

upon a mind which virtuous inducements could betray into error; but in what way we can distort it into treason, I have not yet been able directly to learn.

The conduct is in itself treasonable, says the chief justice: it necessarily imports the wicked intention charged by the indictment. The construction makes it treason because it aids and comforts the enemy.

These are strong and comprehensive positions; but they have not been proved; and they cannot be proved until we relapse into the gulf of constructive treason, from which our ancestors in another country have long since escaped.

Gracious God! In the nineteenth century, to talk of constructive treason! Is it possible that in this favored land—this last asylum of liberty—blest with all that can render a nation happy at home and respected abroad—this should be law? No. I stand up as a man to rescue my country from this reproach. I say there is no color for this slander upon our jurisprudence. Had I thought otherwise I should have asked for mercy—not for law. I would have sent my client to the feet of the president, not have brought him, with bold defiance, to confront his accusers, and demand your verdict. He could have had a *noli prosequi*. I confirmed him in his resolution not to ask it, by telling him that he was safe without it. Under these circumstances I may claim some respect for my opinion. My opportunities for forming a judgment upon this subject, I am compelled to say, by the strange turn which this cause has taken, are superior to those of the chief justice. I say nothing of the knowledge which long study and extensive practice enabled me to bring to the consideration of the case. I rely upon this—my opinion has not been hastily formed—since the commencement of the trial. It is the result of a deliberate examination of all the authorities, of a thorough investigation of the law of treason in all its branches, made at leisure, and under a deep sense of a fearful responsibility to my client. It depended upon me whether he should submit himself to your justice, or use, with the chief magistrate, the intercession of the grand jury, which