

supplied by Livingston, and the captain of the expedition. Livingston, at the opening of the negotiations, had introduced Captain William Kidd (sometimes called Robert Kidd), with whom he had just crossed the Atlantic, as a man well qualified for such an undertaking. Kidd was a Scotchman by birth, had followed the sea from his youth, had been captain of a privateer in the West Indies, and was at that time captain of a packet plying between New York and London. He was in the prime of life, and had several years previously married a respectable lady in New York, with whom he had since lived, in his own house, in Liberty Street, where he was regarded a wealthy and honorable seaman. It is said that the first rich carpet on Manhattan was in Kidd's parlor, though he is not believed to have been greatly dishonest until the last three years of his life. As he was an experienced and resolute commander, with extensive knowledge of the lurking places of the pirates, and of many of the pirates themselves, he was considered (forgetting the force of his old habits) the fittest person to take charge of the expedition. It is now easily discovered that two fatal mistakes were made in planning this expedition. First, the vessel should have been a regular man-of-war, under the direction of the general government, in which the captain had no capital, and from which no one expected a profit. On the other hand, though commissioned by the king, and expected to promote the public good, it was the property of a private corporation, and expected to bring large pecuniary returns. The prizes captured were to be taken into Boston Harbor, and delivered to Lord Bellamont. The parties agreed that if no prizes were captured, the £5,000 advanced by Bellamont should be refunded, and the title of the vessel be vested thereafter in Livingston and Kidd. But as soon as Kidd delivered to Bellamont prize goods to the amount of £100,000, then the ship was to belong to Livingston and Kidd. Bellamont and those he represented were to receive four-fifths of the net proceeds, the remaining fifth belonging to Livingston and Kidd. The

second mistake was in the contract made with the crew. Kidd agreed to furnish about one hundred men, who were to receive one-fourth the value of all captures, but who were to be enlisted with the distinct stipulation, "no prize, no pay." While it was certain that these terms would secure a crew, it was also certain that few besides the most daring and foolhardy would be induced to embark. The result was that his crew was made up of the most suspicious class, many of whom had probably been pirates themselves, and hence open to the most violent temptations when afloat on a foreign sea.

A commission bearing the great seal of England was issued December 11, 1696, and the following April Kidd set sail for New York in the "Adventure Galley," a fine ship with sixty sailors, which had been fitted out for the expedition. Here he visited his wife, and cruised for some time around the coast, capturing a French privateer, for which he received the thanks of the Assembly of New York, and two hundred and fifty pounds as a complimentary reward for his fidelity. While here he continued to recruit his force until it exceeded one hundred and sixty men, after which he sailed for the East Indies and the eastern coast of Africa. Up to this point his fame continued unsullied, and by what process the change in his career was produced is not certainly known. He afterwards protested that, failing in the pursuit of the pirates, his crew became mutinous and forced him, contrary to his will, into his career of infamy. It is more probable that, finding himself in possession of a strong ship completely armed, with a large and well-selected crew obsequious to his wishes, the temptation to prey upon the weak instead of encountering the strong overcame him, and he thus became one of the most intrepid and successful pirates that ever hoisted the black flag on the seas. Upon the commerce clustering along the coasts of Malabar and Madagascar, he conducted a career of outrage and plunder, by which in a short time he amassed countless treasure, and inflicted such destruction as to render his name a terror on the seas, and a theme for every

future historian. Satisfied finally with his accumulations, he resolved to return. To avoid detection he exchanged his vessel, with a large portion of his crew, for a frigate he had captured, and in 1698 brought his vessel into Long Island Sound, and on Gardiner's Island buried a large amount of treasure in the presence of the proprietor of the estate, whom he laid under strict injunctions of secrecy. He next repaired to Boston under an assumed name, with the design, it is believed, of selling the frigate, after which he hoped to join his family and spend the remainder of life in quiet splendor. Apprehended in the streets at Boston, he was arrested by order of Governor Bellamont, one of the chief promoters of the enterprise, who had heard startling rumors concerning him, and had been anxiously watching for his return. He was sent to England for trial. It being considered difficult to substantiate the charge of piracy, he was arraigned for the murder of William Moore, one of his crew, whom he had unfortunately killed while at sea, by hitting him with a bucket for insubordination. After an unfair trial he was hanged in chains at Execution Dock, May 12, 1701. The rope broke and he ascended the scaffold the second time. Six of his accomplices were executed the same day. Tradition says that after the capture of Kidd his crew returned with the vessel to Gardiner's Island, where they ascertained that two ships were in pursuit for their capture. In an attempt to escape they ran their vessel some distance up the Hudson river, where she was blown up and sunk, the sailors dispersing on the shore with such treasure as they could bear away.

The buried treasure on Gardiner's Island was taken up by a commission appointed by Governor Bellamont, and consisted, besides considerable rich merchandise, of three bags of gold dust, two bags of coined silver, one bag of coined gold, two bags of golden bars, one bag of silver bars, one bag of silver rings, one bag of silver buttons, and one of jewels and precious stones, including agates and amethysts. The treasure was at that time valued at about two hundred thousand dol-

lars, and with this Kidd doubtless thought it would not be difficult to secure his release, if his royal commission, which he still held, proved insufficient. The treasure thus obtained was believed to be but a fraction of his accumulations, and various rumors concerning buried riches have been revived by every succeeding generation down to our day. Acres of soil have been dug over by eager gold hunters. A pot containing eighteen hundred dollars in money ploughed up in a corn-field at Martha's Vineyard over twenty-five years ago, was believed by some to be a part of Kidd's money. Several families on Long Island it is said became unaccountably rich, and were believed to have shared in his accumulations, though this is uncertain. In 1844 an excitement was occasioned by the discovery of a sunken vessel near Caldwell's Landing on the Hudson river, supposed to be the one sunken by Kidd's sailors. A stock company to pursue the search was hastily formed, sinking the fortunes of many though it brought up nothing but mud. The affairs of the company, after being manipulated by designing men, were wound up with litigation, disclosing great deception, and the false imprisonment of an honest man, who had been unwarily drawn into the association.

Captain Kidd was not the only American pirate. His royal instructions named "Captains Thos. Too, John Ireland, Thomas Wake, Captain Maze, and other subjects, natives or inhabitants of New York and elsewhere in America, they being Pirates upon the American seas," as persons to be pursued and captured. His unusual notoriety arose from the facts that he was fitted out by several members of the English nobility, all of whom were tried for their lives, after his disgrace, but acquitted; from the valuable treasures discovered, and the summary punishment with which he was overtaken. His career forcibly illustrates the facts that sin brings its own punishment, and that "*the way of the transgressor is hard.*"

His wife and daughter continued to reside, though in great retirement, in New York for some years after his death; but

as he left no sons, it cannot be supposed that any of the excellent families bearing the name are his descendants.

RIP VAN DAM.



DURING the administration of the five colonial governors, immediately succeeding Lord Bellamont, and reaching down to 1731, but little of general interest to posterity occurred, save their occasional mercenary usurpations, and an unsuccessful expedition fitted out at great expense against the French in Canada. Upon the death of Governor Montgomerie, which occurred July 1, 1731, the chief functions of government devolved upon Rip Van Dam, the oldest member of the council, and *ex officio*, the second officer in the government. Van Dam was a genuine Holland Dutchman, his father having settled in the city during the reign of Governor Stuyvesant. He had acquired a considerable fortune in mercantile pursuits, and was at this time conducting an extensive foreign trade. He had long taken an active interest in public affairs, was familiar with all the machinery of the government, and as he sought the good of the people, being one of them, they were greatly pleased with his administration, and nothing exciting occurred during the thirteen months of his continuance in office. On the 1st day of August, 1732, he delivered the seals of government to his successor, Colonel William Cosby, former Governor of Minorca, who had just arrived with his royal commission. Cosby was despotic and avaricious, and had not sustained an unblemished character in his former administration. While in England he had, however, opposed an obnoxious sugar bill, likely to seriously affect the colonists, which gave him a transient popularity on his arrival. The

assembly then in session granted him a revenue for six years, and a present of five hundred and fifty pounds for the service he had rendered them in parliament. Van Dam, during his administration, had performed the whole service of government, and had accordingly drawn from the treasury the customary salary, amounting to about two thousand pounds. The English crown, at the request of Cosby, had, however, furnished him with an order requiring Van Dam to refund half of the money to his superior. One of Cosby's first acts was to produce this order, and demand immediate payment of the money, but soon found that, in the plucky Dutchman, he had really caught a tartar. Van Dam expressed his perfect willingness to divide the salary of two thousand pounds, on condition that Cosby should also divide the six thousand pounds he had received as perquisites, since his appointment, and previous to entering upon the duties of his office. Cosby soon brought a suit against Van Dam, before the judges of the Supreme Court, as barons of the Exchequer, functions which their commissions allowed them to exercise. This was literally taking the adjudication in his own hands, as the governor was *ex officio* Chancellor of the Exchequer, and two of the judges were among his most intimate friends. Van Dam's counsel excepted to the jurisdiction of the court in the case, and demanded that the case be tried in a suit at common law. The validity of this exception was supported by one of the judges, but overruled by the other two. Van Dam's cause was thus declared lost, and he was compelled to refund the money.

But the people declared that the cause should not rest here. This continued contempt, with which everything of colonial origin was viewed and treated by the English crown and ministry, could no longer be silently tolerated. They were already growing weary of rapacious, tyrannical Governors, whose sole object was to repair their broken-down fortunes from the unrequited industry of their subjects. The judge who had sustained the exceptions of Van Dam's counsel was hastily re-

moved from office, and Van Dam suspended from the council. This arbitrary procedure, against one of their own long-trusted and honored citizens, aroused the indignation of the populace, whose loud murmurs were heard in all parts of the town.

THE TRIAL AND TRIUMPH OF LIBERTY.



UP to this period, but one newspaper had been published in New York. That was *The New York Gazette*, by William Bradford, started in October, 1725, under government patronage, by which it had been continued until this time. Supported by government, it had, however, been a mere sycophant, and very naturally espoused the cause of Cosby in this controversy. During the progress of this trial, New York was startled with the issue of a new and independent paper, called the *New York Weekly Journal*, and published by Peter Zenger. This enterprising little sheet thought it entirely within its province to examine the affairs of government, scrutinize and advise the Governor, question the proceedings of the Court of Exchequer, discuss questions agitating the assembly, and present its own showing of the grievances of the colonies. Week after week, its columns teemed with earnest, spicy, and witty articles, in which the cause of Van Dam was with marked ability maintained, and the policy of the Governor arraigned. Smarting under the scorn of the people, and wounded by the incessant discharge of these paper bullets, the Governor resolved to take the offensive. The columns of the *Gazette* had boldly stood in his defence; but these were not sufficient: opposition must be suppressed. It was resolved to select four of the issues of the paper, containing the most obnoxious articles, which were to be burned by the common hangman, the officers of the

city and the populace being required to attend the ceremony. Scarcely anybody attended, however; which convinced the mortified Governor that he had entered this paper warfare at his own charges. But one thing remained, and that was to crush the editor. Zenger was accordingly arrested on a charge of libel, and as an enormous bail was exacted, which he could not procure, he was thrown into jail, and denied the use of pen, ink, or paper. Here he continued more than eight months, without, for a single week, suspending the issue of his paper, giving direction to his friends through a chink in the door. His paper lost none of its vitality by his confinement. Its ablest articles are believed to have been written by Van Dam's lawyers, and other deposed officials. On the 4th of August, 1735, Zenger was brought out of his cell for trial. Every preparation, it was believed, had been made by the Governor and his friends to secure his conviction. There were but three eminent lawyers in New York at that time—William Smith, James Alexander, and Mr. Murray. Smith and Alexander, having been employed to defend the prisoner, were greatly surprised by the Governor, who, for a pretended offence, ordered their names to be stricken from the list of attorneys. It now looked as if the court party were to have things all their own way. But the friends of Zenger were not to be thus outwitted. They had silently engaged the services of Andrew Hamilton, of Philadelphia. Hamilton, though eighty years of age, had not greatly declined in mind, was a man of warm and generous impulses, and one of the most brilliant barristers of his day. A more able or dignified advocate could scarcely have been found in the world, and his appearance in the crowded court-room, just as the case was called, almost stunned the leaders of the prosecution. The case was tried in the Supreme Court, with a jury of twelve of the citizens. The prosecution produced certain statements printed in Zenger's paper, and claimed that they were libelous, and that the jury were required to render a verdict of guilty, when satisfied that he had published them. Hamilton admit-

ted their publication, and proposed to introduce the full evidence of their truthfulness. To this the attorney-general objected, claiming that the truth of a libel could not be taken in evidence, and that a libel became all the more dangerous because of its truthfulness. The fact of publication having

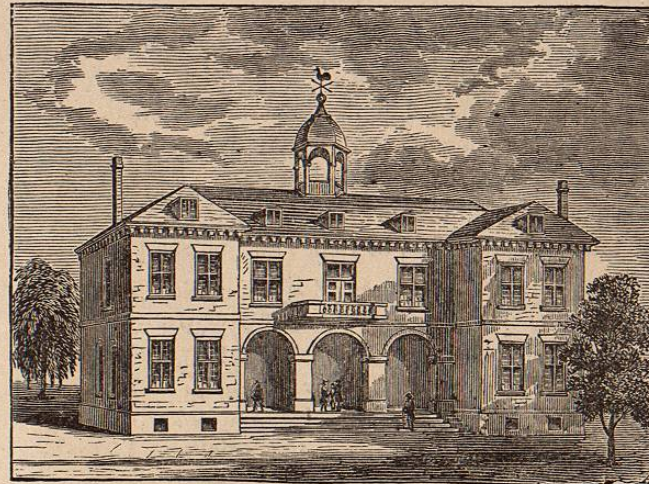


THE KIPP BAY HOUSE, AND HOME OF MAJOR ANDRE DURING HIS TREASONABLE CORRESPONDENCE WITH ARNOLD.

been now fully admitted, and all evidence on the part of the defence being summarily ruled out by the court, nothing remained but for the counsel to sum up the case for their respective clients. Hamilton proceeded in a bland and eloquent manner to state the case, after which he labored to impress upon the jury that they were to be judges of the law, as well as of the facts in the case, and that they were not to be trammelled by the interpretation of the court. Hamilton's address was so ingenious and pertinent that we cannot forbear introducing a few extracts from it.

"If," said he, "a libel is understood in the large and un-

limited sense urged by Mr. Attorney, there is scarce a writing I know of that may not be called a libel, or scarce any person safe from being called to account as a libeller; for Moses, meek as he was, libelled Cain, and who is it that has not libelled the devil; for, according to Mr. Attorney, it is no justification to say that one has a bad name. Echard has



OLD CITY HALL IN WALL STREET.

libelled our good King William. Burnet has libelled, among others, King Charles and King James, and Rapin has libelled them all. How must a man speak or write, or what must he hear, read, or sing, or when must he laugh, so as to be secure from being taken up as a libeller. I sincerely believe that were some persons to go through the streets of New York nowadays and read a part of the Bible, if it were not known to be such, Mr. Attorney, with the help of his innuendoes, would easily turn it to be a libel. As, for instance, the sixteenth verse of the ninth chapter of Isaiah: 'The leaders of this people [innuendo, the Governor and Council of New York] cause them [innuendo, the people of this province] to err; and they [meaning the people of this province] are destroyed' [innuendo, are deceived into the loss of liberty, which

is the worst kind of destruction]. Or, if some person should publicly repeat, in a manner not pleasing to his betters, the tenth and eleventh verses of the fifty-sixth chapter of the same book, then Mr. Attorney would have a large field to display his skill in the artful application of innuendoes. The words are: 'His watchmen are blind; they are all ignorant; yea, they are greedy dogs, which can never have enough.' But to make them a libel, no more is wanting than the aid of his skill in the right adapting of his innuendoes. As for instance, 'His watchmen [innuendo, the Governor, Council, and Assembly] are blind; they are ignorant [innuendo, will not see the dangerous designs of his excellency]; yea, they [meaning the Governor and his Council] are greedy dogs, which can never have enough [innuendo, of riches and power.]'"

He then proceeded to show that these illustrations were perfectly in keeping with the case under trial, and urged the jury to decide for themselves concerning the truth or falsehood of Zenger's articles, after which he concluded as follows: "You see I labor under the weight of many years, and am borne down by many infirmities of body; yet, old and weak as I am, I should think it my duty, if required, to go to the utmost part of the land, where my service could be of any use in assisting to quench the flame of persecution upon information set on foot by the government to deprive a people of the right of remonstrating (and complaining too) against the arbitrary attempts of men in power—men who injure and oppress the people under their administration, provoking them to cry out and complain, and then make that very complaint the foundation for new oppressions and persecutions. I wish I could say there were no instances of this kind. But to conclude, the question before the Court and you, gentlemen of the jury, is not a small or private concern; it is not the cause of a poor printer, nor of New York alone, which you are now trying. No! it may, in its consequences, affect every freeman that lives under the British Government upon the main of America. It is the best of causes;

it is the cause of liberty; and I make no doubt but your upright conduct this day will not only entitle you to the love and esteem of your fellow citizens, but every man who prefers freedom to a life of slavery will bless and honor you as men who have baffled the attempts of tyranny, and, by an impartial and incorrupt verdict, have laid a noble foundation for securing to ourselves, our posterity, and our neighbors, that to which nature and the laws of our country have given us a right—the liberty of both exposing and opposing arbitrary power, in these parts of the world, at least by speaking and writing the truth."

The venerable barrister closed amid a general outburst of satisfaction and applause, and the attorney-general offered but a weak response. The jury were charged that they were judges of the fact, but not of the law, and that the truth of the libel should not enter into their deliberations. After a few minutes' absence, the jury returned a unanimous verdict of "*not guilty*." The anxiety of the assembled populace being thus happily dismissed, their joy burst forth in loud and continued cheers, which rent the air, carrying everything before them. Hamilton was seized by glad hands, and borne from the court-room on the shoulders of the people. On the following day a public dinner was given him by the inhabitants, and the freedom of the city was presented to him in a magnificent gold box, and when he set sail for Philadelphia it was amid the roar of cannon. The spirit of independence brought out so emphatically in '76 had already begun to work in the minds of the people, and Hamilton's earnest utterances fell upon their hearts like sparks in a magazine. Whether this triumphant defeat of the Governor affected his health or not, we cannot tell, but he was shortly afterwards reported sick, and expired on the 7th of March, 1736. This great and decisive battle for the liberty of the press, so ably contested in the face of such frightful dangers, has had its influence on the government and inhabitants of Manhattan to the present day, and we cannot tell how deeply we are