

The Queen
vs.
Dunlop.

such a quantity of gunpowder in any one place as was dangerous to life or property, was a nuisance of the gravest kind, which the Court could summarily order to have abated. He then proceeded to address the jury. He owed it to them to be very brief in his remarks in reply, because they had been already detained a very long time. But in a case of such importance as the present, he felt he would be wanting in his duty if he did not say a few words upon the evidence that had been adduced for the defence. One circumstance connected with this had caused him a great deal of pain. He much regretted to find a gentleman in the position of the defendant called upon to answer a criminal charge, trying to shuffle out of it by throwing the responsibility of his own acts on the shoulders of his unfortunate sons. Admitting that the rights of property and soil were vested in the sons of Mr. Dunlop, yet if it was shown, as undoubtedly it had been shown, that Mr. Dunlop had the use of that property, and converted it to the illegal purpose which the indictment charged, then it was he, not his sons, who was answerable,—he, not his sons, against whom the indictment lay. It was not the man who used the soil, but the man who abused it, against whom proceedings could be legally taken. The evidence adduced for the defence as to the proprietorship of the magazine had signally failed. It only went the length of proving that the title to the property was vested in the two sons. Now, supposing that to be so, and that the storage of gunpowder was out of the question, this building, enclosed with four stone walls, certainly could not be indicted as a nuisance. It was the use to which that building was applied wherein consisted the offence; and that use having been proved,—it having been shown also that defendant, besides living in the house on the property, and exercising paternal control over his sons, also exercised the whole and sole control and management over the powder-magazine, receiving its revenues, and settling its debts—there could not be the slightest shadow of a doubt that he had been rightly indicted, and that he was the one who should pay the penalty if a verdict of guilty was returned. Then, again, he would ask the jury, why seek to raise such an issue before them, unless his learned friend felt that his case was a desperate one—that the evidence was so overwhelming that it was necessary to resort to some shabby scheme or another to get out of it? But that the conviction of defendant was a certainty, and his learned friend felt it to be so, this line of defence would never have been attempted. He felt pained to a great degree when he reflected that such were the motives which evidently prompted the defendant in attempting to shift the responsibility from his own shoulders to those of his sons; but he (the learned counsel) said again defendant could not shirk that responsibility, neither could he get rid of it, even supposing it had been established to the perfect satisfaction of the jury that the sons were the absolute proprietors of the property and soil. It was defendant who had the exclusive management and control of the magazine: one son was in the United States, the other was seldom at home, and attempt to conceal it as he might, the magazine was defendant's property to all intents and purposes. Captain Hawkes laboured under the impression that the magazine was properly guarded, and every witness had asserted that to leave the magazine unguarded—apart from the circumstances of the internal management, and of the quantity of powder

stored there
Phillips—
but that
himself
the jury
guardians
taken to
Dunlop w
the lives
was in the
quite close
and, if an
too fearful
of being h
it would c
farther fro
to say that
flying out
put forth h
23 years,
What an a
served us f
time? The
of gunpowd
they would
and was con
the law mu
So far you
villages arou
their reside
plaint—som
that also wa
secutor in th
Bellingham
fendant—the
box, the jury
magazine, h
done nothing
many of his
be brought f
vours than o
nearly and d
he had used
was thankful
objection at t
and it was se