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REGINA *v.* VINCENT, EDWARDS, DRINKWATER and TOWNSEND.

August 2nd.

THE first count of the indictment stated that the defendants, being seditious and evil-disposed persons, intending to disturb the public peace and to excite discontent and disaffection, and to excite her Majesty's subjects to hatred and contempt of the government and constitution of this realm, heretofore, to wit, on &c., at &c., did conspire &c., together with divers other persons unknown, "unlawfully, maliciously, and seditiously to meet and assemble themselves together, and to cause and procure a great number of other persons unlawfully, maliciously, and seditiously to meet and assemble themselves together with the said H. V., W. E., J. D., & W. A. T., and the other conspirators at N. aforesaid, in the county aforesaid, for the purpose of exciting discontent and disaffection in the minds of the liege subjects of our said Lady the Queen, and for the purpose of moving and exciting the liege subjects of our said Lady the Queen to hatred and contempt of the government and constitution of this realm as by law established."

The second count was similar, but stated as an overt act of the conspiracy that the conspirators assembled at Newport on the 19th of April, 1839, to the number of 2,000 and more, in a menacing manner with offensive weapons, and did cause great terror and alarm to the peaceable and well-disposed subjects of her Majesty.

The third count was in the following form: "And the jurors aforesaid upon their oath aforesaid do further present that the said H. V., W. E., J. D., and W. A. T., being such persons as aforesaid and unlawfully and maliciously

Any meeting assembled under such circumstances as, according to the opinion of rational and firm men, are likely to produce danger to the tranquillity and peace of the neighbourhood, is an unlawful assembly; and in viewing this question, the jury should take into their consideration the hour at which the parties met, and the language used by the persons assembled, and by those who addressed them, and then consider whether firm and rational men, having their families and property there, would have reasonable ground to fear a breach of the peace; as the alarm must not be merely such as would frighten any foolish or timid person, but must be such as would alarm persons of reasonable firmness and courage.

The calling of a witness, whose name is on the back of the indictment for the other side, to cross-examine him, is by no means of course. It is discretionary even in felony, but it is a discretion always exercised, and it seems that the same discretion may well be exercised in misdemeanor.

If persons duly called upon by the magistrates to serve as special constables refuse to do so, the magistrates ought to cause them to be indicted.

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and seditiously intending and devising as aforesaid, heretofore, to wit on &c., with force of arms at &c., unlawfully, maliciously, and seditiously, and in a tumultuous manner, did meet and assemble themselves together with divers other ill-disposed persons whose names are to the jurors aforesaid unknown, to a large number, to wit, to the number of 2,000, in a formidable and menacing manner, in a certain public and open place near to the dwelling-houses of divers liege subjects of our said Lady the Queen, inhabiting therein, for the purpose of raising and exciting discontent and disaffection in the minds of the liege subjects of our said Lady the Queen, and of exciting the said subjects to hatred and contempt of the government and constitution of this realm as by law established, and of moving the said subjects to unlawful and seditious opposition and resistance to the said government and constitution, and being so met and assembled together, for the purpose aforesaid, did then and there unlawfully and tumultuously continue together with the said other ill-disposed persons in such formidable and menacing manner for a long space of time, to wit, for the space of four hours, and did then and there during all such time by loud and seditious speeches, exclamations, and cries, raise and excite such discontent and disaffection as aforesaid, and did thereby, then and there, cause great terror and alarm to divers peaceable and well-disposed subjects of our said Lady the Queen, in contempt" &c., and against the peace &c.

The 4th, 5th, 6th, 7th, 8th, 9th, and 10th counts were exactly similar to the 3rd, except that they each stated a different day.

The 11th count was nearly similar, except that it stated that the 2,000 persons were armed with offensive weapons in addition to stating that they met and assembled in a formidable and menacing manner.

The 12th count stated, that the defendants, "together with divers other evil-disposed persons to the jurors aforesaid unknown, to a great number, to wit, to the number of

2,000, heretofore, to wit, on &c., with force and arms, at &c., unlawfully and in a tumultuous manner did meet and assemble themselves together, and being so met and assembled together, did then and there unlawfully and tumultuously continue together for a long space of time, to wit, for the space of four hours, near the dwelling-houses of divers liege subjects of our Lady the Queen, inhabiting within the said town, and also in divers streets and common highways, there making loud exclamations, cries, and noises, to the great terror, annoyance, and disturbance of many of the liege peaceable and quiet subjects of our said Lady the Queen, to the great damage" &c., and against the peace &c.

The 13th count was for a riot (*a*).

(*a*) The following is an extract of Mr. Baron *Alderson's* charge to the Grand Jury, delivered at the Monmouth Summer Assizes, 1839:

"There is one case in the calendar as to which it is desirable that I should address you. In that case four persons are charged with having 'on the 19th of April, at Newport, unlawfully met with divers other persons calling themselves chartists, unlawfully intending to disturb the peace of this realm, and to excite discontent, disaffection, and hatred to the government and constitution of the country.' This is a misdemeanor of a serious nature if satisfactorily proved, and it will be for you to say upon the evidence whether these persons have outstepped the line of their duty, and instead of confining themselves to the temperate and proper representation of such grievances which they either endure or think they endure, have constituted themselves into that which in point of law is an unlawful assembly of the people. To ascertain what is an unlawful assembly, it is well that we should see what our best lawyers have laid down with respect to unlawful assemblies. Mr. Serjeant *Hawkins*, one of the best authorities on this subject, [Bk. 1, c. 28, s. 9,] says that 'any meeting whatsoever of great numbers of people, with such circumstances of terror as cannot but endanger the public peace and raise fears and jealousies among the King's subjects, seems properly to be called an unlawful assembly, as where great numbers complaining of a common grievance meet together armed in a warlike manner in order to consult together concerning the most proper means for the recovery of their interests, for no one can foresee what may be the event of such an assembly.' So in Mr. Hunt's case, which was tried at York, and afterwards came before the Court of King's Bench. Mr. Justice *Bayley* (than whom no man was more learned in the

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Talfourd, Serjt.,—In his opening cited the following passages from the summing up of Mr. Justice *Bayley* on

laws, or more enlightened in his views) says, 'If the persons who assemble together say, "We will have what we want, whether it be according to law or not," a meeting for such a purpose, however it may be masked, if it be really for a purpose of that kind, is illegal. If a meeting, from its general appearance, and from all the accompanying circumstances, is calculated to excite terror, alarm, and consternation, it is generally criminal and unlawful.' These are, as I take it, the clear principles of law; an unlawful assembly differing in this respect from a riot, that a riot must go forward to the perpetration of some act which the unlawful assembly is calculated to originate and inspire. Something must be executed in a turbulent manner to constitute a riot; but in these cases it must be some enterprise of a private nature, because if the enterprise be of a general and public nature it savours of high treason, and there is no doubt that if you find these persons assembled together by delegates, dispersed from any central jurisdiction in this kingdom, and those persons, so meeting together, in consequence of a delegation from a central body, commit any act of violence for the purpose of carrying into effect any general political purpose, they run the risk of being charged with high treason, and it is well that they should know that, before they attempt the accomplishment of such a purpose; but it is far better and far more humane, far wiser and far more politic, to stop these things in their early stages—it is far better that the individuals should be stopped before they proceed to outrage and violence, as a small amount of punishment, in the first instance, will probably save a great amount of crime afterwards. I am, therefore, glad to see that the magistracy of this county have interposed in the early stage of the proceeding. You will investigate the circumstances under which the assembly took place—whether the individuals who presided and were present were so by previous concert, or by accidentally having met—and if they met by previous concert, you will inquire whether they have met at unseasonable hours of the night—if they have met under circumstances of violence and danger—if they have been armed with offensive weapons, or used violent language—if they have proposed to set the different classes of society at variance the one with the other, and to put to death any part of her Majesty's subjects; if any, all, or most of these things should appear before you, there will, I think, be little difficulty in saying that an assembly of such persons, under such circumstances, for such purposes, and using such language, is a dangerous one, which cannot be tolerated in a country governed by laws; and it is but doing to others as you would that they should do unto you, to repress meetings of that description; because, what right have any persons to do that which produces terror, inconvenience, and dismay among their fellow-subjects? Let me not, how-

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the trial of the case of *Rex* v. *Hunt and Others* at York in the year 1820. "On the subject of unlawful assemblies he would quote the expressions of Mr. Serjt. *Hawkins*, who says, 'any meeting whatsoever of a great number of persons with such circumstances of terror as could not but endanger the public peace, and raise fears and jealousies among the King's subjects, properly constitutes an unlawful assembly;' where, for instance, those numbers, having some grievance to complain of, met armed for the purpose of discussing the best way of ridding themselves of that grievance. This is an unlawful meeting, because under such circumstances no one could say what would be the result of such a meeting."

On the part of the prosecution, the following evidence was given:—

Mr. Thomas Phillips.—I am mayor of Newport. In consequence of information I received on the 19th of March last, I directed the superintendent of police to go to Pentonville, to protect persons and property. At eight

ever, be misunderstood. There is no doubt that the people of this country have a perfect right to meet for the purpose of stating what are, or even what they consider to be, their grievances. That right they always have had, and, I trust, always will have; but in order to transmit that right unimpaired to posterity, it is necessary that it should be regulated by law, and restrained by reason. Therefore, let them meet, if they will, in open day, peaceably and quietly, and they would do wisely when they meet to do so under the sanction of those who are the constituted authorities of the country. To meet under irresponsible presidency, is a dangerous thing; nevertheless, if, when they do meet under that irresponsible presidency, they conduct themselves with peace, tranquillity, and order, they will perhaps lose their time, but nothing else. They will not put other people into alarm, terror, and consternation—they will, probably, in the end, come to the conclusion that they have acted foolishly; but the constitution of this country does not (God be thanked) punish persons who, meaning to do that which is right in a peaceable and orderly manner, are only in error in the views which they have taken on some subject of political interest."

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o'clock in the evening of the 19th of March I went to Pentonville, an open place in the town of Newport, about 100 yards long and 15 wide. It is an oblong space of ground. I found about 300 persons. A stage was erected against the lamp-post, and Mr. Vincent was addressing the meeting. My attention was first called to his description of the system of government under which we lived in this country. He described it as a cannibal and atrocious system. He said he could not call it by any other name, for it doomed men, women, and children to toil in factories in a state approaching to starvation and nakedness, for the sake of increasing the wealth of the aristocracy. He then cited an anecdote, which he said was in Paley, of a flock of industrious pigeons, who were employed in collecting grain, and one overgorged pigeon remained in a corner doing nothing but devouring the produce of the working pigeons. The overgorged pigeon called to its aid other pigeons that did no work, and they drove away the working pigeons from the grain which they had collected, allowing the working pigeons, to whom the grain belonged, nothing but chaff. He said, "Such is the system under which we live—the wealthy classes devour the labour of the working classes, devouring the corn, and leaving them nothing but chaff." He asked if such a system should longer exist, and said a home in a cavern would be preferable to living in such a state as this. He then referred to the People's Charter, and to the snowball of chartism, which was gradually increasing in size. He said they had got near the top of the hill, and he called on the men of Newport to assist in getting the snowball to the top of the hill, and when there they would call on their oppressors to beware, and get out of the way, or the snowball would roll down and crush them. He said their fathers and grandfathers had served in the militia long enough. He said, "If Lord John Russell were to ask me to take a musket, I should say no; for if I am to fight at all, it will be against the oppressors of the people." He said that Magna Charta

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had been obtained by the barons marching against King John, and asked why should the people now be less successful? He said the government contemplated the establishment of a rural police, and added, "If any policeman interferes with you, break his head." He went on to say that, if the people appealed to government, the answer was, "Do not we build beautiful prisons for you?"

On April 19th I had been from home, and returned about eight in the evening. I saw groups of people about, and as it became dark I heard shouting, and on looking out I saw a large crowd. They were shouting and cheering. Myself and the other magistrates published a caution, which was generally circulated.

On the 25th of April there was a meeting. I saw Mr. Edwards. He had a stick, and people followed him. He halted them in front of Mr. Frost's house for a short time, and then went on. This was about seven in the evening, and about eight I went out with the late mayor. I heard shouts, and a crowd passed us. In the front of the crowd were a great many young lads, from 12 to 18 years old; following them were a number of men, arm in arm, to the amount of some hundreds. (The population of Newport is about 12,000). The mob was about 1,000 persons, and the street was crowded by spectators besides. When they approached us they hooted; I understood it to be meant for me. Mr. Edwards was with them. They sang at intervals the line of *Rule Britannia*—"Britons never will be slaves." They came to a stage, and Mr. Edwards said that Mr. Vincent was not come, and proposed that Mr. Dickenson should take the chair. Mr. Edwards said he must go and look after his special constables, and he said to some persons, "Each of you must watch his neighbour." Mr. Dickenson addressed the meeting, and said they had heard a sermon, and been told to fear God and honour the King, and that they did fear God, but the doctrines of the sermon advised honour to a Nero or a Caligula. (A sermon on this text had been preached at the church on the pre-

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vious Sunday). Mr. Vincent came, and was received with much shouting. He said the magistrates had branded their meetings as illegal, but they were perfectly legal. He challenged the magistrates to apprehend him, as there was nothing but a letter of Lord John Russell to make these meetings illegal. He said the magistrates were liars and base insidious knaves. He said, "I understand you to mean that you will have the Charter by the consent of the Government if it may be, but that you will have it." This was responded to by shouts of "Yes." Mr. Vincent compared the constitution to a three-legged stool—the sovereign was a leg, whether useful or not he would not say; the House of Lords another leg, whether useful or not he could not say; the House of Commons was the third; he did not say whether that was useful or not. He said that on the following Tuesday he was going to the Convention, and should inform the convention that the men of Wales would join the men in other places to obtain the Charter. He said that the Convention must go on, as the people were a wall behind them. They would soon triumph over their enemies, and would meet to proclaim one universal jubilee. There was much cheering during the speech. Mr. Dickenson said that they ought to do honour to Mr. Vincent by accompanying him next day to the packet-station. Next day there was a crowd at about one o'clock, opposite Mr. Frost's house. Mr. Phillips, of Whitson, who is a county magistrate, passed in his carriage. He is a magistrate, and active in getting up the yeomanry. The mob groaned at him. At half-past one the crowd moved to the packet-station. Mr. Vincent addressed the crowd from a wall where he was with Mr. Dickenson and Mr. Townsend. Mr. Vincent said, in reference to Mr. Phillips's corps of yeomanry, "If they interfere with you, throw them over the bridge. What fists you have! What legs you have! What feet you have! And your shoes, how thick they are,—and what nails are in them! And if, by chance, you should kick

one of the fellows, what would become of him?" This speech was received with cheers and laughter. The people were in an excited state. Mr. Vincent further said, "I hear I am to be arrested in Gloucestershire, but they had better take care of what they are are about, for there are many good fellows there who will stand by me!" The packet bell rang, and Mr. Vincent went on board the packet. In my judgment, these meetings were calculated to lead to a breach of the peace, and to injury to persons and property. The meetings caused much alarm.

Cross-examined.—I have not attended many public meetings. I never reported a speech in my life. I heard Mr. Vincent tell the crowd to disperse peaceably, and to keep the peace. He may have said this more than once. There was no breach of the peace, to my knowledge. No riot took place at all. By excitement, I mean a state of mind in which they might easily be induced to commit violence. I have been at a reform meeting; I did not see such excitement there. I did not consider the meetings calculated to alarm till the 19th of March. I did not understand that by telling each man to watch his neighbour he meant they should keep the peace. I did not see any people with bludgeons, nor hear any instigation to break the laws; both those things are stated in the caution. I there stated them from the information I received. I received no personal ill-treatment.

Mr. Morris Morris.—I am a master shoemaker. I was a member of the Working Men's Association. All the defendants were members of it. Meetings were held and speeches made. Mr. Vincent was introduced as a member of the convention and a missionary from that body to agitate the people of Newport and its vicinity. I attended one meeting at which he was present. He made a speech that the people were labouring under difficulties that ought not to exist, and ought to be removed. That they paid half their earnings in taxes direct and indirect, for

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which they received no consideration, and by the members and other persons who were present joining, they should obtain the people's charter, and have a different sort of government, and the abuses removed. He said the Mayor of Newport was a nincompoop. There was a fund called the national rent. I paid what I paid to the treasurer, Mr. Townsend. It was no definite amount. That was raised for the members of the Convention. Mr. Frost was at these meetings. He attended as the delegate of Newport to the Convention, and at first as a member of the association.

Mr. Watkins Richards.—I am harbour-master at Newport. On the 19th of April, in the evening, I saw a crowd. Mr. Edwards was forming them in rank and file to the number of from 60 to 100. Some of them had sticks. They went away, and returned to the number of 700, including all the defendants. They were hallooing and hissing, and the boys singing "Britons never will be slaves." Many had sticks, and some of them had them concealed under their jackets, and end in their trousers pockets; one had a piece of wood seven feet long and two inches diameter. I saw the platform, but could not get near, as near 1000 persons were there. All the defendants were on the platform. I heard Mr. Vincent speak. He spoke of bastiles, poor law commissioners, and destruction of children. The meeting broke up between 10 and 11 o'clock at night. They came in a body to Mr. Frost's, and there cheered and parted. I was alarmed, not for myself personally, but I was alarmed for my family and the general peace of the town.

Mr. Hawkins.—I am an alderman of Newport. On the 19th of April I saw the procession pass four or five abreast. It was calculated to produce alarm and endanger the public peace. I had guns and pistols in my shop. I removed them to my bed-room for security.

Cross-examined.—There is a benefit society in Newport. They walk two and two, but not arm in arm; nor do soldiers.

Henry Webber.—I attended four or five meetings, and saw the procession. They caused alarm to me. I expected a disturbance in the town.

Cross-examined.—I heard hissing and hooting when they passed my door. That alarmed me. There were 3,000 persons in the crowd at the time.

Examined by the learned BARON.—I do not hold any office in the borough. I do not know why they hissed me.

Mr. Fraser.—I am one of the public officers of the banking company. On the 19th of April I was at the meeting. I heard Mr. Vincent say that the working classes were not bound by any laws enacted by a parliament in which they were not represented. He told them they were entitled to be armed. These meetings were calculated to endanger the public peace.

Cross-examined.—I have heard him recommend the people to be peaceable. I received no interruption.

Mr. Thomas Griffin Phillpotts.—I am an attorney, residing at Newport. I was in my office on the 19th of April. At about eight o'clock in the evening I heard cheering. I saw a crowd of persons, as many as twenty had sticks. They were walking-sticks, all but one, and that was short. The persons were in number several hundreds. In about half an hour I went to the meeting, and saw all the defendants, except Dickenson. I heard Mr. Vincent speak. He said the working class was an industrious class, and the upper classes were the idle classes, and living upon the industrious. He said a rising of the people was likely soon to happen; that parties were not bound to obey the laws unless they were represented. A great deal was said about the people's charter. Mr. Vincent said a great deal was