

cite the hatred of the good people of the United States towards him. It will be for you, gentlemen of the jury, in this case to determine whether the traverser has, or has not, been the publisher of this paper. This point being ascertained, it will be for you to consider with what view, and for what purpose, a paper like this has been composed and published.

If you believe it to be a candid and fair discussion of constitutional subjects, of real grievances, or of political opinions and principles generally, you will not consider it to be a libel within the statute. If you believe the facts and allegations averred in the paper are true, you will consider that the traverser hath defended himself according to the statute; but if from internal evidence in the paper itself you do not think so, you do not believe it to be a candid evidence and fair discussion of constitutional subjects, real grievances, or political opinions and principles, and that it does not contain the truth in all parts, you must find the traverser guilty.

You will take the paper into your room with you, and consider it coolly and dispassionately, free, and discharged from all that you may have heard abroad respecting it, and determine in your minds whether it be possible to give it any other construction than that which the indictment has ascribed to it. To me it seems impossible that the extremest ingenuity can show that it was written for any other purpose. However, gentlemen of the jury, to you I submit the calm examination of the paper, upon the paper itself, and this business as to the libel which, or such parts of which, as are charged in the indictment. I shall lay before you, after it shall be proven by witnesses, who will be produced to show that James Thompson Callender, the traverser, did publish this paper; and, in laying it before you, I will make such observations as may seem to me proper and necessary to be made.

*Mr. Hay* understood that some of the witnesses who are to be examined to prove the guilt of the accused, were themselves, in the estimation of the law, equally guilty; that they have printed, though they had not written the libel in ques-