

Hamilton for lawyers #3



Richard Harrison considers Hamilton's written advocacy skills as exemplified in *The Reynolds Pamphlet*

Alexander Hamilton was a soldier, a politician and, notably, a lawyer. Articles in this series, inspired by Lin-Manuel Miranda's eponymous hip-hop musical, have already touched on his negotiating skills ('The Room Where It Happens'), his advocacy in the many essays he wrote as part of *The Federalist Papers* on behalf of his adopted client, the new US constitution ('Hamilton for lawyers', 167 *NLJ* 7761, p22), and the way in which his 'Ten Duel Commandments' can form the basis for a theory of litigation ('Hamilton for lawyers #2', *NLJ* 23 February 2018, p22).

However, his most notable piece of written advocacy, and one he deployed entirely in his own interests, is found in the work entitled *Observations on certain documents contained in no. V & VI of "The History of the United States for the Year 1796," in which the charge of speculation against Alexander Hamilton, late secretary of the Treasury, is fully refuted. Written by himself.* Or, more briefly and famously, and providing the title for a song: *The Reynolds Pamphlet*.

Say no to this

Hamilton, among his many accomplishments, was something of a ladies' man; while his family was away during the summer of 1791, he got embroiled with one Maria Reynolds who initially asked him for financial assistance. The fact that he happened to be the secretary to the US Treasury at the time was a notable risk factor. The story is told in the song 'Say No to This' (he didn't), and in his own words in the narrative of the pamphlet: '...it was quickly apparent that other than pecuniary consolation would be acceptable.' The affair

continued with Hamilton feeling very much the vulnerable party: 'All the appearances of violent attachment, and of agonising distress at the idea of a relinquishment, were played off with a most imposing art. This, though it did not make me entirely the dupe of the plot, yet kept me in a state of irresolution.'

To cut a long story short (and Hamilton makes it long), he ended up being subject to blackmail threats from Mr Reynolds and made certain payments. Following political manoeuvrings over several years ('We Know'), information about the payments was leaked, together with the insinuation that he had used federal funds to engage in speculation and corruption.

He bit the bullet, employed his formidable writing and advocacy skills, and produced the pamphlet: a 37-page first-person chronicle of the affair, plus 58 more pages of supplementary documents. He aimed to set the record straight: he admitted to sexual wrongdoing but made it clear that he had not engaged in any financial corruption. He used the public relations technique of 'getting the information out' and went into excruciating detail in doing so.

Modern techniques

The detail was part of the advocacy technique: although judges these days tend to deplore verbosity, there is something about thoroughly prepared and meticulously presented detailed submissions which may have a persuasive effect on the tribunal. The technique aims to create the impression that, if the advocate knows this much about the facts and issues and has the references at his fingertips, then maybe there is something in the case after all.

Hamilton tells the story like a modern lawyer, deploying witness statements and skeleton arguments. He exhibits various pieces of correspondence in an accompanying bundle. He uses presentational tricks which are not unfamiliar from the *modus operandi* of current US politicians. He attacks his opponents and accusers with uncompromising aggression. He portrays himself constantly as the wronged party. He is the one deserving of sympathy, having been cruelly seduced, artfully blackmailed and then forced to reveal his misdeeds to his devoted and innocent wife.

He attributed the attack on him to the 'spirit of Jacobinism,' which, 'incessantly busy in undermining all the props of public security and private happiness... seems to threaten the political and moral world with a complete overthrow.' He refers to his accusers as 'the Jacobin scandal club' and loses no opportunity to emphasise their malice and lack of principles, while he constantly belittles Reynolds and his wife as both vile and insignificant. Where he exhibits letters from them, which have neither his prosaic elegance nor his prolixity, he seems to revel in their relative illiteracy. He comments on the correspondence as if he were the victim of a highly sophisticated plot: he describes one letter, presumably sarcastically, as a 'masterpiece'. He tries to extract pity as he refers 'the obliging co-operation of the husband with his wife to alimant and keep alive my connection with her.'

With regard to his own shortcomings, he recognises them, but also portrays himself as a man overcome by irresistible temptations. His susceptibility is portrayed as somehow heroic: 'I cannot be the apologist of any vice because the ardour of passion may have made it mine.'

So Hamilton was able to extract himself from a financial scandal by confessing to a sexual one; drawing the sting of the allegations by viciously attacking both his accusers and his blackmailers whilst wallowing in self-pity and trying to garner sympathy from all. The pamphlet did little for the tranquillity of his marriage to Eliza as is clear from the passionate outpourings in the showstopper (and presumably soon to be regular female audition piece) 'Burn'.

As Hamilton's chorus of enemies in the show—Jefferson, Burr and Madison—make clear, the admitted scandal provided (with a degree of deliberate ambiguity) 'one less thing to worry about' and put paid to any ambitions for the presidency. This is a consequence of sexual scandal which was clearly not so inevitable 220 years later. **NLJ**

Richard Harrison is a partner at Laytons LLP (www.laytons.com).