The Legal News.

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THE ENGLISH BENCH.

The retirement of Lord Justice Bramwell, formerly a judge of the Court of Exchequer, is noticed in the cable despatches. The rapidity of the changes on the English bench within the last dozen years has excited some remark. Within twelve years every judge on the common law side has died, retired, or been promoted. In the Queen's Bench, Lord Chief Justice Cockburn and Justices Shee and Quain have died; Justice Blackburn has become Lord Blackburn, Justice Lush has become a Lord Justice, Sir John Mellor has retired, and Sir James Hannen has gone to the Divorce Court. In the Exchequer, Chief Baron Kelly and Barons Channell, Piggott and Cleasby have died; Baron Bramwell has become a Lord Justice and has now retired. Baron Martin has also retired. In the Common Pleas, Chief Justice Earl has retired, Chief Justice Bovill and Justices Willes, Keating, Honyman, and Archibald have died. Mr. Justice Brett has become a Lord Justice, Mr. Justice Byles has retired, and Justice Montague Smith has been transferred to the Privy Council. On the Equity side, Lords Chelmsford, Westbury, Cranworth and Hatherley, ex-Lords Chancellors, have died, Lords Justices Turner, Knight-Bruce, Rolt, Giffard, James and Thesiger have died. Lord Romilly, Master of the Rolls, has also died. Vice Chancellors Stuart, Kindersley and Malins have retired, and Vice Chancellor Wickens has died. Sir James W. Colvile, of the Judicial Committee, is also among the departed.

ENCOURAGING MURDER OF FOREIGN POTENTATES.

We give up a portion of our space this week to a very interesting case, *Reg.* v. *Most*, before the Criminal Court of Appeal in England, on a point reserved by Lord Chief Justice Coleridge. It has been decided that a newspaper article inciting to and encouraging the murder of foreign sovereigns comes within the statute, without proof that it was read by or influenced any particular person. The whole case, which has been very fully examined by the learned judges, is of interest in these times, when so many persons seem to be desirous of procuring the assassination or removal of crowned personages and others in authority.

NOTES OF CASES.

SUPERIOR COURT.

MONTREAL, September 19, 1881.

Before TORRANCE, J.

Ex parte RADIGER, petitioner for certiorari, and HAWKINS, and BEAUDRY, respondent.

Commissioners Courts—Recusation.

Commissioners of Commissioners' Courts may be recused like other judges. A judgment rendered by a commissioner personally interested in the suit, will be annulled, though the ground of recusation was not invoked at the trial. Commissioners are bound to take notes of the evidence in writing.

This was a motion to quash a judgment of the Commissioners' Court at Hochelaga.

"The Court having heard the plaintiff and the defendant in this cause, and having examined the proof and the proceedings, and deliberated thereon, condemned the said defendant to pay to the said plaintiff the sum of $5 cy. amount of debt, and $1.70 amount of costs." The objection taken by petitioner, was that the commissioner sitting was interested in the litigation, being himself responsible to plaintiff for the amount. This interest was established by affidavit and not denied.

PER CURIAM. By C. C. P. 1185, 6, these commissioners may be recused like other judges, and the recusation must be in writing, and by C. C. P. 177, interest is a disqualification, and the party having a right to recuse may renounce his right save and except the case in C. C. P. 177, namely the disqualification of interest, which cannot be waived. No such recusation was made here though the ground must have been known, and art. 180 says, that a party aware of the ground is bound to make it known as soon as it comes to his knowledge. On this ground therefore the Court thinks that the judgment should be set aside. Vide also Paley, Convictions, pp. 38, 9. There is another consideration. There are no notes of the evidence given before the commissioner, and the Act creating these courts, does not exempt them from taking notes of

evidence, as the Circuit Court is exempted in non-appealable cases, C. C. P. 1101. In the case of justices of the peace in England making summary convictions, the justices are expected and enjoined to take notes of evidence: Chitty's Burn's Justice vo. Conviction 833 and 840, edition of 1831: Paley, Convictions, p. 117, ed. 1866: Kerr's Magistrates' Acts, p. 181.

Next as to costs: The question of costs is in the discretion of the Court. At the trial in the Commissioners Court, the defendant does not appear to have recused the judge. The debt is probably due to the plaintiff, Beaudry, who may still claim it, and the Court thinks here that the plaintiff should not be condemned in costs.

Judgment annulled.

Geoffrion & Co. for petitioner.

Judah & Branchaud for Beaudry.

SUPERIOR COURT.

MONTREAL, Sept. 19, 1881.

Before TORRANCE, J.

PERRAS v. GOYETTE, *père.*

Writ of Summons—Amendment.

The Court will allow a writ, which, by inadvertence, was not signed by the prothonotary, to be amended by adding the signature of that officer, after an exception à la forme has been filed.

This was a motion by plaintiff to amend the writ of summons and declaration after the filing of an *exception à la forme* by defendant. The writ served upon the defendant and the original were by inadvertence given out of the office of the prothonotary, without the signature of the prothonotary. The defendant availed himself of this informality by filing an exception *à la forme*, relying upon C. C. P. 46, 51, which require the formality of the signature on pain of nullity. The plaintiff moved for an order upon the prothonotary to affix his signature, on payment of costs of exception, and that plaintiff be permitted to serve upon defendant a correct copy of writ and declaration.

The COURT, after conference with Caron, Rainville, Papineau and Jette, JJ., granted the motion subject to the payment of costs.

C. A. Cornellier for plaintiff.

Préfontaine for defendant.

SUPRIOR COURT.

MONTREAL, Sept. 17, 1881.

Before TORRANCE, J.

CHEVALLIER v. CUVILLIER et al.

Costs—Demurrer maintained as to part of demand.

Where a demurrer is maintained as to part of the demand, the attorney is entitled to the same fee as on demurrer dismissed.

This was a motion by plaintiff to revise the taxation of a bill of costs in favor of defendants.

The defendants had demurred to a large portion of the demand of plaintiff, (over $150,000) and the demurrer had been maintained to this portion with costs. The prothonotary had allowed a full bill of costs on the demurrer as if the action had been dismissed. The tariff had made no provision for this particular case, in which after the demurrer was maintained a portion of the demand remained intact. There was no fee mentioned in the tariff for the case of a demurrer maintained, though there was for a demurrer dismissed, apart from the case of an action dismissed.

The JUDGE reduced the fee to $8, being the amount allowed for a demurrer dismissed, seeing the judgment gave costs, and the action was not dismissed.

Doutre & Joseph for plaintiff.

Barnard, Beauchamp & Creighton for defendants.

NEWSPAPER ARTICLE ENCOURAGING MURDER OF FOREIGN POTENTATES.

CROWN CASES RESERVED. JUNE 13, 1881.

REGINA v. MOST, 44 L. T. Rep. (N.S.) 823.

The defendant wrote and published an article in a newspaper in London, which was sold to the public and also circulated among subscribers, which article the jury found was intended to and did encourage, and was an endeavor to persuade persons to murder foreign potentates, and that such encouragement and endeavoring to persuade was the natural and reasonable effect of the article. *Held*, that the defendant was guilty of a misdemeanor within section 4 of the 24 and 25 Vict., ch. 100, which makes it a misdemeanor to endeavor to persuade a person to murder any other person.

Case reserved for the opinion of this court by Lord Coleridge, C. J.

Johann Most was tried before me at the Central Criminal Court on the 25th May, on an indictment containing twelve counts. The first two counts contained charges of publishing a

scandalous libel at common law; and on these counts a separate verdict of guilty was taken, and no question arises upon them.

The remaining ten counts charged the prisoner with offending against 24 and 25 Vic., ch. 100, § 4. The subject-matter of all the counts was the same publication, which was treated as a common-law libel in the first two counts, and as an offence against the statute in the remaining ten. It was an article written in German in a newspaper entirely in that language, but published weekly in London, and enjoying an average circulation of 1,200 copies. The prisoner was proved to be the editor and publisher of the paper. Several copies of the paper were proved to have been bought at his house, and some copies of a reprint of the article in question were actually sold by the prisoner himself to one of the witnesses called on behalf of the Crown.

It is not necessary to set out the article at length, but it contained amongst others the following passages:

* * * * * *

"Like a thunderclap it penetrated into princely palaces where dwell those crime-beladen abortions of every profligacy who long since have earned a similar fate a thousand-fold."

* * * * * *

"Nay, just in the most recent period they whispered with gratification in each others' ears that all danger was over, because the most energetic of all tyrant-haters the 'Russian Nihilists,' had been successfully exterminated, to the last member.

"Then comes such a hit.

"William, erewhile Cannister-shot Prince of Prussia, the new Protestant Pope and soldier, emperor of Germany, got convulsions in due form from excitement. Like things happened at other courts."

* * * * * *

"At the same time they all know that every success has the wonderful power, not only of instilling respect, but also of inciting to imitation. There they simply tremble then from Constantinople to Washington for their long since forfeited heads."

* * * * * *

"When in many countries old women only, and little children yet limp about the political stage with tears in their eyes, with the most loathsome fear in their bosoms of the castigating rod of the State night watchman, now, when real heroes have become so scarce, such a Brutus deed has the same effect on better natures as a refreshing storm."

* * * * * *

"To be sure it will happen once again that here and there even Socialists start up, who, without that any one asks them, assert that they for their part abominate regicide, because such an one after all does no good, and because they are combating not persons but institutions. This sophistry is so gross that it may be confuted in a single sentence. It is clear, namely, even to a mere political tyro, that State and social institutions cannot be got rid of until one has overcome the persons who wish to maintain the same. With mere philosophy you cannot so much as drive a sparrow from a cherry tree, any more than bees are rid of their drones by simple humming.

"On the other hand, it is altogether false that the destruction of a prince is entirely without value, because a substitute appointed beforehand forthwith takes his place.

"What one might in any case complain of, that is only the rarity of so-called tyrannicide. If only a single crowned wretch were disposed of every month, in a short time it should afford no one gratification henceforward still to play the monarch."

* * * * * *

"But it is said, 'will the successor of the smashed one do any better than he did? We know it not. But this we do know, that the same can hardly be permitted to reign long if he only steps in his father's footsteps."

* * * * * *

Meanwhile, be this as it may, the throw was good; and we hope that it was not the last.

"May the bold deed, which, we repeat it, has our full sympathy, inspire revolutionists far and wide with fresh courage."

* * * * * *

The 4th section of 24 and 25 Vict., ch. 100, is as follows: All persons who shall conspire, confederate, and agree to murder any person, whether he be a subject of her majesty or not, and whether he be within the queen's dominions or not, and whosoever shall solicit, encourage, persuade, or endeavor to persuade, or shall propose to any person to murder any other person, whether he be a subject of her majesty or not, and whether he be within the queen's dominions or not, shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not more than ten and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labor.

The ten counts framed upon this section all charged the prisoner with having "encouraged" or "endeavored to persuade" persons to "murder other persons," some named and others not named, who were in all cases not subjects of

her majesty, nor within the queen's dominions.

The 3d and the 9th counts, so far as material to the present question, were as follows (they may be taken as specimens of the other counts, which were in their legal incidents the same):

"Count 3. And the jurors aforesaid, upon their oath aforesaid, further present that heretofore, to wit, on the 19th day of March, in the year of Our Lord 1881, the said Johann Most unlawfully, knowingly, wilfully and wickedly did encourage certain persons, whose names to the jurors aforesaid are unknown, to murder certain other persons, to wit, the sovereigns and rulers of Europe, not then being within the dominions of our said lady the queen, and not being subjects of our said lady the queen, against the form of the statute in that case made and provided, and against the peace of our said lady the queen, her crown and dignity."

* * * * * *

"Count 9. And the jurors aforesaid, upon their oath aforesaid, further present that heretofore, to wit, on the 19th day of March, in the year of Our Lord 1881, the said Johann Most unlawfully, knowingly, wilfully and wickedly did encourage certain persons, whose names are to the jurors aforesaid unknown, to murder a certain other person, to wit, His Imperial Majesty Alexander the Third, Emperor of all the Russias, not then being within the dominions of our said lady the queen, and not being a subject of our said lady the queen, against the form of the statute in that case made and provided, and against the peace of our said lady the queen, her crown and dignity."

The evidence in support of these counts was the same as that in support of the first and second counts; and the only encouragement and endeavor to persuade proved was the publication of the libel.

I directed the jury that if they thought that by the publication of the article the defendant did intend to and did encourage or endeavor to persuade any person to murder any other person, whether a subject of her majesty or not, and whether within the queen's dominions or not, and that such encouragement and endeavoring to persuade was the natural and reasonable effect of the article, they should find the prisoner guilty upon the last ten counts, or such of them as they thought the evidence supported. The jury convicted the prisoner upon all the ten counts, and there was abundant evidence to justify them if my direction was correct.

Entertaining, however, some doubt as to the correctness of my direction, I deferred sentencing the prisoner, and I have now to request the opinion of the Court of Criminal Appeal whether such direction was correct in point of law or not.

If the Court of Appeal thinks the direction correct, the conviction on those ten counts is to be affirmed; if otherwise, the conviction on those ten counts is to be quashed.

A. M. Sullivan, for the prisoner.

The *Attorney-General* (*Poland* and *A. L. Smith* with him) for the prosecution.

Lord COLERIDGE, C. J. I am of opinion that this conviction should be affirmed. The question arises upon section 4 of 24 and 25 Vict., ch. 100, which enacts that "all persons who shall, or any one who shall"—I leave out the unnecessary words—"encourage, or who shall endeavor to persuade any person to murder any other person, whether a subject of the queen's, or within the queen's dominions, or not, shall be guilty of a misdemeanor." Now the doubt that arose in my mind was whether the words of this section were satisfied by publication broadcast, of that which, if directed *ore tenus* to a particular individual, or *ore tenus* to a great number of individuals, or by writing to a particular individual or a great number of individuals, would undoubtedly have been within the words of the section. On consideration, I think that doubt was not well founded; indeed, all doubt has been entirely cleared away by the argument which I have heard this morning. I do not think it necessary to pursue the inquiry, however interesting it may be, as to the history of this clause. It is said that the words are copied from the Irish statutes of 1796 and 1798 (36 Geo. 3, ch. 27; 38 Geo. 3, ch. 57). It may be that they are, but as has been truly observed, we have not to do with the history of the words, unless the words in the statute are doubtful, and require historical investigation to explain them. If the words are really and fairly doubtful, then, according to well known legal principles, and principles of common sense, historical investigation may be used for the purpose of clearing away the doubt which the phraseology of the statute creates.

But upon looking at these words I think there is no such doubt created by the phraseology. We have to deal here with a publication proved by the evidence at the trial to have been written by the defendant, to have been printed by the defendant, that is, he ordered and paid for the printing of it, sold by the defendant, called by the defendant his article, and intended, as the jury have found, and most reasonably found, to be read by the twelve hundred or more persons who were subscribers to or the purchasers of the *Freiheit* newspaper; and further we have to deal with an article which the jury have found, and I am of opinion have rightly found, to be naturally and reasonably intended to incite and encourage, and persuade or to endeavour to persuade persons who should read that article to the murder either of the Emperor Alexander or the Emperor William, or in the alternative the crowned and uncrowned heads of States, as it is expressed in one part of the article, from Constantinople to Washington. The question therefore simply is on those facts, which are undisputed, and with regard to which the jury have pronounced their opinion—Do those facts bring it within these words? I am of opinion they clearly do. An endeavour to persuade or an encouragement is none the less an endeavour to persuade or an encouragement, because the person who so encourages or endeavors to persuade, does not, in the particular act of encouragement or persuasion, personally address the one or more persons whom the address which contains the encouragement or the endeavour to persuade reaches. The argument has been well put that an orator who makes a speech to two thousand people does not address it to any one individual amongst those two thousand; it is addressed to the whole number. It is endeavoring to persuade the whole number or large portions of that number, and if a particular individual amongst that number addressed by the orator is persuaded, or listens to it and is encouraged, it is plain that the words of this statute are complied with; because, according to well-known principles of law, the person who addresses those words to a number of persons must be taken to address them to the persons who he knows hear them, who he knows will understand them in a particular way, do understand them in that particular way, and do act upon them. For that purpose the case which was suggested by my brother Williams, and was mentioned by me to Mr. Sullivan just now—the case of *Gerhard* v. *Bates*, 2 E. & B. 476; 22 L. J. 364, Q. B.—is an authority. There are authorities to be found elsewhere to the same effect, that a circular addressed to the public, containing false statements, reaching one of them as one of the public, not as an individual picked out, but as one of the public, who is influenced by the statements in that circular to his disadvantage, and who is injured by them, may afford good ground for a personal action for damages occasioned by the statements in that circular against the person who has issued it to the public, the reason being that the recipient of the circular is one amongst the number of persons to whom it is issued, and he has been injured by the statements contained in it. It seems to me that this is not the less an endeavor to persuade or an encouragement to murder, either named individuals or unnamed individuals, because it is under another aspect of the law a seditious and scandalous libel. On the whole, I am clearly of opinion, on the words of the statute and upon the authorities—the only authorities which have been cited appeared to me to be against Mr. Sullivan—that the direction given at the trial is correct, and the conviction right and proper to be affirmed.

GROVE, J. I am of the same opinion. The words of the act, so far as they are material to this case are, "Whosoever shall solicit, encourage, persuade, or endeavour to persuade, or shall propose to any person to murder any other person, whether he be a subject of her majesty or not, and whether he be within the Queen's dominions or not, shall be guilty of a misdemeanor," etc. Now, I think there can be no doubt that those words taken alone, for reasons which I will presently give, apply, at all events, to more than one particular person. I do not think it would be argued that if a person instead of encouraging or endeavoring to persuade one person, endeavored to persuade two persons, or three persons, that would not be within the act; because in endeavoring to persuade two or three persons, he endeavors to persuade each of those two or three persons. Then, to go a step further, supposing he addresses eight or ten persons, and says: "Now I recommend any one of you who has the courage to do it, to murder so and so, and you will gain so and so by it," or uses

other words by way of argument or by way of promise to induce some one or more of those persons to murder another, surely that would be encouraging a person or persons—that is, each and every one of those persons to murder. Then, supposing it is not done by word of mouth—supposing a person writes a letter—to an individual person to murder the Emperor of Russia, can it be said that that is not wholly within the words of this section? It appears to me it is absolutely within them. It is a direct encouragement to a person to murder the Emperor of Russia. Then, if he goes further, and instead of writing one letter, he writes ten or twenty letters, and distributes them to persons whom he thinks they may have an effect upon, or the first twenty who come, does not he then encourage each of those persons to commit murder? Then, to go a step further, if he prints a circular of the same character as a letter, and hands that to twenty or more than twenty persons, is not that an encouragement to every one of those twenty persons to commit a murder? Does he lessen the offence by increasing the number of persons to whom he publishes or transmits this encouragement? Then, can it be said that the printing of a paper and circulating it to a definite body of subscribers, as was done here, or to all the world, is not an encouraging within the section? It is beyond my comprehension to see that that can alter the matter at all. It seems to me, first, that it is clearly within the words of the statute; and secondly, that so far from extenuating—I do not mean in the sense of punishment, but diluting the offence—it increases it, because he not only endeavors to persuade a person to commit the offence, but a considerable number of different persons, into whose hands the paper may fall. It appears to me therefore that it is literally and clearly within the words of the statute, which are "persuade any person," and it does not the less do that because it persuades, or endeavors to persuade or encourages, separately, a considerable number of persons. Then, there is another argument of Mr. Sullivan's which is, as I understand it, that this section is to some extent the same—the words are almost the same—as the previous Irish act of 38 Geo. 3, ch. 57, which was an addition to or an amendment of a previous Irish act (36 Geo. 3, ch. 27) relating to conspiracies. There is no doubt that the act of 38 Geo. 3, does primarily, by the preamble, appear to relate to conspiracies, because, after reciting the previous Irish act of 36 Geo. 3, ch. 27, whereby it was enacted that persons who should by course of law be convicted of conspiring, confederating or agreeing to murder a person should be adjudged felons, it goes on to a second recital: "And whereas the said recited act hath been found ineffectual for the punishment of the crimes of proposing to, soliciting and persuading others to enter into and engage in such conspiracies, be it therefore enacted that any person or persons who shall propose to, solicit, encourage, persuade, or endeavour to encourage or persuade any person or persons to murder any person, and shall be thereof by due course of law convicted," etc. Now, there the word "conspiracy" does not occur, although it occurs in the preamble. Then Mr. Sullivan's argument, as I understand it, is that we are not to hold that the statute 24 & 25 Vict., ch. 100, sec. 4, applies, unless there is a conspiracy, that is, unless there are two minds brought to bear on the subject. But the statute does not so state. The ineffectual character of the previous statute is recited, and in order to remedy its defects the statute of which I am speaking is expressed to be enacted. But I do not require in truth to inquire into the meaning of the Irish statute, because the words of the statute on which this conviction went are perfectly clear. There is no such recital therein as the second recital in the Irish statute I have alluded to; but section 4 of 24 and 25 Vict., ch. 100, after having dealt with the question of a conspiracy clearly in the first clause of it, goes on, "and whosoever shall solicit, encourage, persuade or endeavour to persuade, or shall propose to any person to murder any other person, whether he be a subject of her majesty or not, and whether he be within the Queen's dominions or not, shall be guilty of a misdemeanor." There the act severs and contradistinguishes, if I may say so, the two offences—the conspiring on the one hand, and the encouraging or endeavoring to persuade on the other hand. The law has said no doubt that in construing an act of Parliament where the words are ambiguous and point to a remedy which a previous statute has pointed to, you may look to the previous statute to see the meaning, and to see what the object

sought is, and to fairly construe it; but here not only is there no ambiguity, but to my mind we are clearly told what the statute intends. Then, as to the evidence, there is ample evidence here not only of circulation to a number of persons, each of whom might be affected, but there is evidence that one person was actually proved to have received the publication, and he might fairly be said to be "a person" just as much as if a letter containing the article had been handed him for his perusal. I do not think proof of such receipt by a particular person necessary, but if it be necessary there is evidence of it. Therefore there was ample evidence to support the conviction, the direction was sufficient, and there is nothing here to enable me to say that the conviction should be quashed.

DENMAN, J. It was fairly and candidly admitted by Mr. Sullivan in the course of his able argument that the sole question in this case is whether there was, upon the facts which are here stated, evidence to go to the jury that the defendant was brought within section 4 of 24 and 25 Vict. ch. 100. And upon this point it was said for the defendant that it was not made out that he had encouraged or endeavored to pursuade any person to murder any other person. With regard to murdering any other person, that point was not reserved. I think there was nothing to reserve about it, because I should draw the same conclusion which the jury did from the document itself, that it did contain an encouragement or an endeavor to persuade to murder the particular persons, whose names are mentioned in it. But it is out of the case, and the only question is whether the words "any person" are met by the evidence in this case. Now, I must own that if that question had been for the first time raised before me, as it was before my lord upon the trial, my impression is strong, looking at the importance of the case, and looking at the fact of the absence of any authority upon it in our courts or bearing upon it in our courts, I should, as my lord did, have thought it a proper case to reserve for the consideration of the Court of Criminal Appeal, and I am glad he did so; but the question having been reserved, we have to consider whether there was here evidence to meet that part of the case. I think there was. The contention was that the statute did not intend to meet the case of a libel of this character, circulated, as libels are circulated, simply by the publication of a paper, and sending it to the subscribers, or allowing it to be circulated amongst the population. I agree with my lord entirely, and I am glad that he now feels that there is no doubt about it, and that though this may be a mere publication of a libel, still if it is the publication of a libel, and the libel does in itself amount to an endeavor to persuade all persons to whom it is sent to commit a murder, nevertheless it is doing an act intended to be legislated against by this clause, making it a misdemeanor of another character—a misdemeanor punishable by a more severe punishment than the circulation of a libel of an ordinary character would be. The doubt which I should have felt, probably, if it had come before me, was a doubt in accordance with Mr. Sullivan's argument whether the words "any person" might not mean some definite person; whether some definite person might not have been required to be proved. I should however have thought that if it had been made out that the libel had been circulated to a certain set of persons whose identity was easily ascertained, except only that their names were unknown, that then, *quacunque viâ*, the clause would have been fulfilled, even though Mr. Sullivan's contention were a good contention. I do not think it a good contention; I think the circulation to the world, to multitudes of persons wholly undefined and to whom it would come, would be sufficient; but what I wish to add is this, that even if the other construction were the true one, I think it is important to observe in this case I should have been prepared to support the conviction on this ground —that many of these persons were, in that sense, definite persons. They were known subscribers in large numbers to this newspaper, and the man who edited the newspaper, the man who wrote the article, the man who sold the newspaper and caused it to be distributed, did know that that newspaper would, in the ordinary course, come to its regular subscribers at all events, whether it went to a larger number of persons, or whether it did not. Therefore, supposing it were necessary that the persons unknown should be in this case definite persons, ascertainable persons, persons who might be ascertained by inquiry, although unknown to the jurors at the time of their finding, I should have thought that in that sense the indictment was supported by the evidence.

HUDDLESTON, B. The question for our consideration, submitted to us by the lord chief justice, is whether his direction was correct in

point of law, and that direction is this—he told the jury that if they thought that by the publication of the article the defendant did intend to and did encourage, or endeavor to persuade any person to murder any other person, whether the subject of her majesty or not, and whether within the queen's dominions or not, and that such encouragement and endeavor to persuade was the natural and reasonable effect of the article, they should find the prisoner guilty. That was the charge of the lord chief justice, and that is what we are to consider—whether it is correct or not. Now I do not entertain the slightest doubt that that was really the only question that could be left to the jury. The evidence was ample to warrant the finding of the jury, and the only thing that could be left to the jury was to say, "Do you think that by the publication of this article the defendant did intend to encourage or endeavor to persuade any person to murder, and is not the necessary and legal consequence, the reasonable effect of the article, to induce any person to do so?" Now that charge is founded directly on the words of the statute, and if you look at these words, the distinction which Mr. Sullivan has endeavored to draw with reference to conspiracy really does not arise; because the section of the statute contemplates two classes of cases—it contemplates one class where there is a conspiracy and another class of cases where there is individual action. The first class of cases in the section is that all persons who shall conspire to that effect shall be guilty of a misdemeanor. The second class of cases is the individual, "whosoever" shall do certain acts, and it is remarkable to see the words which the Legislature have used for the purpose of pointing out the act which makes the party liable. The largest words possible have been used; "solicit," that is defined to be to importune, to entreat, to implore, to ask, to attempt, to try to obtain; "encourage," which is to intimate, to incite to any thing, to give courage to, to inspirit, to embolden, to raise confidence, to make confident; "persuade," which is to bring to any particular opinion, to influence by argument or expostulation, to inculcate by argument; "endeavor," and then, as if there might be some class of cases that would not come within those words, the remarkable words are used "or shall propose to," that is to say, make merely a bare proposition, an offer for consideration, shall be guilty of a misdemeanor. It is to be a misdemeanor of a highly criminal character to solicit, to encourage, to persuade, or even to propose to any person to murder any other person, whether one of her majesty's subjects or not. Now Mr. Sullivan raised the argument which was passing through the lord chief justice's mind, that you must have an immediate connection between the "proposer," or between the "solicitor" or the "encourager" and the person who is solicited, encouraged, persuaded, or proposed to; that it is not sufficient to solicit generally anybody, that you must solicit some person in particular. What was the intention of this act? The intention was to declare the law and to protect people abroad from the attempts of regicides of this description, and therefore the largest possible words are used. It shall be criminal—not to persuade an individual, but to persuade "any person," that is to say, the "public"—crowds who may hear it if it is an oration, or who may read it if an article in a newspaper. I have been furnished from the bar with a case which is certainly not inapplicable to the present one, which is to be found in Peere Williams's Reports in the time of Lord Chancellor Parker. *Poole* v. *Sacheverel*, 1 P. Wms. 675. The question arose in this way. There was a question of a disputed marriage, and the father, who was interested in the marriage, put an advertisement in the newspapers offering a reward of a hundred pounds if any person would come and could give evidence of that marriage. It was suggested that the object of that being circulated was to render impure the sources of justice, to bribe some people to give improper evidence, and the party was brought up for contempt before Lord Chancellor Parker, but it was urged on his behalf that nothing had been done in consequence of the advertisement. No witnesses had come: but the lord chancellor said: "It does not appear that some person would not come in if this were not discouraged; however, the person moved against has done his part, and if not successful, is still not the less criminal." The counsel objects that it is not addressed to any particular person. "It is equally criminal when the offer is to any, for to any is to every particular person. The advertisement will come to all persons, to rogues as well as honest men; and it is a strange way of arguing to say that offering a reward to one witness is criminal, but that offering it to more than one is not so. Surely it is more criminal, as it may corrupt more. If you hold an offer out to the public—an invitation to come in and give perjured evidence—that is as much a criminal act as to request an individual to do so." Just so it is here criminal to publish to the whole world, or declare to the whole world, that the individual rejoices in regicide, and recommends others to follow his example, and trusts that the time is not long distant when once a month kings may fall. This article was an encouragement to the public—a solicitation and encouragement to any person who chooses to adopt it—and comes within the meaning of the act. I am perfectly satisfied with the conviction, and think it was right.

WILLIAMS, J. I am of the same opinion. The jury have found the defendant guilty, and upon the narrow question of law which has been reserved for the consideration of this court, it seems to me the conviction ought not to be interfered with.

Conviction affirmed.