

Stone was acquitted. Has any answer been given to that authority? Has any been even attempted?

This indictment charges Hodges with having done certain things wickedly, maliciously, and traitorously. Must not the United States prove what they allege? When the law allows even words to be given in evidence, as explanatory of intention, to exculpate, it admits that exculpation may be made out by proof of innocent motives:—that overt acts alone do not furnish a criterion—that concomitant facts, illustrative of the state of the heart, must not be neglected.

A military force levies contributions. If you pay them, for the purpose of saving the country from further mischief, although there be no fear or danger of death, the law says this is not treason. By the doctrine of the chief justice, however, it is treason, and consequently his doctrine is unsound.

On this occasion the enemy were in complete power in the district where the transactions occurred, which are complained of in the indictment. They were unawed by the thing which we called an army, for it had fled in every direction. They were omnipotent. The law of war prevailed, and every other law was silent. The domestic code was suspended. They menaced pillage and conflagration; and, after they had wantonly destroyed edifices which all civilized warfare had hitherto respected, was it to be believed that they would spare a petty village, which had renewed hostilities, before the seal of its capitulation was dry? There was menace—power to execute—probability—nay, certainty, that it would be executed.

How, then, can you find a wicked and traitorous motive in the breast of my client?

There is not only the absence of any wicked motive, but there is the visible presence of those which are laudable; an attachment to Dr. Beanes—*anxiety* for the defenseless people about him—a desire to preserve the country from the afflictions which hung over it. In conduct so characterized, so produced, we discover the operations of an excellent heart,