

MARYLAND GAZETTE

THURSDAY, APRIL 11, 1771.

AN away from the Subscriber, living near Frederick-Town, Frederick County, Maryland...

Whoever takes up the said Servant, and secures him, so that the Subscriber may get him again...

The said Servant has a Wife which is supposed to be gone with him, she is tall and slender...

Just published, and is now ready to be delivered to the Subscribers...

THE HISTORY OF THE REIGN OF CHARLES the Fifth, Emperor of Germany; and of all the Kingdoms and States in Europe...

By WILLIAM ROBERTSON, D. D. Principal of the University of Edinburgh...

AMERICA: Printed for the SUBSCRIBERS, a Catalogue of whole Names, as Encouragers of this American Edition...

The Second and Third Volumes of this celebrated Work will be delivered as expeditiously as possible...

N. B. Mr. William Dick, well recommended from Philadelphia, has now opened a Grammar School in Gay-Street, Baltimore Town...

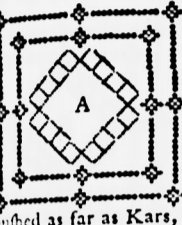
BROKE out of Cecil County Jail, a Man who was committed by the Name of William Johnson, and the Time of his Commitment was advertised in the last Maryland Gazette...

Whoever apprehends the Person that made his Escape, or secures him so that I may get him again, shall have a Reward of Thirty Shillings...

THE Copartnership of James Christie, junr. and John Boyd of Jessa, Baltimore County, having expired and been dissolved on the First Instant...

GREEN, at the PRINTING-Shop at 12s. 6d. a Year; ADVERTISEMENTS, for each Week's Continuance. Long Ones ready Printed, most kinds of BLANKS, several Sorts, with their proper BONDS...

MARSEILLES, November 17.



ACCORDING to Advices received from Mardin, in Mesopotamia, the Ottoman Empire is on the Point of undergoing very great Revolutions...

WARSAW, Nov. 30. All the Advices we receive relating to the contagious Sickness are very favourable, and nobody has died of it for Four Weeks past.

SMYRNA, Oct. 15. The Captain of a French Ship, who arrived here a few Days since from Lemnos, declares, that a Russian Man of War of 80 Guns, commanded by Admiral Elphinstone, has been lost upon a Rock...

LEGHORN, Dec. 7. An English Vessel is arrived here in 11 Days from Cadiz, laden with Salt Provisions; the Captain of which says, that he no sooner entered Cadiz, than he went away again...

HAGUE, Dec. 11. They write from Hamburg, that the King of Prussia is making Magazines near the Frontiers of Poland, and it is reported that some Prussian Regiments have received Orders to hold themselves in Readiness to march...

HAMBURG, Dec. 18. The last Accounts from Berlin advise, that the King had ordered a Regiment of Hussars, and Two Regiments of Dragoons, to march into Poland to keep the Confederates in Awe...

PARIS, Dec. 21. The Parliament has received Letters from his Majesty, dated the 19th, in which they are ordered to proceed on Business; but they have refused to obey them.

LEIDEN, Dec. 23. A Letter of good Credit from Paris, dated the 17th Instant, assures us that the Parliament of that City, in their Deliberations on the 14th, on the Subject of the King's Refusal to give Audience to his Parliament before they had resumed their Functions...

L O N D O N.

Dec. 20. Sir E—d H—ke spoke on Monday in the Lower Room of the Robinhood Club, much in Favour of augmenting the Navy to 60,000 Men.

Two Members have followed Lord G—e to the Minority Side. Lord Howe's Squadron is to consist of Six Ships of the Line, Three Frigates, and Two Sloops, as Tenders. A Motion was made by Mr. Serjeant Glynn, on Thursday, Dec. 6, for "A Committee to be appointed to enquire into the Administration of criminal Justice, and the Proceedings of the Judges, especially as relating to the Power of Juries and the Liberty of the Press."

An accurate and literal Copy of Lord Mansfield's Paper left with the Clerk of the House of Commons.

Copy of the unanimous Opinion of the Court of King's-Bench in the Case of the King against Woodfall, delivered and read by the Lord Chief Justice, on the 10th of Nov. 1770.

THIS comes before the Court upon Two Rules. The First obtained by the Defendant to stay the entering up Judgment on the Verdict given in this Cause.

The Second obtained by the Attorney General, that the Verdict may be entered according to the legal Import of the Finding of the Jury.

The last Rule must, from the Nature of it be first discussed, because the Ground of Argument upon the other cannot be settled till this is disposed of.

Upon this Rule it is necessary to report the Trial. This Prosecution is an Information against the Defendant for printing and publishing a Libel in the Publick Advertiser, signed Junius.

The Tenor of which is set out with proper Averments as to the Meaning of the Libel, the Subject Matter, and the Persons concerning which and of whom it speaks, with Inuendos filling up all the Blanks and the usual Epithets.

In Support of the Prosecution they proved by Nathaniel Crowder, that he bought the Paper produced, and Twelve more, from Colfield, the Defendant's Publisher, in the Defendant's publishing Room, the Corner of Ivy-Lane.

That he goes often there, has occasionally seen the Printing Room, and has had Papers in the Printing-Room.

They read the Paper produced, and the Tenor agreed with the Information.

George Harris, Register of Pamphlets and News-Papers, proved, that the Defendant himself and Servants paid the Money for Advertisements in the Publick Advertiser; that Defendant had paid himself, and all the Payments were on his Account.

That Defendant has made the usual Affidavit, and has been allowed the Stamp-Duty for such Papers as were unfiled.

That the Duties on Advertisements in the Paper now in Question, were paid by Defendant's Servant, and the Receipt given on Defendant's Account.

William Lee, Clerk to Sir John Fielding, proved, that he often carried Advertisements, for the Publick Advertiser, to the Defendant's, the Corner of Ivy-Lane.

That he generally paid ready Money; that he had seen Money paid to the Defendant for Advertisements, and he had a Receipt from the Defendant, signed by him, the 19th of November, for 31. for printing Advertisements in the Publick Advertiser. On the Part of the Defendant they called no Witnesses.

His Counsel objected to some of the Inuendos, but they principally applied to the Jury to acquit the Defendant from the Paper, being innocent, or not liable, to the Epithets given it by the Information; or that the Defendant's Intent in publishing, did not deserve the Epithets in the Information.

There was no Doubt but that the Evidence, if credited, amounted to Proof of printing and publishing by the Defendant.

There may be Cases where the Fact proved as a Publication, may be justified or excused as lawful or innocent; for no Fact which is not criminal, in Case the Paper be a Libel, can amount to a Publication of which a Defendant ought to be found Guilty.

But no Question of that Kind arose in this Treatise. Therefore I directed the Jury to consider whether all the Inuendos, and all the Applications to Matter and Persons, made by the Information, were in their Judgment the true Meaning of the Paper.

If they thought otherwise, they should acquit the Defendant; but, if they agreed with the Information, and believed the Evidence as to the Publication, they should find him Guilty.

If the Jury were obliged to find whether the Paper was a Libel, or whether it was a Libel to such a Degree as to deserve the Epithets given it by the Information, or to require Proofs of the Express Intent of the Defendant in printing and publishing, and of its being malicious to such a Degree as to deserve the Epithets given by the Information—then this Direction was wrong.

In Support of it, I told them, as I have, from indispensible Duty, been obliged to tell every Jury, upon every Trial of this Kind, to the following Effect: That whether the Paper (meaning as alleged by the Information) was in Law a Libel, was a Question of Law upon the Face of the Record: For, after Conviction, a Defendant may move in Arrest of Judgment, if the Paper is not a Libel.

That all the Epithets in the Information were formal Inferences of Law from the printing and publishing.

That no Proof of express Malice was ever required, and is in most Cases impossible to be given.

That the Verdict finds only what the Law infers from Fact: Therefore, after Conviction, a Defendant may, by Affidavits, lessen the Degree of his Guilt.

That where an Act, in itself indifferent, if done with a particular Intent, becomes criminal, there the Intent must be proved and found: But where the Act is in itself unlawful, as in this Case, the Proof of Justification, or Excuse; lies on the Defendant; and in Failure thereof, the Law implies a criminal Intent.

The Jury said out a great while, many Hours, as last they came to my House; (the Objection of its being out of the County being cured by Consent.) In answer to the usual Question put by the Officer; the Foreman gave their Verdict in these Words;

Guilty of printing and publishing only. Nothing more passed.

The Officer has entered up the Verdict literally; without so much as adding the usual Words of Reference, to connect the Verdict with the Matter to which it is related.

Upon this the Two Rules I have stated were moved for.

Upon that obtained by the Attorney General, the Affidavit of a Juror was offered by the Counsel for the Defendant.

But we are all of Opinion that it cannot be received.

Where there is a Doubt upon the Judges Report, as to what passed at the Time of bringing in the Verdict; there the Affidavits of Jurors or By-standers may be received, upon a Motion for a new Trial, or to rectify a Mistake in the Minutes.

But the Affidavit of a Juror never can be read as to what he then thought or intended.

This Motion consists of Two Parts: First, to fill up the formal Words of Reference; Second, to omit the Word only.

We are all of Opinion, that the First is a technical Omission of the Clerk, and ought to be set right.

As to the Second, that the Word only must stand in the Verdict.

There is no Ground (from any Thing which passed) to explain the Sense of the Jury, so as that the Officer ought to have entered a general Verdict.

No Argument can be urged for omitting the Word only, which does not prove that it can have no Effect, though inserted; and therefore it is a Question of Law upon the Face of the Verdict.

The Defendant's Motion must be considered upon the Ground of the Word only standing;—was it omitted there could be no doubt.

Guilty of printing and publishing, where there is no other Charge, is Guilty; for nothing more is to be found by the Jury.

In the Case of the King against Williams, the Jury found the Defendant Guilty of printing and publishing the North-Briton, No. 45; the Clerk entered it up Guilty, and no Objection ever was made.

Where there are more Charges than One, Guilty of some only is an Acquittal as to the Rest.

But in this Information there is no Charge except for printing and publishing.

Clearly there can be no Judgment of Acquittal, because the Fact found by the Jury is the very Crime they were to try.

The only Question is, Whether, by any Possibility, the Word only can have a Meaning which would affect or contradict the Verdict.

That the Law, as to the Subject-Matter of the Verdict, is as I have stated, has been so often unanimously agreed by the whole Court, upon every Report I have made of a Trial for a Libel, that it would be improper to make it a Question now in this Place.

Among those who have concurred, the Bar will recollect the Dead, and the Living not now here.

And we all again declare our Opinion; that the Direction is right and according to Law.

This Direction, though often given (with an express Request from me, that if there was the least Doubt, they would move the Court) has never been complained of in Court; and yet, if it was wrong, a new Trial would be of Course.

It is not now complained of.

Taking then the Law to be according to this Direction, the Question is, Whether any Meaning can be put upon the Word only, as it stands upon the Record, which will affect or contradict the Verdict.

If they meant to say, that they did not find it a Libel, or did not find the Epithets, or did not find any Express malicious Intent, it would not affect the Verdict; because none of these Things were to be proved or found either Way.