

LONDON, JULY 21.  
COURT OF KING'S BENCH, Friday, July 20.  
L I B E L.

THE KING V. FINNERTY.

This cause was not tried, the defendant having withdrawn his plea of NOT GUILTY, and thereby let judgment go against him by default; for which he will be brought up to receive the sentence of the Court next Term.

THE KING V. JOHN GALE JONES.

This was an indictment preferred against the defendant for a libel upon the Right Honorable Lord Viscount Castlereagh, in publishing a certain placard or polling-bill, inviting to a Debating Society in Bedford-street an auditory to hear a question discussed upon the conduct of Lord Castlereagh, with respect to his having issued an order to prevent Peter Finnerty proceeding to the Island of Walcheren, when the Expedition to the Scheldt was fitted out.—The handbill was read, and contained a very gross and severe attack upon the character and conduct of that Nobleman.

Just before the Attorney-General was about to state the case, Mr. Garrow said, that Mr. Jones, as he understood, had no Counsel. Upon this, a Gentleman, lately called to the Bar, a Mr. Jones, rose, and signified that he was the Counsel for the defendant.

Mr. Abbott having stated the pleadings,

The Attorney-General entered into a minute detail of the case. He said that the libel of which the defendant was accused, arose out of another published on the 23d of January last, by Mr. Finnerty, in the *Morning Chronicle* of that day; and for which Mr. Finnerty was this day to have taken his trial, but he withdrew the plea which he first put in, and now has permitted judgment to go against him by default; so that in law and in fact that person now stands convicted of the libel which was the foundation of the libel in question. Mr. Jones, the defendant, is the conductor of a place called "The British Forum," in Bedford-street, Covent-garden. Throughout that neighbourhood, and indeed throughout the town, placards were posted up on the 29th of January last, under the head "Mr. Finnerty and Lord Castlereagh," announcing a question to be debated there that night, purporting to be, whether the conduct of Lord Castlereagh in exercising an act of oppression, in issuing an order in his capacity of Secretary of State, that Mr. Finnerty should be prevented from proceeding to the Island of Walcheren, was not highly injurious to the cause of the subject's liberty, and an act of cowardice and cruelty to an innocent individual?—This was the substance of the libel complained of; and for this libel so published by Mr. G. Jones, he was called upon to answer. It was necessary that the Jury should know the real facts of the case. When the Expedition to Walcheren was prepared, some of His Majesty's Ministers received information that Mr. Finnerty did intend to accompany it. They no sooner heard of it, than an order was issued that he should be prevented, but the order came too late. Mr. Finnerty had failed, and he remained at Walcheren nearly the whole of the time that the British troops continued there, until at last he was sent home. He chose, however, to impute this order to Lord C. but in fact Lord Castlereagh happened at the time to have been at Deal, and he knew nothing of it till some time after it was issued. He did however send an order to Lord Chatham for that purpose, but it was not till after that which was issued by others of the King's Ministers. Notwithstanding this Mr. Finnerty still thought fit to impute the original order to Lord Castlereagh, which, he said, could arise but from one of two motives, viz. either to prevent him from being an eye-witness of the mal-management of the Expedition, or of entangling him in some legal prosecution. The object to be accomplished by the first being to stifle those public animadversions, which might be made on the Expedition itself, and the object of the other being to gratify his Lordship's hatred and malice against Mr. Finnerty. Here the Attorney-General read that part of the letter published by Mr. Finnerty in the *Morning Chronicle*, which contained not only the foregoing matter, but also other attacks upon Lord Castlereagh whilst employed in the Government of Ireland, such as accusing him of exercising his official authority in preventing mercy being extended to a man of the name of William Orr, who was executed there for high treason, notwithstanding both the Judge and Jury, who tried him, had recommended him to Government from a belief, subsequent to the trial, that he was innocent of the charge. This, said the Attorney-General, was also a part of the subject discussed at this society, and announced to be discussed there by the defendant Jones, and discussed it was, and after what they termed—"An adjourned Debate," a sort of trial at this mock tribunal, where, as a matter of course, Lord C. was found guilty. Here the Attorney-General appealed to the Court whether any libel could be more foul or abominable, particularly when he could take upon him to say, that so far from there being one word of truth in the fact of Lord Castlereagh having any thing to do with the execution of William Orr, he was not even in power at the time; and so far from the Judge (Lord Yelverton) thinking him an object for mercy, he plainly declared, when the matter was referred to him, that he was fully satisfied with the conviction of Orr, and the execution of the law took place. Thus he considered he was bound to declare, in justice to the persons who at that time had the Government of Ireland. The Attorney-General then proceeded to notice more particularly the libel in question, and to pass the severest animadversions on it, censuring the conduct manifested by those who, in consequence of that libellous advertisement, assembled and took a part in that debate; and concluded with observing, that he thought, not only the Jury, but the Court and the public, could not hear it read without expressing their disgust and indignation at it. Having thus finished his observations, he merely added, that as the defendant had expressed a wish to subpoena Lord Castlereagh, he could inform him, that his Lordship was at hand, and, if required, would appear as a witness.

Mr. Jones, the defendant's Counsel, was about to submit some objections in point of law, but

Lord Ellenborough signified to him that just then he was

premature; another opportunity would be afforded to him for that purpose. The requisite witnesses to prove the printing and publication of the libel were called, as was a Gentleman from the Secretary of State's Office, to prove that Lord Castlereagh was Secretary of State when the Expedition failed, and also to prove when he ceased to fill that office.

Mr. Gale Jones, the defendant, then presented himself to the Court. But he did not think fit to address the Court; he left that talk to his Counsel, Mr. Jones, who undertook it—this Gentleman spoke some considerable time in favour of his client.

No witnesses were called on the part of the defence.

Lord Ellenborough.—Gentlemen of the Jury. This is an indictment against the defendant, John Gale Jones, and it charges that before the time of the printing a certain libel, Lord Castlereagh had been one of the Principal Secretaries of State of His Majesty; and, Gentlemen, there is another allegation, that there had been, on the 23d of January, a scandalous and seditious libel in the form of a letter, concerning Lord Castlereagh, published in a certain newspaper called *The Morning Chronicle*. That allegation involves, first of all, the fact, and next the construction: first, the fact, that there was such a letter published in the paper. That has been proved by the Printer of the Paper, who produces a paper, which he states to have been published on that day, containing a letter signed P. Finnerty. Then has that letter the quality annexed to it—It is alleged to be a scandalous and malicious libel. That certainly is a material allegation. The whole scope of that which has been read in detail to you from *The Morning Chronicle*, does impute to Lord Castlereagh the purpose of persecuting and oppressing this man; summing it up in the last paragraph, that he had made use of his Ministerial power to gratify prejudice, to invite the persecution of his person, and to fix an imputation upon his character, and the whole of the statement which is contained in the letter, goes to maintain that, which in the summing up of the libel is stated to be the motive for Lord Castlereagh's conduct. Gentlemen, there certainly can be nothing more libellous, than to impute to a man in a high public office a gross abuse of his public functions, to degrade and injure an individual.—The question, therefore, upon this part of the case being, whether this letter has properly applied to it the description of a scandalous and malicious libel; the description is maintained by adverting to the terms of the letter itself. But this is merely a preliminary step, for it is not the publication of this libel for which the defendant is indicted; but he has adverted to it in the three libels, for which immediately he is questioned, and it is to these papers and the contents of them, that your attention is to be particularly drawn, inasmuch as it is in respect of them only (reference being made in other matters merely for explanation) that he stands before you this day.

The publications in question are three in number; the question is, whether they are of a libellous nature, and whether that description which is applied to them by this indictment is justly applicable to them. I will read them, and comment upon them as I read them. The first begins thus, "Ought my Lord Castlereagh's conduct towards Mr. Finnerty during the late expedition to Walcheren to be approved as a salutary measure of precaution, to preserve order and discipline among His Majesty's forces, or reprobated as a flagrant infringement upon the liberty of a British subject, and a cowardly act of oppression against an innocent individual." Now, Gentlemen, is it to be borne in a country where people have any estimation of character, that it shall be allowed to any man to put in this alternative mode of question for the discussion of all mankind, whether a man has been guilty of a base and cowardly act of oppression, whether he has not been guilty of an enormous crime, and to have that matter made the subject of debate by all persons who may chuse to pay one shilling to come within the precincts of the place of assembly where this is the appointed matter of debate? Is it not calumnious to any individual to have his name held out to the public as that of a person respecting whom it may fairly be doubted whether he has not been guilty of a cowardly act of oppression? Put it to your own breasts, Gentlemen, and make it your own case; suppose a man to pick up an anecdote of your private conduct—any thing respecting your conduct in social life, and that he should publish it as a question whether, in a particular circumstance of your life, you had been guilty of a base disregard of your duty to wife, to child, to friend, or any other person, and should make that a matter of discussion for all the assembled careless people who might chuse to resort together for the purpose either of holding or of hearing that discussion; can any thing be more calumnious, more destructive of the peace of mind of the individual so held out, more mischievous to the public, or more irritating to the feelings of the individual so held up? Taking only *in limine*, the first paragraph, I feel myself in the solemn discharge of my important functions, bound by the oath of office I have taken, and by my duty to the public, to state to you, that I consider this as an highly calumnious publication.

Then, gentlemen, it goes on to say, "The statement of Mr. Finnerty's treatment by Lord Castlereagh, as it appeared in the *Morning Chronicle*, of Tuesday the 23d instant, has been read with the most lively emotions, and has excited universal astonishment and alarm;"—alluding all along to the publication of Finnerty in the *Morning Chronicle*, which has been read to you. "Mr. Finnerty has appealed to the good sense, liberality, and justice of the British Nation, to give their decided opinion on the subject. So far as the British Forum can lend its aid towards collecting and proclaiming that opinion, neither his appeal, nor that of any other persecuted or defenceless individual, shall ever be made in vain." Is not this an allegation, that this person to whom they are lending their aid, is a persecuted and defenceless individual, and by whom persecuted, the whole scope and context shews clearly that it means to impute that persecution to Lord Castlereagh? Then it goes on—"If the gentle Lord Castlereagh can muster sufficient confidence to venture into a public assembly of free and independent Englishmen"—that is an imputation to say that he is a person who cannot venture into a public assembly of free and

independent Englishmen—"he may rest assured, that he shall have fair play."—Now, see how this word of promise to the ear is kept. "There is nothing for which the Managers of this institution more ardently long, than an opportunity of meeting, his Lordship and his adherents face to face, and hearing them vindicate their character and conduct before an outraged and insulted country."—Gentlemen, is that a fair trial, to tell his Lordship that there is an outraged and insulted country, which the context shews must mean outraged and insulted by him; and to say, we will give you fair play by your coming before those whom you have outraged and insulted? It is, I think, impossible to state any thing to be a libel if this is not.

Then, Gentlemen, we come to the second publication, That begins by stating the question as before, with the words prefixed, "Trial of Lord Castlereagh;" and then proceeds, "Last Monday, notwithstanding the mean and malignant attempts to stifle the discussion of the present important question by tearing down and defacing the bills."—Mean and malignant attempts. Gentlemen, if any of you or I saw placarded, that there was to be a debate on our conduct and character by a number of persons assembled for the purpose of that debate—is it mean to protect your character as well as you can by abating as a nuisance the publication to draw people together? "Malignant," against whom? It is an act of self-preservation to destroy the noxious exhibit to collect people together to murder my reputation. "Mean," as against whom? Mean to avoid a discussion which no person has a right to direct or to institute. In this way it goes on, "Notwithstanding the mean and malignant attempts to stifle the discussion of the present important question, by tearing down and defacing the bills, a crowded assembly, among whom were several Noblemen and several Members of the House of Commons, attended, and after a very interesting debate, the opener was about to reply, when a Gentleman intimately and personally concerned, entered the room, and having pledged himself to attend on the next evening, and either open the debate, or take a part in the discussion the question was, with the consent of a large majority, adjourned. Several important and extraordinary disclosures will be made in the course of the evening; and Lord Castlereagh, or his adherents, are peremptorily summoned to attend, and prevent, if possible, his character from being consigned to everlasting infamy and disgrace. The statement respecting the execution of William Orr, in Ireland, under the Administration of the Noble Lord, although incontestible evidence was laid before him, proving his innocence, was read from Mr. Finnerty's letter, and excited in the audience visible emotions of horror and disgust." Lord Castlereagh is here peremptorily summoned to attend. Now, Gentlemen, look at the extravagant power assumed by this mock tribunal; first, there is to be fulminated against the person an attack upon his character, by these unlicensed persons assembled for the most scandalous and penal purpose; for all the persons assembled for that purpose constitute a disorderly assembly, and are liable to be punished by law, and then the party whose character is to become the subject of animadversion, is peremptorily summoned to appear before this self-constituted and disorderly assembly. Gentlemen, this is a sort of tyranny that I have never heard of as exercised in the free land in which I have the happiness to live. I have heard of similar things which have been done in another country, by an odious assembly that we have all heard of, denominated the Jacobin Assembly at Paris, where the foundation for the overthrow of the monarchy, and of all civilized order in that country, and I may add also, in other countries, was laid in the abused power and the arrogant pretensions of such Societies. Here is Lord Castlereagh peremptorily summoned to attend, and prevent, if possible, his character from being consigned to everlasting infamy and disgrace." Is not this libellous? If it be not, let the name of libel be blotted out of our books. Let the thing be considered no longer a subject of discussion, or a matter of legal contemplation in this country, if a man may in this manner be summoned, at the peril of infamy and disgrace upon a charge like this, to present himself before such a judicature.

Gentlemen, after this summons, we come to what is considered as the trial, and then it is said, "Last Monday, after two evenings' discussion, a crowded assembly unanimously decided." I should have suspected such a sort of decision in such a place, and so convened and inflamed, "that Lord Castlereagh's conduct towards Mr. Finnerty, ought to be reprobated as a flagrant infringement upon the liberty of a British subject, and a cowardly act of oppression against an innocent individual." Then it is said, "In consequence of Mr. Finnerty being detained at the House of Commons, he was unable to attend till late in the evening, when to the universal satisfaction of a most respectable audience, he entered the room, and delivered a most animated statement of the proceedings at Walcheren and the conduct of Lord Castlereagh. It is unnecessary to add, that Mr. Finnerty experienced the most flattering and unequivocal proofs of public approbation, while on the contrary, not a hand was held up in his Lordship's defence. This has been furnished, a memorable and striking instance of the folly and inutility of attempting, at least in this country, to oppress and bear down an innocent individual." I think that is a pretty round allegation, that such an attempt had been made to oppress and bear down an innocent individual. "By this discussion virtue and independence." I presume, in the person of Mr. Finnerty, "have received their just and adequate reward, while pride and arrogance." I must collect from the context in the person of Lord Castlereagh, "have been humbled to the dust."—The managers enjoy a heartfelt satisfaction in thus announcing the decision, and feel conscious that they have done their duty." This is the record of the judgment on the unanimous decision of this respectable and well collected assembly.

Gentlemen, you have been told by the Learned Advocate for the defendant, that a professor, whose name I forgot, has said, that the great and characteristic blessing of this country was not that we had free laws or a Parliament of wisdom to make them, but that we had these sort of subordinate Parliaments—these Debating Societies. Upon any word that Learned Professor has taken a very imperfect