

that a procession not being in itself immediately a breach of the peace, its members may be guilty of an offence done by any one in furtherance of a common object. There are one or two of these cases to occupy your attention. You will consider whether the evidence submitted to you is sufficient for the identification of the parties concerned; and, if the prisoners have been connected with processions passing through the country, no matter to which party they belonged, and if the conduct of the procession or processions was such as to inspire fear in the minds of the peaceably disposed, you will regard the assemblage as illegal, and find true bills."

The following is the Judge's Charge to the Jury at the conclusion of the Trial of the 12th of July Rioters at the City of Saint John, as reported in the *Carleton Sentinel* of 18th September ultimo:—

"The first point to be considered is, whether the defendants, or any of them, belonged to a party, if three or more, who with some common object in view, tending to a breach of the peace, intended to carry out that object with force and violence, or under any circumstances calculated to create alarm in the neighborhood. If this appears, they are guilty under the first Count of the Indictment.

"Secondly, whether the defendants, or any of them, in company with two or more, openly carried dangerous and unusual weapons in a public place, under circumstances calculated to create alarm in the neighborhood. If so, they are guilty of an affray, as charged in the third Count.

"Supposing such points to be established, the next thing to be considered is this: have they been justified or explained so as to make that lawful, which unexplained is unlawful. It appears that the defendants formed part of an Orange procession, which on the 12th of July, a notorious day (and as regards public alarm the day may be a material circumstance) assembled in St. John and marched in large numbers, with badges and banners and bands of music, through Portland to Indiantown; that so far they were not openly armed and did nothing to disturb the public peace. Up to this point I would not say such assembly was unlawful. But if the same body are at Indiantown joined by others, and the whole form a procession to return to St. John, and having heard they are likely to meet with opposition, many of them provided themselves with loaded fire-arms, which they openly carry, the case assumes new features. Are not such things necessarily calculated to create alarm among those who are pursuing their ordinary avocations in the vicinity, and that not with timid and weak persons, but with men of undoubted firmness and courage. Many a man of undoubted courage, who would not hesitate to risk his life in a cause which would justify exposure, would hesitate about exposing himself to be shot down in the street by a stray bullet, from parties who were fighting about the colour of a ribbon. Such alarm would be no imputation on his courage; the reverse I think, would be an imputation on his sense. But it is said that the arming themselves with these weapons was not for the purpose of using them unless when attacked by others—that the carrying and using them was by way of precaution and self-defence—that having reason to believe an attack was meditated, they prepared for it by arming, and being attacked, used their arms in defence. Now this, if calculated (as it naturally would be) to cause alarm in the neighborhood, I unhesitatingly pronounce, in my opinion, to be contrary to law. When a large body of men are seen parading the streets armed in this way, how are the public to know their object? and if that object be known to be as has been stated, is it not the more likely to cause alarm? We should always bear in mind, that the great object of all law is the public good—the preservation of the public peace. There are many cases where the rights of individuals are postponed for this object, in which a man may not obtain his undoubted rights, when by so doing he disturbs the public peace. A man may have an undisputable right to a house, or to land, which is in possession of another, but he may not arm himself and his friends and take forcible possession; and why? Not because the law denies his right to house or land, but because he must recover by the force of the law, and not his own. Again, a man may by force if necessary defend his own person, and his own house, but he may not combine with others, a party to protect a party, because by such a proceeding the public peace is likely to be disturbed, public alarm excited, and the peaceable part of society prevented from living in security and quiet. If an individual or a body of men have reasonable ground to suspect an attack, they can appeal to the Officers of justice to protect them in their necessary and lawful doings—put themselves under the constituted authorities—be directed by, and act in aid of them. No body of men can band together for purposes which must lead to a breach of the peace, even in the very act of what they call self-defence. Those means, which used on their own authority would be illegal, would be legal when used in assisting the constituted authorities and under their direction. If this plea be allowed, the other party might arm themselves under the same plea, serious conflicts might take place, and yet, unless the actual hand which caused an injury were discovered, no party could be punished. Such a state of things cannot be. It must be contrary to all principles of law and public policy."

[From the Saint John Courier.]

We have much pleasure in noticing that His Excellency the Lieutenant Governor continues to visit the different Counties of

the Province, thereby evincing a desire to become personally acquainted not only with its natural resources, but also with the character and wants of the people. On the 27th ult. His Excellency, accompanied by his Aides-de-Camp, Lieut.-Cols. Hayne and Drury, proceeded to King's County, and was received in the most enthusiastic and gratifying manner. He was met at the confines of the County by a number of Magistrates and sturdy yeomen, and welcomed with a salute of thirteen guns. During his stay at Kingston, His Excellency was presented with an Address, agreed upon at a public meeting of the inhabitants, which, with His Excellency's reply, we subjoin. We understand Sir Edmund expressed himself highly gratified with the results of his visit.

To His Excellency Sir EDMUND WALKER HEAD, Baronet, Lieutenant Governor and Commander in Chief of the Province of New Brunswick, &c. &c. &c.

We, Her Majesty's dutiful and loyal Subjects, Magistrates and other inhabitants of King's County, gladly embrace the occasion of Your Excellency's first visit to the Shire Town of our County to welcome among us the Representative of our beloved Queen, and to express the gratification we feel at the kindly interest which is evinced by a personal inspection of this part of Your Excellency's Government.

We are anxious to avail ourselves of the opportunity thus afforded us of renewing the assurances of our continued attachment to Her Majesty's Person and Government, and our steady adherence to, and our anxious desire to continue our connection with, the Mother Country, that great and powerful Nation to whom, through the working of her glorious Constitution, it may be truly said, that the people of all lands owe much of whatever liberties or freedom they possess—a Constitution, of which it has been emphatically said, that it renders the maintenance of order compatible with the fullest enjoyment of political and civil liberty.

Having every confidence that Your Excellency will continue to administer the affairs of this Colony with honor to yourself, and for the general welfare and prosperity of its inhabitants, by promoting all those privileges which a free and loyal people can constitutionally enjoy; we conclude with begging that Your Excellency will accept our best wishes for the continued health and happiness of Lady Head, yourself, and family.

WM. McLEOD, *Chairman.*

#### REPLY:

GENTLEMEN,—I last year regretted that I was unable to pay a visit to Kingston, I now rejoice that the delay has occurred, since it enables me to congratulate the inhabitants of King's County on the abundant crops which I see around me.

I listen to your sincere professions of attachment to our Most Gracious Queen and to the British Constitution, with a satisfaction increased by the conviction that the Loyalty and Laws of our Country have, in the course of the last year, proved themselves in the midst of trouble and revolution in the old world. I believe that they are equally adapted to the wants of our race on this side of the Atlantic, and I rely with far more confidence on your steadfastness and on the sentiments which I have heard this day, than on the loose speculation which seems occasionally to float around us.

For your confidence in me, and for your kind wishes on behalf of myself and my family, I thank you most sincerely.

EDMUND HEAD,  
*Lieutenant Governor.*

To the Magistrates and Inhabitants of King's County.

(No. 271.)

CROWN LAND OFFICE, Sept. 14, 1849.

ONE or more Mining Lots in the County of ALBERT will be offered for sale by Public Auction, at this Office, on Wednesday the 21st day of November next, agreeably to the following Regulations.—Sale to commence at noon.

(9w)

THOS. BAILLIE, *Sur. Gen.*

#### MINING REGULATIONS.

1st. That the right of Mining within a tract of one square mile, for the term of twenty five years, be put up at a fixed Rent of one shilling per chaldron on Coal, and five per cent. on the value of all other minerals raised, to be paid quarterly, on the first days of January, April, July and October in each year, to the Receiver General, or an Agent for that purpose to be appointed by the Government.

2d. That the upset preference price paid on each Lot be five pounds.

3d. That the preference money be paid and the ground selected within one hour after the time of sale, after which other Lots will be offered, if required, in like manner.

4th. That if the Lessee shall not actually raise Coal or other mineral to the value of one hundred pounds from his ground, within any one year after the first, during the continuance of his Lease, the same shall become forfeited.

5th. That the Lease contain a clause of renewal, or that the Government may resume and take the improvements at a valuation to be made by arbitrators mutually chosen by the Surveyor General for the time being and by the Lessee or his Assigns.

May 4, 1849.