GENTLEMEN OF THE JURY,

THE scene which we are engaged in, and the duty which I am not merely *privileged*, but *appointed* by the authority of the Court to perform, exhibits to the whole civilized world a perpetual monument of our national justice.

The transaction, indeed, in every part of it, as it stands recorded in the evidence already before us, places our country, and its government, and its inhabitants, upon the highest pinnacle of human elevation. It appears, that upon the 15th day of May last, His Majesty, after a reign of forty years, not merely in sovereign *power*, but spontaneously in the very hearts of his people, was openly shot at (or to all appearance shot at) in a public theatre in the centre of his capital, and amidst the loyal plaudits of his subjects, YET NOT A HAIR OF THE HEAD OF THE SUPPOSED ASSASSIN WAS TOUCHED. In this unparalleled scene of calm forbearance, the King himself, though he stood first in personal interest and feeling as well as in command, was a singular and fortunate example.—The least appearance of emotion on the part of that august personage, must unavoidably have produced a scene quite different, and far less honourable than the Court is now witnessing; but His Majesty remained unmoved, and the person *apparently* offending was only secured, without injury or reproach, for the business of this day.

Gentlemen, I agree with the Attorney-General

(indeed, there can be no possible doubt), that if the same pistol had been maliciously fired by the Prisoner in the same theatre, at the meanest man within its walls, he would have been brought to *immediate* trial, and, if guilty, to immediate execution.—He would have heard the charge against him for the first time when the Indictment was read upon his arraignment.—He would have been a stranger to the names and even to the existence of those who were to sit in judgment upon him, and of those who were to be the witnesses against him; but upon the charge of even this *murderous* attack upon the King himself, he is covered all over with the armour of the law. He has been provided with Counsel by the King's own Judges, and not of *their* choice, but of *his own*. He has had a copy of the Indictment ten days before this trial.—He has had the names, descriptions, and abodes of all the Jurors returned to the Court; and the highest privilege of peremptory challenges derived from, and safely directed by that indulgence.—He has had the same description of every witness who could be received to accuse him; and there must at this hour be *twice* the testimony against him as would be legally competent to establish his guilt on a similar prosecution by the meanest and most helpless of mankind.

Gentlemen, when this melancholy catastrophe happened, and the Prisoner was arraigned for trial, I remember to have said to some now present, that it was, at first view, difficult to bring those indul-

gent exceptions to the general rules of trial within the principle which dictated them to our humane ancestors in cases of treasons against the political government, or of *rebellious* conspiracy against the person of the King. In *these* cases, the passions and interests of great bodies of powerful men being engaged and agitated, a counterpoise became necessary to give composure and impartiality to criminal tribunals; but a *mere murderous* attack upon the King's person, not at all connected with his political character, seemed a case to be ranged and dealt with like a similar attack upon any private man.

But the wisdom of the law is greater than any man's wisdom; how much more, therefore, than mine! An attack upon the King is considered to be parricide against the state, and the Jury and the witnesses, and even the Judges, are the children. It is fit, on that account, that there should be a solemn pause before we rush to judgment; and what can be a more sublime spectacle of justice than to see a statutable disqualification of a whole nation for a limited period, a fifteen day's *quarantine* before trial, lest the mind should be subject to the contagion of partial affections * !

From a Prisoner so protected by the benevolence of our institutions, the utmost good faith would, on his part, be due to the public if he had consciousness and reason to reflect upon the obligation.—The

* There must be fifteen days between arraignment and trial.

duty, therefore, devolves on *me*, and, *upon my honour*, it shall be fulfilled. I will employ no artifices of speech.—I claim only the strictest protection of the law for the unhappy man before you.—I should, indeed, be ashamed if I were to say any thing of the rule *in the abstract* by which he is to be judged, which I did not honestly feel; and I am sorry, therefore, that the subject is so difficult to handle with brevity and precision. Indeed, if it could be brought to a clear and simple criterion, which could admit of a dry admission or contradiction, there might be very little difference, *perhaps none at all*, between the Attorney-General and myself, upon the principles which ought to govern your verdict; but this is not possible, and I am, therefore, under the necessity of submitting to you, and to the Judges, for their direction (and at greater length than I wish), how I understand this difficult and momentous subject.

The law, as it regards this most unfortunate infirmity of the human mind, like the law in all its branches, aims at the utmost degree of precision; but there are some subjects, as I have just observed to you, and the present is one of them, upon which it is extremely difficult to be precise. The general principle is clear, but the application is most difficult.

It is agreed by all jurists, and is established by the law of this and every other country, that it is the REASON OF MAN which makes him accountable for

his actions; and that the deprivation of reason acquits him of crime.—This principle is indisputable; yet so fearfully and wonderfully are we made, so infinitely subtle is the spiritual part of our being, so difficult is it to trace with accuracy the effect of diseased intellect upon human action, that I may appeal to all who hear me, whether there are any causes more difficult, or which, indeed, so often confound the learning of the Judges themselves, as when insanity, or the effects and consequences of insanity, become the subjects of legal consideration and judgment. I shall pursue the subject as the Attorney-General has properly discussed it. I shall consider insanity, as it annuls a man's dominion over property; as it dissolves his contracts, and other acts, which otherwise would be binding; and as it takes away his responsibility for crimes. If I could draw the line in a moment between these two views of the subject, I am sure the Judges will do me the justice to believe, that I would fairly and candidly do so; but great difficulties press upon my mind, which oblige me to take a different course.

I agree with the Attorney-General, that the law, in neither civil nor criminal cases, will measure the degrees of men's understandings; and that a *weak* man, however much below the ordinary standard of human intellect, is not only responsible for crimes, but is bound by his contracts, and may exercise dominion over his property. Sir Joseph Jekyll, in the Duchess of Cleveland's case, took the clear legal

distinction, when he said, "*The law will not measure the sizes of men's capacities, so as they be* "COMPOS MENTIS."

Lord Coke, in speaking of the expression NON COMPOS MENTIS, says, "*Many times, as here, the Latin word expresses the true sense, and calleth him not amens, à mens, furiosus, lunaticus, fatuus, stultus, or the like, for non compos mentis is the most sure and legal.*" He then says, "*Non compos mentis is of four sorts: first, ideota, which, from his nativity, by a perpetual infirmity, is* NON COMPOS MENTIS; *secondly, he that by sickness, grief, or other accident, wholly loses his memory and understanding; third, a lunatic that hath sometimes his understanding, and sometimes not; aliquando gaudet lucidis intervallis; and therefore he is called non compos mentis so long as he hath not understanding.*"

But notwithstanding the precision with which this great author points out the different kinds of this unhappy malady, the nature of his work, in this part of it, did not open to any illustration which it can now be useful to consider. In his Fourth Institute he is more particular; but the admirable work of Lord Chief Justice Hale, in which he refers to Lord Coke's Pleas of the Crown, renders all other authorities unnecessary.

Lord Hale says, "There is a partial insanity of mind, and a total insanity. The former is either "in respect to things, quoad hoc vel illud insanire.

"Some persons, that have a competent use of rea-
" son in respect of some subjects, are yet under a
" particular dementia in respect of some particular
" discourses, subjects, or applications: or else it is
" partial in respect of degrees; and this is the con-
" dition of very many, especially melancholy per-
" sons, who for the most part discover their defect
" in excessive fears and griefs, and yet are not
" wholly destitute of the use of reason; and this
" partial insanity seems not to excuse them in the
" committing of any offence for its matter capital;
" for doubtless most persons, that are felons of
" themselves and others, are under a degree of par-
" tial insanity, when they commit these offences.
" It is very difficult to define the invisible line that
" divides perfect and partial insanity; but it must
" rest upon circumstances duly to be weighed and
" considered both by Judge and Jury, lest on the
" one side there be a kind of inhumanity towards the
" defects of human nature; or, on the other side,
" too great an indulgence given to great crimes."

Nothing, Gentlemen, can be more accurately nor more humanely expressed; but the application of the rule is often most difficult. I am bound, besides, to admit that there is a wide distinction between civil and criminal cases.—If, in the former, a man appears, upon the evidence, to be *non compos mentis*, the law avoids his act, though it cannot be traced or connected with the morbid imagination which constitutes his disease, and which may be ex-

tremely partial in its influence upon conduct; but to deliver a man from responsibility for crimes, above all, for crimes of great atrocity and wickedness, I am by no means prepared to apply this rule, however well established, when property only is concerned.

In the very recent instance of Mr. Greenwood (which must be fresh in his Lordship's recollection), the rule in civil cases was considered to be settled. That gentleman, whilst insane, took up an idea that a most affectionate brother had administered poison to him.—Indeed, it was the prominent feature of his insanity.—In a few months he recovered his senses.—He returned to his profession as an advocate; was sound and eminent in his practice, and in all respects a most intelligent and useful member of society; but he could never dislodge from his mind the morbid delusion which disturbed it; and under the pressure, no doubt, of that diseased prepossession, he disinherited his brother. The cause to avoid this will was tried here.—We are not now upon the evidence, but upon the principle adopted as the law. The Noble and Learned Judge, who presides upon this trial, and who presided upon that, told the Jury, that if they believed Mr. Greenwood, when he made the will, to have been *insane*, the will could not be supported, whether it had disinherited his brother, or not; that the act, no doubt, strongly confirmed the existence of the false idea which, if believed by the Jury to amount to

madness, would equally have affected his testament, if the brother, instead of being disinherited, had been in his grave; and that, on the other hand, if the unfounded notion did not amount to madness, its influence could not vacate the devise *. This principle of law appears to be sound and reasonable, as it applies to civil cases, from the extreme difficulty of tracing with precision the secret motions of a mind, deprived by disease of its soundness and strength.

Whenever, therefore, a person may be considered non compos mentis, all his *civil* acts are void, whether they can be referred, or not, to the morbid impulse of his malady, or even though, to all *visible appearances*, totally separated from it; but I agree with Mr. Justice Tracey, that it is not every man of an idle, frantic appearance and behaviour, who is to be considered as a lunatic, either as it regards obligations or crimes; but that he must appear to the Jury to be *non compos mentis*, in the legal acceptation of the term; and that, not at any *anterior period*, which can have no bearing upon any case whatsoever, but at *the moment* when the contract was entered into, or the crime committed.

The Attorney-General, standing undoubtedly upon the most revered authorities of the law, has laid it down, that to protect a man from *criminal re-*

* N. B. The Jury found for the will; but after a contrary verdict in the Common Pleas, a compromise took place.

sponsibility, there must be a TOTAL *deprivation of memory and understanding*. I admit that this is the very expression used, both by Lord Coke and by Lord Hale; but the true interpretation of it deserves the utmost attention and consideration of the Court. If a TOTAL *deprivation of memory* was intended by these great lawyers to be taken in the *literal* sense of the words:—if it was meant, that, to protect a man from punishment, he must be in such a state of prostrated intellect, as not to know his name, nor his condition, nor his relation towards others—that if a husband, he should not know he was married; or, if a father, could not remember that he had children; nor know the road to his house, nor his property in it—then no such madness ever existed in the world. It is IDEOCY alone which places a man in this helpless condition; where, from an *original* mal-organization, there is the human frame alone without the human capacity; and which, indeed, meets the very definition of Lord Hale himself, when, referring to Fitzherbert, he says: "Ideocy or "fatuity *à nativitate, vel dementia naturalis*, is such "a one as described by Fitzherbert, who knows not "to tell twenty shillings, nor knows his own age, or "who was his father." But in all the cases which have filled Westminster Hall with the most complicated considerations—the lunatics, and other insane persons who have been the subjects of them, have not only had memory, *in my sense of the expression*—they have not only had the most perfect knowledge and

recollection of all the relations they stood in towards others, and of the acts and circumstances of their lives, but have, in general, been remarkable for subtlety and acuteness. Defects in their reasonings have seldom been traceable—the disease consisting in the delusive sources of thought:—all their deductions within the scope of the malady, being founded upon the *immoveable* assumption of matters as *realities*, either without any foundation whatsoever, or so distorted and disfigured by fancy, as to be almost nearly the same thing as their creation. It is true, indeed, that in some, perhaps in many cases, the human mind is stormed in its citadel, and laid prostrate under the stroke of frenzy; these unhappy sufferers, however, are not so much considered, by physicians, as maniacs; but to be in a state of delirium as from fever. There, indeed, all the ideas are overwhelmed—for reason is not merely disturbed, *but driven wholly from her seat.*—Such unhappy patients are unconscious, therefore, except at short intervals, even of external objects; or, at least, are wholly incapable of considering their relations. Such persons, *and such persons alone* (except ideots), *are wholly deprived of their* UNDERSTANDINGS, in the Attorney-General's seeming sense of that expression. But these cases are not only extremely rare, but never can become the subjects of judicial difficulty. There can be but one judgment concerning them. In other cases, Reason is not driven from her seat, but distraction sits down upon it along with

her, holds her, trembling, upon it, and frightens her from her propriety. Such patients are victims to delusions of the most alarming description, which so overpower the faculties, and usurp so firmly the place of realities, as not to be dislodged and shaken by the organs of perception and sense: in such cases the images frequently vary, but in the same subject are generally of the same terrific character.—Here, too, no judicial difficulties can present themselves; for who could balance upon the judgment to be pronounced in cases of such extreme disease? Another class, branching out into almost infinite subdivisions, under which, indeed, the former, and every case of insanity may be classed, is, where the delusions are not of that frightful character—but infinitely various, and often extremely *circumscribed*; yet where imagination *(within the bounds of the malady)* still holds the most uncontrollable dominion over reality and fact: *and these are the cases which frequently mock the wisdom of the wisest in judicial trials*; because such persons often reason with a subtlety which puts in the shade the ordinary conceptions of mankind; their conclusions are just, and frequently profound; but the *premises from which they reason*, WHEN WITHIN THE RANGE OF THE MALADY, are uniformly false:—not false from any defect of knowledge or judgment; but, because a delusive image, the inseparable companion of real insanity, is thrust upon the subjugated understanding, incapable of resistance, because unconscious of attack.

Delusion, therefore, where there is no frenzy or raving madness, is the true character of insanity; and where it cannot be predicated of a man standing for life or death for a crime, he ought not, in my opinion, to be acquitted; and if courts of law were to be governed by any other principle, every departure from sober, rational conduct would be an emancipation from criminal justice. I shall place my claim to your verdict upon no such dangerous foundation.—I must convince you, not only that the unhappy Prisoner was a lunatic, within my own definition of lunacy, but that the act in question was the IMMEDIATE, UNQUALIFIED OFFSPRING OF THE DISEASE. In *civil* cases, as I have already said, the law avoids every act of the lunatic during the period of the lunacy; although the delusion may be extremely circumscribed; although the mind may be quite sound in all that is not within the shades of the very partial eclipse; and although the act to be avoided can in no way be connected with the influence of the insanity;—but to deliver a lunatic from responsibility to *criminal* justice, above all, in a case of such atrocity as the present, the relation between the disease and the act should be apparent. Where the connexion is doubtful, the judgment should certainly be most indulgent, from the great difficulty of diving into the secret sources of a disordered mind:—but still, I think, that, as a doctrine of law, the delusion and the act should be connected.

You perceive, therefore, Gentlemen, that the

Prisoner, in naming me for his Counsel, has not obtained the assistance of a person who is disposed to carry the doctrine of insanity in his defence, so far as even the books would warrant me in carrying it. Some of the cases, that of Lord Ferrers for instance, which I shall consider hereafter, distinguished from the present, would not, in my mind, bear the shadow of an argument, as a defence against an indictment for murder; I cannot allow the protection of insanity to a man who only exhibits violent passions and malignant resentments, acting upon *real circumstances*; who is impelled to evil from no morbid delusions; but who proceeds upon the ordinary perceptions of the mind.—I cannot consider such a man as falling within the protection which the law gives, and is bound to give, to those whom it has pleased God, for mysterious causes, to visit with this most afflicting calamity.

He alone can be so emancipated, whose disease (call it what you will) consists, not merely in seeing with a prejudiced eye, or with odd and absurd particularities, differing, in many respects, from the contemplations of sober sense, upon the actual existences of things; but, *he only* whose whole reasoning and corresponding conduct, though governed by the ordinary dictates of reason, proceed upon something which has no foundation or existence.

Gentlemen, it has pleased God so to visit the unhappy man before you;—to shake his reason in its citadel;—to cause him to build up as realities, the

most impossible phantoms of the mind, and to be impelled by them as motives *irresistible*: the whole fabric being nothing but the unhappy vision of his disease—existing no where else—having no foundation whatsoever in the very nature of things.

Gentlemen, it has been stated by the Attorney General, and established by evidence, which I am in no condition to contradict, nor have, indeed, any interest in contradicting, that, when the Prisoner bought the pistol which he discharged at, or *towards* His Majesty, he was well acquainted with the nature and use of it;—that, as a soldier, he could not but know that in his hands it was a sure instrument of death;—that, when he bought the gunpowder, he knew it would prepare the pistol for its use;—that, when he went to the playhouse, he knew he was going there, and every thing connected with the scene, as perfectly as any other person.—I freely admit all this: I admit, also, that every person who listened to his conversation and observed his deportment upon his apprehension, must have given precisely the evidence delivered by His Royal Highness the Duke of York; and that nothing like insanity appeared to those who examined him.—But what then? I conceive, Gentlemen, that *I* am more in the habit of examination, than either that illustrious person, or the witnesses from whom you have heard this account; yet I well remember (indeed I never can forget it), that since the Noble and Learned Judge has presided in this Court, I examined, for

the greater part of a day, in this very place, an unfortunate gentleman who had indicted a most affectionate brother, together with the keeper of a madhouse at Hoxton, for having imprisoned him as a lunatic; whilst, according to his evidence, he was in his perfect senses. I was, unfortunately, not instructed in what his lunacy consisted, although my instructions left me no doubt of the fact; but, not having the clue, he completely foiled me in every attempt to expose his infirmity. You may believe that I left no means unemployed which long experience dictated; but without the smallest effect. The day was wasted, and the Prosecutor, by the most affecting history of unmerited suffering, appeared to the Judge and Jury, and to a humane English audience, as the victim of the most wanton and barbarous oppression: at last Dr. Sims came into Court, who had been prevented, by business, from an earlier attendance;—and whose name, by the bye, I observe to-day in the list of the witnesses for the Crown. From Dr. Sims I soon learned that the very man whom I had been above an hour examining, and with every possible effort which Counsel are so much in the habit of exerting, believed himself to be *the Lord and Saviour of mankind*; not merely *at the time of his confinement*, which was alone necessary for my defence; *but during the whole time that he had been triumphing over every attempt to surprise him in the concealment of his disease.* I then affected to lament the indecency of my igno-

rant examination, when he expressed his forgiveness, and said, with the utmost gravity and emphasis, in the face of the whole Court, "I AM THE CHRIST;" and so the cause ended. Gentlemen, this is not the only instance of the power of concealing this malady; I could consume the day if I were to enumerate them; but there is one so extremely remarkable, that I cannot help stating it.

Being engaged to attend the assizes at Chester upon a question of lunacy, and having been told that there had been a memorable case tried before Lord Mansfield in this place, I was anxious to procure a report of it; and from that great man himself (who within these walls will ever be reverenced, being then retired in his extreme old age, to his seat near London, in my own neighbourhood) I obtained the following account of it: "A man of the name of Wood," said Lord Mansfield, "had indicted Dr. Monro for keeping him as a prisoner (I believe in the same mad-house at Hoxton) when he was sane. He underwent the most severe examination by the Defendant's Counsel without exposing his complaint; but Doctor Battye, having come upon the Bench by me, and having desired me to ask him what was become of the PRINCESS whom he had corresponded with in cherry-juice, he showed in a moment what he was. He answered, that there was nothing at all in that, because, having been (as every body knew) imprisoned in a high tower, and being debarred the use of ink, he had no other means of correspondence

but by writing his letters in cherry-juice, and throwing them into the river which surrounded the tower, where the Princess received them in a boat. There existed, of course, no tower, no imprisonment, no writing in cherry-juice, no river, no boat; but the whole the inveterate phantom of a morbid imagination.—I immediately," continued Lord Mansfield, "directed Dr. Monro to be acquitted; but this man, Wood, being a merchant in Philpot Lane, and having been carried through the city in his way to the mad-house, he indicted Dr. Monro over again, for the trespass and imprisonment *in London*, knowing that he had lost his cause by speaking of the Princess at Westminster; and such," said Lord Mansfield, "is the extraordinary subtlety and cunning of madmen, that when he was cross-examined on the trial in London, as he had successfully been before, in order to expose his madness, all the ingenuity of the Bar, and all the authority of the Court, could not make him say a single syllable upon that topic, which had put an end to the Indictment before, although he still had the same indelible impression upon his mind, as he signified to those who were near him; but, conscious that the delusion had occasioned his defeat at Westminster, he obstinately persisted in holding it back *."

Now, Gentlemen, let us look to the application

* This evidence at Westminster was then proved against him by the short-hand writer.

of these cases. I am not examining, *for the present*, whether either of these persons ought to have been acquitted, *if they had stood in the place of the Prisoner now before you*; that is quite a distinct consideration, which we shall come to hereafter.—The direct application of them is *only this:* that if I bring before you such evidence of the Prisoner's insanity as, *if believed to have really existed*, shall, in the opinion of the Court, as the rule for your verdict in point of law, be sufficient for his deliverance, then that you ought not to be shaken in giving full credit to such evidence, notwithstanding the report of those who were present at his apprehension, *who describe him as discovering no symptom whatever of mental incapacity or disorder*; because I have shown you that insane persons frequently appear in the utmost state of ability and composure, even in the highest paroxysms of insanity, except when frenzy is the characteristic of the disease. In this respect, the cases I have cited to you, have the most *decided application*; because they apply to the overthrow of the whole of the evidence (admitting at the same time the truth of it), by which the Prisoner's case can alone be encountered.

But it is said, that whatever delusions may overshadow the mind, every person ought to be responsible for crimes, *who has the knowledge of good and evil.* I think I can presently convince you, that there is something too general in this mode of considering the subject; and you do not, therefore, find

any such proposition in the language of the celebrated writer alluded to by the Attorney-General in his speech. Let me suppose that the character of an insane delusion consisted in the belief that some given person was any brute animal, or an inanimate being (and such cases have existed), and that upon the trial of such a lunatic for murder, you firmly, upon your oaths, were convinced, upon the uncontradicted evidence of an hundred persons, that he believed the man he had destroyed, to have been a potter's vessel; that it was quite impossible to doubt that fact, *although to all other intents and purposes he was sane*; conversing, reasoning, and acting, as men not in any manner tainted with insanity, converse, and reason, and conduct themselves: suppose further, that he believed the man whom he destroyed, but whom he destroyed as a potter's vessel, to be the property of another; and that he had malice against such supposed person, and that he meant to injure him, knowing the act he was doing to be malicious and injurious, and that, in short, he had full knowledge of all the principles of good and evil; yet would it be possible to convict such a person of murder, if, from the influence of his disease, he was ignorant of the relation he stood in to the man he had destroyed, and was utterly *unconscious* that he had struck at the life of a human being? I only put this case, and many others might be brought as examples to illustrate, that the knowledge of good and evil is too general a description.

I really think, however, that the Attorney-General and myself do not, in substance, very materially differ; because, from the whole of his most able Speech, taken together, his meaning may, I think, be thus collected; that where the act which is criminal, is done under the dominion of malicious mischief and wicked intention, although such insanity might exist in a corner of the mind, as might avoid the acts of the delinquent as a lunatic in a civil case, yet that he ought not to be protected, if malicious mischief, and not insanity, had impelled him to the act for which he was criminally to answer; because, in such a case, the act might be justly ascribed to malignant motives, and not to the dominion of disease.—I am not disposed to dispute such a proposition, in a case which would apply to it, and I can well conceive such cases may exist. The question, therefore, which you will have to try, is this: Whether, when this unhappy man discharged the pistol in a direction which convinced, and ought to convince, every person that it was pointed at the person of the King, he meditated mischief and violence to His Majesty, or whether he came to the theatre *(which it is my purpose to establish)* under the dominion of the most melancholy insanity that ever degraded and overpowered the faculties of man. I admit that when he bought the pistol, and the gunpowder to load it, and when he loaded it, and came with it to the theatre, and lastly, when he discharged it; every one of these acts would be overt

acts of compassing the King's death, if at all or *any* of these periods he was actuated by that *mind and intention*, which would have constituted murder in the case of an individual, if the individual had been actually killed.—I admit also, that the mischievous, and, in this case, the traitorous intention must be inferred from all these acts, unless *I can rebut the inferences by proof*. If I were to fire a pistol *towards* you, Gentlemen, where you are now sitting, the act would undoubtedly infer the malice. *The whole proof, therefore, is undoubtedly cast upon* ME.

In every case of treason, or murder, which are precisely the same, except that the unconsummated intention in the case of the King, is the same as the actual murder of a private man, the Jury must impute to the person whom they condemn by their verdict, *the motive* which constitutes the crime; and your province to-day will, therefore, be to decide, whether the Prisoner, when he did the act, was under the uncontrollable dominion of insanity, and was impelled to it by a *morbid delusion*; or whether it was the act of a man, who, though occasionally mad, or even at the time not perfectly collected, was yet not actuated by the disease, but by the suggestion of a wicked and malignant disposition.

I admit therefore, freely, that if, after you have heard the evidence which I hasten to lay before you, of the state of the Prisoner's mind, and close up to the very time of this catastrophe, you shall still not

feel yourselves clearly justified in negativing the wicked motives imputed by this Indictment, I shall leave you in the hands of the Learned Judges to declare to you the law of the land, and shall not seek to place society in a state of uncertainty by any appeal addressed only to your compassion: I am appointed by the Court to claim for the Prisoner the full protection of the law, but not to misrepresent it in his protection.

Gentlemen, the facts of this melancholy case lie within a narrow compass.

The unfortunate person before you was a soldier. He became so, I believe, in the year 1793—and is now about twenty-nine years of age. He served in Flanders under the Duke of York, as appears by His Royal Highness's evidence; and being a most approved soldier, he was one of those singled out as an orderly man to attend upon the person of the Commander-in-Chief. You have been witnesses, Gentlemen, to the calmness with which the Prisoner has sitten in his place during the trial.—There was but one exception to it.—You saw the emotion which overpowered him when the illustrious person now in Court, took his seat upon the Bench. Can you then believe, from the evidence, for I do not ask you to judge as physiognomists, or to give the rein to compassionate fancy; but can there be any doubt that it was the generous emotion of the mind, on seeing the Prince, under whom he had served with so much bravery and honour? Every man certainly

must judge for himself:—I am Counsel, not a witness, in the cause; but it is a most striking circumstance, when you find from the Crown's evidence, that when he was dragged through the orchestra under the stage, and charged with an act for which he considered his life as forfeited, he addressed the Duke of York with the same enthusiasm which has marked the demeanour I am adverting to:—Mr. Richardson, who showed no disposition in his evidence to help the Prisoner, but who spoke with the calmness and circumspection of truth, and who had no idea that the person he was examining was a lunatic, has given you the account of the burst of affection on his first seeing the Duke of York, against whose father and sovereign he was supposed to have had the consciousness of treason.—The King himself, whom he was supposed to have so malignantly attacked, never had a more gallant, loyal, or suffering soldier. His gallantry and loyalty will be proved; his sufferings speak for themselves.

About five miles from Lisle, upon the attack made on the British army, this unfortunate soldier was in the fifteenth light dragoons, in the thickest of the ranks, exposing his life for his Prince, whom he is supposed to-day to have sought to murder:—the first wound he received is most materially connected with the subject we are considering; you may see the effect of it now *. The point of a sword was im-

* Mr. Erskine put his hand to the Prisoner's head, who stood by him at the Bar of the Court.

pelled against him with all the force of a man urging his horse in battle. When the Court put the Prisoner under my protection, I thought it my duty to bring Mr. Cline to inspect him in Newgate; and it will appear by the evidence of that excellent and conscientious person, who is known to be one of the first anatomists in the world, that from this wound one of two things must have happened: either, that by the immediate operation of surgery the displaced part of the skull must have been taken away, or been forced inward on the brain. The second stroke, also, speaks for itself: you may now see its effects.—*(Here Mr. Erskine touched the head of the Prisoner.)* He was cut across all the nerves which give sensibility and animation to the body, and his head hung down almost dissevered, until by the act of surgery it was placed in the position you now see it; but thus, almost destroyed, he still recollected his duty, and continued to maintain the glory of his country, when a sword divided the membrane of his neck where it terminates in the head; yet he still kept his place though his helmet had been thrown off by the blow which I secondly described, when by another sword he was cut into the very brain—you may now see its membrane uncovered. Mr. Cline will tell you that he examined these wounds, and he can better describe them; I have myself seen them, but am no surgeon: from his evidence you will have to consider their consequences. It may be said that many soldiers receive grievous wounds without their producing insanity.

So they may undoubtedly; but we are here upon *the fact*. There was a discussion the other day, on whether a man, who had been seemingly hurt by a fall beyond remedy, could get up and walk: the people around said it was impossible; but he did get up and walk, and so there was an end to the impossibility. The effects of the Prisoner's wounds were known by the *immediate* event of insanity, and Mr. Cline will tell you that it would have been strange indeed if any other event had followed. We are not here upon a case of insanity arising from the spiritual part of man, as it may be affected by hereditary taint—by intemperance, or by violent passions, the operations of which are various and uncertain; but we have to deal with a species of insanity more resembling what has been described as ideocy, proceeding from original mal-organization. *There* the disease is, from its very nature, *incurable*; and so where a man *(like the Prisoner)* has become insane from *violence to the brain, which permanently affects its structure*, however such a man may appear occasionally to others, his disease is *immovable*; and if the Prisoner, therefore, were to live a thousand years, he *never* could recover from the consequence of that day.

But this is not all. Another blow was still aimed at him, which he held up his arm to avoid, when his hand was cut into the bone. It is an afflicting subject, Gentlemen, and better to be spoken of by those who understand it; and, to end all further description, he was then thrust almost through and

through the body with a bayonet, and left in a ditch amongst the slain.

He was afterwards carried to an hospital, where he was known by his tongue to one of his countrymen, who will be examined as a witness, who found him, not merely as a wounded soldier deprived of the powers of his body, but bereft of his senses for ever.

He was affected, from the very beginning, with that species of madness, which, from violent agitation, fills the mind with the most inconceivable imaginations, wholly unfitting it for all dealing with human affairs according to the sober estimate and standard of reason. He imagined that he had constant intercourse with the almighty Author of all things; that the world was coming to a conclusion; and that, like our blessed Saviour, he was to sacrifice himself for its salvation; and so obstinately did this morbid image continue, that you will be convinced he went to the theatre to perform, as he imagined, that blessed sacrifice; and, because he would not be guilty of suicide, though called upon by the imperious voice of Heaven, he wished that by the appearance of crime his life might be taken away from him by others. This bewildered, extravagant species of madness appeared immediately after his wounds on his first entering the hospital, and on the very same account he was discharged from the army on his return to England, which the Attorney-Ge-

neral very honourably and candidly seemed to intimate.

To proceed with the proofs of his insanity *down to the very period of his supposed guilt.* This unfortunate man before you, is the father of an infant of eight months; and I have no doubt, that if the boy had been brought into Court *(but this is a grave place for the consideration of justice, and not a theatre for stage effect)*—I say, I have no doubt whatever, that if this poor infant had been brought into Court, you would have seen the unhappy father wrung with all the emotions of parental affection: yet, upon the Tuesday preceding the Thursday when he went to the playhouse, you will find his disease still urging him forward, with the impression *that the time was come,* when he must be destroyed for the benefit of mankind; and in the confusion, or rather *delirium* of this wild conception, he came to the bed of the mother, who had this infant in her arms, and endeavoured to dash out its brains against the wall. The family was alarmed—and the neighbours being called in, the child was, with difficulty, rescued from the unhappy parent, who, in his madness, would have destroyed it.

Now let me, for a moment, suppose that he had succeeded in the accomplishment of his insane purpose; and the question had been, whether he was guilty of murder. Surely the affection for this infant, up to the very moment of his distracted violence, would have been conclusive in his favour: but

not more so than his loyalty to the King, and his attachment to the Duke of York, as applicable to the case before us; yet at that very period, even of extreme distraction, he conversed as rationally on all other subjects, as he did to the Duke of York at the theatre. The Prisoner knew perfectly that he was the husband of the woman, and the father of the child;—the tears of affection ran down his face at the very moment that he was about to accomplish its destruction; but during the whole of this scene of horror, he was not at all deprived of memory, in the Attorney-General's sense of the expression: he could have communicated, at that moment, every circumstance of his past life, and every thing connected with his present condition, *except only the quality of the act he was meditating*. In *that*, he was under the over-ruling dominion of a morbid imagination, and conceived that he was acting against the dictates of nature, in obedience to the superior commands of Heaven, which had told him, that the moment he was dead, and the infant with him, all nature was to be changed, and all mankind were to be redeemed by his dissolution.—There was not an idea in his mind, from the beginning to the end, of the destruction of the King; on the contrary, he always maintained his loyalty—lamented that he could not go again to fight his battles in the field—and it will be proved, that only a few days before the period in question, being present when a song was sung, indecent, as it regarded the person and condition of

His Majesty, he left the room with loud expressions of indignation, and immediately sung, God save the King, with all the enthusiasm of an old soldier, who had bled in the service of his country.

I confess to you, Gentlemen, that this last circumstance, which may, to some, appear insignificant, is, in my mind, most momentous testimony; because, if this man had been in the habit of associating with persons inimical to the government of our country, so that mischief might have been fairly argued to have mixed itself with madness (which, by the bye, it frequently does); if it could in any way have been collected, that from his disorder, more easily inflamed and worked upon, he had been led away by disaffected persons, to become the instrument of wickedness; if it could have been established that such had been his companions and his habits, I should have been ashamed to lift up my voice in his defence.—I should have felt, that, however his mind might have been weak and disordered, yet if his understanding sufficiently existed, to be methodically acted upon as an instrument of malice, I could not have asked for an acquittal: but you find, on the contrary, in the case before you, that, notwithstanding the opportunity which the Crown has had, and which, upon all such occasions, it justly employs to detect treason, either against the person of the King, or against his government; *not one witness* has been able to fix upon the Prisoner before you, any one companion, of even a doubtful

description, or any one expression from which disloyalty could be inferred; whilst the whole history of his life repels the imputation. His courage in defence of the King and his dominions, and his affection for his son, in such unanswerable evidence, all speak aloud against the presumption that he went to the theatre with a mischievous intention.

To recur again to the evidence of Mr. Richardson, who delivered most honourable and impartial testimony: I certainly am obliged to admit, that what a prisoner says for himself, when coupled at the very time with an overt act of wickedness, is no evidence whatever to alter the obvious quality of the act he has committed.—If, for instance, I who am now addressing you, had fired the same pistol towards the box of the King—and, having been dragged under the orchestra, and secured for criminal justice, I had said, that I had no intention to kill the King, but was weary of my life, and meant to be condemned as guilty; would any man who was not himself insane, consider that as a defence? Certainly not; because it would be without the whole foundation of the Prisoner's previous condition; part of which it is even difficult to apply closely and directly by strict evidence, without taking his undoubted insanity into consideration; because it is his unquestionable insanity which alone stamps the effusions of his mind with sincerity and truth.

The idea which had impressed itself, but in most confused images, upon this unfortunate man, was,

that he must be destroyed, but ought not to destroy himself. He once had the idea of firing over the King's carriage in the street; but then he imagined he should be immediately killed, which was not the mode of propitiation for the world—and as our Saviour, before his passion, had gone into the garden to pray, this fallen and afflicted being, after he had taken the infant out of bed to destroy it, returned also to the garden, saying, as he afterwards said to the Duke of York, "that all was not over—that a great work "was to be finished:"—and there he remained in prayer, the victim of the same melancholy visitation.

Gentlemen, these are the facts, freed from even the possibility of artifice or disguise; because the testimony to support them will be beyond all doubt; and in contemplating the law of the country, and the precedents of its justice, to which they must be applied, I find nothing to challenge or question—I approve of them throughout—I subscribe to all that is written by Lord Hale—I agree with all the authorities, cited by the Attorney-General, from Lord Coke; but above all, I do most cordially agree in the instance of convictions by which he illustrated them in his able address. I have now lying before me the case of Earl Ferrers: unquestionably there could not be a shadow of doubt, and none appears to have been entertained, of his guilt.—I wish, indeed, nothing more than to contrast the two cases; and so far am I from disputing either the principle of that condemnation, or the evidence that was the

foundation of it, that I invite you to examine whether any two instances in the whole body of the criminal law, are more diametrically opposite to each other, than the case of Earl Ferrers and that now before you. Lord Ferrers was divorced from his wife by act of Parliament; and a person of the name of Johnson, who had been his steward, had taken part with the lady in that proceeding, and had conducted the business in carrying the act through the two Houses. Lord Ferrers consequently wished to turn him out of a farm which he occupied under him; but his estate being in trust, Johnson was supported by the trustees in his possession: there were, also, some differences respecting coal-mines; and in consequence of both transactions, Lord Ferrers took up the most violent resentment against him. Let me here observe, Gentlemen, that this was not a resentment founded upon any *illusion*; not a resentment forced upon a distempered mind by fallacious images, but depending upon *actual circumstances and real facts*; and acting like any other man under the influence of malignant passions, he repeatedly declared that he would be revenged on Mr. Johnson, particularly for the part he had taken in depriving him of a contract respecting the mines.

Now suppose Lord Ferrers could have showed that no difference with Mr. Johnson had ever existed regarding his wife at all—that Mr. Johnson had never been his steward—and that he had only, from delusion, believed so when his situation in life was quite different,

Suppose, further, that an *illusive imagination* had *alone* suggested to him that he had been thwarted by Johnson in his contract for these coal-mines, there never having been any contract at all for coal-mines; in short, that the whole basis of his enmity was without any foundation in nature, and had been shown to have been a *morbid image* imperiously fastened upon his mind.—Such a case as that would have exhibited a character of insanity in Lord Ferrers, extremely different from that in which it was presented by the evidence to HIS PEERS. Before THEM, he only appeared as a man of turbulent passions; whose mind was disturbed by no fallacious images of things without existence; whose quarrel with Johnson was founded *upon no illusions*, but upon existing facts; and whose resentment proceeded to the fatal consummation with all the ordinary indications of mischief and malice; and who conducted his own defence with the greatest dexterity and skill. WHO THEN COULD DOUBT THAT LORD FERRERS WAS A MURDERER? When the act was done, he said, "I am glad I have done it. He was a villain, and I am revenged;" but when he afterwards saw that the wound was probably mortal, and that it involved consequences fatal to himself, he desired the surgeon to take all possible care of his patient—and, conscious of his crime, kept at bay the men who came with arms to arrest him; showing, from the beginning to the end, nothing that does not generally accompany the crime for which he was condemned. He was

proved, to be sure, to be a man subject to unreasonable prejudices, addicted to absurd practices, and agitated by violent passions; but the act was not done under the dominion of uncontrollable disease; and whether the mischief and malice were substantive, or marked in the mind of a man whose passions bordered upon, or even amounted to insanity, it did not convince the Lords, that, under all the circumstances of the case, he was not a fit object of criminal justice.

In the same manner, Arnold, who shot at Lord Onslow, and who was tried at Kingston soon after the Black Act passed on the accession of George I. Lord Onslow having been very vigilant as a magistrate in suppressing clubs, which were supposed to have been set on foot to disturb the new government, Arnold had frequently been heard to declare, that Lord Onslow would ruin his country; and although he appeared, from the evidence, to be a man of most wild and turbulent manners, yet the people round Guildford, who knew him, did not, in general, consider him to be insane.—His Counsel could not show, that any morbid *delusion* had ever overshadowed his understanding.—They could not show, *as I shall*, that just before he shot at Lord Onslow, he had endeavoured to destroy his own beloved child. It was a case of *human resentment*.

I might instance, also, the case of Oliver, who was indicted for the murder of Mr. Wood, a potter, in Staffordshire. Mr. Wood had refused his daugh-

ter to this man in marriage. My friend Mr. Milles was Counsel for him at the assizes. He had been employed as a surgeon and apothecary by the father, who forbid him his house, and desired him to bring in his bill for payment; when, in the agony of disappointment, and brooding over the injury he had suffered, on his being admitted to Mr. Wood to receive payment, he shot him upon the spot. The trial occupied great part of the day; yet, for my own part, I cannot conceive that there was any thing in the case for a Jury to deliberate on.—He was a man acting upon *existing facts*, and upon *human resentments* connected with them. He was at the very time carrying on his business, which required learning and reflection, and, indeed, a reach of mind beyond the ordinary standard, being trusted by all who knew him, as a practiser in medicine. Neither did he go to Mr. Wood's under the influence of *illusion*; but he went to destroy the life of a man who was placed exactly in the circumstances which the mind of the criminal represented him. He went to execute vengeance on him for refusing his daughter. In such a case there might, no doubt, be passion approaching to frenzy; but there wanted that characteristic of madness to emancipate him from criminal justice.

There was another instance of this description in the case of a most unhappy woman, who was tried in Essex for the murder of Mr. Errington, who had seduced and abandoned her and the children she had

borne to him. It must be a consolation to those who prosecuted her, that she was acquitted, as she is at this time in a most undoubted and deplorable state of insanity; but I confess, if I had been upon the Jury who tried her, I should have entertained great doubts and difficulties: for although the unhappy woman had before exhibited strong marks of insanity arising from grief and disappointment; yet she acted upon *facts and circumstances*, which had an *existence*, and which were calculated, upon the ordinary principles of human action, to produce the most violent resentment. Mr. Errington having just cast her off, and married another woman, or taken her under his protection, her jealousy was excited to such a pitch as occasionally to overpower her understanding; but, when she went to Mr. Errington's house, where she shot him, she went with the express and deliberate purpose of shooting him. That fact was unquestionable; she went there with a resentment long rankling in her bosom, bottomed on an existing foundation: she did not act under *a delusion, that he had deserted her* when he had not, but took revenge upon him for an actual desertion; but still the Jury, in the humane consideration of her sufferings, pronounced the insanity to be predominant over resentment, and they acquitted her.

But let me suppose (which would liken it to the case before us), that she had never cohabited with Mr. Errington; that she never had had children by him; and, consequently, that he neither had, nor

could possibly have deserted or injured her.—Let me suppose, in short, that she had never seen him in her life, but that her resentment had been founded on the morbid delusion that Mr. Errington, who had never seen her, had been the author of all her wrongs and sorrows; and that, under that *diseased* impression, she had shot him. If that had been the case, Gentlemen, she would have been acquitted upon the opening, and no Judge would have sat to try such a cause: the *act itself* would have been decisively characteristic of madness, because, being founded upon nothing existing, it could not have proceeded from malice, which the law requires to be charged and proved, in every case of murder, as the foundation of a conviction.

Let us now recur to the cause we are engaged in, and examine it upon those principles by which I am ready to stand or fall, in the judgment of the Court.

You have a man before you who will appear, upon the evidence, to have received those almost deadly wounds which I described to you, producing the immediate and immoveable effects which the eminent surgeon, whose name I have mentioned, will prove that they could not but have produced; it will appear, that from that period he was visited with the severest paroxysms of madness, and was repeatedly confined with all the coercion which it is necessary to practise upon lunatics; yet what is quite decisive against the imputation of treason against the person

of the King, his loyalty never forsook him.—Sane or insane, it was his very characteristic to love his sovereign and his country, although the delusions which distracted him were sometimes, *in other respects*, as contradictory as they were violent.

Of this inconsistency there was a most striking instance on only the Tuesday before the Thursday in question, when it will be proved, that he went to see one Truelet, who had been committed by the Duke of Portland as a lunatic. This man had taken up an idea that our Saviour's second advent, and the dissolution of all human things, were at hand; and conversed in this strain of madness: this mixing itself with the insane delusion of the Prisoner, he immediately broke out upon the subject of his own propitiation and sacrifice for mankind, although only the day before he had exclaimed, that the Virgin Mary was a whore; that Christ was a bastard; that God was a thief; and that he and this Truelet were to live with him at White Conduit House, and there to be enthroned together. His mind, in short, was overpowered and overwhelmed with distraction.

The charge against the Prisoner is the overt act of compassing the death of the King, in firing a pistol at His Majesty—an act which only differs from murder inasmuch as the bare compassing is equal to the accomplishment of the malignant purpose; and it will be *your* office, under the advice of the Judge, to decide by your verdict to which of the two impulses of the mind you refer the act in question: you

will have to decide, whether you attribute it wholly to mischief and malice, or wholly to insanity, or to the one mixing itself with the other. If you find it attributable to mischief and malice *only*, LET THE MAN DIE. The law demands his death for the public safety.—If you consider it as conscious malice and mischief mixing itself with insanity, I leave him in the hands of the Court, to say how he is to be dealt with; it is a question too difficult for me.—I do not stand here to disturb the order of society, or to bring confusion upon my country; but, if you find that the act was committed wholly under the dominion of insanity; if you are satisfied that he went to the theatre contemplating his own destruction only; and that, when he fired the pistol, he did not *maliciously* aim at the person of the King—you will then be bound, even upon the principle which the Attorney-General himself humanely and honourably stated to you, to acquit this most unhappy Prisoner.

If, in bringing these considerations hereafter to the standard of the evidence, any doubts should occur to you on the subject, the question for your decision will then be, which of the two alternatives is the most probable—a duty which you will perform by the exercise of that reason of which, for wise purposes, it has pleased God to deprive the unfortunate man whom you are trying; your sound understandings will easily enable you to distinguish *infirmities*, which are *misfortunes*, from *motives*, which

are crimes. Before the day ends the evidence will be decisive upon this subject.

There is, however, another consideration which I ought distinctly to present to you; because I think that more turns upon it than any other view of the subject: namely, whether the Prisoner's defence can be impeached for artifice or fraud; because I admit, that if, at the moment when he was apprehended, there can be fairly imputed to him any pretence or counterfeit of insanity, it would taint the whole case, and leave him without protection; but for such a suspicion there is not even a shadow of foundation.—It is repelled by the whole history and character of his disease, as well as of his life, independent of it. If you were trying a man under the Black Act, for shooting at another, and there was a doubt upon the question of malice; would it not be important, or rather decisive evidence, that the Prisoner had no resentment against the Prosecutor—but that, on the contrary, he was a man whom he had always loved and served? Now the Prisoner was maimed, cut down, and destroyed, in the service of the King.

Gentlemen, another reflection presses very strongly on my mind, which I find it difficult to suppress. In every state there are political differences and parties, and individuals disaffected to the system of government under which they live as subjects. There are not many such, I trust, in this country; but whether there are many or any of such persons,

there is one circumstance which has peculiarly distinguished His Majesty's life and reign, and which is in itself as a host in the Prisoner's defence:—since, amidst all the treasons and all the seditions which have been charged on reformers of government as conspiracies to disturb it, no hand or voice has been lifted up against the person of the King: there have, indeed, been unhappy lunatics who, from ideas too often mixing themselves with insanity, have intruded themselves into the palace—but no malicious attack has ever been made upon the King, to be settled by a trial: His Majesty's character and conduct have been a safer shield than guards or than laws.—Gentlemen, I wish to continue to that sacred life that best of all securities; I seek to continue it under that protection where it has been so long protected.—We are not to do evil that good may come of it; we are not to stretch the laws to hedge round the life of the King with a greater security than that which the Divine Providence has so happily realized.

Perhaps there is no principle of religion more strongly inculcated by the sacred Scriptures than by that beautiful and encouraging lesson of our Saviour himself upon confidence in the divine protection: "Take no heed for your life, what ye shall eat, or "what ye shall drink, or wherewithal ye shall be "clothed; but seek ye first the kingdom of God, "and all these things shall be added unto you." By which it is undoubtedly not intended that we are to

disregard the conservation of life, or to neglect the means necessary for its sustentation; nor that we are to be careless of whatever may contribute to our comfort and happiness—but that we should be contented to receive them as they are given to us, and not seek them in the violation of the rule and order appointed for the government of the world.—On this principle nothing can more tend to the security of His Majesty and his government, than the scene which this day exhibits in the calm, humane, and impartial administration of justice;—and if, in my part of this solemn duty, I have in any manner trespassed upon the just security provided for the public happiness, I wish to be corrected.—I declare to you, solemnly, that my only aim has been to secure for the Prisoner at the Bar, whose life and death are in the balance, that he should be judged rigidly by the evidence and the law.—I have made no appeal to your passions—you have no right to exercise them. This is not even a case in which, if the Prisoner be found guilty, the royal mercy should be counselled to interfere: he is either an accountable being, or not accountable; if he was *unconscious* of the mischief he was engaged in, the law is a corollary, and he is not guilty; but if, when the evidence closes, you think he was conscious, and maliciously meditated the treason he is charged with, it is impossible to conceive a crime more vile and detestable; and I should consider the King's life to be

ill attended to, indeed, if not protected by the full vigour of the laws, which are watchful over the security of the meanest of his subjects. It is a most important consideration, both as it regards the Prisoner, and the community of which he is a member.—Gentlemen, I leave it with you.