

son who shall enter upon the Crown Lands to cut Timber, before the District shall be marked out for him under such authority, will be prosecuted according to Law.

By order of His Excellency the Lieut. Governor.

H. H. CARMICHAEL, D. S.

By ROBERT PAGAN, Esquire, one of the Justices of His Majesty's Inferior Court of Common Pleas for the County of Charlotte, in the Province of New-Brunswick.

NOTICE is hereby given, that upon the application of Tyler Porter Shaw, of the Parish of St. George, in the County of Charlotte, Merchant, to me duly made, pursuant to the directions of the Act of Assembly in such case made and provided: I have directed all the Estate as well real as personal, within the said County, of Charles Cox, the younger, late of the Parish of St. George, in the County of Charlotte aforesaid, Yeoman, (which said Charles Cox, the younger, is departed from and without the limits of this Province, or concealed within the same, with intent and design to defraud the said Tyler Porter Shaw and the other Creditors of the said Charles Cox, the younger, if any there be, of their just dues, or else to avoid being arrested by the ordinary process of Law as it is alleged against him) to be seized and attached; and that unless the said Charles Cox, the younger, do return and discharge his said debt or debts, within three months from the publication hereof, all the Estate as well real as personal of the said Charles Cox, the younger, will be sold for the payment and satisfaction of the Creditors of the said Charles Cox, the younger.

Dated at St. Andrews, in the said County of Charlotte, the nineteenth day of April, in the year of our Lord one thousand eight hundred and twenty.

ROBT. PAGAN, J. C. P.

JAS. BAKER, Att'y.

By JOSEPH HOME, Esquire, one of the Justices of His Majesty's Inferior Court of Common Pleas for the County of Northumberland, in the Province of New-Brunswick.

NOTICE is hereby given, that on the application of Hugh Munro, Esquire, (of the Firm of John Johnston and Hugh Munro, Copartners in Trade) of the Parish of St. Peter, in the County and Province aforesaid, Merchants, to me duly made, pursuant to the directions of the Act of the General Assembly of this Province in such case made and provided; I have directed all the Estate as well real as personal, of Thomas Dodd, late also of the Parish of St. Peter, in said County, Merchant, (which said Thomas Dodd has departed from and is without the limits of this Province, or concealed within the same, with intent and design to defraud the said Hugh Munro and his said Copartner in Trade, and the other Creditors of the said Thomas Dodd, if any there be, of their just dues, or else to avoid being arrested by the ordinary process of Law, as has been made to appear to my satisfaction) to be seized and attached; and that unless the said Thomas Dodd do return and discharge his debt or debts, within three months from the publication hereof, all the Estate as well real as personal, of the said Thomas Dodd, within this Province, will be sold for the payment and satisfaction of the Creditors of the said Thomas Dodd.

Dated at New-Castle, in the said County of Northumberland, the twenty-eighth day of April, in the year of our Lord one thousand eight hundred and twenty.

JOS. HOME, J. C. P.

JOHN AMR. STREET, Att'y.

Trial of Sir Francis Burdett.

LEICESTER, THURSDAY, MARCH 23.
(Concluded.)

Q. Whose hand-writing was the envelope?—A. It was Sir Francis'.

Q. What was it?—A. A desire to publish the letter in the papers. The date of the letter is August 22d. I received it a day or two after. Witness being shown another letter, was asked if it was the hand writing of Sir Francis; he said he did not know. He was shown an envelope, and asked if it was the handwriting of Sir Francis Burdett; he said he did not believe it was.

Wm. Tooke, the next witness, said, he was acquainted with Sir Francis Burdett's hand writing. Being shown the direction on the envelope, and asked if it was his hand-writing, he answered, some of the letters were like his hand-writing, and he believed the whole to be his.

Wm. Simpkin said, he kept the Toll-gate near Kirby, about one hundred yards from Kirby Park, where Sir Francis Burdett resided; he saw him coming by his gate on the 22d and 23d of August last; he was riding each time.

Cross-examined by Sir Francis Burdett.—The gate is on the borders of the county not far from Oakham, in Rutlandshire.

Mr. Brooks being again called, said that the letter was published in the *British Press*; witness sent it to that Paper; it was not paid for as an advertisement, but was left to the discretion of the Editors of that Paper, whether they chose to insert it or not.

Hate the letter was read by the Clerk of the Court, and the *British Press*, containing the letter, was produced; the envelope was next read; it is directed to Lord Viscount Sidmouth, dated August 22, and signed "Francis Burdett." This letter had already been before the public; it was

that in which he acknowledged his being the author of the letter addressed to the Electors of Westminster.

Mr. Denman now submitted to the Court, that there was no case proved which required an answer, or which could come before the Jury. There was no proof of the letter having been written in Leicestershire. It was merely proved that Sir Francis was seen on horseback near Kirby Park on the day of the date of the letter, and he might have rode into another county and dropped the letter in some Post-office there. The bare writing of a letter was no offence; for there must be a publication proved by direct evidence. The charge was, that he had published this letter in the county of Leicestershire. But it might as well have been published in any other county. It was quite as consistent, that he might have written the letter in his study, taken a ride out, met Mr. Bickerstaff in another county, and there delivered the letter to him.—Such a thing could be in no way inconsistent with the facts just given in evidence. There was no proof that the letter was published in the county of Leicestershire; and a Jury would be perjured if they found a man guilty of an offence alleged to be committed in one county, without proof that it was committed in such county.

Mr. Clarke objected to this mode of argument, as being an address to the Jury, and not a point of law submitted to the Bench.

Mr. Denman said, there were many cases alluded to by Mr. Serjeant Vaughan; that of the Seven Bishops, where the Judges gave their opinion that there was no proof of the petition to the King having been published in the County of Middlesex, until Lord Sunderland proved that he had presented it to the King on behalf of the Bishops. Now, he submitted that there was no proof as to what Country the letter was written in. But even if the letter was put into a post-office in the County of Leicestershire, it was no publication in that County, because it was not shown to any one there; nor was it any publication at all, until it arrived at the place of its destination. Mr. D. quoted some other cases in support of his argument. He admitted that Sir F. Burdett might very properly have been brought before a Jury in Middlesex; but he maintained that the act of publication ought to be clearly shown, that the case might come within the jurisdiction of that Court; and that it could not be tried in any jurisdiction except where it was published. The simple fact of writing the letter was no libel; it was not a libel until it was delivered. Sir Francis might have rode out as far as Oakham, in Rutlandshire, which was not far off at the time when he was seen riding out on the 25th of August, and left the letter there. It was then, in his opinion, a case which could not go to a Jury. The Seven Bishops wrote their petition in Surrey, yet they were not tried in that County, but in the County in which it was delivered to the King. There was no proof of this letter having been seen by any human eye in the County of Leicestershire, until it was shown in the Court that day. Therefore there was no proof of its having been written or published there.

Mr. Phillips followed on the same side. The writing of the letter was not a publication by Sir F. Burdett; it never was published until it came to Middlesex; and here was not even any evidence to show that the letter was written in Leicestershire. In the case of the Seven Bishops, they admitted that they wrote the paper in Surrey, and then it was admitted on behalf of the Crown, that there was not any evidence of publication in Surrey. The present was a case not only in point, but was even much stronger; for there was neither admission nor evidence to show that this letter was written in Leicestershire. There was not the slightest evidence to show where Mr. Bickerstaff received the letter. The onus rested on the Crown to show how it came out the hands of Sir F. Burdett to Mr. Bickerstaff. No such thing was done; and therefore was a complete chasm in the evidence.

Mr. Justice Best said, he was of opinion that there was evidence sufficient to go to the Jury; and the objection now put might hereafter be urged in another place, in arrest of judgment, if a conviction should take place. The case of the Seven Bishops was different, for the libel then was tried in the county in which it was alone

circulated. In the case of Justice Johnson, it was decided that he might be tried in Middlesex for the letter which he had sent to Mr. Cobbett, and which was published in his Register; but that decision did not show that he might not be tried in Ireland, where the letter was written. On the same principle, it did not follow, from the cases quoted, that Sir F. Burdett might not be tried in Leicestershire. It would be for the Jury to say whether they thought there was sufficient evidence to show that the letter had been written in Leicestershire.

After a lapse of about ten minutes, during which the Judge, Jury, and Sir Francis Burdett retired,

Sir F. Burdett, at about half-past twelve, rose to address the Jury. He began by thanking the Learned Serjeant for the handsome manner in which he had spoken of him; and in what he should say about ex-officio informations, he should not throw any reflection on the Attorney-General personally, but on the office itself. But he now declared such a mode of prosecution to be unjust and unconstitutional. It was the duty of the Attorney-General to have sent him before a Grand Jury; and if he had he (Sir F.) would have been saved all the trouble he was now put to. The first question the Jury had to try, was a fact of which there was not a little of evidence before them; so far from there being any proof to show that the letter was put into any Post-office in Leicestershire, he declared he did not know himself nor did any of his servants know what office it had been put into: so much was he in the habit of going about to different places, writing letters in different places, and putting them into post-offices. He was therefore brought to trial in Leicestershire, while it was not known whether the act he was charged with had been done in this County. He next adverted to the unconstitutional power possessed by an Attorney-General of filing ex-officio informations—a power repugnant to Magna Charta and the Constitution. The Attorney-General was called an officer of the Crown; but that was not the fact. He (Sir Francis Burdett) wished he was, for he always wished to see the Crown possessed of its full powers, but the Attorney-General was the officer and creature of the Administration, depending on their will, and looking up to them for preferment.—(Here the Judge expressed an opinion that such an assertion ought not to be made.) Sir Francis, with submission, contended that the remark was very material for his defence, because, when it was known on whom the Attorney-General depended, the motives of the present prosecution would be clearly understood. Why did not the Attorney-General send him to a Grand Jury in Middlesex, and try him there? The reason was, that he despaired of a conviction in Middlesex, and expected he should find men in this county who entertained strong prejudices against him for his supposed political principles. In doing this, the Attorney-General libelled the Juries of both places. He libelled the people of Middlesex by despairing of obtaining a verdict there; and he libelled those of Leicestershire by supposing them all possessed of political prejudices: and what must the Jury think of prosecuting him in a place, which, in point of law, was a disturbed district. He next adverted to the undefined character of a libel; it was impossible for any man to tell what it was; he term was borrowed from the worst part of the Roman law, and adopted first in England by the infamous Court of Star Chamber. It was known that what was declared to be a libel in one country, was declared in another country not to be a libel. This was the clearest proof he could give of the oppressions practised against men on charges of having published libels; indeed it was difficult for any man charged with such an offence to know how to defend himself. If he was charged with a murder, he should know how to defend himself; but not when charged with what was called a libel. The law of libel was even more undefined than the military law, for every military man knew who to conduct himself so as to avoid punishment. But no man could tell whether he might not be prosecuted for any thing he wrote.

After dwelling for some time on these topics, he entered into an examination of the letter he was charged with writing; and observed, that he could not conceive why it should be considered disaffection in him to lament that soldiers had cut people to pieces; or how it could excite dissatisfaction in the

military. He wanted to excite no dissatisfaction, but to seek for legal redress, by appealing to the laws of the country; and he contended that there was no libel in that. He had addressed the letter to his Constituents, and to the Country Gentlemen of England, with the very view of obtaining legal redress. There was nothing in the letter more than the words which it contained, for no innuendo could be made out from it; and it was most unfair in the Learned Counsel to attempt to infer an innuendo from any part of the letter. But he maintained that the whole proceeding was out of that Court,—out of its proper jurisdiction,—for that letter was published in Middlesex alone. In that paper there was no slander thrown on the military, any more than on the Government; but it was a justification in his favour that he had stated in the letter that he had his authority only from the newspapers. As to whether the Manchester meeting was or was not legal, the people assembled there wished to put themselves under the protection of the law; they did not think they were acting illegally, and the very Magistrates did not know whether the meeting was legal or illegal. They had, however, done the same thing which the Attorney-General charged him with doing, namely, to provoke a breach of the peace; for instead of arresting Mr. Hunt in the first instance, as they might, have done, they waited till immense numbers were collected together, and then sent the military to attack them. He contended, that the Manchester Meeting, which was the subject of this letter, was not illegal; for he had been in Parliament a quarter of a century, and he always understood any number of persons legally meet to present petitions; and it was not until very lately, that a Noble and Learned Lord had twisted out some obscure points of law, to prove, that a meeting, when it became very numerous, became illegal. Until that declaration was made, all public meetings were considered as legal.—In support of this assertion, he quoted the opinion that had been given by Lord Chief Justice Holt, who declared that any person who killed another on account of being in a great meeting was guilty of murder.—As to reading the Riot Act, it ought not to be read till there was a riot; then an hour was allowed to the people to disperse; and there was nothing in such case to justify the sending of military among the rioters. After dwelling for a considerable time on these topics, he concluded by expressing his conviction, that a verdict could not be found against him.

Mr. Serjeant VAUGHAN addressed the Jury at considerable length, enforcing all he had stated in his opening speech, and at the same time he replied to the legal objections which had been taken by Mr. DENMAN.

Mr. Justice Best, in his charge to the Jury, declared he had no hesitation in pronouncing the letter of Sir F. Burdett to be a seditious libel: and with respect to the county in which it was published, there was strong presumptive evidence to show, that it was written in Leicestershire. That writing was a publication, and the onus lay on him to prove that it was not written in that county. It was for Sir Francis Burdett to show how that letter got into the County of Middlesex. He was in Leicestershire at the time that letter was written, and the Jury were warranted in believing that it had been published there. In that letter he spoke of blood having been spilled by the soldiery. Was it fit for a Gentleman of his education & knowledge of the laws of his country, to make such an assertion upon the mere authority of newspapers? Then the defendant spoke of the unconstitutional measure of a standing army, but there was no such thing, for the army only existed by the authority of Parliament from year to year. The defendant stated that in his defence his object was to call on the Country Gentlemen of England to support the just rights of their country. He believed no men in England were more anxious to do so than the country gentlemen. With respect to the other expressions in the letter, it was impossible for man to justify them. The defendant knew very well that there was no such thing as a reign of terror, or danger from military execution in this country. In the allusion made to the military in the reign of James the Second, there was nothing particularly expressed; but there was a great deal insinuated. The government of this country did not depend for its support on a standing army, but on the affections of the people;