

" is not the first occasion that the Court has been called upon to notice and censure the style and the language in which they are couched. This offensive mode of addressing the Court is, I have to state, peculiar to yourself. Your remarks upon the witnesses are too free, and amount to a libel. This Court will not deny to the Advocate the right of discussing, in his oral addresses to the Court, the conduct of parties and of witnesses with the utmost freedom, but this Court will not suffer any such offensive matter to be put on record; a man, for the punishment of his sins, is brought up as a witness. The Court will not permit reflections to be made upon his character, or his credit, which may remain *in perpetuum, rei memoriam*. You must recollect, sir, *verba volant, littera scripta manet*."

Mr. HOLT—" With respect to the charge of having placed libellous matter before the Court, I beg leave respectfully to state that I am not conscious of having committed any such offence. I submit that while the Advocate is not privileged, by his position, gratuitously to make charges upon any individual, or to cast aspersions upon the character of any person, it is both the Advocate's right and his duty to comment, with the utmost freedom, upon the conduct of any party, or the testimony of any witness in speaking before the Court, and in written or printed addresses, without distinction, provided his comments be supported by the record; and, if his assertions be not so supported, then he is liable in damages to the party whom he has unwarrantably injured.

" The Appellant's Attorneys in the present case have availed themselves of their undoubted right, and have thought that a faithful discharge of their duty to their client, required the exercise of the freedom which they have used, but have not supposed that in so doing, they should be deemed as shewing a want of respect towards this Court."

Mr. Justice ROLLAND—" *Il commence par donner un soufflet à son adversaire*. He calls a witness an underling, and here is an attack upon a very respectable Notary; it is stated that he indulges in the making of protests as a favorite pastime."

Mr. Justice AYLWIN—" In the case of Jones and Anderson, Sir, you begin with this expression.—' In the Appellant in this cause the *Téméraire Plaidéur* is fully personified '—your very commencement is a sarcasm upon your adversary. This language will not be permitted by the Court—it is unprofessional in the extreme. You have heard, Sir, of Sterne; now Sterne, although a man of genius, was not a character to be imitated; he once in preaching to his congregation selected as the subject of his discourse the text—' It is better to go to the house of mourning than to the house of feasting,' and commenced by saying ' this I deny '—this style was certainly unbecoming to a person in his position, and should not be imitated. The Court will not hear the case which has now been called until the factums shall have been withdrawn and corrected."

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