hard words in return, if confined to a defence of Mr. Buell, but O. P. Q. does not thus confine himself, but attacks the Plaintiff. That part of the article referring to the Plaintiff's resigning his commission, folded arms, &c., is a great slander. The Defendant himself would have felt such charges keenly.

This seemed a direct attack on the Plaintiff, in his private character, and designed to do him a personal injury.

The Judge then read the last paragraph, and said, This refers to something private, not public; to something wrong in the several particulars mentioned, this has nothing in the world to say to public character, it is all private slander. The Defendant should not have published this of the meanest man of the community, much less, of one standing in so high a position as the Plaintiff. The Defendant could not plead ignorance; this was done to injure him in his private relations.

Another part remained for consideration, whether the article was malicious. Malice is always inferred when words tend to charge improper conduct. There were known privileged occasions in which malice would not be inferred. Statements of Counsel were privileged communications; so were statements in Legislative Assemblies; there were others, such as giving servants characters, privileged, if honestly given. Still, even in privileged communications, malice might be inferred. But when libel was not privileged, and was slanderous and unjustified, the law inferred malice. The law presumes slanderous statements are made maliciously, and no evidence need be given.

Thinks it great forgetfulness in the Defendant to publish the latter part of O. P. Q., having written the letter he did in 1840; regretted to have to comment on it. This letter was written in regret for the article signed "James Robertson," and was written probably at some moment when the Defendant's heart was right. We have all such moments. (The Judge here read the letter, a copy of which we give below.) Thinks the Defendant's heart was in the right place when this letter was written, and it should have been met in a good spirit. Why, this foolish article should again be revived, he did not know; however, it was the strongest evidence of malice, that the same charges should be revived after that letter of 1840. which admitted them to be slanderous and unjust.

This was the Libel—such the motives—and no good defence. As to the proofs there is the Libel, there is no dispute that it is in the handwriting of Defendant; a paper found abroad, in Defendant's handwriting, is *prima facie* evidence of publication; this has been the law for 150 years. The paper being in Defendant's handwriting is not disputed, so far as a direct answer could be got from Mr. Dickson it may have been. He did not like to comment on Mr. Dickson's conduct; he was the Sheriff, and not there upon his trial; he should, however, have recommended to him, a different course of behaviour.

The evidence of Mr. Cameron's handwriting was clear and conclusive. There was evidence too that Dickson and Cameron came together, that Dickson handed the paper to Moffatt, and desired him to copy it, and have it published; this was strong evidence. The paper itself contained evidence of intent to publish, some doubts were thrown upon the heading of the Libel, but even overlooking that, the commencement of the letter speaks for itself; "Sir, in your last No., &c." The declaration was that the letter in the "Despatch" appeared in the "Courier," and this is admitted; there is, therefore, an end on this point, that the article was thus written with intent to be published in the "Courier."

The Judge expressed his opinion that the publication was libellous according to all law—and the Jury might retire and consider what should be