

It was then moved that the Chairman do leave the Chair, and ROBERT GORDON, Esq., be called thereto; whereupon it was Resolved unanimously.
That the thanks of this meeting be given to Francis Ferguson, Esq., for his able and dignified conduct in the Chair.
T. DESBRISAY, Secretary.

COUNTY OF NORTHUMBERLAND.
NEWCASTLE.

At a large and influential meeting of the inhabitants of the County of Northumberland, held at the Court House, in Newcastle, on Tuesday, the 10th day of September, instant, to take into consideration the subject of the New Brunswick Society for the Encouragement of Agriculture, Home Manufactures and Commerce, throughout the Province, called by George Kerr, Esq., Vice President for this County;

JOHN A. STREET, Esq., having been called to the Chair, and E. WILLISTON, Esq., requested to act as Secretary;

DAVID S. KERR, Esq., addressed the meeting in a very able and lucid speech, explaining fully the objects of the Society, its formation and progress, and the benefits anticipated from the said Society.

On motion of Allan A. Davidson, Esq., seconded by John Porter, Esq.,

Resolved, That this meeting adjourn until Thursday Evening next, then to meet in this place, at 7 o'clock, and that a Committee of three persons be appointed to draw up a series of Resolutions, to be then submitted; and that the Rev. William Henderson, and John A. Street, and John Porter, Esquires, be such Committee.

THURSDAY, Sept. 12.—The meeting met pursuant to adjournment.

John A. Street, Esq., in the Chair.
On motion of John M. Johnson, Jun., Esq., seconded by John Porter, Esq.,

Resolved, That this meeting express their warmest thanks to David S. Kerr, Esq., for the eloquent and luminous exposition given by him of the principles and objects of the New Brunswick Society for the encouragement of Agriculture, Home Manufactures, and Commerce, throughout the Province.

On motion of the Rev. Wm. Henderson, seconded by Thos. C. Allan, Esq.,

Resolved, That this meeting approve highly of the object and constitution of the said Society, embracing, as it does, three distinct branches, which have a mutual tendency to strengthen and promote each other, and which are all essentially connected with the welfare of this Province.

On motion of Allan A. Davidson, Esq., seconded by John Porter, Esq.,

Resolved, That a District Committee be now appointed, consisting of eight individuals, for the purposes of corresponding and co-operating with the General Committee in Fredericton, in promoting the general objects of the Society, and the special interests of this county; and that the Rev. Wm. Henderson, John Porter, Edward Williston, A. Goodfellow, A. McLagan, A. A. Davidson, R. McLeod, and R. Hutchison, be such Committee, and that the said Committee have power to add to their numbers.

On motion of John T. Williston, Esq., seconded by Mr. Thomas Vanstone,

Resolved, That the first object of this Committee be to ascertain the probable expense of erecting a Carding, Filling, and Dyeing Manufactory, for Woollen Stuffs; to open a Subscription List towards defraying the expense of such an undertaking; to determine on the place of its erection, and to make other necessary arrangements for its speedy completion, or to assist any person who may be inclined to undertake such a manufactory.

On motion of A. A. Davidson, Esq., seconded by D. S. Kerr, Esq.,

Resolved, That it is expected that the Committee appointed at this meeting, co-operate with any similar Committee that may be appointed at any meeting held in Chatham, or elsewhere in this county, for a similar object.

On motion of John Porter, Esq., seconded by John T. Williston, Esq.,

Resolved, That a subscription paper be now opened, to raise funds for the general purposes of the Society, and that Richard Hutchison, Esq., and Messrs. D. Wetherall and E. R. Whitney, be a committee for that purpose.
Mr. Street having left the Chair, and Thos. C. Allan having been called thereto; thereupon Resolved unanimously, that the thanks of this meeting be given to John A. Street, Esq., for his dignified and able conduct in the Chair.

E. WILLISTON, Secretary.

CHATHAM.

At a Public Meeting held in the Mechanics' Institute, Chatham, on Saturday, the 14th instant, for the purpose of taking into consideration the best means of encouraging and extending the objects and operations of the New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce throughout the Province;

GEORGE KERR, Esq., Vice President for the county of Northumberland, was called to the chair, and MR JOHN MACDOUGALL was appointed Secretary.

DAVID S. KERR, Esq., who has been mainly instrumental in establishing the Society, being called upon, in an eloquent and highly interesting speech, explained the objects which the originators and friends of the Society had in view in establishing it.

Therefore, moved by John T. Williston, Esq., seconded by Mr. George Johnston, Napan, and

Resolved, unanimously, That this Meeting express their warmest thanks to David S.

Kerr, Esq., for the eloquent and luminous exposition given by him of the principles and objects of the "New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce, throughout the Province."

Moved by John M. Johnson, Jun., Esq., seconded by James Fraser, Esq., and

Resolved, unanimously, As the opinion of this Meeting, that the objects contemplated by the New Brunswick Society for the encouragement of Agriculture, Home Manufactures and Commerce, are of vital importance to the welfare of the Province, and demand the best exertions of every lover of his country, to promote and extend those great sources of national wealth and prosperity.

Moved by John M. Johnson, Jun., Esq., seconded by Mr. John Hea,

Resolved, That a committee of eight persons be appointed to correspond with the parent Society, and to co-operate with the Committee appointed at Newcastle in the enquiry, as to the best mode of promoting the objects of the Society, and the special interests of this County, and to ascertain what species of Manufactory or other object it is most advisable to encourage in the county, by pecuniary or other aid; and that John M. Johnson, Jun., Esq., Messrs. Robert Nicholson, Caleb McCully, W. J. Fraser, John Mackie, John Macdougall, John Hea, and John T. Williston Esq., be such Committee.

A Subscription List was opened, and several sums subscribed towards carrying out the objects of the Society.

JOHN MACDOUGALL, Secretary.

NORTHUMBERLAND ASSIZES, 1850.

J. T. WILLISTON vs. JAS. A. PIERCE.

This was an action for Libel, tried before Mr Justice PARKER, on the 11th and 12th of this month.

JURY SWORN.

James Russell, Jun., James Galloway,
John Horrigan, James Forsyth,
James Mowat, John Bell,
Archibald Cameron, Robert McKay,
William Simpson, Daniel Witherall,
Edward Murphy, John Wakem.

Two of the Panel—Patrick McClosky and William O'Brien—having been drawn, were peremptorily challenged by the Plaintiff, and ordered to stand aside.

J. A. STREET, Esq., Q. C., opened the case for the Plaintiff, and stated the Pleadings. The Declaration contained four Counts, setting out as inducement that the High Sheriff, on the 10th June last, published a notice that a Court would be held at Newcastle, for the Election of four persons to represent the county. That the Plaintiff published a Card in the Gleaner of 18th June last, offering himself as a Candidate. That Defendant, in same Gleaner, "falsely, wickedly, and maliciously" printed and published of and concerning the Plaintiff and his election card, and of and concerning the Plaintiff's character, the article complained of, in the form of a letter addressed to the Freeholders of the county, and signed John Hea.

The first Count set out the whole of the article.

The second Count the two first parts of it. The third Count the first and third paragraphs, and

The fourth Count the last paragraph; and the Declaration concluded in the usual way, and alleged the damage of the Plaintiff to be One Thousand Pounds.

The Defendant, in answer to this Declaration, pleaded the General Issue, denying that he had published the Libel complained of, and he also gave notice, under the late Act of Assembly, that he would rely upon, and prove at the trial, that the article complained of was truth, and not a libel; and further, that the article was printed by him as an advertisement, with the name of the author attached—that the Plaintiff knew this before the action was brought, and that it was printed by the Defendant in his capacity as a public Journalist, and without malice.

Having thus stated the pleadings, the learned counsel stated that this was an important action; that the Plaintiff held the responsible situation of a Representative and Magistrate of the county, and the Defendant was the Editor and Publisher of the Gleaner, a respectable journal, having an extensive circulation in this and the neighboring Provinces, and that where the Plaintiff was not known the article would much injure him in the public estimation. That it was a duty which he owed to the people of the County—to himself and family—to bring the action, for the purpose of vindicating his character. If the charges brought against him by the Defendant's publication were true, the Plaintiff was unfit to represent the County, and that the article was printed with the intention of injuring the Plaintiff in aspiring to become one of the Representatives. He then stated the legal distinction between Libel and Slander; that the latter was accusing a person of some crime punishable by law, or something which tended to injure him in his trade or business; but this was not necessary to constitute a libel. It was sufficient if the article was such as tended to bring a person into public scandal, infamy or disgrace, and that the present publication came fully within that definition. He cited Roscoe's Evidence 308, 2 Kerr's Reports, Cormick vs. Wilson, page 623. That the Defendant did not write the article, could be no excuse; he was liable, as publisher, for all that appeared in his journal, and concluded by stating that the Plaintiff would prove subsequent Editorials of the Defendant, for the purpose of showing the "quo animo."

The Plaintiff then called upon the Defend-

ant to produce papers called for by notice, viz., the Sheriff's notice, Mr Williston's election card, and the original paper signed "John Hea."

J. M. JOHNSON, Jun., Esq., Counsel for the Defendant, admitted the service of the notice but did not produce the papers called for, except the last part of Mr Hea's letter, which he offered, stating that all the rest had been destroyed.

W. A. BLACK, Esq., High Sheriff, the first witness, simply proved that the election notice was published in the Gleaner and by handbills, and that a paper shown to him was a Gleaner.

Allan A. Davidson, Esq., was a subscriber to the Gleaner, published by Defendant; that he received them regularly from the carrier; he received the Gleaner, 2nd edition of 18th June last; the paper now shown to me is the one I received.

Cross-examined by Mr Johnson, as to the paper—If there is another edition sent into the country, I do not know of it; they are sent round by a carrier in Newcastle; I have brought them up to him myself. I do not know of receiving my paper from any person except the carrier. It would be impossible for me to swear that I received this one from him.

Re-examined by Mr Street—I keep a file of the Gleaner. This one is on the file. There are two or three numbers missing.

Mr Street offered the paper in evidence.

Mr Johnson objected. The paper was not traced to the Defendant. The carrier should be called.

Judge: I think there is sufficient prima facie evidence.

Mr Johnson: What part of this paper do you offer?

Mr Street: I offer the whole—Mr Black's notice, Mr Williston's card, and the libel.

Mr Black's notice read.

Mr Johnson objected to reading the Plaintiff's card. The Declaration alleges that Plaintiff issued a card, and caused it to be published, and producing the Gleaner will not prove that it is the Plaintiff's card.

Mr Street: Prima facie it is Mr Williston's card.

Judge—Is that the full amount of your averment? I think not. There are two averments.—That he issued a Card, and that it was published. You only prove one of them.

Mr Street—We only require to prove the fact of publishing.

Judge—That is what I doubt. You only require to allege one fact, but having alleged more, must you not prove it? You had better give further evidence.

Edward Williston, Esq. called—I am the attorney for the plaintiff, as such I called upon defendant the last day of last Trinity Term, 22nd June. Had this paper (Gleaner of the 18th) with me. Asked how he came to publish the article with the name of a man so notorious as John Hea, when the Plaintiff's Election Card was out. Asked him if he could produce the original. He said it was destroyed, but there would be no difficulty in proving that Hea was the person. He corrected the proof-sheet with the young man in his office. Defendant admitted that he had put the piece in the paper. He seemed to regret it. I had most particular reference to Plaintiff's Card. This is the Gleaner I had with me.

Cross-examined: I went to Defendant early in the morning. I said after my brother's Card was out, it was extraordinary that he should publish that piece. This is the Gleaner of 17th June—the Second Edition of the 18th. The card was probably published before this in hand bills.

The Plaintiff's Card was then read.

E. Williston, Esq., cross-examination continued: I did not tell Defendant that I was going to proceed against him. I said Hea was a man of straw. I said I would call again and see him. I did not call but issued the writ. I have not stated that the reason we proceeded against Pierce was that he would not give up the author. He told me there was no difficulty in proving that Hea wrote it. I think Hea is not as good as the Plaintiff. Plaintiff has always paid his honest debts. His property is secured to the Commercial Bank, and they will be paid. He has paid a good deal under executions, and there are debts due now. Hea took a very active part for my brother in the Election of 1842-3. Mr Pierce told me that the article was an advertisement and he thought he was bound to publish it, as he was paid for it.

Mr Davidson was again called to prove the innuendoes, or meaning of the article complained of. The impression on my mind was, that Hea meant, that if Williston promised he had some hopes, but if he swore to it he would have no hopes of his performing, and that he would promise anything for the purpose of gaining his election. The rest of the paragraph means that Mr Williston is such a person—and he gives the reasons for so stating—him "a dishonest, dishonest and tricky" man, and not to be trusted. That his conduct with respect to Mr Hea's bills was such as to justify the imputation. If I believed this article, I would believe the Plaintiff to be a man that would do anything to gain his end, and not fit to live in society.

Cross-examined by Mr Johnson: I do not think I read it more than once. It produced no effect on me. I knew both parties, and that they could both say a great deal about each other. I thought in this respect they would be about square.

Question: Did you not form this opinion of the article because you knew it to be true?

Mr Street objects. The Defendant cannot

now offer evidence to prove the justification. He must do it in his own case.

Mr Johnson: The witness was put upon the stand to put a construction upon the article, and he could examine him whether that construction was not caused by his knowing the facts.

Judge: You may ask the general question, but cannot go into justification.

Witness: I only know of the conduct of the parties at the elections of 1842-3. I know nothing of their dealings. I know they acted improperly in those elections.

It being 1 o'clock, the Court adjourned for an hour.

TWO O'CLOCK, P. M.

James Cair, Esq., sworn. Defendant publishes the Gleaner; I saw the article spoken of; I consider it a very defamatory article.—The paper has a local and foreign circulation; circulated in Britain and the neighboring Provinces. I am Postmaster at Chatham.

Jared Tozer, sworn. Know the parties. I did not see the article complained of till last night. A few Gleaners are taken up the North West. I do not take the paper. If the article is to be believed, Plaintiff is a worthless character, not worthy of confidence. It would have an injurious effect.

Cross-examined: I have resided in the County 30 years; first read the article last night.

William Murray, sworn. I have known the Plaintiff 30 years, and the Defendant over 20. I took the Gleaner in which the article was published. I will swear that the article in this paper is the same, word for word. I think if a man said as much of me, I would have called him out. I was for Mr Johnson and the Plaintiff at the Election, and when I saw this article it damped me for a time, until I heard that he had taken steps to rebut it.

Cross-examined: Yes, I will swear that the article is the same, word for word. I read it once before. I will not repeat it now, I am not sure that I can repeat it. I consider the Defendant a regular honest, worthy, good man, at all times.

The Plaintiff's case closed here.

Mr Johnson called the attention of the court to the declaration and proofs to support it.

The innuendo to 1st and 2d counts, allege that the Defendant meant that Plaintiff had been and was guilty of false swearing. Neither the article nor any proof offered could support this innuendo. The Plaintiff has in the inducement thought fit to set out certain allegations, that Williston, by card of 14th June and published in Gleaner &c. 1st, that there was a card; 2nd, that it was published &c. He has completely failed in making out the first allegation, which though unnecessarily alleged must be proved to support the declaration. Declaration also alleges that libel was of and concerning the Plaintiff and concerning his election card, and the only proof is that the card and libel were published for the first time in the same paper. It is therefore impossible that the card proved is the one referred to by Hea's advertisement. The Plaintiff bound to prove their allegations—Roscoe 390. All the innuendoes which are not in themselves bad, must be proved. Roscoe 389. The innuendoes here give a specific character to the article, which the evidence does not support.

2nd. The principle of law in slander is that if the Defendant merely repeat the words of another whose name he gives, this would be a good defence; and the same rule should apply to libel. The case of McGregor v. s. Thwaites, 3 Bar. and Cres. 24, negatively show this to be the construction. There the plea of justification was ruled to be had on demurrer; expressly on the ground that the libel was a repetition of words spoken which would not amount to legal slander, but when printed would constitute a libel, and the plea therefore gave no right of action against the speaker. It became actionable merely by the act of the Defendant; but here the article was written by Hea, his name published to it, and a right of action given to the Plaintiff against the writer.

3rd. The Plaintiffs have by their own evidence disproved malice. Malice is a material allegation in the Declaration; and though the law will not require the Plaintiff to prove express malice, yet if the defendant disproves it, the action must fail.—Pleading and Evidence 802, Roscoe 393. The Plaintiff's evidence show that the Defendant did not see the article until after publication; and that he then expressed sorrow. They have therefore answered their own case, and disproved malice.

4th. As to the third and fourth counts they merely allege that the Defendant, by the article, meant to insinuate that Plaintiff was unfit to represent the County, and thus far it would be a privileged publication, and justified upon the ground of public policy. It was merely calling for public investigation and enquiry—Roscoe 395.

Judge: I think the innuendoes, or such as are material, are sufficiently proved. As to this being a privileged communication, it might be so had it been the expression of a fair opinion upon public acts; but this goes beyond that. The fact of the writer's name being attached, does not make it less a libel on the part of the Defendant, nor does the fact of its being an advertisement. I will base Mr Street upon the objections to the first and second counts.

Mr Street: The Plaintiff has proved enough to support the action. The words "has been and was guilty of false swearing" may be struck out as surplusage. I admit there was enough without it, but the addition of this is of no consequence—Roscoe 374.

Mr Johnson: The question is not whether