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SENATE OF THE UNITED STATES.

CASE OF JOHN SMITH.

Mr. Key's speech continued.

The first question asked on these occasions is "what is the general character of the witness?" We have traced this person, sir, from his first setting out in life, have followed him into every place where he has lived, and put this question to his neighbors. How is it answered? At Newtown Connecticut, where he first established himself, thirteen deponents declare him unworthy of credit; with some slight difference of expression this is clearly and positively affirmed by them all. One of them, however, (Mr. Oliver Tousy, I believe) states that he made particular enquiries of almost almost all the respectable persons in and about Newtown, & that he enquired of none but respectable persons; that from the result of these enquiries he is induced to believe that, was a respectable jury taken from Newtown and Elias Glover sworn as a witness before them, he would not be believed. It seems, sir, that he soon changed so disagreeable a situation we next hear of him at Delhi, in Delaware county New York. From this place, sir, we have produced to you the depositions of twenty-one witnesses who all concur in a similar opinion of his infamy, using if possible still stronger language than the witnesses from Newtown. By what means can a character thus charged be defended? Can it be said that these men have been selected, and are his enemies? They swear they are not. That they are not themselves credible? Many of them were fortunately known to the honorable members of the other House who have told you they are respectable. Among them are the chief judge and the associates and the sheriff of the county in which he practised, of whom one is now a senator of New York and two of the other members of the assembly; nor can such testimony be outweighed by that which his father and his uncle have collected in support of his character. There are few men so infamous but that some persons may be always found to declare a good opinion of them, and what sort of persons these are who have said they never heard any thing against the reputation of Elias Glover, it may not be difficult to ascertain. Upon this subject it is only necessary to recal the attention of the Senate to the manner in which those depositions in New York are proved to have been taken by his uncle David Beens, who is himself one of the deponents. Ezekiel K. Granger states that this man used every expedient to prevent the attendance of Mr. Smith's attorney; that he refused to examine any witness in his presence, and that nearly half of whom he did procure to depose are the relations of Glover, a circumstance on which the deponents are entirely silent. In addition to this, he is proved by one of those persons to have altered, and mistated his testimony. Surely his character is very far from receiving any support from depositions thus taken. We have also produced a record from Delaware county court, which though it may not prove him guilty of forgery, yet contains evidence charging him with an act almost equally dishonorable. From this accumulating weight of disgrace, thus increasing with his progress in depravity, he again finds it necessary to escape, and wisely determines to fix upon a still more distant residence. The last two or three years of his life have been spent in the state of Ohio, and during that period I shall be able to shew that he has reached a height of profligacy even beyond the promise of his former years. The numerous witnesses from Cincinnati, though not particularly questioned as to his general character, (being examined to impeach his credit on other grounds) yet shew the degree of estimation in which he is there held; and thus, sir, we flatter ourselves with having produced the most ample proof that truth is not to be expected from this witness; that he would not shrink from perjury, when prompted to accomplish a favorite object. That such an object was presented to him on this occasion; that the inducements to his crime were considerable, is obvious. We are informed by many of the deponents from Cincinnati, particularly by Mr. Burnet and Mr. St. Clair, that he had long felt and evinced the most malignant animosity towards Mr. Smith. The existence of this disposition in himself and others associated with him in the same dishonorable cause, is further evidenced by the base and unmanly means they have used during this enquiry. I allude, sir, to their refusal to give evidence for Mr. Smith, and then secretly sending their depositions to the Senate; conduct in every respect worthy of the friends of Elias Glover; and also to those anonymous slanders which have been forwarded (doubtless from the same source) to almost every honorable member of this House. Of these deponents and the support their testimony attempts to give to the character of Glover, little need be said. I cannot suppose it possible the Senate will receive this evidence, or if received, that any reliance will be placed upon it. The profligacy however of the principal one among them is so palpable and audacious that it deserves some little notice; I mean William M'Farland, the friend to whom Elias Glover alludes as having been present when Mr. Smith acknowledged his participation in the conspiracy. This man, sir, has had the effrontery (after refusing to answer Mr. Smith's interrogatories) to send on to the Senate an affidavit in which he states that Elias Glover's deposition is substantially correct; yet he had been before sworn at Richmond, and and we have his affidavit, and again at Chilicothe before the grand jury, and we have a statement of his evidence. They afford the most direct contradiction of his present deposition that can be conceived. Unless Mr. M'Farland then will condescend to tell us, how are we to ascertain which is true and which is false? As it now stands we have, in addition to his declarations to General Gano, Mr. Burnet, one or two of his depositions acquitting Mr. Smith, to set off against the one which accuses him. Of the other deponent I shall say no more than what appears from their own representation, (and nothing more harsh could well be said of them) they are the friends of William M'Farland and Elias Glover. To have obtained the enmity of men disgraced by such a friendship is no small honor to Mr. Smith.

However conclusive this proof of the general character of this witness may appear, it yet constitutes but a small part of the infamy with which we have overwhelmed him. We have shewn his capacity for perjury, and the disposition he must have felt to exert it on this occasion. I now proceed to point out the actual commission of it in the most wilful, premeditated and repeated instances. This witness, it seems, appeared before a grand jury at Chillicothe, in January last, which body had the penetration to discern his falsehoods, though no testimony was produced to discredit him. One of the jurors, Mr. Ethan Stone, has stated to us in his deposition the substance of his examination on that occasion, from his notes which he tells us he was very particular in taking. His statement is also corroborated by General Gano and Colonel Armstrong, who were members of the same jury. We are thus informed that Elias Glover on that occasion declared "that he had never published or offered for publication any piece in ridicule of the measures taken by government to arrest the progress of Burr's conspiracy." Of the falsehood of this assertion we have produced the most undeniable evidence.

The editor of the Western Spy, David L. Carney, deposes that Glover brought him such a piece which he refused to publish. Ephraim Morgan swears that he was present at the time and confirms this statement. If Mr. Glover is disposed to dispute the point with these two witnesses we will call a third to whom, however objectionable, he must submit. This is no other than himself. He told Mr. Arthur Sinclair (as that gentleman states in his deposition) that "he had published one piece, ridiculing the measures taken to stop Burr, and had written another (which he offered to shew him) which the printers had refused to publish." He again told the same to Mr. Jacob Burnett and urged him to join in squibbing the measures of government. Can any thing be more compleat and confounding than this detection? Let us view another instance. The same Grand Juryman inform us that during his examination he declared, "that he never had any correspondence with col. Burr;" these are the words taken from Mr. Stone's notes. And yet he tells captain Nicholls, whose deposition we have produced, that he had written to Burr, and that he daily expected to hear from him. In addition to this, the testimony of Mr. George Russell is before the Senate, who is personally known to several of the honorable members of this House, who declares that Glover actually gave him a letter to carry to colonel Burr, with injunctions to burn it if he did not see him.

I might, sir, point out other instances of falsehoods equally gross, but it cannot be necessary to take a particular notice of each. I shall therefore only call the attention of the senate to a circumstance which exhibits a number of them in one general point of view. He appears from his own testimony to have been the person who furnished Matthew Nimmo with his information relative to Mr. Smith's participation in the conspiracy. Now the information he gave Nimmo should certainly agree with that which he now gives us in his deposition. Yet they are essentially different, nay, even directly contradictory, as is obvious from comparing them.

But, sir, independent of all these circumstances, I would ask nothing more to discredit the witness than the internal evidence of falsehood which his deposition bears. What can be more incredible than the facts he states? Mr. Smith is an associate in Burr's conspiracy, and yet never commits an act which evinces the least participation in it, never affords it the least support, never endeavors to interest his friends and dependants in it, but would have remained wholly unknown and unsuspected but for his disclosure to Elias Glover; and this confidant whom he thus highly trusts was at that very moment and before and afterwards his open and irreconcilable enemy.

He further tells us that he received this communication "under the strictest injunctions of secrecy, that to divulge it on any occasion less pregnant with evil would reflect infamy and disgrace upon his character and conduct, and that he therefore balanced between his honor and his patriotism before he could divulge it." Now can Mr. Glover reasonably expect any one to believe this? And if we were thus to indulge him, how much reputation would he save by it? Does a man of character ever allow any circumstances, however "pregnant with evil," to induce him to receive a communication, promise to conceal it, and then divulge it? Where, sir, does he find a sanction for a doctrine so absurd and detestable? Does that sacred volume which he has dared to profane with his touch, and thus openly contemns, allow any such dispensation from the eternal and immutable laws which it awfully commands us on all occasions to observe? Is any such ridiculous exception to be there found, which shall justify a man in violating the plainest rule of morality and becoming a scoundrel for the good of his country? But even if this pretext could account for his disclosure to Nimmo in November, it can be no pretence for his afterwards voluntarily and certainly unnecessarily reducing it to an affidavit in February. Some delay in making out this deposition might be necessary from the nice balance which he tells us he was adjusting. With his honor in one scale and his patriotism in the other, it is not wonderful that it should take him a month or two to ascertain which of these two straws was the heaviest; but it is singular that his patriotism should not preponderate till all symptoms of danger to his country had disappeared, till the conspiracy was completely defeated.

There are, sir, two other depositions relative to the credit of this witness which I had intended to notice. Mr. Longworth details to us a conversation held between him and Glover early in February and just after he had made this affidavit. Glover then told him that he had not "acted against Mr. Smith," that "he thought him unjustly accused" and believed "he had no share in the conspiracy." In the April following, Dr. Lanier's deposition informs us of an interview (at which he was present) between Mr. Smith and Glover. How strongly marked is the conduct of each on that occasion! In Mr. Smith we see the firmness of an innocent man indignantly daring forth his slanderer, and in the other a soul as contemptible for its meanness as detestable for its vices, descending (if indeed such a creature can properly be said to descend to any thing) to the grossest falsehoods and most humiliating prevarications.

I have done, sir, with this witness. I fear I have detained the Senate unreasonably upon this subject. I therefore leave him to that contempt which I trust he will meet with here, and to that punishment which public justice will hereafter inflict upon him. For should he escape from this, I have no doubt it will be owing more to his own agility than to the crippled condition of our courts. Nor shall I have much apprehensions of his acquittal even if he is allowed to plead that "he is possibly innocent."

I now proceed to make a few hasty observations upon the circumstantial testimony offered by other witnesses in support of this accusation, and first by Peter Taylor. The circumstances principally relied on in the statement of this witness is the conversation which he details between Mr. Smith and himself, and particularly the charge which Mr. Smith, he says, gave him "not to go a tavern lest the people should sift him with questions." Admitting this conversation to be correctly repeated, nothing can be more unfair and unreasonable than to infer from it that Mr. Smith was concerned in the conspiracy or even acquainted with its object. May it not be more properly attributed to his knowledge of the public agitation which Mr. Burr's movements had excited, his belief that they were innocent, and his apprehensions that this agitation might be dangerously increased by Peter Taylor's representation and exaggerations of Mrs. Blannerhassett's alarm. There are various other motives equally pure to which this direction might have been owing, and it would therefore be unjust to attribute them to a criminal one. It could not have arisen from any fears in Mr. Smith that this man would disclose any of the plans of the conspirators. He had himself already "sifted him with questions" and could learn nothing, and therefore could not have supposed that others would be more successful.

But, sir, this admission is fully as unreasonable as the conclusion attempted to be drawn from it. We do not impeach the character of Peter Taylor; we do not say that he has wilfully misrepresented this conversation, but we deny him that degree of intelligence, recollection, and accuracy so essential to a witness who is to repeat a conversation with necessary correctness. Can this honorable House infer guilt from words without very strong evidence that they are accurately related? The least variation, the suppression or addition of a syllable may make the most material difference. May he not have misunderstood Mr. Smith? may he not have forgotten parts of the conversation and be indistinct and confused in his recollection of it? We have, sir, among these depositions a most remarkable instance in which two gentlemen, both respectable and intelligent, undertake to detail to us the particulars of one of Mr. Smith's conversations (I mean col. Taylor and Dr. Sellman) and their statements are directly contradictory. Let us now look for a moment at the deposition of this witness, and see whether it bears those marks of accuracy which should entitle him to attention. Besides that gross stupidity so observable in every sentence of it, there are several of the most palpable mistatements contained in it. First he tells us that Dudly Woodbridge was on the bank of the river when the boats left the island after midnight, and yet that person and the man who slept with him, depose that he was not out of bed after 10 o'clock. Again he states in his last deposition that when he went to Mr. Smith's they had never seen each other before, and yet on his examination at Richmond he had stated that Mr. Smith knew him; and this strange contradiction is made although the statement of his former evidence in the Richmond Enquirer was but the moment before read over to him and acknowledged to be correct. There is one other remakable instance which shews that he cannot even remember with any tolerable distinctness his own conversations. On the statement of his evidence at Richmond he tells us that when Blannerhassett and himself were returning to the island, after he had left Mr. Smith's, he was urged by him to accompany him in this expedition, that he refused all the honors offered him unless he should be permitted to take his wife with him. Now, sir, he could have said no such thing to Blannerhassett, for his wife had been dead for a month or two; he himself admits in his subsequent deposition that she died in September, and this conversation took place late in October or early in Nov. following.

It is totally immaterial to what cause these palpable mistatements are to be attributed; they essentially effect his accuracy as a witness, and shew how little reliance is to be placed on this part of the evidence.

There are various other circumstances which have been collected by the malignant industry of Mr. Smith's enemies, in that strict scrutiny to which all his actions have been subjected, and these have been exaggerated and distorted till they were made to bear some suspicious appearances. Of these it can be necessary to say but little. I rejoice that Mr. Smith has been enabled to present so complete & satisfactory an explanation of them. Of his entertaining col. Burr at his house I shall say nothing, since if that fact merited consideration, it would equally criminate most of the respectable people in Cincinnati, and particularly Col. Taylor himself, who informed us that he waited on col. Burr and invited him to dinner.

But it is said he corresponded with col. Burr—true, sir, but in what manner? Not in cypher, as it is well known the associates in this project made their communications to each other; or in any secret manner whatever. Mr. Smith immediately and publicly speaks of it. We have offered the depositions of many of the first characters in that country to whom Mr. Smith shewed these letters just after they were written; of one particularly who was present when he received col. Burr's answer from the Post-Office and to whom he instantly handed it. We have produced to you these two letters and they contained nothing criminal; nothing but what persons in their situation and with their views might be supposed to have written. Nor can there be the least pretence for supposing they were fabricated for the purpose of removing suspicions. For at the time they were shewn by Mr. Smith he was suspected by nobody, nor had he any reason to suppose he ever should be.

He has been also charged with receiving and forwarding dispatches from Blannerhassett to Burr. This circumstance is mentioned by colonel Taylor, as one which operated to Mr. Smith's disadvantage. Now, Sir, he has shewn the nature of these dispatches by the depositions of persons who were requested to convey them, and by others who saw them opened, and by many to whom Mr. Smith openly spoke of them. They contained a silk coat and a note from Blannerhasset requesting him to foward it to Mr. Burr.

Equally unreasonable were the conjectures formed from his having accepted and paid a draught of colonel Burr's. To this circumstance we have offered every explanation of which it was susceptible. We have proved by various depositions that it is usual for persons travelling in that country to deposit their money in safe hands and afterwards draw for it, and we have clearly shewn that this draught must have originated in that manner from Mr. Smith's mentioning it at the time. Gen. Carberry informs us that about the time of Col. Burr's departure Mr. S. told him that he had left in his care a part of his baggage and a sum of money. All these circumstances, Mr. S. if guilty would have endeavored to conceal; and yet it appears that the first information of them, and that too immediately on their occuring is uni-