

**ST. ALBANS RAID:
SPEECH OF B.
DEVLIN, ESQUIRE**

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St. Albans Raid: Speech of B. Devlin, Esquire by Samuel J. Watson

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SAMUEL J. WATSON

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ST. ALBANS RAID.

SPEECH OF

B. DEVLIN, ESQUIRE,

Counsel for the United States, in support of their demand for the
Extradition of

BENNETT H. YOUNG, et al,

Charged with the robbery upon the 19th October last, of

SAMUEL BRECK,

*In the Town of St. Albans, in the State of Vermont, one of
the United States of America.*

Reported by Mr. SAMUEL J. WATSON.

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1865.

St. ALBANS RAID.

The following Speech, reported by MR. S. J. WATSON, was delivered upon the 21st instant, by B. DEVLIN, Esq., Counsel for the United States, in the Court House in Montreal, in support of their demand for the Extradition of the St. Albans Raiders.

MAY IT PLEASE YOUR HONOR.

It is, I have no doubt, as gratifying to you, as it certainly is to the Counsel who here represent the Governments of Canada and the United States, to find that the time and attention bestowed upon this Investigation have at last triumphed over the numerous and unexpected obstacles opposed to its termination, and brought us to that stage of the enquiry which enables us to address your Honor upon the merits of the application for the extradition of the prisoners. The case, as I view it, is one of extreme simplicity; and although it has attained to an unusual magnitude, and attracted public attention perhaps to a greater degree than any demand ever before made under the Treaty, I have certainly so far been unable to discover that it presents any feature calculated to embarrass the Court in dealing with it, or that even tends to withdraw it from the category of crimes enumerated in the Treaty under which we are now proceeding. True it is that the prisoners' Counsel have labored hard to surround the act of their clients with grave international difficulties, and to impress upon it the character of an act of war, but I flatter myself, that submitted as it will be to the test of sound sense and judicial scrutiny, the crime of robbery, of which the prisoners are accused, will still appear, despite all the false coloring under which it has been so ingeniously presented to your Honor's judgment. And here I may remark, that to me it doth seem as if my learned friends

fancied themselves endowed with some extraordinary magical influence, for certainly without their supposed possession of some such rare and wonder-working power, it would be difficult indeed to believe that they would have attempted to elevate a daring act of robbery to the dignity of a manly deed of warfare, or claimed for its guilty perpetrators the consideration due to the honest warrior who uses his arms for the legitimate objects of war, and not as the prisoners did at St. Albans, for the ignoble and savage purpose of robbing and murdering unarmed and defenceless citizens. I have said, your Honor, that this enquiry, notwithstanding the simplicity of the question involved in it, has attained an extraordinary importance, so much so indeed, thanks to the fertile genius of my learned friends, that it has become a *cause célèbre*. But let me ask what is it that has thus distinguished the St. Albans Raid and given to it a world wide notoriety? I answer unhesitatingly, its signal atrocity, the fraud and cunning by means of which it was achieved, aided, no doubt, by the extraordinary efforts subsequently made by the friends and sympathisers of the prisoners to strip their wicked deed of its criminal responsibility, and to make of them, its guilty perpetrators, heroes if not martyrs. Be this, however, as it may, I entertain the hope in which I trust I will not be disappointed, that senseless clamor will not here be permitted to drown the voice of public justice. That your Honor, ever mindful of the high and solemn trust reposed in you as one of the chosen administrators of the laws of our country, will not suffer your attention to be diverted from the consideration of the justice of our demand by the inflammatory speeches addressed by the learned Counsel ostensibly to you, but in reality to the passions, prejudices, and sympathies of the auditory which has filled this spacious Court-room from day to day. And, now, let me ask what does the duty imposed upon you require? It demands neither more nor less than that you should give effect to the provisions of a Treaty without which Canada would soon become a place of refuge for criminals of every grade, an asylum for malefactors of every dye. For be it remembered that it was with the object of

protecting the subjects of Her Majesty and the citizens of the United States from the direful consequences that inevitably followed where great criminals were allowed to escape the punishment due to their crimes, by fleeing from one foreign territory into another, that the Governments of England and the United States entered into the solemn Treaty which now gives your Honor jurisdiction to investigate the charge preferred against the prisoners. This treaty, as your Honor is aware, was assented to at Washington on the ninth of August 1842, and ratified in the month of October following. I refer to its stipulations, applicable to this case, with the view of shewing more clearly the obligations it imposes upon us. It is to be found in the Consolidated Statutes of Canada, Cap. 89, p. 943, and commences thus "Whereas, by the 10th article of a Treaty between Her Majesty and the United States of America, ratified, &c., it was agreed that Her Majesty and the said United States should upon mutual requisitions by them or their Ministers, Officers or Authorities respectively made, deliver up to justice all persons who, being charged with the crime of Murder, or Assault with intent to commit Murder, or Piracy, or Arson, or Robbery, or Forgery, or the utterance of Forged Paper within the jurisdiction of either of the high contracting parties, should seek an asylum, or be found within the territories of the other." Here we find that there can be no mistaking the class of offenders marked out for extradition, which, be it remembered, the same article of the Treaty commands shall be granted, "upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged should be found, would justify his apprehension and committal for trial if the crime or offense had been there committed, and also provided that the evidence of criminality should be heard and considered by the Judge or Magistrate issuing the warrant, when, if deemed sufficient to sustain the charge, it became the duty of the Justice to certify the same to the proper executive authority, in order that a warrant of extradition might issue." This, your Honor, is the only test to which the guilt of any person demanded under the treaty can be subjected until he is made

to answer for his crime before the tribunals of the country against the majesty of whose laws he has offended. Who will say that this is not a wise measure of protection, if not of prevention, against the commission in our midst of all or any of the four crimes indicated in the Extradition Treaty? Is there a law abiding citizen in Canada who wishes for its abrogation? I believe there is not: and yet, strange as it may appear, this investigation has revealed the startling fact that there are at this moment very many among us who erroneously imagine that this national convention, so necessary for the repression of crime, and so needful for the protection of society dependent for its existence upon the good faith observed in its execution by both the contracting parties, may upon a special occasion be treated with indifference, or, in order to secure the immunity from punishment of some highly favored criminal, be ignored in such case altogether.

In refutation of this mistaken notion of our duties and obligations under the Treaty, I will now read from the published opinions of eminent Jurists and distinguished statesmen, a few extracts, to show their appreciation of the benefits derivable from its existence, and the rule to be observed whenever its execution becomes the subject of demand by either of the high contracting parties.

Upon this point I refer firstly to a debate which took place in the House of Lords, in the month of February, 1842, when this Treaty was the subject of discussion. Upon that occasion Lord Brougham said:—"He thought the interests of justice required, and the rights of good neighborhood required, that in the countries bordering upon one another, as the United States and Canada, and even that in England and in the European countries of France, Holland, and Belgium, there ought to be laws on both sides giving power, under due regulations and safeguards to each Government, to secure persons who had committed offenses in the territory of one, and taken refuge in the territory of the other. He could hardly imagine how nations could maintain the relationship which ought to exist

between one civilized country and another without some such power."

"Lord Campbell, for his own part, should like to see some general law enacted and held binding on all states, that each should surrender to the demand of the other all persons charged with serious offences, except political; this, however, he feared was a rule or law which it would be difficult to get all nations to concur in."

Upon the same subject, Sir Robert Peel, replying to Lord Palmerston's speech condemning the other provisions of the Treaty, observes:—"The next point to which I shall refer is the article of the late Treaty providing for the mutual surrender of persons charged with offences. The noble Lord admits that the general object aimed at by the article is a wise one, that when the countries have a common boundary, the escape of criminals by stepping over that boundary, is prejudicial to the cause of good order, and injurious to the interests of both countries. The reciprocal delivery of heinous criminals is clearly an object of importance to civilized Governments." *Hansard's Parliamentary Debates*, 3rd series, vol. 67, p. 1223.

President Tyler, in his Message communicating the Treaty to Congress, observes:—"The surrender to justice of persons, who having committed high crimes, seek an asylum in the territories of a neighbouring nation, would seem to be an act due to the cause of general justice, and properly belonging to the present state of civilization and intercourse. The British Provinces of North America are separated from the States of the Union by a line of several thousand miles, and along portions of this line the amount of population on either side is quite considerable, while the passage of the boundary is always easy, offenders against the law on the one side transfer themselves to the other. Sometimes with great difficulty they are brought to justice, but very often they wholly escape. A consciousness of immunity from the power of avoiding justice in this way instigates the unprincipled and reckless to the commission of offences, and the peace and good neighbourhood of