sel are unprepared to defend the traverser. You show yourselves to be men of ability, and there is no difficulty in the cause; but you say that you are not ready to discuss the difference between fact and opinion: that the charges in the indictment are merely opinion, and not facts falsely asserted. Must there be a departure from common sense, to find out a construction favorable to the traverser? This construction admits the publication, but denies its criminality. If the traverser certainly published that defamatory paper, read it and consider it. Can any man of you say that the President is a detestable and criminal man? The traverser charges him with being a murderer and a thief, a despot and a tyrant! Will you call a man a murderer and a thief and excuse yourself by saying it is but mere opinion—or, that you heard so? Any falsehood, however palpable and wicked, may be justified by this species of argument. The question here is, with what intent the traverser published these charges? Are they false, scandalous, and malicious, and published with intent to defame? It is for the jury to say, what was the intent of such imputations, and this is sufficiently obvious. The cause must be tried. I am sworn to do justice between the United States and the prisoner at the bar. I do not dictate to you how you are to defend him, but you must defend every man according to the law; and without intending any disrespect to either of you, I must confine you to what I think the law.

The *Marshal* was ordered to call the jury, which was done.

Mr. Nicholas. We mean to challenge the array and take every advantage which the laws of the country give us. In support of this doctrine I will read a passage from "Trials per Pais." (Here he read the passage.) I believe there is testimony in court to prove that one of the jurors returned by the marshal, has expressed his sentiments hostile to the traverser. It is like a case stated in the books, where a verdict was set aside, because a juryman had previously said that the man accused ought to be hanged, and in that case,