

Washington D.C. 28 Apr. 1873

My dear Sir

On my return here from the country last Saturday evening I found yours of 22 inst. also a copy of the next number of the reports up to about the 100th page containing *Winstead v Stamford* on p. 40 sent me by Mr Bushee who is attending to the publication for Hargrove. I do not see a single expression in my opinion which can be considered as reflecting in the least on you - and the only ~~one~~ part which reflects on the counsel is that which says that the case is obscurely made out, and the points in controversy not clearly stated. If you were to see the case I am sure you would consent in that, and I was obliged to notice the fact as accounting for the somewhat uncertain way in which they ^(the points) are stated in my opinion. I really felt uncertain what the points intended to be presented were; but after considerable thought I could see no others than those which we papered on. Of course - theoretically at least - and most generally in fact - the J. has nothing to do

with the making up of the case. How it was
in the particular instance I do not know.

Besides - assuming the points decided below to
have been ^{what} I supposed them to be, I do not
think the decision ^{below} so clearly erroneous as to imply
any want of intelligence or diligence, - they were
fairly debatable. At all events as the decision of
the Supreme Co. is not final but sends back the
case to be proceeded in below, - no injustice can
have been done even if we did in fact mistake
the points intended to be presented. Upon another
hearing below - they can be distinctly stated &
will be decided without any prejudice from the
recent decision.

Busbee does not say that it will be impossible
for him to omit the decision from the next
number - without loss - but I suppose from the
extent to which the printing has gone that it
will be, and taking the view of it which I do,
I do not think it material to omit.

Busbee & Bagby both concurred with me in thinking
that there is nothing in the opinion objectionable

Yours truly

Hon. A. W. Toussie

Will. B. Rodman