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[No. 1.

THE CONVENT IN AISQUITH STREET—ESCAPE OF A NUN—
THE DOCTRINE OF CELIBACY IN POPISH PRIESTS AND NUNS.

ON the opening of the Convent in Aisquith street, we repaired with a few who were moved by curiosity to see the inside of one of those buildings, that had excited so much attention in past ages. Our company consisted of four men, who were returning from the funeral of an old and enterprising citizen, two of them sea captains, who had for many years sailed to Papal countries, in which they had seen enough of the morals of the Roman Priesthood, to form not a very favourable opinion, either of them or of their religion. One of them, after we had gone through it, gave a history of one that he had seen torn down by a Papal community, and the exposition made within its walls and in an adjoining pond was such as we will not venture to describe. Another was surprised to think that an enlightened community would suffer such an institution to be erected within its limits. After running hastily through the upper parts of the building, (for, if our memory serves us correctly, we were not invited to take a look at the cellar) we departed, and have never met since.

At that time such was the rod of terror held over the Protestant part of the community, or any that would say any thing against Popery, that few dared to speak what they thought, lest it should come to the ears of a priest, and he or some of his lay assistants should give them trouble. The fears thus excited have kept back many from speaking their mind with reference to the convent, and checked rumors that would occasionally get afloat. Yet notwithstanding this constant dread of Papal indignation, and the watchfulness of those having charge of the establishment, now and then a case slips out that takes wing and gets beyond the control of the Superiors. For example, as early as 1835, a man who was engaged in repairing a house in the neighbourhood of the Convent, reported that "*he heard a noise like the lashing of a whip in the direction of the Convent, and when turning around to see what was the*

cause of the noise, saw through one of the windows, a man dressed in black, flogging a female with what he took to be a cowskin." This rumour was published in a letter to the Archbishop calling his attention to the fact. In the same year the following statement portending awful doings within those sacred walls was published, certified to by six respectable citizens who heard the piercing screams that horrified their souls.

STATEMENT.

We whose names are subscribed hereto, declare and certify that on or about the — day of — 183 — about nine o'clock at night, as we were returning home from a Meeting in the Methodist Protestant church, at the corner of Pitt and Asquith streets; and when opposite the CARMELITE CONVENT and school, in Asquith street, our attention was suddenly arrested, by a LOUD SCREAM ISSUING FROM THE UPPER STORY OF THE CONVENT. The sound was that of a female voice, indicating great distress; we stopt and heard a second scream; and then a third, in quick succession, accompanied with the cry of HELP! HELP! OH! LORD! HELP!! with the appearance of great effort. After this there was nothing more heard by us during the space of ten or fifteen minutes; we remained about that time on the pavement opposite the building from which the cries came.

When the cries were first heard, no light was visible in the fourth story, from which the cries seemed to issue. After the cries, lights appeared in the second and third stories,—seeming to pass rapidly from place to place, indicating haste and confusion. Finally all lights disappeared from the second and third stories, and the house became quiet.

No one passed along the street where we stood, while we stood there. But one of our party was a man, and he advanced in life; all the remainder of us were women. The watch was not set, as some of us heard nine o'clock cried, before we got home.

Many of us have freely spoken of these things since their occurrence—And now at the request of Messrs. B. and C. and M., we give this statement, which we solemnly declare to be true; and sign it with our names.

Signed { JOHN BRUSCUP,
LAVINIA BROWN,
SOPHIA BRUSCUP,
HANNAH LEACH,
SARAH E. BAKER,
ELIZABETH POLK.

BALTIMORE, MARCH 13th, 1835.

CERTIFICATE OF THE MINISTER.

This is to certify that John Bruscup, Hannah Leach, Sophia Bruscup, Lavinia Brown, and Sarah E. Baker, are acceptable members, of the Methodist Protestant Church of Pitt street station.

BALT., MARCH 13th, 1835.

Signed

WILLIAM COLLIER, Sup't.

The publication of the above, though done by responsible individuals who demanded an investigation, and peaceably awaited the issue, was met on the part of the Papal community, by threats of violence on the persons certifying, and of a prosecution on the conductors of this periodical for publishing. The violent and piercing cries of a female for help, and she incarcerated under priestly turnkeys, was enough to awaken the sympathy of every humane man. But those that would venture to make it known and say that they considered it a gross outrage on a female who could have no possible redress but from those without the Convent, *they* were the ones to be looked upon and treated as ruthless violators of the peace of these innocent victims.

It is indeed idle for the Papal community, from the Archbishop to his sub-committee to prate about the spirit of those that would injure such a community. Let his honor explain the terrible affair published in May, 1835—let him spread out before this community such an explanation as will excuse the priest or priests in attendance, of a cruel and unmanly attack, not "upon the reputation and peaceful abode," *but upon the person* of the incarcerated victims, let him tell the cause of that shriek—that piteous cry—**HELP**—

HELP—OH—LORD—HELP!! Read that statement and answer who will, that it does not indicate violence toward some one of the members of that Convent from some one who had access within its walls. So plain and glaring was the fact that few pretended to deny it—and many of the Papists undertook to give explanations as to what it was,—but on this we have nothing to say at present.

From the winding up of that affair things were pretty quiet about the Convent until a short time back a rumour got in circulation, that one of the nuns had escaped from the Convent—for notwithstanding the enticing character of things in these institutions, there are persons now and then desirous of escaping. Suffice it to say, she escaped.—But ah, a priest, hungry for his prey, soon pounced upon her and brought her back. How severe the penance she endured for her disobedience, none can tell. It would argue ignorance indeed of Papal tyranny and oppression to suppose it light. After-history tells us in the case of the escaped but re-captured nun, that it was "*the usual penance.*" But by-and-by there is another escape, from the same building, in which was seen the female castigated with what seemed a cowskin, by a man in black—from the same building in which was heard the cry for help. Yes another escape from it. The news reaches the ears of others in the neighborhood as soon as it does the watchful priest. She enters a neighboring house claiming *protection*—*PROTECTION FROM WHOM? FROM WHAT?* Who was it that had once seized and dragged her back to her dungeon? Who was it that so soon stood at the door demanding his victim, declaring that she should go back? A poor, helpless female, imprisoned contrary to her own will, and by those who have no legal right to restrain her liberty, after many efforts, succeeds in escaping from a prison, *a priest's jail*, in which she had been kept contrary to her will, contrary to the laws of the land. She pleads for protection, that she may not be compelled to go back again to her prison and her penance.—Times had changed. The nod of the priest did not make the officers of the law yield. He says she shall, but the arm of a Protestant officer of justice did not wither at his word. Thus far but no farther shalt thou go.

The report of this escape spreads, and as it goes, creates the flame that had well nigh been kindled aforetime. And the issue turns on the question, what shall be done? Where shall she go? The collected and indignant multitude declare that she shall not go back, but of her own free will. And the same sentiment has been uttered by every man in whose breast is the spirit of a freeman. They declare for the laws of the land that protect the lives and liberties of the meanest of its citizens. The priests—the Papal laity—and the editors of our daily newspapers (those guardians of liberty—those defenders of the oppressed,) join in the hue and cry, *she is insane*. Surely it was a mark of insanity, in that she was unwilling to remain in a prison under priests.—Sane or insane, what right does it give a priest to imprison her? It is time to blush for our country's character, when men who call themselves her sons are seen siding with those who are the sworn vassals of a

foreign tyrant,—who have been and are and will be enemies and oppressors of every one that will not yield his power to the Beast.

Some of the daily newspapers have opened their columns on this subject, to such an extent in behalf professedly of the institution, but really in behalf of the priests, that their readers and subscribers have been filled with wonder. The whole history of this occurrence is full of interest to the community at large.—As citizens we should know the character of these institutions; why it is that they are founded with such care and defended with such zeal by the hierarchy of the church of Rome. The present time seems to demand a more thorough exposition of their history and of the doctrines connected with them, and if our readers will bear with us, we will endeavour to shew their character from the testimony of those who were in many cases eye witnesses of the system in its perfection.

Convents and the celibacy of the Papal priesthood have gone hand in hand, and seem to be almost inseparable, so much so at least, that the most of those who contend for the Scripture doctrine “that every bishop should have his own wife,” and “that marriage is honourable in all,” so also contend against the cloistering of nuns, and those on the other hand who plead for celibacy plead for nunneries.

“The Roman Pontiff,” says Hume, “who was making every day, great advances towards an absolute sovereignty over the ecclesiastics, perceived that the celibacy of the clergy alone could break off entirely their connexion with the civil power, and depriving them of every other object of ambition, engage them to promote, with increasing industry, the grandeur of their own order. He was sensible that so long as the monks were indulged in marriage, and permitted to rear families, they never could be subject to a strict discipline, or reduced to that slavery under their superiors, which was requisite to procure to the mandates, issued from Rome, a ready and zealous obedience. Celibacy, therefore, began to be extolled as the indispensable duty of Priests; and the Pope undertook to make all the clergy throughout the western world renounce at once the privilege of marriage.”—*chap. 11.*

“It was a struggle,” says Hallam, “against the natural rights and strongest affections of mankind, which lasted for several ages, and succeeded only by the toleration of greater evils than it was intended to remove. The laity in general, took part against the married priests, who were reduced to infamy and want, or obliged to renounce their connexions. In many parts of Germany no ministers were left to perform divine services. But perhaps there was no country where the rules of celibacy met with as little attention as in England. It was acknowledged in the reign of Henry I. that the greater and better part of the clergy were married; and that prince is said to have permitted them to retain their wives. But the hierarchy never relaxed in their efforts; and all the councils, general or provincial, of the twelfth century, utter denunciations against *cencubinary* priests. After that age we do not find them so frequently mentioned; and the abuse by degrees,

though not suppressed, was reduced within limits at which the church might connive."—*Vol. 11. pages 249—252.*

The course adopted was to teach the people that a single life was to be preferred to a married one. The words of the Cat. Coun. Trent, are, "Virginity is highly exalted and strongly recommended in Scripture as superior to marriage, as a state of greater perfection and holiness,"—*p. 304*, and the holy Council of Trent, in Decree on Marriage' says, "Whoever shall affirm that the conjugal state is to be preferred to a life of virginity or celibacy, and that it is not more conducive to happiness to remain in virginity or celibacy—let him be accursed."—*Sess. xxiv. Canon 10.*

When the sovereign pontiffs had succeeded in establishing the doctrine of the celibacy of the priests, and it had been thoroughly carried out in practice, the corruption that prevailed throughout the Papacy, beggars all description, and passes the conception of the most decided opponent of the Papal system. *Alvarus Pelagius*, who was a Roman Catholic Bishop, at Silva, in Portugal, before the Protestant Reformation, says (*De Planctu Eccl. Lib. 2, art. 27,*) "He wishes that the clergy had never vowed chastity, especially the clergy of Spain; wherein the sons of the laity were not much more numerous than the sons of the clergy."

Durandus junior Papal Bishop of Mimatum, in France, proposing means for the reformation of the church, "adviseth among other things, that it were ordered that public stews might not be kept near great churches, nor in the court of Rome next to the palace of the Pope, nor in other places near the houses of bishops."—(*De Modo Celebr. conc. gen. part 2, rubr. 10.*)

John Gerson, a celebrated Papal writer, Chancellor of Paris and attendant upon the Council of Constance, declares "that either incontinent priests must be tolerated, or none can be had; and therefore that it were more convenient for the church, that concubines should be publicly permitted to the clergy, than that the laity should be forbidden to hear the mass of incontinent priests."—(*De Vita Spirit. Animæ. Sect. 4, Cor. 14. prop. 3.*)

Nicholas De Clemangis, of Bayeux in France, a Papal Arch-Deacon, and cotemporary with Gerson, who lived in the fifteenth century, relates that "in many diocesses, the priests giving a set and determined price to their bishops, publicly and openly kept concubines"—*De Corrupt Eccl. statu. p. 15, §. 2,*—and in Switzerland says *Sleidan*, it was the custom in many cantons, in the times of popery, that whenever they received a new pastor, they obliged him to take a concubine, that he might not attempt the chastity of virgins and matrons,"—*Comm. lib. 3.*

Thuanus, in the 37th book of his history, says, "that when Pius V. intended putting down the public stews, (in Rome,) the Senate instigated by the clergy, interceded with him not to abolish them, adding as a reason, that if he did, the chastity of their families would be endangered by the priests."

Claudius Espencaeus, says in his work, *De Continentia, lib. 2, c. 4*, "so great was the corruption in Rome, under the licence given by Pope Sixtus, that the whole city is one brothel house."—*Urbs est jam tota Lupanar.* We might multiply quotations almost without

number, from Papal writers, who have told of the abominations consequent upon the establishment in the Papacy of the doctrine which is so emphatically described by the apostle Paul, in his 1 *Ep. to Tim.* iv. chap. 1 and 3 verses. "Now the spirit speaketh expressly, that in the latter times some shall depart from the faith, giving heed to seducing spirits, and doctrines of devils: speaking lies in hypocrisy; having their consciences seared with a hot iron: FORBIDDING TO MARRY, and commanding to ABSTAIN FROM MEATS."—This index which points with the certainty of the magnet, to the Papacy, is directly consequent upon the teaching, by the same apostle of the character of the persons that should be put in the offices of the church of Jesus Christ.—See ch. ii. 1—13 verses.

We now pass from the history of the priesthood since the establishment of this doctrine to the teaching upon it by Papal authority. And to begin with the Council of Trent:—*The ninth Canon of xxiv. sess.*, speaks as follows: "Whosoever shall affirm, that persons in holy orders, or regulars, who have made a solemn profession of chastity, may contract marriage, and that the contract is valid, notwithstanding any ecclesiastical law or vow: and that to maintain the contrary is nothing less than to condemn marriage; and that all persons may marry who feel that though they should make a vow of chastity, they have not the gift thereof; let him be accursed—for God does not deny his gifts to those who ask aright, neither does he suffer us to be tempted above that we are able." The Papal books of devotion that are much taken up in celebrating the virtues of the male and female saints, insist upon celibacy as one of their chief virtues. In the *sixth Canon* of the same session, "The Council also determines, that a marriage contract is dissolved by one of the parties entering into religious orders," (a Convent or Monastery.)

See, also, Bellarmin, *De Monachis*, lib. 11, cap. 37, 38, where he treats at large upon their dissolution, gives his reasons for its being done, and lib. 1, cap. 14, *De Matrim.* Then let the reader look at what God, by his servant, has said.—Matt. xix. 6. 1 Cor. vii. 2, 5.

The doctrine laid down by the high authorities of the Papacy on the marriage of the clergy, is shocking in the extreme. In the annotations by the Jesuit College, at Rheims, upon the 9 v. of the vii. ch. of 1 Cor. they say in the very face of the text, "Concerning those lawfully made priests, and such as otherwise have made vows of chastity, they cannot marry at all, and therefore there is no comparison in them, betwixt marriage and fornication, or burning, for their marriage is but pretended, and is the worst sort of incontinency and fornication or burning." And *Bellarmino De Monachis*, (1. 2. c. 30,) says, "it is worse to marry than to burn, however our adversaries may gainsay, (and the Apostle Paul is among them, 1 Cor. vii. 9,) especially for her who is under a solemn vow."—(*Non utrumque est malum, et nubere, et uri; imo pejus est nubere, quicquid reclamant adversarii, præsertim ei, quæ habet votum solenne.*) and in the next section he says, "She that marries after a simple vow, in a manner sins more than she that commits fornication, because the one makes herself incapable of keeping her vow, which she does not who plays the whore." *Quæ autem nubit post votum simplex,*

illa verum matrimonium contrahit, tamen aliquo modo magis peccat quam quæ fornicatur, quia, reddit se impotem ad servandum votum, quod non facit quæ fornicatur.) The Gloss on the Canon Maximianus, Dist. 81, says, "It is the common opinion that no priest should be deposed for simple fornication, because there are but few priests free from it." (*Communiter dicitur quod pro simplici fornicationis quis deponi non debet, cum pauci sine illo vitio inveniantur.*")

Erasmus, in *Epist. Grycano*, (quoted in 1st vol. Hist. Popery, London, 1731,) says, "A number of monasteries are so degenerated that the stewes are most chaste, sober, and modest than they."

Clemangis, (as quoted by Espencaeus De Contin. l. 2, c. 14,) says, "That he could not distinguish between the nunneries of his day, and the common stewes." *Nihil distinguit inter sui temporis virginum monasteria, et meretricum lupanaria.* In the Canon Law, Dist. 34, c. 4, Gratian. "Tis also written that he who has not a wife, but in her stead a concubine, should not be kept from the communion." *Is qui not habet uxorem; et pro uxore concubinam habet, a communione non repellatur.*

John Suffragan, Bishop of Saltzburgh, (in cap. 21 of his work *Onus Ecclesiæ*,) says, "There were few curates in Germany, who did not wallow in the filth of concubinage,"—and in cap. 22, says, "the nunneries were as publicly prostituted as the common stewes."

Clemangis, from whom we have quoted before, in his book *De Corrupta Statu Ecclesiæ*, chap. 21, in which he speaks of the priests who are regulars, says, "They are drunkards, and most incontinent persons, who ordinarily and shamelessly do keep whores instead of wives and children by them at home in their houses." (*Ebrios, incontinentissimos, utpote qui passim et inverecunde prolem ex meretrice susceptam, et scortam vice conjugum domi tenent.*)

In the 23d chap., *On Nuns and Monasteries*, he says, "Modesty doth forbid to speak more concerning these, lest instead of setting forth a society of virgins devoted unto God, we should describe stewes, and speak of the deceits and wantonness of harlots, of rapes and incestuous works; for what other are the monasteries of young women in these times, than execrable brothel houses of Venus, the receptacles wherein immodest and lascivious young men do fulfil their lusts? And at this day, it is the same thing to put a maid into a monastery, and publicly to prostitute her, or put her forth to be a whore." (*De his plura dicere verecundia prohibet, ne non de cætu virginum Deo dicatarum, sed magis de lupanaribus, de dolis et procacia meretricum, de stupris et investosis operibus dandum sermonem prolixè trahamus. Nam quid obscuro aliud sunt hoc tempore puellarum monasteria nisi quedam. Non dico Dei sanctuaria, sed veneris prostibula, sed lascivorum et impudicorum juvenum ad libidines explendas receptacula? Ut hodie sit puellam velare, quod et publice ad scortandum exponere.*)

In the Memoirs of Scipio De Ricci, a Roman Catholic Bishop of Pistoia and Prato, in Tuscany, we have record given of the declaration of the nuns of Catherine of Pistoia, which was presented to the Grand Duke Leopold, in the year 1775, which shews the conduct and life that endangers the nuns under their unmarried protectors.

"Instead of allowing us to remain in our simplicity, and protecting our innocence, they teach us by word and action all kinds of indecencies. They frequently come to the vestry, of which they have almost all the keys; and as there is a grate there, they commit a thousand indecorous acts."

"If they get an opportunity of coming into the convent under any feigned pretext they go and stay alone in the chambers of those who are devoted to them. They are all of the same stamp; and they are not ashamed to take advantage of the circumstance of the visitation for those purposes. They utter the worst expressions, saying that we should look upon it as a great happiness that we have the power of satisfying our appetites without the annoyance of children. * * *

"They allow every kind of indecency to go on in the parlour. Though often warned by us, they do not break off the dangerous intimacies that are formed; and hence it has often occurred that men who have contrived to get the keys, have come into the convent during the night, which they have spent in the most dissipated manner." * * * "The sisters who live according to their maxims, are extolled by them, and indulged in every extravagance; and the others must either go in the stream, heedless of conscience, or live in a state of warfare,* as is actually the case with us now."—*Abridged, and published in New York, 1834, pp. 80, 81.*

On pages 91 and 92. The record is that of a nun at *Prato*—says she, "It would require both time and memory to recollect what has occurred during the twenty-four years that I have had to do with monks. * * * With the exception of three or four, all that I ever knew, alive or dead, are of the same character; they have all the same maxims and the same conduct. They are on more intimate terms with the nuns than if they were married to them.

"It is the custom now, that, when they come to visit any sick sister, they keep with the nuns, they sing, dance, play and sleep in the convent. * * * They deceive the innocent, and even those that are most circumspect; and it would need a miracle to converse with them and not fall.

"The priests are the husbands of the nuns, and the lay brothers of the lay sisters."

These testimonies to the character of the Papal Priesthood, and of Nunneries, are from *Papal writers*. *Hume* and *Hallam*, from whom we have quoted, say but little on the character, and especially the corruption of it, in the Papal orders. The others were men who knew and testified of its abomination. We may add that the testimony quoted on the doctrine and then on the practice, is not even to be compared with that taught by many of the Jesuits, of which order are many, if not most of the priesthood in this country.

It is not a little remarkable, and confirmatory of the above that the Council of Trent has recorded a decree, in these words, "*CONTRA CLERICI FILIOS*,"—*Against the Sons of the Clergy*. *Sess. xxv. cap. xv. De Reformatione*. This bleating in the ear comes from a council that has pronounced as accursed, every one who

*May not this throw some light on the affairs in the Aisquith street convent.

does not acknowledge that priests should not marry. If they shall not marry and yet by the council's shewing, *have sons*. It may well be asked, by whom do these *holy fathers* have sons, as by the laws of the church they *are bound to be without wives*? By the teaching of standard Papal writers, it is a much less sin to be guilty of habitual fornication, than honestly to live with their own wives. Yea, the priests may visit brothels—may make such of nunneries, and be guilty of the most dreadful corruption; it is not a sin that calls for discipline, nor one that will hinder his elevation to any office in the Papacy, and even in many cases will be a credit to him, as he will then be so much more like so large a number of the popes. But if he should marry—woe to him—he is undone forever—unless he put away his wife.

They must not marry—they must not have wives. It would pollute and defile the holy order of priests to live according to the apostolic instruction, “to let every man have his own wife,” but “filthiness—foolish talking—and filthy communications,” which should not be named among Christians, seems to be that in which they revel, even in our own days, in our own country. That there may be no mistake, we extract questions asked at confession, from two Papal works.

Catholic Manual—New York edition—by authority of John Power, Vicar General of New York.

1. *In Thoughts*.—In wilfully dwelling upon or taking pleasure in unchaste thoughts. It must be mentioned how long, whether with desires of committing evil; whether they caused irregular motions, and *in a holy place**—and whether the objects of sinful desires were single or married persons, or *persons consecrated to God*† 2. *In words*.—Speaking obscenely, listening with pleasure to such vile language, singing unchaste songs, giving toasts and sentiments contrary to modesty. 3. *In looks*.—Viewing immodest objects; reading bad books; keeping indecent pictures; frequenting plays; and tempting others to sin by dissolute glances, gestures, and immodesty in dress or behaviour. 4. *In actions*.—Defiling the sanctity of marriage by shameful liberties contrary to nature; in touching ourselves or others immodestly; permitting such base liberties; Certain sins of a lonely and abominable nature. What were the consequences of these sinful impurities; *explain every thing, the number of these bad actions, the length of time continued in the habit and with whom we sinned*.—pages 289, 290, 291.

The Key of Paradise, another manual of devotion among Romanists, contains the following questions, to be answered at confession, Philadelphia edition, under authority of Bishop Kenrick.

“1. Have you been guilty of adultery or fornication, and how often? 2. Have you desired to commit either, and how often? 3. Have you intended to commit either, and how often? 4. Have you taken pleasure in thinking on any improper subject, and how often? 5. Have you endeavoured to excite your own passions, and how often? 6. Have you been guilty of indecent liberties, and how often? 7. Have you read indecent writings, or lent

*The Confessional, perhaps.

†Priests and Nuns.

them to others, and how often? 8. Have you exposed indecent pictures? 9. Have you joined in indecent conversation, and how often? 10. Have you committed any gross sin against chastity?"—page 115.

These questions as printed from time to time, in the books of devotion in the English language, are by far the most pure and chaste productions of the church, in the examination at confession. We do not wonder that Bishop Hughes, now of New York, but then Priest of St. Johns, Philadelphia, would not consent to the publication of the oral discussion, in Philadelphia, as it took place before the Young Men's Society of Philadelphia, when its publication would have brought to light, the manner in which this chaste confession takes place, in lands where popery lives untrammelled by an enlightened public sentiment.

Be it, however, as it may, what man will consent that his wife, daughters, or any other female friend should be interrogated, privately, separated from any but the priest, in the manner and form laid down in these books of devotion? And how can any female look in the face of her husband, brother, parent or suitor, after having revealed to a priest her answers to such impertinent and obscene questions. But, says one, "I never tell him all"—aye, says another, "I, not one half."—So we have no doubt it is with all those who have any pretensions to decency. And we commend them for refusing so to make known such things to any man. But what says the Catechism of the Council of Trent, printed in Baltimore (pages 259, 260:) "So important, as we have already said, is integrity to confession, that if the penitent wilfully neglect to accuse himself of some sins which should be confessed, and *suppress others, he not only does not obtain the pardon of his sins, but involves himself in deeper guilt.*" And it continues, that the penitent in afterwards confessing, to make a good one, must even declare his deceit in the matter by which he had profaned the sanctity of the confession.

The whole of this confession in all its abomination is for the regular members of the Roman Catholic church—women, (for very few men attend on this sacrament,) who have husbands, brothers, &c., they have to open their inmost thoughts and corrupt passions to a corrupt priest,—and if such the interrogation out of doors, if such the purity of that which must be gazed upon by the public eye—What—What—must the purity of it be within bolted doors—in secret chambers, with females who can never make known the insolence and obscenity of their confessors, but by the will of their confessors, or by their escaping from the convent? Truly, if the confessional, out of the convent reveals such facts as the affair of PRIEST MAGARY, at Frederick City,* and many of like charac-

*The more we look at the Papal system, the more deeply is the force of that scripture impressed upon our minds, "*The mystery of iniquity*" Read what the Archbishop and priests have to say, in the Catechism of the Council of Trent, pages 94, 95. Printed, Baltimore, 1833: "However wicked and flagitious, it is certain that they still belong to the church; and of this the faithful are frequently to be reminded, in order to be convinced, that, *were even the lives of her minis-*

ter, what must be that revelation out of those "*cages of unclean and hateful birds*," of which the apostle speaks, when the secret and hidden works of darkness perpetrated within the walls of nunneries shall have been brought to light?

With this we now pass to the teaching of the Papal Council of Trent, on the subject of Convents. In the xxv. sess. chap. 1, *De Regularibus et Monialibus*, "The members of the convent are bound to take the vows of obedience, poverty, chastity, (that is, not to marry) and any other vows or precepts pertaining to the order they are bound faithfully to observe." And the 5th chap. "commands all bishops, under pain of Divine judgment, and the dread of eternal wrath, by the ordinary authority over all monasteries subject to them and by the authority of the Apostolic See, over others, to take special care for the cloistering of the nunneries where it is inviolate and where it has been violated, diligently to restore it: the disobedient and gainsayers being restrained by ecclesiastical censures and other punishments, all appeal whatever being laid aside, and the aid of the secular arm called in if necessary, which aid the holy council exhorts all Christian princes, and enjoins all secular magistrates to afford, under pain of excommunication, to be *ipso facto* incurred. And it shall not be lawful for any of the nuns, after profession, to leave the monastery, even for a short time, upon any pretext whatever, *unless for some lawful cause approved by the bishop*." Such licenses should only be given when necessary, and then only by the superior or bishop, for that purpose alone.

The xix. chap. lays down very strong terms with respect to the confinement of the nuns within the convent, and escape therefrom — "Whatever regular (Monk or Nun) pretends to have taken the vow under the influence of *force or fear* or before the age appointed by law, or *any like cause*, shall not be heard, unless within five years of their professing, and then not unless the causes which they pretend have induced them, have been brought before the superior or ordinary. *And if they have laid aside the habit, before, of their own accord, they shall not be permitted to complain, BUT BE COMPELLED TO RETURN TO THE CONVENT, AND PUNISHED AS APOSTATES*, and also deprived of all the privileges of their order."

Johannis De Voti, a Papal Doctor of Theology, whose works were printed at Rome, and are surely a standard; on the 13th page of the 4th vol. of his Canonical Institutes, mentions five modes of punishment, two of them by "*stripes and imprisonment*."

ters TO BE DEBASED BY CRIME; they are still within her pale, and therefore LOSE NO PART OF THE POWER, with which her ministry invests them."

And on page 242, "The power with which the priests of the new law, are invested, is *not simply to declare that sins are forgiven, but as the minister of God, "REALLY TO ABSOLVE FROM SIN."*

Such intolerable wickedness it can hardly be believed, would be published in this country. 1st. providing for the crime on the part of the Priest. 2nd. For the pardoning of those with whom he sins, in declaring that he has the power "*REALLY (no doubt) TO ABSOLVE THE SIN.*"

Tell us no longer of the corruption of the dark ages and priests in foreign countries when provision is made for those among us, at the confessional of the chapel, and if among the people, what at those in their nunneries?

The buildings that have been erected for Nuns, which are under the charge of the archbishops and bishops, are curiously and carefully constructed, so as to put an inseparable barrier between those within and those without. And the rules of the convent following out this construction, cut off all possible hope of escape on the part of the inmates through complaint or otherwise to those outside. The fixtures connected with the building, *its walls, its grated windows, its double doors, its secret passes, its iron grates and chains and bolts*, indicate nothing to the credit of the bishops or priests who have had charge, and proclaim in a voice that the violence and clamour of Papists will not silence, that they are *private prisons*, to retain the miserable victims who have been cajoled until they entered—then deceived—seduced—ruined—are compelled to stay within their enclosures. Is any one at a loss when he looks at the preceding picture, the greater part of which is not only from Papal writers of celebrity, but most of it the very words in which they have described the history of priests and nuns, to answer the question, why do they use force to keep them in, subject them to punishment if they are desirous of escaping, and compel them to return if they should be so fortunate as to escape from their prison?

There is an incident in the history of a civil war in Spain, in the early part of the last century, that throws much light upon this subject. In this war the French troops were called to take part on one side, and in their victorious march they came into possession of the city of Saragossa, in Arragon, in which were a number of convents, particularly one of the Dominicans. M. Legal, the French commander, found it necessary to lay a contribution on the inhabitants and on the convents. The Dominicans, all whose friars were familiars of the Inquisition, excused themselves, saying they had no money, and if he insisted upon what he had laid on them, they would have to send to him the silver bodies of the saints. They did not think he would dare receive them. But his regard was not very great to their saintly character. He received and sent them to the mint. On this the friars excommunicated him, and he in return gave them to know that he would like to have the Inquisition for the quartering of two regiments of his soldiers. On the commander's putting into execution his plan, "*The doors of this prison were opened; and then the wickedness of the inquisitors was exposed to the world. Four hundred prisoners got liberty that day; and among them sixty well dressed young women, who were found to be the private property* of the three inquisitors, and of which they had robbed the families of the city and the neighborhood.*"

*In the continuation of the account of one who escaped at this time, there is an exhibition of the means used by these holy fathers to gratify their lusts. To those that submit to their wishes they are kind, but to those resisting, they are as unmerciful as Nero. To the one whose history is related by *Gavin*, on her entry within the inquisition, the following exhibition was given of the inside, &c., as follows, by one of those who had been there confined for a number of years, "Early in the morning she brought me into a large room with a thick iron door, and within it was an oven burning, and a large brass pan upon it, with a cover of the same and a lock to it. This *dry pan* (said she) is for hereticks and *those who oppose the holy father's will and pleasure*. They are put naked, alive into the pan, and the

In protestant countries, if such establishments exist, they must use more enticing modes than that of the midnight carriage of the Fathers of the Inquisition.*—The institution which Bishop England defended in the Baltimore cathedral, and which Priest, now Bishop, Hughes says was “a good institution.”

We have performed, from a sense of duty, a very unpleasant task, and no doubt as to our Papal friends a thankless one. Some may think we have said things, or have quoted statements which should not have seen the light. But with such we differ. When the Holy Ghost speaks concerning that system, which calls herself *the Mother and Mistress of all churches*, (see Creed of Papist,) the language is as descriptive of the character of the children of that holy mother and of their doings, as if it had been written after a review of the historical records of her priesthood. “*Come hither : I will shew unto thee the judgment of the great whore*”—“*with whom*

cover of it being locked up, the executioner begins to put a small fire in the oven and by degrees he increases it till the body is reduced to ashes.”

Says the same person, giving an account of herself, “I have been in this house six years, and was not fourteen when the officers took me from my father’s house. I have had one child here. We have at present forty-two young ladies; and we lose every year six or eight; but where they are sent we do not know. We always get new ones in their places; and I have seen here seventy-three ladies at once. Our continual torment is to think that when the holy fathers are tired of us they will put us to death; for they never will run the hazard of being discovered in their villany.”

**The Holy Inquisition.* “I went one day to visit the Countess of Attarass, and I met Don Francisco Torrejon, her confessor and second inquisitor. After we had drank chocolate, he asks me my age, my confessor’s name, and so many intricate questions about religion, that I could not answer him. His serious countenance frightened me; and perceiving my fear, he desired the Countess to tell me that he was not so severe as I supposed, after which he caressed me very kindly. He gave me his hand which I kissed with great respect and modesty; and when he went away, he told me, ‘my dear child, I shall remember you till the next time.’ I did not know what he meant, being quite unexperienced, and only fifteen years old. Indeed he did remember me; for that very night, when in bed, hearing a hard knocking at the door, the maid who lay in the room with me, went to the window, and asked who was there? I heard the reply, “*The Holy Inquisition.*” I could not forbear crying out, father, father, I am ruined forever. My dear father got up, and inquiring what the matter was, I answered him with tears, the Inquisition; he, for fear that the maid would not open the door so quickly as such a case required, went himself to open the door, and like another Abraham to offer his child to the fire; and as I did not cease to cry out, my father, all in tears, stopped my mouth, to shew his obedience to the holy office, for he supposed I had committed some crime against religion.”

“About once a month, upon an average, a family in Saragossa was robbed of a daughter to recruit the seraglio of the Holy Fathers of the Inquisition.”

“We are strictly commanded to make all demonstrations of joy, and to be very merry for three days, when a lady comes first here, as we did with you, and you must do with others; but afterwards we live like prisoners, without seeing a living soul, but the six maids, and Mary who is the housekeeper.—When any of the holy fathers has a mind for any one of his slaves, Mary comes at nine o’clock, and conducts her to his apartment. Some nights Mary leaves the door of our rooms open, and that is a sign that one of the fathers has a mind to visit us that night.”—See *Gavin’s Narrative of the Inquisition*, a short account of which is just published in this city. As the priests cannot yet venture on the Inquisition publicly, it appears that they will not be sparing of nunneries, as any one will conclude, on seeing the *New Nunnery*, near the Washington Monument.

the kings of the earth have committed fornication, and the inhabitants of the earth have been drunk with the wine of her fornication.”—“I saw a woman sit upon a scarlet coloured beast* full of names of blasphemy, having SEVEN HEADS and ten horns.”—“And the woman was arrayed in purple and SCARLET colour and decked with gold and precious stones and pearls, having a golden cup in her hand full of abominations and filthiness of her fornication.”—“And upon her forehead was a name written, *Mystery, Babylon the great THE MOTHER OF HARLOTS AND ABOMINATIONS OF THE EARTH.*”—“And I saw the woman drunken with the blood of the saints, and with the blood of the martyrs of Jesus: and when I saw her I wondered with great admiration.”—REV. xvii. 1—6. “THE SEVEN HEADS are seven MOUNTAINS ON WHICH THE WOMAN SITTETH.”*—“AND THE WOMAN is that GREAT CITY which reigneth over the kings of the earth.”—9, 18 vs.

And again says the same Spirit, “Babylon is become the habitation of devils, and the hold of every foul spirit, and a cage of EVERY UNCLEAN AND HATEFUL BIRD.”—Chapter xviii. 2.

The application of the above to the Papal priests and institutions in this country, we do not pretend to make any further than facts enforce them; we neither have time nor inclination to turn out of our way to find evidence of such things; but now and then when such occurrences come to light as the escape from time to time from these papal prisons, and as the affair of *father Magary* and the *young Magary*, at Frederick city, we are reminded of the history of by-gone days, of the vow of chastity, (which means *not to marry*,) and of the decree of the council of Trent, “*Against the sons of the Priests and Bishops.*” But while we do not seek out such things, and do not say with reference to every priest and bishop, that he is guilty of the crimes laid upon his system, we do say with respect to many of them, circumstances have come to our knowledge of such a character as to lead us to doubt very much the propriety of a community of unmarried females, under the control, and accessible to a body of unmarried men, who are in very many respects and occasionally give incontestable proof of being of the same passions with other men. And we do further say that the zeal exhibited by papal priests to keep under their control and from escaping from the walls of their Convents disaffected nuns, is at least indirect proof that all things are not right between them, and these of such character that they will not bear public investigation.

Now, if both priests on forsaking the papacy, and nuns on escaping from Convents do bear testimony to such horrid abomination in the professed religious orders,—if both testify in different

*“There are, of course, priests in Rome, who are sufficiently humble in *dress and manner*, but nothing can exceed the sumptuousness and style in which the cardinals live, as well as all who, from birth or fortune, have a certain personal consequence. Their carriage and horses are the most splendid in the world, their large palaces swarm with servants, and their dress has all the richness of that of princess when they are abroad. One can scarce see their SCARLET caps, SCARLET carriages and trappings, SCARLET robes and stockings, without remembering a certain “*lady of Babylon.*”—First Impressions of Europe—No. 58.

places under different circumstances, and without any knowledge of each other, to a state of things provided for in the teaching of papal theologians, and declared by papal writers in times past—and if priests and people declare that the Holy Mother Church, is one in principle, one in practice in every age, not needing reformation or purgation, we are ready to say then with the Apostle John in his Apocalyptic vision—Is not this “Babylon the great, the mother of harlots and abominations of the earth?” Is not this “the great whore that sitteth on many waters?”

In view of this whole subject, we ask most seriously ; does not this subject demand of every citizen of this great and free country, a deliberate and calm consideration of the question, whether foreign priests, subjects of a foreign power, servants of a corrupt Hierarchy, shall be permitted, under the pretext of places of singular virtue and remarkable piety, or of schools devoted to the teaching of our youth, to erect institutions that have been in all past ages, since their first establishment, prisons in which a corrupt priesthood vowing celibacy, have carried out unrestrained, all manner of crime and pollution; shall our sisters and daughters, the youthful females of our land, be cajoled under this pretext into buildings, from which when their eyes have been opened to the abomination, they cannot escape; but in which they shall be compelled under bolts, bars, grates, prisons, &c. to remain, controlled by priestly turn-keys?

So notoriously corrupt, outrageous and abominable has been the licentiousness of Convent system in past ages, and during the past century, that in most Papal countries the people have risen up and abolished it. What a spectacle is it to the world that one of the most free, enlightened and exalted nations of the earth should be one of those only nations in which this system should be permitted to establish and promote itself—Will not our lawmakers consider this? Or do we live where females are protected from insult—excepting from priest?

We deliberately call upon our public men, our office bearers, the members of our legislative assemblies, through the length and breadth of this land, to consider and determine; whether *unmarried priests*, that they may thereby advance their order, shall be permitted to erect *private prisons for women*, who shall be entirely and only subject to them.

We do not say that there is established “*the Inquisition*” under the name in this country, but that it, in its embryo state is here, we cannot for one moment question. We have the officers. We have the beginnings of their capacious buildings. What more is needed?

We say, shall these buildings in this country remain as in papal countries, in opposition to the state; so far above the laws of the states, that they shall not be regularly and freely open at any time, to the examination of its proper officers? Shall bars, bolts, walls &c. be allowed in which to keep their victims?

We say, what we have said, with a consciousness of its propriety and necessity. The time has come when it is no longer proper to be silent, and when responsible for its consequences we submit it to the consideration of the people of this free land.

OUR COURSE FOR FIVE YEARS—SUIT OF MR. MAGUIRE.

Five years of our labour as editors have now closed; during which period we have had to contend against as much opposition as almost any periodical that has ever been published in this country. Our purpose in the beginning was to expose the anti-christian, anti-social, anti-republican doctrines—and the corrupt and abominable practices of the papacy. All this time we have published under the careful inspection and watchful jealousy of the papal priests and laity, at the very seat of the beast. The very first number of our work contained an article with reference to the conduct of a German priest in this city, which led two popish lawyers, John Scott and Wm. G. Read, we think, when the same statement was published in a paper of this city, to go to its editor and give him the caution that they would use the law in reply to it if he did not make some amends. Thus early were we admonished that the first incautious step—the first unguarded statement, would draw down upon our devoted heads the accumulated wrath of the immense priestly fraternity and leading papal laymen in this city, by a suit at law, in which they would answer all our charges.

We can truly say that during these five years, with the fear of God before our eyes, and thoroughly convinced of the corruption of that system, we have not refrained from our purpose to speak out concerning it. That we have escaped uninjured in body and undisturbed by any of that personal violence that has been so often threatened—that our hands have not waxed faint in this contest, we would return most grateful thanks to that God whose cause we have plead, who maketh the wrath of man to praise him and who restraineth the remainder of wrath, who has so far led us, and in whom we trust as we pursue unmoved our course. We have gone through these five years, without giving our subtle and watchful enemies, even the appearance of cause in but one case to find legal accusation against us. And in that case it is only by dint of construction, and not by the meaning of the writer or publishers. That our readers may more readily understand this matter, we here reprint the article as it appeared in the Nov. No. of 1839.

STATE OF MARYLAND MASS HOUSES. We should like to know whether the Mass Houses erected at the *public expense*, in the *Maryland Hospital*, and in the *Baltimore City and County Alms House*, and in the *City Infirmary*; are open for the general benefit of society, or only for the persons immediately interested? If for *all*, the *public worship* set up at *public expense*, and in *accommodations provided by the public*, ought to be such as the *public* can attend, without being guilty of idolatry. If for papists only—then we should like to know by what rule *papists only*, are provided for, in a protestant community? Are all our rulers, and public men Papists, or are they infidels? Or do the people know what is done with their money, by their servants? Or are the Christians of Maryland content to establish papacy, and pay for its support?

THE COUNTY ALMS HOUSE, has been converted not only into a papal Mass House—but into a papal prison. An aged German Catholic in the western end of Baltimore, whose wife was in the Alms House, became uneasy about his soul—and asked for Protestant instruction. His priest heard of it; told him his wife was dead; sent him to the Alms House to see about her burial, and wrote a line to the *papal keeper*, lately put over the institution, that the man was mad—and must be confined! He was confined, till it was by mere accident heard of, by some protestants, and the man rescued.—There is great excitement about the matter, which we are assured is as stated above. We hope to get a full statement of the particulars.—What have the priests and the Medical Faculty to say to this case? Is it “*perfect maniac*,” or only *mono-maniac*?”

This is the report which we have printed as we had stated—after repeatedly hearing it, and that on the best authority.

Shortly after the appearing of that No., our Magazine was presented to the Grand Jury, and they on considering as they thought the whole matter, but really only one side of it, arising from several causes, did not see fit to find a bill against us.—Thwarted as we suppose in this attempt—Mr. Maguire or some one for him, instituted a suit against us, we learn for libel, but as yet the charges are not filed.

Now, with reference to Mr. Maguire, we need not say more than we have said to Mr. M., in a note sent through a worthy citizen: that so far as any personal injury or offence has been given to him, we are willing and desirous from our own principles, to make all possible redress and recompense;—that as a man, as a papist, as an officer, we have nothing to do with him: that if in the haste of writing, we have said that which by force of construction may do injury to him as mentioned above, it was the farthest from our intentions.

The great object of the above article as that of all those on the subject of popery, was the exposure of the corrupt doctrines and practices of the papal priesthood;—to shew the means to which they would resort and the use which they would make of one of our public institutions, to keep a man from coming out according to God's command, from Babylon, that he might not be partaker of her plagues, Rev. xviii. 4.

As to this case of Mr. Maguire, we say; if this be the point which by construction he thinks bears this meaning, and at which he is offended—he has our explanation or apology, or any proper reparation.

But if this be not the point: if the ground of this suit, is this, —that we have published such and such things about the papal system—such exposures of her doctrines, &c.—if *Mr. Maguire* sets himself forth to attack us as a *Papist*, and becomes the tool or organ or cat's-paw of the Papacy in this city, we give him to know assuredly; that in humble reliance upon God's grace, with his blessing and assistance, we shall do more to strip and expose

before this community, the deformity and wickedness of that Papal system, than we have ever yet done.

If *Mr. Maguire* pushes it upon this ground, then we say the door into the courts is open. *We* have not opened it, but *we* will enter it. *We* shall bring the law also to bear. The Grand Jury may soon have as much to do in this matter as *Mr. Maguire* has found for them. If he will as a *Papist*, from our exposure of the Papacy “hail us before Cæsar.” Then “*to Cæsar shall we go too.*”

If Papists, Priests or Laymen, think, that they, at the Bar of the civil law, can answer the charges we have laid upon their system; that they can defend its intolerant and tyrannical principles, its fiendish practices, its horrid abominations; if at that Bar they think they can establish the purity of auricular confession—the sanctity and purity of the Convent system; that they can remove that foul blot in the doctrine of the celibacy of her priests which ever since its establishment in the Papacy has been a stench in the nostrils of the civilized world;—that they can shew that the doctrine of their system, which says it is lawful and right to break faith with heretics, is right—if they can convince the people of this land that their Canon Law should be and really is above the laws of this commonwealth; that it is unlawful to tolerate Protestant Rulers longer than they can help it; and that after using every means in their power, as soon as able, they are in duty bound to exterminate Protestants from the face of the earth—and that when they have so done, they have done no more than shed the blood of thieves and malefactors; that it is lawful and right for the Priest in attendance at the Cathedral and under the eye of his Archbishop, by trick of law, to plunder a widow and her children of all the property of her husband, their father; if they think that they can retrieve their character in reference to the Aisquith street Convent, and the escaped Nun; that they can satisfy the community or a jury that all their doings there have been right; that it is lawful to abduct Protestant girls to bring them under their control; that the many doctrines we have exposed during the past five years, were all true; that the abuses we have spread before this community were all proper; we say most heartily, gentlemen, proceed in the matter. YEA, IF MR. MAGUIRE WILL UNDERTAKE TO SHEW THAT NO SUCH MAN AS MENTIONED, WAS BROUGHT INTO THE ALMS HOUSE THROUGH THE LEADING STRINGS OF THE PAPACY IN THIS CITY—THAT NO SUCH MAN WAS CONFINED THERE DURING ABOUT THE SPACE OF TWO DAYS, UNDER THE PRETEXT OF HIS BEING A MADMAN;—AND THAT HE WAS NOT LIBERATED ON THE INTERPOSITION OF TWO OF HIS ACQUAINTANCES DEMANDING HIM, AND 40 CENTS HAVING BEEN PAID FOR HIM, WHILE REMAINING THERE CONFINED; not the least delay on our part shall be given to the establishing on his part, that this man as stated, was not so con-

fined. We say to Mr. Maguire—to the Papal influence collected and arrayed in this and all these matters, “GO TO CÆSAR.”—“TO CÆSAR SHALL WE GO TOO.”

To the friends of this cause in which we are engaged—those who prize the blessings which in the overruling providence of a gracious God, we have inherited through the toil and sweat and blood of our fathers; in the enjoyment of which we are now actually living; we say, forget not for one moment what they have cost—the loss of all their earthly goods—protracted imprisonment—cruel deaths. In the maintaining of these blessings of liberty pure, we will have long to contend against that great apostate power which has for ages endeavoured to enslave the human race. *The price of that liberty is ceaseless vigilance on our parts.* “IF EVER THE LIBERTIES OF THIS COUNTRY ARE DESTROYED” (said Lafayette) “IT WILL BE BY ROMAN PRIESTS”!! The foe you encounter is subtle and deceitful, but his ways among us already have been of such a character that there need be no mistake. We know much of him; vigilance and watchfulness will bring more to light than he is aware.—Engage then in this your cause;

1. By collecting facts connected with the working of the Papal system in this city, particularly the Convents—the Infirmary, &c—in our counties—in Frederick city and county—in the neighborhood of Emmitsburgh—facts which belong to the Grand Jury’s supervision. It will no longer be the case that there shall not be found men to present such cases to the Grand Jury—no longer the case that the rights of individuals shall be trampled upon with impunity. We may even give Mr. M. as much to do as he will desire.

2. By procuring such pecuniary aid as is needed to carry out this and other suits, leaving whatever surplus there remains devoted to the printing and circulating of Tracts, exhibiting Popery as she really is.

3. We call upon our Subscribers, and the Friends of this cause to aid us in extending the circulation of this Magazine. Cannot almost every subscriber to our Magazine procure for us one or more additional subscribers, and request his Post-master to forward the names and any monies that they may receive for the Magazine, free of postage. By doing so, we humbly think he would be advancing this great cause and thus upholding the hands of its Conductors.

[For the Baltimore Literary and Religious Magazine.]

TRAITS OF POPERY IN NEW GRENADA.

POPERY, to be understood, should be viewed *at home*: and in some respects paradoxical as it may sound, she is more at home in South America than in Italy itself; because in the former country she is less under the surveillance of Protestant Christianity.—Among the Spanish Americans, on the other hand, every popish principle has been allowed to work itself out, and to appear in palpable action. These thoughts have been suggested to us in perusing the work of which we give the title in the margin.* The evidence which the volume affords is the more important, because it is incidental, being the testimony not of an eager, or even of a summoned witness, but of a plain, blunt man, who is content to tell a simple story of facts. Mr. Steuart sailed for New Grenada in November 1835, and returned to New York after an absence of 16 months, in 1837. His mission was entirely connected with trade. As a literary production, the book is not above mediocrity; but as a record of events and a statement of things as they are, it may be consulted with great advantage.

"I neither harbor the slightest ill will," says Mr. S. "nor intend the smallest offence to any individual of Bogotá or of the Catholic faith:" we place full confidence in the statement, and shall proceed to avail ourselves of the testimony.

The boats upon the Magdalena river, we are told by our author, are generally propelled by a set of black laborers, called *bogas*, who are of course, Catholics. Of their devotions we have the following specimen.

"One can always judge of the humour in which these bogas commence their labors by their morning orisons to the Virgin, uttered in a loud chanting voice by one of the crew just as the poles are raised and ready to drop into the water. In these are strangely mingled blessing and cursing; and the most singular petitions, either as regarding things temporal or spiritual, are offered up. The person generally selected for this office was a short, light-limbed blackamoor from Carthagena, nicknamed "the Carthagena Devil." His effusions on these occasions were all extemporaneous. The following which I have translated, will serve as a specimen:

"O Mary, most powerful! Blessed queen of heaven! Mother of God! pity us poor bogas. May the stream *run up* with us this day, and may no rapids nor remolinos impede our progress!! May the white man, our patron here, give us plenty of brandy, and perhaps a little butter to fry our fish with!! Hurrah for the white patron and the pretty Indian girls of Ocana!! Hurrah for Mary, most holy St. Joseph, and all the saints!!" This translation is as literal as possible. At the termination of each sentence they all shouted the one great Spanish oath. The language supplies no other; nor need it, for in that alone there is meaning expressive of everything that is bad and obscene.

* Bogotá in 1836-7, being a Narrative of an Expedition to the Capital of New Grenada, and a residence there of eleven months. By J. Steuart, New York, 1838. 12 mo. pp. 312.

After Mr. Steuart arrived at the city of Bogotá, he had a good opportunity for observing the customs and rites of South American Papists. For a particular account of their festivals and mummeries, we must refer to the book itself: as a specimen of the whole—a few lineaments of the picture may be selected. During the *Semana Santa*, or holy week, there are great processions, fire-works, peals of bells, and roar of cannon, “all” says our author, “to usher in a set of taw-dry dressed puppets, the handicraft of which would have disgraced the ‘Punch and Judy’ times of ‘Old King Cole.’” All the events of our Saviour’s life and passion are caricatured by these figures. Each church or convent furnishes one or more of the images, which are made of wax or wood, in the most clumsy manner imaginable, and are carried about on moveable platforms. The images of Christ and the Virgin, are, on a particular night left in the church of St. Domingo, “where they are devoutly supposed to hold communion with the images of that church!” Among other images, Mr. Steuart mentions “Christ scourged by two most excessively grim-looking Roman soldiers, into whose ample mouths are stuck *two segars*!” In the *paso* which sets forth the agony in the garden, there is furnished “as a representation of one of the heavenly host ministering to the Saviour’s wants, a figure about the size of a large wax dall, with a chalice in its hand, perched upon one foot on the top of a little box-wood bush, meant to represent a large tree.” At another festive season, our traveller saw several Old Testament representations.

“In a wing at the side of the altar was an odd representation of Nebuchadnezzar under sentence of expulsion from his fellows; while all of him that could be seen was a long protruding tail and a face like a monkey’s, the rest of the body being swallowed up among moss, grass, and evergreens. Then there was the altar of the little church of “Egypto” or Egypt, which represented Moses and the plague of the frogs, but which bore more resemblance to sea-crabs than frogs. They were composed of paste-board, and were represented climbing up bedposts, into dishes and water-tanks. A regularly set table was afforded for their accommodation!

When turning from these ceremonies, which have all the impiety without any of the elegance of Grecian and Roman heathenism, we come to ask what effect they have upon the popular belief. We are not surprised to meet such declarations as the following: “most of the educated males are open scoffers and atheists at heart, passing jokes upon the mummeries of the priests without taking any pains to conceal it!” It is a country without instruction in the truth, and without a Sabbath. “During a residence,” says Mr. S., “of nearly a year in Bogotá, there were but four sermons preached that I heard,” &c.

“Sunday is observed here as in all other Catholic countries. When mass is over, each one moves to his own particular business or pleasures. Gaming, shooting, and riding excursions: the theatre, and balls in the evening, finish the services of that day set apart by the Almighty for his own special service.

“Catholicism in Great Britain and the United States, where it is hedged in by the strong wall of public opinion, and where the slightest deviation from the great moral track of the Gospel is strictly watched and exposed,

is not the same as in countries where the constitutional forms, and the opinions and will of the people are in its favour. The antipodes are not more opposite than these: and nations where the divine right of conscience is uniformly acknowledged can never bear the remotest similitude to one where the dark and malign influences prevail as in this, where its most holy things are polluted, and where vice and the worst sectarian dogmas go hand in hand."

We almost hesitate, as Mr. Steuart seems to have done, about giving a picture of the morals of Bogotá; but we are forced to break silence by the very considerations which he avows as his motive, namely, the desire to warn freemen and Christians against these enslaving tenets, and the duty of declaring freely the true state of a country to which numbers of our citizens are annually tempted by the demand for industry and ingenuity.

"Let us look at it as we may, female virtue will be found the true touchstone of all that is noble, and generous, and lovely among a great and free people. It is the very nerve and sinew of all their institutions! and why should it not be? Surely that is but little worth the fighting for or troubling with which carries uncertainty in its train. Although the outward appearances of licentiousness are, in a slight degree, guarded against by the better educated portion of the community, whose wishes are made known by the more refined modes of expression such as a glance, a pressure of the hand, or a plot laid by the careful duenna, yet this is not the case with the miserable Indian and the mass generally, whose every action becomes shamefully brutalized. Nay, even the brutes themselves would not be guilty of what may be daily witnessed here. The most filthy nuisances are committed in the very middle of the public streets, and in the face of open day, without a single feeling of shame! Shame seems not to have a place wherein to hide her head in all Bogotá."

Well may he say with warmth; "as to morals, the general filthy ways and habits of the people throughout, and the fearful consequences of bringing up a family in this second Sodom, is full enough, in itself, to deter the strongest worshippers of Mammon from taking up his abode there, and treading such polluted ground." Let us cast a look at the holy priesthood.

"Those of the clergy of Bogotá who choose, live in open adultery; at times with one woman only, when the children are brought up and openly acknowledged by them. True, they take a house, furnish it, and in every possible way provide for the poor ignorant creatures as if they were truly their lawful wives, which so far palliates, if this, indeed, can be called palliation, such unchristian, as well as uncatholic-like conduct. Their mates are generally chosen from among the better portion of the lower orders, although not infrequently they are of a higher grade.

"The monks, on the other hand, being obliged to live within their convents, generally choose their female domestics with the greatest possible regard to personal appearance, and thus the end is the same. The civil arm is the only check upon the grossness and presumption of the indolent hive; and government is certainly commendable for the promptitude and tact with which they have, within a few years, clipped the wings of these gallinazas (a Bogotá nickname for friars, meaning turkey-buzzards)."

Let every reader ponder upon one striking difference between the standard of clerical purity of Papists and Protestants respectively. Occasionally, alas! in the purest evangelical churches, a clergyman is found guilty of some heinous indulgence. What is

the consequence? The voice of public opprobrium, no less than that of church-discipline, drives him at once beyond the sacred pale. Is it so among Papists? It has never been pretended.— Among a thousand instances of sacerdotal lechery, among a thousand confessionals like those of Hophni and Phinehas, who can name *ten* in which the mass-priest has been unfrocked for his enormities? X

“ One day, during the present Congress, when a bill was before the house for the reduction of the salaries of such of the clergy as were not in actual parochial service, a friar, a member of the house, objected to it, of course. But what, think ye, were the reasons he urged against the measure? Why, he said, ‘ what shall we do with our families? We cannot support them on such a pittance!! ’ To which the member for the motion made this short and pithy reply: ‘ Families! the church allows you none!! ’ Not a word more was offered by the friar, while a settled smile upon the faces of all present spoke well for the safety of the republic in this particular, inasmuch as it proved the hearty concurrence of its chiefs in determining that the executive should rule in this, as well as in every other measure adopted for the general weal.”

All that we have cited goes to shew that neither in ritual nor in morals has the Apostolical Roman church lost a single trail by emigrating to the new world. It may be interesting to inquire what attitude she holds with regard to the toleration of heretics; especially as the southern republics have vaunted much concerning liberty, and as our citizens are frequently invited to reside there. The boasted republic of New Grenada concedes nothing more to Protestant residents or citizens than freedom from *open* persecution. They cannot erect any chapels, but are allowed to meet for purposes of devotion in their own houses. Not even the funeral rites of a beloved child can be solemnized in security, as may appear from the affecting account which follows: X

“ On the 23d of January, 1837, died the infant son of a family in my employ. The poor babe had been sickly from its birth, and the few brief weeks of its existence had called forth all the incessant cares and watchfulness of both parents. On the morning in question, I was sitting by its bedside, and in the act of leaning over to watch any symptom there might yet be of hope to the afflicted mother, when one short and gentle breath, which was scarcely audible as it trembled for a moment on the pale, tender lip, told me that the pure spirit had for ever fled its brief abiding-place. Mr. Turner being absent from the city, leave to bury the child was obtained from his secretary, Mr. Adams. A coffin was procured from the American cabinet-maker, and the next morning, the 24th, saw our small funeral party emerge from the broad doorway of our house into the street, and wend its way to the little lonely churchyard. I had been advised by both English and American friends to make as little parade as possible, and to finish the ceremony early, before the rabble were a-stir. But it was eight o'clock, A. M., before each little preparation was made and we were ready to move forward. To render the procession as unmarked as possible, I allowed only the father of the child and two others of my people to accompany it; my servant-lad, Chepe, carrying the little coffin concealed underneath his ruana. Thus, like thieves stealing upon their plunder, did we thread our way through the most unfrequented streets until we arrived at the consecrated ground; luckily for our own feelings, and especially for those of the poor parent, the complete concealment of the coffin preserved us from

insult; and it was only when turning into the yard from the by-street that we saw two peones gazing on the scene and making the sign of the cross, as the worst of all infections to them in the sight or touch of the dead body of a heretic, even though it be of an innocent babe like this, the pure and perfect symbol of the religion of Him they thus insult by their idle mummery. I read over the little grave the beautiful service for the dead of the Episcopal church. The earth closed over the coffin, and in all haste we departed. I have witnessed the shrouding of the dead, under many forms and varied circumstances, both on sea and land, but I never felt my whole soul weighed down and distressed as when, surrounded by the din and bustle of a Christian-termed city containing 80,000 souls, the body of this pure and disenfranchised spirit, born of Christian parents, and dying ere it could even have been thought culpable for the heretic parents' opinions, was committed to the dark womb of earth in the same manner as though it had been the victim of an assassin's steel, and by the soul murderer himself, during the lonely midnight hour."

There are many cases given by Mr. Steuart, which serve to shew that no Protestant can be altogether safe among such a populace, whose common name for a Protestant is *Judeo*, Jew—the very name which by the very same blunder was given to early Christians by their Pagan persecutors.

"Major Holding, an American, who had been here during the earthquake, when Santander was vice-president under Bolivar, told me that then, as now, the cry was raised of 'Death to the Judios,' Jews; the universal name given to Protestants by this stupid people. It was started by a priest, who, rushing upon the steps of the cathedral, raised the cross above his head, and denounced the heretics then in the city as the cause of the Almighty's displeasure in his afflicting them with the earthquake."

On one occasion the author, with a Polish officer and young Mr. Taylor, was in danger of being mobbed: the cry was raised, "There came three Jews; let us kill them!" The restrictions to which foreigners are subjected are very great. A tenth of all their produce must be paid to the Romish hierarchy; ostensible reverence must be paid to the religious mummeries, elevation of the wafer, and the like, "and the rabble opinion is, that to cheat and abuse a Protestant, who is ever considered a condemned person, is at all times commendable."

Before leaving New Grenada Mr. Steuart paid a visit to the former site of the Inquisition, at Carthagena. This city, and those of Mexico and Liena, were the three seats of the Holy Office in Spanish America. The palace of the Inquisition is in the great space of which it occupies one entire side. The whole interior has been remodelled. "Many of the doors and passages," we are told by Mr. S., "have been walled up, and others opened, to suit better the convenience of the new tenants. A number of subterranean passages, communicating with the principal churches in the city, have been also closed, while many of the intelligent of the inhabitants are now loth to acknowledge that any such ever existed, or to enter into any conversation on the subject, as tending to reflect no credit upon their church."

Our last extract shall be in relation to this subject.

"The room which still retains most of its originality is the great hall of the dread tribunal itself. There, upon the mosaic pavement, may still be seen the exact outlines where were fixed the seats and desks of the inquisitors.

The secretary's office is also just as it was, and is on the ground floor; but the great hall is on the second. We entered a small square room in the back of the building, left entirely empty ever since the cold-blooded massacre of 400 Spanish prisoners, here confined, by the Patriots, in retaliation for some of the excesses committed by the command of that blood-thirsty savage, Murillo. The walls are much discoloured in places near the floor by stains of a brownish colour, which are asserted to have been produced by the blood that was so inhumanly shed on this occasion. It certainly has every appearance of being so. I saw distinctly many places in these walls where entrances had been skilfully closed up. They had been all arched, and were very narrow. Many close gratings are also inserted high up in these entrances, and everything shows it to have been a place of great strength and safety. The only wonder to me is why the church of the present day does not buy up, and then level down with the ground, all such telltale mementoes of her former anti-Christian spirit, since leaving them thus standing entire, as does this building, cannot certainly tend to diminish that feeling of deep, loathing abhorrence with which the more liberal spirit of the age now teaches even those of her own people to look upon these remembrancers of the fearful power she once possessed. Although men sit secure under the present happier government, it does not necessarily follow that a wide spirit of inquiry is not going forward, searching into first principles, and investigating whether there does not still exist in this church the same spirit which first called into being the relentless power of the blood-stained Inquisition, only awaiting a favourable opportunity of re-asserting her supreme power over the lives, the consciences, and property of all! Let these look well, then, that the scotched serpent do not yet again enter her former iniquitous den, causing these halls, and cells, and walled-up passages once more to re-echo with the groanings of anguish, and food anew be found for the worst passions of the human heart! In passing out, I observed the figures 1770 chiselled over the great staircase; too late, methought, to have completed a work only worthy the darkest days of paganism."

Shall we not bless God, that our lot is cast in Northern and not in Southern America? Or rather, putting the question more correctly—shall we not be thankful that we were born in *British* and not in *Spanish* America, of Protestant and not of Popish parents? Unless an infusion of sound Anglo-Saxon intellect and religion can be added to the corrupt mass of mingled anarchy and despotism, political anarchy and religious despotism, which overwhelm the lovely climes of the south, we have little hope of any better days. They must either devour one another, as party after party has done—or become the prey of an iron dictator, like Francia of Paraguay; in either case sinking deeper and deeper, with every generation, into ignorance, barbarism, and inhuman vice.

Let us renew our prayer, and renew our efforts, crying while we labour, **THY KINGDOM COME!**

PAPISTRY OF THE XIX. CENTURY IN THE UNITED STATES.

No. VIII.

THE pamphlet from which the following extracts are taken, contains thirty pages large print—and was evidently issued by BISHOP CONWELL; or at least under his eye. We re-publish about 18 pages of it; being chiefly from the beginning and end of the pamphlet. There are curious confessions and developments here, both of a personal and general kind.

"Sundry Documents addressed to St. Mary's Congregation.—Philadelphia :—Published by Bernard Dornin.—1821."

"TO THE RIGHT REV. THE BISHOP OF PHILADELPHIA."

"Conawago, 20th January, 1821,

"My Lord,*

IF mutual confidence had been established between us, while I was in Philadelphia, I am inclined to believe that certain matters I intended to communicate, would lead to some beneficial consequences. But after much anxious reflection and consultation, I feel it still my painful duty to advise with *your lordship* concerning the line of conduct I am to pursue relative to Mr. Hogan. Your lordship may recollect that I mentioned to you, I perceived last summer, certain indications in him of exceptionable conduct as a clergyman. But my suspicions have been fully realized, when last in Philadelphia, by an explicit avowal of his sentiments. Without entering into a further detail for *the present*, they are such as entitle me to pronounce him unworthy of confidence as a Catholic priest. Of these facts, however, I believe I am the sole depository. Consequently they can be brought to bear upon *your lordship's* proceedings only as *ex post facto* proofs against him. It remains now to be determined by *your lordship*, whether at all, or in what manner, a disclosure on my part would serve the cause of religion. We have lived for years on terms of the strictest intimacy. His friends are aware that I am now in the same house with Mr. Debarth, whose hasty proceedings I before censured with some asperity. Appearing in these circumstances against Mr. H., they will reproach me with ingratitude, with inconsistency, perhaps also with interested views. Such obloquy, however, I disregard, only inasmuch as it may seem to give some colour to their calumny, and render my depositions fruitless. But if *your lordship* be of a contrary opinion, the only question that remains, is, in what manner am I to proceed? If I direct a public letter to Philadelphia, I will be deprived of the opportunity and advantages of a timely reply, which probably may be requisite. Besides, I will be stigmatized as a mere tool, worked upon by Mr. D. B. If I were to threaten Mr. H. with my intentions, this intimation may enable him before the public to defeat the success of my endeavours. Now, *my lord*, it strikes me, that if I were to be confronted with two or three of his leading friends, and that we be sworn to secrecy, my depositions would prevail with them either to abandon him, or be guided by prudent measures: but if *your lordship* views the matter in some other light, I am prepared to resign my conduct relative to this melancholy business, totally to your direction. I feel I am placed in a very trying predicament, otherwise I would not presume to obtrude any of the above suggestions upon your lordship's consideration. It requires very little research to foresee the jealousies and angry feelings my conduct

*Lord of what? Lord of whom? Who made him Lord?—[EDTR.]

is likely to occasion in our families at home, whilst the unthinking and malicious in the old and new world, will show me little mercy. But I confidently hope that the Lord whom I fear, will assist and protect me. I still entertain friendly and charitable feelings towards Mr. H. But my solemn duty to God, will always predominate over private considerations. I have now only to add, that if *your lordship* pleases, you may (under the veil of strict secrecy) show this letter to Mr. Cummsky. You have now only to speak, and rely on the ready compliance of YOUR LORDSHIP'S SUBMISSIVE SUBJECT."^s

"G. D. HOGAN,

"Near Abbottstown, Adams County, Pennsylvania.

"P. S. Perhaps it may be necessary to mention, that Mr. Debarth† is not at all concerned in this business."

"The following is an answer to the above letter, by the Right Rev/ Bishop Conwell, which many conjectured might have held out an inducement to the Rev. G. D. Hogan, to make a subsequent disclosure.

"Philadelphia, January 27, 1821.

"Rev. Dear Sir,

"Yours of the 20th only came to hand this day. Your immediate compliance with my desire that you should return to Conawago, confirmed the good opinion I had of you before I saw you; for I was previously led to believe by the relation of others, that you were under the influence of conscience, and had the fear of God in your heart, and nothing accordingly could induce me to signify the wish I had, that you should go back so suddenly, except the circumstances which you knew the clergy to be in here, for otherwise, I was disposed to retain you for a while at least, after conferring and consulting with the Rev. Mr. Barth. Considering that you were ordained for the diocese of Philadelphia, and entertaining the above opinion, I thought it by no means advisable to part with you, when the state of religion required many more priests than are employed on the mission here at present, and therefore knowing as you do this to be the case, you cannot consider me as dealing unfairly with you, when I refused to give you an exeat, which probably on a reconsideration of the matter, you might be sorry for hereafter, if I had granted your request.

"The Rev. Mr. Hannan tells me, that if he had come sooner, he could have prevented the publication of the pamphlet, which Doctor Kelly thought he could have done, by threatening to divulge something he knew about him. If I knew the worst things possible of the gentleman in question, it would ill become me to give them publicity to the injury of the clerical order. I did not think proper to let Mr. Cummsky know any thing of your communication; whatever intelligence I got of what came to your knowledge, I should be sorry to reveal or act upon as long as you wish it. Send me the particulars, and let me know how you and Mr. — stand. Write to me by return of post.

I am, with affectionate regard,

Yours sincerely,

HENRY, Bishop of Philadelphia.‡

*This is a sample of a freeman, in a free country. Here is a *citizen*, calling himself the *subject* of another *citizen*! And yet both mean—nothing!!—[Edts.]

†The curious reader will become better acquainted with this Priest by consulting p. 15, of Vol. I. of this Magazine, for January, 1835—the article headed "*A Baltimore Priest*." Also, p. 88, same vol., article "*The Baltimore Priest, Again*."—[Edts.]

‡Bishop of Philadelphia. Does that city and all its people belong to the Pope?—[Edts.]

"An Answer to the above.

"Conawaga, 2d February, 1821.

"My Lord,"

"I feel unaffectedly grateful to *your lordship* for condescending to honour me with your complimentary and friendly letter, and connecting *your authority* with its divine source, shall always feel it my sacred duty to endeavour to meet *your lordship's* approbation. Though *your lordship* has charitably overlooked my indiscreet behaviour in Philadelphia, it is no less imperative on me to make what atonement lies in my power. I approached Philadelphia with a heavy heart from various causes; whilst subsequent apprehensions, (perhaps unwarrantably indulged) aggravated my feelings and dictated certain irritable language, for which, I now in the most unqualified manner solicit *your lordship's* indulgent forgiveness. After this digression prescribed by duty, I shall now cheerfully comply with *your lordship's* wishes in the following communication.

"Thinking me unwilling to go to Philadelphia, Mr. Hogan wrote to me, to meet him in Lancaster, which I accordingly did. Aware that I was under the impression of bad treatment, he imagined that a fair opportunity offered of warping my religious principles; with this view he very artfully proposed to me "to accompany him to Bishop Hobart of New York, who would very eagerly receive us into his service, and that in a few years we might be able to lay by a comfortable provision for life." At the very mention of such a diabolical proposal,† I got quite confounded, which of course interrupted the conversation. But after some interval, he again urged it with the most crafty ingenuity. I only answered him by insisting to hear no more about it; he then asked me "if he went to Hobart would I then visit him?" I replied not; he then inquired "would I speak to him," to which I replied I might if I met him accidentally. He then observed, "I was like all young priests, pious for the first two years, but that he never met one, who retained any faith, and that he never knew an honest man among them but one,"‡ mentioning his name, who by the bye was as vapid a sop as himself. This anti-christian calumny of course I reprobated in his presence. All this I intended to communicate to *your lordship*, when I arrived in Philadelphia; on our way he remarked, that he wanted sadly to procure Luther's works. Though I had very little doubts of what he was upon, particularly after reading only a few pages of his pamphlet, yet to be fully satisfied, I asked him, did he since his suspension say regularly his office: to which he replied, not, even for some time before, and that he never would. In the stage, some Protestants from Carlisle, male as well as female, travelled with us, who frequently heard me expatiate on the sanctified life of our clergy in general. But his conduct in their presence was so gross, and so disedifying, that I was frequently obliged to hang down my head in confusion. When *your lordship* refused to speak to me in private, I imagined then it was for want of confidence, which naturally mortified me sorely; I came back to him and asked would he accompany me to Ireland, if I obtained my exeat, he replied he would. This I did with a view to prevent him from apostacy; considering that if he went there, the persuasion of friends and remorse, might convert him. I, however, assured him, unless he disavowed all notions of apostacy, I would abandon him, and lie on my own oars: he then said he was not serious, in alluding to the apostacy alone, but in some time after declared

*Lord Bishop of Philadelphia. That is, Prince as well as pastor!—[Edts.]

†This is lamb-like. What are we poor *parits* folks, if a Protestant Bishop of the highest tone is only an agent of Satan?—[Edts.]

‡This is precisely what Gavin, Blanco White, and all witnesses say—The Priests are infidels, is their own testimony.—[Edts.]

"he would not officiate as priest, he said he would (knowing me not to have passage money) bear my expenses to any diocese in the world, I chose to go to." I have stated matters in order and even verbally as they occurred, that *your lordship* may judge whether I was warranted in deeming him unworthy of confidence as a Catholic priest any longer, or is there any reliance to be placed on his declaration in the circumstances I mention, that he was not serious. For my part, I solemnly declare, that I think it was expressed solely with the design to moderate my evident horror of the act, and I would be qualified to depose that I believe he is not tinctured with one remaining ray of Catholic faith. I differ in opinion in this, as well as in many other things, with Mr. Hannan, that he could prevent the publication of the pamphlet, had he arrived in due time. I am firmly persuaded (still I may be in error) that it was designed as a desperate resource of conscious guilt in this country. I feel sincerely indebted to *your lordship*, for your kind inquiry about my situation here. Whatever may be the occasional causes of my discontent, it is my sincere desire they shall not interfere with *your lordship's* arrangements. I am content to languish in passive silence here for many reasons, until *your lordship* can conveniently relieve me. In the dispensations of a benign Providence, it is meet I should suffer something for some imperfections from which I by no means claim an exemption; I am resolved not to differ with Mr. D. B. upon any provocation. His former kindness to me, and correct conduct up to a venerable old age, ought to suppress every rising emotion caused only by his natural warmth of temper. But if *your lordship* do still desire it, I authorise the Rev. Mr. Cummisky to show you a confidential letter I sent him yesterday, which is a faithful exposé of our misunderstandings here. I only received *your lordship's* letter this evening. I am preparing to start for Carlisle in the morning, which may account for the inaccuracies and omissions that are visible in this scrawl. I have not leisure to write it over, but will trust to *your lordship's* indulgence. I have the honour to be *your lordship's* obedient obliged SUBJECT,*

"D. G. HOGAN.

"Right Rev. Dr. Conwell.

Conewago, 20th February, 1821.

"Last week I received the following note from Mr. H——.

"Philadelphia, February 11th, 1821.

"My Dear George,

"Doctor Conwell is handing about a letter from you, in which you mention (as he expressed it,) that I intended to join Bishop Hobart. I don't believe you have written such a letter, as it would be false, or you misunderstood me. Perhaps I might have said, that my persecutions might almost drive any man to desperation. Write to me by return of post, a letter which I can show the public, saying that I only said if my persecutions would drive any man to desperation. I thought you were the last to injure me. You know well if I wished to join Hobart, or any other protestant bishop, I might have done it long since, but I shall not sacrifice my faith nor my honour. Are you too, one of my persecutors? Let me know your answer by return of post, and let it be what it ought to be.

"WILLIAM HOGAN.

"After due deliberation, I answered him in the following manner:

"I only received yesterday, your strange call upon me to retract what I mentioned to Dr. Conwell about you. I merely stated what literally oc-

*And yet this man, thus openly certifying to his own bondage, calls himself a citizen of a free country. Subject is a civil, not a spiritual relation.—[Edts.]

curred between us in Lancaster and afterwards, to justify me in believing you were *no longer* impressed with the principles and sentiments of a Catholic priest. If I be mistaken, no event ever occurred that will afford me greater satisfaction, neither will I have any hesitation in retracting (only as to his future conduct) my opinion even before the public, *should this be made certain*, until then "quod scripsi scripsi." It appears one of your friends has mentioned that he could prevent the publication of your pamphlet, had he arrived in due time, by threatening to disclose some of your misconduct in Ireland. This I denied in my letter to Dr. C. as far as I knew, neither need you be afraid that I will ever reveal what passed between us in the moment of unreserved confidence,* (nothing regarding his character). In writing that letter, my object was to reform you, and no matter who may blame me, I shall always feel the consolation of discharging a conscientious duty, both as a Christian and a friend. With the most sincere sympathy for your present unhappy situation, I am, &c. &c.

"Before I sent off the letter, I consulted a discreet friend, and kept a copy, lest he might take an unfair advantage of the words I used. *Your lordship* can easily perceive my motive in replying at all, and in the manner: probably if I had seen his second pamphlet I would not notice his letter, which is the last I shall ever acknowledge, unless a sincere conversion ensues. But (alas!) this I never expect, unless the Lord interposes in a very extraordinary manner. In the infinitude of his charity, may he avert the consequences to religion, which shall be the fervent prayer of *your lordship's obedient SUBJECT*,†

G. D. HOGAN.

"Personally appeared before me, one of the aldermen for the city of Philadelphia, G. D. Hogan, who, on his solemn oath doth declare and say, that each of the three letters signed G. D. Hogan, are his production, and that the facts therein are substantially correct.

"Sworn and subscribed before me, this 24th day of February, 1821.

"JOHN DOUGLASS, Alderman."

LETTER FROM THE ARCHBISHOP OF BALTIMORE TO THE BISHOP OF PHILADELPHIA.

"Baltimore, 21st January, 1821.

"*My Dear Lord*,‡

"I think it my duty to communicate to you my answer to the new "appeal" of Mr. Hogan to me, as metropolitan.

"*Rev Sir*,

"After the public appeal you made to the congregation of St. Mary's, by the most abominable pamphlet that has ever disgraced the church of God in this country, you have no longer any right whatever to call on me

*And yet the reprobate had volunteered to his "Lord," a disclosure, not only confidential, but as his friend and kinsman says—*false!* These *inside* views are shocking.—[Edts.]

†Let the public remember this relation of the bishops and their priests and followers. We now see plainly, what Mr. Eccleston means by his "*jurisdiction*" as "*Archbishop of Baltimore*."—[Edts.]

‡How modest and republican? How like Peter writing to Paul? How like the address of Paul's letters to Timothy and Titus and Philemon? *My Dear Lord Titus!* That would sound odd!—[Edts.]

as metropolitan. No! not even under the vulgar pretext of your being innocent and persecuted.

"AMB. A. B.

"Baltimore, 21st January, 1821.

"May God, the author and source of all consolations, support you, my dear lord, in your great tribulations.

I am, respectfully,

Your humble obedient servant,

AMBRO. A. B. Balt.

MR. HOGAN TO BISHOP FLAGET.

"December 11th, 1820, Philadelphia.

"Most Rev. Sir,

"I have received your paternal letter in due time, and should have answered it immediately, did I not think it more prudent to wait for an answer to my letter to the people of Louisville, which after your lordship's letter was to decide me. I shall, God willing, proceed to Louisville as soon as possible. With regard to your requiring of me to leave Louisville when you think proper, you need put no such question to me.

"Whenever your lordship sees that I will not edify by my conduct, and instruct by my discourses, you can of course remove me; but until then, I hope you will not. The people of Louisville will procure lodgings for me. I have the honour to be your lordship's humble servant.

WILLIAM HOGAN.

"The Bishop of Bardstown enclosed the above in a letter to Dr. Conwell, in which he asserts, that he was scandalized at the improper spirit manifested in it, and declared he would never give him faculties in his diocese without a due term of probation in his seminary. But having received the first pamphlet (sent him by the Rev. Wm. Hogan), he wrote again to Dr. Conwell, and declared he never could receive such a jacobin on any condition.

"In reading the pamphlets of the Rev. William Hogan, we find that he wilfully passes over that absolute power invested in bishops by the wisdom of the Council of Trent, whereby (for the good of religion and the correction of their subjects) they may *withdraw their spiritual power, which are always revocable at will*, particularly in a missionary country like this, "for any conscientious reason, even for a hidden crime, even without trial, 'ex quacunque causa, etiam ob occultum crimen, etiam extrajudicialiter.'"—*Council. Trent, Sess. 14. Cap. 10.*

"So absolute and necessary is the power invested in bishops by this holy council, that as far as it regards the employing of inferior ministers in their diocese, no power on earth can oblige them to give faculties to those whom they conscientiously consider unworthy, nor bring them to an account for withdrawing spiritual powers from them for conscientious motives as stated in the above *canon*. Such was the decision of the sacred congregation of cardinals, in the year 1761. Moreover; they concluded, that from such an exercise of episcopal power no appeal could be made; and that the priest who presumes to exercise the clerical functions, in defiance of such prohibi-

*These *intercallary* remarks are from Dr. CONWELL, the author of the publication; who connects the correspondence by these explanatory details.—[Edts.]

bition, becomes irregular, *ipso facto*. Feraris, Bibliotheca Canonica, vol. 7, ar. 1, on Suspension.

"It was by the power granted to bishops in this and other canons, that faculties were withdrawn from William Hogan by Dr. Conwell, in virtue of what canonists term "*conscientia informata*," or private charges. Independently, however, of the charges lodged in Dr. Conwell's bosom, and for which the Catholic community has been deprived of *so valuable a man*, there is a sufficiency of reasons already given in the foregoing letters, to justify the bishop in his proceedings against Mr. Hogan.

"TO THE RIGHT REV. DR. CONWELL."

"New York, March 1st, 1821.

"Right Rev. Dear Sir,

"I have heard this morning that some females of your congregation, offered a petition to a meeting at *some hall* to be adopted by it, and to be presented to your lordship for the restoration of William Hogan. May the Almighty enlighten these poor deluded creatures. My opinion has been asked by many persons concerning *Mr. Hogan's canons*, I answered, that they were artfully calculated to lead into error, those who were ignorant of ecclesiastical censures, and that the pompous quotations contained in his addresses avail nothing, not being to the purpose as regards the simple prohibition given to a clergyman to exercise his clerical functions. But, even did they tend to condemn your lordship; pray with what authority does this man presume to declare you guilty of censures? Mr. Hogan's conduct on this occasion, reminds me of that of the memorable father of the reformation, who having been excommunicated by Leo the 10th, excommunicated his holiness in his turn. Notwithstanding the efforts making at Philadelphia to destroy religion, I am sure that by your firmness and the grace of God, you will frustrate their diabolical designs* and promote religion's cause. Wishing you comfort in your unexpected affliction, I am, &c. &c.

JOHN CONNOLLY,
Bishop of New York.

"EXTRACT OF A LETTER FROM A CELEBRATED DIVINE."

"Among the errors of the pretended reformers in the sixteenth century, many of them with a view of ingratiating themselves with the princes of this world, flattered them that they had a right to nominate and dismiss their pastors; and that therefore, bishops and inferior priests, appointed without their concurrence, were not their lawful pastors. This error was condemned in the following words: 'That those who are only appointed by the people to exercise the sacred functions, and those who of their own authority presume to exercise them, are not pastors of the church.' Council of Trent, Sess. 23, Chap. 4."

"As to the secondary pastors, they have in all ages been appointed by the bishops without the concurrence of the laity.† The only appeal which ever was made to them, (and the custom is still observed) consists in a simple address made by the ordaining bishop, to those who are present. Before he commences the lawful ceremony, he requests the spectators in the name of the church, to declare if they know of any faults or vices in

*It is hardly *civil*, though it may be *episcopal*, to accuse *ladies* of being in league with the great enemy of mankind!—[Edts.]

†The falsity of this statement is obvious to every scholar. But we chiefly request attention to it, as it reveals the *anti-popular* nature of Papism.—[Edts.]

those who are to be ordained, which would render them unworthy of priesthood. The bishop, in case no accusation be made, proceeds to their ordination, which being once concluded, he receives into his hands the solemn promise of canonical obedience* every one of them make to him and his lawful successors; and sends them to any part of his diocese, where he thinks their ministry may be most useful or necessary.

X "It were surely useless, to observe here, that a few obscure individuals would labour in vain to obtain the privilege of electing by votes their first and secondary pastors. The slender knowledge of ecclesiastical matters which the generality of men possess; the very imperfect acquaintance which some of them have of even the first elements of their religion; and above all, the actual transgressions of the most important and imperative laws of God, and of the church in which many habitually live, exclude them evidently from that sacred and momentous office. If the subject was of less importance than religion is, the idea of characters like these, claiming, and exercising the right of choosing the ministers of Jesus Christ, would be an object of the justest ridicule. They must indeed first renounce the name, as they have done the substance of Catholicity, before they can assert they have a *natural right* to elect their own pastors. Their folly would be less, were they to hope that they can stop the course of the sun, than to hope that the Catholic church will even acknowledge in them such a right. The laws of nature may be interrupted; but we know that an error subversive of the constitution of Christ's empire, can never prevail in it. Not only a few laymen, but even whole nations would strive in vain to wrest by force from his holiness the power of appointing their own pastors by popular votes. Nor let these weak men imagine that by menaces they can ever bring the holy father to comply with their preposterous wishes. Let them remember that unfortunately great man, who lately held France, and all the continental nations of Europe bound down to his throne. He exerted every nerve to obtain from the pope, that the prelates of his mighty and extensive empire, should be appointed not by popular election, (he never asked so much) but in some particular cases, by the Metropolitan according to ancient usage. Yet his unbounded power could never attain that object.† In vain did he lead his intrepid legions to the gates of Rome; in vain did he disperse the noble families of that great city which he suspected were opposed to his ambitious designs; in vain did the thunder of his cannon shake the pontifical throne to its basis; the vicar of Jesus Christ remained inflexible, for he knew his duty. The tyrant ordered Pope Pius the 7th into exile. But that great and venerable pontiff chose rather to be incarcerated in a dungeon‡ than to make a concession which he foresaw, would be chiefly employed to tear asunder the bands of Catholic unity. It is not, therefore, to be supposed, that a few persons in a congregation, without power or influence, could effect such a purpose.

"The late Dr. Carroll, first Archbishop of Baltimore, makes the following decision on that subject:

"Bishops have an absolute right to approve, institute, and confer spiritual jurisdiction to the inferior clergy in their dioceses, and that without such approbation and institution they cannot lawfully administer the sacraments, or exercise any pastoral functions. Bishops have not only a right, but an

* *Canonical obedience.* That is *subjection* to the absolute power of the Prince Bishop. "My Lord"—"Your Subject:" these are the commentary.—[Edts.]

X † This is true: there is an inherent opposition between Papism and the natural rights of men.—[Edts.]

‡ Pope Pius VII. yielded all Napoleon desired; and then retracted all when he saw a better bargain on the other side.—[Edts.]

§ This is mere *rhetoric*. Unhappily the bogs of Ireland from which Bishop Conwell came, have no great facilities for studying history.—[Edts.]

obligation in virtue of their office, to inform themselves of the conduct of all pastors in their dioceses, and examine charges against them, whether they be made by the congregation, or by other sufficient and credible witnesses; and to suspend or discharge them from their stations, as the case may require. Nay, more—it may sometimes be the duty of the bishop to dismiss the pastor even against the will of a large majority of the congregation; as when a very scandalous priest, of whose immorality he has certain proof, has succeeded by artifice to obtain the support and favour of the greatest part of the people. Such cases are not uncommon. If this power were ever necessary in a bishop, it is most peculiarly so in this country; and lamentable as the consequences would be, it is a lesser evil that a whole congregation should leave the communion of the church, than that bishops should yield this right; nor would their baseness in yielding it, prejudice the divine right of episcopacy. To maintain themselves in their posts, bad clergymen would only have to secure a few leading and influential characters, who govern the minds of others.

"In virtue of a decree of the Council of Trent passed in the fourteenth session, bishops have authority to suspend even the beneficed clergy, without previous monitions, for *private crimes*, which no tribunal on earth can oblige them to reveal, and from which penalty thus inflicted by suspension, there is no provision in the code of canon law for an appeal, even to his holiness the pope, to justify the exercise of the clerical functions *under any pretence whatsoever*. The bishop is appointed the sole judge in that case, and *conscience* is to be his guide. This is not well accommodated to the new canons intended for the regulation of the reformed independent Catholic church; but, notwithstanding, it is law, and must accordingly be endured.

"HENRY, by the grace of God, and the approbation of the Holy Apostolical See, Bishop of Philadelphia,

"Gives notice to our dear brethren and children in Christ, committed to his pastoral care and superintendence, wishing them health and every blessing.

"Whereas it is currently reported, and the publication of it in a late pamphlet gives credit to the report, that the Rev. William Hogan, who is deprived of all faculties to perform priestly functions within our diocese, by our express and positive charge of prohibition, delivered to him officially in the presence of the Rev. Mr. Kenny, the Rev. Mr. Hurly, and the Rev. Mr. Rolof, pastors in this our said diocese of Philadelphia, on Tuesday the 12th day of December last—intends notwithstanding the canonical disabilities he lies under, to perform the functions of the said ministry of the priesthood, in open disregard of church authority, which we are very loth to believe, but having just grounds to apprehend that such might eventually happen to be the case, and to prevent any of our dear flock from participating in his guilt, if he should be so far lost to every sense of duty and clerical feeling, as to commit this heinous transgression, and thus render himself *irregular, ipso facto*: we shall then, as it is our bounden duty to do, not hesitate for a moment to perform the most painful task that can possibly come within the bishop's province to fulfil, that is, to separate the said William Hogan from the Catholic church, and from all the benefits and privileges which the members of the church are partakers of, *by passing on him the sentence of excommunication,* by the forms and ceremonies prescribed in the Roman ritual observances*; which shall take place immediately after the said Rev. William Hogan shall attempt to perform any

*See this threatened Excommunication as subsequently pronounced, printed by us on pp. 524—5, of vol. III. (for November, 1837) of this Magazine.—[Edts.]

sacerdotal office or function of the ministry. Wherefore, notice is hereby given to him and all parties concerned, that they may be duly warned against impending danger, and that we may have nothing to reproach ourselves with, but that it may be considered his own work, as having given the cause, beseeching him at the same time, to pray to the giver of all good gifts, to inspire him with the fear of God, *and with sentiments of compassion for his poor soul, to prevent this heavy judgment*, and to avoid the company of such men as are encouraging him to this rash act, who are his greatest enemies under the mask of appearing to be his friends.

"And these his friends and advisers are also warned to meditate on what they are doing, and to pray to God to turn their hearts, for they can give him nothing which can be a compensation for the loss he must necessarily sustain, by following their counsels, and losing his God.

"And let them also reflect, *that all those who communicate with him in divinis, that is, in spirituals, by listening to his preaching, or by receiving sacraments from him, shall be separated from the church, in like manner, by the sentence of excommunication, of which all the parties concerned are to take heed.* And may the blessing of God the Father, and the Son, and the Holy Ghost, remain always with them.

"Given under my hand, this 11th day of February, 1821.

"HENRY, Bishop of Philadelphia.

THE CAUSE OF EVANGELIZATION IN FRANCE.

Letter from a French Pastor.

Lyons, 22nd, July, 1839.

Rev'd Sir, and beloved Brother in Christ :

YOUR letter of 4th June, has proved the source of great pleasure to me. Both personally and as a servant of God, I welcome it as a delightful testimony of Christian affection. May the *Lord's own love* be more and more abundantly manifested to you and yours.

You are desirous of extending the knowledge of the blessed gospel in this poor benighted and *rebellious* land, by establishing in its capital an English place of worship of the Presbyterian denomination ; and if the plan you are forming for this purpose succeeds, there will, no doubt, be cause for joy and thanksgiving for an additional means of Christian usefulness. To what extent the probable results of such an institution may be carried, I am not competent, especially at Lyons, with much accuracy, to judge,—as far as a general view of the subject may enable me to form an opinion, I am disposed to think that the residence at Paris of *three* active ministers, preaching the gospel of salvation in English, is a fact which materially affects the merits of the question,—men, too, of great weight : The Rev. E. N. Kirk, an American brother, and the Rev. Messrs. Lovett and Wilks, two English brethren, the latter of whom has been established at Paris, now, for nearly a quarter of a century. All three are exercising their ministry, and are also, I believe, more or less, lamenting the smallness of their respective congregations. It ought, likewise, to be remembered, that the character and amount of a population at Paris, speaking the English as their native tongue, must necessarily be both fluctuating and

limited, although it be, on the other hand, equally true, that the labours even of three faithful ministers appertaining to the Anglican and Independent denominations, do not, absolutely, supply the want of a Presbyterian church.* But you have another object in view, viz: to establish a relation between your General Assembly and the French Reformed Churches, by means of which you might aid in diffusing strength throughout the whole country, in an evangelical point of view. In replying to the questions you do me the honour of proposing on this subject, I beg to remark:

I. That the *Reformed Church of France*, (*l'Eglise Réformée de France*,) i. e. the National Protestant church, is like other national religious establishments, in immediate connection with the state by which it is recognized, authorized and maintained. Each individual congregation within its pale, is governed by a *Consistoire* presided by the pastor or pastors previously elected by this body, and sanctioned by the King. But since this system of *Church Constitution and Government* leaves much to be desired with regard to the election of pastors as well as to the freedom of action for the diffusion of the gospel, both by pious ministers and laymen, there have sprung up a certain number of separate congregations *not* connected with the state, nor recognised by it, but existing under the patronage and by the support of certain

II. Evangelical Societies, established for the purpose of forming and maintaining such churches, supplying them with ministers and schoolmasters, (who, in the case of the Geneva Society, are frequently young men educated at their own college,) as well as for the carrying on a more general work of evangelization, by means of Colporteurs employed to sell, from house to house, the Sacred Scriptures and evangelical tracts, and to converse on the concern of the soul, &c. &c.

Now it will not be difficult to decide which of these two bodies stands most in need of aid? Certainly there are parishes and churches within the precincts of the national establishment, where help is wanted, by a pious clergyman, to extend his sphere of usefulness, although, both the church and the schools be maintained by the public treasury, but it is *evident* that pecuniary succour is *most urgently* needed by the Evangelical Societies which exist entirely independent both of the direction and the support of the state, and which diffuse the help they are enabled to impart, in such quarters of Christian usefulness as are beyond the reach of the state-purse. I need scarcely add, that the two *PRINCIPAL* societies of this kind, labouring in France upon an extensive scale, are the Evangelical Societies of *Paris* and of *Geneva*. Besides these, however, there is a

III. Body of extensive Christian usefulness, and this exists in the *second city* of this kingdom, in which it occupies the almost *unique* position of independency both with regard to the state and also to the Evangelical Societies, having been planted neither by

*I have received, whilst writing the present letter, the visit of an excellent brother pastor of Paris, who participates in the views expressed above, and informs me that there has been recently established, at Paris, an Episcopal church, with an English Bishop at its head.

the one nor by the other. *The Evangelical Church of Lyons* arose out of a spirit of opposition against the Rev. Adolphus Monod, on account of his ardor in the manifestation of orthodox gospel principles, which terminated in his expulsion from the National pulpit of Lyons, and thus became the occasion of the formation of the New Church, in the spring of the year 1832, before the existence of the Evangelical Society of Paris. From that time to the present, the church has subsisted just as the Evangelical Societies themselves subsist, viz., by means of such benevolent offerings as it pleases the Father of Mercies to dispose the hearts of men to afford it, besides that part of its support which it derives from the contribution of its own members as a church, which, however owing to the poverty of by far the greater number, is utterly inadequate. I have stated above that the Lyons church occupies a position almost unique in this country, but should perhaps have been more correct if I had omitted the word *almost*, for I can not bring to my mind any one church in this kingdom, which, with means so feeble, has to seek where it can, (that is, wherever the Lord may be pleased to open resources for that purpose,) the *entire amount of the help it needs*, to be enabled to cultivate so vast a field of labour. In stating this, I beg, however, most expressly to subjoin that my motive for doing so is mixed with *no* unfriendly feeling towards Christian brethren with whom, on the contrary, I am happy to confess myself on terms of the most fraternal and kindly intercourse, labouring with them, *hand-in-hand*, in the same good cause and under the blessing of the same good Master. My single desire is to let the fact be known to brethren abroad, who take so lively an interest in the spiritual state of France, that the Evangelical church in this great commercial and manufacturing city, has been established and is maintained in the character of a separate and independent religious body, occupying the centre of that wide extent of ground over which, it seems specially raised up, to spread the knowledge of the gospel of the Son of God.

Twice that blessed gospel is preached in this city every Sabbath, and twice again in the week.

Once, and sometimes twice, every Sabbath, it is preached in the neighborhood. Once every Sabbath, and once in the week, it is proclaimed to a German congregation, which though small, as yet, has through the goodness of God, increased lately, whilst we must confess with deep regret, the English service has fallen to the ground for want of hearers. We have, besides,

A Young Men's Society, for the distribution, every Lord's day, of religious tracts, and holding religious intercourse in the open air,

A boy's day school,

A girl's ditto.

An infant asylum for both sexes,

A weekly catechetical instruction for boys and girls,

A sunday school,

An adult school, for men,

An adult school, for women, } Sundays,

And an evangelical society, labouring for the dissemination of the sacred scriptures and religious tracts, establishing visits to such families as are yet ignorant of the way of salvation.

The success with which it has pleased God to crown our labours hitherto, is such, as to strengthen our faith, and to encourage us to go forward. We believe that "the Lord hath much people in this city," where there ever *has* been such a people, from the days of Pothinus and Irenæus, to those of Agobard, to those of Petart also, to those of the five Swiss martyrs, and those of the massacre of St. Bartholomew, and even to *the present blessed period, wherein more than three hundred souls have already been openly made manifest* as turned from darkness to light, whilst thousands, nay many tens of thousands remain, as yet, in that darkness. Overflowing audiences at divine worship, have long since afforded the most positive proof of the inadequacy of our present accommodation for sittings, and that the time is come when it is proper to open a chapel for an audience which far surpasses the limits of a concert room.

It was, in consequence, resolved, last year, to open a subscription for this purpose, the congregation itself, being utterly incapable without powerful aid, to engage in an enterprize so momentous. The subjoined *appeal*, circulated among Christians in France, Switzerland, and England, has been met by contributions amounting at present to about *forty-five thousand francs*. After great and laborious researches, suitable premises have at length been found, and purchased in the spirit of humble faith and fervent prayer, that God might make that house His own. The price is 87,500 francs; and large as this sum may appear, (it exceeds even the estimate we had ourselves formed last year,) it is really moderate in proportion to the current value of house property in Lyons. As they now stand, the premises are very fit to be converted into a chapel, with rooms above for a boys' school and an infant asylum, and with dwelling for master and mistress; after which arrangements there will even remain a detached spare building, which is intended to be re-sold in diminution of the expenses of transforming and fitting up the rest, but these being very considerable, will probably more than absorb the value of the said spare portion of the premises, and bring up the total cost of the chapel and schools, when completed, to 95,000 or 100,000 francs. The government's duty alone, on the purchase of the property, is 5,300 francs, which we have already paid, and the first instalment of the purchase money to be paid down on the 15th October next, is 36,500 francs. When this sum shall have been discharged, our treasury will be nearly exhausted, and yet there remains to be provided for residue of building and of current expenses of the year, upwards of 50,000 francs, and this notwithstanding the utmost simplicity and economy in all things, and although we have the services of an excellent architect *gratis*. This Christian brother resides at Geneva, but has more than once, and at his own expense, came over to aid the building committee with his counsel, plans, &c., and proposes to continue his valuable services, and even to fix himself on the spot, as may be required from time to time, until the building shall be completed. His name, beside this, is found on the list of contributors.

These particulars, dear Sir, will shew the nature and extent of the channels of Christian usefulness now open in France generally, and in *this* portion of it particularly; you may, therefore, easily

suppose how joyfully your announcement of an approaching remittance to the Lyons church has been received, and how fervent are our feelings of thankfulness towards the generous donors. Your letter has, however, reached me by the town post, and notwithstanding every endeavour, I very much regret to say, I have not been able to find out Mr. Simmons. He must have left our city almost as soon as he had reached it.

And now accept for yourself and for the beloved church "of which the Holy Ghost hath made you the overseer," the most fraternal salutation, in the spirit of Christian love, believing me, dear sir, and beloved brother, your gratefully attached and feeble fellow-labourer in Christ's Church,

C. A. CORDES, *pastor.*

P. S.—Besides the preaching stations mentioned in the preceding letter, others might be founded, as well as schools, had we the means. We have from time to time the mortifying duty of refusing instruction, both from the pulpit and in the school-room, to communities applying for it with earnestness. Help is much needed.—One school in a *very* populous district has been recently shut up for want of means.

[For the Baltimore Literary and Religious Magazine.]

UNITY OF THE CHURCH.

ALL the true members of the church, that is, all redeemed and regenerated persons, being united to Christ the Head, form one mystical body, whether they be in the church militant or triumphant, in earth or in heaven. And even those elect persons who are not yet called and ingrafted into Christ, are considered by him as belonging to this body, as when he says, "I have other sheep which are not of this fold," meaning, the predestinated among the gentiles. So, for the encouragement of Paul, at Corinth, Christ tells him, "I have much people in this city." When the elect of God are collected together in heaven, the body of Christ will be complete, in every part, not a member missing; nor any one redundant. But as the elect are only known to God, He alone can survey this glorious body.

The visible church consists of all who make profession of the true religion, with their households; but in this number there are many, who are not truly united to Christ, as the living branches to the vine, but are dead, and of course unfruitful branches, who have really no part nor lot in the saving blessings of the covenant. The external or visible church is so far one, that wherever its branches are scattered, all acknowledge the same head, and profess the same faith, as to essentials; for if any, bearing the Christian name, depart from any of the fundamental doctrines of the Christian religion, such persons, or societies cannot any longer be said to belong to the church of Christ; but, however they retain the name, they have apostatized from the company of the faithful, and must be reckoned to be heretics, with whom Christians cannot hold communion. The visible church, existing in many different countries, all over

the earth, cannot possibly meet together and worship in one general assembly. Professors of the true religion must form themselves into local societies, for mutual edification, and social worship. These local societies, whether in city or country, when properly organized, must have officers to keep order, and a teacher or teachers to instruct them, and when thus organized, upon gospel principles, each of them is a church of Christ; but still they are all parts and portions of the church general, and not independent bodies, which have no relation to other churches. They are the disciples of one Master—the subjects of one King—are under the same laws—and profess to be travelling to the same country. All these separate societies, however they may be distinguished by denomination, or however remote from each other, and unknown to each other, go to make up the visible kingdom of Christ: and as they all belong to one kingdom, they should seek, as far as external condition and circumstances admit, to hold communion with each other. And it is a reasonable inference, from what has been said, that if any of these societies or local churches, should fall into fundamental error, and obstinately adhere to it, the other branches of Christ's kingdom, should withdraw from them, as heretics and apostates. And as many cases may arise, in which a particular church, through ignorance, prejudice, or interest may deviate from the rule which Christ has given, it is in accordance with the principles of the unity of the church, that an appeal should lie from the acts and judgments of the particular church, to the whole body; or for the sake of convenience, to such a part of the body as can be consulted. And the decision of the major part of the whole church must govern all who belong to the body. But as large portions of the church, may also fall into error, what remedy have they who conscientiously believe that the bodies by which the church general are represented have erred, and acted and decided in a manner inconsistent with the laws of Christ's house; must they, because a minority, submit to what they are convinced is wrong? This will be answered by a distinction between such things as we may disapprove, while they do not interfere with our sense of duty, or exact of us such compliances as are contrary to the dictates of our consciences, and such things as are essential. Cases of the first class must often occur in every society, however small, and if the minority refuse to submit to the majority, there is an end of all society, for all such associations are founded on this principle. But if a single church has come together and performed an act, is it not tyranny for a Presbytery or Synod, or any larger body to set it aside? According to this principle, the particular churches are enslaved to the higher judicatories. No more than the minority of a particular church is enslaved to the majority of the same. If they remain in society, there must be submission of individuals and minor parties to a majority of the body. If, however, the things in which submission is required deeply affect the consciences of the numbers in the minority, or of any individual, they have a right to withdraw from the body; and this should be done, rather than violate the dictates of conscience. Such a departure is not of the nature of schism: it is a case of necessity founded on clear scriptural principles. No church or synod can possess a power to

oblige me to do what I believe to be wrong. As in the time of Christ, it was determined, that if any person acknowledged him to be the Messiah, he should be put out of the Synagogue; such a resolution of the existing ecclesiastical authorities could have no binding force on one who believed in Christ. If, however, the person or party, withdrawing from a society is mistaken, then he does wrong, for error unless insensible does not excuse, however far back the voluntary cause of the error may be found.

If all professing Christians could conveniently meet and worship together, it is evident, that every thing left to be decided by the church should be determined by a majority of the whole. Bodies of any kind can be governed in no other way, than by majorities; unless they adopt the principle that unanimity is necessary to every act. This principle has been adopted by the Sandunarian Baptists of Scotland; and for a while, the Quakers professed to act upon it; until it was found an impracticable rule, in their late dissensions. Indeed, it never can be a rule of action to any body, unless they can be sure of perfect unanimity; for, to say, that where there was disagreement, there should be no action in any case, does not reach the difficulty; for in many cases, non-action is as important to a society, as action; and if a majority is required for action, the same should be required for declining to act.

As the Christian church is one, if all its members and branches could act in one assembly, it follows, that whatever a majority determines as proper to be done, should be done. Either the church has no government whatever, or this must be the principle, when speaking of governing the church by majorities, it must not be forgotten that Christ the King of Zion has not committed the government of his church to the body of communicants, but entirely to church officers, set apart, and ordained to this work. All those called *overseers, rulers, or elders*, are persons, sustaining permanent offices; and the people are no further concerned in the government of the church, than as they participate in the election of these officers. The gospel direction to the people is "obey them that have the rule over you." These rulers, however, are bound to govern the church not according to their own will, but according to the word of God. To this they cannot add, nor from it diminish one iota. They must of necessity judge what this law requires, and administer according to their own judgment; but they possess no authority to make any new laws for the regulation of the house of God; except to adopt such rules as are requisite to carry into effect certain general laws of Christ, which require "all things to be done decently and in order."

Different denominations among Christians, and different ecclesiastical organizations are, indeed, evidences of the imperfection of Christians; and whatever originates in imperfection or error can never be pronounced to be *absolutely* good. But on the supposition that this imperfection continues to exist, this separation of Christians into different bodies is not an evil, but attended with much benefit. This is asserted, however, on the principle that by these separate denominations, no law of Christ is violated; if by these separate associations the unity of the church is broken, then are they evidently unlawful, for we are bound to keep "the unity of

the spirit in the bond of peace." Here an important distinction is necessary to the elucidation of the subject. A particular Christian sect may adopt terms of communion, or rules of government and discipline, unauthorized by the King of Zion, by which all who cannot pronounce their shiboleth, must be excluded from their communion. They may, for example, declare that the church of Christ is conferred to their body, and that all other Christian denominations are not only schismatics but heretics, who are out of the pale of Christ's church, and remaining in that state of separation cannot be saved; as all admit, that ordinarily there is no salvation for any out of the visible church. Those who separate from such a body on account of unchristian rites or unsound doctrines entertained by her, are guilty of no schism, and are chargeable with no act inconsistent with their keeping the unity of the spirit. The crime of rending the body of Christ is chargeable to those who adopt unchristian rites and ceremonies, or establish an unsound creed, and require all to conform. The reformation from popery was, therefore, no schismatical separation. The reformers could not remain in that corrupt society with a good conscience. Duty to God imperatively demanded, that they should come out of Babylon, and testify against her idolatries and enormous errors. If the majority of a church adopt Socinian or Pelagian tenets, such persons among them as adhere to the truth as it is in Jesus, cannot with a good conscience, remain in such a society, however willing the majority be to permit their continuance; and their separation, so far from being schismatical, is really an adherence to the true Catholic church, by renouncing and testifying against doctrines fundamentally erroneous, and highly dishonourable to the Head of the church.

Again, a Christian denomination may establish terms of communion, with which many real Christians cannot comply; and thus exclude from the pastures of Christ, his own sheep. By this means a schism is made in the body of Christ, but who are the schismatics? Undoubtedly they who thus so narrow the gate of entrance that the weaklings of the flock, at least, cannot gain admission. But suppose that in the point on which this denomination differs from others they are right, and have the truth on their side; yet if it be no fundamental matter, but one on which a real Christian may be supposed to err, yet still are they pursuing a schismatical course, for Christ has not authorized any persons to make the door of entrance into his church so narrow, that his own people cannot enter, although they may be weak in faith.

Among Protestants there are two denominations, who thus exclude all from their communion, who do not come up to a standard no where set up in the Holy Scriptures. These are the Baptists and the High Church Episcopalians. The Baptists generally maintain close communion, rigidly excluding from their communion all Christians, however eminent, who have not been immersed in adult age. All Baptists are not so sectarian; the celebrated Robert Hall wrote a book in favour of free communion. The ground commonly assumed by those who deny the communion to other Christians, is, that in the order of the gospel ordinances, baptism comes before the eucharist, and as they hold that sprinkling is no baptism, neither that which has been received in infancy, however administered they conclude that they must be right in ex-

cluding all unbaptized persons from the communion ; which they allege, is the common practice of other denominations. This ground Robert Hall ably contests ; maintaining with great show of reason, that the priority of baptism assumed by the close communicants, cannot be established from Scripture ; and that a believer who has not yet been baptized, may possess every qualification for the eucharist. If, indeed, any one so disregarded the authority of Christ as to deny the obligation of Christian baptism, the case would be materially changed ; but Pædo-Baptists acknowledge this, and if they thought that they were unbaptized, they would not refuse obedience to the Saviour's command. But on supposition that a person should apply to be admitted to the Lord's supper, who denied the authority of the church to administer water-baptism—as suppose a pious Quaker should be convinced that the command of Christ, “do this in remembrance of me,” was obligatory ; and yet was not so far enlightened as to feel that he ought to be baptized, and should apply for admission to the sacrament of the body and blood of Christ—why should he be prohibited from obeying the command, the obligation of which he sees and acknowledges ? If a weak believer cannot yet see his way clear to attend on one ordinance, is that a valid reason why he should not be allowed to attend on another, the duty of observing which he is convinced of, and the benefits of which he is capable of participating ? Unless all Christians should become Baptists—an event which they fondly anticipate, but which is most unlikely in itself—there must be a perpetual bar to the communion of saints ; although they may acknowledge each other to be the children of God. Can that doctrine be according to the mind of Christ which excludes his own dear people from his church ? There is also a grand inconsistency here—the Baptists do not hesitate to hold ministerial communion with Pædo-Baptist ministers, but admit them into their pulpits, and allow their people to attend on their ministry ; whereas it is evident, that he who is not a member of Christ's visible church cannot bear office in that church.

The mere preference of episcopacy above presbytery may be a mistaken, but is not a schismatical doctrine. Episcopalians and Presbyterians may sit down harmoniously at the table of their common Lord, and this has often been practised to mutual edification. But when it is insisted on, that there are no true ministers of Christ, and no true sacraments in any other church but such as have episcopal ordination ; and that all who pretend to preach and dispense the sacraments without such ordination, are usurpers of a sacred office to which they have no valid claim, and that all their administrations are null and void ; this doctrine is in the highest degree schismatical, cutting off at a single blow, all the branches of the Reformed and Protestant churches, on the continent of Europe, both Lutherans and Calvinists ; and all Presbyterians and Congregationalists in Great Britain and America. The Lutherans, in the north of Europe, do call their superintendents *bishops*, but they have no more derived their office from an ancient succession of bishops than Presbyterians ; and I do not know a Lutheran writer, who maintains that in the New Testament, there is any foundation for a difference between bishops and presbyters ; on the contrary, their ablest writers have strenuously opposed this opinion. So also

the Methodists, in this country, have their bishops ; but it is known to all, that their first bishop (Dr. Coke) was ordained, or rather set apart to this office by a mere presbyter, or a man who never was a bishop ; and this growing sect have no idea of the necessity of episcopal ordination to the existence of the ministry.* And not only this, but the largest and most evangelical part of the Episcopal church scout these high church notions as much as we do. They admit the validity of presbyterial ordination, and of the sacraments administered by Presbyterians, and dread the progress of such exclusive doctrines as dangerous and schismatical ; altho' they believe that their own doctrine and order is more scriptural than ours.

I might mention some others in this country, who exclude all from their communion, but their own sect ; such are some of the Seceders, who go so far in schism, as even to prohibit their people from the occasional hearing of ministers of any other denomination. How any church will answer to Christ for excluding his own sheep and lambs from his own pastures and fountains, I pretend not to know ; but it would require the strongest proof from holy writ, to convince me that it was right.

Christians, then, may lawfully associate in separate companies, and under a peculiar regimen, but they may not exclude *any of Christ's disciples from his table and the privileges of his house.*

CATHOLICUS.

THE GOSPEL MYSTERY OF SANCTIFICATION,

By the Rev. Wm. Marshall.—Abridged.

No. II.

ASSERTION 2d.—*No man can love God until he knows him, nor till he knows him to be his everlasting friend. Therefore the spring of holiness is a well grounded persuasion of our reconciliation with God, of our future enjoyment of the heavenly happiness, and that sufficient strength will be given us for all that he calls us unto.*

THERE are several qualifications and endowments necessary to make up that holy frame and state of the soul, whereby we are enabled to keep the law, and these are necessary not only to our beginning but to our continuing in godliness. They must therefore continue with us through life or we shall come short, and they must be before we do any good thing, just as a cause precedes an effect. Few understand that any special endowments are needed to furnish us for holy action more than for selfish action. The first Adam had excellent endowments to enable him for the task of obedience, and seeing it is grown more difficult, by reason of the opposition and temptation it now meets, we who are to imitate Christ, have need to be made like Christ. "What king going to war with another king, sitteth not down first and consulteth whether he be able with 10,000, to meet him that cometh against him with 20,000?" and shall we dare to rush into battle against the powers of darkness, their terrors and allurements, and our own domineering cor-

*When the Methodists make a bishop, they do not, I believe, ordain the presbyter anew, but only elect him to this office.

ruptions, without considering whether we are spiritually able to stand? Yet many do content themselves with such an ability to will and to do, as they will have to be universal. It is a hard thing to find what this universal ability is, of what it consisteth, by what means it is conveyed to us, and how maintained. Bodily agility hath spirits, nerves, ligaments and bones to subsist by, but this spiritual universal ability seemeth to be some occult quality, of which no sufficient account can be given how it is conveyed or how it is constituted. *There are FOUR ENDOWMENTS*, of which a true ability for the practice of holiness must necessarily be constituted, and by which it must subsist, and be maintained. *I. An inclination and propensity of heart to the duties of the law, is necessary to enable us for their immediate practice.* Not such a blind propensity as brutes have to their natural operations, but such an one as is meet for intelligent creatures, whereby they are by the guidance of reason, prone and bent to approve and choose their duty, and are averse to the practice of sin. This propensity is rational because it proceeds from a persuasion of the love of God,—(Vide Shorter Catechism, qu. 87.) This is contrary to those who out of zeal for obedience, contend so earnestly for free will, as necessary and sufficient to enable us to perform our duty, when once we are convinced that it is our duty:—a free will without any bias to good, and which they must acknowledge is in most men encumbered with an actual bent and propensity of the heart altogether to evil. Such a free will as this can never free us from slavery to sin and Satan, and therefore it is worth nothing, for it is not so free as is necessary to the practice of holiness, until it be endued with an inclination and bias thereunto—For 1st. The duties of the law are of such a nature that they cannot possibly be performed while there is wholly an aversion or mere indifference of the heart to them; for the chief of them all is to love the Lord with our whole heart, to love every thing in him, his will and his ways, and to choose them as good. And we must be influenced in all duties by this love; we must delight to do the will of God,—it must be sweeter to us than the honeycomb. Ps. xl. 8, Job xxxiii. 2, Ps. lxxiii. 1.—cxix. 20.—xix. 10. And this delight must be continued till the end,—the first indeliberate motion of lust must be regulated by love to God, and sin must be abhorred, Gal v. 17. Ps. xxxvi. 4. If it were true obedience (as some would have it) to love our duty only as a market man loveth foul ways to a market, or as a sick man loveth an unpleasant potion, or as a slave loveth his hard work for fear of a greater evil, then it might be performed with averseness or want of inclination; but we must love holiness as the market man loves gain, as the sick man health and pleasant food, and as the slave loves liberty. Love to God must flow from a clean heart, 1 Tim. i. 5. A heart cleansed from evil propensities, and reason tells us that the first motions of lust which fall not under our choice cannot be avoided without a fixed desire of holiness.

2d. The image of God wherein Adam was created, Gen. i. 27, Eph. iv. 24, Ecc. vii. 29, consisted in an actual bent of the heart to the practice of holiness,—not in a mere power of will to choose good or evil, for this in itself is only a groundwork whereon either the image of God or Satan may be drawn, much less did it consist in an indifference to sin and duty, for this is a wicked dis-

position in an intelligent creature that knoweth his duty and fitteth us only to halt between God and Baal. God set Adam's soul wholly in a right bent, although Adam might act contrary to it, if he would, as we may be persuaded to act contrary to our natural inclinations. Jesus was born holy, Luke i. 35, and can we reasonably hope to arise to the life of holiness from which Adam fell, or to be imitators of Christ, if we be not renewed in a measure according to the image of God, and enabled with such a righteous temper?

3d. Original corruption consists in a propensity of the heart to sin, and an averseness to holiness. If we have no such evil propensity, what is the law in our members warring against the law of our mind? Rom. vii. 23. How is the tree first corrupt, and then the fruit corrupt? Matt. xii. 33, Hos. v. 4, Job xv. 16, Rom. viii. 7. There is also a blindness of understanding and other things belonging to original corruption, which conduce to this evil propensity of the will, but yet this propensity itself is the great evil and indwelling sin which produceth all actual sins, and must of necessity be renewed or restrained by the restoration of the contrary inclination, or else we shall be backward and without understanding to every good work, and whatever freedom the will hath, it will be employed only in the service of sin.

4th. God restoreth his people to holiness by giving them a new heart and taking away the heart of stone, Ezek. xxxvi. 26, 27, and he circumciseth their heart to love him with their whole soul. He requireth us to be transformed in the renewing of mind that we may prove what is his acceptable will, Rom. xii. 2, and David prayeth to the same intent that God would create in him a clean heart, Ps. li. 10. If any one can judge that this new, clean, circumcised heart of flesh, is such an one as hath no actual inclination to good, but only a power to choose good or evil, or an indifference to both good and evil, it will not be worth my labor to convince such a judgment, only let him consider whether David could account such a heart clean and right when he prayed, Ps. cxix. 36, *incline my heart unto thy testimonies and not unto covetousness.*

II. *The second necessary requisite for the immediate practice of holiness and concurring with the two others following, to work in us a rational propensity to good, is that we be well persuaded of our reconciliation with God.* We must reckon that the breach between God and us, is made up by a firm reconciliation to his love and favour; and herein I include the great benefit of justification whereby we are reconciled to God. This is a great mystery to many of the learned, that we must be reconciled to God and justified by the remission of our sins and the imputation of righteousness before we have rendered any sincere obedience to the law, and that we may be enabled to render it. They account that the only way to establish sincere obedience is to make it a condition to be performed before all actual reconciliation to God. I shall now prove by several arguments that such a persuasion is necessary to our being disposed or enabled to obey God, intending subsequently to show that such a persuasion of his love as God gives his people, tends only to holiness, although a wrong way of it may be in many an occasion of licentiousness.

1st. They who know their natural deadness under the power of sin, and that they can do no good work unless God work it in them, John viii. 36, Phil. ii. 13, Rom. viii. 7, 8, must in order to be encouraged and rationally inclined to holiness, hope that God will work savingly in them. Can such a hope be well grounded without a good persuasion of such a reconciliation and saving love of God to us, as depends not upon any goodness in our works, but is a cause sufficient to produce holy deeds in us? We know that our deadness in sin proceeded from our guilt and the sentence of the law, and that spiritual life will never be given us to free us from that dominion, except the guilt and curse be removed by actual justification, Gal. iii. 13, 14, Rom. vi. 14, and this is sufficient to make us despair of living to God in holiness, while we apprehend ourselves to be under his wrath, because of our sins, Ezek. xxxiii. 10.

2. The nature of our duties is such as requires an apprehension of our reconciliation with God, and his hearty love and favour towards us, for our doing them. The great duty is love to God,—not such a contemplative love as philosophers may have to the object of the science, in which they are concerned only to please their fancies in the knowledge of them—but a practical love, making us willing that God should be absolute Lord and Governor over us and all things, that he should dispose of us and all according to his pleasure, and He be our only portion. Consider these things, and you will perceive that we cannot be in a right frame to do them while we believe ourselves under God's curse. Slavish fear may extort unwilling obedience, but love cannot be extorted and forced by fear, but must be won and sweetly allured by an apprehension of God's love toward us, 1 John, iv. 18, 19. Consult your own experience, if you have any true love to God, whether it were not wrought in you by a sense of God's love first to you.

3d. Our conscience must first be purged from dead works, that we may serve the living God. This is done by actual remission of sin, procured by the blood of Christ and manifested to our consciences, Heb. ix. 14, 15.—x. 1—22. That conscience whereby we judge ourselves to be under the curse, is in Scripture called an evil conscience, though it perform its office truly; because it is caused by sin, and will be the cause of our committing more sin. A guilty conscience doth strongly maintain and increase the dominion of sin in us, working most mischievous effects in the soul, even to hate God, and to wish there was no God. It disaffects people towards God so that they cannot bear to think or hear of him, and strive to put him out of their minds by fleshly pleasures and worldly employments. It produceth zeal in outward acts of religion,—false religion also, idolatry and superstition. I have often considered by what manner of working any sin could effectually destroy the image of God in the first man, and I conclude it now by working an evil conscience in him, whereby he judged that the just God was against him and had cursed him for that one sin, and this was enough to turn away his love wholly from God to the creature, and a desire to be hidden from his presence. If the guilt of any ordinary sin lie on the conscience, it will make the soul wish secretly that there were no God or that he were not just; this is a secret cursing of God, and is the inevitable consequence of a sense of guilt.

4th. God hath abundantly discovered to us in his word that his method of bringing men to holiness is to make them know he loves them, and that their sins are blotted out. By commanding them to offer the sin offering before the burnt offering, he minded them of the necessity of purging away their sins first that their offering might be acceptable, Lev. v. 8—16.—iii. 11. And lest notwithstanding all their particular expiations, the guilt of their sins should pollute their services, he was pleased to appoint a general atonement for all their sins one day every year, when the scape goat was "to bear upon him all their iniquities into a land not inhabited," Lev. xvi. 22, 24. Under the New Testament he employed the same method,—he exhorteth us to obey him because he hath already loved us and pardoned our sins, Eph. iv. 32.—v. 1, 2. 1 John ii. 12, 15. We may clearly see by this that God condescendeth to take wonderful care, in providing plentiful means that his people might first be cleansed from guilt, and reconciled, to fit them for an acceptable and holy service.

III. *The third requisite necessary to enable us to practice holiness is that we be persuaded of our future enjoyment of everlasting happiness.* This must precede righteous obedience as a cause disposing and alluring us to it. Some think that a persuasion of our own future happiness before we have persevered in sincere obedience, tends to licentiousness, and that the way to excite men to do good works, is to make them a condition necessary for procuring a hope of future happiness. Others condemn all works to which we are stirred up by the hope of heaven, as legal mercenary, flowing from self love, and not from pure love to God, and they figure out sincere godliness by a man bearing fire in one hand to burn up heaven, and water in the other to quench hell, intimating that the true service of God must not proceed at

all from the hope of reward or fear of punishment, but only from love. To establish the truth asserted, I propose these considerations:

1st. The nature of the duties of the law is such that they cannot be sincerely and universally practised if we have not this persuasion. Suppose a Sadducee believing no happiness after this life, can he love God with all his soul? Will he not rather think it reasonable to lessen his love to God, lest he be over much troubled to part with him at death? Can such an one be satisfied with the enjoyment of God as his happiness? Will he not rather account the enjoyment of God and all religious duties vanities as well as other things, by which in a little time he shall have no more benefit than if they had never been? How can such an one be willing to lay down his life for God's sake, when by his death he must part with God? How can he willingly choose affliction rather than sin, when he shall be more miserable in this life for it, and not at all happy hereafter. If afflictions come unavoidably upon such a person, he may reasonably judge that patience is better for him than impatience, but it will fret him that he is forced to the use of such a virtue, and he will be prone to murmur against his Creator, and to wish he never had been born. How unlikely is it that with such a belief he will love God; and he that will burn up heaven and quench hell, that he may serve God not of pure love, doth leave himself little better furnished for holy obedience than the Sadducee.

2d. The scripture doth abundantly show that God ordinarily makes use of the sure hope of heaven as an encouragement to obedience. Christ the great pattern of holiness, for the joy set before him, endured the cross, Heb. xii. 2. To preserve him in innocence, Adam had present enjoyment which he knew would last while he continued obedient, or be changed into a better happiness. The apostles did not faint under affliction because they knew it wrought for them a far more exceeding and eternal weight of glory, 2 Cor. iv. 16, 17. The believing Hebrews took joyfully the spoiling of their goods, knowing they had in heaven a better and an enduring substance, Heb. x. 34. See also 1 Cor. xv. 58. Heb. vi. 11, 12. 1 John iii. 3. Those that think it below the excellency of their love to work for such a reward, do thereby advance their love above the love of the apostles, and the primitive saints, and even of Christ himself.

3. This persuasion of future enjoyment of everlasting life, cannot tend to licentiousness, unless we are ignorant that perfect holiness is a necessary part of heavenly happiness, and that though we have a title to it, by free justification and adoption, yet we must go to the possession of it in the way of holiness, 1 John iii. 1—3. This persuasion is not legal, for it is not gotten by works, but by free grace through faith, Gal. v. 5, and if it be from self-love, it is not from that carnal self-love which the Scripture condemns as the mother of all sinfulness; 2 Tim. iii. 2, but a holy self-love, inclining us to prefer God above all things,—such a self-love as God directs us unto, when he exhorts us to save ourselves, Acts ii. 40, 41; 1 Tim. xi. 16; and which brings us to the love of God. The more good we apprehend God will be to us for eternity, doubtless the more lovely he will appear, and our affections will be the more inflamed towards him. God will not be loved, as a barren wilderness, or a land of darkness, nor will he be served for naught, Jer. ii. 31, Is. xiv. 19. He would think it a dishonor for him to be owned by us as our God, if he had not prepared for us a city, Heb. xi. 16. He draweth us to love him with the cords of a man, such cords as the love of man is drawn by, even by his own love to us, in laying his benefits before us, Hos. xi. 4. Therefore the way to keep ourselves in the love of God, is to look for his mercy unto eternal life, Jude 21.

[To be continued.]

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A CRITICAL DISQUISITION ON ROMANS, v. 18.

** Ἀγα οὖν ὡς δι' ἐνός παραπτώματος, εἰς πάντας ἀνθρώπους, ἡ κατακρίσις
οὕτω καὶ δι' ἐνός δικαιώματος, εἰς πάντας ἀνθρώπους, εἰς δικαιώσιν ζωῆς.*

To the translation and elucidation of the original scriptures, we should bring the same principles of interpretation and criticism as to any other ancient record. Throwing aside all pre-conceived and presumptuous notions on the economy of God's moral government; and with all the simplicity and teachableness of a little child, taking up the grammar and lexicon—in this way, and in this way alone, may we expect to arrive at a clear and correct understanding of what the Spirit saith to the churches.

Theology ought to be a mere question of philology; and never, 'till this is the case, may we hope for agreement among men in regard to the principles taught in the Bible. The learned can agree very well about what Homer says of his gods and heroes and their exploits; but are ceaselessly wrangling about the meaning of the sacred text. And why? because they let Homer speak for himself; but are not content to let the Bible speak its own language concerning Jehovah and his doings towards the children of men. The Bible comes to us as the revealed will of God; and that with a power of external evidence, that has sustained it amid the fiery persecutions of ancient times; and all the wit, sophistry, and malignity of modern scepticism:—and that evidence continually accumulating as successive ages with their train of events roll on in confirmation of its prophecies. All our reason has to do, is to decide on the force of this evidence: with the divine message itself, nought, but to believe and obey.

Yet, confessedly acknowledging the supreme authority of revelation, men do in fact sit in judgment on this message. Before admitting its obvious doctrines to a place in their system of Christian theology, they try them at the bar of human understanding, in view of some code of natural or rational theology, falsely so called, which

in the pride and vanity of their hearts they have set up as a standard of truth: and the glorious doctrines of grace must be pared down to square with that standard. Thus we have the truly contemptible and pitiable spectacle of finite minds sitting in judgment on infinity.

Those gentlemen who argue so learnedly from analogy and the fitness of things, and so presumptuously from the nature of God and necessity, seem to forget that they strike at the foundation of an argument with them a favorite because somewhat metaphysical, and by all recognized as valid. When we admit the necessity of a revelation, we admit that reason has reached her utmost bound; and faith should then take up the reins. Are we not to expect things hard to be understood in a communication from the infinite God? "Who by searching can find him out?" What, then, so absurd as to reject a doctrine because we cannot fully comprehend it? or because it does not accord with our crude conceptions of the attributes of Jehovah? What God declares may be above reason, but cannot be against it. The moment we commence *speculating* on spiritual things, we abandon those safe principles of philosophising that have conducted to such astonishing results,—the boast of modern science. It is the perfection of reason to know where and about what to reason. And it is just as absurd to deny the doctrine of the Trinity because we cannot comprehend the subsistence of the glorious Three in One, when the God of truth declares it; as in the face of the clearest mathematical demonstration to deny that this earth is a vast globe rolling with amazing velocity in space, because forsooth, confined to its surface, we cannot take a remote position in immensity and behold its vast revolutions. When on the authority of divine revelation we admit that man is a free agent, and yet that God has either efficiently or permissively ordained whatsoever comes to pass, we only acknowledge we cannot fathom infinity. Man cannot reconcile them: but God can. Discarding, then, all this false pride of intellect that would exalt itself above the great Intelligence himself, and bringing every thought into captivity to the gospel of Christ; let us appeal to the law and testimony and hear what the Lord saith.

In the first five chapters of the epistle to the Romans, Paul argues at large the great cardinal doctrine of the gospel, justification by faith,—the '*articulus stantis aut cadentis ecclesiæ*.' This was the immovable foundation on which he stood, when in the subsequent chapters contemplating the glorious triumphs of grace, he exultingly exclaimed, "Who shall lay any thing to the charge of God's elect? it is God that justifieth. Who is he that condemneth? It is Christ that died; yea rather that is risen again, who is even at the right hand of God, who also maketh intercession for us." In expanding the idea of gratuitous justification, and in enforcing its absolute necessity if salvation be attained by any, the apostle strengthens his argument by an appeal to the universal depravity of mankind—the total insufficiency of good works to procure salvation—and the severity and spirituality of the law, embracing Jew as well as Gentile in its awful sentence of condemnation. And further to illustrate the then novel idea, he introduces by way of

comparison a well-known fact in the moral history of the universe—the fall of mankind : and after various explanations and strictures in regard to the points of similarity between Christ and Adam, as the respective heads of a spiritual and natural seed, sums up the whole in the eighteenth verse ; commencing ἀρα οὖν—therefore. The conjunction ἀρα denotes consequence, or what might naturally be expected from what had preceded:—is generally joined with μὲν, δέ, ἢ, αὖ ; or with οὖν, as in the present instance. At the beginning of a phrase, ἀρα, in prose, implies interrogation ; (See Luke xviii, 8, Acts viii. 30, Gal. ii. 17,) and may be so used in the passage under consideration. Οὖν, says Donnegan, serves to connect a conclusion with preceding reasoning, and also to connect discourse after digression,—a definition whose truth is amply established by this eighteenth verse and sundry others in the New Testament.

At the twelfth verse, the apostle introduces the comparison between the first and the second Adam ; but from the commencement of the thirteenth to the close of the seventeenth, drops it to prove a collateral point necessary to his argument ; and after this digression resumes it with ἀρα οὖν. These words connecting the parts of the discourse ; showing that a digression had been made ; and that a conclusion was about to be deduced. If such be the true rendering of these particles, we may expect a frequent use of them by such a writer as the apostle Paul ; who for the most part is argumentative, and abounds in digressions. (See his epistles, passim : especially that to the Galatians.) But as hinted above ἀρα might be used interrogatively ; and with οὖν be translated, ‘ Is it not therefore ? ’ which is the common rendering from the Greek prose writers. This could evidently be done without violence to the structure or sense of the passage ; which, in our opinion, would give additional point to the argument.

(ὡς δι’ ἑνὸς παραπτώματος, εἰς πάντας ἀνθρώπους, εἰς κατακρίμα) ‘ As by the offence of one (or, by one offence) judgment came upon all men unto condemnation : ’—The italicised words ‘ judgment came ’ in the English translation, have no place in the original ; but are generally admitted by commentators to have been correctly supplied. In the Greek, κρίμα is the only word necessary to complete the sense—the omission of the substantive verb being idiomatic. At the sixteenth verse the same idea is fully expressed. (Τὸ μὲν γὰρ κρίμα ἐξ ἑνὸς εἰς κατακρίμα) ‘ for the judgment ’ (κρίμα, the judicial decision) ‘ was by one to condemnation ’ (κατακρίμα, a judgment against one). Εξ ἑνὸς—by one offence—not one person—corresponding to πολλῶν παραπτωμάτων (many offences) in the succeeding clause, with which this is contrasted. That is, the judgment was a judgment of condemnation ; and that, coextensive with the race—εἰς πάντας ἀνθρώπους. The whole world is guilty before God, and under his righteous condemnatory sentence.

Δι’ ἑνὸς παραπτώματος,—by the offence of one. This phrase, we suppose, expresses the relation between the sin of Adam and the condemnation of his posterity : and that relation, so far as it can be determined by the words δι’ ἑνὸς παραπτώματος, depends on the force we attach to the preposition δια—denoting either an instrumental or an efficient cause. First, let it be observed, if δια does

not denote a relation of efficiency, no provision has been made for such an idea in the most copious of all languages. Secondly : while it is conceded that *δια* by classical writers is generally employed with the genitive to denote transition or duration either in time or space ; and when a cause at all, for the most part an instrumental one ; yet there are instances, and those not a few, where it must of necessity have a stronger signification : as in the common expression *δια θεων*,—where the gods cannot be represented as mere instrumentalities in the hands of men ; but as efficient, working by means of, and in behalf of men.

Furthermore : *δια* is used in all these senses with the accusative, as in the *Odyssey*, B. x. l. 197, *δια δρυμα πυκνα και ὕλην*—through close thickets and woods : B. xix. l. 154, *δια δμῶας*—by means of maid-servants. They are mistaken therefore who contend that *δια* with the genitive, when denoting a cause, denotes only an instrumental one ; and with the accusative, only an efficient one. The fact is, *δια* is used interchangeably by the classical writers, both with the genitive and accusative, to denote instrumentality merely, or efficiency. In the Hebraic Greek of the New Testament however, we contend that when the idea of cause is introduced, *δια* with the genitive expresses primarily an efficient cause ; or, when it does indicate means to an end, as Dr. Hodge correctly observes, 'these means themselves may be (are) the ground or cause on which the thing is done :' and, we may add, by which means *alone* the end proposed could be secured. For proof we refer to the Gospel of John, c. i., v. 3 ; *παντα δι' αὐτου ἐγενετο*,—"by him were all things made." The writer's object is to establish the Divinity of the Word, by reference to his agency in the work of creation ; which could have been nothing less than an absolute efficiency :—if not, the argument is void. Eph. ii. 16. "And that he might reconcile both unto God in one body by the cross (*δια τοῦ σταυρου*),"—the cross comprehending the whole work of Christ in man's redemption, consummated on the accursed tree when he cried 'it is finished.' Heb. ix. 26. "But now once in the end of the world hath he appeared to put away sin by the sacrifice of himself (*δια της θυσιας αὐτου*)." Rom. v. 1. "Therefore being justified by faith, we have peace with God, through (*δια*) our Lord Jesus Christ." Rom. ix. 5. "Much more then, being now justified by his blood, we shall be saved from wrath through him (*δι' αὐτου*)." Is not Jesus Christ the efficient cause of man's salvation ? And is not that idea conveyed in the phrase *δι' αὐτου* ? Rom. iii. 24. "We are justified freely through the redemption that is in Christ Jesus (*δια της απολυτρωσις*)." Surely no Christian will deny that what is here called the redemption of Christ Jesus, is the cause of our justification in a sense very different from that of simple means. See also, Acts xiii. 38 : John i. 7 : iii. 17 : Rom. xi. 36 : viii. 3.

If then the preposition *δια* bears the force we have given it, the phrase 'as by the offence of one judgment came upon all men unto condemnation' teaches us that upon Adam's first offence, his posterity yet unborn and free from actual transgression were included with himself under condemnation ; so that every soul that enters the world, enters it with the curse of God abiding upon it.

In the language of the Westminster Catechism, 'The covenant being made with Adam not only for himself but for his posterity, all mankind descending from him by ordinary generation sinned in him and fell with him in his first transgression.' In the eye of the law we are guilty of the first offence of our first parent; but of the first only. The moment Adam sinned, the relation, in virtue of which we fell with him, ceased.

God in the exercise of that absolute sovereignty, which of unquestionable right pertaineth unto him as the Lord and Giver of life—the holy creature no doubt freely acquiescing in the Divine determination—constituted Adam the federal head and representative of his posterity. In the morning of his existence, fresh from the hands of his Creator, with the divine impress of knowledge, righteousness, and true-holiness—embodying in himself the moral and natural principle of his race—Adam enters into covenant with the Lord under circumstances the most solemn, and the most favourable to the interests of human kind. The most solemn; because on him hung the eternal destinies of unborn millions. The most favourable; because in the full enjoyment of the favour of his Maker—in perfect innocency—his trial was made to consist, not in the performance of any great and difficult work; but simply in refraining from one of the ten thousand sources of pleasure which God in his boundless munificence had scattered around him. How unjust, then, how awfully blasphemous the complaints of impious man against the divine goodness and justice! Had Adam maintained his integrity, would not every tongue have joined in praise to God who would thus easily have secured eternal felicity to all? But the result in no wise alters the aspect in which the Divine attributes are to be considered in relation to this covenant.

That such must be the interpretation put upon the passage appears also from the context. In the twelfth verse the apostle tells us that death entered by sin: that is, sin was the proper ground and cause of death,—understanding by death, according to the Bible-sense of the term, not only the dissolution of soul and body and the destruction of spiritual communion between man and his Maker: but also all the sorrows and woes and miseries of this life, that render life itself a burthen; and which are the sad precursors of speedy dissolution. Alas what melancholy experience has every child of Adam, that

"It is not all of life to live,
"Nor all of Death to die."

In the thirteenth and fourteenth verses it is said, "Sin is not imputed when there is no law. Nevertheless death reigned from Adam to Moses over them that had not sinned after the similitude of Adam's transgression." Under what law then we ask did death reign? Not under the law of Moses,—the apostle says death reigned before that law. Not under the natural law of conscience; for many died from Adam to Moses who never violated *that* law. We repeat the question. Under what law did death reign? Under the law of the covenant made with Adam in the garden of Eden. "In the day thou eatest thereof thou shalt surely die,"—thou and

thy posterity. This, and this alone, will account for the universal spread of death with all its train of woes. Well does the great English epic poet say of our first mother,

“ ——— her rash hand in evil hour
 “ Forth reaching to the fruit, she pluck’d; she eat.
 “ Earth felt the wound; and nature from her seat,
 “ Sighing through all her works, gave signs of woe,
 “ That all was lost.”
 Death rang throughout the dark abyss of hell,
 “ And back resounded death.”

The struggling infant just emerges into existence—utters one faint shriek of agony—and drops into the grave. Why, why does the righteous God in the first moment of conscious being, break the golden thread of life? Upon one principle, and one only, can an answer be given that will accord with the attributes of the divine character, or the unequivocal declarations of the word of God;—the imputation of Adam’s first sin.

When pressed with the death of infants as an irrefragible proof of this doctrine, its enemies reply,—‘ Infants previous to moral agency are not subjects of the moral government of God; for what has moral government to do with those who are not moral agents? We can predicate moral character of nothing but moral acts. Sin in every form and instance is reducible to the act of a moral agent in which he violates a known rule of duty.’ Of course, all holiness must consist in voluntary acts of obedience to a known rule of duty. Hence, notwithstanding the terrible catastrophe of the fall, every child of Adam enters the world as pure and spotless as the human nature of the infant Jesus. Oh tempora! Oh mores!!

‘ Animals and infants previous to moral agency, do therefore stand on precisely the same ground in reference to this subject. Suffering and death afford no more evidence of sin in the one case than the other.’ What consolation this to a fond parent weeping at the death-bed of infancy! *Mother behold thy child wrapt in the gloomy vestments of the tomb! Snatched away by death—another victim to the insatiate grave. Would’st thou read his future history? Inquirest thou the destiny of the immortal part? The career of his spirit amid the endless revolutions of eternity? These are delusions. Learn his fate in the history of the beasts of the field. The ox dieth; and dust returns to dust. Thy child dieth, and mingleth with his mother earth.* ‘ A child previous to moral agency is not a subject of the moral government of God.’ Of course, not a moral being: for every created moral being in the universe must of necessity be subject to the universal moral governor.

‘ Animals and infants do therefore stand on precisely the same ground in reference to this subject.’ How unlike the language of Him, who said, “ Suffer little children to come unto me, and forbid them not; for of such is the kingdom of heaven.” The revolutions of outraged nature give the lie to such a sentiment. We will mention one or two other cardinal principles of the same false system of false theology, just to exhibit its amazing inconsistency.

The image of God in which man was created consists not, as the orthodox church has ever maintained, in knowledge, righteousness,

and true holiness, but in this; 'that he was made a complete moral agent.' It is unphilosophical and antimetaphysical to quote from the Bible: we need not therefore expect the learned doctors to adduce any texts of scripture in support of this position. Again: avoiding and virtually denying the old orthodox doctrine of an innate depravity of heart; the advocates of the false system aforementioned, in its stead, give us this well-rounded period. 'The universal prevalence of sin results from a general law stamped by God on the universe at creation; extending through every department of nature,—moral, physical, and spiritual: viz. that like should produce like.' Our ears have become so familiarized with this, that it sounds as the language of truth. But let us try the strength and consistency of these several propositions by the syllogism.

It is a universal law of nature, that like should produce like. Man was created in the image of God: i. e., a complete moral agent. Therefore the offspring of man must be moral agents: ergo,—moral beings. And if moral beings at all, as much so at their birth as any other time: for we suppose no one will maintain that time can change that which is not a moral being, into one. But, as above, 'infants are not subjects of the moral government of God.' Hence, are destitute of moral character: and if destitute of moral character, they are not moral beings at all. Metaphysics can do much; but we would defy Aristotle himself to prove that a being can be a moral being, and yet have no moral character and no moral nature. How widely separated from each other and the truth, are these mischievous speculations! Severing all legal connexion between Adam and his posterity, and Christ and the elect; the one can assign the young immortal a residence neither in heaven nor hell; but leaves him like an untamed comet, to wander at large in immensity. The other leaves him like a shooting star, to go into the blackness of darkness of non-entity.

Alas, the inextricable mazes of error! Truth is always consistent with itself,—error never. In behalf of the true doctrine we will quote one text more, I Cor. xv. 22: which is decisive. "For as in Adam all die, even so in Christ shall all be made alive." False criticism cannot torture this passage so as to make it teach more or less than a union, direct and legal, between Adam and his posterity, in virtue of which as a procuring cause in itself, we die. We die in Adam precisely in the same manner as believers are said (Eph. ii. 6:) to have been raised up together in Christ. "And hath raised us up together and made us sit together in heavenly places in Christ Jesus." So intimate is the union between Christ and believers, they are said already to sit together in heavenly places in the person of the Redeemer. According to Buttman, union and approach are the fundamental ideas of the case here used by the Spirit.

The imputation of Adam's sin, whereby condemnation has passed upon all men, is indeed a gloomy subject of contemplation. But blessed be God, we are not left to mourn without hope. "O death I will be thy plagues; O grave I will be thy destruction," says Jehovah. The man that leans on Jesus Christ for salvation

may triumph even in the darkness of the valley of the shadow of death. Yea more; from the depths of the tomb may he shout, "O death where is thy sting; O grave where is thy victory! The sting of death is sin; and the strength of sin is the law. But thanks be to God who giveth us the victory through our Lord Jesus Christ." For, "as by the offence of one, judgment came upon all men unto condemnation; even so by the righteousness of one, the free gift came upon all men unto justification of life." That is, a justification whose end is eternal life; and this life, the result of the righteousness of one; and that righteousness, a free gift. The words, 'the free gift came' are added from the sixteenth verse, and are the antithesis to 'judgment came' in the former clause.

The question is, how does this righteousness become available to justification of life. It will assist us much in our determination if we examine in what senses the terms *righteousness* and *justification* are used in the sacred writings. The original δικαιομα, translated *righteousness*, occurs ten times in the New Testament. Δικαιοσυνη is also translated *righteousness*, but seems generally to refer to a quality or attribute. Whereas we expect to prove that δικαιομα has or should have this one invariable signification,—conformity to the law of God: at least that this is the prominent idea; referring to actions only, but to acts of all kinds, mental as well as others: these acts according with God's vicegerent in the soul—conscience; and with his revealed will. This is the righteousness we are to understand by δικαιομα.

Luke i. 6: "Walking in all the commandments and ordinances (δικαιομασι) of the Lord blameless." That is, continuing in a course of conduct, or actions in the sense explained above, conformable to God's law—to the decisions of an unperturbed conscience, and His written precepts. Rom. i. 32: "Who knowing the judgment (δικαιωμα) of God, that they which commit such things are worthy of death." Here at first sight, our definition may be thought to fail. But does not the apostle allude to the penal sanction of the law—the death to which they had rendered themselves obnoxious (as αξιοι properly means) and in conformity to which sanction God as the God of truth must act in distributing justice and judgement? And does he not refer directly (we would speak with humility and reverence) to that law of God's existence in obedience to which he must act, or deny his own holy nature? Examples of this righteousness of God, men had had; yet as the apostle says, they were not deterred from committing the monstrous iniquities enumerated in the preceding verses. Rom. ii. 6: "Therefore if the uncircumcision keep the *righteousness* of the law, shall not his uncircumcision be accounted for circumcision?" Rom. viii. 4: "That the *righteousness* of the law might be fulfilled in us, who walk not after the flesh, but after the Spirit." These scriptures need no comment. Rom. v. 16: "For the judgment was by one (offence) to condemnation; but the free gift is of many offences unto justification (δικαιωμα)." Modestly but fearlessly, we contend there is here a mistranslation of δικαιομα. The common rendering makes nought but confusion when compared with the latter part of the eighteenth verse. In the sixteenth that is made a result, which

in the eighteenth is said to be the cause of the very same result. The apostle does not say the free gift is justification; but that the free gift is a righteousness, in consequence of which we are justified; which is the unequivocal declaration of the eighteenth verse. We are aware Paul says, Rom. iii. 24, "We are justified *freely* through the redemption that is in Christ Jesus." But the word translated 'freely' in this text, means 'without a cause:' and is so rendered in John xv. 25. In this sense it is true justification is a free gift. We have nothing in and of ourselves as a procuring cause, but receive justification and every other spiritual good on account of the redemption of Christ Jesus. The following is Witsius' criticism on *δωρεαν*. 'The apostle expressly declares, that there is nothing in us which can here come into the account, Rom. iii. 24, "justified *freely* by his grace." In respect of God it is pure grace, which, as we just said, admits of no partnership with our works. In respect of us, it is freely, without any thing in us as the cause of it. For the adverb *δωρεαν* freely, signifies this: not so much hinting here, that justification is a free gift, * * * * * as that there is nothing in us by which to obtain it. Psalms lxi. 4: "they that hate me without a cause" is translated by the Septuagint or Greek interpreters, *μισουντες με δωρεαν*. In like manner, Psalms xxxv. 7: "(*δωρεαν*) without a cause, have they hid for me their net in a pit." Where *δωρεαν* does not signify any donation or gift, but the absolute denial of any cause which could render a man worthy of such treatment. When the apostle therefore says we are justified freely, he teaches us, that there is nothing in us upon which to found the gracious sentence of our justification, or by which we can be justified.'

Heb. ix. 1: "Then verily the first tabernacle had also ordinances (*δικαιωματα*) of divine service and a worldly sanctuary." Heb. ix. 10: "Which stood only in meats and drinks and divers washings, and carnal ordinances." In these verses from the epistle to the Hebrews, the word appears to mean only and simply ordinances. But let it be observed, that in these, as also in the two following verses from Revelations, the plural is used; and the singular always when *δικαιωμα* is connected with the idea of man's justification,—whether by works or grace.

Rev. xv. 4: "Who shall not fear thee, O Lord, and glorify thy name? * * * * * for thy judgments are made manifest." An evident allusion to *acts* of righteous judgment, which God according to his threatenings had inflicted. These were the *manifestations* of the *righteous* character of the Lord; in view of which, they who had gotten the victory over the beast and over his image gave glory to his name. Rev. xix. 8: "For the fine linen is the righteousness of saints." This language is manifestly highly figurative. From the beginning of the nineteenth chapter to the eighth verse, a description is given of the ushering in of the marriage of the Lamb, with sublimest ascriptions of praise and glory to the Most High by the heavenly host: and at the eighth it is said, "And to her (the Lamb's wife) was granted that she should be arrayed in fine linen, clean and white: for the fine linen is the righteousness of saints." Compare this with the parable of the marriage of the

King's son, Matt. xxii. 11, 12, 13: and it will clearly appear, that they who sit down at the marriage supper of the Lamb must have a *perfect* righteousness. No half-way righteousness will do. It must be *perfect*—*spotless*—like unto fine linen, clean and white.

If our labour has not been in vain, we have established the following proposition:—*δικαιωμα*, as used by the New Testament writers, 'is to be understood of those internal and external *actions*, which agree with the right judgment of mind, and with the law of God.' The other important word is *δικαιωσις*,—translated, justification. As far as we have been able to inform ourself, it occurs but twice. Once in the verse we are commenting upon, and once in the last verse of the preceding chapter. "Who (Jesus) was delivered for our offences, and raised again for our justification (*δικαιωσιν*)."

Now there are but three possible ways in which we can conceive of justification. Men are either inherently just and upright, and acknowledged to be so by God, on account of perfect obedience to his law: or, after a violation of the law, they must be made inherently just and upright for the whole time: or, can only be just in a forensic sense—in view of the law, in consequence of some one satisfying its demands in their room and stead; just as a debtor is delivered from the demands of the law, when his pecuniary obligations have been cancelled by a friend. The first of these suppositions is manifestly inadmissible in regard to the race of Adam; for all have sinned and come short of the glory of God. The second involves an absurdity no less glaring, than that a part should be equal to the whole. To be justified apart from grace requires an obedience, commencing at, and continuing from, the beginning of existence. A perfect subsequent rectitude (a preposterous idea at any rate in regard to a fallen being) can never make up for past transgression. It is impossible to serve God more or better at any one time, than he requires of us at that time. Indeed it is matter of astonishment, how any careful reader of the New Testament could ever have conceived of any other justification under existing circumstances, than that comprised in the third supposition. We have thought of it again and again; and cannot conceive how any other method of gracious justification ever entered the mind of man. When we endeavour to imagine any other, we are as much at loss as when contemplating the eternity of God. There is nothing on which the mind can rest. All is vacuity,—all boundless and untangible. To be justified, is to be adjudged, declared, and accounted righteous. This is the simple, original, and only peculiar meaning of the verb *δικαιωω*. True, as the greater includes the less, it does sometimes include other ideas; as pardon of sin, and sanctification; though more rarely the latter. If our memory serves us correctly, the apostle Paul himself distinguishes them in the following manner:—"But ye are washed, ye are sanctified, ye are justified." Where justification is put last in the climax, because it crowns all. When that is said, all is said.

Sin possesses a two-fold power over the sinner. A power of condemnation, and a power of dominion. From the former we are delivered by the death and sufferings of Jesus Christ: from the lat-

ter, by sanctification through the Holy Ghost. Justification of life is distinct from either.

On this occasion it would be in vain to attempt, by examining critically, passage by passage, to determine the precise idea or ideas attached to the verb *δικαιωω* and to *δικαιοσύνη*, the cognate of *δικαιοσύνη*, by the sacred writers. We therefore recur at once to a question proposed before, varying it a little to suit the present state of our remarks: viz., How does the active obedience of Jesus Christ become available to our adjudication to eternal life? Paul would seem, and no doubt he so intended, to give a satisfactory reply when he penned the eighteenth verse of the fifth chapter to the Romans. But we are met at the very threshold with the startling annunciation, 'the apostle does not explain the *mode* in which it was done, but simply states the fact.' What unheard-of stupidity! The concise apostle Paul occupies two thirds of a chapter simply to state a fact! A fact too that had been clearly stated, again and again, in the preceding chapters. He almost exhausts the Greek tongue of particles denoting comparison, and yet institutes no comparison at all! His only design being to place two great truths in juxta-position. It is a fact, that 'by the offence of one judgment came upon all men to condemnation;' and it is a fact, that 'by the righteousness of one the free gift came upon all men unto justification of life:' and this is all,—no explanation whatever of the mode!! Really this is a novel way of clearing up and illustrating a mysterious doctrine.

Were it not a work of supererogation, we would show, what the merest tyro knows, that *ὡς* and *οὕτως* are employed continually to denote similarity in the circumstances of any two events that are contemplated together. [See Matt. i. 18; v. 12; vii. 12; xix. 18; xxvi. 54.—Acts xxiii. 11; xxiv. 9.—Rom. iv. 18; v. 15; ix. 20.—1 Cor. iii. 15; iv. 1; vii. 7.—Heb. v. 3.—James ii. 12.—Rev. xi. 5; xviii. 21.]

According to the scriptures, Jesus Christ occupies in the covenant of grace the same position in relation to his spiritual seed, that Adam did in the covenant of works towards his natural seed. There is no other conceivable point in which we can suppose the two to be compared by the apostle. The whole race of man bound with Adam in the covenant of works, had fallen with him; and the great problem was, how God could save sinners, and yet maintain his righteousness unimpaired. Jehovah alone was equal to its solution. In the eternal counsels, Jesus Christ, the second person of the adorable Trinity, was appointed the head and surety of his people: for them he was made flesh,—made under the law, that he might redeem them that were under the condemnation of the law. "For he hath made him sin" (i. e. to be sin,—not to sin) "for us, who knew no sin; that we might be made the righteousness of God in him." He was made sin, that sinners might be treated as righteous. He was made a curse, that the curse might be removed. "On him were laid the iniquities of us all, and by his stripes are we healed." "And for this cause he is the mediator of the New Testament, that by means of death, for the redemption of the transgressions under the first testament, they which are called might

receive the promise of eternal inheritance." It is not within the compass of the English, or any other language, to express more forcibly the legal transfer of the sins (not the moral guilt) of the elect to Christ, than by such phrases as, 'he was made sin,'—'he died for the redemption of the transgressions,'—'he bare our iniquities,' &c.: nor can unholy sophistry, with appearance of reason, pervert them to any other use. The sweeping denunciation had gone forth, 'Cursed is every one that continueth not in all things written in the book of the law to do them.' Our blessed Redeemer then was not a substitute for the penalty. No, the truth of God was staked on its infliction. He felt the fearful rigor of the curse, and the penalty itself with all its tremendous weight of wrath, when made sin and shut out from the presence and consolation of his heavenly Father, he exclaimed in the bitterest agony "My God, my God, why hast thou forsaken me?" Oh, what degraded and inadequate views do they give us of the work of Christ, who deny that he endured the penalty. They rob the Saviour of the brightest jewel in the crown of redemption. We no longer behold him raised between earth and heaven, a spectacle to angels and men, of the justice and severity of God,—our great High Priest, offering himself a sacrifice for the sins of his people. Deny the penal nature of his sufferings, and the necessity of such a sacrifice is at once removed; and the blasphemous consequence unavoidably follows, that God is chargeable with inflicting useless misery. No, Jesus is our substitute: and as in him we endure the curse denounced against transgression, so in him we fulfil the requirements of the law. He acts for us, and in our stead. In virtue of our union to him, what he does we are reckoned to have done. The active obedience (*δικαιοσύνη*, righteousness) of our substitute is imputed to us for justification. In the book of God's remembrance it is placed to our credit, not to balance the long, black account of sin charged against us, that has been washed out by his blood; but to entitle us to the heavenly inheritance—the promised reward of obedience. Nought of the personal character of Christ is imputed. No personal holiness of his in any sense becomes ours. The law looks at the record and sees our obedience (ours in Christ and by imputation, yet ours truly)—is satisfied, and adjudges us to eternal life. True, the all-searching eye of God reaches farther—takes cognizance of the fountain of impurity within; and he sends the Holy Spirit, purchased by the blood of Jesus, to cleanse and purify it.

In the sense then explained, Jesus Christ is "the Lord our righteousness." "He is made unto us wisdom, and righteousness, and sanctification, and redemption." "In the Lord," then, and then only, "have I righteousness and strength." "This is the heritage of the servants of the Lord; and their righteousness is of me saith the Lord." Alas! "Men ignorant of God's righteousness, and going about to establish their own righteousness, have not submitted themselves unto the righteousness of God. For Christ is the end of the law for righteousness to every one that believeth." Blessed indeed is he unto whom the Lord imputeth not his iniquities; but thrice blessed is that 'man unto whom God imputeth righteousness without works.'

The Socinian and Pelagian heresies on the satisfaction of Christ and the imputation of his righteousness, are not more repugnant to the explicit language of the word of God, than to all our notions—whether derived from revelation or the light of nature—of the perfections of Deity. Their foundation principles are, that God, though bound to keep his promises, is not bound, either to execute his threatenings, or to punish sin. Now we defy the ingenuity of man to frame an argument why God should keep his promises, that will not apply with equal validity to the execution of his threatenings:—if either fails,

“The pillar’d firmament is rottenness,
“And earth’s base built on stable.”

God hath said, “the soul that sinneth, it shall die.” He is immutable and true; and therefore will most certainly perform what he hath spoken. He is infinitely good and just; and therefore will do what is best and right. He is infinitely holy; and therefore can do no wrong. Here we might safely rest,—the argument is impregnable. “Thus saith the Lord” should silence every tongue. But we may without presumption take higher ground. The ultimate foundation and standard of right, is not the mere arbitrary good will, but the nature of God. Though whatever God wills is right; yet it is not so *because* he wills it; but he wills it, because it is right. Every volition in God as well as man, must have a corresponding motive. The will of God is simply the expression of his nature: so that the constitution under which man is placed, is, in its essential relations, not voluntary, but necessary. It was *optional* with God to create a universe of rational accountable beings; but if created, they must of necessity conform to his nature as the law of their moral existence. Hence the obligation of perfect and everlasting obedience on the part of the creature is a necessary result; and being founded in the nature—not the will of God—is as eternal and immutable as God himself: this obligation existing prior to any command whatever on the part of the Creator, and simply because He is what he is,—the infinitely exalted, supremely excellent, sovereign Lord God Almighty—God over all—blessed forever. He is also in himself the chief good; and his infinite benevolence constrains him to offer the fruition of himself to man, as his greatest good. So also, the punishment of sin is not voluntary, but necessary. If it ‘could be resolved into mere volition, then it is not only supposable that God might not have determined to punish sin, but what is blasphemous, he might have determined to reward it.’ God must punish sin whenever and wherever found, and that eternally; or deny that he is unchangeably holy and just. We thus demonstrate the necessity of the perfect and eternal obedience of the creature,—of the preservation of the image of God as the basis of happiness,—and of the punishment of sin: results certain and necessary, because founded in the unalterable perfections of Deity.

Such, after mature reflection, we believe to be *the truth*:—truth that no sophistry can evade—no argument invalidate. In the light of these remarks we see the necessity of an atoning sacrifice, and

the imputation of Christ's perfect righteousness for justification. Not that there was any obligation laid upon Jehovah, separate from and previous to his own choice, to offer his only-begotten Son a sacrifice for sin: Oh no, this is the deep profound of the riches of his grace—the mystery of his love, of which we have no adequate conception. God in wrath might have reserved the race in chains of penal fire forever, and his character have stood forth to an admiring universe of high intelligences, unsullied—unimpeachable. But if God did see fit to extend salvation to sinners, there was a necessity as binding, absolute, and eternal as the law itself, that imperiously demanded such a work as our Divine Redeemer has accomplished. The demands of the law can never be abated.

Such also are the representations of the holy scriptures,—the only infallible rule of faith and practice. Mark viii. 31: "And he began to teach them, that the Son of man must (*dei*) suffer many things," &c. Luke xxiv. 7: "Saying, the Son of man must (*dei*) be delivered into the hands of sinful men, and be crucified, and the third day rise again." 26: "Ought not Christ to have suffered these things, and to enter into his glory?" 46: "Thus it is written, and thus it *behoved* Christ to suffer, and to rise from the dead the third day." John iii. 14: "And as Moses lifted up the serpent in the wilderness, even so *must* the Son of man be lifted up." Acts xvii 3: "Opening and alleging that Christ *must needs* have suffered," &c. Heb. ix. 26: "(For then *must* he often have suffered since the foundation of the world;) but now once in the end of the world hath he appeared to put away sin by the sacrifice of himself." If these scriptures do not teach a moral necessity of a strictly atoning sacrifice by the Son of God; what, in the name of common sense and every principle of interpretation, do they teach? *Δει* indicates there is only one possible means for the attainment of the great end. See its use in John iv. 24: "God is a spirit: and they that worship him, *must* worship him in spirit and in truth." There is no other way. Heb. xi. 6: "But without faith it is impossible to please God: for he that cometh to God *must* believe that he is," &c. John iii. 7: "Marvel not that I said unto thee, ye *must* be born again." See also Acts iv. 12: v. 29. 2 Cor. v. 10. Rev. iv. 1: xxii. 6.

In further proof of the necessity of a sacrifice, see Heb. ii. 10: "For it became (*ingenitum*) him, for whom are all things, and by whom are all things, in bringing many sons unto glory, to make the Captain of their salvation perfect through sufferings." The object proposed, is the 'bringing of many sons unto glory;' the means, the perfecting of 'the Captain of their salvation through sufferings'—penal sufferings. These were the only means that could be devised. Who for a moment can suppose the benevolent Jehovah would have sent his coequal Son, robbed of the heavenly glory and robed in the likeness of sinful flesh, to agonize on the cross and die an accursed death, had there been any other possible way in which pardon might have been proffered to rebellious man? Was the sorrow that like a wrathful flood overwhelmed the holy soul of the son of God indispensable? Or was it only one of the many expedients that Infinite Wisdom might have devised for our resto-

ration? Were the sufferings of the Captain of salvation designed merely to exhibit to the universe an amazing spectacle of inflexible justice and opposition to sin? Or, were they besides penal and atoning? In the sacred name of justice we ask, what is there in the punishment of a holy being—inherently and legally holy—calculated to impress on moral creatures a sense of the perfect rectitude of their Creator? Such a view of the atonement exhibits the Divine Majesty in blacker colours than Milton paints sin. Had this been the only thing necessary, it had been much better accomplished by uncovering the dark pit of hell, and disclosing to mortal contemplation the wailings, and groanings, and blasphemies of damned spirits,—vast intelligences, once high in favour in the courts of heaven,—the mightiest among the tall angels and archangels that encircle the throne of the Eternal—now cast out, and doomed to eternal torments. This had indeed been an awful scene of the justice and holiness of God.

Heb. viii. 3: "For every high priest is ordained to offer gifts and sacrifices: wherefore it is of necessity (*ἀναγκαῖον*) that this man have somewhat also to offer." Heb. ix. 23—28: "It was therefore necessary (*ἀναγκη οὖν*)," &c. The Bible teaches that there was but one way in which God could be just and yet justify a sinner. In the person of the Lord Jesus Christ, God and man, the representative of his people, suffering the penalty of the law and obeying its commands in their behalf, "Mercy and truth have met together; righteousness and peace have kissed each other."

Another expression (*eis πάντας ἀνθρώπους*—upon all men) that occurs twice in the verse under examination, has been pressed into the support of an error more pernicious and soul-destroying, if possible, than either of those just mentioned. Is the *all men* of the latter clause co-extensive with the *all men* of the former? Is no restriction to be placed upon the universality of the language? At a future time we may reply to these questions; and follow our remarks thereon with an examination into the origin and force of certain other words and phrases of the sacred text, supposed by the revilers of Divine justice to teach the doctrine of universal salvation.

For testimonies to the doctrine of Imputation, compiled from the confessions of churches and the writings of distinguished theologians, consult the work of the celebrated Andrew Rivet—*Decretum Synodi Nationalis Ecclesiarum Reformatarum Gallix initio Anni 1645, de imputatione primi peccati omnibus Adami posteris*, &c.: an abstract of which may be seen in the *Princeton Review* for October 1839. Also a *Harmony of Confessions* appended to Thomas Scott's *History of the Synod of Dort*, Utica, 1831.

FOREIGN LABOURS IN THE ABOLITION CONTROVERSY,

No. V.

Glasgow Discussion ;—Second Night.

MR. BRECKINRIDGE commenced his first response by saying that he had last night understood Mr. Thompson to say, that this evening he would take up and expose the Colonization scheme. It was possible that he had been wrong in this; but such was certainly the impression made upon his mind. Instead of adopting such a course, however, Mr. Thompson had treated them to a second edition of his last night's speech, the only difference being, that the one they had just heard was more elaborate. If they were to be called on to hear all Mr. Thompson's speeches twice, it would be a considerable time before they finished the discussion. He congratulated Mr. Thompson on his second edition, being, in some respects, an improvement on his first. It was certainly better arranged. In the observations he was now about to make, he would follow the course of the argument exhibited in Mr. Thompson's two speeches; but he, at the same time, wished it to be understood, that he would not be cast out of the line of discussion every night in the same manner. As to what had been said about "the handful" of abolitionists, he did not think it necessary to say much. He would simply remind Mr. T., that however great or however small "the handful" might be, one pervading evil might pollute it all. A dead fly could cause the ointment of the apothecary to stink.

But to come to the point. Mr. Thompson had argued that the question of slavery was national as it respected America, because slave-holding states had been admitted into the Confederacy. The simple fact of these states having been admitted members of the Union, was, in Mr. Thompson's estimation, proof sufficient, not only that Slavery was chargeable on the whole nation; but that there had been a positive predilection among the American people in favour of slavery. In clearing up this point, a little chronological knowledge would help us. He would therefore call the attention of the audience to the real state of matters when the confederacy was established. At that period, Massachusetts was the only state in which slavery had been abolished; and even in Massachusetts its formal abolition was not effected till some time after. For in that state it came to an end in consequence of a clause inserted in the Constitution itself, tantamount to the one in our Declaration of Independence, that freedom is a natural and inalienable right. Successive judicial decisions upon this clause, without any special legislation, had abolished slavery there; so that the exact period of its actual termination is not easily definable. This recalls another point on which Mr. Thompson would have been the better of possessing a little chronological information. He had repeatedly stated, that the American Constitution was founded on the principle, that all men were created free and equal. Now, this was not so. The principle was no doubt a just one; it was asserted most fully by the Continental Congress of 1776, and might be said to

form the basis of our Declaration of Independence. But it was not contained in the American Constitution, which was formed 12 years afterwards. That constitution was formed in accordance with the circumstances in which the different states were then placed. Its chief object was to guard against external injury, and regulate external affairs; it interfered as little as possible with the internal regulations of each state. The American was a federative system of government; twenty-four distinct republics were united for certain purposes, and for these alone. So far was the national government from possessing unlimited powers, that the constitution itself was but a very partial grant of those, which in their omnipotence, resided, according to our theory, only in the people themselves, in their primary assemblies. It had been specially agreed in the constitution itself, that the powers not delegated should be as expressly reserved, as if expected by name; and amongst the chief subjects, exclusively interior, and not delegated, and so reserved, is slavery. Had this not been the case, the confederacy could never have been formed.

It had been said, in the second place, that the American constitution had not only tolerated slavery, but that it had actually guaranteed the slave trade for twenty years. Nothing could be more uncandid than this statement. Never had facts been more perverted. One of the causes of the American revolution had been, the refusal of the British King to sanction certain arrangements on which some of the states wished to enter, for the abolition of the slave trade. At the formation of the federal constitution, while slavery was excluded from the control of Congress, as a purely state affair, the slave trade was deemed a fit subject for the exercise of national power, as being an exterior affair. And at a period prior to the very commencement of that great plan of individual effort, guided by Wilberforce and Clarkson, in Britain; and which required twenty years to rouse the conscience of this nation; our distant, and now traduced fathers, had already made up their minds, that this horrid traffic, which they found not only existing, but encouraged by the whole power of the King, should be abolished. It was granted, (perhaps too readily, to the claims of those who thought, as nearly the whole world thought,) that twenty years should be the limit of the trade; and at the end of that period it was instantly prohibited, as a matter of course, and by unanimous consent. How unjust then was it to charge on America as a crime, what was one of the brightest glories in her escutcheon!

Mr. Thompson had as his third argument asserted, that slavery of the most horrible description existed in the capital of America, and in the surrounding district, subject to the exclusive jurisdiction of Congress. He (Mr. B.) did not hesitate to deny this. It was not true. Slavery did exist there; but it was not of the horrible character which had been represented. It was well known that the slavery existing in the United States was the mildest to be seen in any country under heaven. Nothing but the most profound ignorance could lead any one to assert the contrary. Mr. Thompson had a colleague in his recent exhibitions in London, who seemed to have taken interludes in all Mr. T.'s speeches. In one

of these, that colleague had said, he knew of his own knowledge, a case in which a man had given 500 dollars for a slave, in order to burn him alive ! Mr. Thompson no doubt knew, that even on the supposition that such a monster was to be found, he was liable in every part of the United States, to be hanged as any other murderer. Slavery was bad enough anywhere ; but to say that it was more unmitigated in America than in the West Indies, where emigration had always been necessary to keep up the numbers ; while in America, the slave population increased faster than any portion of the human race, was a gross exaggeration, or a proof of the profoundest ignorance. To say that the slavery of the District of Columbia was the most horrid that ever existed, when it, along with the whole of the slavery on that continent, was so hedged about with human laws, that in every one of the states cruelty to the slave was punished as an offence against the state ; the killing of a slave was punished everywhere with death ; while in all ages, and nearly in all countries where slavery has existed besides, the master was not only the exclusive judge of the treatment of his slave, but the absolute disposer of his life, which he could take away at will ; these statements can proceed only from unpardonable ignorance, or a purpose to mislead. As to the abolition of slavery in the district of Columbia, there might at first sight appear to be some grounds of accusation ; but yet, when the subject was considered in all its bearings, so many pregnant, if not conclusive reasons, presented themselves against interference, that though much attention had been bestowed upon it for many years, the result had been that nothing was done. It was to be recollected that the whole district of Columbia was only ten miles square ; and that it was surrounded by states in which slavery was still legalised. It was thus clear, that though slavery were abolished in Columbia, not an individual of the 6,000 slaves now within its bounds, would necessarily be relieved of his fetters. Were an abolition bill to pass the House of Representatives to-day, the whole 6,000 could be removed to a neighbouring slave state before it could be taken up in the senate to-morrow. It was therefore, worse than idle to say so much on what could never be a practical question. Again, the District of Columbia had been ceded to the general government by Maryland and Virginia, both slave-holding states, for national purposes ; but this never would have been done, had it been contemplated that Congress would abolish slavery within its bounds, before they did in theirs, and thus establish a nucleus of anti-slavery agitation in the heart of their territory. The exercise of such a power, therefore, on the part of Congress, could be viewed in no other light than as a gross fraud on those two states. It should never be forgotten that slavery can be abolished in any part of America only by the persuasive power of truth, voluntarily submitted to by the slave-holders themselves. And though much is said in that country, and still more here, about the criminality of the northern states in not declaring that they would not aid in the suppression of a servile war, such declamation is worse than idle. But there is a frightful meaning in this unmeasured abuse heaped by Mr. Thompson on the people of the free states, for their ex-

pressions of devotion to the union and the constitution, and their determination to aid, if necessary, in suppressing by force—all force used by, or on behalf of, the slaves. Is it then true that Mr. Thompson and his American friends did contemplate a servile war? If not, why denounce the north for saying it should be suppressed? Were the people of America right when they charged him and his co-workers with stirring up insurrection? If not, why lavish every epithet of contempt and abhorrence upon those who have declared their readiness to put a stop to the indiscriminate slaughter and pillage of a region as large as western Europe? Such speeches as that I have this night heard, go far to warrant all that has ever been said against this individual in America, and to excuse those who considered him a general disturber of their peace, and were disposed to proceed against him accordingly. It was, however, the opinion of many, that Congress had no power to abolish slavery in the District of Columbia. Mr. B. said, his opinion was different; yet it must be admitted, that the obstacles to the exercise of this power were of the most serious kind, and such as, to a candid mind, would free those who hesitated, from the charge of being pro-slavery men. Perhaps the great reason against the exercise of that power, even if its existence in Congress was clear, was that in the present crisis, it would inevitably produce a dissolution of the union.—When he spoke of the free states bringing about the abolition of slavery in the south, he was to be understood, as meaning that these states, in accordance with what had been so often hinted at, should march to the south with arms in their hands, and declare the slaves free. Now, even supposing that the people of the north had no regard for the peace of their country—that they were perfectly indifferent to the glory, the power, and the happiness resulting from the Federal Union; was it certain, that by adopting such a course, they would really advance the welfare of the slave? Every candid man would at once see, that the condition of the slave population would be made more hopeless than ever by such an attempt.

The fourth proof brought forward by Mr. Thompson, in support of his proposition, that America was chargeable, in a national point of view, with the guilt of slavery, was the fact, that the different states were bound to restore all runaway slaves. But this was a regulation which applied to the case of all persons who leave in an improper manner, the service or duty to which they are bound: Apprentices, children, even wives, if it might be supposed that a wife would ever thus leave her husband, were to be restored, as well as the slaves. Was this not provided, the different states would form to each other the most horrible neighbourhood that could be imagined. No state is expected to say that any man is *of right, or should be* "held to service" of any kind, in another state. But the purely internal arrangements of each state, must necessarily be respected by all the others, or eternal border wars must be the result. In the re-delivery of a runaway slave, or apprentice, therefore, the court of the one state is only required to say what is the law and the fact in the other state from which the claimant comes; and to decide accordingly. And when Mr. T. says, that this proceeding is not only contrary to the spirit of the

gospel, but to the express command of God, under the Jewish dispensation; I need only defend the practice, by questioning his biblical capacities, and referring for explanation to his second printed speech before the Glasgow Emancipation Society. In that, he states a fictitious case as regards Ireland—resembling remarkably the case recorded in holy writ, of Egypt under the government of Joseph; and while all men have thought that Joseph came from God, and was peculiarly approved of him, Mr. T. has represented, that he who should do in Ireland, very much what Joseph did in Egypt, could be considered, as coming only “from America, or from the bottomless pit!!!” As long as the Holy Ghost gives men reason to consider certain principles right, they may be well content to abide under the wrath of Mr. Thompson. And until the Abolitionists can prove, or make every state in our confederacy an alien and hostile state to all the others; God’s command about runaway slaves, is not for, but absolutely against, those who cite it.

Mr. Thompson said in the fifth place, that slavery was a national crime, because the states were all bound to assist each other, in suppressing internal insurrection. To this he would answer, that as it regarded the duty of the nation to the several states, there were two, and but two great guarantees; namely, the preservation of internal peace, and the upholding of republican institutions; that is, tranquillity and republicanism. Carolina was as much bound to assist Rhode Island, as Rhode Island was to assist Carolina. All were mutually bound to each; and if things went on as of late, the south were as likely to be called on to suppress mobs at the north, as the north to suppress insurrection at the south.

It was next advanced by Mr. T., that the people of the north were taxed for the support of slavery. Now, the fact was, that America presented the extraordinary spectacle of a nation free of taxes altogether; free of debt, with an overflowing treasury, with so much money indeed, that they did not well know what to do with it. It was almost needless to explain that the American revenue was at present, and had been for many years past, derived solely from the sale of public lands, and from the customs or duties levied on imported articles of various kinds. The payment of these duties was entirely a voluntary tax, as in order to avoid it, it was only necessary to refrain from the use of the articles on which duties were imposed.

As for Mr. T.’s argument about the standing army employed in keeping down the slaves, its value might be judged from the fact, that though even according to Mr. T.’s own showing, the slave population amounted to two-and-a-half millions, the army was composed of only 6000 men, scattered along three frontiers, extending 2000 miles each. Throughout the whole slave-holding states there were not usually 1500 soldiers. The charge was, in fact, complete humbug, founded just upon nothing at all. But if all the army of America, or ten times as large a one, were quartered in the slave states to preserve public tranquillity, it would be precisely as good an argument that America is as a nation, chargeable with upholding slavery; as the fifty regiments now quartered in Ireland afford, to prove that the British Empire is in favour of Popery.

Mr. Thompson's eighth charge was, that Congress refused to suppress the internal slave trade. This was easily answered. There was in America not one individual among 500, who believed that Congress had the power to do so; and although he (Mr. B.) believed that Congress had power to prevent the migration of slaves from state to state, under the same grant they had it to prevent the importation of them into the states, from foreign countries; and that the exercise of this power would prevent, in a great degree, the trade in slaves from state to state; yet very few concurred with him even in this modified view of the case. And it must be admitted, that the exercise of such a power, if it really exists, would be attended with such results of unmixed evil at this time, that no one could deem it proper to attempt, or possible to enforce its exercise.

It was next said, that as Missouri, a slave-holding state, had been admitted into the Union, after the full consideration of the subject by Congress, therefore the nation had become identified with slavery, and responsible for its existence, at least in Missouri. But on the supposition that, before receiving Missouri as a member of the confederacy, it had been demanded of her that she should abolish slavery; and supposing Missouri had acceded to the terms proposed, that she had really given her slaves freedom, and been added to the Federal Union in consequence: suppose Missouri had done all this; what was there to prevent her from re-establishing slavery so soon as the end she sought was gained? No power was possessed by the other states in the matter, and all that could have been said was, that Missouri had acted with bad faith—that she had broken a condition precedent—that she had given just cause of war. According to the most latitudinarian notions, this was the extent of the remedy in the hands of Congress. But Mr. Thompson, being a holder of peace principles—if we may judge by his published speeches—must admit it to be as really a sin to kill, as to enslave men; so that, in his own showing, this argument amounts to nothing. But when it is considered that every state in the American Union has the recognised right to alter its constitution, when and how it may think fit, saving only that it be republican; it is most manifest that Congress and the other states have, and could have in no case, any more power or right to prevent Missouri's continuing, or creating slavery, than they had to prevent Massachusetts from abolishing it. But, if they were to stand upon the mere rights of war, he (Mr. B.) did not know but that America had just cause of war against Britain, according to the received notions on that subject, in the speeches delivered by Mr. Thompson, under the connivance of the authorities here. But the causes of war were very different in the opinions of men and in the eye of God. If Mr. Thompson was right in condemning America for the guilt of Missouri, then they might go to war at once, and try the question. But if they were not ready for that conclusion, they could do nothing.

In the edition of Mr. Thompson's speech which had been delivered on the preceding evening, an argument had been adduced which was omitted in the present. The argument to which he referred, was concerning the right of the slaves to be represented.

A slight consideration of the subject might have shown that the whole power over the subject of citizenship in each state, was exclusively in the state itself, and was differently exercised in different states. In some, the elective franchise was given to all who had attained the age of twenty-one. In some, it was made to depend on the possession of personal property; and in others, of real property. That, in the southern states, the power of voting should be given to the masters, and not to the slaves, was not calculated to excite surprise in Britain; where such a large proportion of the population, and that in a number of instances composed of men of high intelligence, were not entitled to the elective franchise. The origin of this arrangement, like many others involved in our social system, was a compromise of apparently conflicting interests in the states which were engaged in forming the Federal Constitution. The identity of taxation and representation was the grand idea on which the nation went into the war of independence. When it was agreed that all white citizens, and three-fourths of all other persons, as the constitution expresses it, should be represented, it followed of course, that they should be subject to taxation. Or if it were first agreed that they should form the basis of all direct taxation for national objects, it followed as certainly that they should be represented. Who should actually cast the votes, was of necessity left to be determined by the states themselves, and, as has been said, was variously determined; many permitting free negroes, Indians, and mulattos (who are all embraced as well as slaves) to vote. That three-fifths, instead of any other part, or the whole, should be agreed on, was no doubt the result of reasons which appeared conclusive to the wise and benevolent men who made the Constitution; but I am not able to tell what they were. It must, however, be very clear, that to accuse my country in one breath, for treating the negroes, bond and free, as if they were not human beings at all;—and to accuse her in the next of fostering and encouraging slavery, by allowing so large a proportion of the blacks to be a part of the basis of national representation in all the states; and then, in the third, because the whole are not so treated, to be more abusive than ever:—is merely to show plainly, how earnestly an occasion is sought to traduce America, and how hard it is to find one.

He came now to the last charge. He himself, it seems, had admitted on former occasions, that slavery was a national evil. He certainly did believe that the people of America, whether Anti-Slavery or Pro-Slavery, would be happier and better off in all possible respects, were slavery, abolished. He believed that every interest would be benefitted by such an event, whether political, moral, or social. The existence of slavery was one of the greatest evils of the world; but it was not the crime of all the world. Though, therefore, he considered slavery a national evil, it was not to be inferred that he viewed it as a national crime. The cogency of such an argument was equal to the candour of the citation on which it was founded.

He would now briefly notice the remaining portion of Mr. Thompson's last speech. In enumerating the great number of

Anti-Slavery Societies in America, Mr. Thompson had paraded one as formed in Kentucky, for the whole state. Now, he would venture to say, that there were not ten white persons in that whole state, holding anti-slavery principles, in the Garrison sense of the word. If this was to be judged a fair specimen of the hundreds of societies boasted of by Mr. Thompson, they would turn out to be, even in numbers, but a beggarly array; and resemble far more, a very noted regiment in English history—namely, that of a certain Sir John Falstaff, than the immense array which the details we had to-night of them, might lead the ignorant to suppose. He found also the name of Groton, Massachusetts, as the location of one of the societies in the boasted list. He had once preached, and spoken on the subject of slavery, in that sweet little village, and been struck with the scene of peace and happiness which it presented. He afterwards met the clergyman of that village in the city of Baltimore, and asked him what had caused him to leave the field of his labours. The clergyman answered that the anti-slavery people had invaded his peaceful village, and transformed it into such a scene of strife, that he preferred to leave it. And so it was. The pestilence, which like a storm of fire and brimstone from hell, always followed the track of Abolitionism, had overtaken many a peaceful village, and driven its pastor to seek elsewhere a field not yet blasted by it.

He would conclude by remarking, that Mr. Thompson, and he (Mr. B.) were now speaking, as it were, in the face of two worlds; for western Europe was the world to America. And it was for England to know that the opinion of America—that America which already contained a larger reading population than the whole of Britain—was as important to her, as hers could be to us.—What he had said of Mr. Garrison, of Mr. Wright, and the rest, he had said; and he was ready to answer for it in the face of God and man. But he had something else to do, he thanked God, than to go about the country carrying placards, ready to be produced on all occasions. Nor, where he was known, was such a course needful, to establish what he said. When those gentlemen should make their appearance, in defence or explanation of what he had said, he would be the better able to judge, whether it would be proper for him to take any notice; and, if any, what, of the defence for which Mr. Thompson had so frankly pledged himself. In the meantime, he would say to that gentleman himself, that his attempts at brow-beating were lost upon him.

MR. BRECKINRIDGE, in reply, said, he would now proceed with what remained of the argument on the general question. He had been asked to point out the responsible parties in regard to slavery, and this was what he was about to do. It was indeed much more easy to show who were the responsible parties, than to prove the innocence of those unjustly accused—it was perhaps his duty to do both—the first he had been attempting. It would be easy to do the other, and he trusted that after he had done so, if the good people of Glasgow, on any future occasion, should meet to pass resolutions applauding Mr. Thompson, for the vast sacrifices he

had made, and the suffering he had endured in the cause of emancipation; they would not again feel obliged to pass resolutions condemning the whole American nation as the vilest nation that ever existed, for maintaining slavery. He would say, then, that he considered the owners of the slaves as in the first place responsible. The slave-owner had two important duties to perform in reference to those of his fellow-beings who were held in bondage. In the first place, he was bound to inform himself of the whole question in its length and breadth; and having done so, if he considered slavery wrong, he ought in the speediest manner possible, consistent with the happiness of the slaves themselves, to set them free. This was the duty of a slave-owner, as an individual. But as his lot might be cast in a slave-holding state, it was his duty, in addition to freeing his own slaves, that he should use every lawful means to enlighten public opinion. Whatever faculties he possessed, it was his duty to use them in the attempt to remove the prejudices of those whose minds were not yet enlightened on this important question. But, while it was his duty to do this, he was to refrain from every thing which would naturally tend to exasperate the minds of the masters. He was not to go and take a man by the throat, and say, "You are a great thieving, man-dealing villain, and unless you instantly give your slaves liberty, I will pitch you out of this three-story window." That was not the mode in which a prudent man would go to work; and he (Mr. Breckinridge) would like, above all things, to make Mr. Thompson and his fellow-labourers sensible of this important truth; that in their efforts to give freedom to the slaves, nothing could be done without the consent of the slave owners. And unless this was kept in view, Mr. Thompson might labour, to use a homely American phrase, "till the cows come home;" but he would not move a single step nearer his object. While on this head, there was another saying, which he had no doubt Mr. Thompson had frequently heard in the northern part of America, and which might it be of some use for him to bear in mind, if he revisited that horrible country; it was, that one "spoonful of molasses would catch more flies than a hogshead of vinegar." With regard to the mode in which the question of slavery should be taken up in those states where it existed, he would say, that every mode which seemed, to the most anxious friends of the black race, and of universal freedom—fair, Christian, and wise—had already, and repeatedly been brought into action, to enlighten and urge forward the public mind and will. If there was any thing else that might be taken advantage of for that end, he was willing to learn it, and to go home and try to teach his countrymen who were labouring in the same cause.

In the second place, Mr. B. proceeded to say, that the parties responsible for the existence of slavery, were the states which tolerated it. If slavery were wrong, as he was fully prepared to assert it to be, then those states or communities which tolerated it beyond the absolute necessities of the case were justly responsible at the bar of God, and at the tribunal of an enlightened world. If slavery were wrong, those who have power were bound to abolish it, as soon as it could be done consistently with the greatest amount of

good to all concerned. Now, slavery could end in any state only by violence, or by the consent of the masters. This made it obviously the duty of all who had right views in such communities, to extend and enforce them in such a way as shall appear most likely to secure the object in view ; namely, peaceful, voluntary, and legal abolition. It demonstrates too, that whenever the majority of such a community are ready to act in this behalf, they are bound to act in such a manner as will constitutionally and speedily effect the object, even though multitudes in that community should still oppose it. But here again it is most clear that such a result can never be brought about, till the majority of such slave-holding communities shall not only consent to it, but require it. So that in every branch of the matter it constantly appears how indispensable light and love, gentleness, wisdom, and truth are ; and how perfectly mad it is to expect to do any thing in America by harsh vituperation, or hasty and violent proceedings.

But, say the anti-slavery people, you can abolish slavery in the District of Columbia, and might purchase the freedom of all the slaves throughout the whole of the states, with the public money. But it was not the price of the slaves that was the chief difficulty in making an end of slavery. The inhabitants of the southern states reckoned this the least part of the case. To take away our slaves, say they, is to take away not our property alone, but our country also ; for without them the country could not be cultivated. He did not say that the southern planters were right in thinking so, but he knew that they did think so ; and therefore it was necessary to take their opinion into account. Neither did he say their conclusion was right,—admitting the fact to be as they feared ; for if the fact was as stated, it was strong proof that God intended the country for that race which suited it best. But these were instances of the many difficulties by which the question was beset, and would let them see that it was not a mere matter of pounds, shillings, and pence. In reference to the efforts made by the American people to abolish slavery, Mr. Breckinridge said, they had done much in this cause before Mr. Thompson was born, and possibly before his father was born. And they had effected much, and would have done more but for the interference of the party with which Mr. Thompson was identified. A party whose principles were based on false metaphysics—on false morality—who came often with the fury of demons, and yet said they were sent by God. He would say, the cause of emancipation had been much injured by the ill-designed efforts of that party ; they had thrown the cause a hundred years farther back than it was five years ago.

In reference to the Maryland Colonization scheme, of which they had heard so much from Mr. Thompson, he would only be able, as his time was nearly expired, to make a remark or two. That society had existed for about four years. In its fourth annual report there was a statement from the managers of the Maryland state fund, that within the preceding year 299 manumissions had been reported to them, which, with those previously reported, make 1101 slaves manumitted, within four years in that state ; while the total number of coloured persons transported to Liberia, since the

society commenced its operations, was then only one hundred and forty, as exhibited by the same report. Nothing could show more clearly the falsity of those statements which represent the scheme of Maryland Colonization as being cruel, oppressive, and peculiarly opposed to the progress of emancipation. The direct contrary is in all respects true.—With regard to the book from which Mr. Thompson had read some extracts, purporting to be the laws of Maryland; if he were not mistaken, that book was a violent and inflammatory pamphlet, written by some person, perhaps by Mr. Thompson himself, shortly after his (Mr. B.'s) visit to Boston. He would not enter upon the discussion of the merits of that pamphlet, against which it had been alleged in America, at the place where it originated, and he believed truly charged, that instead of containing faithful extracts from the laws of Maryland, it did in fact contain only schemes of laws which had been proposed in the Assembly of Maryland, but which had never received their sanction, chiefly in consequence of the opposition of the friends of Colonization. In conclusion, he would say, that the Maryland scheme was, as a whole, one of the most wise and humane projects that had ever been devised. He had no objection, on the proper occasion, to go fully into it, and he hoped to be able to show that it would do much for the amelioration of the negro race.

IMPRISONMENT UNDER THE CATHEDRAL, OF MORRIS FOLEY, OF BELLE AIR, HARFORD COUNTY, MD.

THE imprisoning of individuals desirous of leaving the papacy, is of ancient standing. Places of imprisonment have been erected in all papal countries, under the control of the priesthood. In protestant countries they have to use greater caution in the confining of those they are enabled to entrap. We do not speak of the *prisons for females*, under the pretence of holy places, devoted entirely to religious exercises. The papal nations who have abolished these prisons, speak loud enough on that point, and the time is not far distant when we believe the indignation of this whole country will compel the removal of the *bars, bolts, grates, &c.* that are connected with these *private jails*, kept by priests, for the confinement of young women.

The imprisonment of which we now speak, is that attempted by the priests, when one of their members gives signs of leaving the system. The case spoken of through the western part of town, of a man who is said to have been entrapped in the alms house and there confined, because he was about to leave the priest, is the case in connection with which *Mr. Maguire*, keeper at the alms house, has entered suit against the conductors of this periodical.

Our readers need not imagine that this is one of the only cases in which a man has been confined under a false statement; neither is the alms house the only building in which men about to leave the Roman dominion have been compelled to wear out days and nights.

That splendid edifice, the astonishment and wonderment of so many, but familiarly known among us as the CATHEDRAL, is said to have been one of the places chosen by the wily priesthood to confine an individual, who was becoming somewhat cool in his attachment to holy mother. What! the cathedral a prison? Yes gentle reader—papal *mass houses* and papal *prisons*, if not almost synonymous, are so near allied, that when it is in their power they are not long separate.

Passing by several cases of another character of which we may again speak, we come now, to THE IMPRISONMENT OF MORRIS FOLEY IN ONE OF THE CELLS OF THE CATHEDRAL. The particulars of the transaction were nearly as follows. ROGER SMITH, late Rector of the cathedral,* before appointed to that station, was priest at the Hickory, a few miles N. E. from Belle Air. During the time that he was the priest of Harford, *M. Foley*, (a tailor,) became careless in his attendance at the chapel. And when going through the country tailoring, he neglected to observe the fast days, and considering meat as good on Friday as any other day, did not refuse to eat it. Among his other offences is supposed, his having attended places of worship of protestants. Be this the whole or part of his offence,—SMITH, is said to have sent by him to Baltimore to the then Archbishop a letter, the purport of which is supposed to have been, to confine Foley in the cathedral until he would positively swear off from ever going to hear Protestants, or having to do with them. Whether this was the substance of Smith's letter, it does not matter. Suffice it, that *Foley was put in one of the cells*, and was there kept for *some length of time*, during which he was not very well treated by the most reverend Archbishop, saving that he had as much intoxicating liquor as banished all ideas of religion from his mind, and entailed upon him an excess in intemperance from which he never recovered, but lived the remainder of his days a drunkard, and died as he lived. During his imprisonment, Foley was called upon in the most absolute manner and under punishment to declare off from even attending protestant churches.

Whether *Foley* is the only man that has been called on to spend days and nights imprisoned in the vaults of the cathedral, we do not undertake to say. That which Rome has done, she will do if in her power. For what she has done is right, and right or wrong, she is infallible, she cannot change. It was somewhat more fortunate for the *German*, that he was put in the alms house. There he could not be so long confined without its being found out, but to the vaults of the cathedral, who has admittance to relieve those there inclosed? Who inquires for the victims that may be there incarcerated?

Now we do not care, nor does it matter, whether these men, and particularly *Foley*, were men of any special importance to their system or the community. It is only the shewing to the people of

* This Roger Smith is the priest who forged the will in the infirmary and had it attested by two sisters of charity and a popish physician, in which they robbed a widow and her children of the property which her husband had left.—(See March No. of this Mag: for 1835.)

this country that popery is the same every where. In Spain or S. America, a recantation or a suspicion of leaning to protestantism would have cost them their lives. They dare not venture so far here, but they venture we think very largely upon the forbearance of this community when they shew that if they cannot use force to bring men over to popery, if they cannot by the dungeon, convert their heretical neighbors, they will at least keep those who have been under the influence of the system, from turning away. We say, gentlemen priests—inquisitors of heretical pravity, you have ventured largely on the endurance of the people of this country. These facts as they illustrate the doctrines, the unchangeable doctrines of popery, are drawing deep the lines that are to stand between republican protestantism and monarchical tyrannical papism.

The people of this country are to meet this great question, and to decide it. Shall the principles of popery prevail to the carrying of them out in practice? Shall the rights which our fathers bought with their blood, of worshipping the most high God according to the dictates of their own consciences, blessings bequeathed as a legacy to us their children; shall these precious bequests be taken from us? Shall an insidious foreign foe under the guise of religion rob us of these rights?

If it be so that one citizen may be so entrapped, what security for any man who ventures even to call in question their horrible doctrines? Millions upon millions of men have been imprisoned and cruelly murdered by the priesthood, who have not said the one thousandth part against the papal system that has been said through the pages of this journal, and if it were in their power to carry out their principles with impunity every decided protestant in this land would fall a victim to the wrath of the popish priesthood. But if one man or several are made the examples before this community, of papal intolerance, is it not time for every freeman to awake to his rights, to be ready for their defence, to have his armour on; not the sword and musket, but the armour of truth, the weapons of reason, and facts. We do not, we would not call upon the people of this land to arm themselves sword in hand against any set of men, unless in self defence, and that for their lives. And we would give a word of caution to some of our papal neighbours on this point. There is an endurance on the part of freeman with almost any thing that does not affect life. But whenever the sworn soldiery of the priests in this city or any other city of these whole United States, put on the *steel and mount the cartridge*, woe is the day for Rome! We may not, we likely will not live to see the result of this experiment—but when it comes, (and come it will, if these principles in the hands of their priests should even for a time gain the ascendancy)—then shall Rome have a trial with carnal weapons, that will inflict a wound upon the Beast, from which she will not soon recover.—(Rev. xvii. 14—18.)

As a general thing the priesthood and the leading laymen, keep their doings to themselves, their policy is a *secret policy*. But Mr. William George Read, a popish lawyer, of whom notice is taken in the March No. of this Mag. for 1837, gives us to know that if that building, the Carmelite Convent, was to be attacked, "*he would die on the steps.*" Now we are no friends of mobs, or riots, as we

have over and over distinctly stated, because our Papal friends, such as Mr. Read, strain a point, on any occasion, to make such charges against us. But we do say, that the Popish priesthood have no right, human or divine,—civil or religious—to *imprison free American citizens on account of religion*. If it be libellous or slanderous, or any thing else; if it bring upon us imprisonments, (so they are not under the tender mercies of Roman priests,) or losses of any kind—if it raise mobs, riots, or any thing else;—at all cost—running every risk, we say deliberately in the face of this community—before this whole country, that *private prisons* are illegal, unconstitutional, forbidden by the spirit of the laws of every state—that priests have no more right to imprison *one man* on account of his religion, than another, or than ten; that in one or any case it is depriving that citizen of a right that God has given him; that the laws of this country have secured to him, as an inalienable right. The imprisoning of a man on account of his religion—the confinement of women in prisons under pretext of religion, are among the most atrocious crimes that can be committed in the eye of our laws. What would our fathers have said to such a thing? What one of the band that sacrificed life—fortune—comforts, every thing, for freedom, would have sat quietly down and beheld *FREE-MEN* and *FREE-WOMEN*, imprisoned, by the officers of a system of iniquity, which the *Continental Congress* said (in their address to the people of Great Britain, dated October 31, 1774,) “HAD DELUGED GREAT BRITAIN IN BLOOD, AND DISPERSED IMPIETY, BIGOTRY, PERSECUTION, MURDER AND REBELLION, THROUGH EVERY PART OF THE WORLD?” Could it have been possible?

They have in ages past—yes, within the present century, persecuted and cruelly butchered men for their religion, in papal countries, to such an extent that the scripture is fulfilled in them: “Drunken with the blood of the saints and with the blood of the martyrs of Jesus.”—Rev. xvii. 6. But with us they are to begin with caution. Imprisonment is a pretty bold move—and if the vaults of these papal buildings that are springing up around us are to be the hiding places, in which they will bring the inquisitorial spirit of their system to bear upon their own people and others, it is time for every man to look at these things in self-defence.

Are you a parent? What assurance have you that your daughter may not be entrapped to supply the *new Convent* adjoining the monument? What security have the youthful females of our city against the officers of that system, that has so notoriously plundered the families of papal countries of their daughters? What man that speaks his mind concerning the papal system, is certain that he will not wear out his life in the dark cells of the cathedral or some other of their buildings? How easy would it be to get up a report that he was not in his right mind and that probably he had drowned himself?

What say our legislators on this point? Shall politics, or dread of papal indignation hinder you in the enacting of such laws as shall require the abolishing of such prisons, and the emancipating of their captives? In the turning of the wheel of life, it may so turn out that your daughter may be thrown into circumstances,

where every influence brought on her, may be to entice her within these prisons, under the plea that she may live more entirely devoted to religious duties. And if so, she will find, that if you had been faithful as a law maker, she would not have been wearing out her life in drudgery, under the mastership of a priest. As legislators remember you are legislating for your own children as well as for others, and that there are cases that demand noble, manly conduct. This is one of those cases. Say that in this state they shall not be; that papal prisons shall be opened. Give liberty to the captives under priestly chains. Shew the people of this country that you are no more willing than were your fathers in the Continental Congress to be brought in a state of "papal bondage."

Can't the priesthood find some *tool* to set forward, as *their organ* to enter a suit against us for this? We think that it along with the other case of Roger Smith, in both of which we had the connivance of the Archbishop, is also worthy of a *suit at law*. Perhaps by a law suit they will be able to shew that Rome never imprisoned men for their religion, and what is of more importance now, that it is not a principle connected with the system.

[For the Baltimore Literary and Religious Magazine.]

BALTIMORE, Dec. 28, 1839.

Mr. Cross,—

THE following letter I received from Mr. Breckinridge to-day, and request you to publish it, as suggested by him in a postscript. I confess I was somewhat surprised to hear that you had inserted an article in your Magazine abusing me personally. His explanation is entirely satisfactory, and I only regret that he suffered himself to be deceived respecting the promised erasures and amendments.

JOHN G. MORRIS.

MR. BRECKINRIDGE'S LETTER.

Fayette Co. Kentucky, Dec. 20, 1839.

To Rev. J. G. Morris,

Rev'd and Dear Sir:

THE Baltimore Literary and Religious Magazine has just reached me, and I greatly regret to perceive, notwithstanding all my efforts to prevent it, that certain expressions, which *may be construed* in a manner disrespectful of yourself—have been printed in the article of Dr. Horwitz. The facts are these; being myself fully convinced of the error and danger of the speculations in geology which have so extensively taken possession of the public mind, and thoroughly persuaded that in every true and just view of the Cosmogony of Moses, it was wholly against these modern speculations; I had contemplated and even commenced a critical and philological argument against them; when I ascertained that Dr. H. was engaged

on a similar essay. This led to repeated conversations with him, and finally to his submitting his essay to me. I was greatly struck with its learning and force; but earnestly and repeatedly advised him, long before I had the least idea of publishing it, to omit some expressions and to alter others, which I considered neither just nor respectful towards you. He had a good deal of difficulty in getting his essay before the public, in a manner and through a channel acceptable to himself; and I had great anxiety that the learning and argument of it should be spread before the scholars of the country. I suggested to him, or he to me, that we should print it, which I was well pleased to do—but on the express condition that such passages as I have intimated, should be omitted or altered. He agreed to this; the omissions and alterations were made; the essay re-read to me; put into the printer's hands; and I left the city, never having seen, (as I presume my friend Cross never did,) any part of the essay afterwards, till the whole was printed and issued.—Now, whether I was not sufficiently rigid in requiring corrections—or whether the corrections have not been printed as made,—or whether I am now too sensitive about certain expressions which seem capable of personal application in a bad sense, I do not stop to enquire. But I beg to assure you, that while I differ with you very materially as to the true meaning of the Mosaic account of the creation and as to the truth and the bearing of the theories of geologists, I have not a particle of sympathy with any thing or any body, that is in the smallest degree disrespectful to your person, character or attainments, and not only deeply regret having been made innocently and ignorantly the instrument of a moment's pain to you, but thus frankly avow the real state of the case and of my feelings—and beg you to use this letter as you think fit. It is but just to add, that Dr. Horwitz constantly disavowed all unkind feelings towards you, and all intention of doing you wrong; and appeared reluctant to make changes in the essay, chiefly because such changes appeared to him to weaken its force. And I must also say, that I make this explanation in a sense purely personal; and that while I would not say nor allow hard things to be said of you; 1, because you do not deserve them, and 2, because even if you did, I am your friend and would not needlessly wound you, yet there was not a word said by Dr. H., even before my alterations, but what was true and timely, of the great bulk of those he wrote against.

I am, very truly,

Your friend and brother in Christ,

R. J. BRECKINRIDGE.

One of the difficult tasks of editors is to steer between conflicting parties, without doing injustice to one or the other, or shewing by their conduct, their own predilections. This has been the case in the present instance. *Mr. Morris* is a personal friend of some years standing, with both of the conductors of this journal. Dr. H. has adopted and we think ably defended, that view of the Cosmogony of Moses which we believe to be in accordance with the Scriptures and true philosophy. Dr. H. desired the publication of

his article as will be seen by Mr. B.'s letter. This was consented to on the condition that the severe and personal allusions to Mr. Morris should be stricken out. Whatever regard we had for Dr. H.'s ability as a Hebrew scholar, and his defence of the doctrine of Moses, we were not only unwilling, but absolute in our determination not to publish unless he would alter or erase them.

That the conductors of this journal may be set right, before their readers in this matter we shall briefly state how it came to pass that they allowed the publication in the style in which it appeared as regards Mr. M.

Both of the conductors intending to be absent from the city during the time of the printing of Dr. H.'s article, concluded to let him correct the proof of it. There being a delay in procuring Hebrew types, Mr. Cross returned before the article had been printed, and on looking it over in the printing office, ran his pencil through some of the allusions, and altered the form of expression in two or three others—allusions and forms of expression that were to be changed by the Dr.—and told the printer setting up the type to tell Dr. H. that the lines marked must be stricken out, and the alterations made left in it, or that we would not publish the article. Mr. Cross, was again absent from the city—and the printer omitted to tell Dr. H. the decision of Mr. C. The Dr. on seeing the manuscript, noticed that some one had been changing it, enquired who had done it, but not learning, gave orders for the printing of it as it was, stating that the changes were already made. It was not until the whole article, with the exception of a few pages, was printed, that Mr. C. returned. This is the history of the case.

That this severity towards Mr. Morris was not noticed before, arose from two causes: 1, a constant press of duties: and 2, that the copy for Dec. filled the No. so that there was no space, and the Jan'y No. overrun so much in quantity that we had to omit a page of the last article.

We make this statement from a sense of duty to Mr. Morris, who is aggrieved, and to let it be known how we came to suffer the remarks in our Magazine without comment at the time, upon one with whom we have uniformly been on terms of Christian friendship.

BISHOP KENRICK—DISPENSATION OF THE MARRIAGE CONTRACT AND
DIVORCING OF JOHN CASSIDAY AND MARY M'SHANE.

By the following extract from the *Philadelphia "Public Ledger,"* of Jan. 11, 1840, it will be seen that Bishop Kenrick, the Roman Catholic Bishop, has undertaken to exercise his Papal power, in dispensing with the obligation of the law of God and the laws of the land. During all the controversy which has taken place in this country on this *mystery of iniquity*, of which he is an officer, there has been an attempt made on their part to shew that they were faithful law-abiding citizens. On the other hand, it has been shewn that by the rules of their system, they were necessarily opposed

to our laws, to our institutions, that were all under oath to violate, to dispense with, and change whenever necessity or convenience required, provided it could be done without endangering the system in the eyes of the country.

Among the many gross cases of Papal assumption that have taken place, we record the case that has lately occurred, in which Bishop Kenrick *abolished the marriage contract, divorced the parties, declaring a marriage regularly performed, of several years standing*, for this reason, that it was contrary to the laws of the Catholic church. This case is a caution to Protestant young men, when they would marry Papists.

[Reported for the Ledger.]

SOUTHWARK POLICE.—*Before Ald. Tarr.*

THURSDAY, Jan. 9, 1840.

A case of rather an extraordinary character came up for hearing before Alderman Tarr on Thursday afternoon, which, if correct in its particulars, shows a daring attempt to set up an authority above that of the laws of the country. About two years ago, John Cassiday was married to Mary M'Shane, by Bishop Kenrick, of the Catholic church; Cassiday, who was a Protestant, resisted the entreaties of his wife, who belonged to the Catholic church, to attend service at the latter church and become a convert to the faith which she professed. She applied to the Bishop for advice, who, as she declares, represented to her that, as they were first cousins and had contracted marriage without the necessary dispensation, the marriage was invalid, according to the laws of that church, and drew up a paper to that effect, which she called a divorce, signed with his name, as follows:

"Mary M'Shane states that she is the first cousin of John Cassiday, with whom she contracted marriage without the necessary dispensation; which marriage is invalid, according to the laws of the Catholic church.

† FRANCIS PATRICK KENRICK,

"Philada. Jan. 7, 1840.

Bishop, &c."

He told her that she committed a sin by living with him any longer, and her child was a bastard, and all their children would be such. The wife, therefore, left her husband, taking her child with her. On Thursday, her husband was arrested on a charge of abandoning her child, and brought before the Alderman. The husband, of course, denied the charge, and asserted his willingness to maintain them both, but that she had left him without sufficient cause, and, until she returned again, he did not think himself bound to maintain them. The magistrate, on hearing the evidence in this singular case, advised her to go home and live with her husband—that they had been legally married, according to the laws of the country, and no Bishop had power to divorce them—and that, if she were to contract marriage again during the lifetime of her present husband, she would be liable to imprisonment for bigamy. She would not consent, however, to live with him, after what the Bishop had said, but agreed to deliver the child to her husband's keeping, who readily consented to take it, and the parties then left the office, each to their respective homes.

This is the substance of the whole story, and, if the woman's statement is to be credited, it certainly is a very singular transaction, and seems to be an unwarrantable interference on the part of the church functionary between man and wife, and an attempt to set the laws of the church above

the laws of the land, by declaring that ceremony to be of no force, according to the laws of the former, which the laws of the latter make perfectly valid.

The "Ledger," of January 14, contains the following letter from the Bishop on the subject :

To the Editors of the Public Ledger:

DEAR SIRs:—A friend has just handed me your paper in which my name is introduced in reference to a case lately brought before a justice of the peace. As he informs me you professed your willingness to correct any mistake which the statement may contain. I beg leave to state that as far as I am concerned, the matter is a *mere affair of conscience*, on which my advice and instructions were solicited. The parties are, I believe, both professors of the Catholic faith, though the man is said to pay no regard to its practical duties. The laws of the Catholic church forbid marriage within certain degrees of kindred, and any marriages contracted by Catholics within those degrees, without a dispensation from the ecclesiastical authority, are considered as of no force in the ecclesiastical forum. The parties in question, having concealed the fact of their relationship.

Shortly after the marriage, the conscience of the woman being disturbed, she applied to me, when I offered to grant the necessary dispensation for the relief of her conscience, if she could induce the man to come forward. After a long interval she returned declaring her fixed determination to live with him no longer, when I again offered the dispensation. She said he would not believe her assertion that the impediment existed, unless I gave it under my hand. This is the whole of the affair, which is purely a *matter of conscience*.

Yours, respectfully,

† FRANCIS PATRICK KENRICK,
Bishop, &c.

Philadelphia, Jan. 13, 1840.

It will be perceived on reading the Bishop's letter, that he has been caught where he little expected it. Marriage is a civil institution existing as extensively as the race of man. The laws of all civilized nations declare the contract of the parties when entered into binding excepting in very peculiar cases, and that unless something extraordinary does occur this contract should not and cannot be dissolved. The case before us is that of two parties, of their own accord, in accordance with the laws of the land, entering into the marriage relation, and pronounced man and wife. The laws and society say and still say, the Bishop to the contrary notwithstanding, that they are man and wife. A difficulty arises between them—which is this: *the husband is unwilling to go over with his wife to the Papal system of religion. He will not become a convert to the doctrines of her church.* What now is to be done? She consults the Bishop. He informs her that being cousins they were never regularly married, that this marriage is invalid, and that she commits sin by living with him, that her child is a bastard, and that all their children will be such.

Now, if this sin be so great; if the parties have been living so long in the commission of it, should not the Bishop have made it known sooner. Or if he could by so few lines as divorced the parties, have made it a regular and acknowledged contract, should he not have

granted a dispensation? He could have so done, but this was not the point desired. It was the bringing of the other party over to the power of the Bishop. The Bishop cannot shuffle out of this, he is caught in his own trap. "*I offered to grant the necessary dispensation for the relief of her conscience if she could induce the man to come forward.*" And "*I again offered the dispensation,*" "*when she resolved no longer to live with him.*"—But, said she, "*he would not believe my assertion that the impediment existed, unless I gave it under my hand.*" The Bishop would have us believe that he gave the certificate dissolving the marriage contract, divorcing the parties, *merely* to convince him that there was an impediment to their lawfully living together as man and wife.

How very diffident the Bishop is when he says "I beg leave to state that so far as I am concerned, the matter is *a mere affair of conscience*, on which my advice and instructions were solicited." Then again in conclusion "This is the whole of the affair, which is purely *a matter of conscience*. Bishop, it will not stand the light. Papal laws—Roman statutes— canon laws—decrees of councils—long, long practice cannot be done away with so easily. We say, Bishop, you are caught, *caught in your own craftiness!* You gave a certificate, perhaps others have done the same, but the unfortunate part of yours, is, that it came before a magistrate, got into print, could not be gotten out, and must if possible be explained away. Alas into what a net the Jesuit Bishop has gotten! "*It is purely a matter of conscience.*" Yes, Bishop, so it is a matter of law and now matter of record. The deed is done, the fact is already among the archives of our country, and will be preserved among the advances of Popery. Yes, here is a Papal Bishop setting aside our laws, dissolving our civil relations, dispensing with the most sacred bonds, and then "*this matter is a mere affair of conscience.*" And pray, tell us, Bishop, what is not an affair of conscience in your system? And what crime is it *that you do not dispense with*, provided a sufficient recompense in money be made, or in some good act for the church? What wickedness will you not license men to perform?

We have a most important fact established by the Bishop—the *doctrine and practice of dispensations*. The doctrine of *indulgences* has been called a license to commit sin, but here the Bishop pronounces it sin, and says he will dispense with it provided they do thus and so. Very well, Mr. Bishop Kenrick, let us look into the book (*Taxa Cancellaria*) of *Taxes for Committing Sin* and having it dispensed. We will begin with

L I C E N S E S .

To marry in times prohibited,	2£ 5s.
To eat flesh in times prohibited,	1£ 4s.
Not to be tied to fasting days,	1£ 4s.
To go into a nunnery alone,	18s.

A B S O L U T I O N S .

For him that hath committed penury, that hath wilfully and falsely fore-sworn himself,	9s.
For a layman for the vice of simony,	9s.
For a layman murdering a layman,	7s. 6d.

For him that hath killed his father,	10s. 6d.
For him that hath killed his mother,	10s. 6d.
For him that hath killed his wife,	10s. 6d.
For him that hath killed his sister,	10s. 6d.
For a priest or clergyman, that keeps a concubine; as also his dispensation, to save him from being irregular, (which by general and provincial constitutions he incurs) all this together, at	10s. 6d.

DISPENSATIONS.

For a bastard to enter all holy orders, and take a benefice with a cure,	18s.
To marry in the 1st degree,	2£ 14s.
To marry her with whom one hath a special kindred,	4£ 10s.
For one who having one wife absent, and hearing her to be dead, marryeth another, but she proving to be alive, he notwithstanding, desireth to keep, and live with the latter,	15s.

—See the 1st vol. of this Mag.—from pages 364 to 371.

It is a most remarkable incident that the Bishop should let out one of the doctrines of the church which involves in its train such accumulating evidence of their treading in the steps of their fathers, and doing their works. Wickedness has been systematized in the papacy, and prices set to each act of iniquity. The above are only a few out of many of the things set down for sale in the catalogue of the great system of wickedness.

The admission on the part of the bishop will save us a good deal of trouble hereafter when we come to shew the effects of his prohibitions and dispensations. If he can dispense with sin and make it no sin, or if he can lay aside our laws and institutions as wrong, and forbid his people to sustain and uphold them, we have at once opened a wide field in which for this and other bishops to exercise their ghostly power. This is not the first case in which we have it, that our institutions are not according to the Papal rules and regulations. He that can dispense with a marriage contract, can also with our laws. He that does so, does break down our laws. If so he can dispense with the obligation and allegiance of Papists to all our laws. He that can do this, can also dispense with the oaths binding man to his fellow man, and opens the door in its full extent to the doctrine, that it is unlawful to keep faith with heretics. That such contracts like the marriage contract "are forbidden by ecclesiastical authority and considered of no force in the ecclesiastical forum," there is no doubt, but should they ever be caught in such a trap as that into which the Bishop has walked, they will have to come off as he does. They do not mean to interfere with the laws, (that is, they do not mean to get caught doing so), "it was only a matter of conscience," "a mere affair of conscience."

PAPISTRY OF THE XIX. CENTURY IN THE UNITED STATES.

No. IX.

THE pamphlet from which the following extracts are taken, was apparently the *fourth* one issued by Mr. HOGAN. We publish them before taking any notice of his preceding ones because it is directly in answer to the one re-printed, in part, in our last number. It is a thick pamphlet of fifty-four pages—with the title given below. There is no imprimatur, nor any date printed on the title page; but the internal evidence shows conclusively that it was printed in Philadelphia, early in 1821: and some one (most probably the late *Robert Barry, Esq'r*, of Baltimore, who was the proprietor of the whole set which fell into our hands in the manner described in the first number of this series) has written with a pencil on the bottom of the title page "*March, 1821.*"

The reader will find from the samples given, that a pretty rigorous defence is made by HOGAN; and perhaps will conclude with us, if only a small part of what these pious and most loving nuns and priests say of each other and of their church be true, they are a most infamous set of vagabonds and their church a most detestable den of reprobates. Remember the speakers are their head men.

"A Brief Reply to a Ludicrous Pamphlet compiled from the Affidavits, Letters and Assertions of a number of Theologians, with the Signature of Henry, Bishop, and entitled Sundry Documents, Addressed to St. Mary's Congregation."

HAVING seen a publication entitled sundry documents, and containing an affidavit of the Rev. George D. Hogan, in which he states, that the Rev. William Hogan, now of Philadelphia, had been suspended by Bishop Tuohy of Limerick, I deem it a duty which I owe to the accused individual, to myself, and to the community, to communicate my knowledge in reference to the charges contained in the said affidavit. At the time the Rev. William Hogan officiated in Limerick, the situation which I held in St. John's church for six or seven years, (playing in the choir) and the circumstance of having gone alternately on Thursdays to the houses of Bishop Tuohy and Mr. Hogan to practice, would have given me full opportunity of becoming acquainted with the facts alleged by G. D. Hogan, had they ever existed. Added to these opportunities of information, that which has been afforded by my father, who has been for the last thirty years, sexton of the said church, has given me ample means of knowing the situation of all the Catholic clergymen in Limerick, and particularly of those attached to St. John's church, wherein the Rev. William Hogan officiated, as is asserted in the affidavit referred to. And I now most solemnly believe and declare, that the statements made in the deposition of G. D. Hogan derogatory to the character of the Rev. William Hogan, are utterly unfounded: had such occurrences, as are related by him, really taken place, I am satisfied that they could not have escaped my knowledge. So far from there having been any suspension of the Rev. William Hogan by the Right Rev. Bishop Tuohy, on the contrary, I am able to declare that the Bishop often spoke of Mr. William Hogan in the highest terms, in relation not only to piety, but general decorum of character; and in addition to this tribute to justice, I may truly say, that I have never known

any man in Ireland to speak disrespectfully of Mr. Hogan, but that he was as much respected and beloved as any clergyman ever known in Limerick.

"As for the assertion in the affidavit, that G. D. Hogan interceded with the Right Rev. Bishop Tuohy in behalf of the Rev. William Hogan, I can only state my knowledge of his situation at that time, which would rather appear irreconcilable with the assertion made by him—it is for me however to state facts, not to draw inferences, they are left to an impartial public. At the period referred to, when this intercession is said to have taken place, Mr. G. D. Hogan was a mere school-boy, dependent upon the bounty of Rev. William Hogan, and possessed of no influence whatever with the clergymen in power. Rev. William Hogan had numerous, respectable and powerful friends, which, even if G. D. Hogan had been possessed of more influence than he had, would have rendered his intercession altogether superfluous. Grounding myself upon these facts, and various others which require not to be minutely dilated, I have no hesitation, acting as I do under the most conscientious respect for the solemnity of an oath, in declaring it to be my firm belief that the charges in the affidavit of G. D. Hogan are erroneous, if not utterly unfounded.

JOHN LEAHY.

"Sworn and subscribed this 21st day of March, before me,

AMB. SHOEMAKER, *Alderman.*

"A publication entitled sundry documents, &c., having come into my hands, I read with great surprise an affidavit of the Rev. G. D. Hogan contained therein, in relation to the conduct and situation of the Rev. William Hogan while in Ireland, calculated very materially to affect the character of that gentleman as a Catholic clergyman. I say it was with surprise, because at the time referred to in the affidavit, I was a member of the Catechetical Society of St. John's church, and in that situation had an ample opportunity of an acquaintance with the various clergymen therein officiating, and the general estimation in which they were held, as well as with their particular circumstances and situations; and I now feel authorised to declare, that at the departure of Mr. Hogan from that diocese, the expression of regret among all classes of the congregation was extreme, and that the Rev. P. M'Namara, the Rev. James O'Regan, the Rev. G. Wolf, the Rev. E. Tuohy, the Rev. Thomas Cull, the Rev. M. Fitzgibbon and the Rev. D. Lynch, all Catholic clergymen of Limerick, spoke particularly and frequently in the highest manner of the Rev. William Hogan, and expressed upon various occasions, their deep sorrow at his leaving Ireland. The Vicar General, P. Hogan, always appeared to be exceedingly attached to him, and was a constant visitant at his house, up to the period of his departure. Such was the fondness of Bishop Tuohy for Mr. Hogan, and so openly was it evinced, that the parishioners denominated him the Bishop's pet. In addition to this just testimonial to Mr. Hogan's worth and distinguished estimation, I also solemnly depose, that I have never heard any person in Ireland express himself in terms derogatory to Mr. Hogan in any respect whatever; and indeed so far from it, that no man was more sincerely and universally beloved while he remained among them, and no man's departure was ever more deeply felt or generally regretted. I heard his farewell sermon at St. John's church, by which the people were so sensibly affected as to express their grief aloud, thus affording the most satisfactory proof of his usefulness as a preacher, and his character as a man. As to Mr. Hogan's having been suspended by Bishop Tuohy, it is the first time such a suggestion has reached my ears; I am unable to credit it myself, and I should suppose there are but few persons who could reconcile it with those proofs of high regard, which were exhibited by the Bishop and all the clergymen in Limerick, at the

time referred to in G. D. Hogan's aforesaid affidavit. I now most solemnly believe and depose, that the deposition made by G. D. Hogan, in relation to the suspension of the Rev. William Hogan by Bishop Tuohy, is destitute of foundation; and that the assertion in the affidavit, that G. D. Hogan was a mediator, cannot be believed; because, at the time referred to in the affidavit, G. D. Hogan's standing, age and appearance, were such as to make him rather the associate of boys and children, than the *director* or adviser of Bishop Tuohy, to whom I am well convinced he was no further known, than as messenger from his benefactor; as it is well known that G. D. Hogan was dependent on the hospitality of the Rev. William Hogan.

JOHN AHERN LEAHY.

"Sworn and subscribed this 21st day of March, 1821, before me,

AHM. SHOEMAKER, *Alderman.*

"God send Henry, Bishop's *inquiry* about the situation of this young man, so much persecuted (according to himself,) by Mr. De Barth has not, more or less influenced him in making the above false depositions. I trust this can never be proved against Henry, Bishop, as I have reason to apprehend he would find it more difficult, to evade the vigilance of our police *here than in Belfast*—if Henry, will read an act passed in the reign of Elizabeth, in the year 1562; and in force even in this state at present, entitled "An act for punishment of such as shall *procure* or commit any wilful perjury, he will be cautious how he interferes in future; his letters will not be as *complimentary* as this to G. D. H., his being Henry, Bishop; V. G. to the Primate of all Ireland, for twenty-four years; author of the Pastoral Charge and Sundry Documents; will not protect him, no matter what *his estate, condition or degree* may be, he is liable to punishment, which consists in a forfeiture of property, if he has any, confinement or pillory—It would be truly a melancholy business, if in the course of time, we were to prove that H. and the Rev. Mr. D. B. used illegal means to procure the depositions of this unhappy young man, and thus sacrifice his own soul, and alienate him from his God.

"Next in order are the letters of the Metropolitan [Archbishop] of Baltimore; he says, page 17 Sundry Documents "that after the public appeal I made to the congregation, I had no right to call on him as Metropolitan, to interfere." How conclusive and satisfactory are his reasons for not interfering, and how consistent with the purport of the letter which he addressed to the committee of the congregation of St. Mary's, dated March the 15th 1821.

"The following is a correct copy of the Archbishop's letter:

Baltimore, March 15th, 1821.

"GENTLEMEN,

"I am very sorry to be under the painful necessity of informing you, that my jurisdiction as Metropolitan, does not extend to the case, which is now the source of the enormous scandals existing in your city. But if for want of competent authority, I cannot, as the head of this ecclesiastical province pronounce upon it, I may however as a Catholic prelate, and your sincere friend, tell you, that independently of the charges brought against Mr. Hogan, his infamous pamphlets exhibit enormous and manifest proofs, that he is a most abandoned character, and that by defending his cause, you cannot but infallibly involve yourselves, your families, and perhaps many hundreds of your fellow Christians in guilt, and a boundless spiritual misery.

"Surely it would be infinitely more grateful to me, to give you an answer more consonant to the sentiments expressed in your memoir; but my duty to Almighty God, my attachment to the Catholic church, and my ardent

wish for your temporal and eternal happiness, do not permit me in so momentous a case, to speak to you any other language, but this is of plain truth and episcopal sincerity.

I am, Gentlemen, respectfully,

Your Obt. humble servant.

Signed,

* * * * AMBROSE,
Archbishop of Baltimore.

TO JOHN LEAMY, Esq.
JOHN ASHLEY, Esq.
JOSEPH DUGAN, Esq.
M. DORAN, Esq.
TIM'Y. DESMOND, Esq.

The following documents contain the answer of the committee of St. Mary's congregation, and their reasons for publishing them.

"On the 13th inst. the committee addressed a most respectful memorial to the Archbishop of Baltimore, requesting his mediation, for the re-establishment of peace and harmony in the church, as well as for the restoration of the Rev. William Hogan, and to which the underneath answer was returned.—We were not a little surprised to find a copy of the said answer, had been immediately despatched to Dr. Conwell, whom we are informed has given free circulation to it. We think justice required, that it should have been accompanied with the committee's memorial, as the congregation would then have seen, how little they merited so handsome a reply. It was not our intention at present, to have given publicity to these papers, believing it to be indecorous, but as these Rev. Divines, have not been guided by the same honourable feelings, we deem it right, that the congregation should be made fully acquainted with our reply thereto, which will evince our sentiments on this unprecedented procedure.

SIGNED BY THE COMMITTEE.

Copy of the Committee's answer to the Archbishop.

"MOST REVEREND SIR,

"We have the honour to acknowledge the receipt of your favour, of the 15th inst. in answer to our *expose* and appeal of the 13th, in behalf of the congregation of St. Mary's, of this city. You were pleased to inform us, that your jurisdiction as Metropolitan, does not extend to the case, which is now the source of the enormous scandals, existing in this city, and that your authority cannot be exercised, beyond the ecclesiastical province, in which you reside.—We were under very different impressions, or we never should have obtruded the complaints of this congregation on your time. We believed that the Metropolitan at Baltimore, was the head of the Roman Catholic church in the United States, and that all the Bishops, in this country, were your suffragans—and that thus constituted, our church in the United States, formed a complete hierarchy, composed of superior, and inferior Prelates, and their clergy—but it would appear from your letter to us, that this is not the case, and therefore, we must understand, that each Prelate in his own diocese, is sovereign and independent of all authority short of his Holiness, and may act as uncharitably, inconsiderately, or even tyrannically, as his inclinations may impel him. We deeply regret that it is so, as we seriously apprehend such consequences may be produced, by the present strife, as will give much cause of regret to our Holy Father—but we shall always carry with us, even to our graves, the pleasing consolation, that we have done our duty as children of the church; and the

painful reflection, that if we have not succeeded in our endeavours, it was, because our laudable exertions, only encountered opposition, where they ought to have met support. Thus much for our conduct in this business—we have neither self-interest, or other consideration in view, but the good of our holy religion; we ask nothing for ourselves—we are only beseeching and supplicating on behalf of a very large congregation; and in performing this duty enjoined upon us, by their unanimous voice, we must take the liberty of assuring you, that we entertain no apprehensions of involving ourselves, our families, nor any others, of our fellow Christians, in guilt or spiritual misery.

"It evidently appears, that you have been grossly deceived, by the misrepresentations, which have given rise to your admonitions; and we are well persuaded, you have been so, ever since your visit to this city, during last summer, and we trust that time will convince you and the world, of the truth of our assertions.

"You will be pleased to recollect, and we pray it may not be forgotten, that the Rev. Wm. Hogan, appealed to you two days after his suspension, and that the pamphlet now adduced, as the strong argument against him, was not published until several weeks afterwards.—If during that period, you had thought proper of having acted as a mediator, there can be no doubt of the good effects it must have produced, and we cannot but attribute your indifference in this affair, to the unfortunate impressions, made upon you during your visit among us.

"We openly, and sincerely declare ourselves Roman Catholics; born, and baptised, in the church; we have uniformly acknowledged His Holiness the Pope, as the Vicegerent of Christ on earth—we are not ignorant of the mild character of our church, and of our religion, nor are we ignorant of the unwise, uncharitable, and persecuting dispositions, of some of its unworthy ministers.—The enormous scandals, which you so highly deprecate, arise from that cause, and the disgrace of our holy religion in this city, has become the unfortunate price of such unhallowed conduct; but this pastor happened to be a secular priest, possessing talents, seldom to be met with in our church, and nothing short of a deep and foul conspiracy, could remove him.

"A copy of your letter, in answer to our memorial, we find has been sent to Dr. Conwell, who is industriously exhibiting it, to men, women, and children. However gratifying this may be to the Bishop, and to the rest of the Rev. gentlemen, composing his chapter, we nevertheless lament, that we have afforded you an opportunity of again wounding the feelings of the Rev. Wm. Hogan. Whatever satisfaction this strange mode of procedure may afford you, and them, you may be well assured the congregation at large, must condemn it, as they will see that any appeal to a Metropolitan, let the cause be what it will, they have no chance of redress.

"We have the honour to remain with great respect and high consideration,

Most Rev. Sir,

Your most obt. humble servants,

JOHN LEAMY, *Chairman.*

JOSEPH DUGAN.

JOHN ASHLEY.

TIM'Y DESMOND.

MICHAEL DARON.

To the most Rev. Ambrose, Archbishop of Baltimore.

Philadelphia, March 23d, 1821.

JOSEPH M. DORAN, *Sec'y.*

"Page 24 Sundry Documents, WE FIND "EXTRACT OF A LETTER FROM A CELEBRATED DIVINE." I should speak of this in its proper place, were it not the production of the Metropolitan* of whom we have been just speaking; I have read the extract in an address to the people of Norfolk. That the most Rev. writer is Metropolitan I am aware, but the title of Celebrated Divine is novel, when applied to him; we have not heard of his having done any thing for the theological world, all we hear of him is, that he is Metropolitan; but when we have occasion to apply to him in his official capacity, he either absolutely refuses to interfere, or gives an evasive answer. We have never heard of his having advanced the interests of theology, or by his timely and prudent interference, prevented a single scandal that existed in the Catholic church of America, since his promotion. I appeal to the people of Norfolk for the truth of this assertion; did he, when they appealed to him to settle the differences which existed in their church, and which since have given so much scandal, interfere, and by his authority and prudence quell them? No, he allowed them to advance to such a height, as that his interference became useless; he then issues a pamphlet, as far from bearing on the point in question, as the Antipodes are asunder. I appeal to the Catholics of New York; did he interfere? Did he listen to their appeal? and by that means prevent those disgraceful scenes which took place among the clergymen and members of that congregation? I appeal to the Catholics of this city; did he listen to their appeal? Look at his answer to their memoir, is it not a tissue of evasion and prevarication?

"The extract from the Celebrated Divine, is quoted for the purpose of justifying Dr. Conwell in attempting to suspend me; see page 27 of Sundry Documents; "bishops have authority to suspend even the beneficed clergy, without previous monitions, for private crimes, which no tribunal on earth can oblige them to reveal." Abstracting entirely from canon law, I ask any man, is it probable that the church in her wisdom would give such power to any mortal, naturally weak and corrupt. Suppose a bad and wicked bishop (a supposition by no means, alas improbable) got the government of a diocese, and suppose this wicked bishop wished to remove from it all the virtuous clergymen, and have none but those who would be accomplices in his guilt, and sharers in his iniquity; if these virtuous clergymen murmured against the injustice of his LORDSHIP'S conduct, could he not justify himself by saying he had *private reasons, and that no tribunal on earth could oblige him to reveal them*? No, it would be neither just nor equitable, yet according to THE CELEBRATED DIVINE, it should be the case. The *Celebrated Divine* says, that such is the doctrine of the council of Trent; this assertion is no less impious than absurd. What? is an infallible council, a council, a council at which we believe the Divine Spirit presided, so palpably inconsistent as to say, in the 25th session, that suspension should not be inflicted unless on *an uncommon occasion, ex re non vulgari*, and after previous admonitions, *monitionibus premissis*, and in another session declare, that it can be inflicted for "private and conscientious reasons, which no tribunal on earth can oblige a bishop to make known." No, it would argue in our church government a want of wisdom and judgment, which the legislators even of civil law would blush at.

"What could have been the object of Henry, Bishop, in publishing this letter, even dishonestly mangled and curtailed as it has been?

"I have the advantage of the father of the Reformation; the Right Rev. Henry, with whom I differ in several points, not appertaining to doctrine, has saved me the trouble of excommunicating him; he has done it himself by violating intentionally, or through ignorance, the canon law of the Roman Catholic church.

*Archbishop Mareschall.

"Henry, Bishop, asserts, that he is justified by his *conscience* in *withdrawing faculties* from me, "in virtue of what canonists call *conscientia informata*," or private charges. Really it astonishes me, that a man at his period of life, tottering and crumbling to the grave, would assert as a fact what he is ignorant of, or a wilful falsehood; either of which Henry, Bishop is guilty of, as will appear evident from the following canon, taken from the second part of the decree, cause the second—question the first—canon the 19th, &c.

"No sooner did Henry, Bishop, abuse his authority, expose his ignorance; and insult the largest congregation in America, by uttering from the altar of the Most High, language, which the most wicked man would blush at, than I represented his conduct, as I was bound and authorised, to the Metropolitan of Baltimore, who, by not attending to my remonstrance, degrades his exalted situation and inflicts on the Roman Catholic church a wound which will fester and probably not be healed for generations to come; what do these Right Rev. gentlemen imagine?

"Henry, Bishop, must either be ignorant of the doctrine of our church on this head; or he wishes, by showing that it is inconsistent with itself, to turn it into ridicule.

"But as Henry, Bishop, holds in defiance the canon law, and seems to be dead to every feeling of charity and fraternal love, let him rest assured that I will at a proper time and under different circumstances, show Henry, Bishop, that though he be not charitable, he *must* be just; and drag into public view, even from under the sacred mantle of episcopacy, to which he is a disgrace, the baseness of his conduct and corruption of the heart.

"I have been the theme of Henry, Bishop's public and private slander and calumny; there has not been an exhortation in St. Mary's church since I left it, in which the Rev. and untaught boys who endeavoured to deliver them, have not made the most pointed allusions which ignorance could suggest, or vulgarity devise, at me. But particularly a creature of the name of Cumiskey, who is much better fitted by nature and education to harness and manage a yoke of oxen, than for a Christian preacher, or a teacher of the Catholic faith.

"Here a system of religious slavery is attempting to be introduced, by which, an ascendancy will be acquired over the physical and mental powers of one fifth of our population, and if tolerated, will ultimately degrade a large portion of a noble, proud and generous nation, who have fought for their freedom and won it.

"As the last sheet of the reply to Sun. Documents was going to press, I accidentally met with a pamphlet, containing a correspondence between the Roman Catholics of Charleston, and the Archbishop of Baltimore, on the subject of restoring to his functions a useful and favourite clergyman. It also contains a memorial of the Charleston Catholics to the court of Rome; but what is much more to our present purpose, it contains an extract of a letter from the Cardinal Prefect of the Propaganda, which not only justifies the severity of my remarks on the Archbishop of B for not attending to my appeals, but also proves to a demonstration, that the doctrines contained in my pamphlets, relative to suspension, is that now taught at Rome, and which should be practised in the universal church. The correspondence on the part of the Charleston people, breathes a spirit of forbearance, till provoked to harshness of expression; of obedience, till goaded to resistance; of charity, till drove in self-justification to recrimination; of allegiance, till forced by ill treatment to defection; which reflects credit on them as men, Christians, and Catholics: while on the contrary, the correspondence on the part of the Metropolitan, which may be seen by referring to pages 10, 16, 17, of the Charleston pamphlet, exhibits a tone of despotism, intolerance, prevarication and evasion, which disgraces alike the man and the prelate. But I shall leave the Baltimore Metropoli-

tan to his God, and call the public attention to that part of the Cardinal's letter which establishes the doctrine contained in my pamphlets, relative to suspension, and severely reprimands his grace for a neglect of duty in the Charleston affair.

"The following are the words of the Cardinal Prefect, to Ambrose Mareschal, Archbishop of Baltimore. "Si pro culpa, qualibet statim removendi forent pastores, vix eorum, aliquis in ecclesiamaneret; premitenda monita sunt, audienda defensio, attendenda emendatio, quæ omnia ab amplitudine tua minime servata sunt." If pastors are to be removed for any faults whatever, scarce one would be left in the church; admonition is to be first tried, their defence to be heard, reformation should be waited for, all which have been left unobserved by your Grace. This is precisely the doctrine contained in my pamphlets, and which Henry, Bishop, denies to be still in force. I have proved from the ancient canons of the Roman Catholic church, and from the council of Trent, that no bishop should presume to suspend a priest, or withdraw faculties from them, unless for a sufficient cause, by proving before an ecclesiastical court, *that he is guilty of a grievous crime, and having given him previous admonitions.*

"Has Henry, Bishop, proved before an Ecclesiastical court that I have been guilty of a grievous crime? No! Has he given me previous admonitions? No! Has he heard my defence! No! Consequently Henry, Bishop, has acted uncanonically; and the Metropolitan, in encouraging him to persevere in his proceedings, either does not know his duty, or from what motives I know not, is unwilling to perform it. In the next pamphlet, I shall for the public good, and the interest of Catholicity in this country, show, from the body of our canon law, the duty of an Archbishop.

PAPAL DOCTRINE AND POLICY FOR THE EXTIRPATION OF PROTESTANTS.

CARDINAL Bellarmine is a standard theologian among Papists. His works are in as high repute as the bulls of their popes. From him we learn the doctrine and policy of the system.

"When the question is, whether HERETICS, thieves and other wicked men are to be EXTIRPATED, it is always to be considered, according to the purpose of the Lord, whether it can be done, without injury of the *good* (Catholics,) and if indeed it can be done, THEN WITHOUT DOUBT THEY ARE TO BE EXTIRPATED; but if it cannot be done, because they are not sufficiently known, and there is danger of injuring the innocent instead of the guilty; OR THEY BE STRONGER THAN US, AND THERE IS DANGER IF WE MEET THEM IN BATTLE, THAT MORE MAY FALL AMONG US THAN AMONG THEM; in such case, we should be quiet."

Lib. 3, cap. 22, De Laicis.—Cum autem quæstio est, vel de Hæreticis, vel de Furibus, vel de Aliis malis; An sint extirpandi; semper considerandum est, juxta rationem Domini, an id possit fieri sine detrimento bonorum, et si quidem potest fieri, sunt procul dubio extirpandi: si autem non potest, quia vel non sunt satis noti, et periculum est ne plectantur innocentes pronocentibus, vel sunt fortiores nobis, et periculum est ne si eos bello aggrediamur, plures ex nobis cadant, quam illis, tunc quiescendum est.

Father La Chaise's Project for the Extirpation of Heretics, in a Letter from him to Father Peters, 1688.

"WORTHY FRIEND:—I received yours of the 20th of June last, and am glad to hear of your good success, and that our party gains ground as fast in England; but, concerning the question you have put to me, that is, "what is the best course to be taken to root out all heretics?" To this I answer, there are divers ways to do that, but we must consider which is the best to make use of in England. I am sure you are not ignorant how many thousand heretics we have in France by the power of our dragoons, converted in the space of one year: and by the doctrine of those boasted Apostles, turned more in one month, than Christ and his Apostles

could in ten years. This is a most excellent method, and far excels those of the great preachers and teachers that have lived since Christ's time. But I have spoken with divers fathers of our society, who do think that your king is not strong enough to accomplish his design by such kind of force; so that we cannot expect to have our work done in that manner, for the heretics are too strong in the three kingdoms; and therefore we must seek to convert them by fair means, before we fall upon them with fire, sword, halters, jails and other such like punishments; and therefore I can give you no better advice than to begin with soft, easy means. Wheedle them by promises of profit, and places of honor, till you have made them dip themselves in treasonable actions against the laws established, and then they are bound to serve for fear. When they have done thus, turn them out, and serve others so, by putting them in their places; and by this way gain as many as you can. And for the heretics that are in places of profit and honor, turn them out, or suspend them on pretence of misbehaviour; by which their places are forfeited, and they subject to what judgment you please to give upon them. Then you must form a camp that must consist of none but Catholics; this will make the heretics heartless, and conclude all means of relief and recovery is gone. And lastly take the short and the best way, which is, to surprise the heretics on a sudden; and to encourage the zealous Catholics, let them sacrifice all, and wash their hands in their blood, which will be an acceptable offering to God. And this was the method I took in France, which you see hath well succeeded; but it cost me many threats and promises before I could bring it thus far; our king being a long time very unwilling. But at last I got him on the hip; for he had lain with his daughter-in-law, for which I would by no means give him absolution, till he had given me an instrument under his own hand and seal, to sacrifice all the heretics in one day. Now, as soon as I had my desired commission, I appointed the day when this should be done; and in the meantime made ready some thousands of letters, to be sent into all parts of France in one post night. I was never better pleased than at that time; but the king was affected with some compassion for the Hugonots, because they had been the means of bringing him to his crown and throne; and the longer he was under it, the more sorrowful he was; often complaining, and desiring me to give him his commission again: but that I would by no persuasion do; advising him to repent of that heinous sin, and also telling him that the trouble and horror of his spirit did not proceed from any thing of evil in those things that were to be done, but from that wickedness that he had done; and that he must resolve to undergo the severe burden of a troubled mind for one of them or the other; and if he would remain satisfied as it was, his sin being forgiven, there would in a few days be a perfect atonement made for it, and he perfectly reconciled to God again. But all this would not pacify him; for the longer, the more restless; and I therefore ordered him to retire to his closet and spend his time constantly in prayer, without permitting any one to interrupt him; and this was in the morning early, when the evening following I was to send away all my letters. I did indeed make the more haste, for fear he would dis-

close it to any body, yet I had given him a strict charge to keep it to himself; and the very things that I most feared to my sorrow, came to pass; for just in the nick of time, the devil who hath at times his instruments at work, sent the Prince of Conde to the court, who asked for the king; he was told that he was in his closet and would speak with no man. He impudently answered, "that he must and would speak with him," and so went directly to his closet; he being a great peer, no man durst hinder him. And, being come to the king, he soon perceived by his countenance, that he was undergoing some great trouble of mind; for he looked as if he had been going into the other world immediately. "Sir," said he, "what is the matter with you?" The king at the first refused to tell him, but he pressing harder upon him, at last the king with a sorrowful complaint burst out and said—"I have given Father La Chaise a commission, under my hand, to murder all the Hugonots in one day; and this evening will the letters be despatched to all parts by the post, for the performing of it; so that there is but small time left for my Hugonot subjects to live, who have never done me any harm." Whereupon this cursed rogue answered, "Let him give you your commission again." The king said, "how shall I get it out of his hands? for if I send for it, he will refuse to send it." This devil answered, "If your majesty will give me order, I will quickly make him return it" The king was soon persuaded, being willing to give ease to his troubled spirit, and said, "well, go, then, and break his neck if he will not give it you." Whereupon this son of the devil went to the post house, and asked if I had not a great number of letters there? And they said, "Yes, more than I had sent in a whole year before." "Then," said the Prince, "by order from the king, you must deliver them all to me;" which they durst not deny, for they knew well who he was. And no sooner was he got into the post house and asked these questions, but I came also in after him, to give order to the post-master to give notice to all those under him, in the several parts of the kingdom, that they should take care to deliver my letters with all speed imaginable. But I was no sooner entered the house but he gave his servants order to secure the door, and said confidently to me, "You must by order from the king, give me the commission which you have forced from him." I told him I had it not about me, but would go and fetch it; thinking to get from him and so go out of town, and send the contents of those letters another time; but he said, "You must give it; and if you have it not about you, send some body to fetch it, or else never expect to go alive out of my hands; for I have an order from the king to bring it, or break your neck, and I am resolved to carry that back in my hands, or else your heart's blood on the point of my sword." I would have made my escape, but he set his sword to my breast, and said, "You must give it me, or die; therefore deliver it, or this goes through your body."

So when I saw nothing else would do, I put my hand in my pocket and gave it to him; which he carried immediately to the king, and gave him that and all my letters, which they burned. And being all done, the king said, now his heart was at ease. Now, how he should be eased by the devil, or so well satisfied with a

false joy, I cannot tell; but this I know that it was a very wicked and ungodly action, as well in his majesty as in the Prince Conde, and did not a little increase the burden and danger of his majesty's sins. I soon gave an account of this affair to several fathers of our Society,* who promised to do their best to prevent the aforesaid prince's doing such another act, which was accordingly done; for within six days after the damned action, he was poisoned, and well he deserved it. The king also did suffer too, but in another fashion, for disclosing the design unto the prince, and hearkening unto his counsel. And many a time since, when I have had him at confession I have shook hell about his ears and made him sigh, fear and tremble, before I would give him absolution; nay more than that, I have made him beg for it on his knees, before I would consent to absolve him. By this I saw that he had still an inclination to me and was willing to be under my government; so I set the baseness of the action before him, by telling the whole story and how wicked it was, and that it could not be forgiven, till he had done some good action to balance that, and expiate the crime. Whereupon he at last asked me what he must do? I told him he must root out all heretics from the kingdom. So, when he saw there was no rest for him, without doing it, he did again give them all into the power of me and our clergy, under this condition, that we would not murder them, as he had before given orders, but that we should by fair means, or force, convert them to the Catholic religion. Now, when we had got the commission, we presently put it in practice; and what the issue hath been you very well know. But now in England the work cannot be done after this manner, as you may perceive by what I have said to you; so that I cannot give you better counsel, than to take that course in hand wherein we were so unhappily prevented; and I doubt not, but it may have better success with you than with us.

I would write to you of many other things, but I fear I have already detained you too long; wherefore I will write no more at present, but that I am,

Your friend and servant,

Paris, July 8th, 1688.

LA CHAISE.

This letter from La Chaise, confessor of Louis XIV., to Father Peters, confessor to James II., of England, in 1688, was furnished to the "Antidote," a paper of Great Britain by Sir Harcourt Lees, who for its authenticity refers to the 7th vol., 4to, of the collection of manuscript papers selected from the library of Edward Harley, Earl of Oxford—and will be found page 660, ii. vol of the American edition of McGavin's Protestant.

Who can read without emotion the cold-blooded purpose of this Jesuit priest to extirpate the Protestants of Great Britain? Of what spirit must a man be, that can narrate the part he had in that most diabolical persecution in France? But let us not forget the doctrine and policy of the Papal system as described by Bellarmine at the head of this article, and as projected by this priest. *The end, is the extirpation of heretics.* The means to this end, must be ac-

* The Society of Jesuits.

cording to the people with whom they have to do, and the power in their hands of carrying out their plans. Whenever they can with safety to themselves destroy us from the earth, then are they with certainty to do it.

NOTICES, RECEIPTS, ACCOUNTS, ANSWERS TO LETTERS, &c.

JANUARY 25.—Mrs. N. A. Bishop, Ebenezer ville, York, S. Carolina, name added to our list from Nov. 1839, by order of E. Avery, P. M.—Rec'd of Rev. D. Baker \$7; \$2,50 for Cap't Dearing, balance placed to his credit, and Mag. discontinued.—Rev. B. M. Smith, letter rec'd, with \$5 enclosed, credited \$2,50 for his subscription for 1840; \$2,50 to that of Dr. Morrison, for the same year, and the names of Rev. J. A. Gretter, Dr. Morrison, Rev. J. C. Thompson, and Rev. Hugh McLaurin, added to our list from Jan. 1840.—\$3, from Rev. T. Love, Loveville, Del. for 1840, and the balance placed to his credit.—Mr. A. G. Halsey, can pay to our agent, Mr. Carter, 112, Canal street, his Magazine discontinued.—J. W. McClung, P. M. Fairfield, Rockbridge, Va., \$10, for 1835, 6, 7, and 8. We will be able to furnish him with the Nos. desired to complete his volumes.—Rev. H. R. Wilson, Shippensburg, \$2,50, for 1840.—John Kelso, Esq., \$2,50, for '40.—Rev. T. M. Boggs, Marietta, Pa., \$5, and stopt.—Miss H. Hays, 2,50, for '39; Jas. Wilson, \$2,50 for 1840, and S. S. Patterson, \$2,50 on acc't., through J. B. & Co. of this city.—Mrs. Sarah Trippe, Mrs. Rickey, and T. Symington, added for 1840.—Rev. Abm. Rick, Indianapolis, Indiana, added for 1840.—Dr. Ed. M. Beckett, name added from June, 1837, per order of J. Townsend, of S. C.—\$10 through Rev. J. C. Wilson, Waynesborough, \$2,50 for himself, for J. Bell, Esq., Rev. W. Brown, of Staunton, and Rev. Alex'r B. McCorkle, Greensville, Aug. Co. Va., and their names added from 1840.—Rev. J. Leyburn, Petersburg, Rev. J. Butts, Painsville, and W. T. Taylor, Richmond, Va. names added from '40, by order of S. Winfray.—Rev. Mr. McClusky, west Alexandria, Pa., added for 1840.—\$2,50 from Mrs. Gittings, and name added from '40.—Rev. Sam'l W. Blair, Scott's Ferry, Albemarle Co. Va., name added from '40, by order of Mr. Perkins, P. M. at that place.—Rev. E. L. Hazelius, Lexington, C. H., and Rev. G. Carter, Stony Point, Abbeville District, S. C. added from 1840, by letter from S. Weir, Esq., and \$2, 50 credited to Mr. Carter.—Rev. J. Dorrance, Wilksbarre, added from '40.—\$6 through P. M. at Georgetown, Ky, credited to Mr. Tarlton and discontinued from Jan. '40.—M. C. Bartley, Hempstead, N. H. added from Jan. '40, and \$2, credited on his acct.—\$5 from D. Kirkwood, York, Pa., the vol. of 1839, if possible, will be forwarded, and he credited for 1839, and '40.—H. Brent, Esq. Paris, Ky., discontinued and the \$2,50 pd. our agent, credited to him.—\$5 through P. M. at Warren, Chester Co. Pa. and credited to C. J. Davis.—\$5 through S. H. C. member of Congress, for C. M. Cunningham, Esq. Harrodsburgh, Ky., and placed to his credit.—\$2,50 for J. Robinette, York Springs, for '40.—\$7,50 from J. C. Barnes, Dayton, Ohio, through Mr. McIntire, \$5 to his acct. and \$2,50 to the credit of Mr. Samuel McPherson, of Dayton, and his name added from 1840.—Letter from Judge Ewing, Uniontown, Pa., enclosing an order for \$15, and three new subscribers, J. B. Howell, Esq., John Dawson, Esq., Uniontown, and Thomas M. Griffin, Esq., Washington, Pa.; these names added from '40, and \$2,50 credited to each and to Judge Ewing, with the balance to the credit of Richard Beeson, Esq.—\$7,50 per Miss Jordon, \$2,50 credited to Mr. W. Michaels, Belle Air, \$2,50 to the Miss Jordans for 1840, and \$2,50 to Mrs. M. A. Smith, Churchville, whose name is added from 1840. In the Dec. No. for 1839, Mr. Michaels is mentioned as being indebted for that year, which was a mistake. Such mistakes with all care on our parts do unavoidably happen, but which we most cheerfully correct when discovered.

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[No. 3.

MEMOIRS, TO SERVE AS A HISTORY OF THE SEMI-PELAGIAN CONTRO-
VERSY IN THE PRESBYTERIAN CHURCH,

No. XIII.

Coup-d'œil of the Results in the Western Churches.

THE spirit of Pelagianism, every where and in all its manifestations, is essentially and remarkably the same. But its necessities, its hopes, its prospects,—as in the case of all systems not thoroughly sound and honest—have materially influenced its operations; while the previous character of the people or creed upon which it is about to try its alchemy—throws, as necessity may require, a deeper or lighter shade over its hideous features. In various parts of the United States, and in various Christian denominations, great pains have been taken to prove, that *their* Pelagianism, was quite another thing, from the Pelagianism of other portions or sects; and the unwary and ignorant have been thus, to a great extent deceived. Indeed it is not uncommon, for Pelagians of different regions, or different denominations, to wage open controversy with each other, on points remotely if at all involved in their common system; just as sound men and pious Christians have unhappily too often torn each other, for mutual differences: but still, orthodoxy and Pelagianism, were essentially themselves even in their domestic contentions.

The Pelagianism which has crept into the Western Presbyteries and Synods, under the care of the General Assembly of the Presbyterian church in the United States of America—has been subject to these general laws of the being of the common parent. Although, in the particular aspect of each locality, some special feature is to be observed—yet in the general outbreak and convulsion to which the whole sect resorted, the moment it found victory by fraud no longer possible; all western, like all other Presbyterian Pelagianism—adhered to the great mass—and like the fibres of a cancer, drew out, with the fatal ulcer, to the remotest root. After such an event, it is easy to trace what had been impossible before.

And the object of this paper is merely to record, in a very general way, some of the results of this controversy on the Presbyterian churches in the Great West; confining ourselves at present to a *coup-d'œil* of the whole vast region. A recent visit beyond the Alleghanies, has given us at once the idea, and much of the means of performing the present service to the truth.

THE SYNOD OF KENTUCKY, is one of the very few—indeed, unless that of North Carolina be an exception, is the only one, we believe, in whose bosom schism, more or less extensive, has not signalised the progress and result of the Pelagian controversy. This fortunate and gratifying fact, is to be attributed, we doubt not, to the uniform and faithful conduct of the Synod itself, from the very beginning of the difficulty. As early as 1831 and 2, members of the General Assembly, representing the leading Presbyteries of Ky., were amongst the earliest and foremost to resist the insidious progress of Pelagianism; and from that day to the present, the weight of this noble Synod has been thrown openly on the side of truth. At the Cincinnati Convention of 1831, her delegates were nearly without exception, in favour of confining the missionary and education operations in the west, to the Boards of the Assembly: at the Synod of Frankfort, of 1830, the late Rev. GIDEON BLACKBURN, D. D., one of the earliest and most decided advocates of semi-Pelagianism in the west, was virtually required to resign the Presidency of Centre College, under the care of Synod; at the Synod of Danville, in 1831, the American Education Society and the American Home Missionary Society, were explicitly informed that Synod preferred other channels for the benevolence of its churches; in 1834, this Synod united with the Synod of Philadelphia, and if we remember rightly, they two stood alone in open and clear adherence to the ACT and TESTIMONY; and thus constantly and steadily, in good report and evil report—has she borne herself. And God has thus in the result, greatly and remarkably distinguished her fidelity. And we venture to say, with long and most extensive opportunities to judge, that the cause of Presbyterianism in Ky., is relatively stronger, and its prospects better for great and permanent usefulness, than ever before.

Let it not be supposed, however, that there have been no New School people in Ky.;—nor that leading men of that sect, have not continually resisted all the wise and faithful course of the Synod; nor that even now there are not in the bosom of her churches restless and unsound men, who would gladly find or make a way, to introduce confusion and error into them.

The Synod, at its sessions of 1837 and '38, in carrying out the acts of the Assembly of these years, for the pacification of the church—was enabled by a course of great wisdom and moderation, united with candour and firmness, to arrange every thing in such a manner, that the handful of dissatisfied members, felt themselves not only permitted, but in a sense obliged by Christian duty, to adhere to the Synod and the church, while the Synod itself openly approved the course of these memorable Assemblies. Since that time, a few of those ministers who had all along favoured the semi-Pelagian party,—but who were supposed to have acted with good

faith in the Synod of 1838 in terminating all difficulty in the churches of Kentucky; have violently renewed the controversy—and may perhaps either finish their career by open schism, or by subjecting themselves to discipline. The leading person in this small band of dissatisfied spirits, is a gentleman by the name of **STILES**, formerly of Georgia, where he was favourably known for his zeal and eloquence; but for six or eight years past a resident of the west, and generally of Ky., where he had conciliated the good will of his brethren, and acquired considerable influence in the churches. It is a striking proof of the clear-sighted wisdom, and Christian sobriety of the ministers and churches of this favoured Synod—that even such a man as Mr. **STILES** is represented by his friends to be—has utterly failed, in all his attempts, to produce a schism since the Synod of 1839. We do not know this gentleman—nor do we intend any offence to him in heartily wishing him an employment better becoming his character, than making division and confusion in the weak churches around him; and better company than such ministers as are likely, at this day, to unite with him in a schism, in order to re-establish the interests of semi-Pelagianism in Kentucky. We would also venture to suggest to some of the Presbyteries of Ky., whether it had not been better years ago, in the ordinary course of their wise and Christian proceedings—to have silenced some half dozen secularised and worldly-minded ministers, scattered amongst them—and who have utterly left all parts of their covenanted work; than to have continued their names on their rolls, merely to swell the ranks of every leader that arises to trouble the churches, and finally to be counted, to enlarge a schism? We have had enough, and melancholy enough proof, that the church can find the path of safety, honour, peace, or happiness, only in that of strict fidelity.

THE SYNOD OF TENNESSEE. There were two Presbyterian Synods located principally in the state of Tennessee. A portion of Alabama, was connected with the Synod of West Tennessee, embraced in the Presbytery of North Alabama; and a considerable part of Western Virginia, embraced in the Presbytery of Abingdon, was connected with the Synod of East Tennessee. There was no necessity for two Synods in Tennessee, whether extent of territory, or number of churches and ministers be considered. But from the earliest period, there were constantly difficulties in the church in that region; and those difficulties instead of being probed and settled, were slightly healed—and ended as might have been expected. The records of our church-courts contain, and the memoirs of the fathers of the church can recall, the troubles with Mr. **CRAIGHEAD**, in his day; and the troubles about Hopkinsianism, when it had, like other follies, its day, (*every dog, says the proverb, has its day;*) then troubles about Emmonsism, which was a greater folly still; and then troubles about Taylorism, which is, by great odds, the greatest folly of all. If any of these troubles had been honestly examined, and wisely settled, by the firm application of ecclesiastical discipline, it is most probable that not half the aggregate amount of evil and loss would have occurred in the end—as have finally resulted from the temporising and compromising policy

which has been pursued, until error has swept away whole churches, Presbyteries, and Synods.

Dr. Blackburn, Dr. Coffin, Dr. Anderson of Maryville, Mr. Abel Pearson, Rev'd Mr. Ross, and more latterly, Mr. Eagleton of Murphreysborough, have figured successively, as leaders, in this region : and have, we believe without exception, like their friends in other regions, promulgated doctrines in irreconcilable opposition to those of the church, and advocated measures subversive of its vital principles—all under professions of uncommon devotion to her interests, her faith, and her holiness. The last named individual, who is perhaps known to our readers, by the abusive and incorrect statements which went round the newspapers against the Assembly of 1837, over his signature ; after all sorts of professions, and all kinds of schemes, finally made an open schism from the Synod of West Tennessee, at the Synod of 1839—followed by the greater part of the Presbytery to which he belonged, and which he had been allowed, under various disguises, above two years to seduce. About three-fourths, or four-fifths of the ministers and more than half the churches in East Tennessee, had seceded in 1837.—The Presbytery of Abingdon was detached and added to the Synod of Va., in the same year ; though until this day, some of its churches (as that at Abingdon, Va., under the care of Mr. Taylor, late Professor in the Theological Seminary under the care of the Synods of Va., and N. C.) have continued to stand aloof from that Synod, and may perhaps ultimately join the schism of East Tennessee. The result of all—is this : that about one-half of the *nominal* Presbyterians of the state of Tennessee, have proved to be Presbyterians only in name ; and that the remaining half are now organised into a sound, peaceful, and efficient Synod, which embraces all that state in its territorial bounderies.

The writer of this article was exceedingly reviled, by *pious* Pelagians in Tennessee, for having said in the Assembly of 1837, that the region of East Tennessee, was to be ranked with the most decidedly unsound portions of the Presbyterian church. Mr. Eagleton in particular, was horrified at the suggestion ; and reproached us for it, stately, for two years and six months ; at the end of which time, he proved very clearly by his acts, what he meant by sound Presbyterianism ! It was never our habit to make such speeches at random. The event has shown that what we stated as a conjecture, was absolute prophecy ; viz., that but *two* Synods remaining in the church after the acts of '37, were too thoroughly corrupt to be perpetuated—namely, Michigan and East Tennessee : and our proposal was to dissolve them both. In effect, they are the only two Synods we have lost since '37 ; and they have the enviable distinction of having deserved excision ; of having escaped it ; and of having proved themselves unworthy of forbearance on the part of good men.

It is necessary to add, that a few of the ministers, and a larger proportion of the churches of East Tennessee, have always been sound in the faith—and honest and constant in their attachment to the truth. In the trials brought on them by the Pelagian heresy and controversy, they have acted with great firmness and wisdom, and won the confidence and love of thousands, who, beforehand,

did not know their state. And now, united to brethren like-minded with themselves, and delivered from the vexations and trials of their former connexion with ministers and churches having no true fellowship with them; their prospects of happiness and usefulness, like those of the orthodox throughout Tennessee, must be far better than they have been for many years past. Let them thank God, and take courage.

THE SYNOD OF MISSOURI, has remained longer in suspense, as to the course it would ultimately take, than any other portion of the church, that will adhere to the General Assembly. That it will finally, and far more generally than many have supposed, adhere to the church, we presume there is no longer any doubt. There have been, from the beginning, many sound ministers and churches in this state, who have never wavered in their purpose: but they have been remote from the centre of events, and are scattered over a wide extent of country—for Missouri is an empire in compass. At one time, it is probable that the majority of the Presbyterian ministers in that Synod were inclined to the New School party;—and some of them very much imbued with the prevailing spirit and errors of that faction. Some of these have changed their ground—others, perhaps, their opinions. Some have removed from the state; and a few have been, as they say in the west, '*mashed up*.' On the whole, things have been so shaped, by a good Providence, that semi-Pelagianism will come to nothing in this great commonwealth: and we have no doubt, there are fully enough orthodox churches and ministers to continue the Synod of Missouri, under the care of the General Assembly.

There are many churches which will not soon forget *Marion College*, and *Marion City*—and all that specious New School humbug which cut such a figure, and gulled so many of us, by false pretences, to give our money and our countenance to as arrant a *mistake* as ever entrapped the confiding piety of the churches. We could tell a long story about it; but will content ourselves with saying, it is found out and ruined: and under its fragments, if any choose to search, they may find the remains of some who in their day were great leaders of semi-pelagianism.

This great west is a terrible place to grind down arrogant pretensions, and reduce the little great, to very great littleness. How many have gone to it, looming like peacocks, and come back naked as a jackdaw! From Diocesan Bishops, "Successors of the Apostles," down to heresiarchs boasting that they succeeded nobody, and that nobody would be fit to succeed them; what multitudes have stalked into the west absolute giants, and crept out again, 'none so poor to do them reverence!' In our own church alone, hardly a western state has been exempt from such cases; and at the name of *Marion College and City*, who does not recall one of the most signal of those cases? A case, which nothing but the greatness of the overthrow, which has adequately punished the victims of it, could justify our passing silently and briefly over names so richly deserving the indignation of mankind.

THE SYNOD OF ILLINOIS, was a bantling of Dr. Absalom Peters; and as it is a law of nature that like begets like—it could not be

supposed that the Home Missionary Society would plant orthodox churches. But before the days of Dr. Peters, a few young men in Yale College, it is said, resolved to seize on and shape one of our western states to their *beau ideal* of excellence; and President Edward Beecher of Jacksonville, was the reputed head of this junto of Protestant Jesuits. For a number of years, (as we were told by one of the leading layman of the west, who was at the time to which he referred, fully conversant with all he related) this band of worthies, aided by organised schemes in the east, imported into Illinois, upon which they had mentally seized; not only preachers and schoolmasters and private evangelists, male and female, but even mechanics, farmers, tradesmen, adventurers, and we will not question, tin pedlars—with express reference to their theological views, and soundness in the spirit, faith, and schemes of Taylorism. Things grew apace, and grew to the mind of both sets of fathers: until we find them so managed, that in 1837, the Synod of Illinois, with about sixty ministers distributed into half a dozen Presbyteries, had contrived to be represented in our General Assembly, by about the same number of commissioners—as the average of orthodox Synods, as for example Virginia and North Carolina, with double its strength. God seldom allows such plans to succeed.

The result of the Pelagian controversy in Illinois, was the division of the Synod into two unequal parts, of which the smaller was orthodox; but this was strong enough to continue the existence of the Synod—which is united, and increasing steadily in strength. The upper portion of the state is peopled by a New England population—which to some extent prefers Congregationalism or a modified Presbyterianism; and in that population the New School sect has its chief strength in the state. In the lower part of the state, a tide of emigration from the middle and western states crosses the great northern tide; and we have the impression that the population not of northern origin, every where in Illinois, is totally averse to the semi-Pelagian views and sect. There is every reason, therefore, to believe that there will ultimately arise a very strong evangelical interest, in our connexion, in that large and beautiful commonwealth.

In Illinois, as much as any where else, the fanatical spirit of Pelagianism has been rampant in one manifestation. There that party has been, we believe without exception, modern abolitionists of the first water. A very curious fact has recently come to our knowledge, on such authority as to render it impossible to doubt its accuracy. Mr. Edward Beecher, President of the Jacksonville College, not only frankly recorded, some years ago, a bald Pelagian creed, but as frankly afterwards periled *other people's lives* (not his own) in defence of Abolitionism; and then, as the public may remember, wrote a small volume to vindicate Illinois Abolitionists, himself included. The grand idea of this volume, as of all Mr. Beecher's previous sayings and doings, on the same subject—was to the effect, that Christian duty compels us to go forward, simply, steadily, and courageously, in utter contempt of all consequences to ourselves and all others; and without much regard to time, place, circumstance or means, 'to do duty' as their phrase is; that

is, to do just what their passions dictate, or their party interests suggest. Very well. The queer part of the matter follows. Governor Duncan, of Illinois, not long since, told Mr. Beecher, that either he must keep silent about abolition, and let the thing totally alone; or he (the Governor) must publicly and for cause, resign his situation as a Trustee of Jacksonville College. Whereupon, Mr. Beecher promised to be quiet about '*duty*' in all time to come!

It is very pleasant to see great men and good, take similar views of difficult subjects. Mr. Beecher must be happy in agreeing to give up '*duty*,' to find that he tallies so exactly with the Pelagian Assembly of 1839, and those distinguished leaders of his sect, who having for years "*despised consequences*," with a pious horror, all at once drew up and despised every thing but consequences!—We must not omit to say that Mr. Beecher is the same gentleman, for whom the National Preacher, several years ago, stereotyped a series of sermons—one of which proposed a short method of increasing personal holiness, without any notice of the Eternal Spirit.

THE SYNOD OF INDIANA. We have less information of a recent and precise character, as to the general state of things, in this, than in any other western Synod. The population of Indiana was originally less decidedly a Yankee population than that of Illinois, of Michigan, of northern Ohio, or of western New York; and therefore there was a less decided predisposition to New Schoolism, and fewer facilities for spreading its errors, than in those regions. But at an early period Dr. Absalom Peters's American Home Missionary Society, had taken care, in pure and disinterested benevolence, to occupy the principal points in the state—with men who *happened to be* decided semi-Pelagians. This singular series of accidents did not, however, carry the Synod for the proposed revolution in the Presbyterian church; nor for the riot and outbreak of 1838, after the moral conspiracy had failed. Since 1837, a process of change and separation has been gradually going on, which is perhaps hardly yet finished; by which it will result, that a considerable majority of the churches and ministers will adhere to the General Assembly, and constitute a highly respectable and efficient body of Christians. The remarks we have made in another part of this paper, about grinding down *great emigrants*—apply with much force to some remarkable cases in Indiana; one of which is now in the process of developement—the distinguished subject of it, having *only as yet* declined so far from true religion as to become an Arian, in theology, and the stereotyped slanderer of his own ancient and venerable church.

We have thrown out a suggestion about the singular identity of semi-Pelagianism with the people of New England, which requires some further remarks. We readily admit, that a considerable number of our most valuable ministers and church members are originally from New England; and we are as prompt as any can be, to acknowledge the peculiar traits of character which favourably distinguish the people of that section of Country. But a man had as well attempt to deny that light comes from the sun, as that Pelagianism came into the Presbyterian church from New England—and that it has spread and taken root most effectually where the

largest New England influence has existed. Our theory to account for this uniform and painful fact, is somewhat peculiar—perhaps an enemy would say, audacious; and may be more offensive than the assertion concerning the existence of the fact itself. We cannot help it. Our deliberate conviction is, that there is no country on the face of the earth which is nominally orthodox, nor any churches nominally evangelical, where the gospel of God is so obscured by a vain and foolish carnal wisdom—nor where the habitual ministrations of the pulpit present the plan of salvation so darkly and imperfectly, as amongst the people and churches of New England. One generation runs away with one catch-word, and the next with some other quip or quirk; now all preaching “*disinterested benevolence*,” and again all agog about an “*exercise scheme*,” and then nothing but “*immediate submission*,” and next all preaching about “*natural and moral ability*,” and by-and-by every body taken up with “*making sinners feel their responsibility*,” and now again, all in commotion about “*power to the contrary*,” and so without intermission for nearly a century last past, the simple gospel has been buried under loads of trash. The effect of all this charlatanism upon the piety and spiritual knowledge of the churches, and upon the general character of the New England clergy, has been most distinct and most disastrous. It is our purpose, when more at leisure, to enter somewhat fully upon the proof and illustration of this singular subject; for the present contenting ourselves with the mere expression of an opinion, very carefully and deliberately formed. Supposing our opinion founded on fact, it is manifest that the New England churches which have so deeply injured not a few of their neighbours, under the constant and hardly modest sounding of their own praises; are in effect themselves destined, at no distant day, to a total declension, or a total revolution. We think we see indications of the approach of the latter alternative; and as the friends of truth, rejoice in them.

THE COMMONWEALTH OF OHIO, contained, before 1837, three entire Synods, and a portion of a fourth. The churches in the south-eastern portion of the state were connected with the Synod of Pittsburg; and in regard to these we have nothing to say in connexion with the present subject. The northern part of the state, embracing three ranges of townships, which extended from the Pennsylvania line, westward a certain distance along Lake Erie—was covered by the Synod of the Western Reserve. The population of this region was almost entirely from New England—and though nominally Presbyterian, was so decidedly unsound in doctrine, order and practice, that this Synod was the first one disowned by the Assembly. In its separate state, it has been subject continually, to all sorts of troubles arising from the working of elements, which were at peace only so long as external pressure or common schemes of aggression made apparent union their interest. Their latest and most formidable difficulty comes in the shape of ‘*Perfectionism*,’ which, we learn, has become domesticated in *Oberlin College*, under the express protection of President Mahan and Mr. Finney. As the College is attended by persons of both sexes—and the privileges of the perfect are very ample, there is

chance of perfectionism being propagated, more directly than most moral systems.—The central parts of Ohio are embraced in the bounds of a Synod of the same name—which like nearly all our Synods lost a portion of its members by schism; but which, as far as our information goes, is for all practical efficiency and all benefits and blessings from the communion of saints, better off, by far, than before.—The remaining Synod in this state, is the Synod of Cincinnati, embracing the western portion of Ohio; and perhaps few portions of the church have had more connexion with our troubles, than this. We will speak a little more particularly of it.

The city of Cincinnati is one of the most important points in the great west; and as such, was made a centre of action by nearly all the great voluntary societies of the day. Several of those societies commenced their career and carried on all their operations, with a fixed design to swamp the Boards of the Presbyterian church—and finally attach the General Assembly itself, as an *auxiliary* to themselves. There are no limits to human presumption. In this work, direct as to part of the societies, most of the remainder, professing neutrality, really gave all their influence, indirectly, to this most audacious conspiracy. Nearly without exception, the agents of all the voluntary societies, have been for years, New Schoolmen. Most of these agents, who held their agencies at Cincinnati, were Congregationalists or nominal Presbyterians; and united themselves with the Synod of Cincinnati, of which we now speak.

About the same time another operation intended to give the *coup de grace* to orthodoxy in the west, was set on foot at Cincinnati—and the big name of New England imported from Boston, to strike the blow. Dr. *Lyman Beecher*, of Boston, supported by Mr. *Arthur Tappan*, of New York, became President of *Love Seminary*, with a pretension and pomp never paralleled in the west. We request our readers to turn to the earliest number but one, of this Magazine, that, namely for February, 1835, (vol. i. p. 55,) and read an article on this subject, headed "*Humbag—Theological and Literary; Lane Seminary; the West.*" Five years of experience and observation have only confirmed what we then said of this institution, and the projects and pretensions of the persons, then and now controlling it. It has, moreover, as we predicted, utterly failed; and its faculty, instead of revolutionising the west, are new candidates for admission amongst the *great ground down*.

There is often a fearfully quick retribution in the dealings of God. In the month of May, 1838, Dr. Lyman Beecher, was the leading and most active spirit in carrying the Pelagian party, heedlessly forward through their riot and into their law suit with the Assembly. In May, 1839, the Supreme Court of Pennsylvania decided the case in such a way, as must necessarily oust this same Dr. Lyman Beecher, from his own office as President of Lane Seminary! For by the charter and principal grants to the institution, its professors must be in connexion with the Presbyterian church in the United States of America.

Our associations are capricious. What we have been saying recalls an incident, which appears to us remarkably characteristic. Less than fifty years ago, a Seminary not a thousand miles from

Cincinnati, found itself better provided with professors than pupils ; and to meet the exigency it was argued that one at least, *of the four*, ought to retire. At the meeting of the faculty called to decide the extremely delicate question, who should retire ; the president proposed that he would himself withdraw. Thereupon Professors D. and S. protested with uplifted hands, that his retirement was utterly out of the question ; and the President, overcome by their tears, submitted. Then said Prof. D., I will resign. But the President and Prof. S., with loud exclamations, declared that a seminary without a fit person to teach sacred rhetoric, was unworthy of patronage, and that the resignation of Prof. D. would ruin every thing ; and he, worthy man, was in his turn overcome. Then Prof. S. took up his parable, and said he saw that '*duty*' called clearly on him, as the victim ; and tendered his commission. But it so shocked the President and Prof. D., that the only *travelled* officer should leave the Seminary in its distress, that they hooted the idea, as intolerable ; and Prof. S., was over persuaded. Now there remained only Prof. B. ; and there was this grave question for him to decide, viz., Is this all a trick to get rid of me ? Or is it all real ? So says he, Friends, it is obvious we love each other too much to part ; so let us adjourn ! !—" When Greek meets Greek, then comes the tug of war."

To return from this digression ; the progress of events in the Synod of Cincinnati up to its meeting in 1839, has reached to a three-fold division of its ministers and churches. Of these, the largest division (we believe it is larger than both the others united) adheres to the General Assembly ; the smallest adheres to Dr. Lyman Beecher, and to whomsoever he adheres to, provided it can continue an organised existence, which is doubtful ; the intermediate portion, which is also inconsiderable—is a kind of *tertium quid*, under the auspices of Dr. Bishop, President of Miami University. We understand the position of this last named fraction to be about this ; they meet as a Convention, not as a church-court ; they recognise all the members adhering to both Assemblies, or to no Assembly at all ; and they reject both Assemblies. That is, they claim to be nothing themselves, and they recognise nothing that is any thing ; but hold fellowship with every thing that is nothing ;—which strikes us as being as nigh to nothing, as any thing can be. From all this, it is apparent, that in the Synod of Cincinnati, as in every other portion of the church in which a vigorous effort has been made for the truth—God has blessed his people with signal success, or at the least with as signal deliverance.

In the widely extended region over which we have now glanced rapidly, a region embracing seven commonwealths of the largest class, and containing nine synods which in 1837 were under the care of the General Assembly, and of which seven still remain attached to it ; we presume there can be no question that the cause of Presbyterianism is very far more prosperous than it ever was before ; and that every form of error and folly which has assumed its honoured name as a disguise, is in greater trouble and perplexity, than ever before. Blessed be the God of our fathers and of our Redeemer Christ—for all his goodness to his people ! Honoured

of God, above their highest hopes and claims, have been all the instruments, and especially the noble Assemblies of 1837 and 8—in effecting this mighty work of reform! Happy church, which knew the hour of her visitation, and laid hold on God in the accepted time! If she will but be faithful, zealous, and humble—the career of usefulness and blessedness before her, in this vast empire beyond the Alleghanies—is beyond the imagination of man to comprehend.

NECESSITY FOR THE BETTER TRAINING OF MINISTERS AND PEOPLE.

In presenting the extract which is printed below, and which we take from a late private letter, from an old friend, an influential layman in the south; we avail ourselves of the occasion to press on the attention of those who have any control in the matter, the important suggestions of our friend. A considerable time since, the Senior Editor of this Magazine submitted to the Board of Publication of the Presbyterian church, a plan for the preparation and publication by it, of a series of Manuals, on the Confession of Faith; say, a volume of one or two hundred pages, 16mo., upon every head of the Confession, making in all thirty-three small Manuals, on the chief heads in religion. The Board, if we remember correctly, adopted the proposition a year ago; and we presume, the Executive Committee have taken steps to have this important work accomplished; that is, that they have applied to some thirty or more competent persons, to prepare each a Manual, on the successive chapters of the Confession: and that before many years, the church will have this great and timely service performed in a manner at once popular and thorough. Certainly no work of greater importance could be undertaken by the Board, and none requires more care and skill in its performance: and on the other hand, we presume no individual, thought competent to the task, would refuse, when duly required, to examine thoroughly any part of the subject committed to him, and prepare the required Manual, to the best of his abilities.

We venture also, to suggest, that those gentlemen who have preached discourses on the occasion of the late jubilee, should write out and publish them; *all of them*. They will be of great local interest at present; and will be invaluable to posterity. We are glad to see, that several are already out—one from Dr. Janeway—another from Dr. Swift, (in which latter are some statements we are obliged to condemn)—and we hope to see scores, yea hundreds. By-and-by a selection of the best of these may be made, and a volume or two published by the Board of Publication.

While on the subject of this important Board, shall we be permitted to say, that we are sorry to see a strong propensity manifested by it, to *abridge* every thing? Baxter is *abridged*, and McCrie is *abridged*, and Halyburton is *abridged*. There is no need for this. The church is able to publish books *entire*. And when time and piety and learning and genius, have stamped a book with approval,

and it is embalmed as it were in the affections of mankind—it is a bold and dangerous, as well as, in the present case, a gratuitous work to *abridge* it.

The main aspect, however, of our friend's suggestions, is towards the Presbyteries, the Seminaries, the pastors of the church. In regard to these we shall add nothing at present.

“A neighbor of mine has requested that I would procure for him all the numbers of your journal, in which are to be found the history, and causes of the present difficulties in the Presbyterian church. Those difficulties have been attended with their unpleasant consequences here, as elsewhere; and produced divisions in several of the churches, and a scattering of their flocks among other denominations, with a great disposition in some, to *unite themselves to the latter*. This is owing in part to two causes—1st., an ignorance of what genuine Presbyterianism consists in, and the claims it offers to one's support in comparison with the doctrines and discipline of other sects, and which consequently makes many indifferent to which they belong:—and in the 2nd place, to a want of information as to “*what it is*,” that has occasioned this disturbance, in the ancient church to which they and their fathers belong. A third reason may be added:—a seeking after quiet, and a desire to repose in some church which is not *disturbed* (or likely to be) by *agitating controversies*, and where they can attend worship every sabbath in peace. This last is especially the case in the country; where if an individual becomes dissatisfied with the conduct or doctrines of any church, he has no other of the same denomination within reach, of sounder faith or more exemplary practice, to which to attach himself, but must either stay at home, on the Sabbath, or attend the nearest church of a neighbouring sect.

The first evil I have been a witness of for years past; and suggested to you, when I saw you in Baltimore, the propriety of the General Assembly's taking some steps towards the more thorough *instruction* of the young (and I may add, the old too) in the *doctrines* and *government* of the Presbyterian church, so that its supporters might be able to give a preference of the *understanding* to the faith and discipline to which they belong, which would keep them steady when storms and difficulties should arise. Of the *extent* of this *ignorance* you are perhaps not at all aware; nor of the *great deficiency of the means* of removing it, by the medium of books within reach. I attribute much of the confusion in the church to the *great ignorance* which prevails generally among its supporters, on the subject of those doctrines and that form of government which distinguish the Presbyterian, from other churches. And as an example of the deficiency of the means for removing this ignorance, I will state, that no tracts of any sort, not even Dr. Miller's very useful one on that subject, can be procured, in C—, to instruct an inquirer on those points.

As an answer to the second inquiry—“what it is which has occasioned such disturbance in the Presbyterian church at this time”—I have referred them to your journal, as a work from which (with much other valuable matter) the information can be procured. This has led to the request which I now make on —'s behalf.”

LAMENT OF MARY MAGDALENE AT THE SEPULCHRE OF CHRIST.*

I.

Oh! tell me where ye've laid my murder'd Lord!
 My hopes, my joys, into the dust ye've trod;
 And now deny—Oh! dearly, dearly bought,
 The right to mourn the ruin ye have wrought!

II.

My Lord ye hate, dishonour, crucify,—
 Despise his love—his sacred name deny!
 But is the grave no refuge to the good?
 Is hate immortal when it feeds on blood?

III.

Our love and grief shall live beyond your hate.
 These precious drugs, this tomb you violate,
 Are gifts of trembling, but heroic faith!†
 Tokens how feeblest love grows strong by death.

IV.

Yes, we adore, we trust, we own him still.
 The stroke has crushed us; 'tis his righteous will.
 We know not, see not,—are consumed, perplexed:
 But Christ is still our rock; our hearts are fixed.

V.

Th' affrighted earth, th' astonished sun, the house of God,
 The dead uprising from their dread abode,
 Creation groaning in her agony!
 Omens that Christ must live, or nature die!

VI.

"Mary!" 'T was all he said! That look—that word!—
 "Raboni! Master—gracious—glorious Lord!"—
 Oh! lesson of divinest love—how taught!
JESUS is never lost,—if truly sought!

* John xx. 11—16.

† John xix 38—42. The two most timid followers of Jesus—in the hour of sorest trial,
 the most openly of all avowed their Master.

NEW YORK REVIEW.

Messrs. Editors :—

THE following letter was written by me, in reply to one, from the Editor of the New York Review, declining to publish an article which I sent to that periodical. You will please publish the letter, as I think the public have a right to know, how all public literary and religious journals are conducted ; and whether they promulgate correct literary and religious opinions. With high regard, I am truly yours.

21st Nov. 1839.

To REV'D C. S. HENRY, *Editor* }
of the N. Y. Review. }

Dr. Sir,—Your sentence of condemnation upon my article, has been received, read, and understood. And I will here premise, that if I were to have my throat cut, I should like it to be done with a razor, and not with a butcher's knife ; if I were to be sentenced to death, I should like the judge to be a scholar, and to pronounce my doom in pure and correct language, and with propriety of thought ; but above all, when I have a literary production criticised, I desire the criticism to show the scholar in every thing, in the purity and finish of the diction, in the thorough knowledge of the subject, and in the modest courtesy of the censures. How far your criticism comes up to this standard, will be seen, when I have finished this letter.

Your first objection to my article, is that it is too elementary. Now this objection goes to the very existence of the article ; for its very nature is elementary, its design being to exhibit the elements of reasoning and philosophical evidence. Your next objection, is that the subjects discussed in it, bear too near a relation, to the topics treated in other articles to be published in the next number of the Review. This objection, is like the other ; for the very design of the article, is to exhibit the real nature of subjects, which bear a near relation, to all the topics that were ever treated by man. As these objections evince an entire misapprehension of the nature and design of the article, I will tell you what it means, for really you seem to be in a strange region—to be as much at a loss to know what to do, as though you had the command of one of our Baltimore clippers, in a storm at sea.

The design of the article, is to exhibit in as elementary form as possible, (to go down to the bottom of the subjects) the real nature of the processes of reasoning and investigation, and to indicate the rules, by which they are respectively carried on ; and to show the real character of philosophical evidence. The use of the article, is a touchstone, to test all questions relative either to reasoning or to philosophical evidence. And how extensive must be its utility ! For all questions must rest ultimately, either upon the rules of reasoning or the principles of evidence—either upon deductive or intuitive evidence. To exemplify its use as a touchstone, turn to

"Lord Brougham's Discourse of Natural Theology," first part, from the 18th to the 21st pages, inclusive, and apply that portion of the article, which shows that all reasoning proceeds by comparison, and that in every act of reasoning there are at least three comparisons, two simple and one inferential, to the doctrines advanced in those pages, and you will see how quickly, their fallacy is detected. It will be seen at once, that the noble Lord, is confounding an act of simple comparison with reasoning; and thereby maintaining that there is no such thing as intuitive evidence, but that all evidence is deductive. Take also that portion of the article, which treats of analogy, and apply the principles there evolved to various remarks which can be found scattered through almost any treatise of an argumentative character, as well as professed treatises of logic, and you will be enabled to detect much error, both in the false estimate of the force of analogical evidence, and in the confounding rhetorical analogy, (analogy merely illustrative,) with philosophical analogy, (analogy argumentative). And indeed take any part, or the whole of the article, and apply it to the logical doctrines either directly or impliedly asserted in almost any treatise of an argumentative character, and you will at once perceive the great utility of the article, as a logical test in detecting error, and establishing truth. The article, to a cursory or superficial reader, will appear miscellaneous; but upon thorough examination, the most perfect unity will be discovered in all its parts. Take away any part, and the article will be incomplete; for in arranging its parts, a kind of perspective is observed, that one part may cast light upon another.

Your next objection, is that "there are several instances in which principles are asserted, or other positions incidentally laid down in which your opinion, is precisely the reverse of mine;" and you give as an example, my doctrine of causation. When I read this part of your letter, I really thought at first, that you had mistaken some other article for mine; so entirely different, are the doctrines ascribed to me, from those contained in my article. You express your views of causation, thus—"The view I have been accustomed to regard as true, is that no conjunction (succession) of events however immediate or constant, is adequate to the idea of causation; that succession (or conjunction) can by no epithets be made to mean any thing at bottom but succession; and that causation is a simple rational conception quite different from succession." Now Sir, look at my article again, and you will perceive that this is precisely the doctrine there maintained, in regard to the conjunction or succession of two events, which, in compliance with common usage, I have called causation; though I should never use so half-made-up an expression, as "adequate to the idea of causation." I will here, again endeavour to remove the scales from your eyes.

The immediate design of the portion of my article now under consideration is to detect the fallacy in Hume's essay on a special providence and a future state. My argument is, that the whole fallacy lies in confounding an intelligent creator or agent, with a mere physical cause. The nature of a physical cause, is enquired

into, and is determined to be, nothing more, so far as our knowledge extends, than the constant conjunction or succession of two phenomena or facts; for we do not know whether, the cause or antecedent fact does really produce or exercise a power over, the effect or subsequent fact, or not; as what is deemed a cause to-day is discovered to be an effect to-morrow; and so on, as science progresses, causes are continually being resolved into effects. There is no doctrine in metaphysics supported by greater authority than this doctrine of cause and effect, as applied to the physical world or second causes. It is the doctrine of Hume, and of course my argument is just as conclusive, if the doctrine be false, as if it be true, (and therefore should not have been a matter of quibble); because it is with this notion of cause in the physical world, that Hume confounds the Creator, as the first cause; and if this notion be correct, I have shown that the Creator can not be likened to it, and if it be false, then a physical cause is not such as Hume likened the Creator to, and of course his argument founded upon the likeness must fail. So then, my argument cannot be affected either by the truth or erroneousness of this doctrine of cause and effect. But this doctrine of cause and effect, is now generally received by both theologians and philosophers, and has been approved by the General Assembly of the church of Scotland; when Sir John Leslie was appointed to a chair in Edinburgh University, his election was opposed by some of the clergy on the ground that he was an infidel; because he had advocated in some of his philosophical writings, Hume's doctrine of cause and effect. The matter was, after some time, brought before the General Assembly of the church of Scotland. In the discussions of this doctrine, which ensued, the Rev. Sir Henry Moncrieff defended Sir John, and maintained that necessary connection as it implies an operating principle in the cause when applied to the first cause, is blasphemy, and when applied to second causes, is materialism; and so conclusive were his arguments that the General Assembly decided the question with Sir John. Now it is evident, that we must either maintain that the cause or antecedent fact contains an operating principle which produces the effect or sequent fact, or we must maintain the doctrine of Hume, that what are called cause and effect, are merely facts in constant conjunction or antecedence and sequence in the order of nature. As to those, who maintain the former doctrine, (and you seem to be among the number) I deliver them over to the opinion of Sir Henry Moncrieff, endorsed by the General Assembly of the church of Scotland, (though you do not perhaps consider the endorsement of much value) that the doctrine when applied to the first cause is blasphemy, and when applied to second causes is materialism, with one single remark, "May the Lord have mercy on you all;" and shall proceed to illustrate further the doctrine of cause and effect maintained in my article.

After thus showing the nature of a physical cause, and that Hume admits it to be such, I then show that it is a gross error, to confound the intelligent Creator or first cause, with a mere physical cause and reason from one to the other, as Hume does in his essay on a special providence and a future state; and that upon

this ground the evidences of natural theology must fail. I next proceed to combat Hume's doctrine in regard to the origin of the idea of causation, that our idea of power or cause is derived from custom or habit in contemplating many instances of conjunctions between the same facts, and exhibit what I consider the origin of the idea of causation. And here is the first point in my article, at which real causation is discussed; for in all the previous points, the term causation is applied to the conjunction or succession of two events or phenomena in the physical world, merely in accordance with common usage; as the whole scope of my argument indicates. For my doctrine is that there is in reality no causation in such conjunctions—no operating principle in the cause which produces the effect: but that cause and effect are merely two facts or phenomena found in constant conjunction or succession in the order of nature, and might have been otherwise ordered by the Creator. I then show that the idea of power or causation, is not derived from the contemplation of phenomena in the physical world, the constant conjunction of two events, either in single or in many instances: but is derived from mental phenomena, from the consciousness of power in ourselves to act or produce effects; and that we transfer this idea of causation to what we call causes in the physical world, from the principle of gravity holding together the planetary system, down to the molecular forces holding together the minutest atoms. And that upon this ground, (the idea of causation laid in consciousness), the evidences of natural theology are triumphant; because then instead of being driven to the necessity of confounding God with a physical cause—bringing them under the same class, and reasoning from the one to the other, we bring God under the same class (that of intelligent agents) with man, and reason from an intelligent to an intelligent agent; which is seen at once to be perfectly legitimate. Such then is the doctrine of causation contained in my article.

Now let us turn to your letter and see what are your views in regard to the origin of the idea of causation!—"That by the constitution of the mind, one single instance of a change (phenomenon beginning to exist) given in experience suggests to the reason, the judgment which subsequently and by reflection is framed into the abstract and universal formula or law of thought "that every phenomenon beginning to exist, supposes a cause;" and that the observation and experiment of a "constant conjunction" of two phenomena has its sole use in leading us to determine, which is the difficult thing to be absolutely sure about, *the* particular cause, when we were a priori (or by reason of a single instance) persuaded that there must be a cause." As Lord Bacon said to James I., "your majesty's manner of speech is indeed prince-like, flowing as from a fountain, streaming and branching itself into nature's order, full of facility and felicity, imitating none and inimitable by any." That a gentleman, who has, I believe, been a professor of rhetoric, and who in his lettered mania, has usurped the throne of criticism, should write such a paragraph as this, is one of the comical incidents in literature. "Change (phenomenon beginning to exist)"! Why Sir, is not every change a phenomenon, whether it has passed

through all its stages of mutation or not? For example: is not the fact that water contracts until it comes near the freezing temperature, a phenomenon? And that by a further increase of cold, it expands until it becomes ice, another phenomenon? Now, I suppose, according to your notion, all the different stages in the process of freezing are the phenomenon of ice beginning to exist. Each stage certainly has existence, and is a phenomenon exhibited by water in freezing. But is not "beginning to exist" a paradox? For beginning implies existence just as ending does, both being participles denoting present time. Existence is an absolute idea not admitting of degrees. A thing must either exist or not exist, and of course must be a phenomenon. It is true, part of a thing (which is the same as an imperfect thing) may exist: but still it is a thing existing and not beginning to exist. So every change must either exist or not exist, and of course must be a phenomenon existing, and not beginning to exist. Show me an instance of a phenomenon beginning to exist in all the mutations which the world has undergone since the earliest records of science. "Universal formula or law of thought!" Why really I thought that every tyro who has read beyond the horn-books of metaphysical literature knew that a formula is not a law, but a rule. "Framing a judgment into a law of thought," is rather a difficult job I am inclined to think; for I always supposed that the Creator framed the laws of thought as well as the laws of the physical world. And I never knew until now, that laws of thought were made out of judgments. This philosophy, I suspect, is somewhat like that which teaches that the stars are made of old moons cut up. "That every phenomenon beginning to exist, supposes a cause"! This surely is the very embodying of philosophical acumen. The whole paragraph reminds me, of the learned remarks of Sidrophel the fortune-teller, when he was proving with vast learning, to Hudibras, that a lantern tied to the tail of a kite, which he mistook for a planet, must be Saturn from its general position in the heavens; and who, when the string broke, cried out with all the wisdom of a self-constituted prophet—

"When stars do fall, 'tis plain enough
The day of judgment is not far off."

In the conclusion of your letter, you remark, "I will only say that while I am impressed with the greatest respect for the writer's mind, in reading the article, and while with much of it, in scope and statements, I agree, yet there are some very material points in which I could not bring myself to suffer the Review to express the views of the article." Surely the apologetic compliment "impressed with the greatest respect for the witer's mind," delivered with such an air of patronising condescension, is quite consoling to me, in my literary despondency. If I had the comic vein and graphic talent of a Hogarth, I would really sketch the scene of Mr. Henry of the N. Y. Review condescendingly complimenting Mr. —, of the Maryland bar, and hang it up in some galery of comic pictures, or at some country tavern, to amuse the way-faring rustics. "I could not bring myself to suffer the Review to express the

views of the article." And so you are particular, are you, in regard to the views expressed by the Review? I really did not suppose this, or I should not have sent you any article of mine. I did not suppose it; because of the ridiculous nonsense in support of the "Oxford Tracts," contained in the No. for July, 1839; which for absurdity far outstrips the Papal doctrines, and puts even Romish credulity to the blush. I did not suppose it; because of different articles expressing opposite doctrines upon the same subjects. For example: in the first No. March, 1837, Art. "Chalmers's Natural Theology," pages 143—144, it is maintained in support of Dr. Chalmers, that the inference of design, is founded in experience, and the doctrine of Reid and Stewart, that it is founded in an original principle of our nature called the fundamental law of belief, is "sharply rebuked;" and in the second No. October, 1837, Art. "Lord Brougham's Natural Theology," pages 301—303 the opposite doctrine, that of Reid and Stewart is approved, and the doctrine of Dr. Chalmers is spoken of in terms of contempt. I did not suppose it; because of—I find the errors gather so fast into my memory that I must desist, as it would, like the Augean Stable, require the powers of Hercules to cleanse the N. Y. Review of its errors, in the short time that I have to waste upon so disagreeable a task. You may perhaps wonder why I desired to publish my article in a Review so replete with error. Why Sir, out of compassion for your readers. I desired that my article might go forth as an antidote to the meagre crumbs, the diluted drops of German Metaphysics which have been incorporated into some of the articles which have appeared in your Review, and which will, no doubt, be incorporated into others which are to come. That this was my object in offering the N. Y. Review, my article, is well known to some of my literary friends.

If, Sir, you have been wounded by any thing I have said, you must not attribute it, either "to the vigor of my bow, or the venom of my shaft;" but to your own extreme vulnerability, in arrogantly disposing of in a few hasty, blotted, unmeaning lines, as unworthy of the N. Y. Review, an elaborate dissertation upon some of the most difficult subjects, which have ever engaged the attention of the learned; and this done gratuitously too; for I never asked you for a criticism, but merely whether you would publish the article. But Sir, with all your self-reliance, if you were to enter into a discussion with me, of "the views which you could not bring yourself to suffer the Review to express," you might perhaps learn, before you proceeded far, that I can pull as strong a bow, shoot as keen a shaft, and inflict as severe a wound, as even the critic of N. Y. Review; for I have long since,

"Learned to deride, the critic's starch decree,
And break him on the wheel, he meant for me,
To spurn the rod a scribbler bids me kiss,
Nor care a straw, if he applause or hiss."

With all courtesy, I am, Sir, yours, &c.

DYING TESTIMONY OF A MAN OF GOD.

THE letter published below, was perhaps, amongst the last written by that noble gentleman, and true servant of Jesus Christ, whose honoured name it bears. The public are familiar with his character—and fully informed of the manner of his death. We make no excuse for publishing such a testimony of approval of our labours and affection for our person. It is next to a testimony from heaven itself—whither his spirit has found its rest and its reward; a rest, for which, amid the arduous, unrequited, and dangerous labours, which he so commends,—we daily sigh. Oh! how much better to be, with the glorious company above—than fighting with ‘wild beasts’ here below!

WAYNESBORO', Va. Dec'r 9, 1839.

Rev. and Dear Brother:

“Add, if you please, to your list of subscribers, the following—to begin with 1840, and run on, *sine die*.* I regret much that I am not able to send you ten times this amount of patronage. Your periodical is, however, increasing in favour with man, and I trust, with God also. You are doing, ably and valiantly, a great and eminently needful work. Some think you handle even *Papacy* rather too roughly: but he that would stand up efficiently against this stupendous system of iniquity, must possess the spirit and the manner of Luther.

Your assaults on the “man of sin” are sometimes such as to create, in my mind, apprehensions for your personal safety. But God will be your shield whilst He uses your instrumentality in accomplishing his own glorious purposes. He “will make thee unto this people (the Catholics) a fenced, brazen wall: and they shall fight against thee, but they shall not prevail against thee: for I am with thee to save thee and deliver thee, saith the Lord. And I will deliver thee out of the hand of the *wicked*, and I will redeem thee out of the hand of the *terrible*.”

May the God of truth prosper your endeavours to tear down and scatter to the four winds, that mountainous pile of mummery and rubbish which centuries of labour have accumulated!

Yours, truly,

JAMES C. WILSON,

The Rev. R. J. Breckinridge, D. D., }
Baltimore, Md. }

*Here follow three names of new subscribers.—[EDS.]

[For the Baltimore Literary and Religious Magazine.]

HINTS ON THE AGENCY SYSTEM.

THE Presbyterian and Congregational portions of the church, in the United States, have recently presented an uncommon spectacle to the Christian world. With forms of government and discipline, which recognise the true dignity and importance of the pastoral office, they have permitted the existence of certain influences, whose inevitable consequences threatened the utility, if not the existence of that office. In imitation of nothing that we can discover in the apostolic history, or even the patristan—the various duties pertaining to this office, have been divided between the pastor and certain “helps,” styled “revivalists,” “evangelists,” and “agents.” Neither the first nor the last of these terms, do we find among the names of the “gifts” imparted to the church, by her ascending Master, and the second only occurs three times, but never, we apprehend, in the sense generally applied to it, in these latter days. Indeed, instead of narrowing the pastoral sphere, the apostles and their co-labourers, appear to have united with it every thing, not incompatible with its nature. Paul, who bore the “care of all the churches,” found time to do the work of a collecting and disbursing “agent,” and while he reasoned on righteousness and judgment, did not leave to the special legate of some self-constituted umpire of morality, the work of reasoning on temperance.

After having brought upon themselves a state of confusion, distraction and disorder, which threatened the existence of parts of their respective organizations, the Presbyterian and Congregational churches have to a great extent, become fully alive to their danger, from two classes of helps, above mentioned—evangelists and revivalists. Thanks to the firmness and piety of some of our fathers and brethren both east and west of the Hudson, these new lights of the nineteenth century, have gradually sunk beneath the horizon, or at least, passed into some part of their eccentric orbits, so far removed from us, that our eyes are no longer dazzled by their brilliant coruscations.

“Agents” still remain;—the last remnant of the forcing system, which seemed some years since, to threaten the visible “kingdom of heaven” “with violence.”—The pastor, it is now admitted, is the proper person to “preach the word” and “administer the sacraments,” but alas, poor man! he is either too ignorant, or too indolent, or too *dependent*, to tell his people “the trnth,” respecting the claims of benevolence. He is far behind the “spirit of the age,” and especially, when resident in some place remote from the ecclesiastical and commercial centres of the union, it cannot be expected that he can know so much as he should of the mighty “march of man,” the “claims of the world,” and the “duty of the church.” Or he is so immersed in other duties, or so worn by idleness, that out of sheer indolence, he neglects the duty of enforcing the claims of Christian Benevolence. Or he is so much

afraid of curtailing his salary, or offending his people, that he dare not act conscientiously. Therefore we must send an agent for Foreign Missions, one for Domestic Missions, one for Education, one for Sabbath School efforts, one for Tract Societies, one for Temperance—who shall “inform the people,” “stir up,” “pastors and people,” and assume the special province of making extra speeches and doing extra begging. Indeed the Presbyteries and Synods sometimes need some such work, and one of the dignified agents—a *general agent* (If *D. D.* be the *fourth estate* in the church,—*agent* may answer to *number five*), is sent forthwith, to stir up the “pure minds” of the brethren.

Now, if the true reason for the existence of agents has been hinted at, and the friends of the system, assign their reasons, we are not prepared to say, that the remedy is much better than the disease. Disease similar to that described, may, and we will affirm on the testimony of agent-advocates—does exist, to a fearful extent. There may be, and with the same caveat, do exist; pastors too ignorant, too indolent or too dependent, to do their duty;—even Presbyteries and Synods may be dilatory. But with this frank admission, are we not incurring, at least, risk of as great evil, in the agency system, and does that system after all supply our “lack of service” to the divine cause of Christian benevolence? We use the phrase *agency system*; far, far be it from us to say aught against that temporary use of *agents*; (and we mean *agents*, not *passives*,) to which the church has long been accustomed, and least of all do we intend aught against the *persons* concerned, some of whom are our best loved friends. With this explanation then, we proceed.

The system of agencies is either destined to become a permanent thing, and a new order of clergy, is to exist in the church, or it is a mere expedient. The latter is the usual plea for its existence. But we remark, 1. We think we have great reason to apprehend its permanent existence—and 2. If it be an *expedient*, like all other *expedients* to remedy evils, it is inefficient, and leaves the evil untouched, if it does not enhance it.

1. We do not suppose any one designs to give the agency system a permanent place in our church order, but what is the tendency of such things as these? 1. Instead of circumscribing the limits of its operation, this system has been gradually extending itself, into every department of Christian benevolence. Once we had an occasional agent for a college or seminary, or some benevolent institution. While thus employed, if a pastor, his pulpit was supplied, and when he had performed his agency, he returned to his business. But now, we have agents for every scheme that is set on foot. Agents to manufacture, then exhibit public opinion, and agents to collect money and disseminate information; and so constant and frequent are their visits, that some congregations on our great thoroughfares, are scarcely exempted a month together, from the call of some agent.

2. If a society be formed for any benevolent purpose, the first object to be attained, is the appointment of a general agent. If the sphere of operations be extensive, there is then a regular gradation from the commander-in-chief, to the lowest sub, who advo-

cates "the cause" in some remote village. Those appointed to the office surrender the pastoral connexion, or surrender the charge of some literary institution, or resign some professorship, or otherwise indicate no design to return, at least for a season, to their former sphere. Salleries are offered *per annum*, instead of *per month*, and "entering on the duties of my station"—"taking the field"—"securing a home for my family," are phrases which rather indicate a continued employment, than a temporary avocation. We have, it is true, known cases which savoured of the "temporary" and the "expedient"—but temporary denoted the *transitus* state from one "place" to a better, and "expedient," the plan to look out a new home and "better sphere of usefulness."

3. The very plan pursued is calculated to render a return to the old order of things more and more impracticable. The longer we employ agents, the more we need them. The more they do for the pastor, the less he will do for himself, and organised as the agency system now is, we see no prospect of a change, unless the doctrine on which it is founded, be abandoned; *i. e.*, unless it be assumed that we can dispense with agents, and the effort to do so, be fairly made, cost what it may. So long as the system continues, pastors and churches who approve it, will continue to wait for agents "to stir them up," as, while once, they waited for "evangelists" and "revivalists," and so long as they wait, must agents be sent: and the system with this reproductive power, will never end. This leads us to remark:

2. As an expedient, this system does not answer. The last item in the above series of remarks bears on this topic—but farther:

1. Its tendency to foster incorrect notions of benevolence, rather hinders than aids the efforts of pastors to inculcate proper sentiments. Each agent is filled with the importance of his "cause," and as it is now required before he enter on "the work," that he "prepare for it," his reading and meditation all bear on it, till imagination is called in to help reality, and "making an impression," "producing an effect," "stirring up the people," are the main objects of his undivided energies. Great meetings are held; the agent comes with his manufactured "public opinion" in the shape of a string of resolutions,—these are passed of course, sometimes with boisterous hurrahs, cards are circulated, one or two volunteers (?) arise, make short speeches and large subscriptions, pledges are handed in—and then all gathered up,—told at the next place, and so on, to the end. No doubt much money is so collected, but are pastors aided? Do we not here see the very cloven foot of "new measures," so much decried? Excitement and not principle? Here too is benevolence as an *extra work*, associated with *meetings* and *cards* and *pledges*—much talk of a *missionary* spirit, as something grown up in the nineteenth century, with a great deal more, all calculated to foster a spasmodic purse-opening, as contrary to "let each one lay by in store, upon the first day of the week," as light to darkness.

2. This expedient is expensive, and we doubt, that more is collected in nett results than the "*inefficient*" pastors might procure. The Dutch church, we learn, have fostered a most expansive

missionary spirit without the agency system, and some portions of the New England Congregational churches have abandoned it, with eminent success. The Methodists, like the conies (Prov. xxx. 24 and 26,) are a "wise" tho' not "feeble folk," and we learn that they collect their monies without this help.

3. The expedient as already seen, produces its own necessity, and in doing this, makes wider and wider, the departure from old fashioned Presbyterianism. The more we increase offices in the church, the more temptations we place before pastors to leave their "great work" and "come down" to "serve tables." They are men. The best pastors generally make the best agents. You call them away. They might (and are the very men to do it,) soon present such examples of benevolent churches, without agency aid, as would gradually introduce a better state of things.

These hints,—for we do not presume to *examine* such a subject, independently of our unfitness for such a task, it would require statements we do not like to make;—these hints are penned in no hostility to agents, still less to benevolent institutions, boards, or societies—for we contribute of our ability, with the church, where our lot is cast; and least of all from envy, for we were once called to an agency, but as the call we humbly believed, did not proceed from a higher place than one of our cities, we declined it. While considering that call and one similar and preceding it—these thoughts have occurred. While throwing them together we have been pleased to find these substantially those of Rev. H. Read, of whose genuine benevolence none doubt. But we profess no inspiration, and humbly hope this feeble effort to call out abler pens, may not be unsuccessful.

A VILLAGE PASTOR.

A FEW WORDS TO OUR PATRONS.

OUR circulation at the present time falls somewhat short of seven hundred copies a month: and there are very few states of the Union into which some copies of our Magazine are not sent. Our subscription list has increased, slowly indeed, but steadily from the appearance of our first No., a little over five years ago, up to the present moment; and that increase has been advancing in a progressive ratio. During the first three years of our labours, our income came short of our expenses—leaving the aggregate deficit, which is a dead loss, very considerable. For the two last years, the income has just paid expenses.

This entire patronage has been spontaneous; and far the greater part of all the payments made to us, have been unsolicited, except by an occasional publication of our necessities.

Surely we should be dead to all proper emotions of gratitude for human approbation, if we did not sensibly feel this decided and unusual mark of public confidence. Undoubtedly we should be lost to all sense of piety, if we did not humbly recognise the favour

of God, in this and all the manifest tokens of his goodness to us, throughout the difficult task to which his providence had called us.

We never expected a very large circulation—for our very vocation appeared to be to create a public sentiment upon subjects in regard to which great ignorance and indifference prevailed. Indeed, there were prudential considerations, which deterred us, under the calamitous state into which the patronage of newspapers and periodicals had fallen, from attempting large operations.

Such, however, have been the indications of Providence, that we have felt called on to enlarge by one fourth the number of copies printed; and by consequence, in a circulation so moderate, to increase our expenditures in nearly an equal degree. We issue for the present year a thousand copies a month, instead of seven hundred and fifty, the number heretofore.

We are confident that a very slight effort, on the part of our friends, would immediately absorb this increased issue. Will our friends—will the friends of true and regulated liberty, of sound and extended knowledge, of real and evangelical piety—will they make this effort? Will they do it at once?

We say nothing of our own labours: let them go for what they are worth. But if we had liberty to spread before the public the names of those who have contributed many of the leading articles to this journal during its entire publication—all surprise that it has steadily won upon the public mind would cease at once. At the present moment we do not hesitate to say, that we rank amongst our stated and occasional contributors—men of the very first rank in every walk of life; men who deserve to direct the public sentiment of their generation.

Such a statement is, however, hardly necessary; or at least may be easily credited. For if the names of that portion of our contributors, which have been attached during five years, to their various articles, be only allowed to be a specimen of all—the public have proof, that we have not said a word too much. The more stress is laid on this encouraging, and as it appears to us, important fact, as it is generally and truly considered more difficult to enlist *mental* than *monied* support, for every such publication as this: and that having achieved the former, the latter ought to follow, to any desired extent.

It is well known to our readers, that the proprietors of this work, who have not only established it, but have published, and edited it also,—are both ministers, and have both been, and both still continue to be, pastors, occupying important fields of labour. In the contemplation of possible changes, to which all men, but especially men solemnly and by covenant given up to divine guidance in the disposal of their lives and labours, must be liable; it has been our earnest desire to place our publication on such a footing, that on the happening of any contingency, some other hand might guide it, without encountering the cost, which has fallen upon us. The increased patronage for which we ask, would accomplish this most desirable object. With a thousand subscribers, punctually complying with our terms of publication, the work would moder-

ately support an editor; and might take rank amongst the best established of our periodicals.

We had no right to expect exemption from hatred and revilings. "It is impossible," says Luther in one of his epistles to Spalatin, "to speak with truth of the scriptures or of the church without irritating the Beast." In another, he adds, "It is impossible to defend the gospel without tumult and scandal. The word of God is a sword, it is a war, it is a ruin, it is a scandal, it is a destruction, it is a poison, yea, as Amos says, it presents itself as a bear in the way, and as a lion in the forest." And in a third, he demands, "Why do you suppose, that it is by peace that Christ advances his cause? Has he not combatted with his own blood, and all his martyrs after him?"—(*Luth., Ep. I.* pp. 261, 418, 425.) Even so it is in all time. "If ye were of the world, the world would love his own; but because ye are not of the world, but I have chosen you out of the world, therefore the world hateth you."—(*JOHN xv. 19.*)

Papism hates us, Pelagianism hates us, Universalism hates us, Infidelity hates us, the rampant Fanaticism of the times hates us, the dead Formalist hates, and all opposed to the true spirit of progress, hate us!—We expected it; they hate our master; why should they love the servant more than his Lord?

One manifestation of the extent of this hatred, and of the terror with which it inspires too many minds—is striking and peculiar. We allude to our treatment by the public press. As to the great bulk of cotemporary newspapers, the silence of the grave is observed concerning us. Monthly, weekly, daily notices are conspicuously published, of all sorts of periodicals, by the political and business press; but nothing can extort from them, a line, to show that for above five years, this magazine has existed—and excited and even widely agitated the public mind throughout the country. Many have entreated us to exchange—who have not in whole years named us in their columns. Many habitually use our materials without daring to credit our pages. Even some religious newspapers often do this; and still oftener imitate the settled silence of the political press. Posterity will hardly know, from the journals of the day, that our work existed: that is, if posterity ever hears of them!

It is then almost alone, that God has led our footsteps. Thanks be to his name—his guidance is unfailing, his support all-sufficient. The wrath of man shall praise him; or where it would not, he will restrain it.

We have no agents employed "at a price;"—we have never solicited for this work a farthing, in the way of donation: nay, we have again and again declined to receive them when offered: and now in our attempt to accomplish the present object, we choose, with an honest pride, to rely exclusively on the methods by which we have grown to our present estate.

Many of our friends have acted in the most generous manner towards us; let them not hold back their hands, at the present moment. Many have done nothing;—now at length may we not hope something even from them?

New subscribers must commence not farther back than January, 1840. They can begin with that month, or any after it. Our Magazine for 1838 and 1839, is nearly out of print; we fear we shall hardly be able to supply the orders on hand for those years. We have, however, odd Nos. for various months of both those years, and will cheerfully supply them, without cost, to subscribers having broken sets. We have also about one hundred complete sets for 1835, 6, and 7—and will supply them *bound*, at the lowest subscription price. Or to old subscribers, who have the vols. for 1838 and 9, we will supply those for 1835, 6, and 7, at half price, unbound. We make this proposal, from a strong desire to have the sets of the work, as far as possible completed and perpetuated.

There is due to us, more than double what we are out of pocket, on the whole work from the beginning. Some have received the work for five years, and paid nothing. Some have received it for one or more years, and then discontinued without paying for it. We have lost by this latter class alone, enough to publish the work for a whole year. To the former class we attribute nothing beyond inattention, to a matter, small in itself—but important to us.—Our distant subscribers are not expected to pay oftener than once in two years; this they can easily do, by remitting to us, and at our risk, a five dollar bill, by mail; the post masters, will frank their letters. As all our agents are voluntary, it is in most cases best for our subscribers to remit directly to us.

And now with cordial thanks to all who have lent us a helping hand, in the important labours to which God has called us; and with sincere forgiveness to all who have sought to injure us:—we commit our cause, which we believe verily is the cause of FREEDOM, of KNOWLEDGE, and of RIGHTEOUSNESS, to the disposal of him, whose we are, and whom we try to serve.

A SERMON,

By the Rev. John P. Carter, of the Presbytery of Baltimore.

“For he hath made him to be sin for us, who knew no sin; that we might be made the righteousness of God in him.”—2 COR. v., 21.

THE doctrine of this text may be thus expressed: Jesus Christ, who knew no sin, was made the propitiation for our sins; in order that we, by him, might be made righteous in the sight of God.

In these few words are involved the three great doctrines of Christianity. 1st. An allusion to our sinfulness, and the alienation of our hearts from God. 2ndly. The work of Christ in redeeming us from sin and its consequences. 3rdly. Our restoration to the favour and enjoyment of God. On each of these subjects I wish to make a few remarks, dwelling chiefly on “the price of our redemption—the shedding of Christ’s precious blood, as of a lamb without blemish and without spot.”

I. Our sinfulness and lost condition by nature.

1st. If we were not naturally in a perishing condition, a God of truth and faithfulness would not have informed us “That He so

loved the world that he gave his only begotten Son, that whosoever believeth in him *might not perish*, but have everlasting life." "He that *believeth not* is *condemned already*, because he hath not believed in the name of the only begotten Son of God."—"Except a man be born again, he cannot see the Kingdom of God."—"Except ye repent ye shall all likewise perish." Such expressions with which the word of God abounds, are utterly inconsistent with the idea that we are not naturally exposed to eternal woe as the punishment of our sins.

2nd. We have good reason to suspect that there is something radically wrong within us; from the fact, that amidst all the pleasure and gait with which we may be surrounded, we are nevertheless, *unhappy*, so long as our hearts are *unchanged*. Show an *unconverted* man, and you show an *unhappy one*. He may not be unhappy at all times; but after the excitement of worldly pleasure is past, there remains an *unsatisfied longing after a something, he knows not what*, which he has anxiously, yet vainly, sought among the changing vanities of time. What is this, O sinner! but the the Spirit of God awakening your conscience to the emptiness of your lowly pleasures? What is it but God himself, mercifully mingling bitterness in your cup of joy, that you may thirst after "*the living waters of salvation*." And with his own hand, planting a thorn in your bosoms, whilst the world occupies its place in your affections? Ah! my friends, you may *suppress* the heavy sigh that oft rises from your burdened conscience, and with a *forced smile*, seek relief from the deceitful enjoyments of time; but whilst you remain in your present state, "*The cup of bitterness*" will still be your portion. The thorn will still wrangle in your heart.

3rdly. But again. If you are not a sinner, and as such, exposed to endless misery, why are you afraid to die and to meet your Maker in judgment? If you are not a sinner, why do you regard death, as the fugitive from justice regards the officer who is about to deliver him to his offended judge? What is there in death so to be dreaded, oh my fellow sinner! if it be not the mortal sting imparted to it by your *sins*.

There are some, however, who do not fear death, yea, who seek it with their own hand. If they be not *insane*, they fear it not because its bitterness has passed; and hell with them, having begun on earth, with the desperation of the lost, they plunge into *deeper* perdition to drown the misery of the past. And some of *you*, my friends, who are still in the land of prayer and pardon, may not be afraid of death, being insensible to the danger of dying in your sins. Then you are precisely in the condition of the inhabitants of the old world, who repented not at the preaching of Noah, yet the flood came and destroyed them all. And like the devoted Sodomites who knew not and believed not that the fiery wrath of God would be poured upon them; and regarded the warning of Lot as the mocking of a madman—yet it rained fire from heaven, and devoured them all. And like the holy city Jerusalem, which knew not the day of her most merciful visitation. But the Saviour knew it, and warned her of it—and wept because she heeded not.

And *you*, may not see your danger ; but your *friends* see, and they beseech you with tears to flee from it. The *ministers of the gospel* see it, and they are sent to warn every man and to teach every man, "If God, peradventure, will give them repentance to the acknowledging of the truth." And *God* sees your danger, as he sees the danger of all, and has sent his Son to save you from it. "He is not willing that you should perish, but rather that you should turn and live." "As I live, saith the Lord, I have no pleasure in the death of the wicked."

II. *The sufferings of Christ as the sin offering of man.*

With an insensibility natural to the human heart, the sufferings of Jesus Christ are spoken of as a matter of course—a task, which he had undertaken to accomplish, and which he was fully prepared to endure. But it should be remembered that whilst the Saviour was the *Eternal God*, he was also a *human being* in the strict sense of the term. He was therefore, as capable of suffering as any other human being. This is too frequently overlooked when we speak of the sufferings of the Redeemer. Doubtless, he was fully prepared to meet his sufferings ; but that preparation did not consist in destroying the vitality of his nerves, or in quenching the tender sympathies of his bosom. You may as well underrate the torments of the lost, and hear unmoved the *wailings of perdition*, as lightly to esteem the sufferings of the Redeemer as *saving your soul from that perdition*.

Suppose your crimes were such, that a righteous judge had doomed you to death ; and when about to receive the death-dealing stroke of the executioner, a beloved brother, innocent of every crime, should step forth, exclaiming, "Hold ! Hold ! save the victim. Take my blood for his." Could you stand by and behold that dear friend suffer in your stead, with tearless eyes and unmelted heart ? Then with suitable affections, let us view our Redeemer in his last hours, when about to "suffer for our sins in his own body on the tree."

Behold that lonely band of martyrs issuing from the gate of Jerusalem, headed by the Captain of their salvation. They have supped together for the last time. It is now the solemn hour of midnight. Jerusalem reposes in silence. All are at rest, save Judas and the minions of the High Priest ; Jesus and his disciples. Those awaiting the signal of the betrayer. These attending their mysterious Master they know not wither. They come to Gethsemane. Then leaving the rest, he taketh apart the favoured Peter and the two sons of Zebedee. He betrays unusual emotion. He is sorrowful, the heaviness of woe is upon him. They hear the voice of him who spake as never man spake—"My soul is exceeding sorrowful, even unto death—tarry ye here and watch with me." He leaves them a little space, and falling with his face to the earth, he cries—"O My Father ! if it be possible, let this cup pass from me : nevertheless, not as I will, but as thou wilt." His Father's gracious answer, is an angel sent to strengthen him for the dire contest with the powers of darkness. Yet he prays more earnestly ; and O ! what is his agony ! See ! See !! his bursting temples suffused with blood—his gory sweat bedews the cold earth ! Again he

offers the strong cry—"O! my Father, if this cup may not pass from me except I drink it, thy will be done." Thrice the same words are uttered in deep-toned supplication, then in submission to his Father's will he arises to endure the wrath incurred by our sins.

He cometh to his disciples and saith, "Behold the hour it at hand, the Son of man is betrayed into the hands of sinners. While he yet speaketh, lo! Judas, one of the twelve, cometh, and with him a great multitude with swords and staves, as against a thief and a robber. They seize him and lead him away to the High Priest—behold, what follows:—He hides not his face from spitting, nor his back from the smiters, he rebukes not their horrid blasphemy—"Prophecy, who is it that smote thee?"—Attend him now to the Roman judgment hall. Barabbas, a robber, is preferred before him. He is scourged by Pilate—the brutal soldiery pierce his brow with a crown of thorns—array him in a purple robe—place a reed in his hand, and mocking, bow before him. "Hail! King of the Jews!" Thus arrayed, he is brought forth, and, saith Pilate, "Behold the man!" Hear now the vengeful murmur of the multitude—rising higher and higher till the towers and battlements of Jerusalem return the demon cry—"Crucify him! Let him be crucified! His blood be upon us and our children!"

Follow him now to Calvary. Pass with him along the dolorous way as he bends under his own cross. See him stretched on that cross; his hands and feet pierced with the large rough nails—and when *elevated*, the weight of his body sustained by his lacerated flesh!—Behold him lingering from the sixth hour to the ninth, reviled by man—forsaken of God, whilst the burning sword of justice is bathed in his heart's blood, and the wine cup of wrath wrung out to the dregs! *Eloi! Eloi! Lama Sabachthani!*" *My God! My God! Why hast thou forsaken me?*—"It is finished!"—He bows his head, he gives up the ghost.

Thus died the Lamb of God to take away the sins of the world. "Surely he hath borne our griefs and carried our sorrows: He was wounded for our transgressions, he was bruised for our iniquities: the chastisement of our peace was upon him, and with his stripes are we healed." "All we like sheep have gone astray; we have turned every one to his own way; and the Lord hath laid upon him the iniquity of us all." "Herein is love, not that we loved God, but that He loved us, and sent his Son to be the propitiation for our sins."—For he hath made him to be sin for us, who knew no sin, that we might be made the righteousness of God in him.

III. I have endeavoured, thus far, to show, that as we are all sinners, we are therefore exposed to the wrath of God. And that an atonement being necessary, God sent his Son in the likeness of sinful flesh, and by a sacrifice for sin, condemned sin in the flesh.

I wish now to speak of the way in which we are made righteous in Christ; or in other words, how the benefits of the atonement are made available to us. For the object of the atonement was to answer all the demands of the law against us, that we might be freed from condemnation, and entitled to the rich reward of everlasting felicity. This part of the subject being highly important, I therefore invite to it your serious attention.

In the first place, as every man is condemned in the estimation of God's law, it is utterly impossible for any one to be justified by his own obedience. For even in reference to *human* laws, when a man is pronounced guilty of a particular crime he cannot be delivered from that condemnation by his future obedience to the law, how long, and how perfectly soever he may obey the law. But the law of God which pronounces the human race guilty by nature, is not only more extensive in its demands than any human law, but unlike any other penal regulation, a single violation of it is accompanied, amongst other evils, with *the total inability to meet its requisitions ever after*. Hence, as we are under the condemnation of such a law as this, it is manifest, that we must forever continue to transgress the law, and everlastingly abide under the sentence of condemnation, unless by a sovereign act of our Creator, we be so united to our substitute, as that our sins be imputed to him, and his righteousness imputed to us. And at the same time, our hearts be so changed, that we forsake our evil way, and walk in God's statutes, and keep his judgments, and do them.

The nature of this transaction shows that it can be accomplished by none but God. For he alone can regenerate the heart, and being the offended party, he alone has the right to establish the terms of reconciliation with his offending creature. Accordingly our heavenly Father, rich in mercy to a world lying in wickedness, "*Justifies us freely by his grace* through the redemption that is in Christ Jesus : whom God hath set forth to be a propitiation *through faith* in his blood." "Christ is the end of the law for righteousness to every one that *believeth*." "By grace ye are saved, through *faith*, and that not of yourselves, it is *the gift* of God." "And hereby we know that he dwelleth in us by his *Spirit* which he hath *given* us." "But the fruit of the Spirit is love, joy, peace, long-suffering, gentleness, goodness, *faith*." Thus the Holy Spirit unites Jesus Christ to the sinner : and *faith*, produced by the Spirit, unites the sinner to Jesus Christ.

The immediate effect of the Spirit's agency on the heart is an awakening to a sense of sin, a conviction of guilt and condemnation in the sight of God. Then follows repentance : a sincere contrition, acknowledging our unworthiness, and the justice of God in our condemnation. The Spirit, then, proceeding in his gracious work, discovers to the penitent soul, the preciousness of Christ, as the *only* and the *indispensable* Saviour of sinners. And the sinner perceiving that in Christ crucified there is plenteous redemption, is graciously enabled and made willing to receive and rest upon him alone for salvation. The confidence which is thus inspired by the Holy Spirit, is that *justifying faith*, which uniting the sinner to Jesus Christ, entitles him to the benefits of redemption.

The Scriptures represent *faith* under two leading views. The first is that of mere intellectual belief, or an assent of the understanding. The second, is that of the entire confidence of the whole mind and heart. In the former sense, faith is possessed by the *devils*, who believe the awful and abiding hatred of God to sin : and *tremble* whilst they believe. It is also possessed by those *men*, who hear and believe *unmoved*, the same tremendous truth. But

that faith which gives a sinner an interest in Jesus Christ, is the unreserved and undivided reliance of the soul upon him for salvation. It is *unreserved*; because the sinner is overwhelmed with the superabounding grace of God manifested in giving his Son a sacrifice for sin. It is *undivided*, because he not only perceives the utter impossibility of being acceptable to God by the merit of his own works, polluted as he is with sin; but the entire sufficiency of Christ's redemption, presented by the invincible efficiency of the Holy Spirit, begets in his soul an *all-absorbing* confidence, excluding every other hope, save the peace-speaking blood of Jesus. Connected with the exercise of this faith by the sinner, the perfect righteousness of Christ is legally imputed to him, and he is thereon delivered from condemnation, in being *pronounced* just in the estimation of the law, and entitled to all the blessings that accompany salvation.

But, secondly; our *title* to blessedness, received in justification, would profit us little, unaccompanied by a "*meetness to enjoy* the inheritance of the saints in light." Accordingly, when we are delivered from the *condemnation* of sin, we are also delivered from its dominion in our hearts. Jesus is a *complete* Saviour. He saves his people not only from *hell*, but also from their *sins*. So that "they who are Christ's have crucified the flesh with the affections and lusts thereof." And being dead with Christ to sin, we are to live no longer therein, but as he was raised from the dead, even so we also should walk in newness of life. Not allowing sin to reign in our mortal bodies, to obey it in the lusts thereof, but yielding our members servants of righteousness unto God, by the grace of Him who raised Jesus from the dead, and who quickens our mortal bodies by his spirit that dwelleth in us.* The Spirit of God, therefore, dwelling in us, imparts to us the capacity for the enjoying of God, in the progressive work of sanctification. He enableth the Christian to die more and more unto sin, and to live unto holiness. To deny himself, and to take up his cross—constantly to grow in grace and in knowledge until he arrives at the fulness of the measure of the stature of Christ," "perfecting holiness in the fear of God." This work of sanctifying or preparing for glory; is commenced when the sinner is born into the kingdom of God; it is continued through life, and completed only when faith is lost in sight; when the prayers of time swell into the praises of eternity; when weeping and warfare cease, and the hand of him which giveth us the victory, shall have wiped all tears from our eyes.

In this salvation, therefore, we are made righteous 'in law and in fact.' It is the righteousness of God, for "it is God that justifieth, and it is *His* spirit that sanctifieth." Our complete salvation, embracing justification and sanctification with all their blessed fruits in time and eternity, is the work of *God, through* the Son, *by* the Spirit:—the blood of the everlasting covenant, the only ground of salvation; faith in the Lord Jesus, the only means of receiving that blood—and faith itself the fruit of the Spirit. The blood, the faith, and the salvation, being, therefore, each equally the gift of

* See Epistle to the Romans, vi. chapter.

God, how accurate, how forcible the language of the text—"He hath *made* him to be sin *for* us, who knew no sin, that we might be *MADE* the righteousness of God in him."

APPLICATION:

If we can confide in our Saviour's declaration,—"*He that believeth not is condemned already*"—with what inflexible perseverance should every sinner seek the pardon of his sins! And if only the blood of Jesus can cleanse our souls from sin, is it not worse than useless to attempt to be purified in any other way?

If God out of Christ is a consuming fire, is it not madness to risk our everlasting peace on the "*uncovenanted mercy of God?*" And if faith in the Lord Jesus is the *only possible* means of being made partakers of that 'holiness, without which no man shall see the Lord'—should it not be our *earnest*, our *constant*, our *fixed* determination, *thus* to obtain an interest in him who alone can pluck us from the brink of eternal ruin?

1. To you who hope you are *by faith* united to the Redeemer, to you, I would say, "give all diligence to make your calling and election sure"—I would remind you of your remaining corruption, and the native deceitfulness of your hearts—I would exhort you, carefully to examine the character of your faith—if it be genuine, it will work by love, it will purify your hearts, and overcome the world—If you, indeed, be in Christ, "you are new creatures, old things have passed away; all things have become new." Be faithful to Him who hath called you to glory and honour, and nothing shall separate you from his love.—"The God of hope shall fill you with all joy and peace in believing." "And the peace of God which passeth all understanding shall keep your hearts and minds through Christ Jesus."

2. And you who are confessedly yet in your sins, delay not to accept the invitation of God, to "turn from your evil way that he may have mercy upon you and abundantly pardon." "He hath no pleasure in the death of the wicked." "He is not willing that any should perish, but that all should come to repentance." But destruction and misery are in your ways and the way of peace have you not known. Defer not then to the uncertain future to make your peace with God. You know not how soon your soul might be required of you—*How* shall you escape if you neglect so great salvation?

3. Finally, a word to you who trust in yourselves that ye are righteous. You pretend to walk according to the dictates of natural conscience, and "to look through nature up to nature's God." Pause ere you again reject the offer of mercy through a crucified Redeemer, to depend upon the broken reed of your *good deeds*. O! believe me, they are but "a refuge of lies, that shall not protect you from the overflowing scourge." You *profess* to love your Maker for the rich blessings wherewith he hath blessed you, and to feel grateful for all the benefactions which he hath bestowed upon you; yet you treat his beloved Son with contempt, rejecting his salvation as a useless thing. Remember your *professed* love and gratitude to God unmanifested in obedience to his Son, will

avail you nothing in the great day of account : for "the name of Jesus is the only name given under heaven among men whereby we must be saved."—And they *alone* who *believe*, will finally be saved. And since "God so loved the world that he gave his only begotten Son that whosoever believeth in him might not perish but have everlasting life :"—let me exhort you to submit yourselves to the righteousness of God—resist no longer the Spirit of him who gave himself a ransom for sinners, lest resisting that Spirit, he be constrained to take his everlasting departure from you, and in departing weep over you, "If thou hadst known, even thou, at least in this the day of thy most merciful visitation, the things that belong to thy peace, but now they are hid from thine eyes." God forbid that this should be thy end, O! reader, and may he grant unto you to be "made the righteousness of God in Christ," and saved at last in his heavenly kingdom, for the Redeemer's sake—Amen!

PAPISM AND CHRISTIANITY CONTRASTED.

An individual writing to us, to order our Magazine—adds the following contrast—which appears to us, just and clear.

THERE is but *one guide* given to man in his pilgrimage here :—the *Word of God*. Its sanctions, therefore, are not to be misapplied with impunity: and if the Papist system be not that "*man of sin*," spoken of by St. Paul, to whom God shall send *strong delusion*; how *can* we account for the fact that men, apparently pious, endowed with good understandings, can, with his holy word in their hands, *dare* to teach doctrines *directly opposite* thereto! This is a heavy charge; but is it not true? Analyze it a little, and it looks like a *systematic design*, to run counter to every precept of scripture.

"There is one Mediator, the man Christ Jesus."

Then we will go to the Virgin and all the saints in the calendar, as our mediators.

"Thou shalt not make to thee any graven image—thou shalt not bow down to them."

O, we always allow these little pictures—they help our devotions.

"Keep the Sabbath-day holy to the end of it."

After mass, we consider the Sabbath ended.

"Let a bishop be the husband of one wife."

We priests don't marry;—we have a system that answers much better.

"Who can forgive sins but God."

We priests do that thing ourselves.

"In the church I had rather speak five words to teach others also, than ten thousand words in an unknown tongue."

We prefer teaching in Latin.

"Call no man master."

We have a master, and kiss his big toe, too, when we approach him.

"Let all things (in the church) be done decently and in order."

Well, if lighted candles at noon day, nor holy water and ashes and salt, nor holy oil, nor counting beads, nor swinging pots are sufficiently ridiculous, we'll take a couple of the worst boys from the streets, dress them in white, put a little tea bell in their hand, and set them to ringing occasionally under the priest's petticoats.

"Search the Scriptures—they are they which testify of me."

That, of all others, we cannot permit. Let in light and all our fabric tumbles to the dust.

MOSES AND THE GEOLOGISTS.

WE observe in the "*Post*" newspaper of this city, two articles of a series headed "*Geological Discussion*;" the object of which is to confute the article of DR. HORWITZ, on the *Cosmogony of Moses*, published in our No. for December, 1839. We have thought it necessary to make a remark or two in relation to this matter. The case stands thus: Here is a man called Moses, who gives an account of the creation of the world; now the question in Dr. Horwitz's article is not whether Moses tells the truth or not, nor whether he is inspired or not,—but is simply, *what does Moses really say?* So again,—here is a science calling itself *Geology*; and the question of Dr. Horwitz's article, is not whether its pretensions are true, and its assertions well founded—or not: but whether Moses, fairly interpreted, can be made to agree with its wonderful statements? The real question of the article, is, therefore, simply this, *What does Moses say?* This question is purely a grammatical, a philological question; so Dr. H. has treated it; and upon that ground alone, can his argument be met; and upon that ground alone, would any true scholar think of meeting him. What then need be said more, to an answer which in the offset, assumes, that this is a mere question of *authority* amongst great names, when the very pith of the matter goes to show that these great names have misled the public mind? And how strange must all argument in such a case appear to one—who says; "*I nevertheless contend that the whole of this philological argument has no weight in deciding the question in dispute*"!!! We sincerely hope some Hebrew scholar of the number who have embraced the late opinions, will reply to Dr. H., and show *philologically*, (which with great deference we must say is the only way to show) what in his judgment is the real sense of Moses, and what are the reasons, *grammatical* and *critical*, for his thinking so. Let us put Geology on the shelf—till we settle, independently and as scholars, a question of mere Hebrew, which is of great importance, and some difficulty. We need scarcely remark, that the attempt to ridicule the scholarship of Dr. H. is in very bad taste; for whatever else that gentleman may be, his article sufficiently proves, that the reputation he has enjoyed, until now undisputed, for thirty years, of being amongst the most accomplished Hebræists of his day, is perfectly well deserved.

In the second article of the series now alluded to—we venture to suggest, that a very erroneous impression is given of the real

state of the question, between Geology and Moses. It is not the friends of Revelation who have demanded of the Geologists, to make their science agree with the Cosmogony of Moses, as universally understood, until within the last half century : for they are perfectly content to let the Geologists work away at their science, till they beat it into form ; and are confident that when it does in fact become a science, properly so called, instead of a mass of undigested facts, and contradictory theories—it will really accord with all other established truth, both moral and physical. But it is the Geologists who having first impeached the received sense of Scripture, in order to uphold their crudities ; then set to work to construe Moses in a new sense, in order to evade public suspicions that they were infidels. In reply, it was necessary to show, and we must contend, it has been shown, that the old Jewish and Christian sense of Moses, is the true sense ; and that the new geological sense of Hebrew is false. In this state of the argument, it is out of place, for the Geolistic Hebræists, to cry out against the friends of the old interpretation, that they are hostile to science, and disposed to put down investigation, by a mistake of the sense and a mis-application of the use of inspiration. The crust of the earth is one thing ; the Word of God is quite another thing. The Geologists may burrow to their heart's content in the former ; but let them respect the latter—or let them meet the argument, founded on it, by learning appropriate to it.

We regret very much that a discussion of this nature should assume an aspect at all personal or unpleasant. It is, unhappily, not possible to conduct it, in the present extraordinary posture of Hebrew learning, without attacking the opinions and by consequence, the scholarship, of most of the learned of the present day : who have to a deplorable extent given in to the new interpretations. But it is of unspeakable importance, to show that the Bible has a fixed sense ; and hardly less so to show that *that* sense is to be ascertained by fixed rules. And therefore, it is far better to encounter the odium of *proving* the so called learned of a particular age, shallow and unstable ;—than to be guilty of unfaithfulness to the interests of true scholarship, and sound interpretation. It is our consolation, also, in the present matter, to agree with some of the first scholars of the present day—and with *all* the learned of all preceding centuries.

Nothing but the great importance of the subject, could have induced us, to notice articles, which are written in the worst spirit, and without ability.

PAPISM BEFORE THE COURTS OF LAW: OUR LEGAL PERSECUTION.

DAVID, in the ninth Psalm (verses 15 and 16) has given us this remarkable evidence at once, of the providence and the justice of God,—that wicked men are commonly the victims of their own atrocious machinations. They dig a pit—and fall into it; they hide a net and their own feet are taken in it; they contrive a plot—and are themselves snared! It is the judgment of the Lord, declares the prophet; and then adds a double exclamation of his conviction and astonishment.

Is it even so, that Papism, after a sleepless watch of five years, springs upon us at last, only to demonstrate the depth and continuance of its hate, and to be covered with confusion in a more public and signal overthrow?

What are we to the keeper of an alms house? Nothing, absolutely nothing! And what is he to us? Nothing, less than nothing! It is Papism that attacks us; and shunning investigation, answers by a prosecution, what nothing but argument and proof can meet.

We never thought of Maguire; we did not even know his name a week before the pretended libel, on him was penned; and till this hour have never laid our eyes upon him. The moment we heard that he had taken offence—we spontaneously, first privately, and then in the pages of this Magazine where the supposed injury had been inflicted—proffered every possible reparation which justice, truth, or religion allowed—or which an honourable mind could ask.

Having, however, inflicted no injury—we failed of course, to make any satisfactory atonement. Pretended injuries are too fatal to be redressed. We are glad that we did make the effort, however; and are thereby, set right in the judgment of every candid man. Henceforth, the nature and true source of the prosecution against us is obvious to all; and we shall not hesitate to assert—what we do not doubt any jury before which the question is ever brought, will stamp with their verdict, namely, that no private injury, but Papism in general, and the priests of this city in particular, are the true sources of this prosecution.

We confess our responsibility to the laws. We are ready to meet it. We have asserted nothing that is not true; we have insinuated nothing that is not warranted. We confidently rely that any tribunal before which the case may be investigated in any aspect of it—will adjudge that we have spoken truth only—and that, in a timely and becoming manner.

We have said three things in our short article published about the alms house, in our November No., and re-published in that for January. 1. *We have said that a mass altar was erected in the alms house, at the public expense.* Now observe: **WE EXPECT TO PROVE IT**, whenever lawfully called to do so; *we expect to prove more than we have said.*

2. We have said *that an aged German was imprisoned in the alms house.* Now take notice: **WE EXPECT TO PROVE IT**; we expect to prove, whenever put to it, *all* that we have said, and so much beyond, and all so indisputably, that the wonder will be, how any

man ever thought of seriously calling us to question about the assertion!

3. We have said, *that the man went to the alms house under the procurement of the priests,—and that he was shut up as a madman : and that the procuring cause of his being sent there, was his known desire to become a Christian.* Now remember; **WE EXPECT TO PROVE IT ;** unless Papal witnesses swear falsely we expect to prove it directly ; and if they do, we expect to prove so many collateral facts, that all men will admit they have sworn falsely.

With the two first facts, the keeper of the alms house may no doubt suppose, he has a right to concern himself. Very well ; we can only say we are assured and believe they are true and will be proved. But with the third fact we cannot see that he has any right to find any fault whatever ; as not only no *offence*, but even no *fault* is imputed to him ; except that he believed a man to be mad, who was said to be so, and on that account confined him ; without law it might be, but without crime. The insinuation by us, if there was any, was altogether in favour of the keeper ; and if, when the case is gone into, it shall turn out, that we did him more than justice—he will be pleased to remember, how it was he got into the difficulty, and forced us into a more careful examination of the facts bearing on this part of the case, than we ever contemplated.

That the old German, was really a Papist, was really inclined to become a Christian—and was in this juncture sent to the alms house, accompanied there by a violent Papist,—there locked up in the cells—and kept in them under circumstances altogether unusual and illegal, until demanded and released by his friends ; **ALL THIS WE EXPECT TO PROVE.**

It is, moreover, to be considered, that we made these statements, when first published, on the authority of persons of the utmost respectability ; that they relate to the very matter of our profession in life, to wit, to the salvation of the soul—of a poor sinner, who was seeking light and pardon, and supposed to be violently interfered with by others ; that we uttered them in the due course of our lawful and regular calling as editors of a journal, long and expressly devoted to the very subjects which led to the present matter ; and that the violent and personal assaults upon us, by the priests themselves, (for example, Mr. GILDEA,) led to the establishment of the very journal itself. All this is notorious, and can of course be fully proved.

If upon this case, a jury of our country will say we have uttered what is *false*—and have done so *maliciously* ; then indeed, it will be time for the centinels on the watch-towers of truth, to tremble. If to give security to the machinations of foreign priests, sent by a foreign tyrant as emissaries into this land, *as yet free*, the liberty of the press is to be curtailed—the liberty of speech abridged—the rights of conscience assailed—the freedom of religion attacked—the personal security of the citizen diminished—the right of free enquiry denied ; if Papism is already strong enough, not only to terrify society, silence the political press, invade the ballot-box, and threaten the pulpit,—but also to infect the administration of justice ; then we have only to say—Papism could no where have sought in

this community, a more proper or a more willing victim. We love our country, our race, our master—well enough to suffer for either of the three : how much more, in the cause of all three united !

To show the malignity of the persecution now set on foot against us, we need only say, that not only has private redress been sought, by a suit at law against us, for pretended injuries ; but *for the same offence*, a public prosecution also, has been most industriously and eagerly urged against us. As yet the grand juries have refused to proceed against us : but, who can tell how far, the oaths and accusations of bigotted prosecutors and interested witnesses, in *ex parte* inquisitions, to which we have no access—may finally carry even well-meaning, but deluded men ? It is the province of a virtuous and enlightened public sentiment, to frown down such base attempts, and to hold the instigators of them, whether *priestly* or *political*, to a just accountability.

In vindicating our characters, our conduct, and the truth committed to us—our friends may rest assured, that we shall never for a moment forget, that even this persecution may by God's blessing be the very best possible means of establishing important facts in regard to the odious character and pretensions of Papism ; and of riveting public attention on them. A priest, on the witness stand, with the fear of punishment for perjury before his eyes, may be forced to confess what he would deny every where else.

Nor can we forget that a new aspect is given to the entire Papal controversy, by these proceedings. Until now, it was in this community a purely *moral* question. Hereafter, it is a *legal* one also. We have not chosen to take this step in advance ; God's providence has forced us to take it. If it ends in punishing the lewdness of some of the Pope's minions—the drunkenness of others, the oppressions of more ; if it brings about the suppression of convents by law ; if it fixes attention on the mode of naturalising the Pope's subjects ; if it leads to the deliverance of our city, from the political influence of Papism ;—if priests find themselves punished for crimes, heretofore overlooked ;—if Papism sees itself treated as a public evil ;—let us remember, when we behold the wicked fairly entangled in their own toils, that, as David hath fore-shown, it is God's judgment, that is manifest upon them.

As to the *personal* results of these transactions, we ought to value them at—not a rush. No being whose opinion is more to us, than the fine dust of the balance—will be any more assured of our innocence—after God shall, as we humbly trust, confound our enemies—than they are now. Never, at any period of our lives, have so many, so marked, and so affecting tokens of public confidence and applause been conferred, on the author of the '*libel*,' in the same brief space ; as since it was *carefully made public, in his absence from the city*, that the Papists had arraigned him as a malicious slanderer. Who believes them ? Who will ever believe them ?

The private action against us, was instituted in November ; yet up to the middle of February, (the period at which we write,) no declaration has been filed. We have, by our counsel, again and again asked for it ; but, three months, it seems, are insufficient, for able *Protestant* (!!!) lawyers, to determine on the best mode

of torturing *twelve lines* of very plain English, so as to do the most effectual damage to two *Protestant Clergymen*! We feel called on to say, that the most painful and surprising aspect of the whole case, is, that distinguished *Protestant* gentlemen—should, considering all the circumstances, be found ready to lend themselves to it: And such, we venture to say, will be the general judgment, of this *Protestant* country. Could no *Papist* lawyer be found to harass us? Is nothing due to the bonds of a mutual faith? Are the Christian and Protestant members of the noble profession of the *Protestant COKE* and the *Christian SELDEN*, open to every application, to worry down, alike, Protestants, Christians, and Ministers of God? And for what? And for whom? Alas! Alas!

We confidently appeal to our country for countenance and support to this *Magazine*—under the present attempt to silence its free voice. And we pledge ourselves, by the grace of God, to do our best, in time to come, as in times past, for the support of true freedom and religion. Utterly regardless of legal persecution as of threats of assassination, we will frankly peril all we have and are, in a cause to which we have been called by clear duty; and in which the violence and unreasonableness of our enemies, is but additional evidence of the efficacy of our labours, and of our divine vocation to them.

Since the foregoing article was in type—information, the accuracy of which we have no room to doubt—has reached us, that the Grand Jury, have agreed to *present* us; and before these pages are issued, we shall be regularly arraigned on a criminal prosecution.

The will of God accomplishes itself on us, and with us, as well as in us. We shrink not, from aught to which He calls us.

If we have been rightly informed, two preceding Grand Juries have refused to do, what one has at last been found to perform. We will make but two reflections. The *first* is, that we cannot comprehend how any candid man could say, in view of the naked case, in the worst aspect which it could assume, that there was the slightest evidence of *malice* in our article: but *malice* is the very gist of the pretended offence! The *second* is, that God in his providence having brought this very Grand Jury, to hear, by the oaths of *unimpeachable witnesses*, that our statements were true,—we cannot imagine how they could say, they believed them to be false; but *falsehood* and *malice* constitute *libel*!

We refer the reader to the article which follows, for the next step, in this prosecution for righteousness sake.

LETTER OF ROBERT J. BRECKINRIDGE TO THE SECOND PRESBYTERIAN CHURCH OF BALTIMORE, ON THE OCCASION OF HIS PRESENTMENT BY THE GRAND JURY: WITH THE ACTION OF THE SESSION, AND THAT OF THE CHURCH THEREON.

LET the following letter of the senior editor of this magazine speak for itself.—It was read, about the period of its date, publicly, (by a friend) to those to whom it is addressed, and a small edition of it, printed on an extra sheet for their use.

The junior editor is not in reach of the press, at the present moment. It is, however, proper to say, that he is in no true or proper sense responsible for the original '*libel*;' and is mixed up with this particular question innocently and only *technically*. He did not write, print, see, approve, or know of its existence, till it was published. He *would have done*, all that is right if he had been called to it. He *would now do* more than he ought, to identify himself with this difficulty. And this explanation is made without his knowledge.

The writer of these lines, is ready to share his honours, his blessings, his enjoyments, with all his friends. But his dangers, his reproaches, his persecutions, he would not willingly share with any but his glorious Redeemer.

MY beloved brethren and friends.—The most of you know that a civil suit was instituted against me, in my absence, three months ago, by a Papist, named Maguire, for an alleged libel on him, published in the *Baltimore Literary and Religious Magazine* for November, 1839; in regard to the confinement in the cells of the Alms House, of an aged German Catholic, who desired to become a Christian.

As long as the affair was only a manifestation of private revenge against me, for defending personal liberty and the rights of conscience; I did not think it worth while to trouble you about it; nor proper to allow it to have any effect on the ordinary course of my duties.

But after repeated attempts on the part of my enemies and persecutors, to enlist the power of the Commonwealth against me, in a criminal prosecution—additional to the private action; they have at length succeeded. The Grand Jury for the City of Baltimore, after an *ex parte* investigation, at the instance and on the testimony of interested parties, have made a *presentment*, and in the ordinary course of affairs may be expected, soon to find a *Bill* against me for *false and malicious libel*; and a warrant as in the case of a common felon, has been issued against me.—I do not complain either of the injustice or the indignity; I barely recount them.

I hope it is superfluous for me to say to you, who have known me so long and so well, that in this transaction I have been actuated only by a sincere love of truth—an earnest desire to promote justice—and a perfect willingness to risk all, in the cause of Christ and of public liberty. I appeal to the whole current of my life—I appeal to the consciences of all who know me—I appeal to the searcher of hearts: and I defy the malignity of all the enemies who have so long, in this city, sought my ruin.

But something is due to public appearances; very much to the character of the church I serve: most of all to the sacred office I bear. These have demanded of me, a line of conduct answerable to the new and difficult circumstances in which, by God's providence I find myself placed; and to which his grace only can make me equal.

It is hardly becoming that one, whom a Grand Jury—no matter how prejudiced or deluded—publicly arraigns for *malicious falsehood*; it is hardly proper that such a person, while he underlays such a charge, should exercise the functions of a minister of Christ. It is not proper that you should, in any manner, be implicated by my faults, or involved even in my misfortunes, except by your own deliberate act.

I have, therefore, the profound affliction of announcing to you, that from this moment, until a jury of my country shall pronounce upon my conduct, or this monstrous proceeding be otherwise legally disposed of, I will lay aside, absolutely and without reserve, every function of my ministry. I make no exception: my purpose is complete.

That such a necessity should exist, would, under all possible circumstances, fill my heart with profound anguish. But that it should occur in the present conjuncture of our affairs—full of such deep and such tender interest, on so many and such impressive accounts,—renders it one of the greatest trials of my life. My earnest request is, that all your efforts and exercises—(and especially your proposed thankoffering to God, on next Sabbath day, in commemoration of the fiftieth anniversary of the General Assembly of our church;—and the special meetings of persons newly awakened to the importance of divine things)—may proceed as if nothing had occurred.—When the under shepherd is removed, the Great Bishop of our souls becomes only more immediately the shepherd of the flock.

If I shall be acquitted, then your joy and mine, will be equal to the triumph of truth and justice; to the confusion of our enemies. If the same terrible influence which has thus far prevailed against me, shall still farther be allowed by an inscrutable providence, to compass a conviction;—then it will remain for you, by the calm and free expression of your deliberate judgment and wishes, to decide the ultimate question, which in that case must arise. I intend to act towards you, with perfect simplicity;—and will commit you to nothing, to which you are not willing to be committed.

In the event of this prosecution being delayed by those who have instituted it; or if it should on any account not be brought to an early conclusion; I shall feel warranted, and if the way is open, called in providence, *as a private Christian and free citizen*, to devote myself to the public, constant, and thorough discussion of the horrible system of Papism; to which, amongst so many other and greater evils with which it curses the earth, we are indebted for our present affliction.

And now, my very dear friends and beloved brethren in Christ Jesus our Lord,—let us meet this extraordinary and afflicting stroke, with the faith, patience, humility, and prayerfulness, which become our profession. And let us expect the result, whatever it may be, with the temper of heart appertaining to those, who "*know that all things work together for good to them that love God, to them who are the called according to his purpose.*"

With tenderest love, I am your faithful friend,

and unworthy Pastor,

RO. J. BRECKINRIDGE.

Baltimore, Feb'y 19, 1840.

The foregoing letter was read to the congregation, by a friend, on Wednesday evening the 19th inst., when the people were assembled in one of their stated services.

The expectation of the author of it was, that the people of his charge would acquiesce in his decision,—and that although the course he had thought it his duty to take would probably lead to a general and thorough examination of the whole case—which indeed he sincerely desired; yet that no decided or public action would be taken, until the criminal prosecution was brought to a decision.

A different view of the subject was taken by the *Session* of the church ; and their spontaneous, prompt, and decided action in regard to it ; and the explicit, unanimous, and cordial approbation, of their conduct, on the part of the entire congregation—are set forth in the two documents published below.

ACTION OF THE CHURCH SESSION ON THE FOREGOING LETTER.

At a special meeting of the Elders of the Second Presbyterian Church of Baltimore, held in the Lecture Room on Friday the 21st of February, 1840, for the purpose of taking into consideration the present peculiar state of the Congregation.

The following members were present, viz.—

GEN. W. McDONALD, MESSRS. JAMES BEATTY, ARCH'D GEORGE, PETER FENBY, GEORGE CARSON, JOHN WILSON, JOHN FRANCISCUS.

In the absence of the Pastor, GEN'L McDONALD was called to preside as Moderator, and GEORGE CARSON, the Stated Clerk, appointed Secretary.

The following Preamble and Resolutions were then unanimously adopted :

Whereas the duty of supplying the pulpit, devolves upon the Session, and whereas a letter from the REV'D MR. BRECKINRIDGE, addressed to the Congregation, was read after the weekly Lecture, on Wednesday evening last, the 19th inst., by the REV'D MR. WILLIAMS, who presided on the occasion, in which it was stated, that the Grand Jury for the City of Baltimore, had made a *presentment* against him for a libel, in consequence of which, he had come to the determination, "to lay aside absolutely and without reserve, every function of his ministry, until a Jury of his country shall have pronounced upon his conduct," &c.

This Communication could not fail to fill the mind of every member of the Congregation with the deepest affliction—warmly attached as they are to their beloved Pastor, by the strongest and tenderest ties, they could not contemplate the loss of his faithful services, under such painful circumstances, but with feelings of heart-felt sorrow and deep regret.

The Session, participating in these feelings to their fullest extent—while they duly appreciate the delicacy of the motives which prompted the decision, cannot at the same time perceive any thing in the present aspect of affairs, which requires such a sacrifice. Their confidence in the piety, purity and ability of their Pastor remains undiminished and unshaken—they have been witnesses to his arduous and successful labours in this church, for the last eight years, to promote the glory of God, in the salvation of the souls of men—enforcing the doctrines which he taught by the example of a holy life ;—and they feel pleasure in bearing their further testimony—that whenever he considered it to be his duty to caution his hearers against fatal errors, he at the same time uniformly and constantly inculcated the Christian duty of exercising love to the persons, and charity to the opinions of those who differed from them in doctrine and in practice—always deprecating the idea of this difference interrupting the charities of social intercourse, and against no errors has he been more pointed in his remarks, than against those which had crept into the *Presbyterian* church, and which ultimately led to its separation.

The Session having met on the present emergency, and entertaining these views, have, after mature deliberation, and they trust in the fear of God, come to the conclusion, that it is their duty in the first instance, to give the congregation an opportunity of expressing their desires on the occasion—and that in order to this, the proceedings of this meeting be read in the church, after the services on next Sunday morning, and should their opinion coincide with that of the session, of which not a doubt is entertained, then, in the next place, that our Pastor be respectfully requested to reconsider his decision, and resume his usual labours in the Congregation.

The Session cannot but hope that such an expression, will enable him, not only to see his way clear, but that he will also consider it to be his duty to return immediately to his charge.

Be it therefore *Resolved*, That the confidence in, and respect for, their Pastor, on the part of this Session, remain undiminished, and that it would be highly gratifying to them, if he would return forthwith to his ministerial labours, which have been so greatly blest in this Congregation.

Resolved, That the Moderator and Clerk be requested to sign these proceedings in behalf of this meeting.

Signed

WM. McDONALD, *Moderator*

GEORGE CARSON, *Clerk of Session.*

ACTION OF THE CONGREGATION ON THE SAME.

Sunday, Feb'y 22nd, 1840—

CONGREGATION ON THE SAME.

At a special meeting of the Second Presbyterian Church of Baltimore, held on Sunday, Feb'y 22nd, 1840—REV'D MR. WILLIAMS officiated in the Second Presbyterian Church, this forenoon, and after the exercises of prayer, singing, and reading a

portion of Scripture, he read the REV'D MR. BRECKINRIDGE's letter, addressed to the Congregation, after which he stated that the Session had a Communication to make, and requested the audience to keep their seats and hear it.—The Elders then assembled, and stood up in front of the pulpit—GEN'L McDONALD acting as Moderator, called upon JOHN WILSON to read the proceedings of the meeting of Session of the 21st inst.—which he did.—After which the Moderator briefly addressed the audience, and at the close of his remarks, he clearly and distinctly requested, all those who approved of the proceedings of the Session which had just been read, and who were desirous that our Pastor should forthwith resume his ministerial labours in this church, would *rise up*.—Instantly, the whole congregation, which was a very large and crowded one, stood up—and remained on their feet until the Moderator requested them to be seated.—He then reversed the question, and requested all those who disapproved of the measures of the Session, and who were unwilling that MR. BRECKINRIDGE should return to his ministerial labours *should rise*.—Not a single individual stood up.—The Moderator then proclaimed with emotion:—“Thank God there is not one!—The people, old and young, male and female, are as unanimous as their Session, in desiring their beloved Pastor's return.”

Mr. Kyle made a short address, approving of what had been done by the Session, and also approving of the course pursued by the Pastor—after which the meeting was closed with an appropriate prayer by the Rev'd Mr. Williams.

WM. McDONALD, *Moderator*.

JOHN WILSON, *Clerk, pro tem*.

We think it is proper to remark, that not a single member of the Session of the church, was brought into office since the connexion of the Pastor with it; that all of them were not only *Ruling Elders*, but for many years leading members of this congregation, before their present Pastor was a minister of the gospel; and that most of them have been principal supporters of this church, since its foundation, nearly forty years ago. This is their position in the house of God. What it is in the world—it would be impertinent for us to state—if these lines were to be read only in this city and commonwealth. But the hundreds who will read them in the remotest sections of the Union, and even in other lands, may not know—that these are men of the first influence and rank amongst us, in all that makes either influence or rank, valuable to generous and virtuous minds; that they are amongst the fathers of our city,—most of them remnants of a past and glorious age;—men who through a period longer than the life of him over whose head they throw the shield of their spotless names—have built up in the face of ten thousand vicissitudes, characters which defy malignity, and challenge confidence and love!—Oppression itself is sweet, when such tokens follow in its train!

And what shall we say, to that other and most affecting manifestation? Alas! Alas! Who is worthy of such regards? Who is not overwhelmed by them? In the midst of trials and persecution, here is the unanimous, unsolicited, enthusiastic testimony, of a thousand hearts and voices—not only bearing a testimony even more noble in those who give, than honourable to any who might receive it; but *so doing it*, as by its very tenderness to break our hearts. These are the fathers and mothers of our Zion, by the side of whose tottering steps we have walked with filial reverence, not to get instruction; these are the children of God brought from darkness into his glorious light, by his blessing on our poor labours; these are our friends, and companions, and fellow workmen, who for long years have seen our daily walk, partaken of our daily trials, helped our

daily weaknesses; these are the children whom we have baptized into Christ's visible kingdom; these the families we have united in sacred wedlock; these the bereaved and broken-hearted with whom we have sat us down to weep; these the favoured of the Lord, in whose blessings we have rejoiced! Here be they all; and here their testimony!—Precious token of the smiles of heaven! Sacred lesson to the ministers of Christ!

It is hard to speak aright on such an occasion. Perhaps we have already said too much. We have said it all with our eyes full of tears. The spirit which God, (blessed be his name,) has created, incapable of apprehension from any being but himself—is weak before the voice of unmerited commendation.—We dare not, like Paul, glory in our infirmities; but we dare confess them, even to our enemies. And we say to them all, without a particle of bitterness in our hearts—these things have repaid us, ten thousand times over, for all their hatred and injustice; for all they have done, in times past—for all they can do in time to come.

We are sensible, and we deem it proper to make the remark here and under present circumstances—that our *humble but sincere efforts to be faithful in our lot, have secured to us alike the persecution of our enemies, and the affectionate commendation of our friends.* We desire both to remember this observation—if in the good providence of God peradventure some who now hate us may yet love us for our work's sake—and some who now love us, may unhappily be offended by that same fidelity. We have not known any thing,—we do not intend to know any thing in this city, but Jesus Christ and him crucified. Where he leads us, we shall follow; what he bids us do, we shall attempt; every man who is his friend, we will love; every enemy of his we will resist. By his grace we have taken him for our portion—and his grace enabling us, we shall profit by what we consider at once the proof and the recompence of our fidelity in our lot.

NOTICES, RECEIPTS, ACCOUNTS, ANSWERS TO LETTERS, &c.

JAN. 26, TO FEBRUARY 17.—\$10 from Geo. Adie, Leesburgh, Va., paying his subscription to end of 1840.—\$5 from N. Woods, Westhill, Pa., \$2,50 for himself for 1840, and \$2,50 for Rev. S. Means, whose name is added to our list from 1840.—\$5 from Rev. J. Smith, Frederick city, \$2,50 for himself for '40, and \$2,50 for F. Schröder, whose name is added from '40.—Rev. R. S. Bell's direction changed to Front Royal, Warren Co., Va., and the Nos. for Jan. and Feb. sent to that place; these Nos. had been previously sent to his former direction; the No. for December, 1839, also sent there, and Mr. B. will confer a great favour on us by writing to the P. M., there, and reclaiming that No. if possible.—Mr. J. Stephenson, Front Royal, Va., added from Jan. '40, per order of Mr. B., and Nos. for Jan. and Feb. sent.—E. Gilman, Washington City, name added from the beginning of the year and back Nos. sent.—J. Milton, \$5; J. S. Berryman, \$5; W. F. Todd, \$2,50; all of Lexington, Ky., and the name of Mr. Todd added from Jan. 1840, and the back Nos. sent.—J. Stonestrut, Clarke Co. Ky. \$5.—Maj. D. B. Price, Nicholasville, Ky., \$2,50.—A. P. Cox, Frankfort, Ky., \$2,50

for 1840.—Samuel Laird, Fayette Co., Ky., \$5.—D. A. Sayne, Lexington, Ky., \$5.—Major John Curry, Leesburgh, Harrison Co., Ky., \$2,50, for 1840: the Nos. for '39, viz., January to May inclusive, which had not been sent when Mr. C. became a subscriber, through the mistake of the friend who sent on his name, are now sent, completing that year.—Thomas Dolan, of Lexington, Ky., \$34, collected by him. Will he oblige us by sending to us, without delay, the names of the persons to be credited? And how much to each person?—B. Jordon, Esq. Middletown, Pa., \$2,50, for 1840.—Dr. H. Haynel, Fayette street, Baltimore, from January, 1840.—J. W. Welling, Paca's Row, Baltimore, from January, 1840.—J. Smith, Pratt street Wharf, Baltimore, from January, 1840.—S. D. Schoolfield, direction changed to Greensboro' N. C.; and the Nos. for January and Feb. sent there—\$5 from Rev. C. McIver, Fayetteville, N. C., \$2,50 for account of Rev. Wm. N. Peacock, Montgomery Co., and \$2,50 for himself for 1840. Our letter of Feb'y 10, will have explained to Mr. McI. why we departed from his directions; and we presume he will have received before getting this, two Nos. for December, 1836.—\$2,50 from J. Otterson, Berkley Co., Va., and name added from 1840. What is Mr. O.'s post office address? Will he inform us?—\$2,50, from J. Mitchell, Balt. Co., and name added from 1840.—\$4 from S. J. Dickey, Chester Co., Pa., discontinued.—Dr. S. A. Cartwright, of Natchez, \$5, *in full*, and discontinued,—going abroad.—P. M., Old Staten, Tenn., \$2, for E. L. Mathes, on account; see private letter of Feb'y 15.—P. M., Charlotte C. H., Va., \$5, for Mrs. Paulina Legrand, which pays for two years, we *presume*, the last and the present, though, for the moment, are not in reach of our books, and cannot certainly tell.—The No. for Jan'y, sent a second time, to replace one miscarried, to R. I. L., Alleghany, Pa.—John Bolgiano, Forest-st., name added from Jan'y last.—R. Linsley, Meriden, Ct., refused.—The names of T. J. Durant, Charles M. Randall, John Kemp, and James Clunas, Esqrs., all of New Orleans, added from January, 1840. by order of our friend James Beattie, to whom the two gentlemen first named paid for the current year, \$2,50 each; the back Nos. sent by mail—S. S. Middlekauff, of Mercersburg, Pa., name added from Jan'y '40, per order of A. George & Co. Balt. and back Nos. sent: subsequently received a letter from him inclosing \$5 for himself and for H. R. Shaul, of Marshall College, Mercersburg, Pa., for the current year: the name of the latter being added, and the back Nos. sent: also sent to Mr. M. the Nos. for Sept. and Oct., 1839, *the last we had* without breaking a set.—Col. S. Winfree, of Richmond; see our private letter of Feb'y 17.—Several directions changed, which are not noticed.—Money paid to David Owen, Gay street, Baltimore, is receipted for by him, and not acknowledged here.

Tho's S. Boswell, Lex., Ky., declines taking the Magazine any longer.—The P. M. of Lexington, Ky., is respectfully informed that the duplicates for February were sent by mistake; and that he will confer a great favour on us, by delivering them to Mr. William Busby, who will call for them.—P. M. of Oxford, Ohio, informs us that Mr. A. Mawhiney has removed; but we are unable to make out the name of the place to which he is gone; and do not know where to send his copy of the Magazine.

WE HAVE HAD occasion to observe a very general and gratifying attention, on the part of our patrons who have communicated with us through the post office, to a matter, small as to each of them, but very important to us, in the aggregate: viz., the franking of their letters. In the great majority of cases, subscribers communicating with their publishers, have a right by law, to the post master's frank; and our experience is, that the post masters generally, are obliging and prompt, to do this service; so that a little attention, is all that is needed. But in those cases, where

postage should be paid—leaving justice and propriety out of the question, which are claimed by all the craft to our side, it is manifest that generosity at least requires rather that a thousand men should pay a shilling each, than that they should club, and force a poor editor, whom they really wish well to, or a struggling publication which they desire to see live,—to pay the whole fifty pounds! Now we feel it to be a duty, and we take sincere pleasure in performing it—to bear public testimony to the justice, thoughtfulness and kindness of the great bulk of our patrons on this subject. We tender them our cordial thanks.

A DEPLORABLE CRIME has been committed in our city. Some one has stolen a God!! Perhaps a great number of Gods!!! An irreparable misfortune has overtaken some of our fellow citizens. Their Gods have been abducted!! Some villain is reported to have entered the Cathedral, and not content like a common felon, to steal various articles of more or less temporal value (for which he, she, or they, ought to be—and we hope will be detected and punished;) but horrible to relate, he carried off the *Ciborium*; the vessel in which the consecrated host is kept!—Now what an idea does this give, of a religion? The very object of its supreme adoration liable to be stolen! Its very Gods, not able to avoid being carried off! We sincerely hope this incident may turn the thoughts of Papists to the folly and idolatry of their religious rites: and be the means of leading them into the way of truth.

WE INVITE PARTICULAR ATTENTION to two articles in this number: viz., the address to our patrons, and the account of our legal persecution; and especially do we commend them to the serious attention of our subscribers in the city of Baltimore; which we venture to do, 1st, because we earnestly desire the knowledge of the true state of our "*libel*" to be known extensively, in this city—and 2nd, because we deem it very important to enlarge our subscription list *here*.

WE CUT the following notice from the Baltimore American, for Feb'y 20.
EXPIATORY SERVICE.

"A Service will be performed in the Cathedral **THIS EVENING**, at 7 o'clock, in reparation of the outrage offered to the Blessed Sacrament by the late sacrilegious robbery. A discourse will be delivered on the occasion."

A previous item in these notices explains what is here alluded to. It is a most extraordinary proceeding. *An expiatory service!* Something is to be done, to annul the guilt of a previous act. But every body knows that it is absurd and impossible in a religious sense, so far as *human* acts are concerned. *We can't expiate*, our own sins.—But this is a service by which *the church* expiates the acts of a thief, who has been guilty of sacrilege!—Then, it is even more absurd than the foregoing. How can the religious service expiate the thief's sin?—But the cathedral itself is in sin! This is impossible; rocks and wood can't sin.—"*Outrage offered to the Blessed Sacrament.*"—The outrage was no doubt great; but it was offered to the feelings of the people, and to the laws of the country,—not to the wafers stolen. It is hardly to be supposed a man would steal Gods *knowingly*; and it is of the essence of this offence, that the offender must have the *animus furendi*. Now the plain and unsophisticated sense of the notice is this: *Our Gods are stolen: we must make new ones: and then offer them in sacrifice; and so appease the stolen Gods by the destruction of the new ones!*—Did the darkest age of superstition and ignorance ever propose a thing more horrible? Did the worst form of heathenism ever demand any thing more revoltingly absurd? (See **PSALM cxv.** verses 2—8.)

THE RESPECTED FRIEND, in Ky., who sent us the Baptist newspaper printed in Louisville, in which there is a general attack on the Presbyterian church, under the appellation of "The Old School Party"—and a very indecent one on the Senior Editor of this Magazine; is referred to our next No. (April)—for our strictures on the article.

THE SUN newspaper (published in this city) of Feb'y 21, has the following *editorial* paragraph:

"INDICTMENT.—We learn that, on Tuesday last, bills of indictment were found against the Rev. R. J. Breckenridge and the Rev. Andrew B. Cross, editors of the Baltimore Literary and Religious Magazine, for a libel on Mr. James L. McGuire, keeper of the Alms House. Also, against Bill Adams, the coloured man who brought the runaway slaves of Mr. Dorsey to the hack of Wilson, who was convicted at the present term of the city court, for aiding in their escape."

We are truly admitted at last into *good company*! "*Also, against Bill Adams, the coloured man,*" &c. "*Also Bill Adams.*" Thank you, Messrs. A. S. Abell & Co. We should have been still more obliged, if you had used towards us a small part of the particularity bestowed on "*Bill Adams.*" What made you *suppress the cause* of our indictment, (pardon us gentlemen, it was a *presentment*; your wishes overleap the facts:) while you so carefully blazen more than the fact? You name our crime, without telling in what it consists, while you tell of "*Bill Adams's*" offences without naming his *crime by name*. The *Protestant* patrons of the *Sun*, must be edified by this courtesy and fair dealing. But there is another and more serious aspect as well as a more natural sense of the statement: "*Also, against Bill Adams*"—as the paragraph is constructed, must mean that the Grand Jury have indicted '*Bill Adams,*' for the same libel they indicted us for:—the latter part of the sentence being merely a description of his person; showing *which* '*Bill Adams*' was intended. Now is it indeed true?—can the *Sun* show, if called to it, that we and '*Bill Adams*' are *in pari delictu*? We and the *same* '*Bill Adams*'—whose *other* infamous acts are described, only to identify him, and degrade us? Is not this the sense of Messrs. A. S. Abell & Co.?—Again; the statement as to us is not true; no *indictment* had been found against us for *any thing*—when the *Sun* printed that paragraph. For any thing the *Sun* knows, none ever might be found. The Grand Jury might after all *ignore* the Bill. But does not the *Sun* know it is actionable as well as false, to say a man is indicted, who is not? And surely the structure of the paragraph shows a hundred times more malice, than ours which offended Maguire,—and on which the Grand Jury *presented* us, ever did. For the *Sun* has said and printed of us, what is false,—with every mark of indignity; while we have said and printed of Maguire what is true,—and that in such a form, as however it might reproach others—charged him with nothing that *might not have been* innocent.—Instead of prosecuting these persons, or even suing them, we beg them to read attentively, the following passages of the Word of God, viz.; the Prophet MICAH vii. 7—9. PSALM xxxvii. 5—15. LUKE xxi. 12—19.

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[No. 4.

THE NATURE, CERTAINTY, AND ADVANTAGES OF PAPAL UNITY.

ONE of the most common arguments of Papists against the reformed churches, is their want of unity, of a common visible head, and of a judge and rule by which to settle and terminate all controversies. With this argument, is always united one in favour of Papism, because it has a rule of faith, a judge of controversies, a visible head, and absolute unity.

It is easy to determine whether the word of God or the word of man, is the best rule of faith; whether our own judgment, reason, and conscience, or those of other men, be the safest guide; whether a spiritual or a temporal unity be preferable; and whether Christ in heaven or the Pope in Rome, be the more glorious head. All this is clear enough—and the two cases supposed, are, relatively, Papism and Christianity.

But let no one suppose, that the superiority of Papism ends even here. How extremely difficult it must always be for Christians to know, who is really their Christ, and how he was so constituted—all can tell. But how very easy it is to ascertain who is Pope, and what prodigious certainty has resulted from the various changes in the mode of making him—and what immense advantages have thus, in many ways accrued to Papism,—all do not know; and therefore we will aid them a little.

The Jesuit MAIMBOURG in his *Histoire du Grand Schisme D'Occident*, which constitutes the viii. vol. of his *Histoires*, and which he dedicated to that cruel bigot, Louis xiv. of France; informs us that the popes have been elected at different times, in very different ways; and then proceeds to narrate briefly and comprehensively some of these, in historical order. We translate pages 11—15 on this particular subject; after perusing which, the reader will be better able to comprehend how remarkably certain and fixed the mode of creating the centre of unity, the judge of controversies, and the head of the church—is, and has always been.

“It is certain,” says the Jesuit, “that Jesus Christ made the first Pope, in the person of Saint *Peter*, whom he directed to take care of his lambs,

who are scattered over the earth ; that this saint declared *Linus* his first successor ; and that since that time all the other Popes have been elected after the death of their predecessors,—but in modes very different. The people and the clergy jointly, and sometimes the clergy alone, with the consent of the people freely made this election by a plurality of voices, for the first five centuries, until after the death of Pope *Simplicius*, Odoacer king of the Heruli and of Italy made a law, by which under pretext of wishing to remedy the troubles and disorders which had some times occurred at the election of Pope, he forbade any election in future, until the will of the Prince should be known concerning the subject who ought to be chosen. This law, so contrary to the liberty of elections, was abolished about twenty years after, at the iv. Council of Rome, under Pope *Symmachus*, with the consent of King Theodoric who reigned then with much wisdom and equity. But this Arian Prince became bigoted and ferocious towards the close of life, and having murdered Pope *Saint John*, in prison, he usurped tyrannically the right to create the Pope himself, and nominated, *Felix IV.*, to the pontificate. The Gothic kings who succeeded him, followed his example, except, however, that they contented themselves at last, with confirming him whom the clergy might elect, but who could not take possession of the pontificate, without the consent of the prince. Justinian, who received the empire of the Goths in Italy, and after him the other emperors, retained this usurped right, and even reduced the church to a servitude so disgraceful, that the pope elect was obliged to pay them a fixed sum of silver, to obtain the confirmation which he was obliged to ask, before he was permitted to exercise any function of his office. Constantine Pogonatus delivered the church from this infamous servitude, by abolishing this base exaction ; but still the Emperors always retained some authority in the election of popes, who could not be consecrated without their consent and approbation. It was the French to whom the church of Rome owed all her temporal grandeur, and they also restored her to full liberty, when the Emperors *Louis le Debonnaire*, *Lothaire I.* and *Louis II.* declared by their imperial constitutions, that the election of popes should be free and canonical, according to the ancient customs.

“ During the horrible disorders of the tenth century, and in the deplorable estate to which the Holy See was reduced during that period of its extreme desolation, by the tyranny of the Marquis of Etruria, and the Counts of Tuscany—these tyrants and the Roman grandees, oppressed anew the liberty of the church, by creating and deposing popes at their pleasure, and according as they were more or less suitable instruments of their passions. Otho the Great, and after him the two other Othos, his son and grand son, after having destroyed the tyranny of those who treated the church so unworthily, retained her themselves in a kind of slavery, by subjecting to their authority the election of popes, who depended on them. The Emperor Saint Henry, duke of Bavaria, their successor, restored her to full liberty, by leaving this election to the clergy and people of Rome, after the example of the French emperors, whose donation he solemnly confirmed, when he received the imperial crown at Rome. Conrad the Salique, changed nothing ; but Henry III., his son, and Henry IV., his grand son, with the consent of the Romans, and of *Nicholas II.*, at the Councils of Sutri and of Rome, usurped the power to choose, or to make others elect, whom they would have for pope ; which, by their abuse, caused horrible troubles in the church, and in the end produced the war between the popes and the emperors, on the subject of investitures.

Finally, the church having been still farther troubled during almost a century, by the anti-popes, whom the emperors and schismatics on one side, and the factions amongst the people and clergy of Rome on the other, opposed to the pontiffs legitimately elected : peace and the liberty of election was restored by *Innocent II.* For after the famous schism of Pierre de Leon, called Anacletus, and of Victor IV., had been entirely suppress-

ed, chiefly by the labours of Saint Bernard, all the cardinals re-united under the authority of *Innocent*, and strengthened by the principal clergy of Rome, whom this pope with great address united with them in the sacred college, acquired so much authority, that after his death they alone elected Pope *Celistine II.*, and from that time they have always maintained themselves in the possession of this high privilege; the Senate, the people, and the rest of the clergy having finally ceased to take any part in it. At the death of *Gregory XI.*, two hundred and thirty-five years had elapsed since the cardinals had possessed the sole power to elect the pope; which since *Honorius III.*, or, according to some, since *Gregory X.*, they did, shut up in conclave; and the election to be legitimate and canonical, was obliged to be free, and by a majority of two-thirds. *Gregory XI.* nevertheless foreseeing the disorders which must arise, if a successor was not promptly elected to him, issued a Bull three days before his death, by which he permitted the cardinals, for that time only, to elect a pope by a majority of voices, and wherever they chose to make it."

So far *Monsieur Maimbourg*. His brief and comprehensive sketch comes down to the latter part of the fourteenth century; his particular purpose requiring him to terminate upon the inception of the great schism whose history he was about to trace. As we have translated the passage, we noted with our pen, the successive changes, in principles and facts, regarding the mode of electing and constituting, this great substitute of the papists for our judge of controversies and centre of unity; and we find that *only thirty-one times*, have fundamental changes been made—in the first fourteen centuries! Surely that is a happy church which is blessed with *thirty-one* established methods by which to make its visible head! Surely that man must be unreasonable in demanding a mode of arriving at certainty upon this important subject—who cannot find what will please him, in *thirty-one* different ways! Surely there is a certainty of Papal unity, as much greater than there is of Christian unity, as there are more ways to make a pope, and therefore more chances that a man may be true pope—than there are modes of access to one only Mediator, who is the exclusive head of all Christian churches!

It cannot be denied that the election of a pope is the most important affair about which Christendom can be concerned. It is no less than the choice of the common father of all the faithful, the successor of the prince of the apostles, the vicar of Christ himself! It is therefore delightful to contemplate the certainty, the antiquity, and the divine appointment of that right, by virtue of which they who have for some centuries last past exercised this high function, were originally invested with it; and to recall the harmony, peace, spirituality, and disinterestedness, which they have so long and so constantly displayed in its exercise. The *Histoire des Conclaves*, which lies before us, has suggested this additional argument, in favour of the superior certainty and excellence of Papal over Christian unity. The power of appointment, so often varied, and subject to such immense changes, was about the middle of the twelfth century, under the pontificate of *Innocent II.*, engrossed exclusively by the cardinals and clergy of Rome. In 1160, under *Alexander III.*, these same cardinals, who had been at first simple cures of Rome, having become the counsellors and then the assist-

ants of the pope—in their turn assumed the exclusive power of election. For eleven centuries after Christ, these cardinals had no voice whatever in the election of pope; and yet for above five centuries last past, their voice has been the only one canonically allowed to be heard in the same election! Remarkable revolution! For eleven centuries those whom Christ appointed to elect his vicar were absolutely excluded from any voice in that election: or else for five centuries and more, those whom Christ never called to this awful authority have intruded into it, and thrust out the true electors! Solemn manifestation of the *certainty* and scripturalness of the Papal succession and unity!

But the absolute blessings which Papal unity has conferred on mankind, are even greater than these extraordinary facts would lead us to expect. *Maimbourg* is our authority (p. 2,) for asserting, that “since the damnable enterprise of the ambitious *Novation*, who revolted against Pope Saint *Cornelius*, and by the cabal of the heretic African Bishop *Novatus* was sacrilegiously ordained Bishop of Rome, and formed the first schism,”—the great schism of the west, which commenced under *Urban VI.*—“was the *twenty ninth* which separated the Catholic communion, and divided between different heads, the same church to which by all laws human and divine, there should have been but one, and that in one person!” Thus in eleven centuries, this simple question, *where is unity, who is pope?* has. ONLY TWENTY-NINE TIMES rent the Papacy! What an illustration of the value of unity! What a proof that a visible head produces it! What an evidence of the necessity of a judge of controversies! What a demonstration that he settles them!—*Only one schism every forty years, for eleven centuries, upon the simple and single question, who is our judge? who is our visible head?* Alas! poor Christians; for our parts, we have never been able to raise one single schism in eighteen centuries, as to who, what, and where was our *invisible* head; nor to produce the quarter of twenty-nine fundamental divisions amongst us upon all the capital points of religion put together!

Nor let it be supposed, for a moment, that these great blessings to the Papacy, have been only incidental—nor that only a few have partaken of them—nor that they have been of short duration. By no means. They have flowed from the very nature of the case; they have extended through successive generations; they have engrossed the whole Papal world; they have been so deep seated as to be incapable of solution, even by universal councils, inspired as they said by the Holy Spirit, and guided by infallible wisdom.—*Maimbourg* again shall be our authority. He asserts (p. 3 and 4) that in the great schism, whose history he writes, “it was *morally impossible to decide who were true popes and who anti-popes.* In-so-much that even a universal council which had the infallible assistance of the Holy Spirit for every thing which appertained to the faith, did not consider itself sufficiently enlightened to dissipate the darkness, and pronounce on the rights of the parties. And it finally judged, that to take a sure course in this uncertainty, it was better to act by *authority* than by *knowledge*, and to exert its sovereign power in deposing the two pretended popes, that it might

give to the church, by a lawful and incontestable election, a head, in whom no one could contest the august quality, without manifest revolt."—He adds, "this furious schism extended over all Christendom—without there being any visible heretics. For it is indubitable, that there were in the opposite parties, great men, celebrated jurisconsults, most learned theologians, entire universities, and even saints, yea saints who had revelations and wrought miracles! There were also on both sides, the strongest presumptions and conjectures and the most plausible reasons."—After all this, and much more like it, he proceeds to declare (p. 6), "That the *primacy* of the pope had never been better established than during the schism of the Greeks; * * * and the *unity* of the Holy See, to which all the churches of Christendom ought to tend, as lines to their common centre, was never better preserved, than during the great schism of the west."

Glorious unity—which is not hurt by being destroyed; which constantly exists though recognised by no one; which is indispensable to the very being of the church, and yet morally impossible to be ascertained; which is established to maintain peace, and has created the most extensive, furious, complicated, and repeated schisms; nay, whose existence is a sure mark that the church which has been *twenty-nine times* convulsed by it, is the only united church on earth!! Know you not, said a peace-maker, to a loving couple in the midst of their contention,—know you not, that being man and wife, *ye are one*? Sir, was the simple response, if you heard us some times, you would think *we were twenty*! True illustration of the source of our mistakes about Papal unity. It is a real unity, *such as it is*; and what it is, we have now shown by their own testimony.

We have confined our observations to the question of unity, as it relates to the *head* of the *Papal* church; and its uncommon advantages and remarkable certainty as compared with the *head* of the *Christian* church. There is another view of the subject, equally striking and remarkable, which we will at present merely suggest.—It will be found by a careful consideration of the subject, that even supposing the centre of unity to be exactly agreed on, and the real head of the church fixed: then the questions which arise from the complex nature of the pope's character and offices, render it most admirably impossible to determine, whether he alone, or he with the church; whether he as bishop of Rome, or as universal pastor; whether he as temporal head of the Roman church, or universal Roman head, of all churches, &c. &c. &c.—is to be heard when he does speak—or is to be judged to have actually spoken. A slight glance at the work of the *Abbe Tamburini*, of the university of Pavia, published within the present century, entitled, "*True Idea of the Holy See*"—will give a clear notion of this part of the subject.

But there is another difficulty still more excellent than this. Who—what—where is the church of Rome? What is that—of whose unity we speak? Do you mean all the faithful? Or only all the ecclesiastics? Or only the priests? Or only the prelates? Or only the cardinals and the pope? Or only the pope? If any one

will examine the great Latin work of the celebrated *Peter de Marca*, entitled the "*Concord of the Empire and the Priesthood*"—he will see reason enough to be satisfied, that the very body which boasts of its unity, is itself not only incapable of establishing its personal identity, by any rules of judgment established and admitted by itself: but that in truth, taking its own principles as the guide of our judgment, we cannot avoid concluding it entirely out of existence !

How clear and admirable is Papal unity !

A LITTLE DEFENCE OF OUR CHURCH; AND A LITTLE OF OURSELVES.

THE *Baptist Banner and Western Pioneer*, published at Louisville, Kentucky, contains five long columns of matter, in the No. for February 13—which one of its editors calls "a lucid and satisfactory expose of the causes which have conducted to the unfortunate schism in the Presbyterian church."—He says also, that it is the production of "a Presbyterian minister of high standing for piety and intelligence:" and then endorsing it as "a calm and dignified document"—he expresses the 'trust' that it will be found "every way satisfactory" to so many of his readers as "may be curious on these subjects." These extracts are from the leading editorial of the paper containing the "expose;" and then the "expose" itself is expressly put in possession of the "editorial columns," which are with many compliments "yielded" to it.

Let us say, before going any farther, that this newspaper has four editors; namely, one in Indiana, one in Tennessee, one in Illinois, and one in Kentucky; and that Mr. *John L. Waller*, a Baptist minister, residing in Louisville—is the editor for Ky.,—and we presume, the father of the foregoing extracts, and the step-father of the aforesaid expose. We need hardly remind our readers, that this is the same individual, who has once and again, stepped aside from his path to gather false accusations, and to publish abuse almost unprecedented, in the mouth of one respectable man when speaking of another,—against the senior editor of this Magazine, who is and has always been, not only a total stranger to him—but is utterly astonished at the extent to which he has ignorantly and innocently excited his personal hatred.—They who will read this article will see why we make these observations at present.

We think it right to say, that as evangelical Christians, we can have no possible objection to the most thorough and most extended investigation of our principles, on the whole round of Bible truth. On the contrary, we should sincerely rejoice to see, serious and constant enquiries set on foot, by all other churches, as to the faith and order of ours: and would be happy and not grieved, if all the religious newspapers in the country would publish not one but many "a lucid and satisfactory expose"—not only upon one, but upon many points in our past history and present condition. Two things we are sure would result from such a course; viz., a knowledge of some things amongst us which others would do well to

imitate, and a knowledge of some amongst themselves, they would not be amiss in changing.

Nor should we have, nor in fact have we, as individuals, any sort of objection, that all who desire it, should probe our conduct, our principles and our very motives, even to the quick: and that not only our public, but even our most private affairs, should be set in broad day—by all who think they can thereby promote any good cause. They who will do it, will no doubt find many things needing amendment; many in which we have erred—many in which we have come short—many in which we have failed. May God forgive us, that we have not done more and better work for him!

But after saying so much—which we do in perfect sincerity; we must be allowed to add, that the article which has called forth these observations—is, as it regards the Presbyterian church, a most false and flagitious tissue of cant, vulgarity, ignorance, and malignity; and that as it regards us individually, it is inconceivable that any gentleman could pen it; and most strange that any man regarding his character should print it.

The open advocacy of the New School party, by Mr. Waller, must suggest queer reflections to well instructed Baptists; to his colleague Mr. Peck, for example, when he takes his neighbour *President Beecher*, of Jacksonville—as the impersonation of Mr. Waller's praises! Hear him: "That the New School party as a whole, is as orthodox as the Old School party, is admitted, we believe, by every body of all the evangelical denominations, without exception, save by the Old School party themselves." This gentleman must have a very bad memory, or a very slender knowledge of facts. Hear again: "With all our heart, we therefore, bid them (the New School) *God speed*, being perfectly willing to risk the consequences of a share in their iniquity, so far as the fundamental doctrines of the Bible are concerned."—We have only to say to this, that if we had read it in the periodical of the Rev'd *Alexander Campbell* of Betheny, Va., we should have considered it natural and in place.

The author of the expose heads it—"The division of the Presbyterian Church;" and makes his statements and reflections, under successive questions. We give the *seventh* head entire.

7. A seventh question.—*Who was the prime mover in the disruption of the church?* In all revolutions, there is some master spirit. But in this "glorious reform," it is a question not yet settled. The constitutional party incline to the opinion, that the great adversary of souls was the prime mover. But the reformers rather incline to give the honour to a certain noisy gentleman who has since been made a D.D., and who rather modestly boasts of having been a *Kentucky Captain or Major*. Posterity therefore must decide whether it was the work "aut Breckenridgi aut Diaboli."

The reader will be pleased to remember that, in Mr. Waller's opinion, this "is calm and dignified,"—and that his "trust" is, his readers will find it "every way satisfactory;" especially as its author's "piety" is not to be questioned.—We "trust" that both the writer and publisher of it will try to observe greater historical accuracy, if not more propriety in the use of terms; for it was

their distinguished friend Dr. Cox of New York, (and that, in his pulpit on the Lord's day)—and not our poor selves, who brought to remembrance our military history ; and moreover *Colonel*, and not *Captain* nor *Major* (be just gentlemen!)—was the rank assigned by him.

The 8th question of this "*most lucid and satisfactory expose*"—is in these words : "Has it not been said that a foreign influence, a New England influence has caused the difficulty?" In reply, the "*Presbyterian minister of high standing for piety and intelligence*," who writes this "*most lucid and satisfactory expose*," in a manner "*so calm and dignified*,"—amongst other statements, makes the following : "Even the Messrs. Breckenridges, it is said, were not raised in the Presbyterian church. At least their mother came into our church from the Seceders or the Reformed Synod. And now these are the men, not brought up in the Presbyterian church, some of them comparatively young men," &c.

Alas ! to what a degree of prostitution is the press *called* religious reduced ! What infamy is too black to cover much that finds its way into it ! Can it not satisfy the envenomed malice of Pelagian piety, to sting the robust heart of honest manhood struggling to do good : but must it go back to the days of sunnyn childhood, yea of joyous infancy, to poison life at its very fountain-head, and to pollute with lies, the very germ of our existence ? Is it insufficient for its holy revels to eat up and to defile with its polluted slaver, the good name of ministers, and elders, and churches, and institutions—nay, even the venerable dead ; but must it also transgress the boundaries where even carnal warfare pauses, invade the charmed circle sacred to every other savage, and not content to immolate its victim, must do it for a parent's, a *mother's* sins ! And such a mother ! A daughter of the revolution ; the widow of one of those astonishing men born to win all hearts, to direct all councils, and whom, even premature death, could not rob of enduring fame ; a mother in Zion, who has filled a long life of unparalleled trials, cares, and afflictions, with a dignity, propriety, and success never surpassed ; and now in the last twilight of life, is publicly reproached, because she has given to Christ *all* she had—the total remnant of her house ! It is long ago—years have passed away and calamities have traced deep lines across the memory, this side of the sacred lessons of childhood ; but let us say to these ruthless invaders of the sacred privacy of life—that even from the hour when we first stood by the knee of that honoured "*mother*," to drink instruction from her lips, we have learned to abhor the brutality which we now rebuke—and to pity the wretch who could practice it.

The *truths* of life, are commonly insufficient to sustain the worst sort of offences, whether against morals or propriety. It is even so here. The author of this "*most satisfactory expose*," has written, and Mr. Waller has printed, of "*even the Messrs. Breckenridges*" and of "*at least their mother*," that which is false in fact, and still falser in intention. Let us note this in order, for the benefit of the next Presbyterian minister who writes, and the next Baptist one who publishes for our particular benefit.

"*Were not raised in the Presbyterian church.*" Neither of "the Messrs. Breckenridges" has ever been a member of any other church on the face of the earth. Several, if not all of them, have been once and again called by the most tempting offers, to unite with other branches of the church of God; and have steadfastly refused. Their ancestors, of their own name, in America, in Ireland, and in Scotland, have been Presbyterians for about three hundred years; and have never been any where, within that period, any thing else.—The eldest brother *John*, connected himself with the Presbyterian church when a member of Princeton College, about the year 1818, he being about twenty years of age. The youngest brother *William*, connected himself with the Presbyterian church at Pisgah, Woodford Co., Ky., about the year 1819, he being about sixteen years old. The second brother, *Robert*, joined the Second Presbyterian church in Lexington, Ky., about the year 1829, at the age of twenty-nine years. William and Robert, were both *Ruling Elders*, for some years before they were *Preaching Elders*; and in the former capacity both of them sat several times in the Synod of Ky.; and the latter, in the General Assemblies of 1831 and 1832.

"*At least their mother came into our church from the Seceders, or the Reformed Synod*"—What then? Are not Seceders *Presbyterian*? Are not those of the Reformed Synod *Presbyterian*? Ah! but they are not *our sort* of Presbyterians: they are *strict* Presbyterians: they are *rigid* Presbyterians. Indeed. Well. But "*their mother*" unhappily never was—nor was her family—nor her kindred—either of or "*from the Seceders or the Reformed Synod.*" "*Their mother*" was never in her life any thing else, in Christian profession, but a church-member of churches under the care of the General Assembly of the Presbyterian church in the United States of America. And so far as hereditary prepossessions on her part, might be supposed to operate, it would be just the opposite of the allegations made; since her immediate ancestors, and a portion of her more remote ones, were members of the Protestant Episcopal church, of the Colony of Virginia, and before that of England.

That we may finish the setting out in order, of our private affairs, in a manner, which, to use *Mr. Waller's* words about "the lucid and satisfactory expose," "*will, we trust, be every way satisfactory:*" we will just add an item or two about the coming generations, of the "Messrs. Breckenridges." It may gratify the curiosity both of the author and publisher of the "expose," and will perhaps leave them hardly room to doubt any longer, that we are, all round, first and last, upwards and downwards, "*raised in the Presbyterian church,*" and truly and legitimately *died in the wool, out an out blue.* Let us then say that the children of the eldest of "the Messrs. Breckenridges," are the grand-children of *Dr. Miller*, of Princeton, and through their admirable grand-parents descended from a long line of such like folks. Let us add that those of *Mr. Waller's* neighbour, the youngest of "the Messrs. Breckenridges," are by their mother descended from the late *Dr. Samuel Stanhope Smith*, of New Jersey, from the noble old *Scotchman, John Witherspoon*, and through him, from *John Knox* himself. And let us say of our

little ones, that (to avoid many words and some appearance of boasting, and to skip at once to the first and strongest proof,) they are, by their mother, directly descended from *George Buchanan*, the *Presbyterian* father of literature in Scotland.

"*Some of them comparatively young men.*" Forty-two; Forty; Thirty-six : odd days thrown in.

In conclusion we have one request to make, of the distinguished, pious and intelligent "*Presbyterian minister*" who wrote this "*lucid and satisfactory expose*;" and one equally emphatic to make of the candid, liberal, and gentleman-like *Baptist minister*, who endorsed and published it. It is thus : when they have occasion again to write and print about "*the Messrs. Breckenridges*," will they be so obliging as to leave out the superfluous *s*, at the end of the name ? and spell the second syllable of it with an *i* instead of an *e* ?

PERSONAL NARRATIVE OF GO-FEE-NAUTH NUNDY, A HINDOO CONVERT.

Futtehgur, 16th July, 1839.

To the members of the 2d Presbyterian Church, Baltimore.

DEAR FRIENDS IN THE LORD.

Having heard from Rev'd H. R. Wilson how you are disposed towards the propagation of the gospel in your native country as well as abroad, and how your philanthropic hearts are inclined in assisting and using means for the conversion of such as are destitute of the light of the only Saviour Jesus Christ ; I, who have but lately tasted the sweetness of such a Saviour, and one who has just been freed from the slavery and bondage of satan, wish to tell you what great things he has done for me as well as for many of my fellow-countrymen, and how he has called me and some of them into his great service. With such intention I take up my pen to address you the following lines, and beg your Christian indulgence. Before giving any other account I beg to introduce the subject of my own conversion as that would convince you what kind of person I was when unregenerated, and how the power and grace of God has changed a stubborn and wicked heart like mine, a heart which had been the resort of all forms of wickedness, and now I hope he has made it a temple for his Holy Spirit. In doing so I beg to be excused for any blunders I may make.

I was born of a respectable Hindoo family in Calcutta, my father was a very orthodox man, never suffered any other name to come into his ears except a certain idol which he used to worship ; to him he ascribed praises and gave glory which were alone due unto the great and holy God, and adhered unto him, with a vain expectation to inherit the eternal felicity, until his last breath. He died when I was about one year of age, and left me under the care and guardianship of my eldest brother, who I am sorry to say does not differ from my father ; on the contrary, he has more prejudices and

abhorrences even, towards the English education ! For instance, when I was about 10 or 11 years old, I expressed my wish, and begged him to let me go into a public school, which was about to be established, to be educated in the English language, and although it was not a Christian school, i. e., Christianity was not taught, yet he felt reluctant that I should go—at last, when I saw that he was inflexible and could not be induced to let me go into the school, I rashly, though in the end judiciously, enlisted myself without his knowledge, but when he came to know, he endeavoured to prevent my going, but could not succeed. My stay was altogether, in the school, about 6 years, four of these I passed with little or no profit, but the other two, I may say, I did not spend in vain. Before I had finished my studies in the school, my brother took me out, for fear that I should forsake his religion and become a *Nastic*, (at that time there were upwards of 30 young persons, like me, belonging to the different schools who were denominated free thinkers,) and kept me in the house more than 6 months. At last when the Lord could not bear the sins and wickedness of the children of India, especially of the new sect, sent down a faithful and true servant, Rev'd Dr. Duff, from Scotland, to preach the word of life into our ears, and to teach us the true way of salvation. Indeed, it would have been just in the sight of God if he would have left us to die in our sins, and to give us due punishment for our wickedness. No, it was His pleasure that we should be turned from the way of destruction into the path of salvation, that we should forsake our wicked thoughts and imaginations, and be turned towards the worshipping of the true and living God revealed in the Bible, and by and through Jesus Christ might attain to the blessedness of those whose sins are pardoned. Well, this faithful messenger did not choose to confine his labour in a certain place, and preach the word of life only to them who were on his way, or to persons less wicked than we; no, he turned his course on our way towards our conversion, and frequented the place where we used to resort, and bore with great patience and Christian love the revilings and ridicules, which we showered on him from time to time, till at last he gained our attachment and invited us to hear a course of lectures on the true religion, to which we gave our cordial consent. The plan he pursued was certainly the best : he began by proving the existence of God, as many of us were inclined to think otherwise, and gradually came down with that success which God always gives to his faithful servants, till at length he assured us that there is no remission of sins but by and through Jesus Christ, and that he is the only Saviour and mediator between God and men, and no man can be justified save only those who put their trust in Him and through him inherit eternal life. God blessed his labour so that within a short period of about 8 months, he, by the assistance of the Holy Spirit, convinced three of us of the truth and importance of the Christian religion, of whom I was the least and the most wicked of all; of the others one has slept in the Lord, and the other one is working, I believe, faithfully in the great vineyard of our Lord in Calcutta. I had before me, greater and more obstacles to encounter than any of the other two. To enumerate,

and to write them separately and minutely, although they may be interesting, yet I fear would be tiresome, and would occupy much space; therefore suffice it to say, that those difficulties which appeared at first insurmountable, God made so easy, that by his divine assistance I gradually overcame and became decided. About three months before I was admitted into the visible church of Christ by the holy ordinance of baptism, I was in some measure enlightened to see the truth of Christianity, and since that time I began to observe more or less the Christian ordinances. Amongst the heathens there is not the least observance of sabbaths—on the contrary, they use it as a day of mirth and pleasure, and spend the whole day with idle talks of no profit. As a Christian, although I had not yet made any public profession, felt uneasy and unjustified in profaning it by mixing with the heathen or even staying in the house that day, so I used to leave it early in the morning and spend the whole day with some Christians, and attend the divine services morning and evening, and return home about 10 or 11 in the night. On a Lord's day two days preceding my baptism, I came out as usual, and returned in the same manner about 11 o'clock, but the moment I entered into my room, to my surprise, in came my dear mother and my second brother, and introduced the subject of my new faith: thus my brother began. Well, brother, we heard a report which I could hardly believe, that you are going to be baptized on Tuesday next? I hope it is not true. My answer. Yes, brother, what you have heard was all true; you and all the family know that I left off worshipping your gods long ago, and became an inquirer of the true religion which the Bible reveals. God had pitied my deplorable state and enlightened my understanding to comprehend the way of salvation through Jesus Christ, and I have hitherto kept him secret, but now I have concluded to confess him before the world in baptism, for He says "Whosoever, therefore, shall confess me before men, him will I confess also before my father which is in heaven. But whosoever shall deny me before men, him will I also deny before my father which is in heaven."—Matt. x. 32 and 33. Brother. Well, I see you are well taught to defend your religion, and quote passages from the same, but tell me, by becoming a Christian, what will you gain? Self. Brother, it is not I that speak or defend, but I trust, the Spirit of God through me: no merely human being could speak or do any thing that is good, or adopt the safe and the only way of salvation; the natural heart tends only towards evil and wickedness, for the Scripture says "The heart is deceitful above all things and desperately wicked, who can know it." It is the Holy Spirit, I am convinced, that is defending his own cause. I will get no temporal riches or endowments, on the contrary, I believe I will lose what I have now, for if worldly riches or enjoyments were my object or aim, why would I forsake your religion, for that is most suitable to a worldly person; no, brother, I have something before me which is far superior to what you think or speak of, the eternal life, the everlasting felicity in heaven. Br. Could you not get heavenly enjoyments by any of our gods and goddesses? Self. No, brother, your gods and goddesses are mere stones and blocks of wood, they are the inventions of wicked

persons, they cannot give you that pleasure and eternal life which Jesus Christ bestows. They are calculated rather to lose the soul than to save it. Besides, hear what true religion says. "Neither is there salvation in any other, for there is none other name under heaven, given among men, whereby we must be saved."—Acts iv.

12. Dear brother, He alone is able to save you and me; provided we go to him. He paid our debts which would have cost our lives. He died instead of us, that we may be saved through him, by believing on his name. His blood is alone sufficient to cleanse us from our sins, and to take us to heaven. Here I was interrupted by my dear mother, who was hearing our conversation, at once burst into tears and thus said. You my dear son, will you leave me too, an old mother; who has but few years to live in this world? Is your Christ dearer than me? Does not your God teach you to love your mother? Do but have pity on me, and stay with me, until mine eyes are shut, then you may become a Christian or any thing you like. I really felt very sorry, and was almost tempted to fall back, but the Lord strengthened me to answer thus. Dear mother; I have no intention whatever, to leave you or the house, provided you admit me after my baptism. Jesus Christ certainly is dearer to me than you, for he says, He that loveth father or mother more than me, is not worthy of me, and he that loveth son or daughter more than me, is not worthy of me.—Matt. x. 37. Besides, I would be a hundred fold guilty, and worthy of greater punishment if I knowing what the truth is, forsake it for the sake of a mother, brother, or house, and so you; if you are convinced of the truth of this religion, and do not accept it for the sake of an unbelieving son, or daughter, you will be guilty in the same way. The Christian or the true religion certainly teaches to honour and obey the parents more than any false religion. There is a special command of God, "Honour thy father and thy mother," but it does not teach us to obey the voice of a father or a mother at the violation of truth. I really pity you, and pray most earnestly that God may receive you as I believe he has received me, and you may be a mother to me in the Lord as you are in the flesh. As it was very late in the night, my brother went away with many more remarks—which if time permitted, I would mention, but my poor mother did not go out of the room, she passed the whole night in weeping and in grieving, and from time to time got up to see whether I was still there. I tried to stop her weeping, but the more I begged the greater was her grief; the remainder of the night, although I passed in sorrow and in great anxiety, yet I hope in communing with God. Early in the next morning I rose with an intention to leave the house before meeting with any farther opposition, but before I had time to do so, my eldest brother and the whole family came in one after another to see or rather to know what I was going to do. The very sight of them was enough to dissuade me, but I am thankful to say that God strengthened me to stand up and defend his cause. I will not relate all that passed, but the following suffice. Eldest Br. Well, Gopeenauth, I am not surprised at your taking this decided part, for I concluded long ago, when you began to frequent the English company, and eat and drink with

them, (there is a great prohibition for a Hindoo to eat or drink with Europeans, and he who does so is considered an outcast,) that you will one of these days throw off the mask, and be a public eater and drinker. Self. Sir, I am really very sorry to hear the wrong impression you have of the true religion, in which I now believe. If you would lend me your ears and hear patiently, I will, by the direction of the Holy Spirit, open the gospel and acquaint you with my new faith. There is not a soul in this room, who could deny the existence of a great Being, who is the Creator of this universe, and to him alone, we owe our existence, whom both you and I call God; but you leaving him, worship dumb idols, which are the inventions of mere man like us. I was in the same error in which you are still entangled, but God had mercy on me and enlightened my mind, and turned me from the way of perdition into the path of salvation; now I pray most earnestly, that He may do the same to you all. God is a Spirit, has no form or shape, and therefore as my true religion teaches, should be worshipped in spirit and in truth, not by making any shape or features, but with love and fear in the heart. Every body is born a sinner by nature, and the burden of his sin becomes greater every day, by his wicked thoughts and works, and thereby come short of the glory of God, and have forfeited all claims of heavenly felicity; but Christ, who is the only begotten Son of the Father, had compassion on us poor and miserable sinners, came down in due time and took our form on him, suffered and died, even the death of the cross, and rose again on the third day, now sitting at the right hand of God, interceding in behalf of his people. He paid our debts, which would have cost our lives. He, being the just, suffered for the unjust, that we through him might be saved. He reconciled and brought us back into the knowledge and true worship of God, which we by nature are ignorant of. There is another person in the Trinity, who with the Father and Son, is one Being and true God. His office is to sanctify our hearts and guide us in the service of God. Christ, true it is, died and suffered for the whole world, but he is only for them that believe on him, that by His merits, and through his great mediation, they may expect eternal life. My religion does not teach the difference of casts, Hindoos and Musulmans and Feringees (English,) are all alike sons of one father, therefore they ought to love each other and regard their interests as their own. Christianity does not consist in eating or drinking, it will not make a man any better or worse for eating and drinking with Europeans, if he has not the love of Christ in his heart. "The kingdom of God is not meat and drink, but righteousness and peace, and joy in the Holy Ghost." Besides, eating a certain thing with a certain class of people, or drinking a certain drink with a certain sect does neither make a person holy or unholy, for hear what the true religion says—That whatsoever entereth in at the mouth, goeth into the belly and is cast out into the drought, but those things which proceed out of the mouth come forth from the heart, and they defile the man, For out of the heart proceed evil thoughts, murders, adulteries, fornications, thefts, false witness, blasphemies. —Matt. xv. 17, 18, 19. Therefore it is quite a mistake on your

part to think that my religion consists in eating or drinking, on the contrary, those who profess Christ for the sake of eating are entirely shut out from the kingdom of heaven. Now, I hope I have preached to your ears this day the sum and substance of the true religion, which I have embraced, and may the same Spirit enlighten your understanding to see the efficacy and importance of this religion as he has done to me. Br. Do you wish us to go in the same path of destruction in which you have turned your course? Self. Sir, if it be the way of destruction, I would by no means advise you to come, but it is not so, it is the way to salvation, for it is written, "He that believeth on the Son hath everlasting life, and he that believeth not the Son shall not see life, but the wrath of God abideth on him—John iii. 36—and therefore I most heartily wish that all those who are in this room hearing me, will become believers in Christ, and be saved. Br. Well, leaving aside this, let us know what will be your temporal aggrandizement, how much money will you get for becoming a Christian? Self. Sir no money I am to receive, on the contrary, a Christian is expected to be poor in this world; he that expects the riches of this world is not worthy of Him; no, I expect to be rich in the next, when I come to dwell forever with the Lord. Br. Do you know if you leave off worshipping our gods you will be a loser of our father's property? Self. Yes, I know, and I am quite prepared for that, if I could have faith on Jesus Christ I will have nothing wanting, He will provide for me what will be necessary. To depend on the riches of a father is but for a short duration, and only leads to evils, but to rely on the unsearchable riches of Christ is of long duration; therefore I am prepared to lose it for the inestimable riches of Jesus Christ for which cause I beg and hope that you will not throw any obstacles in the way of my Christian course. Br. I see you care neither for our affection nor for the property of our father, but obstinately take your own way, tell me what more is necessary to complete your new faith, are you not a Christian now? Self. No, there is yet one step remaining. He who wishes to be a disciple of Christ must love, honour, and fear Him, as well as obey his injunctions. True it is, I am a Christian, for I hope I have the love of Christ within me and believe him to be my Saviour, yet if I neglect one of his least commands, I am not of his, and he will at the last day disown me. Christians are ordered to make public profession of their faith, by publicly renouncing all their former wickedness and idolatry and declaring most solemnly in the sight of God as well as man, that he would endeavour to walk in the light, to love Christ, to obey His voice, and, in short, to do every thing he bids, then he is to be admitted into the visible church of Christ by the holy ordinance of baptism, which any one of His ministers may perform, and the way is this, by sprinkling some water, in the name of the Trinity, on the head of the candidate, and thus he is received as a brother in the Lord, by other Christians. Br. If baptism is requisite, could you not be baptized here, and let the Padree Sakabe (minister) come and pour, instead of a palm full of water, a jar of water on your head if he chooses, so by this means we may keep it entirely secret from our friends and relations, who you know the moment they

come to hear of your public baptism, will forsake us and will persecute you as well as us? Self. True it is, baptism is performed with water, but the principal part is the confession of sins as well as accepting Christ before his servants and the world. Baptism ought not to be performed in secret, in a private house, in the presence of a few heathen friends, it ought to be done publicly and openly. If our friends and relations do begin to persecute me, when they hear of my public confession, I am prepared to suffer. "For blessed are they which are persecuted for righteousness' sake, for theirs is the kingdom of heaven." As for you, why will they persecute you, when they see that you have forsaken me entirely? Having spoken thus far, he concluded with the following words, and went away. Now, says he, I speak these few words not with an intention to argue with you, but hope that these may soften your hard heart, and make you to abandon the thoughts of becoming a Christian. Our father died when you were an infant, and since that time, I fed and clothed you, brought you up, and now you become a man, able to think for yourself, but still I believe you pay me the same respect as formerly. Hear my good advice, and be not a Christian, forsake such an idea, and stay in the house like one of us; if still you persist in having your own way, what a very great disgrace you will bring on our family, which we shall never be able to remove. You will lose all our favours, and also your share of our father's property, and for ought I know, your becoming a Christian, and consequently separating yourself from us, may be the means of destroying our dear old mother's life! You know she loves you, as you are the youngest, more than any of us; therefore if you have any regard for her, you ought to stay at least as long as she lives, now I must leave you and go to my business, but do change your heart from becoming a Christian, and stay in the house with our good favours. Thus far he tempted me, then he as well as the rest of the family went away, when I was left, indeed, I felt as freed from the very jaws of satan, and gladly opened my heart to the heart searching God, who did not leave me to fall a victim to his temptations. Having meditated on His gracious dealing, afterwards I began to think what to do, how to get out, and being understood that my eldest brother prevented all the servants from carrying any message or letters from me to any persons, I felt more uneasy and sorry, but still I ventured to write a few lines to a friend of mine, who lived close at hand, simply mentioning him the event, and begged him to let Mr. Duff know, who, losing no time, might come for my assistance. When the letter was written, I was at a loss to know how to send it, but God is never unmindful of his people. He does in a moment that which is marvelous in our eyes, and sends down means from where we least expect. Just at the very time, one of our servants, who went on an errand about two days' journey, arrived, and as he was not acquainted with what had passed in the morning, he readily bore the letter to the person addressed. Although not closely confined, yet I was restricted from going out. The whole day I expected and eagerly wished that some of my Christian friends would come for my assistance; but having found none, in the evening I made a

second effort to come out, and succeeded in getting leave, under a promise of returning after two hours. I then directly went to Mr. Duff, who I found with some of his friends were busily conferring what to do. The moment they saw me, I have no doubt they felt rejoiced in their hearts, and gave the praises and glory to that God, who softened the hard heart of my brother to let me come: it was thought proper as I must return after two hours, that all of them should accompany me, and stand as witnesses, in case my brother should apply any unjust means to detain me. My brother was not at home when we arrived, but when he was told, came with a gang of people, who we thought intended to use force, but Providence changed their hearts and made them to stand gazing, without using any effort to snatch me from off the hands of my Christian friends. When my brother came close to us, Mr. Duff addressed him thus. The English people came from Briton to give as well as to see justice done to every individual, and that every body may act according to his will; here is your brother, ask him in presence of us, if he likes to stay with you, take him, if not, allow him to take his own course. My brother, without answering a single word to him, turned towards me and said something like what he said in the morning, and tried his best, with promises of all kinds, to draw me back, but God strengthened me and endowed me with grace to withstand his temptations, at last I bid them farewell, and left the house amidst weeping. As I was much agitated I thought better to postpone my baptism until the following Tuesday, the intervening time I spent in reading and seeking preparation for the solemn purpose. In the mean time both of my brothers declared publicly, in one of the native newspapers, that they had left me altogether, and from that time would have no intercourse with me, nor would suffer me to enter their house. This public declaration retained for them their cost. When the day of my baptism approached, my acquaintances were anxious and eagerly wished to see how this sacrament was performed; on the evening of that day, in the presence of a large concourse of people, both Christian and heathen, I was baptized by the Rev'd Dr. Duff, who after this solemn act, gave a discourse which was suitable to all persons, especially to the natives. After my baptism, I had to live separate from my family, but almost every day I used to go to see my dear mother, although prevented repeatedly by my eldest brother, and even threatened to lose my life, yet I visited her at the peril of my life as long as I stayed in Calcutta. I have already written a long letter, I fear too long, now I beg to conclude by stating how I came to join Mr. Wilson in this blessed work, but if I am spared to address you another letter, I will take up my narration from here, and hope to give you the remaining leading incidents of my life. After my baptism I stayed about six months in Calcutta as an assistant teacher in one of the Christian schools. From thence I came up to Futtehpoor at the request of a gentleman, to take charge of an English school for the education of the heathen boys. In the late famine of 1838, Dr. Madden the late civil surgeon of Futtehpoor (a truly devoted man, who spared neither money nor labour to bring the heathen into the knowledge of this free salvation through

Jesus Christ) took the opportunity of sheltering as many heathen children of both sexes as he could get: I have every reason to say that God had blessed our labours. He gave us good health to work, as well as sufficient means to support the institution. Just when the day light began to spring forth on the institution, a providence occurred which marred all their usefulness in that quarter, it was the death of Mrs. Madden, poor Mr. M. being grieved, left the place, made over half the children to our faithful brother Rev'd Mr. Wilson, who was at that time passing up the river, the other half, he sent down to a Christian institution at Benaras. Although Mr. Wilson was not prepared to take such a heavy responsibility upon him, yet I believe he did not for a moment hesitate to trust on the Almighty God, who sends means from where we least expect, he willingly trusting on Him accepted Mr. M.'s offer, and took these destitute children under his care. When the institution was broken up, I thought of going down to Calcutta, but Providence did not separate me from these children with whom I spent months, labouring to instruct them in that which might be beneficial to their souls. Now we have become stationed here more than eight months, our present number of children amounts to 108 of both sexes. Our principal aim of course is to bring them up as Christians, and to teach them the way of salvation through Jesus Christ. I have not the least doubt that God will prosper our labours, and bring up these children whom He has brought under our care, if we put our trust on Him and implore His divine guidance to direct our paths into His way. We do not confine our labour to these children only,—Mr. W. and myself visit the natives and preach to them also the word of life. This is an immensely large field of labour, were there ten missionaries, they would not be sufficient. Mr. W. is at present alone, but his being alone has not the least effect on his usefulness, on the contrary, he feels his duty more to be active and faithful in making known the word of God to those people who are sitting in darkness and in the shadow of death. God has given him a good constitution of health, and a kind and philanthropic heart towards the conversion of my heathen countrymen. I have not yet seen him spend one moment without doing some good or other. May the Lord bless and keep him faithful, and give him more grace to be the means of converting hundreds from the darkness into the light of Jesus Christ. May He crown his labour with success, and bestow on him the heavenly reward when he comes to dwell in heaven for ever. Now I must conclude for the present. Christians are all children of one father, and servants of one Lord. They are dispersed on every quarter, yet their separation here does not make the least difference, they are still the same as though they were together. The love which our Master taught us to bear to each other is the same, whether we live close by or at a distance. We are not led, as the worldly people are, for worldly motives to love one another, we have a better and a higher motive, even to receive the heavenly blessings. There is not the least prospect of our meeting or seeing each other on our journey through this world, yet I strongly hope that when we finish this our earthly abode, and come to dwell for ever in a better place,

even in the mansions of our heavenly father, there we shall greet each other while we say worthy is the Lamb that is slain, to him be praises and glory forever and ever. Amen. Farewell.

I remain

Ever yours, in Christ,

GO-PRE-NAUTH NUNDY.

LETTER FROM THE REV. HENRY R. WILSON, IN INDIA.

To the Members of the 2d Presbyterian Church, Baltimore.

DEAR CHRISTIAN FRIENDS.—The near and sacred relation which I sustain to you, as your missionary to the heathen, makes it both my duty and privilege to address you with freedom. I have often written to that part of your body, which constitutes the Female Foreign Missionary Society of the 2d Presbyterian Church, but as a congregation, I have never addressed you. Pardon me for this seeming neglect. My hands have been full, and I knew that you would hear from me through others. The Lord kindly furnished me, at the very commencement of my labours here, with a valuable assistant—in Gopeenauth Nundy—a convert from Hindooism. Thinking it would interest you to hear *from*, rather than *of* him and deeming his own words the best evidence of the power of Divine grace in the conversion of the blinded and stupid heathen, I have asked him to write to you, giving a statement of his conversion from the worship of dumb Idols, to the service of the only living and true God. The above letter is entirely his own production—thought—diction—penmanship and all. The eye of a critic, will readily perceive many inaccuracies; but you must bear in mind, that the writer, was until a few years ago, a stupid heathen, and that this is to him a foreign tongue. He is, I think, a truly pious and devoted servant of Jesus Christ. He has been my assistant for nearly nine months; during which time I have seen him repeatedly every day—been with him in sickness and health—in perils and joys—yet have never discovered any thing in his spirit or conduct, inconsistent with his profession, or that has given me pain. I have always found him ready for every good word and work, and not unfrequently has he roused me to renewed exertion, when ready to yield, to the trying influence of an eastern sun.—You may readily conceive then, that he is not only a great comfort, but also a valuable assistant to me. But Dear Friends, you must not form your ideas of the Hindoos, from the character of this man. He is one of a thousand—yea one of an hundred thousand. But his case shows how admirably the gospel is adapted to the most degraded of our race—how abundantly sufficient is the grace of God, to enlighten the mind, sanctify the heart, elevate the affections, and controul the entire life of the ignorant, prejudiced and bigoted heathen. It and *it alone*, can dissolve the iron fetters of cast, and cause the soul, long enslaved by Satan, to rejoice in

"the liberty of Christ." We want no higher power—we need no other antidote for all the woes and sorrows of the suffering, dying heathen. But "for all these things I will be enquired at," saith the Lord of hosts. We want, then the prayer of faith to be offered as incense by *all the true Israel of God*.—We want those means of grace, which God has ordained, not at an *immeasurable distance*, but within reach of the heathen, and we want those men *whom God has called*, to preach this gospel of His grace, to those who *can not* "believe on Him of whom they have not heard."—In the case of this convert from heathenism, we have a striking display of the *purity* as well as *power* of divine truth. In the language used and sentiments expressed by this only partially educated native, (and they are all his own) you will also discover nothing of that theology, ("falsely so called") which is so prevalent and so popular in these latter days—nothing of our exemption from the pollution and curse of original sin—nothing of the tremendous force of mere "moral suasion"—the astonishing effects of the "determinative power of the will"—the pride and glory of "moral ability," &c. &c. And why has not this disciple, who has evidently been taught in the school of Christ, learned these important *Theories*? Simply because, the Spirit of God, who was his teacher did not *take and show* these things to him, because they *were not* "*the things of Christ*." It has been my delightful privilege to hold converse with converted heathens in both hemispheres, and yet I have never found a "New School Man" among them. O how lovely is the *simplicity* of divine truth, when undisturbed and untortured by the ingenuity of over wise and vain-glorious man. Were a flood of this pure light of heaven shed upon our benighted world; error, as ashamed, would hide her deformed head, and the *purity and peace* of Zion, would flow as a river. For this, dear Christian friends, let me beseech you not only to pray but to *labour*. "This is not our *rest*." "A *rest remaineth* for the people of God." "Let us therefore *labour*, that we may enter into that rest." There will be time enough, to *rest*, in heaven. I have not space, to attempt giving you any description of the degraded condition of the poor heathen around me, nor of the prospects of the mission. For the former, let me refer you to the 1st chap. of Romans, which contains a more full and forcible description, than I could give, and for the latter, suffice it to say, that the Lord has in a very unexpected manner thrown open to me a *wide* field for missionary effort—*so wide*, that I feel almost lost—like a drop in the midst of the ocean. Futteghur is both a military and civil station on the banks of the Ganges, about 800 miles above Calcutta. It contains a population of 16,000 and is contiguous to the famous native city Furruckabad, the population of which is about 75,000. The whole district of Furruckabad (which is only 55 miles in diameter) has a population of 800,000 souls, among whom no missionary has ever laboured, nor is there any minister of the gospel now, but myself. But this is not the half. Strike an eastern course from this point and the first missionary you find is at Cawnpore 100 miles; with Futteghur still as a centre make a sweep of the compass from Cawnpore, north and west, and

you take in the Kingdom of Oude, with probably a population of 1,500,000, to whom the gospel has never yet been offered. To the west and south the nearest missionaries to be found are those of the Church Mission at Merat and Agra, from 150 to 200 miles distant—the intervening region of country teeming with an immense population, in whose behalf there is no one to sound the alarm or raise the warning voice. Had I the strength of a giant and the zeal of an apostle, I might (for aught that opposes) preach the gospel in every city, town and village, through this whole region of country. But alas, my efforts are confined to this one little spot, and even here, there is ten-fold more than I am able to do. In addition to two other out schools, I have been permitted to establish an Orphan Asylum, which contains 115 parentless children, all of whom I have sustained by funds collected in this heathen land, and have now on hands the sum of 5,000 rupees, for the endowment of the institution. Thus the Lord has not only opened to us the door, but is furnishing us with the means of carrying on his work. Although *emphatically* “in the region of the valley and shadow of death,” the Lord has not only spared our lives, but given me (at least) almost uninterrupted health; whilst my dear wife, although feeble, has improved in health, and been able to do much for the 57 little heathen girls, of whom she has the constant charge. Thus Dear Brethren, have we not reason to call upon our souls, and all that is within us (whilst we would also call upon you to join with us) in praising and magnifying the name of God?

I must now take my leave of you, by acknowledging with gratitude, my obligations (under God) to you for your Christian kindness, and by commending you to God and the word of his Grace, which is able to sanctify you and present you spotless before His throne in the great and terrible day. Brethren, be perfect—be of one mind—live in peace, and the God of peace and love shall be with you. Pray for us, that grace may be given us to be faithful *even unto death*.

Your missionary and fellow-servant,

H. R. WILSON.

[For the Baltimore Literary and Religious Magazine.]

SKETCHES AND RECOLLECTIONS FROM MY NOTE BOOK.

No. V.

Spirit of the Papacy.

I do not know when I was more tenderly affected than on reading a sheet containing a letter of the senior editor of your Magazine, to his church, and the action of the elders and congregation on it. Such noble and ennobling Christian devotion to him who breaks to them the bread of life, is worthy of an age purer and holier than I had thought this to be. Such a unanimous and deliberate expression of warm Christian confidence, is as honourable to the donors, as it is complimentary and consolatory to him who receives it. It not only shows what grace can do, but exhibits poor human nature in an attitude of unwanted loveliness. It has greatly increased my respect for that noble and warm-hearted people. In fact the very record of their doings melted me into a childish tenderness.—But, I was at the same time astonished that a gentleman of the known accumen and observation of the said editor;—one who knows the “beast and the false prophet” as intimately as he does;—one who, in addition to a careful and critical study of their nature and character in history and at home, has visited them in foreign lands, and given us such a masterly exhibition of them, should have permitted their emissaries to drive him to the determination evinced in his letter! Perhaps I am not a correct judge, but my opinion is, that from and after that “presentment” we have evidence that he is a greater and a better man than we ever before gave him credit for;—nay, I aver, that every man of sound and unperverted judgment, who knows the Papal system and its abettors, as I do, will and must come to the same conclusion. That fearful and tremendous power, beneath which the nations of Europe have so long crouched in mental as well as bodily vassalage, has always thirsted for blood, and vampire like, the taste has uniformly increased the appetite and desire. All history represents her in the attitude of lapping up the life-blood of the great and good in every age and country in which her power permitted her! Am I wrong? The record and the proof are within the reach of all who read. During my residence among them in Europe, and that too in a part of it where they had but a limited power, and were consequently on their good keeping, I have *known* of the commission of deeds, by them, of such a horribly barbarous and sanguinary character as to be almost incredible. The spirit of the Papacy is a sanguinary spirit, and in the out-goings of that very instinctive effort to preserve existence, which is a necessary part of every individual and system, it seeks after its unnatural aliment with a power and perseverance which no obstacle, as yet, has ever been able to withstand! Within a few miles of my residence, while in Europe, a number of Papists assembled one night to take revenge upon a family, concerning whom they felt as they do towards the senior editor of this Magazine, and after putting fire to several

parts of the extensive buildings, they surrounded the premises, not only preventing any exertion to arrest the progress of the flames, but actually preventing the unhappy inmates from making their escape!! It was at the dead hour of mid-night—the unconscious victims were in deep slumber till the awful voices of the flames and the incendiaries awoke them to a sense of their danger. Males and females in their sleeping attire endeavoured to fly from the devouring element, but, alas! they fled into the equally merciless embrace of Papal mercy! Those who attempted to escape from the fire, were either immolated, men, women, and children, on the spot, by the clubs of the assailants, or thrown back into the flames! I record this not because it is either an extreme or a solitary case, but because it is one which came under my own knowledge, and is descriptive of the sanguinary and exterminating character of the Papacy. Nor do I mention this characteristic of the Roman Antichrist, as a new discovery or a new phases or a new quality. History, all history records it;—it has been exhibited in every place and at all times, when and where Papacy existed and had power, and it now is and ever will be an essential part of herself from which she cannot separate and yet live. Why then, it may be asked, does she not now and in this country persecute? I answer; she does persecute, and that to the *full extent of her power*, and there is a law both in morals and in physics which prevents even Antichrist from doing more! I say she does, even in this land, persecute, and to the full amount of her power, and the senior editor of this magazine is a proof of the fact! But, if it be asked, why does she not persecute to the extent of her character and nature and principles? I answer, there are two reasons.—First, her *policy* forbids her. Recollect she is a Jesuit—the *end*, with her, sanctifies either *doing* or *not doing*, and that to any extent! Whether it be blessing or cursing, life or death, it is her settled policy, or rather it is a principle and part of her very existence, to do it, or not to do it, as it will best minister to her ultimate designs! Though blood is her natural aliment, yet if abstinence from it will best promote her designs of universal empire, she will, for a season, abstain even from blood, and by a singular recuperative constitutional energy, she will again regain her appetite, her habits, and her wonted strength! At *present*, then, and in this country, it is not her policy to persecute as she does in lands where she feels herself more at home. She lies *couchant* like a tigress in her lair, ready, whenever policy and the Pope dictate, to spring out and refresh her parched chops with the warm blood of free-men and Christians! But, in the second place, it may be accounted for, by the want of a sufficient faithfulness, at present, on the part of Protestantism. There is so much of the despotism of liberality abroad;—there is such a dominance of that false and indiscriminating something, nick-named charity, which embraces with equal fondness, principles the most antagonistic;—there is such an unhalloed itching after present popularity, that truth and righteousness and gospel action are either overlooked, or sorely mis-used. Consequently “the man of sin,” feels himself so comfortably treated, and so extremely popular in society; so much courted by the mass;

and so respectfully passed by on the other side, even by those who do not stop to embrace him or make obeisance to him, that nothing but his innate love of death and despotism could induce him even to show his teeth or expand his terrific claws. Surely when each of the two great parties into which politicians are divided, pays him such humble homage;—surely, when that large portion of society which hates even the devil less than it does the truth of God, worships him so fervently, nothing but the wants and cravings of his nature would urge him even to think of deeds of violence, while moreover, the very devoted homage which he receives from this *Protestant* nation, presents in the way of his bloody nature even, an antagonist principle of great power. But let a Luther or a Calvin—let a Knox or a Cranmer arise, and then see how “the beast” will bristle, and hark how he will howl. Be assured the amount of peace which he at present affects to observe, is a sore reproach on the age! Let Protestantism only awake to a moderate degree of faithfulness;—let men arise who *are worthy* to be persecuted;—place before this tremendous power a prey sufficiently deserving of her notice, and the sword and the faggot will soon be resumed! She was always a persecuting power—she is not changed, and she never can be changed! Nay, it is her blasphemous boast that she is unchangeable and infallible! True, where there is no fuel there can be no conflagration—where there is no opposition to the Papacy, but on the contrary, a servile sycophancy on the part of nominal Protestants, it is not strange that there should be an external smile and complacency on her part. But the senior editor of this magazine is a living proof, and if she dare, would soon be a dead proof, that it only requires faithfulness on the part of Christians to arouse her. When I see and hear what he is suffering from all the various shapes and shades and admixtures of Antichrist—I confess, I feel humbled and mortified, and am compelled to ask, why am I not worthy to be ranked with such? In appeasing my conscience, I am fain to skulk behind the covert of want of talents—to excuse myself on the score of an inadequate mental and intellectual furniture for the work. But, while this is no doubt the fact, I may not forget, that there is, doubtless, to some extent, also a lack of faithfulness. This far, however, both my talents and faithfulness bear me, that I see and acknowledge and admire his whole character in this matter, and can, from the heart, say to him—‘my respected brother, God speed and spare you—feeble and distant as is my voice, I delight in cheering you onward; and if it be any consolation, I wish you to know, that hearts feel for you; and prayer ascends for you, even out of that noble congregation to which you have the honour of ministering. Go on—God is your guide—truth is your defence, and a glorious cloud of redeemed spirits as well as of Christian brethren are your witnesses and spectators.’

Having resided for many years among a European Popish community, I am at no loss to understand why the *subjects* of the Pope of Rome, especially the *Pope's officers* should feel sore in this country—should wish to put down the “Baltimore Literary and Religious Magazine,” and if they dare, make its editors play a

conspicuous part in a Maryland "*auto da fê*;" or, in plain English, they would *broil* them in the name and to the glory of their bloody Lord God, the Pope, as they have done so many thousands and tens of thousands in other lands. I am at no loss to understand, why, even in despite of their Jesuitism, they should carry beneath all their smiling complacency, a heart not only ill at ease, but rankling with deadly hatred. Feelings and desires, pent up, as theirs are, by the usages and opinions of a Protestant community, as well as by the effort necessary to deceive that community into a fatal security, may be controlled for a time;—the powerful motive of "stooping to conquer;"—the prospect and desire of finally over-coming that public sentiment and procuring for themselves a full and free exercise of all their bloody and exterminating principles, may support them in curbing their rampant ferocity for the present, but to do this long, we apprehend, must exceed the powers of human nature, drilled into hypocrisy even by the teachings of Jesuitism and supported by the sustaining expectancy of a coming carnival. the illustrations of this proposition I have at hand, but in pity to my readers and printers I shall reserve them for my next number. I shall conclude this paper by a word of explanation. Though I have spoken so plainly concerning this tremendous Papal power, as a principle or system, I have no feeling of unkindness towards Papists as individuals. I am not conscious of having *one* unkind sentiment towards *any one, man, woman, or child*, in that extensive community. Nay, but on the contrary, I have had among them many friends, have enjoyed much individual and social pleasure in the midst of them, and from a distinguished member of that community, I feel pleasure in recording, that I have received some of my best temporal blessings. I wish to be understood here as speaking only of *laymen* as the individuals with whom and from whom I have had this enjoyment. As it regards the priests or officers of the Papal government, I have had a more or less extensive acquaintance with many; but as far as my recollection serves me, I never knew one who was even a moral member of society. Incontinence and insobriety and cupidity were characteristic of them all.

[For the Baltimore Literary and Religious Magazine.]

LOGAN, THE MINGO CHIEF.

WITH Indian *biography* our country, has had but little occasion to be familiar, though, alas! often drenched in blood by the cruelties of some fell warrior in the person of a border chieftain, with his wandering clan at his heels. Eastburn has dignified in poesy the earlier history of the aborigines and made an epic tale of the doings and the daring of King Philip, the last of the Mohicans. Contemporaneously with the events of the French war on this continent, the English settlers on the North Western Territory grappled with a firm savage near Detroit, by the name of Pontiac, and then another, by the name of Brant, in our revolutionary struggle, devastated fair Wyoming. Later days have rendered notorious a Tecumseh at the Moravian towns and river Raisin, a Black Hawk among the Sacs, and an Osceola, a Seminole chief.—We cannot forbear exclaiming, even yet, "*Lo! the poor Indian!*" should we incur by it the epithet of pseudo philanthropist, so unceremoniously dealt out of late by the government of Florida, upon all who have any sympathy for the red man, while the white man suffers so bitterly at his hand, among the hammocks and alligator retreats of that ill-starred land.—We fully justify all fair, honourable and civilized usages employed to get possession of a desirable territory, but bloody butchery, Cuba hounds, wanton waste of white men or red men's lives *we leave* to the *philanthropy* of others.—True! too true! the Indian has been savage; but what made him so? At first he was *simple*, seemed harmless—and furnishd many an illustration of the philosopher's dream of the superiority of a natural state, with few wants, lasting friendships, unostentatious hospitality, chivalric honor and perennial liberty.—But oh! how changed! He is now the very incarnation of evil, the genius of destruction, Apollyon and Abaddon.—Yet it will not be difficult to find, among the reminiscences of the age some choice exceptions, to grace the algal page, and disabuse the nation, which too readily believes, that all virtue is with the Caucasian tribes who have displaced their Indian neighbors.—A very marked example heads our article. Good Logan was the *white man's friend*.—He is not the hero of romance, but a peaceful, pleasant, honest, humane, generous rustic, unknown as a ruthless vandal, an Alaric, Attila or Timour—and he is an honour to the name, and the cause of the Indian.

His dwelling you perhaps are not aware was in the region of Central Pennsylvania, in a choice and verdant valley, skirting the Juniata, which afforded once abundance of wild game—and spontaneous fruit and pasture of many sorts—rocks and mountains were a natural rampart of defence for him and his, and shady retreats diversified the scene, with purling rivulets. Wild fowl and fish, the beautiful blue jay and golden and crimson speckled trout added charms to a tasteful spot, decked off with profusion of loveliness—and a wholesome sky, fraught with health and glowing with bright sapphires, bent benignantly over the hut of the poor

Indian. It was a spot which a Rasselas might have chosen to quiet his discontents, and husband the remains of a life marred with many a trial, and cool the feverish excitement of unallayed desire.—Pent up amid the fastnesses of another Abyssinian Wechrie, and prince of the tribe, his days were spent in the usual pursuits and pastimes of the nation, remote from the din of battle; the mountain torrent was his music, and the white man shared it with him in pleasant, happy neighbourhood. His hovel, built of logs, and daubed with mud, between, was fixed close by a fine spring, of neverfailing waters, and it is still customary to call the spring by his name.—Logan's spring is now in the heart of a fine thrifty and Christian settlement in the Valley of Kishacoquillas, at the foot of a hill on which stands the oldest Presbyterian Church of this region.—In days of yore, before the Revolutionary war, Logan dwelt here, harmless and secure, unmolested by the white man. A curious occurrence gave him an introduction to an old resident of the region. They were each abroad, hunting for game, and while Logan was at the foot of a small eminence near his house, the other, Mr. McC., was on the top of it. Espying each other they presented their pieces in an instant, I forget which first. They stood thus eyeing each other for a while, but neither pulled his trigger. Presently, Logan turned his gun and knocked the powder out of the pan, Mr. McC. did the same; Logan then advanced and offered his hand, which was accepted, and they were friends ever after.—A Mr. B. had a magistrate's commission from George III, and Logan, his near neighbour, had occasion to employ his services, which he did with success after all other means of collecting a debt had been tried in vain.—The case was a trade between Logan and a neighbour, for wheat. L. giving venison obtained bread stuffs in return. When, however, he got the grain it was so inferior, it would not make good bread. Logan remonstrated in vain. At last he came to Judge B. to get redress. The Judge issued process in due form, and recovered the sum due. In telling his story to the Judge he described the miserable stuff he had been offered—says he, 'it contains a round black thing'—'that's cockle'—says the Judge, and 'then it contains a small grain'—'that's cheat' says the J.—'Yes, yes'—says L. '*cheat, cheat, he is a cheat.*'—When the Judge got L.'s money for him, the poor Indian enquired how he succeeded in procuring it, after he himself had altogether failed—the Judge told him that he wrote some lines on paper, and sent them to the man in the name of the great father across the water, George III., and this answered the purpose.—L. seemed astonished, and remarked how great a man his father across the waters must be, to do with a little bit of paper and a few words, so much, when *he had used all arguments in vain*, with the man that owed him.

Another anecdote is told of him by the judge's family still resident on the same place, though he is dead some years ago.—A lady was visiting the family one day, who had a young child in her arms, not very well provided with a pair of shoes. Logan was there, and he asked the lady to let him have the child to carry home with him. The woman was in a dilemma, afraid to consent,

dreading an Indian, as a ruffian, but afraid to refuse, for the same reason—an Indian provoked would be no safe adversary. She at last consented, and with no little anxiety saw him bear to his hut, a few hundred yards off, her dear child. It was in the morning, when he took the child. Noon came, but not the child. It was torture to her feelings. She waited, but to no purpose.—Three or four or more long hours had passed, but no tidings of her child came. She could endure it no longer—but took her bonnet, left the house, and walked towards Logan's. On the way she met him *bearing in his arms his little charge with a pair of new moccasins on*, which he had been making for it, all this while!—These and similar acts won the trophies of this good Indian, instead of scalps of women and children. We have in this instance some proof that there is a law written on the heart of man which is observed partially, at least, by nature, and the observance of which will put to the blush men of better opportunities and more knowledge, who *do less* in proportion as they *know more*.—Whether he had ever heard the Gospel preached I do not know, but as some white people lived near him, it is altogether likely they had given him some moral and spiritual instruction, which may account for his uncommonly humane and blameless character.

He carved, on the bark of a tree, the figure of an Indian, full length, with appropriate costume and paraphernalia, with his hatchet and tomahawk, which remained for some years after he emigrated to the west, and there is living in the valley a gentleman, Dr. H. who I believe, saw it many years ago—but to the regret of the curious and tasteful antiquary, some ruthless axe felled the tree for fuel or fencing, and the last monument of Logan fell with it. Only a spring remains to bear his name.—Why or when he left the valley is not known to me, only that the tide of white population coming from the east swept him and others off. He went finally to the Miami of the lakes or the Maumee, which empties into Lake Erie, and there was found, unhappily, and unwittingly too, I suppose, mingling with the tribes who were hostile to the English, though he was not. While there a fierce officer, a Col. Cresap, wantonly cut off his family with the rest, though peaceful and unoffending, he too perhaps *not knowing* the fact of Logan's friendliness to *all white men*. L. was then left alone, to bewail the miseries of war, and the indiscriminate carnage of battle. It was on this occasion he is said or supposed, to have given vent to those fervid and impassioned sentiments which Mr. Jefferson instances in proof of the native eloquence of the red man, and which may well compare with any elegy of more civilized life. It certainly is a most creditable specimen of the rhetorical powers of Logan, or its penman, and is so true to nature that we can credit the authorship of it as attributed to him. It is a sort of Jeremiad, an ode to disappointment and grief, not unworthy of the occasion that gave it birth. Few of the red men have equalled or excelled him in eloquence—none in humanity, that we have read of. Tecumseh and Red Jacket have some times startled us with a touching simile, a flash of wit, a bold well-conducted argument, but Logan draws a tear of sympathy, as for a friend abused ungratefully re-

quited. A worn-out Indian Chief despairing of reaching his home, pronounced his funeral dirge most affectingly. 'The flowers would spring, and grass grow, and leaves return, but he would return no more—and his fall would ring through the tribes as the crash of the old oak resounds through the forest.' Beautiful thoughts, beautifully expressed. A wild, Ossian-like, picturesque assemblage of ideas and words make up their eloquence—'thoughts that breathe and words that burn' are in it. In Logan's speech there is no affected embellishment, but the tenderest thoughts are exhibited through the transparent medium of a chaste style, and in the drapery of sables suited to the theme which was dark and gloomy.—His great namesake the Scotch preacher has in his fragmentary volume an occasional scrap which flashes with the brilliant coruscations of kindred genius, but though moulded in a cast not wholly unlike for native vigour and beauty, there was no other alliance between them but the name—though had the transatlantic orator a nearer tie than this, he need not have been ashamed of his tawny brother, as other orators, some living perhaps, others dead, have gloried in ancestral ties graced with the name of the heroic Pocahontas.

J. M.

[Continued from page 48.]

THE GOSPEL MYSTERY OF SANCTIFICATION,

By the Rev. Wm. Marshall.—Abridged.

No. III.

IV. The last requisite is *that we be persuaded of sufficient strength both to will and to perform our duties acceptably until we come to the enjoyment of heaven.* This is contrary to those who account it sufficient, provided we may have strength if we will, and that we may will if we please; and to those who think the practice of godliness and wickedness alike easy, except only some difficulty at first in altering vicious customs, and (what they think very rare) bearing persecutions, and to those who think God requireth men to do what they can, and that it is nonsense to say men cannot do what they can do.—For confirmation of the assertion, consider

1st. All who are savingly enlightened know themselves to be by nature dead in sins, unable to will or to do any thing spiritually good until they be actually quickened by Christ; Eph. ii. 1. Rom. viii. 7—9. 'They know that they do not only want executive power to do good, but chiefly a heart to will it and to be pleased with it, and that if God work not in them both to will and to do, they shall neither will nor do any thing pleasing to him Phil. ii. 13. Hence we may conclude that whoever can courageously attempt to keep the law, without being well persuaded that they shall be enabled heartily to will and also to perform, until he hath finished his work, such an one was never truly humbled and brought to see the plague of his own heart, nor doth he truly believe the doctrine of original sin. 2d. Those who think sincere obedience to the law in ordinary cases, very easy, show that they neither know the law nor themselves. It is an easy thing to wrestle against principalities and powers, Eph. vi. 17. Did not Paul find it difficult to keep the tenth command, and was not the command an occasion of his coveting? Rom. vii. 7, 8. Our work is not only to alter vicious customs, but to mortify corrupt natural affections, which bred those customs,—not only to refuse to fulfil sinful lusts, but to be full of holy love and

desires. If obedience be so easy, how do so many break repeated vows and purposes, and fall back to the practice of sin, although the fears of eternal damnation meanwhile press hard on their consciences?

Some think if there were persecutions that then it might be hard to serve God, but is there no sort of persecution now? and is there not great difficulty in bearing heavy injuries from men on other accounts besides religion, and losses, poverty, bodily pain, and long diseases from the ordinary providence of God, with such hearty love to God and to injurious men, for his sake, and such a patient acquiescence in his will as God requires? 'Truly the work is easy and pleasant to those whom God hath rightly furnished for it, but those who assert that it is easy for men in their natural condition, show their imprudence in contradicting the general experience of heathens and Christians. Though many duties do not require much labor of body or mind, and might be done with ease if we were only willing—yet it is easier to remove a mountain than to incline the heart to will and delight in the doing of them. I need not concern myself in convincing those who believe that God only requires what all men can do, and that therefore all men are able to obey God perfectly—for God requires the actual fulfilling of his commands. What, if by our endeavours we cannot do any thing in any measure according to the rule, shall the law be put off with no performance, and such endeavors be accounted sufficient holiness? and what, if we cannot so much as endeavour in a right way? *If a man's ability were the measure of acceptable duty, the commands of the law would signify very little.*

3d. The wisdom of God hath ever furnished his people with a good persuasion, that they shall have a sufficient strength that they might be enabled both to will and to do their duty, that plentiful assurance of strength God gave to Moses, Joshua, Gideon, when he called them to great employment, and to the Israelites when they were to subdue Canaan. Paul encourageth believers to a life of holiness, by persuading them that sin shall not prevail to have dominion over them, Rom. vi. 13, 14. Eph. vi. 10, 11. 1 Jo. ii. 14, 15. When men dead in sin are called to be holy, God makes a discovery of the gift of power to them, that he may encourage them in a rational way, to so great an undertaking.

ASSERTION 3d. *These endowments, so necessary to the obedience of love, are contained in the fulness of Christ and are enjoyed only by union and fellowship with him.*

The way to get holy endowments, necessary to frame and enable us for immediate performance of the law, is to receive them out of the fulness of Christ, by fellowship with him; and that we may have this fellowship, we must be in Christ, and he in us, by a mystical union with him. It is a great mystery that the holy disposition whereby our souls are furnished for holy works, must be obtained by receiving it out of the fulness of Christ—as something already prepared and treasured up in him. As our original corruption was produced originally in Adam and propagated to us by him, so our new nature is first produced in Christ and derived to us from him. Thus we have fellowship with Christ in receiving that holy frame of spirit which was in him, for fellowship is when several have the same thing in common. Too many that are seriously devout take a great deal of pains to mortify their corrupt nature, and beget a holy frame in themselves by striving earnestly to master their lusts, and by pressing vehemently many motives to godliness upon their hearts, labouring importunately to draw good qualities out of them,—but 'tis as if they would draw oil from flint. They admit they must be sanctified by *infused grace*—yet they think they must obtain it as it were, wholly by their own endeavours. The truth is, we do no more to the production of a new nature than of original corruption, though we do more to the reception of it.

Another great mystery in the way of our sanctification, is the glorious manner of our fellowship with Christ. It is by our being in Christ, and having him in us, and by such a close union that we are one flesh and one

spirit with him. This is plainly taught in many scriptures, which affirm that Christ dwelleth in believers, and they in him, John vi. 56, xiv 20, that they are so joined as to be one spirit, 1 Cor. vi. 17, and that believers are members of Christ's body, of his flesh and of his bones, Eph. v. 30, 31. Our union with Christ is the cause of our subjection to Christ as our ruler in all things and of the abiding of his law, doctrine, grace, salvation and all godliness in us, and of our agreement with him in our mind and our affections. Union with Christ is not a privilege procured by our sincere obedience, nor is it reserved to another world as a reward of our good works, but is a privilege bestowed upon all believers on their very entrance into a holy state, and on it doth depend all ability to do good works, all sincere obedience doth follow after it as fruit produced by it.

The truth of these views, appears, 1st, from the places in scripture which plainly express them. Some texts show that all things pertaining to our salvation are treasured up for us in Christ, so that we must have them thence or not at all. It pleased the Father that in him should all fulness dwell, Col. i. 9. The Apostle, in the same epistle, shows that the holy nature whereby we live to God was first produced in us by his death and resurrection, Col. ii. 11, 13. In whom ye also are circumcised in putting off the body of the sins of the flesh; buried with him, quickened with him, when ye were dead in sins. Who hath blessed us with all spiritual blessings in heavenly places in Christ, Eph. i. 3. As a holy frame with all its necessary qualifications must of course be comprehended "in all spiritual blessings," therefore these are given to us in Christ's person in heavenly places. "Who of God is made unto us sanctification," by which we are able to walk holily, 1 Cor. i. 30. "Of his fulness have we all received, and grace for grace." John i. 16, 17. This is spoken of grace answerable to the law given by Moses, and therefore includes the grace of sanctification. "Truly our fellowship is with the Father, and with his Son Jesus Christ. God is light. If we walk in the light, as he is in the light, we have fellowship one with another." 1 John i. 3—7. Consequently, our fellowship with God and Christ doth include our having light and walking in it holily. There are other texts which show that not only are our holy endowments made ready in Christ, and received from Christ, but that we receive them by union with him, Col. iii. 10, 11. 1 Cor. vi. 17. Gal. ii. 20. 1 Jo. v. 11, 12.

2. The effectual causes of the four endowments necessary to holy practice, are comprehended in the fulness of Christ, and treasured up for us in him, and are all richly attained by union and fellowship with him. If we be joined to Christ, our hearts will no longer be left under the power of sinful inclinations, but they will be endued with power and disposition to practice holiness by the spirit of Christ dwelling in us, Ro. viii. 1—5. Gal. v. 17. And that we may be persuaded of God's being reconciled, we receive the spirit of adoption through Christ whereby we cry Abba, Father, Ro. viii. 15. Hereby we are also persuaded of our future enjoyment of everlasting happiness, and of sufficient strength for our duty till we come to that enjoyment. This comfortable persuasion of our adoption and future happiness and saving privileges, cannot tend to licentiousness, because it is only given in this way of union to Christ,—it is joined inseparably with the grace of sanctification, so that we cannot have justification or saving privilege in Christ, except we receive Christ and his holiness, for "there is no condemnation to them who are in Christ Jesus, who walk not after the flesh but after the spirit," Ro. viii. 1.

The incarnation, death and resurrection of Christ were the cause of all the holiness that ever was or shall be given to men, from the fall to the end of the world, and all was given by the mighty power of his spirit whereby all saints are joined together, to be members of that one mystical body of which he is the Head.

[To be continued.]

A SERMON AGAINST POPERY.

By Rev. THOMAS WATSON, one of the non-conformist Clergy, who were turned out of their pulpits, and from their flocks in 1662. Preached a short time preceding his ejection.

"Wherefore, my dearly beloved, flee from Idolatry,"—1. COR. x. 14.

WHEN I consider that saying of the blessed apostle Paul, "I am pure from the blood of all men." Acts xx, 26; and that which made him say so, because "he had not shunned to declare (unto those committed to his charge) the whole council of God." Paul had been faithful to the *souls* of the people; he had preached *up* truth, and preached *down* error; the consideration of which, hath put me at this time upon this scripture, Wherefore, my dearly beloved, flee from Idolatry: from whence I shall assert the truth of the *Protestant religion* against *Popish innovation*. Amongst all the errors that are levelled against the Gospel, none are more gross, dishonourable and dangerous, than those broached and set a running in the Popish conclave: therefore there was good reason why the apostle should say, *Wherefore, my dearly beloved, flee from Idolatry*.

Idolatry doth bud and blossom in the Popish religion. It should be the earnest prayer and endeavour of every good Christian, that none of these poisonous streams that flow from the see of Rome, may ever infest this British isle.

My main and principal design at this time is, to show unto you, some *few* of those *many* grand errors that are in popery, and to fortify you against them.

Among many others, there are these *thirteen* grand errors, that every good Christian must take off, and flee from.

I. The *Papists* hold, that the *Pope is the head of the church*. This is diametrically, and point-blank opposite to the Scripture. "He is the *head of the body, the church*," &c., Col. 1. 18, 19: Ep. iv. 12. Now to make the Pope the head of the Church, is to make it monstrous by having two heads. This is to make the spouse of Christ an harlot. I read, Rev. xiii. 1. of a beast rising out of the sea: by which interpreters understand the mystical Antichrist, the Pope. Now, if the Pope be the *beast* there, and elsewhere spoken of; how ridiculous, yea how impious is it to make a *beast* the head of Christ's church.

II. They hold, that the *Pope is above Scripture*, and that his *laws, decrees and canons* bind more than the Scripture, the word of God. Well may he have that name written upon his mitre, mentioned in Rev. xiii. 1. *Names of Blasphemy*.

III. The *Mass*, which is gross idolatry. 1st. Bellarmin, with other Popish writers, say that the *bread—the host*, after consecration, is turned into the *very body—blood—soul and divinity* of Christ. This is against common sense and philosophy, as well as Scripture. 'Tis against common sense and philosophy, for it is perfectly plain that if Christ's body be in heaven, it cannot by any possibility be in the bread. But the body of Christ is received into

heaven, until the restitution of all things. Moreover, that the bread of the sacrament is not turned into the body of Christ, I prove thus: the wicked do not receive Christ,—1. Cor. 2, 14. But if the bread be the very body of Christ, then the wicked, when they eat of the bread do eat the very body of Christ. This opinion is so gross, and shocking, that most of the ancient fathers wrote against it. 2dly. They hold; That in the Mass, they *do daily offer up Christ, as a sacrifice*. I grant that in the Gospel times there are priests and sacrifices, but they are spiritual, as the sacrifice of prayer, praise, of a broken and contrite heart. But that there should be any external offering of Christ by way of sacrifice, is a *blasphemy* against Christ's priestly office; for it supposeth, that Christ's offering on the cross was not perfect. It is notoriously contrary to Scripture.—Heb. x, 12. "That man (Christ) after he has ONCE offered a sacrifice for sin, sat down at the right hand of God:" and verse 14, he says, "That by THIS ONE OFFERING, he hath perfected forever them that are sanctified." This Scripture sheweth the completeness and perfection of Christ's Scripture, and the blasphemy of detracting from its merits, by the pretended offering of others.

IV. *The doctrine of Satisfaction*: They hold that we do in our own persons, satisfy God's justice, by our penance, mortification, whipping, fasting and alms-deeds. See the decree of the Council of Trent, &c. But where is any thing of this in Scripture? Alas, what is our confession of sin? That is no satisfaction. If a *traitor* confess his guilt, this is no satisfaction for it, but proof of his treason. Our repentance, fasting, humiliation, the best of our actions are bespotted, and mixed with sin. Our humiliation, with pride; our repentance and confession, with hypocrisy and dissimulation. There is much sin in the best of our services, and sin cannot satisfy for sin. 'This is a sure rule, that whatever offering we bring to God for acceptance, we must lay it upon the altar Jesus Christ, for God's justice accepted of no offer, but *by and through* the Lord Jesus.

V. The distinction, between *mortal* and *venial* sins: Mortal sins are, murder, perjury, adultery, and such like; these they say deserve death and damnation: but venial sins, such as vain thoughts, rash anger, concupiscence, they say do not deserve death.

But we say and affirm, that there is no such sin as they call *Venial*. It is true, the greatest sins being repented of, are pardonable through the blood of Christ; but there is no sin of which we can say that it does not deserve death and damnation. And this I'll prove by a double argument.

1. If the very least sin be (as it indeed is) a breach and violation of God's law, then it is no more *venial* than a greater. The *minor* is clearly proved from Matt. 5, 28. "Whosoever looks on a woman to lust after, hath committed adultery with her in his heart:" In which place our Saviour makes a lascivious look, an impure glance of the eye, to be a breach and violation of God's law.

2. If the least sins expose men to a curse, then they are no more *venial* than greater; but the least does, Gal. 3, 20. "Cursed is he that continues not in all things which are written in the book

of the law to do them." He that faileth in the least is under the curse." And remember this my brethren, that without repentance, God hath provided a great hell for little sins.

VI. A sixth error is their asserting the doctrine of *free will*. That Goliath of the Papists, Bellarmin, says, that man will be inclined unto good, and that man hath an *innate* power to do that which is good; but man's will being corrupted and depraved, is not inclined to that which is good, but quite contrary. This is evident from our own experience, had we no Bible to confirm it.

When the *rudder* of a ship is broke, the ship is carried up and down, whichever way the wind blows; even so is it with man's will being corrupted. Hence men are said to love evil and hate the good. Micah. 3, 1.

Again, the will being depraved and corrupt, hath no innate powers to do that which is good. The Papists say, that man hath some seed of good in him; but the Scriptures do not say so. Ambrose, says well, "That man hath a free will to sin, but how to perform that which is good he finds not."

Sin hath cut the locks where our strength lay. Therefore are we said to be without strength. Rom. 5, 6. Sinners are said to be in the bonds of iniquity, and so not in a posture to run the heavenly race. A man by nature cannot do that which hath the least bent, or tendency to good; he is so far from performing a good act, that he cannot so much as think a good thought. Hence it is that man is said to have a heart of stone; he can no more prepare himself for his *conversion*, than a stone can prepare itself for *superstruction*: Men *naturally*, are dead spiritually: In man's will, there is not only impotency but obstinacy. Hence it is, men are said to resist the Holy Ghost. Act. viii, 51.

VII. The doctrine of *Indulgences*. They say that the Pope hath a power to give a pardon and *indulgence* by virtue of which men are freed from their sins in God's sight.

Besides the blasphemy of this assertion, what else is it, but a cunning trick, and shy artifice by which to get money. This is that which brings *grists* to the Pope's mill. How contrary is this to the Scripture, which saith, 'none can forgive sins, but God only.' Mark 11, 7.

This doctrine of Popish Indulgences, is a key that unlocks and opens a door to all manner of licentiousness and uncleanness: for what need persons care what they do, if they can obtain a pardon? Mr. Fox mentions one that at first was a Papist, and being brought before Bonner, said, 'Sir, at the first I was of your religion and then I cared not how I lived, because I could with my money obtain a pardon. But now I am otherwise persuaded, and do believe, that none can forgive sins but God only.'

VIII. The *Doctrine of Merits*: They say that good works do expiate sin, and merit glory. Bellarmin says, a man hath a double right to glory; one by Christ's merits, and the other by his own, and for this urges, 2. Tim. 4, 8. Henceforth is laid up for me a crown of righteousness, which the righteous judge will give unto me, and not only unto me, &c.

Which is the Righteous Judge? Now Bellarmin says, that

God in justice doth reward our works, and if he doth it of right and in justice then certainly they merit.

To this I answer in two ways. 1. God giving us *in justice a reward*, is not for the worthiness of our works, but for the worthiness of our Saviour. 2. God rewards our works, as a just judge, not because we have merited a reward, but because he hath promised a reward, and so is just in giving what he hath promised.

Obj. But they say, God crowns our works, therefore they merit.

Ans. God (to speak after the manner of men) keeps two courts, a court of *justice*, and a court of *mercy*: in this court of justice, *nothing* may come but *Christ's merits*; but in the court of mercy, our works may come. Nay let me tell you, God in free grace crowns those works in the court of mercy, which he condemned in the court of justice. Now that we do not, nor cannot merit by our good works, i'll prove by a three-fold argument, and this three-fold cord will not easily be broken.

First of all, and that which merits, at God's hand, must be a *gift* we *give* to him, and not a *debt* we *owe* to him. Now all we can *do for*, or *give unto God* is *due* as a *just debt*.

2. He who would *merit* any thing at God's hand, must *offer* that to him that is perfect: but alas, can we give God any thing that is perfect? are not our best offerings *fly-blown* with *pride* and *corruption*?

Beloved friends: Wo to the holiest man alive, if God weighs him in the balance of the sanctuary, and do not allow him some grains. I conclude this, with that saying of *Ambrose*, good works are the *way to*, but not the *cause of* salvation. Therefore when you have *done all*, say *you are unprofitable servants*.

There is no *angel* can *merit* (for he chargeth them with folly) much less *vile* and *sinful men*. Therefore count all your own righteousness but as dung and dogs' meat. In a word, rely not on your own *merits*, put the *crown* on the *head* of free grace.

IX. The ninth error in the popish religion, is, the doctrine of *purgatory*. There is, say they, a *middle* and *informal* place, called *purgatory*. Now what is this but a *subtle artifice*, and trick to get money? for when they (especially those that are rich) are about to *die* and make *wills*, if so be they will give large sums of money, the priests will pray for them that they go not into *purgatory*; or if they *do*, that they may quickly be delivered out of it. How contrary and repugnant is this to scripture, that holds forth no *middle place*?

The *souls* of the wicked, when they die, go immediately to hell. Luke xvi. 23. *The rich man was buried and in hell he lifted up his eyes*.

'Tis true there is a *purgatory* in this life, and that is the *blood of Christ*. 1 John i. 17. *If we are not purged by this blood, while we live, we shall never be purged after by fire*. Wicked men, when they die, do not go into a fire of *purgation*, but of *damnation*.

Believers, at death, pass immediately to heaven. Luke xxiii. 43. *This day shalt thou be with me in paradise*. Christ was now on the *cross*, and was *instantly* to be in heaven; and the *penitent thief* was immediately to be with *Christ*: Here is no mention of any such

place of purgatory. The *ancient and orthodox* fathers were all against it; as Chrysostom, Cyprian, Augustine, Fulgentius.

X. The tenth error is the invocation of angels, a praying unto them. There is a certain rule, that *angel-worship* is the *worship* expressly forbidden in scripture, *Col. ii. 18.* Their *distinction* of *mediators*, of *redemption* and of *intercession*, doth not help them; though we pray (say they) to angels as *mediators* of *intercession*, yet we pray to Christ as *mediator* of *redemption*. To this we answer, in scripture Jesus Christ is not only called a *Redeemer*, but also an *Advocate*: and it is a sin to make any one our *intercessor* but *Jesus Christ*. That it is sinful to pray to angels is clear from many scriptures: see *Rom. v., 10.* *How shall they call on him, in whom they have not believed?* Mark, we may not pray to any but them in whom we believe: but we cannot believe in an angel, and therefore we must not pray to an angel. So also in *Heb. x. 7.* *Having therefore boldness to enter into the holiest by the blood of Jesus; He only is to be prayed unto, by whom we have entrance into the Holiest;* but it is by *Jesus Christ* that we enter into the holiest, therefore it is only *Jesus Christ* that we must pray unto.

XI. The eleventh error is, their *worshipping* of *images*; they burn *insense* before the image, which is a divine worship unto the image. Now this is directly contrary to the letter of the divine command. *Exod. xx. 4, 5.* *Image-worship* and *idol-worship*, are termed *synonimical*. God saith of idols, that they speak *vanity*. *Zach. x. 2.* And is it not a *vain thing* to worship those things that are vain, and that *speak vanity*? None can draw the picture of a spirit, who then can draw the picture of him who is the Father of spirits? This opinion, of *image-worship*, hath been condemned and exploded by several councils and synods.

XII. Another error is, *they deny that Christ Jesus suffered the pains of hell in his soul.* Indeed to give them their due, they do aggravate the pains of Christ's *body*, but they deny that he felt the pains and torments of hell in his *soul*. This opinion doth much lessen the sufferings of Christ *for us*, the same doth *lessen* the *love* of Christ to us. But it is clear, Christ felt the pains of hell in his soul. But when we say Christ suffered the pains of hell in his soul, we do not mean that he felt *horror of conscience*, as the damned do; but we mean he felt that *that* was equivalent to it, he felt the pain and burden of God's wrath. Christ Jesus suffered *equivalently* the *pains* of hell, that so he might *free us really* from the *torments* of hell.

XIII. And lastly, another error is this, the Pope (say they) *hath a power to absolve men from their oaths.* Of what sad consequence, and how dangerous this may be to *Protestant states*, I leave themselves to judge. It hath often been determined by learned *casuists*, that an oath once taken (the matter of it being lawful) persons cannot be absolved from it. But no more of this matter.

We now wind up with a word or two of application, and it shall be in the words of my text. *Wherefore, my beloved, flee from idolatry; flee from Popery; take heed of that religion that brings forth so many monsters.* And besides these thirteen errors, consider briefly these six or seven particulars.

1. The Popish religion is an *impure, filthy* religion, they allow of *stews* and *brothel-houses* for money: nay, some of the popes themselves have been guilty of *sodomy* and *simony*.

2. It is a *superstitious* religion; that appears in their *christening of bells*, in their using of *salt, spittle*, and *cross* in *baptism*: indeed Paul gloried and rejoiced in the *cross* of Christ, he had the power of the *cross* in his *heart*, not the sign of it in his *forehead*. It is an unspeakable *indignity* and *dishonour* to Jesus Christ, to use that in his *worship* that he never instituted.

3. Popery is upheld by *deceit* and *lying*: how have they belied both *Calvin* and *Luther*. They say of *Luther*, that when he died, the devils were seen to dance about him, and that he died with much horror and despair, whereas he went *serenely* and *sweetly* out of the world, his last words being those of our blessed Saviour; *Father, into thy hands I commit my spirit*.

4. The Popish religion is an *outside, carnal* religion, it consists in external things, as *whipping, fasting, cringing*: there's nothing of *life* and *spirit* in their worship, it's but a *skeleton* and *carcass*; there's nothing of *soul* and *spirit* in it.

5. It is an *unedifying* religion, it doth not *build men up* in their *most holy faith*; it doth not carry on the work of sanctification; there is more of *pomp* than *purity* in it.

6. It is a *cruel* religion, maintained and propagated by *blood* and *cruelty*. The Pope will have *Paul's sword* as well as *Peter's keys*, and what he cannot maintain by *dint* and force of *argument*, he will endeavour to maintain by *force of arms*. In a word, *the Romish church is a purple whore, dyed with the blood of saints and martyrs*.

7. And lastly, it is a *self-contradicting* religion. One of their *canons* saith, a man (in some cases) may take the sacrament at the hands of a *heretick*: another saith he may not. A *learned* and *judicious* writer observes a hundred contradictions in their religion. Therefore, again I press the words of my text: *wherefore my beloved, nay, let me say, dearly beloved, flee from idolatry*.

To shut up all, let me exhort you to these two or three things:

First. Hold fast the *doctrine* of the *true orthodox Protestant religion*: the very filings of this gold is precious. Keep all the *articles of the Christian faith*; if you let one fundamental article of your faith go, you hazard your salvation. When *Sampson* pulled down but one pillar, immediately the whole fabric *tumbled*: so if you destroy one *pillar*, if you let go one *fundamental* of truth, you endanger all.

Secondly. Hold forth the *profession* of the Protestant religion. I say, *do not only hold fast* the doctrine of the Protestant religion, but *hold forth* the profession of it: be not ashamed to wear Christ's colours. Christians, remember this one thing, those persons who are ashamed of Christ, are a very shame unto Christ. The religion I exhort you to flee from, is a *novelty*; that which I press you to is a *verity*, *consonant* to scripture, built on the foundation of the *prophets* and *apostles* and hath been sealed by the blood of *saints* and *martyrs*.

Thirdly and lastly. Do not only hold fast and forth, but also adorn the *Protestant religion*: this is holy *Paul's* exhortation to *Titus* ii.

10. *Adorn the doctrine of God our Saviour.* Adorn religion with a holy conversation. There is nothing hardens *Papists* so much as the *looseness* of Protestants. Therefore adorn your religion with a holy conversation : do as Christ did ; tread in his footsteps ; make your *Saviour* your *pattern*. Let me assure you, I can hardly think they do *truly believe* in Christ, that *do not really conform* unto Christ. The primitive Christians' sanctity, did somewhat propagate Christianity. And this I beseech you carry home with you : hold fast, hold forth and adorn the Protestant religion—adorn it with a *holy* and *Bible* conversation ; and when you do not hear me *preaching to you*, yet let me beseech you hear this *good word* speaking in you, *wherefore, my dearly beloved, flee from idolatry.*

Consider what hath been said, and the Lord make it advantageous to all your souls.

THE STATE OF MARYLAND AGAINST ROBERT J. BRECKINRIDGE.

I. "How gloriously does the spirit of the age shine forth in this prosecution"—said one of the most distinguished men now alive, in writing to us of the atrocious proceedings against us, from which, by God's blessing, we are, at length delivered. "It is no longer a *gun-powder plot* ; it is a legal one."

The same gracious hand that delivered our ancestors—has effectually protected us ; and that which was dearer to us than life, our good name,—has passed the ordeal of Popish malice and persecution—unharméd, untouched. More fortunate than the heroic McGavin,—more so even than the intrepid Rice, we have thus far, by God's mercy, been enabled to escape even the appearance of condemnation.

After a prosecution unprecedented for duration, fierceness, and ability, the result is, that our conduct finds no tribunal, no authority that condemns it. Our church unanimously and most cordially approves it ; our sister churches, manifest the most profound sympathy with us ; one whole Protestant community cordially acquits us ; our jury is *ten to two* for a triumphant verdict to be rendered in the box : and the state itself, by its Attorney General, declines, after mature reflection, a farther prosecution, as not being called for by public justice. The case is ended—in our complete exculpation.

Then we are not libellers. Our friends, our brethren, our fellow-citizens, our country, all declare it ; we are not libellers ; we have not published a false and malicious libel, on James L. Maguire ; but we have published that which we had good reason to believe was true—which it was proper and timely to publish, and which, under the utmost possible disadvantages, the proof came so near establishing to be true, that *ten* jurymen out of *twelve*, were ready to render a verdict in the box !

It is our purpose to print the trial at large, in the next No. of this Magazine ; and to accompany it with such notes and annotations, as may seem necessary. Mean-time we throw together a

few statements of a general kind, which will probably interest our readers, and give them a clear view of the subject.

II. The substance of the proof, *for the prosecution*, was that we had published the paragraph about the Alms House, the aged German, &c. (see it in our No. for November, 1839, and in that for January, 1840); that Maguire was overseer of the Alms House then and now; that he treated ministers of all sects of Christians, who came to the Alms House, with much courtesy and kindness—some of them, especially the Methodists, with distinguished kindness; that he carried out the arrangements in regard to the religious instruction of the place, pretty much as he found them, when he came into office a year and a half before: that persons were occasionally, and under extraordinary circumstances, taken into the house and released from it, in a manner contrary to law and to the established orders of the trustees of the poor; that old *Mathias Staser* (the man in question)—was brought there by a certain *Tom Collins*, and after one refusal, was at length let in and kept about two days, being supposed to be mad; that he was permitted to depart when his friends came for him, and paid his expenses; and that while there he made no objection to being locked up.

For the *defence*, the substance of the proof was, that Mr. B. (who was tried first and by himself) was distinctly informed by four different persons, that all he had published was true; and then when the original author of the statements to Mr. B.'s informants, denied on oath, that he had ever said what was imputed to him, two additional witnesses swore he had also told them what he now denied. It was further proved that *Mathias Staser* was a Papist, that he became anxious about his soul, and sought Protestant instruction; that when the Rev'd Daniel McJilton, a Methodist preacher, went to his house to converse and pray with him, he (*Staser*) expressed great fear lest his Papist neighbour and landlord, *Tom Collins*, should over-hear them, and begged McJilton to pray low; that *Staser* himself became so excited at prayer that he made much noise: that McJilton went back by appointment, within two days, to see *Staser*, and found him gone, his house shut, and his family absent; that he hunted for him in vain, and amongst other places sought for him at the house of a Papist, where his (*Staser's*) children were, and was rudely repulsed; and that some six weeks afterwards he found that *Staser* was living six miles in the country. It was then proved that the same day, or the day following McJilton's first visit to *Staser*, *Tom Collins* took *Staser* to the Alms House, which is out of town; that *Staser* was, after some hesitation, received, taken to a cell, locked up, and kept in it about two days; that *Tom Collins* did not tell *Staser's* family what had become of him, but his little daughter found it out from others; that *Staser's* journeyman, his housekeeper, and his two little daughters, went in a body to the Alms House, found the old man in a cell, paid the money demanded, and took him out; that *Staser* was in the cells of the Alms House, at the moment of McJilton's second visit to his house; that the laws of the state forbade the reception of *Staser* in the Alms House, if he was sane, without a written order, which he never had; or if he was insane, without the finding of a jury on

the fact, which never was had : that Staser was no pauper, and that his family and business were broken up, in this general operation. It was also proved, that never, before Maguire was appointed overseer—had there been any *mass altar* at the Alms House ; that Maguire was a Papist ; that he had, at the request of a priest, sometime before November, 1839, made arrangements and fixed a room, at the Alms House, for saying mass ; that this was done at the public expense, and without authority from the trustees of the poor ; that since then, Priest Butler, who asked for these arrangements, had removed out of the jurisdiction of the court, viz., to Ohio ; and that, in point of fact, no mass had been said.—It was further proved, that some member of the grand jury had privately told Maguire that there would no bill be found against Messrs. B. and C., whereupon Maguire went to another member of that grand jury, and threatened him and them, and amongst other threats that he would *publish them*, if they did not find said bill ; and afterwards the bill was found.

We write only from memory, and omit all that does not seem to us material in the case ; and it is possible some things, in themselves important, may have escaped us. But the foregoing is the substance of the proof—except only that the witnesses from whom we got our information went to the full extent of *all* the statements of our libel ; which we refer the reader to, rather than repeat the proof here.

We forbear the expression of any emotions which might naturally be supposed to arise in our minds, at the fact that any grand jury should find a bill under this general state of fact—which we have reason to know, was before the one which did find the bill in question : above all, that the bill was found, and under threats, after being rejected on the proof. We will repress also any reflections, on the extraordinary bitterness of the prosecution, on such a state of proof ; professing at the same time, our utter inability to see how the temper of the prosecution, and the final determination to prosecute no farther, are to be reconciled with each other ; not complaining, however, of the latter, but of the former. And we say nothing of that state of mind which could have induced the *tenth* and *eleventh* jurymen to hold out obstinately for a conviction in such a case, on such proof : hoping that all has been fair, conscientious, and upright. But we do sincerely think we are authorized in a full view of the whole case, to say that it has been a most gross and outrageous proceeding from beginning to end ; and that ninety-nine out of every hundred candid men who examine it will say so too—we feel perfectly assured.

There is still depending a private suit against us for slander, for the same paragraph ; and we are therefore not free to make explanations and disclosures, which might impair our defence in that case. But when all these matters are over, we will show, that strong as our proof was, it would have been far clearer and stronger, if the ostensible parties to the case, had been the only real parties. We make no charges now against any one ; but every body knows that every real Papist in Baltimore, even those most distinguished by rank, fortune, station and character, have considered this case,

as essentially the cause of Papism : and every body can imagine to what results such a feeling in such a case, would be likely to lead.

III. 'The intention of this prosecution was to crush us. We do not mean to say this was the intention of the Prosecuting Attorney ; we hope he was actuated by a sense of public duty, naturally, perhaps, mingled with professional pride, under the circumstances ; though we confess we thought he dealt harshly and unfairly by us, in many respects, of which we may say something in commenting on the case. Nor do we mean to charge such an intention on his assistant council, who whether a volunteer or a hired prosecutor, was, we dare say, thinking far more of getting himself into Congress, than of getting us into jail ; and who was, no doubt, taking counsel rather of his vanity than of malice, when he boasted, that on such a case he could convict us even before any *Presbyterian jury* in the city. But that such was the intention of those who instigated and those who urged and those who rejoiced in this prosecution—no one can doubt.

The result has been as different, as could well be imagined. Hundreds are our firm friends to-day, who were wholly indifferent to us two months ago. Thousands are deeply excited at the audacious encroachments of Papism, who were before entirely indifferent to the whole subject. Protestants are united, who felt little in common ; ministers are aroused, who were passive ; presses are open that were shut, and some are shut that were open only to Papism ; and the long, heavy, dead spell is broken—to return no more upon this community. We give a single fact ;—a series of lectures on Papism delivered by the senior editor of this magazine, in the church he serves, on the evening of the Sabbath, has reached, up to the time we write, to the fourth lecture ;—and by the most moderate computation, *above two thousand persons* have been present, crammed into the immense church, at each lecture ; listening with patient, yea, intense interest for an hour and a half to two hours each evening, to simple and unpretending statements, reasonings, and expositions on this tremendous subject : crowding into the church before sunset ; and more going off unable to get into the house, than those who were stowed, rather than accommodated, in it.

We have foreseen, we have predicted, a complete revolution in public sentiment in this community. The first strong manifestation of it, was the state of public feeling exhibited last summer, in the case of the poor Carmelite, whose unhappy fate is well known to our readers. We have now the second stage of the subject, produced by a prosecution against us, for vindicating the cause of a poor, and unknown foreigner. Is it not very odd that a city of a hundred thousand souls should be moved to its very foundations, by the misfortunes of two *insane* persons ? A *mad* nun, and a *mad* German pauper,—the occasions of a tremendous moral revolution ! They who reason thus are themselves mad. These are not causes ; they are only occasions. And it is well for the peace of society that the immediate occasions are, in themselves, comparatively of so small importance. For if the force of the immediate impulse, were always equal to the power of those gigantic sentiments which lav-

ish themselves upon it; society could not endure the shock of any strong emotion that might burst upon it.

And yet there is a grandeur as well as an instinct of truth in the very fact, that so small apparent interests, can move society so deeply. The cause of the poor and the unfortunate, the stranger, the helpless, and the oppressed, is essentially the cause of the human race; for these, as man exists, constitute the bulk of the best ordered states; and their cries and wrongs, are the ordinary voice which enters into hearts attentive to the realities of earth. All besides, is the exception and the accident: this is the absolute reality of human existence. And, for our parts, whether it be as men, as patriots, as philanthropists, or as Christians—we take our stand by the side and for the cause of the poor and the suffering—and are ready to do and to endure ten thousand times more, for the tears of those who have none to help them; than for all they could give, who have every thing to bestow. When the prayers of the poor have gone up for us, and the thanksgiving of the oppressed has reached our ears; then have our hearts been strong in the Lord, and our spirits refreshed as with the dews of heaven. And never, more than in the scenes through which we have but now passed, have we felt the power of these truths. One stream of reiterated wrongs, of burning complaints, of ardent expressions of hope and sympathy and praise, of unrequited injuries—has followed our footsteps and been poured upon our way from the moment the nature of our *offence* and trial, reached the mass of our population. And if the hundredth part of what is told us be true—our only shame is, of having said and done so little to deserve to be called *libellers*!

IV. If our voice could reach the ears of those who have the control—whether direct or ultimate,—of the public charities in our midst, we might make statements, and urge considerations, which ought not to fall unheeded to the ground. And our hope is, that the recent attempt to silence all enquiry into the mode of using one of these establishments—will turn public attention fixedly to them all,—and lead, perhaps, to various reforms which are demanded alike by considerations of benevolence to individuals, and of a proper respect of the community for itself.

It was urged with great vehemence against us, on our trial, that we had been guilty of a libel on the overseer of the Alms House, because by saying that it had been converted into a mass house, we must be understood to mean, that it was a place where no other than the Papal religion was publicly celebrated; and that proof that other sects were allowed to worship in the place, must be taken as positive evidence that the place was not a mass house; and that by consequence our statement was false,—and if false, the law would imply malice. An argument so preposterous, would, of course, never have been used, if the proof had not been positive that a mass house was prepared, and that at the public expense, and without all authority, in the Alms House. But supposing the argument to be good—we would respectfully remind the constituted authorities of the city, that the exact state of the case supposed, exists at the *Baltimore Infirmary*; and we would in the same man-

ner remind the constituted authorities of the state, that this identical state of fact exists in the *Maryland Hospital*. In both these establishments, we are informed on authority, which we presume is not to be questioned, that Mass Houses are prepared, and that no preparation of any sort is made for any form of Protestant worship; and that in point of fact, mass is said in both of them—and no other public worship is held in either. And to put the whole subject to rest, “Most Reverend Samuel Eccleston, D. D., Archbishop of Baltimore”—has put down both these establishments as being “Charitable Institutions” of the Archdiocese of Baltimore, ranked along-side of St. Mary’s, St. John’s, and St. Vincent’s Asylums, and other equally exclusive and absolute Papal charities.—(See *Metropolitan Catholic Almanac*, for 1840, pp. 72 and 73.)

Now are our people prepared for such outrages as these, upon—we will not say the religion only, nor the rights only of the whole community—but upon the self-respect and personal dignity of every citizen? The public pride is wantonly wounded;—and we have all justly deserved the gross insults heaped upon us. We cannot send our sick to be cared for in these public institutions without danger of their faith being subverted—and their hours of sickness made miserable by attempts at proselyting. We are taxed to support the Papal religion, at least indirectly, by law. And now, the very institutions of the city and state, are publicly set down, by authority, as belonging to the Papal church.

As it regards the Alms House, until Mr. Maguire came there, things were managed from the beginning on a principle of perfect religious equality; and all the inmates, and all denominations out of the house, had equal right to use a common place prepared for all—and to be used by each in proper time and order, to worship God as all thought proper. But now, a common church wont do; and another and separate place, for an idolatrous worship, must be set up, at the public expense, without any authority, for Papal priests to sacrifice our Saviour in, afresh. We say boldly the community ought not to tolerate—nor do we believe they will tolerate, these gross and incessant incroachments upon the religious principles and rights of the great mass of the people.

V. But there are other than religious difficulties. This Alms House is crowded from year’s end to year’s end with hundreds of miserable and unfriended creatures, whose only hope is in the public benevolence. From the nature of the case, an immense discretion must reside in the trustees, and in the officers in the house; and therefore, men of the very highest character for benevolence, experience, and trustworthiness, should alone be selected for such situations. Instead of that, the offices are made the reward of political partizanship; and the public sentiment has tolerated that boon companions of successful aspirants, should be invested in the way of reward for services at ward meetings and poll houses, with almost irresponsible power over the sick poor, the lunatic poor, the condemned poor, and the unfortunatee poor!—Yea, so invested with such an authority, that a paragraph of twelve lines, in a monthly religious journal, venturing to repeat a credible rumour, and to suggest further enquiry is scouted as an intolerable outrage

—and a grand jury threatened by the overseer for hesitating to find a bill for libel!

Look at a few facts, at the knowledge of which we have arrived in the course of our prosecution. The overseer swore that nine out of ten persons were received by the man in the office—and that in the overseer's absence, this man was left in charge of the house. But this man is himself a pauper, unknown to the law, and holds his power and station at the mere caprice of the overseer; and yet by express law, the Matron should be in charge of the whole establishment in the keeper's absence! Again, here is an establishment where the most exact laws and rules prescribe how, and on what conditions persons shall be admitted and discharged; and the very defence set up for taking in and sending away a man illegally—is, that it is a common thing thus to violate the law!—Again, here is a house filled with poor from infancy to old age, and here are two visiting physicians appointed and paid by the public, and six resident students of medicine besides; and yet, it seems proved that no rigid method is established, and no certain rule exists, by which, any thing but good luck, would keep a man coming in with any sort of contagious disorder, from giving it to the whole establishment; unless the inmate, Hooper, in the office, who receives nine persons in ten, should judge that the case required medical aid; and even then having as much authority, for aught that appears, to prescribe in it as in madness, as much skill in measles as in insanity, he might, if he so pleased, take every case in hand as lawfully as he did *Staser's*.—Again, as far as appears, these cells are the common receptacles of vagrants committed for crimes, of paupers confined in the way of discipline, and of madmen locked up for security; confounding discipline, crime, and misery, and allowing, (as Hooper admits nine cases in ten,) the judgment of a pauper to decide, what fellowship the three classes of cases may have together.—Again, there is an express order of the trustees that the overseer shall keep a book, and therein record every punishment inflicted by him; an order, which every one must say, is wise and humane, as well as most just. Will the present Board tell the public how many times they have inspected this book? The by-law says, it shall be submitted to them monthly, if our memory is accurate; but perhaps they have not had time to examine it quite so often? Perhaps quarterly? Perhaps half-yearly? Will it be credited, when we say we believe no such book is known to be in existence? Complaints were made to us, by persons who said they had suffered punishment which we could not believe; and these statements became so multiplied, that we at length went to the office of the agent and secretary of the board of trustees, in north Frederick street; pointed to the by-law, and asked how we could get a sight of the book. He assured us he had never seen such a book; and was convinced none such was ever laid before the Board since he had been its secretary!—Now, if this be so—what can the trustees know of the detail of the discipline of the house? Or what check is there on the passions of the overseer? Or what protection is afforded to the inmates of the house?

These matters are not stated with any view to discuss the particular merits of the present officers; but as subjects of public and permanent interest to every good citizen and every humane man. Mr. Maguire's appointment was entirely political—and being no party politicians ourselves, we have nothing to say to that matter; except that a very much more respectable man, and more acceptable and meritorious officer, was dismissed after four years of successful service, to make way for him. But it does seem to us, that enough has come to light about the Alms House, to create great anxiety in the public mind; and to admonish those who have authority over the subject, that prosecutions for libel and suits for slander, are not exactly the thing to satisfy the community that matters are in the best possible state.

VI. We were never prosecuted before for any thing: and we hope never to be again. But if we ever should be, we trust it may be for a matter, in regard to which our consciences are as much at ease, as in the present case. And if such an event should befall us, we hope we may be fortunate enough to be defended, by men equal in character, honour, ability, learning, eloquence, and every noble and gentleman-like quality—to those whose services we have enjoyed in the present case. We could ask no more. And we rejoice in the conviction that the race of true lawyers, full of the spirit of their great and noble profession, is not yet, nor like to be, extinct amongst us.

There is one respect, which we will mention before we close, in which this persecution of the Papists has been singularly important to us; and in which, the hand of Providence, manifest in every part of it, has been remarkably apparent. It has been our happy lot, since God has called us into the ministry of his word, to have our way of duty set before us with perfect plainness. But about the end of the last summer and the beginning of autumn, so urgent, so repeated and so important calls were made on us, and such wide fields of usefulness opened before us, elsewhere, and under such imposing appearances of duty; that our way became uncertain before us, and our mind, for the first time, deeply and painfully perplexed, as to what God would have us do.—That matter is all resolved. We are given to see, that our work here, is not yet done; and now, with the light of heaven upon our way, and with a heart fully set upon our Master's work,—we put our hands with renewed vigour to the plough. Our only business on earth is to do and suffer the whole will of God; and for that, our all-sufficient and ever-present support, is his own rich and unmerited grace in Christ Jesus our Divine Redeemer, to whom be glory forever.

NOTICES, RECEIPTS, ACCOUNTS, ANSWERS TO LETTERS, &c.

FEBRUARY 18 to MARCH 23.—P. M. Princeton, N. J. says the copy sent to Thomas Dunn is not called for.—Directions of Messrs. Sewell and Tully, changed, as per letter of P. M. Savannah, Geo. dated Feb'y 12th.—J. W. McClung, P. M. Fairfield; our former notice corrected, by his letter of Feb'y 17; his account paid to the end of 1840; and the broken sets filled, without charge; sent before the receipt of his letter.—P. M. Louisville for John O. Cochran; "*reason, refused.*"—The following gentlemen residing in Baltimore, are new subscribers, viz: Dr. A. C. Harris, R. Diffenderfer, J. Gridley, Dr. Thomas E. Bond, Sen., Cornelius S. Beatty, Esq., Caleb T. Holden, David Springer, Wm. Barnett, Joseph Stewart, A. C. Butler, Jno. W. Woods, Francis Burke, David Creamer, John Mathews, Wm. J. Raiman, James Wilson, Alexander Paul, James Courtlan, R. W. Lockwood, Joseph Tailor, C. M. Cole, H. H. Cole, Henry Drakeley, Albert Vickers, J. N. Brown, Capt. H. G. Purviance, David T. McKim, Esq., Hamilton Easter, Keys & McCormick; (K. & McC. paid \$2.50 for 1840 per Mr. P. D.—*Those who pay Mr. Owen, have his receipt, which is good*)

The letter of Rev'd B. L. Smith, of Danville, Va. was handed to us, and the matters alluded to, arranged, we hope to his satisfaction. Upon a suggestion in his letter, we send the Magazine from the present time to Dr. Wm. L. Graham, and Mr. John McAlister of Danville.—Mr. Michael Stuart, Middleford, Sussex Co. Delaware, name added from January, '40.—Rev'd R. S. Bell, Front Royal, Va. \$5—of which \$2.50 to his own credit, and \$2.50 to that of Mr. John Stevenson. Rev'd W. B. paid us nothing. We sent the No. for December '39, finding we had a surplus of that No: also several of the *Tracts No. 1.*—E. Gilmor, Washington City, \$2.50, for 1840.—Rev'd S. M. Gayley, Wilmington, Delaware, \$5, of which \$3.75 to the credit of Chancellor Johns of New Castle "who wishes his name struck from the list of subscribers;" and the remaining \$1.25 to the credit of Mr. G.—Mrs. Ann McElderry of St. Louis, Mo. \$5: of which \$2.50 to her credit, and \$2.50 for one year's subscription to the *Presbyterian*; will Mr. Martien please notice this, and charge us?—John R. Gray, Easton, Pa. from Jan'y '40, by order of his brother in Baltimore, and \$2.50 paid by him.—As soon as we can make out the lists we will send the accounts of subscribers in the City of New York to Robert Carter, Bookseller; and of those in Frederick city, Md. to our friend Rev'd J. Smith; on whom those interested will please call after reading this notice.—Sent to Rev'd Mr. Krebbs of New York City, the Nos. for March and April, 1839, to complete his set.—Michael G. Youce of Danville, Ky. \$10, on account.—Mr. John Proctor of Carlisle, Pa. \$5.50: of which \$5 to be credited to Alexander Officer—\$2.50 to Rev. H. R. Wilson for 1839—50 cents to Mr. McClure, and the same sum to John P. Line.—Abraham Hoff, Frederick City, Md. \$10, of which \$5 for himself on account, and \$2.50 each for Joseph Schell and John Willson of same place, new subscribers, and back Nos. sent, from Jan'y last.—Rev'd J. Gray, Easton, Pa. \$10 for Col. Thomas McKean, James Wilson, John Stewart, and Judge J. M. Porter, for 1840; the old Nos. written for sent; and Mr. Hasbrouch's direction changed to Burlington, Iowa Territory.—Rev'd Matthew McKinsty, Elizabeth P. O. Alleghany Co. Pa., name added and back Nos. sent, per order of J. S. of Mexico.—J. Shields, Mexico, Pa. \$2.50: (note, the money was taken by us from the letter at one time, and the credit given at another,—the letter itself not stating the amount enclosed; have we remembered correctly?)—G. G. White, P. M. Oxford, Ohio, \$5—as per statement in December No. 1839.—We will be obliged to our respected friend Nathan Woods of West Hill, Pa. to furnish us with Judge Kerr's Post

Office—which is not stated in his letter of March 11; the money before sent was received and acknowledged as usual, and the Magazine sent as ordered to Rev'd S. Means; and if Mr. Woods has not yet received his Nos. for Feb'y and March, we will send them again, as soon as informed.—Rev'd W. W. Robertson, Oxford, Ohio, odd Nos. written for sent; can get the vols. for 1835, '6 and '7 unbound, when called for.—Rev'd Dr. James Blythe of South Hanover, and Mr. James McMillin of Madison, Indiana—names added, by order of the former, and back Nos. from January sent to both.—P. M. Prince Edward Court House, Va. \$5 for Wm. P. Hickman, which pays for 1840 & 1; and the Nos. since Jan'y sent.—P. M. Carlisle, Pa. \$5, for one year's subscription for L. H. Williams, and William Ker, Jun., West Hill, Cumberland Co. Pa.: subscription, if not otherwise directed, to begin with the present No.

SPECIAL NOTICE. We have odd Nos. which we will give to subscribers needing them to complete sets, of the following months for 1838, viz: January, March, April, May, June: and for 1839, April, June, July, August, November.

We wish to obtain from our subscribers, who are willing to part with them, and we will allow the subscription price for ten copies of each of the following Nos. for 1838, viz: February, July, August, September, October, November, December, *especially* February and July: and for 1839, January, February, May, October, September, *especially* January, February, and September.

To make the matter perfectly plain, we state, that we have left, after completing and binding the sets, odd Nos. for 1838, Jan'y 37; Feb'y 1; March 26; April 32; May 41; June 20; July 0; August 7; September 4; October 4; Novem. 3; Dec. 7. And for 1839 we have for Jan'y 0; Feb'y 1; March 3; April 17; May 11; June 33; July 26; August 22; Sept. 1; Oct. 7; November 28; December 13.

We have a few complete sets from the beginning; a still larger number of the vols. for 1836 and 7; and several hundred sets for the year 1835.—We will supply the work complete, and strongly bound, at the subscription price—to the extent of about twenty-five sets including orders on hand; and for fear of mistake on this point, we would take it as a great favour if those who have ordered sets and not received them—would drop us a line, postage paid, on reading this. We will furnish subscribers with the 1st, 2d or 3d vol. (for 1835, 6, and 7) or with all of them to the extent of about sixty sets, unbound, at half price. And having an extra supply of the 1st vol. (for 1835) we will give copies of it unbound, to the extent of a hundred sets, to any one who will have them bound.

As there is some trouble and little profit in all these proposed arrangements—we should be glad to have the matter finished as soon as possible; and to that end, will keep it before the minds of those interested, by a few re-publications of this notice, at short intervals.

THE WAY TO BE AN ARCHITECT. Suppose a priest is about to build a new church, say in Baltimore, or some other city, and if in Baltimore, in Front street, or some other street: Suppose plans for the building advertised for, or otherwise publicly demanded; Suppose a priest to ask a particular architect to make one of those plans, or to find out that a particular architect, (as for example Mr. M.) was maturing one: Suppose the priest to make friendly visits, daily for example—to Mr. M. to see his plan and suggest amendments, still manifesting great interest therein and great confidence in its final success; Suppose when the selection is made, *a plan put in by a priest, for example the same priest*, should be the one preferred!!! What then? Inference:—There are several ways to learn Architecture.

WE HAVE received a letter from the city of New Orleans, from John Kemp, Esqr. transmitting the following *twenty five* new subscribers; viz; G. Z. Relf, J. H. Howard, Samuel Lock, John M. Hall, Thomas B. Winston, Isaac Bridge, Asa D. Gore, Stephen Franklin, P. N. Wood, H. O. Ames, W. H. Davis, Thomas D. Day, Henry Chatelanat, J. B. Walton, John A. Merritt, S. C. Simmons, W. Sigerson, David Hadden, J. J. Day, R. C. Armistead, and Robert Canfield, all of New Orleans—and Master John Kemp, Laurenceville, New Jersey, and Mrs. Ann Kemp, and Mark Walton, Esq. City of New York; for all whom we received in the same letter \$60, which pay their subscriptions for 1840; and also the name of R. B. Lyon, New Orleans, for 1840. Nearly all these subscriptions are said to be for only a single year; but we hope so noble a beginning will end far otherwise. We have sent the back Nos. to each of those persons, as ordered. We just add, that these people down South, have marvellously striking ways, to do a good thing in a good time.

WHAT DO our papal friends think of the signs of the times, judging from these Notices? Are they any nearer to silencing our Magazine than before our Indictment?

IT IS MOST probable that we have made mistakes of one sort or other, in the confusion of getting these notices rapidly together for the press, which is waiting for us. We beg the indulgence of our friends and correspondents.

THE
BALTIMORE LITERARY
AND
RELIGIOUS MAGAZINE.

VOL. VI.]

MAY & JUNE, 1840.

[Nos. 5 & 6.]

TRIAL FOR LIBEL.—STATE OF MARYLAND vs. ROBERT J. BRECKINRIDGE—WITH ANNOTATIONS BY THE TRAVERSER.*

TUESDAY, *March 10*, 1840.

Present—The Honourable NICHOLAS BRICE, *Chief Judge*.

“ ALEXANDER NISBET, *Associate*.

“ W. G. D. WORTHINGTON, *do*.

THE traverser appeared in court, attended by his counsel, WM. SCHLEY, Esq., of Baltimore, and the Hon. JOHN J. CRITTENDEN, of Kentucky. The Hon. WM. C. PRESTON, of South Carolina, who is the brother-in-law of MR. BRECKINRIDGE, also appeared in court, but took no public part in the trial. The court room was excessively crowded, by a highly respectable and intelligent auditory.†

* Three reports of this trial have been printed, apparently prepared by different hands; viz., one in a daily penny paper called the *Sun*, a second in another paper of the same description called the *Baltimore Clipper*, and a third in pamphlet form by John Reilly, who is supposed to be the keeper of a Papal book store lately opened in this city. This third report purports on its face to be “published under the superintendence of a member of the Baltimore bar.” Neither of the editors of this magazine had any connexion whatever, with the preparation or publication of either of these reports; and do not vouch for the accuracy of either of them. The report now printed by us, is made up from all three of the others, following in every case, that which we considered most accurate, making such occasional corrections as truth seemed to require, and arranging the whole in a natural order. After all, the meagerness of the report is greater than any one who did not attend the trial can easily imagine. These notes are prepared by the *traverser* in the case, and he alone is responsible for them.—Mr. Cross was not tried at all; the parties having severed, and the state choosing to try Mr. Breckinridge first.

† The trial occupied the whole sittings of the court (from 10 till 3 o'clock each day) for eight days, viz., five of one week and three of the next. It also occupied some portion of three more days—making in all eleven days: during the whole of which period, the crowd in the court room—and often in the anti-room and passages, was so great, as to make passing back and forth, on necessary business, sometimes nearly impossible. The greater portion of this dense mass was made up of many of our most respectable citizens, both Protestants and Papists; the

Upon motion of MR. SOHLEY, of counsel for the accused, MR. CRITTENDEN was admitted an attorney of the court.

The jury was then selected by ballot, and the following gentlemen sworn as the pannel, viz.:*

John Holland,	James Smith,	Ezekiel C. Johnson,
Thomas Dougherty,	David Davis,	Wm. T. Rice,
Seth Pollard,	John Robinson,	Robert Bradly,
John Davis,	James Allen,	George C. Addison.

INDICTMENT.

STATE OF MARYLAND,

City of Baltimore, to wit:

The jurors of the state of Maryland, for the body of the city of Baltimore, do, on their oath present, that long before and at the time of the composing, printing and publishing of the several false, scandalous, malicious and defamatory libels hereinafter mentioned, James L. Maguire was a person of the Roman Catholic religion, and also the overseer of the alms house of Baltimore city and county, to wit, at the city of Baltimore aforesaid; and that such overseer as aforesaid, at the time aforesaid and long before, was also sometimes called the keeper of the county alms house, to wit, at the city of Baltimore aforesaid; and the alms house of Baltimore city and county at the time aforesaid and long before, was also sometimes called the county alms house, to wit, at the city of Baltimore aforesaid.

greater part of all, being obliged to stand during the whole trial. This fact alone is sufficient to prove, how intense was the public interest in the case, and how completely every body considered it a case in which *Papism*, far more than the *State of Maryland* or the prosecutor *Maguire*, was the party really interested in obtaining, if it were possible, a conviction of the traverser.

It will not, perhaps, be considered improper, or out of place, to say, that during these two weeks of intense and unsparing effort to degrade us, and destroy our character, we were permitted by a kind providence, to be regularly engaged, (after spending daily five hours in court) in our usual work and duties, officiating at five public religious services, the first week, and six the second; amongst which were two lectures (one each Sabbath night) on *Papism*, delivered each before more than two thousand persons; and on the morning of the second Sabbath, our regular communion season. These things are stated, in no other spirit than that of deep gratitude to Him, who has so constantly and so marvellously held us up, as in the hollow of his hand. The lions' den, and the fiery furnace, are sure places to meet the Lord.

* This trial being for a *misdeemeanor*, and not for a *criminal offence*, properly so called, no right of preremptory challenge existed. The mode of empannelling the jury is this: the Sheriff makes a pannel of twenty-four jury-men—such citizens as he pleases; they attend the court and when a cause is to be tried, twenty names are drawn out by the clerk of the court, of which he makes two lists, and hands one to the prosecutor and one to the person accused. Each of these strike off four names from the list of twenty; or if either or both parties refuse to strike, the court strike off the requisite number; and the twelve persons remaining try the case. This jury was selected without any reference to the present case—and had been before trying the usual cases that occur in the criminal court of a great city. It was a jury from the body of the people; plain and respectable men; all strangers to us; made up of persons of various religious opinions; no Presbyterian, and it is said, no Papist amongst them.—We were prepared with proof, to challenge, for cause, one Papist jury-man, who had, although of the pannel, made up and expressed his mind against us; but his name was not drawn. We were also prepared with proof to challenge, for cause, a very gross and violent Universalist; but our counsel thought it better to strike his name. Whether there was another left on the jury, the public mind is divided.

And the jurors aforesaid, upon their oath aforesaid, do further present, that Robert J. Breckinridge, late of the city of Baltimore aforesaid, gentleman, and Andrew B. Cross, late of the city of Baltimore aforesaid, gentleman, being persons of a malicious mind and disposition, well knowing the premises, and unlawfully, wickedly, and maliciously, devising, contriving, and intending, as much as in them lay, to scandalize, vilify, and defame the said James L. Maguire, and in his conduct as such overseer of the said alms house as aforesaid, and to bring him into public scandal, infamy and disgrace, on the first day of November, in the year one thousand eight hundred and thirty-nine, with force and arms, at the city of Baltimore aforesaid, unlawfully, falsely, and maliciously, did compose, print, and publish, and cause and procure to be composed, printed, and published, in a certain public magazine called the Baltimore Literary and Religious Magazine, for November, eighteen hundred and thirty-nine, a certain false, scandalous, malicious, and defamatory libel, of and concerning the said James L. Maguire, and his conduct as such overseer of the said alms house as aforesaid, containing therein among other things, the false, scandalous, malicious and defamatory words and matter following, of and concerning the said James L. Maguire, and his conduct as such overseer of the said alms house as aforesaid, that is to say—

“The county alms house (meaning the said alms house of Baltimore city and county) has been converted not only into a papal mass house, but into a papal prison. An aged German Catholic in the western end of Baltimore, whose wife was in the alms house, (meaning the said alms house of Baltimore city and county,) became uneasy about his soul and asked for Protestant instruction. His priest heard of it, told him his wife was dead, sent him to the alms house (meaning the said alms house of Baltimore city and county,) to see about her burial, and wrote a line to the papal keeper, (meaning the said James L. Maguire, so being such person of the Roman Catholic religion as aforesaid, and so being such overseer of the said alms house of Baltimore city and county as aforesaid;) lately put over the institution, (meaning the said alms house of Baltimore city and county,) that the man was mad and must be confined. He was confined (meaning that the said aged German Catholic was confined in the said alms house of Baltimore city and county, by the said James L. Maguire, so being such overseer thereof as aforesaid) till it was by mere accident heard of by some Protestants, and the man rescued.”

In contempt of said state and of its laws, to the great damage of the said James L. Maguire, to the evil example of all others, in the like case offending, and against the peace, government and dignity of the state.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Robert J. Breckinridge and Andrew B. Cross further devising, contriving and intending as aforesaid, on the first day of November, in the year one thousand eight hundred and thirty-nine, with force and arms, in the city of Baltimore aforesaid, unlawfully, falsely and maliciously, did publish, and cause, and procure to be published, in a certain public magazine, called the Baltimore Literary and Religious Magazine, for November, eighteen hundred and thirty-nine, a certain false, scandalous, malicious, and defamatory libel, of and concerning the said James L. Maguire and his conduct as the overseer of such alms house as aforesaid, containing therein, among other things, the false, scandalous, malicious, and defamatory words and matter following, of and concerning the said James L. Maguire, and his conduct as such overseer of the said alms house as aforesaid, that is to say:

“The county alms house (meaning the said alms house of Baltimore city and county) has been converted not only into a papal mass house, but into a papal prison. An aged German Catholic in the western end of Baltimore, whose wife was in the alms house (meaning the said alms house of Baltimore city and county) became uneasy about his soul, and asked for

Protestant instruction. His priest heard of it, told him his wife was dead, sent him to the alms house (meaning the said alms house of Baltimore city and county,) to see about her burial, and wrote a line to the papal keeper (meaning the said James L. Maguire, so being such person of the Roman Catholic religion as aforesaid, and so being such overseer of the alms house of Baltimore city and county as aforesaid,) lately put over the institution (meaning the said alms house of Baltimore city and county) that the man was mad and must be confined. He was confined (meaning that the said aged German Catholic was confined in the said alms house of Baltimore city and county, by the said James L. Maguire, so being such overseer thereof as aforesaid) till it was by mere accident heard of by some Protestants, and the man rescued."

In contempt of the state and of its laws, to the evil example of all others, in the like case offending, to the great damage of the said James L. Maguire, and against the peace, government, and dignity of the state.*

GEORGE R. RICHARDSON,

Deputy of the Attorney General of the State of Maryland, for the city of Baltimore.

*We desire to feel all possible reverence for the constituted authorities of the land; as indeed is our Christian duty. And we would consider it a very great misfortune, to be the means of lessening in the smallest degree, the public confidence in any of them. But we are well convinced that the character and safety of every citizen are at an end, the protection of law a mere farce, and the liberty of the press an absurd misnomer, if all men are to be dealt by in time to come, as we have been in time past. This terrible libel of ours has been acted on by two grand juries at least, if not three. Before the first one, Mr. Maguire, being the party whose character, as he himself said on the witness stand, was under examination, not only took on himself to have witnesses summoned; but the grand jury, after walking over the alms house, or part of it—and dining, perhaps, with the overseer; published in the newspapers a card, declaring every thing to be false, which has since been proved to be true; and all this, without letting the persons, who were aimed at, in this indirect way, know that they were investigating in any way, a case in which they surely had some sort of interest. It was a curious fact, and worth remembering, that one of the grand jury (Mr. Woodward) called at the *Chronicle* office, before the death of that admirable Protestant journal, and told the editor that his (Mr. W.'s) name was improperly attached to the card of the grand jury. But, though requested, the *Chronicle* never stated that fact!!!—The facts of the finding of the Bill against us, by the late grand jury, we learn, from the *highest possible authority*, are to the following effect: Mr. Maguire came before the grand jury, and swore that *there was not a shadow of foundation in truth* in the paragraph which he prosecuted us for writing. But the grand jury believing from other testimony, perhaps, that he was mistaken; or supposing truly, that the paragraph was in no case libellous; laid aside the matter, without agreeing to make a presentment. In this state of the case, a *Papist*, who was a member of the grand jury, (and as such, of course sworn to keep its proceedings secret) went out to the alms house, and told Maguire, as he says, the state of the matter. Hereupon Maguire, attacked another grand jury-man, and used threats against the whole body; saying, amongst other things, he could not get justice, and that he would *publish them!* This second man complained to the grand jury; the body was poled; the original informer of Maguire discovered; and in the excitement and denunciations which followed, the *bare constitutional number* (twelve out of the twenty-four comprising the body) agreed to find the Bill. We feel bound to say that this grand jury had on it, some of our best citizens. But we are sure, if they had punished their own member and the prosecutor before them, for a most gross contempt—they had better discharged their public trust. In stating these facts, which we are informed, and believe to be true, and which were in part as to both grand juries, sworn to by Maguire himself—we do it with much pain—and only in absolute self-defence. We are sure, if these things are to be endured, that *Papal* witnesses and prosecutors enough, will be found to get cards published and

MR. GEORGE R. RICHARDSON, the attorney general, stated the case on the part of the State. This is a prosecution, by indictment, in the name of the State of Maryland, against Messrs. BRECKINRIDGE and CROSS, for a libel on James L. Maguire, the overseer of the Alms-house. The libel was contained in the November number (1839) of the Baltimore Literary and Religious Magazine, of which the accused are admitted to have been, at the time the editors and proprietors. The libellous matter, as charged in the indictment, consists in the use of the following words:

"THE COUNTY ALMS HOUSE has been converted, not only into a papal mass house, but into a papal prison. An aged German Catholic in the western end of Baltimore, whose wife was in the alms-house, became uneasy about his soul, and asked for Protestant instruction. His priest heard of it, told him his wife was dead, sent him to the alms-house to see about her burial, and wrote a line to the *papal keeper*, lately put over the institution, that the man was mad, and must be confined. He was confined till it was by mere accident heard of by some Protestants, and the man rescued."*

This publication, Mr. Richardson alleged, the State would contend, was a charge against Mr. Maguire, of malversation in office—that it was libellous on its face, and that it was, as he believed, and until the contrary was proven, false. Mr. Richardson then called

DAVID OWEN, sworn. I know that the Baltimore and Literary Magazine is conducted by Reverend R. J. Breckinridge and Rev. A. B. Cross. I am agent for the sale, and have sold numbers corresponding precisely with the one shown. (The November number of 1839 was then produced.) Though I cannot swear that I sold this copy, but *fac similes*.

WM. L. RICHARDSON, sworn—Is agent for the Alms-house. Mr. Maguire was appointed temporarily, overseer for the Alms-house, in February, 1839, and afterwards on the sixth of May, in the same year, appointed for one year.

The State here rested the case.

bills found against us, every month in the year. A religion that teaches as articles of faith, that no faith is to be kept with heretics, and that any oaths required by the good of the church may be taken or broken; can never be at a loss for means to prove whatever willing ears desire to have established. The next time we are indicted, our friends at a distance will understand the matter at once.

*The *presentment* by the grand jury was for and of the *entire* paragraph—which was at any rate, a mere squib, hastily written, with the press waiting for us; and which the reader will find amongst the NOTICES, &c., in the No. mentioned in the text, and also in the No. for January, 1840. But when the indictment came to be drawn, part of the paragraph, viz., the very part that showed we had no quarrel with Maguire, no malice against him, and nothing to do with him, *was omitted*; for what reasons, Mr. Richardson can explain better than we. We supply the omitted lines, as follows: "*There is great excitement about the matter, which we are assured is as stated above. We hope to get a full statement of the particulars. What have the Priests and the Medical Faculty to say to this case? Is it perfect maniac or only mono-maniac?*" Now these, *omitted* lines show clearly two important facts: 1. That we never intended to become responsible for the exact truth of the rumour stated,—but only for having believed and repeated it, on sufficient warrant: 2. That our whole controversy about the matter was with a Papal influence in the community, and not with an unknown subordinate public functionary, out at the county alms house.

Mr. WM. SCHLEY, of counsel for the traverser, stated the nature and ground of the defence that would be taken. It was not to be doubted that this was a case of profound and commanding interest. He willingly admitted that he felt, on his own part, the utmost interest in the result, and was quite sure that such was the feeling of the public here and elsewhere. He entered upon the trial of the cause with a full conviction of its importance, and a full sense of the responsibility which it devolved upon the counsel for the accused. He did not refer to the collateral questions which might be, but he hoped, would not be implicated with it—but he referred to the nature of the charge itself. What is it? It is that a minister of the Gospel, has published a false, wilful, and malicious libel. MR. MAGUIRE had appealed to the public justice. He had asked and obtained the intervention of the power of the State, and Mr. Breckinridge now stood here to answer for a *crime*—for it amounted to this—and if he was found *guilty* by the jury, the court would be compelled to award him punishment as a criminal.—Mr. Schley here read the indictment. It charges that the said Robert J. Breckinridge and Andrew B. Cross, being persons of evil disposed mind and falsely, wickedly and maliciously acting and intending to injure and defame the said James L. Maguire, overseer, &c., had composed, printed and published, and caused to be composed, printed and published, of the said James L. Maguire, &c., a false, malicious and defamatory libel, &c.—This was a serious charge against any man, but against a minister of the Gospel it was peculiarly grave and serious; for it charges him with having stated, falsely, and maliciously, what he has stated. It was a charge against the veracity and Christian spirit of a man in a holy office. Mr. Schley begged that he might not be misunderstood. The traverser was not here to complain that the suit had been brought—he was here to answer it; he did not complain that the state had interfered, for public justice was mighty and must prevail; if the traverser was guilty, let him be punished; if he was innocent, the law would acquit him; that law of whom it has been said by Hooker, that her seat is the bosom of God; her voice the harmony of the world; all things in heaven and earth do her homage; the very least, as feeling her care, and the greatest as not exempted from her power.

Though the mighty power of the State was arrayed against him, he trusted his cause to the law, and it would grant him justice and an honourable acquittal. Mr. S. asked leave to make one more remark. The manner of the trial was marked out by the counsel who preceded him, and if the defence were supposed to go beyond the limits of investigation set by the counsel, and to bring in matter supposed not to be in relation to the case, it is the fault of the counsel on the part of the State; and on the other hand, if they did not go into such evidence, it is to be understood that it is because it is not necessary to the defence. A counsel was bound to protect the interests of his client, but he was not to go beyond the point in the trial which was necessary to these interests. It was his duty to defend his client in any case: they would not go beyond the defence, but wherever attacked they would battle with their opponents; and they hoped, as every lover of peace must hope,

that they would not be compelled to go beyond the apparent line of defence.

Mr. S. stated that they would first prove, or hoped to prove, that the statements alleged as libellous were made on the most respectable authority, and stated as facts. That whether true or false, the traverser published them because he believed them to be true. He had not said in the article, that they were true; but that he believed it to be so. The second point of defence was, that the main fact and the only fact was true; they might be mistaken—but they would endeavour to show that it was so. The learned counsel had read from the indictment such parts of the paragraph as were copied into it, but there were the following sentences after the portion he had read. "There is a great excitement about the matter which we are assured is as stated above. We hope to get a full statement of the particulars. What have the priests and medical faculty to say to this case! Is it *perfect* maniac, or only '*mono-maniac*?' " This portion was not read by the learned counsel because it was not necessary to his case, and he was not bound to read it; but Mr. S. considered it as a part of the paragraph, and necessary to an understanding of its meaning. He then read the preceding portion, and contended that the only thing asserted was the fact of the German Catholic and the keeper, and the only innuendo was that the former was imprisoned; and this is the only thing charged by the indictment, except malice and falsehood. It was not a part of the question at issue whether the man was mad or not mad, or whether Maguire thought he was mad or sane, or whether the traverser meant to say that he was mad or not. The simple charge was that the man was confined, and it is not in issue whether Maguire confined him through humanity or corrupt motives; forcibly, or peaceably in the discharge of his duty. (Here he was interrupted by the States' Attorney, who stated that it was the usual custom, first, to state the facts and then argue the law before the jury. Upon explanation, the gentleman was permitted to proceed.) The defence would show that the man was confined on allegations of insanity, and they would therefore place the case on the fact that he was confined. He contended that by the law of 1804, which allows the truth to be plead in justification of publications charged against a party as libellous, the defence is not bound to prove the truth of all in the paragraph, but only what was charged in the indictment. The State had proved the publication, and that was admitted; the defence would prove the *fact* of confinement, and that was all they were bound to prove by this law. The third point of defence would be that even if the paragraph, so far as it is unexplained, were libellous, the defence would show that there was no malice in it towards Maguire. It may be, or it may be supposed, that the writer was striking at the Catholic clergy, or alluding to the conduct of physicians on a former occasion; but what has Mr. Maguire to do with it? He is not a priest nor a physician, and has nothing more to do with it than any other man. There was no malice towards him in the allusion to them. The fourth point was that the traverser is a minister of religion, and an editor of a magazine, who was bound to see to matters of vital interest to the welfare of man-

kind—he was a sentinel on the watch-tower—he has heard of a violation of the rights of man, is convinced of the truth of the representation, and publishes the statement. The question was whether a publication thus made was libellous or not. The defence would contend that in *law* it was not libellous, and even if it were, it was not maliciously published. This was not a libel, and is a case not to be brought into a criminal court; the person aggrieved has brought his suit in a civil court; but it was not proper to bring it in a criminal court, and ask for punishment on an act of duty as if it were a crime.*

* As soon as we found that the Papists were serious in the purpose to prosecute us, (a fact which came to the knowledge of the writer while he was in Kentucky, in the month of December, 1839,) steps were taken and arrangements made, to meet the case in a manner answerable to its importance, and to the violence with which we knew it would be pushed, if it were undertaken at all. They are a people wise in their generation; they had never utterly failed in such a case before: and they had watched us, sleeplessly, for five years. We shall have occasion, in subsequent notes, to speak of other matters. At present, we wish to say a few words about our counsel and the plan of conducting the case on which they fixed after much reflection. And, first, we have to say, that after a good deal of consideration, it was finally determined by us, to commit the management of the case entirely to local counsel; and that Mr. *Schley*, and another eminent lawyer of our city, were fixed on as the individuals who should be applied to. The latter gentleman declined appearing in the case; solely, as he said, on account of professional and personal duties already existing, which called him elsewhere. It was then determined to indulge the anxious desire, which had from the first occupied our mind,—and apply to our old friend and countryman, the Hon. *J. J. Crittenden*, to aid in the management of the case. *Col. Preston*, appeared on the trial, only as a personal friend and near kinsman; on which account alone, it was thought most delicate, not to enjoy the services of one of the ablest lawyers and most eloquent men of his day. In any case, but especially with such counsel, it was our duty to submit the whole matter entirely to the control of our professional friends: a duty, we cheerfully performed, and have never for a moment seen reason to regret. At the same time, it is proper to say, that our view, and that of all three of the distinguished gentlemen named above, differed as to the great principle on which the management of the case should proceed. Their view was, that the sole business, in the case, was to defend us, against every thing brought against us in the premises, by whomsoever; to put down the particular prosecution, and acquit us in the particular case with honour and truth, unstained and untouched; and as to all collateral issues, to make none, but to decline none: in short, to do what professional duty, and personal friendship required, and no more. And on this general ground, the whole case was managed. But our notion was, that although Maguire was the ostensible prosecutor, yet in point of fact, *Papism* was the real party to be beneficially interested, and therefore that it should be met, as if appearing formally in the case; that in this light the trial was to be considered of the highest possible importance, and in a particular manner providential; and that as several collateral issues might easily be made, each of which would carry the case into the very bowels of popery—and some of which seemed almost indispensable to the true and full understanding of the matter on trial, in its narrowest sense; for these and many similar reasons, the subject ought to be thrown wide open, and the case tried, in the largest possible manner. We were overruled.—After this point was determined, another of considerable consequence arose. It was the unanimous opinion of the gentlemen already named, and of others equally skilled in the law of libel, both in and out of Maryland—and if we may add without presumption in such a connection, it was from the very first, our own deep conviction, that in point of fact, there was nothing in the paragraph complained of and sued on, that could by possibility be fairly construed into a libel on any human being; and certainly not into a libel on Maguire. The proper and natural course

Mr. RICHARDSON desired it to be understood, that he did not concede that the learned counsel had taken the true view of the law.—Mr. Schley had supposed that the question was confined to the imprisonment of an aged German Catholic, because that was the only part of the libel that was explained by innuendo. Now, Mr. R. contended, that whenever a party sets out a libel, if he enlarges the meaning of the words, it is bad—but in this case the exact language of the libel was pursued in the indictment, and the innuendo was not intended, and is not to be construed as extending or diminishing the libel, and that the prosecution reserves the right of collecting the meaning from the whole libel. It was, with this design, and to accomplish this purpose, that the innuendo was laid only as to the aged German and James L. Maguire, the overseer.

Mr. Schley now called Caleb Owen.

Mr. Richardson. What do you propose to prove by him?

Mr. Schley. We intend to show by Mr. Owen, how Mr. Breckinridge obtained the information by which he was led to make the publication complained of. We expect to prove that, prior to the publication, Mr. Owen, (the witness,) his father, the Rev. George D. Purviance, and another gentleman, (Mr. McKane) had heard that a man was confined in the Alms House, and had stated the circumstances to Mr. Breckinridge as facts which they believed to be true.

The State objected to the evidence as inadmissible.

Mr. Pitts, of counsel for the State of Maryland, to aid the Attorney General. We object to the testimony as not pertinent to the issue in this cause. The traverser may have received—I have no doubt he did receive, his information from respectable sources, since it is so alleged, but unless he can show that he made the statements with a knowledge of their truth, and be able to show, here, that they are true, he must be responsible for them. The law implies malice from the mere publication of what a party does not know and cannot prove to be true. It is a settled point that, if a party copy a libel from another paper, and publish it as his own, and then seek to justify himself upon the ground that he was only the copier and not the origimator, it is no justification and no answer. In the case before us, the traverser has published a libel upon the faith of mere rumour. Every publication is a new libel, and it is no answer that the circulator of a slander believed it, or had it from authority that he deemed good, if it turn out that, in point of fact, it is false. In a civil suit, it might be

in such a case was to *demur* to the indictment; and if our views were correct, quash it and the whole case together on the threshold. But it was feared that such a course, if it failed, would be mis-construed; and even if it succeeded, might look like shunning an investigation; that it might be construed into timidity, and so court future assaults; and that at any rates, the case was clear and the proof sufficient. It was fully in accordance with our own judgment and wishes that the *demurrer* was waived, and the case met on its merits, before a jury of our countrymen: and such was and is our conviction of the innocence of our conduct, throughout, that we would have been perfectly willing that the first twelve men the sheriff might meet in the streets, so that they were unprejudiced and uncommitted, should have sat on the cause.

nrged in mitigation of damages—but in a prosecution by the State, it is no justification to show from whom the rumour was received. The plea here is guilty or not guilty—and there must be a complete justification by proof of the truth of the libel.

Mr. Schley in reply.

The decisions of the courts in England upon this subject, were formerly very loose—but more modern decisions had greatly modified the rigor of the ancient practice. It is now well settled that to constitute libel, the mind must be in fault—there must be a malicious intent.—The public and praiseworthy motive may excuse the act. If the conductor of a public journal and a minister of the gospel, hears of a great evil, or act of oppression, and warns the public of it, it is not at the sinner that he strikes, but at the sin—not at the individual who does the act, but at the act itself. We desire to show, sir, by evidence, that when the traverser told the public of the imprisonment of the aged German Catholic, he meant to do a public good. If it should turn out that his warning was true, the motive would be acknowledged to be good. How then can the motive be a bad one, if it turn out that he was mistaken? What would become of the liberty of the press, if an editor or a minister of the Gospel were restrained from publishing or speaking what he believes to be true, in reference to great public outrages by such technicalities? Is it to be believed that this publication was made out of malice towards Mr. Maguire?—No, far from it. It was just as if a man of known veracity were to come to your honours, or to go to any particular printer, and give information upon a great public or private wrong, which the printer or your honours could act upon for the public good. There must be a mischievous intent in the mind of the publisher. In support of this doctrine, we refer to the 2d City Hall, (N. Y.) Recorder, page 49, (Wm. Coleman's case,) and 176 and 188 (Martha Codd's case); to the celebrated opinion of Chancellor Kent, in the case of the People vs. Croswell, reported in 3d Johnson 364; and to the case of the State vs. Farley, reported in 4th McCord's South Carolina Reports 317.

Now, how is it in this case? The prosecution has proved the publication, and rests the case there on the ground that the law implies malice. The books say that when the publication is *per se* libellous, malice is to be inferred. How is this libellous? They do not say that it is so because it conduces to a breach of the peace, or to create an excitement, but because it villifies Maguire. Now we say it is not thus libellous. The prosecution read a part of it, and they have a right to that part, but the defence has a right to the context, and that shows it does not villify him. The defence was here to show that what was published was true; that it was heard from those the publisher had a right to believe; that he did believe it, and therefore published it, not because he had any malicious purpose or feeling against Maguire. In conclusion, Mr. S. repeated that in criminal prosecutions the mind must have a mischievous intent to constitute malice, and as the facts upon which this publication was founded, were heard from creditable and respectable persons, we wish to show that fact to prove the absolute absence of

malice. This, in our judgment, is pertinent to the issue, and it would shift the onus from our shoulders and throw it upon the State.

Mr. Crittenden—on the same side.

I have always regarded it as a well settled and universal principle of criminal jurisprudence, that the intention is an essential element of crime. It was so in morals.—It was so by the common law—and the principle had been recognised by all the statutes that it had been found necessary to enact for the punishment of crime. All the forms of criminal pleading show this.—In an indictment for treason, it is necessary to set out that the act done or meditated was done or meditated *traitorously*. So in an indictment for felony. It was not only necessary to charge the offence, but that the act itself was feloniously committed. And we argue, that the same principle extends to the case of libel. We contend that, in a prosecution for a libel, it is competent to show that there was no malicious intent. Is the evidence we now propose to offer, sufficient and apt for this purpose? What is this case? The party against whom this alleged libel is published is the holder of a public station; humble, it is true, but of great power for human happiness or human woe. It invests him with the power to exercise a thousand oppressions which none can tell, or to dispense a thousand charities that none can speak of.

An editor of a public journal, hearing of an act of this public officer which he deems reprehensible, publishes it to the world, that the truth may be ascertained, and if he has improperly discharged his public functions, that the evil may be corrected. Is there any public objection—is there any moral objection—is there any religious objection, that forbids him to make that publication? Is the editor of a public journal—he who places himself in the position of a sentinel for the public good, to confine himself to the discussion of abstract questions of right and wrong? If you forbid him to point out the particular instance of violation of right, and commission of wrong, you might as well, at once, confine him to that most idle and vain of all employments, the elaborate discussion of abstract questions of right and wrong, making his station a very safe, but a perfectly idle and useless one. And if he is not to be thus rendered useless, has he not a right, when he denounces what he conceives to be wrong, to give his motives in justification of his conduct, of his course? Are not his motives every thing? If he is not permitted to justify himself thus, the most benevolent man may be punished because he puts his friend on his guard against the conduct of another. If he has no malice in his warning, there is no guilt, and the public has no right to seek redress or to inflict punishment. An individual may bring a civil suit, but there could be no criminal proceeding sustained. The counsel on the other side, think there is an analogy between civil and criminal suits in this respect. He thought not; in slander, the intention did not constitute the cause of action, and so in assault and battery, if one man is struck by another, and he, in returning the blow, accidentally strikes a third party and does him a serious injury, that third party cannot maintain a criminal proceeding, for there was no intention of striking him, but he can bring a suit for damages sus-

tained by the blow. In a libel, the want of intention is the want of criminality, and a criminal prosecution cannot be sustained. This, Mr. C., regarded as an important point, not only to this cause, but extending far beyond it. If you do not allow a liberal construction of evidence, you make the law of libel sweeping and destructive. If the principle that the intention is not a part of the offence, is upheld, all public controversies, whether political or religious, will fill our courts with suits for slander. It is generally said that a libel is actionable because it tends to a breach of the peace. This, all judges, all men of sense, now know not to be the true reason, as suits could be maintained for libel on the dead, where no breach of the peace could ensue. Mr. C. said that in a long practice of thirty years, he had never tried such a cause as this; such cases should not be encouraged. If a man, just and virtuous—standing up to rebuke vice—to rebuke the oppression of the poor and needy—if such a man is to be treated as a malefactor for his efforts—if such a man is to be confined in a jail in the result of a suit of law—all men would hold up their hands and exclaim that it was unjust if he could not be allowed to plead his intentions in his defence. Mr. C. apprehended that such could not be the rule of evidence in this case, and he sat down with the belief that the court would sanction the propriety and competency of the evidence.

MR. RICHARDSON agreed with Mr. C. that the proposition to introduce such evidence goes much farther than the present case. It would establish the principle that any individual will be allowed to publish what he pleases of another, and when redress is sought, he replies, "I heard it from respectable authority"—and all the malice is gone. Mr. R. said the law as laid down by the New York Recorder was not the law of this court, or of any respectable tribunal.* It says that if a man copies a libel from a source entitled to credit, it is not a libel. I say that is not the law of this country nor of England. Mr. R. further contended that no civil suit could be maintained for slander if there was not malice. If the slander is of a nature from which malice is to be inferred, then we stop; if malice is insinuated we must prove its existence; and so it

* The careful reader will be very often struck with the modest assurance of Mr. Richardson, in stating, *ex cathedra*, the whole law of this and all other states and nations,—and fixing the character of all tribunals according as their law agrees with him, or the contrary. On most points of law, which have been drawn into discussion in the courts, contradictory decisions are to be found; and as all decisions of doubtful points are made upon comparison of opposite analogies, which are often very nice and well balanced; it is not to be wondered at, that the courts of the same country, at different periods,—still less that the courts of different countries, should not settle alike, all the niceties even of the same law. The contrary is as reasonably to be expected, as it is notoriously the fact. That a lawyer, therefore, arguing before a learned bench, the very questions it is to decide, should allow himself such latitude of speech,—and that, as it regards propositions advocated by men, greatly his superiors in character and legal attainments, is very remarkable; and when it is remembered, that he is the law officer of the court itself, whose business it is, not to convict men against law, or mislead the court, in order to do it; but to see the law as it really exists righteously administered, and to aid the court in deciding what it is; then such a *tone* on the part of a prosecutor, becomes worthy of grave reprehension.

is in criminal prosecutions. The gentleman has said that if a man accidentally strike a person he can be prosecuted for damages.— This is not the law of this country; if a man accidentally strike a another in self-defence, it was done in the exercise of his legal right, and no action could be sustained. Malice is essential in criminal as in civil cases, and we are to ascertain the malice in one in the same manner as we do in the other. A person who makes a publication is responsible according to the face of it. The grounds of all criminal prosecutions for libels are, that they are calculated to cause a breach of the peace, and in the case of a libel on a dead person that breach of the peace is most likely to occur from the resentment of survivors who would regard it as a greater libel, for being upon a deceased relative. In this state, previous to 1803, continued Mr. R., the truth could not be given in justification of a libel. By the act of 1803, the truth of the matter charged in the indictment can be given in evidence by way of justification. Is it a justification to say "I admit this to be false, but I heard it from some one else?" No, sir. The law in this state says, you publish at your peril. If you publish the truth you can plead it; but if you go beyond the truth you are liable as before 1803. The counsel, said Mr. R. says in reference to the character of this case, that the person alleged to have been libelled is a public functionary—humble, but possessing a power which may be exercised, for no one can say what corruption or what good, and he is liable to the strictures of the press. Agreed that he is there as a public functionary, and as such he is amenable to the laws and the investigation of the courts of justice. But shall an individual, not knowing the truth of the assertion, be allowed to publish that which would bring him before a grand jury? Shall that publisher say to him, "True, I falsely told that of you; true, I stung your feelings; but I HEARD it?" Mr. R. said he did not expect this question of evidence would arise before the court, for he considered the principle settled in former decisions. He contended that every individual who makes a publication, is bound to show the truth of it, excepting in privileged cases, such as letters of character for servants, communications of public functionaries to each other, and individuals making statements under oath. Mr. R. asked what is the result of this evidence? Is it a justification? If it is, there is an end to the case; if it is in mitigation, it is irrelevant to the case, for the only question is, guilty or not guilty. Nothing that comes short of a flat bar to the action is competent evidence in a criminal case. In a civil case there are many questions—is the publication libellous; the amount of malice, and consequent amount of damages. The question here is one—libel or no libel. If this evidence is admitted, no publisher of a libel can be punished unless he is the original publisher.*

*The reason why the traverser offered the evidence, was very simple and perfectly natural, and he supposed proper; and so the court decided. The fact is omitted in the indictment, that Mr. B. never asserted that the statements published by him were true; but his publication was in this form—"the matter, we are assured, is as stated above;"—not affirming his belief of the rumor, otherwise than by publishing it. Now the question was, is he to be held responsible, as

The COURT remarked that the question involved in this case was different from that decided by them in the case of the State vs. Watson, and as the point was a novel one, they would reserve it for the present. The counsel for the defence could proceed to prove the truth of the publication, by way of justification, and then the question could be raised whether he had a right to give evidence to rebut the imputed *mala mens*. The act of Assembly of 1803, had only so far changed the common law as to allow the truth to be given in justification—all else was as before the passage of that act. So the decision of the point specifically raised as to the admissibility of evidence to show the motive and meaning of the traverser and the source of his information, was deferred.

Mr. SCHLEY now recalled

WILLIAM L. RICHARDSON.—Does not know Mathias Stazer.—The stated account of Maguire to the Trustees of the Alms-house, covering the month of October 1839, is now shown him, and he states that he knows from that, that Mathias Stazer was in the Alms-house. Mr. SCHLEY calls his attention to the account of Mathias Stazer.

Mr. RICHARDSON.—Is Mathias Stazer the “aged German Catholic” alluded to in the publication?

Mr. SCHLEY—We propose to show that Mathias Stazer was confined, and that he was an aged German Catholic.

Mr. RICHARDSON—Do the defence intend to show that Mathias Stazer is the person alluded to? If they do, it is competent for them to show that he was confined, and that he answers the description of the person said to have been confined in the libel.—But I protest that they have no right to take the list of paupers in the Alms-house, and to go through it and ascertain whether they cannot find some “aged German Catholic” to answer their purpose.

Mr. SCHLEY persists that he has done right. The name of the “aged German Catholic” is not in the indictment or the publica-

though he had asserted, *in terms*, the truth of what he printed; or is he to be held responsible for what he really did say? It is quite clear to every candid mind, that there are various grades of responsibility in such matters, according as our conduct is: viz, it is one thing to say a thing is true, and become responsible for that truth; it is another thing to say we have heard and believe it to be true, and become responsible for the respectability of our informants and for the propriety and timeliness of the publication; and it is quite a third thing, to attempt to excuse ourselves, by merely saying we have heard it repeated, and become responsible, for idle rumor. When we published the libel, our position was in the second of these categories; when we investigated the case, we were willing to assume the first of them; and never for a moment, thought of flying for refuge to a third; but desired liberty to take up the libel, and prove, every statement in it, that related to Maguire or bore upon the case; and as the fact of hearing the rumor in the form stated, was one allegation, we wanted to prove it fully, as a justification at once moral and legal, but more especially the former. Our counsel, as before stated, declined attempting to prove any thing, except as against Maguire, and against him only as alleged in the indictment; and to this extent we must say, notwithstanding all the efforts of “*the State of Maryland*,” and others, we fully and triumphantly succeeded.

tion. If they found they were mistaken as to the name, they would proceed till they got the true name.

Mr. RICHARDSON—Very well, sir.

WM. L. RICHARDSON'S examination continued.—Stazer appears to have been charged 40 cents for board on the 21st of September, 1839. The maximum price for a day's board is 30 cents, but the keeper has a discretion where parties are very poor; and the paupers are credited with any work they can do. Does not know how long Stazer was there nor where he was kept.*

Rev. DANIEL MCJILTON called and sworn—Has known Mathias Stazer for two years: He is a shoemaker by trade, and resided in Saratoga street, near witness, in a house belonging to Thomas Collins. Witness became more particularly acquainted with him on the occasion of a religious visit which he made to him about the 21st of August,† 1839, in consequence of having heard from Mr. Davis, that he was in a distressed state of mind on account of his soul. When I entered the house, I found Stazer sitting at a table and his housekeeper reading to him a book which I think was the Bible. I introduced myself as a neighbor, and soon mentioned the subject of religion. The old man burst into tears, exclaiming that he felt he was an old sinner—a bad sinner—that he had grown grey with sinning—that his head was grey with sin—that his heart was black with sin. I endeavored to encourage him by pointing out the promises of the Bible to old sinners—that Christ was able and willing to save him. He still wept, and I asked if I should pray with him. He replied yes, but when I was about to kneel down, he begged that I would not pray loud as his neighbor would

*The discovery that, the *official return* of the overseer of the Alms-house established the fact of Stazer's having been there, was made accidentally (humanly speaking)—and only a few days before the trial commenced. The return containing his name, reaches up to the end of October, and fixes the period of Stazer's confinement to have been on the 21st of September; the Magazine containing the paragraph on which we were indicted, was issued on the 1st of November!! and we left Baltimore for the West, on the 6th of that month, and did not return till the 26th of January. In the mean time, the 'card' of the Grand Jury had been published, denying the whole story; and all manner of statements were made, with the greatest industry, by very many persons,—not only denying that any such man as Stazer had ever been in the cells of the Alms-house; but rumors of most outrageous and indecent allegations, as being brought by us, were spread, not only through this city, but in all the neighboring towns and villages; giving, as far as possible, a wrong direction to public sentiment, and poisoning the public mind against us. As late as the month of February, Mr. Maguire, as we are assured, went before the Grand Jury and swore *that there was not a shadow of foundation in truth*, for our statement. Men have very different views of the nature of proof; but we are obliged to say, that an official return that a man was in the poor house, on a given day, certainly appears to us to raise a presumption that he was there; and certainly does excite a suspicion that all who had any hand in making that official report, were very oddly mistaken in saying afterwards that he never was there. And what makes it more curious is, that Stazer, was no stranger at the Alms-house, but had been for seven or eight years, in the habit of going there, periodically, to see his wife, who was an invalid boarder in the house, supported, in part, if not entirely by himself.

†By a reference to his diary, Mr. McJilton subsequently corrected this date from *August, to September*. The reader will subsequently see, the importance of this correction.

hear. In a few moments he seemed to forget his neighbor and every thing, and cried out to the Lord to have mercy upon him.—When we rose from our knees I advised him to read his Bible and pray. He said he did read it and it told him he was a sinner. As I was going away, he asked me to come and see him. I told him I would, and never in my life saw a greater penitent. I told him to read his Bible and keep praying to God for mercy on his soul. I asked him what church he belonged to, he replied the “German Catholic.” I again pressed the necessity of his praying only to God. He was a shoemaker, and able to support himself respectably. I went away. In a few days I returned according to promise, but found the house shut up. Three or four days after that, it was still shut. I then enquired of an old German woman, who directed me to Mr. Kuntz, on the Hookstown road. Witness went there and was told in an abrupt manner that he had gone into the country. Some time afterwards there was a piece published (the libel) by Mr. Breckinridge, and afterwards I found Stazer six miles out of town working at his trade. This was after the publication.—Mr. Cross had left word at Isaac P. Cook’s requesting me to call on him; and I was waited upon by Mr. Owen.

Here Mr. SCHLEY stated to the court, that he wished to ask Mr. McJilton if Maguire had not admitted to him that the German, Stazer, was confined in the Alms-house.

Mr. RICHARDSON—Mr. Maguire’s statements to witness are not evidence. He is here himself, and can be examined, if the defence please. It is against all the rules of evidence to allow his declarations to be given before he has been examined.*

Mr. CRITTENDEN—Mr. Maguire is, in fact, the prosecuting witness. He may not be a party on the record—but it is for the gratification of his feelings and the redemption of his reputation that this action is brought. I beg the Court to look at the case in its real aspect—to discard the notion which only makes him a witness, and treat him, as he really is, as the prosecutor.

The Court decided that the testimony was admissible.

Mr. McJILTON examined.—A few sabbaths ago, I went out to the Alms-house to fill an appointment of one of our local brethren, who was ill. After the exercises were over, I went into the

*The marvellous kindness of the State’s Attorney, in wishing us to make Maguire *our* witness, will appear in this, viz: that if the State should swear him, we could then introduce proof to contradict the whole or any part of his testimony, or to impeach his character in any way whatever: but if we should swear him, we would thereby be precluded from questioning his character, or contradicting his testimony! That is, the State shall prosecute us, in behalf of Maguire, and for his benefit and gratification; and we shall be obliged to avouch the prosecutor’s character as good, and his testimony as true! And according to Mr. Richardson’s notions of law, “it is against all rule” to proceed otherwise. And yet this general idea, seems inconsistent with the fact, that Mr. R. declined producing the man about whom all the difficulty existed, viz: *Mathias Stazer*; who was in court during the whole trial, and who had been before the Grand Jury. “The State of Maryland,” was surely more bound to swear the very man who knew all about his own confinement, and to prove by himself what he *did not* suffer; than we could be, to swear Maguire, and prove by him, what he *did not* say and do! What is law for a man prosecuted, is not, it appears, law for a state prosecuting.

office. Mr. Maguire just simply observed to me that there were some charges about a black man being put with a white woman in the cells. I said I knew nothing of that, but mentioned about Stazer, the German, who was brought out there. Maguire admitted the fact that the German was confined—turned to his books, and told what the young man paid for his board. Just simply said that the old man was there for about two days—has used the words as near as he can. Maguire referred to his books, and named the old German, Stazer.

Cross-examined.—State the language of Maguire, (repeated the language above,) Maguire observed that it was by his own consent that he was confined there.

Court.—“Where?”

Witness.—“Cells were referred to.”*

State's Attorney.—“Were cells mentioned?”

Witness.—Mr. Maguire asked me if I was not cited to appear before the Grand Jury. I said, no. Does not recollect whether he knew there was a civil suit at that time or not. The Grand Jury had arisen the week before. Refers to the Grand Jury to which several friends were cited. There was no intimation on his part that Stazer's case was the case under the view of the Grand Jury.

Mr. RICHARDSON—Are you not in the habit of performing divine service at the Alms-house?

Mr. SCHLEY—What is the objection of the question?

Mr. RICHARDSON—This publication says that the Alms-house has become a papal mass house and a papal prison, and that the keeper had received a line from a priest to convert it to the latter use. Now I offer this evidence to show that it has not been converted into a papal mass house, as the witness, a Methodist clergyman, has been allowed to preach there.

Before the question was put, the Court, at three o'clock, adjourned.

WEDNESDAY, March 11th.

Present all the Judges.

WILLIAM HOLTON, (formerly overseer of the Alms-house,) called by defence. Some three weeks since, I had a conversation with Mr. Maguire. He commenced by asking me if I had seen the

*It was proved beyond question, by the records of the office and the confirmatory oath of Wm. L. Richardson, that Stazer was in fact in the Alms-house; and must from the amount of board charged him, necessarily have been there part of two days. It is now clearly proved, that before he went there, he had become deeply convinced of his sins and his danger; that he was anxious for Protestant instruction; that he appeared to believe himself to be under Papal watch and supervision; that he suddenly disappeared from his ordinary abode, and when sought, not only could not be found—but the Protestant seeking him, was rudely repulsed, by his Papal friends. Bearing in mind, these facts and the confession of Maguire to McJilton, the reader will please remember, that at the moment of McJilton's second visit to Stazer, *he was in the cells at the Alms-house!* The fact is undeniable, that however Stazer got to the Alms-house, the effect was, to break up his intercourse with Protestants, and the end was that his convictions passed away, and he remains a Papist!!

charge of Mr. Breckinridge against him, in reference to which he was about to have a law suit. I answered that I had not, and Mr. Maguire then read it from a magazine. Mr. Maguire then made a statement to witness in nearly these words: "On a certain morning, there came to the Alms-house a man who Mr. Maguire afterwards ascertained to be Stazer.* This man applied to be admitted into the Alms-house, that he might be where his wife was. Mr. Maguire was at this time up stairs, and the clerk rejected the man's application; in consequence of which he went away.† Mr. Maguire that day went to the city, and during his absence, Stazer returned, accompanied by a man named Collins, and the application for admission was repeated. It was first rejected, but Mr. Collins stating that the man had threatened, if he was refused permission to go to his wife,‡ to cut his throat; Stazer was on that account admitted, and under the supposition that he was deranged, he was put in the cells,§ where he remained for two days, and was then discharged; forty cents being paid for his board." Mr. Maguire did not pretend to say that Stazer had an order from a trustee.¶ He further said, that when he heard of the charge made by Mr. Breckinridge, he could not possibly conceive whom the person alluded to could be. He inquired of the clerk and physicians, and neither of them could tell. Afterwards, hearing that it was Stazer, he went into the room of Stazer's wife, who has long been in the Alms-house, and asked what church she belonged to. She replied that she was a Lutheran. Maguire said he then concluded that Stazer was a Lutheran too, and thought the paragraph could not allude to him; but he afterwards learned he was a Catholic.

On cross-examination, witness said that he did not recollect that Maguire had said he had joined with Mr. Hooper in dissuading Stazer from going into the Alms-house.

*It is very curious that Mr. Maguire should not personally know Stazer even by eye-sight; and yet should know, that he was the man who had a wife in the Alms-house—and should also know the woman's name?

†Tom Collins swore, that Maguire and Hooper were overpersuaded by Stazer to take him in; whereupon he, Collins, interfered and took him away; having promised to bring him back, before they left the city. Which is true?

‡Collins swore, that Stazer "refused to go there to see his wife;" see his testimony on a subsequent page.

§That is, the pauper Hooper, thought Stazer was mad; and on his medical opinion (there being *only six* medical students then in the house) he locked him up in the cells, in utter violation of positive law, and the rules of the house. It is nearly needless to say, that Stazer was never deranged at all—at any time; further than being a papist, he wanted to become a Christian; all such being mad, always.

¶The pamphlet copy of the trial, published by John Reilly "under the superintendence of a member of the Baltimore bar" (who?) professes, to "have drawn upon the reports in the Baltimore Sun" "for a large portion of the evidence." One of its "corrections and additions" is characteristic, in this place. "Maguire did not [*pretend to*] say," &c. is Mr. Holton's testimony, as given and as published in the Sun: but Mr. Reilly and the 'member of the Baltimore bar'—in copying from the Sun, omit the words in brackets. The reader sees at once, the effect produced on the testimony by this 'correction.' It is a sample of a class nearly innumerable.

Mr. Richardson asked Mr. Holton whether he was not formerly keeper of the Alms-house, and if he had not been in the practice of admitting persons without orders from the trustees. Objections were made by the defence, on the ground that the question was whether such an admission was legal or illegal, and not what was the practice. The state contended that the charge made by the libel against Maguire, was that he had admitted a man in an unusual manner, and at the instigation of a priest, and it was now desired to show that it was not unusual to admit persons without orders; this was a question of motive. The court decided that the evidence was admissible.

Mr. Holton then went on to testify, that there had been instances under peculiar circumstances of the admission of persons without an order from the trustees, but that he had never known of more than one instance of the admission of a deranged person, without an order. It was usual, when a person was admitted without an order, to place the name on a register, leaving a blank for the name of a trustee, which was procured at the earliest meeting afterwards.

Here the counsel for the state exhibited a number of papers to the witness, six of which he recognized as being records of persons who had been admitted, during his term as keeper, without orders from a trustee; of eleven others he had no recollection.

He had never known the trustees to object to ratify his conduct in receiving these persons. Had he supposed they would have objected, he would not have received them. Several of these records, but not all of them, are of persons who had been in the Alms House, absconded and were brought back. One was of a deranged man, and one of a person who was discharged but returned. Does not know that there was any order of the trustees forbidding the receipt of persons who had absconded, without an order.

The 23d rule of the by-laws of the institution was here read by the state, by which it was provided that if any person should abscond from the Alms-house, he should be considered guilty of a misdemeanor, and should not be received again without an order from a trustee.*

*It is easy to understand, that humanity might sometimes require a departure from strict rule, in receiving persons into an institution like this Alms-house; and that in such cases, all men would approve the conduct of an overseer who should violate the *letter*, in favor of the *spirit* of the law itself. As for example, where the overseer found a madman in the woods near the Alms-house, which was one of the six cases in four years, which the prosecution had been able to rake together, during Mr. Holton's control of the institution. Or, for farther example, when sick poor, were brought to the Alms-house, by their friends, not knowing that an order of admittance was needful; in which case, the sick was received and the order subsequently obtained:—but this class of cases, would diminish the longer a system was continued, and the better the public would get acquainted with the rules of the house, and the provisions of the law. But how should the admitted duty of not adhering strictly to rule in such cases, justify the calling of a sane man, a madman; the shutting of him up in a cell; the neglect to call medical advice, then in the house; the sending him away without a permit; the repeated denial that such a case was ever there; and the great variety of statements, as to every part of the matter,—not only by the different persons sworn, but by the

Mrs. WIDENER, sworn.—(This witness was a Bavarian woman; she was besides, quite deaf. Dr. Giustiniani* and Dr. Kurtz were sworn as interpreters.) She testified that she lived with M. Stazer as a domestic. That once, she does not recollect when, but it was on a Sunday night, he was absent from home. She did not know, at first, where he was, but afterwards learned that he was at the Alms-house, when she and Stazer's two children and a man named John, whose surname she did not know, went there and found him. He was asleep in a room. There were two doors, one at the end of the passage, and one leading into the room where he was. They were both fastened, but not locked. She took him away and brought him home. No one objected to her bringing him home, nor had she any difficulty in doing so.

SUSAN STAZER, sworn.—(This was a beautiful child, about ten years old, the daughter of Mathias Stazer.) Her father was once away all night. She was not at home when he went away, but she inquired among the neighbors and went, with her sister, and John, and Mrs. Widener, and found him in an inner room in the Alms-house. A boy admitted her; she passed first through an outer door, and secondly, another door opening into the room where her father was. Both doors had locks on them, and were fastened with a piece of wood and a staple, but not locked. Took her father home.

Cross-examined.—Had been often there before to see her mother. Went into the office to ask that her father might go home.—No objection was made, and he did go home with her, she first paying a small sum of money, but whether fourteen cents or forty, she could not remember.†

same persons, under different circumstances? And why above all, the unexplained mystery that has been so carefully hung around the whole case? Let the reader remember, all along, this fact, viz: Stazer was a papist, desiring to become a Christian, and that by these Alms-house events and others following on their heels, all intercourse between him and his Protestant instructor was broken up; and Stazer remained a papist. Let it also be borne in mind, that when Mr. Maguire and others at the Alms-house assert that Stazer was confined as a madman, they only prove the minute accuracy of our libellous statement; and supposing all to have sincerely believed him to be mad—no injury arises to our cause; for we asserted nothing to the contrary, in our *libel*.

*It is a singular circumstance that an Italian priest, converted to Christianity in the city of Rome itself, should have been brought into contact in this distant land, with a case concocted for the bolstering up of Papism, and the destruction of those, whom God had called like himself, to be more than usually conversant with its iniquities and active against its corruptions. Yet such is God's providence; and the religion of Christ and the superstition of Rome, are respectively the same, in Italy and in Maryland. The Christian reader will rejoice to know, that this interesting gentleman (Dr. Giustiniani) is laboring as a minister of Jesus with manifest tokens of the smiles of God, amongst the German population of this city. Dr. B. Kurtz is well known, as one of our most distinguished (Lutheran) divines.

†The testimony of the books of the Alms-house, proved Stazer to be there; the testimony of Rev'd. Mr. McJilton proved in what state of mind he went there and under what circumstances; the testimony of Mr. Holton, Mrs. Widener and Susan Stazer, now proves, what was done with him, while there, under what pretexts he was admitted, and how he got out. It may be proper to say that Mrs. Widener is a member of the German Reformed Church. The reader after perusing the testimony of these three witnesses, can not, it is presumed, doubt that every material fact, as to the mode, motive and fact of Stazer's confinement—was proven as alleged. He will find much more, all confirming and establishing the various points of the *libel*.

The defence here rested, for the present, the direct proof of the truth of the only allegation in the *libel*, which they were required, according to their view of the case as made by the indictment, to answer: and proposed anew to offer the proof, before proposed, in order to rebut by direct evidence, the legal presumption of malice. The court intimated they would prefer the point already argued before them, and the decision of which had been postponed, to be re-argued.

Mr. SCHLEY* considering the preliminary fact of confinement to be now proved, proceeded to argue for the admissibility of evidence, to shew the absence of malice on the part of the defence. Though before the act of 1803, it might not be so, yet since the passage of that act, even where malice was on the face of the alleged libel, or where the intent was to disturb the peace, yet the proof of the truth would procure an acquittal. He contended against the inference of malice in this case, and referred to the general doctrine as laid down in Roscoe's Criminal Evidence, from which he cited the case of the King against Harvey, for a libel on the monarch, published in his own paper, and which tended to bring the head of the government into disrespect. Where malice was on the face of the libel, it was for the defence to explain; for the law which infers the malice, will allow, not in its mercy, but its justice, such explanation as may nullify the inference; and where malicious intent is not inferrible, the shewing of its existence belongs to the prosecutor. He entered into a discussion of the point at some length, and cited authorities to show that it had been decided by eminent English jurists, that unless the mind was in fault, no malice existed. He contended that as malice was an essential ingredient in libel, and the jury had the finding of guilty or not guilty—libel or no libel—of not only the publication, but the malicious intent; it was competent to give evidence of the absence of malice to the jury. He cited some cases where it was allowed, as in the case of a confidential communication to another for their good, and in case of warning a person against employing a servant, to show the good motive, and that the information was sought. The cases cited were relied upon to show that when there was *prima facie* evidence of malice in a publication, it opened to the defence the privilege of showing the good motives; and that even if the publication was true, the good intention could also be given in evidence; the occasion of the writing and all the circumstances were to go before the jury. In this case one of the parties is a minister of the gospel, and the other is a keeper of a house where the public bestow their charities—not a house where a person is to be confined without a cause; if the minister hears of what he believes to be a violation of the rights of the person confined there, and publishes such a statement, was he not to be allowed to show that his motives were the public good?

There was another point on which Mr. S. felt himself as standing upon firm ground, from which he was not to be dislodged. He said that the malicious intent, and the only malicious intent alleged in the indictment, was to villify Maguire, and it was for the jury to say whether there was such an intention in the publication. The defence maintained that there was not. It might have been alleged that the publication was intended to allude to the trustees, to the priest, or to the doctors, but it is not so alleged, and we have a right to show that we were not speaking of Maguire at all; that we were not thinking of him. The publication was not whether the keeper or the sub-keeper confined the man; the idea conveyed was that a man who was seeking religion had been confined, but not by whom confined. The inuendo charged was, that he was confined by Maguire, and

*This is a most imperfect and meagre outline, of a very able argument. It was never revised by Mr. Schley.

the argument from it is that the inuendo villified Maguire. Mr. S. maintained that it was not so. He referred to the indictment to show that this villifying was the only charge; it did not say that the libel was with intent to excite a breach of the peace; it did not charge that it reflected upon the Catholic clergy or the trustees. Mr. S. quoted Roscoe's Criminal Plead. p. 536; 2d Starkie Nisi Prius, p. 245; 4th Term Rep. p. 216; and 3d Seargeant and Lawbor, p. 335, to show that the averment in the libel must show where the malicious intent is pointed; that if a party does not lay a libel with an intention that makes it criminal, the traverser cannot be found guilty, and that the party ought to know why it is that he is accused. We are here, continued Mr. S. to answer only whether the publication was a libel on Mr. Maguire; he alone has come forward to claim redress for injury inflicted on others. Mr. S. contended that the paper was no libel on Mr. Maguire, unless it was published with the intention of defaming that gentleman, and unless that intention was found by the jury. The evidence must go to the jury. Mr. S. took up the indictment and read the first sentence of the alleged libel: "The county Alms-house has been converted not only into a papal mass house but into a papal prison." When was it converted and by whom? What is meant by this sentence? Certainly nothing to show that Maguire had converted it to that use. It might be inferred that the trustees had so converted it. This sentence is not libellous *per se*, and if it were, unless it were shown by colloquium in the indictment that he converted the house to this purpose, when he did it and what was the inducement, it is not libellous on him. What is necessary to make out the case must be averred in the indictment. Here there was no colloquium as to the mass house, and if the learned counsel for the state had intended to rely on that as the libel in the case, he would have averred it in his indictment. If he now resorts to it, he resorts to it as a forlorn hope.

The second sentence reads, "An aged German Catholic in the western end of Baltimore, whose wife was in the Alms-house, became uneasy about his soul, and asked for Protestant instruction." There was nothing in this, said Mr. S., about Maguire. "His priest heard of it; told him his wife was dead, and sent him to see about her burial"—here again Maguire has nothing to do with it—he is not a priest—"and wrote a line to the papal keeper, lately put over the institution, that the man was mad, and must be confined." This states that the priest wrote to the keeper, and admitting that Maguire was the papal keeper alluded to, still it is not libellous on him. It does not say whether he acted right or wrong in confining the man; it alludes to the reverend gentleman, and it is not supposed that Mr. Maguire sets up this complaint to battle for others. Mr. S. remarked that, in this observation he did not wish the feelings to go out of the case. If up to this point Mr. Maguire is not alluded to, Mr. S. maintained that he had no right to complain. The German Catholic was confined. Admit the inuendo that he was confined by Mr. Maguire in the Alms-house—is there in it any intention to villify Mr. Maguire? Is it right to put this construction on the inuendo? If it is in the case to be inferred that the writer intended so, it is competent for the defence to show that they did not; and if they did not intend to do so, there can be no difference as to result of the case. It was proved that the German was confined in the Alms-house, no matter how he got there, and he was confined till he was rescued—till his friends came and took him away. If we could show, continued Mr. Schley, the motives under which that publication was written; if they could show the feeling at the time it was written, they would show that Maguire was not in their thoughts. It might as well be said that he was talking to the clerk and the other respectable gentlemen by his side, when he was addressing the court. Mr. S. would now show why the paragraph was written. It concludes: "What have the priests and the medical faculty to say to this case? Is it perfect maniac, or only mono-

maniac?" He did not wish to go into the particulars of the former transaction, to which these questions alluded; he would merely say it referred to a controversy the writer had entered into with them, and the writer wished to show that another person had been confined, in his view of the subject, in a manner similar to what he believed had occurred in a former case; he wished to show that there was wrong (that there was wrong Mr. S. would not say)—but perhaps the writer designed to present this to his opponents in the controversy, and say here is another person confined—here is another case of illegal imprisonment.

Mr. S. now took another point. He had all along conceded that the publication was a libel per se, and that it alluded to Maguire.* Now he would say that it has no such allusion at all. Whatever may be Mr. Maguire's merits or demerits, there is nothing in this publication defamatory of him. A defamatory publication would charge him with a criminal offence; it would speak of him as having some disease unfitting him for companionship with his fellow men; it would impute something to him which would render him subject to the contempt or ill-will of the public. If we forget that Mr. Maguire is a member of one religious persuasion, and the traverser is a member of another; if we forget the former dispute between the Catholics and Protestants, and read this publication, can we find any thing in it defamatory of Mr. Maguire? Whether he was confined by Mr. Maguire rightfully or wrongfully—whether through charity in fear of his committing suicide, or as a mere tool of the priest (if said Mr. S., I must use the term, I mean no disrespect,) is not contained on the face of the libel at all. If the priest had sent the German there because he feared the spiritual influence of others would take him from the course which the priest thought necessary for his future salvation; or if for that purpose he had obtained an order from the trustees, such an act was antecedent to Maguire's action in the affair. If the publication defames Mr. Maguire, it must say that he confined the man under corrupt motives. Supposing, asked Mr. S., I am right in the point that the publication is not libellous on the face of it, will the law infer malice? It would not. The state must, therefore, show proof of malice—they must show malice in the heart—if they cannot, and we are exculpated from presumption of malice, the case is at an end. Mr. S. said, although he might not be right in the other points, he could stand upon this point, that the implication of malice cannot apply to this case. If a party can show that what he has done in the high and sacred place in which he stands—in his capacity as a conductor of a public journal—in duty to his master—however others may differ from him in his views of duty—if he believes that what he has done he ought to have done, there is no malice in his conduct. Are not these positions, asked Mr. S., founded in the holiest feelings of human nature? Are they not what ought to be law—are they not what is the common law, mild and bountiful in its nature? Let truth and justice appear; let a man appear guilty or innocent as he intended to be.*

*There is a single observation which every honest mind will at once fully comprehend, and which in our opinion settles this whole case, and stamps its true character upon it. Here were many parties acting in a case, and many points of interests involved in a controversy; of which *one alone* comes forward, and appropriating to himself, the whole, desires to make every whit of the damage, insult, and shame his own. If he is right, we were responsible to him; if he is wrong, the whole proceeding was fictitious; or real in nothing, but the desire and effort to injure us. How perfectly clear and marked, is the distinction between the states of mind in which, the Mother Abbess confined Olevia Neal,—in which priest Gildea grieved over her elopement, in which the physicians pronounced her mono-maniac, in which Mr. Brent put her in the Hospital, and which the sisters of charity there confined her? Now here are five several interested parties; all in our judgment, erring in conduct; but all acting upon motives and

Mr. PIRTS replied to Mr. Schley. He alluded to the position of the counsel having been changed since yesterday, and summed up the points contended for by the defence to be: 1st, that the evidence is admissible, because it rebuts the presumption of malice on the part of the defence; 2d, because it disproves the intention of libelling Mr. Maguire, or that it is evidence, if allowed to go to the jury and not to the court; 3d, that as libellous matter, the paper is not libellous to Maguire, and they have a right to go into evidence to show that he is not the party alluded to; 4th, that it is not libellous on the face of it, and the State must therefore prove express malice. From these positions Mr. P. would endeavour to remove the effect of the authorities cited, and meet authority with authority. First, that because malice was inferred by the State, the other party must be allowed to prove that it does not exist. In this point there is not as much difference between the State and the gentleman on the other side as was supposed; the difference was as to the means by which a party would show he was exempt from liability for a presumed libel. A homicide is *prima facie* evidence of murder—all the State has to prove is the murder, and the malice is, *ex necessitate*, to be found by the jury.—The law has laid down certain rules by which the party accused can show that he did not take a life with malice. It is in this case that we differ about the rules laid down in the case of libel. If the evidence goes to a justification, we admit that it is admissible; but if it is not a flat bar, if it does not come up to that, it is not admissible. This is a question of guilt or innocence—not of the degree of guilt; and the law opens no door for the admission of evidence that does not come up to a justification. The law of libel says that the truth is the only justification in cases which the law has not excepted, and evidence cannot be given as in cases where the evidence could operate on the court to moderate the punishment. What is the nature of the case at bar? We assert that the matter is libellous on the face of it; the rule of law is that when there is a libel on the face, malice is presumed,—we are not to prove it, the law does for us what we must otherwise do for ourselves. The question then arises how is the party to escape from this presumption of the law? His learned friends thought that they could show that the publication was true, and it was, at first, by that they would be exculpated;—but now they say that they can answer the same purpose,—that they can obtain the same exemption from legal responsibility,—by showing that they *believed* it to be true.* What, he asked, would be the effect of ad-

principles different from the others, and all spoken of by us, as taking part in a particular series of transactions. Then how ridiculous, and past expression, stupid, for the sister superior at the Hospital, to come forward and take to herself, every word said, during that whole discussion, and call us *her* libellers: and how absurd for the "State of Maryland" to step in and back her; and how atrocious for all the papists and infidels about town, to cry in chorus, for her? Yet the principle of that case, is not to be distinguished from this. Here are five or six parties also, more or less implicated, in various parts of a proceeding, which appeared to be intended, and certainly was calculated, and really did succeed, in keeping a papist from coming to Christ, who apparently was deeply anxious to come: and in the progress of the affair, many acts are done, by many persons, of which some are good, some indifferent, some equivocal, some illegal, some wicked. But behold, one, and he at the tail of the story, takes fire, and nothing but \$10,000 in cash, and a conviction of two ministers of the gospel as *malicious slanderers*, will settle his bile: and the Grand Jury, Attorney General's deputy, Whig candidate for Congress, Papists without computation, and we know not who besides; rush into the arena, for this most injured Overseer, in all the phrenzy of the most amiable enthusiasm, and all the tenderness of the most touching sympathy! Pish! pish!

*How perfectly clear does it appear to every man who tries to see, that a thing may be *true*, as so he that repeats it, justifiable in *law*; while at the same time

mitting such evidence? Can it be said that evidence which failed to prove that the publication was true would be received under a different view of the rule of evidence?—Suppose, continued Mr. P., they had gone only to the truth for justification, and they had offered the evidence now sought to be admitted, to prove the truth, and it had failed, would your honors allow them to change the ground of evidence?—Would such a proposition be sanctioned by the court? Reasonable grounds for publication supply not the truth; if they do, and this be law, the law of 1803 had better be cancelled; if previous to that law, the party could not give the truth and yet could give reasonable grounds in justification, what was the use of the law?²⁸ It only trammelled the traverser with proving the truth when he could more easily prove a belief of the truth. Can the gentleman find in the English books a case where such evidence has been admitted? It has been decided by the tribunals of England that this is no justification, and though like his learned friend Mr. P. was too much American to bow down with blind reverence to their decisions, yet as men engaged in the pursuit of the same science, their opinions are entitled to respect as data from which to draw conclusions. This question has been raised time and time again, by able jurists, and always decided against. It is not denied by the counsel that malice is the gist of action in civil as in criminal cases; in civil action the quality of the guilt goes to the jury in mitigation of damages, or to the court in awarding the degree of punishment. The gentlemen suppose that there are analagous cases in the criminal prosecutions, where the motive can go to the jury; there are no such analagous cases; on the contrary, there are cases that show differently. In this court, to take a familiar instance, in a case of assault and battery, the provocation for the offence is not allowed to go to the jury in justification of the

sound morality might say, he has uttered it, in deep maliciousness? And how plain is it, too, that a man may state what is not true, and yet firmly believe it, and that on sufficient grounds: and all the while act not only innocently but commendably? Now this being obvious, how absurd is it to say, that these two defences are inconsistent, much less opposite? viz.; 1. *What I have said is true*: 2. *I have said it without malice, whether it be true or not*. The legal nicety discussed was this, viz; does the law by making *truth* an absolute justification, thereby take away all other justifications? Or do not all others still exist in libel (for example, absence of malice,)—as in other criminal proceedings? The reader will easily perceive that Mr. Pitts did not see precisely what was the real point to be argued; and arguing at random, he as easily mistook the nature of our defence, as the point of law contended for by our counsel, and ruled by the court.

* This course of remark clearly proves what we have said in the previous note. It is altogether one thing to repel malice, by proving the truth of statements, (which is purely a legal, yea a statutory proof of want of malice, and no sufficient moral proof); and it is entirely another, to prove, by testimony, the absence of malice; and that irrespective entirely, of the question of truth or falsehood. Thus, in England at present, the truth is not allowed to be given in evidence, as a justification, in libel; and such is the law also, in Pennsylvania, in South Carolina, and perhaps in several other states. But that does not touch the other question; viz., is the court virtually the sole judge of the guilt or innocence of the accused, the jury merely finding the fact of publication, the law implying malice, and the bench awarding punishment? Or, is not the jury, in rendering a general verdict, of guilty or not guilty, obliged to pass upon the alleged *mala mens*, and is it not, therefore, entitled to hear proof, as to that fact? This is the point which Mr. Pitts, it seems, could not see: a point having nothing to do with truth or falsehood;—and equally important and distinguishable in a jurisprudence which does not, as in one which does admit truth to be, as Mr. Pitts and Mr. Richardson express it—“a flat bar;” the flatness of the bar, being, we presume, matter of rhetoric only.

offence—the question to them is guilty or not guilty, whatever the provocation may be.* Mr. Pitts alluded to the cases mentioned as decided in the English courts where the motives were allowed to be given in evidence, but these, he said, were the exceptions made by the law, as in the case of a witness in a court of justice, or a petition to the legislature, and confidential communications; in these cases, the libel was stripped of its noxious features; in such the presumption of malice did not exist. To sustain his views, he quoted 5th East's Rep. p. 471; 9th Sergeant and Lowber, p. 790. In the latter case, he contended it was decided that if a party's mind consents to the publication of a libel, he becomes the endorser, and if untrue he is responsible to the law. A party is bound to know that what he publishes respecting an individual, is true;† his ignorance cannot excuse him. We say that a man cannot come into court and say I know I violated the law, and injured you by the publication, but I was *told* it was true; but on the other hand, when a party has or has not the means of knowing the truth, and he publishes a statement, he is responsible if false. If, as a publisher of a public journal, he chooses to give his conclusions upon statements made by gentlemen of veracity, he is responsible for the publication of those conclusions if the statements are false. If he had given only the assertions as they were stated, there might be some colour for giving the credibility of his informant in evidence; but when he adopts the statement, and, as his own, draws conclusions from it, he is certainly responsible.

Mr. Pitts had not concluded at three o'clock. The Court adjourned until ten o'clock to-morrow.

THURSDAY, March 12.

Mr. SCHLEY, this morning, begged leave, before Mr. Pitts went on with his remarks, to refer their honours to one or two cases to which he had intended to draw their attention yesterday. The first, that of the King vs. Horn, in which a libel was charged against the defendant because he had stated that the King's troops had butchered the Americans at Lexington. Mansfield, J., held that where a

* But was it ever pretended, that in a prosecution for assault and battery, a man might not prove, that he struck at another person, and that in a manner and under circumstances legal as to that third person, though not so as to the party unintentionally stricken? Or even in murder, clearly proven; that the accused might not show by proof, that he did the act, under any one of a great variety of circumstances, which proved that he had no murderous intent? Suppose a man killed in mistake, but under such circumstances as to warrant a brave and prudent man to fall into such a mistake; is it not clear law, that this may be proved, and the alleged murderer be acquitted? But on Mr. Pitts's law, the slayer must prove that the dead man really did come to rob or to murder; not that there was sufficient ground to suppose he did so come; or he who killed him must be hung!

† What sense would there be in such a rule as this, where the truth of what is published is no defence? Is there no defence in such cases? If there is any, what is it? Why, that the matter printed is not libellous in law! Then the court, and not the jury, must try all libels! Or else, if the jury may defy the court and find against its instructions; then the nature of libel is such, that in committing it, the mind does not act at all! This is all nonsense: and is no more law than it is reason: and so the court decided.—The reader will not fail to observe what efforts were made, and what courses resorted to in order to convict us, in this *very plain case*: so very plain that this same Mr. Pitts boasted he could convict us on it, as made out, before "*any Presbyterian jury in Baltimore.*" Some men are very warm friends of "*the State of Maryland.*"

libel was so clear that it was apparent, no averment was necessary; but if ironical and even so that every one can understand what was meant, yet if not expressed, the meaning must be expressed on the record. The idea wished to be conveyed by this decision, was that the matter which is intrinsic, must be on the record and take a judicial sense. The words set forth in this indictment, if they were that the man was confined by Maguire, were not libellous *per se* on a fair interpretation. *Rex vs. Perry*, 2 Campbell's Nisi Prius, p. 398 was also quoted to show the opinion of Lord Ellenborough, that the words were to be taken in the sense which belongs to them, and if they impute honest error instead of moral blame, they are no libel. Also, 1 Price's Exchequer Rep.

Mr. PIRTS resumed his argument. He recapitulated his views as expressed at the close of his last remarks, that if a party gives his own conclusions from a statement furnished to him by another person, and the basis of those conclusions is false, he is responsible, notwithstanding he drew his information from undoubted authority. He cited other cases of the same effect, and urged that they bore him out in the argument that if the party here advanced that he was only a second-hand promulgator of the libel, and he could not prove the truth of the statement to the jury, he could not justify the publication. 15 Seargeant and Lowber, p. 474 '79, was given to show that when a party gave the name of the author, the court repudiated the doctrine of shifting the responsibility by that means. If in oral communications, it may be stated where the information was received, but if published by the press it was different. If a person may publish a libel on the authority of another, he may publish it where he pleases; and where would be the justification to a place or country where the informant was not known? So it was also decided that where a man receives a letter from another with authority to publish it, he was not released from responsibility and cannot offer the author in mitigation of damages unless he has occasion to believe it was true, much less could it be given in justification of a criminal act; before he made the statement he should have been prepared to prove it to the letter. Even if he had used this matter for the good of the public or in self-defence, chief justice Best says, he must be prepared to prove the truth, and so we say, urged Mr. P., in this case. By whatever motive he was actuated, he was bound before he gave the statement to the world upon the pages of a wide-spread publication of a magazine, not only to know it is true, but he is bound when before the court to be prepared to prove the truth of the statement in justification. Such is the doctrine of the law; and is it not, asked Mr. P., the true doctrine? The doctrine of common sense, and the doctrine of the good of society?—Suppose they were permitted to bring in evidence to justify the libel because they had heard it from others, where would they stop? Where would the evidence before the court and jury end, if they were allowed to bring in collateral circumstances? There would be questions as to the credibility of the witnesses, and evidence brought by the State to show the degree of credulity in the mind of the publisher. If witnesses were thus called, there would be no end to litigation. His learned friend, he said, argued, and with an ability deserving of higher credit than ingenuity, that this evidence was admissible on a rule of law, that when a communication was made confidentially and for the eye of the person only to whom it was communicated, the mind was not guilty of malice. The objection to this is, that he is not borne out in the authority he cited. If a party is bound to know the truth before he publishes the communication, the mind is in fault if he gives it to the public, as much as it would be if he knowingly published a false statement. It is no matter whether his mind consents to the

falsehood; the truth of the charge is all he can give in justification.* In the case in *Sd Espinasse* it is decided that if a party inadvertently publishes a libel, he is excusable. What is meant by *inadvertency*? The examples given are as in the case where a blind man, or a man who cannot read, publishes a libel, he is excused on the same ground that an insane person or one non compos mentis is excused for the crimes he has committed. Again, the reason why the law holds confidential communications excusable is that they do not go to the world, and when intended for the eye of one person alone they do not affect public opinion as to the character or standing of the person, the intention is negatived by that fact. He would give some modern authorities to prove the ground he had assumed. In the case of *Watson*, tried in this court, the counsel for the traverser offered that the letter containing the libellous matter was a private communication; 2d that it was to the Governor in his official capacity, asking for his interference in behalf of a person accused of gaming, and for the reasons stated, which he conscientiously believed to be true, and that he had no malice to Mr. Hyam.—To this the state demurred, by the demurrer admitting the whole matter good. The court over-ruled the plea of the traverser; the case was then put upon the general issue, the truth of the statement was proved, and the party acquitted. In 6th Gill and Johnson's reports, p. 413, there is a decision of the Court of Appeals of Maryland, in which Judge Buchanan's opinion is that, in an action for slander the motive can be given in mitigation of damages, not when the plea is but *non cul*, in mitigation of guilt. Mr. Pitts proceeded to the third point, urged by the defence; that the evidence is admissible to prove that the publication did not libel James L. Maguire. There was little difference between them upon the admissibility of evidence for that effect, and if it could be shown to the jury that it did not libel Mr. Maguire, then the suit could not be sustained. But, he asked, how is it possible that the fact of an individual going to an editor and informing him of the circumstances stated in that publication, can show that he did not intend to libel Mr. Maguire? In other words, suppose that, as we believe we have, we can show it is libellous on the face, and that Maguire is the person charged, how can that evidence prove the contrary? Is it not in fact irrelevant to the issue that a German Catholic had been illegally confined by Maguire, if they attempt to prove that the writer was so informed? Could it be taken to the jury to show that he was not intended? Would it be pretended that, if it was proved that the traverser was so informed, it could go to the jury to show that he was not liable to punishment for publishing it? That because he was informed Maguire has been guilty of a breach of duty, he did not intend to charge Maguire with that offence?—His friend had gone through the paragraph yesterday, and really he thought the gentleman had some fancy for bringing us back to our school-boy days, and was about parsing it, but he commented on each sentence and then stopped. Mr. Pitts then read the paragraph, throughout.—Now, said he, we lay it down as a doctrine decided, that a libel is to be taken in the sense that the community takes the words. The court is not to put a lenient or a strict interpretation upon them, but they are to be taken in the sense they are understood by the public. In other words, if the public on reading the paragraph are of the belief in their minds that Maguire was referred to as confining the aged German through the influence of the priests upon him, your honours are to take it in that sense. It is not to be said that because the key is not given by colloquium and averments, the charge is not properly laid.—We have been told that counsel by crowding averments in indictments, in a manner insult the

*What a lively impression of a man's innocence does it produce, to see his accusers resting the hope of his conviction of disgraceful offences, upon getting a court and jury to believe, that such monstrous propositions as these, are well settled law?

court and jury by a presumption that they are not competent to understand what is apparent.—The general allegation was published antecedent in the paragraph to the inuendo to Maguire, as will be seen by the court, and an averment was unnecessary. Can there be a doubt that the writer meant Maguire? Whether he was the only person alluded to is not important. If the writer went beyond him and winged his shafts at others, and failing to reach them he receives the blow, it is equally at him it was aimed. It is evident to simple reason that he was meant. Though his name does not appear in the head, we are not to stop at that. The gentleman had asked how and by whom was the alms house converted into a papal mass house and a papal prison? The writer goes on to tell. He says that a German Catholic had been confined in the alms house by the *papal-keeper*, to whom a line had been written by his priest. Can language be more plain? Who would not view it in the light that Maguire had so converted the alms house? Who would not say that this is the explanation? I say it points out the manner and the specified act. By whom? The gentleman intimates that it might have been by the managers, or by the priests, or by Maguire, as the servitor of the priests. But we say that it inferred, in terms impossible to be misunderstood, that Maguire is the person who converted the alms house to those uses. Suppose we take the view that the priest was the person who had done so, is it to be inferred that he did it directly? Who was his agent? Who did he employ to convert the alms house into a mass house and a prison? The individual to whom the line was written; the individual who is the keeper. Can language be more unequivocal? Can language be less ambiguous? That James L. Maguire did what the priest desired to be done—that he did what the line directed him to do—that he complied, and converted the alms house into a papal prison?† But that is not all, continued Mr. P., they say there is a key to the meaning in the concluding sentences; that the paragraph does no refer to Maguire, but had a reference to a controversy between the priests and the faculty, and the writer. Mr. P. did not wish to refer to other transactions, but would they say that the following lines explained the meaning?

* So perfectly indifferent and ignorant were we, of Maguire and his affairs, in penning the original article, that we do not name his name (which we did not know); and name incorrectly both his office, and the institution over which he presides. We knew he was a Papist, from authority deemed indisputable, (a fact, which after repeatedly refusing to admit, if not virtually denying it, he was obliged to allow to be averred in the indictment, as one principal mode of identifying himself with our libel); and supposed that influenced by the natural feelings of a Papist to his priest,—he might have believed the representations said to have been made about Stazer's madness; and might have shut him up, under this general influence of Papism upon him; an influence which we never said was official corruption, and which might be innocent and might lead to commendable acts. We are now ready to say, in general, what we have never said before, and we will forever advocate it in future, on all proper occasions; viz., *that no Papist can be safely trusted under any circumstances with the control of any public charity of a general kind; and that they are to be expected always to use all such power for the promotion of Papism.*

† Take the argument precisely as stated, or more strongly, if it can be so stated; what then? Suppose the priest to send a letter, stating that the man was mad, when he knew he was sane: and that Maguire received him as mad, believing him to be so, upon the priest's note. Now does not every body see, that Maguire might do this most unjustly as to the man, most illegally as to the mere right, most improperly as to the use made of the house, and yet most innocently as to his own intentions? And is it not perfectly clear, that up to the period of proceeding against us at law, we knew nothing, asserted nothing, insinuated nothing, against Maguire, except that he did a certain act, as to the *fact* of which we were certain, but as to the *motive* of which, we said nothing?

"There is a great excitement about the matter, which we are assured is as stated above. We hope to get a full statement of the particulars. What have the priests and the medical faculty to say to this case? Is it a *perfect* maniac, or only *mono* maniac?"—What does that mean? he asked. We have shown, as we contend, beyond all controversy, that Maguire was intended as the person who was accused in the former part of converting the alms house into a prison, and we contend that what follows is a satire on the priests and the medical faculty in relation to statements made by them as to the sanity or insanity of a particular individual. That it is merely asking if it will be given as an excuse of violation of duty because a party was a mono-maniac or a perfect maniac. It is asking what grounds of defence he will take to show why he confined the man; asking him, will you, as was done on a former occasion, excuse yourself on this ground? Which will you choose? That the party is a maniac, or a mono maniac?—Mr. P. went on to discuss the question of giving a colloquium and averments, and contended that they were not bound to give them. With all due deference to the authorities cited by his learned friend, he would show that it was sustained by more modern authorities, and as in wills so in authorities, the latest are to be taken as the best. In 3d Chitty's Criminal Law, p. 875, it was stated as law that an innuendo was necessary only when the intent cannot be collected from the libel itself, but care must be taken not to state more than is necessary. He also quoted 5th East's Rep. p. 463; and 20th Seargeant and Lowber, p. 295. The last point urged by his friends was that the publication was not libellous on its face; they had withdrawn the concession that it was libellous and maintained that it was not. Mr. P. thought the State had shown that it referred to Maguire. Then can there be a doubt that it is libellous on its face? They admit that which makes a person odious to the community, or injures his character, to be libellous *per se*; there is no dispute on that point. Is this such a publication? What does it charge? That which not only brings Maguire to public disgrace, but renders him liable to the penalties of the law; to be brought before a court of justice for a most flagrant outrage of duty. Does it not impute to him that which would bring him in disgrace with the community, and estrange him from his friends; that which is calculated to render him amenable to the laws, not only for a violation of duty, but for an outrage upon the rights of an individual? The gentleman had said that the state had put forth the existence of expressed malice as a hook to hang a hope upon. If he thinks he can show that the publication is not libellous on its face, he has less than a hook upon which to hang a hope—he is leaning on a broken reed that is now bending under him, and his case tottering to its fall. Mr. Pitts concluded with contending that the state had proved the publication to be libellous *per se*. That the defence could not escape from the existence of malice, and that it was for the good of the community, and for the good of the public, that they should be held strictly to the matter of the truth in justification of the libel.

Mr. RICHARDSON followed Mr. PITTS, and remarked that after the elaborate argument of his learned friend, it was scarcely necessary for him to do more than give a concise and condensed view of the different points. If he was right, the defence divided their views into two general propositions, the first as to the general character of the libel; second, as to the evidence competent to be given as to particular propositions. On the first proposition they argued, first, that it was not libellous on its face; second, that if it was, the libel was not charged in the indictment, and third, if it was charged in the indictment, they answer by offering the truth in justification. Are they serious? asked Mr. R. If they are serious in offering the truth, these arguments are entirely unnecessary; a work of supererogation—and nothing could be reaped from them. The last point of defence, if they can establish it, upsets the case, and there is an end to the trial.

Now examine the course they had marked out, as laid before the court. They first intended to show that they received the information from persons on whose testimony they had a right to rely for its truth. The counsel on the part of the state objects to this, on the ground that the testimony must present a flat bar to the action or it is irrelevant. What says the court? This is a novel case; you intimate not only want of malice, but the truth of the statement; go on with showing the truth, prove that, and it is of no consequence whether there were malice or not. What then do they do? The first witness they bring proves that Stazer was in the alms house, in September, but does not prove how he got there. The next states that Maguire told him that the man came there and was refused, but came back, and the clerk being told he would cut his throat, admitted him, during Maguire's absence, and put him in the cells at his own request.* The next is a beautiful and interesting girl, the child of Stazer, who tells you that she went there to see her father, and no objection was made to her seeing him; she went into his cell, and he came out with her, no opposition being made, and it being observed that as he came voluntarily he might go out voluntarily. Is this the truth of the charges in the libel? They now endeavour to ward off malice by showing that the reverend gentleman had obtained his information from good authority. Have they proved the truth? And if they have not, shall they give another defence? Mr. R. contended that they had not proved the truth, for if they had, there was an end to the case, and they might go before the jury. He thought these were questions for the jury, but they had argued them before the court, and he would also. They had said there was no libel against Maguire. The court would please to remark that Maguire is the keeper of the alms house. Mr. R. read the first sentence of the paragraph—"The County Alms House has been converted, not only into a papal mass house, but into a papal prison." By whom? the gentleman asks. If the matter rested there, the fact of Maguire having so converted it, could not be shown without prefatory matter; it would be necessary to give the inducement and inuendo to show that Maguire was intended, and to render certain what was uncertain. In this sentence there was a general allegation; now for the specification. "An aged German Catholic in the western end of Baltimore, whose wife was in the Alms House, became uneasy about his soul, and asked for Protestant instruction. His priest heard of it; told him his wife was dead; sent him to the Alms House to see about her burial, and wrote a line to the *papal keeper*, lately put over that institution, that

* This is a palpable and positive mis-statement of the testimony of Mr. McJilton, on an important point. We have before us all three of the printed reports of the testimony; and there is nothing in either of the three, to justify Mr. Richardson in saying that McJilton (or Mr. Holton, or Mrs. Widener, both of whom he omits, and represents Susan Stazer as the *third*, when in fact she was the *fifth* witness for the defence; thus making the proof as lean as possible, and as much of that as possible, harmless;) testified that Stazer was put "in the cells at his own request." On the contrary, part of the cross-examination of McJilton, by Mr. Richardson himself, was obviously intended to show, that Maguire said nothing to him about the cells.—(See p. 209.) The reader will observe that the use of this statement of the Prosecuting Attorney, was to reduce to the smallest degree possible, the facts proved; and therefore, he will easily excuse so decided a friend of "*the state of Maryland*"—for *forgetting* entirely, not only the testimony of Mrs. Widener and Mr. Holton, but even their persons; also for reducing *five* important witnesses into *three* very insignificant ones; also for putting to the credit of these, important facts, which they did not state; although "*the State of Maryland*," no doubt knew, either from Maguire or other equally excellent authority, that the said facts were true! It is needless to add, after what we have said in a former note—that a great many persons (besides the court)—and *perhaps* the jury, were in ear-shot of this speech of the Prosecuting Attorney.

the man was mad, and must be confined. He was confined till it was by mere accident heard of by some Protestants, and the man rescued." Mr. R. asked the court to observe the word *must*, which it is to be inferred was in the line written to the keeper. "He was confined." Confined by whom? Is it not irresistible that he was confined by the man who was put over the institution? They say it may be inferred from the statement that he was confined through innocent motives. It cannot be so inferred; the statement is, that he was confined until he was *rescued*. What is the meaning of the term *rescued*? Does it not mean that he was taken out of the custody of authority or power, where he was confined against his will, and wrongfully? It can mean nothing more nor less than that he was confined by Maguire in consequence of the line written to him, which on the face of it told a lie. It is said that the man was sent there to bury his wife, and still Maguire confined him.* The man's wife was not dead, and yet Maguire, knowing it, lent himself as an instrument to the design of imprisoning the man. Am I to be told that such a paper, charging a public officer (presiding over an institution open to the ministers of all sects, and not to one) with converting it to the sole use of one denomination, and making it a prison for their use, is not libellous? If, said Mr. R., the argument had not come from so respectable a source, and been argued with so much ability, I should think it was offered in jest. But continued Mr. R., they say there is other language in the paragraph which is explanatory of the meaning, and I thank them for pointing it out. They have said that Maguire may have acted innocently, and confined the man because he thought him mad. What is the further language? "There is great excitement about the matter." Why was there great excitement? Because a mad-man was confined by Maguire or by his agent? If not so, it means that there was an excitement because he was confined by Maguire in consequence of the line written by the priest.† Mr. R. proceeded to comment on the passages, "What have the priests and the medical faculty to say to this case? Is it a case of *mono-maniac* or *perfect maniac*?" What have they to say to what? Why to this illegal confinement of the German Catholic in the alms house by Maguire.

* And is Mr. Richardson incapable of imagining or even understanding—that a man might have one story told to himself by word of mouth; and carry, at that same moment, a letter in his pocket, written by his informant, giving a wholly different version of the same affair? Is he unable to comprehend, that a third party, on hearing the verbal story, and perusing the written one, should believe the latter in preference? Especially, if by accident, the third person was a papist, the writer a priest, and the narrator a *mad-man*, wishing to turn protestant? We admit these things are very—very hard to be comprehended. But the great advantages afforded by a long practice as prosecutor in the city court, might be supposed to overcome some of the common difficulties, in the way of believing all men (except Christian ministers)—and especially all priests and party politicians, to be perfectly upright and innocent.

† "*Sole use.*" We presume it can hardly be necessary to say, that no such charge was ever made by us. The reader, of course, knows, it was not made, in the 'paper' commented on. Then why did Mr. R. say it was made? That is for him to answer. "The state of Maryland" must deeply desire our conviction, when she resorts to such means for effecting it.

‡ And was it not reason enough? Is there not reason enough for *excitement*, when a *sane* man is shut up for *mad*, without all warrant of law; even if he who shuts him up believes him really to be mad? Are not the reasons for excitement greatly increased if they who *caused* the confinement knew the man to be sane; and their real reason was to keep him a Papist, against his wishes?—Some of us, it may be, value liberty and perhaps *religion* also, at what Mr. R. may consider, an extravagant price; and therefore may appear to him to be too easily excited, by such events, as portend danger to them.

Mr. R. considered the case read by his colleague from Seargeant and Lowber, as conclusive on this case. In that case the libel was "Threatening Letters." The grand jury of the county of Middlesex has found a true bill against a gentleman of some wealth named "French." Here it was held that the heading expressed the libel, which was only shown by innuendo when it was left out. The words mass house and prison were of the same nature. This libel asserts that the alms house had been converted into a prison, and specifies why and by whom. Mr. R. alluded to the cases cited by Mr. Pitts, and asked if the cases in the books were as strong as the one at bar? The gentleman says, continued Mr. R., that all we can rely upon is that a German Catholic was confined by Maguire, because that is all we charge in the indictment. We answer, that when the language is sufficiently clear, no innuendo is required. His friend was in error in saying that it was not stated in the indictment that the confinement was illegal, because I would not rely on it. If it were said in the indictment that the confinement was illegal, and it was proved not to be so, the statement would be vicious. There is nothing but the language as it is; there is no innuendo except as to the individuals, the keeper and the German. Mr. R. thought that he had proved a libel on Maguire, and by the indictment as laid; they say they have proved the truth of the libel; if they have, let us go before the jury and see if they have. It seemed to him that if they could not get this court to say that there is no libel on the face of the indictment, their case is gone.* The court cannot, will not, take the decision from the jury; it must go to them at last in spite of all the law that can be brought.

The next question which pertains to the evidence is, whether or not, these declarations or communications are admissible to disprove malice. The writer may have heard them from good authority and published them through malice. Cannot a man publish through malice what he believes to be true? The truth is a justification of a libel, but cannot the truth be published maliciously? But, continued Mr. R., I say that by law, by reason, and by authority, they cannot be admitted, and I pledge myself to prove that they cannot show a case where they have been admitted in an English court.† He would state this broad principle: That the law of 1803, chap. 54, has nothing to do with this point. Malice is essential to libel, and if you can show there is no malice, there is no libel.‡ This was

* That is, Mr. Richardson being judge, our only hope of escape was that we had said nothing libellous, and that the court would so decide. But as the court could say this, only on demurrer, or on motion in arrest of judgment after verdict found; it followed of course, that ours was "a gone case,"—in-so-far at least, as that there must be a verdict of guilty. This boast was not very fully borne out by the state of opinion on the jury; though backed by the more decided one of Mr. R.'s colleague, Mr. Pitts, that he could convict us, "before any *Presbyterian jury* in Baltimore."—Gentlemen who get hot in their cases are apt to be a little blind to facts and principles that make against them: and are to be excused for some strength of speech. But in the very degree, that the case was clear gone against us, and even at this early stage, fully settled, *on the facts*, against us; it is hard to see, on what principle Mr. R. entered a *nolle prosequi* when the case was through! How is it, that "the ends of public justice" require a vehement prosecution, in a case which is 'clear gone' on the side of the accused, up to a certain point; and then, the same "ends of public justice" require the very same 'gone case' to be abandoned by "the State of Maryland?"—We have said before, and say again, that we have no complaint to make, because the prosecution was dropped; if 'the State of Maryland' had no fancy for further proceedings, we had certainly none. But we are not able to reconcile, on any principles satisfactory to Mr. R., the manner and temper of his prosecution, with his subsequent conduct.

† See note on page 204.

‡ Then why not let us try to show it? According to this admission the sole question that should have been argued was this, viz.: *is the proof now offered competent to "show there is no malice?"*

the question before that law, and it is so now. The law altered the question so that when there is malice, you can give the truth in justification; it allows the party only to give the truth of the charges in the indictment.* Is this the case now? It is conceded for the sake of argument, that the charges are not true, and are therefore defamatory, and they seek to take away the liability by showing that they are not malicious. The defence had said that they would justify and prove the charges true. If they have justified the charges, there is an end to the case, and they are acquitted. But have they done it? If they have failed, the case in 15th East, shows that the malice is greater because of the attempt to justify the libel. They have published to the world; it has been seen by ten thousand eyes and heard by thousands of ears, that they would prove the truth of their assertions. If they have failed to prove the truth, and then come back, is it not a proof of malice? I aver that, if they avow their attempt to justify and so plead and then fail to prove the truth, the very attempt is evidence of the malice.† 15 Mass R. 42. He had stated that the act of 1803 had nothing to do with this case or the law. In this court, before its passage, as now in England, you could not give the truth to rebut malice; a fortiori you could not give for that purpose the fact that you heard the assertion. The act put a person in this country in a criminal suit for libel in the same situation as a person in England is in a civil suit, where it could be said there shall be no damages, because it is true. Can they have more than a defendant in a civil suit in England? The counsel seem to intimate that there is a difference in civil and criminal cases. Do they mean to say that malice is not as essential in one as in the other? Mr. R. had searched in vain for it in the books. Malice is proved and disproved by the same evidence in both. Would these declarations be admissible to show absence of malice in a civil action in England? They would only be in mitigation of damages. They may go to the court, after the verdict, in mitigation of punishment. The counsel spoke of other cases which were privileged, and exempted the party from a suit for libel. What are they? He would ask if they could bring a single case which was sueable in a

* Not so; but, as before that law, so now, the party accused may prove that he had no malice; and this beside, leaving malice out of the question, he may prove his statements true.—It could never be the intention of the law to justify malice, nor of a party to prove his malice innocent; for these statements are self-contradictory and absurd. But it is the intention of the party and of the law, that the truth of statements being proved, innocence is to be presumed; in morals, *prima facie*, and in law absolutely. And such was the decision of the court.

† Suppose a case, to illustrate this *obiter dictum* of the Attorney General's deputy. Suppose Mathias Stazer had told six men, all of them men of unimpeachable veracity, that all we had published, and more, was true; suppose these six men in court to prove all this, but "the State of Maryland," after having Stazer before the grand jury, refuses to produce him on the trial; suppose we have strong reason to fear that Stazer, *instead of changing his religion, has changed his mind*, (!!!!) and therefore dare not swear him, and so be bound, not to what we know he said to our very selves, and can prove he said to others, but to what he may, after *mature reflection*, have determined to say; and therefore, it rests wholly with "the State of Maryland," whether, by producing Stazer, we shall be allowed to produce the six witnesses first supposed, and so the whole facts come fully out; and now suppose "the State of Maryland," in its infinite impartiality and love of justice, just lets the matter rest here, believing the case to be 'clear gone,' in such a way as to ruin two poor ministers of Christ. Then, we ask, is it not perfectly clear, from all these things, happening long after our crime was committed, what our state of mind was when it was committed??? A change of Stazer's mind in January, or a change in Mr. R.'s mode of managing a case in March, is conclusive proof of the state of B. and C.'s mind in October! Very good—very.

civil court that was not indictable in a criminal court? Mr. R. said he would aver the fact, that from one end of the books to the other, such a case could not be found.* Certain cases were privileged. Confidential communications between friends, for instance, because, for the good of society, one friend should be allowed to speak to another to warn him; but if he publishes a communication to others, he becomes liable, and cannot urge in defence that it was told to him. So in debates in parliament, a member may make use of language that is libellous, for it is necessary that, in the councils of the nation, he should canvass what is wrong; but if he publish his speech, and it contains slander, he is liable for libel. The reason of the rule ceasing, the rule itself no longer exists. The same in the case of an attorney in his pleading; and again in the case of reporters. It is necessary that the proceedings of courts of justice should be spread before the public, but if the reporter publish the remarks of a counsel containing libellous language, he is liable, unless he gives a true account of the trial and the facts and circumstances which led the counsel to such remarks; if he fails, he cannot urge that he published the speech of the counsel as spoken. So when a public functionary writes to another, he becomes liable if he publishes the communication to a third party. These are all the books furnish as privileged cases, and they are governed by restrictions.

What is the proposition in this case? True, I published of you what is false, true that I injured you, true I stung you, but I must be allowed to defend myself by proving that A. B. or C. D. told me of it.† Is this the law of the land? Wrong cannot be justified by wrong. A person is indicted for a libel, and he seeks to hurl it from him by asserting that he heard it from another. I say it is at war with every principle of morals and of justice, and can never be justified. Supposing, said Mr. R., a gentleman calls me a thief and I go to him and ask him who told him. He tells me it is none of my business, and I sue him, when he comes before the court, and puts in a plea that one of your honors told him. Is he to be acquitted? Admitting he is, and I sue one of your honors, and you plead that another of your honors told you, and you are acquitted, and the next person, and the next in the same manner. Is this a proper plea? Is it common sense?

Mr. R. said there was but one more branch he would treat upon. The defence had alluded to the person accused being a minister of the gospel, and the person libelled the keeper of the alms house—a public functionary. Now God forbid, said Mr. R., that I should say that of any person who has been called to, or who has assumed the high and sacred office of leading sinners to repentance, which would throw disrespect upon him; and much less of the reverend gentleman now present, towards whom I feel the sentiments which grew and strengthened with early associations.‡ And I

* See note on page 204.

† Not so; but thus: True or false, I had no allusion to *you*: or thus, true or false, I had no sort of malice against *you*: or thus, true or false, I did not mean to express any opinion of *your* conduct: or thus, true or false, I have a full justification of my motives in the circumstances: or thus, true or false, I had the best possible reasons to believe *true*, and therefore at the most, have committed a *mistake*, and not a *crime*! How true is that proverb,—none are so blind as those who won't see.

‡ We are not precisely aware of the point of these observations; they surprised us when they were uttered. Mr. Richardson was a total stranger to us, when this trial began; as far as we can remember, we had never seen him before we went into the court house, to refuse to give bail on a bench warrant issued against us, before the finding of the bill, as if “the State of Maryland” supposed we were about to run off; whereupon Mr. Richardson waived the bail. There can, therefore, be no *personal* allusion to us, in the paragraph. The allusion may be *official*; for we have heard that Mr. R. *was once* not only a member of the Presby-

trust he will not, therefore, take as unkind what I now say, that when he or any other minister steps beyond the bounds which hedge in and protect other men—when he encroaches upon their rights or assails their reputation, he is as amenable to the laws as they are. The law knows no distinctions of persons. If, continued Mr. R., there is any thing which has tended to bring criminal jurisprudence in this state and in this country into contempt, it is the certainty with which the ignorant and humble are punished, and the ease and celerity with which the rich and powerful escape. He asked if it was true of the directors—if it was true of the priests, that they had converted the alms house into a mass house and into a prison? And was the German confined by them and rescued by his friends? And if so, does the traverser escape from the libel on Maguire? He has libelled some one if the statement is not true. Mr. R. said a doctrine was broached which he would be sorry to see true. It may have been, they say, the trustees or the priests. "It was not Maguire," they say, "at whom we struck—we thought not of him. Our aim was at higher game." Aye, and was it so? But, let them recollect that, if in striking at higher game, they unconsciously inflicted a blow upon an interposing innocent person, they are liable for the illegal act. Let them recollect that if in their blind pursuit of higher game, they stab to the heart or crush to the earth one whom they deem unworthy of notice, they may be held accountable. Let them remember that—

The meanest worm
In corporeal sufferance feels a pang as great
As when a giant dies.

Supposing, said he, I aim a dagger at your honor, and an innocent infant steps between us, and I plunge the dagger in its pure bosom, would I, in morals or in law, be permitted to say, "I did not intend to stab the child; it came in my way; I aimed the blow at his honor?" The law would say that I was guilty of a crime.

In summing up, Mr. R. contended that it was beyond reach of controversy, that there was a libel on Maguire, and that it was rightly set out in the indictment, and further, that the act of 1803 only allowed the truth to be given in evidence by way of justification, not to take away the essential ingredient of malice; if there was no malice, it would not apply to a case, for where there was no malice, there was no justification required. A flat bar was required, and evidence in mitigation was never permitted in a criminal prosecution for a libel. The question was, guilty or not guilty, and if he is guilty in the slightest degree, he is guilty on the indictment.

Mr. CRITTENDEN rose to reply.* He felt bound, he said, before he commenced the argument of the questions involved in this discussion, to explain

terian church, but had serious thoughts, if he did not really commence studying, for the holy ministry. How far he is removed from such a profession, and the right to make it, now; alas! it is not for us to say. This we will say; that, notwithstanding all that is come and gone, few would rejoice more than ourselves, in any manifestation of God's mercy to him. And we pray that his treatment of God's servants, for faithfully discharging the duties to which He had called them, may not be counted against him, either in his hour of need here below, or in that final day of reckoning.

* This speech of Mr. Crittenden, as indeed all his and Mr. Schley's, delivered during this trial, were printed as taken down; none of them having been corrected by them. The fact, we have some reason to suppose, was otherwise, with the speeches of the counsel for "the State of Maryland."—We think we will be excused for saying, that a more refreshing contrast, between two speeches, placed in *juxta*-position, has rarely been exhibited, than that between the preceding and the following argument. How horrible an engine might law and courts be made, to oppress the good, for the gratification of the malignant passions of the bad, if some men's views of remedial justice be taken as our guide. And on the other hand, how wise, just, and true, do the noble principles of our criminal jurisprudence

why it was that he was here, engaged in the trial of this cause. He was aware that it might be imagined that he had come here for the purpose of gratifying a feeling of idle vanity, and indulging an ambition for display. If he had been foolish enough to indulge such feelings, the ability and the learning displayed by the counsel on all sides, would long since have banished them. No!—feelings and motives of a different character had prompted him—the call of friendship had summoned him here, to stand up in the cause of one whom he had known from boyhood, and for whom he entertained a friendship which went back beyond the date of their existence—which had been transmitted to them by their common ancestry, who had met and established the feelings of esteem and affection between their families, whilst daring, together, the perils of a western wilderness. He hoped the court would excuse him for thus alluding to himself, and regard it as proper that he should explain the reasons which induced him to assume the position he held as counsel for the defence.

He could have wished that the last remarks of the learned gentleman who preceded him, had been omitted, for they were the only instance where that gentleman had seemed to depart from the spirit of candor which so honorably distinguished him and his associate, throughout the trial. The gentleman had said that in this state, the law had been insulted by the celerity with which high offenders often escaped, and the certainty with which the lowly were punished. If such was the case, Mr. C. knew it not—it was a matter of fact and history he had never heard of. He alluded to it because this remark may be expected to produce an effect upon the present case, and to give the impression that the defence rested not so much upon the merits of the case as upon the station held by the party accused. Mr. C. assured him that his friend and client rested his defence on no such grounds; his friend asked no such consideration; he asked for justice, and the character of this court tells him that justice will be meted out to him with the same impartiality with which it would be extended to the humblest individual. They seem also to think that the defence intimated that the other party was beneath them, and looked upon Mr. Maguire with contempt.

appear; when set in order by the clear spirit, and enforced by the large intellect of a true and great lawyer!—The “member of the Baltimore bar,” who superintended Mr. Reilly’s “Full Report of the Trial,” &c.—has ventured to say, in a preface to his pamphlet, that the decision of the court to admit the evidence offered by the *traverser*, and so violently resisted by “the State of Maryland,” is regarded, by the legal profession, as tending to establish a new doctrine upon that point, in Maryland.” We make two observations on this statement: 1. If it is really true, we have been the occasion of more good than we supposed; and, if for no other reason than the advantage thus done to common sense, true justice, sound law, innocent men wrongfully accused, public liberty, and the character of our state; for these great interests, thus promoted, we ought to rejoice in our recent prosecution—and consider it a great public testimony of the barbarism of past ages, and the folly and wickedness of the present, in our behalf—in selecting us as the instrument to illustrate their final overthrow. 2. We crave to know, how it was possible for the “member of the Baltimore bar” to find out the opinion of “the legal profession” “in Maryland”—in eight days? if, indeed, so many elapsed between the handing in of the written opinions of the judges, and the penning of the preface to Mr. Reilly’s pamphlet?—Mr. Richardson and Mr. Pitts said the law was otherwise; but they do not constitute the “legal profession” “in Maryland:” and, except by them, there has been no *public* or *professional* expression of opinion, that we have heard of, even by a single member of the profession, much less by the profession, that “new doctrine” has been established by the court. Mr. Reilly is the keeper of a Roman Catholic book store. Who is the “member of the Baltimore bar”—that “superintended” his pamphlet?—And upon what authority did he make this declaration?

Mr. RICHARDSON rose to explain. He did not wish nor intend to impute to the gentleman any such feelings; if there had been any harshness in his remarks, he begged leave to withdraw such expressions.

Mr. CRITTENDEN continued, that he did not suppose that such was the feeling of the gentleman; he spoke of the conclusions which might be derived from his remarks, and the manner and ardor with which he so eloquently delivered them. Not a few might suppose that the defendant had set himself up as a champion of a cause, in the defence of which he would crush all who interposed between him and his object, with as little consideration as if it were a worm which, in corporeal suffering, felt as great a pang as the dying giant. No such imputation could lie against the defendant or his counsel. They regarded Mr. Maguire as standing here on an equal footing, in a legal point of view, with any other man; and they denied that the defendant desired to be received before the court in this case in any other point of view than as a criminal or not a criminal, according as law, as justice would decide upon the case.

Mr. C. proceeded to review the position of the cause. What, he asked, is the evidence? The facts as proved, were not yet decided upon by the jury, the only tribunal who can decide upon them, and he could now give them to the court only in the light of what they would conduce to prove. We have proved, said he, that in the western end of this town, there was an aged German Catholic who was distressed in mind, and who sought from the Rev. Mr. McJilton religious instruction; which he received from that gentleman in the manner which was so necessary to him in his effort for the salvation of his soul. This gentleman, in pursuance of his pastoral duty, sought him again, but he was not to be found; again he sought him, and proceeded in his search to the house of a Mr. Kuntz, who treated him abruptly, and would give him no satisfaction; he next went to a Mr. Davis, and here in the evidence the reverend gentleman was prevented from giving the conversation at that interview. Finally, as we learned by the after admissions of Mr. Maguire, we have proved that at this very time the German was in the alms house, where he was confined in the cells, though he was no pauper; nor was he confined there by authority of any ordinance or any state law. His child, the beautiful and interesting girl who was here yesterday, did not know where he was; the German lady who was here did not know where he was; they went in pursuit of him and found him in the cells of the alms house. But Mr. Maguire says he came there and asked for admission, which was refused; that he returned with Mr. Collins, (who, for aught Mr. Crittenden knew, was a worthy and respectable man,) and on Mr. C. urging that he was deranged, the subordinate of Mr. Maguire was induced to receive him. It will be recollected, said Mr. Crittenden, that Mr. Collins was the owner of the house in which the German lived when Mr. McJilton had the interview with him; that when they were going to prayer the German asked the reverend gentleman not to pray too loud lest Mr. Collins should hear him; that he became so engaged in prayer that he prayed loudly himself, and that Mr. Collins, whom he did not wish to hear him, was the person who accompanied him to the alms house.

Now, said Mr. C., the defence wished to show that the defendant, as an editor of a religious magazine, had been informed of circumstances growing or supposed to grow out of these facts; his informants were persons of veracity, on whom he could place every dependence; and he published them, not as his own statement, and that he knew them to be true, but as circumstances of which he was assured. They came to him in such a manner that he, as a man desiring to mend the manners and the morals of the public, and as an editor, whose duty it is to expose every outrage on liberty and religion, considered himself obliged to publish them for the

good of the public. The questions arising are, whether it is not competent to give evidence as to the motives of the author, and as to the meaning of the publication?

1st. Is it competent for a defendant to produce evidence to rebut what is said to be malice? There being no other proof of the malice than the publication, the question is, how is it competent to show that the publication was made not through malice, but from pure motives? Mr. C. asked if there was any other crime in which the defendant was forbidden to give evidence of his motives? Then how does it happen that in libel alone such evidence is forbidden? The counsel on the other side contends, that no matter what the innocence of the mistake a man acts under in publishing what is libellous; he is to be consigned to the fate of a malefactor. Mr. C. asked to illustrate this position. If, said he, a man rush into my room at mid-night, and I, under the belief that he is a robber, slay him, would I not be allowed to show, even if he had come into my room with an innocent intent, I had killed him in mistake and without malice? Such has been the case; and the person committing the homicide acquitted. But suppose the person who entered the room escaped, and I the next morning, under the belief that such was his intention, publish that he attempted to rob me, considering it my duty to warn the public against him; what would be the effect of the doctrine advanced by the gentlemen? If the man had been killed, if human life had been taken, the slayer would be acquitted of blood, acquitted of murder, because a guilty mind was wanting; but if he escapes, if no life is lost, and he is published under the belief that he is a thief, the publisher is guilty of a libel! Sir, such a discrepancy in true doctrine did not, does not exist. There was a time in England when an arbitrary tribunal, established for the purposes of oppression, maintained such doctrine; but from that period to the present, there never was a time in England or in this country, that some venerable benefactor of the human race did not arise to denounce this doctrine as against justice and law. The common law has come down to us through its channels of purity and justice, through the Cokes and the Littletons, until it is our own, undefiled in its general stream. We all know, continued Mr. C., that in England there was established during the arbitrary reign of the Stuarts, the Star Chamber—a tribunal composed of the high officers of the crown. The doctrine of the law of libel passed off in a collateral stream to these corrupt men, while the other portion of the common law flowed on through the usual channel of the proper courts, undefiled. This is the source of the pollution of the doctrine of libel, and when at the revolution in England, the rights and liberties of man were once more rescued, and this corrupt tribunal was torn down, the law of libel returned to the usual channels. But it still retained some pollution. The courts of common law went on in the same course, through a reverence for precedents; but in a less arbitrary manner. At length some began to question the precedents of the Star Chamber, a tribunal instituted for the most corrupt and oppressive purposes—and, what was laid down as sound doctrine by Mansfield and Buller, was denied by Holt, Camden and Loughborough. They were of opinion that the truth may be given to show the motives of the publication. What was the law in this country? He would refer presently to the books. What, he asked, was the right of the press in England? There is nothing that an Englishman is more proud of than the liberty of the press, than the right to publish his opinions, and publicly condemn vice and corruption. But the principle of the liberty of the press is not recognised in the laws of England as a fundamental principle; it has nothing but usage and custom to sustain it. What is it here? It is recognised every where, from the Federal Constitution to those of the different states. One of the complaints that led to the revolution, was the controlling of the liberty of the press, the deprivation of the right to speak through it, of public acts; and when the constitutions were framed, after the revolution,

this principle was adopted every where. In our courts, said Mr. C., there was a difference of opinion relating to the doctrine of libel; while some judges, through reverence for English authorities, were following their doctrine, others were attempting, timidly at first, to depart from it. There was no portion of law in which there was such a diversity of opinion; but the doctrine of truth has been progressing from the supreme court down to the inferior tribunals. He referred their honors to the case of the People of New York vs. Croswell, as important on this point. There the doctrine that the motive and intent could be given to rebut a charge for libel, was advocated by the eloquent and patriotic Alexander Hamilton, a man full of light, full of knowledge, a learned lawyer, fresh from the revolution, and imbued with its principles of liberty and natural right. He addressed Judge Kent, then new to the bench and unknown, but who then possessed the mind that has since raised him till his fame has reached across the Atlantic, and his decisions and opinions are quoted in Westminster Hall as authorities of the greatest weight. The doctrine advocated was, that the intent or motive was part and parcel of the "corpus delicti," and that on the other hand the defendant could give evidence to establish his motives. Judge Kent gave it as his opinion that such was the true doctrine, and from that pure and high source the jurisprudence of New York has flowed ever since. Mr. C. referred to the opinion of Judge Ratcliff, (who had a short time before this left the seat occupied by Kent, because he was elected Mayor of New York,) in the case of Coleman. There the defendant was permitted to give the motive for publishing a paragraph accusing a person of cruel conduct towards another, and the excuse given was, that he had received the information from a person of undoubted veracity. Is not this, asked Mr. C., a case of the same kind as the present—going on all fours with us? To Mr. Breckinridge goes not one respectable person, but two or three in whom he had firm faith, and tell him of the circumstances. In the case quoted, the publication said that the editor had a good name to vouch for the statement; Mr. Breckinridge says he was assured of the truth. Was there any difference in these communications? I claim, said Mr. C., the decision of this case and the decision of Judge Kent as authority for the point contended for by the defence.

Mr. C. not having concluded at *three o'clock*, the court adjourned.

FRIDAY, March 13th.

Mr. CRITTENDEN resumed his argument for the defence. He referred to the opinion of Judge Ratcliff that motives might be shown, the party having acted under information, which he had reason to believe correct. The question for the jury was, is it malicious? In this case the party was acquitted. The learned counsel read further, to shew that a publication may be false and yet not libellous, the publisher having good and sufficient reason to believe it true; and that the intention being a fact, to be found by the jury, proof of that intention was admissible. In the case of Chas. Baldwin, tried before C. D. Colden, the charge being a libel on the State's managers of a lottery, it was held that if the party had a well founded belief of the truth of the charges, he might go into evidence to shew his motives; and if it appeared that he had such ground of belief, as would be ordinarily considered good, he was entitled to an acquittal. These decisions, indeed all the decisions and the principle of them, in New York, since the case of Croswell, for forty years, made directly for the point contended for in this case. The case of Croswell he considered the source of the principle that guided the New York jurists in all subsequent decisions. The Star Chamber doctrine inferred the malice from the face of the libel, gave the finding of the motives to the Court, and the finding of the

fact of publication to the jury, a fact which is rarely denied ; and yet calling on that jury to find the intent, which the court had already found by legal inference, which forbids all evidence to rebut the imputation. But as the guilt or innocence must rest on the motive, the intention is a fact for the jury to find. This was not the doctrine of Lord Mansfield, as set forth in the case of *Woodfall* ; but it was the doctrine of other eminent English jurists, and American also.—In criminal cases, as in a charge of homicide, it is permitted to shew the intent ; why then not permit the application of the principle in the case of libel ? In this case, is he to be punished for a constructive crime ? If so, he would be found guilty and punished, without any rule of morals, reason, or analogy ; he would be found guilty by a technicality, and punished on a construction. Lord Mansfield's doctrine, and the doctrine contended for by the prosecution would thus punish him ; and here the counsel read the case of *Harvey* and others already cited, to the point contended for by the defence. And is there any American case, or weight of authority, to set against this doctrine ? Or is there any thing analagous to the opposite doctrine in our system of criminal jurisprudence ? In fact the doctrine of the prosecution is an anomaly ; opposed to numerous English authorities, and to all American ; and though the English decisions are on the side of the doctrine claimed for the defence, yet even if they failed, he would plant his foot on American precedents, and decisions, and principles, and there take his stand in all the confidence of right. But he needs not this last resort, for the English decisions are with him, and their shield is around his client. The learned gentleman here remarked, that he considered the position of his colleague remained untouched, either by argument or authority ; and again referred to the king against *Harvey*, in support of it ;—that is, that where there is a libel on the face of the publication, a person being supposed to intend what he actually says, malice is to be presumed ; unless the publisher can show the contrary, which implies the admissibility of evidence to shew motive—the principle contended for by the defence in this case. Philips on evidence, vol. 2, page 245, was cited to shew that malice being a necessary ingredient in a libel, might be explained away, and the imputation repelled. Lord Mansfield held the intent to be an inference of law, belonging to the court, and above the reach of evidence ; but other English and all American authorities, held the intent to be a fact for the finding of the jury. Strange ! said Mr. C., that in the nineteenth century, in this age, and above all, in this country, we should have to contend for the poor privilege of showing that we have spoken the truth, or what we believed and had all good reason to believe to be the truth ; that we should be obliged to use all our skill and talents to obtain the liberty of showing our motives to be pure, our intentions innocent,—our aim laudable ! In no other case called criminal is this privilege withheld, and I indulge the hope, that it will not be refused by this court. Why is it, that the case of libel alone should stand forth a monument, fast crumbling away. it is true, of *Star Chamber* barbarism ? Here the intent is a legal inference ; in all other criminal cases, it is a fact to be found by the jury. Here the crime is to be implied, in others it must be proved ; to the disgrace of the age, and the jurisprudence of the country. Why, then, he would ask, this unmitigated severity in the case of libel alone ? For himself, he would rise against it, and vindicate the laws and the character of the country. Is the State of Maryland in any danger from libel, that she should interfere in respect to words written, rather than that which is spoken every day ? Is there any necessity to go into this prosecution from a patriotic or remedial spirit ? The State has no real interest in this case. He would not deny the right of the State to prosecute ; but he would ask if any good ever came of such prosecutions ? They were generally brought either out of revenge, or by persons whose ragged characters wanted to be patched—not in all cases, he admitted—but they were generally such characters as required to anticipate the judgment of

the public, by throwing around them the verdict of a jury. Am I to understand, he asked, that the governor and legislature are alarmed for the safety of the State, because of the publication of this little paragraph? Is there any cause for fear? Is the beautiful frame of this majestic State about to be dislocated? All because of this paragraph? No!—she stands on the firm foundation of recorded bravery, of wisdom and intelligence, a broad basis, which would defy even the earthquake's power. Then why invoke her aid against his client? Strip the prosecution of the robes of the State thrown around it, and it is the private action of James L. Maguire against R. J. Breckinridge. John Doe is not less a reality in a case of ejectment, than the State in this; without any disrespect, he would say, there is just as much reality in the one case as the other. Maguire puts on the armor of the State, assumes her majesty and dignity, and makes her a party to what ought to be, if any thing, in his name, his own civil action.

I may be excused, observed Mr. C., for advertng a moment to the cause why my client stands here, charged with being a libeller. Why is it? Is it, as has been insinuated, because he has stood apart from the poor? held himself above the destitute? and aloof from the unfortunate? Alas! no. It is because he made common cause with poverty; because he sought out the destitute, the miserable and the oppressed; because he sought them out, and took his stand by their side, that he now stands here to plead for the poor privilege of giving evidence to show that his motives have been pure, innocent and laudable. The learned gentleman then contended for the right to explain motives, make the intent apparent, and repel the imputation of malice. Where the malice was not plainly on the face of the publication, the prosecution had a right to spread extrinsic matter on the face of the indictment to show the malice; and the defence ought to have the right to give extrinsic circumstances, to explain away the malicious motive. A case was cited of a man in England, who stated that he would leave the crown to his son. Being prosecuted for treason, he was not permitted to give evidence of his meaning; and as he must first possess himself of the crown, before he could leave it to his son, he was held to have compassed the death of the king, and the cutting off of the succession; he was found guilty of treason, and suffered a traitor's death; whereas, if he had been allowed the privilege here contended for, he could have shown that he was a loyal subject, that he kept a little tavern having a crown painted on its sign, that hence his house was called the crown, and that he intended, at his death, to leave it to his son; but this not being then the law of the land, or of the crown lawyers, he was hung and quartered, for a constructive crime.

Mr. C. went on to say, that the testimony to be offered may show that Maguire was not an object of attack, even if malice were to be inferred from the publication; which they had hitherto supposed. They had all along been arguing on this supposition; but now they would contend, on the contrary, that there was no *prima facie* evidence of malice, and that the prosecution must prove it by extrinsic circumstances, and that the privilege of repelling must be granted to the defence. He maintained that the paragraph did not allude to Maguire, and that any person reading it would be of the impression that if it was directed against any one it was against those having the government of the alms house—the trustees or directors who are appointed for that purpose. It was against those having the power to convert the alms-house to such purposes, and not against the keeper. Even supposing Maguire was the person alluded to as the papal keeper, the whole scope of the paragraph is to direct the attention of those having authority to the alleged violation of personal right through the influence of the priesthood or the medical faculty, that the evil might be corrected. Maguire was not the person accused of making the alms-house a prison and a mass house, he was a subaltern in the paragraph, as he was in the institution, and was not accused of having done that which it was

not in his power to do. The object of the paragraph, as it must be fairly and reasonably understood, was to call the attention of the trustees to what was considered a violation of the proper purposes of the institution. But, continued Mr. C., suppose we give to Maguire the advantage and the felicity of considering himself libelled, what is gained by the State? The council say that he is charged with converting the alms-house into a mass-house. How far the setting up of an altar, or the setting apart of a room for the purposes of a certain religion is against morality or a violation of duty, we are not informed. The indictment should have shown that there was a regulation of the institution forbidding it to be converted into a mass-house—*forbidding it to be devoted to the services of one particular sect*, when by the spirit of our institutions it should be open to all; and that he is charged with acting in contravention of that regulation, and as keeper, violated the law by setting up a mass-house. As it is, his conduct may have been a breach of trust, or it may have been illegal or not. The trustees have the right to make bye-laws for the regulation of the institution; is there any thing to show that it was not by a bye-law of the trustees that the alms-house was converted into a mass-house?

We must take the charge made, according to the whole meaning of the paragraph. But it is said that the institution has been converted into a prison! Who converted it into a prison? "Why they say I did," says Maguire, and with the most curious anxiety to be slandered, he puts that construction upon the paragraph. If, said Mr. C., it had not been his choice to be slandered, how easily he might have argued to the contrary. He might have reasoned thus: It is true that a papal keeper is mentioned, but I am not intended;* it does not charge me with a criminal violation of duty. The paragraph shows how the man came here; that I received a notice from a source of the highest respectability and authority that the man is crazy, desiring me to take him for charity, to take this poor and bereaved man, and place him where he will be cared for. Can any one say that I was guilty of a violation of duty if I confine him?" Is not this the case with Maguire, so far as he is alluded to by the paragraph? The man was sent there; the paragraph does not impute that Maguire sought him; it does not charge any collusion between him and the priest to obtain the man and have him confined. It states that he was sent out by the priest, with a letter to the keeper. Is it not a fair inference that the keeper was deceived? Now, asked Mr. C. continuing his former illustration, if the king of England with the crown upon his head, can be told, you are in error; you have been imposed upon by your ministers; you have been led into errors dangerous to the interests of the country, can we not speak in like manner to the keeper of the alms house?—What does this paragraph say, to the overseer of the alms house? Sir, you have been deceived by other persons and imposed upon by a letter, and you have committed an error by believing that letter, and on its authority taking the man and confining him. If a king may be imposed upon may not Mr. Maguire? If in England the king may be told of his errors, may we not in this free country, tell the keeper of the alms house that he has been imposed upon? If we cannot, there must be a strange difference between the law in England, and the law here; a great difference between a king and Mr. Maguire. Mr. C. said he would not go far into the notice of the good humored remarks made by his friend Mr. Pitts, who yesterday said, that the remarks of Mr.

* We were repeatedly informed, after proceedings were instituted against us, that Maguire denied that he was a papist at all; and put ourselves to a good deal of trouble, to find out what was the real state of the fact. The result was, that we could have produced proof of his own declarations to other persons, conducing to show, either, that he was, or that he was not a papist! Finally, when the Bill came down—it was alledged on its face, that he was a papist; but in such a form as not to be traversable.

Schley had well nigh brought him back to the school boy days when parsing was the extent of their labor. He would give the gentleman all the advantage they could derive from orthography, etymology, syntax and prosody, with every rule of grammar included, in construing the paragraph to find a libel. His friend Mr. P. had also, if he recollected aright, said that even the commas contained malice. Now said Mr. C. I have read this paragraph frequently, here and in Washington, but I could find no libel in it. I did not look to the commas, for I did not think of them, but I am now inclined to believe that if the learned gentleman can find a libel in it anywhere, the libel can be found only in the commas.*

Mr. C. was sorry he could not go on to question the indictment from beginning to end, but though the argument was not on a demurrer to the indictment, we can say does it show the malice inferred? If it does, we wish to place ourselves in the position to rebut the malice. Mr. C. thought it not necessary any further to examine so short a paragraph, a reading of it would convince your honors that it contained no malice against Maguire. As to the indictment, he would say that the intent of malice must be presented and found against the person said to be libelled. He asked if in the indictment they could throw out Mr. Maguire and offer allegations that the priests and trustees were meant, without the necessity of changing the indictment and intent? The inducement and charge in this is, that it is a libel on Maguire; the intent laid, is not that he is charged with converting the alms house into a mass house and a prison, but it is confined to the German catholic being confined by some illegality of Maguire's. He would only refer their honors to the case of a prosecution for a libel on the deceased Lord Cowper, where it was held that it was not libellous because the averment did not set forth that it was calculated to injure the posterity of the deceased. He also referred to 3d Cowen's Rep. p. 231. Two other cases of slander in which it was intimated that the parties were guilty of unnatural crimes, were held not to be good because the probable meaning was only shown. If in these cases there could be a question as to the slanderous words, he asked what would be the case in the present one, which compared to them was a prince of innocency?

Mr. C. remarked that he had detained the court much longer than he had intended, and if any apology were necessary for trespassing upon their attention he would make it. The wonder in this case seemed to him to be that one so trivial in its nature should have been of so much general interest as it is, and that it should be thought worthy of a prosecution in which so much ability, and so much eloquence had been exerted. If left to itself, and you were to take away all the collateral and more exciting subjects that surrounded it; if you were to take away all the extrinsic causes which have given to it an interest not possessed by itself, he would not hesitate to say that slighter cause for prosecution for libel had never been brought before this court from its commencement; that the history of the courts of the State of Maryland could not produce an instance where upon such a trifling foundation an attempt had been made to draw the sword of public justice and

* The reader will find on referring to the speech of Mr. Pitts, that the parts of his remarks, to which Mr. C. is here replying, was suppressed: by whom it is not our part to say. We take occasion to say, that this, like the sample of altering the testimony, noticed in a foot note, on page 210, is only an item out of a very large class. It is easy to see how proof may be modified by slight apparent changes, so as to justify a conviction, confidently expected; and then where no conviction can be had, it is equally easy to see, how speeches made in the hope of one, can be altered so as to accord somewhat with the unexpected failure. We do not intend to charge the reporters or printers, with intentional wrong to us: but we unhesitatingly assert, that the proof as rendered was decidedly stronger for the defence, than the proof as published; and the speeches for "the State of Maryland" were decidedly more violent against us, as spoken than as printed.

strike at any defendant. We have in this case, he continued, nothing to do with the religious feelings of the parties; with that the law does not interfere; it has been left to the parties themselves to worship in the manner that to them seems best. This has been wisely provided for, and the legislature would not interfere; the courts would hold all citizens in the same view, whether they be Catholics or Presbyterians. Mr. C. said he felt no such excitement upon this cause as had seemed to be manifested by some portions of the community. He had not entered into it with such feelings. If the efforts of so humble an individual as himself could avail aught, he would strive to heal animosities and reconcile differences between the members of various churches, not to exasperate them. His object was to show that this subject should not be viewed in excitement, and if Mr. Maguire has allowed himself to be carried away by a belief that he was slandered, it is his own fault. He could redress his individual wrong by a civil suit; but he also sought a public prosecution, on account of individual injury he alleged had been done him; but, said Mr. C. there was doubtless something more than individual feeling that prompted him to go to the trouble of attending and conducting a public prosecution which has caused so much excitement. There was more than that feeling towards his client that prompted Mr. Maguire to take him from his duties and bring him before a court to answer a charge of libel. I ask you continued Mr. C., if it is not more like persecution than personal redress and satisfaction? Mr. C. concluded with stating that feeling as he did that his remarks had been loose and unprepared, he had to thank their honors for the attention with which they had listened to them, and the readiness they had shown to examine the authorities he had the honor to submit to them. He would trouble them no longer; he had given his views to the best of his abilities, and what made him more satisfied with the efforts of himself and his colleague, was the certainty that if the result of the case went against her, the commonwealth had no reason to complain. The counsel for the State had argued with a zeal, eloquence, learning and ability that could not be exceeded in this case. They had said all that could be said, and as well as could be said; they had given every authority that could be brought upon the subject, and argued them with skill; yet, said Mr. C., I find that my confidence in the success of our case is yet unshaken, and we confidently rely upon the result.

At the conclusion of Mr. Crittenden's argument, the opinion of the court was pronounced by Brice, Chief Judge. He said he had the misfortune to differ in opinion with his brother judges, both of whom were of opinion, that the testimony offered by the defence was admissible for the purpose for which it was offered. The following was the dissenting opinion of judge Brice, as filed in the case.

JUDGE BRICE'S OPINION.

The Court has pronounced an opinion authorising the defendant to give evidence to rebut malice, from which I dissented on the following grounds:

The question submitted for the decision of the court is, whether it be competent for the defendant to offer evidence to the jury to rebut the malice and evil intention attributed to him in the indictment, and whether, if he should succeed in doing so to the satisfaction of the jury, he would be entitled to an acquittal as not guilty, without going into further evidence.

The affirmative has been most ably sustained by the learned counsel on the part of the defendant, but their arguments have failed in producing a corresponding conviction on my mind.

There can be no doubt that *mala mens* and evil design is an essential ingredient in crime, and in most cases, especially indictments for murder, is a fact that must be proved to the jury to justify a conviction, but the crime of libel consists not in any such design of the writer, but solely in the *defamatory character and false-*

hood of the matter published. Assuming these facts to be proved, the law stigmatizes them with the epithet malicious, as proceeding from bad motives. It is the conclusion and inference of law, and expressive of the odious light in which it views false defamation. Now whether the law was right or wrong in using such epithets, in an indictment for libel, forms no part of the issue, and therefore is not subject to criticism or discussion before the jury.

The law guarantees to every citizen the peaceable enjoyment of his good name and reputation, and places this right under the same protection and means of redress that it extends to the rights of property and of personal liberty, when invaded by others, and it only withdraws this protection when he has ceased to merit it by the commission of some derogatory act, for which he becomes guilty, liable to censure, but no private individual is authorised to become his accuser, unless the accusation be sustained by truth and truth only.

If, therefore, the publication now complained of, be *untrue* as well as *defamatory*, the law implies *malice* and *bad motive*, and needs no additional evidence to constitute it a crime, and the taint or quality of evil motive remains, I think, as long as the defamatory publication retains its primitive character, which it must retain until proved to be true, in substance, at least, under the provision of the act of 1803, ch. 54; or excusable, by showing that it comes within the class of cases, which by lawyers are termed privileged. But it is not to be understood by the term malice, and other exaggerated expressions used in this indictment, that the party to whom they are attributed, was, in fact, actuated by that depravity of heart and wicked motives as that term imports when used in cases of homicide, and in common parlance; but is equally applicable to them also, where the publication proceeds from wrong information or mistaken zeal in a cause which the publisher may, at the time, consider to be the truth, but false in fact. The degree of mischievous intent is to be judged of from all the circumstances of the case—but is not the subject of investigation before the jury.

I might here close, but I cannot forbear making some, though very general, remarks on what fell from the defendant's counsel, on this point. They contended that the doctrine of implied malice in prosecutions for libel was not the ancient common law of libel, but a corruption of that odious tribunal called the Star Chamber—from whence it came down to Lord Mansfield and the other judges in England, and from them was adopted by the courts in this country, and that it behoved the courts in this State, on the grounds of equal justice, to repudiate the tyrannical doctrine of implied malice, and thereby sustain the press in the full enjoyment of its primitive right in publishing freely any thing of an individual citizen on which the publisher had respectable authority, and when he was actuated by good motives.

Admitting that the historical view of the law of libel and its odious parentage be correct, and that great evils may have resulted, in times past, from carrying out these principles by the courts in England, to the extent they have, in many cases, been carried out, I confess I do not feel its force as applied to this case. Certainly no sufficient authority for the departure from this principle has been laid for departing from those principles of the common law, relating to libel, as received and practised in the courts of Maryland, from my earliest recollection, and which, till now, have never been questioned to my knowledge. The act of 1803 gave to the defendant the right to give the truth in evidence as a full justification, even when the libel originated in bad motives; but leaves other cases to be governed by the same rulers of decision as then existed, and these forbade the allowance of good motives, or respectable authority, or public good, as an excuse for publishing defamatory matter of another. If, indeed, the press requires a further extension of its liberties, it is the province of the Legislature, and not the courts, to provide the remedy, as they did before, by the act of 1803; but, in my judgment, to go further than they have done, would not so much protect the liberty of the press, as encourage its licentiousness, to the great annoyance of others who have not the same means of defence at their disposal, or may be unable, if they had, to use them with efficiency. The law, as it now stands, obliges printers to use the utmost caution, and confines them, when writing of others, to write and publish the truth only—a limit which *no good man can wish to pass, and no bad man should be allowed to transcend with impunity.*—In fact, none of the great advocates for the liberty of the press ever contended for more than is allowed in this State, by the act of 1803, to give the truth in evidence.

This law allows even a greater latitude of defence in prosecutions for libel, than is claimed for it in that justly celebrated definition of the liberty of the press, by Alexander Hamilton, which he states to consist in the right to publish, with impunity, "*Truth, with good motives and for justifiable ends,*" whether it respects government, magistracy, or individuals.

I conclude by saying that, according to my best judgment, after a full consideration of all the arguments and authorities produced in the course of this trial, no testimony that can be offered by the defendant in exculpation of his motives, or to explain his intention, can lawfully be received by the jury, on which to found a verdict of acquittal, and that said testimony can only be received by the court, in mitigation, if the jury shall find the defendant guilty.

N. BRICE.

Judges Worthington and Nisbet, filed the following opinions:—

JUDGE WORTHINGTON'S OPINION.

I am of opinion that the traverser has a right to rebut by evidence, the legal imputation of malice, which may exist on the face of the publication, to show that the act was not done with the *mala mens*.

That, if he succeed in rebutting it; the state must then prove express malice, to obtain a verdict of guilty.

That, to convict for libel, it requires proof of criminal intent, the *quo animo* constituting the crime in this as in all other offences, and that the jury, being judges both of the law and the fact, will find a verdict of guilty or not guilty, as to them shall seem right.

JUDGE NISBET'S OPINION.

At the trial of this case the defendant's counsel offered to prove the communication to the defendant of the facts stated in the libel by respectable authority, to rebut the presumption of malice or evil intent, arising by implication of law, from the publication itself, and to shew that it was made with a pure and innocent motive.

To this evidence the counsel for the state objects.

We have heard an elaborate and very able argument for and against the admissibility of the testimony, and many authorities, English and American, have been cited, to which I shall not now particularly refer, but give the general conclusion at which I have arrived, after a careful examination of the whole matter. The competency of the evidence here offered, will depend upon the nature of the verdict which the jury are authorised by law to find in the case of indictment for libel, and my attention, in deciding this case, shall be directed principally to that subject. If the jury have the power and the right to find a general verdict, the evidence, I think, is clearly competent.

Libel is a common law offence, and by the rules of the common law was submitted to the consideration of the jury, like every other criminal charge. The whole subject was before them—the fact of publishing, the truth of the innuendos, and the *quo animo* with which it was published. And they were at liberty to find in this, as in all other criminal cases, a general verdict, embracing the law and the facts. Judge Kent, after a careful examination of the authorities, says, in the case of the People agt. Croswell—"The weight of the decisions thus far is clearly in favour of the right of the jury to decide generally upon the law and the fact, but since the time of Lord Holt, the question before us has been an unsettled and litigious one, in Westminster Hall." Since the time of Lord Holt, the law of libel, as practiced in the English courts, has undergone a material alteration. The judges, without any authority that I can discover, have invaded the right of the jury, and for more than half a century deprived every person who has within that time been indicted and tried for a libel, of his common law right to a full and impartial trial by a jury of his peers. A jury, it is true, has been sworn, but the courts have always instructed them that they had nothing to do with the intention of the party, that if they find that the defendant made the publication, and that the innuendos are true, they *must* find him guilty—the law of the case, libel or no libel, is on the record for the court to decide. This practice prevailed for a great part of the last century. Indeed Lord Mansfield in the case of the Dean of St. Asaph, dates it from the time of the revolution. But Mr. Fox, who in May, 1791, brought

forward the act of parliament 32d Geo. 3d. c. 60, declaratory of the common law in trials of libel, traces its origin only sixty years before that time. And this corresponds with Judge Kent's opinion, who seems to consider Franklin's case, decided by Lord Raymond, in the year 1731, as the introduction of the practice, and as the first case in which a court asserted its authority in this way over a jury. The shortest period was much too long. It is indeed wonderful how a doctrine so repugnant to the principles of the common law, should have been tolerated at all. However, sustained and defended as it was, by a Raymond, a Mansfield, a Buller, and a Kenyon, it was not suffered to operate quietly, as a rule of action for the courts in these cases, but was often strenuously resisted by counsel, who contended for the free principles of the common law. It was, as Judge Kent says, an unsettled and litigious question; and some of the judges occasionally would charge the jury differently, unwilling to lend themselves to such a violation of common right. The decisive stand against this monstrous anomaly, as it has been called, was at last made by Mr. Erskine, afterwards Lord Erskine, in the case of the Dean of St. Asaph. The propositions presented to the court in that unrivalled argument, were to the following effect.

"No act which the law, in its general theory, holds to be criminal, constitutes in itself a crime, abstracted from the mischievous intention of the actor. And the intention, even where it becomes a simple inference of legal reason, from a fact or facts established, may and ought to be collected by the jury."

"And in all cases where the law directs or permits a man accused of a crime, to throw himself upon a jury for deliverance, by pleading generally that he is *not guilty*, the jury may deliver him from the accusation, by a general verdict of acquittal, founded, (as in common sense it evidently must be,) upon an investigation as general and comprehensive as the charge itself."

These propositions, so self-evident in themselves, and as consonant to the known and fixed principles of the common law, were so ably sustained by that distinguished counsellor, that they completely exposed that strange anomaly, the law of libel as then held in the English courts; and no doubt his efforts on that occasion were a principal means of procuring the enactment of the act 32, Geo. 3d, c. 60, which *declared* revived and re-enacted the common law, and placed the trial of an indictment for libel in the same position, to be governed by the same general principles, as in a trial for any other offence.

This statute, it is true, has no application to this country, having been made since the revolution. But the great principles of the common law, which had for a time been set aside by the practice of the English courts, have been declared, revived, and re-enacted by this statute, and the common law of England is the law of this state.

It is my opinion that the jury here are not confined in their enquiries to the fact of publication and the truth of the innuendos, but that they may find a general verdict, embracing not merely the fact charged, but the intent with which it was committed, and this general verdict must be founded upon an investigation as general and comprehensive as the charge itself. That the jury have a right to investigate and find the malice, the evil intent, if any, which is the main element of crime, and without which no crime can exist.

And this being the right and province of the jury, I consider evidence calculated to shew the existence, or the absence of evil intent, and of course to rebut the malice implied from the face of the publication, not only competent and proper, but essential to enable the jury to arrive at a righteous and just conclusion in their verdict.

For the reasons above, I coincide with my brother Judge Worthington, in the brief but strong opinion which he delivered.

Such being the decision of the court, the counsel for the traverser proceeded to examine witnesses to disprove malice.

DAVID OWEN testified that he was intimately acquainted with the Rev. Dr. Breckinridge, and that, before the piece was published in the magazine, sometime in October, he had a conversation with him, in which he asked that gentleman if he had heard of the transaction—who replied that he had not. Told him that it was

told me by a friend that a German Catholic had been confined in the alms house, under the following circumstances, namely, that becoming anxious about his salvation, he had sent for the Rev. Mr. M'Jilton to pray with him; that he had asked the reverend gentleman not to pray too loud for fear of some one, who was a Catholic, hearing him; that when they were in prayer the German himself began to cry aloud for mercy, and it was the impression of some persons who had heard him that he was crazy; that he was sent to the alms house, and that his friends went there and took him out, after paying a sum of money for his board. Witness referred Mr. B. to his son Caleb Owen, Mr. John M'Kane, and the Rev. Mr. Purviance, for further particulars. This witness mentioned it to the Rev. Mr. Breckinridge because he believed it to be true, and left it to his discretion whether to publish it or not.

Cross-examined.—Did not tell him that the alms house had been converted into a papal mass house, nor that it was converted into a papal prison; did not tell him that a note had been sent by a priest by the hands of the German to the papal keeper of the alms house; mentioned that the man who went with him carried the note; did not mention to him that the note said the man's wife was dead; I told him that the next day after the prayers, the man was sent to the alms house; also told him that there was a great excitement. I had heard there was an excitement in the neighborhood because the old man had disappeared.

CALEB OWEN testified that he had told Mr. Breckinridge that the previous evening he was present at a conversation between Mr. John M'Kane and Mr. Charles Davis, in which the latter said that he had a conversation in a barber's shop with an aged German, who was much distressed in mind; that he had said he was a sinner, and had been a Roman Catholic all his life, but would be so no longer; if he died in that state he would be lost. Mr. Davis asked him if he would like to see a minister, and he replied yes. Mr. D. told him he would send one, and he sent Mr. M'Jilton. When Mr. M'Jilton went in, and they were about praying, the German asked him not to pray too loud, as his landlord was a Catholic, and if he heard him it would not be good for him. The old German during prayer called out aloud for mercy on his soul. The landlord heard him, and the next day the landlord went to the priest and told him that if he did not take care he would lose one of the members of his church. The priest went and told him his wife was dead.—Mr. Collins, the landlord, got a note from the priest and took him to the alms house and they put him in a cell; the German asked why they put him there, but they closed the door and made him no answer. The German's apprentice boy looked for him and went to the alms house, where he found him, and had some difficulty to get him released; he paid 40 cents a day, and then took him home in a carriage. I told this to Mr. B. because I believed it to be true.

Cross-examined.—When I told Mr. B. that the man had said that he was a sinner and would be a Catholic no longer, I wished to convey the impression that he had never been converted, though he had professed to be a Christian all his life; I suppose he asked Mr. M'Jilton to pray in a low voice because he was afraid his land-

lord would tell his priest; Mr. Davis did not assign any other reason for his wishing the prayer to be in a low voice; told Mr. B. that he had been taken to the alms house in consequence of Mr. Collins having heard him praying; Mr. Davis said it was in consequence of the interview between Mr. M'Jilton and Mr. Stazer; he told me that the priest gave a note to Mr. Stazer, directed to the keeper of the alms house; did not say what the letter contained, but told him that his wife was dead; I told Mr. B. that the letter contained the fact that the man was mad and must be confined; that the keeper, after reading the letter, put him in the cells like a mad-man; I did not know all that was in the letter; was told the excuse of the keeper to the man for putting him in the cells was that he was mad; Mr. Davis told me that the man was sent there to see about his wife because she was dead; but she was not dead, and he was put into the cells. I did not use the words "converted into a papal mass house and a papal prison" when I spoke to Mr. Breckinridge.

JOHN M'KANE testified that some time in October, he was in the Baltimore Presbytery, in which he sat as a ruling elder, when Mr. Breckinridge was relating this circumstance, and witness observed that he had heard the same thing.* One Sabbath in October, Mr. Davis, a member of the church to which witness belonged, asked him to come up to his house; he had something to tell witness about a German who was a Catholic, but was going to join the Methodist church. Mr. Davis informed him that he and Mr. Zimmerman had met this German in a barber's shop, when the German said he was sick at heart, and sick in his head, and he would go no more to the priest. Mr. Davis and Mr. Zimmerman being both religious men, waited until the persons present had gone out of the shop, and then they entered into conversation with him, and advised him to read his Bible and pray to God. They asked him if he wished

* The following explanation will place the whole matter in a clear and simple light before the reader's mind. As the *traverser* went from his own residence to the place of meeting of the Presbytery, he met Mr. *David Owen*, a highly respectable and pious bookseller, and a member of the 4th Presbyterian church of Baltimore, (as well as he remembers, in the street); who then gave him the information stated in his testimony. As he went on, the *traverser* stopped at the book store of Mr. Owen, and there the conversation occurred, which is detailed in the testimony by Mr. *Caleb Owen*; who had been for a long time a member of the Protestant Episcopal church. At the Presbytery, and after its regular business was over, some eight or ten persons, ministers and elders, being present, the subject of the necessity and duty of doing more to enlighten the public mind in regard to the Papal religion was brought up by the *traverser*: and amongst other characteristic facts, the case of Stazer was alluded to, to show, 1st, that there existed to a considerable extent, a feeling of religious anxiety and deep enquiry, on the part of Papists, which Christians were solemnly bound to avail themselves of; 2, that the spirit of the priesthood remained unchanged, and ought to be resisted. It is this course of conversation which became general, which is alluded to by Mr. McKane, and the Rev'd Mr. Purviance; the one pastor and the other elder of the church to which Mr. Davis belonged. Now with all this plainly understood, can any thing be more ridiculous, than Maguire's laborious eagerness to have the whole honour of all our malice heaped on his illustrious head? Can any thing be more absurd, than the alarm and jealousy of "*the State of Maryland*," on the score of her violated "peace and dignity?"

to see a minister; he said he did. Mr. M'Jilton was sent to him by Mr. Davis, and went and prayed with him in the back room—Mr. Collins overheard them, and went and told the priest he was in danger of losing one of his flock; the priest sent an order by Collins to the keeper of the alms house to have the man confined, for he was mad. The German was told that his wife was dead, and he must have her brought home and buried in a Roman Catholic burying ground. The man went to the alms house and was confined. His journeyman and two children went after him and brought him home.

Cross-examined.—Mr. Breckinridge did not, as I recollect, make any particular reference to me when he was speaking of the affair in the Presbytery; there were six or eight persons present; he requested the Rev. Mr. Purviance and myself to get all the particulars we could on the subject; this was before the publication appeared. I went in search of all I could obtain. Went to Mr. Davis's, in company with Mr. Sherry and Mr. Neuser, to inquire after the man. Mr. Davis told them he had heard he was at Mr. Kuntz's on the Hookstown road. They went there, but witness did not go in the grog-shop; the other men went in, and asked for the children.—[Witness was here stopped by States Attorney, and requested to confine himself to what he knew himself, and what he had told Mr. B.] Had heard Stazer was there, and thought he might be secreted; obtained no other information; the whole of the information was obtained from Mr. Davis.

In chief resumed.—Witness told Dr. Breckinridge in a conversation subsequent to that at the Presbytery, the result of his inquiries at Kuntz's, and that he was satisfied that efforts were made to cover over the case.

Cross-examined.—Told Dr. B. that Kuntz said Stazer was in the country, and that he would give no answer to the inquiries after Stazer's children; this was after he had been in the alms house.

REV. MR. PURVIANCE testified that he was present at the time mentioned by Mr. M'Kane and the statement made by him now was the same in substance as that told to him by M'K. on an occasion previous to the meeting at the Presbytery. Witness heard Dr. B. mention the circumstance in a loud tone of voice after the meeting had adjourned, and both Mr. M'K. and himself mentioned at that time that they had heard the same.—Dr. B. then requested him and Mr. M'K. to obtain the particulars; but witness being obliged to attend the Synod gave the matter into Mr. M'Kane's hands, requesting him to seek information.

Cross-examined.—Witness believed the circumstance, for he had no reason to doubt Mr. M'Kane. It was a matter of conversation throughout the room. I told Dr. B. that it was a matter of common report in the western part of the city; it was the subject of conversation wherever he visited in that section of the city.—Before the publication witness had heard it in at least three families, and they had the information from Mr. M'Kane. Has heard it spoken of by so many since the publication, that he would not like to state how many he had heard mention it before the publication.

The counsel for the traverser now informed the court that they had made out their case so far as they wished, and would close for the present, reserving to themselves the privilege of rebutting any testimony that may be brought by the State, if it should make a new case and bring testimony of a different nature. The counsel on the part of the State said they had more evidence. The court adjourned until to-morrow at ten o'clock.*

SATURDAY, March 14.

WILLIAM DAVIS, the gentleman so frequently referred to in the preceding testimony was called on the part of the state, and asked to tell all that he had said to Mr. M'Kane and Mr. Caleb Owen. Witness said that he had met Mathias Stazer in a barber's shop, and Mr. Zimmerman was also there. Stazer expressed anxiety as to the condition of his soul, and witness told him he was in a good way, if the Lord had shown him the state he was in; he had a right to go to the Lord and ask for mercy. Stazer replied that he was such a sinner that he could not be forgiven. He had belonged to the Catholic church from his infancy to the present time. Witness

* There seems to be no sort of question, upon a calm review of the testimony up to this point; that the *traverser* had fully made out his case, by indubitable proof, on two main points, either of which upset the prosecution, and both unitedly, took away all pretext for its farther prosecution. Thus: 1. It was proved past all denial, that Stazer was illegally confined in the cells of the alms house; that the pretended motives for this procedure were contradictory of each other, and all ridiculous; and that, unless it be admitted that he was put there out of the way of McJilton, an impenetrable mystery, covers the whole case; that further, the current of proof is, that this was the reason; that whether Maguire knew it or not, is an incidental question not material to the case, it being his business to act according to law, and when he acts otherwise the law itself presuming, and authorising all persons to presume of him, that his illegal acts were done with illegal intentions, and under the influence of illegal motives; and finally, that a mass house was prepared by the directions of the priest under circumstances altogether unprecedented, irregular, and unauthorized; and that the priest departed the commonwealth and the mass project was abandoned, soon after the appearance of our libel. 2. It is proved now, by four witnesses, that such a state of fact and information on the part of the *traverser* existed, as to render all idea that *malice against Maguire* was the moving causes of his publication, absolutely ridiculous: and that his conduct in the premises, considering the whole case, was just such as was to be expected of any man, moderately prudent, candid and just; just such as that it is difficult to see how it could have properly been otherwise. Well: if what was published was substantially true, that is a full justification in law; and if it was said without malice against the prosecutor, that also is a full defence. But, being in fact, *neither false nor malicious*, and the proof full to both intents; "*the State of Maryland*" ought to have had the honour and magnanimity to say so—and throw up the case, at this point; instead of harrassing and outraging innocent men, whose characters were their most important possession, for above a whole week more, constantly exposed to public gaze as criminals, and constantly treated and spoken of as such, by "*the State of Maryland*," and all others like minded; and then finally do the very same thing—by entering a *nolle prosequi*! May we not also request "*the State of Maryland*," calmly to ask herself, what possible end of justice could have been promoted by excluding the testimony of the two Owens, of McKane and of Purviance? Read it again, reader, and then ask, why was the introduction of this proof so violently, so bitterly resisted? What can justice or truth ever gain, by concealing the real circumstances and character of an action?

repeated that if it had been given him to see the error of his situation, God would receive him at any time if he was penitent. Mr. D. asked him if he would like to see a minister of another church; he said he would, and on the head of that he went home. This was all that passed on the subject between witness and Stazer, and all that witness had told others respecting the interview. Witness sent Mr. M'Jilton to him. The next day, when witness was going to the lamp-post, a black woman cried out to him, saying "Mr. Davis, do you know that Mrs. Stazer is dead?" Is she? said I. "Yes," said the black woman. I replied it was good for the old man, if it was true, for he would have no more to pay for her being in the alms house. Witness told this also to Mr. M'Kane and Caleb Owen, but when he told them, he had no notion there was to be all this fuss in court about the matter. He told them about the old man's anxiety for his soul, and that Mr. M'J. had been to see him. He also told them that the old man had gone to the alms house to bury his wife, and observed that he was glad that Stazer had a proper sense of religion. Now, says I, he was a Roman Catholic, and if the priest was to know of this, and that the old man had gone to the alms house, what a fine chance he would have to write a line to have the old man fixed there. Did not say that the priest had done so. Never said that it would be a good paragraph for Dr. Breckinridge, but Caleb Owen remarked that it would be a good thing to put in Dr. Breckinridge's pamphlet. Told them that I heard about the woman being dead from a black woman, (she was a slave too,) and did not say that the priest had told the old man his wife was dead.

Cross-examined.—Told them she was dead because I believed it; think that a black woman can tell the truth as well as a white one. The conversation with Mr. M'K. and Caleb Owen, was after the old man had gone to the alms house. Do not know that he received a line from the priest, but said that the priest might send one, because it was a notion of my own—it was a foolish notion; never heard that the priest had sent a note; no indeed, I never did, it was a supposition of my own altogether. Cannot tell how often I saw Caleb Owen. Mr. M'Jilton was present at the conversation between M'Kane, Owen and myself, and when Mr. Owen spoke of telling it to Dr. B., Mr. M'Jilton said that they ought not to let Dr. B. know any thing about it until they had better foundation for it; I also said it was not right to talk about it until more was known. I never said that I hoped I would not be summoned here for fear my house would be burned over my head; I did not expect the affair to have been brought here, but when I found they had carried the story so far, I expressed a fear that some bad consequences would result to me. If I had supposed they would carry it so far, I would not have mentioned it to them, for I did not think it worth mentioning any how. Witness was asked why he had told it, and replied by asking the counsel why it was that we all did many things which we ought not to have done?

In chief resumed.—I belong to the Rev. Mr. Purviance's church, and am a communicant of it. Told the same as I have stated here to Mr. M'Jilton, Mr. James M'Elroy and Dr. Amos, and they can

prove that it is the same as I said I told to M'Kane and Owen. Had a conversation with Mr. Miles as we were going to the Spring Gardens, and told him the same. Mr. Miles says that I told him the same that Mr. M'Kane says I told him, but I have no recollection of it.*

WILLIAM HOOPER called on behalf of the state. He is the clerk† of the alms house, and has been in the institution for nearly seventeen years. One morning in October last he was sitting in his office, when he heard some persons come into the hall. Stazer opened the door and said he wanted to come in; as he had been in the habit of coming there occasionally, for the last seven or eight years, the clerk knew him, and told him certainly he could come in, and asked him if he wanted to see his wife. Stazer answered, no; he wanted to come in himself. Mr. Hooper then went into the

*The day we write this note (April 23) we are informed of the sudden and painful death, of the poor old man, William Davis, who being attacked on Sabbath morning, the 19th, continued speechless and insensible till Tuesday the 21st, when he died.—We have never seen him since he was on the witness stand; and know nothing of the state of mind in which he has since been, nor of that in which he died. We have reason to believe that Mr. Maguire and Tom Collins, had a long interview with him, at his house, not very long before his last sickness; but what the purport of it was, has not transpired. We knew Mr. Davis a little, and saw him occasionally at the church of which he was a member, when at intervals, for some years back, we have preached there. He was a Welchman, by trade a shoe maker, a very large man, aged perhaps about sixty years, was in comfortable circumstances, and seemed a worthy man. We had one interview with him, in the presence of his family and the Rev'd Mr. M'Jilton, who was his neighbor, in regard to the subject, which proved to be of such melancholy interest to him; it was the only one, and not long before the trial. He seemed so much agitated on the subject, and expressed such terrible apprehensions of the consequences to himself, if he should be called on as a witness; that we promised him not to examine him, if we could otherwise prove, the original cause of M'Jilton's connection with Stazer. In honest compliance with this promise, we did not call him; but "*the State of Maryland*," who knew many facts, which we did not, called him as her witness; and most awfully and unaccountably did the poor old man prove how real were the fears he had before so often expressed—if he should tell what he knew in this case. While he lived, we considered him more a subject for compassion and grief, than for anger; and for that reason declined producing witnesses to contradict more of his testimony than was indispensable. Now he is dead,—we have no heart to do a needless hurt to his memory. Let the reader compare the testimony of David Owen, Caleb Owen, John M'Kane, Rev'd Mr. Purviance which goes before, and that of Mr. Miles and John W. Cherry, which follows on a subsequent page, with that of William Davis; and if after doing so, he believes that William Davis swore to the sincere and simple truth—we will say nothing to shake that belief. Let the question stand till the great day, when all the motives and acts of this monstrous proceeding, will undergo another and final arbitrament! May God give us grace to be found faithful on that day!

† He acts as clerk, and may perhaps be allowed some small compensation by the overseer. But the facts we believe, are, that he is himself a pauper, and holds his situation, not by any appointment of the trustees of the poor, but merely at the will of the overseer, for the time being. This statement is made, not to wound or disparage Mr. Hooper, who may be a very worthy man and competent officer, for any thing we know; but to set facts in their true light, and to show the exact relations of all the parties to each other. For example; what was there to hinder Maguire from turning Hooper out of office, and setting him to pick wool? Yea, from giving him the shower bath, and locking him up in the cells whenever, and for whatever it so pleased him.

hall and found a man, whom he afterwards understood to be Mr. Collins, with Stazer. Stazer caught hold of Mr. Hooper by the breast of the coat with both hands and cried "Oh Mr. Hooper, I must come in; I must stay here."* Witness asked if he had an order, or whether Mr. Collins had one. Mr. Collins said that they had not. Witness told him that he could not come in without an order, and tried to persuade him to go home to his family. While doing so Mr. Maguire came down stairs on his way to town, and joined witness in persuading Stazer to go home and Collins to take him home.† They finally succeeded, and Mr. Maguire went out to the carriage and drove off; they going out afterwards. A short half hour after Mr. Maguire had gone, they returned, and Stazer again caught hold of witness and said, "Mr. Hooper you must take me in; I must stay here; I must come in." Mr. Collins said that on the road the old man threatened to destroy himself if he was not admitted. Mr. Hooper had known Stazer for a long time, and seeing that he was under some excitement more than usual, took him out of charity, and for his own safety gave orders to put him in the cells;‡ but gave no particular orders. He was delivered to the keeper for that purpose, and was placed in the cells where all such characters are put. All the cells are the same. They are above ground, ten by twelve feet in size, and placed on each side of a long passage extending from one end of the building to the other; they are comfortable and have a good floor, which has been raised six or eight inches higher than they formerly were. It was

* A good deal of the proof seemed to show that Stazer went to the alms house, willingly, perhaps of his own accord; and that he made no decided resistance to being shut up when he got there. The mystery of all this would have been explained, if Stazer had been put on oath; (see note † on page 226). At present we may say, that the facts no doubt were, that Stazer had his own reasons, (some of which are well known to us), for being willing to go to the alms house; and that his Papal overlookers had their reasons for desiring to have him go any where, out of the reach of M'Jilton; and the visit and doings at the alms house were the result of these combined causes. The real state of Stazer's mind was unknown to us, till our first personal interview with him three months after the publication of the libel; when we found, that although the truth had been told us, yet there was other truth, not suspected by our informants, which made the whole matter more pitiable as it regarded the poor old man; and more blame-worthy on the part of whoever seduced him into the cells at the alms house.

† Please compare this statement with that made to Mr. Holton by Maguire, (page 210, and notes *, †, ‡, there); and with the testimony of Thomas Collins on a subsequent page. How are we to reconcile such extraordinary diversities in the relation of the same affair?

‡ Compare this with Mr. Richardson's statement, and the note on p. 223.—We make two suggestions on the testimony: 1. "Put him in the cells," "out of charity," "where all *such characters* are put." What characters? *Mad-men*? Very well. Then with six medical students in the house, men are put into the cells as madmen, on the judgment of the *clerk* in the office? and this even without an order for admission, when the law is precise and positive, that just "*such characters*" shall not be admitted at all, unless on a finding of a jury of twelve men on their corporal oaths! But more of this in a future note. 2. "For his own safety,"—"threatened to destroy himself." But can't a man cut his throat in a cell "ten by twelve"—or hang himself there, even though it be "comfortable" and "have a good floor"? And did the "Clerk of the alms house" make the smallest scrutiny, or take the least thought on this branch of the matter? This is curious enough.

about eleven o'clock A. M. when Stazer was received, and Mr. Maguire did not return home until dark, when he was informed that the man had been received, and the cause of his reception.* The next morning some of Stazer's friends came and asked if they could see him. Permission was granted, as it always is,† and a person sent to show them where he was. They went to see him, but did not call in the clerk's office as they went out; so witness does not know at what time they left him. In the afternoon about two o'clock, a person came and asked if he could take Stazer away. He was told he could, and he asked what was to pay. He was told by Maguire that 40 cents was the average price for two days' board; it was paid,‡ and Stazer was given in charge to the person. When he left the house Stazer bade Mr. Hooper good bye. When he came to the alms house he did not inquire for his wife, nor did he ask to see her. She was not dead and is now alive.

Cross examined.—Two little girls and a woman came to see him in the morning. A young man came into the office in the afternoon and paid the 40 cents; the others may have been in the hall but witness did not see them. The inference of witness from his paying the 40 cents is that he wished to take Stazer away; there was no objection made to his going away and no other restraint put

* So it appears, notwithstanding Mr. Maguire's remarkable subsequent ignorance of the whole case,—he *once* either personally knew, or was told by his deputies, each fact, as it occurred, at the alms house.

† But by express law and rule "permission" "always is" REFUSED, in such cases; provided any attention is paid either to law, rule, or propriety, at the alms house. Here is a mad-man "taken in out of charity," "put where all such characters are," &c. &c.; and the law is positive, that in such cases, no one shall be allowed to see "such characters," but under the peculiar and restricted circumstances laid down in the rule, and by the permission of the attending physician. And surely nothing is more proper. But, says Mr. Hooper, on whose medical opinion the man was illegally admitted as mad, being sane all the while, next day "permission was granted, *as it always is*," illegally to see this maniac who was shut up under extraordinary circumstances, "*for his own safety*!"—This is certainly a new aspect, *medically* as well as *legally* of the treatment of insane paupers. Consider a moment; this man is neither mad nor a pauper; but he is put in as above, and illegally in every possible respect. Being a *mad-man*, he is put in at his own request (!!!); being about to destroy himself, he is left with all his means of doing so; and being confined as a mad-man, is treated from that instant in all respects as if he were sane! We protest that Mr. Hooper's law and physic, charity and rule, are equally incomprehensible to us.

‡ Here is another extraordinary proceeding; a man not only taken in against, but discharged without law. The matter presents itself in two prominent lights, as it regards discharging persons on the mere caprice of the overseer; 1. The person is kept while in the alms house, at the expense of the public, and pays a price, per diem, fixed by law; now what check is there on the overseer, or what means of testing his accounts, if the trustees keep no record of the date or fact of discharge? Does the law leave matters in this plight? If not, what have the trustees done with Maguire for this act? 2. If men can be taken in without law, shut up under a pretext of madness, treated at the discretion of the overseer while there, and then be sent away at his caprice, under the charge of unknown persons who may chance to call and pay their board; then where is personal liberty, or individual security, to any member of the community? We solemnly denounce such proceedings, in the name of public liberty; and call upon the virtuous men of all parties, to rouse up, and put an instant end to them. Where are things to end, that have such a beginning?

upon him than was believed necessary for his own good. The cells have no padlocks put on their doors unless the persons confined in them are furious; they are sometimes bolted, or a piece of wood put in the staple where the hasp is on it. The padlocks have been put on the doors of the cells containing furious patients, because instances have been known where the inmates of the other rooms have let the most furious patients loose. The cells are used sometimes as places of confinement for persons deserving punishment. Witness considered Stazer deranged, and therefore ordered him to be placed in the cells for his own safety; he had been so often about the house, that it was feared that if he was not confined, he would go into the women's apartment and perhaps create some disturbance, for he appeared to have a wandering disposition as if he did not like to remain long in one place. The only reason that Mr. Collins gave for bringing him there was that Stazer had called at his house and insisted upon his coming out there with him.

In chief resumed.—A question was asked of witness what denomination of Christians are permitted to officiate in the alms house, when Mr. Schley arose to object to the question. He was willing that all testimony bearing upon the case should go to the jury, that he was here to restrain as much as possible any departure from the direct subject of inquiry. If they departed from it there was no knowing where it would stop. He was not for restraining the evidence the gentleman thought necessary, but if we go into any extension of testimony, it would lead still further.—This he mentioned not so much to restrain the enquiry as to give warning of the effect it would have.

The court thought that the character of the alms house was something in the case; if it had been abused it should be corrected. The defence had chosen to enter into a latitude of testimony, and the whole ought to be made a subject of inquiry; the subject may or may not have a bearing on the jury.

Mr. Richardson rose to explain that they agreed that it was not proper to go one whit beyond the testimony proper for the case. But was it not charged that the alms house had been converted into a papal mass house, and if we establish that it was said to be so converted by the papal keeper, is it not proper that we should negative the charge by testimony to the contrary.*

Witness answered to the question that the Methodists officiated at the alms house except when the weather was so severe that they could not venture out; they had done so long before Mr. Maguire's time, and had continued to do so since. The regular preachers came in the morning, and the exhorters in the afternoon. The priests came there sometimes, at the request of some of the people, to hear confession; but witness never knew of mass being said there either before nor after Maguire was appointed.

Mr. Crittenden rose in objection to the testimony. Even if Maguire was accused of converting the alms house into a mass house, was it a libel on him to say so? If it was not a libel, the testimo-

* The reader will keep this observation in mind; and he will see how the charge was negatived, "by testimony to the contrary."

ny was irrelevant. So far as related to Maguire, it was not a subject of inquiry, and they wished to avoid, as much as possible, going out of the case. The examination was unnecessary, and if pursued, would have a tendency to increase religious excitement. This indictment was not to obtain an exculpation of the institution, but of Maguire. The criminality or illegality of converting the alms house into a mass house, was not in the indictment.

Mr. Schley asked what was understood by the term mass house? Was it, *per se*, an inuendo that it was a bad house? If the term was offensive, the party must affix an inuendo to the indictment, to show that it is offensive.

The Court could see no impropriety in the question. The public had a right to know the character of the house.*

Witness continued, and stated that all denominations had been on an equal footing. Since Maguire was keeper, the Quakers had preached there in at least two instances. All had free access to the inmates.

Cross examined.—I know what mass is, because I have seen it performed in chapels; but have never seen or heard of it being said in the alms house. Am a Protestant. If it had been performed in the alms house, I should most likely have heard of it. If I were a Catholic I should have attended it, if it had been said there. There is a large room in the alms house where all religious denominations preach. It may be designated as the meeting room, but is more commonly known as No. 19. Once, the Rev. Mr. Smith, a priest, gave what they call instructions, but did not say mass. If mass had been said in the alms house, witness would consider it no harm. There never had been a room set apart for mass. There had been a room in which the priests heard confessions, and there is the same now. They formerly heard them in the matron's room, as being more private. There was a large room, which in Mr. Holton's time, was a place for the doctors to keep their preparations; it is now divided into two rooms by a partition, one room being for the boys' school room and the other for their sleeping apartment. Witness once saw in the school room what they told him was an altar; it was three pieces of plank joined together by hinges, so that it could be folded up; he never saw it but once, and never saw mass performed on it at any rate. The confessions being heard in the matron's room interfered so much with her convenience, that they were afterwards heard in the room appropriated for a school room. There is now another room opposite the cloths room where the priest hears confessions when he comes there. This is not called the confession room; it was formerly a store room, subsequently used as a private office, where the clerk could write without being interrupted, and is now generally designated as the "corner room."† Never saw the altar in the corner room.

* See note on page 200.

† It appears then that the priests, since Mr. Maguire took charge of the Alms House, and before our terrible *libel*, had made arrangements to occupy two rooms at least; viz: the "corner room" to hear confessions in, and the "school room" as a mass house. Now if the Presbyterians get two rooms, one for preaching and

Does not know who made the altar or who paid for it, nor whether it was painted; it was made in the institution; the books do not show who made it, nor when, as each man's day's work is put down without specifying the particular article he made; does not know who paid for the paint, if it is painted; paint is always kept in the institution. Witness presumes he holds his situation as clerk at the will of the keeper.

In chief resumed.—Since Maguire's appointment witness has not seen more privileges extended towards the priests than there was at any former period.

Dr. TURNER, a resident student, has no distinct recollection of ever seeing Stazer in the alms house; he saw him in the court house, and was under the impression that he had seen him before some-where. He and the other students frequent the cells every day with the visiting physicians, and sometimes by themselves. Has known drunkards to be placed in the cells when laboring under delirium tremens. Witness knew of no German Catholic having been confined there against his will. Knows that the public carriage is sent every Sunday morning for the Methodist preachers, who always preach in the large room, and in the afternoon the exhorters speak in the spinning room. He once saw in the school room what he was told was intended for an altar; it was three pieces of board with hinges; never knew a priest to hold public service in the house; did not concern himself about the subject; if it had happened probably he would have heard of it. Will have been there two years next June. There is a pulpit in No. 19; it is a desk where the preachers stand.

Cross examined.—If it is necessary,* when a person is brought

one for a session room; and the Episcopal Methodists two; and the Protestant Methodists two; and the old side Baptists two; and the General Baptists two; and the Reformers two; and both divisions of the Society of Friends, two each; and the Episcopalians two; and all the various sects besides, of nominal Christians two each; and then the Jews, the Free Thinkers, the followers of Owen, the Fanny Wright people, &c. &c. all have two each; why we suppose by then the county and city supply *all*, there will be a pretty fair ground to say "that all denominations had been on an equal footing." But when the papists have *two* rooms, and all mankind besides have *one* room, (No. 19); there seems to us, very small grounds for the assertion. Now we just ask a single question of the Protestants of Baltimore city and county, and then leave them and Mr. Hooper to settle the point; Is there a man on earth, who knows what Papism is, who believes that Papists and Protestants, and their respective religions, are "on an equal footing"—in any establishment under the absolute and almost irresponsible control of a papist?

* "If it is necessary." But who decides on this necessity? Maguire swore that Hooper admits nine persons out of ten; and Hooper of his own accord, sent Stazer to the cells, as a thing usual and natural with him, in dealing with "*such characters*." Now here is the very point of the abuse heaped on us, in the newspapers, by Dr. S. Annan, senior physician to the alms house. *Who judges of this necessity?* Is it the pauper Hooper, or any other person happening to be in the office? Or is there any medical examination whatever before men are allowed to be thrust into cells, with vagabonds and criminals, as madmen? And if mad, is that a fit place for them; and is Hooper a fit judge of their medical necessities?—Now we have no desire to implicate the medical department of this institution; but it is perfectly manifest, either that this department is in a most unsatisfactory condition, or else that it has been attempted by Maguire, to evade accountability,

into the alms house, the physicians are sent for immediately, if not it is left until the regular visit; when they go round and the persons are examined.

Dr. REYNOLDS, also a resident student, testified to the same effect as Dr. Turner. Does not know that priests have come out there unless sent for; the Methodists appear to be the most diligent in attending the institution. The public carriage is under the control of Maguire.

Cross examined. Has not much chance of knowing how frequently the priests visit the house. When the students are passing round, their attention is generally called to such patients, as require their services.

Mr. HOOPER (recalled,) stated that he never knew of the public carriage being sent for a priest: when they came there in a carriage it was in a private one, or in a hack. The carriage has been sent for preachers ever since 1822; Mr. Maguire is very particular in seeing that it is sent every Sunday in due time.

Cross examined.—Considers it part of Mr. Maguire's duty to send the carriage. After the labors of the day are over, the names of the persons who have been admitted during the day with orders, are entered on a record, stating the number of the room, &c., where they have been placed as most fitting for their situation.—This book is sent immediately to the physician's office. Stazer's name does not appear on the record, because he was admitted without an order, and released before an order was obtained from the Trustees*; no names of persons admitted without orders are entered until an order is obtained. The deranged persons are turned over to the keeper of the cells, and if any thing happens, it is his duty to give notice to the physicians.

Mr. SKIRWITH, a resident student, testified that he has been in the institution since the first of May last. Knew of the Methodists having religious worship there. He once saw a Quaker there, and once a priest. On being asked if he ever saw an altar there, he said he saw some boards, which he understood were for the Catholics to say mass on; but he had no knowledge that mass was ever said there. He was absent when Stazer was said to have been there. He knew of no favoritism to any religious denomination, on the part of Maguire. He knew of the public carriage being sent for the Methodist ministers, who were oftener there, and more regular in their attendance than any others. To a question by Mr. Schley, he replied that the carriage was sent as a matter of course;

by throwing on it, the blame of Stazer's confinement. See, as to Dr. Annan, a future note.—

* Here is another grand fact come out; a madman put into the cells and his name suppressed from the roll sent to the physicians! The rule being to record the names of all admitted; one illegally admitted is not recorded! The rule being to send the names of all admitted to the physicians, one admitted as a madman, is suppressed! The rule being to record all, that the physicians may see them next day, when they come; one shut up to keep him from cutting his throat, is not reported to them!—Again we say, in the name of public liberty, we solemnly denounce such proceedings! That people, which will endure them, is already half pardoned!—

and to one by Mr. Richardson, he answered that his attention was never particularly called to this subject, till he saw the publication complained of.

Mr. HALL is also a resident student, and has been in the institution since June last. He never knew any preference given to any religious denomination. Maguire afforded every facility to all, and made objections to none.*

Mr. COLLINS testified that the reason assigned by Stazer for wanting to be taken to the alms house was, that he felt bad in his head and his heart. He refused to go there to see his wife, but said he wanted that he himself should go and stay there. Witness told him, if he should take him there, he would bring him back again. He did not *take* him there; he went with him; and Stazer

* During the greater part of the trial, Dr. Annan and Dr. Robinson, the physicians of the alms house, were in attendance as witnesses; but "*the State of Maryland*" chose rather to rely on the students under their care, than on the gentlemen at the head of the department, for an explanation of matters pertaining to it. It was nothing to the *traverser*, under the view of the case taken by his counsel, (see note on page 200) what the state of medical treatment or discipline might be; nor what Maguire's official merits or demerits touching his duties to the sick might be; and therefore he did not put those gentlemen on oath—as would have been done, under other views of the proper mode of conducting the defence. No doubt Mr. Maguire knew best, what sort of proof was to be expected from the various persons he was connected with.—There is a matter of some public notoriety in Baltimore, which it seems proper to record here, partly "in memory of the thing"—and partly for the information of persons at a distance. Dr. *Annan*, the senior physician of the alms house, is a ruling elder in the third Presbyterian church of Baltimore. When the *traverser* settled in this city, as pastor of the Second Presbyterian church, Dr. Annan was a ruling elder in it; but taking offence that his pastor's family had not engaged him as their physician, (as he avowed)—he allowed the matter so decidedly to affect his feelings and behaviour, that to save him from difficulty, and bring an unpleasant matter to a close, the pastor kindly advised him, either to give up his unhappy animosity, or if he could not, to seek some other church connexion where his happiness and usefulness would probably be greater. He preferred the latter course.—To pass over many things painful and needless to be repeated here, Dr. Annan published in the *Baltimore Post*, a daily evening paper, of March 10th, being the afternoon of the very day on which the trial for libel commenced; a most violent personal attack, under a fictitious signature, on his former pastor: and to make the matter as operative as possible, gave his attack such a shape as to attract the favour of the Papists to himself, and to excite the hatred of the Lutherans against us. No notice was taken of this publication at the time. Again, in the *Post* of April 7th, Dr. A. comes out over his proper signature, in a second attack on us, for our account of our trial, published in our April No.; and in a reply to this, we published a brief and simple statement of facts in the same paper for the 10th of April. This led Dr. A. to make such a publication a few days later, that he found it necessary, either to give up his office in the 3d Presbyterian church, or publicly explain away, portions of his last attack upon us. This latter he did, so far as regarded a portion of his printed praises of papal priests and papism in general, in the *Post* of April 21st. Here the matter rests; and so far as we are concerned, will probably continue to rest: the facts of the case being all we desire to have known, and that, to explain to all who desire to know, how it is that at such a time, and under such extraordinary circumstances, we should have fallen under the public abuse of a Presbyterian Elder! It is painful to add that Dr. A. has not even the poor excuse of Mr Converse of Philadelphia, who reviled us through a column of falsehood, while we were under trial for Christ's sake; for Dr. A. is not a pelagian.

had some conversation with Mr. Maguire and Hooper, he standing a little way apart from them; and when he saw they were about to accept him, he told Maguire that he had said he would bring him back.* M. then turned away, and he took Stazer back a part of the way home, as far as the hither side of the run—fifty or sixty rods. On the way home-ward, he stopped several times; wanted to go back; said he was afraid of himself; took out what change he had in his pocket, and gave it to the witness.† Witness then took him back to the alms house, left him with Mr. Hooper, and went out, but did not see Maguire on that occasion. He afterwards went in and saw Stazer in his cell; he had his coat off,‡ and was going to sleep. Witness then shook hands with him, and bid him good bye.

Cross-examined. It was not until he saw, when he first took him there, that they were about to accept him, that he told Maguire he had promised to bring him back. Maguire then turned away, and he took Stazer back as far as across the run. When going back, he pointed to a basement window of the alms house, but did not say that was where he wanted to be. It was near the run where he became afraid that Stazer wanted to make way with himself. Both times he went to the alms house willingly. On the second occasion witness went out back, leaving Stazer inside; and he afterwards thought he would go in, and bid him good bye. He did so. Found him in his cell, about going to sleep; shook hands

* See page 210, Mr. Holton's testimony, and note †; also Hooper's testimony, page 247, and note †; also Maguire's testimony on a subsequent page. Now the total excuse to justify the *illegal* confinement of Stazer must be of a *moral* kind: and yet the proof of the state itself, is directly at issue with itself, not only as to the manner, but as to the motive of his reception. Some swear he went to see his wife; some that he refused to see her: some swear that they rejected him and persuaded him to go away; some, that they interfered and carried him off, to keep those from taking him in, who swore they had rejected him!!!! How are we then, to understand these people? And where is the *moral* excuse, for Stazer's *illegal* confinement?

† Men are far more apt to cut their throats with a *knife* than with 'change.'

‡ "*Coat off.*" The Papal bookseller, substitutes the word *clothes* for the word *coat*; a small difference, but very pregnant.—By the way, we would like to know if Mr. Reilly was connected with those decent and Christian-like advertisements which were published about the commencement of our lectures on Papism, in order to ridicule us and them? The two which follow, appeared in the *Sun* of April 11; and a few days afterwards, *as we are informed and believe*, and will try to prove when indicted for printing; a *gentleman* called at the *Clipper* office, and took an advertisement and the money before left to pay for it; which was a postponement of one or both of those printed below; but which the *Clipper*, by public notice, refused to insert. Now we would like to ask Mr. Reilly if he knows who that gentleman was? And whether or not, it was the keeper of a Papal book and tract depository?

NOTICE—The Rev. Mr. BAMPTON R. BOOZLE, will commence a Course of Lectures TO-MORROW EVENING, at Monument Square, on Roman Fanaticism. Topics for the evening, Papish Domination and Monkish Excavations under the Battle Monument. Proofs of subterranean communications between said excavations and Fort McHenry, and the designs of Papism on said Fortress. The lecture will commence at 6 o'clock precisely. all-It*

GG-RELIGIOUS NOTICE.—A LECTURE will be delivered To-Morrow Evening, at the corner of Sixth and Munchausen streets, for the purpose of proving to the satisfaction of every prayerfully disposed Christian, that there are *fifty Popish Nunneries* in every street in Baltimore; that Washington Monument has been converted into an *Inglorious Prison*, and that the Pope, as commander-in-chief of a powerful and hostile Italian fleet, is within six hours' sail of our city. At the same time and place, a Lecture on APISM. all-It*

with him, bid him good bye, and left him. He had asked him if he did not want to see his wife? but he refused to see her.

In chief resumed. When Stazer first asked him to take him to the alms house, he stated to him, that if he did, he would bring him back.*

Mr. HOWELL, a Methodist, being sworn, stated that he has been in the habit of visiting the alms house for seven years, for the purpose of assisting in the religious exercises of the afternoon, on Sundays. He has had the same facilities and privileges since Mr. Maguire's appointment as before. Has had every facility he could desire—never met with any obstruction, but the reverse. He never knew, on any occasion, of any interference with the privileges of any denomination. He was in the habit of going through all parts of the building, to see any individual he wished, and never met with the least obstruction on any occasion, but met with the same facilities as under any other keeper.

Mr. LEMUEL STEWART, a Methodist, has been in the habit for six years past, of attending at the alms house, to assist in the religious exercises of Sunday afternoons, and has at all times enjoyed the same privileges, and had the same facilities since Mr. Maguire's appointment as before—met with no obstruction at any time, from any person; on the contrary, every requisite facility was afforded, and every desired arrangement made. Visited individuals in the institution for private religious instruction, and had the liberty of going to any part of the house to which his religious duties might call him. To a question by Mr. Schley, he answered that he did not remember being at any time specially called to the alms house.

Cross examined. Has had all these privileges at all times.

REV. MR. RICHARDSON examined by State. Is a Methodist preacher, and preaches at a chapel in the neighbourhood of the alms house; has visited that institution for the purpose of conversing with the paupers upon the subject of religion, and of distributing tracts—experienced no difficulties; had at all times free opportunity of seeing all persons, and distributing tracts—knew that the Methodists worshiped there in the morning—never preached there—never was there before Maguire's time—never experienced any difficulty or obstacle.

Cross examined. Has seen the altar spoken of—can't describe the room in which it was—saw it about three or four months ago—it was in the form of a small secretary but together—seemed to be

* Collins was Stazer's landlord—Stazer was afraid Collins would over-hear M'Jilton pray; which, by Stazer's cries, became known to Collins: next day Collins took Stazer to the alms-house under a solemn promise to bring him back:—took him out, not to see his wife, nor to stay, nor for any assigned or assignable reason, except—to come back again; Collins broke this promise thus given to Stazer before he went out, and left him at the alms-house, in a cell. He did this for the reason, *insinuated* rather than stated, that Stazer was mad, (which he never was); and then Collins went home, and kept the fact of Stazer's madness and confinement to himself, Stazer's family being in his house, and M'Jilton coming there to hunt him. This is the case made out, by Collins; and it must be admitted it is a most singularly clear and satisfactory one. Is there a man alive, that upon it can unriddle the case to our discredit? And yet a minister of Jesus Christ is attempted to be held, past doubt, guilty, upon the faith of it!

newly erected—it did not seem to be in a fixed condition, and understood that it was erected for the purpose of saying mass—was not painted—it was standing against the wall. (And here he described the form of the altar and the manner it stood.)

Examined by the State's Attorney. I learned it was a preparation for mass, and I considered it in an unfinished state from its appearance; considered it a mass altar—(and here the State conceded that it was erected for that purpose.)

Rev. JOHN TILYARD: Is a clergyman in the Methodist church; has been in the habit of going to the alms house for about 15 years. Mr. Maguire never opposed any obstruction; every facility has been offered; has always been received by him with cordiality and kindness.

Cross examined. Has always had those facilities.

Rev. EDMUND LOANE, of the Methodist church, has visited the alms house for 10 or 12 years; has met no obstruction during the past year, from the keeper, but was received with hospitality and cordiality by him, as much so as by any one previous to him. Has always had the liberty of visiting the sick wards and hospitals without obstruction. In October last, some of the exhorters had failed to attend in the afternoon of the Sabbath, and the people complained. Mr. Maguire sent a person to witness desiring that some arrangement would be made to remedy the cause of complaint, and subsequently called himself for the same purpose. Some ten or twelve years since, the alms house being neglected in the point of religious instruction, a proposition was made to the local preachers of the Methodist church, that if they would attend, the carriage should be sent for them; they consented, and the carriage has been sent from that time.

Cross examined. Mr. Maguire called on witness, and told him that General Leakin* and Mr. James Ridgely had asked him (M.) if he had read Mr. Breckinridge's last magazine. Maguire said he replied that he never read such books, and they then told him that the Dr. had accused him of giving a preference to the priests over other denominations. Witness remarked that the Dr. must be mistaken, as he (Maguire) had taken a deeper interest in having Protestant worship in the alms house, than any keeper who had preceded him. The next Sabbath when witness was going to the carriage to return to town, Maguire accompanied him to the door, and witness asked him if he had heard any thing further. He replied, yes, he had the book; it was not exactly as Mr. R. had stat-

* We presume there are not a few of the constituents of the present mayor of the city, who would like to know precisely the nature of his relations to a matter, into which, his name is so unceremoniously introduced by Maguire; and about which he must be aware, there is much deep feeling, and many rumors abroad. His published correspondence with "the Archbishop of Baltimore"—and the present posture of the papal influence in our public institutions; are certainly not calculated to allay this curiosity. As Mayor of the city, General Leakin is entitled to our respect; and our person and reputation to his protection and consideration. As the dispenser of an immense and important patronage, it is a question of great interest to us all; what are we to understand by this familiar and unceremonious use of his name in the matter of this prosecution, by Maguire?

ed, for it accused him of converting the institution into a mass house and a papal prison. Witness had heard the story about Stazer, and told Maguire what was said. He replied that the man came there under excited feelings, supposing his wife was dead,* and he had persuaded him to go home; that he was afterwards received during his absence in town. Witness asked him if he had a room set apart for saying mass. He replied he had not;† when the priests came there once a month, to hear confessions, they heard them on the male side in the store room, and on the female side in the matron's room; and he added, although I was brought up a Catholic, I am not a bigot.

JOSEPH KING and DR. THOMAS, two members of the society of Friends, affirmed that they had, on one occasion, held a religious meeting in the alms house, together with some female preachers, and no obstruction was offered to them; they visited the sick and the hospitals. One of the patients handed Mr. King a paper directed to the Reverend R. J. Breckinridge, and signed John Empson, painter. Witness showed it to the keeper, and asked if it was improper to send it. Maguire replied, not at all, the man is mad. The note was sent to its direction by Mr. King's son, but Mr. Breckinridge was absent.‡

JAMES L. MAGUIRE was called upon the stand with an intimation from the State's attorney that he was called for the purpose of giving the gentlemen on the other side an opportunity of cross-questioning him. § He stated, in substance, the same as Mr. Hooper.

* "*Supposing his wife was dead:*" In very deed! And why should Collins know nothing of this? Nor Hooper? Nor Maguire himself when speaking to Mr. Holton? To Mr. Holton, Maguire said, "*This man applied to be admitted into the alms-house that he MIGHT BE WHERE HIS WIFE WAS.*" To Mr. Loane the same Maguire says, "*that the man came there under excited feelings, SUPPOSING HIS WIFE WAS DEAD.*" Hooper swore, that "When he (Stazer) came to the alms-house, *he did not inquire for his wife.*" Now here are *only three* diametrically opposite statements, by the witnesses for "the State of Maryland" about one simple and most pregnant fact. What are we to believe? Did Stazer manifest any interest for or about his wife? Hooper and Collins say NO: Maguire, YES. Did he consider her dead or alive? Maguire to Holton says ALIVE: Maguire to Loane says DEAD. Really it is pretty hard to believe *all* this.

† "*Replied he had not.*" But when put on oath, "*he replied, he had*" prepared every thing in his line—room, altar, &c. &c. "for saying mass." See his testimony, on a subsequent page. Many a good *joke* has been spoiled by the intervention of a common law court. The report of the testimony by the Clipper is thus: "Have you a room fitted up as a mass room?" He said "No." The reader will observe the difference; the point of one of Mr. Richardson's arguments lies in it.

‡ Our acquaintance with the individual alluded to was slight and accidental, the result of which was, we hope, of some use to him, both for time and eternity. Shut up in the cells of the alms house, as a mad-man, he attempted again, without success, to open a correspondence with us, at a period later than that referred to by the excellent gentleman above. If Mr. Maguire will get poor Empson to give him, in writing, a statement of what passed during his abode at the alms house, (and Empson was then a Papist,) and will publish it, we incline to think there will be a strong suspicion on the public mind, that there is at least *some method* in his madness.

§ It is somewhat curious, that, on the same principle, the State's Attorney did not call Stazer and the physicians of the alms house "upon the stand," as well as

er, as to the manner of the first interview with Stazer, at the alms house. The next time he saw Stazer, was in the cells, when he was taking his rounds after tea, and then Dr. Turner was talking with him in the cell. The next day his friends asked to take him out, and were permitted to do so on paying 40 cents. When witness first heard of Breckinridge's publication, he could not tell who the man was that was meant by a German Catholic. He afterwards understood that M'Jilton was summoned before the grand jury of Baltimore county, who were then trying him (Maguire) and not Dr. Breckinridge, and that they had the publication before them. He sent Hooper to Stazer's wife* to ask what church she belonged to. She said she was a Lutheran, but her husband was a Catholic. Witness heard something about Stazer being the person alluded to, and called on Collins, who informed him that Stazer was six miles in the country. Witness went to the place and saw him there.†

The defence declined asking witness any questions at present.

DR. BAKER, who has been a trustee for the last twelve months, testified that he had visited the institution, and had never seen any preference given to any denomination.‡ The room which was partitioned off, had been used as an anatomical museum, but the museum had gone to decay, and it was thought it would be of ad-

the priests, about whom so much was said, and one of whom, at least, was in attendance as a witness during the whole trial. The truth is, that if Maguire had not been put on the stand, it would have been such an admission, both against him and the case itself, that after that, even "*the State of Maryland*" could not have followed "her peace and dignity"—any further. The "intimation from the State's Attorney" was, therefore, worth just so much.

* So then, it seems that the link of connection between us and Stazer, in the mind of Maguire, was McJilton; this is extremely remarkable. Observe: at first he had no idea what German Catholic we could mean. But when he heard that McJilton had been summoned, in regard to a case published by us, about a German Catholic confined in the alms house, then Stazer came into his thoughts! This is a most extraordinary association of ideas, seeing that Maguire knew nothing whatever of the former connexion between Stazer and McJilton, and did not even know Stazer by eye-sight, when he came first, as a mad-man, to the alms house. We do not ask the priests, nor yet the medical faculty, what *they* think of this case of association; but we do ask the metaphysicians what they think of it. There is *one* hypothesis on which it is a very plain and usual case of suggestion; but, for fear of more indictments we had better not philosophise too far.

† When Hooper speaks of Stazer's coming to the almshouse, he says, it was in company with "a man whom he afterwards understood to be Mr. Collins." And of Maguire's testimony the reporters say, "he stated in substance the same as Mr. Hooper, as to the manner of the first interview with Stazer at the alms house." Then both Collins and Stazer were *strangers* to Maguire; indeed, as reported by the Clipper, Maguire said he did not know Collins. But the moment Maguire's mind was turned towards the *stranger*, Stazer, through the odd fact of the summoning of McJilton by the grand jury; he went directly to the *stranger* Collins, to find out all about Stazer. And what is equally curious, the information which McJilton, a neighbour and well-known person, could not get at the house of Collins; Maguire, a *stranger*, got at once! And having got it, went to see Stazer, and having seen him, did not *succeed*, as prosecutor, in getting the *State of Maryland* to put him (Stazer) on oath, and thus triumphantly vindicate his (Maguire's) character and conduct, by the proof of the very person for *charity* to whom he had been so libelled! This was not clever of "*the State of Maryland*," to her injured prosecuting witness.

‡ See note † on page 250.

vantage to the children, if it were converted into a sleeping apartment and school room.

MARCUS R. HOOK was introduced by the State, to prove that he was a member of the Baltimore county grand jury,* for the purpose of showing that the publication of Mr. B. caused an investigation to be made into the conduct of Mr. Maguire; from which the State proposed to argue the injurious tendency of that publication upon Mr. Maguire. Mr. Schley objected, and the court decided the examination to be improper. Mr. Hook was therefore withdrawn.

Mr. MILES called by the defence. Stated that Davis and himself were going, one Sabbath morning, when the immersion of the Baptists was taking place at the Spring Gardens, down Cove street, on their way to that place. Davis commenced a conversation about Stazer, and told him that the man was a Catholic, and had become uneasy about his soul; that he had gone to Collins, who was also a Catholic, and Collins had told him he had better go on in the way he had been going, and Collins finding that had no effect on him, went to the priest and told him; that the priest sent a line to the old man, telling him his wife was dead in the alms house; that the old man went there, and was confined.

Cross-examined.—Davis did not say, by way of intimation, that the priest *could* have sent one, nor that it would be a good chance for him to fix the old man. But said that Stazer told him that Collins had got a line from the priest; that the old man told him after he got out of the alms-house.† He said it going down Cove street; and witness remembers it more particularly, because, as they came to Pratt street, they saw some men righting the railway, and Davis supposing them to be Catholics, stopped the conversation until they had crossed Pratt street, and then resumed it. Witness is a member of Mr. Purviance's church.

DAVID M. CHERRY (for the defence) heard the statement of M'Kane respecting this affair, and on the next day called to see Mr. Purviance, whom he told of the circumstance. Mr. Purviance requested him to go with Mr. Nufer, a gentleman who spoke German and English, and see if it was a fact or not, that a priest had sent a line to the keeper and had the man confined. Nufer and witness called on Davis, and he sent for the old German, but he was not to be found. Nufer then went to seek Collins, and while he was gone, Davis told witness that Stazer had told him that he was a Roman Catholic, but he was tired of that church, and he

* See note, page 196—“*An investigation into the conduct of Mr. Maguire.*” Yes, and published a card, declaring that there was no foundation in fact for all that Maguire, when put on oath on the trial of the indictment, swore was true! “Investigation?”—forsooth!

† It appears impossible to doubt, that Davis denied, when brought up as a witness by the State, what he had repeatedly stated to various persons, on different occasions, and that he did this under bodily terror of harm from the Papists. What a horrible fact is this, both as it regards the papal religion and the state of society! But what we particularly remark here is, that Davis told Miles, *he had certain material facts from Stazer himself*, while, on the trial, he said he had them from a negro woman. Now Stazer was in court, Davis's testimony was in all need of support, and the State did not ask Stazer to confirm it! What are we to infer?

wanted to worship in some other church. Davis sent M'Jilton to him, and when that gentleman was about praying, the German tapped him on the shoulder, and told him not to pray too loud, for Tom Collins would hear him and tell the priest. Davis said Collins heard them and went and told the priest he would lose one of his flock; the priest sent a note that his wife was dead, and the man was taken to the alms house and was confined. Witness, M'Kane, and Nufer, went to Kuntz's, in consequence of information derived from Collins; but M'K. would not go in the grog-shop, as he called it. They were not civilly treated and got no information. This was in October, and the recollection of witness is clear and distinct that Davis made this statement to him.

Cross examined.—Mr. Purviance told witness that Dr. Breckinridge wished them to obtain all the particulars; he and M'Kane told Mr. P. that night all the information they had obtained which was what Davis had told them.*

Mr. DAVIS (recalled by the state,) testified that he don't recollect seeing Stazer after he went to the alms house, until he saw him in the court room. He never told Mr. Miles that Collins had got a line from the priest; indeed he did not tell him; he was sure he did not, for he would not tell a lie for any body. Did not know when Stazer went to the alms house.

Cross examined.—Knows Mr. Cherry; did not tell him that the priest sent a note to the old man that his wife was dead; so help me God. I told him only what I tell at present; said it would be a fine chance for him to fix the old man. I have no fear that there will be any danger to me if I testify here; had a fear some days since when I heard it said that Davis said this, and Davis said that, which, before the Lord, I never did say. Was not afraid of having my throat cut—nor did I say I would cut my own throat—I would not cut my throat for all the world. I was afraid my enemies would do me an injury by saying what I did not say, and bring the thing on me. M'Jilton told me that Stazer had told him not to pray loud. I never said that Collins told the priest, and the priest sent an order—no indeed, I never said so. I told a part of what they said, and that I have told here. They have all went beyond what I told them. Was afraid, because I was told the court would put it off from one to another, and from every body, and put it on me.

Mr. MILES (re-called by defence).—I have no doubt that Davis said to me what I have said he told to me on the occasion mentioned.

Mr. CHERRY (re-called).—I positively say Davis did tell me what I have said he told.

The Court adjourned until Monday.

MONDAY, March 16.

Dr. THOMAS E. BOND examined by the counsel for defence. Is one of the oldest trustees of the alms house. The Bye-laws, as printed, were chiefly drawn up by myself, but might have been

* See note * on page 246.

afterwards modified by the trustees. When the institution was first established, there was a general intimation given to all denominations to have service, but in consequence of the peculiar organization of the Methodist church, they alone had the ability, in consequence of their auxiliary force, to comply with the intimation. Did not consider it a favor shewn to the Methodist church, but rather a favor asked of them. No person was compelled to attend the worship; as for instance, those inmates who were conscientious about attending Protestant worship, were not compelled to attend—and the trustees determined to send the carriage for the preachers. No person is permitted to see madmen without a medical man in the alms house consenting,* and no person is confined as a madman without the concurrence of some one of the medical attendants.† No person was permitted to be discharged by the keeper without an order of the board of trustees,‡ nor can they be received by the keeper without such order, except in extreme cases. (Here the witness explained what he meant by extreme cases—such as persons coming from the country, and others whose lives were in danger.) Was trustee about ten years, and ceased to be a trustee in 1828. The reason why the keeper was not permitted to discharge without an order is, that the pauper has to pay for medical attendance, &c., and if the keeper was suffered to discharge in that way, he might keep the money. It was always understood that every denomination would be supplied with such rooms as were proper to be appropriated to their peculiar mode of worship; if a Catholic priest attended, a proper room was supplied him for the purpose of examining his penitents.

Mr. HOLTON, re-called by defence. Was keeper before Mr. Maguire—his office terminated about thirteen months since. During the time I was there, there was no room set apart for saying mass, nor was there an altar there—never have seen the altar. When persons were conscientious about attending Protestant worship, they were required to remain in their rooms, for the purpose

* See Hooper's statement, and note † on page 248, and then, if you *can*, reconcile the treatment of Stazer, *after* his reception and confinement, with law, usage, propriety, or the excuses of the overseer.

† See Hooper's statements on pp. 247 and 249, and note ‡ on the former; and notes * p. 251 & 2, and see how the confinement of Stazer as a mad-man, on the medical opinion of *Doctor Hooper*, is to be justified, or reconciled with the reasons assigned.

‡ How completely does this testimony annihilate all the pretexts on which a *legal* justification of Stazer's confinement was attempted! But if the whole proceeding was from the beginning most grossly illegal and unusual, what is the *moral* defence for thus dispising law, usage and propriety? Aye, what is it? We reiterate the fact, *that the medical opinion of Hooper*, pauper, clerk, &c. is the sole basis of all the attempts to excuse this monstrous case! Now who believes that this is the real nature of this transaction? Who believes that Stazer's confinement had no other ultimate reason than Hooper's belief that he was mad?—He being sane, the law providing another and competent mode of deciding that fact, and prohibiting expressly that Hooper, of all men, should judge in the business? A more ridiculous fanfaronade was never attempted to be palmed on the credulity of mankind. Our distant readers may not know that Dr. Bond is one of our oldest and most influential citizens, a distinguished physician, and a local preacher in the Methodist Episcopal church.

of preventing such persons from disturbing the worship. Persons walking about the passage when the doors are open, in the summer time, would disturb the worship. The pulpit is in a room in the east side of the building, and when the door is open, the avenue is in view of the preacher. Here witness described the register upon which the names of individuals were entered; their mode of entering; the manner of reception and dismissal.* Never understood that he had the right to discharge any person without an order.

DAVID HERRING, examined by defence. Was formerly keeper of the alms house—went there in 1832, and left in 1835—was there about three and a half years.† The rule spoken of by Dr. Bond, about persons who were conscientious, was always observed, and also considered that persons walking about during service, disturbed the worship, and they were not permitted.—Never heard any thing about mass whilst he was there—if any person wished a priest, always sent for one—the Methodist preachers came every Sunday, and I always sent the carriage for them. Has in several cases received persons without an order, when they were in distressed circumstances—always put the names of such persons upon an admission book, for the inspection of the trustees—has felt himself authorised to discharge persons without an order, and has done it. As, for instance, when the friends of the party paid the expense, the matter was brought before the board, and they decided that the trustee was right in discharging persons under such circumstances, and afterwards I acted upon that principle—don't recollect of ever having discharged a mad-man. There were one or two instances in which I have taken several persons in, who were travelling at night, and the weather being bad, they were permitted to remain all night. Would have let a mad-man go, if his friends were to request it, and pay the expense.

* The reception, treatment and discharge of Stazer was, in *every particular*, not only without, but directly against law. None of the reporters of the testimony have thought it important to record Mr. Holton's explanation, and we will not attempt to do so now, from memory. Stazer, if sane, could only be admitted by an order; but being no pauper, he never applied for one, and could not have obtained it if he had. If insane, he could be received only on the finding of that fact by a jury, and when received, could be seen only by permission of the physician. When in, (no matter how,) his name should have been recorded on a list, and submitted to the physician on his next visit; but his name was never put on such list, as Hooper swore. And finally, when in, (no matter how,) none can lawfully get out, but on a discharge, by order of the trustees. Now let it be remembered, first, that every act done to and about Stazer was directly in the teeth of the law; and secondly, that the law presumes, and allows all others to presume, that illegal acts are done from illegal motives; and then where is the ground for a prosecution to stand on?

† Mr. Holton and Mr. Herring had successively preceded Maguire, and filled the office now occupied by him, for nearly eight years, immediately before him. During all that time nothing was heard about mass, or mass altar, or mass house; and yet "the State of Maryland" declares and proves that Maguire has made no change whatever as to the religious arrangements of the house, although he has arranged at least two rooms for a priest, and fitted all the necessary matters for an idolatrous worship, at public expense, without the least authority, and at the requisition of a priest!

JAMES L. MAGUIRE, cross-examined by defence. The person in chief authority, in the absence of the keeper, is the matron, though she does not stay in the office. I am not always in the office. Mr. Hooper admits in nine cases out of ten. Mr. Hooper would not receive a person without an order when I was in the institution—does not consult with the matron on his return after an absence—does not consider it his duty. It was before the 1st November the altar was made—was not made by order of the trustees—considers it his duty alone, under the bye-laws, to admit all denominations of Christians, and who desire admission, whether for worship or instruction—the altar was made by the carpenters of the house; materials also were procured from the institution—the pauper was allowed, upon his discharge, for the labor, at the rate of 10 cents per day—was painted with one coat—was made at the request of Rev. Mr. Butler—never saw Mr. Butler before he was keeper—don't know any of the priests but Mr. Elder—never was in a priest's house more than six times. Mr. Butler asked me if it would be permitted—I told him that all religions paid taxes and were permitted, I thought, to worship in the institution—can't say mass in a pulpit, it is too high—never touched an altar as he knows of, before this one. Mr. Butler gave him the plan—put this altar in the school room. Mr. Butler asked me if he could have a room for the altar. I told him he might, but that the Methodists occupied No. 19, and as they were the most attentive, I told Mr. Butler I regarded that room as exclusively devoted to their use, and told him they should not be disturbed.* I told him he might use any room in the house which did not interfere with the discipline. Mass has never been said in the alms house during my time.† Mr. Butler asked permission to say mass, but never did say mass.‡ Never saw Mr. Breckinridge or Mr. Cross before I saw them in the court house. Never read any of their discussions. Mr. Breckinridge might have written from now to eternity, and I would not have disturbed him if he had let me alone. Never was accused of having any religion until Mr. Breckinridge accused me;§ am nominally

* The reader will understand very much better many of the sayings and doings of Mr. Maguire and "the State of Maryland," on being told that there were six Methodists on the jury.

† That little *libel* scattered the plans of the priests terribly. No wonder the matter was taken so much to heart. The *City Infirmary* and the *State Hospital* have priests, altars, and sacrifices; and why not the *County Alms-house*? It was a singularly effective shot, for such a small one. Wonder if Mr. Maguire will be quite so frank with the funds and materials of the public in future?

‡ Compare all this with his positive declaration to Mr. Loane, that he had not prepared a room to say mass in. It is curious, that any individual who loves truth so much in *others* should allow its sacred character even to *appear* to suffer, in his very lightest moments. Now, were we more criminal in telling the public, what we sincerely believed, and had four respectable names to vouch; or the informer and prosecutor, who, out of a passionate love of truth, told Mr. Loane, plainly and flatly, what, he could not but know, was incorrect, seeing he swore the contrary, when called to the book? See Loane's testimony, p. 257, and note †.

§ And is such a man a fit guardian and keeper of the poor, the sick, the afflicted, the wretched of the earth? Is this the kind of man for the place he fills, himself being the expositor of his claims? We ask this question deliberately, and in the fear of God: we ask every upright and thinking man in the community, to answer

a Catholic. Am appointed by seven Protestant gentlemen,* who never asked me about my religious belief. If I was disposed to be religious, would join the Catholic church. Never said I was glad that Mr. Breckinridge had published this. Was not before the grand jury until this term. I told Mr. Wm. Gwynn† that he had

it to his own heart. Is it any wonder that our poor so often say, they had rather beg, or even perish, than go where they will be ruled with irresponsible power, by one thus describing himself?

* There is a grain of allowance to be made here. There are seven trustees of the poor for Baltimore city and county, and so far the statement of Mr. Maguire is correct. But of these seven, we apprehend the fact to be, that *three* had no other part in Maguire's appointment *than to vote against him!* Of the remaining four, *two*, we believe, are protestants, viz. Mr. Ridgely and Mr. Wilks: if Dr. Baker is a protestant at all, it is of the very faintest type, as the arrangements at the Infirmary and many similar facts have long ago satisfied the protestant public. The remaining trustee is the brother-in-law of Mr. Maguire, and, *of course*, a protestant. The truth, as to Mr. Maguire's appointment, is about this, as we learn: the mayor nominated the four trustees of the poor for the city (the other three being for the county, and not appointed by him,) some considerable time in anticipation of the usual period; they were confirmed late one afternoon, met next morning out at the alms house in full strength, and began their official career by rescinding the appointment of another man, and electing Maguire, *pro tempore*, till the regular time of election should arrive, and then confirmed him in office. What other recommendations he may have had for the office, besides those detailed by himself, in his testimony, we shall not now enquire.

† "*Mr. Wm. Gwynn.*" It gives us pain to be obliged in self-defence to make an explanation here. "*Mr. Wm. Gwynn's*" name is introduced here, by Maguire, as unceremoniously as the mayor's was before; and a few words may serve to explain what *we know* about the matter, Mr. G. himself being able to explain all *fully*, when it so pleases him. Mr. Gwynn is by profession a lawyer, and was for a considerable time the editor, and perhaps proprietor, of an old daily paper, published in this city, called the *Gazette*; which was notorious amongst us for its friendliness to the papists, and which went, finally, the way of all flesh, dying decently into another paper, (as we have already said, in a previous note, the *Chronicle* did afterwards.) Our readers will find in our number for February, 1835, pp. 49—52, being Vol. 1, No. 2, of this Magazine, an article entitled "*The Papal Controversy and Papal Influence in Baltimore*," and another entitled "*The Rejected Statement*." We desire them to read those articles, which give an account of a most violent attack made on us by the aforesaid *Gazette*, then under the editorial charge of *William Gwynn Jones*, (at present a convict in the Maryland penitentiary.) We refer also to our April number for 1836, pp. 139—148, being Vol. 2, No. 4, of this Magazine, where the reader will find an article headed "*An Address to the American People*," in which, amongst other matters, the conduct of *Mr. Wm. Gwynn* (who became, a second time, editor of the *Gazette*, after *William Gwynn Jones* was put in the penitentiary,) in another attack upon us, is exhibited: (this is part of the dreadful case of JUDGE GASTON, of N. C. and grew out of it.) Having examined these articles, the reader will not be surprised to learn, that "*Mr. Wm. Gwynn*," according to the intimation of Maguire, had a finger in the pie intended to be made out of our poor *libel*. *How much* he had to do in the business, we cannot say; nor *on whose* suggestion, nor for whose benefit. We know, from Maguire's testimony, that "*Mr. Wm. Gwynn*" and himself had a conference about the matter, when it was before the *county* grand jury; and when Maguire, who had no right to know any thing about it, (as the proceeding, if against him, as he says, was necessarily *ex parte*,) knew *all* about it, even to advising what witnesses to summon; and when we, who ought to have known all about it, (if, as he says, the grand jury were proceeding on *our* information,) knew *just nothing at all!* We also *infer*, from Maguire's mode of speaking, that "*Mr. Wm. Gwynn*" had some material part in bringing the matter before that "*county grand jury*;" and if so,

better summon all the Students and Doctors, as they knew all about the institution.—This was the County Grand Jury. Was only once before the grand jury this term. I understood that one of the grand jury was using his exertions to postpone the enquiry, for fear of creating a religious excitement. I told some of the jury if it was a libel, they ought to indict, and referred them to Mr. Richardson. Some of the grand jury came to witness—some of the trustees of the poor also came to me.* I insisted that if they believed it to be a libel, that it was their duty, acting, as they did, under oath, to find a bill. Did say if they did not, I would publish them.† Always said in general terms, that the publication was false. Had heard before I went before the grand jury that Stazer was the man referred to. Mr. Samuel Lucas was the grand juror referred to.‡ Was

whether to inculcate us or Maguire, let all men judge!!! We moreover have reason to know, that before Maguire brought suit, and before he went before any grand jury, and as he swore, before he had determined to do either, “Mr. Wm. Gwynn” held a conference with *Reverdy Johnson, Esq.* (subsequently reputed chief counsel of Maguire, in his civil suit against us for only \$10,000) upon our *libel*; and was subsequently before the grand jury of the county. Now is it not very odd, that so many *old friends* of the priests should accidentally have a hand in this affair? “Mr. Wm. Gwynn” is at present (by appointment of Gen. Leaken?) the official legal adviser of our municipal authorities; and as such, may suppose, that being an officer for the city, he should take care of the county also; which is fully as good a conclusion as that of Maguire’s, that, being overseer of the poor, he might, *ex officio*, fit up a mass house at the public expense, and on his own mere motion. It is very curious, how few protestants, who deserve the name, hold office in Baltimore; and not less so, to see how many of those persons who do hold public office are staunch and ardent friends of “the State of Maryland”—*on occasion!*—See *Secret Councils of the Jesuits*, Chap. II. and III.

* The facts in regard to the official action of the trustees of the poor (as we are informed by those who have examined the record of their proceedings) are these, viz: A motion was made at the board, that Mr. Maguire be requested to stop his proceedings at law; lost, by a tie vote, three and three, (one vacancy): then a motion, that the trustees have nothing to do with the matter; carried, unanimously. It is easy to understand, and is, we believe, the fact, that persons might excite Maguire to go on, in their capacity *as men*, and vote that, *as trustees*, they had nothing to do with the matter. The fact of their voting at all on the matter is a proof of the state of public sentiment; and we think it not improbable, that if Maguire is continued in office, there will be some more proofs of it.

† Now here is a specimen of decency and logic combined. “*Acting under oath*,” it was their duty to act as “*they believed*” right; but “*did say*, if they did not find a bill, *I would publish them.*” What a state of case! The grand inquest of the city *threatened* by an audacious keeper of a poor house! Was the like ever heard of, in a land of laws? “Gentlemen of the grand jury, I can’t give you a shower bath, nor put you in the cells, nor feed you on bread and water; but beware how you stand between me and *justice*; for *I will publish you*; I will degrade you, by holding up to public scorn your refusal to find a bill, at my dictation, against two vile heretic parsons!” This is the language of the *acts* of this meek, persecuted, libelled, law-abiding man! The grand jury *knew of this threat*, AND FOUND THE BILL, AFTER HAVING DECLINED TO FIND IT ON THE TESTIMONY! Alas! Alas! for public justice!

‡ That is, Mr. Lucas was the individual to whom Maguire went and delivered his threats for the grand jury, after he had been informed by Mr. Blair, a papist, and also a member of the grand jury, that no bill would be found. “Mr. Wm. Gwynn’s” relations with Maguire were in regard to a previous grand jury, which did not find a bill. Then Maguire went in person before this grand jury, and swore “*that there was not a shadow of foundation in truth*” for our statements, or words to that effect. After this, Mr. Blair informed Maguire that no bill

a good deal excited at the time, and did not think it right for any of the members of the grand jury to be following me about in that way. I went to the Council Chamber to see Lucas, because I always considered him my friend, and do now; and whilst I was conversing with Mr. Lucas, Mr. Hanson, of the council, joined, and said, that Mr. Pinckney, also a member, had said that the matter was settled.

Cross-examined.—One of the members of the grand jury came to me to the alms house; and asked me if it would make any difference to me if there was no bill found. I told him I would consider it an imputation upon my character,* and they had better ask Mr. Richardson if it was a libel. I asked my counsel if the withdrawal would have any effect. He thought it would. (Here the State's Attorney remarked that he was not the counsel referred to.) Witness said he had no communication with State's Attorney. Did not consider him as his counsel, but referred to Mr. Pitts.

MR. RICHARDSON. My name has been referred to as having been consulted by the grand jury. I beg leave to make the following statement. To the best of my recollection I never saw the publication, until the following circumstances brought it in view. One morning one of the grand jury came down, as is constantly the case, and requested my opinion upon the publication, which was then for the first time shewn me. I remarked that the publication charged Mr. Maguire with having confined a citizen, and I gave my opinion as a lawyer, that if the publication was false, it was a libel. I heard nothing more of it from that time until the finding of the indictment. I knew nothing of the proceedings of the grand jury. It is fair here to state to you that Mr. Lucas came to me and complained that one of the jury had developed the proceedings in this matter to Mr. Maguire, and wished to know what could be done with him.

would be found; and then Maguire used the threats to Lucas, who repeated them to the grand jury, and on polling it, it came out, that Blair had informed Maguire; (although the grand jurors, *we had supposed*, were, in Baltimore, as they are every where else, sworn to secrecy, while their sessions last.) In this state of case, *twelve* grand jurors (out of an inquest of *twenty-four*) agreed to find the bill—the *least* number which the law permits. If *Papists, Universalists, and Infidels*, be not counted, there might have been as many as *two*, or perhaps *three*, out of the whole inquest, for the bill! We confess, if it were not for deep sorrow for our country at this humiliating recital, we should rather exult than grieve, that such proceedings, for such a cause, under such circumstances, and on the part of such persons, should have had place against us. If “the State of Maryland” can endure the scrutiny of time and light, and impartial truth, into these transactions, well are we content to do it. There are those whose praise is harder to endure than their hate.

* And what does he think of the influence of the trial upon his character? Or has he got advice on this point also? It is not common for a lawyer to get a chance to regale himself on two ministers at once, nor to conciliate *two* great denominations by methods so easy as a centenary speech and a prosecution of heretics. If the Methodists and the Papists should *both* take up a man, he would be on the top of the wave. But these are idle thoughts, and mean nothing—nothing at all; and we declare there is no malice in them; nor even in the *commas* that are scattered amongst them.

* Witnes (Maguire) continued. I shewed the grand jury a letter which I had received from Mr. Cross, and told them I pronounced the publication to be false—presume that the letter came from Cross—shewed it to the grand jury for the purpose of proving the publication by means of the hand writing. (Here the counsel for defence asked to see the letter. Mr. Richardson remarked that it was in his possession. Mr. Schley stated to the court his reasons. Mr. Richardson replied. Court decided that it was not a part of the record, and consequently not a part of the case.)

The question was again raised by the Hon. Mr. Crittenden, as to whether it was not proper to have the letter, which was part of the evidence before the grand jury, and which went to show, as the honourable gentleman contended, that the traverser was not actuated by malice towards the witness.

Mr. Richardson contended that the court had decided time after time, that the State's Attorney was permitted to conduct every case in which the state is a party in this court, in his own way, and further contended that the letter of itself was not evidence, being merely declarations after the publication.

Mr. Schley rejoined, and said that the letter having been sent into court by the grand jury, that it was thereafter in *custodia legis*, and therefore proper to be read to the jury.

Court decided it was improper.

Question by Mr. Crittenden to Mr. Maguire. Did the traverser ever say to you that you were not designed to be injured by this publication, and that you were not in the mind of the writer when the publication was written?

State's Attorney objected to the question.

Mr. Crittenden argued to the court the propriety of the question, inasmuch as the letter was ruled out.

Court decided the question to be improper.†

* No notice whatever is taken of what follows, from this point to the recalling of Mr. Loane, in the report of this case printed by Mr. Reilly, in pamphlet form. The following note, perhaps, explains the reason of this singular omission.

† The decision of the court in this matter seemed to us singular, and the conduct of the State's Attorney worthy of serious complaint. The facts are these:—The *traverser* received letters, in Kentucky, in the month of December, informing him that Maguire had taken great offence at the *libel* in the November number; that the matter had been before the grand jury, &c. &c. He immediately concluded how the matter stood, and acted accordingly. 1. By writing to various friends in Baltimore, to have matters put into the best possible condition for a defence, just as they would if the Papal church were the open and avowed party, and especially by taking care that the chief witnesses were not put out of the way, nor, if it could be prevented, suborned, &c. &c. When, in consequence of these letters, Stazer was looked up, he was found *missing*, and by mere accident, (as men say,) and after much labor and pains, he and his family were found; the reader knows the rest as to them. 2. The junior editor of the Magazine was written to, advising that every thing consistent with truth and honor should be done to convince Maguire that we had never desired to have any difficulty with him, nor to meddle with him at all, and that we were willing to do and say all that was true, to repair any injury we had unintentionally done him. On the receipt of this letter, Mr. Cross wrote a note to Maguire, in his own name, expressing in general its views, and then published substantially the same matter, with other thoughts, in the number of our Magazine for last January, in an article entitled

It was here admitted that Mr. Maguire has instituted a civil suit against the authors of the publication.*

Here Mr. Schley remarked that they were very unwilling to detain the court; the Sheriff and a messenger had been sent in search of Mr. Samuel Lucas and B. H. Richardson, (members of the grand jury that found the bill,) but were unable to find them, and he proposed with the assent of the court to examine them when they came into court.

Mr. Richardson remarked that he should reserve to himself the right of objecting to the questions, if he deemed them illegal.

Rev. Mr. LOANE examined by the defence. In the conversation between myself and Mr. Maguire, he denied that he had a room fitted up with an altar in it. I stated it was so said in the city. He replied it was no such thing †

Mr. JAMES L. RIDGELY examined by the State's Attorney. Is one of the trustees of the alms house. In relation to the conduct of the keeper there are general rules, but a good deal is addressed to the discretion of the overseer in cases of necessity. The school room was prepared by order of the board. The board having en-

"Our course for five years—Suit of Mr. Maguire." Maguire took no notice of Mr. Cross's letter. On our return from the west, we published, in our March number, an article entitled "*Papism before the Courts of Law—Our Legal Persecution*," recapitulating the whole matter, and reiterating the true state of the facts. Until this article in March appeared, Maguire had no means of knowing that the letter of Mr. Cross was not his individual and spontaneous act; and when he went before the grand jury, in February, he produced and filed that letter, not for the absurd and ridiculous reason given by him, viz. to prove an article on B. by the hand-writing of C., but contrariwise, to prove the superior malice of B., even beyond that of C. The letter of Mr. C. was sent down by the grand jury with their presentment; and seeing that this let in an explanation from us, which would at once upset Maguire's case, and which, but for his producing that letter, could not be let in, our counsel ordered and got an office copy of it. But behold, on the trial of the case it appeared that Mr. Richardson had withdrawn the letter and put it in his pocket, and claiming the right to conduct the case for "the State of Maryland" "*in his own way*," refused to produce the letter; and the court refused to allow us to prove its contents by Maguire. Now as to the decision of the court, we have only to say, that as Maguire had made that letter part of his testimony to the grand jury, it appears to us perfectly clear, that we had a right to make him tell now, *all* that he had told and done them; nor are we able to see, that it makes the least odds, whether Maguire repeated the substance of the letter to the grand jury, or whether he read it, or whether he filed it, to be read by the foreman. But as to the conduct of the attorney general's deputy, it is a more grave question, how he could say that he aimed only at justice, and yet keep back important testimony from the petit jury, which was before the grand jury, and which, on being introduced, would show the whole matter in its real light. And as it regards Maguire, what can we say to a proceeding which files Mr. Cross's letter when that course seems to bear hard on us, and then allows that letter to be taken back, when the taking of it back bears hard on us? In our poor judgment, that single transaction most conclusively shows the real character of the whole business, and leaves no room to doubt, that a far more important interest than any held by "John Doe" was the one which instigated all the proceedings against us.

* Damages only \$10,000: only eight hundred and fifty dollars a line, for writing the original paragraph. This is far better than the rewards of electioneering.

† This declaration of Maguire to Mr. Loane is precisely at issue with what the former stated to the court and jury, and with unquestioned and notorious truth!

ture confidence in the keeper,* are obliged, from their unavoidable absence, (only visiting the alms house once in two weeks) to repose a great deal in the discretion of the overseer.

And here the testimony was closed, at one o'clock.

Mr. PITTS rose to address the jury. He congratulated them on the fact, that this case, whose investigation had been protracted through so many days, had at length arrived at a point, whence they might at least look towards a conclusion; not alone because of the gratification which its termination would bring to them and to the counsel engaged in the investigation; not alone because the anxious crowds which assemble here daily, attested the deep and pervading interest which the public had taken in this case; not because any feeling excited beyond the limits of these walls had brought other considerations into connexion with it; but because it involved on the one side the guilt or innocence of the accused, and on the other, the question of protection to the character of the citizen. It was not wonderful, that the citizen should take a deep interest in the case, not on account of matters foreign to the immediate question at issue; but because the State of Maryland being called to interpose for the protection of the citizen, she should equally ward off undeserved punishment from the accused. We may here find cause for the crowd of deeply anxious spectators; and however deep and pervading may have been the interest of the community, it has arisen from no feelings that citizens may not entertain. I am glad, gentlemen, for the counsel for the defence, and on account of those for the prosecution also, that in the evidence, and in the manner of conducting this investigation, no door has been opened for the admission of any improper feeling. We would have regretted that it were otherwise; and I am glad, that we can now approach this case, with a view to the single and simple question of the guilt or innocence of the traverser, that beyond this, the limits of our inquiry cannot be enlarged. The State has alleged, by the grand jury, that the traverser has, in a paragraph published by him, libelled James L. Maguire. The questions arising on this allegation divide themselves into several classes. First, it is for the State to prove the publication,—this is admitted. The next question is, had the paragraph reference to James L. Maguire? and if the State prove this, the question occurs, is it libellous? Having progressed so far, it is for the defence to show that either the charges in the paragraph are true; or that the traverser had such good reason to believe them to be true, as would be sufficient in the eye of the law to excuse him for their publication. Under these, many collateral questions may arise; and though the examination of the evidence may be tedious to you, gentlemen, I hope for indulgence, from the patience you have already exhibited. First then, did this paragraph, whose publication by the traverser is admitted, refer to James L. Maguire? [Here the learned gentleman read the paragraph complained of, and quoted in the commencement of this report, which set forth, that the alms house had been converted not only into a papal mass house, but into a papal prison, &c. and that an aged German Catholic, anxious about his soul, had been confined there by its papal keeper, &c.] He contended, that by the plain construction of language, this referred to Maguire, and was libellous on its face. How do we arrive at the conclusion, that it had reference to him? By the same means by which we arrive at the meaning of any other paragraph, by the rules of common sense. Without any reference to the parties, their character, or their standing—their position relatively, as high or low, let any person read this paragraph, knowing the

* Which still exists undiminished? Do we so understand? Are the public to understand, that the mayor and the trustees of the poor intend to continue Mr. Maguire as overseer of the alms house?

parties, and he would immediately conclude it had reference to Maguire, and to no other person. The paragraph contains three allegations; first, that the alms house was converted into a papal mass house; secondly, into a papal prison; and thirdly, by whom was this conversion made? by the papal keeper, lately appointed over that institution.—Now James L. Maguire, save the matron, who is second in office, is the only person known to the law or the people, in the capacity spoken of, the overseer or keeper of that public institution. And that the most common understanding might not be mistaken in the person, he is not only designated by his official station, but landmarks and finger-boards are affixed to him, and his religion is given to the public. So far then as it relates to the papal keeper there can be no mistake; the reference in the paragraph to such keeper could be to no other person, but to James L. Maguire, and to him only. If then we believe him to be the person meant, must we not also conclude that the things alleged to have been done by the papal keeper, were charged upon James L. Maguire? If the alleged conversion was made, it must have been the work of some agent, and that agent could be no other than Maguire. If the thing was done, some one did it; who was it? The specification is contained in the paragraph:—An aged German Catholic anxious about his soul, and seeking Protestant instruction, was confined in a cell by the papal keeper, &c.; and this had the double effect to convert the alms house into a papal mass house and a papal prison. But it is alleged that Maguire acted under the influence of a line from a priest, stating that the man was mad, and directing his confinement. And are we to confine ourselves to the meaning which the defence themselves give to this? Was Maguire only used by the priest? Nothing can be plainer than that an act is done by the agent who performs it. The writer states that the man was confined by the papal keeper; Maguire was that keeper, and was the only person who could have done it. So thought every person in the community who read the paragraph, or heard of the charge. This is plain from the testimony of the Rev. Mr. Loane. He, it is plain, was satisfied that it had reference to Maguire, spoke to him on the subject, and deemed the reference unjust to one who had shown such an anxiety for the accommodation of protestants. It was clear from Mr. Loane's evidence, that people thought it had reference to James L. Maguire. The next question to be considered is, is it libellous. If the publication was false, and if it imputed immorality, if it was calculated to injure his standing in society, as an individual, to alienate his friends, or as a public officer, to cause him to lose his office, then it was a libel on the face of it. If this paragraph was of this character. If it was calculated to produce these effects, or any of them, then was it a libel on its face. If it charge him with infamy, and injuriously affect his social standing. If it impute to him that which would cause him to lose his office, or subject him to a legal prosecution; are these imputations nothing? The defence must either argue that they are nothing, or admit them to be libellous. If he had done as they say he did, can it be said that he had done nothing? But the charge goes beyond an imputation of violation of individual rights. Would any person reading the paragraph suppose, that in taking in that aged man, Maguire was moved by considerations of charity? The jury would not think so. It is averred that he was a Catholic, anxious about his soul, and seeking protestant instruction, and he was confined, as one of their witnesses said, lest the priest should lose one of his flock. This charge, then, imputes more than a violation of individual rights, and reaches to a restraint of the liberty of conscience. What else can it impute, when it charges that he was anxious about his soul, was seeking protestant instruction, and was in consequence, and on pretence of his insanity, at the instance of a priest, confined by a papal keeper? And is that no charge either against the individual or the public officer, calculated to in-

juriously effect his standing? or rather is it not a charge, by the proof of whose truth he would be

“Damn’d to everlasting fame?”

And man who would so exercise the power of his office as to abridge or restrain the liberty of conscience, would deserve the deepest execrations that could be heaped upon his offending head; and yet forsooth this is a light charge! They say an altar has been erected in the institution for Catholic worship, under his administration. Be it so: we have yet to learn, that the erection of an altar is a sin against the public good, the interests of society or the laws of the land. But it is charged, that he converted the alms house, a public charitable institution, into a papal mass house, meaning that he converted it to the uses and purposes of the Catholic church, to the exclusion of other denominations; and the other allegation is, that he imprisoned an aged German there. Is this no imputation of infamy? of abuse of official power? But the defence say, they do not suggest otherwise than that he may have thrown open the portals of the institution from motives of charity, to save from destruction a fellow-being, to prevent him from raising his hand against his own life, and that therefore the allegation might be true, and he be innocent. I would rejoice in such a meaning as this—that the paragraph could be so construed. But is that the language of the paragraph; is that the meaning intended to be conveyed? Was it intended to be a eulogy on Mr. Maguire; on his kindness, his charity and his hospitality? When hospitality opens the door to him who needs its offices, do we say of the guest, that he is confined; and kept in confinement till he is rescued by accident? It would be a strange and singular way of exhibiting good and charitable motives, to thus restrain a person of his liberty. This publication, it is worthy of remark, charges that the man was confined not only till released, but to make the language stronger, till he was accidentally discovered and *rescued*. I confess, I cannot see how you can find good, innocent and upright motives for this publication. If Maguire’s motives were good, if his conduct was right and praiseworthy, what motive, or what sense of duty could induce a public journalist to send it in this shape to the four quarters of the earth? Ask any one whose eye has seen this paragraph, if he can conclude otherwise, than that the intent was, to charge upon Maguire a violation of the individual rights, and liberty of conscience, of an aged German. Suppose it then libellous on its face, has it been excused or justified by the defence? It is for them to show, that it is not libellous. They must shew either, that it was true, or that they had all good and sufficient reason to believe it to be true; or that they have rebutted the imputation or inference of malice. The course of these proceedings has produced novelties in law and in fact. The first ground assumed by the defence was, that the publication was true. Did they succeed in making out the facts alleged?—Have they brought forward any evidence to prove the truth of a single particle of their allegations? They have not the shadow of a foundation, a tittle of evidence, on which to rest a defence, drawn from the truth of the charges.—What is the evidence on their part? I would have been truly glad, if the question had been, not on the truth, but on the motive,—that the truth of the allegations had been entirely left out of the defence; for even their own evidence to that point came with overwhelming power, and stamped the publication with the brand of falsehood. No single circumstance proved made for its truth; and if the traverser had held solely to the truth of his allegations, he would now be stripped of all defence, and left standing naked to receive the punishment of the law. What is the evidence they have proved? asked Mr. P. That the Rev. Mr. McJilton was requested to pray with an aged German Catholic; that he did pray with him, and gave him such counsel as was calculated to give him a sense of his errors, and point out the proper course

for him to pursue if he wished a forgiveness of his sins. Mr. McJilton called on him again, and he was not to be found at home. It was proved that the old man had been to the alms house, and when sometime after McJilton told Maguire he had heard of his being there, did he deny it? No, he said he had been there, and turning to the book, showed where he had been charged 40 cents. Mr. P. reviewed the conversation between Maguire and the reverend gentleman, in regard to the man's confinement, up to his being placed in a cell ten feet by twelve, with a good light and a comfortable floor. This is all the statement proved to sustain the allegation that an aged German Catholic had been confined in consequence of a line received from a priest. But let us see how far this statement will shield the traverser from punishment for a false libel? Instead of giving the affair the strong light in which it had been placed by the publication; instead of proving that Maguire had confined him without warrant; the statement proves that this aged German had been permitted, on his own solicitation, to come into the alms house for one night, and the next day, on paying the 40 cents demanded, was permitted to go out. This is the full extent of the truth proved to justify the charge. True they have proved that an aged German Catholic was for one night in the alms house, and in the cells, but does it sustain the allegation that he was imprisoned there? What does the imprisonment in this allegation mean? It alleges that he was taken to the alms house through fraud; through a line from a priest; and that Maguire lending himself as an agent to this fraud confined him in the cells. Confined him! How confined him? By letting him come into the house to come and go when he pleased? Is this imprisonment? No, gentlemen, it is not the meaning of imprisonment. Imprisonment is a restraint, an exercise of violence to deprive a man of personal liberty. Has there been a violation of personal liberty here? No, sirs, the man acknowledged himself the recipient of kindness extended at his own request; there is no restraint to his going forth, and he returns to his friends. Is this the confinement alleged in the publication? Did I not know, continued Mr. P., that this allegation would be supported by the gentlemen with legal knowledge, ability and eloquence, did I not know that they intend to exert every means to sustain the point of the defence; I should not think it worth while to tell you that confinement in a prison house is a restraint of personal liberty, and not the reception of a man at his own request to be released at his own desire. But we have other evidence that no restraint was put upon the man. He alluded to the child who had been placed upon the stand; that beautiful child, the daughter of the old man, that child from whose pure face the hand of time had not yet wiped the image of God's likeness; that child whose countenance still beamed with innocence and truth; one old enough to feel a father's wrongs, and intelligent enough to rehearse those wrongs to the jury; old enough, and judging from her manner, with a heart to feel a wrong done to him. Now look to the evidence of this child; recollect her manner and her words, and tell me if there was a look from her innocent face or a word fell from her pure lips that could be construed into a thought that he had been wronged? She said he had been absent for a night and she did not know where he was; that she had gone to the alms house to look for him and there she found him. I looked, said Mr. P., at her when she was making this statement, to see if, in her countenance, there was any sign that she felt that her father had been restrained, and I could find nothing but the language of an ordinary visit to the alms house to see her father, and pleasure at finding him. When she went to the alms house she asked to see him and she was sent to him; she was not old enough to take him home herself, and she returned to the city, sending some one who brought him home. Well now, continued Mr. P., from the time when the child was introduced to the scene of this "suffering," this "prison house," to the time of her return, there is not a single fact nor a single look that dis-

closes a father's wrongs—a belief that an outrage had been committed on a father's liberty. She was asked if her father was locked up; she replied, no, he was not, there was a piece of wood in the staple; the door was opened to her and she was admitted to him. This is every tittle of evidence that we can look on as even tending to prove the truth of the allegation that Maguire had confined the man. There is not evidence sufficient to cast the shadow of a suspicion on the keeper that he imprisoned the man, or give to the act the character of the charge with which he is assailed and libelled in this magazine. We say that they have not succeeded in raising proof of a suspicion that the charge is true. We come now, said Mr. P., to the probable cause of the publication, the reasonable grounds for believing the statement true. Not succeeding in making out the truth of the statement; not succeeding in justifying their assertions by proving them to be facts; the defence now is, that notwithstanding that the truth was not established, the party had reasonable grounds for believing them to be true. This gave rise to the argument before the court, and the decision of the court is that the evidence on that point is left to you for what it is worth; the court does not say that it is a justification. It is left for you to decide if a person can publish a false statement and escape from punishment, because he was *told* it was so; it is for you to say whether a party libelling another is excusable because some one told him. How was the party here told? The evidence shown here to excuse the publication—it is not pretended to justify it—consists of rumors detailed by several individuals; and what were they? We commence with Mr. Owen, who tells the Rev. Dr. Breckinridge that he had heard from Mr. Davis that a German Catholic had been confined in the alms house, through a line from a priest, and he refers to Mr. McKane and Mr. Cherry as also having heard of it. The matter was talked over in the presbytery after the close of a meeting, not because it was confirmed, but as a rumor, of which all referred to Mr. Davis as the source. The Reverend Dr. Breckinridge himself was not prepared to assert its truth, as was shown by his language in the presbytery and in the article. He had not sufficient information to make the statement. In the meeting he asked for further particulars and information! If he acted on reasonable grounds for belief in the truth when he published the article, such as he should have done, why did he ask for further particulars? Why it shows beyond all cavil, that he considered it as a rumor which needed further confirmation. By referring to the paragraph, we find that he published it in the hope of getting further information; that he was not satisfied, and in the hope that the gentlemen he had asked would be successful and get further particulars, he published it.—What does this amount to? Why, that Mr. Owen communicated to Mr. B. that which he considered a rumor himself. What further particulars were obtained? What more was ascertained of the truth? Not a single fact. And not, with all the zeal and patriot toil which we have a right to presume was exerted by those who undertook the task, were further particulars obtained until after the publication. It was all rumor. Mr. Breckinridge heard it from Messrs. McKane and Owen, who heard it from Mr. Davis, who heard it from a black woman, and a slave at that, as he expressed it. Mr. Davis says he got up one morning and was walking to the lamp post, when a black woman asked him if he knew Mrs. Stazer was dead. "No, is she?" said he. "Yes," she replied. "Then it is good for the old man, for he will have no more to pay for her in the alms house." Here, then, we have the rumor in a circular, going round and round, and swelling at every turn. Dr. Breckinridge hears it from Owen and McKane, they hear it from Davis, and he hears it from a black woman! Now, argued Mr. P., it is a curious question, involving matter of serious moment to every one of you; involving subjects of grave import to all the community, whether evidence light as this; evidence which is baseless in the law; which is not to be admitted in proof of any other criminal act,

shall be the license for a libel. Whether it is to be said in the state of Maryland, than an idle rumor is to be received as justification and provocation for a libel on one of her citizens.—It is of serious importance to know whether the character of every individual is to be at the mercy of the conductors of every periodical, and at the mercy of those who gather materials for a paragraph. It is for you, gentlemen, to decide. Thus far we have nothing but rumors of what Mr. Davis said, but when we go farther, and come to Mr. Davis, that honest old gentleman is amazed that what he had said is published in such a strange shape; he is amazed to find that his conversation had furnished a “fine paragraph for Dr. Breckinridge’s pamphlet;” he is astonished that what he said he had heard from an old black woman had swollen into a matter in which the “public good” is concerned; he is surprised that what he had spoken as gossip had grown into an event that cast before it a shadow of mighty wrong! No doubt the old gentleman had a treat in the way of novelty when he heard the story had grown into so momentous an affair. It was a good story, and he might be too modest to take all the credit of being the author of the life, imprisonment and release of Mathias Stazer, for he was not inclined to take a copyright according to law, and declined the authorship. He was asked if he had said what it was said he had told; he answered, no indeed I did not. He met Stazer in a barber’s shop, where he was expressing concern for his soul. What does Mr. Davis do? He did that which, as a good citizen and a good Christian, he should have done; he advises him of the way to his salvation; he sends a minister to him; the next day a black woman tells Mr. Davis that Stazer’s wife was dead—Stazer has gone to the alms house; Davis tells this to McKane and Caleb Owen, remarking, it would be a fine chance for the priest to fix the old man; and this it is that Mr. Caleb Owen thinks would make a fine paragraph for Mr. Breckinridge’s pamphlet. Mr. Davis, however, was not willing that it should, and so expresses himself. But, say the other side, Mr. Davis is mistaken; his statement here is not what he truly said. The object of the cross-examination made by the gentlemen, must have been intended to disarm the evidence of Mr. Davis, and avert the effect it would have on the case. Now gentlemen, said Mr. P., the character of Mr. Davis needs no defence from me; the truth is stamped in every feature of his face, and his evidence must convince every mind of its truth. But supposing they succeed in upsetting his evidence, what would be the result? What would they prove? Why that they had published a rumor as truth, which they had obtained from a man who could not be depended upon; that they had published a libel on the authority of a man who, on his oath in a court of justice, was not entitled to credit. They poison the fountain of their information, and place themselves in the novel position of seeking to excuse a libel because it was published on information derived from a source poisoned by falsehood, and unworthy of belief! But they may say that Dr. Breckinridge had no conversation with Mr. Davis in relation to this affair. Dr. Breckinridge, continued Mr. P., is an eminent and a deservedly esteemed minister of the gospel; he is the editor of a magazine, and the publisher of the matter complained of as libellous. Now we say that the Rev. Dr. Breckinridge, as a minister of the gospel; as a professor of that religion which inculcates every thing that promotes charity and love among men, and desires peace among mankind, ought to weigh well every thing that has a tendency to injure a fellow creature. He should have been slow to believe, and slower to have published any thing of the kind. Holding that position, he, of all men, should have been prudent and circumspect in publishing such a charge, lest by doing it hastily he should do an injury to the party accused. But the gentleman may say, Dr. Breckinridge had no opportunity of ascertaining the circumstances from Mr. Davis. The Rev. Dr. Breckinridge was referred to Mr. Davis as the person from whom the rumors emanated; if he wished to publish the circumstances for the purpose of doing good, he

should not have desired others to collect further particulars when he could have obtained the facts without employing delegates. I say that by Christian charity; by a spirit of forbearance; by a regard for the peace of the social compact; he was bound to go to the source from whence the charges originated, to have ascertained their truth himself before he published them to the world. But, continued Mr. P., every circumstance is strong in favor of Davis's evidence being true, and that he did not tell what it was said he had. The errors were committed by the gentlemen who went to collect "further particulars." They went to collect them to be used for some purpose; to be published in the magazine—to furnish a paragraph for Dr. Breckinridge's pamphlet. With Davis there was no such motive; he had nothing to cause him to forget what he had told them, or to exaggerate it. The error does not lie in him, but on the other hand, it more probably lies with those who in their pursuit after information, are ready to grasp at every thing. Their zeal and anxiety to obtain information for one they deservedly respected, has induced them unconsciously to exaggerate. Caleb Owen's language, showed that they were on the alert for a paragraph, for when he was told by Davis what he knew, that information was calculated, in the expressed impression of his own mind to make a nice paragraph for Dr. Breckinridge's pamphlet. Then, argued Mr. P., we can readily reconcile the variance in the statements of those who were thus biased and Mr. D., who had no inducement to bias his mind. Mr. D. is no doubt correct, for in his own language, how could he tell that which he did not know; he, as a religious man, would be on his guard against telling a falsehood. We think these circumstances show conclusively that the other gentlemen were mistaken. But we shall be told, said Mr. P., and it will be urged with the power and eloquence the gentlemen on the other side so amply possess, that the conductors of the public press should be protected in their efforts for the promotion and protection of the public good; that they who have placed themselves as sentinels on the watchtower, should be permitted to give warning of the approach of danger. We do not dispute the doctrine; we go as far as they do; as far as any man in this community to protect the liberty of the press, and shield it from destruction. But the liberty of the press does not consist in rash statements, or publications false and injurious to individuals. The liberty of the press, in the language of the eloquent Hamilton, consists in the right to publish with impunity the truth, and no good man would wish it to go beyond the truth. Such is the liberty of the press, hedged round with constitutional protections, placed by our forefathers, who knew the grievance of its deprivation. Such is the liberty of the press, and we would not restrict it one hair's breadth. But the conductors of the press should recollect that when they undertake to publish that which is injurious, they step beyond the liberty of the press; and no man has that right. Though they have placed themselves as sentinels on the watch tower to protect the public good, they dare not publish that which is false and injurious, without incurring the punishment deservedly imposed upon those who transcend their privilege. Now apply this doctrine to the publication complained of and you will find that there is not a single statement in the paragraph which their duty to the public required should be published. What, sirs, will it be said that a publication like this was for the public good? That it was made because the writer stood ready to advocate the cause of the wronged and the poor? Gentlemen, the interests of the poor, the safety of the community, and the punishment of the oppressor, depend on no such protection. What! has the wing of the law become so weak that the citizens are to be protected under the shadow of a monthly magazine? What, has its arm become so paralyzed and its efforts so restrained, that it is compelled to give to a monthly periodical the power to destroy the character and reputation of whomsoever it may please to assail? They say that the publication is not libellous; that they have for the first time to learn that it was wrong to con-

vert the alms house into a mass house. Why, if they have yet to learn that; why, if they did not know it, do they charge it as an offence? If it was not an offence, I ask you what motive of public good says that they should publish it? If Maguire did not wrongfully confine an aged German, why are they called by an interest for the community to publish that he did so? The publication we have shown to be false, it is injurious, and there is no motive of public good to excuse it. But it is said there was great excitement about the matter of the German being in the alms house. Where was the excitement? Really, except in this circle who had the story in their charge—swelling at every feature and increasing at every step,—there was no excitement among our citizens. No one heard of this “outrage;” no one was excited about it; no paper published the circumstances of this most woeful wrong done to an old man. Here are talented, enterprising mammoth sheets, and here are our able and industrious, bold penny sheets, ready to expose wrong, yet with all their vigilance they never heard of the excitement. Gentlemen, this excitement never existed. If it did, the “public good” was suffered to stand under excitement until a monthly magazine could be published. The public good was in danger, and the abstract motive of good is argued for the publication; but is that the way to protect the interest of the community? What, sirs, was it the protection of the public good to hear of an outrage; then to leave town, and leave the city slumbering on a mine until the time came for the publication of this magazine—this Literary and Religious Magazine—to awaken her from her slumbers to the knowledge of the public good! Do they tell me; do they tell you, that this is a regard for the public good? That it is a regard for the interests of the public that induced them to write an article, and perhaps lock it up in the editor’s desk until they are ready to publish it in a magazine? The gentlemen have asked us to strip the paragraph of all collateral and extrinsic matters, and tell if it is a libel. Yes, strip it of the vestments with which it has been clothed; disrobe it of those garments which the eloquence of the gentlemen who are the counsel for its authors, have thrown around it; expose it naked, without the exciting subjects with which it is encompassed, and what is it? Why a publication that is untrue; a publication unauthorised by the good of the public, and a publication unjustified by the position assumed, that it is true; unexcused by the bare excuse that it was made on reasonable grounds for believing it to be true. I ask you, continued Mr. P., to apply to this evidence your most rigid judgment; you have a right to require full and sufficient evidence of the nature of the motive; and especially in this State where the party has the privilege of justifying himself by showing the truth. If he had not that privilege, there might be some excuse for not bringing all the evidence before you; but that is not the case here, he is allowed to give the truth, and failing in that, is now, by a decision of the court, permitted to give evidence of the motive. If they had chosen, they would have had the victim of all these wrongs before you. The hapless victim of the cells was summoned here to tell the secrets of his prison house; but the evidence was not used. They had a right to decline it; but when the truth is allowed to be given I would tell you that the most rigid examination of evidence of motive should be made. They have utterly failed in showing the truth; but supposing they had succeeded in establishing that an allusion to the priest or others was true; we have proved that every allegation levelled at the keeper is utterly false.

[Mr. Pitts had not concluded at 3 o’clock, and the court adjourned until to-morrow.]

TUESDAY, March 17.

MR. PITTS, on resuming his address to the jury, reminded them that at the hour of adjournment he had been commenting upon the evidence in-

volved the question of motive, and had urged that it was a question for them to decide whether there was malice in the publication or not. He would not go into any further discussion of the question of malice, but would, that they might more readily and understandingly apply the evidence in the present case, refer to a few books to show what the legal definition of malice is; that it was not in the legal definition, that atrocity of mind which we all abhor; that it was not a set and fixed determination to do an injury; that it was not in law a premeditation to do wrong, and that though the indictment set forth that the publication was made wilfully, maliciously, &c., such were but the set terms common to such documents. He wished to show by these authorities that they were not to find that the writer was actuated by those unpardonable inducements. The law considers that malicious which tends to degrade, or is injurious to another, and no man can without legal malice, publish that which is false. To show this definition he quoted the opinion of Judge Story in 4th Mason's Reports. Also, 10th Sergeant and Lowber, and 7th Cowen's Reports. These he read for the purpose of showing that the jury was to find that the intention was malicious in this sense, and without legal excuse; and these authorities told them that they were to apply the evidence given, and ask themselves if it constituted an excuse for such a publication as was injurious to the individuals alluded to. He wished to show that such was the malice intended by the legal acceptance of the term, and they were not to be startled when the gentlemen on the other side urged on them, as they no doubt will, that the party, who from his standing must be above such feelings, never felt towards Maguire any personal hostility. Mr. P. cared not whether the Rev. Dr. Breckinridge ever heard of Maguire; he cared not whether Maguire ever entered into the mind of the writer of the publication. If the publication be false, that was not the question for them to decide. The question was whether the publication was calculated to bring Maguire into disgrace by a false accusation of violation of duty; and if it did it was malicious in the eye of the law, and the jury had nothing to do with the feelings of the writer towards Maguire. Leaving now the part of the case made by the defence, he would remark that he had not yet presented to them the case as made out on the part of the State.—They had heretofore taken up the subject, and admitting to the defence all that they could show, the State had shown that the defence had failed in sustaining their position. The State would be willing to rest the case here and contend that neither the truth of the statement nor the absence of malicious motive had been shown. But lest it should be supposed that such was not the case by those who were anxious that the facts alleged in the publication should be true; that it should be so surmised by those who desire to get a verdict to patch the accusation up; or that Maguire was a man of such a character that it required a verdict to patch it up; the State had taken upon itself the onus of proving that the accusations were false, and that in the whole range of the courts there never was a case so devoid of foundation; there never was a case of a character so utterly devoid of the most remote possibility of the statements being true; that the truth had not only not been made out by the defence; but on the other hand, that the State of Maryland has produced to this jury proof that these statements are false, and therefore malicious. The first charge is, that Maguire had converted the alms house into a mass house, and thereby excluded all other denominations except the Catholics. How have we swept away this charge! We have not left a vestige of its truth large enough to be seen by the jury; not enough for the counsel to base an argument upon. We have proved it false by ministers of the gospel; men who have no other motive in giving such evidence than the motive which actuates every Christian; to see right done to the wronged. They have come upon the stand and shed upon this charge a light that has dispelled the dark shadows of the columns of this Literary and Religious Magazine.

We are told that he had never on any occasion a leaning towards the church in which he had a birth-right; that he has never shown a disregard for others, and has never omitted by a single act to give them every facility for their worship. We have called ministers of the Methodist church, and they told you that he has done every thing he could do to render them comfortable and enable them to improve the moral condition of the paupers; that they were always received with cordiality. This testimony (continued Mr. P., after alluding to the evidence of Mr. Loane,) has shown that he has given—no, not toleration, for the law does not recognize the word, no man has the right to give toleration, it is a right guaranteed by the law of the State, and under it every man claims the right to offer up sacrifice to the Deity in the way he believes most proper;—but that he has given every denomination the privilege they had a right to claim. Here are ministers of a different religious persuasion testifying to this fact, and if there was religious prejudice, we might have some cause to look for it here; but they had no such feeling—no, thank God, no religious prejudice exists that can make a man conceal the truth. This evidence we have shown, and such testimony makes the conduct of Maguire most clear in his official duty. We have also the testimony of the members of the society of Friends, who also concur in these proofs of there being no obstruction made to their mode of worship. Looks this like a disinclination to admit other denominations, asked Mr. P. Looks this like converting the alms house into a mass house? All they could prove,—and bear in mind that it was done at the request of a priest,—was that he had caused an altar to be made—three pieces of boards put together in the institution. What! said Mr. P., are we to be told by Dr. Breckinridge, that if the Methodists, who from their peculiar mode of worship require a private room for class meetings, it is a violation of duty on the part of the keeper to accommodate them?—That it was adverse to the public interests to allow them a private room? Well, sirs, if it is not, how, in the name of religious liberty, is it—why is it that he is to be held up to the public scorn because he allowed an altar to be made on which might be laid that which was considered necessary to the worship of God by the church in which he had been brought up? Gentlemen, it comes to this, the whole charge amounts to this; That he is to be held up to scorn; that James L. Maguire is to be held up as a man who has perverted this office to base ends; and why? Because in the exercise of the discretion given to him by the trustees, which awards to one sect the same privilege as another, he has accorded the Roman Catholics of the city of Baltimore the poor boon of setting up an altar on which to say mass. Gentlemen, continued Mr. P., coming as you do to try this cause without prejudice, and as I know you will try it, can it be said to you that because he has made such arrangement as the members of the Church of Rome consider necessary for their worship, he has violated his duty? Is the erection of this altar to be held in law, an excuse for the charge that he has converted the alms house into a papal mass house? It is for you, gentlemen, to deliberate what such an excuse would lead us to, and to what a licentious freedom of slander it would lead men to. But they allege that he has converted the alms house into a papal prison. What proof have they given of the truth of this? They have shown that the man was received without an order and placed in the cells. We have shown that it has long been the practice to receive persons without an order; and this we have shown by their own testimony. They no doubt will depend upon the fact of his being discharged without an order, to argue that there is an opening for suspicion that he was taken out secretly; now we have shown that it has been declared proper by the board of trustees to discharge a person on his board being paid. This man was discharged in that manner; the amount was entered in a book, and there shown by Maguire. Well now, in the name of common sense, I ask wherein was this a violation of duty or of law? He discharged the

man on his board being paid. What! can we believe a man who, in violation of his duty, converts an institution into a prison house, would keep a day-book and ledger to show the fact? That he will keep a day-book and ledger in which he will charge himself with his sins on one side and enter a credit for his virtues on the other? That a man who has committed an act of injustice would write in them, in a legible hand, the proof of the deed he has done? These are facts, urged Mr. P., in conclusion, and can twelve intelligent men suppose that a charge so groundless could have come through such a shape and be excused on such grounds? It cannot be. Then what is left? You are appointed the organs of the law to tell whether the character of citizens shall be protected through the law; the citizen owes to the State allegiance, and in return for that allegiance the State is bound to protect him in his property, and what is more dear, his character. The State cannot—does not—would not wish to refuse him protection.—He has a right to appeal to her for redress, and by whatever term this prosecution may be called, the State wishes nothing but justice to be given. They may call it persecution if they please, but, gentlemen, the State cannot persecute. No individual need fear that the power of the State will be used for persecution; he need fear aught but justice. Let him come here prepared for justice; let him come here armed in the panoply of truth, and he has no persecution to fear; but if he is not thus armed; if he is not thus prepared and he meets with the justice he dreads, no man has a right to say that he is persecuted by the State of Maryland. She gives equal justice to all, and every man, no matter what his station may be, is held responsible to her for an outrage committed on another. The jury can know no distinction of persons, and I know, said Mr. P. that you will not hesitate to pronounce upon the guilt or innocence of any man, no matter whether he is adorned with the gilded trappings of wealth or covered with the tatters of beggary; that whether the person brought before you is in the ermine that adorns the mantle of the minister of justice, or the robe that covers the minister of the gospel, your verdict will be awarding to justice as demanded by the law, and the court will award that which the law appoints on your decision.*

Mr. CRITTENDEN congratulated the jury, and congratulated counsel also, that this tedious and long-protracted investigation had now made so near an approach to a termination. We have, said he, been tossed about for several days on the billows of law and evidence; and for myself, I feel like the mariner entering the destined port, after a long and tempestuous voyage, as if we were about to enjoy repose from the rocking of the billows, and the roaring of the surges were about to salute our ears no more. I am not acquainted with you, gentlemen; but what of that? The character of that tribunal, the jury-box is the same every where throughout the country. I would appeal to you, as to a jury of my immediate neighbors; and I feel a firm confidence, a strong assurance, that justice, full ample and perfect, will be done to my client in this case. My wish is, and it shall be

* It seems scarcely necessary to make any comment on the foregoing harangue. Mr. Pitts is a very nice young gentleman; the son of one preacher, the brother of two more, and the candid, civil, and just opponent of still other two. He delivered his discourse, of four or five hours, of which the foregoing is a tolerably good report—taken from the *Sun*—with great pomp of diction and gesture, in deep *false* tones, and with many tokens of smiling applause from a bevy of papal lawyers, gentlemen, boys, &c. &c. who hung upon his accents. If the tone of commendation to Mr. Maguire should be thought a little, a *very little* overdone, it may be easily excused, as between old political cronies, and as coming in—*under the circumstances*. For the rest, our only remark is—*read the testimony*. The curious reader will observe that the report of Mr. Pitts's speech is very nearly as long as that of Mr. Crittenden and Mr. Schley united. We know of no reason, exterior to the reporters, for such a result.

my care, to discuss this question in a plain manner, so as to make it clearly understood, and to do this with all possible brevity. Is the matter charged libellous? And if so, to what extent has it been justified by the evidence adduced? There was a time, when a party charged with the publication of a libel, only made his case worse by proving the truth of his allegations; a doctrine which laid the axe at the root of truth, and liberty and morals. What then is truth, that it should be a crime to publish it? But that time has passed away; its darkness has vanished before the light of advancing morality, intelligence and civilization. The time was, but it is not so now, for the legislative wisdom of the State of Maryland has permitted the truth to be given in evidence for the purpose of justification. I must now consider how far this paragraph, taken in its worst sense, may be considered libellous. [Here Mr. C. read the paragraph, so often already quoted and referred to in the progress of this trial.] It is insisted, by the State, that this paragraph charges Maguire with converting the alms house to uses and purposes, for which it was not designed. Suppose Mr. Breckinridge to have charged him with converting the institution into a papal mass house, how far has the proof fallen short of the charge? Maguire sees fit to consider the conversion imputed to him as a crime. It is in proof that under his superintendence, for the first time, an altar was constructed and a room set apart for its erection. Is not this proof of the truth? It may be said, that the conversion of one room to such uses, would not be a conversion of the whole building. This would be merely a question on which Mr. Breckinridge and Mr. Maguire might differ, the former contending that the erection of an altar in one room, was sufficient to justify the allegation; and the latter, that it would require altars in two, or three, or a dozen, or all the rooms in the building.—Maguire further says, that this publication charges him with imprisoning an aged German. Mr. C. deemed it necessary to look closely into the history of this part of the transaction, which he characterised as mysterious. He enumerated the circumstances of Stazer's anxiety about his soul, his conversation with Davis, his interview with Mr. M'Jilton, his request to that gentleman not to pray loud, lest Collins should hear him, and Mr. M'J.'s subsequent inability to find him for further religious instruction. Why could he not find him? Because that in the interval he had been taken to the alms house. These facts are proved. That he was received at the alms house, put into a cell, and released on the second day afterwards, are matters of fact, not rumor; they are facts proved. It is said he was put there for his good. But we contend, he was not a fit subject for admission. He was not a pauper; the poor house, as the alms house is understood to be, is for the reception, entertainment and support of paupers. It is sometimes used to receive offenders, but he was neither liable to its punishment, nor entitled to its bounty. He was taken there and shut up, at a critical time too, when he was anxious about his soul, when he was apparently about to cut loose from one church, and attach himself to another, both being respectable. At this critical moment he is thus shut up; and this is in proof. There are some inconsistencies too. Collins, who took him there, says he refused to see his wife, but wanted to go and stay there himself. Others say he did want to go and see his wife. Collins said he told him, that if he took him there, he would bring him back. One would suppose, that if Stazer wished to remain there, the last person he would ask to go with him would be Collins, who told him, he would bring him back. How does he account for his going with Stazer then? If he did not want to see his wife, why did he go with him, merely to bring him back? There is contradiction and inconsistency here. These facts are proved; and do not all these circumstances present the affair as a mysterious transaction? Stazer was received contrary to the ordinances of the establishment, he was confined contrary to the rules, discharged contrary to the regulations, disappears mysteriously and is found, some weeks afterwards, some six miles out of

town. He had a house in town ; he had a family, at least two children, one of whom is that beautiful and innocent girl so eloquently described by his learned friend ; was it not strange, then, that he should go off without their knowledge, and without making any provision for their care and safety in his absence ? When at every step we find some strange point in this affair, have we not cause to look upon it with a jealous eye ? If all had been fair, and all right, they might have some reason to complain ; but if they will make a mystery of their conduct, they have no right to complain, that the world cannot understand them. They may have felt called to act thus by motives of humanity and Christian charity—it may be so, but if it be, the mystery of the conduct forbids a perfect understanding of it by the public. But they say we have charged them with illegal imprisonment. The imprisonment was certainly unlawful. The house is an alms house, not a prison ; he had a wife there, but was not himself a pauper, a fit subject for admission ; he had no right there ; yet he was received, and confined in what the counsel on the other side called “ a comfortable cell, ten feet by twelve, with a dry floor.” Who could object to such comfort as this ? And if the keeper might do this in one case, might he not do the like also in other cases ? And even my learned friend (Mr. Pitts) and myself, if we should visit that establishment, might be made experimentally acquainted with the comforts of “ a cell, ten feet by twelve, with a dry floor.” Was the man mad ? There is no evidence that he was mad at any time ; except at this particular point ; nor is there evidence that he was mad then, unless a religious excitement of the mind, a wavering between two churches or systems of faith and worship, unless this state of the mind be evidence of insanity, there is none ; yet the sole pretext for his confinement is that he was a madman. And if the confinement of this man was not against law, why charge that we allege against them an illegal act ? It is because they see fit to draw the inference. If they shroud themselves in mystery, how can we be blamed for not understanding them ? They have no right to complain, if we do not. Viewing the paragraph in its most unfavourable light, we would be willing to rest our defence on the truth of it. He now called the attention of the jury to another view of the case, more worthy their attention. He read the paragraph, and asked the jury to read it, and determine its meaning. Does it imply first, that the alms house was converted into a mass house, and afterwards into a prison ? By whom ? By the trustees ? By the officers generally, or by Maguire in particular ? The writer says not by whom it was done ; but on what he considered good and sufficient information, from a source entitled to credit and confidence ; he asserts the fact that it was done, but affirms not by whom. That an aged German was anxious about his soul—that is true ;—that he was seeking Protestant instruction—that is true ; and so through the various things affirmed, even to his confinement—all true ; but throughout the passage no mention about Maguire, not one word is said about him. Throughout all the paragraph no allusion was made to him, unless it be in that part which speaks of a line being sent to the papal keeper and the man being confined by him. And if this had any reference to him, I would ask you, as just men, is any thing defamatory of Maguire affirmed there ? If he received a line from a priest, and on that high authority received and confined a man contrary to the rules of the institution, is there any thing in that to affect his character ? The allegation relative to the mass house, unless by the most violent construction of language, cannot apply to him. No allusion is made to him, unless it be in reference to the confinement of the man ; and that only by a violent construction. Suppose you should consider the allegation as to the conversion into a prison applied to him ; the court will tell you there must be malice to constitute crime, that malice is a necessary ingredient in a libel ; and that the traverser may rebut the malice ; and that whether he accomplish it or not, will be for you to judge. Had he not good reason to believe his statement true ? Or

was his conduct such, that you can find in him no motive but to defame Maguire? But his guilt must be clearly proved, the malice must be fully and specifically proved, before you can find him guilty. Is there a man, unbiassed, untrammelled by prejudices, that can believe him to have entertained malice against Maguire? The relation of the parties forbids such an inference. They were entirely unacquainted; how then could Mr. B. harbor any malice against a man whom he knew not? Mr. C. here examined the ground of the traverser's authority for the paragraph, being the testimony of D. and C. Owen, M'Kane, the Rev. Mr. Purviance, Cherry and Miles, referring to that of Davis as their authority, and contended hence, that he had all good and sufficient reason to believe it true. Do gentlemen suppose, continued Mr. C., that a sneer is to do the work of argument? The counsel on the other side say, that if we are justified in this, any one may libel another, ruin his character, and then turn round and justify himself with "oh, I was told so!" But "oh, I was told so," is not our defence; it was not only told to us, but we had it on such respectable authority as would have controlled the belief of any person of ordinary prudence and sagacity. Are we not all daily acting on information. If we discarded information, and acted only from personal observation and knowledge gained from inspection, we would not move at all, we would do nothing.—Ninety-nine out of a hundred of our acts are done on information, and if it were discarded, the world would stand still. Yet we are told that we ought to have waited till we had personal knowledge of the facts. We could not get this knowledge except by information subsequent to the occurrences, which being past, we could not be eye-witnesses of. If I see a distant fire in your city at night, must I close my mouth and forbear to cry fire! till I can arrive at the spot, and ascertain by personal inspection whether it may not be proceeding from a dirty chimney? The house might be destroyed if I forbore to cry fire! And such would be the effect of discarding information as a ground of belief. The court has decided, that he may rebut the malice, by shewing a well-grounded belief. We need not go to England nor to New York for authority to do this. Maryland has within herself a court by whose decision we can do it. Guilty or not guilty of a malicious intent, is the question. If he publish what he has good reason to believe true, he is innocent in purpose, and justified by his innocence. In the most unfavorable view of this paragraph, we find no reference to Maguire; the only charge that could possibly be construed to refer to him, is that relative to the confinement; and even if that were not so, the traverser made the publication on good and reasonable grounds of belief; has therefore repelled the imputed malice, and is not guilty. But to take another view of this paragraph;—we contend, that it is not libellous in any respect, in any view, and more especially in reference to Maguire. Mr. C. said it had been read so often, he would not read it again, but leave it to the jury to read it for themselves.—Maguire is only referred to as receiving a letter from a priest and acting under it. Now if Mr. Breckinridge can be said to have brought a charge against any one, that one must be the priest who imposed on the keeper, by saying the man was mad and ought to be confined. This is all that can be said to have been charged, which Maguire could torture into a reference to himself. Instead then of finding in it a malicious charge against himself, he ought there to find himself excused; as if he acted wrong, he may have done so out of kindness and charity, and in obedience to the high authority that certified the necessity of the act; if he did wrong, he was imposed on by the priest. But he chooses to consider himself libelled, rather than excused, and assumes upon himself the weight of the offensive allegation. Though, said Mr. C., it is my sincere belief, that there is no ground for this prosecution, yet there are considerations of high import growing out of, and connected with it; and you gentlemen, may yet be called on to mark the line, that divides the liberty of the press from its licentiousness. If this be libellous,

then the liberty of the press is but a snare. Mr. C. denied that the liberty of the press means only the liberty of publishing the truth. No moral man could certainly object to the publication of the truth, but a patriotic man must dread such a rule. If such were the liberty of the press, that the truth alone might be published, the effect would be to limit that liberty to the publication alone, of that which can be proved to be true. If this were the liberty of the press, what a glorious harvest of indictments might not Martin Van Buren and William Henry Harrison reap, before the close of the approaching contest for the presidency! True liberty of the press consists in the right to publish every thing you believe to be true. If you discard information, and wait till you can fully ascertain the truth, so that you could prove it in a court of justice, the malefactions might be consummated, and the malefactors fled, before you could give warning of the danger. This is a public institution; the public have an interest in it, and have a right to speak of its affairs as well as of national affairs. There is no difference in principle between these affairs and those that are national; they differ only in degree. If, then, all have a right to comment upon this institution, has not the traverser an equal right? And how can he be called to account for it? What deep concern has the State of Maryland in this prosecution? We are told that she is concerned to afford protection to this citizen, as to all others. And is not the traverser a citizen also, and has not he rights to protect? But the State is called in to redress the supposed private wrongs of Maguire, when she has already given him the means of redress in an action for slander, an action which he has already brought. But this is not enough, he must coerce the State into his aid, and ask her to raise her strong arm to crush him whom he is pleased to consider his private enemy. What right has the State to prosecute for a libel? She has that right only for the preservation of public tranquillity; when the alleged libel may tend to disturb the public peace. What concern has Maguire in this prosecution more than any other person—than you, gentlemen? None whatever. How comes the State here? Only by his procuracy. And when one of the grand jury endeavoured in an outdoor conversation, to induce him to withdraw the complaint, he threatened that if they did not find a bill, he would advertise them. He might plead the excuse, that he was in a passion at the time; but he cannot but be sensible of the impropriety of his conduct in reference to such a proceeding. In all the various definitions of a libel, an imputation on moral character is required to constitute it. Blackstone calls it a defamatory publication, and all agree that it must impute a bad character. This, then, is no libel on him; it may allude to the trustees, it may allude to various persons, to several as well as to him. It has pleased him to consider himself the person meant. Here is the indictment and here is the paragraph, if you find it refers to any other except him, if it were a libel on all the rest of the world, you must acquit the traverser. The question is, did he libel Maguire? Not did he libel any other person? It has pleased, said Mr. C., my friend on the other side, to give my client some instruction in relation to his religious duties, and to deal out some rebukes for his conduct in this affair; but it is not necessary for me to reply to those imputations here, where he is so well known, and so highly respected; but of all extraordinary things, it seems to me one of the most extraordinary, that such a man as he, should stand here thus, be here brought thus to a public trial. If treason were charged upon him, if the dignity and honor, nay, the existence of the State, were in danger, he could not have been proceeded against with more emphasis, with more of theatrical and pompous magnificence. Does it affect the state? What does she owe the parties? Protection.—She owes it to the character of the traverser, equally with him who has sought her aid against him. Then why should she attempt to dishonor a citizen, of whom this or any State of the Union might be justly proud? Why do this? Not because her dignity, her existence, or her laws were in

danger, but to gratify the private revenge of an individual, who had threatened the grand jury if they would not find a bill, and who desired the gratification of seeing him whom he saw fit to consider his enemy, at least publicly arraigned. Are pompous and magnificent phrases to keep the jury from looking through this case, and discovering what may be in it? He never knew so much consequence given to such a trifle. This little paragraph has been made the cause for all this excitement and uproar. Religious feelings have been excited, jealousies awakened, and society has been quickened even from its very foundations. Think you the honor of the State will gain or lose more by this prosecution? I came not here to praise my client. I am but a poor hand at flattery, unskilled in eulogy, and he is not a man to be flattered. His solid merits are extensively known; and where known, they are highly estimated. The ridicule of counsel on the other side can avail nothing. He might as well charge upon all newspapers the undue assumptions which he alleges against his client's unpretending journal. He publishes the *Literary and Religious Magazine*, because he believes it to be his duty; because he can thus serve the cause of his Master; because he believes he can thus do good; and who is there will sneer at a good man endeavoring to do good? He has been brought here for trying to serve the poor; to raise up the downfallen and the trodden upon. Few men of the world can, if they would, find time to seek out such objects of philanthropic succour. It was in the cause of such he erred, if he erred at all; and one would suppose that some little excess of ardor might be excused in a good man engaged in such a good and pious and charitable cause. For the sake, then, of justice and equal laws; for the sake of the state herself, I look with hope for his acquittal. The conviction of such a man, for such a cause, would not redound to the honor of the state, and you will not suffer him to fall under this vehement prosecution. I do not complain of the gentlemen conducting it, of whose courtesy and kindness I shall ever retain grateful recollections; but of the vehemence of such a prosecution for such a cause, he cannot so speak. Mr. C. said that long as he had detained the jury, he had left much unsaid; but he committed the motives and actions of his client to their care, with an abiding confidence in their judgment and sense of justice, and their clear perceptions of the plain principles of right and wrong. Adverting to the reason why he had been selected for the defence of his client, in preference to many abler here, he remarked that the tie which bound them together was not the common relation of counsel and client. It was of a higher character; a friendship derived from their fathers, existing long, and continuing unbroken, unmarred to the present moment. With what amazement, then, did he learn that this friend, his friend so extensively known, and so highly and deservedly respected, was about to become the victim of a prosecution for a libel! But my confidence in him is not shaken; you will not find him guilty. But should you?—Aye! consummate the shame, fix it on his brow as a crown of thorns; and it will be converted to a crown of glory and of honor. In my conscience I believe him innocent; and so believing, I ask not mercy but justice for him. He did not intend to cast reproach on him who has brought him here, where he now stands ready to receive your sentence—to abide your decision. This case, gentlemen, as far as I am concerned, is now in your hands; my client is your townsman, your fellow-citizen, known to you, as are all others concerned; he is now in your hands, and as you mete out justice to him, so may it be meted out to you when your day of trouble and of trial shall come.

Mr. SCHLEY followed Mr. Crittenden on the part of the defence. He commenced his argument to the jury by saying that, coming before them, as he did, at this late stage of the case, and at this late hour of the day, he was sensible that he came before them under comparatively disadvantageous circumstances. He considered that all that could be said, and all that

need be said, had been said so ably by his colleague, that nothing remained for him to say, if he could add to the arguments of that eloquent gentleman in a case which was now so free of doubt. It was his duty, however, to appear before them, as if he had done so for the first time in the cause. He was not to suppose that they had taken the same view of the arguments that he had; it was not for him to suppose that what had been urged for the defence was as convincing to their minds as it was to his own; and although what he would say might be said feebly, yet he supposed there might remain some doubt on their minds upon a subject that was convincing to his own mind, and if he could remove that difference of opinion, and clear those doubts, he would willingly stay there speaking to them until the sun had set. If he thought he could dispel a cloud that obscured the bright sun of the innocence of this man—he spoke of him thus, because he felt what he said—he would stand here pleading for him until he had convinced them of the groundlessness of the charges brought against him. Contrary to his intention, he had started more warmly than he should, from the condition of his health, be enabled to continue, and he must speak to them calmly. From the respect he felt towards the individual now before them, and his confidence in his innocence, he knew that if he indulged in his feelings, he would not be able to go through with the arguments he intended to present to them. He would therefore go on calmly and plainly, and he begged of them to bear with him. He would first of all ask what it is that they were to try? The learned counsel who had opened on the part of the state, had spoken of the publication as if it were an offence. He had asked if it was not libellous, and had read from it, commenting on it as if the traverser was to be tried on the publication. I say that we are to be tried on the indictment; there the matters are charged, and on those charges alone are we to be tried. The publication was only evidence to prove those charges, if they can be proved. They had come here to meet the matters charged against them, and nothing else. If the case had required it, or they had been compelled for its defence to enter into other matters, they could have done so, but it was not necessary to the defence. Why do I make these remarks? asked Mr. S. By the humane laws of the State of Maryland, no man can be tried on an accusation for a criminal offence unless the grand jury first brings a charge against him.—There twelve men concur to make a presentment, and these twelve men must again concur on an indictment before any man can be brought to trial.—And then what is he called on to answer? Why, what the grand jury have charged against him; not what the State's Attorney may bring in his arguments, but charges preferred by the grand jury in the indictment. To show that a person accused must be informed what the charges against him are, Mr. S. read from the 19th article of the Bill of Rights, which states that a person shall be furnished with a copy of the indictment for that purpose. Mr. S. said that they were informed that the publication contained the charge against them; they looked to the indictment for the charges, and were not bound to look to any thing else; no one could compel them to answer any other—the honorable court could not force them to answer any thing else, for if such a power were given to a tribunal of justice it would become a tribunal of wrong. How can it be said that we answer the charges in the indictment when we are told that we meant what is not specified in the indictment? Though you may infer that such was the meaning, it is not in the charge, and we are not to answer it. Let us suppose a case. We are brought here to answer a charge of libel on Maguire? The article complained of is shown, and you see that it is a libel, but it might have been on some one else. The indictment being for a libel on Maguire, you cannot convict us of a libel on him if it libelled not him, but some other person. So if you sue a man for publishing that you stole a horse, and the indictment charges him with saying so, but when the paper is produced on trial, it shows that he said you stole a

cow, he could not be convicted. You must prove the thing charged. These illustrations he made for the purpose of calling the attention of the jury to a point he intended to urge, and he would give another case which occurred in his own practice in Frederick county. During an election, at a time of high political excitement, a judge of the election rejected the vote of a person, and a leader of the opposite side told him that he was a "perjured man." A suit was brought for the slanderous words, which were admitted to have been said, but inasmuch as the declaration was that he had accused him of perjury and not violation of duty, and the technical term, perjury, meaning, swearing falsely when under oath as a witness, it was prayed the court to instruct the jury that the defendant was therefore not guilty. The court granted the prayer and the jury pronounced a verdict of one cent damages. This decision was confirmed by the court of appeals. He was speaking of general principles, and he would now come to apply them to this case. If the state has succeeded in proving that Mr. Breckinridge had charged Mr. Maguire with official misconduct, it must show that the charge in the indictment was that Mr. B. had accused him of such misconduct. Unless you can see on the face of the indictment a certain specific charge, and that charge is proved to be false, and if false, maliciously so, you cannot convict on the indictment. Mr. S. said he could have wished that it had not been his duty to trouble the jury with nice legal distinctions, but there seemed to be a general wish that the law and the facts should go to them, and he willingly undertook the task of laying the law before them; he might be tedious, he knew he would, but it was necessary that they should understand the law of the case, and he would not state any thing to be law that he believed was not law; asking of his friends on the other side to check him if he did err, and set him right. The charge is one thing and the evidence is another, and although the evidence may be so tortured and twisted as to make it look like the charge, you are to try the accused on the charge alone; such is the provision of the common law, the most beautiful system of jurisprudence the mind of man ever conceived. Such are its provisions that a man can hardly be convicted if he is innocent—rules may be taken up and hastily applied—juries may err—courts may err—there may be a bias of feeling at the time—but trusting to the common law a man is sure sooner or later to obtain a jury that will acquit him if innocent. I believe, said Mr. S., that my client is innocent, that he is so by the common law, and if I was seated in that box, and had the same belief, I would not stir from there until I had released him from the charge whereof he stands indicted, and restored him to the many friends who are now awaiting the result; to those to whom he has administered the blessings of his ministry, to those who, with beating hearts, are now asking themselves, can he who has joined us together in holy wedlock—who has administered to our children the rights of baptism, is he the man who has been accused of being a common slanderer? Is he the man to defame character and maliciously traduce a fellow citizen? A thousand hearts are now beating in anxiety for your decision upon the character of one for whom they feel a deep interest, for he has felt a deep interest for them. Mr. S. went on to explain that in an indictment, what is termed the inducement is an introduction showing to what sense the words are to be applied when their meaning is not evident and express; and he pointed out where in the present indictment such explanations had been made to explain that "the county alms house" in the alleged libel meant the alms house of the city and county of Baltimore, and the "keeper" meant the overseer. Now argued he, if we cannot know what these mean without such explanation, how are we to know what is meant by "papal prison?" Different persons might put different interpretations—some might think an inquisition was established; others, that it was a place where none but Catholics were confined. Some introduction should be given to show to what that term pointed, if it was alleged that it alluded

to Maguire. The charge is that we maliciously imputed to Maguire that which was false. If we had no other defence,—and we have many others,—if we were here with our hands bound, the state would be compelled to show in the inducement that we made this accusation of and concerning Maguire; that it was maliciously made; and that it is false. Even if he proves it to be false, unless it is defamatory he cannot recover a verdict. Mr. S. went on to read the indictment, and commenting on each sentence, contended that the publication did not, as alleged, allude to Maguire. He argued that by the merciful provisions of the law no man was compelled to answer more than he was charged with. He asked the jury to bear in mind that they must take the record, and could not travel out of it. The gentlemen had urged that Maguire was accused of converting the institution into a mass house.—What is that? What is the meaning of the word? Suppose we did charge him with it, why do you complain? Do you say that we charged him with that which is destructive to Christianity? If you do, why do you not point out how it is so? It may be that the writer, with his views of religion, may have supposed it wrong to set up an altar for the purpose of a worship that he considered idolatrous; but if you wish to show the jury that such are his views, it must be in the inducement, and if it is not, the moment you refer to a mass house as meaning a bad house, you must show that it is so put in the indictment. Mr. S. again alluded to the term “papal prison,” and reiterated that scarcely two persons could agree upon the meaning to be applied to those words, so far as Maguire was concerned. If the State wished to show that the words meant that Maguire had given himself body and soul to the designs of the priests—to confine a man who wished to leave their church, why did not the State tell the grand jury so? Mr. S. apprehended that it had never entered into the minds of the gentlemen to urge this upon the grand jury. He admitted that those were harsh sounding words, he cared not whether they applied to Maguire or not; if we are to be punished, let us know what we are to be punished for. If the gentlemen planted their standard upon one point, let them stand to their flag and not retreat to another hill. If they had sent up the words, papal prison, as libellous on Mr. Maguire, Mr. S. would pledge his life that the grand jury would not have found an indictment. They might have said that these words are harsh, but Dr. Breckinridge has views of religion adverse to those of the Catholics; he has not applied the words to the keeper, but to the priests with whom he has a controversy upon religious doctrines. Mr. S. took occasion to remark that he wished for no excitement upon this subject—he was very sorry there had been any excitement, and he was sorry it had been brought into a court of justice. When he found persons fixed in the Catholic faith, and believing it to be true, he did not blame them for advocating their belief; and on the other hand, when persons entertained different views, he could not find fault with them for exercising a similar privilege. These matters should not be brought into the courts. If we are not allowed to discuss religious doctrines, let us have an established church; let us prohibit discussion; let us blot out from our constitution that beautiful feature which declares that all shall have the right to worship in the manner they see fit. If we are to be made the subjects of a prosecution for libel, if we express our religious views, let us destroy that right for which our fathers staked their fortunes, their lives, and their sacred honors. He was for the same privilege of discussion to be extended to all, but he did not think a court the fitting place to decide upon the disputed questions. Those who have undertaken the high responsibility of deciding upon religious points, are accountable to their God; it is better that it should be left to that tribunal. Mr. S. would not reply to the query of the gentleman on the other side, who had asked why the papers had not heard of this circumstance. He would ask another question by way of answer.—Suppose it had not been a subject which concerned a human

soul? Suppose it had been that a man who was about to vote on a particular side in politics had been carried to the alms house and confined on the eve of an election, to prevent his voting against the party who had sent him there? Would not all the feelings of the press have been aroused? Would we not have seen it published throughout the country in large Roman capitals, that a most flagrant outrage had been committed on the rights of a freeman? Men's feelings are more readily excited on questions that regard their temporal welfare. The questions on religious subjects he was not sorry to see were left for those who had set themselves apart for their investigation. When he could point out a man who starting in life with brilliant prospects, with advantages of promotion, and with talents scarcely ever excelled; when he could point out such a man with all the world's glories almost within his reach—abandoning all for the more quiet but more honorable calling of a minister of the gospel, and taking upon himself the responsibilities he felt it his duty to assume, he could not but feel for him the highest respect. Few men could be found who would renounce such prospects and resign such advantages.—The next is, that an aged German Catholic whose wife was in the alms house, &c., said Mr. S., reading out the sentence. The previous part of the paragraph as set forth in the indictment was, he contended, a general charge; and now we come to the specification. You may suppose that he was confined by Maguire as mad, on the authority of a Roman Catholic priest, and what is there against Maguire in that charge? If not from respect for the priest, he should from charity have received the man. Supposing the priest had sent the man, availing himself of Mr. Collins, or any other person, to have him confined. Supposing they had gone out there and Maguire had taken him; supposing the priest had deceived the old man—in the name of God what was there in this against Maguire? It was honorable in him to receive the man, believing him to be mad. Does it follow by reason, argument or inference, that because the man was imposed upon, he was imposed upon by Maguire? It may be that Maguire being a Roman Catholic, this line from a priest may have had an effect upon him. Now if the priest had Maguire's confidence and respect, and there is no reason shown why he should not, are we to believe that because Maguire believed him he imposed upon the man? Mr. S. went on to examine the sentence, stating that the man was rescued. This, he contended, meant that he was rescued from a state of spiritual thralldom from the priest; not from the cells in which Maguire had placed him. He then remarked that he had so far examined and argued the case as proved by the state; he had not yet spoken of the motive which induced the publication. He would concede, for argument, that all the publication was false and malicious, and still he would contend that if it was even so, it was not defamatory of the keeper, because it did not charge him with the crime. It was time enough for Mr. Maguire to come for redress when he was falsely charged with misconduct; it was time enough then to draw Mr. B. from his high duties, to stand here to answer a charge for libel. Of Maguire, Mr. S. had nothing to say, except that he was too eager to gain some reputation in the prosecution; or perhaps there might be some other motive that induced him to bring this prosecution. He was glad that the prosecution had been brought into this court; he was glad that the case was of such a character; that it was of such a nature that his learned friends considered it worthy of the efforts they had made. Had they not so supposed it, they would not have sustained it. He was not finding fault with his friend who represented the State here; it was a duty he owed to her to use every energy for the prosecution, and most ably had he fulfilled that duty. God forbid that he should desire that the voice of the advocate should be hushed in the halls of justice—we have one thing more to ask, and that is, that we may not be compelled to silence the voice of the ministers of the gospel.

[Mr. Schley not concluding, the court adjourned until to-morrow.]

WEDNESDAY, March 18.

On the opening of the court this morning, Mr. Richardson, the State's attorney, called the attention of the court and jury to a case, to which he intended to refer, the case of the State of Massachusetts against Snelling, for a libel, in support of the doctrine contended for by the prosecution in this case.

Mr. SCHLEY had intended only to glance at the doctrine of the prosecution in reference to intent; but deemed it necessary, as he would not have another opportunity during this trial, to reply at some length to the case cited; or rather the argument to be drawn from it. He argued at considerable length, and with much ingenuity and eloquence, against the doctrine of legal inference of malice, and the prohibition of evidence to rebut the malice by the proof of good motives. Among the English authorities cited, were Camden, Loughborough, Wills, Lord Chatham, Erskine, and some others. Both houses of parliament, not only the popular branch, but the lords, that house which represents the aristocracy of the country, have decided by solemn acts against the doctrine. If such be the law in Massachusetts, it is not the law of Maryland; and in England juries have been found too independent to submit to the doctrine, as in the case of William Penn and William Mead, indicted for stirring up sedition by preaching in Gracechurch street, London. The jury found the fact of preaching, but refused to find the sedition against the established church. They persisted in their finding and refusal, and the court ordered the verdict to be recorded, fined the jurors and sent them to prison, whence one being brought by habeas corpus, he was discharged, and the jury sustained by the higher court. It was at one time the doctrine of treason in England, that the will was taken for the deed, and a man could be punished for intended treason, even though he had not carried the intention into effect. In Massachusetts the doctrine is reversed; the act is to be taken, without reference to the will, and the agent is to be punished, even though his motives may have been not merely good, but of the most laudable kind. But such is not the law of Maryland. That question has been decided by the court; the evidence is before you, and cannot be taken back. The opinion of a majority of this court is with us, and will govern the jury. I do not say it must govern them, but it is entitled to their respect, though they are themselves the judges of the law as well as the fact. Lest any of the jury should not have heard, or might have forgotten, the arguments addressed to the court, when the question of introducing evidence to show ground of belief and good motive was discussed; Mr. S. repeated much of it, citing, among other American authorities, the opinion of Judge Wilson; and among English, a book entitled "English Liberties," containing *magna charta*, and various other documents and exhibitions of principles favouring true liberty. If the jury thought the opinion of the majority of this court wrong, then they might perhaps find a verdict of guilty; but if not, then he could ask and have a right to hope for a free and willing verdict of acquittal. The learned gentleman then recapitulated his arguments of yesterday; and though he could see no libellous point in the paragraph, yet as the learned counsel for the State saw something in it, as he evinced this by pressing the prosecution, he (Mr. S.) felt bound to believe that there was something in it. He then argued to them, that if the matter published were not defamatory, and false also, it could not be found libellous. It was for the State to show that the writer meant Maguire; and he undertook to show, from the context, that Maguire was not the person intended; and unless the jury should be satisfied that Maguire was the person meant, that he, and no one else, was intended, they could not find the writer guilty. What did the writer mean? Why this: hearing the circumstances of the case—the man's anxiety about his soul, and his confinement by order or at

the instance of a priest, he told the story to the religious world, as another instance of the confinement of a person trying to escape from a church, with which the writer had a controversy. The confinement was proved, and whether done by Hooper or any other person, yet when Maguire came home, found the man, and kept him there, he made the act his own. But the paragraph does not impute to him any motives; yet, as he confined a man contrary to law, even if his motives were of the best kind, yet according to the doctrine of the prosecution, if he were brought into court for mal-conduct in office, he must be found guilty. If they meant to impute to us bad motives, the grand jury ought to have put it in the indictment; but the inuendo is not there. Here Mr. S. went into an examination of the history of the case of Stazer, and reviewed all the circumstances of it, as alleged in the paragraph, and given in evidence, to show the mysterious, very mysterious, character of the transaction, whence he drew the conclusion, that there was at the bottom, or behind the curtain, something yet unrevealed, that would not bear the light. We (said Mr. S.) don't say *he* converted that house into a mass house, or that it would be wrong or immoral if he did; but it is proved—proved by Maguire himself, that he did erect a mass altar in that house, one made at the public expense; and the writer may have thought the worship for which that altar was intended to be idolatrous, as many protestants do, while the worshippers themselves think it a holy and comfortable worship; this is a question about which people may, in this land, differ, without fear of punishment, either secular or ecclesiastical. The writer thus viewing the subject of the altar, might properly thus speak of it. It had been so very often told to the jury, that malice was a necessary ingredient in a libel, that he would not repeat it; and he went on to argue against the existence of malice, either in the popular sense, against Maguire, or in the legal, technical sense, against him or any other person. He contended, that the State must prove it; and unless they do prove it, and against Maguire, it matters not if it be proved to have even a malicious reference to others: if it be not malicious, or, being so, has no allusion to him, then is the traverser innocent. The learned counsel adverted to the writer's ground of belief, and remarked, that if driven from every other point of defence, they would take their stand there, and confidently ask a verdict; and discoursed eloquently on the evils of discarding information as a ground of belief. He commented with some severity on Maguire's eagerness in urging the matter on the grand jury, and his threat to publish them, if they would not find a bill; and contended, from all the circumstances, that the writer could have meant to cast no reproach on Maguire, but that his motives were good, pious, charitable and praiseworthy; and concluded with some handsome touches of eulogy on the traverser, and a request to the jury to give him not only a safe, but a prompt and speedy deliverance. If they thought the prosecution causeless, and if they thought the prosecuting party was the cause of public expense, unusual excitement, and the danger attending it, if they deemed the motives of the traverser to be pure, they must consider him innocent, and he trusted they would not delay the period of his acquittal, but promptly send him home, to protect and to bless his family.

Mr. RICHARDSON, on the part of the State, arose to conclude the case. He said, that he could unfeignedly say, that never, on any occasion, when he had been called to address them, had he arisen with a deeper sense of the responsibility that belonged to his position, than he felt upon the present. And it was perhaps calculated to strike dismay into a stronger heart and a stronger mind than he was possessed of, when he found himself called upon to oppose the array of legal knowledge and eloquence that was opposed to him. He found himself called upon as prosecutor of criminal offences against the state of Maryland, to oppose against prejudice and feeling, the law of the land. He found himself called upon to speak in opposition to propositions of law to which he would not assent; proposi-

tions of law which he considered as striking at the very root of civil liberty; propositions which were asserted as true, but which, God grant, were not true. Why was he called upon to do this? The counsel on the part of the defence, who first opened, had insinuated, nay, had charged the prosecuting witness with malice in the motives of this prosecution; as if that witness were the state of Maryland; as if the grand jury would lend itself to the purposes of malice. There has crime been committed, or there has not: the prosecuting witness goes before the grand jury and makes his statement. One of the grand jury takes advantage of the Sabbath, he being at leisure on that day, to call on the witness at the alms house, and to ask him to withdraw the suit. Was not that a proof that the grand jury had decided upon the case?—was it not a proof that it had sanctioned the prosecution? Now we know not what the opinion of the individual grand juror may have been, but we know that no witness who goes before a grand jury can withdraw a suit. The grand jury is the tribunal to try if a suit shall be brought. Maguire is libelled, or he is not; his course is, if he believes so, to go before the grand jury and tell them the publication is false; that it charges him with violation of duty in office, by converting the institution over which he is placed into a prison. The grand jury investigates the subject, and, if there is cause, finds a bill; the prosecution commencing with them. But it has been argued that Maguire was prompted by private malice, and the jury are called upon to give a peremptory verdict for the traverser. Ah, gentlemen, private malice! Does the gentleman forget that he has charged the state of Maryland with malice? Again, (said Mr. R.) the gentleman has cast on the state of Maryland a sarcasm. He has asked if the state would not lose more than it would gain by a verdict against the traverser, and takes occasion to bestow a eulogy upon his client, whose reputation, he says, was higher than the highest spires of your city, and he is a man eminent for his talents and worth. Now, for what purpose was this intended? asked Mr. R. He would join most heartily in the tribute to his private worth, and his talents in public life. What was this intended for but an excuse that he is not to be convicted because he is a minister of the gospel, of a reputation that soars beyond our highest spires? I care not (continued Mr. R.) if his reputation does out-soar our highest spires; I care not if he is presumed of talents that out-top the highest intellect; I care not if he is presumed of Christian intellect unsurpassed; if he is of the highest standing of human station and human mind, he is still amenable to the laws of the land. It is said that his friends and his congregation are listening with anxiety to hear the verdict, and are anxious to find that he has obtained a deliverance. Gentlemen, (asked Mr. R.) by what means are you to give that verdict? You are there, as I am here, under the awful responsibilities of an oath. The jury box, when they took their seats in it to try this cause, hedged them around and shut out all considerations but a verdict according to the law and the facts; its confines bound them to render a true verdict between the state of Maryland and the traverser. I say, (repeated Mr. R.) that when you placed your hands upon God's book, and avowed to well and truly try this case between the state of Maryland and Robert J. Breckinridge, according to the evidence, so help you God, you bound yourselves to do justice to each, according to the evidence and the law. If there was prejudice, you dismissed it forever, and when you took your seats, you said you were there to decide upon the law and the facts. To that law and those facts you are to look alone; no private feelings, no regard for individuals, are to sway you; you are there to try according to the law and the fact. If as they say that the traverser is innocent, acquit him; but if that law and that fact show that he is guilty, you are bound, though all hell yawned before you, to find him guilty. Now what are you empannelled to try? Whether the Rev. Robert J. Breckinridge has published of James L. Maguire a defamatory, false and malicious libel. The defence

set up to this charge, he said, had assumed so many shapes, that he found it difficult to tell, precisely, what the defence depended upon. They first contended that it was not published of and concerning James L. Maguire. Why did they not say at once that he was not intended? If they had proved that, the case would have been at an end. But no; at the very next step they turn round and attempt to show that the charge is true. This (said Mr. R.) is what I call having two strings to their bow; they would take one, and if it failed, try the other. But again, fearing that the jury would not agree that it was true, they turn round again and say, though the matter is intended of Maguire, and is not true, we did not publish it with a malicious motive. Thus they leave some loop-hole by which they hope to escape. Now (said Mr. R.) I shall contend, that if I have shown that the libel is on Maguire, the course of the defence is demonstrative of the highest malice. Mr. R. went on to read the publication, and asked the jury to mark the term *papal keeper*, which was italicised. Now, said he, a libel has been defined by Judge Story to be any thing that brings into disgrace, or injures, or is calculated to bring into contempt, or ridicule, or hatred, any individual; any thing that tends to expose a person to punishment by the law is, if false, a libel. He was not disposed to enter into a sophistical argument about words on the subject of what a libel is; but he would call on them to apply the interpretation of common sense to this publication. He asked them, if they were to hear of a man who was placed over a public charitable institution having converted it into a prison, whether they would not say he was guilty of a violation of official duty? But it is said, that so far as the mass house is concerned, no accusation is made against Maguire. Is there not? They say that the alms house has been converted into such a house, and go on to say by whom—by James L. Maguire, the papal keeper. The evidence, he went on to urge, was irresistible, that Maguire was intended. If this accusation was calculated to injure any body, he contended that it was calculated to injure Mr. Maguire. The counsel for the defence, he said, had argued that it was not Maguire that confined the man, and then shows that it was done by his agent, for whose acts he is responsible. No man can deny that Maguire is the person meant by the term “papal keeper.” But is this all? They say he was confined until he was rescued from the papal keeper. Can there be in the human mind a doubt, that it was meant that he was rescued from Maguire? They ask what is meant by a mass house and a papal prison. One thing is certain, (said Mr. R.) that whatever the meaning may be, they in this book intended the charge to be defamatory. This is an institution established for charitable purposes; an institution in which all denominations have heretofore had the right to worship; here they charge that it has been converted into a mass house by the keeper, that all denominations may be excluded, so that the inmates may be led into Catholicism, or papism, as it is called. No man can read the paragraph and not be convinced that this is the charge made. Take the words mass house and papal prison, continued Mr. R. and put them in juxta-position with the assertion that the man was *rescued*, and no man can doubt that it means that he was rescued from the keeper. That is not all, argued Mr. R. They ask, what will the priests and the doctors say to this? To what? Why, to the confinement of the man in a papal prison. He commented on the argument of the other side, that the State had not made out by inuendo what was meant by mass house and papal prison, and the man being rescued. This he considered a technical pleading, that none but lawyers could understand, and the gentlemen had said that lawyers would disagree. If the indictment was wrong, they should go before the court; he would venture to say, that not one judge on the bench would say that it was; if they so decided, he would give up the case. Where the words were sufficiently plain to be understood, no inuendo was needed; and if introduced, and it enlarges the meaning, it is fatal; if it

does not enlarge the meaning, it is useless. He referred to the case of a presentation for the following paragraph: "THREATENING LETTERS.—The grand jury of the county of Middlesex has found a true bill against a gentleman of some wealth, named Frank." In this the court said the language was sufficiently plain without an innuendo. This he compared with the present case. In that the general charge was threatening letters, and the specification was a man of wealth, named Frank. In this the general charge is a papal mass house and papal prison, and the specification was, that a man had been confined by the papal keeper. The cases were parallel, and no man could come to any other conclusion. Mr. R. quoted other authorities, to show that it had been decided by able jurists, that no innuendo was required, where the meaning of the words was sufficiently plain without it. He contended that the matter published was calculated to injure Maguire; that it charged him with that which was calculated to bring him before the grand jury, and render him accountable to the laws for a violation of duty. It was defamatory. The question then was, is it false? The counsel on the other side say it is not. Is it true? asked Mr. R. and went on to review the evidence, going over the testimony of Mr. M'Jilton, the servant of Stazer, and his child, the statement of Mr. Holton, as to the admissions of Mr. Maguire, and the evidence of Mr. Hooper. This was all they had shown of the truth. They had rested their case here; they had proved it true, or they had not. If they had proved the truth of the charge, there was an end to the case. But we have shown it to be false. Dare you disbelieve the statements of Mr. Hooper and Mr. Maguire? Why, if the man went there under the influence of the priests, and Maguire lent himself to the fraud, why should Maguire, the alledged agent of the priests, persuade him to go home? Why does he say to him, go to your family, you are no pauper, you can support yourself? And when he was received at his own solicitation, is he found confined like a man who had been placed there against his will? Collins tells you that he was laying himself down to rest, with his coat beneath his head; his child found him asleep when she went to see him; in every case he was calm and satisfied. But conceding that he was admitted to the alms house illegally, does it show that he was admitted corruptly? Does it show that he was confined the dupe of the priest, and that Maguire had suffered himself to become the agent of the damning violation of personal right with which he is charged? Well, finding that, though the man was admitted contrary to the act of assembly, he was not admitted corruptly, what comes next? Mr. Holton is asked if the keepers could discharge without an order, and on his answering no, they attempt to show that, because he was discharged, as they say, illegally, it is a proof that he was confined illegally and corruptly! Why what an argument is this? When counsel in a cause are driven to arguments such as this, the cause must rest on a weak, a very weak foundation. Mr. R. asked the jury if they could hesitate to say that the State had proved that James L. Maguire was the person libelled, and that the libel was untrue. Is it not so? Then let it be remembered, that it has been said by your Master and my Master, by your God and my God, that thou shalt not bear false witness against thy neighbour! This divine precept is the foundation of all law and morals; it is commanded by heaven, that man shall not say wilfully against his fellow man that which is false. Mr. R. next proceeded to discuss the question of the absence of malice. They had brought evidence to show, that, though the publication was untrue, the writer believed it to be true. To do what? Attempt to show that a false statement is not malicious, because the publisher believed it! Are they driven to that? What, he asked, had they brought evidence to show that the publisher believed the statement to be true? I put it to you, said Mr. R. if you did not believe that he thought it true, before they brought such evidence? The character, the standing, of Dr. Breckinridge, made it certain, without other evidence,

that he would not publish the statement unless he believed it. His character in the community is such as to make it evident that he would not put that in his pamphlet, with his name to the back of it, that he did not believe true. Would you not as soon believe he did, without the evidence, as with it? I say that it would have been stronger without the evidence. They say, that because he believed it to be true, there was no malice in the publication of the statement. Mr. R. said that he would assert that a belief of the truth of a publication did not show the absence of malice. He would make the broad assertion, that, if the belief of the truth of a publication was to disarm it of malice, you could not punish a man for libel. He cared not how flagitious the libel, no one would be secure; no one could seek redress at law. The character of hoary age, the reputation of the respected matron, or the modest virgin, would be alike exposed to the devastation of the slanderer; all would be his victims. Good God! exclaimed Mr. R. is such a doctrine to be upheld? Is it to be said that a man is to publish with impunity that which destroys reputation, because he believes it to be true? He stood there to combat one of the most destructive doctrines that had ever come before a court and jury. He asked them to consider the character of the publication. The author is the senior editor of a magazine; he is a distinguished divine, perhaps, we may say, at the very head of his church; he is looked up to by thousands as a guide; and may we not ask, if, occupying this responsible station, and his opinions having great weight with thousands in every part of the country, he should not be careful, very careful, that what he publishes is true? What have they shown? Mr. Breckinridge heard it from Mr. Owen; he heard it from his son, who, with M'Kane, heard it from Davis. It may be said, that he was not acquainted with Mr. Davis; if not, was it not the part of prudence to inquire who he was? He depended on what he was told. He did not ask for Mr. Davis; he did not seek further information himself, but sent others to collect it for him. Did they get any further information? No. He depended upon the hearsay of a hearsay of a hearsay. He took upon himself the publication of this libel. Davis is referred to as the author. He says it is not true. Dr. B. has published the libel upon a rumour that Mr. McKane heard from Davis, who heard it from a black woman. Now, gentlemen, if this is not the story of the three black crows, I know not what is. Now, asked Mr. R. would you not have more depended upon the character of Dr. B. that he believed the statement, than you would upon such evidence? Mr. R. continued to argue upon this point, and called to the recollection of the jury, that there are persons so credulous as to believe the most preposterous stories, while others are so sceptical, that they will believe little. He asked if every credulous person, who believed gossip and slander, were to be permitted to publish it, and excuse himself on the ground that he believed it? He asserted that, if they upheld the doctrine, no respectable individual would be convicted of a libel. Suppose, said Mr. R. I should have an enmity towards one of you, and you have a son, whom I do not know, but of whom I tell you false and malicious reports, in order to corrode your heart and wreak my vengeance on you: am I to escape because I did not know your son, and say, I did not mean him an injury—I struck at higher game—I wished to strike the father? He might take the case of a husband, to whom an enemy could revile his wife and poison his mind against her, yet, the traducer would escape, because he could say, I did not mean to injure her, but to injure her husband! He would admonish them, as they valued the reputation of their children and their wives, to beware that they did not, by sanctioning this doctrine, give a malicious rascal of character the power to rob them of what was dearer than life. Standing there in the solemn position he occupied towards the State of Maryland, he protested against the horrors, the murderous horrors, of such a doctrine. At one fell swoop it would destroy all power over the slanderer. Mr. R. after further illustrating this

view, went on to show what is the law of libel; he alluded to the remarks of the gentlemen on the other side, where they had spoken of the "pomp and circumstance" with which a libel was paraded. He showed that even by an assault and battery the dignity of the State of Maryland was insulted; then how much more was it insulted by a libel; how would it be outraged if this doctrine were sustained? If the laws would not protect a man from libel, the man would protect himself, and the knife—the bowie knife—would be the retaliation for the stab of the slanderer. Mr. R. went on to show that the law he contended for, was not the Star Chamber law, and quoted the opinions of recent liberal-minded English judges, and, in this country, the opinion of Judge Story. He reminded the jury that they were the judges of the law as well as the facts, and they were in this case to decide upon this great principle. This part of the subject was most ably argued, but want of space prevents a detail. As to the malice in this case, he took occasion in the course of his remarks to say, that malice had been fully shown, when a client by his counsel, in the broad face of day, maintained the truth of his charges, and continued to maintain that they were true; when he sat in court after the falseness had been proved, and heard his counsel reiterate that it was true without checking them. The gentlemen on the other side had insinuated that there was still some darkness about this affair; it may not be true, but there was still some mystery. Now, said Mr. R., the man who insinuates, is worse than he who openly avows a charge, because he does you an injury, and you cannot catch him.—Mr. R., after reading largely from authorities on the position that malice is wilfulness, in the legal sense of the term, maintained that the law he upheld was the law of the land, the law of justice, and the law of common-sense. No man has a right to do that which injures another in his person, property, or character, and if he injures your character, you can claim a punishment, by showing that it was wilfully done.—There is another thing, said Mr. R. If a man has done any thing wrong, it is the duty of every good citizen to bring him before the proper tribunal for trial, and not to publish the offence because he believes it to be true. Could he say more? I say here that Dr. Breckinridge would have done no more nor no less than his duty, if he, on hearing of an act of Maguire's which he believed to have been so gross a violation of duty, had gone before the grand jury and brought upon him the proper punishment of the law. Mr. R., in conclusion, said he had attempted to show the jury that the libel was on Maguire, that it was false and that it was malicious. He would repeat to them that they were the judges of the law as well as the facts; and as you are sworn to apply facts without fear, favor, or affection to the case, so are you bound to follow the facts to where they lead, and as judges of the law, apply to them the law as you understand it. The same solemn obligations that bind you to apply the facts as they are, bind you to apply the law as it is, not as you wish it to be. Mr. R. closed his address, which has been so feebly sketched above, by stating that he believed he had done his duty to the best of his abilities, and he could retire from the case with a consciousness that he had done every thing which was demanded of him by the State, and fulfilled the obligations imposed upon him by his oath of office. He had tried the case fairly and impartially, with regard for the feelings of others, and if in the ardor of debate any expressions had fallen from him other than respect for those opposed to him, he was sorry they had been uttered. He now left the case with the jury, and if in justice to the laws of God, and their country, they could acquit the traverser, no man would rejoice more than he would.*

* The reader can form very little idea of the violence of this speech from the foregoing report of it. The reporter has omitted, here and elsewhere, many things, which we will not now recall, but which, as they passed, filled us with amazement, and thousands with deep indignation. If we should treat Mr. R. as he has treated

The jury retired about four o'clock; but not being able to agree when the court adjourned, were directed to seal their verdict, and deliver it in the morning.

THURSDAY, March 19.

The jury remained in their room all night; up to 11 o'clock this day were unable to agree. The court took a recess until 2 o'clock, P. M.

Two o'clock, P. M. The jury were brought into court, at their own request. They had been kept in their room, nearly twenty-four hours, destitute of every comfort—and were much exhausted by such a confinement, added to their previous long and painful attention to this case. Their foreman stood up, and said, for the pannel, that there was no hope of their agreeing—that their opinions all stood, just as when they left the jury box—and that they all and very earnestly asked to be discharged.

The court desired to know the wishes of the parties to the case.

Mr. SCHLEY, for the defence, declined to interfere; there ought to be a verdict; it was important on every account, that the jury should, if possible, agree.

Mr. RICHARDSON, for the prosecution, left the matter with the court.

After some consultation between the judges, and some conversation between the court and the bar, and renewed protestations and demands on the part of the jury; BRICE, chief judge, said, that under the circumstances, the court had determined to take the responsibility of discharging the jury. *Jury discharged by the Court.**

us—if we should even treat him as we had once designed to do—he might learn that we are neither without the means nor the ability to carry the war into Africa. We prefer—we adopt a different course. Mr. R. is an excellent criminal lawyer, a clear-headed man, and a powerful and vehement speaker. We say this in sincerity, and out of a sense of justice. It is impossible, so far as he was concerned, that the prosecution could have been managed with more tact, ability, and legal learning; all conspiring, and urged with unparalleled eagerness, for a conviction; which, when he began the case, (and perhaps to the end of it,) we happen to know, he fully expected to obtain. To give the reader some idea of Mr. R.'s interest in his case, we mention, that, at the conclusion of one of his most vehement climaxes, he sat down, perfectly exhausted by his violent efforts and screams; and, as we supposed, was done. But behold! after resting himself, and sucking an orange, or lemon, he rose up and continued his speech. We have been conversant, for twenty years, with all sorts of public proceedings; but never before witnessed, nor even imagined, exactly such a case.

* Various rumors had been afloat, from the moment the jury retired to their room. Indeed, before the case was half through, there was the utmost confidence expressed by many papists, that *that jury* would never acquit; that there *were men on that jury* that would never agree to a verdict for Mr. B. &c. &c. As soon as the jury was discharged, it was found, that *ten* were for acquittal, that *one* was violently for conviction, and that *one* other was inclined to convict, but was willing to acquit, if the *twelfth* man would fall in; but if he refused, this *eleventh* man more inclined to his opinion than to that of the *ten*. This we believe to be the true state of the case. This twelfth man (*Wm. T. Rice*, see p. 194) is unknown to us, and we cannot vouch for any of the rumors, good or bad, which have been circulated concerning him, nor will we repeat them. He is an obscure and ignorant man, in very humble life, and, we hope, did what he thought his duty: we intimate nothing to the contrary. The eleventh man, *George C. Addison*, is a respectable dealer in shoes, in Pratt street, and, we understand, a

FRIDAY, March 20.

The *traverser* appeared in court, with his counsel; and Mr. Schley on his behalf, moved the court to appoint a day during the present term, and at their earliest convenience, in order to try again the case of the State of Maryland against Robert J. Breckinridge for libel. He urged this as matter of right on the part of his client; as a great duty to society; and as, in all respects, and on every account, required by considerations both public and private. His client, he said, was ready for trial, and he was here, to demand for him that the case be proceeded with, during the present term.

The court was understood to say that it was very reluctant to try the case again, at present; and intimations were made, which seemed to indicate a doubt in the minds of their honors, as to the necessity or propriety of further proceedings in the case.

The Deputy Attorney General, after a few general observations, desired time, until to-morrow morning, when he would be ready to decide what course it would be his duty to adopt. But he intimated that at present the inclination of his mind was not to proceed any farther.*

Methodist. What Mr. Maguire may *suppose* he has gained by this result, is best known to himself: what he has *actually* gained, all can judge. It is a bad case, truly, when a man can't get *justice*, even when allowed to swear for himself, and to enlist the commonwealth as his backer. What *papism* has gained by the affair, our readers can judge pretty well, by considering the influence of the perusal of this pamphlet upon themselves; for, besides the hundreds that heard this trial, and the thousands to whom its leading facts were repeated by word of mouth; tens of thousands more have read reports of it, much diluted, indeed, but containing the leading facts and arguments. We learn that one of our penny papers sold 156,000 impressions in eight days—nearly 20,000 copies a day. And this was one of *three* reports (previous to this) of the trial. Let us add, that one of our booksellers, and by no means of the most extensive class, has sold, by retail, in this city, about five hundred volumes, directly bearing on the papal controversy, since our presentment by the grand jury; that well on to two hundred subscribers have been added to our Magazine within the same time; and that, besides what others have done, we have delivered, up till this date, (May 13,) *eleven* lectures on papism, attended, on an average, by little if any less than two thousand persons; and by means of the facilities furnished by them, have put into circulation about 15,000 tracts in the papal controversy. Upon the whole, we could wish the papists might prosecute some obstinate heretical parson in every principal town in the Union. And as the first dash of the thing is over with us, and the bad taste of it somewhat out of our mouth; if they can't make a better arrangement, we might, perhaps, take a circuit with them, and be whipt and cleared all about the country. What say you, gentlemen?

* From the conclusion of Mr. Richardson's speech, on Wednesday afternoon, up to the opening of the court on Saturday morning, all that occurred is omitted, by Mr. Reilly and the "member of the Baltimore bar,"—except a few lines saying the jury hung and were discharged. There is not even an intimation in Reilly's pamphlet, that the matter was before the court, in any shape on Friday; and yet, probably, no part of the proceedings from beginning to end, was more curious, more characteristic of all parties, nor more decisive of the case, than those whose very existence is concealed. The reader may assign his own reasons for such reporting; and all prudent persons will see, that some caution is necessary in taking up impressions from what comes to light through the *particular* friends of holy mother: at least if a *heretic* be implicated in her proceedings.

SATURDAY, March 21.

Mr. RICHARDSON, the attorney-general, rose and addressed the court. He said he would call the attention of their honors to the subject, which had been under their consideration yesterday. He had then informed the Court that it was his impression that his duty to the public, as the officer of the State, did not under the circumstances, seem to call for a further prosecution of the case against Mr. Breckinridge. He had felt, however, the importance of calm reflection in coming to a final decision, and had requested of the Court until to-day, that he might give to the subject that serious deliberation which it demanded. He would now state to the Court, that the result of his deliberations had been, more than ever, to convince him of the propriety of the course he was disposed to adopt yesterday. His confidence in it was not only unshaken, but was even more firm; and he had been sustained in his views by a consultation with learned friends whom he had consulted, and on whose matured judgment he could securely rely. As the officer of the State, he believed the public interest did not require that there should be any further prosecution of the case, and he had no hesitation in exercising the power vested in him as such officer, and closing all further proceedings, by entering a *nolle prosequi*. Such were the conclusions to which he had come, and such was the course he had to adopt.

He felt it, however, to be proper to say, that as the case had excited considerable interest in the public mind, it was due to the public, as well as to the parties concerned, and especially to the Rev. Mr. Breckinridge, should his feelings prompt him to desire it, to tender to him another trial. Although he, (Mr. R.,) had the power of closing all further proceedings at once, by entering a *nolle prosequi*—he was not disposed to exercise that power against the views and feelings of Dr. Breckinridge, having no desire of abridging any privilege he might claim of a new trial.

After Mr. Richardson had concluded, Mr. Schley, who sat at the side of Mr. Breckinridge, at the trial table, immediately rose and said—Without consulting with Dr. Breckinridge, he would answer the Attorney General at once. We are here, said Mr. Schley, not to direct or control the State, in the course it may think proper to pursue in reference to this prosecution. We are here on our defence. He (Mr. S.,) had not conferred with Dr. Breckinridge, whose feelings we well knew, but in reply to the officer of the State, he would say, they were ready for trial, and prepared to meet the State, whatever course it might think fit to adopt.

Mr. Richardson said he had thought it due to Mr. Breckinridge, to offer him a new trial.

Mr. Schley replied, that he, (Mr. R.,) had asked their assent.

Mr. Richardson rejoined; no sir, he (Mr. R.,) had not asked their assent. It was with him (Mr. R.,) as the officer of the State, to exercise the power vested in him, and enter a *nolle prosequi*, but he had deemed it due to Dr. Breckinridge, to say, that while he had determined so to do, his determination was not unalterable, and would be abandoned, if it would be more satisfactory to the feelings of Dr. Breckinridge to have a new trial.

Mr. Schley said, if the State proposed to go into a new trial, they were ready; they had nothing to say to the course the State might think proper to adopt, whatever that course might be.

Mr. Richardson then said, well, then I will enter a *nolle prosequi*.*

Mr. Richardson then addressing the Court, said he would farther observe, and his remarks were intended more for those around him than for their honors, that he had been sustained in the course he had taken by the opinion of others. Their honors had been made aware of the course which he, (Mr. R.,) had determined on. He had consulted with their honors; had made known his determination; it had received their sanction, and all he had done, had been done with their approbation, they believing with him, that the public interest did not require further proceedings.

Judges Brice, Nisbet, and Worthington, assented to what Mr. Richardson had said. Judge Brice, among other remarks, said that the case had been fully examined, and the jury were not able to agree—they had differed as men would and could honestly differ in opinion.

Mr. Richardson then said, there was also an indictment against Mr. Cross, the co-editor, to be disposed of. He thought a similar disposition ought to be made of this case. If it were tried, the same testimony substantially would be given. He had other reasons for entering a *nolle prosequi* in this case. If Mr. Cross were to be tried, he could be convicted on technical grounds only. No mal-

* We shall not pretend to call in question the motives for this procedure on the part of the Attorney General; we have no doubt his conduct in it, met the approval of every respectable man in Baltimore—who is not at once a bigotted Papist and a silly fellow. For no man else, could have a doubt, after what had happened, that all hope of a conviction was idle and absurd. We have, however, ventured, in former notes, to say that we are unable to reconcile the proceedings, up to the discharge of the jury, with those after that. We say so still: we think every candid man, who knows the facts, will say and feel the same thing. But it is not our business to reconcile the difficulty.—We feel obliged, also, to say, that however for a moment, our feelings might have impelled us to prefer a direct acquittal, (which we felt we deserved and must ultimately obtain,) and therefore, another trial; yet, a very little consideration convinced us, that the proper course was that ultimately pursued; and that spontaneously, both by our counsel and ourself without conference. Overtures were made to us, from high quarters, (though we know not on what authority)—desiring an assent of some sort on our part, to the stopping of the case: to which we returned a positive refusal to hold any conference on the subject. Similar overtures, to our counsel, met a similar fate.—And “the State of Maryland”—took the responsibility, and acted, as we think, properly. We feel at liberty to say, that after the finding of the Bill, against us, efforts were made, of the most imposing kind—to arrest the case; and persons of the highest rank in Maryland, lay and ecclesiastical, conferred, in regard to its termination without a trial; all this was by persons, in part, strangers to us, and as to all—without our knowledge or authority. As soon as we heard of the matter—we said at once, and decisively, that the case must be tried, or dismissed freely and without conference with us. Upon the whole, we have every reason to be satisfied personally, with the termination of the affair; and, by God’s grace, do not intend to turn aside a hair’s-breadth, from our course, by reason of the proof afforded by it, that all our suspicions, and far more than all our declarations, of the nature of the warfare waged against us, are proved to be but too true. We know our enemies: this is much. But what is more, we know where our strength lies: and while God is for us—the wicked may plot, and threaten, revile, persecute, and rage, in vain.

ice could be proved against him. He believed, too, Mr. Cross to have been ignorant of the article until it made its appearance in print, and that he was first made acquainted with the character of that article like any other reader of the periodical, by perusing its contents after it had come from the press.—He would, therefore, enter a *nolle prosequi* in this case.

Mr. Schley observed, that from the first, it had been the desire of Mr. Breckinridge, that Mr. Cross should not be involved in any of the consequences resulting from the publication. Whatever might be the consequences of the trial to himself, he did not wish Mr. Cross to be involved. Mr. Cross had nothing to do with the authorship of the article in question, and was, as he (Mr. S.) believed, out of town when it was put to press.

We have now fulfilled our pledge to the public. The whole of our trial is here printed; and we are sure, the reader will find in the preceding pages, not only the most complete, but also the most impartial report of that monstrous proceeding.

It was our intention to have added, in this place, a brief and clear summing up of the case. But it has already consumed so much of our time,—it occupies so much more room than we had anticipated,—and every point is so clearly exhibited, either in the public proceedings, or in the annotations of the *traverser*, that we, not unwillingly, omit it.

Nothing can be more clear to every impartial mind, than, 1, That the prosecution was a most signal and disreputable failure:—2, That every allegation of the paragraph proceeded against, was fully sustained in the sense in which all was intended: 3, That the *real* motives of the prosecution were utterly different from those avowed: 4, That it was substantially an attempt to silence our voice, and stop our press, for the benefit of Papism: 5, That there is a pressing necessity for a more wakeful jealousy, a more thorough watchfulness, and a more intrepid opposition to that most corrupt, fraudulent, and intolerant superstition: and, 6, That this man, Maguire's removal from office, is a reparation due to society, to liberty, to truth, to religion, to the poor, and to law itself.

In the conclusion of the whole matter, as it regards *this portion* of this prosecution; and in calmly expecting that which remains, in the form of a suit for slander: we record, with deep sensibility, our gratitude to God for his presence, his favor, and his protection, in all these trying scenes; and our obligations to our brethren, our friends, and our countrymen, for their striking and generous tokens of confidence, approval, and support.—He who has for his cause, the cause of God and of his country—may well be indifferent whether he lives usefully, or gloriously falls.

⚡ A very long list of Notices, extending as far back as the 24th of March, excluded for want of room. This No. contains 108 pages; being 12 pages more than a double No.—which it purports to be—taking no account of the increased amount of matter, by reason of the diminished size of much of the type. The July No. will be issued at the regular period, and of the ordinary size.