

uttered certain words reflecting on Mr. Justice Fletcher, when speaking in a distillery at Shipton in the inferior district of St. Francis, of a cause which had been then recently determined; your committee find that Mr. Justice Fletcher made those words the subject of a prosecution for contempt before himself, against Mr. Lovejoy; and that, after being obliged to find bail for his personal appearance in court, and undergoing interrogation, Mr. Lovejoy was not freed from this prosecution until he had denied on oath the expressions imputed to him.

"Your committee observe that on all these occasions the persons accused were deprived of the benefit of a grand jury; of the means of bringing forward their witnesses, and of the sacred right of being tried only by their peers; that they were forced to give evidence against themselves, and were tried by a judge who believed himself personally injured by them.

"Your committee remark that throughout all these prosecutions Mr. Justice Fletcher, acting as accuser, without the intervention of any law-officer of the Crown, or even of any prosecution whatever, and being the sole judge in his tribunal, exercised at once the functions of party and of judge, that is, he acted as judge in his own cause.

"Your committee are of opinion, that the provincial judge of the inferior district of St. Francis, having no criminal jurisdiction, and possessing only a very limited jurisdiction in civil matters, is indeed invested with the power of punishing contempts committed in the face of the court, and the resistance or abuse of its authority: this power is founded on necessity, since without it an inferior court might be constantly subjected to insult, or impeded in the exercise of its jurisdiction.

"But the case is not the same with respect to a writing published out of the presence of the court and of the judge, or with respect to offensive words uttered in the absence of the judge, and at a distance from the seat of justice; for such offences are not of a nature to interrupt or directly prevent the exercise of the judicial functions: the judge's interference by summary process, contrary to the general rules of the law, cannot be justified by necessity, and the inferior court to which this power has not been expressly granted, cannot exercise it without a dangerous and very blameable excess of jurisdiction. It is true the superior courts at Westminster exercise this power of punishing summarily, and as contempts of court, offences of this kind committed beyond their precincts; but these courts exercise the plenitude of judicial power throughout the whole realm; they have from time to time immemorial exercised this power of summary correction for contempts committed out of court, and as the origin of this power is nowhere to be found, the most ingenious and best informed lawyers are under the necessity of ascribing it to the prerogative of the Monarch, who used formerly to sit in person in the Aula Regis, from whence the superior courts have been derived; and moreover the number, the distinguished rank and profound learning of the judges who preside in these superior courts, offer a safeguard to the King's subjects, and form the corrective of a power so extraordinary, while the judicious and moderate use made of it by the judges is well calculated to allay any on the part of the people of England, with regard to an authority which, in hands less sure, and without this safeguard, might well become the subject of alarm.

"But a similar power in the hands of an inferior judge, sitting alone in judgment upon the man whom he accuses of having injured him, would be as dangerous as it would be contrary to the rules of justice, and could not fail to excite the most serious alarm.

"Since Mr. Justice Fletcher laid claim to powers equal to those of the superior courts at Westminster, he ought, like them, to have refrained from acting the part of an accuser; he ought, like them, to have acted only in case of public prosecution, and to have left it to the King, by whom the public is represented, to decide whether the case was deserving of inquiry and of public animadversion; but, instead of adopting this conduct, he himself received his own complaint, and did not hesitate afterwards to judge between himself and the persons he had accused.

"No man can be judge in his own cause, said a Lord Chief Justice equally celebrated for his learning and his patriotism, for it is a manifest contradiction that a man should be the author of an act by which he is himself to be the sufferer; and what was said by Lord Coke, in Dr. Benham's case, is far from being extravagant, for it is a very reasonable and just opinion, that if it should be enacted by an Act of Parliament that the same person should be party and judge, or which comes to the same thing, should be judge in his own cause, this Act of Parliament would be null.

"Your committee are of opinion, that John Fletcher, esq., provincial judge of the inferior district of St. Francis, is guilty:

"1st. Of having usurped a criminal jurisdiction, having exceeded his powers by taking judicial cognizance of pretended contempts of court alleged to have been committed by Silas Horton Dickerson, Francis Armstrong Evans, Pierre Joseph Cressé, Ebenezer Peck, and Andrew Lovejoy.

"2dly. Of having harassed and oppressed several persons by causing them to be imprisoned under colour and pretext of these pretended contempts of court.

"3dly. Of having himself unlawfully acted as accuser and as judge, and given judgment upon his own complaints against the said persons for the said pretended contempts.

"4thly. Of having arbitrarily and unlawfully punished the said Silas Horton Dickerson, by fine and imprisonment, because he had instituted an action of damages against the said John Fletcher in the Court of King's Bench at Three Rivers, for having inflicted upon him the pain of imprisonment for a pretended contempt of court.

"5thly. Of having arbitrarily and illegally condemned the said Silas Horton Dickerson to pay several fines for these pretended contempts, and of having compelled him to pay the said fines by the imprisonment of his person.