THE HULL LIBEL CASE.

THE QUEEN VERSUS FINDLAY.

YORKSHIRE SUMMER ASSIZES.

NISI PRIUS COURT.

(Before Mr. Justice Bowen.)

The first case before the Court was that in which Charles Farquharson Findlay, editor of the *Hull Times* and *Hull Packet*, was accused of a libel contained in the *Hull Packet*, when issued as a daily paper.

The libel complained of had reference to Colonel Sanger, who had been called upon to replay the War Office, but who had been allowed to retain his rank. About a year ago an inquiry was held at Hull into certain allegations made against Lieutenant-Colonel Humphrey, Commandant of the Hull Volunteer Artillery Corps, the result of which was that Lieutenant-Colonel Sager was called upon to resign. The article reflected in strong language upon Colonel Sager, and charged him with being the author of the accusations made against his brother officer.

Mr. Waddy, Q.C., who, along with Mr. Dodd and Mr. Lockwood, appeared to prosecute, said that before his lordship opened upon Mr. Findlay, he (Mr. Waddy) had to inform the jury that proceedings had been taken by a sworn jury, before a learned judge, supposed to be at liberty to strike out his justification, and, as he (Mr. Waddy) understood, he was prepared to plead guilty to one of the counts in the indictment, with regard to the other counts, he did not propose to press it.

His Lordship: If he pleads guilty let him plead in open court.

Mr. Waddy: I believe what Mr. Findlay is prepared to do is to withdraw his plea of not guilty to some of the counts in the indictment, and then, with regard to the rest, he (Mr. Waddy) was not prepared to plead.

His Lordship (to defendant): Do you wish to plead guilty instead of not guilty to one of the counts?

Mr. Findlay: Of everything except the phrase "knowing it to be false," which is in the first count.

Mr. Waddy explained that there were two counts in the indictment. It was a question of fact in the first count was that Mr. Findlay published a libel, knowing it to be false. The second count was the same as the first, omitting the words "knowing it to be false."

His Lordship (to Mr. Findlay): You wish to plead guilty to the second count?

Mr. Findlay: Yes, my lord.

Mr. Waddy: I was going to ask for an abstract, my lord, of what the plea was, and we cannot deal with the record without your lordship's leave.

His Lordship: What I was going to do was this. As soon as the plea of guilty is taken on the second count, then, in order that it should be a matter of the assizes, and judgment ought to be taken in that matter on the 4th day of next term.

Mr. Waddy: Yes, my lord. The only difference in the case is this, that what we propose to do is to strike out the first count. That, of course, can only be done with the consent of counsel, and, therefore, I do not think that your Lordship may be moved to do that. I propose to relate merely what has led the prosecutor to propose that he should be silent.

His Lordship: The whole thing will have to be spoken to in London when the defendant files his affidavit.

Mr. Waddy: With regard to the other questions for criminal information, the Court has laid down a rule, but in all these cases there must be a pledge given on the part of the prosecutor who calls upon the defendant, that he will go through with it, in order that criminal proceedings may not be the means in point of fact.

His Lordship: I do not think it necessary to hear you. I think your application to strike out the first count when he pleaded guilty on the second, will quite meet the ends of justice.

Mr. Waddy: I was going to say I hoped your Lordship will not put it on the ground that it was an application made by the plaintiff to strike out the first count, rather in the form of an application from the defendant.

His Lordship: What I meant was that it would be more in the form of an application to the Court, because it will have to be discussed again in London, when the defendant applies, as I suppose he will, for the rule for the attachment of the prosecutor, on the ground that it acted under existement, or anything else.

Mr. Waddy: I think I ought to state that the reason why the course is adopted, and other proceedings, on the part of the prosecution, is that Mr. Findlay being gone before Mr. Justice Hawkins, and in private conversation with us without the Court, he made public since, given us reason to believe that the charge made, as editor of the paper, were not statements which had originated from the defendant, but were given the names of Captain Wellesley, Captain Wellesley, and Mr. Baxter, who have made affidavits which they now (on attorney) to support, with regard to the charge as to its having said these things knowing them to be false, may fairly be withdrawn.

His Lordship: Then would you enter a *nolle prosequi* on the first count, and then the plea of guilty on the second? You must call upon Mr. Findlay to withdraw his plea of not guilty to the first count, and I plead guilty, and then the case must go to London.

In answer to the Judge's Associate, Mr. Findlay pleaded guilty on the second count.

His Lordship (to Mr. Findlay): You will have to appear in London for yourself, as well as by counsel, when you may instruct.

Mr. Findlay: Then, my lord, it is quite unnecessary for me to make any statement in court?

His Lordship: Quite unnecessary. You should reserve whatever you may have to say for the occasion when you come up for judgment in Westminster in November.

His Lordship (to Mr. Waddy): I have no doubt as to whether you have any right to enter a *nolle prosequi*; but that matter can be arranged, no doubt.

Mr. Waddy: At all events, your lordship has power to strike out the count.

His Lordship: I am not so certain of that.

Mr. Waddy: Then we will appeal to the Attorney-General.

His Lordship: You must appeal to the Attorney-General, but if I find I have the power to strike the count out I will do so.

The first count was referred back to the Attorney-General in London, for the prosecution to apply for leave to enter a *nolle prosequi*.

ANOTHER LIBEL CASE.

DAWES AND UXOR V. LINGARD.

In this case Mr. Digby Seymour, and Mr. Lawrence-Gane, appeared for the plaintiffs; Mr. Waddy, Q.C., Mr. Dodd, and Mr. Lockwood, for the defendant. The plaintiffs, in their statement, claimed from defendant, in respect of a libel published in his newspaper. The defendant, in his statement, denied that the publication was malicious, and that it had the meaning imputed to it. In the alternative, he had paid £10 into Court, and alleged in the second plea that the plaintiffs' case. Mr. Seymour, in his opening, said that plaintiffs sought compensation for libel published in the *Barnsley Chronicle*, of which defendant was the proprietor. Mr. Dawes was an extensive owner of ironworks at Hoyland. He also had occupied a prominent position, but was also politically the leader of Hoyland Conservative Association. Mrs. Dawes had distinguished herself by her zeal, and in the distribution of her charity had always been animated by good feeling. He was a member of other ladies who took a strong interest in the late election, and had canvassed the families of Messrs Starkey and Stanhope, and rode about the neighbourhood, introducing the claims of these candidates to the voters. On the 16th of June the language was in the neighbourhood of the cottage of a miner at Hoyland, Mrs. Dawes had met with a most distressing accident, which afterwards resulted in death. Mrs. Dawes was invited to see the man, and said a few words of encouragement to him, and left. There, however, an allusion was made to the election. A few days after, on the 20th March, the following appeared in the defendant's paper:—

"A WARNING TO VOTERS.

To the Editor of the *Barnsley Chronicle*.—Sir,—The district of Hoyland and neighbourhood are warned to be on their guard against a female who is now about in the district with a man-servant, and employing some of the lower class of Hoyland to do her bidding. One of her latest attempts was upon a poor voter who had been laboring in the pits previously in a neighbouring colliery. Although she is extremely fond, on calling at his house, that the doctor had expressly forbidden any one to be admitted, she made her way to the poor man's bedside, proffering wine, soup, and other delicacies. This was declined, the patient being in circumstances to get them for himself. However, his employer had already arranged that he was to want for nothing, so he might require. One might be glad to believe that these were prompted by her charity to her fellow creatures, but the circumstance of their only occurring at election time. Hoyland electors will remember the distribution of blue pies at the late election, since when not a few again this particular fountain has ceased to flow. Although we may not be looked in the mouth, yet sudden and unexpected offers of blue pies, bottles of wine, and orders to tradesmen from unexpected quarters, will, I trust, be narrowly scanned before being accepted. It is enough for the wise.—"FAIR PLAY."

This letter, no doubt, referred to Mrs. Dawes, and her husband wrote to the editor of the paper denying the imputation, and also requesting that the letter should be inserted. This request, however, was not acceded to, and several letters followed in the paper from other persons, one from a person described as Mrs. Dawes, and another from the pen of the writer of the first letter. Mr. Dawes requested the editor to give him the names of the writers and he would take steps to free himself from his responsibility for the publication. This was not complied with, and the present action was taken. His Lordship did not think that was a kind of action to begin in court. After some discussion, Mr. Waddy said Mr. Dawes had taken the case in his hands. The latter then alleged a verbal apology, and the amount paid into court. Judgment with costs accordingly.

ALLEGED SENDING AN UNSEAWORTHY SHIP TO SEA.

At the York assizes, on Friday, before Mr. Justice Fitzhen Stephen, Charles Wells, jun. (on bail), was indicted for unlawfully sending, or being a party to sending, a certain British ship, to wit, "The Hilda," to sea in an unworthy state that the lives of the persons on board were likely to be endangered, at Great Grimsby, on the 23rd April last. Mr. Gainford Bruce appeared for the prosecution, Mr. Waddy, Q.C., and Mr. Cyril Dodd defended.

During the case, Mr. Seymour said the prosecution was instituted by the Board of Trade under an Act of Parliament which repealed certain previous Acts, and which belonged to a body of Parliamentary statutes, legislation for the protection of a class of men whom experience had taught their legislators were singularly indifferent to their own interests and safety, namely, the mariners of this country. They would all, whether connected with land or sea, be aware of the gallant efforts of Mr. Plimsoll in the cause of giving public attention to the necessity of providing for the safety of the crews of vessels. The Merchant Marine, manned by those gallant but somewhat careless people. The Act of which was passed for that purpose was 39 and 40 Victoria, and the fourth section provided that every person who sent, or attempted to send, or was a party to sending, or attempting to send a British ship to sea in such a state that the lives of the crew were likely to be endangered, should be held responsible for the act, and in the fifth it was should have the opportunity of giving evidence in his own favour. Thus the language of the section was extremely wide. One question would be whether the defendant came within the words—a party to sending the ship. The defendant was the owner of the ship and a partner with a shipbroker and merchant of Hull, named Mr. Charles Wells. He was the registered owner of a steamer trading in the Baltic, named the "Hilda." He took an active part in giving directions and seeing the steamer supplied with coals, and no doubt would have an interest or profit on the coals that were taken to Stockholm. It was that interest that brought about that which the Act was to strike at. The cost of manning a vessel was a great item, but the salary of a hundred tons to a ship's proper load was a temptation which occasionally led the owners to give his ship such an insufficiency of freeboard as to endanger the crew's being swept overboard, or the vessel foundering at sea. The present case was one of the simple one—it being that the vessel was so overladen, that she was too deep in the water, and unsafe for navigation in the Baltic. In the 23rd of April Mr. Steward, an inspector of the Board of Trade at Grimsby, was passing along the dock when he noticed the Hilda moored in it. He was leaning on the portside he noticed that what is known as the "Plimsoll Mark" was rather under water; in fact that it was so low that it was quite a free board of something like 16 or 17 inches. For his case, however, he noticed that the boat was given by the log of the ship, which was 17ft. 3in. Mr. Stewart had to establish both that the ship was going to sea, and that the free board was 17ft. 7in. then that proposition must fail. The case was this—the ship was perfectly subject to the ordinary vicissitudes of the weather, and seven months before which had not a line of free board of 2ft. 10in., or at the summer time of a free board of 2ft. 6in. A bulk of the witnesses would fix the loading at 17ft. 7in., and it would agree as to the latter being the minimum; and at a time of the year that involved great danger to the parties committed to the ship. The Hilda was a small ship, a ship should have such buoyancy as, when exposed to the winds and waves, it should be safe, and that buoyancy was measured by the free board, and the Hilda was, clearly, a ship of such a kind that if she was laden to the extent of 17ft. 7in. she was not safe. The question was, was the defendant guilty of