

**REPORT OF TRIAL OF THE
ISSUES IN THE
ACTION OF DAMAGES
FOR LIBEL IN THE BEACON**

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Report of Trial of the Issues in the Action of Damages for Libel in the Beacon by James Gibson
& Duncan Stevenson

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JAMES GIBSON & DUNCAN STEVENSON

**REPORT OF TRIAL OF THE
ISSUES IN THE
ACTION OF DAMAGES
FOR LIBEL IN THE BEACON**

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REPORT

OF

TRIAL OF THE ISSUES,

IN THE

ACTION OF DAMAGES FOR LIBEL

IN THE

BEACON,

**JAMES GIBSON OF INGLISTON, ESQ. CLERK TO THE
SIGNET—PURSUER,**

AGAINST

**DUNCAN STEVENSON, PRINTER IN
EDINBURGH—DEFENDER.**

Taken in Short Hand.

EDINBURGH:

**PRINTED FOR ARCHIBALD CONSTABLE AND CO. EDINBURGH;
HURST, ROBINSON AND CO. AND JAMES RIDGWAY,
LONDON.**

1822.

L. Scot. C. 25 s. Libel.



*Edinburgh:—Printed by J. Hutchison,
for the Heirs of D. Wilson.*

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THE TRIAL.

IN THE JURY COURT,

9th December, 1822.

PRESENT,

LORD CHIEF COMMISSIONER ADAM.
LORD GILLIES.

Counsel for the PURSUER.

FRANCIS JEFFREY, Esq.
JAMES MONCRIEFF, Esq.
HENRY COCKBURN, Esq.
JOHN CUNNINGHAM, Esq.
WILLIAM GIBSON, Esq.

JAMES BALFOUR, Esq. W. S., *Agent.*

Counsel for the DEFENDER.

DUNCAN M'NEILL, Esq.
PATRICK ROBERTSON, Esq.
WILLIAM MENZIES, Esq.

ROBERT SYM WILSON, Esq. W. S. *Agent.*

The Special Jury sworn to try the cause, were,—

James Dundas of Dundas.
James Haig, distiller, Lochrin.
Robert Bruce, of the Edinburgh and Leith Shipping
Company, residing in Leith.
Græme Mercer of Mavisbank.
William Gordon, residing in Drummond Place, Edin-
burgh.
Thomas Newton of Curryhill.
William Goddard, merchant in Leith.
Adam Whyte, merchant in Leith.
James Ker of Blackshiels.
Sir James Gardiner Baird of Saughton Hall, Bart.
James Fowlis of Woodhall.
James Inglis, banker in Edinburgh.

The Issues were then read over by the Clerk, as follows:—

JURY COURT.

ISSUES

IN THE CAUSE IN WHICH

JAMES GIBSON OF INGLISTON, ESQ.
CLERK TO THE SIGNET, IS PURSUER,

AND

DUNCAN STEVENSON,
PRINTER IN EDINBURGH, IS DEFENDER.

It being admitted, that the pursuer is, and has, for many years, been a Writer to the Signet, and has been Agent and Attorney for the Bank of England, since the 26th day of December 1811, and has brought prosecutions for forgery on their account, and was employed as agent in the trial of Frances Mackay, which took place before the High Court of Justiciary at Edinburgh, on the 1st day of February 1819;

It being also admitted, that in the month of June and July 1821, the defender, Duncan Stevenson, was printer, publisher, and proprietor of a certain Newspaper called the Beacon;

Whether, on or about the 23d day of June 1821, the defender, in the 25th Number of the said newspaper, did print and publish, or cause to be printed and published, the following words, or words of the following tenor, or effect, viz. 'To the Editor of the Beacon.—Sir, In your last Number I observed an article, which, although it discovered on the part of its author some disappointment and peevishness, yet contained some sensible enough remarks on the prevention of forgery. There is one mis-

take, however, into which the writer of it has fallen,
 which ought to be corrected, because otherwise your
 widely circulated paper may be the means of creating, in
 the minds of the ignorant and misinformed, erroneous
 ideas as to the state of our Criminal Law, (meaning the
 Criminal Law of Scotland), and of the mode in which it
 is administered. The author of that article says, "It is
 well known that, as the forms of law stand at present, it
 is better for a Scotch Bank to pay a Thousand forged
 one pound notes than to prosecute a forger, at least it
 has been stated by the best authority, that, before a for-
 ger was executed, it cost a Scotch Bank 1200*l*." Now,
 every person, who is at all informed on the subject, knows,
 that, in order to obtain the conviction or execution of a
 forger of its notes, no Bank in this country ever neces-
 sarily expended twelve hundred pence. As soon as a for-
 ger (meaning forgery) is discovered to have been commit-
 ted, a bank has only to give information to the Public
 Prosecutor, the Procurator Fiscal, and the crime will
 then be investigated, and the criminal brought to justice
 at the public expense, in the same way that any other
 criminal would be disposed of, who had committed any
 other crime, to the prejudice of an individual. When,
 however, this course is not followed, and banks, or their
 legal advisers, (meaning thereby to designate and point
 out the pursuer), from too keen an attention to their own
 interest, instead of leaving matters to be conducted in
 the ordinary way, by the official persons appointed for
 that purpose by the public, (meaning the Lord Advocate),
 officiously volunteer to assist in the investigation, and
 where, imagining that their (meaning the said Bank's)
 affairs are of too great importance to be intrusted to the
 counsel and agent whom Government has been so credu-
 lous as to intrust with the management of the criminal
 business of the country, (meaning the country of Scot-
 land), they are not satisfied, unless they have also the
 benefit of the eminent talents of the great agent of Whig-
 gism (meaning the pursuer), and half a dozen Whig
 counsel, I am not prepared to deny, that a Bank may be
 forced to disburse even a greater sum than 1200*l*. Be-
 fore, however, I can speak decisively as to this, I must
 first know from Mr James Gibson, W. S. (meaning the
 pursuer, Writer to the Signet), how much the conviction
 of a forger here used to cost the Bank of England.
 Banks have lately been obliged, whether they or their a-

' gents liked it or not, to submit to have forgers of their
 ' notes tried, and convicted, like other criminals, at the
 ' public expense; for so much inconvenience, irregularity
 ' and injustice was found to arise from the officious inter-
 ' ference of persons who possessed none of the requisite
 ' qualifications of public prosecutors, in the administration
 ' of criminal justice, that since the case of Frances Mac-
 ' kay or Carrick, which occurred within the last two or
 ' three years, no Bank or bank-agent has been permitted
 ' to interfere in the prosecution and conviction of forgers.
 ' In this case, the agent of the Bank of England (mean-
 ' ing the pursuer), induced a young woman, by a promise
 ' that she would be taken as a witness against others, to
 ' make a declaration admitting her guilt, and, giving full
 ' information as to the way in which the crime was com-
 ' mitted, he (meaning the pursuer) afterwards thought
 ' proper to have her tried, and, by concealing from the
 ' Lord Advocate the way in which her confession had been
 ' obtained, induced him to give his instance to an indict-
 ' ment against her. She was accordingly brought to trial;
 ' and after the confession and information which had been
 ' elicited from her in her declaration, she had but one
 ' course left,—to plead Guilty. She was found guilty in
 ' terms of her own confession. The Lord Advocate had
 ' moved for sentence, which the Court were pronouncing;
 ' when the Sheriff (the present Lord Advocate), in whose
 ' presence the declaration had been emitted, happening to
 ' come into Court, expressed to his predecessor his sur-
 ' prise, that he should have brought to trial any person
 ' whose confession was obtained in the way the pannel's had
 ' been. It was by this time too late to prevent sentence
 ' from being passed; but the Court, on being informed of
 ' the circumstances of the case, expressed their high dis-
 ' approbation of what had taken place, and the Lord Advo-
 ' cate immediately procured a free pardon for the prisoner.
 ' After this, I ask, Whether the Whig or Tory mode
 ' of administering justice deserves the preference? X.'

Whether the whole, or any part of the foresaid words, are
 of and concerning the pursuer, and were published with the
 malicious purpose and intention of injuring, and do injure,
 the pursuer in his private and professional character, and do
 falsely and injuriously hold forth the pursuer, in capacity
 of agent for the Bank of England, as having unnecessarily
 brought prosecutions for forgery, for his own private advan-