

The Queen
vs.
Dunlop.

dant before the Recorder's Court, at the instance of the Corporation. Well, gentlemen, what course did the defendant pursue in that Court? Why, he snapped his fingers at the Corporation by-law; declared it was not worth a straw; denied their jurisdiction, and said the proper way to get at him was to indict him at common law. That had now been done, and here he turns round with the utmost gravity, and declares the case could only be tried by the Recorder; that a special statute overrides the common law—in fine, that this Court could not in any shape touch him! This was how the defendant sought to wriggle out of this most serious charge, and, if he possibly could, set law at defiance as well as place lives in jeopardy. The learned counsel contended that two counts of the indictment at least had been proved by such overwhelming testimony, that the jury could have no difficulty as to the verdict they ought to return. When they saw the danger to which the locality was exposed, it was their bounden duty to look into the case carefully, and to give the public that protection to which they were alike entitled by law and justice.

JUDGE MONDELET charged the jury. After stating what scientific men had calculated would be the force of the explosion of a quantity of gunpowder, such as was said to be stored at Mr. Dunlop's magazine, His Honour went on to say it was the duty of the jury to enquire whether this powder magazine was or was not a nuisance, and if their answer was in the affirmative, it required only common sense, without any knowledge of law, to see that no nuisance of the kind could be for a moment tolerated. As jurors and as citizens they were bound to do to others as they would wish to be done by. Their neighbours had just the same right to protection as they had themselves. That this magazine was dangerous to public life and safety was the gravamen of the offence. Whether it was kept properly or not, were such the case, it must be removed. Mr. Dunlop had it in his power to prove that it was well guarded, but he had not done so, and there was evidence showing distinctly that such was not the case. The learned Judge went into the evidence with considerable minuteness. Captain Hawkes had always believed that the magazine was guarded, and would not have slept so securely in his bed, had he known there was no watch about the premises at all. Mr. Phillips' evidence was only an expression of opinion likely to be entertained by a man who did not know better. Chief Penton and Mr. McGrath had visited the magazine together at a very late date, when, according to defendant's admission, there was from 60 to 70 tons of powder stored in it.

Their description of the inside of the magazine, and of the storage, was as graphic as it was important. There was no person in charge, but they got the key from Mr. Dunlop. There were no racks, but the kegs of powder were piled in tiers one above the other. The jury would see how dangerous this in itself was. A slight noise, any unforeseen accident might cause one of these barrels, perhaps the whole row to roll down, and there was no telling what might result from the friction thereby caused. Every one understood that by rubbing wood smartly together sparks might be produced, and if the smallest quantity of gunpowder happened to ignite, how fearful might the consequences be. There were no hides on the floor—it was quite bare; there was no guard, and thus access might be had by any one at any hour of the day or night. He never knew be-

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