levy the same, will order the distress to be made for only *a quarter* of the whole rate.

The churchwardens of the parish of Bishopsgate made a tax for the relief of their poor for *a whole year*, which amounted to six hundred pounds and upwards, when they should have made only *a quarterly rate;* and the same, through inadvertency, was confirmed by Alderman Beecher, who was the alderman of that ward; and, afterwards, he, fearing that the churchwardens might collect the whole sum, and make some ill use of it, refused to grant a warrant to distrain for this tax.

The churchwardens thereupon moved the Court of King's Bench for a *mandamus* (*a*) to compel him to grant his warrant, and obtained a rule of Court for him to shew cause why a *mandamus* should not be granted (*a*).

The alderman, at another day, by his counsel, shewed all the matter before-mentioned for cause, &c.

And a rule was made, that he should grant his warrant to distrain for the tax for *one quarter* of a year, and no more, for he could not confirm this tax in part; it must be for the whole, or for no part.

CASE 7. THE KING *against* JOURNEYMEN-TAYLORS OF CAMBRIDGE. Monday, 6 November 1721.

An indictment against *a taylor*, with the addition of *yeoman*, is good.

One Wise, and several other journeymen taylors, of or in the town of Cambridge, were indicted for *a conspiracy* amongst themselves to raise their wages; and were found guilty.

It was moved *in arrest of judgment*, upon several errors in the record,

First, that the defendants, having the addition of "*yeomen*," are, notwithstanding, charged with a conspiracy not to work as "*journeymen taylors*," which is a repugnancy.

It was answered, that "yeoman" is a good addition, for a yeoman may be a taylor.

The Court held, that there was no inconsistency between the addition of "yeoman" and the addition of "taylor."

Secondly, the caption is not good, being "*ad general. quartial sess. pacis, &c.*" omitting "*domini Regis*" after "*pacis.*" This exception has been several times held fatal, and is very different from the cases where they are omitted after the words "*just. dict. domini Regis ad pac. in com. præd. conservand. assign* (*a*)." In Hilary term, in the first year of Queen Anne, and in Hilary term, in the eleventh year of Queen Anne, two indictments were quashed for this exception.

It was answered, that this objection has been often over-ruled, for it must be intended the King's peace, and that the case in Ventris has been denied for law.

The Court was of the same opinion, and said, that of late years this objection had never prevailed.

Thirdly, No crime appears upon the face of this indictment, for it only charges them with a conspiracy and refusal to work at so much *per diem*, whereas they are not obliged to work at all by the day, but by the year, by 5 Eliz. c. 4.

It was answered, that the refusal to work was not the crime, but the conspiracy to raise the wages.

(*a*) That a *mandamus* lies in this case, see *Rex* v. *Montague*, 1 Sess. Cases, 367. *Rex* v. *Mayor of Worcester*, B. R. H. 120. *Rex* v. *Dean of Norwich*, Carth. 450. *Rex* v. *Justices of Somerset*, 2 Stra. 992. *St. Luke's* v. *Justices of Middlesex*, 1 Wils. 133.

(*a*) If the rate be illegal, the justices may refuse to sign it, and they may return it for cause upon a *mandamus* directed to them to sign it; but as to the sums or parties assessed, they have nothing to do with it, the remedy is by appeal; and though the Aldermen of Dorchester refused to sign a rate, because of inequality, yet the Court granted a *mandamus*, and after a return *a peremptory mandamus*, and then *an attachment*, in order that the parties grieved might appeal. Cited by the Court in this case of Beecher's, 16 Vin. Abr. 429, pl. 5.—*Note to former Edition.*

(*a*) 1 Sid. 175. Keb. 656, 885. Vent. 39; Office of the Clerk of the Peace, 16.

The Court. The indictment, it is true, sets forth, that the defendants refused to work under the wages which they demanded; but although these might be more than is directed by the statute, yet it is not for the refusing to work, but for conspiring, that they are indicted, and a conspiracy of any kind is illegal, although the matter about which they conspired might have been lawful for them, or any of them, to do, if they had not **[11]** conspired to do it, as appears in the case of *The Tubwomen* v. *The Brewers of London.*

Fourthly, that this fact being laid in the town of Cambridge, it did not appear by the record in what county Cambridge was, which it ought to do, because there are other towns of that name in England, viz. in Gloucestershire; and so it is a mis-trial: for there is no more reason to award the *venire* to the Sheriff of Cambridge than of any other county. The *venire facias* is awarded to the Sheriff of the county of Cambridge, commanding him to summon a jury "*de vicineto villæ Cant.*" In the margin of the indictment it is *villa de C.;* in the indictment the *venue* is alledged only *apud villam de C.;* and though the *certiorari* to remove it is directed "*Just. domini Regis de villa C. in com. nostro C.*" this error is not helped by naming the county in the *certiorari* to remove the indictment, because that writ is only an order of this Court. Neither shall it be intended that Cambridge is in the county of Cambridge, because this is a criminal case, and intendments are never allowed in prosecutions of this nature.

It was answered, that the fact being laid in the town of Cambridge, it shall be intended that the town is within the county of Cambridge, for which *Long's case* (*b*) is an authority in point.

The Court. If a *venire facias* be directed to the Sheriff of Cambridge to return a jury, and he returns one *de vicineto Cantabrigiæ*, it is good; for Cambridge being mentioned in several Acts of Parliament, the Court must take notice of such Acts, and upon such a return will intend that Cambridge is in the county of Cambridge. In the case of *Withers* v. *Warner* (*c*), in Hilary term, in the sixth year of George the First, we took judicial notice that "London" and "the City of London" are all one. The *certiorari* is directed, "to the justices of our lord the King of the town of Cambridge, in our county of Cambridge," and returned by the justices of the vill in the county of Cambridge; so that it will be a very foreign intendment to suppose the *vill* to be out of the county.

Fifthly, this indictment ought to conclude *contra formam statuti;* for by the late statute 7 Geo. 1, c. 13, journeymen-taylors **[12]** are prohibited to enter into any contract or agreement for advancing their wages, &c. And the statute of 2 & 3 Edw. 6, c. 15, makes such persons criminal (*a*).

It was answered, that the omission in not concluding this indictment *contra formam statuti* is not material, because it is for *a conspiracy*, which is an offence at common law. It is true, the indictment sets forth, that the defendants refused to work under such rates, which were more than enjoined by the statute, for that is only two shillings a-day; but yet these words will not bring the offence, for which the defendants are indicted, to be within that statute, because it is not the denial to work except for more wages than is allowed by the statute, but it is for *a conspiracy* to raise their wages, for which these defendants are indicted. It is true, it does not appear by the record that the wages demanded were excessive; but that is not material, because it may be given in evidence.

The Court. This indictment need not conclude *contra formam statuti*, because it is for *a conspiracy*, which is an offence at common law.

So the judgment was confirmed by the whole Court *quod capiantur.*

CASE 8. SIR HANS SLOANE, President of the College of Physicians, *against* LORD WILLIAM PAWLETT (*a*). Saturday, 25 November 1721.

If a statute enact, that the lord-lieutenants of the several counties shall charge "any person with horse and arms in the county where his estate shall lie," towards the

(*b*) 5 Co. 120. (*c*) 1 Strange, 309. (*a*) 1 Saund. 250. Wm. Jones, 279.

(*a*) This case was twice argued, and here both arguments are blended together.—*Note to the former Edition.*