

tenance of peace as far as the paramount interest of security will allow.

Whatever ignorant or prejudiced men may affirm, no war was ever gainful to a commercial nation. Losses may be less in some, and incidental profits may arise in others. But no such profits ever formed an adequate compensation for the waste of capital and industry which all wars must produce. Next to peace, our commercial greatness depends chiefly on the affluence and prosperity of our neighbors. A commercial nation has, indeed, the same interest in the wealth of her neighbors that a tradesman has in the wealth of his customers.

The prosperity of England has been chiefly owing to the general progress of civilized nations in the arts and improvements of social life. Not an acre of land has been brought into cultivation in the wilds of Siberia or on the shores of the Mississippi which has not widened the market for English industry. It is nourished by the progressive prosperity of the world, and it amply repays all that it has received. It can only be employed in spreading civilization and enjoyment over the earth; and by the unchangeable laws of nature, in spite of the impotent tricks of government, it is now partly applied to revive the industry of those very nations who are the loudest in their senseless clamors against its pretended mischiefs. If the blind and barbarous project of destroying English prosperity could be accomplished, it could have no other effect than that of completely beggaring the very countries who now stupidly ascribe their own poverty to our wealth.

Under these circumstances, gentlemen, it became the obvious policy of the kingdom, a policy in unison with the maxims of a free government, to consider with great indul-

gence even the boldest animadversions of our political writers on the ambitious projects of foreign states.

Bold, and sometimes indiscreet as these animadversions might be, they had at least the effect of warning the people of their danger, and of rousing the national indignation against those encroachments which England has almost always been compelled in the end to resist by arms. Seldom, indeed, has she been allowed to wait till a provident regard to her own safety should compel her to take up arms in defence of others. For as it was said by a great orator of antiquity that no man ever was the enemy of the republic who had not first declared war against him, so I may say with truth that no man ever meditated the subjugation of Europe who did not consider the destruction or the corruption of England as the first condition of his success.

If you examine history you will find that no such project was ever formed in which it was not deemed a necessary preliminary either to detach England from the common cause or to destroy her. It seems as if all the conspirators against the independence of nations might have sufficiently taught other states that England is their natural guardian and protector; that she alone has no interest but their preservation; that her safety is interwoven with their own.

When vast projects of aggrandizement are manifested, when schemes of criminal ambition are carried into effect, the day of battle is fast approaching for England. Her free government cannot engage in dangerous wars without the hearty and affectionate support of her people. A state thus situated cannot without the utmost peril silence those public discussions which are to point the popular indignation against those who must soon be enemies. In domestic dissensions it may sometimes be the supposed interest of government to

overawe the press. But it never can be even their apparent interest when the danger is purely foreign.

A king of England who in such circumstances should conspire against the free press of this country would undermine the foundations of his own throne; he would silence the trumpet which is to call his people round his standard.

Our ancestors never thought it their policy to avert the resentment of foreign tyrants by enjoining English writers to contain and repress their just abhorrence of the criminal enterprises of ambition. This great and gallant nation, which has fought in the front of every battle against the oppressors of Europe, has sometimes inspired fear, but, thank God, she has never felt it. We know that they are our real, and must soon become our declared foes. We know that there can be no cordial amity between the natural enemies and the independence of nations. We have never adopted the cowardly and short-sighted policy of silencing our press, of breaking the spirit and palsying the hearts of our people, for the sake of a hollow and precarious truce. We have never been base enough to purchase a short respite from hostilities by sacrificing the first means of defence,—the means of rousing the public spirit of the people and directing it against the enemies of their country and of Europe.

Gentlemen, the public spirit of a people, by which I mean the whole body of those affections which unite men's hearts to the commonwealth, is in various countries composed of various elements and depends on a great variety of causes. In this country I may venture to say that it mainly depends on the vigor of the popular parts and principles of our government, and that the spirit of liberty is one of its most important elements. Perhaps it may depend less on those advantages of a free government which are most highly estimated by

calm reason than upon those parts of it which delight the imagination and flatter the just and natural pride of mankind.

Among these we are certainly not to forget the political rights which are not uniformly withheld from the lowest classes, and the continual appeal made to them in public discussion upon the greatest interests of the state. These are undoubtedly among the circumstances which endear to Englishmen their government and their country, and animate their zeal for that glorious institution which confers on the meanest of them a sort of distinction and nobility unknown to the most illustrious slaves who tremble at the frown of a tyrant.

Whoever were unwarily and rashly to abolish or narrow these privileges, which it must be owned are liable to great abuse and to very specious objections, might perhaps discover too late that he had been dismantling his country. Of whatever elements public spirit is composed, it is always and everywhere the chief defensive principle of a State. It is perfectly distinct from courage. Perhaps no nation, certainly no European nation, ever perished from an inferiority of courage. And undoubtedly no considerable nation was ever subdued in which the public affections were sound and vigorous. It is public spirit which binds together the dispersed courage of individuals and fastens it to the commonwealth.

It is, therefore, as I have said, the chief defensive principle of every country. Of all the stimulants which arouse it into action, the most powerful among us is certainly the press; and it cannot be restrained or weakened without imminent danger that the national spirit may languish, and that the people may act with less zeal and affection for their country in the hour of its danger.

These principles, gentlemen, are not new — they are genuine old English principles. And though in our days they have been disgraced and abused by ruffians and fanatics, they are in themselves as just and sound as they are liberal; and they are the only principles on which a free state can be safely governed. These principles I have adopted since I first learned the use of reason, and I think I shall abandon them only with life.

On these principles I am now to call your attention to the libel with which this unfortunate gentleman is charged. I heartily rejoice that I concur with the greatest part of what has been said by my learned friend, Mr. Attorney General, who has done honor even to his character by the generous and liberal principles which he has laid down. He has told you that he does not mean to attack historical narrative. He has told you that he does not mean to attack political discussion. He has told you, also, that he does not consider every intemperate word into which a writer, fairly engaged in narration or reasoning, might be betrayed, as a fit subject for prosecution.

The essence of the crime of libel consists in the malignant mind which the publication proves and from which it flows. A jury must be convinced, before they find a man guilty of libel, that his intention was to libel, not to state facts which he believed to be true, or reasonings which he thought just. My learned friend has told you that the liberty of history includes the right of publishing those observations which occur to intelligent men when they consider the affairs of the world; and I think he will not deny that it includes also the right of expressing those sentiments which all good men feel on the contemplation of extraordinary examples of depravity or excellence.

One more privilege of the historian, which the Attorney General has not named, but to which his principles extend, it is now my duty to claim on behalf of my client; I mean the right of republishing, historically, those documents, whatever their original malignity may be, which display the character and unfold the intentions of governments, or factions, or individuals.

I think my learned friend will not deny that a historical compiler may innocently republish in England the most insolent and outrageous declaration of war ever published against his Majesty by a foreign government. The intention of the original author was to vilify and degrade his Majesty's government; but the intention of the compiler is only to gratify curiosity, or, perhaps, to rouse just indignation against the calumniator whose production he republishes. His intention is not libellous—his republication is therefore not a libel. Suppose this to be the case with Mr. Peltier. Suppose him to have republished libels with a merely historical intention. In that case it cannot be pretended that he is more a libeller than my learned friend, Mr. Abbott, who read these supposed libels to you when he opened the pleadings. Mr. Abbott republished them to you, that you might know and judge of them: Mr. Peltier, on the supposition I have made, also republished them, that the public might know and judge of them.

You already know that the general plan of Mr. Peltier's publication was to give a picture of the cabals and intrigues, of the hopes and projects of French factions. It is undoubtedly a natural and necessary part of this plan to republish all the serious and ludicrous pieces which these factions circulate against each other. The ode ascribed to Chenier or Ginguéné I do really believe to have been written at Paris, to have been

circulated there, to have been there attributed to some one of these writers, to have been sent to England as their work, and as such to have been republished by Mr. Peltier. But I am not sure that I have evidence to convince you of the truth of this. Suppose that I have not; will my learned friend say that my client must necessarily be convicted? I, on the contrary, contend that it is for my learned friend to show that it is not a historical republication. Such it professes to be, and that profession it is for him to disprove. The profession may indeed be "a mask;" but it is for my friend to pluck off the mask and expose the libeller before he calls upon you for a verdict of guilty.

If the general lawfulness of such republications be denied, then I must ask Mr. Attorney General to account for the long impunity which English newspapers have enjoyed. I must request him to tell you why they have been suffered to republish all the atrocious official and unofficial libels which have been published against his Majesty for the last ten years by the Brissots, the Marats, the Dantons, the Robespierres, the Barrères, the Talliens, the Reubells, the Merlins, the Barases, and all that long line of bloody tyrants who oppressed their own country and insulted every other which they had not the power to rob.

What must be the answer?

That the English publishers were either innocent, if their motive was to gratify curiosity; or praiseworthy, if their intention was to rouse indignation against the calumniators of their country. If any other answer be made, I must remind my friend of a most sacred part of his duty — the duty of protecting the honest fame of those who are absent in the service of their country.

Within these few days we have seen, in every newspaper

in England, a publication, called the Report of Colonel Sebastiani, in which a gallant British officer [General Stuart] is charged with writing letters to procure assassination. The publishers of that infamous report are not and will not be prosecuted, because their intention is not to libel General Stuart.

On any other principle, why have all our newspapers been suffered to circulate that most atrocious of all libels against the king and people of England, which purports to be translated from the "Moniteur" of the 9th of August, 1802,—a libel against a prince who has passed through a factious and stormy reign of forty-three years without a single imputation on his personal character; against a people who have passed through the severest trials of national virtue with unimpaired glory — who alone in the world can boast of mutinies without murder, of triumphant mobs without massacre, of bloodless revolutions, and of civil wars unstained by a single assassination.

That most impudent and malignant libel which charges such a king of such a people, not only with having hired assassins, but with being so shameless, so lost to all sense of character, as to have bestowed on these assassins, if their murderous projects had succeeded, the highest badges of public honor, the rewards reserved for statesmen and heroes,—the order of the Garter: the order which was founded by the heroes of Cressy and Poitiers; the garter which was worn by Henry the Great and Gustavus Adolphus; which might now be worn by the hero who, on the shores of Syria [Sir Sydney Smith]—the ancient theatre of English chivalry — has revived the renown of English valor and of English humanity,—that unsullied garter which a detestable libeller dares to say is to be paid as the price of murder. . . .

I am aware, gentlemen, that I have already abused your indulgence, but I must entreat you to bear with me for a short time longer, to allow me to suppose a case which might have occurred, in which you will see the horrible consequences of enforcing rigorously principles of law, which I cannot counteract, against political writers. We might have been at peace with France during the whole of that terrible period which elapsed between August, 1792 and 1794, which has been usually called the reign of Robespierre,—the only series of crimes, perhaps, in history, which, in spite of the common disposition to exaggerate extraordinary facts, has been beyond measure underrated in public opinion.

I say this, gentlemen, after an investigation which I think entitles me to affirm it with confidence. Men's minds were oppressed by atrocity and the multitude of crimes; their humanity and their indolence took refuge in scepticism from such an overwhelming mass of guilt; and the consequence was that all these unparalleled enormities, though proved not only with the fullest historical but with the strictest judicial evidence, were at the time only half believed and are now scarcely half remembered.

When these atrocities were daily perpetrating, of which the greatest part are as little known to the public in general as the campaigns of Genghis Khan, but are still protected from the scrutiny of men by the immensity of those voluminous records of guilt in which they are related, and under the mass of which they will be buried till some historian be found with patience and courage enough to drag them forth into light, for the shame, indeed, but for the instruction of mankind — when these crimes were perpetrating, which had the peculiar malignity, from the pretexts with which they were covered, of making the noblest objects of human pursuit seem odious

and detestable; which has almost made the names of liberty, reformation, and humanity synonymous with anarchy, robbery, and murder; which thus threatened not only to extinguish every principle of improvement, to arrest the progress of civilized society, and to disinherit future generations of that rich succession which they were entitled to expect from the knowledge and wisdom of the present, but to destroy the civilization of Europe, which never gave such a proof of its vigor and robustness as in being able to resist their destructive power — when all these horrors were acting in the greatest empire of the continent, I will ask my learned friend, if we had then been at peace with France, how English writers were to relate them so as to escape the charge of libelling a friendly government.

When Robespierre, in the debates in the National Convention on the mode of murdering their blameless sovereign, objected to the formal and tedious mode of murder called a trial, and proposed to put him immediately to death, “on the principles of insurrection,” because to doubt the guilt of the king would be to doubt the innocence of the Convention; and if the king were not a traitor, the Convention must be rebels; would my learned friend have had an English writer state all this with “decorum and moderation?” Would he have had an English writer state that though this reasoning was not perfectly agreeable to our national laws, or perhaps to our national prejudices, yet it was not for him to make any observations on the judicial proceedings of foreign states?

When Marat, in the same Convention, called for two hundred and seventy thousand heads, must our English writers have said that the remedy did indeed seem to their weak judgment rather severe; but that it was not for them to judge the conduct of so illustrious an assembly as the National Con-

vention, or the suggestions of so enlightened a statesman as M. Marat?

When that Convention resounded with applause at the news of several hundred aged priests being thrown into the Loire, and particularly at the exclamation of Carrier, who communicated the intelligence, "What a revolutionary torrent is the Loire,"—when these suggestions and narrations of murder, which have hitherto been only hinted and whispered in the most secret cabals, in the darkest caverns of banditti, were triumphantly uttered, patiently endured, and even loudly applauded by an assembly of seven hundred men, acting in the sight of all Europe, would my learned friend have wished that there had been found in England a single writer so base as to deliberate upon the most safe, decorous, and polite manner of relating all these things to his countrymen?

When Carrier ordered five hundred children under fourteen years of age to be shot, the greater part of whom escaped the fire from their size; when the poor victims ran for protection to the soldiers and were bayoneted clinging round their knees!—would my friend—but I cannot pursue the strain of interrogation. It is too much. It would be a violence which I cannot practise on my own feelings. It would be an outrage to my friend. It would be an insult to humanity. No! Better, ten thousand times better, would it be that every press in the world were burned; that the very use of letters were abolished; that we were returned to the honest ignorance of the rudest times, than that the results of civilization should be made subservient to the purposes of barbarism; than that literature should be employed to teach a toleration for cruelty, to weaken moral hatred for guilt, to deprave and brutalize the human mind. I know that I speak my friend's feelings as

well as my own when I say God forbid that the dread of any punishment should ever make any Englishman an accomplice in so corrupting his countrymen, a public teacher of depravity and barbarity!

Mortifying and horrible as the idea is, I must remind you, gentlemen, that even at that time, even under the reign of Robespierre, my learned friend, if he had then been Attorney General, might have been compelled by some most deplorable necessity to have come into this court to ask your verdict against the libellers of Barrère and Collot d'Herbois. Mr. Peltier then employed his talents against the enemies of the human race, as he has uniformly and bravely done. I do not believe that any peace, any political considerations, any fear of punishment would have silenced him. He has shown too much honor, and constancy, and intrepidity, to be shaken by such circumstances as these.

My learned friend might then have been compelled to have filed a criminal information against Mr. Peltier for "wickedly and maliciously intending to vilify and degrade Maximilian Robespierre, President of the Committee of Public Safety of the French Republic!" He might have been reduced to the sad necessity of appearing before you to belie his own better feelings, to prosecute Mr. Peltier for publishing those sentiments which my friend himself had a thousand times felt, and a thousand times expressed. He might have been obliged even to call for punishment upon Mr. Peltier for language which he and all mankind would forever despise Mr. Peltier if he were not to employ. Then, indeed, gentlemen, we should have seen the last humiliation fall on England; the tribunals, the spotless and venerable tribunals of this free country reduced to be the ministers of the vengeance of Robespierre! What could have rescued us from this last disgrace? The

honesty and courage of a jury. They would have delivered the judges of this country from the dire necessity of inflicting punishment on a brave and virtuous man because he spoke truth of a monster. They would have despised the threats of a foreign tyrant, as their ancestors braved the power of oppression at home.

In the court where we are now met, Cromwell twice sent a satirist on his tyranny to be convicted and punished as a libeller; and in this court, almost in sight of the scaffold streaming with the blood of his sovereign, within hearing of the clash of his bayonets which drove out Parliament with contumely, two successive juries rescued the intrepid satirist [Lilburne] from his fangs, and sent out with defeat and disgrace the usurper's Attorney General from what he had the insolence to call his court! Even then, gentlemen, when all law and liberty were trampled under the feet of a military banditti; when those great crimes were perpetrated on a high place and with a high hand against those who were the objects of public veneration, which, more than anything else, break their spirits and confound their moral sentiments, obliterate the distinctions between right and wrong in their understanding, and teach the multitude to feel no longer any reverence for that justice which they thus see triumphantly dragged at the chariot-wheels of a tyrant; even then, when this unhappy country, triumphant, indeed, abroad, but enslaved at home, had no prospect but that of a long succession of tyrants wading through slaughter to a throne,—even then, I say, when all seemed lost, the unconquerable spirit of English liberty survived in the hearts of English jurors. That spirit is, I trust in God, not extinct; and if any modern tyrant were, in the drunkenness of his insolence, to hope to overawe an English jury, I trust and I believe that they would tell him,

“Our ancestors braved the bayonets of Cromwell; we bid defiance to yours.” “*Contempsit Catilinæ gladios—non pertimescam tuos!*”<sup>1</sup>

What could be such a tyrant's means of overawing a jury? As long as their country exists they are girt round with impenetrable armor. Till the destruction of their country no danger can fall upon them for the performance of their duty, and I do trust that there is no Englishman so unworthy of life as to desire to outlive England. But if any of us are condemned to the cruel punishment of surviving our country; if, in the inscrutable councils of Providence, this favored seat of justice and liberty, this noblest work of human wisdom and virtue, be destined to destruction, which I shall not be charged with national prejudice for saying would be the most dangerous wound ever inflicted on civilization; at least let us carry with us into our sad exile the consolation that we ourselves have not violated the rights of hospitality to exiles, that we have not torn from the altar the suppliant who claimed protection as the voluntary victim of loyalty and conscience!

Gentlemen, I now leave this unfortunate gentleman in your hands. His character and his situation might interest your humanity; but on his behalf I only ask justice from you. I only ask a favorable construction of what cannot be said to be more than ambiguous language, and this you will soon be told, from the highest authority, is a part of justice.

[The jury found the defendant guilty, without leaving their seats; but as war broke out almost immediately, Mr. Peltier was not brought up for sentence, but was at once discharged.]

<sup>1</sup> “I have despised the daggers of Catiline, and I shall not fear yours.”