

not have been so then, upon what principle can it be so now? What is the force and perfection of the law?

It is the permanency of the law; it is that whenever the fact is the same the law is also the same; it is that the law remains a written, monumented, and recorded letter, to pronounce the same decision upon the same facts whenever they shall arise. I will not affect to conceal it; you know there has been an artful, ungrateful, and blasphemous clamor raised against these illustrious characters, the saviors of the kingdom of Ireland.

Having mentioned this, let me read a few words of the paper alleged to be criminal: "You first took up arms to protect your country from foreign enemies and from domestic disturbance. For the same purposes it now becomes necessary that you should resume them."

I should be the last in the world to impute any want of candor to the right honorable gentleman who has stated the case on behalf of the prosecution; but he has certainly fallen into a mistake which, if not explained, might be highly injurious to my client. He supposed that this publication was not addressed to the old Volunteers, but to new combinations of them, formed upon new principles and actuated by different motives. You have the words to which this construction is imputed upon the record; the meaning of his mind can be collected only from those words which he has made use of to convey it. The guilt imputable to him can only be inferred from the meaning ascribable to those words. Let his meaning then be fairly collected by resorting to them.

Is there a foundation to suppose that this address was directed to any such body of men as has been called a banditti, with what justice it is unnecessary to inquire, and not to the old Volunteers? As to the sneer at the phrase "citizen

soldiers," I should feel that I was treating a very respected friend with an insidious and unmerited unkindness if I affected to expose it by any gravity of refutation. I may, however, be permitted to observe that those who are supposed to have disgraced this expression by adopting it have taken it from the idea of the British constitution, "that no man, in becoming a soldier, ceases to be a citizen." Would to God, all enemies as they are, that that unfortunate people had borrowed more from that sacred source of liberty and virtue! and would to God, for the sake of humanity, that they had preserved even the little they did borrow! If even there could be an objection to that appellation it must have been strongest when it was first assumed. To that period the writer manifestly alludes; he addresses those who first took up arms: "You first took up arms to protect your country from foreign enemies and from domestic disturbance. For the same purpose it is now necessary that you should resume them." Is this applicable to those who had never taken up arms before?

"A proclamation," says this paper, "has been issued in England for embodying the militia, and a proclamation has been issued by the Lord Lieutenant and Council in Ireland for repressing all seditious associations. In consequence of both these proclamations it is reasonable to apprehend danger from abroad and danger at home."

God help us; from the situation of Europe at that time we were threatened with too probable danger from abroad, and I am afraid it was not without foundation that we were told our having something to dread at home.

I find much abuse has been lavished on the disrespect with which the proclamation is treated in that part of the paper alleged to be a libel. To that my answer for my client is

short; I do conceive it competent to a British subject, if he thinks that a proclamation has issued for the purpose of raising false terrors,—I hold it to be not only the privilege but the duty of a citizen to set his countrymen right with respect to such misrepresented danger; and until a proclamation in this country shall have the force of law the reason and grounds of it are surely at least questionable by the people.

Nay, I will go further; if an actual law had received the sanction of the three estates, if it be exceptionable in any matter, it is warrantable to any man in the community to state, in a becoming manner, his ideas upon it. And I should be at a loss to know, if the positive laws of Great Britain are thus questionable, upon what ground the proclamation of an Irish government should not be open to the animadversion of an Irish subject.

Whatever be the motive, or from whatever quarter it arises, says this paper, "alarm has arisen." Gentlemen, do you not know that to be the fact? It has been stated by the Attorney-General, and most truly, that the most gloomy apprehensions were entertained by the whole country. "You Volunteers of Ireland are therefore summoned to arms at the instance of government as well as by the responsibility attached to your character and the permanent obligations of your institution." I am free to confess, if any man assuming the liberty of a British subject to question public topics should, under the mask of that privilege, publish a proclamation inviting the profligate and seditious, those in want and those in despair, to rise up in arms to overawe the legislature, to rob us of whatever portion of the blessings of a free government we possess, I know of no offence involving greater enormity. But that, gentlemen, is the question you are to try.

If my client acted with an honest mind and fair intention,

and, having, as he believed, the authority of government to support him in the idea that danger was to be apprehended, did apply to that body of so known and so revered a character, calling upon them by their former honor, the principle of their glorious institution, and the great stake they possessed in their country; if he interposed, not upon a fictitious pretext, but a real belief of actual and imminent danger, and that their arming at that critical moment was necessary to their country,—his intention was not only innocent, but highly meritorious.

It is a question, gentlemen, upon which you only can decide; it is for you to say whether it was criminal in the defendant to be so misled, and whether he is to fall a sacrifice to the prosecution of that government by which he was so deceived. I say again, gentlemen, you can look only to his own words as the interpreter of his meaning, and to the state and circumstances of his country, as he was made to believe them, as the clue to his intention. The case, then, gentlemen, is shortly and simply this: a man of the first family and fortune and character and property among you reads a proclamation stating the country to be in danger from abroad and at home, and thus alarmed—thus upon authority of the prosecutor alarmed—applies to that august body before whose awful presence sedition must vanish and insurrection disappear.

You must surrender, I hesitate not to say it, your oaths to unfounded assertion, if you can submit to say that such an act of such a man, so warranted, is a wicked and seditious libel. If he was a dupe, let me ask you who was the impostor? I blush and I shrink with shame and detestation from that meanness of dupery and servile complaisance which could make that dupe a victim to the accusation of that impostor.

You perceive, gentlemen, that I am going into the merits of this publication before I apply myself to the question which

is first in order of time, namely, whether the publication, in point of fact, is to be ascribed to Mr. Rowan or not. I have been unintentionally led into this violation of order. I should effect no purpose of either brevity or clearness by returning to the more methodical course of observation. I have been naturally drawn from it by the superior importance of the topic I am upon, namely, the merit of the publication in question.

This publication, if ascribable at all to Mr. Rowan, contains four distinct subjects. The first the invitation to the Volunteers to arm. Upon that I have already observed; but those that remain are surely of much importance, and no doubt are prosecuted as equally criminal. The paper next states the necessity of a reform in Parliament; it states, thirdly, the necessity of an emancipation of the Catholic inhabitants of Ireland; and, as necessary to the achievement of all these objects, does, fourthly, state the necessity of a general delegated convention of the people.

It has been alleged that Mr. Rowan intended by this publication to excite the subjects of this country to effect an alteration in the form of your constitution. And here, gentlemen, perhaps you may not be unwilling to follow a little further than Mr. Attorney-General has done the idea of a late prosecution in Great Britain upon the subject of a public libel. It is with peculiar fondness I look to that country for solid principles of constitutional liberty and judicial example. You have been pressed in no small degree with the manner in which this publication marks the different orders of our constitution and comments upon them.

Let me show you what boldness of animadversion on such topics is thought justifiable in the British nation and by a British jury. I have in my hand the report of the trial of the

printers of the "Morning Chronicle" for a supposed libel against the state, and of their acquittal: let me read to you some passages from that publication, which a jury of Englishmen were in vain called upon to brand with the name of libel.

"Claiming it as our indefeasible right to associate together, in a peaceable and friendly manner, for the communication of thoughts, the formation of opinions, and to promote the general happiness, we think it unnecessary to offer any apology for inviting you to join us in this manly and benevolent pursuit. The necessity of the inhabitants of every community endeavoring to procure a true knowledge of their rights, their duties, and their interests, will not be denied except by those who are the slaves of prejudice or interested in the continuation of abuses.

"As men who wish to aspire to the title of freemen, we totally deny the wisdom and the humanity of the advice to approach the defects of government with 'pious awe and trembling solicitude.' What better doctrine could the Pope or the tyrants of Europe desire? We think, therefore, that the cause of truth and justice can never be hurt by temperate and honest discussions; and that cause which will not bear such a scrutiny must be systematically or practically bad.

"We are sensible that those who are not friends to the general good have attempted to inflame the public mind with the cry of 'Danger' whenever men have associated for discussing the principles of government; and we have little doubt but such conduct will be pursued in this place. We would therefore caution every honest man who has really the welfare of the nation at heart to avoid being led away by the prostituted clamors of those who live on the sources of corruption. We pity the fears of the timorous; and we are totally unconcerned respecting the false alarms of the venal.

"We view with concern the frequency of wars. We are persuaded that the interests of the poor can never be promoted by accession of territory when bought at the expense of their labor and blood; and we must say, in the language of a celebrated author, 'We, who are only the people, but who pay for wars with our substance and our blood, will not cease to tell kings' or governments 'that to them alone wars are

profitable; that the true and just conquests are those which each makes at home by comforting the peasantry, by promoting agriculture and manufactures, by multiplying men, and the other productions of nature; that then it is that kings may call themselves the image of God, whose will is perpetually directed to the creation of new beings. If they continue to make us fight and kill one another, in uniform, we will continue to write and speak until nations shall be cured of this folly.' We are certain our present heavy burdens are owing in a great measure to cruel and impolitic wars; and therefore we will do all on our part, as peaceable citizens who have the good of the community at heart, to enlighten each other and protest against them.

"The present state of the representation of the people calls for the particular attention of every man who has humanity sufficient to feel for the honor and happiness of his country, to the defects and corruptions of which we are inclined to attribute unnecessary wars, oppressive taxes, etc. We think it a deplorable case when the poor must support a corruption which is calculated to oppress them; when the laborer must give his money to afford the means of preventing him having a voice in its disposal; when the lower classes may say, 'We give you our money, for which we have toiled and sweated, and which would save our families from cold and hunger; but we think it more hard that there is nobody whom we have delegated to see that it is not improperly and wickedly spent. We have none to watch over our interests. The rich only are represented.'

"An equal and uncorrupt representation would, we are persuaded, save us from heavy expenses and deliver us from many oppressions. We will therefore do our duty to procure this reform, which appears to us of the utmost importance.

"In short, we see with the most lively concern an army of placemen, pensioners, etc., fighting in the cause of corruption and prejudice and spreading the contagion far and wide.

"We see with equal sensibility the present outcry against reforms, and a proclamation (tending to cramp the liberty of the press and discredit the true friends of the people) receiving the support of numbers of our countrymen.

"We see burdens multiplied, the lower classes sinking into poverty, disgrace, and excesses, and the means of those shocking abuses increased for the purpose of revenue.

"We ask ourselves, 'Are we in England?' Have our forefathers fought, bled, and conquered for liberty? And did they not think that the fruits of their patriotism would be more abundant in peace, plenty, and happiness?

"Is the condition of the poor never to be improved?

"Great Britain must have arrived at the highest degree of national happiness and prosperity, and our situation must be too good to be mended, or the present outcry against reforms and improvements is inhuman and criminal. But we hope our condition will be speedily improved, and to obtain so desirable a good is the object of our present association: a union founded on principles of benevolence and humanity; disclaiming all connection with riots and disorder, but firm in our purpose and warm in our affections for liberty.

"Lastly, we invite the friends of freedom throughout Great Britain to form similar societies, and to act with unanimity and firmness till the people be too wise to be imposed upon and their influence in the government be commensurate with their dignity and importance. Then shall we be free and happy."

Such, gentlemen, is the language which a subject of Great Britain thinks himself warranted to hold, and upon such language has the corroborating sanction of a British jury been stamped by a verdict of acquittal. Such was the honest and manly freedom of publication; in a country, too, where the complaint of abuses has not half the foundation it has here. I said I loved to look to England for principles of judicial example; I cannot but say to you that it depends on your spirit whether I shall look to it hereafter with sympathy or with shame.

Be pleased now, gentlemen, to consider whether the statement of the imperfection in your representation has been made with a desire of inflaming an attack upon the public tran-

quillity or with an honest purpose of procuring a remedy for an actually existing grievance. It is impossible not to revert to the situation of the times; and let me remind you, that whatever observations of this kind I am compelled thus to make in a court of justice, the uttering of them in this place is not imputable to my client, but to the necessity of defence imposed upon him by this extraordinary prosecution.

Gentlemen, the representation of your people is the vital principle of their political existence. Without it they are dead, or they live only to servitude; without it there are two estates acting upon and against the third, instead of acting in co-operation with it; without it, if the people are oppressed by their judges, where is the tribunal to which their judges can be amenable? Without it, if they are trampled upon and plundered by a minister, where is the tribunal to which the offender shall be amenable? Without it, where is the ear to hear, or the heart to feel, or the hand to redress their sufferings? Shall they be found, let me ask you, in the accursed bands of imps and minions that bask in their disgrace, and fatten upon their spoils, and flourish upon their ruin? But let me not put this to you as a merely speculative question. It is a plain question of fact: rely upon it, physical man is everywhere the same; it is only the various operations of moral causes that give variety to the social or individual character and condition. How otherwise happens it that modern slavery looks quietly at the despot on the very spot where Leonidas expired? The answer is easy; Sparta has not changed her climate, but she has lost that government which her liberty could not survive.

I call you, therefore, to the plain question of fact. This paper recommends a reform in Parliament: I put that question to your consciences; do you think it needs that reform?

I put it boldly and fairly to you; do you think the people of Ireland are represented as they ought to be?

Do you hesitate for an answer?

If you do, let me remind you that until the last year three millions of your countrymen have, by the express letter of the law, been excluded from the reality of actual, and even from the phantom of virtual representation. Shall we, then, be told that this is only the affirmation of a wicked and seditious incendiary? If you do not feel the mockery of such a charge, look at your country; in what state do you find it? Is it in a state of tranquillity and general satisfaction? These are traces by which good are ever to be distinguished from bad governments without any very minute inquiry or speculative refinement. Do you feel that a veneration for the law, a pious and humble attachment to the constitution, form the political morality of the people? Do you find that comfort and competency among your people which are always to be found where a government is mild and moderate, where taxes are imposed by a body who have an interest in treating the poorer orders with compassion, and preventing the weight of taxation from pressing sore upon them?

Gentlemen, I mean not to impeach the state of your representation; I am not saying that it is defective or that it ought to be altered or amended; nor is this a place for me to say whether I think that three millions of the inhabitants of a country whose whole number is but four ought to be admitted to any efficient situation in the state.

It may be said, and truly, that these are not questions for either of us directly to decide; but you cannot refuse them some passing consideration at least when you remember that on this subject the real question for your decision is whether the allegation of a defect in your constitution is so utterly

unfounded and false that you can ascribe it only to the malice and perverseness of a wicked mind and not to the innocent mistake of an ordinary understanding; whether it may not be mistake; whether it can be only sedition.

And here, gentlemen, I own I cannot but regret that one of our countrymen should be criminally pursued for asserting the necessity of a reform at the very moment when that necessity seems admitted by the Parliament itself; that this unhappy reform shall at the same moment be a subject of legislative discussion and criminal prosecution.

Far am I from imputing any sinister design to the virtue or wisdom of our government; but who can avoid feeling the deplorable impression that must be made on the public mind when the demand for that reform is answered by a criminal information! I am the more forcibly impressed by this consideration when I consider that when this information was first put on the file the subject was transiently mentioned in the House of Commons.

Some circumstances retarded the progress of the inquiry there, and the progress of the information was equally retarded here. On the first day of this session, you all know, that subject was again brought forward in the House of Commons, and, as if they had slept together, this prosecution was also revived in the court of king's bench, and that before a jury taken from a panel partly composed of those very members of Parliament who in the House of Commons must debate upon this subject, as a measure of public advantage, which they are here called upon to consider as a public crime.

This paper, gentlemen, insists upon the necessity of emancipating the Catholics of Ireland, and that is charged as a part of the libel. If they had kept this prosecution impending for another year, how much would remain for a jury to decide

upon, I should be at a loss to discover. It seems as if the progress of public reformation was eating away the ground of the prosecution. Since the commencement of the prosecution this part of the libel has unluckily received the sanction of the legislature. In that interval our Catholic brethren have obtained that admission which it seems it was a libel to propose. In what way to account for this I am really at a loss.

Have any alarms been occasioned by the emancipation of our Catholic brethren? Has the bigoted malignity of any individuals been crushed? Or has the stability of the government or has that of the country been weakened? Or are one million of subjects stronger than three millions? Do you think that the benefit they received should be poisoned by the stings of vengeance? If you think so you must say to them:

“You have demanded your emancipation and you have got it; but we abhor your persons, we are outraged at your success; and we will stigmatize by a criminal prosecution the relief which you have obtained from the voice of your country.”

I ask you, gentlemen, do you think, as honest men anxious for the public tranquillity, conscious that there are wounds not yet completely cicatrized, that you ought to speak this language at this time to men who are too much disposed to think that in this very emancipation they have been saved from their own Parliament by the humanity of their sovereign? Or do you wish to prepare them for the revocation of these improvident concessions? Do you think it wise or humane at this moment to insult them by sticking up in a pillory the man who dared to stand forth their advocate?

I put it to your oaths, do you think that a blessing of that kind, that a victory obtained by justice over bigotry and oppression, should have a stigma cast upon it by an ignominious