

LAW.

Wednesday, being the first day of Easter Term, the Judges waited upon the Lord Chancellor, in the morning, as usual, and then proceeded in state to their respective Courts.

COURT OF CHANCERY, MAY 5.

This being the first day of Term, the Vice-Chancellor made his first formal public appearance in the Court, accompanied by the Chancellor, and the Master of the Rolls. The novelty had attracted a great crowd, and the pressure in the Court was excessive; but the Vice-Chancellor did not remain long to gratify their curiosity. He merely took his seat for a few minutes on the right hand of the Chancellor, on the side of Court next the Bench door; the Master of the Rolls being on the inner-side of the Court, on the left of the Chancellor. He entered the Hall immediately after the Master of the Rolls, next after whom the Act gives him the precedence. The Chief Justice of the Common Pleas did not make his appearance at all, being probably still confined by indisposition. The Hall likewise appeared to be much more crowded than ordinary, from the attraction of the novel addition to the usual shew on such occasions.

COURT OF KING'S BENCH, MAY 5.

HABEAS CORPUS—INSANE PERSON.

Mr. PARK moved for a Writ of Habeas Corpus, for bringing before one of their Lordships at Chambers, the body of a Rev. Gentleman who was in an insane state, and who had escaped out of the custody of Mr. Warburton, who keeps a house at Hoxton, for the reception of insane persons, where he had been placed several years ago by his family. The affidavit of Mr. Warburton stated, that the Rev. Gentleman alluded to, whose name Mr. Park, from delicacy, forbore mentioning, had been entrusted to his care, so long ago as January 1805. Some time since, in the belief that the unfortunate Gentleman was in a convalescent state, Mr. Warburton allowed him to return home, sending with him one of his keepers to attend on him; but, within a fortnight, his conduct became so outrageous, that his family were under the necessity of requesting that he might be taken back to Mr. Warburton's house. On the 7th of April last, Mr. Warburton sent this gentleman, with one of his keepers, to Mr. Ware's, the Oculist, for advice as to an inflammation in his eyes; on which occasion he prevailed on the keeper to accompany him to the house of Mr. Charles Harrison, an Attorney at Court, residing at Lambeth, and having got thither, he positively refused to quit it, or to return back to Mr. Warburton's.

Lord ELLENBOROUGH said, an application for a Habeas, in this case, had been made to him at Chambers, and his reason for not granting it, he now recollected, was, that it was not stated in the affidavit of the wife, on whose part the application was made, that she believed that her husband still was and continued in a state of insanity; not only so, but it did not even state that she had no reason to think otherwise.

Mr. PARK said, Mr. Warburton, in his affidavit, swore that he was satisfied, from the period of the Gentleman's coming into his house, that he was a dangerous lunatic, and that he continued so till the 7th of April, when he left his house. He had also the affidavit of Dr. Stone, one of the Commissioners appointed along with Sir Lucas Pepys, and others, to visit houses of the description kept by Mr. Warburton, who stated that he had examined the unfortunate Gentleman in question, whom he esteemed a dangerous lunatic, and requiring confinement; he also stated that he considered him a dangerous and permanent lunatic.

Lord ELLENBOROUGH said, still there was no evidence that the Gentleman remained a lunatic to this moment. It was strange that there should have been such an omission in the Affidavit, if the parties did not believe that he was now sane, and had recovered his reason. Here there was a chasm left from the 7th April to this date. It was not required of the party making the Affidavit, and who might not have access to visit him, to swear that he was still insane, but only that he or she believed that he was still insane.

Mr. Justice LE BLANC said, a rule to shew cause was the common mode of proceeding in a case of this kind.

Mr. PARK said, that would be attended with delay, which might be dangerous.

Mr. Justice LE BLANC observed, this was not an application for taking a person out of a custody, in which he was against his will, but for taking him out of a custody which he himself had chosen, for the sake of restoring him into a custody in which he had been against his will.

Mr. PARK said, he should have an additional Affidavit, and should make his motion again to-morrow.

Lord ELLENBOROUGH desired that it might be such an Affidavit as should exclude the idea of the Gentleman's being now in a sane state. The motion should be for a rule to shew cause, and the service of the Rule should be on Mr. Harrison, with whom the supposed lunatic was stated to have taken shelter.

SIR P. BURDETT V. THE EARL OF MORA.

The ATTORNEY-GENERAL thought it proper to inform their Lordships that the parties in this case had entered into a Rule, by which it was settled, that the Trial at Bar, which stood for Monday, was not to take place.

Thursday, May 6.

CRIMINAL INFORMATION.

The ATTORNEY-GENERAL applied to the Court at the instance of a gentleman of the name of Basset, a Magistrate in the County of Devon, to show cause why a criminal information should not be filed against a person of the name of Gorhaf, for a violent and out-

rageous assault committed on his person, while in the execution of his duty as a Magistrate. This gentleman on the 28th of April was proceeding to Exeter Castle, to discharge his duty as a Magistrate at the Quarter Sessions. On the road he was met by Gorhaf, who had a horse-whip in his hand, which it appeared he had borrowed for the occasion; and after observing—"your name is Basset—mine is Gorhaf,"—he began horsewhipping Mr. Basset in a most outrageous manner. Mr. Basset inquired why he so conducted himself; but without regarding the inquiry, Mr. Gorhaf persevered most violently in the presence of many persons, and he used the whip so adroitly, that he cut several gashes in the great coat of Mr. Basset. In his affidavit, Mr. Basset swore, that he was not aware that he had given any reason to Mr. Gorhaf for such conduct, except indeed in granting a warrant against that person, for an assault on a Mr. Burgess, about two years ago.

Lord ELLENBOROUGH asked, whether no other circumstances had taken place? for it seemed extraordinary, that the defendant should not have thought of revenging what had taken place so long as two years ago, if what occurred then grieved him, till so great a length of time had elapsed. He thought something more recent must have induced Mr. Gorhaf to act as he had done. If such should appear to be the case, on cause being shewn against the Rule, the Court would discharge it without costs.

The ATTORNEY-GENERAL said, he was content to take the Rule with such prospect. Mr. Basset had sworn in his affidavit that he was not aware of any other circumstance by which he could, by any possibility, have given Mr. Gorhaf cause for behaving as he had done.

Mr. Justice LE BLANC inquired when the assault had taken place, and who the defendant was?

The ATTORNEY-GENERAL replied, that the assault had taken place on the 28th of April last, and that Mr. Gorhaf was a military man, being a Captain in the 63d regt.—Rule nisi granted.

OUTRAGE ON A DISSENTER.

WOOD V. BROME.

Mr. BENYON applied for a Rule, to show cause why the verdict herein which had been found for the plaintiff, damages 200l. should not be set aside and a new trial granted. It appeared that a warrant had been granted to John Brome, under the Act of the 24th of the King, appointing him a special constable, and directing him to disperse James Wood and other persons, who were in the habit of assembling together in a conventicle contrary to law, in the neighbourhood of Chester. This warrant directed Brome to proceed to the conventicle, when there might be any meeting in it, to show the warrant to Wood, the person who officiated as Minister, to direct them to disperse, and if there should be any opposition or riot, to take Wood into custody. In pursuance of this warrant, Brome proceeded to the conventicle; and on entering it, some individuals said, "Mob him!" which he took for a disposition to riot, and he then seized Wood, who was at that moment in the centre of the room on his knees at prayer; but no injury was done to Wood.—Brome acted under a legal authority—Wood had brought together an illegal assembly; yet for thus proceeding, Wood had commenced his action, and on its being left to a Common Jury, they immediately returned damages 200l. Now he submitted, that the damages were much too great for any injury that could have been done.

Lord ELLENBOROUGH observed, that the only question appeared to be, whether the special constable had acted regularly in not showing the warrant as the authority on which he acted, which it appeared in evidence he had not done. Brome was not a regular constable or headborough, and therefore it was incumbent on him to show that he was a special constable; indeed, the warrant directed him so to proceed. So, however, he had not acted, but had proceeded to drag the Minister out of his conventicle, at a moment when that person was on his knees at prayer. The conduct of Brome, his disobedience in proceeding as he had done, even though he had a warrant to seize, provided he met with obstruction, and a disposition to riot, became fair questions for the Jury.—Brome's particular behaviour certainly made it a question, whether he had been clothed with sufficient authority to act as he had done towards Wood, dragging him at such a moment as he did out of the assembly, he being in the act of prayer, and therefore evincing nothing like a disposition to riot, or to promote riot. His Lordship directed the Counsel to read the warrant under which the special constable, Brome, had acted.

Mr. BENYON read the warrant. It was directed to John Brome, appointing him special constable, authorising him to make inquiries as to the time of meeting, &c.; and should he find that the place of meeting was not duly registered according to Act of Parliament, he was to inform Wood that it was not a legal meeting; that he, Mr. Brome, had authority, and to shew it, to direct them to disperse; and that in case there was any thing like riot, he was to take him (Wood) into custody.

Mr. Justice BAILEY—"Was any notification, in the first instance, made to Wood by Brome, that he was assembling irregularly and illegally?"

Mr. BENYON—"There certainly was no evidence of any such notification on the trial."

Lord ELLENBOROUGH—"Then it seems that Brome did nothing but, immediately on entering the meeting, march up to Wood, to seize him, and to drag him out of the meeting, instead of first showing on what authority he entered the place at all, and then desiring them to disperse, as the meeting was illegal."

Mr. BENYON—"But a disposition to riot was evinced, for some present called out 'Mob him!'—meaning Brome; and he then went up to Wood and seized him, as one man was to be answerable for all."

Lord ELLENBOROUGH—"Oh! no—God forbid! The man might be acting under a mistaken notion of the law; and surely it was right, in the first place, to announce the authority of the special constable, and the illegality of the meeting. Brome did not so act, but immediately committed a gross outrage on the Minister; and the failure in not showing the warrant deprived him of the power of any special justification. I am afraid the Court cannot assist you."

Mr. BENYON—"But, my Lord, the damages are very great—too great for any such proceeding on the part of Brome."

Lord ELLENBOROUGH—"Why, I do not know that, considering the nature of the outrage. I remember the case of a Gentleman, an officer, who appeared in the box of a playhouse in a foreign uniform—and being taken for a footman by some person in the same box, he was desired to leave it, it being thought that he was not in his proper place. He objected, and some words ensued; and he was struck lightly on the head with a cane. He brought his action against the person who so struck him; and though he received no material personal injury, the Jury gave him two hundred pounds.—The circumstances in that case, as in the present, guided the Jury. The case made out by the Learned Counsel is certainly not of that outrageous kind which could justify the Court in exercising its discretion, the only discretion it has herein, to grant any new trial."

Rule nisi refused.

The Court then went into the temporary paper, and no case of any public interest occurred, except that of "Bignold v. Waterhouse," in which the Court confirmed the Nonsuit in refusing the Rule for a new trial. It was, as will be remembered, the case of the Norwich Bankers against Waterhouse, the proprietor of the Mail Coach, to recover the value of a parcel containing Bank-notes which had been lost; and had not been entered as being above the value of 5l. Defendant had undertaken to carry the parcels of one of the Bankers, free of expence, but it was not held that it could be extended to all the parties, and that in case of negligence in delivering the parcel of the concern, the defendant became actionable, especially as the parcel had not been entered and the defendant had stuck up in his office that he would not be answerable for any parcel that might be lost above the value of 5l. except entered to the contrary.

HABEAS CORPUS—INSANE PERSON.

Mr. PARK renewed the application he had made yesterday, shaping it in the way pointed out by the Court, namely, moving only for a rule to shew cause. This he now did on a fresh affidavit by Mr. Warburton, stating that the person mentioned in the application had been for several years under the care, and had left him only on the 7th April last. That he had no opportunity of seeing him since; but from the length of the time he had been insane, and from the nature of his lunacy, he did not think it at all probable, nor did he believe, that he could have recovered his reason within the short period which had elapsed since he last saw him.

The Rule to shew cause was accordingly granted—the service of the Rule to be on Mr. Charles Harrison, Attorney, with whom the Lunatic was now stated to be.

MISTAKE.

On Wednesday Mr. ANTON applied for a Rule nisi, in the case of Bickerton v. Sir W. Hicks, to set aside the declaration therein, on the ground of its insufficiency, the action being against the Sheriff, for taking the plaintiff to a prison within twenty four hours after arrest, contrary to the stipulations of sundry Acts of Parliament. The Learned Gentleman then proceeded to enumerate the various Acts of Parliament for the regulation of arrests; and, after having occupied the Court for some time with this interesting detail, he broke off his discourse, and with a piteous countenance thus spoke:—"My Lords, I am sure I have to beg ten thousand pardons of the Court, for having thus occupied their time; for I have just perceived that the cause respecting which I have been addressing your Lordships is in the Exchequer!"—This mistake occasioned much laughter, and after their Lordships had regarded one another for some moments, Lord ELLENBOROUGH, in very good humour, remarked, that it was well the Court had not committed themselves, by expressing any opinions.

In a Bill recently in Parliament, in which it had been determined to leave out the penalties, it was discovered in the progress of it, that one penalty had been left in, namely, that of transportation for fourteen years, and by the words, which in consequence of the alteration that had been made immediately followed, it was enacted, that this penalty should be equally divided between the Churchwardens of the Parish and the Informer.

Wednesday three of the prisoners at the depot; Perth, found their way, by means of false keys, to a empty cellar under the tower. They had with them suits of black, with crapes for their hats, in which they intended to have dressed themselves over the prison jackets, and to have walked out with the crowd at the hour of market. They were discovered, however, by a person who had gone into their place of concealment to examine the water pipes.

On Tuesday last, some fair Cyprians metamorphosed themselves as sailors, and having got into the upper box of the Plymouth Theatre, began to disturb the audience. The active peace officers immediately recognised two of their persons, and lodged them for the night in the town prison; the next morning they were brought in their jackets and trousers before the magistrate, who very properly committed them to the House of Correction as vagrants.