not do, being wholly in ignorance on the matter, we come to the decision on the dry point of law, that judgment ought to have been arrested, and the judgment of the Queen's Bench Division must be reversed."

Brett, L. J., who follows, argues at large to the effect that, wherever words are the gist of an offence, they must be set out in the indictment. Of the older cases he gives the following interesting analysis:

"In Zenobio v. Axtell, 6 Term Rep. 162, the libel was in French, but the indictment after saying that it was published in the French language, went on to say that it was "to the purport and effect following, in the English language—that is to say," and then followed a translation of the libel in English. It was held, on motion in arrest of judgment, that such a declaration was defective, Lord Kenyon remarking that "the plaintiff should have set out the original words and then have translated them." In Wright v. Clements, 3 Barn. & Ald. 503, the declaration alleged that the defendant published certain libellous matters of and concerning the plaintiff, "in substance, as follows: that is to say," and then set out the very words of the libel. On motion in arrest of judgment it was argued that from some such a preface to the setting out the libel, it must be concluded that the actual libel published was not set out *verbatim*, but in substance only; and the court allowed the objection, saying the libel ought to have been introduced by some such words as to the "tenor and effect following," which would have imported that the very libel itself had been set out; and judgment was accordingly arrested. Cook v. Cox, 3 Mau. & Sel. 110, is to the same effect. These cases were decided in 1814 and 1820, and, therefore, after Fox's Libel Act, 32 Geo. III., ch. 60, passed in 1792, which is a sufficient answer to the argument founded on that act. But it is quite clear that no alteration was, or was intended to be, made in the law in this respect by that act. This appears both from the principle of that enactment and also from express provision contained in it. After that act it was still left for the judge to say whether the words used could possibly be a libel, and, therefore, since before he can decide that question he must have the libel before him, the necessity for setting out the libel was not removed. But the act contains an express provision to the same effect. By section 4 it is provided: "That, in case the jury shall find the defendant or defendants guilty, it shall and may be lawful for the said defendant or defendants to move in arrest of judgment, on such ground and in such manner as by law he or they might have done before the passing of this act; anything herein contained to the contrary notwithstanding." The last case that I shall refer to is a very remarkable one. In Rex v. Wilkes, 4 Burr. 2527, the defendant is indicted for having published an obscene and impious libel, "to the purport and effect following, to wit;" and then followed the libel. Before the trial the attorney-general, Sir Fletcher Norton, applied to Lord Mansfield, at chambers, to amend the indictment by striking out the above words, and substituting for them the words "to the tenor and effect following, to wit;" which his lordship, after hearing the other side against it, did. Now, here it is worthy to notice that although the actual libel was fully set out, yet the highest law officer of the crown thought it inexpedient and unsafe to go on without substituting technical prefatory words, which were always held to signify that the actual words of the libel followed them, for other words which had not the same technical significance. So, taking a review of all these cases, we find in them a strong body of authority derived from every kind of crime which consists in words, to the effect that in all such crimes the pleadings must set out the words themselves which constitute the offence. Now, what are the cases which are said to be to the contrary effect? In Dugdale v. The Queen, Dear. & P. 64, the indictment was for keeping in his possession indecent prints, and in a second count for obtaining and procuring indecent prints, in both cases with an intent to publish them. In neither case were the prints set out in the indictment, but it was not necessary, on such a charge, that they should be set out. The offence was complete, though the defendant should never have looked at them, and therefore it was not necessary to the validity of such an indictment that they should appear on the face of it. This case is, therefore, distinguishable on that ground but I think it would have been enough to say that there is a difference, in this respect, between indecent prints and pictures, and an offence consisting of words. Sedley's Case, 1 Keb. 620, Fortes. 99, is also distinguishable on the same