

36
Great Speeches by Great Lawyers.

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A COLLECTION

OF

ARGUMENTS AND SPEECHES

BEFORE COURTS AND JURIES.

BY EMINENT LAWYERS.

WITH

INTRODUCTORY NOTES, ANALYSES, ETC.

BY *MARTINE*
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OF THE NEW YORK BAR.

NEW YORK:
BAKER, VOORHIS & CO., PUBLISHERS,
66 NASSAU STREET.
1892.

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April 12. 1926

APR 12 1926

Fifth Edition.

PREFACE.

THE object and design of this work is to preserve some of the best efforts of eminent lawyers, selecting those which have justly been regarded as models of legal reasoning and forensic power. The task is an exceedingly difficult one, in view of the fact that some of the most distinguished advocates have left but few traces of their intellectual labor. Their fame is often traditional; the recollections of their great efforts and high achievements fade in the near generations. The memory of the eloquence of Ogden Hoffman and David Graham lingers in the minds of a few living men, and in another decade will have been forgotten. What remains of the forensic utterances of Dexter and Otis; of John Adams, Joseph Hopkinson, Jared Ingersoll, Seargent S. Prentiss, Robert Goodale Harper, Luther Martin, Edward D. Baker, Rufus Choate even, and a hundred others, whose names are familiar, who have graced the profession with their genius and learning? Whatever remains—in memoirs, in fugitive pamphlets, in reports of trials, or wherever found—it is our purpose to gather and preserve.

With this view, and believing that a collection of legal speeches and arguments, embracing topics upon various branches of the law, would be instructive and valuable, especially to the younger members of the profession, the publishers began many years ago to collect materials for this work. The original intention was to divide it into subjects corresponding with the main divisions of jurisprudence, and to illustrate each by the arguments and opinions of distinguished advocates and jurists. It was, however, found impracticable to pursue this plan, and it was finally determined to select the best efforts of eminent lawyers in this country and Great Britain and arrange them conveniently, with an analysis of each, and a full index to indicate the points of chief importance to the practitioner and student.

Much valuable information can be acquired from arguments upon which learned counsel have spent weeks and months of thought and labor, revealing, in some instances, the results of a lifetime of study and research—information of incalculable practical value to lawyers in the active practice of their profession. Great profit will also be derived from studying the plan which successful advocates have pursued in presenting a cause to the court or jury; and the manner in which they have arranged and woven their materials, so as to persuade the will, excite the sympathies, or convince the judgment.

Care has been taken to give the speeches or arguments in full, omitting only detailed statements of evidence of no general interest, whenever such omission could be made without disturbing the plan and harmony of the argument.

The original purpose of the publishers was to make the work so full and complete, that they might with propriety call it a "Cyclopedia of Legal Eloquence, Argument, and Opinion." But whether they will be able to succeed in so ambitious an undertaking must depend upon the favor with which this volume is received. If it meets with the approval and support of the profession and the public, two additional volumes will be produced, which it is believed will be sufficient to properly present the design of the work. It is hoped that the book may be useful as a work of reference as well as a standard collection of legal eloquence.

On behalf of the publishers and myself, I cordially thank those gentlemen who have given access to their libraries and manuscripts during the preparation of this work, and for the kindly interest they have manifested in its success.

WILLIAM L. SNYDER.

NEW YORK, March, 1881.

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SPEECH OF THOMAS ERSKINE,

FOR THE PROSECUTION, IN THE PROCEEDINGS AGAINST THOMAS WILLIAMS, FOR PUBLISHING PAINE'S "AGE OF REASON."

[Howell's St. Tr. vol. 26, p. 653]

IN THE COURT OF KING'S BENCH, BEFORE LORD KENYON
AND A SPECIAL JURY, JUNE 24th, 1797.

ANALYSIS OF MR. ERSKINE'S SPEECH.

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| 1. Attitude of counsel not inconsistent with views formerly expressed. | 9. The character of the defense an anomaly, and inconsistent with the jurisdiction of the court. |
| 2. The defense anticipated. | 10. Intellectual superiority of Christian believers.—Newton. |
| 3. Christianity the foundation upon which our system of jurisprudence rests. | 11. Boyle, Locke, and Sir Matthew Hale. |
| 4. A free press an inestimable blessing. | 12. John Milton's immortal offering. |
| 5. The principles applicable to the liberty of the press. | 13. Adherence to doctrines of the New Testament would banish wickedness from the world. |
| 6. Distinction between legitimate inquiry and scurrilous abuse. | 14. Religion and morality alone constitute the safety of the State. |
| 7. Illustrations of the argument. | 15. Inferior object and capacity of Paine's work. |
| 8. Mischievous and cruel effects of this illegal publication. | |

Thomas Paine, the friend, at one time, of Washington, of Jefferson and Franklin; who had been honored by the Congress of the United States for his distinguished services during the revolution; whose worth and patriotism were, in like manner, recognized by the great State of New York; Thomas Paine, whose genius contributed so much towards the development and success of the independence of the colonies; who loved freedom for its own sake; who became conspicuous during the French revolution as the "apostle of liberty"—this gifted man, after he had achieved so much for the welfare of his race, chose, unfortunately for himself, to forfeit the respect and esteem of his fellow men, and of posterity, because of his wanton attack upon the Scriptures and the life and character of the Saviour of mankind. In the year 1794, he composed the first part, and in the following year the second part, of an indecent and blasphemous attack upon Christianity, which he entitled the "Age of Reason," being what he was pleased to term an investigation of true and fabulous theology. The work lacks the dignity and candor of respectful inquiry, and is in no way worthy the intellect of Paine. It contains no sublime thought, and presents in support of the theories advanced, no arguments which are at all convincing or satisfactory, or which indicate even a thorough knowledge of the contempo-

aneous history of the Bible. With the great problems of eternity, this defamer of all theology has no concern, and treats with ridicule, truths which touch the highest point of human interest and human comprehension. Instead of meeting great questions within the domain of reason, he frequently drops into poor attempts at wit, which are painful and disgusting to refined sensibilities, and his expressions are often tinged with coarseness and vulgarity. His performance becomes culpable, in view of the fact that without sufficient reason, and apparently from a desire to indulge his vanity, the author has labored to shake the faith of those who derive hope and consolation from a book containing higher thoughts, purer morality, and wiser maxims than has ever been written in any language or in any age. The promises of an immortal inheritance, the rewards assured to the Christian, more desirable and enticing than any which have ever attracted the attention of mortals; an heirship coeval with the creator of the world—these are all brushed aside. In their stead, however, the sophistical skeptic suggests nothing possessing even the merit of novelty or originality. While professing to believe in a God and immortality, Thomas Paine has produced a work, the tendency of which is to banish from weaker minds than his own, the idea of the existence of a God and an immortal life; a work which strikes at the very foundations of society, and assails the moral principles upon which society and all human obligations must rest.

Paine, though a man of vigorous mind, was not an accomplished or finished scholar. As to acquirements and elegant letters, his warmest admirers would not venture to compare him with the distinguished jurist, linguist and antiquary, Sir William Jones; and it is fair to presume, that had he possessed a tithe of that gentleman's learning, he would, perhaps, never have written the "Age of Reason." One very singular fact about Paine's production is, that its author fails to recognize even the literary merit of the book from which, in his early life, he had often preached. Apart from the inspiration of the sacred volume, he seeks to deride its sublime eloquence and masterly composition. Sir William Jones, who was conversant with no less than twenty-seven languages, speaking of its excellence in this respect, says: "I have carefully and regularly perused these Holy Scriptures, and am of opinion that the volume, independently of its divine origin, contains more sublimity, more morality, more important history, and finer strains of eloquence, than can be collected from any other book, in whatever language it may have been written." Upon another occasion the same author remarks: "The two parts of which the Scriptures consists, are connected by a chain of compositions, which bear no resemblance in form or style to any that can be produced from the stores of Grecian, Indian, Persian, or even Arabian learning. The antiquity of those compositions no man doubts, and the unrestrained application of them to events long subsequent to their publication, is a solid ground of belief that they are genuine compositions, and consequently inspired." To demonstrate that these statements are not mere generalities, Mr. Burgh, an English writer, in his work entitled the "Dignity of Human Nature," takes a passage from the beginning of the eighth book of the Iliad, which he regards as the loftiest strain in the most sublime of all human productions, and contrasts it with a passage from the Bible. Speaking of this selection from Homer, quoted below, Mr. Burgh remarks: "There the greatest of all human imaginations labors to describe, not a hero, but a God; not an inferior but the

Supreme God ; not to show his superiority over mortals, but to the heavenly powers ; and not to one, but all of them united." The passage is rendered by Mr. Bryant, in elegant translation, as follows :

Now morn in saffron robes had spread her light
O'er all the earth, when Jove, the Thunderer,
Summoned the gods to council on the heights
Of many-peaked Olympus. He addressed
The assembly, and all listened as he spoke.
"Hear, all ye gods and all ye goddesses!
While I declare the thought within my breast,
Let none of either sex presume to break
The law I give, but cheerfully obey,
That my design may sooner be fulfilled.
Whosoever, stealing from the rest, shall seek,
To aid the Grecian cause, or that of Troy,
Back to Olympus, scourged and in disgrace,
Shall he be brought, or I will seize and hurl
The offender down to rayless Tartarus ;
Deep, deep in the great gulf below the earth,
With iron gates, and threshold forged of brass,—
As far beneath the shades, as earth from heaven.
Then shall he learn how greatly I surpass
All other gods in power. Try, if ye will,
Ye gods, that all may know: suspend from heaven
A golden chain; let all the immortal host
Cling to it from below; ye could not draw,
Strive as ye might, the all-disposing Jove,
From heaven to earth. And yet, if I should choose
To draw it upward to me, I should lift,
With it and you, the earth itself and sea
Together, and I then would bind the chain,
Around the summit of the Olympian mount,
And they should hang aloft. So far my power
Surpasses all the power of gods and men."

"With this most masterly passage," says Mr. Burgh, "of the greatest master of the sublime of all antiquity—the writer who probably had the greatest natural and acquired advantages of any mortal for perfecting a genius—let the following verbal translation of a passage from writings penned by one brought up a shepherd, and in a country where learning was not thought of, be compared, that the difference may appear:

"O Lord, my God, thou art very great! thou art clothed with honor and majesty! who coverest thyself with light as with a garment; who stretchest out the heavens like a canopy; who layest the beams of his chambers in the waters; who makest the clouds his chariots; who walkest upon the wings of the winds; who makest his angels spirits, his ministers a flame of fire; who laid the foundation of the earth, that it should not be moved forever. Thou coverest it with the deep, as with a garment—the waters that stood above the mountains. At thy rebuke they fled; at the voice of thy thunder they hasted away. They go up by the mountains; they go down by the valleys, unto the place thou hast founded for them. Thou hast set a bound, that they may not pass over; that they may turn not again to cover the earth.

"O Lord, how manifold are thy works! In wisdom hast thou made them all. The earth is full of thy riches. So is the great and wide sea, wherein are creatures innumerable, both small and great. There go the ships; there is that leviathan, which thou hast made to play therein. These all wait upon thee, that thou mayest give them their food in due season. That thou givest them they gather. Thou openest thy hand, they are filled with good; thou hidest thy face

they are troubled ; they die and return to their dust. Thou sendest forth thy spirit, they are created ; and thou renewest the face of the earth. The glory of the Lord shall endure forever. The Lord shall rejoice in his works. He looketh on the earth, and it trembleth. He toucheth the hills, and they smoke. I will sing unto the Lord as long as I live. I will sing praises unto my God, while I have my being."

This single illustration shows the sophistry of Paine's criticism on the grandest and most dignified literary production in the world. The "Age of Reason," however, produced pernicious effects among the middle and lower classes in Cornwall, Nottingham, Leeds, and many other places in England, and even in Scotland, where the work had been circulated. Its influence was regarded as dangerous, affecting the happiness and welfare of the uneducated or ignorant classes, who could not readily answer its plausible utterances, and the "Society for the Prevention of Vice" decided to attempt its suppression. An indictment was accordingly preferred against Thomas Williams, of the parish of St. Giles, in the county of Middlesex, for a blasphemous libel in publishing Paine's work. The legal theory of this indictment was, that every publication which has a direct tendency to debauch the morals of the people, is punishable as a libel ; that blasphemy is an offense, not only against God and religion, but a crime against the laws, the State and the government ; for to say that Christianity is a cheat is to dissolve all those obligations whereby civil societies are preserved. (Taylor's Case, 1 Ventris, 293 ; s. c. 3 Keble, 607 ; Rex v. Curl, Strange, 789 ; Rex v. Woolston, Fitzgibbon, 64 ; Strange, 834 ; Blackstone's Com. vol. 4, pp. 43, 59.)

The prosecution was conducted by Thomas Erskine, the first and greatest of English advocates, who, five years before, at the expense of his office of attorney-general, defended Paine on an indictment for libel for publishing the second part of the "Rights of Man." The Prince of Wales, as a reward for his brave and honest defense of his client, disgraced himself by removing Erskine from office. In his opening to the jury in that case, Mr. Erskine made the noble declaration : "I will forever—at all hazards—assert the dignity, independence and integrity of the English bar, without which impartial justice, the most valuable part of the English Constitution, can have no existence." *

With Mr. Erskine, in the case of Williams, were associated William Garrow and John Bayley. The defendant was represented by Stewart Kyd. Mr. Erskine opened the case for the prosecution as follows :

GENTLEMEN OF THE JURY:—The charge of blasphemy, which is put upon the record against the printer of this publication, is not an accusation of the servants of the Crown, but comes before you sanctioned by the oaths of a grand jury of the country. It stood for trial upon a former day ; but it happening, as it frequently does, without any imputation on the gentlemen named in the panel, that a sufficient number did not appear to constitute a full special jury, I thought it my duty to withdraw the cause from trial till I could have the opportunity, which is now open to me, of addressing myself to you, who were originally appointed to try it. I pursued this course, however, from no jealousy of the common

juries appointed by the laws for the ordinary service of the court, since my whole life has been one continued experience of their virtues, but because I thought it of great importance that those who were to decide upon a cause so very momentous to the public, should have the highest possible qualifications for the decision. That they should not only be men capable, from their education, of forming an enlightened judgment, but that their situations should be such as to bring them within the full view of their enlightened country, to which, in character and in estimation, they were in their own turns to be responsible.

I. ATTITUDE OF COUNSEL, NOT INCONSISTENT WITH VIEWS FORMERLY EXPRESSED.

Not having the honor, gentlemen, to be sworn for the king, as one of his counsel, it has fallen much oftener to my lot to defend indictments for libels, than to assist in the prosecution of them. But I feel no embarrassment from that recollection, since I shall not be found to-day to express a sentiment or to utter an expression inconsistent with those invaluable principles for which I have uniformly contended in the defense of others. Nothing that I have ever said, either professionally or personally, for the liberty of the press, do I mean to deny, to contradict, or counteract. On the contrary, I desire to preface the discourse I have to make to you, with reminding you that it is your most solemn duty to take care it suffers no injury in your hands. A free and unlicensed press, in the just and legal sense of the expression, has led to all the blessings, both of religion and government, which Great Britain, or any part of the world, at this moment enjoys, and is calculated still further to advance mankind to higher degrees of civilization and happiness. But this freedom, like every other, must be limited to be enjoyed, and, like every human advantage, may be defeated by its abuse.

2. THE DEFENSE ANTICIPATED

Gentlemen, the defendant stands indicted for having published this book, which I have only read from the obligations of professional duty, and which I rose from the reading of with astonishment and disgust. Standing here with all the privileges belonging to the highest counsel for the Crown, I shall be entitled to reply to any defense that shall be made for the publication. I shall wait with patience till I hear it. Indeed, if I were to anticipate the defense

which I hear and read of, it would be defaming, by anticipation, the learned counsel who is to make it. For if I am to collect it, even from a formal notice given to the prosecutors in the course of the proceedings, I have to expect that, instead of a defense conducted according to the rules and principles of English law and justice, the foundation of all our laws, and the sanctions of all our justice, are to be struck at and insulted.

3. CHRISTIANITY THE FOUNDATION UPON WHICH OUR SYSTEM OF JURISPRUDENCE RESTS.

What is the force of that jurisdiction which enables the court to sit in judgment? What but the oath which his lordship as well as yourselves have sworn upon the Gospel to fulfill. Yet in the King's Court, where his majesty is himself also sworn to administer the justice of England in the King's Court, who receives his high authority under a solemn oath to maintain the Christian religion, as it is promulgated by God in the Holy Scriptures, I am nevertheless called upon, as counsel for the prosecution, to produce a certian book described in the indictment to be the Holy Bible. No man deserves to be upon the rolls of the court who dares, as an attorney, to put his name to such a notice. It is an insult to the authority and dignity of the court of which he is an officer; since it seems to call in question the very foundations of its jurisdiction. If this is to be the spirit and temper of the defense; if, as I collect from that array of books which are spread upon the benches behind me, this publication is to be vindicated by an attack on all the truths which the Christian religion promulgates to mankind, let it be remembered that such an argument was neither suggested nor justified by anything said by me on the part of the prosecution. In this stage of the proceedings, I shall call for reverence to the sacred Scriptures, not from their merits unbounded as they are, but from their authority in a Christian country; not from the obligations of conscience, but from the rules of law. For my own part, gentlemen, I have been ever deeply devoted to the truths of Christianity, and my firm belief in the Holy Gospel is by no means owing to the prejudices of education, though I was religiously educated by the best of parents, but arises from the fullest and most continued reflections of my riper years and understanding. It forms at this moment the great consolation of a life which, as a shadow, must pass away; and without it, indeed, I should consider my long course of health and prosperity, perhaps too long and uninterrupted

to be good for any man, only as the dust which the wind scatters, and rather as a snare than as a blessing. Much, however, as I wish to support the authority of the Scriptures, from a reasoned consideration of them, I shall repress that subject for the present. But if the defense shall be as I have suspected, to bring them at all into argument or question, I shall then fulfill a duty which I owe, not only to the court, as counsel for the prosecution, but to the public, to state what I feel and know concerning the evidences of that religion which is reviled without being examined, and denied without being understood.

4. A FREE PRESS AN INESTIMABLE BLESSING.

I am well aware, that by the communications of a free press, all the errors of mankind, from age to age, have been dissipated and dispelled; and I recollect that the world, under the banners of reformed Christianity, has struggled through persecution to the noble eminence on which it stands at this moment shedding the blessings of humanity and science upon the nations of the earth. It may be asked, by what means the Reformation would have been effected if the books of the reformers had been suppressed, and the errors of condemned and exploded superstitions had been supported as unquestionable by the State, founded upon those very superstitions formerly, as it is at present upon the doctrines of the Established Church? or how, upon such principles, any reformation, civil or religious, can in future be effected? The solution is easy. Let us examine what are the genuine principles of the liberty of the press, as they regard writings upon general subjects, unconnected with the personal reputations of private men, which are wholly foreign to the present inquiry. They are full of simplicity, and are brought as near perfection by the law of England as, perhaps, is consistent with any of the frail institutions of mankind.

5. THE PRINCIPLES APPLICABLE TO THE LIBERTY OF THE PRESS.

Although every community must establish supreme authorities, founded upon fixed principles, and must give high powers to magistrates to administer laws for the preservation of the government itself, and for the security of those who are to be protected by it; yet, as infallibility and perfection belong neither to human establishments nor to human individuals, it ought to be the policy of all free establishments, as it is most peculiarly the principle of our own Constitution, to permit the most unbounded freedom of discussion,

even by detecting errors in the Constitution or administration of the very government itself, so as that decorum is observed which every State must exact from its subjects, and which imposes no restraint upon any intellectual composition, fairly, honestly, and decently addressed to the consciences and understandings of men. Upon this principle I have an unquestionable right—a right which the best subjects have exercised—to examine the principles and structure of the Constitution, and by fair, manly reasoning, to question the practice of its administrators. I have a right to consider and to point out errors in the one or in the other; and not merely to reason upon their existence, but to consider the means of their reformation.

By such free, well-intentioned, modest, and dignified communication of sentiments and opinions, all nations have been gradually improved, and milder laws and purer religions have been established. The same principles which vindicate civil contentions, honestly directed, extend their protection to the sharpest controversies on religious faiths. This rational and legal course of improvement was recognized and ratified by Lord Kenyon as the law of England, in a late trial at Guildhall, when he looked back with gratitude to the labors of the reformers, as the fountains of our religious emancipation, and of the civil blessings that followed in their train. The English Constitution, indeed, does not stop short in the toleration of religious opinions, but liberally extends it to practice. It permits every man, even publicly, to worship God according to his own conscience, though in marked dissent from the national establishment, so as he professes the general faith, which is the sanction of all our moral duties, and the only pledge of our submission to the system which constitutes a State. Is not this system of freedom of controversy and freedom of worship, sufficient for all the purposes of human happiness and improvement? and will it be necessary for either that the law should hold out indemnity to those who wholly abjure and revile the government of their country, or the religion on which it rests for its foundation?

6. DISTINCTION BETWEEN LEGITIMATE INQUIRY AND SCURRILOUS ABUSE.

I expect to hear, in answer to what I am now saying, much that will offend me. My learned friend, from the difficulties of his situation—which I know, from experience, how to feel for very sincerely—may be driven to advance propositions which it may be my

duty, with much freedom to reply to ; and the law will sanction that freedom. But will not the ends of justice be completely answered by the right to point out the errors of his discourse in terms that are decent and calculated to expose its defects ? or will any argument suffer, or will public justice be impeded, because neither private honor and justice, nor public decorum, would endure my telling my very learned friend that he was a fool, a liar, and a scoundrel, in the face of the court, because I differed from him in argument or opinion ? This is just the distinction between a book of free legal controversy and the book which I am arraigning before you. Every man has a legal right to investigate, with modesty and decency, controversial points of the Christian religion ; but no man, consistently with a law which only exists under its sanctions, has a right not only broadly to deny its very existence, but to pour forth a shocking and insulting invective, which the lowest establishments in the gradations of civil authority ought not to be permitted to suffer, and which soon would be borne down by insolence and disobedience, if they did.

7. ILLUSTRATIONS OF THE ARGUMENT.

The same principle pervades the whole system of the law, not merely in its abstract theory, but in its daily and most applauded practice. The intercourse between the sexes, and which, properly regulated, not only continues, but humanizes and adorns our natures, is the foundation of all the thousand romances, plays, and novels which are in the hands of every body. Some of them lead to the confirmation of every virtuous principle ; others, though with the same profession, address the imagination in a manner to lead the passions into dangerous excesses. But though the law does not nicely discriminate the various shades which distinguish these works from one another, so as that it suffers many to pass, through its liberal spirit, that upon principle might be suppressed, would it or does it tolerate, or does any decent man contend that it ought to pass by unpunished, libels of the most shameless obscenity, manifestly pointed to debauch innocence, and to blast and poison the morals of the rising generation ? This is only another illustration to demonstrate the obvious distinction between the works of an author who fairly exercises the powers of his mind in investigating doctrinal points in the religion of any country, and him who attacks the rational existence of every religion, and brands with ab-

surdity and folly the State which sanctions, and the obedient tools who cherish, the delusion.

8. MISCHIEVOUS AND CRUEL EFFECTS OF THIS ILLEGAL PUBLICATION.

But this publication appears to me to be as mischievous and cruel in its probable effects, as it is manifestly illegal in its principles; because it strikes at the best, sometime, alas, the only refuge and consolation amid the distresses and afflictions of the world. The poor and humble, whom it affects to pity, may be stabbed to the heart by it. They have more occasion for firm hopes beyond the grave than those who have greater comforts to render life delightful. I can conceive a distressed, but virtuous man, surrounded by children, looking up to him for bread when he has none to give them, sinking under the last day's labor, and unequal to the next, yet still looking up with confidence to the hour when all tears shall be wiped from the eyes of affliction, bearing the burden laid upon him by a mysterious Providence which he adores, and looking forward with exultation to the revealed promises of his Creator, when he shall be greater than the greatest, and happier than the happiest of mankind. What a change in such a mind might be wrought by such a merciless publication?

Gentlemen, whether these remarks are the overcharged declamations of an accusing counsel, or the just reflections of a man anxious for the public freedom, which is best secured by the morals of a nation, will be best settled by an appeal to the passages in the work, that are selected in the indictment for your consideration and judgment. You are at liberty to connect them with every context and sequel, and to bestow upon them the mildest interpretation.

Here Mr. Erskine read and commented upon several of the selected passages. He continued:

9. THE CHARACTER OF THE DEFENSE AN ANOMALY, AND INCONSISTENT WITH THE JURISDICTION OF THE COURT.

Gentlemen, it would be useless and disgusting to enumerate the other passages within the scope of the indictment. How any man can rationally vindicate the publication of such a book, in a country where the Christian religion is the very foundation of the law of the land, I am wholly at a loss to conceive, and have no wish to discuss. How is a tribunal, whose whole jurisdiction is founded upon the solemn belief and practice of what is denied as falsehood,

and reprobated as impiety, to deal with such an anomalous defense? Upon what principle is it even offered to the court, whose authority is contemned and mocked at? If the religion proposed to be called in question is not previously adopted in belief, and solemnly acted upon, what authority has the court to pass any judgment at all of acquittal or condemnation? Why am I now, or upon any other occasion, to submit to your lordship's authority? Why am I now, or at any time, to address twelve of my equals, as I am now addressing you, with reverence and submission? Under what sanction are the witnesses to give their evidence, without which there can be no trial? Under what obligations can I call upon you, the jury, representing your country, to administer justice? Surely upon no other than that you are sworn to administer it under the oaths you have taken. The whole judicial fabric, from the king's sovereign authority to the lowest office of magistracy, has no other foundation. The whole is built, both in form and substance, upon the same oath of every one of its ministers, to do justice, "as God shall help them hereafter." What God? and what hereafter? That God, undoubtedly, who has commanded kings to rule, and judges to decree with justice; who has said to witnesses, not by the voice of nature, but in revealed commandments, "thou shalt not bear false witness against thy neighbor;" and who has enforced obedience to them by the revelation of the unutterable blessings which shall attend their observances, and the awful punishments which shall await upon their transgressions.

10. INTELLECTUAL SUPERIORITY OF CHRISTIAN BELIEVERS.—
NEWTON.

But it seems this course of reason, and the time and the person are at last arrived, that are to dissipate the errors which have overspread the past generations of ignorance! The believers in Christianity are many, but it belongs to the few that are wise to correct their credulity! Belief is an act of reason; and superior reason may, therefore, dictate to the weak. In running the mind along the numerous list of sincere and devout Christians, I cannot help lamenting that Newton had not lived to this day, to have had his shallowness filled up with this new flood of light. But the subject is too awful for irony. I will speak plainly and directly. Newton was a Christian! Newton, whose mind burst forth from the fetters cast by nature upon our finite conceptions; Newton, whose science was truth, and the foundation of whose knowledge of it was philos-

ophy. Not those visionary and arrogant assumptions which too often usurp its name, but philosophy resting upon the basis of mathematics, which, like figures, cannot lie. Newton, who carried the line and rule to the utmost barriers of creation, and explored the principles by which, no doubt, all created matter is held together and exists. But this extraordinary man, in the mighty reach of his mind, overlooked, perhaps, the errors which a minuter investigation of the created things on this earth might have taught him of the essence of his Creator.

II. BOYLE, LOCKE, AND SIR MATTHEW HALE.

What shall then be said of the great Mr. Boyle, who looked into the organic structure of all matter, even to the brute inanimate substances which the foot treads on. Such a man may be supposed to have been equally qualified with Mr. Paine, to "look through nature, up to nature's God." Yet the result of all his contemplation was the most confirmed and devout belief in all which the other holds in contempt as despicable and driveling superstition. But this error might, perhaps, arise from a want of due attention to the foundations of human judgment, and the structure of that understanding which God has given us for the investigation of truth. Let that question be answered by Mr. Locke, who was to the highest pitch of devotion and adoration a Christian. Mr. Locke, whose office was to detect the errors of thinking, by going up to the fountains of thought, and to direct into the proper track of reasoning the devious mind of man, by showing him its whole process, from the first perceptions of sense to the last conclusions of ratiocination; putting a rein, besides, upon false opinion, by practical rules for the conduct of human judgment.

But these men were only deep thinkers, and lived in their closets unaccustomed to the traffic of the world, and to the laws which practically regulate mankind. Gentlemen, in the place where you now sit to administer the justice of this great country, above a century ago the never-to-be-forgotten Sir Matthew Hale presided, whose faith in Christianity is an exalted commentary upon its truth and reason, and whose life was a glorious example of its fruits in man; administering human justice with a wisdom and purity drawn from the pure fountain of the Christian dispensation, which has been, and will be, in all ages, a subject of the highest reverence and admiration.

12. JOHN MILTON'S IMMORTAL OFFERING.

But it is said by Mr. Paine, that the Christian fable is but the tale of the more ancient superstitions of the world, and may be easily detected by a proper understanding of the mythologies of the heathens. Did Milton understand those mythologies? Was he less versed than Mr. Paine in the superstitions of the world? No; they were the subject of his immortal song; and though shut out from all recurrence to them, he poured them forth from the stores of a memory rich with all that man ever knew, and laid them in their order as the illustration of that real and exalted faith, the unquestionable source of that fervid genius, which cast a sort of shade upon all the other works of man:

He pass'd the bounds of flaming space,
Where angels tremble while they gaze;
He saw, till, blasted with excess of light,
He clos'd his eyes in endless night!¹

But it was the light of the body only that was extinguished; "the celestial light shone inward," and enabled him to "justify the ways of God to man." The result of his thinking was, nevertheless, not the same as Mr. Paine's. The mysterious incarnation of our blessed Saviour, which the "Age of Reason" blasphemes in words so wholly unfit for the mouth of a Christian, or for the ear of a court of justice, that I dare not and will not give them utterance, Milton made the grand conclusion of "Paradise Lost," the rest of his finished labors, and the ultimate hope, expectation, and glory of the world:

A Virgin is his mother, but his sire
The power of the Most High; he shall ascend
The throne hereditary, and bound his reign
With earth's wide bounds, his glory with the heavens.

The immortal poet having thus put into the mouth of the angel the prophecy of man's redemption, follows it with that solemn and beautiful admonition, addressed in the poem to our great First Parent, but intended as an address to his posterity through all generations:

This having learned, thou hast attained the sum
Of wisdom: hope no higher, though all the stars
Thou knew'st by name, and all th' ethereal powers,

¹ Grey's Ode on the Progress of Poetry.

All secrets of the deep, all Nature's works,
 Or works of God in heaven, air, earth, or sea,
 And all the riches of this world enjoy'st,
 And all the rule one empire; only add
 Deeds to thy knowledge answerable, add faith,
 Add virtue, patience, temperance; add love,
 By name to come call'd Charity, the soul
 Of all the rest: then wilt thou not be loth
 To leave this Paradise, but shalt possess
 A paradise within thee, happier far.

Thus you find all that is great, or wise, or splendid, or illustrious among created beings—all the minds gifted beyond ordinary nature, if not inspired by their universal Author for the advancement and dignity of the world, though divided by distant ages, and by the clashing opinions distinguishing them from one another, yet joining, as it were, in one sublime chorus to celebrate the truths of Christianity, and laying upon its holy altars the never-fading offerings of their immortal wisdom.

13. ADHERENCE TO DOCTRINES OF THE NEW TESTAMENT WOULD BANISH WICKEDNESS FROM THE WORLD.

Against all this concurring testimony, we find suddenly, from Mr. Paine, that the Bible teaches nothing but "lies, obscenity, cruelty, and injustice." Did the author or publisher ever read the sermon of "Christ upon the Mount," in which the great principles of our faith and duty are summed up? Let us all but read and practice it, and lies, obscenity, cruelty, and injustice, and all human wickedness, would be banished from the world.

14. RELIGION AND MORALITY ALONE CONSTITUTE THE SAFETY OF THE STATE.

Gentlemen, there is but one consideration more, which I cannot possibly omit, because, I confess, it affects me very deeply. Mr. Paine has written largely on public liberty and government; and this last performance has, on that account, been more widely circulated, and principally among those who attached themselves from principle to his former works. This circumstance renders a public attack upon all revealed religion, from such a writer, infinitely more dangerous. The religious and moral sense of the people of Great Britain is the great anchor which alone can hold the vessel of the State amid the storms which agitate the world. If I could believe, for a moment, that the mass of the people were to be debauched

from the principles of religion, which form the true basis of that humanity, charity, and benevolence that has been so long the national characteristic, instead of mixing myself, as I sometimes have done, in political reformations, I would rather retire to the uttermost corners of the earth to avoid their agitation; and would bear, not only the imperfections and abuses complained of in our own wise establishment, but even the worst government that ever existed in the world, rather than go to the work of reformation with a multitude set free from all the charities of Christianity, who had no sense of God's existence but from Mr. Paine's observation of nature, which the mass of mankind have no leisure to contemplate; nor any belief of future rewards and punishments to animate the good in the glorious pursuit of human happiness, nor to deter the wicked from destroying it even in its birth. But I know the people of England better. They are a religious people; and, with the blessing of God, as far as it is in my power, I will lend my aid to keep them so. I have no objection to the freest and most extended discussions upon doctrinal points of the Christian religion; and, though the law of England does not permit it, I do not dread the reasoned arguments of Deists against the existence of Christianity itself, because, as was said by its divine author, if it is of God it will stand.

15. INFERIOR OBJECT AND CAPACITY OF PAINE'S WORK.

An intellectual book, however erroneous, addressed to the intellectual world upon so profound and complicated a subject, can never work the mischief which this indictment is calculated to repress. Such works will only employ the minds of men enlightened by study in a deeper investigation of a subject well worthy of their profound and continued contemplation. The powers of the mind are given for human improvement in the progress of human existence. The changes produced by such reciprocations of lights and intelligences are certain in their progressions, and make their way imperceptibly, as conviction comes upon the world, by the final and irresistible power of truth. If Christianity be founded in falsehood, let us become Deists in this manner, and I am contented. But this book hath no such object and no such capacity; it presents no arguments to the wise and enlightened. On the contrary, it treats the faith and opinions of the wisest with the most shocking contempt, and stirs up men without the advantages of learning or sober thinking to a total disbelief of everything hitherto held sacred, and,

consequently, to a rejection of all the laws and ordinances of the State, which stand only upon the assumption of their truth.

Gentlemen, I cannot conclude without expressing the deepest regret at all attacks upon the Christian religion by authors who profess to promote the civil liberties of the world. For under what other auspices than Christianity have the lost and subverted liberties of mankind in former ages been reasserted? By what zeal, but the warm zeal of devout Christians, have English liberties been redeemed and consecrated? Under what other sanctions, even in our own days, have liberty and happiness been extending and spreading to the uttermost corners of the earth? What work of civilization, what commonwealth of greatness has the bald religion of nature ever established? We see, on the contrary, the nations that have no other light than that of nature to direct them, sunk in barbarism, or slaves to arbitrary governments; while, since the Christian era, the great career of the world has been slowly, but clearly, advancing lighter at every step, from the awful prophecies of the Gospel, and leading, I trust, in the end, to universal and eternal happiness. Each generation of mankind can see but a few revolving links of this mighty and mysterious chain; but, by doing our several duties in our allotted stations, we are sure that we are fulfilling the purposes of our existence. You, I trust, will fulfill yours this day!

The evidence was very brief. The sale of the book by the prisoner was shown, the notice by the defense to produce the Bible in evidence was read, and the prosecution rested. Mr. Kyd then delivered an address to the jury, to which Mr. Erskine replied. He closed his speech as follows: "I have only, therefore, to remind you, gentlemen, that this indictment was not preferred from any idea that the Christian religion could be affected, in its character or irresistible progress, by this disgusting and contemptible work; but to prevent its circulation amongst the industrious poor, too much engaged in the support of their families by their labor, and too uninformed to be secure against artful wickedness. Of all human beings they stand most in need of the consolations of religion, and the country has the deepest stake in their enjoying it, not only from the protection which it owes them, but because no man can be expected to be faithful to the authority of man who revolts against the government of God." The jury found a verdict of Guilty, without retiring from their seats.