

CRITICISM—APPELLATE JURISDICTION OF THE HOUSE OF LORDS.

play is immoral, he incurs a needless risk. If he describes the scenes and quotes the dialogue that he deems immoral, he equally well fulfils his duty to the public, whilst avoiding a risk of libel.

But directly a reviewer draws on his own knowledge or suppositions in criticising the book, he writes at his peril; and if his injurious statements are false, or if their publication is not for the public good, he is legally liable to pay damages and costs. That is precisely the point in *Johnston v. Athenæum*. If the critic (Dr. Beke) had only censured the book there would have been no libel.—He might have written that it was the worst atlas ever produced by the firm.—He might have written that the atlas was imperfect and not worth buying. He might have written that it was not nearly so good as the atlas published by another firm. He might even have written that the atlas showed that the work now produced by the firm was not so good as formerly. In such censure, whether merited or unmerited, there would have been no libel. But unfortunately for the proprietor of the *Athenæum*, the critic referred to something that did not lie on the face of the book he was reviewing.—He wrote as follows:—

"The atlas now before us, though bearing the name of A. Keith Johnston, is neither the *primus* nor the *secundus* of that name, for the son is no longer connected with the house established by his late father, the merited reputation of which he was so well qualified to maintain, but has gone to seek his fortune in Paraguay; and not merely from the present work, but from others which have lately come to our notice, we regret to observe unmistakable signs of that true geographical acumen which Livingstone so justly lauded.

"On the whole, we miss in the atlas the presence of the master mind, which in both father and son, gave to the house of W. and A. K. Johnston the character it has so long enjoyed, but we fear is now losing, in the world of science."

We are not surprised that Mr. Clark, publisher, of Edinburgh, said that 'the meaning he drew from the article complained of was, that the writer wished to convey the impression that the work was not Dr. Keith Johnston's or that of his son, although reputed to be so:' and, therefore, we hold that the jury was right in finding a verdict for the plaintiff. But we deny that the case of *Johnston v. The*

Athenæum is an instance 'of the danger of attempting to criticise modern productions.' It is an instance of the danger of a critic exceeding his legitimate jurisdiction and writing something that does not lie on the very face of the book he is criticising. The *Athenæum* has not been cast in damages for the criticism of the book, but for making injurious statements on the reviewer's own authority.

As the case is not finally disposed of, we shall not say anything about the amount of damages except this, that when there is nothing to show malice the damages should not be successive. If the Messrs. Johnston have sustained any material loss in business they ought to be recompensed; but, otherwise, an amount that shows the opinion of the jury and carries costs should be sufficient. The defendant clearly proved that the work was given out to review in the usual manner; that it was given to an eminent geographer, and consequently there could be no malice on the part of the proprietor or editor.—*Law Journal*.

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While we are disposed to make every allowance for the sudden burst of strong feeling in favour of retaining the House of Lords as a final court of appeal, and for the arguments which Mr. Alfred Wills has put forward in the *Times*, we cannot but view with unqualified regret the concessions to the reactionary party which Lord Cairns has thought proper to make. The chief arguments in favour of retaining the House of Lords we take to be these: that being composed wholly of appellate judges, it is a court completely unprejudiced; that having among its members at least one Scotch and one Irish Judge, and many Scotch and Irish lay members, it commands the respect of Scotland and Ireland; that inheriting the traditions of centuries, it commands the respect of the empire; and lastly, which we think is an argument which has outweighed all the others, that the "Imperial Court of Appeal" was wanting in permanence, and contained too many judges of the First Instance.