

York, 3d May 1819.

Inclosure

Sir,

(2)
in Sir P. Maitland's,
of 4th May 1819.

In closing my letter of the 1st instant, on the subject of the Earl of Selkirk's libel, it occurred to me that a concise report of the two civil actions decided here, against his Lordship, for false imprisonment, would be a fair and complete confutation of his Lordship's pretension to exclusive merit and suffering from the injustice of others. I now take the liberty to inclose it, not as an official document, but one which may be relied on, and verified by numbers. Thinking that the colonial department might be willing to know on what rests the pretensions of his Lordship, to credit, as an innocent and persecuted man, persecuted by corrupt influence over His Majesty's servants, under the protection of that department.

I have the honour to be, &c.

W^m Dummer Powell.

His Excellency
Sir Peregrine Maitland.

Inclosure
(3)

M^r Kenzie
and
Earl of Selkirk, } False Imprisonment.

Spring Assizes, York, 1819.

It was in evidence, that plaintiff was a retired partner of the North-West company, with several other partners at Fort William, in the western district, when they were arrested on charge of felony, by warrant from defendant. That after examination, the other partners were committed to the prison of the district, or sent to Montreal, but that plaintiff was detained at Fort William, and confined in a place called the Black Hole. That bail was offered to defendant, but rejected, on pretence that the charge against him was too serious to admit of bail.

That plaintiff was addicted to excess and frequent intoxication, and that his failing was encouraged, whilst in confinement, until he was prevailed upon to execute, whilst under duress, a sale of the copartnership property to defendant, after which he was discharged without bail. That when defendant had committed to prison the other partners, they had left in charge of their concerns, two clerks, Vandersluys and M^r Tavish, with powers to act for the company; that defendant knew that these persons were alone entrusted with the affairs of the company. That he had made proposals to them to transact for the company, which they had declined; and that after Vandersluys, one of the agents, finding his presence useless to his employers, from the control of defendant, had obtained leave to quit the fort, defendant renewed application to M^r Tavish, the remaining agent, to transact with him on account of the copartnership, which M^r Tavish still declining, defendant sent him in custody to Montreal, under a pretended charge of being the receiver of stolen goods, knowing them to be stolen, but did not take his examination on that charge, or give any warrant of commitment to the person under whose custody he was placed, nor was any further prosecution of the charge carried on.

That after Mr. M^r Tavish was thus got off, there remained in the fort six other clerks of the North-West company, who had no particular charge of confidence, but adhering to the interest of their employers, and having influence over the common servants of the company, they were got rid of, by the defendant sending them off to York, under pretence of a subpoena, signed by himself, to give evidence before a Court at York, on a day when no Court was holden, and no trials or prosecutions expected: this latter evidence was submitted in aggravation to show that the imprisonment of the plaintiff without commitment regularly, was corrupt as well as illegal, with intention when all other course failed, to extort from him as a nominal partner of the North-West company, an exercise of authority over their concerns, which he, the plaintiff, disowned to possess, and protested against, so soon as he was at liberty, in a place where means for such protest could be found. The defendant's counsel limited themselves to cross-examination of the witnesses, and the jury found a verdict for the plaintiff and £. 1,500 damages.

The abuses of the authority of the magistrate, for corrupt purposes of private interest, were so various and unquestionable, that the Court after receiving the verdict, intimated to the Attorney General, the propriety of his official notice, but his Lordship having been discharged from the magistracy, and being no longer within the jurisdiction of the Court of King's Bench of this province, no further notice was taken of him.