in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted upon the altar of slavery; the first moment he touches the sacred soil of Britain, the altar and the god sink together in the dust; his soul walks abroad in her own majesty; his body swells beyond the measure of his chains, that burst from around him; and he stands redeemed, regenerated, and disenthralled, by the irresistible genius of UNIVERSAL EMANCIPATION.

A sudden burst of applause from the court and hall, which was repeated for a considerable length of time, interrupted Mr. CURRAN. Silence being at length restored, he proceeded:—

Gentlemen, I am not such a fool as to ascribe any effusion of this sort to any merit of mine. It is the mighty theme, and not the inconsiderable advocate, that can excite interest in the hearer. What you hear is but the testimony which nature bears to her own character; it is the effusion of her gratitude to that Power which stamped that character upon her.

And permit me to say, that if my client had occasion to defend his cause by any mad or drunken appeals to extravagance or licentiousness, I trust in God I stand in that situation that, humble as I am, he would not have resorted to me to be his advocate. I was not recommended to his choice by any connexion of principle or party, or even private friendship; and saying this, I cannot but add, that I consider not

to be acquainted with such a man as Mr. Rowan, a want of personal good fortune. But upon this great subject of reform and emancipation, there is a latitude and boldness of remark, justifiable in the people, and necessary to the defence of Mr. Rowan, for which the habits of professional studies, and technical adherence to established forms, have rendered me unfit. It is, however, my duty, standing here as his advocate, to make some few observations to you which I conceive to be material.

Gentlemen, you are sitting in a country which has a right to the British constitution, and which is bound by an indissoluble union with the British nation. If you were now even at liberty to debate upon that subject; if you even were not, by the most solemn compacts, founded upon the authority of your ancestors and of yourselves, bound to that alliance, and had an election now to make; in the present unhappy state of Europe, if you had been heretofore a stranger to Great Britain, you would now say—We will enter into society and union with you:—

"Una salus ambobus erit, commune periculum."

But to accomplish that union, let me tell you, you must learn to become like the English people. It is vain to say you will protect their freedom, if you abandon your own. The pillar whose base has no foundation, can give no support to the dome under which its head is placed; and if you profess to give England that assistance which you refuse

to yourselves, she will laugh at your folly, and despise your meanness and insincerity. Let us follow this a little further—I know you will interpret what I say with the candour in which it is spoken. England is marked by a natural avarice of freedom, which she is studious to engross and accumulate, but most unwilling to impart; whether from any necessity of her policy, or from her weakness, or from her pride, I will not presume to say, but so is the fact; you need not look to ourselves.

In order to confirm this observation, I would appeal to what fell from the learned counsel for the crown,—"that notwithstanding the alliance subsisting for two centuries past between the two countries, the date of liberty in one goes no further back than the year 1782."

If it required additional confirmation, I should state the case of the invaded American, and the subjugated Indian, to prove that the policy of England has ever been, to govern her connexions more as colonies than as allies; and it must be owing to the great spirit indeed of Ireland, if she shall continue free. Rely upon it, she will ever have to hold her course against an adverse current; rely upon it, if the popular spring does not continue strong and elastic, a short interval of debilitated nerve and broken force will send you down the stream again, and re-consign you to the condition of a province.

If such should become the fate of your constitution, ask yourselves what must be the motive of your government? It is easier to govern a province by a faction, than to govern a co-ordinate country by co-ordinate means. I do not say it is now, but it will always be thought easiest by the managers of the day, to govern the Irish nation by the agency of such a faction, as long as this country shall be found willing to let her connexion with Great Britain be preserved only by her own degradation. In such a precarious and wretched state of things, if it shall ever be found to exist, the true friend of Irish liberty and British connexion will see, that the only means of saving both must be, as Lord Chatham expressed it, "the infusion of new health and blood into the constitution." He will see how deep a stake each country has in the liberty of the other; he will see what a bulwark he adds to the common cause, by giving England a co-ordinate and interested ally, instead of an oppressed, enfeebled, and suspected dependant; he will see how grossly the credulity of Britain is abused by those who make her believe that her interest is promoted by our depression; he will see the desperate precipice to which she approaches by such conduct; and with an animated and generous piety, he will labour to avert her danger.

But, gentlemen of the jury, what is likely to be his fate? The interest of the sovereign must be for ever the interest of his people, because his interest

lives beyond his life: it must live in his fame; it must live in the tenderness of his solicitude for an unborn posterity; it must live in that heart-attaching bond, by which millions of men have united the destinies of themselves and their children with his, and call him by the endearing appellation of king and father of his people.

But what can be the interest of such a government as I have described? Not the interest of the king—not the interest of the people; but the sordid interest of the hour; the interest in deceiving the one, and in oppressing and defaming the other; the interest of unpunished rapine and unmerited favour: that odious and abject interest, that prompts them to extinguish public spirit in punishment or in bribe, and to pursue every man, even to death, who has sense to see, and firmness enough to abhor and to oppose them. What, therefore, I say, will be the fate of the man who embarks in an enterprise of so much difficulty and danger? I will not answer it. Upon that hazard has my client put every thing that can be dear to man, his fame, his fortune, his person, his liberty, and his children; but with what event your verdict only can answer, and to that I refer your country.

There is a fourth point remaining. Says this paper,—"For both these purposes, it appears necessary that provincial conventions should assemble, preparatory to the convention of the Protestant people. The delegates of the Catholic body

are not justified in communicating with individuals, or even bodies, of inferior authority; and therefore an assembly of a similar nature and organization is necessary to establish an intercourse of sentiment, an uniformity of conduct, an united cause, and an united nation. If a convention on the one part does not soon follow, and is not soon connected with that on the other, the common cause will split into the partial interests; the people will relax into inattention and inertness; the union of affection and exertion will dissolve; and, too probably, some local insurrection, instigated by the malignity of our common enemy, may commit the character, and risk the tranquillity of the island, which can be obviated only by the influence of an assembly arising from, and assimilated with the people, and whose spirit may be, as it were, knit with the soul of the nation. Unless the sense of the Protestant people be, on their part, as fairly collected and as judiciously directed; unless individual exertion consolidates into collective strength; unless the particles unite into one mass, we may perhaps serve some person or some party for a little, but the public not at all. The nation is neither insolent, nor rebellious, nor seditious; while it knows its rights, it is unwilling to manifest its powers; it would rather supplicate the administration to anticipate revolution by well-timed reform, and to save their country to themselves."

Gentlemen, it is with something more than

common reverence, it is with a species of terror that I am obliged to tread this ground. But what is the idea, put in the strongest point of view? We are willing not to manifest our powers, but to supplicate administration to anticipate revolution, that the legislature may save the country, in mercy to itself.

Let me suggest to you, gentlemen, that there are some circumstances, which have happened in the history of this country, that may better serve as a comment upon this part of the case, than any I can make. I am not bound to defend Mr. Rowan, as to the truth or wisdom of the opinions he may have formed. But if he did really conceive the situation of the country such, as that the not redressing her grievances might lead to a convulsion; and of such an opinion not even Mr. Rowan is answerable here for the wisdom, much less shall I insinuate any idea of my own upon so awful a subject; but if he did so conceive the fact to be, and acted from the fair and honest suggestion of a mind anxious for the public good, I must confess, gentlemen, I do not know in what part of the British constitution to find the principle of his criminality.

But, be pleased further to consider, that he cannot be understood to put the fact on which he argues on the authority of his assertion. The condition of Ireland was as open to the observation of every other man, as to that of Mr. Rowan. What

then, does this part of the publication amount to? In my mind, simply to this:

"The nature of oppression in all countries is such, that although it may be borne to a certain degree, it cannot be borne beyond that degree. You find that exemplified in Great Britain; you find the people of England patient to a certain point, but patient no longer. That infatuated monarch, James II., experienced this. The time did come, when the measure of popular sufferings and popular patience was full—when a single drop was sufficient to make the waters of bitterness to overflow. I think this measure in Ireland is brimful at present; I think the state of the representation of the people in parliament is a grievance; I think the utter exclusion of three millions of people is a grievance of that kind, that the people are not likely long to endure, and the continuation of which may plunge the country into that state of despair, which wrongs, exasperated by perseverance, never fail to produce." But to whom is even this language addressed? Not to the body of the people on whose temper and moderation, if once excited, perhaps not much confidence could be placed; but to that authoritative body, whose influence and power would have restrained the excesses of the irritable and tumultuous, and for that purpose expressly does this publication address the Volunteers.

"We are told that we are in danger. I call upon you, the great constitutional saviours of Ireland,

to defend the country to which you have given political existence, and to use whatever sanction your great name, your sacred character, and the weight you have in the community, must give you, to repress wicked designs, if any there are. We feel ourselves strong—the people are always strong; the public chains can only be rivetted by the public hands. Look to those devoted regions of southern despotism: behold the expiring victim on his knees, presenting the javelin, reeking with his blood, to the ferocious monster who returns it into his heart. Call not that monster the tyrant; he is no more than the executioner of that inhuman tyranny, which the people practise upon themselves, and of which he is only reserved to be a later victim than the wretch he has sent before. Look to a nearer country, where the sanguinary characters are more legible—whence you almost hear the groans of death and torture. Do you ascribe the rapine and murder in France to the few names that we are execrating here? or do you not see that it is the frenzy of an infuriated multitude, abusing its own strength, and practising those hideous abominations upon itself? Against the violence of this strength, let your virtue and influence be our safeguard."

What criminality, gentlemen of the jury, can you find in this? What, at any time; but I ask you, peculiarly at this momentous period, what guilt you can find in it? My client saw the scene of

horror and blood which covers almost the face of Europe: he feared that causes, which he thought similar, might produce similar effects; and he seeks to avert those dangers, by calling the united virtue and tried moderation of the country into a state of strength and vigilance. Yet this is the conduct which the prosecution of this day seeks to punish and stigmatize; and this is the language for which this paper is reprobated to-day, as tending to turn the hearts of the people against their sovereign, and inviting them to overturn the constitution.

Let us now, gentlemen, consider the concluding part of this publication. It recommends a meeting of the people, to deliberate on constitutional methods of redressing grievances. Upon this subject I am inclined to suspect that I have in my youth taken up crude ideas, not founded, perhaps, in law; but I did imagine that, when the bill of rights restored the right of petitioning for the redress of grievances, it was understood that the people might boldly state among themselves that grievances did exist; I did imagine it was understood that people might lawfully assemble themselves in such manner as they might deem most orderly and decorous. I thought I had collected it from the greatest luminaries of the law. The power of petitioning seemed to me to imply the right of assembling for the purpose of deliberation. The law requiring a petition to be presented by a limited number, seemed to me to admit that the

petition might be prepared by any number whatever, provided, in doing so, they did not commit any breach or violation of the public peace. I know that there has been a law passed in the Irish parliament of last year, which may bring my former opinion into a merited want of authority. The law declares that no body of men may delegate a power to any smaller number, to act, think, or petition for them. If that law had not passed, I should have thought that the assembling by a delegate convention was recommended, in order to avoid the tumult and disorder of a promiscuous assembly of the whole mass of the people. I should have conceived, before that act, that any law to abridge the orderly appointment of the few, to consult for the interest of the many, and thus force the many to consult by themselves, or not at all, would, in fact, be a law not to restrain but to promote insurrection. But that law has spoken, and my error must stand corrected.

Of this, however, let me remind you: you are to try this part of the publication by what the law was then, not by what it is now. How was it understood until last session of parliament. You had, both in England and Ireland, for the last ten years, these delegated meetings. The Volunteers of Ireland, in 1783, met by delegation: they framed a plan of parliamentary reform; they presented it to the representative wisdom of the nation. It was not received; but no man ever dreamed that it

was not the undoubted right of the subject to assemble in that manner. They assembled by delegation at Dungannon; and to show the idea then entertained of the legality of their public conduct, that same body of Volunteers was thanked by both houses of parliament, and their delegates most graciously received at the throne. The other day you had delegated representatives of the Catholics of Ireland, publicly elected by the members of that persuasion, and sitting in convention in the heart of your capital, carrying on an actual treaty with the existing government, and under the eye of your own parliament, which was then assembled; you have seen the delegates from that convention carry the complaints of their grievances to the foot of the throne, from whence they brought back to that convention the auspicious tidings of that redress which they had been refused at home.

Such, gentlemen, have been the means of popular communication and discussion, which, until the last session, have been deemed legal in this country, as, happily for the sister kingdom, they are yet considered there.

I do not complain of this act as any infraction of popular liberty; I should not think it becoming in me to express any complaint against a law, when once become such. I observe only, that one mode of popular deliberation is thereby taken utterly away, and you are reduced to a situation in which you never stood before. You are living in a

country, where the constitution is rightly stated to be only ten years old—where the people have not the ordinary rudiments of education. It is a melancholy story, that the lower orders of the people here have less means of being enlightened than the same class of people in any other country. If there be no means left by which public measures can be canvassed, what will be the consequence? Where the press is free, and discussion unrestrained, the mind, by the collision of intercourse, gets rid of its own asperities; a sort of insensible perspiration takes place in the body politic, by which those acrimonies, which would otherwise fester and inflame, are quietly dissolved and dissipated. But now, if any aggregate assembly shall meet, they are censured; if a printer publishes their resolutions, he is punished: rightly, to be sure, in both cases, for it has been lately done. If the people say, let us not create tumult, but meet in delegation, they cannot do it; if they are anxious to promote parliamentary reform in that way, they cannot do it; the law of the last session has for the first time declared such meetings to be a crime.

What then remains? The liberty of the press *only*—that sacred palladium, which no influence, no power, no minister, no government, which nothing, but the depravity, or folly, or corruption of a jury, can ever destroy. And what calamities are the people saved from, by having public communication left open to them? I will tell you,

gentlemen, what they are saved from, and what the government is saved from; I will tell you also to what both are exposed by shutting up that communication. In one case, sedition speaks aloud and walks abroad: the demagogue goes forth—the public eye is upon him—he frets his busy hour upon the stage; but soon either weariness, or bribe, or punishment, or disappointment, bears him down, or drives him off, and he appears no more. In the other case, how does the work of sedition go forward? Night after night the muffled rebel steals forth in the dark, and casts another and another brand upon the pile, to which, when the hour of fatal maturity shall arrive, he will apply the torch. If you doubt of the horrid consequence of suppressing the effusion even of individual discontent, look to those enslaved countries where the protection of despotism is supposed to be secured by such restraints. Even the person of the despot there is never in safety. Neither the fears of the despot, nor the machinations of the slave, have any slumber —the one anticipating the moment of peril, the other watching the opportunity of aggression. The fatal crisis is equally a surprise upon both: the decisive instant is precipitated without warning—by folly on the one side, or by frenzy on the other; and there is no notice of the treason, till the traitor acts. In those unfortunate countries—one cannot read it without horror—there are officers, whose province it is, to have the water which is to be

drunk by their rulers, sealed up in bottles, lest some wretched miscreant should throw poison into the draught.

But, gentlemen, if you wish for a nearer and more interesting example, you have it in the history of your own revolution. You have it at that memorable period, when the monarch found a servile acquiescence in the ministers of his folly—when the liberty of the press was trodden under foot—when venal sheriffs returned packed juries, to carry into effect those fatal conspiracies of the few against the many—when the devoted benches of public justice were filled by some of those foundlings of fortune, who, overwhelmed in the torrent of corruption at an early period, lay at the bottom, like drowned bodies, while soundness or sanity remained in them; but, at length, becoming buoyant by putrefaction, they rose as they rotted, and floated to the surface of the polluted stream, where they were drifted along, the objects of terror, and contagion, and abomination.*

In that awful moment of a nation's travail, of

* "It may not be ungratifying to hear the manner in which this passage was suggested to the speaker's mind. A day or two before Mr. Rowan's trial, one of Mr. Curran's friends showed him a letter that he had received from Bengal, in which the writer, after mentioning the Hindoo custom of throwing the dead into the Ganges, added, that he was then upon the banks of that river, and that, as he wrote, he could see several bodies floating down its stream. The orator, shortly after, while describing a corrupted bench, recollected this fact, and applied it as above."—*Life of Curran, by his Son*, vol. i., p. 316.

the last gasp of tyranny, and the first breath of freedom, how pregnant is the example! The press extinguished, the people enslaved, and the prince undone. As the advocate of society, therefore—of peace—of domestic liberty—and the lasting union of the two countries—I conjure you to guard the liberty of the press, that great sentinel of the state, that grand detector of public imposture; guard it, because, when it sinks, there sinks with it, in one common grave, the liberty of the subject, and the security of the crown.

Gentlemen, I am glad that this question has not been brought forward earlier; I rejoice, for the sake of the court, of the jury, and of the public repose, that this question has not been brought forward till now. In Great Britain, analagous circumstances have taken place. At the commencement of that unfortunate war which has deluged Europe with blood, the spirit of the English people was tremblingly alive to the terror of French principles; at that moment of general paroxysm, to accuse was to convict. The danger looked larger to the public eye, from the misty region through which it was surveyed. We measure inaccessible heights by the shadows which they project, where the lowness and the distance of the light form the length of the shade.

There is a sort of aspiring and adventurous credulity, which disdains assenting to obvious truths, and delights in catching at the improbability of

circumstances, as its best ground of faith. To what other cause, gentlemen, can you ascribe, that in the wise, the reflecting, and the philosophic nation of Great Britain, a printer has been gravely found guilty of a libel, for publishing those resolutions to which the present minister of that kingdom had actually subscribed his name? To what other cause can you ascribe, what in my mind is still more astonishing, in such a country as Scotland—a nation cast in the happy medium between the spiritless acquiescence of submissive poverty, and the sturdy credulity of pampered wealth—cool and ardent—adventurous and persevering—winging her eagle flight against the blaze of every science, with an eye that never winks, and a wing that never tires—crowned, as she is, with the spoils of every art, and decked with the wreath of every muse, from the deep and scrutinizing researches of her Hume, to the sweet and simple, but not less sublime and pathetic, morality of her Burns—how, from the bosom of a country like that, genius, and character, and talents, should be banished to a distant barbarous soil, condemned to pine under the horrid communion of vulgar vice and base-born profligacy, for twice the period that ordinary calculation gives to the continuance of human life?*

* Alluding to Scotland, where sentence of transportation for fourteen years, had been passed upon Mr. Muir, Mr. Palmer, and others. Recently public monuments have been erected to these patriots in Edinburgh and London.

But I will not further press an idea that is so painful to me, and I am sure must be painful to you. I will only say, you have now an example, of which neither England nor Scotland had the advantage; you have the example of the panic, the infatuation, and the contrition of both. It is now for you to decide, whether you will profit by their experience of idle panic and idle regret; or whether you meanly prefer to palliate a servile imitation of their frailty, by a paltry affectation of their repentance. It is now for you to show, that you are not carried away by the same hectic delusions, to acts, of which no tears can wash away the fatal consequences, or the indelible reproach.

Gentlemen, I have been warning you by instances of public intellect suspended or obscured; let me rather excite you by the example of that intellect recovered and restored. In that case which Mr. Attorney-General has cited himself—I mean that of the trial of Lambert, in England—is there a topic of invective against constituted authorities, is there a topic of abuse against every department of British government, that you do not find in the most glowing and unqualified terms in that publication, for which the printer of it was prosecuted, and acquitted by an English jury? See, too, what a difference there is between the case of a man publishing his own opinion of facts, thinking that he is bound by duty to hazard the promulgation of them, and without the remotest hope of any

personal advantage, and that of a man who makes publication his trade. And saying this, let me not be misunderstood. It is not my province to enter into any abstract defence of the opinions of any man upon public subjects. I do not affirmatively state to you that these grievances, which this paper supposes, do in fact, exist; yet I cannot but say, that the movers of this prosecution have forced this question upon you. Their motives and their merits, like those of all accusers, are put in issue before you; and I need not tell you how strongly the motive and merits of any informer ought to influence the fate of his accusation.

I agree most implicitly with Mr. Attorney-General, that nothing can be more criminal than an attempt to work a change in the government by armed force; and I entreat that the court will not suffer any expression of mine to be considered as giving encouragement or defence to any design to excite disaffection, to overawe or to overturn the government. But I put my client's case upon another ground: if he was led into an opinion of grievances, where there were none, if he thought there ought to be a reform, where none was necessary, he is answerable only for his intention. He can be answerable to you in the same way only that he is answerable to that God, before whom the accuser, the accused, and the judge, must appear together; that is, not for the clearness of his understanding, but for the purity of his heart.

Gentlemen, Mr. Attorney-General has said, that Mr. Rowan did by this publication (supposing it to be his) recommend, under the name of equality, a general indiscriminate assumption of public rule, by every the meanest person in the state. Low as we are in point of public information, there is not, I believe, any man, who thinks for a moment, that does not know that all which the great body of the people of any country can have from any government, is a fair encouragement to their industry, and protection for the fruits of their labour. And there is scarcely any man, I believe, who does not know, that if a people could become so silly as to abandon their stations in society, under pretence of governing themselves, they would become the dupes and the victims of their own folly. But does this publication recommend any such infatuated abandonment, or any such desperate assumption? I will read the words which relate to that subject—"By liberty, we never understood unlimited freedom; nor by equality, the levelling of property, or the destruction of subordination." I ask you, with what justice, upon what principle of common sense, you can charge a man with the publication of sentiments the very reverse of what his words avow, and that, when there is no collateral evidence, where there is no foundation whatever, save those very words, by which his meaning can be ascertained? Or, if you do adopt an arbitrary principle, of imputing to him *your*

meaning, instead of his own, what publication can be guiltless or safe? It is a sort of accusation that I am ashamed and sorry to see introduced in a court acting on the principles of the British constitution.

In the bitterness of reproach it was said, "Out of thine own mouth will I condemn thee." From the severity of justice I demand no more. See if, in the words that have been spoken, you can find matter to acquit or to condemn—"By liberty, we never understood unlimited freedom; nor by equality, the levelling of property, or the destruction of subordination. This is a calumny invented by that faction, or that gang, which misrepresents the King to the people, and the people to the King—traduces one half of the nation, to cajole the other—and, by keeping up distrust and division, wishes to continue the proud arbitrator of the fortune and fate of Ireland. Here you find that meaning, disclaimed as a calumny, which is artfully imputed as a crime.

I say, therefore, gentlemen of the jury, as to the four parts into which the publication must be divided, I answer thus. It calls upon the Volunteers. Consider the time, the danger—the authority of the prosecutors themselves for believing that danger to exist—the high character, the known moderation, the approved loyalty of that venerable institution—the similarity of the circumstances between the period at which they were summoned to take

arms, and that in which they have been called upon to reassume them. Upon this simple ground, gentlemen, you will decide, whether this part of the publication was libellous and criminal, or not.

As to reform, I could wish to have said nothing upon it; I believe I have said enough. If Mr. Rowan, in disclosing that opinion, thought the state required it, he acted like an honest man. For the rectitude of the opinion he was not answerable; he discharged his duty in telling the country that he thought so.

As to the emancipation of the Catholics, I cannot but say that Mr. Attorney-General did very wisely in keeping clear of that subject. Yet, gentlemen, I need not tell you how important a figure it was intended to make upon the scene; though, from unlucky accidents, it has become necessary to expunge it during the rehearsal.*

Of the concluding part of this publication, the convention which it recommends, I have spoken already. I wish not to trouble you with saying more upon it. I feel that I have already trespassed much upon your patience. In truth, upon a subject embracing such a variety of topics, a rigid observance either of conciseness or arrangement could, perhaps, scarcely be expected. It is, however, with pleasure I feel I am drawing to a close, and that only one question remains, to which I would beg your attention.

* Referring to the Emancipation Act of 1793.

Whatever, gentlemen, may be your opinion of the meaning of this publication, there yet remains a great point for you to decide upon: namely, whether, in point of fact, this publication be imputable to Mr. Rowan, or not?—whether he did publish it, or not? Two witnesses are called to that fact—one of the name of Lyster, and the other of the name of Morton. You must have observed that Morton gave no evidence upon which that paper could have even been read; he produced no paper—he identified no paper—he said that he got some paper, but that he had given it away. So that, in point of law, there was no evidence given by him, on which it could have gone to a jury; and, therefore, it turns entirely upon the evidence of the other witness. He has stated that he went to a public meeting, in a place where there was a gallery crowded with spectators, and that he there got a printed paper, the same which has been read to you. I know you are well acquainted with the fact, that the credit of every witness must be considered by, and rest with the jury. They are the sovereign judges of that; and I will not insult your feelings by insisting on the caution with which you should watch the testimony of a witness that seeks to affect the liberty, or property, or character, of your fellow-citizens. Under what circumstances does this evidence come before you. The witness says he has got a commission in the army, by the interest of a lady, from a person then

high in administration. He told you that he made a memorandum upon the back of that paper, it being his general custom, when he got such papers, to make an indorsement upon them—that he did this from mere fancy—that he had no intention of giving any evidence on the subject—he "took it with no such view." There is something whimsical enough in this curious story. Put his credit upon the positive evidence adduced to his character. Who he is I know not—I know not the man; but his credit is impeached. Mr. Blake was called; he said he knew him. I asked him, "Do you think, sir, that Mr. Lyster is or is not a man deserving credit upon his oath?" If you find a verdict of conviction, it can be only upon the credit of Mr. Lyster. What said Mr. Blake; Did he tell you that he considered him a man to be believed upon his oath? He did not attempt to say that he did. The best he could say was, that he "would hesitate." Do you believe Blake? Have you the same opinion of Lyster's testimony that Mr. Blake has? Do you know Lyster? If you do know him, and know that he is credible, your knowledge should not be shaken by the doubts of any man. But if you do not know him, you must take his credit from an unimpeached witness, swearing that he would hesitate to believe him. In my mind, there is a circumstance of the strongest nature that came out from Lyster on the table. I am aware that a most respectable man, if impeached by

surprise, may not be prepared to repel a wanton calumny by contrary testimony. But was Lyster unapprized of this attack upon him? What said he? "I knew that you had Blake to examine against me—you have brought him here for that purpose." He knew the very witness that was to be produced against him—he knew that his credit was impeached—and yet he produced no person to support that credit. What said Mr. Smyth? "From my knowledge of him, I would not believe him upon his oath."

Mr. Attorney-General—I beg pardon, but I must set Mr. CURRAN right. Mr. Lyster said he had heard Blake would be here, but not in time to prepare himself.

Mr. CURRAN—But what said Mrs. Hatchell? Was the production of that witness a surprise upon Mr. Lyster? Her cross-examination shows the fact to be the contrary. The learned counsel, you see, was perfectly apprized of a chain of private circumstances, to which he pointed his questions. This lady's daughter was married to the elder brother of the witness Lyster. Did he know these circumstances by inspiration? No; they could come only from Lyster himself. I insist, therefore, that the gentleman knew his character was to be impeached; his counsel knew it, and not a single witness has been produced to support it. Then consider, gentlemen, upon what ground can you find a verdict of conviction against my client, when the only witness produced to the fact of publication

is impeached, without even an attempt to defend his character? Many hundreds, he said, were at that meeting. Why not produce one of them, to swear to the fact of such a meeting? One he has ventured to name; but he was certainly very safe in naming a person, who, he has told you, is not in the kingdom, and could not, therefore, be called to confront him.

Gentlemen, let me suggest another observation or two, if still you have any doubt as to the guilt or innocence of the defendant. Give me leave to suggest to you what circumstances you ought to consider, in order to found your verdict. You should consider the character of the person accused; and in this your task is easy. I will venture to say, there is not a man in this nation more known than the gentleman who is the subject of this prosecution; not only by the part he has taken in public concerns, and which he has taken in common with many, but still more so, by that extraordinary sympathy for human affliction, which, I am sorry to think, he shares with so small a number. There is not a day that you hear the cries of your starving manufacturers in your streets, that you do not also see the advocate of their sufferings—that you do not see his honest and manly figure, with uncovered head, soliciting for their relief—searching the frozen heart of charity for every string that can be touched by compassion, and urging the force of every argument and every motive, save that which his modesty

suppresses, the authority of his own generous example. Or if you see him not there, you may trace his steps to the private abode of disease, and famine, and despair—the messenger of heaven, bringing with him food, and medicine, and consolation. Are these the materials of which you suppose anarchy and public rapine to be formed? Is this the man on whom to fasten the abominable charge of goading on a frantic populace to mutiny and bloodshed? Is this the man likely to apostatize from every principle that can bind him to the state—his birth, his property, his education, his character, and his children? Let me tell you, gentlemen of the jury, if you agree with his prosecutors, in thinking that there ought to be a sacrifice of such a man on such an occasion—and upon the credit of such evidence you are to convict him—never did you, never can you give a sentence, consigning any man to public punishment, with less danger to his person or to his fame: for where could the hireling be found to fling contumely or ingratitude at his head, whose private distresses he had not endeavoured to alleviate, or whose public condition he had not laboured to improve?

I cannot, however, avoid reverting to a circumstance that distinguishes the case of Mr. Rowan from that of the late sacrifice in a neighbouring kingdom.*

* Scotland, from whence Messrs. Muir, Palmer, and others were transported for sedition.

The severer law of that country, it seems—and happy for them that it should—enables them to remove from their sight the victim of their infatuation. The more merciful spirit of our law deprives you of that consolation; his sufferings must remain for ever before our eyes, a continual call upon your shame and your remorse. But those sufferings will do more; they will not rest satisfied with your unavailing contrition—they will challenge the great and paramount inquest of society—the man will be weighed against the charge, the witness, and the sentence—and impartial justice will demand, why has an Irish jury done this deed? The moment he ceases to be regarded as a criminal, he becomes of necessity an accuser; and let me ask you, what can your most zealous defenders be prepared to answer to such a charge? When your sentence shall have sent him forth to that stage which guilt alone can render infamous, let me tell you, he will not be like a little statue upon a mighty pedestal, diminishing by elevation; but he will stand a striking and imposing object upon a monument, which, if it does not (and it cannot) record the atrocity of his crime, must record the atrocity of his conviction.

Upon this subject, therefore, credit me when I say, that I am still more anxious for you than I can possibly be for him. I cannot but feel the peculiarity of your situation. Not the jury of his own choice, which the law of England allows, but

which ours refuses; collected in that box by a person certainly no friend to Mr. Rowan*—certainly not very deeply interested in giving him a very impartial jury. Feeling this, as I am persuaded you do, you cannot be surprised, however you may be distressed, at the mournful presage with which an anxious public is led to fear the worst from your possible determination. But I will not, for the justice and honour of our common country, suffer my mind to be borne away by such melancholy anticipation. I will not relinquish the confidence that this day will be the period of his sufferings; and, however mercilessly he has been hitherto pursued, that your verdict will send him home to the arms of his family, and the wishes of his country. But if, which heaven forbid! it hath still been unfortunately determined, that because he has not bent to power and authority, because he would not bow down before the golden calf, and worship it, he is to be bound and cast into the furnace; I do trust to God, that there is a redeeming spirit in the constitution, which will be seen to walk with the sufferer through the flames, and to preserve him unhurt by the conflagration.

Upon leaving the court, Mr. Curran was drawn home by the populace, who took the horses from his carriage.

At the close of Curran's speech there was another shout of admiration and sympathy, which Lord Clonmel with difficulty stopped. The Attorney-General (most irregularly) spoke in

* Gifford, the Sheriff.

defence of his own character, against the charge of oppressive delay, and then Prime-Sergeant the Hon. James Fitzgerald replied to Curran. Lord Clonmel (Chief Justice) charged the jury violently against Rowan. In this charge he used the following words, omitted in the editions of the trials, but given in Curran's Memoirs, by his Son, vol. i., p. 347:—

"One hundred and fifty Volunteers, or United Irishmen, and not one comes forward! Many of them would have been proud to assist him (the traverser). *Their silence speaks a thousand times more strongly than any cavilling upon this man's credit—the silence of such a number is a volume of evidence in support of the prosecution.*"

Justice (afterwards Lord) Downes also charged, and the Jury, in ten minutes, found a verdict of Guilty. The following scene then occurred:—

"Lord Clonmel—Do the Counsel for the defendant desire four days' time to move in arrest of judgment?

"Mr. Curran—The only instructions I have from my client are to disclaim any application of that kind; he does not wish to take advantage of errors in the record, if any there be; but is now ready to attend to receive what sentence the court may be pleased to pronounce.

"Lord Clonmel—(After conferring with the other judges)—We will not pronounce judgment till four days. Mr. Sheriff, take care of your prisoner.

"The Counsel for Mr. Rowan here objected, that he was not a prisoner—he had not been in custody; he had not given bail upon this information; he was bound in no recognizance; was served with no process; he had appeared to the information by attorney; he pleaded by attorney; the issue was tried after the manner of a civil action, a word merely of the record being read, and the defendant was not given in charge to the jury, as the practice is, where he appears in custody. Mr. Rowan attended the trial, it is true, but the court had no judicial cognizance of him; the information could have been tried in

his absence; he attended as a common auditor, and the witness being called upon to point him out at the desire of the bench, might have been a satisfaction to them to see that the witnesses were speaking of the same person, but it was altogether unprecedented in such cases as the present. Mr. Rowan was ready for sentence; he claims no indulgence, does not insist upon the four-day rule; but if the court, for their own accommodation, choose to defer the sentence for four days, they have no legal authority for sending Mr. Rowan to prison, until sentence is pronounced, or the usual and accustomed process issued against him.

"Lord Clonmel—If the Attorney-General consents, I have no objection.

"The Attorney-General had left the court, and the Solicitor for the Crown remained silent.

"Lord Clonmel—The defendant is a convict, as such he is a prisoner; the law must have its course. Adjourn the court.

"Accordingly the court was adjourned.

"Mr. Rowan was conveyed to the New Prison, attended by both the Sheriffs, and a formidable array of horse and foot guards."—*Mac Nevin's State Trials,* p. 122.

February 3rd, 1794.

Affidavits were read in court, to prove that one of the jury was avowedly hostile.

February 4th, 1794.

The Recorder applied to set aside the verdict given in the case of Archibald Hamilton Rowan, Esq. The application was grounded upon different affidavits sworn in court, charging, 1st—One of the jurors with a declaration against Mr. Rowan, previous to trial. 2ndly—Partiality in one of the high sheriffs. 3rdly—That John Lyster, the principal evidence, was not to be believed upon his oath; he, as the affidavits stated, having been guilty of perjury. And 4thly—upon which the learned gentleman rested his case — the misdirection of the court.