

(III) THE TRIAL

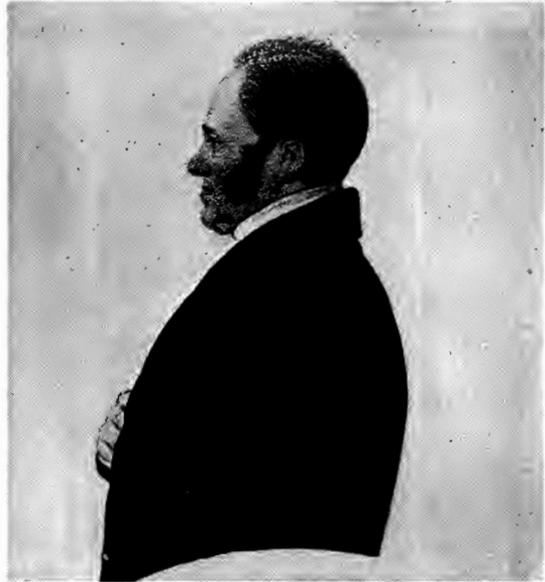


CONFINED in the comfortless gaol until the morning of Saturday, March 15, they were removed on that day to the County Hall, where the trial was to take place. They were thrust into a miserable dungeon, opened only twice a year when the Assize Court assembled, with no more than a glimmer of light filtering in through the small barred window. Loveless says, "To make it more disagreeable some wet and green brushwood was served for firing. The smoke of this place, together with its natural dampness, amounted to nearly suffocation, and in this most dreadful situation we passed three whole days."

A report of the trial, taken from the fullest accounts, is given on later pages. I shall not traverse its progress in detail. The reports show conclusively that the language attributed to the witnesses was not their own. It is only a summary couched in the language of the reporters. No mention is made of the questions put to the witnesses, either by counsel or by the Judge. George Loveless says, "The greater part of the evidence against us, on our trial, was put into the mouths of the witnesses by the Judge."

The judge prompts the witness

Let us look at the methods that were used to secure a conviction. The first thing to consider is the Bill of Indictment. This stated the offence with which the men were charged. It was prepared by one of the supporters of the Government, Sergeant Wilde, M.P., the Whig Member for Newark. As he stated in the House of Commons on June 25, 1835, he was entrusted with the care of conducting the



SERGEANT WILDE, M.P.

prosecutions *instituted by the Government* on that circuit. These words in italics show conclusively that it was the Government who were the prosecutors.

The Indictment ran to twelve counts totalling about 1,500 words of legal jargon, perfectly unintelligible to the lay mind. Incidentally, it starts with a mis-statement. The words of the First Count are as follows:—

A faulty Indictment

The Jurors for our Lord the King upon their Oath present that George Loveless late of the Parish of Tolpiddle otherwise Tolpuddle in the County of Dorset Labourer James Loveless late of the same place Labourer James Brine late of the same place Labourer James Hammet

late of the same place Labourer Thomas Stanfield late of the same place Labourer and John Stanfield late of the same place Labourer on the twenty-fourth day of February in the fourth year of the reign of our Sovereign Lord William IV at the parish aforesaid in the County aforesaid feloniously and unlawfully did administer and cause to be administered unto one Edward Legg a certain Oath and engagement purporting and then and there intended to bind the said Edward Legg not to inform or give evidence against any associate confederate or other person of and belonging to a certain unlawful combination and confederacy before that time formed and entered into by and between the said George Loveless James Loveless James Brine James Hammet Thomas Stanfield and John Stanfield and divers other evil disposed

persons and which said Oath and engagement was then and there taken by the said Edward Legg against the peace of our said Lord the King his Crown and dignity and against the form of the Statute in that case made and provided.

It will be noted that the charge is for an offence committed on February 24, in the fourth year of the reign of William IV (in 1834). This was the day on which the men were arrested and manifestly they could not have administered an oath on that day. This clearly is a mistake in the Indictment, as the alleged offence was committed on December 9, 1833. This mistake in the Indictment might have been sufficient to have upset the charge, but strangely enough the Defence seem completely to have missed the point.

The Indictment was framed under the inspiration of the Home Secretary himself. It was he who, in a letter of January 31, 1834, advised James Frampton to use the



National Portrait Gallery

SIR WILLIAM HORNE
(Attorney-General, 1834)

Act of 57 Geo. III, c.19. This Act, passed in 1817, the 57th year of the reign of George III, was directed against seditious meetings, and as Lord Melbourne said, had "frequently been resorted to with advantage." Subsequently, he had grave doubts as to the applicability of this and other Acts. We can see this from the letter which he caused to be sent to the Secretary to the Law Officers of the Crown. Here is the letter in full:—

Whitehall, March 10, 1834.

SIR,

Various societies, variously denominated (some called the "Regeneration Society," others called "Trades Unions," etc., etc.) are at this time spreading very generally, and in various parts

of the Kingdom, connected together, and corresponding with each other by Secretaries, Delegates, Missionaries, and Agents, professing to have for their object the increase of wages of Labourers in the several branches of Trade and the regulation of the time for working, and of various other matters relating to the several Trades; and establishing one common fund among the workmen for supporting all such workmen as strike for work while unemployed.

At the meetings of these Societies secret oaths not to divulge or make known the proceedings of the meeting are administered.

Are the Unions illegal?

I am directed by Viscount Melbourne to desire you will submit this statement to the Attorney and Solicitor-General, and after referring them to the Act 6 G. III, C. 129, S. 4 and 5, "An Act for repeal of laws relating to the combination of workmen and to make other provisions in lieu thereof"—also to Statute 57 G. III, C. 19, Sec. 25, "An Act for the more effectual preventing Seditious Meetings and Assemblies," and to the Statutes relating to illegal oaths, request they will take the same into their consideration and report their opinion:—

1st.—Whether the Societies above described (independently of the administering of secret oaths) are within the 25th Section of 57 Geo. III, C. 19, and whether the members of such Societies are punishable under the provisions of that Act or the Act referred to therein.

2nd.—Whether the Societies above described in which are administered secret and illegal oaths are illegal, and how the Societies or the members thereof may be proceeded against.

I am, etc.,

J. M. PHILLIPPS.

P.S.—Viscount Melbourne is desirous of obtaining the Law Officers' opinion as soon as possible.

In the latter paragraph of that letter he asks Sir William Horne, Attorney-General, and Sir John Campbell, Solicitor-General, whether the Trade Unions, which administered oaths, were illegal, and how such societies or their members could be proceeded against. Yet the six labourers had been lying in gaol for three weeks, whilst Lord Melbourne was still deliberating with his legal advisers as to whether they could be prosecuted!

The reply of the Law Officers is not on record, but it is evident that they did not agree with the Home Secretary. Lord John Russell stated on June 25, 1835, that the Law Officers had advised him to use another Act, viz., the Mutiny Act of 1797. Incidentally, if it required the ingenuity of the most eminent lawyers to show the Home Secretary in what manner even a technical illegality could be proved, how could six humble agricultural workers have been expected to know the law?



Crown lawyers perplexed

National Portrait Gallery

SIR JOHN CAMPBELL
(Solicitor-General, 1834)

conditions. Why was he chosen? Was it because he, too, could be relied upon to secure a conviction? He had promised his neighbour, E. B. Portman, J.P., to be present, and Portman, as we know, wanted "to expedite the Blow."

It was customary in those days to select the members from the magistrates in the district to serve on the Grand Jury. To make doubly certain that the men would be convicted, James Frampton was included amongst them. He, as we have seen, instigated the prosecution, and committed the men to gaol in the first instance. He, of course, was thoroughly impartial! He was accompanied on the Grand Jury by his son, Henry Frampton, C. B. Wollaston and Augustus Foster, all of whom had signed the Magistrates' Caution. Their opinions also were quite definitely settled against the men.

Frampton on
the Grand
Jury.

The proceedings before the Grand Jury are shrouded in silence. Beyond the charge delivered by the Judge there is no official record of what took place. George Loveless asserts, however, that the most unjust means were used to establish the indictment. Their characters were investigated from their infancy to find out whether there was anything against them. Their employers were approached to see whether they were idle, dissolute persons who spent their time in public-houses. The employers, in common honesty, declared that they were good, industrious workmen against whom they had no complaint. Needless to say, the Grand Jury did what was required of them, returned a True Bill, and the case was remitted for trial.

Then there is the Petty Jury. It was selected with the greatest care. Who were these twelve good men and true? Every one of them were farmers, drawn from the County. We may be sure that they had no love for the Union. A tradesman of Bere Regis, named Bridle, was disqualified from serving apparently because he had heard George Loveless preach in the Methodist Chapel he attended!

Next as to the witnesses. Who were they? John Lock, the first witness was the son of the gardener at Moreton House, the residence of James Frampton. He was quite evidently one of the "trusty persons" whom Frampton, with the approval of the Home Secretary, employed to spy on the men. He was an informer who, on the instructions of his master, wormed his way into the Union in order to betray its secrets. Edward Legg, the next witness, was in the same category. He, too, was an informer, but whether he was intimidated into giving evidence is not known. It was on his evidence alone that the six men were arrested. He it was who identified James Hammett as being present on December 9, when, in fact, he was not there at all. We have the testimony of George Loveless that Legg asked to be admitted to the Union. From his subsequent conduct it is fairly certain he was acting on instructions in doing this.

Informers
in the
witness-box



These then were the personalities in the prosecution. First, a biased Judge, a henchman of the Government. Secondly, a foreman of the Grand Jury hostile to the men and

The Indictment did not mention the Act or the sections upon which the charge was framed. On June 25, 1835, however, the then Solicitor-General, stated that the Indictment was framed on the Mutiny Act, 37 of George III, cap. 7. The clearly expressed purpose of that Act was to stamp out seditious societies by making it punishable for the members to swear oaths of allegiance to such societies. It was necessary, therefore, for the prosecution to prove two things, (1) that an oath had been administered, and (2) that the Union was seditious. Neither of these points was established by the evidence.

Then as to the personalities who assisted the Government to send their victims to prison. The Government entrusted the charge of the trial to another of their supporters, John Williams, K.C. He had formerly sat in the House of Commons as a Whig member for the City of Lincoln. He was made a judge on February 28, 1834, four days after Loveless and the others had been arrested. He was ambitious and anxious to please. He demonstrated his unfairness not only in his charge to the jury, but in his conduct of the case.

Next take the Grand Jury, the body whose duty it was to decide whether there was any substantial basis for the charge. The foreman of the Grand Jury was W. S. Ponsonby, M.P., Whig member for the County of Dorset and brother-in-law of Lord Melbourne. He was known to be hostile to the demands of the agricultural workers for improved

A newly
promoted
Judge

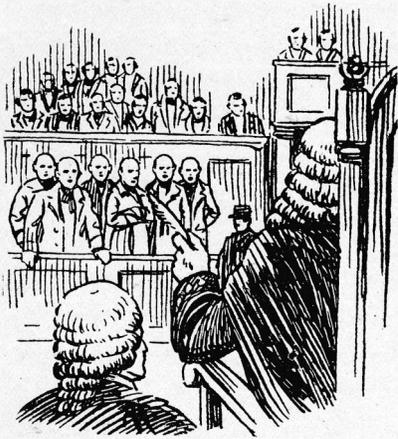


Interior of
Court House,
Dorchester
(seen from
the Gallery)

related to the Home Secretary, who was pressing the charge against them. Thirdly, a Grand Jury of landowners and farmers on which was the prime mover in the prosecution, James Frampton, and other magistrates whose minds were already made up. Fourthly, a Petty Jury composed exclusively of farmers who were themselves affected by the activities of the Union. Lastly, the principal witnesses both of them informers, one of them quite evidently a spy. These were the people who were employed to make certain of a conviction.

The six men
face their
enemies

The case came on for trial on Monday, March 17, 1834. Arrayed in the dock in the tiny court house, with hair close cropped like common criminals, were the six labourers, whose manly bearing commanded the respect even of their most bitter enemies. It is unnecessary to traverse the evidence. It will be sufficient to see what was the substance of the charge and in what way it was sustained by the evidence. We have seen



that the purpose of the Mutiny Act upon which the Indictment was framed was to stamp out seditious societies. Therefore, it was necessary to prove not only that an Oath was used, but that also the purpose of the Union was seditious. Here the Prosecution was in a difficulty. Certainly it could not be shown that the object of Loveless and his colleagues in establishing their Trade Union was to carry on a seditious plot against the Government. Such an allegation was too absurd to contemplate. Yet in order to secure a conviction under the Mutiny Act it was necessary that sedition must be proved, as we can see from the Preamble of the Act. The Prosecution got rid of this formidable difficulty by utilising an additional Act

passed in 1799 (39 Geo. III c. 79), not mentioned in the Indictment. This made illegal any society which administered an oath not required by law. It also was intended for the prevention of seditious societies. The Judge, however, assisted the Prosecution by stating that whatever might have been the intention of Parliament as expressed in the Preambles to these two Acts, he did not intend to be bound by this.

The task of the Prosecution was thus narrowed down to proving first, that there had been an oath administered to which the prisoners were parties, and secondly, that the oath bound the persons taking it not to reveal it, and not to reveal the activities of the Union. The only direct evidence given was that of the two informers, Lock and Legg. To what did they testify? Merely that they had met at Thomas Standfield's cottage in December, 1833; that their eyes were blindfolded, and that a passage was read from something they thought was the Bible; that they knelt down and kissed a book. That when their eyes were unbandaged they saw a picture of a skeleton in the room and that

Evidence of
the
informer

James Loveless, who was dressed in a white sheet, had said, "Remember your end." Neither of them could recollect any of the words that were read to them. They did not know what the reading was about, and neither did they know whose voice it was. They knew that some rules were read to them and that something was said about striking.

Vague evidence
as to the
meeting

The evidence of the subsequent witnesses did not in any way prove that an oath was taken or administered. This only showed that a painting of a skeleton had been ordered, but not supplied. A letter written to George Loveless by the Secretary of another lodge of the Union was read. Written from Bere Heath, it stated that a meeting had been held and a committee appointed. A book containing the alleged rules of the Union, which had been found in George Loveless' house, was produced. This set out that the entrance fee was 1s., and the contribution 1d. per week. Strikes for advances were forbidden without the consent of the Grand Lodge. No obscenity would be tolerated, and no political or religious subjects must be discussed during lodge hours. If any master tried to reduce wages the members must leave off together but must first finish the work they had in hand. Members were required to cease work in support of any other member discharged solely on account of his Union activities. They must decline to work with anyone divulging the secrets of the Union.



To refute the absurd suggestion that the society was criminal and seditious, it is only necessary to quote Rule 23: "The object of this society can never be promoted by any act or acts of violence, but, on the contrary, all such proceedings must tend to hinder the cause and destroy the society itself. This Order will not countenance any violation of the laws." The remainder of the rules are purely formal, dealing with matters of procedure. Not one scrap of evidence of a conclusive character was given to prove that an oath was administered or that the rules disclosed were, in fact, those read to the witnesses. This was all the evidence.

Speeches were then made for the defence by Mr. Butt and Mr. Derbyshire. They argued that the Act of 1797 was confined to cases of mutiny and sedition; that the Society was perfectly legal and properly constituted, and that no oath within the meaning of the Statute had been administered. The evidence concluded, it now fell to Judge and Jury to play their decisive parts in the drama.

Speeches for
the defence