1840.

REGINA *v.* VINCENT, FROST, and EDWARDS.

On the trial of an indictment for a conspiracy to procure large numbers of persons to assemble, for the purpose of exciting terror in the minds of her Majesty's subjects, evidence was given of several meetings at which the defendants were present, and it was proposed to ask a witness, who was a superintendant of police, whether persons complained to him of being alarmed by these meetings:—*Held*, that the evidence was receivable, and that it was not necessary to call the persons who made the complaints.

CONSPIRACY.—The first count of the indictment charged, that, on the 1st of August, 1838, at Pontypool, the defendants, together with divers other evil-disposed persons, did conspire &c., "to excite discontent and disaffection in the minds of the liege subjects of her Majesty, and to excite the liege subjects of her Majesty to hatred and contempt of the government and constitution of this realm, and to unlawful and seditious opposition to such government." In this count four overt acts were charged, which were four meetings at which the defendants spoke, and violent language imputed to them was set out in stating these overt acts.

Second count, for a conspiracy to induce and procure divers large numbers of persons to assemble and meet together, for the purpose of exciting terror and alarm in the minds of the Queen's subjects, and by force of such terror and alarm to procure great changes to be made in the constitution of the realm as by law established, and to annoy, alarm, disturb, and prejudice divers subjects of the Queen in the peaceable enjoyment of their property. In this count no overt act was charged.

Third count, for an unlawful assembly.

It appeared that the three defendants had attended a series of Chartist meetings at Pontypool, and that at all of them speeches of a violent nature were delivered to large assemblies of persons.

On the part of the prosecution it was proposed to ask Mr. Roberts, the superintendant of police at Pontypool, who attended several of the meetings, whether persons complained to him of being alarmed by these meetings.

Carrington, for the defendant Edwards.—I submit that persons who were alarmed should be called to prove that fact, and that what they said to Mr. Roberts is not receivable.

1840.

REGINA v. VINCENT.

GURNEY, B.—The fact that persons made complaint to the superintendant of police of alarm occasioned by these meetings is receivable.

The evidence was received; and Mr. Roberts stated that several persons came to him, and complained that they were alarmed by these meetings, and requested him to send for military assistance.

The jury found the defendants Vincent and Edwards guilty (*a*).

Talfourd, Serjt., *R. V. Richards*, and *Whateley*, for the prosecution.

Carrington, for the defendant Edwards.

The defendant Vincent in person.

[Attornies—*T. J. Phillips*, and *Owen*.]

See the case of *Regina* v. *Vincent*, ante, p. 91, and *Regina* v. *Shellard*, post, p. 277.

(*a*) Frost was not tried, as he had been found guilty of high treason at the Monmouth Special Commission, ante, p. 129. This indictment had been found at the Summer Assizes, 1839, and was removed by certiorari, and now tried at Nisi Prius by a special jury.

1840.

(*Crown Side.*)

BEFORE MR. JUSTICE PATTESON.

REGINA *v.* SHELLARD.

MISDEMEANOUR.—The indictment in this case had been found at the Monmouth Special Commission, when the defendant had pleaded not guilty, and had traversed and entered into recognisances to try at the present assizes, and the indictment was certified by Mr. Bellamy, the clerk of the Crown of the Special Commission, to the Judges of the assizes.

The first count of the indictment charged, that the defendant, on the 1st of October, 1839, and on divers other days and times, at Pontypool, "did conspire, confederate, combine, and agree, together with William Jones, and divers other evil-disposed persons, to the jurors aforesaid unknown, to raise and make insurrections, riots, routs, and seditious and unlawful assemblies within this realm, and to obstruct the laws and government of this realm, and to oppose and prevent their due execution, and to procure and obtain arms for the more effectual carrying into effect their said conspiracy, confederacy, &c.; and in furtherance of the said conspiracy, confederacy, &c., the said W. S. during the time aforesaid, to wit, on the 3rd day of November, in the year aforesaid, with force and arms, to wit, at &c., together with the said W. J., and divers other persons,

A. was charged with having conspired with W. J. and others unknown, to raise insurrection and obstruct the laws. It was proved that A. and W. J. were members of a Chartist lodge, and that A. and W. J. were at the house of the latter on a certain day, on the evening of which A. directed people assembled at the house of W. J. to go to the race-course at P., whither W. J. and other persons had gone:—*Held*, that on the trial of A., evidence was receivable that W. J. had, at an earlier part of the same day, directed other persons to go to the race-course; and it being proved that W. J. and an armed party of the persons assembled went from the race-course to the New Inn, it was held, that evidence might be given of what W. J. said at the New Inn, it being all one transaction.

If it be shewn that depositions were regularly returned by the magistrate to the proper officer, and it be proved by the latter that they cannot be found, after diligent search, the prisoner's counsel may cross-examine from copies of them, those copies being proved to be correct by the magistrate's clerk.

A prisoner's counsel has no right to ask a witness for the prosecution, whether he has *always* told the same story; the question ought to be—"Have you always said so except before the magistrates?"

1840.

REGINA v. SHELLARD.

to the said jurors unknown, to the number of 2000 and more, unlawfully, seditiously, riotously, and routously did assemble and meet together, armed with guns, &c., and remained and continued so unlawfully and seditiously assembled and met together, armed as aforesaid, for a long space of time, to wit, for the space of forty-eight hours then next following; and during that time made a great riot, rout, and unlawful assembly, and, during the time last aforesaid, attacked and broke open divers dwelling-houses of divers liege subjects of our said lady the Queen, in the county aforesaid, and beat, bruised, wounded, and ill-treated divers of the liege subjects of our said lady the Queen, then and there being in the county aforesaid, and seized and took from the said last-mentioned subjects and other subjects of our said lady the Queen, then and there being in the county aforesaid, divers quantities of arms, to wit, 100 guns, &c., and therewith then and there unlawfully and seditiously armed themselves, against the peace, &c."

The second count charged, that the defendant, together with the said W. J. and the said other evil-disposed persons, did conspire, &c., "to raise and make insurrections, tumults, riots, routs, and unlawful assemblies within this realm, and to obstruct the due execution of the laws and government within this realm." In this count no overt act was charged.

The third count was for a riot.

It was proved that the defendant had been a member of the Chartist Association, and that Jones, the clock-maker, (who was convicted of high treason at the Monmouth Special Commission), was also a member, and that on the 3rd of November, 1839, in the evening, the defendant had been at Jones's house, which was a beer-house at Pontypool, and was heard to direct the people there assembled to go to the race-course, where Jones had gone on before with others. It was then proposed to prove a direction given by Jones in the forenoon of the same day.

1840.

REGINA v. SHELLARD.

F. V. Lee, for the defendant, objected that there was not sufficient to connect the defendant and Jones together.

PATTESON, J.—I think there is, as to any direction respecting the race-course.

The witness then proved that Jones had directed certain parties to meet on the race-course; and the same witness also proved that he went to the race-course, where a number of persons were assembled, having arms, and that he went thence to the New Inn, which was on the road towards Newport from the race-course. It was proposed to prove what Jones said at the New Inn.

F. V. Lee and *Keating* objected that at all events any declaration should be confined to the race-course.

PATTESON, J.—I think the evidence admissible, as it is all part of the same transaction.

It was proposed to cross-examine a witness for the prosecution as to what he said before the magistrates. Mr. Bellamy, the clerk of assize, and who was also clerk of the Crown at the Monmouth Special Commission, proved that at the Special Commission the depositions of the witnesses taken before the magistrates had been frequently produced, and that they had been mislaid, and that diligent search had been made several times for them, and they could not be found; and that he had inquired for them since from Mr. Maule, the Solicitor of the Treasury, and could not get them. Mr. Edwards, the clerk of the magistrates, proved that depositions were regularly taken and returned, and that a copy produced by the prisoner's attorney was a correct copy.

PATTESON, J.—I think the copy of the witness's deposition may be read.

1840.

REGINA v. SHELLARD.

The witness had been asked whether he had always told the same story.

PATTESON, J.—That is an irregular question. I have constantly said, and always mean to say, that is an irregular question, because it includes the time before the magistrates as well as other times. The question ought to be—Have you always said so except before the magistrates (*a*)?

Verdict—Guilty.

Ludlow, Serjt., and *Whateley*, for the prosecution.

F. V. Lee and *Keating*, for the defence.

[Attornies—*Edwards*, and *Owen*.]

(*a*) See the case of *Regina* v. *Holden*, ante, Vol. 8, p. 606.

GLOUCESTER ASSIZES.

(*Crown Side.*)

BEFORE MR. BARON GURNEY.

REGINA *v.* PULHAM, SMITH, WASLEY, THOMAS, and WHITE.

Three persons were charged with a larceny, and two others as accessaries, in separately receiving portions of the stolen goods. The indictment also contained two other counts, one of them charging each of the receivers separately with a substantive felony in separately receiving a portion of the stolen goods. The principals were acquitted:—*Held*, that the receivers might be convicted on the last two counts of the indictment.

LARCENY.—The indictment charged the first three prisoners with stealing a carpet-bag and a number of articles