

They have a confident hope that he will not pervert, or distort the law; they rely on his impartiality in the instructions he shall give you, and that on this day he will confirm us in the good opinion we entertained of him, when he came among us, that he will establish the character (he brought with him) of an able and an upright Judge and leave behind *clarum et venerabile nomen civibus*.

But gentlemen, though great is their dependence and confidence in the Honorable Judge, their greatest consolation is in you. Since this prosecution must take place, they prefer a jury indifferently chosen to any one judge, or any three judges on earth; because twelve men selected out of the body of the people are found to be the best investigators of truth; for, not being appointed till the hour of trial, they cannot be influenced, they are superior to surprise and suspicion; the defendants view you as men without prejudice, without prepossession, and have full assurance that you will judge candidly and impartially between them and the prosecutor.

They deem it necessary to enlarge on the nature of juries, so as to bring to your recollection, what is the power, as well as the duty, of a juror.

Lord Mansfield made many attempts to deprive juries of the power with which the law invests them, (namely to judge of the law as well as of the fact,) by perverting the law in his charges, by menacing the juries, by sending them back, by refusing their verdicts, and by other vexatious means.

In all cases of libels, in his charges to the juries, he ordered and enjoined them not to consider the point of law, for that was not their province; all that they were to deliberate upon was the fact of printing and publishing; and if they were satisfied in that point, their business was done, they were to return *a verdict of libel*.

It is to be hoped that we shall never be insulted with such a doctrine in this country, for it is the most mischievous that ever was preached; it is to be hoped that neither this, nor
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