

Eng. Rep.]

REG. v. CASTRO.

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you have used on these occasions, we can only contemplate your conduct with astonishment and regret. When it is said that all this was done without any consciousness that it was an offence against the public justice of this court, though it must have the effect of creating prejudice with reference to the approaching trial, I can only accept that apology as really derogatory to the understanding of those who make it. There cannot be the slightest doubt in the mind of any sensible man that such a course of proceeding must interfere with public justice. If it is open to those who take the part of the accused to discuss in public the merits of the prosecution in his interest; then it must be equally open to those who believe in his guilt to take a similar course on the other side. And then we may have, on the occasion of a political trial, or any case exciting great public interest, an organized system of public meetings throughout the country, at which the merits or the demerits of the accused may be discussed and canvassed on the one side and the other, and thus, by appeals such as you have not hesitated to make to public feeling in this case, the course of public justice may be interfered with and disturbed. It is clear that our comment upon a proceeding still pending is an offence against the administration of justice and a high contempt of the authority of this court. Nor can it make any difference in point of principle whether the observations are made in writing or in speeches at public meetings, and we can have no hesitation in applying to the one case the same rule as to the other. We think, therefore, that the counsel for the Crown have done no more than discharge their duty in bringing this case under our notice; and we must deal with it in such a way as to repress, if possible, such improper proceedings in future. We are glad to find that on this occasion, though attempts have been made to distinguish this case from others in which the court has interfered in the exercise of its summary authority, yet both parties have through their counsel submitted themselves to the court, and have given a clear and distinct pledge that they will take no part in such objectionable proceedings again. If there had been any hesitation in giving such a pledge, or the slightest appearance of it, and if there had not been the most submissive attitude assumed, the court would have thought it necessary to use to the full extent the power and authority it possesses, and would have inflicted a substantial fine and also a sentence of imprisonment in addition. We are happily spared the necessity of taking

the latter course in consequence of the very proper line you have both of you adopted. But we wish it to be understood that in the fine we are about to impose we have gone to the extreme of moderation, and that if on any future occasion proceedings of this kind shall be resorted to, the full power of the court, which it immediately possesses to restrain and prevent such proceedings by the infliction of adequate punishment, will be certainly inflicted with a stern and unhesitating hand. The mischief in the present case, so far as the positive effect of these proceedings is concerned, has been very trifling indeed, thanks to the good sense of the metropolitan press in forbearing from giving publicity to these offensive and objectionable proceedings. But your intention was not the less reprehensible, nor your conduct the less open to severe censure. However, under all the circumstances we think that, considering the position you have taken and the pledge you have given, a pecuniary penalty of moderate amount—moderate with reference to the circumstances of the case and the aggravated character of the offence you have committed—will satisfy the exigencies of the case. But that leniency which we now exercise will be appealed to in vain if any other person shall be found guilty of a similar offence. The sentence of the court upon you is that for this contempt you do each pay a fine of 100*l.* to the Queen, and that you be imprisoned until the fine be paid.

Upon consulting the other judges, the LORD CHIEF JUSTICE almost immediately added:

To persons of your position it is not necessary to apply the latter part of this sentence. The sentence of the court, therefore, is that you do each pay a fine of 100*l.* to the Queen.

Jan. 21.—COCKBURN, C. J. to-day made the following remarks with regard to this matter:—I find that an impression has gone forth that, in remitting that part of the sentence pronounced yesterday which imposed imprisonment until the fine was paid, I was influenced by the anticipation of some difficulty as to the imprisonment of members of Parliament by reason of some privilege which members of Parliament possess. This is an entire mistake, imprisonment being only imposed as a means of insuring payment of the fine. I was reminded by my brother Blackburn that payment might be enforced without having recourse to imprisonment, and it at once occurred to me that it was unnecessary—looking at the position of these gentlemen—that imprisonment should be imposed until the fine was paid, especially as there were other means of enforcing payment. On that