

The Examiner.

"THIS IS TRUE LIBERTY, WHEN FREEBORN MEN—HAVING TO ADVISE THE PUBLIC, MAY SPEAK FREE."—EURIPIDES.

Vol. I.]

CHARLOTTETOWN, P. E. ISLAND, SATURDAY, JANUARY 15, 1848.

[No. 24.]

THE EXAMINER.

SATURDAY, JANUARY 15, 1848.

SUPREME COURT.

THE QUEEN vs. THE HON. GEORGE COLES AND OTHERS.

This Trial commenced, as we stated in our last paper, on Wednesday the 5th instant, and terminated on the Friday following, in the defeat of the Charlottetown autocrats and the complete triumph of Mr. Coles and his friends. During the whole period of the Trial, the Court was densely crowded—there being persons from many parts of the country, besides all those of the town who could attend. As the affair has excited so much interest and discussion, and as many false statements have been circulated through the country by the promoters and advocates of the prosecution, we devote a few columns this week to the publication of a Report of the Trial, in which all parties—unawed by the consequence and unswayed by the paltry motives of a Charlottetown clique—will find facts, and arguments, and common-sense statements enough to induce them to applaud the verdict of the Jury.

FIRST DAY.

The Indictment having been read, and the Jury empanelled—

The SOLICITOR GENERAL rose and said—The case was one of a most remarkable character, rendered particularly so by the high standing in society of the Traversers—persons from whom an opposite course of conduct might be expected, to that of violating the law; but their situation and high standing could not shield them if found to be guilty of the charge preferred against them. This case, Gentlemen of the Jury, stood for trial last term, but a press of business prevented it from coming on at that time; and I am willing to admit that I am not sorry for its postponement, as those strong party political feelings out of which it arose have yielded to the influence of time, and become settled down. * * * You will, gentlemen, no doubt, be told, that this Riot was only an event which often happens at Elections, and consequently ought not to be so severely dealt with; but this argument is entitled to as little consideration as if it were contended, that the high standing of the Traversers ought to excuse their guilt. Neither the one nor the other can palliate the offence. Their position should have taught the traversers, that it was their duty to make an effort to allay the excitement which prevailed, instead of contributing to increase it by their presence at the procession; and the very circumstance of their holding so high a place in society calls for severer punishment. We seek to find no fault with the mere rejoicing of the populace at the close of Mr. Coles's election—such a thing frequently happens, and is perfectly allowable. Mr. Coles had gained a victory—he had again been returned by his constituents to his place in the Assembly, and his supporters and friends had every right to express their joy and gratification on the occasion; but whilst enjoying this privilege they had no right to injure, or sanction an injury to, the property of their opponents. The hon. gentleman then quoted the law in reference to rioting, and told the Jury, that if they found from the evidence which would be adduced that a Riot had taken place, then it would devolve upon them to decide who the authors of it were. It will be proved to you, gentlemen of the jury, (said the Solicitor General) that those gentlemen who were in the triumphal car did nothing to stop the tumult and prevent breaches of the peace from taking place. Mr. Coles, it cannot be denied, possessed authority over that assemblage of people, which, if promptly exercised, would have prevented the mischief being done. Captain Swabey we all know to be an active and most useful Magistrate; and his courage and energy cannot be called in question when we remember his long services under the banners of his Sovereign, and the many battles in which his gallant bearing was displayed. He cannot plead bodily fear as a reason for not stepping forward to apprehend the offenders and suppress the disturbance. You cannot, therefore, acquit him of a guilty participation in the rioting which took place in his presence. It is far from my thoughts to insinuate that any of those gentlemen now on their trial would so far forget themselves as to throw stones or brickbats against the houses of their neighbours. He (the Solicitor General) was sure that their feelings would revolt against such a disgraceful proceeding; but they

are nevertheless blameable for the riot and its consequences. The hon. gentleman then reminded the Jury of the Lord George Gordon Riots, and remarked, that he (Lord George Gordon) never intended or expected that those scenes of riot and outrage for which he was indicted, would take place; but being present at them he had rendered himself liable for the acts of others. * * * The Traversers in this case ought not to have mixed themselves up with riotously disposed persons—they ought at least to have withdrawn themselves from the scene of tumult; and if you find they did not exert themselves to put a stop to the unlawful proceedings which took place, you must divest yourselves of all private and party feelings, and remembering the solemn obligation of your oath, find them guilty.

The evidence on the part of the Crown was then entered upon,—the first witness called was—

Theophilus Chappell (examined by the Solicitor General) recollected the night of Mr. Coles' Election procession—was at home—saw a waggon with people in it, with candles near, and more than a hundred persons walking. Called up the people of the house, did not then know who was in the waggon, saw them stop at Duncan's; heard a gun fire, five or six stones rattle, and glass breaking,—the stones were thrown by the crowd; from the attitude they assumed I felt frightened, they were cheering and making a great noise at Duncan's; I think the waggon stopped at Duncan's, but am not positive, after breaking Duncan's windows they came to my house. Mother and sister were sitting round a table, a brick came in, struck my hand and just grazed it; also struck my sister, who said she was hurt. Those in the waggon must have known the windows were broken. I think they must have heard it. They were strong windows, and the stones flew off or, (we could not gather the conclusion of this answer from the roars of laughter that followed), I do not mean the glass. I was not favorable to Mr. Coles. I am acquainted with a person named May, he is fond of politics. Some hand-bills were left at my shop about the Election at the time it was going on, which I was going to send into the country. May said—'Look out! you will catch it for that.' He said something would be done on Saturday night. I replied, 'Then, it must be a made up thing!' He said—'Never mind, you will get it on Saturday night!' I saw the windows broken. About twelve o'clock, went up to Mr. Coles's—the carriage was then there, and Mr. Whelan was making a speech from it. Did not know any persons that were there beside, or in the crowd,—it was too dark to see.—Cross Examined by the Hon. C. Young.—If the brick had struck my sister's head, it might have killed her. Did not see any occasion to say whether any blood was caused to flow or not. Held the conversation with May while the Election was going on,—he is a very strong politician, and calls himself a Snatcher. He calls me one of the Black Watch. He said to me—'Coles is used very bad, they are trying, by distributing the hand-bills, to injure his character.' Cannot say that I know what the papers were about, they may or they may not have been in favor of Mr. Coles. I think they were against him. From what May said I expected to be injured. After the crowd had passed away, I went out and saw the broken windows at Duncan's, cannot tell how many were disfigured. I saw one or two cracked—not broken. Examination by the Solicitor General resumed.—It was very thick glass. I think one pane was broken and one damaged. My memory will not serve me to speak with certainty. (By Mr. Young)—When I went up to Coles's, was not afraid. There was no riot or tumult. They were sticking into the beer. I cannot swear that what was said from the waggon was not reproving the people for what had happened, or that Mr. Coles was in the waggon at Duncan's, but I can swear I saw him in the waggon by his own house at starting, as I was clinging to the rails in front of it. None of the people had any beer at Mr. Coles's at that time. I was going up to Mr. Beers's. The procession just halted, and then went straight on. I am sure none of them went into the brewery. (By Mr. Lawson)—Did not see Clark there.

Mrs. Amelia Reid.—On the night in question I was called up about eleven o'clock. I live with my mother, Mrs. Chappell; saw a great crowd of persons, they were making a great noise, a brick came through the window and struck me on the hand and took the skin off. I was frightened; a picket lay outside, it was thrown at the window but did not come through. In the whole, three panes of glass were broken. Did not know who was in the carriage. Cannot say it stopped at our house. I came down to hear the music. I do not know anything about Duncan's. My brother told me he had been threatened; but did not say by whom, or that he was fearful his house would be attacked; do not know if he was alarmed.

John Davis, jun.—Was at his father's on the Saturday

evening, saw from his door a crowd of people and lights up at Mr. Coles's; told my father I was not afraid. I had a pair of pistols and was prepared; heard the Band playing 'See the conquering Hero comes.' They came right down from Coles's. I saw in the carriage Mr. Coles and Captain Swabey. Cannot swear who else; they went toward Government House. I went home being afraid. Told Mrs. Davis to put out the lights in the drawing room. Heard groans and hisses as they came round Peake's. They stopped at C. Welch's; could not see what took place, heard a pistol fired; could not see the carriage; they cheered as they came up at several houses of their supporters. They groaned and hissed at my house; cried, 'Turn him out,' and used awful imprecations; but no violence was offered. I fired a pistol after a stone came in and broke an ornament on the mantlepiece, one pane of glass was broken. I then fired the other pistol in the air, ball and all, and told the crowd, if they broke any more windows I would fire amongst them; they went on. The carriage, when this occurred, was pretty well a-head. I think those in the carriage may not have known of the throwing of stones. Did not see them after, a number of chaps remained about my house. I re-loaded my pistol, and in company with Mr. Mackie walked up and down in front of my house for some time. Do not think Mr. Coles excited the mob.

Cross examined by Mr. Lawson.—Do not know who was in the carriage; they were very peaceable when I first saw them. I loaded the pistols with balls. I had reason to carry pistols through the streets; was threatened, but not on that night; knew angry feelings existed. I am passionate myself. I took great interest in opposing Coles; they had good reason to know I was opposed to him. I did not choose to stop at home on the night of the procession. I may have had business with my father; I always go to see him before I go to bed; have carried pistols before and may again. I fired in the air, and perhaps could produce the ball now. If they had not moved on it may have been worse for them; was told by a very eminent lawyer in Charlottetown that I would have been justified in firing amongst them. (Much laughter.) I saw Captain Swabey in the carriage when I was at my father's, (His Lordship's attention was particularly called to note this,) and Cochran told me he was there. I do not for a moment think those in the carriage expected that what took place would happen. (By the Solicitor General)—You say you think they did not? My belief is that in all probability they did not.

C. Welsh examined. Saw about 200 persons in front of his house, they halted and groaned, and then gave several cheers and hurrahs for Coles. Only recognized one in the carriage; will not swear it was Captain Swabey, I believe it was. Two stones were thrown, but only one square of glass was broken; previous to this a pistol was fired off; my impression is that the stones came from persons who were behind the carriage. When I heard Captain Swabey was there, I wondered he did not interfere, as I have heard him speak loud on some occasions, I think those in the carriage must have heard the breaking of the glass; considered the outrage was in consequence of my known opposition to Mr. Coles; did not see any one try to prevent it; had I been a magistrate I should have thought such my duty.

Cross examined by Hon. C. Young. It was a small clean stone; could not have been picked up in the dirty street; will not swear it was thrown by a man, it may have been a boy. Have seen chairing Members before this, but never heard such noise.

John McGill examined. Saw the crowd; heard a pistol fired; a stone was thrown and broke three panes of glass; saw several persons in the carriage, could only recognize Messrs. Coles and Swabey; the carriage did not stop a minute, I intended to cheer them, cannot say if those in the carriage knew of the injury done. There was a great noise and they must have heard that. Was not alarmed, or pleased, perhaps I swore when the windows were broken; did not know any of the crowd.

Cross examined by Mr. Lawson.—Heard a pistol fired down the street which caused me to come to my door; do not know who fired it, the carriage could hardly be said to stop—it went on immediately.

Duncan Cameron examined.—Saw persons in two carriages, saw Messrs. Coles, Swabey and Mooney; did not know Mr. Whelan at the time—thought he was Captain Swabey's son; do not know whether Clark was there, saw Mr. R. Walsh on a horse; they fired off a pistol at Hutchinson's, and bah'd at J. D. Hazard's, and swore at K. McKenzie's, because he wore a white hat; those in the carriage might not have heard it; saw Mooney stand up in the carriage after McGill's windows were broken, could not hear what he said, but was sure he did not approve of the breaking of the windows; three men on the platform opposite McGill's blew out a candle, and immediately the glass rattled; think they