

(BY PERMISSION.)

HIGH COURT OF IMPEACHMENT

Evidence on the part of the Respondent.

[CONTINUED.]  
Judge Chase then informed the attorney for the United States, who was about to rise to prove the admissibility of the book as evidence, that it was unnecessary for him to make any reply, and there was no good reason to exclude it; that all that was necessary to be done on the part of the United States to prove the charges to be true, and the book called The Prospect Before Us, was good evidence to support it.

This point being determined, Mr. Nelson then addressed the jury at great length, to the following effect:

GENTLEMEN,  
Although the paper is long and complicated, the testimony is not so. The testimony, as I stated to you before, is concise, plain and correct. If there be a man who, now that he has heard that testimony, entertains a doubt whether this libel was published by the traverser, it will be faithless for me to address him; if there be a man who doubts on that point, his mind must be impervious to the traits of truth; his mind must be panoplied over with doubt, scepticism and prejudice. If no doubt remain on this point, the question first in order to be examined, is decided: whether there be room for doubt, a summary review of the testimony will ascertain. Can there be a doubt, when all the witnesses have concurred in establishing this one point—That James Thompson Callender corrected the proof sheets? Can there be a doubt, when those who sold the copies of the book, have all said that they sold them for his benefit, and that he received the money? When it has been proved that he received the money from one purchaser himself, and that he paid for printing part of it—that part of the manuscript is in his own hand writing. Can there be any doubt?—And when in addition to this, one witness declares, that he knew him to be a joint publisher with himself, & another witness declared, that he explained the meaning of a certain term, supposed to be ambiguous in its application, is it possible to entertain any doubt? Thus stands the evidence, as to the publication. It will be proper for me, gentlemen of the jury, to state to you what is a publication in point of law, as to writing or printing: That the direct or indirect circulation or emission of a libel, is a publication thereof, in law and in fact, has never been questioned in a court of law. If it appears to you, that James Thompson Callender, did not directly or indirectly emit or circulate this paper, then is he not the publisher thereof; if he be not the publisher, then indirectly thereof, then ought he to be acquitted: And if he be the publisher, and the intention thereof be not criminal, that is, if the matter therein contained be not false, scandalous and malicious, still ought he to be acquitted; but if he be the publisher, and the matter be libellous, that is, false, scandalous and malicious, the intention must be wicked and criminal, and you must find him guilty; for the questions you are to try, gentlemen of the jury, are—Was this paper published by the traverser? Was the intention criminal? that is—Is the matter false, scandalous and malicious; the evidence which you have heard ascertains the first question, and an examination of the paper, or such part of it as are laid in the indictment will decide the second question. Whether your hearts are at ease—whether your passions are untouched—whether your feelings are unaffected, now that you have fully heard the charge, you best know. It remains only now for me, gentlemen of the jury, to call upon you, in the name of your country, whose interest you are to defend, whilst you protect the rights of the individual. I call upon you in the name of your God, a portion of whose justice, you are about to administer, and on your oaths, uninfluenced by favor, partiality, prejudice or affection, to discharge your duty to your God, to your country and to yourselves.

Here Mr. Nelson read the first charge in the indictment.  
It is for you to say, whether from the internal evidence of the book itself, it be not false, scandalous and malicious. If he can prove to a demonstration, that the administration of the president has been one continued series of malignant passions; you will acquit him; but if from its own internal evidence, it be false, you must say whether it be done with a criminal intention. Can this charge be delivered by any man, who knows that the government under which we live, is the government chosen by the people themselves?—who can believe, that the administration has been a continued temper of malignant passions, when he reflects on our unexampled prosperity and happiness, that ever was discovered by

mankind, how is it possible for the people not to be attached to it? As president he has never opened his lips or lifted his pen without threatening and scolding; thus in common cases, might not be scandalous; but in what an attitude does he place the most elevated and enlightened character in our country? Do you not believe, that he meant to excite the hatred of the people against him?—The libel then goes on, "The grand object of his administration has been to exasperate the rage of contending parties; to calumniate and destroy every man who differs from his opinions." What possible object could the traverser have, but to excite the hatred of those immediate around him, as well as of all others, against the president, by those libellous words? If he could excite their indignation, he might excite the indignation of all others.

"Mr. Adams has labored, and with melancholy success, to break up the bonds of social affection, and under the ruins of confidence and friendship to extinguish the only beam of hope, that glimmers through the dark and despicable faces of life." Here the president is represented in his private character, as dissolving all the bonds of social affection, as lamenting discord, and exciting division between brother & brother & sister & son. Is this true? what evidence is there of his truth? If not true, with what intention has he published it? Was it not to excite the contempt and hatred of the people against him? His object cannot be understood. Take the whole of this libel together; and you cannot hesitate to say, that it is false, scandalous and malicious.

"The contriver of this piece had been suddenly converted, as he said, to the presidential system, that is, a French war, an American navy, a large standing army, an additional load of taxes and all the other symptoms and consequences of debt and despotism." In a political point of view every person has a right to discuss, fully and fairly, the conduct of the government, and to state candidly, supposed grievances. If in this part of the paper, the terms were used, for these constitutional and just purposes, they could not be libellous. These terms admit of different constructions—they may or may not be libellous, but there is not a single sentence which is not libellous, as used here. Hear the system of the president is represented to consist of the most odious and detestable measures, "a French war an American navy, a load of grievous taxes, and a large standing army." It is unnecessary to require in to the general propriety or impropriety of such measures, because the book is evidently emitted with a malicious intention. If you were to think his words were true but published with a malicious intention to defame, you could not exculpate him; the conclusion of his climax renders a misconception of his meaning impossible; "and all other consequences of debt and despotism." After such explicitly malignant terms you cannot hesitate to say, that he is guilty—it is represented to you, that he will tax and oppress you, and exercise despotic, tyrannical powers over you.

Are these terms used with any other intention, than what is stated in the indictment?  
The next part of the libel is—"The same system of persecution has been extended all over the continent; every person holding an office, must either quit it or think and vote exactly with Mr. Adams." This you cannot believe unless irrefragable testimony be produced to you. Here is an attempt to draw the confidence of the people from the supreme magistracy—if in the discharge of his public duties, he should call for the cooperation of a man of talents and virtue, the answer would be, every person who holds an office under you, must be kept tied down precluded from the free exercise of his own judgment, or must quit his office; would not these words be in the mouth of every individual who believed this libel? Can a more wicked intention exist, than what this publication proceeded from? Here is falshood, here is scandal, here is malice, you cannot hesitate to say, he is guilty.

"Adams and Washington, have since been shaping a series of these paper-jobbers into judges and ambassadors, as their noble courage lies in want of shame, these paltrous, without risking a manly and intelligible defence of their own measures, raise an affected yelp against the French Directory; as if any corruption could be more venal, more notorious, more execrated than their own."

You will see gentlemen, when you re-read, that there is abundance of libellous matter in this part of the paper. Could you admit that the parts separately considered were not libellous, yet when taken together, you must conclude them to be false, scandalous and malicious—a most malignant and groundless charge. The thought of such words as these, must excite indignant astonishment, that the individual who wrote them, was permitted to keep his foot on this land.

"The object with Mr. Adams was, to recommend a French war professedly for the sake of supporting American commerce; but in reality, for the sake of jolting us into an alliance with the British Tyrant." There is not a single charge that is not false. This two-fold

charge is doubly malicious. This is certainly a libel, unless he can prove the truth thereof. Can it be believed that your chief magistrate can act in a manner so hostile to his own country? It is not necessary for me to disprove, they must prove the fact: were it incumbent on me to adduce proof, I should tell you of the exertions of the president to make peace with France—I should tell you, that he attempted negotiation after negotiation. For what purpose did he repeatedly endeavor to effect a reconciliation? Do acts like those mark an intention and design to make war with France? Can you believe that he was going to make war, not for the professed purpose, but for another? that your president says one thing and does another? that he would betray the interests of his own country, to promote those of another? Your own minds must tell you, gentlemen, that this charge is false and malicious. The paper then proceeds—"While such numbers of the effective agents of the revolution languish in obscurity, or slobber in want, ask Mr. Adams, whether it was proper to keep so many myriads of dollars upon William Smith, who, next to Hamilton and himself, is, perhaps, the most detested character on the continent?"

This sentence divides itself into parts, a position is laid down circuitously and not directly, or affirmatively; but it amounts to an affirmative declaration, that the president had heaped myriads of dollars upon William Smith: When he asks whether it was proper to heap the money on Mr. Smith, you must take it as an affirmation. With what intention is this said? To excite jealousy, contempt and hatred, against the president, by endeavoring to inculcate a belief, that the money of the people is squandered away, and that they are thereby brought greatly in debt, so as to require the imposition of heavy taxes: this cannot be true, your president has not power to dissipate your money; this charge is false on the very face of it; it is malicious and scandalous, because made to excite the hatred and indignation of the people towards him. How is your president painted to you? As the most detestable character on the continent. What was the object of the publication of this book, when it represents a man of pure, unfulfilled reputation; of an uniformly moral character, as the most detested character on the continent? and this representation is intended to make insurrection on those who have not the means of information. It is not in the power of those who know the fallacy of this charge, to go all over the continent to disprove it; but it is self-evidently false; do you not believe it to be so; if it be not true, lay your hands on your hearts, and you must find it to be scandalous and malicious.

"You will then take your choice between innocence and guilt, between freedom and slavery, between paradise and perdition—you will chuse between the man who has deserted and reversed all his principles, and the man whose own example strengthens all his laws; the man whose prohibitions, like those of Heaven, have been converted into history. You will chuse between that man, whose life is unspotted by a crime, and that man, whose hands are reeking with the blood of the poor, friendless Connecticut sailor! I see the tear of indignation starting from your cheeks! You anticipate the name of John Adams."

I ask you, what are your feelings at the recital of this atrocious charge? For my part, I lay down the book in disgust. How swollen and pompous his language, in recommending to the people an individual, whom he thought worthy of their confidence; but when he brings the president before the eyes of the community, what a figure is represented? What terms of reproach, degradation and infamy does he not apply to him? I say that these are circumstances which mark malice. Is the conduct of the president so wicked as to produce perdition to the people? Is it true, that the president has changed his sentiments? You are to presume, that the principles of your president are such as become him, and the same which so eminently distinguished him in the revolution, and which led to his present elevation; but here you are told, that he has reversed all those good principles. This is not proved to you—it is false, and consequently malicious. His hands are represented as reeking with blood. Here he makes worse than a direct charge of murder: the language here used is more impressive than the terms most appropriate to express that crime. These words are substituted in lieu of the proper technical terms, because they are better calculated to inflame the public mind, and make a deeper impression than the word murder. Yet, this is the respectable citizen, who has presided over our councils! Is there any individual on the continent, who believes, the president is guilty of murder? Let not passion guide the pen, when you write the verdict—if the evidence will warrant you to say that the supreme magistracy is a murderer, you will find the traverser not guilty. I have not called your recollection to what was not necessary—the false statements, and uncandid representations, relative to the sailor alluded to. I have referred to your own hearts for the falshood of this part of the libel; and being untrue, and published from no motive which can be justified, it is malicious, and within the words of the indictment.

"Mr. Adams has only completed the scene of ignominy, which Mr. Washington began."

I will not call to your recollection that highly revered name—I thought that there was not an individual on the continent, who would speak of the immaculate purity, and white robed honesty of this great character, in terms of the least disrespect. Yet this man charges Washington with having commenced, and our president with having completed, scenes of ignominy!—Scenes of ignominy, which Washington was not only engaged in himself, but associated others with him!—This is false, defamatory and malicious.

The next part of his book, which I shall animadvert on, is in these words—"This last presidential felony, will be buried by Congress, in the same criminal silence, as its predecessors."

As your president has been represented to the world as a murderer, he is here held up as felon; as a person who has committed theft on the public. I will not make a single remark on this charge. I submit it to you, whether it be true or not; and whether it be not malicious, and within the terms of the indictment.

To be continued.

PORTLAND, March 15.

Loss of the ship Nabby, of this port.  
The following particulars are extracted from a Cork paper, received since our last: On the 19th of December, 1804, the ship Nabby, P. J. Crandell, master, sailed from Liverpool for Boston, with a cargo of salt, crates, and dry goods, with the wind at E. S. E. On the 21st, the ship sprung a leak, which continued to gain upon them notwithstanding both their pumps were constantly going.— Finding their leak still increasing, they hauled their wind, in order to gain a port. Standing along by the wind, they made Menzieshead, on the western coast of Ireland. Not being able to get to windward of it, and then having six feet water in their hold, and the men much fatigued with three days and nights incessant pumping, they tried for Beerhaven, in Bantry Bay. By this time the ship became water logged, and the wind still ahead, they determined upon gaining the shore, and saving, if possible, a part of the cargo. Accordingly on the 15th, in the morning, they ran into a small cove, on the south side of their Bay, and let go the anchors in eight fathoms water, about 25 yards from the shore. They then loaded their boat with provisions, and part of their effects and sent them on shore, where they were left in the care of the mate and one man. While they were loading a second boat, the country people began to collect on the shore to the amount of about 200, men, and women. Immediately on the arrival of the boat on shore, which contained all the effects of the officers and crew, together with all the ship's papers, the inhabitants attacked the defenceless crew, and inhumanly robbed them of all their clothes, papers and money, and some of the crew their hats, from their heads and shoes from their feet. Not content with this, they proceeded on board the ship, where every thing they could lay their hands on fell a prey to the rapacity, threatening those who opposed them with instant death.— About dark the robbers left the ship, and carried their spoil into the mountains, when the crew left her, and proceeded to a miserable hut in the mountains, where they passed a most melancholy night. Early in the morning of the 26th, Richard Donovan, Esq. a gentleman living eight miles from where the ship was lost, came to their assistance, and conducted the whole ships company to his house. To the benevolence and humanity of this worthy gentleman and his family they are indebted for the preservation of their lives, without whose friendly assistance they must inevitably have perished. Early on the morning of the 28th, David Mellefont, Esq. of Bantry, together with capt. Scott, and lieutenant Griffin, with a party of forty soldiers went from Bantry, in order to search for the stolen property, upon the approach of whom the robbers immediately left their huts and fled to the mountains. To this gentleman, and to James Baldwin, Esq. they are also much indebted for their active and benevolent exertions.

NEW YORK, March 27.

A Commercial friend has favoured us with the following extract of a letter dated, Barcelona, Jan. 5.

"As war is now formally declared between England & Spain the trade of your country with ours will increase greatly to the advantage of the United States.— There is no doubt, that the American flag will be respected by the belligerent powers, and of course your vessels be sought for freight. Our colonial produce will be one of the chief objects of speculation—prices have augmented considerably, and will rise more at our provisions diminish.—Oil proof Brandy has been as low as 48 dollars per pipe, but risen again to 52 which price was paid last market day; we suppose it will decline somewhat again when purchases for freighted vessels shall be made. Red B-nicarlo wine can be bought at 29 dollars, Red Villanors 27 & 27, Mountain 22 & 24 per regular oak pipe of 120 gals. Prices of grain will continue to be high during the whole season, as the want of our provinces, and of the whole

kingdom is so very considerable that you don't know whence it will be supplied.— Though the English government declared, that all vessels loaded with grain for our kingdom should be unmolested, we fear, however, we shall be deprived of plenty, at least by conveyance in Spanish barques, from France and Italy. Best American wheat fetches 2 80-100 to 3 dollars per bushel; superfine flour 16, second quality 14 per barrel.

MURDER!

On Monday afternoon, a man of the name of Banks, living in the Bowery, committed this horrid crime on the body of his wife. It appears they had lived unhappily for some time, though but ten months married, and had often used threatening language and abusive conduct towards each other. On that day their quarrel rose to an uncommon pitch, but their neighbours who heard them, did not wish to interfere between man and wife. A message was sent to the watch house on the occasion, but the police also did not chuse to concern themselves. The boy who was dispatched for the civil officer, on his return met Banks walking apparently with much composure with a basket on his arm. It was then thought proper to go down into the cellar where the dispute happened, when, shocking to relate, they found the woman's skull broken, and her throat cut from ear to ear. A razor was found hard by the body, and a pail of bloody water, in which, probably, the wretched murderer had washed his blood-stained hands.—Justice, we hope, will soon overtake this atrocious violator of the laws of his country and of God.

PITTSBURGH, March 16.

The rapid increase of population and improvement, and the spirit of industry and enterprise, which has within a few years grown up in the western country, aided by the wise policy of our present administration, must afford to every lover of his country a high source of gratification, and opens a fair prospect to our future expectations. The usual rise of the waters, within the last and present week, afforded a happy opportunity of the sailing of two fine ships; and we have the pleasure to observe two brigs at anchor in our port.—To those unacquainted with our rivers, it would appear surprising, that the largest ship in the United States might float with safety. It is now found that ships may be built on the western waters & safely navigated to the sea. To those who have undertaken the branch of trade, so beneficial to the interests of this place, some tribute of praise is justly due, and the cordial wish of every good citizen will be for the success of their undertaking. The present crisis being particularly favourable to the trade of this country, since the declaration of war by Spain, it is to be hoped that any losses heretofore sustained by those who have so essentially advanced the interests of our country, will not deter them from prosecuting the business of ship building in future.

A vast number of boats loaded with flour and other produce of this country, have lately left this place.

The Western Trader, an elegant and substantial ship of about 400 tons, built for John Anthony Tappan, under the direction of Abraham Marple, was launched at this place on the 8th inst. and sailed on the 11th, in ballast, under the command of captain McCutcheon, with a fair prospect of passing the falls in safety.

A new Figure,

Is added to the Museum, as a proof that the Figures are brought to the greatest perfection.

Museum of Wax Work.

MOULTHROP & BISHOP, RESPECTFULLY acquaint the Ladies and Gentlemen of Baltimore, that they have at the corner of Lemmon and Market streets, a New Collection of WAX FIGURES, superior to any ever exhibited in America—among which are the following characters:

A STRIKING likeness and representation of the late unfortunate Duke of Wellington, late victor at Waterloo, as he appeared on the 21st of June, 1815, in the uniform of a British General, as he is represented in the battle of Waterloo, with the British flag on his shoulder, and the British bayonet fixed to his rifle. A striking likeness of the late unfortunate Duke of Wellington, as he appeared on the 21st of June, 1815, in the uniform of a British General, as he is represented in the battle of Waterloo, with the British flag on his shoulder, and the British bayonet fixed to his rifle.

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