

certain that the law should, if possible, be made so simple that every court that administers it should with reasonable care be able to understand it. That this is not the case at present is evident from more facts than those relating to the matter in hand. Magistrates sitting singly and in Petit Sessions have, it is known, large powers in a large class of cases. But they must proceed regularly and make up formal convictions. It is supposed that these may be very simple, for a set of forms are given. But with all this apparent simplification, and all this apparently easy magisterial grammar of the law, it is a significant fact, that nearly all the appeals against convictions, in one county at least, for the past two years, have succeeded, the convictions being held bad in form, or the Magis rates being held to have exceeded their jurisdiction. It is not an easy thing to frame laws, to be thoroughly understood and well administered in a new and mixed community by the yeomen themselves. Yet it must be done, if possible, and we think that now the statutes are consolidated, it will not be very difficult to condense and amend the criminal law by an act of next session, in such a manner as to obviate the anomalies now apparent. And with this view we intend to revert to the subject. It is worthy of attention, if it were only for this single fact, that in the present case it was necessary for the counsel for the prisoner to move under three different statutes, and only under one of them does he seem to have any right of appeal.

The case furnished us is as follows :—

"QUARTER SESSIONS OF HURON AND BRUCE"

The Queen v. Henry Campbell. } Judgment delivered by R. Cooper Esq.,
Chairman.
False pretences.

The indictment is in the following form :

United Counties of Huron and Bruce, } "The jurors for our Lady the Queen,
upon their oath present, that Henry
to wit : } Campbell, on the 8th day of May, A.D.
1859, at the Township of Culross, in the County of Bruce, one
of the united counties aforesaid, unlawfully, fraudulently, and
knowingly by false pretences, did obtain an order from one
Thomas Maloney, one of the Municipality of the Township of
Culross, requiring the delivery of certain wheat by and from
one George Smith, and by presenting the said order to the said
George Smith, the aforesaid Henry Campbell fraudulently,
knowingly, and by false pretences procured a certain quantity,
to wit, nine bushels of wheat from the said George Smith, of the
goods and chattels of the said Municipality of the Township
Culross, with intent to defraud."

The following was the evidence :

Thomas Maloney, sworn on the part of the crown. I am a Councillor of the Township of Culross. I look at the order produced, it is in my hand writing.

(Copy.)

Culross, April 28th, 1859.

"George Smith, Penetangore. Please give the bearer three of golden drop, three of fife, 9 of milling wheat, 2 of corn, and oblige yours truly,

THOMAS MALONEY.
ROBERT PINKERTON.

I was authorised to sign both names. The words (three of golden drop, three of fife) now appearing erased were not erased when I gave the order to prisoner. Mr. Pinkerton is a Councillor. I gave the order to prisoner. He came back to me seven or eight days afterwards, and said he had been somewhere and had some papers in his pocket, and his little girl had got them and burnt the order; and he seemed in great distress, and wanted another in place of it, as he could not get the wheat, and so I gave him the second order in these words.

Culross, May 6th, 1859.

"George Smith, Esq., Penetangore. Sir, please give the bearer three golden drops wheat, three of fife, nine bushels of milling, two of corn, oblige yours,

THOMAS MALONEY.
ROBERT PINKERTON.

It was wheat provided for the poor. An allotment was made to various parties by the Township Council, and prisoner's allotment was 15 bushels of wheat and two of corn, (the amount of each order) and I intended one only in place of the other.

Cross examined.—Individuals give notes for the wheat. Prisoner gave a note for the first order, not the second. The words were not erased when I gave it to him. The note he gave was in favor of the Corporation.

George Smith, sworn.—The wheat was in my possession. The first order was erased when presented. I gave nine bushels on it. I also honored the second order, I can't say who got that. I always honored the orders whoever brought them. My list shows "Campbell, 15 bushels," "Peter McDonald, 9 bushels." I wrote Peter McDonald on the back of it because some one (I can't say who) gave in the name. Some parties took several lots for themselves and others.

William English, sworn.—I saw prisoner present the erased order and get the wheat on it. He said in answer to Smith, that Maloney had erased it himself.

William McIntyre, sworn. I drew the wheat for prisoner. It was twenty-four bushels (15 & 9) being the amount he requested me to get. He did not get it all home, but all except one bag which was lost or stolen while I was driving it, and prisoner was with me. The whole was loaded up for him.

The Chairman charged, that the 15 bushels, were evidently obtained, as proved by Smith, and that there is evidence that the 9 were also obtained as stated by English, with whose evidence that of McIntyre agrees; and if both were obtained, the nine were obtained by false pretences.

The jury returned a verdict of guilty.

A motion has been made by Mr. McDermitt for the prisoner to arrest judgment. There was no demurrer to the form of the indictment before the jury were sworn, as required by the statute in cases of formal objects apparent on the face of the indictment.

The grounds of the present motion are,

1st.—That the indictment is uncertain in the manner of stating the offence, and, that if acquitted, the prisoner could be again indicted, that an acquittal under this indictment would not be conclusive, because the offence is so badly and indefinitely set forth. In short, that the prisoner has no reasonable means of seeing what he was indicted for.

2nd.—That the order for the wheat is not sufficiently described or set forth, it is not said who it is payable to, nor is the quantity of wheat named.

3rd.—That the mere statement that the prisoner presented the said order is not an allegation of a false pretence; and the words at the end of the indictment, ("with intent to defraud,") could not, as the indictment is framed, be held to relate to any single part of it. They might relate to the obtaining the order, for obtaining the wheat.

4th.—That the indictment is double, charging two separate offences.

Mr. Lewis, on the part of the crown contended, That the indictment would have been bad had it not narrated the whole