motive was to ascertain whether the witness was a Catholic, as he had professed to be when he took the oath; but the Court decided that the question was not a proper one.]

Walter Balfour described what he saw of the events of the night of the 11th. Witness lives in Charlestown; his father is a minister; not a settled one. Went to 'see if he could find any one to tell of,' and if he could do any good. These, on his oath, were his only objects.

Cross-examined.—I saw about one hundred and fifty individuals in the building when the fire was first set. Did not presume that any one could be there, like myself, as a spectator.—Thought all enginemen, as well as the others, were there for a bad purpose.

The case for the government would have closed here, but for the absence of two witnesses, named Freeman and Miller. *Capias* were issued against both these parties.

Messrs. Fay and Thaxter were recalled by the counsel for the prisoners, and stated that they had never been into the school at the Convent. They had always, when they called upon their children, seen them in the parlor of the institution.

[From the manner in which Rossetter, the Irishman, gave his testimony yesterday, it may be supposed that he lived in the Convent. This was not the case. We are desired to state that the male domestics always resided on a farm detached from the institution.]

CAMBRIDGE, DECEMBER 6, 1834.

Mr. Mann commenced his argument for the defence, this morning, and continued speaking till nearly 2 o'clock. We give the most prominent of his remarks.

He said, the statute under which the prisoners had been indicted, was never intended to reach the offence with which they were charged, but was meant to apply only to individual acts of arson or burglary. He admitted, that the prisoner was indicted under the statute relating to arson, and that the jury would be bound to convict him under that statute, if the evidence proved satisfactory; but he repeated, that the act had never been intended to apply to such a case as the present. The whole transaction of the destruction of the Convent came more appropriately under the Riot Act. How dangerous was it to apply the statute for arson in cases like this; what a liability was there to error; how difficult was it for any one to select with certainty, at night and in a crowd, the particular individuals concerned? Whereas, if the magistrates of Charlestown had come forward, read the Riot Act, and taken at once into custody the individuals committing the offence, there could have been no mistake as to identity.

He cautioned the jury to receive with circumspection the testimony given by the witnesses for the Government. These individuals had already given their evidence two or three times; they were present in Court, and heard all that had been said by each other. This alone was calculated to give a bias to their testimony. The mere fact, of a witness listening to the mass of evidence that had been brought forward upon this occasion,—evidence given in many cases, by interested and excited persons,—would have the effect of influencing his mind, and inducing him to give, perhaps unconsciously, a peculiar coloring to his testimony: might cause him, in fact, to testify, not so much from the transaction, as from what he had since heard from the stand.

Mr. M. then alluded to the nature of the institution which had been destroyed. He did not come into Court, he said, to abuse it or its members, but the District Attorney having brought the character of the establishment into the case; having stated that it was instituted for charitable purposes, for the benefit of the sick, the

poor and the needy,—it was competent for the opposite counsel to follow up the investigation, and to show that these were not its objects. He should adduce testimony hereafter in relation to this point, and would now merely ask, whether, if the institution had been such as it was said to be, fifteen or twenty thousand citizens would have suffered a few individuals to destroy it? Where was our boasted militia? where the selectmen? They stood by with their arms folded, and suffered the forty or fifty men engaged in the transaction to proceed unmolested. Must there not be some good cause for this supineness? Mr. M. begged to be understood as not sanctioning the outrage; what he had said was merely for the purpose of showing that the Convent could not have been of such a praiseworthy character as was described by the Attorney for the prosecution.

Then with regard to the Lady Superior. He could not conceive why that lady had been brought into Court, excepting for the purpose of producing that effect which the testimony of a beautiful, highly educated, and accomplished female would always produce. Her testimony was not needed in the case; every thing she had stated could have been as well stated by other persons. In connection with this subject,—this attempt to produce effect and excite sympathy,—he would remark, that all the female witnesses, from the Superior down to the domestics, appeared to be affected with cold, which they stated they had caught on the night of the 11th August. With every proper feeling of respect towards the Lady Superior, he (Mr. M.) must tell the jury that they were not to give any greater degree of consideration to the testimony of that witness than they would to that of the female Irish servant who had appeared on the stand. The life of his client was also at stake, and he trusted he should be held excused for saying, that the counsel for the defence would call witnesses to impeach the veracity of the Lady Superior. He would not say that this lady had perjured herself, but would call witnesses to prove that matters were very different from what she had stated them to be. The prisoner at the bar was safe,—could not be convicted without Catholic testimony; it was therefore the duty of the counsel for the prisoner to show how much Catholic testimony was worth. The Superior has affirmed, said Mr. Mann, that Mr. Cutter attempted to force her into his house; I shall prove that this was not the case. She has sworn that she told Mr. Cutter that ‘the Bishop had 10,000 brave Irishmen under his control; and that if the Convent was destroyed, the buildings of others might suffer.’ I shall prove that she spoke differently to Mr. Cutter; that instead of what she has stated, she said ‘the Bishop had 20,000 of the vilest* Irishman under his con-

* Mr. Farley told his colleague he was not certain whether the word was ‘vilest’ or ‘boldest;’ it would be seen hereafter.

trol, who would tear down the houses of Mr. Cutter and others; and that the Selectmen of Charlestown might read the riot act till they were hoarse, and it would be of no use.’

She has said that she observed symptoms of insanity in Miss Harrison some days before she left the Convent, and that particular care was consequently taken of her; while Miss Benedict has told you that *she* did not notice any thing of this kind. Now is it possible that Miss Harrison could have evinced symptoms of insanity, been taken particular care of by the Lady Superior, and others, and Miss Benedict, living in the same house, not be acquainted with such circumstances? But I shall prove to you, gentlemen, continued the learned counsel, that Miss Harrison was not insane; that although she has said here that she did not know what took place after she left the Convent, being bereft of her reason, she did recollect and describe every thing to the Selectmen of Charlestown, when she went round the Convent with them upon the occasion of their visit. I shall prove to you that she was even minute in her description to them. I shall show you also that Miss Harrison’s return was not caused by the recovery of her reason, but by the receipt of a communication from the Superior, intimating that she (the Superior) would commit suicide if Miss Harrison did not return.

The learned counsel next adverted to the testimony of the Irish domestic of the Convent, (Rossetter) and put it to the jury whether this witness had not perjured himself on the stand,—in their own presence. Rossetter had said that he did not set the dog at the ladies who crossed the Convent grounds; that he did not assault either of them; and that he did not know why Buzzzell struck him. He (Mr. M.) would prove that Rossetter *did* set his dog at the ladies; that he threw one of them down, and afterwards struck her so severely as to produce marks which were perceptible for many days; and that Buzzzell first charged him (Rossetter) with this unmanly conduct, and then ‘showed him how things of the kind were settled in this country.’ (A low murmur of applause throughout the court.)

With regard to Logan, the Irishman who testified on Friday, Mr. Mann stated he would say but little. He would not bring forward any testimony in relation to his character, but would leave him to the jury, who had seen his demeanor on the stand, with this one remark,—‘What could save Logan if he stood where Buzzzell now stands?’ He (Logan) had himself confessed that he was with the rioters from the beginning to the end of the transaction; that he was with those who forced the door; was one of the first in the building; and that he picked up and put in his pockets and under his arm property to a large amount. Would the jury have any doubts of Logan’s guilt if he had been arrested? And such was the Catholic testimony in this case. Logan was the man who was

to hang Buzzell if he were hung at all. The latter had a wife and five children, and a father and mother still living; he was as much respected in the place where he resided as any juror that had been empannelled; and he was to be convicted upon *foreign, imported testimony*; upon the testimony of Logau.

Mr. Mann shortly afterwards concluded his argument, and then proceeded to call the witnesses for the defence. The first examined were those in relation to the character of *Buck*, the state's evidence. They were not permitted to go into details, but merely required to testify as to his reputation for veracity. Messrs. Stevens, Eastman, Williams, Russell, Sawyer and Lilly were examined on this point, and declared *Buck* to be wholly unworthy of credit. Many of the witnesses had known him from childhood.

Miss *Rebecca Theresa Reed* was next called. I am an Episcopalian Catholic. I lived in the Ursuline Convent for six months, as a *choir religieuse*. This was three years since. I had a religious name; was called *Mary Agnes Theresa*. I was known by this name in the Community. *Mary Benedict*, and the Superior, were there at the same time. I knew her by no other name but that and '*ma mere*.' There were twelve nuns in the Convent (recluses,) at the time I was there. The Bishop sent some books to me before I went to the Convent. Mrs. Pell, and Mr. Paine brought them to me from him. While I was in the Community it was the practice of the nuns to prostrate themselves before the Bishop.

[The District Attorney here objected to these inquiries, on the score of time. The Court were unable to decide upon this objection immediately, and Miss Reed was therefore directed to withdraw for the present.]

In order that no time might be lost, Messrs. Farley and Mann then called witnesses to prove that the tomb at the Convent had not been broken open by the rioters, but had been forced by the Selectmen, when they visited the building, before it was destroyed.

Abijah Monroe, one of the Selectmen of Charlestown, stated, that when he and the other Selectmen visited the tomb, accompanied by Miss Harrison, on the Monday preceding the 11th August, they found the padlock in such a rusty state that the key would not turn in it; that Miss Harrison then told them they might force the lock, which he (Mr. M.) did. He was still however unable to open the door in consequence of the hinges being in the same state as the lock, and therefore removed the door altogether. Did not touch the coffins. Afterwards replaced the door as well as he was able, and hooked the padlock in the staple. The entrance to the vault had a cover made of boards; when this was removed a flight of steps appeared, and at the bottom of these was the door which was forced. When the Selectmen left the tomb, the cover was

replaced over the steps. A man might 'slue it round with a push of his foot.'

Samuel Poor, another of the Selectmen, confirmed the testimony of the last witness.

The Court here adjourned till Monday at 9 o'clock.

CAMBRIDGE, DECEMBER 8, 1834.

It will be remembered, that when the Court adjourned on Saturday, the question, as to whether the evidence about to be given by Miss Reed, was or was not admissible, still remained undecided. Chief Justice Shaw, for the Court, this morning declared that it was not admissible, and that the objection taken by the District Attorney at that part of Miss R.'s testimony where she commenced to speak of the prostration of the nuns before the bishop, was a proper objection. The learned Judge went largely into this matter, and quoted authorities in favor of the opinion expressed by the Court. We understood him to say, that the statement of the Lady Superior, 'that the nuns do not prostrate themselves,' was made in reply to a question put by the counsel for the defence; and that it was therefore not competent for the counsel for the defence to impeach her testimony in this particular. The law, Judge Shaw said, declared that a witness should not be cross-examined upon a collateral fact, for the purpose of afterwards impeaching his testimony by contradicting him.

This point being settled, *Mr. Farley* next proposed to call witnesses to prove that Miss Harrison was not insane when she left the Convent.

The Court were of opinion, that the testimony of such witnesses had no bearing upon the case.

Mr. Farley said the prosecuting attorneys had themselves put this matter into the case. They had introduced evidence showing affirmatively an important fact; they had said, that the character of the Convent was good, and had brought forward testimony to prove their assertions; it was therefore surely competent for the opposite counsel to go into these points. The whole matter hinged upon the derangement of Miss Harrison. If it could be clearly proved,—as they (the counsel for the defence) could prove it,—that Miss Harrison was not deranged, then would it also, and at the same moment, be proved, that the Superior, Miss Benedict, and Miss Harrison herself, had not testified truly. It was important, that this matter should be correctly placed before the jury. He (*Mr. Farley*) should submit to the decision of the Court, but he begged the Court to refer to their minutes, and reflect upon this important point, before arresting the proceedings of himself and colleagues in relation to it.

The Court, after due deliberation, decided that the above points

ought not to have been brought into the case either by the government or the defence; and that all matters relating to the internal arrangements of the Convent were irrelevant and inadmissible.

Elbridge Gerry, a government witness, who gave his testimony about three days since, was recalled, and acknowledged that on the night of the fire he picked up and carried home with him a book and some other articles which had been thrown out of the Convent windows. He subsequently surrendered them to the Charlestown Committee of Vigilance; not however until some intimations reached him that he might possibly get into trouble about them.

Edward Cutter sworn. I live about a quarter of a mile from the school-house at Charlestown. Never knew of any assemblies near the school-house. Never heard any thing about them till I heard it at the primary examination of Buck. My brother and myself are the only brick makers named Cutter in Charlestown, and, I believe, in the state. We both visited the Convent on the Saturday evening preceding the fire, for the purpose of making inquiries respecting Miss Harrison. We saw the Superior in the room in which she usually receives visitors. When she learnt our object, she said our errand was useless, and that she should not gratify us so far as to let us see Miss Harrison. She also accused me and Mr. Runey of intending to place ourselves at the head of a mob to destroy the Convent. I denied that Mr. Runey or myself had any such intention, and asked her to name her informant, but she would not do so, and told us we might fetch our mob, 'but that the bishop had 20,000 of the vilest Irish under his control, who would tear down the houses of myself, brother, Runey and Kelley, and that we might then read the riot act till we were hoarse without doing any good.' She continued speaking in this angry manner for some time, but at last finding that I could not be offended so as to be induced to go away, she turned about and brought in Miss Harrison.

James R. Smith resides at Charlestown Neck. Is in the employment of Mr. Babcock, a merchant. Has known Buzzell since the summer of 1833. Never heard any thing against him. I reached the Convent on the night of the fire at about 9 o'clock. Before the bonfire was made I saw a tall man coming down from the building. He looked like a brick maker. It was not the prisoner at the bar. At first sight I thought it was him and went up to speak to him. When within six feet found I was mistaken, that it was not Buzzell. The man's hat was bespattered with mud.

Cross-examined.—Did not see Buzzell on the night of the fire. There were other persons there whom I knew. They are not indicted. I told the Charlestown Committee that I did not choose to tell the names of the parties whom I recognised. Shewed a man there called Priest Kelly. Thought his proper name was Priest Kelly when I heard it.

Azariah Holmes stated that he lived with Buzzell at Kelley's, and saw him at the kitchen door of the latter at 9 o'clock on the night of the fire. The prisoner had a bad cold. He did not wear whiskers; brickmakers seldom do, because the clay gets into them.

Ambrose Edsom and *Jesse B. Packard*, both testified to the prisoner's general good character, and stated that he did not wear whiskers on the 11th of August.

Asa Wetherbee. I have resided at Charlestown sixteen years. Have known the prisoner two years. Never heard any thing against him. I saw him on the 7th of August. Carried some wood to the yard where he was at work. I wanted him to help me remove the wood from the cart, and called to him to come and do so; but he replied he was sick and could not work. He said he had a very bad cold, and would not be where he was an hour longer but that he was ashamed to leave Mr. Kelly, with whom he had worked two summers. When he said he could not help, I told him in joke that if he did not come, I would 'take him by the ear.' He said, 'well, I might do that, but I could not take him by the whiskers.' Never heard prisoner called 'Old R.'

Jesse Templeton. I am acquainted with the prisoner. Saw him on the night of the 11th August. Met him next Mr. Ford's store in Charlestown. He said he had a cold, and as I had one also, I invited him to go into Ford's and take some gin and molasses, which I told him would do us both good. We went in, drank what we called for, and then left the store. When we came out, Buzzell went towards his own home, and I went to mine. Shortly after I got into my house, I heard the bells go 9. I went to bed, but got up again at the alarm of fire, and proceeded towards the Convent. I stood in the road looking on, and while doing so, Buzzell came up also, and slapped me on the shoulder. We stood talking together for about 15 minutes, then separated, but shortly afterwards met again and conversed, near the engines. While I was talking with Buzzell the first time, the small building belonging to the Convent burst out in flames. He was in his shirt sleeves, as were many others, the weather being warm. I saw a great many men with tarpaulin hats.

James Buzzell, brother of the prisoner, also testified to the above effect; and

Asa B. Barker, a member of the Charlestown fire company, stated that Buzzell was standing beside Engine No. 4 at the time the Convent was in flames. He leaned his head upon the engine. Some of the enginemen requested him to sing 'Jim Crow,' but he refused, saying he had a bad cold. Witness saw a tall man, who appeared to have false whiskers, very busy in the crowd.

When the small building had been fired, this man came down towards No. 4 engine, in company with a smaller man, who exclaim-

ed with an oath, 'that he had set fire to the building twice, and a fool of a Charlestown fireman had as often put it out; and if any one had any thing to say to him (the speaker) about it, they might come to the steam-boat Bangor.'

The counsel for the defence then proceeded to adduce testimony to show that James Logan, the Irishman who saved the Bishop's vestures, was unworthy of belief. Six witnesses, one of whom was Mr. Runey of Charlestown, testified that the general reputation of Logan was bad; and Charles Senior, gardener, of Roxbury, stated that stolen property had been found in his (Logan's) possession.

The Attorney General called *Judge Soley* to prove that *Buck*, the State's evidence, had named the prisoner as one concerned in burning the Convent, before he was aware that other witnesses would also testify against him.

The Court here adjourned.

CAMBRIDGE, DECEMBER 9, 1834.

It was generally supposed, on the adjournment of the Court yesterday, that the whole of the evidence, both on the part of the government and the defence, had been put in. Seven witnesses were however this morning called by the Attorney General to testify to the character of *Logan*; among the number were the Rev. Mr. Byrne, Catholic priest, Charlestown, and Drs. Thompson and Randall. All agreed that they had never heard the reputation of Logan questioned; but two or three of them also stated that his character had never been made a subject of remark in their presence,—they had heard nothing about the matter, either favorable or the reverse.

The officer who took Buzzell into custody, stated that the prisoner, at the time of his apprehension, had ear locks, which reached as far down as the bottom of his ears.

Logan was then directed to take the stand, which he did, and was proceeding to explain the charge made against him yesterday, of stolen property having been found in his possession, when the counsel for the prisoner objected, on the ground that this matter had been brought out by a cross-examination, and consequently, in accordance with the previous decision of the Court, could not properly be again gone into.

The Court considered the objection well founded.

Mr. Farley then rose and addressed the jury. He commenced by impressing upon them the necessity of patient investigation in this important case, and the duty which devolved upon them of dismissing from their minds every feeling of a light or frivolous nature. Peculiarities of character had been drawn out and exhibited during the previous examination of witnesses, and the jury might have occasionally felt amused at circumstances which came under their observation. They were now however to dismiss these things

entirely from their minds. To remember that they were not now called upon to decide a question of property, but to declare whether the human being now before them should be cut off from existence; whether his probationary state should be terminated, and whether he should be sent from this world 'with all his imperfections on his head.'

Mr. Farley then adverted to the statute under which the prisoner had been indicted. He agreed with what his colleague, *Mr. Mann*, had said the other day as to the Riot Act being more applicable than any other act to such a transaction as the burning of the Convent, but still did not mean to question the right of the prosecuting officers to indict under the statute for arson. A mob, however, ought to be dealt with on the spot by the militia or *posse comitatus*; property would thus be saved and the individuals engaged in it might be prevented from rushing headlong to destruction. If this was not done, but if, on the contrary, it was sought to punish after the offence had been committed, was there not danger that the innocent might be made to suffer with the guilty? The law made no distinction,—could make none, when transactions of this kind were treated as the present had been. If a person went to such an assemblage as the one at Charlestown, with the best intentions, and, under the excitement of the moment, countenanced or supported the rioters, he would be as guilty in the eye of the law as if he had been concerned in a conspiracy to effect the outrage. Degrees of guilt might exist, but, under the present form of prosecution, the law could not take cognizance of them. An innocent person might be arrested, and he could not tell his own story; he was only permitted to adduce such evidence as by the rules of law was admissible.

With reference to the rejection of *Miss Reed's* testimony, *Mr. Farley* remarked that the government witnesses had testified that *Miss Harrison* was insane, and yet it now turned out that the counsel for the defence were not to call witnesses to rebut this testimony. They (the counsel for the defence) had not objected at the time to the testimony adduced by the government, because they did not consider such testimony improper; but should their omission in this particular prove detrimental to the prisoner, it would be a matter that they would never cease to regret during the remainder of their lives.

After a few further remarks upon this subject, *Mr. F.* proceeded to consider and comment upon the testimony adduced by the Government against the prisoner, and which we have, in previous reports, laid before our readers. He went through it laboriously and minutely, and on the whole made out a very favorable case for the prisoner.

He went very largely into the evidence of *Buck*, contending that

that individual, from his notoriously bad character, was unentitled to the slightest credit. Buck testified, he said, under fear of his life. It was his interest to have Buzzell convicted; for having once before testified that Buzzell was concerned in burning the Convent, and having been admitted a State's evidence on these grounds, he was obliged to adhere to his statement, lest he should be considered by the Government as forfeiting his pledge. He could not now do otherwise than persist in criminating Buzzell, or he would convict himself of having told a lie in the first instance. He (Buck) believed that the Government would not consider itself bound to bear him harmless if he did not do this. And in this he was right; for if the Government acted differently justice could not be done—and any rogue might escape by testifying against his accomplices at a primary examination, procuring the Government promise of safety, and afterwards refusing to corroborate his statements on the stand. Buck, then, having made previous statements, found himself bound to adhere to them, lest he should be deserted by the Government. How improbable was his testimony. How was it possible that thirty or forty men could meet near the school-house, without such an assemblage being observed by the neighbors. The fact was, his testimony had been made up to save himself, and he had implicated those persons whose names were most connected with this transaction. He had said that a Mr. Cutter attended the meetings near the school-house, doubtless alluding to Mr. Fitz Cutter; and had also stated that Cutter and Kelley said they would notify the people of these meetings, and their object; desiring him (Buck) to do the same. Now Cutter and Kelley were men of respectable standing; was it likely that they would thus openly engage in a conspiracy of such magnitude as the burning down of the beautiful building at Mount Benedict, or that they would place themselves at the mercy of a stranger like Buck (he had hardly been six weeks in Charlestown) desiring him to notify all persons of their meetings? The thing was absurd.

In alluding to the testimony introduced this morning by the Government in favor of Logan. Mr. Farley said it amounted to nothing. The evidence given by the witnesses was merely of a negative character. They testified that they had not heard any thing against him. Why, a man might have a bad character, and dozens of persons never hear that such was the case. On the contrary, the witnesses for the defence had testified positively that Logan bore a bad character. And they were gardeners; men in his own profession and who knew him well. The Attorney General had considered this objectionable, and had said that two of a trade never agree. But where, he (Mr. F.) would ask, did men go to enquire the character of a man but to the individuals of that man's own profession? Where would they go to learn the

character of a merchant but among merchants? Where the character of a gardener but among gardeners?

Mr. F. concluded by alluding to the fact that the prisoner had a wife and children, and an aged father and mother. The life of the most worthless member of the human family, he said, was precious, but the individual at the bar was a man of good character, and his life was valuable to others. If however, the brother of the prisoner, now present, was to take the news to that prisoner's family that his life would be taken, such must be the case; the consequences of the verdict of the jury the prisoner must suffer; but he (Mr. F.) entreated the jury not to come to such a verdict until every reasonable doubt was removed from their mind. He only asked them to do their duty; to do unto the prisoner 'even as they would that men should hereafter do unto them.'

CAMBRIDGE, DECEMBER 10, 1834.

The Attorney General commenced his argument this morning. He began by congratulating the jury and himself that this trial was now drawing to a close. As far as he would be additionally concerned in it, he should endeavor to tax their patience as little as possible, and he would act thus because, if he was not very much mistaken, there was no point in the case which ought to be productive of a moment's doubt in the mind of any sensible and intelligent man. And yet, Gentlemen, said the learned Attorney, I will not attempt to disguise from you the important nature of this trial. It is an important case. Important to the prisoner, who has forfeited his life to the laws of his country, and important to that country, because its laws have been violated and its peace has been disturbed. But most of all, Gentlemen, it is important to you! The crowd who have assembled in this Court-house day after day, look upon this trial as the trial of John R. Buzzell alone. But it is not so. You, Gentlemen,—I say it with all respect,—You are also on your trial; before your country, before posterity, and before your God. The events you are investigating are to be recorded in the history of your country; the connection you have had with them is to be recorded also, and both will go down to posterity as long as history shall exist. This trial, like some of those which took place at a particular period in that country from whence our ancestors came; like some trials also which occurred among ourselves in the earlier ages of our history, is to show how far we are competent to self-government. How far our institutions,—among which trial by jury is one,—are consistent with the preservation of the rights of property and the maintenance of those liberties which our government was established to secure. To show whether our Courts are entitled to be considered temples of justice, or whether they are tribunals where prejudice, passion, and abuse, stand ministers at the altar.

I have no doubt that reliance may be placed upon the integrity, the intelligence and the immovable sense of justice of the men I address. I have no wish to give utterance to a doubt upon this subject; but yet I say that you are upon your trial; and the more so from the way in which you have been selected. The prisoner has only exercised a right that belongs to him, in selecting you as the individuals who are to try him; but in choosing two from Charlestown he has placed you in a very delicate and responsible situation. If, however, he calculates, gentlemen, in your possessing a bias, he is deceived, because you have all sworn that you have no bias. But it is difficult sometimes to separate from the mind preconceived notions, however much we may wish to do so, and prejudices frequently influence our conduct, unconsciously to ourselves. Among the prejudices likely to operate in a case like the present, is that which relates to a capital trial. You have been told, that such is the responsibility resting upon a juror in a capital case, that it is often impossible for him to decide properly,—As if a juror had any thing to do but to decide upon the facts before him.

The counsel for the defence have told you, gentlemen, that the law under which the prisoner has been indicted does not apply to this case. Well, you have nothing to do with that. If the learned counsel are right, that is a matter for the Court, and the Court will take care that your verdict does not harm the prisoner. But there is no capital trial in this country, properly so called. If you find a verdict against the prisoner, and the Court pass judgment upon him, he cannot be executed upon that judgment. This Court is not like the Circuit Court, which can try prisoners one week, and sentence them to execution the next. The record of sentence must go from here to the Governor and Council, and there is a statute of the Commonwealth which permits those individuals to commute the decision of the judge, and enables them to punish the prisoner in part, or not at all, exactly as they please. Permit me then, to say that, in giving a verdict in relation to this prisoner, you are no more instruments in his punishment than the officer who arrested him, the turnkey who locked him up, or we who have talked to you in the case. It is true he cannot be punished without your verdict; but he is only on the road to punishment when you say he is guilty.

Again, there is a prejudice existing in relation to the crime which he is accused of having committed. I have been shocked to hear some of the suggestions which have been thrown out in relation to the character of this crime. Is it a trifling offence? One which might be decided upon and punished by a justice of the peace, or suffered to pass without any punishment at all? In my mind, any conclusion of this kind is erroneous. I believe that this transaction unites within itself every circumstance of atrocity and brutality that

ever met in any one case within the history of crime. Arson, robbery, sacrilege, *murder*; and all perpetrated with the most shameless recklessness, the most brutal indifference, and the most fiend-like deliberation.—Every excuse offered too in palliation of the act does but dye in deeper guilt the miscreants who committed it. Let me ask you, said the learned Attorney, to go with me to the scene of this midnight devastation. Look at it, before the torch of the incendiary had reduced it to a heap of ruins. You find a large estate, purchased and paid for by three native American citizens; held by titles of the same validity as those by which you, gentlemen of the jury, hold your farms and dwelling houses. On this piece of land, formerly barren and uncultivated, a large pile of buildings is erected; the mechanics engaged in such erection, many of them neighbors of the institution, well and honestly paid. The grounds, which any but Vandals would have spared for their beauty, are laid out with regularity and taste. Lawns stretch away beneath the eye, gardens bloom around, and in one remote corner the hand of affection and piety had consecrated the last sad sleeping-chamber of the hallowed dead. Within the walls, eight feeble women found their homes; with no protector but the God whom they served, and the laws they were willing to obey. This recluse society were religious women devoting themselves to their Creator, under the protection of the boasted article in the Bill of Rights, which secures to every individual the privilege of worshipping God in any manner he pleases. But although retired from the world, they still held intercourse with it, for its benefit, and were engaged in the most useful of all employments, the education of youth. They were a community of instructors and teachers. In a country, boasting of the diffusion of knowledge within its limits; the very existence of whose institutions depends upon its people being educated, these helpless females were devoting their little ability and strength to rear up the infant generation. And such was the confidence placed in them, that many of the children of your most respectable fellow citizens were put under their care; forty-seven of these children were under their roof at the time of the outrage. With no debt unpaid or duty unperformed; giving no occasion of offence to any human being; unarmed, defenceless, because not apprised that they had any thing to fear: surrounded by a population of one hundred thousand citizens, boasting their attachment to peace, tranquillity, and the law, these women retired to rest. Suddenly they are awakened by yells, hideous as those which startled our ancestors when the warwhoop of the Indian savage burst upon their midnight slumbers. They start up, frightened and alarmed; the terrified little ones gather under the wing of their scarcely less terrified instructors. The bonfire, round which these demi-

savages are dancing, throws its horrid glare into the room; stones, brickbats and other missiles fly about the building; the windows and doors are driven in, life becomes unsafe, and the inmates have to escape.

They all do escape,—all leave the place but one. One timid female only remains, to face this ferocious mob; but the woman's heart, under the influence of nature, gains more than a lion's strength. Yes, gentlemen, the mother—(not by ties of consanguinity)—that old, infirm woman, whom you saw on the stand, she dares to remain, lest any of her children, any of her sisters (by religion) should be exposed to the licentiousness of these lawless ruffians. She traverses the building from the basement to the cupola,—opens every chamber, and runs from place to place, exclaiming in agony, like David of old, 'My child, my child.' But all happily are out of danger, and she goes back again towards her own room to save the little property of the institution. She finds it filled with armed men; she turns into the passage, and there beholds another band. She then retreats to the garden, where she finds the cowering children, driven like doves from their dove-cote. All then leave the institution.—Look at that sad procession, gentlemen, quitting the burial place of all their happiness. Mr. Cutter has told you that when he met them they did not speak a word—that they looked stupified—and he had to gather them into a place of safety as you would gather or drive sheep into a pen. There was no weeping, no exclamations of sorrow, no tears—'grief drank the offering ere it reached the eye.' Presently the building is sacked; every thing—the word of God among the rest—is destroyed—fire is applied—that noble edifice is wrapped in flames and rolls its accusing volume to the skies, till nought remains but heaps of blackened ruin. The children and sisterhood are all fortunately preserved; all but *one*: *she* is killed by alarm and exposure. Do you not call this murder? What is murder, but a felonious taking of life, before the time allotted by Providence for its continuance, shall have ceased?

It would be enough, gentlemen, if the evils attendant upon the work of destruction ceased here! This, however, is but the beginning of the evil. The Commonwealth,—the nation is disgraced and degraded. We seem to be rolling back the tide of improvement,—arresting the march of mind,—and becoming more bigoted, instead of more liberal. We proclaim toleration in our statutes, and are in reality less liberal than our ancestors, when they persecuted the Baptists and Quakers. We talk of liberty, while we practise the most disgraceful despotism. We punish opinions and peculiar forms of worship; and are cowards as well as villains. We make war upon women and children,—first enquiring whether there is a musket on the premises. The head magistrate of the town in

which the outrage was committed, where was he? He goes up, looks round, and admonishes the people, that he thinks they have done enough, and then, having sore eyes, goes home and to bed. Where are the other magistrates,—the militia,—the neighbors? None are to be found. No neighbor, no magistrate, no friend to take the part of these helpless women. It will be inscribed in our history, that here, at least, the age of chivalry is gone.

The mob ravaged,—luxuriated in riot,—to the extent of their wishes. And where did this take place? On the very hill top, which, not sixty years since, was consecrated by the best blood in the country, an altar to liberty and the rights of man. Beside the very monument erecting to commemorate the patriotism of our ancestors, the man at the bar and others, exhibited the baseness of their descendants. Yes, left a mournful memorial of the manner in which the freedom they had won had been exercised by the race that followed them. The monument of Bunker's Hill rises slowly; but the battlements of Mount Benedict are the work of a single night. Look to it, gentlemen, that it be not so with the State.

After some further general remarks, the Attorney General proceeded to consider the evidence which had been adduced against the prisoner, and contended, that if human testimony was to be at all relied upon, the Government had made out their case. He showed that the prisoner had not proved an *alibi*; that it was quite possible for him to have been at the gate, as stated by Judge Fay and Mr. Thaxter, and yet to have been seen, the same evening, at Kelly's house, and in the places mentioned by the witnesses for the defence. He dwelt largely upon Buck's testimony, and the way in which he had been corroborated by other persons; also upon the remarkable fact, that no single individual had ever seen Buzzell any where during the time the mob were rioting in the interior of the Convent. Logan and Buck both swore to his being in the building, and busy with the rest, and no one testified to his being elsewhere during that time.

The Attorney General concluded about 2 o'clock, and Chief Justice Shaw then proceeded to charge the jury. He explained the statutes under which the prisoner had been indicted, and from this exposition we gather, that Buzzell's life is safe as regards the charge of arson; it being necessary, to constitute a capital charge, that some person should be lawfully in a building at the time it is set on fire, which was not the case at the Convent. In relation to the second charge, however,—burglary,—the prisoner is differently circumstanced. Judge Shaw declared the law to be, in this respect, as follows:—That if any person shall break into any house with felonious intent, armed with any dangerous weapon, or arming himself in the house, or shall assault any individual lawfully in said house, such individual shall suffer death.

[We refrain from expressing any opinion, whether Buzzell comes under this act, but leave our readers to judge for themselves, by reference to the evidence which we have laid before them.]

THURSDAY, DECEMBER 11, 1834.

Chief Justice Shaw continued his charge to the jury this morning. He explained to them very fully the nature of the law in relation to burglary, telling them that in order to constitute a breaking and entering, armed with a dangerous weapon, it was not necessary that an individual should have in his possession a sword or other instrument expressly made for the destruction of human life; but that a club, piece of wood, or baluster was within the meaning of the act.

The learned Judge then passed at once to the evidence, reviewed it from its commencement to its close, drew together all its scattered parts, placed it clearly and strikingly before the jurors, and concluded by telling them that they were now to set aside all prejudices,—to be wholly uninfluenced by any existing state of the public mind,—to care nothing about what other persons might think of them,—and, be the consequences what they might, fall where they might, to give such a verdict, in this case, as truth and their consciences dictated.

Judge Shaw concluded, and the Jury retired, precisely at 12 o'clock.

Mr. Farley then moved the Court, that during the further continuance of this trial the reporters be prohibited from furnishing any accounts of the same to the daily or other papers. The Court did not decide upon this motion before the adjournment.

The Attorney General also moved, that William Mason, Marvin Marcy and Sargent Blaisdell be next put on trial, and tried together; which motion was assented to by Messrs. Prescott and Derby, counsel for the defendants.

The Court then adjourned.

CAMBRIDGE, DECEMBER 12, 1834.

The Court met this morning at 9 o'clock. The Jury returned a verdict of Not Guilty.