

1810.

Wilson
vs
Williams

the appellee had in his business aforesaid sold at *Curacoa* a certain number of boxes of soap, it being part of the outward bound cargo of the sloop *Delight*, for and on account of a certain *Marcus M. Causland*, and the said *Alexander*, for the sum of five dollars and an half for each box, and had returned a true and faithful account of the sale to the said *M. Causland*, yet the appellant *David*, well knowing, &c. falsely spoke these words; "He (meaning the said *Alexander*,) sold the soap, (meaning the aforesaid boxes of soap,) at six dollars per box, but has returned an account of sales to *Marcus M. Causland*, (meaning the said *Marcus M. Causland*,) only for five dollars and an half." The third count charged that the said *David*, on the 10th of April 1801, voluntarily made a certain written paper, purporting to be an *affidavit*, and purporting to be sworn to before a certain *G G P*, and caused certain false statements of and concerning the said *Alexander*, in his business aforesaid, to be written, &c. in the following English words, viz. "And this deponent, (meaning thereby the said *David*,) further deposes and declares, that in the outward bound cargo of the sloop *Delight*, there was a certain quantity of *American* soap, which to his, (meaning the said *David*,) certain knowledge, was sold at *Curacoa* by the said *Alexander Mitchell*, (meaning the aforesaid *Alexander*,) at six dollars current money of the *U. S. of America*; any thing in the account of sales, (meaning the aforesaid account of sales returned to the said *Marcus M. Causland*,) rendered by the said *Alexander Mitchell*, (meaning still the said *Alexander*,) to the contrary notwithstanding." The fourth count charged, that the said *David*, out of his further malice and envy against the said *Alexander* before had and conceived, speaking of the said *Alexander* in his business aforesaid, &c. charged him with the infamous and hurtful crime of fraud and deceit, and with selling the goods, &c. intrusted to his care, for more money than he returned in his account of sales, and with fraudulently and dishonestly keeping out of the monies for which the goods, &c. were sold, more than he was entitled to for his commission, &c. The general issue was pleaded.

1. The Plaintiff at the trial offered to read in evidence the testimony taken under a commission, issued at his instance out of the county court, and directed to *Joseph Foulke* and *Henry Baaden*, of the *Island of Curacoa*. At the