VERDICT REACHED IN THE LIBEL CASE

Deliberating on Its Merits.

CLOSING SCENES OF THE FAMOUS TRIAL

Arguments to the Jury Were Made by Attorneys John T. Lenahan and Cornelius Smith for the Defendants and Attorney Joseph O'Brien Argued the Case for the Commonwealth-Court Room Was Thronged PRIVATE LIFE CLEAN AND PURF. All Day-Judge Edwards' Charge to the Jury Was a Clear and Concise Statement of Everything Pertaining to the Law of Libel and

At 4.45 yesterday afternoon the case of Richard J. Little and Michael J. O'Toole, charged with libel, was given to the jury. A verdict was reached at 9.40 last night and will be reported to court at 9 o'clock this morning.

Attorneys John T. Lenahan and Cornelius Smith made the closing arguments to the jury yesterday for the defense in the libel case of the commonwealth against Richard J. Little and Michael J. O'Toole, Colonel E. H. Ripple, prosecutor. They were followed by Attorney Joseph O'Brien, who closed for the commonwealth. At 4.45 in the afternoon the charge of the court was completed and the case was submitted to the jury with instructions to seal the verdict and bring it into court at 9 o'clock this

Mr. Lenahan began his argument at 9.35 in the morning and spoke until 12 o'clock. The great court room was crowded and his address was followed with close attention. He disappointed the vast crowd that had gathered to Something brilliant and clever was expected; what was hear! was a torrent of the most brutal invective ever heard in that court room. To be sure Mr. Lenahan was at the disadvantage of arguing a desperate, villianous case, but that can hardly be pleaded as justification for the character of his address. It was vigerous and forceful but totally-deficient in logic and consistency, to say nothing of the subject matter. It seemed as if association with the Scrantonian people during the trial had imed him with the spirit that shines through the columns of that malodorous publication.

THEY WEEE AMAZED.

The attorneys in the defense with him were at first amazed, then disgusted and finally alarmed. When Mr. Lenahan concluded he said that would close the argument for the defense and court adjourned for the noon re cess and Mr. Lenahan went to his home in Wilkes-Barre.

Immediately the other attorneys had a consultation with the result that when court opened in the afternoon Attorney Smith asked permission to talk to the jury for fifteen or twenty minutes and was allowed to do go He wanted to get from the mouths of the jurors the bad taste that Mr Lenahan's address had left.

Attorney Smith was followed by Attorney O'Brien, whose closing address for the commonwealth called forth praise and congratulations even from the attorneys for the defense. He reviewed all of the facts in the case and the law bearing upon them in a clear and concise manner, arranging his argument so cleverly that it followed step by step in natural sequence from beginning to eal. His arraignment of the defendants for their infamous libels and reckless newspaper methods was perhaps the most dramatic incident of the trial. "If the law will not protect a man's reputation from such terrible assaults as this, what remains but for him to take the law into his own hands? was one of Mr. O'Brien's impressive statements. His effort of yesterday places Mr. O'Brien in the front rank of the pleaders at the Lackawanna

Judge H. M. Edwards consumed forty-five minutes in his charge to the jury, which was perhaps one of the most lucid and dispassionate presentations of the law of libel ever heard in a criminal court in Pennsylvania. It is printed in full herewith and de serves a careful and thoughtful perusal. The court room was crowded to

the doors all day.

MR. LENAHAN'S ADDRESS. Court opened yesterday morning but it was not until 9:35 that Mr. Lenahan began his closing argument to the jury for the defense. He opened with the statement that they had the foreordained knowledge that under the evidence in the case the verdict would be one of acquittal. The law of libel in Pennsylvania was read by the attorney and he then proceded to discuss what a defamatory libel is. He quot ed the common law definition of libel for the purpose of showing that the principal ingredient of libel is malice

"It is asserted." he continued, "that we have charged Colonel Ripple with a crime and also held him up to public ridicule and contempt. While the the reputations of its citizens it gives permission to furnish the public with matter tending to hold Colonel Ripple certain kinds of information. That is

what we have deac. "The press is not only the bulwark of our liberties but the anteguard of our institutions; it is the scourging whip that drives bad men from office The public press in this instance denounced the methods of Colonel Ezra-H. Ripple. The Scrantonian is an independent newspaper that owes no allegiance to any party and has for its mission the correction of public

Mr. Lenahan said that O'Tools was in so way responsible for the articles that appeared in the Scrantonian. An astociate editor under the law is not neld accountable for what appears in the columns of the paper on which he

Jury Spent Five Hours is employed unless it can be shown the aid of the law and he is here towriting of the articles complained of, action." The only evidence to convict O'Toole

with the writing of the articles concerning Colonel Ripple was given by Deputy Constable Jacob Ellman. "This was the last person," the speaker continued, "with whom O'Toole would have talked on such a question." Mr. Lenahan after roundly abusing fillman for several minutes went on to explain what O'Toole's relations with the Scrantonian are and why he left a \$17 week position on the Times to accept \$15 a week position on the Scran-

"I will leave that branch of the case o you," he said. "confident that it will not take you many minutes to remove him entirely from this case.'

He then attacked the motive for the prosecution which he said was prompted by spleen and malice,

After referring to Colonel Ripple's ublic career and the offices he has held e said his methods in politics made him a fit subject for censure and comment. With his private life they had of malice that there is no palliation for nothing to do. It is admittedly clean and pure, Mr. Lenahan said.

He took up the question of malice in connection with the publication of the articles contending that they pubished them in good faith believing that what was contained in them was true not in WILS terest solely that Colonel Ripple brought the prosecution Mr. Lennhan charged. He said it was because the Scrantonian was a busi-ness rival of the Tribune in which Colonel Ripple is interested. telling the jury what a great and luminous light in the newspaper world the Scrantonian is the speaker said that Colonel Ripple was more interested in rushing the Scrantonian than in vindicating his private character. "His private character needs no vindicas ion," Mr. Lenahan said. "Every one

admits it is blameless. 'The main question be considered in this case," the speaker continued, is this: Was there reason for the pubication of these articles? There is no evidence here of actual malice. The nen had never met or quarrelled. them. Little had no personal resent- ingman" Mr. O'Brien described as baid, ment in his bosom against Colonel sally and foolish. The language he even legal malice that induced him to torials.

vere conducted." that they had not printed a line or in this paper, but to take the law into word about Colonel Ripple that was his own hands. So I speak to you to-

THE LIBELS REVIEWED.

He took up the libelous editorial and the communication signed "A Work-ingman," and endeavored to show that they contained little of a libelous nature and that what might be considered libelous was not written with malicious intent. He also considered at some length the libelous articles printed in the Scrantonian of Aug. 6. some length because it was somewhat complex," he said. "There is nothing indicate that we were actuated by malice. Are you gentlemen of the jury on such evidence to consum this man-because I think O Toole is out of this case-are you going to send such a man as Little to fail for a year. On your manhood Jon't do it, under the evidence you couldn't do it."

Mr. Lennhan's address from beginning to end was a succession of ricas to save the defendants from the punsment their acts call for on the ground that they had no marice in their hearts toward Colonel Ripple. When Mr. Lenahan finished, he said

hat ended the argument for the defense. Court adjourned for dinner and Mr. Lenahan went to his home in Wilkes-Barre. When court enemed in the afternoon, Attorney C. Smith said he had not intended to address the jury, but had changed his mind and isked for twenty or twenty-five minutes in which to explain the case of the defense to the jurors. Mr. Smith stated over and over again

hat there was no malice behind Little's action in libelling Colonel Ripple and told the jurors there was direct evidence to show that such was the case. He laid much stress upon the fact that Colonel Ripple and Little have no acquaintance and that there has been no ill-will or hatred between them. This was urged as a circumstance from which the jurors might infer that there was no malice.

MR. O'BRIEN'S ARGUMENT. At 2 o'clock Mr. O'Brien began his argument for the defense and spoke for

"I suggest at the outset of this argument," he said, "that you twelve men take to yourself the great responsibilty that the commonwealth of Pennsylcania has placed upon your shoulders. It is not necessary for me to suggest to you the great importance of this case. In considering it let us rise above the mire of politics, let us fairly consider the merits of the case before us without reference to passion or prejudice. Let us address ourselves to the facts of this Important lawsuit. Let us leave the history of Greece and Rome out of this case. It has nothing

to do with it." Mr. O'Brien read the law of libel under which the defendants were tried. He then said that Little admitted having written and published the libel, so that part of the case was an open book. When you go out to your jury room and take these papers with you." Mr. O'Brien said, "you will find upon reading them that they fairly drip with

up to public hatred and contempt." The speaker devoted some time to explaining the theory on which the law of libel is founded. Then he continued: The law-abiding character of Colonel Ezra H. Ripple was shown when on Monday morning, July 31, instead

FATICUE and lessitude so common in mid Horsford's Acid Phosphate Genuine bears name Horsford's on wrapper.

of taking the law into his own hands. he went before a magistrate and had these two defamers, Richard J. Little and Michael J. O'Toole, arrested. That was the supreme test of a man's respect for the law. If such a thing had been written about me my first impulse, I confess it here, would have been to hunt out the man who wrote that article and throttle him. But this prosecutor, with the weight of years and discretion on his shoulders, went, as a good citizen ought, and invoked the aid of the law and he is here to-

DASTARDLY EFFORTS.

Mr. O'Brien then referred to the dastardly efforts of the defense to steal away Colonel Ripple's reputation while protesting-to save themselves-that his private life is spotless.

"If Colonel Ripple was guilty of bribery, as they said he was, why before this article was published did they not have him arrested for that ofhad to do was to lay the information before the district attorney, or swear out information before a magistrate, and then they would have all the opportunity in the world to prove their case if they could. But they did not, Scrantonian constituted itself judge, jury and the law and proceeded to try and convict Colonel Ripple."

Mr. O'Brien referred to the deliberation with which the editorial was written and published. Little thought about the matter for several days before the article was printed. There was such deliberation and such palpable evidence his offense. The speaker said that when a man has a good, honest lawsuit he always has a good, honest defense, but we find the defendants with four or five defenses, a new one every time they find the old one will not do.

They have urged," Mr. O'Brien continued, "that this is a political matter and yet nine-tenths of the libelous matter in this paper-yes, I will for this occasion dignify it by calling it a ward about politics. Not a word was said about his record as a public office holder and if anything to his disadvantage could have been dug up you can rest assured that Little, the libeller, would have unearthed it. Not a single fact could they get to show that he had not been true to every public trust and yet they say they are attacking him in his public capacity and for his conduct in public life."

TORN TO SHREDS.

Mr. O'Brien tore to shreds the argument of the defense that the libel was printed for the public good and because it was a public matter. The de-Harsh words had not passed between fense made to 'A Card from a Work-Ripple. It was not actual malice, not contended was the same as in the ed-"That shows," said Mr. print these articles. It was that the O'Brien "that the viie pen of Richard public might know how public affairs Little penned both articles. If you fail to give the stamp of your con-Mr. Lenaban made a lengthy refer- demnation to these infamous attempts ence to a factional fight in the Repub- to wreck a man's reputation, if instead lican party and the adoption of the of sending this prosecutor out of this Crawford county rules of conducting court room vindicated you send him orimaries and the opposition to them. forth with a tarnished reputation, One of the astonishing and reckless what is there left for this man, or any statements made by Mr. Lenahan was other man who is thus grossly libelied not supported by evidence in the case, day not in this case alone but in the interest of law and order in this com-

The next step in Mr. O'Brien's ared. He also referred to the abuse of Judge Edwards and of the private counsel for the commonwealth contained in the same issue. Mr. Holgate objected to this line of argument and Judge Edwards sustained it. He would prefer, he said, that his name issue. cument was a consideration of the nentioned in the discussion of the case.

FOR THE PUBLIC WEAL.

They say these publications were for the public weal," Mr. O'Brien con-"We say they were born of malice that could only come from hell or the bosoms of Richard J. Little and M. J. O'Toole. If there was one missing link in the commonwealth's case it was furnished when Little was on the stand. You remember how he hesitated and tried to evade questions and how malice was written across his face and was manifest in his every utterances. Let me submit to you that when a man, who occupies a public place in this community such as Little does, and is here for nine years and vet has not made application for citizenship, it comes with bad grace from him to discuss politics and attempt to reform them. On his own admission he is a man who has not interest enough in this country to become one of her citizens."

Next Mr. O'Brien considered the case igainst Michael J. O'Toole. He said: "O'Toole left a position on Times, a clean, decent paper, where he received \$17 and accepted a posttion \$2 a week less on the Scrantonian. He did this because the Times would not print the foul articles he penned and he turned to the Scrantonian as naturally as a duck to water and soon he came under the wing of proud Richard himself. Water seeks its level so stick together boys, a pretty pair you

make. "O'Toole is a pretty bright fellow and yet he went on the stand and swore that he does not know who the owner of the Scrantonian is although he has worked on it for over six months. Little was braver than O'Toole. The latter not only wanted to swear himself out of it, but wanted to get Little out of too. Just think of proposition, gentlemen of the jury! Associate editor of the paper for six months and did not know the names of the owners of the paper. Do you be-

ELLMAN'S TESTIMONY.

An extended reference was then nade by the speaker to O'Toole's conversation with Constable Ellman in which O'Toole admitted writing up Colonel Ripple and then turned to a consideration of the evidence with reference to the information obtained by Little with reference to Colonel Ripple using money in politics. It was of the filmslest nature imaginable. O'Brien said. He referred to John J. O'Grady who is employed by the Scrantonian, is a jail bird and has sworn to a state of facts not true. The testimony given by John H. Fellows, Wade M. Finn and Mayor James Moir. the jury was asked to consider in the light that these men are political enemies of Colonel Ripple and that the fact that they all talked with Little about Colonel Ripple at the same perriod was a circumstance from which the jury could infer that there was a onspiracy to injure Colonel Riupie

Yet their plea is that all they aid was for the public good," was Mr. O'Brien's impressive remark. "Just think of it, gentlemen of the

public good. Mr. Vidaver referred to their paper as the Sewertonian. Libel not the sewer. The sewer has a good purpose. It carries the filth from us, but the Scrantonian carries it to us. Therefore libel not the sewer.

Mr. O'Brien discussed the provision of the constitution with reference to the liberty of the press which specially provides that while the press is free those in charge are responsible for Its

IF LAW DOES NOT PROTECT.

"If the right of reputation and reputation itself cannot be protected then what can we say of the efficacy of the When the press turns from its pathway to attack the citizen, when It becomes a menace to the community, then we turn to the law and ask it to curb this paper that brings darkness and filth into the home. When the press departs from its true mission, as it did in this case, when such hands as those of Little and O'Toole pen libels, then we would ask the law to asked Mr. O'Brien. "All they restrain the men engaged in this unholy task. I speak here today for the public peace of this community, which is endangered every time the Scrantonian is issued. I speak not only for the reputation of this man, but for the reputation of every man in this community. I ask you to convict these men of the infamous libel against this prosecutor and against the peace of

this community." When Mr. O'Brien closed, Mr. Smith of counsel for the defense, submitted law point to the court to instruct the jury that there can be no conviction, because it had not been proved that the paper was circulated. Newcomb objected to the offer of the point on the ground that it had not been submitted at the proper time Judge Edwards said this was true, but he would not enforce the rule of court and would consider it with the other law points. It was later on refused.

The last chapter in the trial of this famous case was the charge of Judge Edwards to the jury, which followed immediately after the presentation of a paper-about Colonel Ripple, says not Mr. Smith's law points. The judge spoke as follows:

CHARGE OF THE COURT.

Gentlemen of the Jury: The indict-ment in this case charges the defendants with publishing of and concerning the prosecutor, Ezra H. Ripple, malicious and defamatory libel. T articles complained of appear in a newspaper called the Scrantonian. They appeared on Sunday, July 30, this

The case is of considerable import ance for more than one reason. It is important to the defendants because it may result in the imposition upon them of a fine or imprisonment, both or either, at the discretion of the court. It is important to the commonwealth to secure a vindication of the law if it has been transgressed. It also concerns the community at large, because the principles involved in the trial of a case of this character concern the rights of individuals, the limitations with which the law surrounds the public press, and the general peace and welfare of society. It is the duty of this jury, as it is

the duty of all juries, to give the de-fendants a fair and impartial trial. This they are entitled to under the law. You must decide the case accord-ing to the law and the evidence. You are not to be influenced in the slight-est degree by passion or prejudices. The law and the evidence are to be your sole guides, leading you to a ver-dict. The verdict you shall render, whatever it may be, must be such as will satisfy your own conscience and underget and such as will need the judgment, and such as will meet the stern requirements of the facts of the

the certainty of mathematical dem-stration; she must prove her case yand a reasonable doubt. This is such a doubt as creates in the minds of a jury a substantial, reasonable hesitation as to the guilt of the defendants after careful and conscientious considcration of all the facts and of the law, The commonwealth need satisfy you only to a moral certainty.

PROVINCE OF JURY.

It is your exclusive province to weigh and determine the facts in the case. Most of the facts come from the witnesses who go upon the stand and testify. In this case you have the imcomplained of. The credibility of the witnesses is for you. You are to judge of their truthfulness. You have a right consider their manner upon stand, the interest they may have in the result of the case, their relations. social or other, to the parties in the case, the contradictions if any in their testimony, and the correborations which you may find in the facts and circumstances of the case. Weigh the testimony carefully, consider it fairly, examine the published articles contained in the indictment from all standpoints, and follow the dictates of an enlightened judgment to a final verdict regardless of the consequences. Having made these preliminary of

ervations. I will now explain to you

the law of libel. There are many definitions of libel to be found in the law books. I will give some of them. Sir William Rus-defines libel to be "A malicious defamation of the character of another expressed in printing or writing, or signs or pictures, tending to blacken the reputation of a person, and thereby to expose him to public hatred, con-tempt or ridicule." Another definition take from an opinion of the Supreme ourt of the United States. It is as follows: "Every publication which, either by writing, printing or pictures, charges or imputes to any person that which renders him liable to punish-ment or which is calculated to make him infamous or odious or ridiculous, is prima facie a libel and implies malice." Justice Story defines libel to "Any publication the tendency of which is to degrade or injure another person, to bring him into contempt, ridicule or hatred, which accuses him of a crime punishable by law, or of an act odious and disgraceful to society.

is a libel."

DEFINITION OF LIBEL. In our own state in its earlier history one of the judges defined libel to be "Any written or printed slander which tends to expose a man to contempt, ridicule, hatred or degradation of char-But outside of these definitions we have in Pennsylvania an act of as sembly which defines the offence of libel. It reads thus: "If any person shall write, print, publish or exhibit any malicious or defamatory libel, tending either to blacken the memory of one who is dead or the reputation of ne who is alive, and thereby exposing him to public hatred, contempt or ridi-cule, such person shall be guilty of a

You will notice that all these nitions, as well as the act of assembly agree in their descriptions as to essential features of the offence. maticious publication, injurious to the eputation of another, is a libel. Malfence. The very publication of the libel is prima facte evidence of malice and will require the defendant to re-Mr. O'Brien's impressive remark. but the presumption of it. Though will ask will naturally be: Is it libel-dence in publishing articles reflecting ous? Does it tend to blacken the reputation of the word means hatred, a desire of retaining of the presecutor? Has it a citizen. If through carelessness and the

venge or settled anger against a person, yet in its legal sense it means the doing of an act without a just cause, wrongfully and wilfully or recklessly. The man who publishes slanderous matter, calculated to defame another, must be presumed to have intended that which the publication is calculated to bring about, unless he can show the contrary, and it is for him to do that. This is all I have to say in this con-nection about the law of libel. Much has been said in this case about

the freedom of the press. It has been well said that a free press is the pride of a free country. It is one of the bul-warks of liberty. The constitution of Pennsylvania provides that "the print-ing press shall be free to every person who may undertake to examine the proceedings of the legislature or any branch of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one o he invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty."

THE PRESS IS FREE HERE. In some countries the press is not free Newspapers cannot criticize even the official conduct of public officers; cen-sors are appointed who have the power to decide what shall or shall not appear in a newspaper, and if they see fit they have the right to confiscate the whole edition of a newspaper if their mandates have been violated. But in this country, and especially in this state, the freedom of the press is for-ever secured by constitutional provislons. But the same constitution which ions. But the same constitution which guarantees the freedom of the press also declares that, "All men have the right to enjoy and defend life, liberty, property and reputation."

A man's reputation is as much his property as his house and lot. Indeed it is considered by some men and most men a more sucred resserved. It is

men a more sacred possession. It is entitled to the protection of the law, and no man has the right unlawfully and no man has the right unlawfully to injure a person in his reputation any more than he has the right to take away from him his property. Consid-ering that the freedom of the press is protected by the organic law of the state, and that the reputation of every clizen of this commonwealth is equally protected by constitutional guarantees, it is our duty to inquire how far the it is our duty to inquire how far the public press may go in discussing a man's character and in exposing him to the contempt and hatred of the pub-

It is unquestionable that the public press has great latitude. It has the right to discuss freely all measures relating to municipal, state and national government; it has the right to examine, investigate, approve or con-demn the official conduct of all men acting in any public capacity. It is its duty to expose corruption in public places and to enlighten the people as to all matters of public interest. has no right to injure a man's repu-tation without just cause. It has no right to expose him to public contempt and hatred unless he deserves it.

IT OWES A DUTY.

The press owes a duty to every individual citizen. If it is about to pub-lish anything derogatory to the character or reputation of a citizen it is its duty first to investigate the accusation and to use every reasonable means to verify the truth thereof be-fore publication. If it fall in this particular and the publication is of a de famatory character, and if the publi-cation be made in a negligent, careless or reckless manner or in a vindictive spirit, then the law presumes that the publication was made maliciously and the publishers are guilty of libel. Nevertheless, a newspaper publisher

has a right to explain the circum-stances under which the publication was made; he has the right to offer evidence to rebut the presumption of malice which arises from the character of the publication itself, and if it be found that he published the article in good faith, that he exercised proper

sponsible for the publication of the ar-ticle comblained of in this case. The defendants are Richard Little and Michael J. O'Toole. There is no ques-tion about the connection of Richard Little one of the defendants, with the newspaper called the Scrantonian. He admits upon the witness stand that he is the editor and sole proprietor and was such in July and August of this

He admits writing one of the articles set forth in the indictment; but the responsible connection of the other defendant with the Scrantonian is denied. Was Michael J. O'Toole responsible in any way for the writing, production or publication of the alleged libel? You have heard the testimony upon this Mr. O'Toole himself goes upon the witness stand and tells you that he is only an employe of Mr. Little, and works on the Scrantonian at the rate of fifteen dollars per week; that although he is named as associate editor in the columns of the paper he is to all intents and purposes only a reporter, ochasionally doing editorial work. He is corroborated by Richard Little himself.

THE SOLE OWNER

Mr. Little says that he is the sole owner of the paper, and that Mr. O'Toole is in his employ at the wages I have already mentioned. If this contention is correct, then it will be your duty to acquit Michael J. O'Toole, because if he is only an employe on paper he cannot be convicted. But But the evidence of Mr. Little and Mr. O'Toole is not the only testimony in the case. Mr. Schoch testifies that at Harrisburg before the investigating committee Mr. O'Toole swore that he was associate editor of the Scrantonian, and that then the paper was shown him he said,

This is our paper.' But Mr. O'Toole says the same thing today; he admits that he is associate editor of the paper, and counsel for the defendants claim that the expression "This is our paper" is of very little ac-The most important testimony in a conversation with Mr. O'Toole, the latter informed him that he had writ-ten up Mr. Ripple on the previous Sun-day, which would be July 20, and that e was going to write him up again. You are to judge of the credibility this witness, and you must consider the whole of his examination, both in chief and on cross-examination in arriving at a conclusion as to the exact character of his testimony. Mr. O'Toole lenies the interview with Ellman, and

denies writing the articles complained of. If you are satisfied from this testimony, beyond a reasonable doubt, that Mr. O'Toole wrote the article pub-lished in the Scrantonian on Sunday, July 50, referring to the prosecutor then he stands upon the same footing is Mr. Little, the other defendant. But if you believe that he did not write it, and that he is not concerned in any way, as proprietor, in the publication of the Scrantonian, and was not in July of this year, or if you have a reasonable doubt upon that question, it be your duty to acquit Mr. O'Toole.

THE LIBELOUS ARTICLES. I will now call your attention to the articles alleged to be libelous and the the editorial article entitled "Ripple

circumstances surrounding their production and publication. First of a and the Tribune." The paper will go out with you. You have the privilege of examining the article for yours. After you have read the ar-through, the first question you



Ask Your 'SALADA' Refreshing

LIPTON'S CEYLON TEAS ARE THE BEST.

FOR SALE BY ALL GROCERS.

tendency to expose him to publi hatred, contempt or ridicule? I do not see how you can avoid the conclusion that this article is libelous and that it tends to blacken the reputation of the prosecutor and to expose him to public hatred and contempt.

An examination and analysis of the

An examination and analysis of the article will satisfy you on this point. It charges him with betraying the political party to which he belongs; it accuses him of debauching politics in the county; it says of the prosecutor that he is "this thing who is literally steeped in political corruption and blackest hypocrisy;" it charges him with covariles and that when fighting with cowardice and that when fighting was going on he was absent in a cellar somewhere else; and it accuses him of strutting around as an old soldier, although he never fought in the war,

thereby in effect accusing the prose-cutor of a false pretence.

No jury can avoid the conclusion that to proclaim a man a coward, a hypocrite, a debaucher of politics, and a false pretender tends to expose the man to public contempt and hatred. After arriving at the conclusion that the article is libelous, the law then steps in and says that legal malice is presumed and it is for the person ac-cused of writing or publishing the libel to rebut this presumption by proper evidence. If he fails to do this he is guilty, although no actual ill-will against the prosecutor appears in the case. I have already stated to you what legal malice is. It is the doing of an act without sufficient cause. wrongfully and wilfully or recklessly. Every person is presumed to intend the natural consequences of his act. A man may be guilty of publishing a libel he may be stranger to him and although actual

exist. COMMONWEALTH'S CLAIM.

ill-will and anger do not and cannot

In the present case the common wealth claims that not only is ther legal malice, but that the evidence dis-closes actual malice upon the part o the defendants against the prosecutor especially on the part of the defendant Little. You have a right to consider the question of actual malice, although it is not necessary for the common-wealth to establish the existence of actual malice in order to secure a con-viction of at least one of the defend ants in this case.

It is claimed that the article referred to could not emanate from any source than a mind instigated by actual mal-ice and ill-will. On this question you have a right to consider the article itself, its apparent purpose, its tone and spirit, the occasion of its publication and its subject matter. I am dis-ture from the editorial article now, What is the apparent purpose of the article? The heading is "Ripple and the Trib-You may find from the article that

he moving cause originated in connec tion with the Tribune and that the intention was to attack the Tribune bringing in the name of Ripple incidentally. Was it necessary to bring in the name of the prosecutor and discuss his personality if the purpose was to attack another newspaper, of which the prosecutor was a stockholder or director? This is for you to consider. Look again at the tone and spirit of the article. Is it fair, is it decent and apparently clothed with an honest puris it, as the commonwealth says, villifying, vituperative and breathing with actual malice? It is a ques-tion for you to answer. In this question of actual malice you have a right to consider the subject matter of the article. Does it contain facts or accusations only? Was it published for the purpose of enlightening the public or for the purpose of gratifying spite and ili-will? Evidence has been received showing subsequent publications by the defendants, or one of them, concerning the prosecutor.

ABOUT ACTUAL MALICE.

This evidence bears on the point of actual malice, the principle being that if one person publishes today a libel of another and follows it up tomorrow with subsequent attacks the inference might be drawn that the publisher was actuated by malice. You have a right, gentlemen of the jury, to consider all these questions in determining the question of actual malice. If you find that such malice exists in this case, it makes the case of the commonwealth

so much the stronger.

I will now call your attention to the defense made in relation to the edi-

torial article. Mr. Little went upon the stand and stated to you in substance, that he published the article for an honest purpose and from an honest motive, that it was done for the benefit of the pub-lic and with the intention of purifying politics in this county. We allowed him to state the sources of the information upon which he based the accusations contained in the article and w opened the door quite wide by admit ting the testimony of several witnesses who declared that they informed the defendant of the fact that the proseutor had expended money improperly

for political purposes.
This evidence was admitted for the purpose of rebutting the legal pre-sumption of malice, as well as the exstence of actual malice. I have already said to you that a newspaper publisher must exercise reasonable care and pru-

want of proper investigation he libelt an individual he is guilty, although he did not intend to publish a libel,

Unless this doctrine is correct, there is no protection for the individual it his reputation. Has the presumption of malice existing in this case and the fact of actual malice, if you believe it proven beyond a reasonable doubt, been rebutted by the defendant Little, or has the defense raised in your minds reasonable doubt upon this question Let us examine the evidence briefly. It is my duty to instruct you as to the testimony of several of the defend-ants' witnesses. The testimony divides itself into two branches.

ALLOWED TO NAME THEM.

The defendant Little was allowed to ame the persons who gave him the information, and to state what they said to him. These witnesses were allowed to testify so as to corroborate the defendant. But, as I now recall the evidence, only two witnesses tes-tify that they informed Little that they themselves were the recipients of money from the prosecutor to be used for political purposes. You heard the for political purposes. You heard the testimony of John J. O'Grady. He says that before the publication of the edi-torial article complained of, he in-formed the defendant Little that he, O'Grady, had ten dollars from the prosecutor to work for Pryor and Kelly in 1897 and had been promised a place in the county jail.

You may consider that his testimony is weakened by the fact that when sworn before the commissioners in the contested election case he testified that he had received no money for his vote or for political services from anybody in the campaign of 1897. It may be true that he informed the defendant of this fact, but even on that question the jury has the right to judge his The other witness in this credibility. class is Charles Teeter. He also says that he had a talk with Mr. Little in June, and told him that he, Teeter, had received a little money from the prosecutor for political purposes or political

The testimony of the other witnesses is of a different character. I refer particularly to the testimony of Mr. Finn, Mr. Fellows and Mayor Moir. They testify that they gave information to the defendant as to the use of money for corrupt purposes in politics by the prosecutor, but their testimony is based on what is known as hearsay evidence. They do not testify that they themselves received any money from the prosecutor, but that they knew of others or had heard of others receiv-ing money, and that this hearsay evidence they communicated to the de-fendant. This evidence is not of a very satisfactory character, but we ad-mitted it because if true it came to the defendant and may be used by him as an excuse for the publication of at least a portion of the article in ques-tion, and for the purpose of rebutting the presumption of malice.

SHOULD HAVE GONE FARTHER. It may occur to you, gentlemen of the jury, that the defendant in the exercise of proper care as to the matter that went into his newspaper, should have made further investigation and should have verified the hearsay declarations made to him by the witnesses that I have mentioned. You will understand that this evidence in regard to the use of money for corrupt purposes in politics only relates to a portion of the editorial article published in the Scrantonian on July 30, namely, that portion which charges the prosecutor with debauching politics in this county, and with the attempt to defeat candidates of his own party.

Does the explanation given by the defendant Little as to the publication of this part of this article satisfy you that he wrote it for an honest purpose and that he was not actuated by malice? Is it of such a satisfactory char-acter as to remove the presumption of legal malice attaching to the charge the corrupt use of money in poll-

If it does, or if there is a reasonable doubt in your minds upon this ques-tion, then the defendants cannot be theid responsible for the publication of that portion of the article. But that is not all that is contained in the ar-ticle complained of. I have already called your attention to other charges ending to hold the prosecutor before the public as a coward and a false pre-tender. Is there any evidence in the case which tends in any way to jus-tify these accusations or to rebut the presumption of mulice which attaches to their publication? I can find none myself. If there is none, then regarders of the charges in connection with the corrupt use of money in politics the defendant Little may be convicte as he stands charged in this indict-

I have only referred to the editoria! article. There is another article published in the same issue of the paper and which is complained of by the prosecutor. It is entitled a "Card from a Workman." It has been read to you. It is not necessary for me to read it again. You cannot escape the con-clusion that it is libelous in character and holds up the prosecutor to public

WHY DID HE DO IT?

hatred, contempt and ridicule.

Why did the defendant allow this arcame to the office as a communi

(Constnued on Page 19.1