POETRY AT THE COUNSEL TABLE

Judge Roy St. George Stubbs*

When Moliere's Would-be Gentleman, M. Jourdain, came to realize that we have no means of expression other than prose and poetry, he exclaimed: "Well, I'll be hanged! For more than forty years I've been talking prose without any idea of it." He had been talking prose to his friends, to his servants and to the public in general, to convey information to them and to communicate on the level of everyday practical concerns.

So it is with all of us. We speak prose when we have the utilitarian purpose to serve of conveying information to others and of getting a message across to them. When we want to convey an emotional state, to lend wings to the fancy, to break the fetters that bind us to our daily routine, we must resort to poetry. We are all born poets and remain poets until we have the poetry drummed out of us as children by unimaginative adults. Fortunately, some few escape this process.

The line between poetry and prose is sometimes hard to draw. As Aristotle said, when our souls become agitated, when our emotions are at white heat, we may unconsciously cross the line. In courts of law the line is frequently crossed. When an advocate rises to resist a great injustice, or to speak in defence of the fundamental liberties of every citizen — when "fir'd by thirst of fame, or urg'd by wrongs" — his lips may be sprinkled with the waters of inspiration, and he may utter words that take unto themselves wings and soar well above the boundary that separates poetry and prose. I propose to illustrate this theme by taking words which were spoken at the counsel table by five great advocates and turn them into what is currently known as found verse. This task consists simply in altering the shape of the words as they appear on the printed page and by breaking up the lines into free verse patterns.

I shall begin with Cicero. The Roman was a man of practical genius. He established the first mature system of law. Speaking of Roman law, Lord Bryce used these enthusiastic words: "There is not a problem of jurisprudence which it does not touch; there is scarcely a corner of political science on which its light has not fallen." It is estimated that today some 870 million people live under laws that trace a direct descent to the Roman system. In its long history this system has known but one rival — the common law of England.

The Romans were the first to establish a professional class of lawyers. A Roman lawyer practised either as an orator, or as a jurist, depending upon whether a gift of speech, or a taste for scholarship, was his stronger asset. Cicero was the greatest Roman orator. He declared that forensic oratory was the first and jurisprudence the second art in Rome. He was, of course, speaking in his own cause.

More than a gift of speech was needed to be a successful advocate in Ancient Rome. Great moral courage was needed, as a brief glance at a trial in which Cicero was concerned will demonstrate.

When Sulla (c. 82 B.C.) made himself master of Rome, he set about to deal in the accepted Roman manner with those who had opposed him. He ordered the estate of one of the citizens, for whose liquidation he had been responsible, to be sold at public auction. By arrangement, it was bought by an

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emancipated slave of Sulla's for a fraction of its real value. The deceased's son, Sextus Roscius, publicly expressed his indignation at this high-handed action. Sulla promptly inspired a suit against him for the murder of his own father and from behind the scenes directed operations. He appointed an experienced orator to manage the prosecution.

Fearing Sulla's wrath, the older lawyers refused to undertake Roscius' defence. Conscious of his professional duty, Cicero, then a young man of 25 years, agreed to defend the accused, so that, as he declared, "he might not be wholly abandoned." It was his first public case. The trial took place in the Forum, with a judge and jury presiding, before a curious audience of spectators who did not hesitate to express their opinions of the proceedings as they were unfolded before their critical eyes.

Speaking in defence of his client, Cicero gave an example of his great powers of speech which had not yet reached their full maturity. He opened with these words:

I imagine
  that you jurors
  are wondering why it is that
when so many eminent orators
  and noble men
are sitting still
  I should get up,
I who neither for age
  nor for ability
  nor for influence
am to be compared
with those who are sitting still.

All these men
  whom you see present at this trial
know that a man
  ought to be defended
  against an injury
contrived against him by evil design;
but because of the state
  of the times
they do not dare
  to defend him.

As he warmed to his self-appointed task, he spoke words that cast the spell of poetry:

I beg and entreat you,
  O jurors,
to hear what I have to say
  with attention
and with your favourable construction.
Relying on your integrity
  and wisdom
I have undertaken
  a greater burden
  than, I am well aware,
I am able to bear.
If you in some degree
  lighten this burden,
  O jurors,
I will bear it as well as I can
  with zeal and industry.

But if,
as I do not expect,
I am abondoned by you,
still I shall not fail
in courage,
and shall bear
what I have undertaken
as well as I can.
If I cannot support it,
I had rather be
overwhelmed
by the weight of my duty,
than either through treachery
betray,
or through weakness of mind
desert,
that which has been once
honestly entructed to me.

As he continued his great speech, he launched an attack against the man, in whose name the prosecution was being conducted, as the author of the crime for which his client was being tried. "His conclusion identified the fate of Sextus," says Judge Robert M. Wilkin, in his admirable biography of Cicero, *Eternal Lawyer*, "with the fate of the Republic and elevated the defence of an individual to the defence of the ancient rights and liberties of Romans."

Cicero's client was acquitted. But Cicero, as Plutarch tells us, fearing Sulla's wrath, left Rome for Athens, giving out that he was travelling for the good of his health — which, indeed, was a literal fact.

Second on my list of five is Thomas Erskine.

There will be no dissent from Sir William Holdsworth's opinion that Thomas Erskine "was the greatest advocate who has ever practised at the English bar." Erskine was born in Edinburgh, in January, 1750. After four years in the navy and seven in the army, he decided to study law. He was called to the Bar on July 3rd, 1778. As the result of a chance meeting at a dinner party, he was appointed fifth counsel for the defence in the cause of *Rex* v. *Baillie*. His speech in this case, which secured his client's acquittal, brought solicitors to their feet. While presenting his argument, he crossed swords with Lord Mansfield, the presiding judge. Asked how he, a novice at the bar, had dared to stand up to so formidable a judge, he replied that he was about to lose heart and concede the case, when he imagined that he felt his little children tugging at his gown crying, "Now, father, is the time to get us bread." He never looked back. So rapid was his rise that after five years at the Bar, he was given silk.

Erskine appeared for the defence in most of the state trials, which took place while he was at the Bar, in which the liberty of the subject or the freedom of the press was in issue.

On July 14, 1789, a Parisian mob stormed the Bastille. This event was the prelude to the French Revolution — an event which was to have serious repercussions in England. At the time in England, there were numerous friendly societies, having a genuine interest in constitutional reforms which were long overdue. In times of crisis governments sometimes equate the mildest suggestion of reform with active revolt. In 1794, Parliament gave the

Attorney-General instructions to arrest the officials of the friendly societies which were advocating the reform of Parliamentary representation. Thomas Hardy, secretary of one of the societies, was the first man selected by the Crown to stand his trial. He was defended by Erskine who secured his acquittal. Writing in 1830, not so long after the event, Henry Roscoe had this to say:

> Never in the judicial history of this country did so weighty, so overwhelming, so appalling a duty devolve upon one man. The lives and fortunes of thousands of his countrymen, nay the liberties of his country itself, were involved in the issue. Had a conviction been obtained against Hardy, the consequences might have been most fatal. The streams of blood flowing from the scaffold must have been swelled by that shed in civil disturbances. Already the passions of the people were excited to a degree which every day threatened the public tranquility; and nothing was wanting but some grand spectacle of blood, like that contemplated by the government, to rouse them to action.

In 1792, Thomas Paine, the man who inspired the American Declaration of Independence, and from whose pen came the flaming words,

> These are the times that try men's souls, The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands it now deserves the love and thanks of men and women. Tyranny, like hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph.

This man, whose pen was mightier than the sword of George Washington was tried for high treason based upon the publication of the second part of his book, *The Rights of Man*. Erskine was briefed to defend him. Lord Loughborough and other highly placed friends tried to dissuade Erskine from this undertaking. He gave his answer to them when he rose in court to open his defence and to make the greatest vindication of the rights and responsiblities of the Bar on record:

> In every place
> where business or pleasure
> collects the public together,
> day after day,
> my name and character
> have been
> the topic of injurious reflection.
> And for what?
> Only for not having shrunk
> From the discharge
> of a duty
> which not personal advantage
> recommended,
> and which a thousand difficulties
> repelled.
> Little, indeed,
> did they know me,
> who thought that such calumnies
> would influence my conduct:
> I will forever
> at all hazards,
> assert the dignity,
> independence,
> and integrity
> of the English Bar;
> without which, impartial Justice,
> the most valuable part
> of the English constitution,

can have no existence.
From the moment
that any advocate
can be permitted to say
that he will or will not stand
between the Crown
and the subject
arraigned in the court
when he daily sits to practise —
from that moment
the liberties of England
are at an end.
If the advocate refuses to defend,
from what he may think
of the charge
or of the defence,
he assumes the character of the judge;
nay, he assumes it
before the hour of judgment;
and, in proportion to his rank
and reputation,
puts the heavy influence
of perhaps a mistaken opinion
into the scale
against the accused,
in whose favour
the benevolent principle of English law
makes all presumptions,
and commands the very judge
to be his counsel.

Here are a few of the words which Erskine spoke in defence of freedom of speech, which was being severely wounded through Paine's side. They have all the essentials of poetry:

Constraint
is the natural parent
of resistance,
and a pregnant proof
that reason
is not on the side
of those who use it.
You must all remember,
gentleman,
Lucian's pleasant story:
Jupiter and a countryman
were walking together,
conversing with great freedom
and familiarity
upon the subject of heaven and earth.
The countryman listened
with attention and acquiescence
while Jupiter strove
only to convince him;
but happening
to hint a doubt,
Jupiter turned hastily around
and threatened him
with his thunder.
'Ah, ha!' says the countryman,

'Now' Jupiter,
I know that you are wrong;
You are always wrong
when you appeal to your thunder!
This is the case with me.
I can reason
with the people of England,
but I cannot fight
against the thunder of authority.

Moncure D. Conway, in his *Life of Thomas Paine,* quotes a letter which was written on the day these words were spoken: From J. Redman, London, to John Hall, Leicester, England:

> Mr. Paine's trial is this instant over. Erskine shone like the morning-star. Johnson was there. The instant Erskine closed his speech the venal jury interrupted the Attorney General, who was about to make a reply, and without waiting for any answer, or any summing up by the judge, pronounced him guilty. Such an instance of infernal corruption is scarcely upon record. I have not time to express my indignant feelings on this occasion. At this moment, while I write, the mob is drawing Erskine's carriage home, he riding in triumph — his horses led by another party . . .

In his speech in defence of Horne Tooke, a brilliant political pamphleteer and a friend of Paine, Erskine made reference to one penalty he paid for defending Paine . . . "I assert," he said, "that there was a conspiracy to shut out Mr. Paine from the privilege of being defended: he was to be deprived of counsel; and I, who now speak to you, was threatened with the loss of office (of Attorney-General to the Prince of Wales) if I appeared as his advocate. I was told in plain terms that I must not defend Mr. Paine. I did defend him, and I did lose my office."

But the years ahead brought their rewards to Erskine. In 1806, he was appointed Lord Chancellor by the Whig Ministry and was raised to the peerage as Baron Erskine of Restormel Castle. He died in November, 1823, full of years and honours, but without many of this world's goods, because of his extravagance, his generosity, and a series of bad investments which left his last years over-clouded by financial worries.

The Third is John Philpot Curran.

There was a destiny that shaped the ends of John Philpot Curran. He was an idle mischievous pleasure-loving boy with no ambition for any particular career in life. His mother had her heart set on his entering the Church. He was prepared to gratify her wish until fate intervened. While he was a student at Trinity College, Dublin, he was called on the carpet for a breach of discipline. He defended himself with such success, and got so much pleasure from doing so, that he decided to go the Bar. His mother never became reconciled to his choice of a career. When he was the idol of Ireland, and sat upon the Irish Bench, she once remarked that by not entering the Church, he had deprived her of the honour of having engraved on her tomb that she was the mother of a bishop.

Curran was called to the Irish Bar in 1775. Success did not come to him easily. He had an undistinguished presence and a defect in his speech, but he struggled with these handicaps until he learned how to turn them to best advantage. His permanent fame as an advocate rests largely upon the part he played in the defence of Irish patriots in the state trials which took place in

Ireland in the last decade of the eighteenth century. Political ferment is not a new story in Ireland. But during the period of Curran's great activity in the courts the political scene was particularly cloudy. British statesmen were blind to the problems of the Irish. Criticism of evils, which cried aloud for remedy, was construed as treason. To be an Irishman who desired to possess his Irish soul demanded extreme courage. An Irish advocate needed courage and the wit to be able to take care of himself before a hostile bench. Curran was not wanting in these essentials. In one of his first cases he appeared before Lord Robertson, a judge who had secured judicial preferment, so rumor had it, by writing a number of anonymous pamphlets. During the hearing, Curran and the noble judge had a disagreement on point of law.

"If your lordship says so," Curran told the Judge, "the etiquette of the Court demands that I submit."

Then turning to the jury, he said, "But, gentlemen of the jury, it is my duty and privilege to inform you I have never seen the law so interpreted in any book in my library."

"Perhaps your library is rather small, Mr. Curran," taunted Lord Robertson.

"I admit my library is small," countered Curran. "But I have always found it more profitable to read good books than to publish bad ones — books which their very authors and editors are ashamed to own."

"You are forgetting the dignity of the judicial character," said Lord Robertson, seeking shelter behind his office.

Curran's undaunted reply was: "Speaking of dignity, your lordship reminds me of a book I have read — I refer to Tristam Shandy — in which, your lordship, may remember, the Irish Buffer Roche, on engaging in a squabble, lent his coat to a bystander, he got a good beating and lost his coat into the bargain. Your lordship can apply the illustration."

This rebuke drew from the judge the threat, "Sir, if you say another word I'll commit you."

"If you do my lord," came back Curran, "both you and I shall have the pleasure of reflecting that I am not the worst thing your lordship has committed."

Realizing that he was getting the worse of the exchange, Lord Robertson hastily adjourned court.

The first state trial in which Curran appeared, which set the pattern for all the rest, was the trial of A.H. Rowan. In defence of his client, he made, in Lord Brougham's words, "perhaps the greatest speech ever made in a Court of Law."

He spoke words which have a place, at least, in the outer temple of Poetry:

I speak
  in the spirit
  of British law,
which makes liberty
commensurate with

and inseparable from
British soil;
which proclaims even
to the stranger
and the sojourner,
the moment he sets his foot
upon British earth,
that the ground
on which he treads is holy,
and consecrated by the genius
of Universal Emancipation.
No matter in what disastrous battle
his liberty may have been
cloven down;
no matter with what solemnities
he may have been devoted
upon the altar of slavery;
the first moment
he touches and sacred soil of Britain,
the altar and the god
sink together
in the dust;
his soul walks abroad
in her own majesty;
his body swells
beyond the measure of his chains,
that burst from around him;
and he stands redeemed,
regenerated, and disenthralled,
by the irresistible genius
of Universal Emancipation.

Do not these stirring words contain an echo of the great judgment of Lord Mansfield in the case of Somerset, the runaway Negro slave?

Curran never became a learned scholar but he did become an exceedingly well-read man, with a great variety of intellectual interests. His speeches in court are rich in allusion to both classical and contemporary literature. His forensic career came to an end soon after the Union of Great Britain and Ireland. His last important appearance in the forensic arena was in defence of Mr. Justice Johnson against whom a bill for libel had been found. His speech in this case is as good an example of his forensic talent as can be found.

I quote from it briefly to illustrate the rich flavour of his advocacy and the skilful way in which he could make dull commonplaces shine forth with new splendour.

In every age,
in every country,
do we see the natural rise,
advancement and decline
of virtue and of science.
So it has been in Greece,
in Rome;
so it must be, I fear,
the fate of England.
In science, the point
of its maturity
and manhood
is the commencement
of its old age;

the race of writers,
  and thinkers,
  and reasoners, passes away,
and gives place to
  a succession of men
who can neither write,
  nor think, nor reason.
The Hales, the Holts and the Somerses,
shed a transient light
  upon mankind,
but are soon extinct and disappear,
and give place to
  a superficial
  and overweening generation
of laborious and strenous idlers,
  of silly scholiasts,
  of wrangling mooters,
  of posing garrulists,
who explore their darkling ascent
upon the steps of science,
  by the balustrends of cases
  and manuscripts —
who calculate their depth
  by their darkness,
and fancy they are profound
  because they feel
  they are perplexed.

Coleridge, not one of the numerous tribe who gave lustre to the law, but the poet, once said: "I wish our clever young poets would remember my homely definitions of prose and poetry; that is, prose, — words in their best order; poetry, — the best words in their best order."

Curran's best speeches, in all but form, answer to this definition of poetry.

Next is William Henry Seward.

In 1846, in Auburn, New York, William Freeman, a Negro, who had served a prison sentence for theft, brutally killed several members of a family, believing that one member of this family had been responsible for his conviction. When he was arrested, the sheriff had great difficulty in preventing an angry mob from lynching him. Even the clergy thundered for his immediate punishment.

At his trial, the presiding judge, with a glance around the courtroom, asked, "Will anyone defend this man?"

William Henry Seward, the leading lawyer of Auburn, and ex-Governor of New York State, rose from his seat at the rear of the courtroom. "May it please the Court," he said, "I shall remain counsel for the prisoner until his death."

Seward had been profoundly shocked by the brutal crime. But, unlike most of the worthy citizens of Auburn, he did not give way to passion. Viewing Freeman's conduct in a clear, dispassionate light, he had reached the conclusion that the negro was insane, the result of two facts, a doubtful heredity and a violent blow which he had been struck on the head by a guard while in prison. "He is deaf, deserted, ignorant, and his conduct is unexplainable, on any

principle of sanity," he wrote to a friend. "It is natural that he should turn to me to defend him. If he does, I shall do so. This will raise a storm of prejudice and passion which will try the fortitude of my friends. But I shall do my duty. I care not whether I am to be ever forgiven for it or not."

Seward's eyes were open wide. He knew what he was undertaking, but he did not wait to be asked to defend Freeman. He volunteered his services. For this act of courage, he became a social outcast in his community. So violent was the reaction of his former friends and neighbours that his children were stoned on their way home from school.

"At this juncture," Charles Francis Adams has commented, "had William H. Seward been found anywhere at night alone and unprotected . . . his body would probably have been discovered in the morning hanging from the nearest tree."

In addressing the jury, Seward tried to break through the clouds of prejudice, to make the twelve jurors, and the community at large, realize that we must pay a price for the privilege of calling ourselves civilized. We must restrain our primitive impulses — not destroy, in blind rage, a madman who is not responsible for the acts which flow from his madness.

He opened on this note:

I speak with all sincerity
  and earnestness.
Not because I expect
  my opinion to have weight,
but I would disarm
  the injurious impression
that I am speaking
  merely
as a lawyer for a client.
I am not the prisoner's lawyer.
  I am indeed
    a volunteer
    in his behalf;
but society and mankind
have the deepest interests
    at stake.
I am the lawyer for society,
    for mankind;
shocked,
beyond the power of expression
  at the scene
I have witnessed here
  of trying a maniac
  as a malefactor.

Seward spoke for seven hours. "As the yellow harvest-moon rose outside the darkening court-house," writes Sir Edward Parry, in a glowing tribute to Seward's courage, "his peroration was listened to by the indignant crowd with, at least, outward respect, and it remains a message of encouragement to the advocates of future generations."

  In due time,
  gentlemen of the jury,
when I shall have paid the debt of nature,

my remains will rest here
in your midst
with those of kindred and neighbours.
It is very possible
they may be unhonoured,
neglected,
spurned!
But perhaps
years hence,
when the passion and excitement
which now agitate this community
shall have passed away,
some wandering stranger,
some lone exile,
some Indian,
some negro,
may erect over them
an humble stone,
and thereon this epitaph:
He was faithful.

Seward's stirring appeal to reason, was lost on the jury. Freeman was convicted and sentenced to be hanged. Seward did not give up the struggle. He entered an appeal. Working in a rarer atmosphere, above the gusts of passion, he persuaded the appeal court to order a new trial. Freeman died before he could be tried the second time. His brain was dissected before a panel of six doctors. Conclusive evidence of chronic insanity was found. The doctors' report helped to restore Seward to his former popularity in his community. With the passng years, he became Secretary of State in President Lincoln's cabinet. At first he was resentful of the upstart backwoods lawyer, but Lincoln's human and humane qualities soon conquered him completely, and he had the largeness of spirit to acknowledge, in a letter to his wife, "The President is the best man among us."

And, finally, the last of the five:

On October 12, 1836, Luke Graves Hansard entered these words in his daily journal: "Received notice from John Joseph Stockdale of his intention to prosecute us for printing a Libel on him ..."

Hansard was a member of the well-known family which served the House of Commons as its official printers. One of the Hansards' responsibilities was to edit a report of the proceedings in Parliament — a report which came to be known by their name. Hansard as Lord Samuel once said is "history's ear already listening."

Stockdale was a publisher of poor repute who lived precariously on the outer fringe of the publishing world. A book which he published in 1827 found its way into Newgate Prison. In a report to the House of Commons, the Inspectors of Prisons referred to this book as disgusting, obscene and indecent. By order of the House of Commons the report was printed by the Hansards and put on sale to the public.

Stockdale sued four members of the Hansard family for libel, contending that the report grossly defamed him in his calling of publisher. The Attorney-General (Sir John Campbell) was instructed to defend the suit on behalf of the Hansards. He entered two pleas to the claim: first, that the statements con-

tained in the report were true; and second, that the report was published by order of the House of Commons and therefore was privileged.

The jury decided against Stockdale on the first plea. Lord Chief Justice Denman categorically rejected the second plea. "I am not aware," he said, "of the existence in this country of any body of men whatever who can privilege any servant of theirs to publish a libel on an individual."

Thus, though the Hansards won the day in court, the House of Commons was far from satisfied. It had passed a resoluion "that the power of publishing such of its reports, votes, and proceedings as it shall deem necessary or conducive to the public interests is an essential incident to the constitutional functions of parliament, more especially to the Commons House of Parliament as the representative portion of it," and it was annoyed that any mere court of law would question its right to define its own privileges and prerogatives. Determined that the question should not be left in any doubt, the House invited another suit by Stockdale by ordering the Hansards to publish a further report about the offending book. Stockdale obliged by issuing a second writ in which he claimed aggravated damages.

The Attorney-General was instructed to enter only one plea to this writ — that the grievance complained of was an act done by order of the House of Commons, a court superior to any court of law and none of whose proceedings could be questioned in any way.

Stockdale's first suit had exhausted his slender resources. He entered his second suit against the Hansards *in forma pauperis*. The Court requested Curwood, an elderly barrister, whose eyesight was so poor that he could barely see to read the law reports, to represent him. Opposing Curwood were the Attorney-General and five other learned counsel. He did not shirk the unequal battle, but carried Stockdale's colors high.

In closing his opening speech, he spoke these manly words:

My Lords,
I have had a task
imposed upon me
which I dare not shrink from,
though I come to it
with much weakness,
I have come to it with a mind
distressed and distracted
by domestic affliction:
my sight is nearly gone:
and when I retire
from Your Lordship's Court
I shall undergo an operation,
by means of which
I hope to have my sight restored;
if I should not,
and the issue is
in other hands, not mine,
be my days of darkness
and misery
few or many,
it will be a consolation to me
that one of the latest efforts

of my professional life
has been to defend
the laws and liberties
of my country.

Sir John Campbell addressed the Court of four judges for three days, referring to some 150 reported decisions. He took a strong line in his argument. "I represent here the House of Commons," he said, "who are called before an inferior tribunal for doing that which they thought essential to the discharge of their legislative functions — for exercising a privilege which they have enjoyed from ancient times — long before the Revolution, a privilege which is required in the Bill of Rights, and which, since the Revolution has never been questioned by anyone except Mr. Stockdale."

He made it clear to what extent the House was prepared to go to defend what it considered its privilege. "No judgment of a Court of Law can be effectual," he threatened, "to deprive the House of Commons of the privilege it now claims. There are ways known to the Constitution of nullifying the erroneous decisions of law against privilege."

Curwood's last words, in reply to the Attorney-General, restored the proceedings to a higher level:

My Lords,
I claim to stand here
as an advocate
charged with the rights
of a poor man.
I will not shelter myself
behind the resolution
of the House of Commons,
which gives me permission
to be heard here;
I stand here
in bold defiance
of their resolution . . .

My Lords,
I have never been thought
worthy to change
the texture of my gown;
but whether I wear stuff,
or whether I wear silk,
whether in office,
or out of office,
I would not surrender
the rights of my brethern
at the bar,
I would not surrender
the rights of my profession,
no, not for personal emolument,
for family aggrandisement;
no, not for personal safety.
I have spoken
in the spirit of honest independence,
which I hope
may cleave to me
to the last,
and if I transmit an unsullied character
and that spirit to my children,

I hold it
a fairer inheritance
than wealth or title
basely or sordidly acquired.
My Lords, I have done.

The Court gave judgment in favour of Stockdale. Lord Chief Justice Denman and Mr. Justices Littledale, Patteson and Coleridge, held that Parliament is supreme, but that the House of Commons is not Parliament but only a co-ordinate and component part of Parliament: that though the sovereign power of Parliament can make and remake the law, the concurrence of the three legislative estates is necessary.

"This is a claim," said Lord Denman, "for an arbitrary power to authorize the commission of any act whatever . . . In truth, no practical difference can be drawn between the right to sanction all things under the name of privilege, and the right to sanction all things whatever, by merely ordering them to be done . . . the power claimed is arbitrary and irresponsible, in itself the most monstrous and intolerable of all abuses."

In dealing with the veiled threats made by the Attorney-General, he spoke with the full dignity of his high office. He pointed out that Sir John Campbell would have shown "more grace in leaving (his legal authorities) to their natural influence over our minds, than in resorting to language which would have exposed our motives to a darker suspicion than any pointed at by (him), if our opinion had happened to coincide with that of the House of Commons."

Sir John Campbell said that the members of the House of Commons were so furious with the Court's judgment that they were ready to send the Chief Justice to the Tower. But they had the last word without resorting to any such drastic step. Parliament passed the *Parliamentary Papers Act, 1840,* a short declaratory Act, which provided that any person called upon to defend an action in respect of the publication of any proceedings authorized by either House of Parliament could bring before any court of law a certificate that the publication was so authorized, whereupon it became the court's duty to stay all proceedings.

The lesson to be learnt from this case is that when Parliament and the Courts come into conflict, the last word always remains with Parliament. "The sovereignty of Parliament," as Dicey said, "is, from a legal point of view, the dominant characteristic of our political institutions." In other words, under the British constitution, Parliament is supreme.