

because they had called no witnesses. This remark was more mischievous, severed from the charge, than if it had been part of it; and very probably induced the verdict. On these grounds the Learned Counsel submitted that the Jury had probably been misled, and that the defendants were entitled to a new trial.

Mr. Justice Bayley.—It does not appear to me that there is any legal objection to the manner in which this case was presented to the consideration of the Jury; and I think that the answer to the specific question subsequently put to the Chief Justice by the Jury, was perfectly correct; because, under the circumstances of the case, assuming it to have been a fact whether the Jury could infer malice, the evidence upon that point was all one way; and where there is evidence one side, and nothing to rebut it on the other, it was the duty of the Jury to believe that evidence, and to act upon it. This being an information for a libel, it is impossible to form a correct judgment as to the propriety of the direction given to the Jury, without seeing what the nature of the libel is. This libel contains not merely an assertion of fact, which the party may suppose to be true—is not merely an assertion of fact, of which he had the ordinary means of knowledge, but it goes higher up—it is an assertion in such a way, as that if it be an honest, bona fide, and innocent assertion, the means of proof must lie within his own knowledge, and he must have the medium of proof so as to lay it before a Jury. He says, it is "from authority we speak," and then he makes the assertion which is the subject of the libel. It is conceded, that the statement is in fact false, and that there was no foundation for saying, that his Majesty was afflicted with mental derangement. If then falsely stating that fact be not a libel, the objection will remain on the record, and the defendants will have the benefit of the judgment of a Court of Error on that point, or of this Court on a motion in arrest of judgment. But, as at present advised, I am of opinion, that, falsely to make the assertion contained in this libel, was sufficient to justify the Jury in finding the defendants guilty. A distinction has been taken in argument between an untrue and a false assertion, and I fully understand the difference between the one and the other in the way suggested. If I assert a particular fact, believing it to be true, and act upon misinformation, there may be, perhaps no criminality attaching to it; because I may bona fide believe it to be true; but if I assert a fact to be true, without the means of knowing, one way or the other, whether it is true or false, then I consider that I make a false assertion in the same sense and meaning alleged in the information. If a man, not knowing whether a fact be true or false, takes upon himself to swear that it exists, he is guilty of falsehood, and is liable to a prosecution for perjury. Now is the assertion in this case to be considered false or not? The party may not have the means of knowing the state of his Majesty's mind at the time the libel is published, but he says, "we have authority" to state that the fact is so. Has he authority? or has he not? If he has authority, he has the means of laying it before the Jury. What was the ground of his authority? For, although it might be untrue, yet it would be a bona fide statement. But, not having shewn the authority, why, then, it is a false assertion, in the criminal sense of the word. Then, the question is, whether the party can be considered as having had a malicious intention?—Whether a malicious intention is necessary in all cases, it is not quite requisite for me, at present, to discuss—but, assuming a malicious intention to be necessary, I take it to be established by the authority already referred to, that a man may be considered as intending to do what are the necessary or the natural consequences of the act he does. Now, if I malign a particular individual or defame his character, the natural presumption is that I mean to do him an injury. Asserting a falsehood with reference to him will naturally prejudice him in the eyes of all the persons who hear or read what I have said. I say, therefore, it must be inferred that the party intended that which is the natural consequence of this act. But, in addition to the authority already referred to, I think the case of the King v. Creevey, 1 Maule and Selwin, 273, is a direct authority to shew that the manner in which the Lord Chief Justice left this case to the Jury was perfectly correct. That was an indictment for a libel. It was tried before Mr. Justice Le Blanc, a man of great accuracy, of great firmness and probity, and not inclined hastily to form an opinion. That Learned Judge was of opinion, that it was not necessary to prove malice, but it might be inferred from the publication itself, and upon the authority of the case of the King v. Lord Abingdon, he held that a Member of Parliament is answerable for publishing what he has delivered as his speech in Parliament, if it contained defamatory matter, and that question he left to the Jury, stating to them that they were to look both to the matter and manner of the publication, in order to decide whether it was libellous or not. A motion was afterwards made for a new trial, and this Court confirmed the direction of that Learned Judge. That case, therefore, is directly in point, and is not distinguishable from this. In this case it is conceded that the matter was entirely false. Well, then, was malice properly to be inferred from it? The authorities are, that unless there is some excuse for the publication the malice ought to be inferred. There is, therefore, no foundation for the complaint as to the manner in

which the case was left to the Jury. It is complained that the onus of negating malice was cast upon the defendant. I think that onus was properly cast upon him; because the natural inference of the act itself is, that it was malicious. If a defendant is to exempt himself from the natural inference of his act, he is to do something on his part. In this case it was within the reach of the defendants to have produced evidence to prove that they had authority for what they had stated. That fact was capable of proof if founded in truth, because they state "we have authority" to state what followed. They would, therefore, have been entitled to shew by evidence that they had such authority; but, in the absence of such evidence, I think the inference of malice necessarily arises. I think, therefore, there is no foundation for a new trial.

Mr. Justice Holroyd.—I am of opinion that there is not sufficient ground for disturbing the verdict. This is a charge of publishing a libellous paper, and of that description which I think is to be considered, not only as injurious to the individual to whom it relates, but as mischievous to the public in other respects, being calculated to excite great apprehension and alarm in the minds of the people as to the state of mind of the highest Magistrate in the country; more particularly when shewn into notice, by the declaration that the fact is stated "from authority." If a thing is wrongfully done, and is in its effect necessarily injurious, it is indictable as an offence at common law, without any allegation or direct proof that it was done maliciously. It is wrongful to do an act, which, without legal excuse or other justification, is mischievous to the public. In some cases, indeed, malice is the very gist of the offence, though it be not necessary to prove it. In offences of the highest nature, as for instance murder, malice, in the popular sense, is not a necessary ingredient. In such cases, express malice cannot be proved, but the law implies malice. In other cases, undoubtedly, malice is essential to be proved, but it is not to be inferred that in all cases it is requisite. I only mention this to shew, that malice is not essential to the determination of the present case, because I think the evidence in this case was such as to afford the Jury a medium of interpretation, whether the publication was malicious.—Proof of express malice was not necessary here; malice, in these cases, is to be inferred by the rules and principles of the common law; and, therefore, whether malice, in the legal sense of the term, or from an act done *malo animo*, or whether it be or be not essential and necessary to allege it in the indictment or information, is not necessary to be determined in the present case; because I think the evidence before the Jury was such as to justify them on legal principles, in drawing the inference of malice. This is a publication which assumes a knowledge of the facts which it alleges. It is a publication which assumes rather more than general knowledge and rumour; it professes to state the facts from "authority;" and whatever may be the import of that word, or whatever was intended by it, if there was any authority, or any excuse for the publication, it was incumbent on the defendant to prove it. Whether it would have been sufficient, I will not take upon myself to say; but in the absence of any such proof, I am of opinion, that as the publication has a mischievous tendency, it must be understood to have been published maliciously. It appears to me, that when a publication is proved to have an injurious tendency, the principle of law is, that it must be inferred to have been done with a malicious intention, unless there is some proof to shew the contrary, and to rebut the necessary inference of malice. I think in such a case the Judge is bound to tell the Jury that the party maliciously intended to do that which naturally flows from the act. When the presumption of malice is proved, and nothing to rebut it, I think the Judge is justified in directing the Jury to presume a malicious intention. But it is objected that the Judge did not directly answer an abstract question put to him by the Jury. I think the Judge is not bound to answer an abstract question, except so far as it is material to the case before him, and on which the Jury are to decide. In this case, the Jury appear to have been satisfied with the answer given and that they desired no further information, for they went out to consider further of their verdict. It must be presumed that they were satisfied with the answer, and clearly understood the import of the Judge's directions, and that they acted upon the answer, and consequently there is no ground for a new trial as to that part of the case. I also agree in thinking that the direction of the Learned Judge was not too extensive, as to the meaning of the word falsely. I think that falsely to state a fact like this, calculated as it was to excite great alarm in the public mind, is an unjustifiable act, unless there was something to shew that the occasion of it was such as the law considers as good and reasonable excuse for such a publication.

Mr. Justice Best.—It is impossible for any man to read this libel, without pronouncing that it is correctly described in this record as a "false, scandalous, and malicious libel." The Editors of Newspapers think proper to state that the Sovereign of this country is not in a condition to discharge the duties of his high office. They are not satisfied with stating this as a rumour, (which I think they would by no means be justified in doing), but they go on to add, that this is done "upon authority." That is, they undertake for the truth of a statement which is the most likely of any other to create discontent and confusion in the kingdom.

I am of opinion there is no foundation for a new trial in this case. The Chief Justice.—My Learned Brothers having delivered their opinion, that nothing which fell from me to the Jury upon the late trial affords sufficient ground for granting a new trial, it is perhaps unnecessary for me to say any thing. One or two remarks, however, I feel myself called upon to make. If proof of a malicious intention be necessary to make a person amenable to the law, who publishes defamatory matter (unless the malicious intention may be inferred from the publication itself,) without something to rebut that malicious intention, the reputation, the honour, and the feelings of all his Majesty's subjects, high and low, will be left without that protection from the law which the law affords in cases of this nature. I am of opinion, that if any writer thinks fit to say, "it is from authority we speak when we inform our readers that such is a fact," and it shall turn out that the fact so asserted is untrue, he who makes an assertion in that form, may be justly stated to have made a false assertion. I am not content enough to see that there is any distinction between an untrue and a false assertion, in a case of this description.—Rule refused.

William Patterson,

TAILOR, No. 138 Lower Water Street.
Has received by the WYTON CAPT. R. COL-
LINSON from LIVERPOOL,
HIS SPRING SUPPLIES OF SUPERFINE,
CLOTHS, and KERSEYMERS, of the best
Quality, immediately from the West of England
Manufactories, which, having been purchased
for Cash, will enable him to SELL OR MAKE
THEM UP as low as any in Halifax.—A Discount,
will be allowed, to ready money Customers

LAW BLANKS,
For sale at this Office

MISCELLANEOUS.

MELANCHOLY FANATICISM.

"How if, when I am laid into the tomb,
"A wake before the time that Romeo
"Come to redeem me! there's a fearful point!"
SHAKS.

LYNN, Dec. 10, 1823.

This town has of late been agitated by a strange occurrence, similar to the scenes of *Witchcraft* in Salem 1692, which ought to be recorded, as it may hereafter illustrate the history of the present so much boasted enlightened times, and will shew that instances of gross fanaticism and superstition sometimes now occur to gratify credulity and wonder.

The public have already heard much of the conduct of a few persons, who were a year or two ago disowned by the Quaker Society and prosecuted and punished for molesting that society. Some of these persons and their adherents have occasionally continued those disturbances.

On the day of our late public Thanksgiving, a young woman, who had been disowned by that society to which she had from her youth belonged, attended the Quaker meeting in Salem and attempted to preach, in such a manner, that she was removed from the meeting as a disturber. On the following Sabbath she attended the Quaker meeting at Lynn, when there was a funeral and the corpse carried in to the meeting house: she came in late, in white apparel, on a cold day, and made her way into the minister's gallery, pushing aside the persons who attempted to stop her; after sitting a short time, she rose and spoke nearly thus—"Behold the Lamb of God!"—a pause—"Behold the Lamb of God, that taketh away the sin of the world—behold the Bride, the Lamb's wife; it is not because I prefer these high benches that you see me here, but my God hath sent me here to bear testimony against the idolatrous worship that has of latter time been paid to these high benches." She called the attention of the people to her dress (which was gay and airy) and said it covered a pure spirit and clean heart. She was requested to sit down, and paused; during the pause a regular female preacher of the society, who sat so as not to see her or know of her continuing standing, rose and began to preach; the young woman interrupted her by crying out, "Who art thou, that darkest counsel by words without knowledge, thou hypocrite, how long will it be before the veil will be rent!" She was then removed from the meeting crying, crying out "Hypocrite," &c. She refused to make any use of her limbs to walk, and, when out, would not stand or sit, but was laid prostrate on the step of the meeting house, and when the meeting was over, it was necessary to remove her to make room for the people to pass out; some, who took sides with her, and had gathered round, were also removed to give opportunity to take the corpse to the grave.

She continued to lay as if helpless, near the door half an hour after the meeting was over; she was then taken in her passive state, and carried by two persons in a chaise to the house of a fellow disciple, where she remained, speechless and helpless, as was pretended, lying in state in bed, in the same dress she had worn at meeting, and so continued from that day (23d Nov. to Nov. 30th: she spoke to no one by words, but would reply to questions by writing her answers on a slate; some of her answers are preserved, when asked whether she would take food, she wrote, "How can I want any thing, that am feeding on angels' food!"

She wrote to one of her neighbors that "her speech was taken away by wicked men, and would be heard no more, until it was heard in Heaven, praising God." It has not been intimated that she was hardily used by those who removed her: her friends acknowledge she was removed as easily as possible; "the wicked men" she complains of were those who refused to allow her to continue her preaching.

During Saturday she prophesied that "she should die before the going down of another sun," and her adherents professed to put implicit faith in the awful prediction, which spread like wildfire through the town.

On the morning of her "dying day," she sent a solemn message to an acquaintance that in "a few hours and this hand, which now pens this, will be cold in death, but the spirit which dictated it crowns with eternal life."

The rumor that she was to die on that day had spread through the town, and excited a great buzz and general attention. She rose that morning, washed and attired herself in what she termed her grave clothes, which had been previously prepared for her, and wrote that "she should die by the going down of the sun," and requested after her death she should be laid out on a sofa, and buried in a tomb after being kept a number of days so that all who wished might be admitted to see her. The whole town seemed to be in commotion on that day; the house was thronged by hundreds and hundreds of spectators, who rushed from all parts to see the wonderful woman; chaises and foot passengers, some from a considerable distance, were going to and fro as at a training; all desired to be in at her last moments. Within a short time of the awful period she had set for her flight from this world, she wrote, "You now behold the exit of one whose life has been devoted to the good of souls, breathing this exhortation, Glory to God in the highest, peace on earth and good will to men!" Near that time she spoke and audibly said, "My work is finished and there is a crown laid up for me which I am going to inherit," and to her friends, "not to mourn her early exit, for her body was to return to dust, and her soul to him who gave it." Her friends were overwhelmed with tears and grief by this last solemn parting scene.

She then threw herself back and appeared to gasp, as if dying, and remained in the same deathlike posture with closed eyes, till the night of Monday, when the corpse took a little rime, and soon after spoke; since which she has disappeared. Some say she went out of the top of the chimney!

Final Notice to Debtors.

THE Subscribers being fully authorized to receive all debts due to either of the late Firms of THOM, SALTER & Co, JAMES THOM & Co, or SMITH & THOM, do hereby give Notice to all persons who are indebted in any way, to any of the above late Concerns, that unless they come forward and pay, or give security for the payment of the respective amounts due by them, between this date and the 1st day of June next, suits at Law will then be commenced for the recovery of the same.

James B. Francklin,
John Fraser,
Robert Noble.

N. B. The Books, Notes, and other documents, being still in the possession of Mr. ROBERT NOBLE, at the Store lately occupied by Thom, Salter & Co. he will receive all monies, and to whom communications may be directed.
Baptist, 2d Jan. 1824.

INDENTURES.

For sale at this Office.

BRITISH NAVY.

The *Courier* tauntingly informs the French Minister, Chateaubriand, that England has now in Commission the Britannia, 120 guns (well known to Frenchmen); Prince Regent, 120; Queen Charlotte, 120; Ocean, 104; Ganges, 86; Rochford, 86; Cambridge, 86; Albion, 82; Bulwark, 82; Gloucester, 82; Ramilies, 78; Revenge, 78; Superb, 78; Windsor Castle, 78; Spartiate, 78. Besides five 6 gun ships, 21 heavy frigates, and 103 ships, sloops of war, brigs, &c.

The Ganges 86, and Superb 78, with the 12th regt. have sailed from Portsmouth—destination unknown.

R I E G O.

Those who struggle for the freedom of their country, know the alternative—if successful, they are hailed as demi gods; if unfortunate, like dogs they die, and no tomb, stone, or epitaph is made for them; no eulogy is pronounced for ages. The fates, we tell it with a tear, were against Riego; if he had consulted reason as an oracle, he would have had no favorable response—even common sense would have taught him, that the dispositions, habits and feelings of the great mass of the people of Spain were not "ready" for such a noble effort for liberty; they had too long been bent to the ground by the weight of superstitious impressions. Solon was wiser than the Riegos of Spain—the great Grecian only gave such laws as his people would "bear;" Riego such as the most enlightened could scarcely receive, or ever expect to act upon. The constitution of eighteen hundred and twelve, was defective, in being too democratic. Any wise man, not infatuated by the influence of a love of liberty, might have known that so sudden a change would not do. To burst at once from the manacles of superstition and arbitrary power, to seize the direction of government, and to administer it by the laws and maxims of a republic, are more than can be expected of human nature. Improvements in politics are progressive; there are no supernatural conversions from slavery to civil liberty. The elements of freedom must be incorporated with the minds, dispositions, and habits of a people, before they can be governed by laws founded on equal rights. Could Spaniards who think so much of family, blood, ancestry and connexions, come in at once to the doctrine that all men were born equal? The haughty Don, the high born Cavalier, must be long schooled before he can be taught so good a lesson. Over Riego's grave let there be perpetual laurels; for there is something sublime in the character of one who is lost in striving to do more than mortal wisdom and prowess can achieve, if his aims were honest. He dashed on and failed. Had Cæsar escaped, Brutus would have been an assassin. Riego is branded as a traitor. The blood of the Martyrs were the seeds of the church, and from the ashes of murdered patriots will spring the flowers of liberty. Ferdinand has not profited in the least by his sufferings and bondage; he seems totally incapable of learning the great lesson that all wise kings must sooner or later learn—that subjects have political and civil rights—and that these are inherent and unalienable. The progress of knowledge may be slow, yet it is certain, even among a people as fast bound as his own subjects are. It is deplorable to see a king one day made an automaton, put in motion by fear, but still declaring that he is free as air; and the next, venting his rage on those his vengeance can reach, for barely believing his royal word, solemnly attested by himself. He has revived the Inquisition but it exists only in name—no *auto da fe* will ever again be exhibited to gratify any monster. The priests of Spain know, that the Catholic Religion has assumed a mild and gentle character in almost every other place where it prevails. Imperial Rome has conformed to the light of the age, and is liberal and tolerant.—Spain cannot lie long in darkness, when her neighbors and fellow worshippers see clearly their own rights. The atmosphere of one region passes to another, carrying with it every salutary, as well as every deadly principle of action, it may contain; and the moral, and political, and religious feeling and spirit of one people, will be wafted to another, in defiance of every effort to restrain or control the progress of opinion. A thousand cordons of observation or preservation may be placed on the frontiers without much avail, for public sentiment cannot be counteracted by racks or bayonets.

* A vile assassin—one who assisted in murdering his best friend; and at the moment too, when he was basking in and enjoying his high esteem, his confidence, and his favors.

Bottled PORT WINE.

A FEW dozen, bottled in Oporto, and packed in convenient cases for a family; and a constant supply of Old PORT in Wood, for sale by the Subscribers.

—ALSO—

Supernae and Fine Canada FLOUR,
Butter and Lard in tins,
Prime Pork in barrels,
do. Beef, in do.
A few barrels SUGAR,
A small quantity of Whiskey, and a consignment of superfine blue and black Cloths and Cassimeres at very low prices.

GEORGE GRASSIE & Co.

Oct. 10.

BILLS OF LADING.

For sale at this Office.

It is with
readers the
to the use
cavations
Suburbs,
This Cana
vessels dr
100 feet l
as well as
nagement
much to t
to the st
Engineer,
have insp
Great Br
to be bui
rected at
Joseph St
ford to
loading
duce may
to Montre
ring of
rates of c
treet, to
back to th

On com
dize, we
last, and
of most
quantity
attributed
doubles,
owing to
119, or Ca
ally incre
The val
was great
years am
being 47-
Of it in
est deman
Jons, a ve
than doub
Chap. 45,
from forei
circumstan
which how
sumption,
on 10 a ne
last year
4995 gallo
In Bras
increas
last year
year 59,3
cent.
In Rum
25 per ce
970,365 g
In Nige
In Tra
lbs. of the
Inconceiv
of the con
has attrac
Provinces
deriments
and the C
In Molai
of last year
A conju
Exports of

No
T
T
JAMES R
they there
on the sail
ment; at
make imm
security.

Parrsboro
THE B
Rate
Ratcliff
& Co
same firm,
entered int
have receiv
on St. J
BRITISH
which the
Barter for
any kind of

Parrsboro
N. B. J.
and Molai
quantity.
NEW AU

THE Sub
the Po
late's occup
ERS (late
transacting
GEORGE

An
Intending
sion Business
shall be a con
merit a cont
A part of
for Dry Good
to keep them
West India
age free.
Regular di
Tuesdays, Th
precisely
Halifax, S

JUST recei
ter) from
700 dry
Nov. 7.