

Documents in the case of the King vs. Daniel Hurley

Liverpool, N.S. 1816-1817

QUEENS COUNTY N.S. 1816
(Copied from original documents in the possession of William Shepherd, former Prothonotary of Queens County. They were copied for the Canadian Archives at Ottawa by Charles Warman in 1918, according to pencil notes on each document. In 1960 Shepherd turned the documents over to Jones & Milford, lawyers, Liverpool.)

The King Record of
vs
Daniel Hurley Conviction

Be it Remembered that at His Majesty's Supreme Court of Assize and General Gaol Delivery holden at Liverpool in and for the County of Queens on the First Tuesday of July in the fifty seventh year of the Reign of our Sovereign Lord George the Third and in the Year of Our Lord One Thousand Eight Hundred and Seventeen Before the Honourable Brenton Halliburton Esquire one of the Justices of the said Supreme Court and Being Visually Require Associate Circuit Justice of the same Court by the oaths of Gordon DeWolf and others his fellow Jurors good and Lawful Men of the County aforesaid then and there impanelled sworn and charged to examine for our said Lord the King and for the body of the County aforesaid

It is presented that Daniel Hurly late of Liverpool in the County of Queens Labourer on the Fourth day of December in the fifty seventh year of the Reign of our Sovereign Lord George the Third and in the year of Our Lord One Thousand eight hundred and sixteen about two o'clock in the night of the same day with force and arms etc. at Liverpool aforesaid in the County aforesaid the dwelling house of Joseph Farre Junior there situated feloniously and burglariously did break and enter and three shirts of the value of fifteen shillings six pence of the value of thirty shillings four pair of pantaloons of the value of thirty shillings six pence of Bombastette of the value of ten shillings four yards of cotton of the value of five shillings four handkerchiefs of the value of four shillings two pair of shoes of the value of ten shillings Eleven and a half Spanish mill Dollars of the value of fifty seven shillings & six pence one Golden Coin commonly called a Johannes of the value of forty shillings one guinea of the value of Twenty Three shillings and four pence four gold rings of the value of thirty shillings and of the value of six pounds of the goods and chattels (sic) of the said Joseph Farre Junior in the same dwelling house then and there ~~XXXXX~~ July Term 1817 feloniously and burglariously did steal take and carry away against the Peace of our said Lord the King his Crown and dignity

QUEEN'S COUNTY To Wit

and it is further presented that the said Daniel Hurly afterwards to wit on the Fourth day of December aforesaid in the fifty seventh year aforesaid at Liverpool in the County of Queens } Record of force and arms etc. Three shirts of the value of fifteen shillings six pence of the value of thirty shillings four pair of pantaloons of the value of thirty shillings six pence of Bombastette of the value of ten shillings four yards of cotton of the value of five shillings four handkerchiefs of the value of four shillings two pair of shoes of the value of ten shillings eleven and a half Spanish mill's Dollars of the value of fifty seven shillings and six pence one Golden Coin commonly called a Johannes of the value of forty shillings one guinea of the value of Twenty Three shillings & four pence four gold rings of the value of thirty shillings and two silver watches of the value of six pounds of the goods and chattels of Joseph Farre Junior then and there being found feloniously did steal take and Carry away against the peace of our said Lord the King his Crown and Dignity and against the Fea of the statute in such case made and provided

The King
vs
Daniel Hurley

Record of
Conviction

Whereupon the Sheriff of the ~~XXXXXX~~ County aforesaid is commanded that he sett not for any liberty in his Bailiwick but that he take the said Daniel Hurly and him safely keep to answer to the felony and Burglary whereof he stands indicted and afterwards to wit at the delivery of the Gaol of our said Lord the King his County aforesaid on the first Tuesday of July in the year aforesaid before the Justices ~~XXXXXXXX~~ aforesaid here Cometh the said Daniel Hurly under the custody of Nathan Tupper Sheriff of the County aforesaid in whose custody in the Gaol of the County aforesaid for the Cause aforesaid he had been before committed being brought to the Bar here in his proper person by the said Sheriff to whom he is also here committed and forthwith being demanded concerning the premises in the said Indictment above specified and charged upon him how he ~~XXXX~~ will acquit himself thereof he says that he is not guilty thereof and therefore for good and evil he puts himself upon the Country and James Rogers Esquire Deputy Clerk of the Crown for the County aforesaid who prosecutes for our said Lord the King in this behalf both the like -

Be it Remembered that at His Majesty's Supreme Court of Assize and General Gaol Delivery holden at Liverpool in and for the County of Queens on the First Tuesday of July in the Fifty Seventh year of the Reign of our Sovereign Lord George the Third and in the Year of Our Lord One Thousand Eight Hundred and Seventeen Before the Honourable Brenton Halliburton Esquire one of the Justices of the said Supreme Court and Peleg Wiswall Esquire Associate Circuit Justice of the same Court by the oaths of Gurdon DeWolfe and others his fellow Jurors good and Lawful Men of the County aforesaid then and there impannelled sworn and charged to enquire for our said Lord the King and for the body of the County aforesaid

It is presented that Daniel Hurly late of Liverpool in the County of Queens Labourer on the Fourth day of December in the fifty seventh year of the Reign of our Sovereign Lord George the Third and in the year of Our Lord One Thousand eight hundred and sixteen about two o'clock in the night of the same day with force and arms etc. at Liverpool aforesaid in the County aforesaid the dwelling house of Joseph Beres Junior there situated feloniously and burglariously did break and enter and three shirts of the value of fifteen shillings six vests of the value of thirty shillings four pair of pantaloons of the value of thirty shillings six yards of Bombazette of the value of ten shillings four yards of cotton of the value of five shillings four handkerchiefs of the value of four shillings two pair of shoes of the value of ten shillings Eleven and a half Spanish mill'd Dollars of the value of fifty seven shillings & six pence one Golden Coin commonly called a Johanna of the value of forty shillings one guinea of the value of Twenty ~~XXXX~~ Three shillings and four pence four gold rings of the value of thirty shillings and two silver watches of the value of six pounds of the goods and chattles (sic) of the said Joseph Beres Junior in the same dwelling house then and there ~~XXXXX~~ being found feloniously and burglariously did steal ~~XXX~~ take and carry away against the Peace of our said Lord the King his Crown and dignity - and it is further presented that the said Daniel Hurly afterwards to wit on the Fourth day of December aforesaid in the fifty seventh year aforesaid at Liverpool in the County aforesaid with force and arms etc. Three shirts of the value of fifteen shillings six vests of the value of thirty shillings four pair of pantaloons of the value of thirty shillings six yards of Bombazette of the value of ten shillings four yards of cotton of the value of five shillings four handkerchiefs of the value of four shillings two pair of shoes of the value of ten shillings eleven and a half Spanish mill'd Dollars of the value of fifty seven shillings and six pence one Golden Coin commonly called a Johanna of the value of forty shillings one guinea of the value of Twenty Three shillings & four pence four gold rings of the value of Thirty Shillings and Two silver watches of the value of six pounds of the goods and chattles of Joseph Beres Junior then and there being found feloniously did steal take and Carry away against the peace of our said Lord the King his Crown and Dignity and against the form of the statute in such case made and provided

Whereupon the Sheriff of the ~~XXXXXX~~ County aforesaid is commanded that he omit not for any liberty in his Bailiwick but that he take the said Daniel Hurly and him safely keep to answer to the felony and Burglary whereof he stands indicted and afterwards to wit at the delivery of the Gaol of our said Lord the King his County aforesaid on the first Tuesday of July in the year aforesaid before the Justices ~~XXXXXXXXXX~~ aforesaid here Cometh the said Daniel Hurly under the custody of Nathan Tupper Sheriff of the County aforesaid in whose custody in the Gaol of the County aforesaid for the Cause aforesaid he had been before committed being brought to the Bar here in his proper person by the said Sheriff to whom he is also here committed and forthwith being demanded concerning the premises in the said Indictment above specified and charged upon him how he ~~XXXX~~ will acquit himself thereof he says that he is not guilty thereof and therefore for good and evil he puts himself upon the Country and James Rogers Esquire Deputy Clerk of the Crown for the County aforesaid who prosecutes for our said Lord the King in this behalf doth the like -

Wherefor, Let a Jury thereupon here immediately come before the Justices aforesaid by whom the truth ~~XXXXXXXX~~ of the matters may be better known and who are not of kin to the said Danile Hurly to recognize upon their oaths whether the said Daniel Hurly be guilty of the felony and burglary in the Indictment aforesaid above specified or not guilty because as well the said James Rogers who prosecutes for the said Lord the King in this behalf as the said Danile Hurly have put themselves upon the said Jury and the Jurors of the said Jury by the said Sheriff for this purpose impanelled and returned to wit John West, John Smith, Thomas Gardner, Jacob Clattenburg, Leonard Teel, George Webb, Joseph Brown, Whitman Freeman Pitts Snow, John Teel, Simeon Freeman Junior, and Joseph Payzant being called come who being elected tried and ~~XX~~ sworn to speak the truth of and concerning the premises upon their oaths say that the said Danile Hurly is guilty of the felony and burglary aforesaid above charged upon him and that he had not nor hath any goods or chattles lands or tenements at the time of the felony and burglary aforesaid or ever afterwards to this time to the knowledge of the said Jurors - And immediately it is demanded of the said Daniel Hurly if he hath or knoweth anything to say wherefore the said Justices here ought not upon the premises and verdict aforesaid to proceed to Judgement and Execution against him and having nothing to say in this behalf unless as he before had said Whereupon all and singular the premises being seen and by the said Justices here fully understood

It is considered by the Court here that the said Daniel Hurly be taken to the Gaol of our said Lord the King of the said County of Queens County from whence he came and from thence to the place of Execution and there be hanged by the ~~XX~~ neck until he be dead.

(signed) Joseph Rogers Jr.

(signed)

Jas. Rogers

Dy. Clerk of the Crown

(signed) Joshua Newton J.T.

Mr. Safford, Merchant, Witness, bound in £10 to appear in the Trial.

Math'l Large, a Miner, Witness £10 for his appearance.

Lewis Mearns, a Miner, Witness £10 for his appearance.

(Note: This Record of Conviction is written with a pen, on sheets of good strong rag paper 12 $\frac{1}{2}$ " by 16", folded so as to make a small folio measuring 12 $\frac{1}{2}$ x 8, the "hinge" being fastened by a thin yellow ribbon run through the sheets. The paper bears in each sheet the watermark described below:



MOLYNEUX & JOHNSTON

1813



a figure of Britannia, spear in left hand, olive branch in right, no helmet, shield bearing the cross of St. George.

These two watermarks appear in each sheet, with the maker's name & date at left & the medallion of Britannia at right, as shown.

Deposition of Jos. Barss Jun. 4th December 1816, } (written on outer fold)
respecting Burglary committed by Daniel Hurley.

Queens County. Before us, Joshua Newton, Elisha Calkin, Snow Parker, & Benjamin Knaut Esqrs. His Maj. Justices of the Peace for the County, personally appeared Joseph Barss Junr. of Liverpool in said County, Merchant, and maketh Cath upon the Holy Evangelists of Almighty God, that this morning about two of the Clock he was awakened by some noise in his House, and upon getting out of his Bed soon after, he went out of his bedroom in the Parlour and found one of the Windows open. That he missed several things immediately, and upon raising the Family and getting assistance, he went out of the House in search of the Thief, with Lewis Minard Nathl. Verge and Wm. Safford, and traced the Footsteps of a Man down ~~the~~ to the Water side. That he there discovered Daniel Hurley, a transient man, who said he was a stranger, and upon being questioned, was very loth to answer, or to go with the complainant. But he consented to go to the House of the Deponent, and before he reached it he acknowledged that he had taken the things out of the House, thro the Window, and delivered to the Deponent the following articles which he had stolen. Vizt.-

Three shirts, six vests, four pair of pantaloons, six yards Bombazette, four yards Cotton, four silk Hankerchiefs, two pair of Shoes, 11½ dollars in Silver, one gold Johannes, one gold Guinea, one swordbelt & plate, four gold rings, two silver watches --

And that several other things are missing which he has reason to suppose were stolen by the said Daniel Hurley.

(signed) Joseph Barss Jr.

Queens County Before us the aforementioned Justices, after hearing the examination of the parties, it is adjudged that the said Dan'l Hurly stand committed to His Maj. Gaol in Liverpool on the charge of Burglary, for further examination.

(signed) Joshua Newton J.P.

Wm. Safford, Merchant, Witness, bound in £10 to appear in the Trial.

Nath'l Verge, a Minor, Witness £10 for his appearance.

Lewis Minard, a Minor, Witness £10 for his appearance.

Liverpool 28th Janry. 1817 Daniel Hurly was brought up before Joshua Newton, Isaac Dexter, Patrick Doran, Jos. Freeman, Benj. Knaut Esqrs. for further examination, and after hearing his confession and examining sundry other Witnesses above named, who Recognised before us to appear at the Trial, the said Daniel Hurly was Committed to His Maj. Gaol in Liverpool on the charge of Burglary, until he be thence discharged by due course of Law.

(signed) Joshua Newton J.P.

Justice Barss. } (written on outer fold)
Warrant to apprehend Dan'l Hurly.
4th Decr. 1816

Queens County To Joseph Verge Junr. - Constable.

You are hereby required to take the body of Daniel Hurley and him

safely to commit to the County Jail (sic) and there wait further Orders, and this your Authority for so doing.

Queens County The Deposition (signed, in a shaky hand) of Daniel Mutton in said County, Gentleman, who being duly sworn upon the Holy Scriptures of Integrity God, deposes and says — Joseph ~~Barss~~, Justice Peace
Liverpool 6th Dec. 1816
Note: This was Joseph Barss &c.

Examination of Daniel Hurley, charged with (sic) Burglary (written on outer fold) 4th. Decr. 1816

Queens County. The examination of Daniel Hurley of Liverpool in said County, a native of Ireland, born in the County of Cork. Taken before us, Joshua Newton, Elisha Calkin, Snow Parker, Benj. Knaut Esqrs., four of His Maj. Justices of the Peace for the County, this 4th day of Decr. 1816. Who upon his examination says that:-

His name is Daniel Hurley, he is a native of Ireland, is about 20 years of age. That he came to this town about a fortnight since, by land from Cape Persue. (note by T.H.R. This means Cape Fourchu = Yarmouth N.S.) That he has lived at the Widow Smiths at Port Mutton for a month past. That he came to Town yesterday morning and dined at Verge's Tavern. That he went from thence to the Ferry House at the Market Wharf, and stopt there till near Dark, when he went over the Ferry with two other Persons, he does not know who they were. That he went into a House near the Ferry on the opposite side of the River, and got some drink. He does not know the name of the Persons. He does not know where he slept, and does not recollect anything further, but acknowledges that he went into Mr. Barss' House, but does not know whether it was into the Window or Door. That he acknowledges he took the Dollars and Gold in Money out of the House, with two Silver Watches and other things, but does not recollect what they were or how he took them. That he was very much in Liquor. That he did not know who lived in the House, he was never over on that side of the River before, and that no other Person was with him when he went into Mr. Barss House.

Daniel Hurley from the County (signed, with a shaky X) Daniel X Hurley
mark

QUEENS County Before us, Joshua Newton, Patrick Doran, Isaac Dexter, Jos. Freeman, Benj. Knaut Esqrs, this 28th day of Jan'y 1817:-

Daniel Hurly was brot. up for further examination, and says -- That he escaped from the Gaol on Wednesday Evg. last. He heard that the Gaoler did not lock the door when he went out, and he put his hand thro' the hole of the door and took off the lock. That he found a Rope in the Entry upstairs, and he tied it to the Window and got out, and ran towards Port Mutton. That no person was with him or helped him. That he did not go into any house till he got to Port Mutton, and there he went into a Broken Widow (sic) at the House of Mr. Freeman, ~~and got something to eat, and came out the same way without being discovered.~~ and got something to eat, and came out the same way without being discovered. That he then went to sleep in Mrs. Smith's Barn, and was there found by Capt. McPhearson of Port Mutton, and that he was brought to Town the next day, delivered up to the Gaoler again. That he also acknowledges that he went into Mr. James Gorhams House one night, previous to his going into Mr. Barss House. That he took some money and other articles out of the House. He does not know what time of night it was. He also acknowledged that he stole a Silver Watch from Mr. George Clements, that he took it out of the Cooper's shop and gave it to Thos. Smith of Port Mutton, who said it was his Mother's Watch.

(Signed by the four Justices.)

Deposition of Robert Freeman, respecting the recovery } (Written on outer fold)
of Daniel Hurley. 11th March 1817

Queens County The Deposition of Robert Freeman of Port Mutton in said County, Gentleman, who being duly sworn upon the Holy Evangelists of Almighty God, deposes and says --

That on the Evening of the 23rd January lastpast, on his return to Port Mutton where he resides, he was informed by his Family, and by Capt. McPhearson, that some Person had broke into his House in his absence the Evening before, and had stolen a jacket, one pair of stockings, two pair of mittens, one case Knife and some other articles. That one of the Window sashes was taken out. His wife informed him that she believed it happened that night between eleven of the clock at night and the next morning, as she heard some noise outside of the House about eleven o'clock before she retired to bed. That he soon after took assistance with him, and in company with Capt. Allan McPhearson went in search, and found Daniel Hurley, the Prisoner who had escaped from the Gaol in Liverpool the Evening before, concealed in the Barn of Mrs. Jemima Smith, with the abovementioned articles upon him, which he acknowledged to the Deponent he took out of his House, and that he went in thro' the Window which was taken out. That he restored all the articles again to the Deponent, except the Stockings. That Deponent then secured the said Daniel Hurley in his House, and employed two persons to take the Custody of him during the Night, and the next day he brought him to Town, guarded by the two persons he had hired, and delivered him to the Custody of the Gaoler again. That Deponent has not received any indemnification from the Gaoler or Sheriff of the County, for the expence of recovering him, and that he was told by the Gaoler that there was nothing allowed for the expence, and he did not offer any reward in his advertisements or Hue & Cry.

(signed) Robert Freeman

HUE & CRY

Dy. Sheriff's notice of the escape of } (written ~~xxxx~~ on outer fold)
Daniel Hurley from the County Gaol, 23 Jany. 1817.

HUE & CRY

Broke Gaol and ran away from Liverpool on the 22nd. Instant, a young man named Daniel Hurley, Committed for Burglary -- A Native of Ireland & County of Cork -- He is about 21 years of age -- had on when he ran away a blue broadcloth Jacket, a light coloured Waistcoat, with Cotton Shirt, blue broadcloth Trowsers with some rents -- He is light Complexioned rather inclined to freckles -- sandy hair -- an Effeminate Voice and talks broken English -- he is about five feet eight inches high -- Any Person whatever Recognising the said Daniel Hurley are hereby required to apprehend the same and him deliver to a Constable or some other Peace Officer in Queens County. (Signed) Benjamin Cole
Dept. Sheriff & Gaol Keeper
Liverpool 23rd Jany. 1817.

(Note by T.H.R. The above Hue & Cry is written in bold and beautiful penmanship with many flourishes, very different from Cole's signature.)

Deposition of Benjamin Cole the Gaoler
respecting the escape of Dan'l Hurly
28th January 1817

(written on outer fold)

Queens County The Deposition of Benjamin Cole, Gaoler and Deputy Sheriff for the said County, taken this 28th day of Jan'y 1817, before us, Joshua Newton Esq., Isaac Dexter, Patrick Doran, Joseph Freeman and Benj. Knaut Esquire, five of His Majesty's Justices of the Peace for this County. Who depose and says that Daniel Hurly, a Prisoner committed to His Custody on the Charge of Burglary, on the 4th day of December last part, had complained to him that he was very sick, that the Deponent called upon the Justice for direction and was referred to the Sheriff from whom he was to take his orders - That the Deponent called upon Dr. W.T. Thorne to attend the prisoner, who on seeing him said he was very Sick, that he had taken one cold after another and there was danger of the disorder seating upon his lungs, that he administered some Pills, that this was on the 10th day of the present Month. That the Doctor also came again on Sunday, that he administered something more to him on that day, and also said that the Man would die unless he was taken out of that room. The next day he came again, and the Deponent was not at home. The Sheriff living out of Town, Deponent did not see him until Wednesday the 22nd Inst., when he came down to the Gaol and saw the Prisoner, and saw that he was comfortable, and ordered him more Cloaths which he brought with him, and ordered the Gaoler to keep him comfortable and to allow the Dr. to attend him. That the Sheriff himself went into the Prisoner's room and talked with him and felt his pulse and said he thout (sic) him sick, as he could not feel any pulse beat. This was about Sunset on the said day, and the Sheriff on leaving the Gaol said he would send some Fire wood for the Prisoner the next day. That about 3 quarters of an hour after wards the Deponent went into the Prisoner's room and found him laying on his Bed, complaining of being sick and said he should Die, and hoped that he would.

That the Deponent came out of his room and shut the Door, putting the Padlock on the Hasp, but did not lock it, as he was going up again before Bed time, and did not conceive that the Prisoner could get out of his Bed to open the Door. That about Seven oClock in the Evening, in half an hour after he had left the Prisoner, the Deponent's Daughter came to him and said the Window was open in the upper entry, and that a Rope was tied to it. That he went up immediately to the Prisoner's room, and found the Door open, and that he had escaped out of the Window in the Entry, the Lock being taken off the hasp thro' the hole in the Door. That the only person in the House with the Deponent was his Wife & Children, and R.N. Slocomb Junr., & Ebenezer R. Combs had left the House about five minutes before. That the Deponent went out of the House immediately to make Search, and sent a messenger to the Sheriff, and took his own Horse himself and went to the Beach Hill and gave notice of the escape. And he, the Gaoler, raised Hue and Cry the next morning, sent Constables in pursuit of the Prisoner. On Saturday P.M. he was brot to Town by Mr. Robert Freeman from Port Matoon, who informed him that the Prisoner had Broke into his House, and also into Mrs. Daniel Smith's House the same evening he Broke Gaol, and took from said Freeman's House several articles of whering (sic) apparel, and then concealed himself in Mrs. Smith's Barn, where he was found by Capt. McPherson & Mr. Robert Freeman, and that he was brot. to Town, and delivered into the Custody of the Deponent, and that he is now safely lodg'd in His Majesty's Gaol in Lverpool.

(Signed) Benjn. Cole

