

proper one and he must answer it, said, I do not recollect seeing this to Captain Coombes, what I did say was that if the American agents confined their proceedings to the western side of the river I was to protest and I did protest; this was before the 20th August, by the American agents I meant Messrs. Dean and Kavanagh.

Re-examined. I saw Messrs. Dean and Kavanagh, they told me that they had instructions to go on an account of the inhabitants, the property, houses and other local information, but they had no authority and did not intend to use any compulsory proceedings, all the information was to be given voluntarily, I told them they came on the east side of the river I should take other steps, meaning thereby that I should prevent them by force, I conceive they understood it in that sense also; with respect to the west side I protested against their proceedings; this was before any town meeting, I had no allusion to any such meetings when I spoke of protesting only, I remained with Dean and Kavanagh 3 days.

Henry G. Clappier, Esquire, sworn.—I am Registrar of Deeds and Clerk of the Peace for the County of York, have been so several years; there have been Parish Officers appointed for the District of Madawaska, as being in the Parish of Kent, sometimes separately for the Madawaska, sometimes not, there are a great many Deeds registered in the Registrar's Office of lands in the Madawaska settlement, some as much as 20 or 35 years back, the Inhabitants of Madawaska have constantly applied for and received Grain Bounty, and still continue to receive it; John Baker received it for the year 1822.

The cause was here closed on the part of the Prosecution, and the Defendants were informed they were at liberty to address the Court of Jury, and produce evidence.

The defendant, Wheelock, addressed a few words to the Court, the purpose of which was, that they were misled by the acts of the two officers, meaning Messrs. Macauland and Coombes, and concluded they were not doing wrong so long as they confined themselves to the west side of the river.

The defendant then called the witness Leonard R. Coombes.—Examined by Defendant Hannawell. I had a conversation with Captain Macauland at the time that Messrs. Dean and Kavanagh came to see me at my house, and said he was going in pursuit of Dean and Kavanagh; he afterwards told me he had said to these agents, that so long as they confined themselves to the west side of the river in taking their assessment and account of the inhabitants, and the like, he should not interfere with them, further than to protest against their acts, except they exercised an act of sovereignty; I remember the defendant Hannawell asking me what conversation Dean and Kavanagh had with Mr. Macauland; also that I told the said defendant that Mr. Macauland had said to me that he had called at the Chief Justice's on his way up, and that the Chief Justice had recommended him that as the matter was so near a settlement, not to interfere with them if they confined themselves to the west side of the river, unless they exercised any act of sovereignty, and that it was better to take no rash steps, I mentioned this to the defendants Savage and Wheelock before the first town meeting.

The defendant then put in evidence a book containing the Act of the State of Maine, which was read at the first town meeting, and the original warrant which had also been read, no objection being made to their admission, the act and the warrant were read, and are as follows:—

CHAPTER 131. An Act to incorporate the Town of Madawaska, and for other purposes.

Approved March 15th, 1831.

Sec. 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That the Territory called and known by the name of Madawaska, in the Counties of Madawaska and Penobscot, bounded as follows:—Beginning on the boundary line between this State and the Province of New-Brunswick at the north east corner of township E. in Grosvenor's map, thence south of the river St. John; thence west by the north line of township F. and township K. to the east line of township numbered sixteen in the range of townships, west of the east line of the State; thence north until the line of it intersects the River Saint Francis; thence by the centre of said river to the grant of Portugal, to the line of Canada and this State; thence by the line of Canada as established by the Proclamation of seventeen hundred and sixty three, by the Commissions to Governors Murray, Carleton, and Haldimand, from seventeen hundred and sixty three to seventeen hundred and eighty six, the Act of the British Parliament of the seventh of George the fourth, and by the Treaty of Peace of seventeen hundred and eighty three, to the north west angle of Nova-Scotia, now the north west angle of the Province of New-Brunswick; thence south by the line established by the Commissions to Governors Wilnot, Campbell, Lezard, Hughes, Harcourt, and so on to seventeen hundred and sixty three to seventeen hundred and eighty two, by the Treaty of Peace of seventeen hundred and eighty three, and by the Commissions to Sir Thomas Carleton the first Governor of New-Brunswick in seventeen hundred and eighty four, to the first mentioned town, thence by the east line of the State, on the true meridian north from the monument at the head of the River Saint Croix, by the same line incorporated into a town by the name of Madawaska, and the inhabitants of the said Town are hereby subject to the same duties and liabilities, and vested with the privileges and immunities, which other incorporated Towns are within this State.

Sec. 2. Be it further enacted, That all that first part of the County of Washington which lies within the limits of Madawaska, as described in the first section of this Act, be and hereby is set off from the County of Washington, and annexed to the County of Penobscot.

Sec. 3. Be it further enacted, That any Justice of the Peace within the County of Penobscot, or any Justice whose commission runs throughout the State is hereby empowered to issue his warrant to some inhabitant of said town, directing him to notify the inhabitants thereof, to meet at such time and place as he shall appoint, to choose six officers, to wit: three are empowered to choose at their annual Town Meetings.

STATE OF MAINE. To Walter Powers, of Madawaska, in said County, greeting:—

(L. S.) You are hereby required, in the name of the State of Maine, to notify and warn the inhabitants of said Madawaska, qualified to vote in town officers, to meet at Peter Lizotte's dwelling house in said town, on Saturday the twentieth day of August 1831, then and there to act on the following articles, and to transact such other business as may be done before them.

1st. To choose a moderator to govern such meeting.

2d. To choose a town clerk.

3d. To choose select men.

4th. To choose constables, and all other town officers.

And you are hereby further required, in the name of said State, to make return of this warrant with your doings thereon at said meeting, at which you will personally be chosen.

Given under my hand and seal at Bangor, in said County, this eleventh day of July, in the year of our Lord one thousand eight hundred and thirty one.

W. D. WILLIAMSON, Justice of the Peace and Quorum.

Pursuant to the within warrant, I have notified the inhabitants of said Town to meet at the time and place and for the purposes within mentioned.

WALTER POWERS, authorized by the Court to notify.

The Defendant Jesse Wheelock addressed the Jury and said, that after what had now come out it could be seen, that the defendants were under an impression from what the two officers had said, that they were justified in what they were doing, so long as they confined themselves to the west side of the river.

The Defendant, Barnabas Hannawell in his defence said, that having received the warrant, they were obliged under the law of the State of Maine to act, they would have been liable to punishment under their laws if they had declined. That in the situation of the country, there was a difficulty on both sides, and of two evils they thought they had chosen the least, they were led to suppose from what the two officers Messrs. Macauland and Coombes had said, they would not be interfered with so long as they confined themselves to the west side of the river.

The other Defendant declined saying any thing. The Attorney General in his reply, said, that as the case was so clearly and distinctly made out by the evidence, he should make but few observations, as he conceived, the jury could have no doubt on their minds; the fact of the conspiracy and confederacy together for the purposes and with the intention alleged in the Indictment, was fully proved by all the witnesses who could speak to that part of the Case; indeed the Defendants had themselves produced the very act and warrant which were read at the meeting, and which showed distinctly that intention of the meeting was to subvert the King's authority, and establish that of a foreign government; they had not confined themselves to the American settlers, but that they had used their effort to induce the French inhabitants to depart from their allegiance to the government, under which they had been settled and enjoyed, and that but for the influence and exertion of Mr. Rice and Mr. Coombes, these poor deluded people would probably have been seduced to join with them; that the French inhabitants, though possessed of many excellent qualities, were well known to be a quiet industrious set, having contentment, fond of peace, and easily wrought upon by the persuasions of artful men, that however it might operate on the Court in deciding on the punishment, the excuse alleged by the Defendants could not have any weight with the Jury, if they were satisfied that the allegations had been substantiated by the witnesses. The act was one of the most deliberate kind, and was intended to bear its date in July last. There could not be a higher offence committed against the peace of society, the acts amounted to Treason, and the defendants, if not British Subjects, still owed a temporary allegiance, so long as they remained in the Province under the protection of its Laws, with so long as they were not authorized to change the sovereignty and national character of the place. That it had now, for the second time, been most satisfactorily proved in this Court, (once before in the case of John Baker) that this Province had exercised an unqualified jurisdiction, ever since its first erection over the whole of the Province, and that the American claim, which they now set up, had been taken advantage of as a pretext of jurisdiction to the whole extent of such claim. The learned Judge here repeated what he had stated to the Jury on the trial, that no such proceedings as those he had alluded to either on the part of the British or American Authorities, had taken place, and that the American Agents alluded to, and their own doings, which although they took place on the western side of the River, were nevertheless expressly founded on an Act of the Legislature of Maine, which extended to the whole Territory on both sides of the River, to the extreme line, which it was notorious the Americans claimed as their boundary, and which would, doubtless, have been taken advantage of as a pretext of jurisdiction to the whole extent of such claim. The learned Judge here repeated what he had stated to the Jury on the trial, that no such proceedings as those he had alluded to either on the part of the British or American Authorities, had taken place, and that the American Agents alluded to, and their own doings, which although they took place on the western side of the River, were nevertheless expressly founded on an Act of the Legislature of Maine, which extended to the whole Territory on both sides of the River, to the extreme line, which it was notorious the Americans claimed as their boundary, and which would, doubtless, have been taken advantage of as a pretext of jurisdiction to the whole extent of such claim.

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The Jury retired from the Bar about 4 o'clock, and in a short time returned, finding the three defendants Guilty.

Tuesday morning, October 18, 1831.

His Honor the Chief Justice, Mr. Justice Bliss, Mr. Justice Bisford, Mr. Justice Chipman.

The Defendants, Barnabas Hannawell, Daniel Savage, and Jesse Wheelock, being present, pursuant to notice, to receive sentence, and being asked whether they had any thing to offer to the Court, answered in the negative.

His Honor Mr. Justice Chipman addressed them, and observed:—

That it was sufficient merely to state the Charge of which they had been found guilty, to show its aggravated character, without adding a word of comment. It was no less than a direct attempt to subvert the authority of the Government, and to introduce the jurisdiction of a foreign State. That the defendants had to say in their extenuation that they were not the original authors of these proceedings, was not originally to be instruments in the hands of others. They also set up in their defence a colour of justification which they contended was given to their proceedings by the acts and declarations of a person in the character of a British Officer. These acts and declarations, however, went no further than to abstain from preventing by force proceedings not amounting to acts of sovereignty, of certain American Agents on the western side of the River Saint John.

The defendants appeared to be persons not wanting in understanding and discretion, and must have perceived the difference between the proceedings of the American Agents alluded to, and their own doings, which although they took place on the western side of the River, were nevertheless expressly founded on an Act of the Legislature of Maine, which extended to the whole Territory on both sides of the River, to the extreme line, which it was notorious the Americans claimed as their boundary, and which would, doubtless, have been taken advantage of as a pretext of jurisdiction to the whole extent of such claim.

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The prompt, efficient and temperate measures adopted by our Provincial authorities to maintain the exercise of our Jurisdiction and the Sovereignty of Great Britain; by which these artful and unprovoked aggressions have been a second time put down by the strong arm of the law, cannot fail to restore confidence and afford great satisfaction to this public and our fellow subjects in Nova-Scotia and the Canadas; and will doubtless receive the approbation of our Most Gracious Sovereign.

Though the three defendants now under sentence have probably been some time lumbering on the G. promontory, and Savage was one of the active confederates of Baker in the former instance, and permitted at that time by the lenity of our Government, to escape.

Well knowing that when the boundary line was once finally settled; the vacant lands on each side could be disposed of under the regulations of the respective Governments; and open to general application, these men have doubtless considered it a good speculation to help themselves; and for their own private ends to second the views of the more important, but more cautious Agents of the State of Maine. We do not therefore think them entitled to much commiseration; they will probably have their reward.

But there is one person whose conduct justly calls for great reprobation; and who may be viewed as the chief instigator and director in the proceedings which have lately been carried on by John Baker, and the other American Agents of Maine, and a man we presume of no small weight in that Assembly.

After the Convention between Great Britain and the United States settling the terms which were to regulate the submission of the question on the disputed boundary to a Foreign Power; we find this gentleman consulting the State Legislature at once to take possession of, and incorporate the whole District, commission Justices, and other officers, dispose of the vacant lands, and compel the British settlers to become citizens of the State. Not content with this exhibition to his fellow members, we find him bringing before the Legislature the whole Madawaska settlement on both sides of the River Saint John to the utmost extent claimed by the United States; and in the construction of the very bill using and referring to such parts of the official documents communicated by the British Government under the solemn sanction of the Treaty, as suited his purpose.—How would such conduct have been received in the private transactions between man and man?

Having thus set at naught the convention under which he had before acted a principal part, and denied the power of the General Government so expressly recognized on his first appearance among us; we again find him in the character of an agent of the United States, coming into the Madawaska settlement with the ostensible purpose of obtaining such statistical information as the inhabitants on the western side of the river would voluntarily furnish. Under the profession of confining himself to the west side of the river, and apparently adopting the decision of the King of the Netherlands, which has never been officially acted upon, but in fact protesting against the American Envoys; he is insidiously taking measures to effect his ulterior object, (which no doubt was the main end and purpose of his visit) namely to introduce the act of the Legislature of Maine, persuade the French settlers to become American citizens, and induce them to sever their allegiance to the King; and if possible entice them into joining with the Americans in some public act, such as electing Town Officers and a Representative.

The Meetings were to be held on the west side of the river, and under the authority of an act incorporating both sides. Every man in his senses must see through this drossy veil of cunning, and be assured as was observed by the learned Judge in passing sentence, that the acts were intended, and would if overlooked, have been taken advantage of as establishing the American Jurisdiction to the whole extent of their claim.

It is true the Act and Warrant do not make their appearance until the Agents withdraw; but can there be a doubt on the mind of any man that the whole was a previously concerted plan, though it did not expressly say Mr. Dean's purpose to put himself in any personal hazard, or to incur any personal loss?

Mr. Dean was accompanied by Mr. Kavanagh, and in the selection of this Gentleman, there have been no little care and foresight. Mr. K. is, we are told, a Member of Congress; a Catholic, perfectly acquainted with the French language, and of no ordinary talents; we learn by the report of Irish extraction; and firmly believe he was not very well informed of the nature of the service on which he was to be employed.

We have heard it rumored, on what foundation we cannot say, that to the credit of this Gentleman, who came into the Madawaska, and saw the happy, contented, and peaceable condition in which the French inhabitants were living, under the safeguard and protection of British laws; when he learned that the greater part of them had been actually born on the land where they resided, and which was held under British grants; when he found that the cultivated fields he looked over, were the culture of his own people, to the bounty so liberally and indiscriminately bestowed from the Provincial Revenue, well knowing that the whole matter was in a proper course of adjudication, and would probably be speedily and finally settled, he did not see reluctance in playing the tempter, and did not see any objection in his entering into the fields he looked over, to see their culture in a measure, to the bounty so liberally and indiscriminately bestowed from the Provincial Revenue, well knowing that the 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