National Republican.

FRIDAY MORNING ..... JUNE 14, 1872.

ST. VINCENT'S ACADEMY.

Annual Distribution of Premiums.

As usual a very large and fashionable audience assembled yesterday at the St. Vincent Academy, corner of Tenth and G streets, to be present at the annual distribution of premiums of that famed institution. One of the halls of the academy was devoted to the display of tapestry, embroidery and needle work, and the attention of the visitors was greatly attracted by the elegant specimens of work there exhibited.

The tapestry pieces, "Joseph presenting his Father to Pharoah," by Miss Susan Burns; "Christ Blessing Little Children," by Miss Ida Bean; "Joseph Interpreting the Dream," by Miss Ida Barrow; "Madonna," by Miss Lula Fenton; "The Transfiguration," by Miss Ella Otter; "Angel and Child," by Miss Mary E. Donohue, and "Madonna," by Miss Margaret Carraw, were all beautiful pieces of work neatly and tastefully executed. A magnificent lateernacle cover, embroidered in gold on white silk and elaborately fringed by Misses Frances McHenry and Mary Riggles, attracted much attention from all, as also a surplice, heavily embroidered, by the orphans; slippers, shirts, embroidered cloaks, and hundreds of different articles of wearing apparel, some of them made by the Misses Beatty in their teens, showed that due attention had been given to educating the pupils in these useful arts, as well as improving their minds.

The public exercises were commenced with a grand march, executed upon two pianos, after which "Ave Maria," solo and chorus, by Misses Lula Boone, Ida Barrow, Lucy Latimer, Elizabeth Simmons, Eva Robinson, Susan Burns, L. Linkins and L. Pattibone, with Mary Stephenson at the piano, was rendered. The coronation ceremonies then took place, and 123 crowns were awarded to the pupils for good behavior during the past year, Rev. Father Walter, of St. Patrick's church, presenting the prizes as the names were announced by Rev. Father J. J. Keane. The coronation ode, by Elizabeth Simmons, was then delivered, followed by the distribution of premiums, interspersed at proper intervals with excellent music by the pupils.

THE PREMIUMS AWARDED.

The graduates were Misses Ella Cherry, Louia Boone, Ella Ober, and Mary Stephenson, and each of these ladies received the honors of the senior class, consisting of a gold medal and crown. The first honors, consisting of crowns, were awarded to Misses E. Robinson, A. Barnard, A. Ober, L. Bean, F. McHenry, Mary E. Thaw, Ida Barrow, L. Pattibone, A. Wasney, B. Carroll, B. Malone, H. Bolseau. Second class, L. Rhodes, M. Drane, E. Pippenburg, M. Donohoe, M. Riggles, C. Biddle, M. Curran, Z. Briggs, of the second class; second honors were awarded to C. Stewart, L. Linkins, L. Dove, M. Byrnes, E. Berry. Third class—first honors were awarded to M. Robinson, A. Brown, M. Schutter, L. Long; second premiums to L. Crotty, M. Mooney, M. Fleming, A. Murphy, K. Nolan and L. Louisiana; second premiums to H. Brennahan, M. Kean and G. Wise.

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WANTED, $6,500, by an advertiser, for which a good percentage will be given, and the security of Georgetown real estate.

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Briggs and M. Drane second premiums to L. Rhodes, M. Jones, G. Pressenberg, G. Berry and V. Dant. Division of the class—First premiums to S. Donohoe, C. Biddle, M. Byrne, M. Curran, L. Jukins, and L. Dove; second premiums to M. Riggles, G. Green and C. Brewart.

Premiums for Orthography, Reading and Tables—First premiums to M. Newton, G. Sullivan, and F. Ellis. Second premiums to A. Spedin, G. Spriggley, A. Lamey, A. Elmore, and I. Byrne. Division of the class—First premiums to Louie Egerton, E. Wise, K. Carpell, G. Sears, and H. Golden; second premiums to M. McArdle, M. McDermott, F. Hughes, S. Morgan, and B. Callahan.

Premiums for French—First premiums to Louia Boone, Ida Cherry, M. Stephenson, L. Rhodes, J. Barron, M. Byrne and L. Jukins; second premiums to L. Pattibone, L. Simmons and L. Dallmeire. Second class—First premiums to E. Robinson, M. Robinson and G. Briggs; second premiums to S. Burns, L. Schischoumb and F. Cowling.

Premiums for Needle-Work, Gold and Embroidery, to E. McHenry and M. Riggles. For Silk Embroidery, to L. Boone, J. Cherry and M. Stephenson. For Tapestry—First premium to G. Ober, J. Bean, J. Barron, V. Dant, M. Curran and S. Burns; second premiums to C. Howard, M. Donohoe, L. Sutton, B. Malone, F. Ober, A. Foster, M. Drane, M. Byrne, K. Holloran, K. Sutton and C. Biddle.

For Cotton Embroidery and Plain Sewing—First class—First premiums to A. Ober, G. Robinson, L. Pattibone, C. Cassell, G. Briggs, B. Carroll, H. Bolseau, M. Jones, A. Carroll, A. Wasney, G. Pressenberg and G. Allabach. Second class—First premiums to M. E. Thaw, L. Rhodes; second premiums to A. Barnard, L. Dove, M. Robinson, G. Green, A. Berry, J. Boyd, M. Schutter, L. Carroll, M. Schutter and A. McDevitt.

Premiums to the Orphans for Christian Doctrine, Orthography and Reading—First class, first premiums to E. Sharkey, E. Nolan, J. Ball, M. Nolan, K. Robinson, M. Larky, B. Mahoney, L. Goodwin and F. Guilty; second premiums to P. Robinson, A. McIntyre, M. Maher, M. Duty, M. Corbet, B. Carroll, S. Fleming, M. Lacey, M. A. Carroll and C. Murry. Second class, first premiums to Mary Carroll, A. Hamilton, G. Clark, M. Quinn, J. Ryan, Margaret Fitzgerald, M. Godard, K. Hadly, M. Shakelford, R. Morse, C. Clark, K. Goodwin, M. Kennan and J. Goodrich. Third class, first premiums to G. Roche, B. Lynch, K. Sullivan, M. Perkins, J. Louisiana, L. Weisner, A. Crimmins, G. Robinson, and A. Gray.

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Wm. McGarrahan's Great Libel Suit.

THIRD DAY OF THE TRIAL.

AFTER RECESS.

On the re-assembling of the Court, Mr. Wilson read at length all the articles of which portions had been read by plaintiff's counsel in papers dated March 29th and 30th, 1869, and April 24, 5th, 2th, 6th, and 9th.

Mr. Wilson next offered in evidence the report also of United States vs. Gomez, reported by 24 Wallace.

Justice Olin. For what purpose? As evidence of the facts contained in it.

Mr. Wilson. No, sir.

Justice Olin. Or as an opinion of law? You need not read any evidence on a question of law.

Mr. Wilson. No, sir; I do not propose that. I introduced it merely for the purpose of showing that what was published was concerning a suit in law in one of the courts of the United States, and that the comments were the comments of that court.

Justice Olin. I do not think that is evidence at all, you may read any report of the United States Court to many principles of law that it may contain, but I do not think any facts upon which it is based, or the opinions of the judge upon the propriety of a rule of law, are any evidence in the case.

Mr. Reed. I would like to call your Honor's attention to a single feature of it. The articles read as containing libelous matter from those various papers, your Honor decided that we were entitled to the benefit of the whole of those articles that related to this question.

Justice Olin. I decided this, Mr. Moore that everything contained in those articles constituting qualifying the offensive charge complained of might be taken in connection with it to show whether it did or did not qualify it. That is all the evidence there is in these articles.

Mr. Moore. Your Honor allowed them to be read.

Justice Olin. Certainly. I wanted to see, and I wanted the jury to see whether they connected on a few sentences that were libelous to be offensive. As I said on a former occasion, you may read whatever you desire in that connection, to show that the apparent offensive meaning of those articles was not really what the party meant to say—whether it does not mean something different from the thing selected and regarded as offensive.

Mr. Moore. If your Honor please, there is not the slightest difference between the Court and myself as to what you ruled, but I was going to suggest a point upon which to inquire the Court's opinion. In this legislation independently of an opinion of the Court upon a question of law—was perfectly competent that is bearing upon this very question of malice, or this very question of damages, and for one or both of which purposes alone these papers that have been read are not the foundation of the complaint, but that bear date anterior to the bringing of the suit, and afterwards.

Justice Olin. I say they can be competent for one or the other or both purposes.

Mr. Moore. Still is an exception your Honor has reserved. Then refer to the opinion and make extracts from it.

Justice Olin. Just let me see. I may make some offensive remarks here, as you may. I as a judge and you as an attorney may make some offensive remarks, which, in a ministerial individual, would be libel; still you might be protected in your office as an attorney in the honest pursuit of your business, and so the judge might be protected, yet, if a newspaper publish it, even if he quoted you and me, it might be libel, and he might be prosecuted for libel or slander, unless he justified on the ground of the truth of it. The question, as I understand, is this: you want to read the result of a published case as evidence of what? Of the facts or the law? Now you need not prove——

Mr. Moore. I will answer the question when your Honor is through.

Justice Olin. When I get through with this inquiry then you may answer it. You were to do what? You want to read a reported case as evidence of the facts it contains in that case—facts recited in the report—or do you want to read remarks made by the judge sitting in deciding the case? Or do you want to cite to me an authority upon the principle of law? The facts recited in the case, or proposed to be recited, are not evidence at all in the case, any more than a newspaper publication would be. Now you have my views of the matter.

Mr. Moore. I will keep myself strictly within the views of the law as indicated by the Court, and with the utmost propriety endeavors to get your Honor to comprehend or listen to me while I am making the statement I wish to make as to the purposes for which I wished to use this book.

Justice Olin. No, Mr. Moore, we must understand each other. I made the suggestion with a view to point your inquiry—your argument. I will hear you with pleasure.

Mr. Moore. It was this: that we have a plea which your Honor has suffered to go in. We deny that those words as alleged were published maliciously. I said that your Honor suffered to go in the two one alluded to in the declaration, but which had been published before and after suit was brought—your Honor indicated that you allowed them to go to the jury either for the purpose of establishing malice or for increasing damages, or both. Now, the use I want to make in this competition of this opinion of the Supreme Court and other documents referred to in these identical cases, the identical cases which the plaintiff himself has introduced, is to show what the certain made his declarations upon the very authority to which he referred, with a view to repel the imputation of malice.

Justice Olin. Mr. Merrick, I will hear you upon that question. Suppose, now, that the writer had found has published report, a published book, showing that another 20 lines pretty much all that he said—has a law book—and that evidence to show that really he did not devise this malice of his own forethought, but that he had some plausible foundation for it. I do not know what the case will show. I call your attention to that as a question whether it is not legitimate to reply to that part of the case—as an answer, extenuation for the malice, that you may argue to the jury is an aggravation of the claim. I will hear you upon that point. I supposed in the first instance it was offered to prove by these reported cases certain facts contained in them upon which you might address the jury as evidence in the case. That is not so. I am clear upon that point, because that must be proved by some other proofs on the trial. A reported case does not prove the facts upon which the opinion is based, but it only proves the law court.

Concluding such and such to be the facts, what is the law upon the subject.

Mr. Merrick. I will submit to your Honor in reply to the proposition of the gentleman and in answer to your question, a single remark. The articles which have been read to the jury are, a great portion of them, copied from other papers. Where a party is accused of publishing a libel, and the plaintiff offers proof by way of especial malice and in aggravation of damages, I am not prepared to deny but that the defendant may offer testimony to show that he had probable cause, that there is something to excuse and rebut the malice.

Now, in the articles which have been read to the jury by the defendant's counsel, and which were, in part at first offered by us, it appears that he republished what had been published elsewhere, and he is entitled to the benefit of the fact in mitigation of the damages or to rebut the malice of which he is charged and attempted to be proved by the plaintiff. It is only in articles which he proposes to quote from other papers that there is any reference made to the decisions of the Supreme Court. He has already, in reading these articles, presented to the jury the fact that he is not the originator, and the fabricator in the first instance of a portion of this libel, but that he only stands what came to him from other sources. Whether they are responsible sources or not, and the extent of their responsibility, is for the jury.

Now, my learned friends upon the other side, not content with that fact, in so far as it says, "You give the damages or rebut the malice," propose to go on up to the sources from which these articles thus published by the defendants, and quoted by him in part, derived their authority. How far, then, shall we go? One or more of these articles make reference to the Supreme Court, to which the counsel refers.

The case in the Supreme Court makes reference to other documents and to other papers. How far back shall we go? If you go beyond the first informant of the defendant, back to the informant of that informant, and so on through all the changes of information up to the point from which it started, this investigation will lead us far beyond the year 1857, to the records of California.

The defendant, I submit, therefore, has all the benefit of the principle of law claimed by the learned counsel upon the other side, in the fact that he published not articles devised and manufactured by him, but that he published articles copied from other papers. He can have no further benefit when he says that the articles copied from the paper from which the REPUBLICAN copied it, were copied by that paper from some other paper. Now, for instance, to illustrate: He published some articles copied from various California papers; is he to be allowed to go beyond the papers in California from which the defendant purported to copy the article, and the paper from which the California paper copied it, and to ask the question of malice and damages the report of the Supreme Court of the United States would be only an article in a paper, in law binding and obligatory as a report of fact—simply a report of fact.

I submit therefore, your Honor, that he has all the benefit of the principle, and that the outside limit of the principle is that the defendant in an action for libel when charged with malice may show that he received information upon the subject from some source that gave him reason to believe it, by way of rebutting malice. And that brings me to another point which I propose to submit in this case. If my learned brothers say that it was upon the authority of the Supreme Court decision that Mr. Murtagh published those articles, let them show that Murtagh knew or had read those decisions.

Mr. Wilson. The articles referred to them.

Mr. Merrick. Certainly, the articles that are quoted do. But let the gentleman show, if they want to rebut his malice in putting in his editorials, if they want to lessen the damages for which he is legitimately liable for the publication of the editorials, by claiming that he derived a belief in the verity of what he offered by information from some responsible source, let them put him in connection with the source which they allege was the source from which he derived the belief.

It is not enough that the simple article is published in a paper somewhere, charging directly or indirectly improper conduct upon an individual, to entitle another party to publishing the same thing. If he is to have protection from the previous publication he must show that he derived his information that belief from that particular source. There may be two libels—two independent libels.

Again, your Honor, if this decision of the Supreme Court is to be put in evidence by way of mitigation of damages or to rebut malice, because referred to in the article, as Mr. Wilson now intimates, then I shall ask the benefit of putting in evidence, by way of rebutting that presumption, all the other articles referred to in the article published, to show that although there stood a libellous, based upon the records in those yest, which have proof had crept from the face of the earth, that there stood other articles giving him correct information, that he ought to have read and ought to have known. He is now a convicted fact to all parties that that decision in the libel of Howard was based upon papers that were forged.

Mr. Wilson. Your honor may, it is not the libel of Howard, but libel of Wallace.

Mr. Merrick. I take them all together. That these papers are no longer valid papers; that a forgery had found its way into the minutes of the Investigation of the New Idria Mining Company. If you want that report give me Mr. Wilson's report as chairman of the Judiciary Committee, that gentleman when these articles say was kept out of the public records, to be assigned to a distinguished gentleman of the Senate upon a question of law—was perfectly competent that is bearing upon this very question of malice, or this very question of damages, and for one or both of which purposes alone these papers that have been read are not the foundation of the complaint, but that bear date anterior to the bringing of the suit, and afterwards.

Justice Olin. I say they can be competent for one or the other or both purposes.

Mr. Moore. This is an exception your Honor has reserved. Then refer to the opinion and make extracts from it.

Justice Olin. Just let me see. I may make some offensive remarks here, as you may. I as a judge and you as an attorney may make some offensive remarks, which, in a ministerial individual, would be libel; still you might be protected in your office as an attorney in the honest pursuit of your business, and so the judge might be protected, yet, if a newspaper publish it, even if he quoted you and me, it might be libel, and he might be prosecuted for libel or slander, unless he justified on the ground of the truth of it. The question, as I understand, is this: you want to read the result of a published case as evidence of what? Of the facts or the law? Now you need not prove——

Mr. Moore. I will answer the question when your Honor is through.

Justice Olin. When I get through with this inquiry then you may answer it. You were to do what? You want to read a reported case as evidence of the facts it contains in that case—facts recited in the report—or do you want to read remarks made by the judge sitting in deciding the case? Or do you want to cite to me an authority upon the principle of law? The facts recited in the case, or proposed to be recited, are not evidence at all in the case, any more than a newspaper publication would be. Now you have my views of the matter.

Mr. Moore. I will keep myself strictly within the views of the law as indicated by the Court, and with the utmost propriety endeavors to get your Honor to comprehend or listen to me while I am making the statement I wish to make as to the purposes for which I wished to use this book.

Justice Olin. No, Mr. Moore, we must understand each other. I made the suggestion with a view to point your inquiry—your argument. I will hear you with pleasure.

Mr. Moore. It was this: that we have a plea which your Honor has suffered to go in. We deny that those words as alleged were published maliciously. I said that your Honor suffered to go in the two one alluded to in the declaration, but which had been published before and after suit was brought—your Honor indicated that you allowed them to go to the jury either for the purpose of establishing malice or for increasing damages, or both. Now, the use I want to make in this competition of this opinion of the Supreme Court and other documents referred to in these identical cases, the identical cases which the plaintiff himself has introduced, is to show what the certain made his declarations upon the very authority to which he referred, with a view to repel the imputation of malice.

Justice Olin. Mr. Merrick, I will hear you upon that question. Suppose, now, that the writer had found has published report, a published book, showing that another 20 lines pretty much all that he said—has a law book—and that evidence to show that really he did not devise this malice of his own forethought, but that he had some plausible foundation for it. I do not know what the case will show. I call your attention to that as a question whether it is not legitimate to reply to that part of the case—as an answer, extenuation for the malice, that you may argue to the jury is an aggravation of the claim. I will hear you upon that point. I supposed in the first instance it was offered to prove by these reported cases certain facts contained in them upon which you might address the jury as evidence in the case. That is not so. I am clear upon that point, because that must be proved by some other proofs on the trial. A reported case does not prove the facts upon which the opinion is based, but it only proves the law court.

Concluding such and such to be the facts, what is the law upon the subject.

Mr. Merrick. I will submit to your Honor in reply to the proposition of the gentleman and in answer to your question, a single remark. The articles which have been read to the jury are, a great portion of them, copied from other papers. Where a party is accused of publishing a libel, and the plaintiff offers proof by way of especial malice and in aggravation of damages, I am not prepared to deny but that the defendant may offer testimony to show that he had probable cause, that there is something to excuse and rebut the malice.

Now, in the articles which have been read to the jury by the defendant's counsel, and which were, in part at first offered by us, it appears that he republished what had been published elsewhere, and he is entitled to the benefit of the fact in mitigation of the damages or to rebut the malice of which he is charged and attempted to be proved by the plaintiff. It is only in articles which he proposes to quote from other papers that there is any reference made to the decisions of the Supreme Court. He has already, in reading these articles, presented to the jury the fact that he is not the originator, and the fabricator in the first instance of a portion of this libel, but that he only stands what came to him from other sources. Whether they are responsible sources or not, and the extent of their responsibility, is for the jury.

Now, my learned friends upon the other side, not content with that fact, in so far as it says, "You give the damages or rebut the malice," propose to go on up to the sources from which these articles thus published by the defendants, and quoted by him in part, derived their authority. How far, then, shall we go? One or more of these articles make reference to the Supreme Court, to which the counsel refers.

The case in the Supreme Court makes reference to other documents and to other papers. How far back shall we go? If you go beyond the first informant of the defendant, back to the informant of that informant, and so on through all the changes of information up to the point from which it started, this investigation will lead us far beyond the year 1857, to the records of California.

The defendant, I submit, therefore, has all the benefit of the principle of law claimed by the learned counsel upon the other side, in the fact that he published not articles devised and manufactured by him, but that he published articles copied from other papers. He can have no further benefit when he says that the articles copied from the paper from which the REPUBLICAN copied it, were copied by that paper from some other paper. Now, for instance, to illustrate: He published some articles copied from various California papers; is he to be allowed to go beyond the papers in California from which the defendant purported to copy the article, and the paper from which the California paper copied it, and to ask the question of malice and damages the report of the Supreme Court of the United States would be only an article in a paper, in law binding and obligatory as a report of fact—simply a report of fact.

I submit therefore, your Honor, that he has all the benefit of the principle, and that the outside limit of the principle is that the defendant in an action for libel when charged with malice may show that he received information upon the subject from some source that gave him reason to believe it, by way of rebutting malice. And that brings me to another point which I propose to submit in this case. If my learned brothers say that it was upon the authority of the Supreme Court decision that Mr. Murtagh published those articles, let them show that Murtagh knew or had read those decisions.

Mr. Wilson. The articles referred to them.

Mr. Merrick. Certainly, the articles that are quoted do. But let the gentleman show, if they want to rebut his malice in putting in his editorials, if they want to lessen the damages for which he is legitimately liable for the publication of the editorials, by claiming that he derived a belief in the verity of what he offered by information from some responsible source, let them put him in connection with the source which they allege was the source from which he derived the belief.

It is not enough that the simple article is published in a paper somewhere, charging directly or indirectly improper conduct upon an individual, to entitle another party to publishing the same thing. If he is to have protection from the previous publication he must show that he derived his information that belief from that particular source. There may be two libels—two independent libels.

Again, your Honor, if this decision of the Supreme Court is to be put in evidence by way of mitigation of damages or to rebut malice, because referred to in the article, as Mr. Wilson now intimates, then I shall ask the benefit of putting in evidence, by way of rebutting that presumption, all the other articles referred to in the article published, to show that although there stood a libellous, based upon the records in those yest, which have proof had crept from the face of the earth, that there stood other articles giving him correct information, that he ought to have read and ought to have known. He is now a convicted fact to all parties that that decision in the libel of Howard was based upon papers that were forged.

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