

(1838), 8 C. & P. 242; *R. v. Walklings* (1838), 8 C. & P. 243; *R. v. Dyer* (1844), 1 Cox Cr. Cas. 113; *R. v. Williams* (1846), 1 Cox Cr. Cas. 363; *R. v. Manzano* (1860), 2 F. & F. 64; *R. v. Stephens* (1871), 11 Cox Cr. Cas. 669; *R. v. Hull and Smith* (Yorkshire Assizes at Leeds, February 3, 1880; see Archibald on Criminal Pleading, 24th ed., p. 221, and Warburton's Leading Cases on Criminal Law, 4th ed., p. 513); *R. v. Blades* (Yorkshire Summer Assizes at Leeds, August 2, 1880; see Archibald on Criminal Pleading, 24th ed., p. 221); *R. v. Everett* (1882), 97 C.C.C. (Sessions Papers) 333; *R. v. Shimmin* (1882), 15 Cox Cr. C. 122; *R. v. Dahle* (1884), 98 C.C.C. 543; *R. v. Ross* (1884), 100 C.C.C. 29; *R. v. Perry* (1884), 100 C.C.C. 506; *R. v. Masters* (1885), 50 J.P. 104; *R. v. Millhouse* (1885), 15 Cox Cr. C. 622; *R. v. Nally* (1885), 102 C.C.C. 342; *R. v. Cunningham* (1885), 102 C.C.C. 154; *R. v. Reiglehuith* (1886), 103 C.C.C. 461; *R. v. Doherty* (1886), 16 Cox Cr. Cas. 306; *R. v. Teasel* (Norwich Summer Assizes, July, 1889; see Warburton's L. Cas., 4th ed., p. 515); *R. v. Maybrick* (Liverpool Assizes, August, 1889; see Phipson on Evidence, 2nd ed., p. 38).

It must be observed that in the cases of *R. v. Walklings* (supra) and *R. v. Manzano* (supra), the statement was allowed by Baron Gurney and Baron Martin respectively with some hesitation and doubt as to the wisdom of the practice.

On November 26, 1881, the majority of the Judges of the High Court of Justice of England passed a resolution disapproving of the practice of counsel for prisoners stating to the jury matters which they had been told in their instructions, on the authority of the prisoner, as being alleged existing facts, but which they did not propose to prove in evidence; and at that time the question of the propriety of laying down a rule as to the practice of allowing defended prisoners to address a jury before the summing up of the Judge was discussed, but adjourned for further consideration.

The following year, in *Reg. v. Shimmin* (supra), Mr. Justice Cave stated that a prisoner, whether he were defended by coun-