

States, but it was a well known rule of Law, that an Alien being under the protection of a Government, was subject to its Laws, and owed a local and temporary allegiance so long as he might continue within it. He (the Attorney General) had understood the present Defendant justified his conduct on the ground of his being in the Territory of the United States. If the Defendant could make this appear, it might afford him a good defence; or if he could make it appear that he came to the Madawaska Settlement with the full intention to take up his residence on the Territory and within the allegiance of that Government, and had so settled, with the full conviction and belief that he was within these limits; although the offence would not be thereby purged unless it were found to be the case, still his criminality would be much lessened, and he would be entitled to mitigation in any punishment which the Court would award him. As to the proof which he (the Attorney General) should bring before them in support of his charge; he thought not only one, but all the overt acts would be proved, and the criminal intention of the party most clearly and satisfactorily established by this and other circumstances which would come out in evidence. The place where the offence is charged to have been committed is the Madawaska Settlement, so called, in the Parish of Kent, in the County of York; and it would appear, the inhabitants there have ever since the first erection of the Province considered themselves British Subjects, and under its Government; that they have always received the protection and been amenable to the provisions of the Laws here in force; that they have been enrolled in the Militia, have voted at Elections, and therefore represented in the Provincial Assembly, and in fact, exercised all the rights of the people of the Province; that Peace Officers have been appointed there; Magistrates issued their warrants; and the Processes of Courts of Justice been served throughout the whole Madawaska Settlement, in the same manner as in any other part of the country, until lately, without interference or obstruction whatever. It would be proved also, that the very Defendant had considered himself living in this Province; had derived protection from the Laws; had in several cases himself applied to Mr. Justice Morehouse for Summons against persons within the Settlement from whom he claimed Debts, and was thereby enabled to collect them; and it did not lie with him now to deny the obligation to that Law from which he had derived aid and protection. He had not only, then, enjoyed the benefit of the Institutions which he was endeavouring to destroy, but had even received from the Revenue of the Province, a Bounty which the Legislature have bestowed for Grain raised on new land within the same; the land on which he raised it being the same where he has now hoisted the Flag of the United States, and set the laws and Government at defiance. It was no question for them or this Court to determine what might eventually be the fate of this Country; no decision of theirs could alter or affect the question. There was no doubt it had been claimed by the United States, and that Claim resisted by Great Britain; and the two Governments had agreed upon a mode of settling the dispute. This depended on the true construction of a Treaty entered into between Great Britain and the United States; but it would be monstrous to suppose that upon the Claim being made, the country was to be withdrawn from the Sovereignty of the British Crown, and remain

without the protection of any Law, or delivered over to the Claimant until the right was ascertained. Should it be decided that this Claim shall prevail, there was no doubt the decision would be met by Great Britain with the same spirit that has always actuated her conduct in the observance of Treaties; but at present nothing was decided. This country was once clearly under the Government of the Crown, and had continued so, uninterruptedly, ever since; and after the erection of this Province, was under its Government; and there was no act whatever, by which the relative state of the parties could as yet be altered or affected. Indeed it was necessary for the interest of both parties that some Jurisdiction should be exercised, as without it the Territory could not be preserved. A degree of imaginary importance had been given to this case by the Defendant's having been dignified by a high title to which he had no pretension; and set himself up as the Agent of, and acting under the authority of, a foreign Government; which was not the fact: whatever he and the others might have done, was in their individual capacities, and on their own responsibility. The Attorney General then stated to the Jury, that a great deal had been said, a great deal written, and a great deal printed on the present business; but this could have no weight whatever; and the Jury must dismiss it altogether from their minds. It was the great principle of our Laws, the exercise of which we are now vindicating, that every person is presumed innocent until proved guilty; and this proof could only be by Evidence given in his presence before the Jury, who are to decide in his case. The Jury must therefore consider nothing whatever but the facts which might be proved before them. After hearing the Evidence, they should not in their consciences say they were satisfied of the guilt of the Defendant, he would be entitled to acquittal; but if the offence, as alleged in the Indictment, was proved, they would fearlessly discharge their duty by pronouncing him guilty. The Attorney General then read some Authorities on the general nature of the charge, and the proof necessary to support it, and proceeded to call the witnesses. WILLIAM TERRIO, one of the witnesses recognised at the last Term, was called, but did not appear. GEORGE MOREHOUSE was the first witness sworn; his evidence was as follows:—I am a Justice of the Peace for the County of York. I reside in the Parish of Kent, on the River Saint John, about 30 miles below the Grand Falls. The Madawaska Settlers commence a few miles above the Falls, and extend up 40 or 50 miles. I have been settled where I now live six years; but my acquaintance with the Madawaska Settlement commenced in the year 1819. At this time the Inhabitants were principally French. There were a few American Citizens. I cannot say whether Defendant was there then. His brother Nathan was. I do not recollect the Defendant's being there until September 1822. He and the other Americans had formed a lumbering establishment at the head of the Madawaska Settlement, on the East side of the River Saint John, by the Merumpticook Stream. That part of the Country where the French and Americans were, has been invariably under the Jurisdiction and Laws of this Province since I knew it. I have been in the constant habit, as a Magistrate, of sending my Writs and Warrants there. No interruption or objection was made to the service of them until last August. Until then it was my belief that all the Inhabitants there considered themselves under the Jurisdiction of, and subject to the Laws of, this Province, both American Citizens and the French Settlers. When I speak of last August, I mean that this was the first intimation I had of any objection being made to the exercise of the Jurisdiction of this Province there. That intimation was made by a Report or Communication from Mr. Rice, that John Baker, the Defendant, had been guilty of seditious practices. I forwarded this Communication to the Secretary of the Province. A few days after, about the 3rd of August, I received written instructions from His Majesty's Attorney General, to proceed to Madawaska and take depositions; and get a copy of the written paper which it was reported the Defendant had handed about for signature. I proceeded accordingly to Madawaska on the 7th of August, and arrived at the place where

Baker's House is situate, and went in to the House of James Bacon, and asked him to let me see the paper which had been handed about for signature. He said he had it not. I then requested Bacon to go with me to Baker's to look for the paper. He declined going. I then went toward Baker's House, and met him on his Mill-Dam. The Mill Dam is made across the River Merumpticook. I stated to him that it had been reported to Government, that he and other American Citizens residing there, had been guilty of seditious practices; that I was authorized to make inquiry. I told him it was reported that he had drawn up and circulated among the Settlers, a paper, the purport of which was, that they were American Citizens, and had bound themselves to resist the execution of the Laws of Great Britain. He neither admitted or denied it, but said that he had been charged with an attempt to stop the Mail, which he said was false. I requested him to show me the paper which had been handed round for signature. He said he believed it was not in his possession. He did not deny the existence of such a paper. He said he did not know whether it was in his possession or not. He thought Studson had it. I requested him to go to his House and search his papers, perhaps he might find it. We proceeded together toward his house. Between his residence and the Mill there is a new House, where ten or twelve Americans were assembled. I did not know them to be Americans, but supposed them to be so. They were not French Settlers. When we got there, Baker took two or three aside and consulted with them a few minutes. He then came back and said to me "Mr. Morehouse, I have consulted with the Committee, and we have determined that you shall not see this paper. We have formerly shewn you papers in similar cases, which has been very prejudicial to us." I observed when I went there, a flag Staff erected on the point of Land where Baker lives. The point is formed by the junction of the Merumpticook River with the Saint John. There was then no flag on it: But after coming out of Bacon's, I observed a flag hoisted. A white flag with an American Eagle and a semi-circle of Stars red. In the conversation I had with Bacon, he deprecated Baker's practices, and said he would not desert until he brought the Americans there into trouble. I think the persons Baker took aside to consult with, were Bartlett and Savage. After I had received the answer before mentioned, I pointed to the flag and asked Baker what that was? He said "The American flag." "Mr. Morehouse, did you never see it before?" "If not, you can see it now." I asked him who placed it there? He said "He and the other Americans there." Bacon was present at the time. I requested him in His Majesty's name to pull it down. He said "No, I will not." "We have placed it there, and we are determined to force to ourselves shall take it down. We are on American Territory; Great Britain has no Jurisdiction here; What we are doing we will be supported in; We have a right to be protected, and will be protected in what we are doing, by our Government." He did not produce or exhibit any authority. I then turned to Bacon and said, "Bacon, you have heard Baker's declaration; Do you mean to support him in it?" He said "Of course I do." I then left them, and came away. Baker, about the 1st of February 1825, applied to me, as a Magistrate, for Summons against some of the Madawaska Settlers, to collect Debts. I gave him six Summons against persons all living in the Madawaska Settlement. The return made to me was, that the Debts were paid when the Writs were served. Baker has a considerable improvement and raises more or less grain every year. In 1823 I was at the place where he resides. I never knew of his cultivating any other place in the Province. I understood from what passed, that Baker and Bacon both acknowledged they had signed the paper. They spoke of having bound themselves by a written agreement to resist the Laws of England. The direct examination being closed, the Defendant was informed he might cross-question the witness. He declined doing so, saying, under the circumstances in which he stood there, he did not intend asking any questions. The Court then said he must consider himself on his Trial; and if he did not choose to avail himself of the right which every Defendant had of cross-examining the witnesses, it was his own fault: Baker then said he fully understood this, but should follow the course he had stated. To Questions then put by the Court, the witness stated:—The Madawaska Settlement proper terminates at the Madawaska River. Above the River, there are a few miles interval with a few scattering houses. The main settlement then commences about 8 miles above the Madawaska, and extends 7 or 8 miles. The Merumpticook is about 18 miles above the Madawaska. This Settlement has formerly gone by the name of Chateaugay; latterly it has been called St. Emile by the French Settlers in the Settlement. I mean distinctly that the upper as well as the lower Settlement has been subject to the British Laws. It is at the head of the Settlement the Americans reside. The whole Settlement has gone by the general name of the Madawaska Settlement throughout the Country. The name Chateaugay caused some differences among themselves. The Priest changed it to St. Emile. There has been no distinction in the actual exercise of Jurisdiction between the upper and lower part of this Settlement.

The lower bound of the Parish of Kent is 18 miles below my Residence. FRANCIS RICE sworn. I reside in the Madawaska Settlement at the head of the first part. I am Adjutant of the 4th Battalion York County Militia. The Madawaska Settlers are enrolled in this Battalion. I have been in Court and heard Mr. Morehouse's evidence. I made a Report to him as he has stated. I did not know the facts myself, they were reported to me. I accompanied Mr. Morehouse on his visit to the Settlement on the 7th of August last, and was present at the conversations with Baker and Bacon. The facts all took place as he has stated. I can say nothing more. The Madawaska Settlers attend and turn out at the Militia training pretty regularly. Both above and below the confluence of the Madawaska. The French Settlers not being able to speak English distinctly, the witness Francis Rice had previously been sworn as Interpreter, and acted as such throughout the Trial. ABRAHAM CHAMBERLAIN sworn. I live in the upper part of the Madawaska Settlement, above the Madawaska River. Have resided there 4 years this Summer. Was born at the Bay Chaleur. Came from thence to the Madawaska 4 years ago, and have always lived since in the Madawaska Settlement. Charles Studson presented me a paper, I think in July last. I don't remember seeing Baker Bacon and Amery, and some other Americans were present. I was passing by. They were drinking Rum, and asked me to take some. I agreed. When they handed me the Paper, I asked whether any of the French had signed it. They said, Not yet. The witness being then asked as to the contents of the paper, and the propriety of such evidence being questioned by the Court, the Attorney General cited the case of Rex vs. Hunt and others 3 Barn and Ald. 566, where it was decided, in a trial for Conspiracy, that secondary evidence of the contents of a paper which was in the Defendant's possession, was admissible, without producing the original, or giving notice to produce it; and that parol evidence of inscriptions and devices on banners and flags, is also admissible. The question was then put, but the witness could say nothing as to the contents, stating that it was read to him, but being in English he did not understand it. They asked him to sign it; but he did not understand for what reason. He wanted to know whether any of the French had signed it. This took place on the point of Land near the Mill. There was a flag hoisted with an Eagle and Stars on it. They did not say any thing about having signed the paper themselves. PETER MARCUS sworn. I live in the St. Emile Settlement, the upper one. Amery, Bacon, and Studson, some time last Summer, I came by what part of it, tried to make me sign a paper. Studson handed it to me, and asked me to sign it for what reason. They read the paper; but I did not understand it, and asked whether the French had signed it. They said, Not yet. I then said I would not sign it. I told Mr. Morehouse they wanted me to sign a paper. This was at the place where the pole stands. I never understood the purpose for which I was called to sign the paper. I worked 11 days for Baker last year at the time of getting hay. I now work for myself. They told me Chamberlain had signed the paper. I don't remember anything more. PETER SILEST sworn. I was employed last Summer to carry the Mail from Madawaska to Lake Timiscouata. As I was taking it up the River, polling up in a Canoe, I met John Baker coming down the River on a raft. He came off to me in a small skiff. Neither of us stopped. Baker asked me in English "Do you carry the Mail?" I said, Yes. He said he had orders from America not to let the Mail pass that way. I replied that I had no orders to stop there. This was all that passed. This was I think in July. JOSEPH SAUFARON sworn. I live in the Madawaska, half a mile below the Green River. The Green River is below the Madawaska. I was born at Madawaska. I bought land from Joseph Sonci. He had a Grant from the Government of this Province. I bought it six years ago. I have been a Constable for two years for the Parish of Kent. I was obstructed in my duty of Constable by Baker, Bacon, Bartlett, Savage, Schooley, and Jones. I had an execution from Mr. Morehouse against James Bacon. I asked Bacon if he would come. He said he would not leave the place. Baker said, it is no use for you to go there, you shall not have the man. Bacon talked about setting it. Baker said "Bacon you must not settle it now, you must settle it another time. I will not allow any Officer to go up there." He asked me if I had any authority to go there. I shewed him the Warrant. He said it came from the States he would mind it, but it was only from Mr. Morehouse, and he would not mind it. They prevented my taking Bacon, who refused to go. This took place near Baker's Mill. EDWARD W. MILLER, Esq. sworn. I am High Sheriff of the County of York. I have been so since 1814. I have been acquainted with the Madawaska Settlement 7 years. I never could make any division in the Settlement between the upper and lower. When I first knew it, it extended to 7 miles from the Falls. Lately it has come within 3 or 4 miles. I know