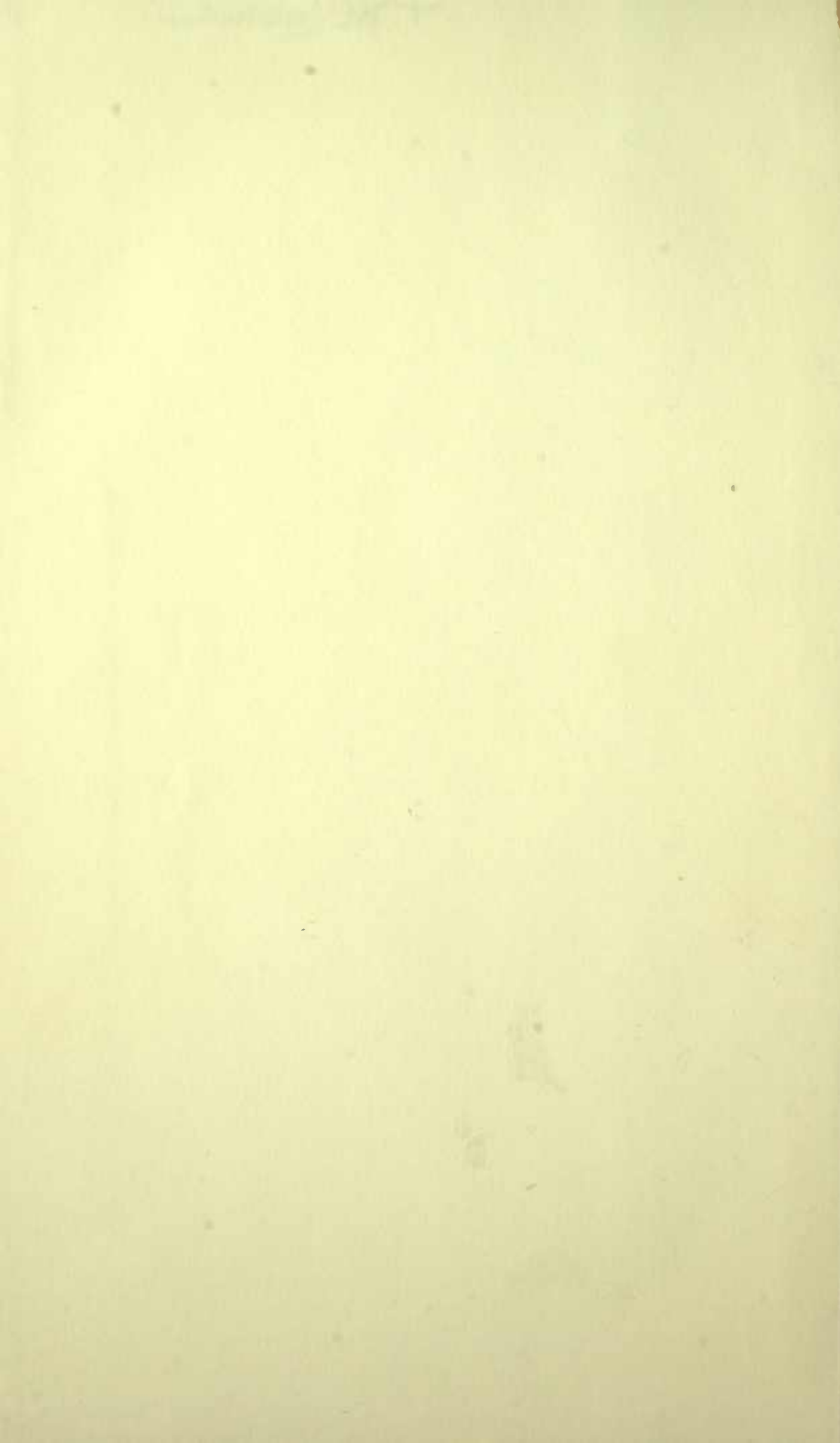


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REPORT
OF THE
TRIAL AND PRELIMINARY PROCEEDINGS

IN THE CASE OF
THE QUEEN ON THE PROSECUTION
OF
G. ACHILLI *v.* DR. NEWMAN.

WITH AN INTRODUCTION,
CONTAINING
COMMENTS ON THE LAW AND ON THE COURSE AND CONDUCT OF THE TRIAL; ALSO
WITH THE PLEADINGS AND AFFIDAVITS; AND COPIOUS NOTES, PARTICULARLY
ON THE CONSTITUTION AND PRACTICE OF THE COURT OF INQUISITION.

By W. F. FINLASON, Esq.,

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW,
Author of "Leading Cases on Pleading," "Charitable Trusts," &c. &c.

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"The devil hates all Christians, but especially monks."—ST. ATHANASIUS.

SECOND EDITION.

LONDON:
C. DOLMAN, 61, NEW BOND STREET,
AND 22, PATERNOSTER ROW.

1852.

Price Two Shillings.

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OF WILLIAM W. BENTLEY

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P R E F A C E .

SUCH serious legal, moral, and religious considerations are involved in this case, that its publication, in a correct form, is clearly required. It has been said that the trial could only cause scandal: if it were so, Dr. Newman would not be responsible; for the prosecutor had previously published charges—gross and sweeping—involving the great body of the Catholic clergy, and Dr. Newman came forward to destroy the mischief of the scandal by removing its generality. He said “Thou art the man! These things are true, of yourself!” Moreover, there can be no scandal to the Catholic Church; for the prosecutor confesses, that from 1829 he had doubts as to her doctrines,* and soon after disbelieved; nor to the Protestant, for he avows, that for many years after he was perfectly persuaded of the imposture of the Catholic doctrines, he continued zealously to teach them, and to perform a worship he believed to be idolatry. To what religion can his history now be fairly said to cause scandal? †

If it be said, that supposing the charges against him to be true, he must have been connived at in the Catholic Church, the answer is to be found in the evidence. The first case sworn to was about 1830,

* See the admissions of his book, proved as part of the evidence.

† It would be absurd to take our ideas of monastic life or discipline from the character of Achilli, who says he “never was a monk.” The Carthusian Sutorus says, “Non est domus in qua non jaceat mortuus.” And St. Augustine says, “I dare not pretend that my house is better than Noah’s Ark, where among eight men one reprobate was found.” In a poem respecting the religious orders, written about the end of the twelfth century, the source of all danger to the cloistral discipline was thus pointed out:—

“Qui sunt in claustro quasi Sathan in paradiso,
Plurima falsorum sunt vere pericula fratrum,
Et venit a falsis fratribus omne malum.”

Mores Catholici, b. x. c. 9.

Digby says, —“Doubtless there might be found at times some counterfeit, in whose hood the dark bird nestled, of which Dante speaks; but such impostors were sure to be unmasked at last, and driven out.” Let the reader refer rather for his ideas of religious life to A Kempis than Achilli.—See the *Imitation*. b. i. c. 17—18, 25.

and extends over a year ; and he admits that in 1833 he was forced by the general of the order to leave Viterbo ; that from that time he went from place to place ; that in 1835 the Pope was desirous of his removal from the order ; that he would not remove until 1839 ; that in 1837 these charges were unknown against him in Rome ; that from that time until 1840 he was at Naples ; that in the spring of 1841 complaints were made as to the case of Principe before the police ; that in that same year he was in the prisons of the Inquisition ; and that he was forthwith sentenced to perpetual suspension from the priesthood.

Can it be said there was connivance, any more than in the case of those respectable gentlemen, the Committee of the Malta College, who, when they engaged him, of course had not heard the “unpleasant statements as to his past life,” which he refers to in his affidavit ; but, after they had heard them, dismissed him,* without going into those matters, for “fear of the scandal which might be caused to the Protestant religion.”†

Again, can scandal be caused by this case as to the confessional, when it appears that the sins committed had nothing to do with it ; but on the contrary, were prevented when the instructions received there were regarded, and only occurred when they were disregarded ? and when, further, it appears that persons not disposed to abandon sin, do not go to confession ; and *when* so disposed, are *reclaimed* by it ?‡

As little can the Catholic Church have to fear from the disclosures of the case as to the Roman Inquisition ;§ for in the instance of Achilli no heavier punishment is awarded after he had for some years, as he avows, been perverting persons from the Catholic faith, than a few months’ imprisonment—which he himself calls a “slight correction.”

* And why should stress be laid on the direction of the confessor to the first witness not to disclose the matter, as it was the case of an ecclesiastic, more than on the resolution of the Malta committee ? or why should suspicion be excited by the direction of the confessor to come forward and tell her story, more than by the most creditable advice of the vice-president of the college to a Protestant witness to do so ?

† See the evidence of Lord Shaftesbury.

‡ Let the reader refer to the evidence of the Italian women, and compare it with that of the English ; the former were reclaimed,—not so the latter, except one out of three ; and that was at an asylum half Catholic.

§ Which has nothing to do with the Spanish, the cruelties of which were rather political than religious, and always restrained by the See of Rome. See even Ranke. See also Balmez.

With regard to the formal result of the trial, it would be of very subordinate interest even had it been a fair trial. But public opinion has pronounced it was *not* a fair trial. The *Times* has stated, in an able and eloquent article, which shows how prejudice *can* yield to a sense of justice,—

“ We consider that a great blow has been given to the administration of justice in this country, and that Roman Catholics will have henceforth only too good reason for asserting that there is no justice for them in cases tending to arouse the Protestant feeling of judges and juries.”

The moral value of the verdict may be estimated from a few facts. Not one witness for the defence was involved in any contradiction, whereas Achilli was contradicted by his own witnesses and by himself. On the worst of the charges, even the Lord Chief Justice went far towards saying it was proved;* on another he said it *was* proved;† and the jury who have found both of them *not* proved, have found that a third was proved,‡ in flat contradiction to the oath of the prosecutor, on whose oath alone they found all the others disproved!§

Nor is this all. The counsel of Achilli shrunk from putting him into the box until he had read all the evidence that could be adduced against him; and then swore only in the negative of the charges as pleaded, which the defendant had previously been compelled to plead, with the strictest particularity and precision. ||

It is stated in a text-book of the highest authority,¶ that “there are numberless cases of false verdicts without corruption or bad intention of the jurors. They may have *heard too much of the matter before the trial, and imbibed prejudices without knowing it.*” And when it is remembered that Achilli’s book and speeches, and articles of the same character, had been for some time in very general circulation among the class from which most of the jurors came, it is conceived that this very much augments the justice

* That of Principe.

† One of those about Garamoni.

‡ As to the judgment of the Inquisition.

§ See his affidavit and his evidence.

|| And how he swore may be appreciated from two specimens. He swore he had not visited a lady, “a Gentili,” because, though that was her maiden name, she had married; and he swore (see his affidavit) that he did not rob of her honour, &c., when his own counsel suggested (see note to plea), that this might mean only that she had no honour to lose!—See his cross-examination also as to the way in which he answered.

¶ Tidd’s Practice, vol. ii. p. 905, ninth edition.

and the importance of holding the libel privileged on the score of public discussion; the general and personal question being so mixed up as to make it practically impossible to separate them. For instance, the question as to the Inquisition (on which, really, the verdict greatly turned), is whether Achilli was dismissed for heresy or immorality,—which, though in itself a personal question, is closely connected with popular prejudices as to that Court.

In a strictly legal point of view, that part of it which relates to the judgment of the Inquisition is the most interesting. And here it suffices simply to state, that while the Lord Chief Justice held that the reasons referred to a mere resolution of dismissal by a committee of gentlemen sitting in a private room, must be taken as the reasons of the dismissal—with any others which they might be able to state; he held, as to a solemn judgment of the supreme court of a sovereign state, that it must be shown that the court had jurisdiction, though the judgment was authenticated by a secretary of state, and the officers of the court; and that then it was open to the party concerned to impute to it, without the least attempt at proof, fabrication and forgery; and that, though he held part of it unquestionably genuine, the rest might be discarded, forming an integral, and the most material portion of it; as reciting the reasons on which it was founded, and the confession of the party sentenced!

If there were no other reasons for publishing this report, it would be found in this fact, that though Achilli's book was part of the evidence, the attention of the jury was not directed to the admissions it contains, which are now carefully set forth, and the effect of which, it is conceived, must be decisive, even upon those who might have had doubts before.

It may be said, that, until now, the profession and the public have not had an opportunity of really considering the whole of the evidence for the defence; and if their opinion has hitherto been in its favour, it certainly will be far more so now. Moreover, facts are now in evidence, which, had they been disclosed to the Court on the original application, would surely have been deemed an answer to it; and even now appear to be reasons against judgment.*

* The Court will not interfere by granting a criminal information where the attacks complained of have been caused by the intemperate language in publications by the party complaining, although such publications arose from inquiries made in pursuance of his duty. Therefore, where a clergyman had, in the course

The legal bearings of the case are (as well as the moral) discussed with some care in the Introduction, and the reader is requested especially to consider that part of it which is devoted to prove that the rule ought not to have issued at all; or that the libel was privileged, and that, in the absence of express evidence of malice, Dr. Newman ought not to have been called upon to prove its truth.

Be that as it may, in the language of a respected barrister, at the close of the evidence for the defence, "Dr. Newman is morally vindicated." And it may be added, what is far more important, the Church is vindicated too.*

HARCOURT BUILDINGS, TEMPLE,
July 16th, 1852.

of inquiries as to certain charities in his parish, published pamphlets reflecting in no measured language upon the character of his opponents, the Court discharged a rule that he had obtained for a criminal information, in respect of certain attacks made upon him, by way of recrimination; but they intimated that if the attacks were renewed, a criminal information would be granted.—*Reg. v. Hall*, 7 L. T. 136.

* If anything were wanted for *that* vindication, the following will complete it. It must be premised that the jurisdiction of the Holy See as to the religious orders, is, after their establishment, rather appellate or ultimate, than original and immediate.

"Advices from Rome, in the *Univers*, under date the 14th ultimo, mention a change of great importance to the Dominican Order. About two years ago the Very Rev. Father Jeandel was summoned by his Holiness to reside at Rome in the capacity of Superior-General of the Order of Friars-Preachers, but with the title only of Vicar-General. This ecclesiastic has now been appointed Provincial, in the place and stead of the actual titular, who, with several other Superiors of some of the twenty-two houses of which the Roman province is composed, has just been deprived. Father Jeandel will henceforward exercise over those houses a full and entire authority. The following are the details of this incident, which is considerable, by reason of the consequences which it cannot but have with reference to the Religious Orders. Everybody knows that for a long time the Holy Father had ordered that in such of those institutes as had varied a little too much from the primitive rule, they should re-enter the rule gradually and without any violent changes, by the door of the noviciate. Most of the Orders obeyed the wishes of the Supreme Chief; and in particular the Benedictines, by the choice they have made of a General completely devoted to the reform, have caused the Holy Father one of those rare satisfactions which console him in the midst of the sorrows he has to endure. The house of Sta. Sabina was chosen for the noviciate of the Friars-Preachers, and for the two years which have scarcely elapsed since Father Besson has been directing it, in spite of the state of poverty and distress in which the convent was placed, the number of subjects he has furnished have reached the almost incredible number of eighty. Well, in spite of this, and although the more aged members who inhabit the other houses were left in their *statu quo*, some of them, and unhappily among those several Superiors, declared themselves hostile to these changes, which, however, did not affect themselves, to such a degree that they made open opposition against the Superior of the Noviciate and the Vicar-General of the Order, F. Jeandel; and went so far as to draw up against them a memorial, which they presented to his Eminence Cardinal della Genga, Prefect of the Congregation of Bishops and

Regulars. A sufficiently curious fact is that, moved, doubtless by a sentiment of loyalty, they thought it their duty to communicate this to F. Jeandel, who replied to them : ' You represent me, my Fathers, under very black colours. I am what God sees me, and neither more nor less ; but I engage, for your own sakes, above all, not to present the memorial to the Cardinal.' Without attending to this hint, the memorial was presented, and we have stated the result, which transpired after an audience which Cardinal della Genga had a few days ago with his Holiness."

INTRODUCTION.

THIS case appears to form a great fact in the social history of the country, and to illustrate a great feature in its moral character, viz., its blind and bitter prejudice against the Catholic Church and the religious orders, which have ever been her noblest ornaments; those religious orders to whom the English people owe their conversion to Christianity; all their cathedrals and most of their colleges; the preservation of learning, and the transmission of the light of truth through the middle ages, the "ages of faith." What were—what are, those religious orders? Let the reader (if he have not already learnt) excuse a few fragments culled from the most magnificent work of modern times.*

"What else is it to say" (writes Peter the Venerable), "Omnia quæ habes da pauperibus et veni sequere me," but "become a monk." Even Michelet observes (speaking of the Franciscan order—the twin order of the Dominican), that their love of poverty (common to both orders) was an effort to escape alive from the conditions of this life, from the servitude of matter, to conquer and anticipate here below the independence of a pure spirit. Our own St. Anselm defines the object of the monastic discipline as "purity of heart, and the end everlasting life." The Benedictine rule, which, at the time of the reformation was prevalent in England, is thus described: "Status vitæ innocentia secundum eximii P. Benedicti normam." The venerable Bede gives as the reason for the monastic life, the necessity for escaping the distractions of society. St. Richard, archbishop of Canterbury, in the reign of Henry II., writing to the Cistercians, says, "Let the professors of the order keep the footsteps of apostolic religion in moderation of food and raiment, in watching, in confessions, in discipline, in psalmody, in humility, in hospitality, obedience, and all other fruits of love." St. Francis says, "The rule of life of the friars minor consists in observing the holy gospel of our Lord Jesus Christ, living in obedience without property and in chastity."

Our own Saxon laws ecclesiastical thus spoke of the monastic life:

"It is right that monks, by day and by night, with inward heart ever think of God, and earnestly call upon him, and with all humility regularly live, and always separate themselves from worldly occupations as they best may; and do as is their duty, ever care how they

* *Mores Catholicæ.*

best may please God ; and all that perform which they promised when they took order : to attend diligently to their books and prayers, to learn and teach as they best may ; and every pomp and vain pride, and separate property and useless deed, and untimely speech, wholly to despise, as is befitting monks. But it is truly an evil that some are too arrogant, and too proud, and too widely erratic, and too useless, and altogether too idle in every good deed, and with inclination to evil deeds, in secret profligacy, inwardly heartless, and outwardly indignant. And some are apostates who ought, if they would, to be God's soldiers within their minsters. Such are those who have cast off their shepherds, and who continue in worldly affairs with sins. It goeth ill that those men in orders, who through fear of God were whilom the most useful and most laborious in divine ministry, and in bookcraft are most useless and never labour strenuously, but do all for lust and ease, and stroll and wander. That is a hateful life ; it is also worse that the superiors do not amend it, nor some conduct themselves as they should : but it is our duty to amend it."*

Mabillon proves that the first monks of England followed the rule of St. Benedict, "which" (says Michelet), "is a rule of good sense, a rule of labour, grave and practical ;" and many cathedrals of England were served by them from the age of Ethelbert to the Reformation. St. Dominic made choice for his use of the rule of the great St. Augustine, adding certain particular constitutions,—as the rule of perpetual abstinence from flesh, and great fasting. He took all possible precautions to enforce poverty in the order, and preserve its discipline. He himself founded monasteries in Canterbury, London, and Oxford. Bishop Tanner counts forty-two houses of the preaching friars (as they were called) in England, at the dissolution of the monasteries. From their black hoods and cloaks, they were called in England "Black Friars." Stevens states that the order was at the end of the last century divided into forty-five provinces. A modern Protestant writer † says, "The Dominicans and Franciscans were renowned for their profound learning and unquenchable passion for knowledge ; wearing the garb of most abject poverty ; renouncing all love of the world ; refraining from, and rejecting, all fixed oblations or state endowments, and adhering to a voluntary system for support, they wrought a powerful change in the ecclesiastical and collegiate learning of the fourteenth and fifteenth centuries ; and by their charity, devotion, and strict austerity, gained the respect and affections of the people."

Sixty-six cardinals, 460 archbishops, and 2,316 bishops have worn the habit of St. Dominic ; simple friars, without birth or fortune, who had been chosen only through regard to their virtue. St. Vincent Ferrer, of this order, was renowned all over Europe for his eloquence, and was specially invited by the king of England to preach in this country, which he did with enormous success.

Walter Beauclerc, chancellor of England, in the reign of Henry

* *Ancient Laws of England*, vol. ii. Ecclesiastical Institutes.

† Merryweather's *Bibliomania* ; a most excellent little book ; full of facts.

III., and bishop of Carlisle, took refuge in the order of St. Dominic, abandoning all things, even to his cloak (says Matthew Paris), when he entered the convent at Oxford. Henry III. of England had for his confessor John of Darlington, a Dominican of great sanctity and erudition.

In the thirteenth and fourteenth centuries, the great schools of the Franciscans and Dominicans drew multitudes to their convents. More than 700 friars at a time, from every part of Europe, have been known to resort to the Franciscan convent, at Paris, for the sake of study. The scholastic halls of the convent were particularly grand. There were two lectures on theology every morning, and two every afternoon on the Holy Scriptures.

The English Franciscans were especially learned towards the end of the thirteenth century. Then shone Roger Bacon, Henry Willot, Thomas Dorking, William of Ware, John of London, and Richard Middleton; the last of whom is commemorated with fourteen other chief doctors of his order on the tomb of Duns Scotus at Cologne.

St. Thomas Aquinas, the great luminary of the order, was accounted the most marvellous man in Christendom; and to this day his works are read with more reverence, perhaps, than any other since those of St. Augustine—his great model and master. St. Thomas it was who wrote the celebrated treatise *Contra Impugnantes Religionum*, which forms the most complete defence of the religious orders.

“How deeply interesting” (says Digby) “is it, even now, to visit the monastery of St. Dominic, at Naples—one of those great schools whose masters possessed such an empire; and where St. Thomas of Aquinas composed many of his works, and taught theology.”

“It is a curious fact” (Digby says) “that science itself owes much to the intercourse of the great with the monastic orders. Had it not been for a Franciscan prior and his friend, a Dominican (confessor to the king of Castile), who recognised the merit of Columbus, and obtained from the king three ships, in 1491, Columbus would have been obliged to abandon his enterprise.

The mendicant orders produced men of profound erudition. Joseph Scaliger, writing to Casaubon, tells him to search in the king's library for some notes of a Dominican friar, on the Alcoran, which would greatly assist his studies. The Dominican library of St. John, in Venice, is described by Tomasini and Montfaucon. The Dominican library of St. Maria Novella, Florence, vied with that of the Franciscans of the Santa Croce. And the libraries of monasteries were public, for they were open to every one.

The library of the Dominicans, in London, was well stored with valuable books. Leland mentions some of those he found there; and among them a Bible in the vulgar tongue.

The order were renowned for their love of study, and were fond of the physical sciences. In fact, by their learning they drew scholars from the universities to their schools. Such was the character of religious orders.

What is, at this very day, the religious life? "When I was at Camaldoli," says Digby, "the monks used to begin matins in the church at half-past twelve; at three they returned to take repose, and at five rose for the day. In the Carthusian monastery of La Parti Dieu, on the mountains of Freyburg, the monks rose at eleven, and remained in the church till two; they then returned to rest till five. The day closed with them at seven in the evening, when they retired to rest. Such was and is the monastic life. Such it was in substance in all the orders, Franciscan, Dominican, or Benedictine. St. Dominic bore a wonderful great respect to all other religious orders, and an eminent Franciscan says, "There is no order in the whole church in which a good man cannot be saved, and in which a bad man will not be condemned. So that whether we take the habit of St. Benedict, or St. Dominic, or St. Francis, it matters not, since they are all holy habits, constituted by holy men." True to these instructions, the great poet of the ages of faith in his *Paradise* represents St. Bonaventura, the Franciscan, proclaiming the praises of St. Dominic, and St. Thomas Aquinas, the Dominican, celebrating those of St. Francis, each blaming the irregularities, not of the other's order, but of that to which he himself belonged. Of course there were occasional abuses; but there were well understood ways of eradicating them. Good monks set a good example, and if they left their monasteries, it was not to withdraw from their order, but to found better monasteries.

"It is to be observed" (says Michaud), "that the monks who wrote chronicles of their order, or monastery, were careful to mention and record whenever an irreligious, or, as they called him, an unhappy abbot, ruled; and whenever the monks forgot the spirit of their institution, by living to themselves rather than to Christ. They never fail even to mention at what epochs discipline was in the least relaxed; and when there was no attempt to correct them."

Sometimes we find, when a monastery fell under the dominion of an evil superior, the monks who persevered in sanctity fled. Thus St. Richard, prior of the Benedictine monastery of our Lady, in York, with twelve others, desiring to serve God according to the rule, and restore the ancient discipline, left the monastery and founded the far-famed Abbey of Fountains, in 1132. This was often exemplified in the mendicant orders: thus, in the Franciscan, an English friar, named Adam, was treated as seditious, for opposing a superior, who wished to alter the discipline of the rule; and appealed to the pope, who caused the deposition of the superior.

A Protestant writer thus speaks of the mendicant orders:*

"Much as the friars have been condemned, and darkly as they have been represented, I have no hesitation in stating, that they did more for the revival of learning and progress of English literature than any other of the monastic orders. We cannot trace their course without admiration and astonishment at their splendid triumphs and success;

* *Bibliomania* in the Middle Ages, by Merryweather.

they appear to have acted as intellectual crusaders against the prevailing ignorance and sloth. The finest names that adorn the literary annals of the fourteenth and fifteenth centuries, the most prolific authors who flourished during that long period, were mendicant friars (*i. e.* Franciscans or Dominicans). We accordingly remember Duns Scotus, St. Thomas Aquinas, Roger Bacon, the founder of experimental philosophy, and Robert Grossteste, the most enlightened ecclesiastic of the age. We may not admire the scholastic philosophy of the followers of Francis and Dominic, but it is little understood, and condemned too often without reason or proof, for those who denounce seldom care to read them. I find no religious orders ever before carried the spirit of inquiry to such an extent."

"The destruction of the monasteries," says Digby, "was the great work accomplished at the Reformation."* And the Reformation created a disposition, at such irreconcilable hostility with the evangelic counsels, that, as a necessary consequence, all who sought to follow them, under whatever habit, incurred abhorrence. Those, it is true, who lived nearer to the time of the monks, were not so inveterate. It has been remarked, that the greatest and most popular dramatists of the Elizabethan age held the religious orders in much reverence. The members whom they introduce are almost always holy and venerable men; and as no one would bring unpopular opinions prominently forward in a play intended for representation, we may be sure that the public regarded them in the same light. In these plays we find nothing that resembles the coarse ridicule with which the monks were assailed, two generations later, by dramatists who wished to please the multitude."†

"But as Protestantism was to be progressive, these opinions became obsolete, even among the same classes; and at length the mere sight of a monk was sufficient to inflame its votaries with rage and scorn.‡ "The bare sight of one of them" (says a modern author) "really embitters the existence of an Englishman. If he catches sight of a monk at Cadiz or Lisbon, he cannot think of anything else. It is in vain that the good religious men offer and give hospitality; that they have libraries at the disposal of all strangers;

* "There were, in the reign of Henry VIII.," says Camden, "monuments of the piety of our forefathers, built to the honour of God, the propagation of the Christian faith and good learning, and the support of the poor. About the thirty-sixth year of that king, a torrent, as it were, broke in upon the ecclesiastical state of England, and, to the great surprise of the whole world, and *oppression of the nation*, at once threw down the greatest part of the religious, with their curious structures, most of which, in a short time, were everywhere pulled down, their revenues squandered, and the riches which had been consecrated to God by the pious munificence of the English, from the time they received Christianity, were in a moment dispersed and profaned. There never were more certain indications of, and glorious monuments of Christian piety than these." And Weever says: "There were not extant any other seed-plots besides these from whence Christian religion and good literature were propagated over this our island."

† Sir W. Temple condescends to reckon the primitive monks and modern friars on the list of the great and wise and good. So with Cowley. And every one remembers Sterne's portrait of the Franciscan friar.

‡ This has of late been painfully exemplified.

that their churches and convents are full of paintings, statues, and objects of admirable art, which all persons may enjoy as if their own property; in vain that they present everything gratuitously, and with the utmost courtesy and benignity. Nothing can cure the madness of the English; and under their ignoble hands, these institutions perish, and, I fear, for ever.”*

This being the state of public feeling in England, where the religious orders have of late years been revived, one Giacinto Achilli came to England, and represented that he had been a Dominican friar, and a priest; and that both the priesthood and the religious orders were in a very shocking state. Of course, in such a state of public feeling, he received a cordial greeting from all those who hated the Catholic Church and her religious orders; and who, carried away by their prejudices, never stopped to inquire whether the truth were that those orders were so bad that he had to leave them, or so good that they could not let him remain. His account of the order, after having been in it twenty years, during portions of which time he alleges he was in some position or other of authority, as lecturer, professor, visitor, or prior, is as follows:—

“Who are generally the most wicked persons in Italy? Priests and monks. How great are the horrors of the cloisters! where ignorance and superstition, laziness, indolence, calumny, quarrels, immorality of every description, not only live, but reign. The most abominable vices, long banished from all society, have taken refuge there.”†

Now, these things were written in 1846, five years after having been perpetually excluded from the priesthood, and after having relinquished not only the religious orders, but the Catholic religion; and these were his first public intimations of the existence of this immorality and these vices in those orders, in one of which he had lived (and, necessarily, he could not know much of any other) for so many years. During many years he was in the Dominican order,

* *Du Mécanisme de la Société en France et en Angleterre.*

† It should serve to show what value is to be attached to such sweeping charges—that when Achilli, on his oath, was challenged to sustain these statements, he said the monks of Viterbo (the only ones he could have known much about) were good; and generally, that he supposed monks were some good and some bad; which, in a certain sense, may be true, as it must be of all men; only to make it the *whole* truth, it should be added that the “some” who are good are infinitely more numerous than the “some” who are bad. And moreover, in the whole course of his career, including this trial, no specific charges have been brought by him against particular monks or ecclesiastics; while any one will see who peruses the report of the trial, that this is more than can be said of himself or any of his co-seceders from the Catholic Church. Let the reader refer to the history of the Malta college, with the case of Achilli, Sacarres, and Leonini; or to the evidence of his fellow Dominican, who declined to answer any questions touching his own past life, or the other poor apostate, the private secretary of Father Gavazzi! Surely this trial shows that it is only those who leave the Church, or are expelled from it, against whom, if any—such charges can be brought!

for some time in positions of authority, and yet no proceeding had he taken as to these things; though all history shows that if disclosed they would be reformed. He reserves his disclosure until he has left the convent,—left the Catholic Church—left the country—and embraced a religion which execrates these orders; and then, he reserves them until they can be of no use for any purpose of their reformation, and can only avail to augment the abomination in which they are held by the people of this country—his patrons and supporters! Is it not an amazing instance of the blindness of prejudice, ignorance, and enmity, that all this should have been credited, without any idea of its being self-contradictory and self-condemnatory!*

It is painful to find that so many should wish to believe everything abominable of those religious orders which formed for ages its noblest ornaments; never hesitate a moment to give credit to the vilest charges against the inmates of convents; should positively receive with delight tales of foul crimes, and cherish in their hearts the stories of iniquity which any apostate may bring them; it never crossing their minds for a moment to ask whether it were not more Christian to suspect one person of calumny than hundreds of foulest iniquities; never pausing to ask for proof, because not caring for it—not desiring to be unconvinced, because fearing to be disappointed!

So it was, however; not, doubtless, with the candid, the charitable, the liberal, and the enlightened; but they are unhappily in the minority; the rest believed. Was this to be acquiesced in by those who knew these things to be atrocities of calumny? They all rested on the character and credit of Achilli; inquiries were made; evidence obtained, and in July, 1850, the *Dublin Review* appeared with an article, elaborate, and apparently authoritative, accusing Achilli of the very vices he thus imputed to his order! an article republished and widely circulated; yet no proceedings were instituted, by or on the part of Achilli, to vindicate his character. These charges remained unanswered for the whole of the remainder of that year, and for nearly the whole of the next, until in October last, Achilli continuing his denunciations of the priesthood and the

* Especially as there are works extant such as the books of Digby, Faber, Capes, and Allies, written by men who have actually been converted to Catholicism, in a great degree through the impression made upon them by the piety and sanctity of the religious houses abroad; and any Protestants could easily satisfy themselves as to the piety and sanctity of those at home. Is it uncharitable to say that those who do not so satisfy themselves do not desire to be satisfied? Nay, is not one forced to think unfavourably of such as thus show themselves obstinately bent upon believing badly of thousands of their fellow Christians? Were any one now partaking of these unhappy prejudices to permit themselves to become really acquainted with the religious of the order of the Good Shepherd (for instance), or the Nuns of Norwood, or the Dominican monks of Woodchester, or the Benedictines of Loughborough, they would soon blush for their bigotry.

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religious orders, and going about the country declaiming against them, and doing his utmost to excite prejudice against them,—Dr. Newman, himself a priest, and of a religious order, very naturally assumed them to be true; and believing them so, repeated them in substance, in a lecture he was delivering in vindication of the Catholic Church, and her priesthood, and of religious orders. Then ensued the present prosecution. Now, here some considerations naturally occur, as to the moral or legal right of the putting forth these charges under the circumstances, and the moral and legal responsibility involved. First, as to the obligations of the Catholic religion; and next, as to the requisitions of our own law.

Now there can be no question, whether we refer to ancient or modern authorities, that the Catholic religion, assuming the charges not to be disproved by Achilli, justified Dr. Newman, indeed, made it his duty to publish them, believing them to be true.

The Saxon laws ecclesiastical thus speak of the duty of priests:—

“It is the duty of priests, in their shrift-districts, wisely and prudently to lead and teach their spiritual flocks; and they may not flinch for fear nor love of man from preaching righteousness, and forbidding unrighteousness. Weak is the shepherd at the need of fold who will not with his cry protect the flock that he has to keep, if there be any public robber before to rob. He may not flinch if he will secure himself, neither for love nor fear, from saying to men what is most right. Woe to them who undertake a spiritual flock, and can neither take care of themselves nor of the flock they should keep. Such are those who will not, or dare not, warn the people against sins, and correct sins.

“It is also most needful to mass-priests that they make known to their parishioners that every one strictly preserve himself from false witness, because it is a very heavy crime. Whatever man shall commit, or has committed that crime, shall purify himself with the same penance as concerning homicide or other capital crimes: he shall live seven years in very narrow misery, on penance, or be cast out from all Christian men.”

And similar conclusions are confirmed by the Saxon canons about defamation,* and by the greatest Catholic theologians.†

* The Saxon ecclesiastical law thus states the rule as to defamation:—“Falsos testes a communione ecclesiastica summovent, nisi poenitentia satisfactione crimina admissa deleverint. Si quis propter odium falsum testimonium super alterum dixerit vii. annos poeniteat, iii. in pane et aqua; quia Scriptum est, “Qui falsum testimonium profert contra proximum suum extinguatur lucerna ejus in die ultimo.” Si quis mendacium dixerit per ignorantiam et non nocent, confiteatur ei cui mentitus est, et sacerdotis judicio hora tacendi dampnetur vel xii. psalmos cantet. Illi vero qui semper mentiendi (causa) huc illucque discurrant et per hoc multa dampnabilia adquirant, sed ad poenitentiam convertunt primitus omne mendacium execrare debent, sicut Scriptum est, “Perdes omnes qui locuntur mendacium.”

† Dr. Kenrick, present archbishop of Baltimore, in his *Theologia Moralis*, cap. ii., De Famæ et Honoris læsione, says, “Publicam ob utilitatem licet revelare occulta alicujus delicta, qui fama abutitur ad alios decipiendos;” and strengthening his assertion with the opinion of St. Thomas, 2, 2, quæstio 73, art. 2nd, ad primum, which is, “Revelare peccatum occultum alicujus, propter ejus emendationem, vel propter bonum justitiæ publicæ accusando, non est detrudere.”

According to these principles of Catholic moral theology, it is clear that, if Dr. Newman did not believe the charges he published against Achilli to be true, he would be guilty of as great a sin as any of those of which he accused Achilli; and that, under peril of such sin, he would be bound, whenever his belief was altered, to make reparation to Achilli by publicly retracting those charges. And if he believed the charges true, he could of course state, and would be called upon to state, the grounds of his belief: but no greater onus of proof would be imposed upon one than upon the other; the question being not whether the charges against Achilli were proveable, but whether they were true; for they might be true, and yet not proveable; and as the Church would proceed *in foro conscientia*, the accused could never be allowed to waive the question of his guilt until his adversary had proved it. The primary question would not be whether the charges could be proved, but whether they were true. And not only might they be true, though not proveable, but they might even be not true, and yet justifiable: that is, the circumstantial evidence, or the reasons for belief, might be so strong as to justify any person morally in acting upon the belief, for his own protection, and the protection of others. Therefore the Church would call upon Achilli to disprove the charges against him, as well as upon Dr. Newman to prove them. Both parties, in fact, and not merely one of them, would be called to produce all the proof in their power. And even if the charges against Achilli were not proved, it would not amount to disproof, or be equivalent to his acquittal, because it would not show them untrue, or even always unproveable, but only unproveable at that time. And even if they were disproved, that would not prove them groundless, so as to be equivalent to the conviction of Dr. Newman of any offence at all, still less a grievous offence; and it might yet be that he was wholly without blame, having not only belief, but reasonable belief. And in that case the Church would not only deem him justified in warning the faithful of the man he believed thus guilty of grievous sins, but culpable in neglecting so to do; at all events after they had been previously brought before the man, and apparently admitted by being allowed to pass uncontradicted. A contrary principle appears equally revolting to religion, to reason, and to common sense; for the practical result would be this. If a clergyman not only believed such grievous sins of a man, but knew that they have been brought against him in his presence (publication is the same thing in effect) and not denied, and also knew that this man was

Upon which the archbishop says, "Sic apostata qui veritatis studio sua præterit vitia, meretur, ut hæc palam prædicentur."

Concina, in his *Theologia Moralis*, quoted by Scavina, whose theology is the theology of St. Alphonsus, condensed, says, "Licet revelare verum et occultum alterius crimen ut publicum damnum, evitetur quo in casu quisque per se loquendo crimen manifestare tenetur; nam bonum communitatis vincit bonum particularis, ac quælibet pars tenetur ad bonum totius conferre."

doing much mischief in society, and had admission into domestic circles where he might repeat these shocking offences; yet the clergyman would have to hold his peace, and allow any amount of mischief to be perpetrated, unless he happened to be able to prove the charges he believed: nay more, unless he were persuaded that he would *always* be able to prove them; which of course he could *not* be.

Nor is this all. Such would have been the rule of the Church, assuming Achilli to have been originally only the accused; but it was otherwise: as already has been shown, he was originally the accuser; he was the aggressor; he went about denouncing the priesthood and religious orders as abandoned to immorality and the most abominable vices. By the law of the Church, he would have had to prove these horrible accusations ere he could accuse another for retorting them. He would have had to justify himself for spreading such shocking and scandalous charges. Nay more; it would have been impossible that he should do so, for he would have been deemed to stand convicted of having failed in his duty in not suppressing these iniquities, or exposing them, while he was in the convents in which he acquired his knowledge of their existence—assuming him to have ever done so. He would have had to show, first, how it was he did not do this: until he showed this satisfactorily he could have had no *locus standi* to accuse others of crimes he convicted himself of having connived at; and as connivance is as bad as commission, he could not have accused another of malicious slander, for accusing him of what he thus would have been deemed to have admitted.

Did the law of England ever proceed upon a contrary principle, or does it now? This is the next question.

Originally, there was no law apart from the law of the Church. The human law was not merely co-extensive with the Divine, but identical with it. Bishops sat with earls in those assemblies of our Saxon ancestors where the laws were either agreed upon or administered; and it was not only that the secular law was in conformity with the moral theology taught by the Church, but it was, in fact, a transcript of it, differing only in substituting secular penalties for such as were purely spiritual, and enforcing the sentences of the Church with the arm of the civil power. This may be seen amply exemplified in the Saxon laws, recognised by Coke as the sources of our common law. Hence the direct way (strange as it may sound to Protestants) of testing the law as now laid down, and seeing how far it divaricates from the original common law of this country, is to see how it squares with moral theology as now taught in the Catholic Church; for, by common consent, that has not changed, as may be seen by comparing any modern Catholic catechism with those Saxon laws. And it will be found that the more a law has divaricated from that sacred standard, the more it has departed from right reason, common sense, and sound policy.

Hence anciently the courts were partly of a spiritual character ; and even secular penalties were only added to the spiritual, the offence being adjudged according to the moral theology of the Church,—a fact, traces of which may be seen in the theological expressions “mortal” and “venial,” to be found in our old law-books.* After the Conquest the secular courts encroached constantly on the courts spiritual, and more and more devaricated from the law of the Church. The secular courts were separated from the spiritual, and by degrees deprived the latter of any share in the adjudication of cases in which the secular courts imposed any penalty ; thus substituting their jurisdiction, instead of bringing it in aid of the spiritual. Hence, in the reign of Edward I., we find a statute recognising that defamation shall be tried in the spiritual court, when money is not demanded, but a thing to be done for punishment of sin.† And in the reign of Edward II. is another Act,‡ recognising that, in defamations, prelates shall correct ; enjoining penance corporal.§

While offences were cognizable by the courts spiritual, they were sure to be dealt with according to common sense and conscience ; and, be it observed, that long after the courts secular had usurped the jurisdiction of the courts spiritual, the latter retained it in cases where priests were concerned, and would, at common law, have had cognizance of the case before us, where both parties are priests. In the courts spiritual (not at all like the present “ecclesiastical courts” of the Established Church, those objects of universal abomination), the rules of moral theology would be followed, which make a slander mortal if wilful, venial if not wilful ; and in either case would call on both parties to give all the evidence in their power (in addition to their own statements), and would not cast the whole onus of proof upon one party, probably the least able to support it ; because (as Coke says) “the nature of crime is secret.”

It is to be observed, that as printing was not discovered until the era of the Reformation, in order to arrive at that which would have been the law in the time of Edward the Confessor or Edward III., in the case of a libel, properly so called,—i. e., *written* slander, printed or published,—it is really requisite to resort to the moral theology of the Catholic Church, which certainly in the former of these periods would have been implicitly, and even in the latter would have been respectfully consulted, by the secular courts. It is self-evident that this must have been, and must ever be so in Catholic countries ; for the judges can scarcely give judgments at variance with that religion which they recognise as obligatory on

* See *Mirror of Justice*, v. sec. 12.

† 13 Edw. I. stat. 4.

‡ 9 Edw. II. c. 4.

§ A bill has recently been rejected for removing the last remains of this system, a relic of which is sometimes seen in our churches in the shape of a white sheet.

their consciences, especially when also recognised by the state. At least, this must have been so, except in cases where corruption or coercion induced them to give decisions contrary to their conscience and the law; and therefore the common law originally would have been similar to, and in the present instance the law of the Church: Achilli would have been as much called upon to disprove the charges published against him, as Dr. Newman would have been to prove them.

Nor would what was or would have been the law of libel in ancient times be necessarily changed in principle by the change of religion, though it would, of course, in its application. Many curious cases after the Reformation illustrate the alterations that ensued as to what was deemed a libel,—*i. e.*, as reflecting on a man's character. Thus it was held by Lord Holt, in the reign of Queen Anne, to be a libel to accuse a man of wishing to bring in popery; and he cited a case in which it had been held, that even to call a man a papist was libellous; for "the very being a papist shows what his principles and affections are, and is good reason to remove him out of every office of trust."* But nevertheless, except so far as necessarily affected by the change of religion, the principles of the law of libel would remain the same; and it is with reference rather to that which would privilege a libel from prosecution that the question has to be considered in the present case, in which no one doubts there was a libel. For the invention of printing, after all, perhaps, affects the question, at all events in Catholic theology, and, as it is conceived, so ought reason and sound sense, not in principle, but degree; as printing a defamatory statement is simply speaking it to a greater number of persons than is ordinarily possible by word of mouth; for how could it matter whether a libel be spoken (as it may be) to 5,000 persons at a public meeting, or written to them in a printed publication?†

Practically, too, evidence at the trial is often rendered unavailable by reason of the rigid strictness of our rules of evidence. Now, it is to be remarked, that in the case of an application for a criminal information, as it is an extraordinary procedure on the part of the court, the old principle of law has in a great degree continued to be acted upon—at all events, until very lately. The prosecutor has always had, by his own affidavit, in the first place, to deny distinctly the truth of all the charges he complains of; and it is believed that he was expected to go as far as it was possible towards disproving them. The defendant's showing the truth of the charges would induce the court to refuse the motion.‡ But then, on the other

* *How v. Prin*, 7 Modern Reports; Holt, C.J., 11 Modern Reports, 99.

† Thus Twysden, J., in a case temp. Charles II., says of a printed publication, "It is no more than if the defendant had employed several clerks to write as many copies as he has now printed." (*Lake v. King*, Saunders' Reports, 133.)

‡ *Per Pratt, J.*, *King v. Beckerton*, Strange, 498. Hobart, C.J., Hobart's Reports, 253.

hand, exactly in proportion to the conscientiousness of the party prosecuted will be his scrupulousness as to swearing positively to the truth of what he only believes, however firmly and however reasonably, because upon credible testimony; for few conscientious persons would swear to any fact they did not personally know, although a contrary practice is notoriously prevalent in courts of justice, and the every-day proceedings of life. So that, even upon a criminal information, a party may be utterly defenceless who has most laudably, to warn others, made serious imputations upon another, perfectly true—and which he may believe to be true, and may even be able, morally, and at one time have been able, legally, to prove, and thus practically there may be no protection for the public against the greatest impostor or the most atrocious scoundrel.

Thus, in this case first put, why should the party publishing the libel under such circumstances be called upon to prove the libel true, any more than the party libelled should be called upon at least to give as much evidence as he can of its being false? at all events, where the former proves that he is not in a position in which it is possible to give legal proof of its truth; and the other, it is obvious, must be able, if it be false, of giving some evidence of its falsehood. Originally, it is conceived, this was so, even in trials; and though afterwards on actions for libel the party suing could not be examined as to the truth of the libel, by a recent Act he may be called for in actions, and in cases of criminal informations he may offer himself for examination. But then this is not very material in the worst cases of all,—those in which the libel is a very bad one, *i. e.*, charges of the blackest crimes; and is also true, though not legally proveable, for in those very cases, the party libelled being a person without conscience or scruple, will assuredly either not appear, or if he do appear, will deny it; and as it requires two witnesses to convict of perjury, he may do so with impunity exactly in the cases of greatest and grossest iniquity, where of necessity there will ordinarily be no witness to the actual commission of the crime.

In such cases there seems only one chance of refuge for the party prosecuted, *viz.*, his being able to show from the other's own conduct that he was conscious of the crimes imputed to him; as, for example, that he had ever been charged with them in his presence, without his contradicting them; and that they had ever been published to his knowledge without his publicly meeting them. This of course would be necessarily an uncertain and rare resource, though still it is easily conceivable that it might occur; where a man at one time durst not contradict the charges because dreading that they would be legally proveable, and at a subsequent time was either dragged forward by others to vindicate his character, or ventured upon it himself, in the hope that the charges were legally proveable no longer.

So strongly does the law of England even now feel this, that on

an application for a criminal information it is of itself a sufficient answer (and even on indictments, or in an action, strong matter of suspicion), that the party complaining has not come forward promptly,* or has allowed the libel to pass on some previous occasion without publicly meeting it.† And this, perhaps, is the principle on which it is laid down as a general rule, that an action is not maintainable against a person who repeats defamatory matter put forth by another; though this rule also is fettered by such technical restrictions as to be practically valueless at a trial.

The whole law and practice of the Court of Queen's Bench as to criminal information has ever been in conformity with this principle, for it has proceeded upon this rule, that this extraordinary intervention shall not be invoked by any one who has not come promptly to the court upon the first publication of the charges complained of; and if he disclose that there has been some former publication thereof, upon him is cast the onus of accounting for his not having come earlier. And even in an action a long delay would be fatal.

Yet, as will be seen from the subsequent statement of the case, the Court granted the rule, and ordered the information, upon an affidavit of the prosecutor disclosing that there had been a previous publication of some of these charges; and not disclosing that he had accounted for his not having resorted to any public court of justice for vindication of his character!

Unfortunately an Act was passed a few years ago by Lord Campbell, which, like so many other Acts of Parliament for amendment of the law, was no real improvement, and which enacted that the defendant on a criminal information might plead the truth of his charges, and prove them, *if he could*. Of course, in cases where he *could prove* them, this might not much matter, but in cases where, however *true*, they were not *proveable*, to put *him* to the proof was really to leave him at the mercy of the prosecutor. And unhappily the effect of the Act has been—certainly seems to have been in this case—to induce the Court to be too easily satisfied with the prosecutor's affidavit of denial, and too easily induced to grant the information, hoping that no hardship will ensue, on account of the defendant being enabled to plead the truth at the trial. The fallacy is, it is conceived, palpable, of confounding *permission* to prove with *power* to prove, or *proveability* with *truth*. And yet, on reference to the argument upon the rule, it will be seen the Court relied on this delusive resource of the defendant, as a reason for refusing him time even to answer the affidavit of the prosecutor!

The reader is requested to consider the affidavit on which the Court granted the information; an affidavit disclosing that one of the heaviest charges contained in the alleged libel had been made

* *Regina v. Murray*, Jurist, 37, where there had been a delay of a few months only.

† *Maitland v. Goldney*, 2 East, 425.

in some manner in the course of some proceeding in a court of justice, and not disclosing that the prosecutor and deponent ever publicly denied the charge, or publicly challenged inquiry into it; an affidavit, also, disclosing that so long as a whole year before it had been published in a London newspaper, that he had been dismissed by the committee of a Protestant college, after they had heard unpleasant statements as to his past life, and not disclosing that he ever took any public notice of this publication, either as to the charges thus made or the reasons of his dismissal. The records of the Court of Queen's Bench furnish, it is believed, no instance of a criminal information granted on such an affidavit!*

Now though the law always held the truth of a libel a justification in an action, and by Lord Campbell's Act it is so now in a prosecution or criminal information (although, even before that Act, truth was an answer to an application for a criminal information, which of itself would seem to show that at common law it must once have been an answer on the trial of the information, the peculiar object of which is vindication of character; and it seems absurd to say that while an information will not be issued if the libel appears upon the affidavits to be true, the defendant is to be convicted, though it be proved by witnesses at the trial to be true), yet the defendant has to plead and prove a justification; and if he be not able to prove it, however true it may be, he has no defence, unless he can make it out in law a privileged publication.

Now it is of the utmost importance to distinguish between cases in which the publication of a libel is privileged, and where it is justifiable. In the former class of cases, the party publishing it has not to prove its truth; in the latter, he has.

It cannot be, that the law of England only holds such publications privileged as are essential for common mercantile transactions, or the ordinary commerce of life, and protects no other; and in all other cases calls upon the party publishing the libel, however laudable may have been his object,—however valuable the warning it may convey,—however convinced he may be of the truth of it,—however incapable of proving it,—calls upon him at the trial to prove it: and not only so, but to prove it, not merely by moral but by legal evidence; or, if he fail, brands him as a libeller, and inflicts imprisonment or fine! If in many cases it cannot be otherwise at the trial,—that is, according to the law as it stands,—then this very fact shows surely that such injustice is to be avoided, and that such cases should not be sent to stand the test of trial, whenever it is possible fairly to consider them privileged. Practically, therefore, the question comes to one of privileged publication; and on this the law will probably be warped by the religion of the country and the opinion of the age.

One of the most curious cases on the subject (perhaps the earliest)

* And still less of its being accompanied by such observations as those of the Lord Chief Justice on the occasion,—the use of the epithet "ribaldry;" and an insinuation of possibility of a conspiracy to suborn perjury!

is that which Coke cited, * in the reign of James I., as having occurred in the reign of Elizabeth, where a parson, in a sermon, recited a story out of Foxe's *Martyrologie*, that one Greenwood, being a great persecutor, had great plagues inflicted upon him, and fell by the hand of God; whereas, in truth, he never was so plagued, and was himself present at the sermon; and thereupon brought his action. And the Court said, that, being delivered but as a story, and not with any malice or intention to injure any, he was not guilty. This principle, here acted upon, is, it is conceived, one of common sense, and was acted on in the reign of Charles II., † when a petition to parliament had been printed and circulated, charging the plaintiff with "many horrible and great abuses," and Sir Matthew Hale held the publication was not actionable. So, in 1793, Lord Kenyon recognised the principle, though denying its application, declaring that, in order to constitute a libel, there must be a malicious intention to defame. ‡ And, in 1813, Lord Ellenborough, in a case reported by the present chief justice of the Queen's Bench, who tried the case of Dr. Newman, held a publication privileged which charged the plaintiff with publishing works of an improper and immoral tendency. "The main question," (he said) "is *quo animo* the defendant published the article, whether he meant to put down a nuisance to public morals, or to prejudice the plaintiff. To ascertain this, it is material to know the general nature of the defendant's publication; the plaintiff is bound to prove the defendant actuated by malice, and the defendant discharges himself by showing the contrary. Liberty of criticism must be allowed, or we should neither have purity of taste nor of morals. Free discussion is essentially necessary to the truth of history, and the advancement of science. That publication, therefore, I shall never consider as a libel, which has for its object, not to injure the reputation of an individual, but to correct misrepresentations of fact; to refute sophistical reasoning; to expose a vicious taste, or to censure what is hostile to morality." §

Again, a case occurred in 1827, in which a dissenting preacher had been charged with forgery by a member of his "denomination," who failed to prove the charge, whereupon the question arose if the publication were privileged. The judge left it to the jury, whether the letter were a communication made *bonâ fide* in answer to the inquiries instituted touching plaintiff's conduct. They found the contrary, which was clearly the case, for the publication complained of was a considerable time after the matter had been investigated and disproved, so the Court decided against the defendant; but they plainly affirmed the principle, that if there be a question of public interest respecting the character of a minister of religion, a pub-

* *Locke v. King*, Saunders' Reports.

† *Brook v. Montague*, Cooke's Reports, temp. James I., 90.

‡ *Rex v. Abingdon*, 1 Espinasse's Reports.

§ *Tabart v. Tapper*, 1 Campbell's Reports, 350.

lication is privileged, if not malicious, which is only designed *bona fide* for the benefit of the public; a doctrine naturally deducible from the principle laid down by Lord Ellenborough in the case before cited.*

It must not be omitted to observe that, in law, no proceeding is supportable for a libel unless it be legally malicious; and though ordinarily the law implies malice from the publication of what is calculated to prejudice another, and does not require proof of malice, yet where it appears that there was not malice, it is otherwise; and the definition of a "privileged communication" is a publication made on such an occasion as rebuts the *prima facie* inference of malice arising from the publication of matter prejudicial to the character of the plaintiff, and throws upon him the onus of proving actual malice,† *i. e.*, that the defendant was actuated by motives of personal spite or ill-will.‡ And Lord Campbell, in a case last year, said: "The rule is, that if the occasion is such as will repel the presumption of malice, it is a privileged communication, and it lies on the party complaining to prove that malice existed. It would be very hard if, where a person has done no more than discharge his duty to himself and society, he should thereby be rendered liable to an action." He again recognised the principle, saying, "The question is, whether the occasion of the publication rebuts the inference of malice arising from the matter of it." Again, in 1823, Mr. Justice Bayly recognised the same principle, citing those very words; and Lord Tenterden said: "The malicious intent may be inferred from the publication of the slander itself, in a case where no evidence is given to rebut the inference." In 1839, the present Lord Campbell cited the old case first above referred to, as quoted by Coke; and also maintained that publications, for the good of the community, have been held privileged in many instances. And this was remarkably illustrated in 1840, in a case in which Mr. Stowell was sued for libelling a Catholic priest.§ The libel was as strong as could well be conceived, for it charged that the priests "grind the people down and debase them as low as the beasts that perish;" and although, at the trial, a verdict had been found against him under Baron Rolfe, who said, "the occasion" (an anti-Maynooth meeting) "did not negative malice," the verdict was set aside. Lord Denman recognised the principle that there might be an occasion of a public discussion on a religious subject, on which the speaking of libellous matter would be privileged, and he only denied the application of the doctrine to that case. He said, "We consider

* *Blackburne v. Blackburne*, 4 Bingham's Reports, 408.

† *Per Parke, B., Wright v. Woodgate*, 2 Crompton, Meeson, and Roscoe's Reports.

‡ *Taylor v. Hawkens*, 20 Law Journal Reports, Q.B. 313.

§ *Rex v. Creevy*, 1 Maule and Selwyn's Reports. *Rex v. Harvey*, 2 Barnwell and Cresswell's Reports. *Hearne v. Stowell*, 12 Adolphus and Ellis's Reports.

the old case (cited by Coke) is not law;* all the other cases are perfectly consistent with the doctrine, that the privilege which protects a communication must result from a right to discuss the particular matter, in respect of which the alleged libel is published." In that case, there clearly was no such right, for the libel related to the priest's conduct in imposition of penance, which had no natural or necessary connection with the Maynooth endowment.

Assuming, then, that Father Newman did not prove any part of his charges (which is a question whereon the reader will exercise his own judgment), then the question of law would arise, whether the occasion of publication was privileged; which would depend on another question, whether it rebutted the ordinary inference of malice? This question, on which probably few impartial persons will have much doubt, depends upon whether the publication were "to put down a public nuisance or to prejudice the plaintiff," which will be best decided by a reference to the antecedents of the occasion and the "general nature of the publication;" whether, in the words of the judges, in the cases cited, the circumstances showed that (in the language of Lord Ellenborough) the object was not "to injure the reputation of an individual," but to "correct misrepresentations of fact;" or to "censure what is hostile to morality;" or, in the language of Lord Denman, that there was "a right to discuss publicly the particular matter in respect of which the alleged libel is published."

It will be for the unprejudiced reader to decide whether there could have been any intention "to injure the reputation" of a man by repeating charges already published by others, and remaining undisputed; whether it is or is not more probable that the object was to "put down a public nuisance" than to "prejudice the plaintiff?" whether, when the party libelled had publicly made charges against the priesthood and religious orders in general—to both which states of life the plaintiff and defendant belonged—there was or was not a reasonable occasion to "correct misrepresentations of fact?" and whether statements tending to disprove those charges—by destroying the credit of the person who made them (a common course in courts of justice for such a purpose),—did or did not come within the strictest rule laid down, that there must be "a right to discuss the particular matter" to which the libel related?

Presuming that these questions are determined by the reader in favour of Father Newman, then it will follow that the publication was privileged, by reason of the occasion; and that it was not necessary to justify it, and to plead and prove a justification; but that all he had to do was to show so much of the circumstances and causes of publication—and the antecedents of the case—as in law constituted the ground of privilege, viz., the raising of a public controversy, on the part of Achilli himself, as to the character of religious orders in general, and especially of the one to which he had

* *Sed quære de hoc*; see it cited 1 B. & A. and 4 B. & C.

belonged ; and a controversy necessarily implicating his own conduct in that order, to which the libel related. That being shown—as it is conceived it clearly was—then it was for Achilli to disprove the charges, rather than Dr. Newman to prove them.

The question would appear really to have been unconsciously decided by Lord Campbell in favour of Dr. Newman ; for he laid it down at the trial that the publication was clearly (assuming it to be true) for the public advantage ; seeing that Achilli had raised a controversy on the subject of the character of the Catholic clergy and religious orders, in which it was manifest the public had an interest. It will not avail to answer to this that it only implied that the truth was a condition of its being for the public benefit ; because, on that supposition, the terms of Lord Campbell's Act are unmeaning, which require that, in addition to the libel being true, it should be pleaded and proved that its publication was for the public benefit ; which certainly shows that the latter is a distinct, and not a dependent stipulation ; and though the Act requires both these things, that is only on the plea of justification, which is quite consistent with its having been done maliciously ; whereas, on the plea of "not guilty," the question arises, at common law, whether the libel be privileged ; in which case a plea justifying it on the ground of truth would not be required, unless malice were expressly proved.

It is rather remarkable that on the very day on which the trial concluded, a case was reported—tried before that upright and honourable judge, the Lord Chief Baron, in which the law was laid down, not only in conformity with the principles above maintained, but with the most ancient authorities alluded to, on the subject ; and in a case, too, not dissimilar in character to the present. There, a clergyman had sent round the parish a circular, cautioning the people not to send their children to the plaintiff's school ; and applying to him certain severe expressions in Scripture, such as "schismatics," and "evil deeds," &c. The Lord Chief Baron held that the occasion on which the letter was published, in the absence of proof of express malice, made it a privileged communication ; and that, therefore, its truth need not be proved.* The analogy between that case and the present is obvious ; and it is not, as any lawyer will see, at all affected by the fact, that the charges in the present instance are far more serious, which makes no difference in point of principle ; and, indeed, supposing them true, but not proveable, would only make it more important to support the privilege, while, on the other hand, would make it more easy, if not true, for the prosecutor to prove that malice which could destroy the privilege.†

* *Gilpin v. Fowler* (clerk), Court of Exchequer : sittings at Nisi Prius, (June 21), before the Lord Chief Baron and a special jury.

† The evil likely to arise from protecting information *bonâ fide* given to prevent damage from misconduct, appears much less than that from putting a stop to such information, by rendering the giver of it liable, unless he has legal

The question, however, is one of law,* which it is for the Court to decide, and which was not raised at the trial. Before passing to the trial, however, there is a class of cases on the subject of privileged libels, which it is proper to advert to, in connection with a somewhat painful feature in the proceedings—the conduct of the Attorney General and of the judge. The decisions alluded to are those which concern what is called privilege of counsel. Among the cases in which the law holds a libel, though false, yet not actionable, if not proved to have been malicious—is that of counsel at the bar. In the very case already cited in the time of James I.† it was said, “A counsellor hath a privilege to enforce anything which is informed unto him by his client, and to give it in evidence. being pertinent to the matter in question;” and in another case it was laid down that “if a counsel speak scandalous words against one in defending his client’s cause, an action lies not against him for so doing; for it is his duty to speak for his client; and it shall be intended (understood) to be spoken according to his client’s instructions.”‡ The old reports are brief, and often obscure; and it must be presumed that it was “intended,” from the fact of its being in the “instructions,” that the counsel believed it true; and then the doctrine is consistent with the general principles above elucidated. And this is, indeed, the reason deducible from subsequent decisions. In 1818, a case was determined in which an action was brought against Sir James Scarlett for saying in a speech at the bar, that the plaintiff was a “frandulent and wicked attorney.”§ The Court said the words were privileged, because pertinent and relevant to the case, and not used at random, but were a fair comment on the circumstances of the case; and that the action could not be maintained, unless it could be shown that the counsel availed himself of his situation maliciously to utter words wholly unjustifiable. In another case, Mr. Justice Bayley said, “The speech of a counsel is privileged by the occasion on which it is spoken; he is at liberty to make strong, even calumnious observations against the party, the witnesses, and the attorney in the cause. The law presumes that he acts in discharge of his duty;” and Mr. Justice Holroyd adds: “If in the course of a cause he utter observations injurious to individuals, and (query, *or*) not relevant, he could be sued in an action showing that the matter was spoken maliciously, and without reasonable and probable cause.” Lord Ellenborough laid down the law thus:—“The law privileges many communications which otherwise might be considered calumnious. In the case of master and servant, the convenience of mankind requires that what is said in fair communication between

proof of the truth. Per Erle, J., *Coxhead v. Richards*, Common Pleas, Trinity Term, 1846.

* *Brook v. Montague*, Croke’s Reports, temp. James I. 90.

† *Wood v. Grenston*, Styles’s Reports.

‡ Per Cresswell, J., *Coxhead v. Richards*.

§ *Hodgson v. Scarlett*, 1 Barnwell and Alderson’s Reports, 242.

man and man on the subject of character should be privileged, if made *bonâ fide* and without malice. So a counsel intrusted with the interests of others, and speaking from their information, for the sake of public convenience, is privileged in commenting fairly upon the circumstances of the case, and in making observations on the parties concerned, and their instruments or agents in bringing the cause into court." And Mr. Justice Bayley says, "If the epithets were not warranted, the *judge in his summing up at the trial may set the matter right.*" In another case,* Mr. Justice Holroyd said, "The observations *may be commented on by the judge.*"

Now these authorities are cited for several purposes: first, in support of the general principle of law, as to libels privileged by the occasion; next, to raise an argument by way of analogy for its application to the present case; for if what may be said by a master as to the character of a cook is privileged by reason of public convenience, is not what a clergyman may say of another, who claims to be a clergyman, *à multo fortiori* privileged? Is not the case of a cook of infinitely less importance than that of one who has the care of souls? And let it be recollected that the character of Achilli was relevant and of public interest, not merely as respects the Roman Catholic Church, but the Church of England; for, if he had been duly and justly degraded from the priesthood for immorality, then the question arises whether he be admissible into the Church of England, which, admitting the orders of Catholic priests, of course admits the authority over such priests of Catholic bishops and other ecclesiastical superiors, and necessarily recognises their sentences, for offences, which the Church of England considers as offences.

In point of fact, however, at the trial, Dr. Newman was prepared to prove the plea he had been compelled to plead, it not being prudent to depend only on a point of law; and it is important to remark, that though it is both in law and right reason open to a party prosecuted for several separate libels, distinct in date and in detail, to plead separately the truth of each, and to defend himself in proportion to his proof (supposing him not privileged for part or for the whole), the rules of pleading are, or rather were, so technical in their character that if this had been attempted, the prosecutor, who, as it is, demurred twice to the plea, might have raised questions of form which would have protracted the trial until the demurrer was decided or the pleading altered, and so it was deemed best not to attempt it, but to plead one plea to the whole of the alleged libel, incurring thereby all the risk of another technical rule of pleading,—that the whole of a plea must be proved,—the practical result being that Dr. Newman was placed in this position, that he had to prove every one of the separate charges he had made; so that requiring him to enter into proof at all was really to render it morally certain

* *Flint v. Pike*, 4 Barnwell and Cresswell's Reports.

that legal proof might fail on some part of the plea, and therefore that in strict law a verdict must go against him.

These authorities, however, have been cited for another purpose, which has a more immediate reference to the course of the trial to which we are now coming, viz., to raise a serious question as to the conduct of the Attorney General and of the judge. It will be seen that counsel are even considered legally responsible if they utter observations injurious and calumnious—maliciously and without reasonable and probable cause; and every lawyer knows that malice is usually inferred from the want of reasonable and probable cause. Moral responsibility of course may arise even where legal responsibility does not, and the sense of honour existing in the profession of the bar can scarcely be less rigid than the requisitions of common sense or common honesty. It has, indeed, been laid down by a very distinguished lawyer in our own times, that an advocate is bound to disregard all other considerations save the interest of his client; but as such a sentiment seems simply iniquitous, it surely will not be recognised in a Christian country. It will be, however, for the reader to judge whether it has not been acted upon in this case.

It was so, unless it be held that counsel are justified in defending their client, on his oath alone, by imputing to a large number of persons, as respectable in position, and not impeached in character, either the same offence as that with which he is charged, or other offences equal to or exceeding it in atrocity.

For the Attorney General's defence of Achilli was, as Sir A. Cockburn said it would be, simply this, that every person who swore against him swore falsely, and that any document produced against him was a fabrication. Now Achilli was charged with adultery, &c., and he is defended by imputing to a large number of persons perjury and forgery.

This is no exaggeration; the Attorney General's hypothesis was, some of the most eminent ecclesiastics in Europe had conspired to forge a judgment reciting certain charges against Achilli, and then to suborn false evidence to sustain those fabricated charges! And of course it followed that all the evidence in support of them was false, and the greater portion of it wilfully false. And he had no other ground for this awful hypothesis but the oath of his client, speaking in his own defence, and for his own interest! Is this consistent with morality?

Had he "reasonable and proveable cause" for imputing conspiracy, perjury, and forgery to a number of persons, most of them respectable, many of them reputed to be not only respectable but pious and estimable? Was the oath of his own client "reasonable and proveable cause" for this shocking accusation? If not, then it must have been malignant and mendacious, and consequently immoral.

The writer does not presume to determine the question or even to express an opinion upon it; perhaps his opinion is too strong to

express, and his feelings upon the subject too powerful for expression, His readers will judge for themselves. But he ventures to remark, as justifying him in raising the question, that he is vindicated not merely by the authorities he has cited, but by the actual example of the most high-minded and honourable men at the bar. Cases occur (he is informed, constantly) in which counsel, when they find they cannot defend a client without implicating others whom they do not conscientiously believe guilty, throw up their briefs; and he remembers that Sir A. Cockburn has done so in more than one instance. On an opposite principle the profession of the bar would appear absolutely infamous, and one of far deeper infamy than that of the poor polluted creatures who pace our pavements.

The question will be, then, did Sir Frederic Thesiger really believe in the monstrous theory of perjury and forgery he put forward in his client's defence? * If decided by the reader in the negative, a painful conclusion must follow, not merely as to the counsel, but as to the judge. It will have been observed that the great authorities already cited show that if the expressions of the advocate are unjustifiable it is the duty of the judge to comment upon and correct them; and so, if the Attorney General were culpable, it would follow that Lord Campbell was equally so for neglecting to discharge the duty, and protect the characters of those who were thus cruelly sacrificed. The writer repeats he expresses no opinion, but leaves it to the reader to determine.

In fact, the reader will have to decide whether Achilli or all the witnesses against him swore falsely. As Sir Alexander Cockburn says, there is no alternative: it is an issue awful in one sense, absurd in another; but such is the issue. And perhaps those who read the trial are in a better position to decide it than those who heard it, being better able calmly to sift and compare the evidence of the witnesses on one side and the other; and especially to compare the evidence of Achilli, not only with that of Dr. Newman's witnesses, but also with that of his own. There is the more necessity for this, as his counsel, contrary to the course always taken when the object is the vindication of character, declined to call him for examination until Dr. Newman's case had been proved; the result of which was not only to take the chance of that case breaking down in proof, but to allow Achilli the opportunity of considering the evidence against him before he was examined, † instead of being examined before he was aware what evidence could be adduced against him; thus depriving the defendant of any power of applying the most effective test of its moral value. ‡

* If he did, he was, I think, the only person in court, except such as were absolutely besotted with prejudice and ignorance.

† Having it taken down by short-hand writers.

‡ Where a person is to swear in his own defence, and does not know what can be proved against him, of course he cannot so safely make general denials of charges, as he can if he have the opportunity of sifting what is proveable against

Sir F. Thesiger, in the argument on the rule to enlarge the rule for the criminal information, contended that a party making charges in this country against another ought to be prepared at any time to prove them in this country! even though they related to acts alleged to have been committed out of this country! Such a monstrous principle staggered Sir A. Cockburn, as well it might; and was too much even for the Lord Chief Justice to adopt to the utmost, although, as may be seen, he in substance acted upon it; and only accompanied it by this mild modification, that it was not an "invariable or infallible rule!" The result of such a rule must be that a person could never safely state anything, however important it may be that it should be known, as to the bad acts of another, abroad or at home, for he must necessarily run the risk of the witnesses being removed out of his reach; and thus, if those persons whom he has accused only wait till then, they will make him an easy prey in the Court of Queen's Bench! How would Sir Frederic or Lord Campbell like the rule applied to their own families? Suppose a daughter were about, for instance, to marry a most abandoned man, of whom some one could publicly testify dreadful deeds done abroad, but against whom he durst not venture to publish them at the risk of being called upon at any time to prove them!

And it will be seen that from first to last there has been on the part of the prosecution an endeavour to protract the proceedings, and to prevent this cause from coming to trial; and that these endeavours have delayed the trial no less than four months, from the 16th February, when it might have come on, to the 21st June, when it did come on. And that during the interval witnesses were lost by removal; just as in the interval between the publication of the article in the *Dublin Review* and of Dr. Newman's lectures, documents had been lost by an accidental burning of archives.

The comparison of a large mass of evidence, such as was taken in this case, can scarcely be performed by the jury, without some assistance from the judge; and, of course, in giving or withholding that aid, great injustice may either intentionally or unintentionally be done. In such a case, not to guide is as bad as to misguide; and the withholding may be as mischievous as the expressing of an opinion. That charge, indeed, may be the more dangerous which misleads, simply by not leading; as a miscarriage of justice may be more difficult to discover which occurs through non-direction than by mis-direction. The very silence of a judge may be fatal; and a smile, or a shake of the head, especially if he be a man of much gravity, may be decisive. There is a phrase which speaks

him; and so shaping his answers exactly to what he knows has been sworn, in such a manner as adroitly to evade absolute contradiction in every case where it is possible to avoid it; and rather to adapt his own evidence to it. The common rule of excluding witnesses from court in cases where there is a conflict of evidence, in order to prevent collusion, is sufficient to show the value of this test, to which Achilli's counsel declined to subject him.

about whispering or smiling away a reputation, and a judge may easily, in a similar way, dispose of a witness, or destroy a great body of evidence, or even damn a whole case. And he can do this, of course, the more easily if he conform to the prejudices and predisposition of the jury. Here it is that a negative is as bad as an affirmative misconduct on the part of a judge, and may cause as serious a miscarriage of justice. In such a case, to do nothing is to do mischief; to be neutral is to be fatal. Silence (to use a common saying) is sometimes, and usually, assent; and the assent of a judge is sanction, and may seem to lead a sanctity even to the coarsest and the vilest prejudice. What matter it if justice miscarry through the corrupt conduct of jury or of judge, by reason of his coercing them to follow his opinion, or leaving them to follow theirs? If either be wrong, the mischief must be the same. Of what consequence can it be whether a judge bully a jury, or pander to their prejudices, if in either case he act unfairly and unjustly? What difference was there between Jeffreys and Scroggs?

This is a delicate topic, but it must be touched upon. The truth must be told—no candid person will doubt it—Dr. Newman was not justly dealt with; he had not a fair trial.

The conduct of Lord Campbell is grievously complained of. The writer heard on all sides, and from the bar, expressions of indignation as to it, throughout the trial, and particularly during the charge. Of course, the writer, or any Catholic, might distrust his own opinion; but these were the opinions of many Protestants, and lawyers; and, as they confirm his own, he ventures to express it. It is conceived that throughout the trial, though it was obvious from the first that the jury had most bigoted and prejudiced dispositions, he very feebly, if at all, tried to check them; that, on the contrary, he, in several instances, openly pandered to their prejudices, and even gave expression to his own, and in opposition to sworn evidence; that, in many instances, he grossly misrepresented the evidence, to the disadvantage of Dr. Newman; that, in every instance, he failed to notice the points tending against Achilli; that he damned and destroyed witnesses without the least excuse; that he dealt most unfairly with the most important document in the defendant's case; and that he silently assented to the atrocious and monstrous theory of perjury and fraud by which the Attorney General defended his client. Indeed, he did more,—he implicitly sanctioned it. The Attorney General's theory was, that all was false; Lord Campbell's, that only a little part was true; which, by implication, gave up the rest. The judgment of the Inquisition, for instance, was represented by Sir Frederic Thesiger as altogether a fabrication; Lord Campbell, that the judgment was genuine, but the reasons it recited—the vital part of it—could not be taken to be so, though proved by precisely the same evidence as the rest. The only difference between the one theory and the other seems to be, that Sir Frederic's was iniquitous and consistent, and Lord Camp-

bell's iniquitous and inconsistent. The atrocity* of the Attorney General revolted even the Lord Chief Justice; it was too much even for the strong nerves of Lord Campbell. But the noble and learned lord's scruple was only as to the degree; not as to the principle. He was economical; he would not impute perjury and forgery to any greater extent than necessary to secure the acquittal of Achilli. The recent antecedents of Lord Campbell did not inspire Catholics with great confidence in his freedom from prejudice; no one could accuse him of an intention to do injustice; and every one is aware that he possesses some of the most necessary qualities of a good judge,—patient, painstaking, and profound; but this only renders the proof of prejudice more plain: the omissions or misrepresentations of such a judge, who fails not to observe everything, and forgets nothing, are even painfully apparent; though not intentional, they cannot have been accidental. There are judges in Westminster Hall who would have had the confidence of Catholics in such a case, but Lord Campbell is not one of them; and even if he had been, the trial itself would have dispelled the delusion, and satisfied any dispassionate person that, whatever may be the merits or demerits of English administration of justice, the present case can never be appealed to as a proof of its impartiality. There are those, indeed, who believe that justice has never been so grievously violated since the case of Coleman; and as no one can doubt that, had Dr. Newman's life been in peril, the result would have been the same, the parallel is not less truthful than painful.

If the judge be complained of—what of the jury? Of them, truly, it were difficult to speak. Certainly they disappointed no one. In the main, they were a common jury; and as soon as they were in the box, the result was anticipated, which their conduct, and even their countenances, instantly indicated. Hardly had the trial commenced when they eagerly availed themselves of a hint given by the judge, to clamour for a departure from an ordinary regulation.† In the progress of the cause their gestures intimated acquiescence in the vilest calumnies against the Catholic Church. In course of the evidence they interfered in so unjust a manner, that the defendant's counsel meditated throwing up his brief; finally, they disregarded even the directions of the judge, and found a verdict in defiance of evidence, justice, common sense, and law, and which revolted most respectable persons in court.

In ancient times, there was a process by which juries were rendered responsible for gross miscarriages of justice in their hands. The writ of attaint was some security for men's property, liberty, character, and lives. Now, there is none; and all are absolutely in

* This is Sir Frederick's own phrase, and he must excuse its use.

† The exclusion of Achilli from court while witnesses were examined, against whom he was afterwards to swear in his own defence!

the power of any "common jury" who may be empannelled upon them. They are perfectly irresponsible.* Why should juries be the only parties in the country acting without responsibility, and under no apprehension of punishment for the most flagrant iniquity? Is it because, by committing perjury, they may commit murder? Have no such judicial perjuries been committed? † Ought liberty or character to be less secure than life? ‡

The reader will perceive serious and painful issues are raised in the report now presented; grave and grievous complaints are made of a monstrous miscarriage of justice. It is for him to judge whether the defence was proved in substance; and whether almost all its charges, as many of them as were material, were not clearly made out; so, if though it might be necessary to pass a verdict for Achilli, it would only be a technical one, and Dr. Newman would be not only morally, but, in substance, legally justified, and could not receive any but a merely nominal sentence.

Such are the issues the reader has to try, which really amount to this:—Did Dr. Newman get justice in the Queen's Bench? It is the writer's sincere conviction, and he is certain that of most of those who witnessed the proceedings, that Dr. Newman did not get justice; but was, from first to last, most unfairly and unjustly dealt with. The *Times* thus comments on the trial:—

"We wish we could conclude our observations on this case without saying anything calculated to imply a censure on the jury or the judge, under whose auspices they have, it seems to us, so signally miscarried. From the time when one of them objected to the exclusion of Dr. Achilli from the court, and another to the searching and reasonable question as

* Let this be considered in justification of some appeal to public opinion, at all events.

† Let the reader be reminded of the case of the woman who was tried towards the end of last year at the Old Bailey, for perjury committed at the Hammer-smith Police Court, in support of a charge made by her against the nuns of the Good Shepherd Convent. She was acquitted without a moment's hesitation on the part of the jury, and yet, in less than a month, I think, came forward and made a voluntary statement that her charge against the nuns was a lie from beginning to end. A number of witnesses were brought forward in support of the charge of perjury—Protestant as well as Catholic; among the latter two or three Catholic clergymen. For the defence, not a single one.

‡ The following is the Jury List:—

1. Edmund Townsend, 3, Bury-place, Bloomsbury, merchant.
2. John Carter, South Molton Street, merchant.
3. Henry Weston Elder, 7, Commercial-place, St. Luke's, merchant.
4. William John Powell, 11, Highbury-place, merchant.
5. John Stevens, 39, Torrington-square, merchant.
6. Charles Turner, 26, Hamilton-terrace, Marylebone, merchant.
7. John William Watson, Hornsey-lane, Highgate, merchant.
8. John Sewell, 3, Landsdowne-place, North Islington, merchant.
9. Henry Huth, 12, Sussex-place, Marylebone, merchant.

TALES ADDED.

10. George Pierce, Strand, bookseller.
11. Samuel Parker, Bedford-place, brass-founder.
12. Elias Morgan, Norfolk-street, lodging-house-keeper.

to his general chastity, which he did not find it expedient to answer, till the faltering announcement, preceded and followed by unchecked applause, that the justification was not proved to their satisfaction, there is every reason to think that the case was not viewed by the jury with complete impartiality and absence of sectarian feeling. Perhaps this was hardly to be expected; but when we are told that Catholic and Protestant have nothing to do with the decision, we should like to ask who believes that if Dr. Achilli had continued a member of the Church of Rome to the present time, and the charge against him had been contained in a speech of the earl of Shaftesbury, the verdict would have been the same—*minus*, of course, the cheers and the popularity? Many of the witnesses were poor, but it is among the poor that the profligate seek their victims. They could not be corroborated as to the fact, for that is a matter of secrecy; they were not discredited, they were not broken down, they were simply put aside and disbelieved. The principle upon which this case was decided would put an end to all proof by human testimony. If we are to require publicity in matters whose very essence is secrecy, virtue in witnesses the very nature of whose confession degrades them, and confessions by the accused of what every worldly interest binds them to deny, we may shut up our courts of justice, proclaim impunity for crime, or use ordeals and divinations as a substitute for the investigation we have rejected.

“If there is to be no presumption in favour of assertions attested by oath, no public writer can venture, should the public interest—as was admitted in the case of Dr. Newman by the prosecuting counsel—ever so imperiously require it, to make statements, however well founded, criminatory of the character of another. Who can hope to be believed when such a mass of evidence has been flung aside as worthless?”

His own opinion is, perhaps, of no value; he places the grounds of it before the reader, in the preliminary proceedings, as well as on the trial itself. Appeals, on the part of Dr. Newman,* from Lord Campbell and a special jury to the profession and to the public; from the verdict in the Queen’s Bench to Westminster Hall and the people of England. They will do justice. They will not swallow the monstrous and atrocious hypothesis of perjury and forgery by which half a hundred persons are to be convicted that one may escape. They will not sanction a perversion of justice, in order to secure a triumph for Protestantism. They may not appreciate religious houses, but they venerate religion; they may reluctantly tolerate Popery, but they will not perpetrate iniquity. They love truth, and will not forget that, in the eloquent language of Sir A. Cockburn, whose defence was every way worthy of his illustrious client,—“Justice is one of the dearest and eldest born of the emanations of the Divine Being!”

* He begs to say that he is a stranger to Dr. Newman, and has no other feeling on his behalf than he would have for any one unjustly treated, especially one whom he respects as a gentleman, a scholar, a Christian, and a clergyman.

PRELIMINARY PROCEEDINGS.

COURT OF QUEEN'S BENCH, WESTMINSTER,

November 4th, 1851.

Sir F. Thesiger moved for a rule to show cause why a criminal information should not issue against Dr. Newman on the following affidavit:—

“Giovanni Giacinto Achilli, of Shaftesbury Crescent, Pimlico, *Magister Sacræ Theologiæ*, or Doctor of Divinity,^a maketh oath and saith, that he is now, and since March, 1850, has been resident in England, and is now, and since May, 1850, has been minister of the Gospel to the Italian Protestant Church, Dufours'-place, Broad-street, Golden-square, Middlesex, and that such chapel is duly certified and registered as a religious place of worship. That he is an Italian by birth, and was born in Viterbo in the Roman States, 1803, and was educated in the Roman Catholic faith; and that in 1819, he being then of the age of sixteen, he entered into the Dominican convent of St. Quercea at Viterbo, as a novice, and after a year's residence in such convent professed himself a monk of the Dominican order. That about the year 1825, he received priest's orders, by special dispensation granted by the Pope (Leo XII.) at the request of the duke of Lucca, and in 1833 received the degree of doctor of divinity in the College of Minerva at Rome.^b

“That as early as 1829, he entertained doubts as to some of the doctrines of the Church of Rome, and that notwithstanding such doubts he was for a long time unwilling to leave the Church of Rome;^c but

^a In the Dominican order, the degree corresponding to that of doctor in the secular clergy, and also this title, conferred on the Dominicans through special privilege, is given upon stipulation, on oath, to teach the doctrines of St. Thomas Aquinas on every point (*jurare in verba Thomæ*), so that Achilli must have forfeited the title, which is not a mere literary one, compatible with the various doctrinal teachings.—*Dublin Review*. And he took this oath in 1833! In his marriage certificate he calls himself “cavalier.”

^b The college of the Dominicans.

^c Why so? For he has declared that “whatever iniquity, wickedness, and abominations ever existed upon earth will be found among priests and monks” (in one sense, a truism; for the worst men have been found “among” them); “and

that, in the exercise of his duties as confessor and preacher, his practice and teaching were in some respects openly at variance with, and falling short of the practice and doctrines of the Church of Rome.^d That in 1835, he being then about to leave Rome for Capua,^e solicited from the Pope permission to secularize, *i. e.*, to quit the monastic state and remain a simple priest,^f and that such permission was not given until after many applications had been made, supported by the recommendations of the cardinal archbishop of Capua; and that in August, 1839, by the permission of the Pope, he finally separated himself from the order.

“That his practice, preaching, and conversation while at Capua and Naples for seven years, from 1835 to 1841, drew much attention upon him, and, as he believes, made him suspected and disliked by many members of the Church of Rome, and in particular by monks of the monasteries at Naples, of whose life he disapproved, and expressed his disapprobation. That in 1841, he was called by private business to Rome,^g where he had often been advised to betake himself by ecclesiastics

that in the cloisters immorality of every description reigns.” And in his book he says that he had at this time become perfectly persuaded of the imposture of the principal dogmas of the Catholic faith. Why, then, “unwilling to leave the Church of Rome?”

^d Any Catholic can easily conceive the truth of this statement. Yet he was as he says, offered professorships!

^e For what cause? Achilli, in his first published statements, asserts that he was, in 1833, offered three professorships; and says, “I have, then, and for that sole cause (what cause?), relinquished my chair at Viterbo.” In his late book, he says the general of his order forced him to give up his chair and leave Viterbo in 1833—a year or so after the first case sworn to at the trial took place. “There was then given me the charge of visitor of the convents of the Dominicans in the Roman States and Tuscany.” There is no visitor of the order but the provincial, who, at that time, was Father Brochetti. It is an office of great importance, very likely to be given to a priest of six years’ standing, whose preaching was openly at variance with the practice and teaching of the Church of Rome. Achilli states, that at the end of 1833 he gave up his three professorships, and at the beginning of 1835 went to Capua: this leaves just one year for his life in Rome. Yet, the published statements of his friends assert that he was vicar of the Master of the Holy Palace, and professor of moral philosophy at the Minerva College, both in Rome. And he represents that at the same time he was visitor of the Dominican order in the Roman States! Now the mastership of the Holy Palace is one of the highest in the order, and held for life. The present master succeeded to the office in 1832, his predecessor being created cardinal, and as his *socius* (there is no vicar) he appointed Father Modena, one of the most eminent men of the order, who has held the post ever since. The hon. sec. of the Society for Religious Improvement of Italy, improves upon the history of Achilli by making him master and vicar too! and visitor, not only of the Roman States, but of Lombardy likewise!! and all this in the course of one year!!!

^f In his book he says he was “disgusted with the Dominicans.” Were they so with him? It appears from his book they complained of him, and that there were “evil reports” against him in 1833, at Viterbo.

^g In his book (which was put in as evidence against him), he says that when he was in prison, in 1841, there were reports that he had been guilty of other crimes besides those for which he alleges he was imprisoned. Now the affair of the Principes occurred at the end of 1840, and her parents complained in the spring of 1841. See also his cross-examination as to his having been sent out of Naples in charge of the police. Moreover, he says that his friends exerted themselves with the British consul to clear him from the charges. See note on his book, *post*, in report of trial.

of the Church of Rome, professing to advise him for his own advancement; and that while at Rome he was arrested by the Inquisition,^b and remained in confinement for three months, at the end of which he was released,ⁱ and left Rome in September, 1841, and went to Ancona, and a short time after sailed to Corfu.^j

"That from the time of his leaving Ancona^k he has always professed openly his renunciation of the faith and doctrines of the Church of Rome.^l That he has read the following passage in No. V. of a series of lectures entitled "Lectures on the Difficulties of Protestantism, by J. H. Newman, D.D., priest of the congregation of the Oratory of St. Philip Neri, delivered to the Brothers of the Little Oratory."^m

"And in the midst of outrages such as these, my brothers of the Oratory, wiping its mouth and clasping its hands, and turning up its

^b In his narrative he says, that in 1841, he made to the Inquisition his "renunciation of all the honours and employments which he had enjoyed up to that time." What were they? He was secularized in 1839.

ⁱ Very easily released! considering the cruel character of the tribunal, and that for years, according to Achilli's own account, he had been very obnoxious!

^j His friends of the Italian Improvement Society, in their published memorial, state that he "escaped" from Rome to Corfu; how so, if "released?" and then went to Ancona. In his own narrative he says he is "far from being displeased with the Inquisition," and speaks of the "trifling correction" he had received, which clearly implies that he had been "corrected?" It is stated in the *Dublin Review*, it was by imprisonment—from which he escaped.

^k Or, rather, escaping from his imprisonment.—See his evidence at the trial.

^l Not until after he had been "corrected" by that Church. What was there in that to lend him any new light as to her doctrines?

^m St. Philip Neri was a practical philanthropist, whose memory, after the lapse of three centuries, is still enthusiastically cherished by Roman citizens, as the regenerator and benefactor of their country. Indeed he was called the Apostle of Rome. Florence was his native city, where he was born in 1515, and, at the age of eighteen, he quitted all for the metropolis of the Christian world. Here he passed the remaining sixty-two years of his life, without going further beyond the Holy City walls than was necessary to visit the Seven Churches. In the porches and catacombs of these venerable sanctuaries he was accustomed to pass the night in prayer. He shunned honours and dignities. The mitre, with the title of cardinal, repeatedly offered him by Clement VIII. and Gregory XIV., he never would accept. The great hospital for pilgrims and convalescents is a permanent monument of his charity. He founded a society of pious clergymen, called "Fathers of the Oratory," to promote moral improvement and religious education among all classes of the people. For this purpose he enjoined daily preaching short sermons, being enlivened by anthems or litanies, with musical accompaniments. Connecting the national taste for this pleasing art with religion, he made both useful auxiliaries to his mode of popular instruction. A French tourist calls him the Vincent de Paul of Italy, and observes that the genius and taste of the Italians were admirably combined with his apostolic virtues. Alluding to the concerts of sacred music, which owe their origin to the refined zeal of the saint, and are usually called "Oratorios," from the oratory or chapel wherein they usually take place, in order to attract youth from theatres and bad company. In all his undertakings, in fact, St. Philip Neri, endeavoured to render religion more attractive, if possible, than vice. Illustrious for sanctity and miracles, he at length paid the debt of nature, at the age of eighty, on the 26th of May, 1595; and twenty-seven years after, with St. Ignatius and St. Francis Xavier, he was canonized. On the anniversary of his death, the chamber he once occupied is thrown open to the public; and his festival is kept in the adjoining church, where the pope and cardinals go in state to divine service.—*Reminiscences of Rome*. Such is the order to which

eyes, it trudges to the Town Hall to hear Dr. Achilli expose the Inquisition. Ah! Dr. Achilli, I might have spoken of him last week, had time admitted of it. The Protestant world flocks to hear him, because he has something to tell of the Catholic Church. He has something to tell, it is true; he *has* a scandal to reveal, he *has* an argument to exhibit. It is a simple one, and a powerful one, as far as it goes—and it is *one*. That one argument is himself; it is his presence which is the triumph of Protestants; it is the sight of him which is the Catholic's confusion. It is, indeed, our confusion, that our Holy Mother could have had a priest like him. He feels the force of the argument, and he shows himself to the multitude that is gazing on him. 'Mothers of families,' he seems to say, 'gentle maidens, innocent children, look at me, for I am worth looking at. You do not see such a sight every day. Can any Church live over the imputation of such a production as I am? I have been a Roman priest and a hypocrite; I have been a profligate under a cowl; I am that Father Achilli, who, as early as 1826, was deprived of my faculty to lecture, for an offence which my superiors did their best to conceal; and who, in 1827, had already earned the reputation of a scandalous friar. I am that Achilli, who in the diocese of Viterbo, in February, 1831, robbed of her honour a young woman of eighteen; who in September, 1833, was found guilty of a second such crime, in the case of a person of twenty-eight; and who perpetrated a third in July, 1834, in the case of another aged twenty-four. I am he, who afterwards was found guilty of sins, similar or worse, in other towns of the neighbourhood. I am that son of St. Dominic who is known to have repeated the offence at Capua, in 1834 and 1835, and at Naples again in 1840, in the case of a child of fifteen. I am he who chose the sacristy of the church for one of these crimes, and Good Friday for another. Look on me, ye mothers of England, a confessor against Popery, for ye 'ne'er may look upon my like again.' I am that veritable priest who, after all this, began to speak against, not only the Catholic faith, but the moral law, and perverted others by my teaching. I am the Cavaliere Achilli, who then went to Corfu, made the wife of a tailor faithless to her husband, and lived publicly and travelled about with the wife of a chorus singer. I am that professor in the Protestant college at Malta, who with two others was dismissed from my post for offences which the authorities could not get themselves to describe. And now attend to me, such as I am, and you shall see what you shall see about the barbarity and profligacy of the inquisitors of Rome.' You speak truly, O Achilli, and we cannot answer you a word. You are a priest; you have been a friar; you are, it is undeniable, the scandal of Catholicism, and the palmary argument of Protestants, by your extraordinary depravity. You have been, it is true, a profligate, an unbeliever, and a hypocrite. Not many years passed of your conventual life, and you were never in choir, always in private houses, so that the laity observed you. You were deprived of your professorship, we own it; you were prohibited from preaching and hearing confessions; you were obliged to give hush-money to the father of one of your

Dr. Newman, and other Oxford converts, have devoted themselves. Such was the saint whose spiritual children are to be subjected to insult for carrying on their labours of love in this great city, wearing, with natural affection, the "habit of their order,"—nothing but a plain black suit, after all. The "Little Oratory" is a fraternity of laymen attached to the Oratory for purposes of moral and religious improvement.

victims, as we learn from the official report of the police of Viterbo. You are reported in an official document of the Neapolitan police to be 'known for habitual incontinency;' your name came before the civil tribunal at Corfu for your crime of adultery. You have put the crown on your offences by, as long as you could, denying them all; you have professed to seek after truth, when you were ravening after sin. Yes, you are an incontrovertible proof that priests may fall and friars break their vows. You are your own witness; but while you *need* not go out of yourself for your argument, neither are you *able*. With you the argument begins; with you too it ends: the beginning and the ending you are both. When you have shown yourself, you have done your worst and your all: you are your best argument and your sole. Your witness against others is utterly invalidated by your witness against yourself. You leave your sting in the wound; you cannot lay the golden eggs, for you are already dead."

"That he is the person here referred to, and that in May, 1850, he was present at the Town Hall, Birmingham, at a meeting of the Evangelical Alliance, and on no other occasion. That he then addressed the meeting, but did not use such words as are above mentioned. That he did then describe the constitution of the Inquisition, and openly express his abhorrence of its practices; ^x but he did not speak of any individual members of the Church of Rome, ^y nor make any charge against the moral character of any individual whatever. ^z That except in his disbelief of some doctrines peculiar to the Church of Rome, he has never been an infidel, but has always believed, and still does believe in the means of salvation made known by the Gospel; and he has never affected to believe, and has not inculcated any doctrine of the falsehood of which he was satisfied. ^a That he has never been a profligate, nor indifferent to a sense of virtue and decency. That he was not so early as 1826, nor at any other time, deprived of his faculty to lecture for an offence his superiors did their best to conceal; and that he has not, at any time or for any cause, been deprived of his faculty to lecture. ^b That he had not in 1827 earned the reputation of a scandalous friar. That he has not at any time of his life brought (by his own consent ^c) any scandal on himself or on the Romish Church, ^d except so far as any

^x The reader will remember the passage previously referred to (see Introduction, p. 6), and will readily conceive the forbearance of the writer of that paragraph. This sentence in the affidavit was obviously suggested by counsel's inquiries, as to whether Achilli had provoked a public discussion of his own conduct by public accusations against the conduct of others; which indicates counsel's consciousness, that this would tend to give the publication of Dr. Newman's charges a privileged character.

^y Yet he declares he was "far from being displeased at the conduct of the Inquisition."—See his narrative.

^z In his book he put forth shocking, yet stupid, charges against the character of certain individuals holding office as inquisitors.

^a But he had already stated, that for years before he left off preaching and teaching the doctrines of the Church of Rome, he had ceased to believe divers of their doctrines; and that he celebrated services he believed to be impostures.

^b How so? He had already stated that, in 1841, "he gave up" all his honours or offices. And see the judgment of the Inquisition, proved at the trial.

^c What does this mean?

^d Was it no scandal that while exercising the duties of confessor and preacher, his "practice" should be "openly at variance with the doctrines and practices of the Church?"

such scandal may have been consequent on his gradual abandonment of the doctrines peculiar to that Church.^e That he did not, in the diocese of Viterbo, or at any time or place, rob of her honour any young woman, and was not, in 1832, or at any other time, found guilty; nor was he guilty of any such offence; and did not perpetrate a third such crime in 1834, or at any other time; and that he was not, at any time or place, guilty of similar sins or worse,^f &c. That he has never spoken against the Catholic faith, so far as received by him; nor against the moral law of the Church; nor according to his own conscientious belief has he perverted others by his teaching.

“That he has not induced any married woman to be unfaithful to her husband, but he admits that while at Corfu he had a servant of the name of Corribone, who had, as he believes, been a chorus-singer, and that the wife of Corribone lived with her husband under the defendant’s roof, and accompanied her husband while travelling with the deponent, but he denies that he had improper acquaintance with her, or that there was any unbecoming familiarity or intimacy between them.^g That it is true that he was deposed from his post of professor at the Protestant college at Malta,^h but that the cause of his deposition has been stated in a report of a committee of the college (published in the *Record*, 9th December, 1850^h), and that in such report the following passage occurs:—‘After Dr. Achilli’s appointment, various unpleasant statements were made to the committee as to his past history, which was submitted to him; but, as they were denied by him, and were not supported by any sufficient evidence, they were rejected by the committee. It was not until he interposed to quash the investigation into charges affecting the moral character of several priests,ⁱ by sending his friend Saccare to Sicily that the committee resolved to have no connection with him. Such a step was felt by the committee to be an act requiring, apart from the consideration of any statement affecting his own character, his immediate removal from so responsible a position.’^j

“That it was not to his knowledge or belief ever alleged that he was dismissed from his position for any offence which it would be unbecom-

* His denials in the precise language of the libel, as on the trial he negated them in the precise terms of the plea, need scarcely be repeated, as they merely negative each charge separately.

^f See his cross-examination, in which he declines to answer whether he had not been guilty of “similar crimes” at each place in succession he visited.

^g Did not this admission give the Court ground to call upon him in making an application for the extraordinary interference of the Court by a criminal information, to satisfy them by explicit statements supported by other evidence than his own, as to the true reason of his dismissal, especially considering that he directly after discloses that the very same kind of charges as the alleged libel contained had been then made against him? Did the subsequent part of his affidavit come up to the usual requisition of the Court in that respect?

^h So long, then, as a whole year before the information, it had been published in a London newspaper that “various unpleasant statements had been made respecting his past history,” and that he had been afterwards dismissed from a responsible position in a Protestant college; and the affidavit does not disclose that he took any notice at all of this publication.

ⁱ Who were those priests? Did they include Achilli himself, or any acquaintance of his? Ought not the affidavit to have explained that?

^j Let the reader remark how far this admission is answered by the rest of the affidavit.

coming to describe, or any offence affecting his moral character,^k except so far as his sending away Signor Saccares may be considered such an offence;^l and that he always denied, and it is not true that he sent him away from the college,^m but that he left the college voluntarily;ⁿ and he, being aware of his resignation, requested him to go to Sicily^o for the purpose of distributing Bibles and tracts.^p

"That he has never been prohibited from preaching, or hearing confessions.^q

"That, to the best of his belief, he has never been reported in the official documents of the Neapolitan police to be known for habitual incontinency. That he believes that a tailor at Corfu, named Nicolo Garrimoni, did, in answer to a petition for alimony by his wife, charge his wife with adultery with the deponent, but he believes^r that the charge was not brought before^s any civil court, or any court whatever; but that the fact of the adultery was alleged in a paper professing to be prepared for the court in the matter of the said petition; and that the deponent, having been made acquainted with the fact that such charge had been made,^t expressed his willingness^u to meet the said charge in court; but he never heard that the charge was brought forward,^v and believes that it was not, and denies that there was any ground for it."^w

LORD CAMPBELL said, disregarding the "ribaldry" in the previous portion of the passage, the latter part of it was clearly libellous; and the rule was ordered.

^k He admits that a year before the *Record* published a statement, the effect of which was to represent that he *had* been; and he does not say that he took any public notice of this.

^l As it was considered (he admits) by the committee.

^m But he does not deny that he sent him away from Malta; and that he sent him away in order to quash the investigation.

ⁿ Was it, as Achilli "left" Rome "voluntarily," by way of escape?

^o Then he did "send him away?"

^p And for no other purpose less pious and more practical? Achilli is silent upon *that point*, which it will be perceived is *the point*. He does not deny that he sent him away from the island to interfere in the investigation alluded to; and for which the committee say they decided he ought to be dismissed.

^q Not when the Inquisition, in 1841, deposed and suspended him? The reader is requested to refer to his cross-examination on this point, and to the verdict of the jury, who said, in direct contradiction to this statement, on his oath, that he was by a decree of the Inquisition totally and perpetually deprived and suspended. From this specimen the reader will appreciate the averments of the affidavit. *Ex uno disce omnes.*

^r Strange word this. Did he not ascertain?

^s How "not brought before" a court, when it was alleged in answer to a petition for alimony? Let the reader carefully compare this passage with the charge in the alleged libel and with the evidence.

^t How "made," if not "brought before a court?"

^u How did he "express" this? Privately, or publicly?

^v He had just stated that he had heard that the charge had been "made" on a petition for alimony, in a court of justice.

^w But he does not say that he ever publicly denied the charge; or ever publicly challenged an inquiry into it. Conceive of a clergyman of any Church hearing of such a charge not taking this course, and then coming, years after, for a criminal information to clear his character! Can any one recollect or refer to any case of an information ordered on such an affidavit?

COURT OF QUEEN'S BENCH—Nov. 7, 1851.

Sir A. Cockburn (Attorney General), moved for a cross rule nisi, for enlarging the rule nisi for a criminal information until Easter Term, in order to afford the defendant time to answer the matters in the affidavit of prosecutor, and show cause against the rule.

The defendant, Dr. Newman, made an affidavit, stating,—

“That he is at present unable to answer the several matters contained in the affidavit of Giovanni Achilli, by reason of the fact that the several matters referred to in the affidavit, and which form the subject of the alleged libels complained of by him (or the greater part thereof), occurred at periods of time long passed, in parts beyond the seas, and places far distant from this kingdom, and that in order to answer the said matters and show cause against the rule, it will be necessary for the deponent to obtain evidence from various parts and places beyond the seas, and from countries far distant from these realms, which evidence it will be wholly impossible to procure and bring before the Court for a considerable time, and until the expiration of several months next ensuing; that unless such time is granted and such delay allowed for the procuring of such evidence, it will be wholly impossible for him to answer the said matters contained in the affidavit,^x and to show cause against the rule; and he is informed and verily believes that if such time is granted, he will be able to obtain evidence from such foreign parts and places sufficient to enable him to answer the matters contained in the affidavit,^y and to show cause against the rule, and to satisfy the Court that the rule ought not to be made.”^z

The learned counsel cited the case of *Pacifico v. The Herald*, in which time had been given to answer a similar application, the matters charged having occurred abroad.

The rule nisi was granted.

^x It must be obvious that this would be so; though it might have been possible to give reasons for not “answering the said matters,” *i. e.*, by showing the publication in the *Dublin Review*, from which the alleged libel was taken, in substance, and that prosecutor had not noticed it.

^y Dr. Newman here distinctly swears, to his belief, that he can prove the charges; yet the Court considered he had not sworn to his belief, that the charges were true! As if they could be proveable, if not true!

^z Which might be done without proving the truth of the charge, as by showing that abroad those charges had been publicly made, and not publicly answered; which is a sufficient answer to the application for a criminal information.—See Introduction.

COURT OF QUEEN'S BENCH—Nov. 21, 1851.

(Sittings in Banco.)

The rule for a criminal information having issued, and an intermediate cross rule having been obtained, calling on Dr. Achilli to show cause why the first rule should not be enlarged till the first day of next Easter Term, to enable Dr. Newman to obtain from Italy the evidence which he believed he could there procure to show that he was justified in publishing the alleged libel.

Sir *Frederic Thesiger* now showed cause against the cross rule, which he said was in contradiction to the principle he had always understood to govern the conduct of this Court, that when one man took on himself to slander the character of another, the slanderer should be prepared at once to justify the slander. He should not, however, rest on that principle; because he thought that, entirely disregarding it, this was not an application which on any fair and reasonable grounds ought to be granted. The learned counsel read and referred to the affidavit.

The Court would observe that the ground of this application for delay was that an opportunity should be afforded to Dr. Newman and the publisher to send a roving commission to investigate into the whole life of Dr. Achilli for a period of thirty-two years; and it was remarkable that in founding the application on these affidavits Dr. Newman did not vouch, in the slightest degree, his own belief in the truth of the charges he had made.^a He (Sir F. Thesiger) was apprehensive of allowing the defendant this opportunity of thus seeking all over Italy for evidence; for, considering who the parties were, and what was the nature of the libel; considering, too, that one of the parties had turned from, and the other had turned to, the Church of Rome,^b he could not shut his eyes to the possibility of affidavits being easily procured^c in Italy from persons into whose character and conduct there would be no means of making any

^a Dr. Newman stated, as will be seen, not in the "slightest degree," but in the strongest possible way, that if he had time, he should be able to prove the truth of the charges he had made. Was not this the best way of alleging his own belief in their truth? If they were proveable, of course, they must be true (though the course might not hold, and they might be true, and not proveable); and he stated his belief that they were not merely true, but also proveable. And this was deemed, not only by counsel but the court, not a sufficient averment of his belief in the truth of the charges! Certainly, it is not such hard swearing as is usual in courts of justice; but, perhaps, swearing is none the worse for not being so very hard; and it seems strange that judges should object to it; and think an affidavit insufficiently strong, because sufficiently scrupulous.

^b What had that to do with the case? Sir Frederick, however, is too acute an advocate to have mentioned it, if he did not well know its effect on the mind of the Court.

^c Why should the learned counsel have presumed that false affidavits were not punishable abroad? His argument is founded on that utter assumption.

inquiry, nor any into the truth of their statements. They would be persons making affidavits out of the jurisdiction of this Court, not only without the power of Dr. Achilli to contradict their testimony, but without any danger on their part of punishment for making untrue statements. Nothing could be more unfair to Dr. Achilli than to allow a proceeding of this kind; and it was quite unnecessary for justice to Dr. Newman to allow it; for, under the statute 6th and 7th Vict. c. 96 (Lord Campbell's Act), it was competent to Dr. Newman to plead that the alleged libel was true, and that it was published for the public benefit.^d It would be hard indeed towards Dr. Achilli to give to Dr. Newman the chance of getting an opportunity to fish for evidence on affidavit, when he might under his pleas, and at a different stage of the cause, have a commission to examine witnesses, in which Dr. Achilli could join. The persons from whom these affidavits were asked were those over whom the Court could exercise no jurisdiction, and under the circumstances of this case such a proceeding would be unjust and dangerous towards Dr. Achilli. The Attorney-General, in moving for the rule, had quoted the case of *M. Pacifico* and the *Morning Herald*, but that case was not applicable. *M. Pacifico* had complained of a libel published in a letter from the correspondent of the newspaper resident in Greece, and time was given to enable the proprietor of the newspaper to inquire from his correspondent on whose authority he had made the statement.^e But besides, the answer to that case was, that what was done there was done by the consent of *M. Pacifico*.^f He (Sir F. Thesiger) had mentioned the matter to his learned friend out of court (who then appeared for *M. Pacifico*), and who had at once assented to it;^g and their lordships were aware that the inquiry proved perfectly satisfactory so far as *M. Pacifico* was concerned.

Mr. *T. F. Ellis*, on the same side, said that, as to the case of

^d Before this Act the truth was not a justification on the trial of the information, but was on the application for the information (see Introduction, p. 14), and then the question was decided on affidavits, the prosecutor having to purge himself satisfactorily from all the imputations, and enter into full explanations of the transactions alluded to, in order, as far as possible, not merely to deny, but to disprove the charges; whereas on the trial the prosecutor can cast the whole onus of proof upon the defendant. As respects informations, therefore, this Act is not of much benefit, especially as it requires that the defendant should plead (and prove), not only the truth of the libel, but that it was for the public benefit, with the particular facts showing that it was so.

^e This is palpably incorrect; and as the writer was not in court, he can only conjecture it to be a mis-report. It is obvious that the party responsible must have had to swear to his belief of the truth of the charges (as Dr. Newman did), and although the correspondent, or the person on whose authority he made the charges, made affidavit abroad in confirmation, these affidavits would have been open to the very objection taken by Sir Frederick to the affidavits to be prepared in confirmation of Dr. Newman's.

^f As Sir Frederick ought to have done in this case; because it was fair, reasonable, and just; and the refusal of it must cause a failure of justice—as he might have foreseen.

^g See the preceding note. He said much more.

M. Pacifico and the *Morning Herald*, that newspaper avowed the source of its information to be the letter of its own correspondent, and consequently the paper there stood in the situation in which the publisher of this libel stood before Dr. Newman admitted himself to be the author of the libel.^h To make that case in point with the present, this application to the Court ought to have been made by the publisher, for time to examine the author, Dr. Newman, as to the sources from which he had derived his information!ⁱ It was not at all in point to support an application by Dr. Newman himself, for he was the author, and ought to know on what authority he published the libel.^j Then, as to the affidavits, the Court must be struck with what Dr. Newman did and what he did not say. It was only by implication that they could learn what it was that Dr. Newman wished the opportunity to prove.^k The fact of the publication of the libel was now admitted; the truth of the charges was all that now remained. As to them, Dr. Newman neither said that he now believed those charges, nor did he even state that he ever had believed one syllable of them; he merely said that "the said matters referred to in the affidavit of Dr. Achilli" occurred at such and such places and times.^l In order to try the sufficiency of this affidavit, the Court must consider what would be the situation (he said this without meaning any personal imputation on Dr. Newman, but merely to test a legal result) of Dr. Achilli if he wanted to assign perjury on this affidavit?^m If there should be twenty witnesses to prove that on as many occasions the maker of this affidavit had declared that he did not believe one of the imputations contained in the libel, no assignment of perjury in the affidavit could be sustained; for nowhere was it there stated that the person who made the affidavit did believe the imputations.ⁿ It was further to be remarked, that Dr. Newman did not say from whom he got the information, nor from whose testimony he expected to substantiate it.^o He hoped that he should not be

^h And, therefore, in the position in which Dr. Newman stood, after he had admitted himself the author, as legally responsible.

ⁱ That was not the object of the application in the case cited; for of what use would it have been to ascertain the "source" whence the information was obtained, unless it was sworn to; and if sworn to, it must have been sworn to abroad, as in this case was proposed and objected to.

^j How absurd to represent that as the question! The question was, not as to authority, but proof, or affidavits as to the truth; and these affidavits must, in either case, have been made abroad.

^k Parties seldom assent to anything, in such cases, unless they are pretty certain it could be enforced upon them.

^l And necessary implication is as good as direct assertion. Dr. Newman swore he believed the charges proveable.

^m This is the true test, no doubt.

ⁿ That is stated, and nothing could be easier than to indict Dr. Newman for perjury, in swearing that he believed the charges proveable—provided Achilli could prove them false; for if false, Dr. Newman's affidavit must have been at least as false as if he had sworn he believed them true, for he swore he believed them proveable.

^o Which Achilli wished much to ascertain, no doubt, for reasons that will

thought to be construing the affidavit too strictly, but he thought that a different rule of construction of words and expressions must be applied in cases where a man used words, of the meaning and effect of which he was ignorant, and where words were used by men who had passed their whole lives in tracking their way through tortuous paths of subtle controversy,^p knowing full well the value of the words which they used, and the danger of the words they abstained from using. He would not suggest in which of these two classes of persons the maker of this affidavit was to be placed, or how far he stood between the two extremes, but the Court must look at the form of the affidavit as it new stood. So looked at, the document exhibited a very remarkable instance of mental reservation. Here was a case in which A. complained of B., for having libelled him: B answers, "I admit that I published the libel—I do not say that I believe it.^q I do not say that I ever have believed it; but, if you will give me a few months' time, I may perhaps find in Rome or Naples some persons who will say that you have done what I charge you with." Such an application could not, in accordance with any rules of justice, or any practice of the Court, be granted. He should now proceed to consider the statute on the law of libel, which, beneficially for the public, had been passed within these few years. One of the justifications under that statute for the publication of a libel was that it was true; another was, that it was published for the benefit of the public. This case showed how well that statute would work for the advancement of justice. The inquiry in this case was one of importance to the public,^r for Dr. Achilli denounced the mischiefs of the Church of Rome, and Dr. Newman alleged that Dr. Achilli was not to be believed in his denunciations, for that Dr. Achilli himself had been guilty of all those acts of misconduct which he charged upon others. It was of importance that the public should know the truth in these matters, and that question of where the truth lay was capable of being made the subject of evidence by witnesses to be examined at the trial. If Dr. Newman found that trial coming on too suddenly^s to enable him to produce these wit-

suggest themselves to be apparent on reference to the subsequent part of the case. But what had that to do with the question of the truth of the charges? If they were false, then whoever might swear to them mattered not.

^p Here again, this indecent observation had of course nothing to do with the case; but the advocate is too prudent to have hazarded it if he had not known it would weigh with the Court.

^q B. (*i.e.* Dr. Newman) does say he believed it.

^r This is an important admission that the publication was for the public benefit; but then, by the Act, Dr. Newman also has to prove it true. This imposes a burden upon him, as the author believes, not imposed by common law; and most unjustly imposed upon him. For if the publication was for the public benefit, the occasion was lawful, and the publication privileged, in which case, as he contends (see Introduction), Dr. Newman would not have to prove the charges, but Achilli to disprove them, or prove them to be malicious.

^s Alas! Dr. Newman found the trial come on too slowly for him—to his great

nesses, he might apply to the Court, and would get all proper benefit from the application at that time; but, as matters now stood, there was no ground for this application.

The *Attorney General*, in support of this rule for the enlargement of time, said that the arguments of his learned friends assumed that the present proceeding was the only one by which Dr. Achilli could clear his character. That was not so. If the rule for the criminal information should be discharged, Dr. Achilli might still have recourse to an indictment. This being an application to the court for its interposition to enable Dr. Newman to answer the rule which had been obtained against him, the court would (*i.e.* should) use its discretion in such a way as to be sure that justice should be done. The argument of Sir F. Thesiger amounted to this, that where the conduct of a party was impugned in relation to acts done without the realm, the man who impugned it should be prepared at once to sustain the imputations by evidence within the realm (!). Such an argument did seem strange, and the doctrine itself was incapable of practical application. He submitted that when the character of the party was assailed in respect of conduct out of the realm, the Court would (*i.e.* should) grant to the assailing party the proper opportunity of substantiating his charges. He submitted that the case of *M. Pacifico* was in point. It was true that he (the *Attorney General*), who then appeared for *M. Pacifico*, did make no resistance to the application, but that was because he felt that such an application was just and reasonable.

Lord CAMPBELL.—We were not called on to give judgment in that case.[†]

The *Attorney General* said that it was so no doubt, but in that case he knew that the truth would in no way be injurious to his client. The present application ought not to be resisted. His learned friend was mistaken in supposing that a commission might issue, for no commission to examine witnesses could issue in a criminal case.

Lord CAMPBELL.—But that is not objectionable. It would be much more satisfactory to have the witnesses examined in the box.[‡]

The *Attorney General* said it would be so, but that was not a reason why Dr. Newman should not be enabled to examine witnesses in this preliminary inquiry. Dr. Achilli had quitted the

cost and previous prejudice: and much benefit he got from application to the Court or the prosecutor to bring it on more quickly, as will be seen in the subsequent part of the case. The Court would not give him time when he wanted it, to procure evidence, nor prevent delay when it prevented him from retaining his evidence.—See his affidavits, *post*.

[†] What did that matter, if the counsel were right in deeming it fair and just (which the Court did not dispute); and if the case were in point as to the present, which the Court certainly did not disprove?

[‡] But suppose they could not be got to come over, as was the case with many, and as the Court must have known was very probable?

Roman Catholic Church, and he now came forward to denounce what he called the offences of the clergy of that Church. Dr. Newman alleged that he was not a credible witness on such a matter, and set forth certain acts of the life of Dr. Achilli to prove that allegation. Dr. Achilli called that a libel on him, and Dr. Newman said, "Give me time and I will get evidence to support my allegations; but I must have time to enable me to get that evidence." Surely he had a right to what he thus asked. If this rule should be discharged, Dr. Newman would have no means of doing what he required for his defence, and of resisting the issuing of this information.^v It was impossible to say that the matter could be properly investigated, with any reasonable possibility of the defendant defending himself, unless he was allowed to obtain this evidence, to which he was undoubtedly entitled.

Mr. *Badeley*, on the same side, submitted with confidence that this rule must be made absolute, not only for the purposes of the ends of justice, and the protection of the person whose case was under the consideration of the Court, but for the benefit of the Court itself, the application now made ought to be granted. In cases of this sort, where a criminal information was applied for, the Court would act with the greatest hesitation and caution. In such a case the Court would require the man who came to ask for its protection, that he should come into court with clean hands, and should give the Court assurance that he was entirely innocent of the offence with which he was charged. Here additional evidence to that of Dr. Achilli himself was required to put the case fairly under the consideration of the Court. Dr. Achilli could not be injured by this application. He would still be at liberty to claim redress at the hands of a jury. The alleged libel here charged certain offences to have been committed in distant parts of the world. It was impossible that Dr. Newman should be expected to call together at once all the witnesses who were to support the charge. A person might come into court asking this extraordinary remedy, and it might turn out that if he were not so guilty as that he might be convicted by a jury, still he might be quite undeserving of that protection which he asked for. On the other hand, it might be abundantly reasonable, fair, and proper that he should have this protection, and that in the result it would turn out so; still, it would be satisfactory to the Court to know that it had granted to the defendant a fair and reasonable means of defending himself, such as in law he was entitled to, and such as in justice he ought to enjoy.

Lord CAMPBELL.—I am of opinion that this rule ought to be discharged. I by no means consider as inflexible the rule that if a man publishes a libel imputing to another the perpetration of some misconduct in a foreign country, the publisher of the libel is bound

^v Nor, in reality, of defending himself at the trial.—See previous note.

instantly to be able to justify the truth of what he has alleged. With respect to the Pacifico case, I do not think that it is any precedent for the present ; in the first place, because what occurred was done by consent ; and, secondly, because if it had been resisted I should have been of opinion that, under the circumstances of that case, the defendant's was a fair application.^w There the libel was published in a London journal, and consisted of a letter from the correspondent in Greece of that journal ; and it was stated in the affidavit that that correspondent was at that time living in Greece, and that the defendant had reason to believe that he would be able to justify the truth of the statements contained in his letter.^x This is a very different case ; for here, the imputations being of the gravest and most serious kind, there is not the mention of one single witness on whose credit Dr. Newman has made the imputations, or from whom he says he expects to be able to justify what he has stated.^y The affidavit, therefore, comes to this—that he may have made the statements upon common rumour, and, without saying that he has invented anything^z (for I believe that he would be the last man in the world to do so),^a he may on mere rumour have brought forward these charges without any reason whatever to believe that he had the means of proving them ;^b and he now wishes to send out a commission, by which he may be enabled to find some persons who will make an affidavit in support of these charges. To allow that would, indeed, be to place a person whose character was assailed in a very disadvantageous position, and one in which he ought not in fairness to be placed ;^c and I was much struck by the remark that Dr. Newman does not even now state his belief in any one of the charges which he has made. I am therefore of opinion, that, exercising the discretion which belongs to us, we ought not to grant this application. According to the law as it now exists, he will have the opportunity of vindicating the truth of the charges he has made ;

^w Which disposes of the first reason, for, if just, the Court should grant it.

^x How could he do so, on the rule for the issuing of the information, except by affidavit, made abroad ?

^y As if that were of the slightest importance, when he swore positively that he believed he should be able to prove the charges !

^z Then why have suggested so foul an insinuation ?

^a How so, if “the last man in the world to do so ?” For what material difference in morality is there between bringing serious charges forward on mere rumour, or on mere invention ? And all this is thrown out by Lord Campbell with the full knowledge that these charges had been brought forward more than a year before, in one of the leading reviews, and repeatedly in other publications, without contradiction ; and it is actually admitted in Achilli's own affidavit, before the Court at this time, that these charges had been brought against him in 1850, and that it had been published in the *Record* that he had interfered with an inquiry instituted.

^b Why not, if the affidavit were true ? Did Lord Campbell mean to insinuate the possibility that Dr. Newman wanted to get up affidavits, true or false ?

^c He does state it, in the strongest way possible or proper ; he swears he believes them proveable.

and if he can show that he has acted upon a laudable motive in publishing them, he will establish a complete justification for what he has published.^d

Mr. Justice PATTESON.—I am entirely of the same opinion. This case is distinguishable from that of *M. Pacifico* for the reasons already given by Lord Campbell. I do not recollect any instance in which this Court has enlarged a rule of this kind, in order that the defendant might send to a distance to discover evidence in support of his charges.^e There is a case in which I was counsel for the defendant, where an application was made to the Court: the case against Dr. O'Meara, at the instance of Sir Hudson Lowe. Many affidavits were filed in that case, but there was not any opposition, and the rule was enlarged by consent.^f There never has been any application of this sort granted by this Court.^g

Mr. Justice COLERIDGE.—I am entirely of the same opinion. I have no wish to add any remarks to those already made on the affidavits, but I will say a single word. The Court does exercise a discretion in these matters, but it is not an arbitrary discretion, but is one which is exercised according to settled general rules,^h such as from experience we find to be most conducive to the advancement of justice. There is no case where an application similar to this has been granted. The affidavit fairly lies open to the objection made to it, and, independently of any personal consideration, there is enough to show the extreme inconvenience which would result from granting the present application. It is new to me to hear that this Court requires, in cases of criminal informations, something additional to the declaration of the person who comes to seek our protection, denying in clear and express terms the imputation cast upon him.ⁱ I am unwilling to lend myself to the creation of any new precedent on facts such as are now laid before us, and I think that this rule ought to be discharged.

Mr. Justice WIGHTMAN.—I am of opinion that this rule should be discharged, on the ground that the affidavit on which it is moved

^d It does not seem to have struck the chief justice that perhaps he might prove the occasion of publication to have been laudable, and yet fail to prove the charges true, which might, nevertheless, be true. The noble and learned lord thinks that case not worth contemplating or providing for!

^e Which was not asked. The application was not for time to discover, but time to obtain, evidence: the evidence was sworn to exist.

^f Just so; as in *Pacifico's* case, the application was so obviously reasonable and proper, that even the opposite side assented to it! And this is actually used as an argument for not acceding to a similar application!

^g No such application had been granted by the Court, simply because so plainly just that the opposite party always assented, and the Court was never called upon to grant it.

^h What rules are there? It has been already shown that the application was obviously essential to the advancement of justice.

ⁱ See the above note. Because it is "new" to hear of any application being ever made in an affidavit disclosing that those charges had been made long ago, and not disclosing any notice taken of them at that time.

is substantially defective. I was particularly struck by the argument upon it, that it does not anywhere appear in the affidavit that Dr. Newman believed the charge in fact and in truth, nor that he has any evidence to substantiate the statement, but he thinks that if time is given he may obtain such evidence. This is not enough.†

Rule for time discharged.

PLEADINGS.

“*In the Queen’s Bench, Michaelmas Term, 15th Vict. 1851, Middlesex.*—

Be it remembered, that C. F. Robinson, Esquire, coroner, and attorney of our Lady the Queen in the Court of Queen’s Bench, who prosecutes for our said Lady the Queen in this behalf, comes here into the said court at Westminster, the 21st day of November, in the 15th year of the reign of our said Lady, and gives the court to understand and be informed, that John Henry Newman, Doctor of Divinity, late of the parish of Aston, in the county of Warwick, contriving and wickedly and maliciously intending to injure and vilify one Giovanni Giacinto Achilli, and to bring him into great contempt, scandal, infamy, and disgrace, on the 1st of October, 1851, did falsely and maliciously compose and publish a certain false, scandalous, malicious, and defamatory libel, containing divers false, scandalous, malicious, and defamatory matters concerning the said G. G. Achilli, that is to say :—

The information set out the libel *verbatim*, with the usual inuendoes. The libel was as follows :—

“And in the midst of outrages such as these, my Brothers of the Oratory, wiping its mouth and clasping its hands, and turning up its eyes, it trudges to the Town Hall to hear Dr. Achilli expose the Inquisition. Ah! Dr. Achilli,—I might have spoken of him last week, had time admitted of it. The Protestant world hoots to hear him, because he has something to tell of the Catholic Church. He has something to tell, it is true; he *has* a scandal to reveal, he *has* an argument to exhibit. It is a simple one, and a powerful one, as far as it goes—and it is *one*. That one argument is himself; it is his presence which is the triumph of Protestants; it is the sight of him which is a Catholic’s confusion. It is indeed our confusion, that our Holy Mother could have had a priest like him. He feels the force of the argument, and he shows himself to the multitude that is gathering on him. ‘Mothers of families,’ he seems to say, ‘gentle mothers, innocent children, look at me, for I am worth looking at. You do not see such a sight every day. Can any Church live over the imputation of such a production as I am? I have been a Roman priest and a hypocrite; I have been a profligate under a cowl. I am that Father Achilli, who, as early as 1826, was deprived of my faculty to lecture, for an offence which my superiors did their best to conceal; and who in 1827 had already earned the reputation of a scandalous friar. I am that Achilli, who in the diocese of Viterbo, in February, 1831, robbed of her honour a young woman of eighteen; who in September, 1833, was found guilty of a second such crime, in the case of a person of twenty-eight; and who perpetrated a third in July, 1834, in the case of another aged twenty-four. I am he,

† What more could he say, than that he believed the charges proveable?

who afterwards was found guilty of sins, similar or worse, in other towns of the neighbourhood. I am that son of St. Dominic who is known to have repeated the offence at Capua, in 1834 and 1835, and at Naples again in 1840, in the case of a child of fifteen. I am he who chose the sacristy of the church for one of these crimes, and Good Friday for another. Look on me, ye mothers of England, a confessor against Popery, for ye "ne'er may look upon my like again." I am that veritable priest who, after all this, began to speak against, not only the Catholic faith, but the moral law, and perverted others by my teaching. I am the Cavaliere Achilli who then went to Corfu, made the wife of a tailor faithless to her husband, and lived publicly and travelled about with the wife of a chorus-singer. I am that Professor in the Protestant College at Malta, who with two others was dismissed from my post for offences which the authorities could not get themselves to describe. And now attend to me, such as I am, and you shall see what you shall see about the barbarity and profligacy of the inquisitors of Rome.' You speak truly, O Achilli, and we cannot answer you a word. You are a priest; you have been a friar; you are, it is undeniable, the scandal of Catholicism, and the palmary argument of Protestants, by your extraordinary depravity. You have been, it is true, a profligate, an unbeliever, and a hypocrite. Not many years passed of your conventual life, and you were never in choir, always in private houses, so that the laity observed you. You were deprived of your professorship, we own it; you were prohibited from preaching and hearing confessions; you were obliged to give hush-money to the father of one of your victims, as we learn from the official report of the police of Viterbo. You are reported in an official document of the Neapolitan police to be 'known for habitual incontinency;' your name came before the civil tribunal at Corfu for your crime of adultery. You have put the crown on your offences by, as long as you could, denying them all; you have professed to seek after truth, when you were ravening after sin. Yes, you are an incontrovertible proof that priests may fall and friars break their vows. You are your own witness; but while you *need* not go out of yourself for your argument, neither are you *able*. With you the argument begins; with you, too, it ends: the beginning and the ending you are both. When you have shown yourself, you have done your worst and your all; you are your best argument and your sole. Your witness against others is utterly invalidated by your witness against yourself. You leave your sting in the wound; you cannot lay the golden eggs, for you are already dead."

Which said false, scandalous, malicious, and defamatory libel the said J. H. Newman did then publish, to the great damage, scandal, and disgrace of the said G. G. Achilli, in contempt of our said Lady the Queen, and believes to the evil and pernicious example of all others in the like case offending, against the peace of our said Lady the Queen, her crown and dignity. Whereupon the said coroner and attorney of our said Lady the Queen, who for our said Lady the Queen in this behalf prosecuteth, prayeth the consideration of the Court here in the premises, and that due process of law may be awarded against the said J. H. Newman in this behalf, to make him answer to our said Lady the Queen touching and concerning the premises aforesaid."

"*In the Queen's Bench, Michaelmas Term, 15th Vict. 1851.*^k—*The Queen v. J. H. Newman.*—And the said J. H. Newman appears here in

^k These pleas were filed 30th December, 1851. As first delivered, they were

court, by Henry Lewin his attorney, and the said information is read to him, which being by him heard and understood, he complains to have been grievously vexed and molested under colour of the premises, and the less justly because he saith that he is not guilty of the said supposed offences in the said information alleged, &c.

“And for a further plea the said J. H. Newman saith,

“1. That before the composing and publishing of the said alleged libel, to wit, on the 1st of January, 1830, &c., the said G. G. Achilli was an infidel, to wit at Westminster, in the county of Middlesex.

“2. That the said G. G. Achilli was and exercised the functions of a priest of the Church of Rome at Viterbo, Capua, Naples, and elsewhere, and whilst such priest, &c., he secretly abandoned and disbelieved the peculiar doctrines of the Church of Rome, to wit, &c.; and though outwardly professing chastity and purity of life, he committed the several acts of fornication, adultery, and impurity hereinafter mentioned, and by reason thereof was a hypocrite.

“3. That the said G. G. Achilli was a profligate under a cowl, in that, being a member of the order of St. Dominic or Friars Preachers, and bound by vows of chastity, poverty, and obedience, he committed the several acts of fornication and impurity hereinafter mentioned.

“4. That the said G. G. Achilli had a faculty to lecture at Viterbo, of which faculty, as early as 1826, he was, for certain misconduct, deprived by the superior of the order, one F. Velzi, but which misconduct was concealed and suppressed by the said superior, and is to the said J. H. Newman unknown.

“5. That the said G. G. Achilli, in 1826, was a friar of the order of St. Dominic, in the convent of Gradi, at Viterbo, and, contrary to his duty as such friar, neglected to attend divine service in the choir, and, without the permission of his superior, had frequent intercourse with persons not belonging to the said order, and so in 1827 had already earned the reputation of a scandalous friar.

“6. That the said G. G. Achilli, in February, 1831, at Viterbo, debauched, seduced, and carnally knew one Elena Valente, then being chaste and unmarried, and of the age of eighteen years, and then and there robbed her of her honour.

“7. That the said G. G. Achilli, at Viterbo, debauched, &c., one Rosa de Alessandris, then being chaste and unmarried, of the age of twenty-eight years, and robbed her of her honour, and on the 1st of September, 1833, at Viterbo, was found guilty thereof, upon due inquiry before the bishop of Viterbo.

“8. That the said G. G. Achilli, on the 1st of July, 1834, at Viterbo, debauched, &c., a certain other young woman of the age of twenty-four

demurred to, and had to be amended; then they were demurred to again, and again amended. The technical and disgraceful character of these objections, and their obvious object to obstruct, protract, and delay the proceedings, will be appreciated from a specimen or two. The plea charged “acts of impurity” and “lewd conduct” were alleged; and it was objected that it did not state “in what this impurity and lewdness consisted!” It also charged, that the prosecutor “spoke against the laws of morality, continence, and purity,” and it was objected, “what did he speak?” Again, it charged “criminal intercourse with a female child,” and it was objected, “that it did not show she was chaste, or had any honour to lose!” And while time was consumed with these discreditable technicalities, witnesses were lost; and thus defendant was driven to such strictness of statement as to make proof scarcely possible, and denial very safe.

years, whose name is to the said J. H. Newman unknown, and then and there robbed the said woman of her honour.

“9. That the said G. G. Achilli, at Viterbo and in the neighbourhood, committed sins, similar or worse, and debauched, &c., one Vincenza Guerra, then being chaste and unmarried; also another woman, then being chaste and unmarried, whose name is to the said J. H. Newman unknown; and that the said G. G. Achilli was afterwards at Rome, before the Court of the Holy Office, or Inquisition, found guilty of the said several offences.

“10. That the said G. G. Achilli, on the 1st of January, 1835, being a friar of the order of St. Dominic, at Capua, debauched, &c., a certain other woman, being chaste and unmarried, whose name is to the said J. H. Newman unknown.

“11. That the said G. G. Achilli, on the 1st of January, 1840, at Naples, debauched, &c., one Maria Giovanni Principe, a female child of fifteen years of age, &c.

“12. That the place where the said G. G. Achilli debauched the said Rosa de Alessandris was the sacristy of the church of Gradi, at Viterbo, and that the day on which he debauched the said female child at Naples, was Good Friday, in the year 1840.

“13. That the said G. G. Achilli, being a priest of the Church of Rome, at Rome, Capua, Naples, and Malta, spoke and taught against the truth of divers doctrines of the Catholic faith, to wit, &c.; and also against the laws of morality, to wit, the moral obligation of chastity and continence, and thereby did pervert one Luigi De Sanctis, one Fortunato Saccares, the said Rosa de Alessandris, the said Elena Valente, and the said Maria Giovanni Principe, from their belief in such doctrines and obedience to such laws.

“14. That on the 2nd of July, 1843, at Corfu, the said G. G. Achilli debauched and made faithless to her husband, one Marianna Crisaffi, the wife of one Nicolo Garamoni, a tailor; and afterwards, on the 1st of August, 1843, at Corfu, the said G. G. Achilli publicly cohabited and committed adultery with one Albina, the lawful wife of one Vincenzo Coriboni, a chorus singer, and publicly travelled about with her from Corfu to Zante.

“15. That on the 1st of May, 1843, and for twelve months preceding, the said G. G. Achilli held the office of professor of theology in a Protestant college, to wit, St. Julian's College, at Malta, and during that period hindered and frustrated an investigation then pending before Messrs. Hadfield and Brien, officers of the college, concerning charges of fornication and other gross immorality against one Fortunato Saccares, and one Pietro Leonini, in which charges the said G. G. Achilli was also implicated, by sending away the said Fortunato Saccares to Sicily; and thereupon the earl of Shaftesbury and others, the committee of the said college, dismissed the said G. G. Achilli from his said office of professor, and that the said G. G. Achilli was dismissed as well for hindering and frustrating the said investigation as for the said several acts of sin, fornication, and immorality hereinbefore mentioned, but which the said committee were then unwilling to, and have still forborne to state and describe, and cannot get themselves to describe specifically.

“16. That the said G. G. Achilli, in the years 1847, 1850, and 1851, being resident in London, did attempt to seduce and debauch one Harriet Harris, then being chaste and unmarried, and did conduct himself lewdly and indecently as well to the said Harriet Harris as to one

Jane Legg, one Sarah Wood, one Catherine Gorman, and one Mdle. Fortay ; and by reason thereof, and of the said several other matters hereinbefore set forth, the said G. G. Achilli was guilty of extraordinary depravity, and was and is the scandal of Catholicism.

“17. That the said G. G. Achilli was a profligate by the commission of the said acts of profligacy, and also had been and was an unbeliever and a hypocrite.

“18. That the said G. G. Achilli, at the convent of Gradi, at Viterbo, in the year 1836, continually absented himself from the choir of the chancel of the said convent during Divine service, and was a frequenter of private houses, contrary to the rules of the said order of St. Dominic, and had thereby given offence to divers lay persons, not members of the said order, whose names are to the said J. H. Newman unknown.

“19. That on the 16th day of June, 1841, at Rome, by the Court of the Holy Office, or Inquisition, the said G. G. Achilli was suspended from the celebration of mass and disabled from any cure of souls, and from preaching and hearing confessions, and from exercising the sacerdotal office.

“20. That, after the said G. G. Achilli had debauched the said Rosa de Alessandris, at Viterbo, of the age of 23 years, on the 1st of September, 1833, he was obliged to give the sum of 50 scudi (10*l.*) to the father of the said young woman as damages, and that by the official reports of the police at Viterbo, it is declared that the said G. G. Achilli had given the said money, as such hush-money, to the said father of the said young woman.

“21. That, on the 1st of January, 1839, in and by an official document or report of the officers of police at Naples, and being amongst the archives and documents of the said Neapolitan police, the said G. G. Achilli was reported and declared to be known for habitual incontinency at Naples.

“22. That after the said G. G. Achilli had debauched the said Marianna Crisaffi, the wife of the said Nicolo Garimoni, the tailor, on the 3rd of July, 1843, the name of the said G. G. Achilli came before the civil tribunal at Corfu in respect of the said crime of adultery ; that is to say, that Nicolo Garimoni, by Antonio Capello, his advocate, presented a petition to the Court, praying that a petition presented by his said wife Marianna for alimony should be rejected, upon the ground that the said Marianna had been guilty of adultery with the said G. G. Achilli, and offered to prove the same by lawful witnesses.

“23. That the said G. G. Achilli, on the 1st of January, 1850, and on divers other days, though knowing himself to have been guilty of the several offences aforesaid, did deny them all ; and that the said G. G. Achilli, when he committed the said offence, and thereby was, in fact, ravening after sin, did profess and pretend to be seeking after truth : and that by reason of the said offences the said G. G. Achilli was and is unworthy to be believed in respect of the charges by him made against the doctrines and discipline of the Church of Rome, and the persons professing the same. And so the said J. H. Newman says that the said alleged libel consists of allegations true in substance and in fact, and of fair and reasonable comments thereon.

“And the said J. H. Newman further saith, that at the time of publishing of the said alleged libel, it was for the public benefit that the matters therein contained should be published, because he says that great excitement prevailed, and numerous public discussions had been

held in divers places in England, on divers matters of controversy between the Churches of England and Rome, with respect to which it was important the truth should be known; and inasmuch as the said G. G. Achilli took a prominent part in such discussions, and his opinion and testimony were by many persons appealed to and relied on as of a person of character and respectability, with reference to the matter in controversy, it was necessary for the purpose of more effectually examining and ascertaining the truth, that the matters in the said alleged libel should be published and known, in order that it might more fully appear that the opinion and testimony of the said G. G. Achilli were not deserving of credit or consideration, by reason of his previous misconduct; and also because the said G. G. Achilli had been and was, at Birmingham, Leamington, Brighton, Bath, Cambridge, Huntingdon, Winchester, and elsewhere, endeavouring by preaching and lecturing to excite discord and animosity towards her Majesty's Roman Catholic subjects, and against the religion and practice of persons professing the Roman Catholic religion, against the peace of our said lady the Queen; and it was of importance and conducive to the diminishing of such discord and animosity, and to preserve the peace of our said lady the Queen, that the said matters should be published and known to all the liege subjects of our said lady the Queen; and also because the said G. G. Achilli had improperly pretended to such subjects that he was a person innocent of the said crimes and misconduct, and that he was greatly injured by the said foreign ecclesiastical tribunals, and that he had been persecuted and oppressed by the Roman Catholic Church and by the bishops and authorities thereof, on account of his religious opinions, and that he was a martyr, on account of his religious opinions; and by means of such improper pretences was endeavouring, and was likely to obtain credit and support from such subjects, by reason of their being ignorant of the said misconduct of the said G. G. Achilli, it then became, and was of public importance, and for the public benefit, to expose the impropriety and want of truth of such pretences, and to prevent the said subjects being deceived and misled by such pretences, and to have the real character of the said G. G. Achilli, and his conduct, made known to such subjects and the public in general. And also because many benevolent persons and the public generally were at that time disposed to show kindness and give assistance to the said G. G. Achilli, on the ground of his having been harshly and unjustly treated by the said Court of the Holy Office, or Inquisition, and by the said superior of the said order of St. Dominic, and on the ground that he was a person deserving of kindness and assistance; and it was for the benefit of the public that the said matters should be published, for the purpose of showing that the said G. G. Achilli had been treated fairly and properly, and according to his deserts, by the said court and the said superior; and that the said G. G. Achilli is a person wholly undeserving of kindness and assistance, and because the said G. G. Achilli had obtained and was likely again to obtain preferment and employment of public trust and confidence, which he was unfit to obtain by reason of the said matters, and which he had obtained and was likely to obtain, only by reason of the said matters being unknown, and unpublished. And so the said J. H. Newman says he published the said alleged libel, as he lawfully might, for the causes aforesaid; and this the said J. H. Newman is ready to verify. Wherefore, he prays judgment, &c."

(Signed) "EDWARD BADELEY."

“*Hilary Term, 16th Victoria, 1852.*—The said C. F. Robinson, Esquire, coroner and attorney, &c., as to the plea first pleaded, puts himself upon the country; and, as to the plea secondly pleaded, saith, that the said J. H. Newman, of his own wrong, and without the cause in his said plea alleged, composed and published the said libel, as in the said information alleged, &c.”

“*Hilary Term, 16th Vict. 1852.*—And the said J. H. Newman, as to the replication of the said F. Robinson, puts himself upon the country, &c.¹

COURT OF QUEEN'S BENCH—APRIL 21, 1852.

Sir A. Cockburn (with whom was Mr. *Badeley*) moved that the case be appointed for an early trial, the sittings after this term. He moved on five affidavits. First, there was the affidavit of Dr. Newman, setting forth all the previous proceedings and the history of the pleadings. It stated

“That on the 16th of January a demurrer on the part of the prosecutor was filed to the special plea of the defendant. That he caused application to be made to the prosecutor's attorneys, to know what their objections were to the plea, and they declined to give such information; and thereupon he was compelled to amend his plea in the best way he could, without knowing the particulars of the objections, as he was most desirous to remove all technical objections, and to go into the merits of the said alleged libels. That the prosecutors again objected to the plea, and thereupon he caused application to be made to the prosecutor's attorneys for the particulars of their objections, with which they complied, and thereupon he caused his plea to be amended, to meet the objections, though he was advised by counsel, and fully believed that his pleas, as first settled, were sufficient in law and fact; and if the same contained any informalities it was through accident, and not with any view of delay on the part of defendant or his advisers. That the objections taken to the plea, and the legal form thereof, occasioned such delay that the pleas, as last amended, were not filed until the 9th February, 1852. That fully believing that the trial would come on on or about the 16th February, he had caused his witnesses to be requested to come to this country ready for the trial; and he had not time afterwards to write to them to prevent their coming into this country by that time; and if he had not sent for them forthwith to come by that time, the prosecutor might^m have joined issue (without a demurrer), and the trial would have taken place at the sittings after Hilary term; but the defendant would have been left without his witnesses, and deprived of the just defence which their testimony could afford to him. That it was absolutely necessary that his witnesses should come to England for his defence. That five of them arrived in London from Corfu about the 16th February, and two of them from Malta on the 6th, and two of them (females) arrived in Paris, one about the 13th January and the other about the 1st February; one of them bringing with her a child in arms, and leaving a child at

¹ *I. e.* the parties joined issue. This was on February 26th; it might have been in December but for the discreditable demurrers already alluded to.

^m And undoubtedly would.

home five or six years old; and she refused to leave her home without her husband. That the defendant has been put to a very great and serious expense in the necessary support of the said witnesses, from the time of their leaving home down to the present time.ⁿ That the female witnesses in Paris are very desirous and urgent to return again to their own homes, and that several of the witnesses are said to have threatened to return to their own homes, without waiting for the trial, and that one of the English witnesses has requested to be permitted, and threatened to go to America before the trial of the cause; but this defendant cannot comply with these desires or requests, as he is advised and believes that their testimony is absolutely necessary for his just defence.^o That he was desirous to try the cause at the spring assizes for Surrey, about 22nd March, for which there was sufficient time; and he caused application to be made to the prosecutor's attorneys for their consent to such a trial, but they declined to accede to it. That he is informed that several of his witnesses are suffering serious losses by reason of the delay in the trial of the cause, and that these losses will be much increased if the delay is continued; and that some of the witnesses have threatened to return home. That he believes they will leave the country unless the cause is speedily heard, and thereby the defendant will be deprived of his just defence to the prosecution.^o

Giuseppe Montanori, of Corfu, but now staying at Church-street, Greek-street, Soho, made oath and said, that he arrived in London the 16th February, that he was staying there solely for the purpose of giving his evidence in the cause, and at great inconvenience and loss in his trade, a house-painter.

Antonio Russo, of Corfu, staying at, &c., made a similar affidavit, stating that he was a journeyman carpenter, and his master had now engaged another man in his place, in consequence of his having been detained in England.

Niccolo Garramoni, of Corfu, tailor, made a similar affidavit.

On the 14th April, Mr. Lewin wrote to prosecutor's attorneys, asking consent to early trial, "to prevent the heavy expense of witnesses being continued," having previously, in February, proposed to try at the Surrey Spring Assizes, an offer which was refused. Lord Campbell declined to take the case, unless an understanding could be come to that it would only last two days, which of course was utterly impossible, and no arrangement for a trial could be made in Easter Term. So the cause stood over until the "sittings after Trinity Term," which commenced in June, after a delay of not less than four months from the time at which the cause could have been tried, and would have been, but for the conduct of the prosecutor's attorneys, and the delay they produced.

ⁿ During this interval, Dr. Newman's attorney had to write to the prosecutor's, complaining of attempts to tamper with the witnesses.

^o It is requisite to give the address of a person making affidavit; and this the prosecutor's attorneys well knew, of course; and Achilli was thus able to find the defendant's witnesses out, and had opportunities of speaking with them. Mr. Lewin, the defendant's attorney, made a similar affidavit.

REPORT OF THE TRIAL.

COURT OF QUEEN'S BENCH—JUNE 21, 1852.

(Sittings at Westminster, before Lord Campbell and a Special Jury.)

THE QUEEN ON THE PROSECUTION OF GIACINTO ACHILLI
V. DR. JOHN HENRY NEWMAN.

The *Attorney General*, the *Solicitor General*, and Mr. T. F. Ellis appeared for the prosecution; and Sir A. E. Cockburn, Mr. Serjeant Wilkins, Mr. Bramwell, Mr. Joseph Addison, and Mr. Badeley for the defence. Some of the special jury summoned did not answer to their names, and the parties prayed a *tales de circumstantibus*.^p

Mr. Ellis opened the pleadings. This was a criminal information filed by her Majesty's coroner against John Henry Newman, charging him with the publication of a libel upon Giacinto Achilli, to which the defendant had for a first plea pleaded not guilty, on which issue was joined; secondly, he had pleaded specially, setting forth certain allegations of fact and conclusions, to the effect that the allegations in the libel were true in substance and in fact, and that the publication of them was for the public advantage.^q To these pleas the prosecutor replied that the defendant had made the publication of his own wrong, and without the excuses alleged by him in the pleas, and on this replication the defendant had taken issue.

The *Attorney General* (Sir F. Thesiger) then addressed the jury for the prosecution. He said,—This is a criminal information, which has been filed against Dr. Newman for a libel contained in a pamphlet which was published in the month of October last year (one of a series), entitled "Lectures on the present Position of Catholics in England, addressed to the Brothers of the Little Oratory." The prosecutor, Dr. Achilli, is an Italian by birth, and formerly was a monk of the Dominican order, and a priest of the Roman Catholic Church. He has since embraced the doctrines of

^p *I.e.* were willing to fill up the number with such of the bystanders as were common jurors. Why were not the special jurors called on their fines?

^q Under Lord Campbell's Act.—See Introduction and notes, *ante*, p. 14.

the Protestant faith, and is now a preacher of the Gospel at the Italian Protestant Chapel, in the neighbourhood of Golden-square. The defendant, Dr. Newman, as most of you probably well know, was formerly a clergyman of the Established Church, and was a distinguished graduate of the University of Oxford; he has since been converted to the Roman Catholic faith, of which he is now, if not one of the most able, certainly one of the most zealous defenders. Dr. Achilli, the prosecutor, before the year 1850, had paid occasional visits to this country, but at the commencement of that year, having recently escaped from the prisons of the Inquisition at Rome,^a in which he had been confined for six months, he arrived in this country, and has been resident here ever since. He is a person of considerable talent, of great self-reliance, and of indomitable energy. He appears to possess a strong and determined will, and a spirit of independence which makes him occasionally unwilling to submit to authority. Such a person having revelations to make respecting the dungeons of the Inquisition, in which he has been twice incarcerated, and also respecting the errors of that faith which he has relinquished, and respecting the conduct of its professors, was likely to be gladly listened to.^b He attended various public meetings, in which the statements he made excited a great deal of interest, and, being published, were read with great avidity. It was, of course, under these circumstances, evident to the members of that Church which he had quitted, that he was a most formidable adversary, and one who was by no means to be despised; and they seemed to have considered that it was an important object that they should disable his authority, impeach his veracity, and destroy his credit; and no person appears to have addressed himself to the attainment of these purposes with more zeal, if with more ability, than Dr. Newman. He was aware of the temper of the English people; he knew that nothing was more likely to scandalize them than the notion of any impropriety committed by any person clothed with a sacred character; and he, therefore, very industriously raked together all the scandals which the malice of the enemies of Dr. Achilli had disseminated; and he gave an account of them in his lectures, and published them in the pamphlet which was the subject of this prosecution.^c He was engaged, in 1851, in delivering a series of lectures to the brothers of the Oratory, and the pamphlet which is now under consideration forms the fifth of those lectures, and is entitled "On the Logical Inconsistencies of the Protestant Faith." He undertook in this lecture to perform what he no doubt

^a This was meant for, and made the main and the master-point of prejudice in the case; that the prosecutor was a victim of the Inquisition!

^b Most true; eagerly listened, without the least desire to discover the truth.

^c The most simple and most severe comment on this passage is the observation of Sir A. Cockburn, that Sir Frederick could not be so ill instructed as not to know that these charges had all been published in the *Dublin Review* of July, 1850!

considered an act of duty to the faith he had newly embraced—namely, to destroy the character of Dr. Achilli. In page 195 he introduces the subject in this way:—"Oh! the one-sided intellect of Protestantism!" (He reads the libel.)

In Michaelmas term last the Court granted leave to file a criminal information against the Messrs. Burns and Lambert for the libel as published by them. Subsequently, Dr. Newman admitted that he was the author of the libel, and his name, by the leave of the Court, was substituted for that of the Messrs. Burns and Lambert.

If Dr. Newman had contented himself with general charges of immorality and profligacy on the part of Dr. Achilli, there would have been no reason for him to take the slightest step to vindicate his character against such vague and general imputations, for of course they would be ascribed to that hostility which Dr. Newman would entertain towards Dr. Achilli, and he could have afforded to pass them over with silence and contempt. But it was perfectly impossible for him so to deal with charges of this description—charges specific and minute in their character—containing, if not in all instances the names of the persons referred to, at least such descriptions of them as pointed out clearly and distinctly who they were, together with minutiae of details as to places and times,—it is quite clear that if Dr. Achilli had taken no notice of them, if he had not called on the accuser to support his accusation, and to justify the statements he had made, the world would fairly and justly have believed that the charges were true, and that it was out of the power of Dr. Achilli to controvert, or even to deny them.^v Dr. Achilli, therefore, felt bound to appeal to the law for the vindication of his character against these foul slanders, and to call on his accuser in a court of law, if he can, to make good these charges against him. Dr. Achilli applied to the Court of Queen's Bench to be allowed to file a criminal information against Dr. Newman. Before he could obtain the sanction of the Court to file that information, it was absolutely necessary that he should give a distinct and specific denial to the different charges which were alleged against him. He did so; the information was granted, and Dr. Newman has now, as you have heard, pleaded to the information. Now, until lately, a great anomaly prevailed in the law on the subject of proceedings for libel. If a person who alleged that he was injured by a libellous publication brought an action, it was competent to the person against whom the action was brought to plead, by way of justification, that the statements in the libel were true; and if he succeeded in establishing the truth, the party failed in his action. But if an indictment or criminal information were brought for the very same libel, it was not open to the party accused to plead

^v Then this inference, of course, is to be drawn from the fact that he allowed all the charges to be published in 1850, in the *Dublin Review*, with far more minuteness and detail, without taking any steps to vindicate his character.

the truth,^w because such proceedings being on the ground of the possibility of the publication leading to a breach of the peace;^x it was obvious that this consequence would result whether the statements were true or false, which led to the ordinary expression, "the greater the truth the greater the libel." This anomaly and absurdity in the law was removed by the noble and learned lord, who now presides, and who some years ago introduced to the legislature the Act by which, in cases of this kind, the party accused is enabled to plead the truth of the allegations contained in the libel, and adding to it that the publication was for the public benefit. Dr. Newman has availed himself of this privilege, and has, in his pleas, comprising twenty-three distinct charges, expanded the statements in the libel, and introducing the details which are necessary with respect to the particulars of the different charges; and he has undertaken to prove the truth of these statements so contained in his pleas.^y I need not say (since I have read the libel) that as the pleas follow its statements, they involve a series of charges of the most serious kind against the moral conduct and character of Dr. Achilli, the earliest period referred to being 1826; so that for twenty-six years we are called upon to enter into an investigation of his life, and conduct, and character. He is charged as early as 1831 with having seduced several women, some of whom are named in the plea and others are said to be unknown; he is accused of improper intercourse with other women, and with adultery with two of them; he is stated to have been removed from his professorship in the Malta Protestant college in consequence of endeavouring to stifle accusations of incontinence against others, and in which he was himself implicated. Finally, he is charged with the seduction of several females in this country, in the years 1849, 1850, and 1851; and all this is summed up with the statement which Dr. Newman puts forth against him as to his habitual incontinence. I have felt some degree of embarrassment, gentlemen, as to what was the course I ought properly to pursue in this most anxious investigation. Under ordinary circumstances I should anticipate the charge contained in the plea, and call the evidence in my power for the purpose of rebutting it, but it appears to me and to my learned friends whose assistance I have, that it would be impossible for us, under the extraordinary circumstances in which this case is presented to you, properly to adopt that

^w An information, however, could not be granted at all upon applicant's affidavits; it did not clearly appear that he denied the charges; or if on the affidavits of the defendant it appeared that they were true or stale. See Introduction, *ante*, p. 12.

^x This is a rather narrow reason; not to be found in the older cases; at least, with reference to criminal information; the object of which, undoubtedly, is the vindication of character.

^y In a few moments Sir Frederick was complaining that his client did not know what charges he had to meet! This plea was filed nearly five months before the trial! and it only embodied the article in the *Dublin Review*, published two years before!

course on the present occasion. I need not say to you that from the position of the parties, if the charges were true, that much greater facility would be afforded to Dr. Newman to obtain evidence in Italy to support them than would be afforded to Dr. Achilli to rebut them; and that if they were untrue, Dr. Newman would have much better means put in his power to bring forward witnesses than would be allowed to Dr. Achilli.^z We are here in utter uncertainty as to the mode in which Dr. Newman proposes to establish the truth of these charges.^a We are aware that there are some witnesses here for the purpose of giving their evidence; and we are in some small degree prepared to meet them and rebut their testimony; but we are utterly at a loss to know how most of these charges will be attempted to be proved, and therefore it is absolutely necessary for us to wait until the evidence on the part of Dr. Newman shall have been given, when we shall be enabled to meet that evidence by calling the witnesses before you whom we can bring forward, and giving you all the testimony in our power to enable you to judge as to the credibility of the evidence adduced by the defendant. I pledge myself to call Dr. Achilli before you at the proper time,^b and to submit him to the searching examination of my learned friend. As to him, the question is of course one of the deepest anxiety and interest. He is arraigned before you on his trial to answer these charges, directed against him for his supposed conduct during no less than twenty-six years of his previous existence. He calmly—and I believe I may add, fearlessly—awaits the result of this investigation. He is perfectly aware of all the difficulties with which he is surrounded; he knows that nothing but the most patient and careful attention will enable you to ascertain what degree of credit is due to the witnesses who will be called; but he is satisfied, though he is a foreigner—I had almost said because he is a foreigner—that that fairness and that impartiality which invariably distinguish British jurymen will be exhibited on

^z This could imply nothing less than an insinuation that Dr. Newman might easily find in the Catholic Church a conspiracy to get up false evidence: the very insinuation conveyed with such extreme delicacy and charity by the Lord Chief Justice of England on the argument of the rule. Otherwise it is impossible not to see that both parties were on an equality, trying the case in this country, each having to procure his evidence abroad, with this great advantage on the side of the prosecutor, that he could offer his own evidence.

^a This really was too bad. The reader, on referring to the plea, will perceive all the charges set forth with perfect particularity of time, place, and person. The prosecutor, by special demurrer, drove the defendant to this particularity in pleading; and (as will be observed in the course of the case) restricted him rigidly within those limits in respect to proof.

^b There was (as will be seen) a little mental reserve here as to the phrase "proper time," which in the case of a criminal information, the object of which are to vindicate the character of the prosecutor, usually is taken to mean the earliest possible time, in the opening of the case, whereas Achilli's counsel would not produce him for examination until the defendant had first been put to prove all his charges by other evidence, which of course he ought not to be able to do, though the charges were perfectly true.

the present occasion, and that you will join with those who are now intrusted with his vital interests in the endeavour to arrive at the truth in this inquiry, because by the truth, to which he is ready to commit himself, he must stand or fall in this his day of trial.

The *Solicitor General* (Sir F. Kelly) then called the first witness, when Mr. *Serjeant Wilkins* (Sir A. Cockburn having left the court for a few moments^c) moved that the witnesses on both sides be ordered out of court. The *Attorney General* asked if this was intended to apply equally to Dr. Achilli (who sat under his counsel). Mr. *Serjeant Wilkins*. Most assuredly. (The prosecutor appeared reluctant to leave.) The *Attorney General* looked wistfully at the Chief Justice, who said, with emphasis, "If you insist on it, brother Wilkins, of course it must be so."^d The *Attorney General*, encouraged by the tone of the Chief Justice, ventured to urge that the exclusion of the prosecutor, because he happened also to be a witness, would be inconvenient, as preventing personal communication with his counsel in the progress of the case. The LORD CHIEF JUSTICE said,—If the counsel for the defendant insists on it it must be so. Mr. *Serjeant Wilkins*. My lord, we feel it our duty to press it. The LORD CHIEF JUSTICE. Then Dr. Achilli must leave the court. He did so accordingly. Immediately one of the jury (a man of colour) rose and said with some warmth, that it seemed hard upon Dr. Achilli to exclude him, as he could not know what charges were brought against him. The LORD CHIEF JUSTICE said,—Gentlemen, as prosecutor of course he has a right to be in court, but as it is proposed to examine him also as a witness, and as all witnesses are ordered out of court, if the other side insist, I am bound to include him in the order.^e

^c This seems the fitting opportunity for mentioning, that as leading counsel are usually engaged in cases going on simultaneously in two courts, one or other of the leaders in a case have continually to be absent from one court to attend in another, as in this instance, and continually throughout the case; but Sir F. Thesiger on one side, and Sir A. Cockburn on the other, attended for the most part entirely to this case.

^d Was this quite fair? The effect was to throw the odium of excluding Achilli on Dr. Newman's counsel, instead of which, it ought to have been avowed as the act of the Court, and as in accordance with the invariable practice in trials like these. A slight thing serves to prejudice a jury, especially in such a case.

^e This is an ordinary, I believe invariable, application in cases in which there is to be a conflict of evidence, and the reason is obvious: the impossibility of testing the opposing testimony if the witnesses hear each other's evidence. The value of the practice, which really is all but a rule, is illustrated in the story of "Susanna and the Elders," and the instances are innumerable of life and character rescued from false witnesses by this simple yet effective expedient. Let the reader refer to the evidence of one witness for Achilli, the woman Garamoni, given while he was in court, but not while he was examined, and then they will the better understand the effect of his being in court while all the witnesses were examined, and before he was examined himself. As it is, however, he had the advantage of reading all the evidence given on the first two days, before he gave his own; which obviously is a most material consideration in estimating its value.

The *Solicitor General* then adduced formal evidence of the publication of the libel, and the admission of Dr. Newman's authorship.

The libel was then taken as read, and the case for the prosecution closed.^f

Sir *A. Cockburn* then addressed the jury as follows:—In rising to address you, gentlemen, on behalf of the defendant, it would be in vain to disguise that I feel that the task is calculated to inspire me with considerable apprehension. When I consider that this is a question involving religious considerations, it requires no more to make me unusually alive to the difficulties I shall have to encounter in procuring, even from gentlemen of your intelligence and honour, for my client that fair, impartial, and dispassionate hearing which is absolutely essential to the administration of justice in such a case. Gentlemen, I have not performed my part in the administration of justice for so many years without having become painfully impressed with the consciousness that even under the excellent system in which justice is administered, and the admirable and invaluable institutions which happily prevail in this country, and which are our boast and honour throughout the world, how difficult it is where questions of class-interest, or political, or still more, religious feelings are involved,—for even those who come to the administration of justice with the noblest and loftiest sentiments to protect themselves against that bias which such feelings are so naturally calculated to engender, and which will steal over our hearts, and occasionally pervert our understandings, without our being in the slightest degree conscious or sensible of the mischievous influences they exercise over our minds. And, gentlemen, in what case—if such unhappily be the frailty of human nature, that if even the best of us are open to these influences—in what case could there be more reason to apprehend its effects than in the present. It has been unhappily reserved for our days, that after a long period of repose and quiet, the flame of religious controversy should once more be kindled. Woe to our times that such should be the case; but unhappily it is so, and we must deal with these facts and circumstances as things over which we have no control. We have before us on the present occasion two great champions of these contending Churches. And now I ask any man to commune with his own heart, and to ask himself this question,—Are we not all prone to look on those whose religious opinions agree with our own, and who are the champions of our faith, with a partial eye, and to look with suspicion and distrust upon those with whom we disagree? In this case we have two converts, each from the faith of the other. Let any man ask himself how he looks on the secessions from the Church to which he belongs, or those who become converts to it. Is a convert made from the Roman Catholic to the Protestant Church—we look upon him as a man who has

^f At half-past ten. The plaintiff's whole case having only occupied three-quarters of an hour.

yielded to the force of reason and the light of truth, and who has adopted his new faith from sincere conviction. We entertain no doubts of his truthfulness. If any suspicions are cast upon his motives, our hearts, our passions rise immediately in his favour. We are disposed to look with favour on all he has done, and if his motives are called in question, we become at once the advocates of his cause. On the other hand, take the man who has become a seceder from our faith, and a convert to Catholicism, on him are we not prone to look with distrust? and are not his motives called in question? and are we not ready to call him an apostate? We look on him with a prejudiced and partial judgment, viewing his conduct as that of a man who has abandoned his faith—the faith to which we are attached, and we are inclined to ascribe his secession to some of the baser motives which actuate men's minds. Gentlemen, here we have the very case before us. Two converts, or, if you please, two apostates, are before you. Two men who have each abandoned the faith in which they were respectively brought up, and who have been converted to the opposite faith; each has become the champion of the cause to which he has recently passed over, and between them there is this issue and this contest; and on the part of one of them, a Catholic, I have to address a jury composed, perhaps exclusively, of Protestants. Do not believe, gentlemen, that I entertain the slightest distrust of you, or doubt that you have entered that box with the full determination faithfully to discharge the duty which before God and man you have sworn to discharge. But, if there be anything which inspires me with apprehension in this case, it is the distrust I feel as to the possibility of men placed under such circumstances discharging their duty without being subject to those influences which are so apt to dominate unconsciously over us; and if I make these observations, it is only to justify what I am about to do—to call on you, in the name of all that is sacred, to guard yourselves against the possibility of prejudice or passion interfering with the discharge of your duties—duties which require for their proper discharge calm, unbiassed, unprejudiced, and dispassionate minds. Let us now consider in what position Dr. Newman, the defendant, stands. It is clear that in attacking (and I admit that he has attacked the character of Dr. Achilli, in such a manner that he must justify that attack if he can, for so to attack a man without having the means of making good that justification, is, I admit, matter of most serious offence)—it is clear, I say, that the defendant has made these charges from no private or personal motive; that he had no private pique to gratify, no private spite to indulge, no vindictive feeling to satisfy against Dr. Achilli. Why then attack him, will be asked: and I may be allowed to ask why has he attacked Dr. Achilli? the Attorney General has suggested to us an answer to that question. He says that Dr. Achilli came forward as a man who knew and could reveal the secrets of the Inquisition; who was able to show the errors of the Roman Catholic doctrine;

who could expose, and denounce, and hold up to odium the practices of the Roman Catholic clergy; and that therefore it was necessary that he should be silenced and put to open shame. Now, gentlemen, there was one thing which the Attorney General must have known, and ought in justice to have stated. Every one who heard his statement necessarily would have imagined that these charges had first been brought forward by Dr. Newman in the lecture in which the libel is contained, and had been "raked together" by him in the first instance. Gentlemen, the Attorney General could not have been so ill-instructed as not to know that this representation was utterly incorrect. Every one of these charges had been published openly to the world no less than fifteen months before Dr. Newman took them up. Such charges as these (says the Attorney General), when made with such specific reference to details, time, and place, it was impossible that Dr. Achilli should not meet them. Why, gentlemen, for fifteen months they were published to the world with far more particularity of time and place than is to be found in Dr. Newman's statements; and (as we can show) were brought to the particular attention of Dr. Achilli (for he refers to them in his book); dates were given, documents mentioned,—with every reference requisite to enable him to give an answer; and during all that time he refrained from taking any steps in respect to this publication. But when Dr. Newman refers to these charges, which thus had been brought against him, and which he had not had the courage or the boldness to answer, then Dr. Achilli comes forward and obtains this information against Dr. Newman.^g Gentlemen, I do not mean to say that the man who publishes libellous charges against another is justified in point of law, by being able to say that these charges have been published previously in the same manner by somebody else, and had remained uncontradicted; but surely it is a matter which, though no legal answer,^h ought in fairness to have been stated. It is a very different thing to be the first inventor or author of libellous charges attacking another man's character, from what it is to repeat or advert to charges which have been publicly made, and which have been published to the world; which have been drawn to the attention of the party charged, and which he has allowed to remain for months—almost for years, unanswered and unrefuted; for surely his silence may fairly have warranted the man who adverts to them in the second instance, in the inference that the absence of contradiction or refutation amounts to a tacit

^g In the interval witnesses, of course, might die, or become inaccessible, or could have been deterred from coming forward; and, in fact, many who could have borne testimony were not forthcoming at the trial; and judgments and other documents referred to in the alleged libel, had become destroyed by the burning of official buildings during the revolutions in Italy. Does not this strongly show the absurd injustice of calling on a man at any time to prove charges which may be true, but not proveable?

^h In some cases it may even be in itself an answer in law; and in an application for a criminal information, is always so.—See Introduction, *ante*.

acquiescence and acknowledgment of the truth of the accusations.¹ Now, let us see, gentlemen, what is the real motive which has influenced Dr. Newman in attacking Dr. Achilli. The Attorney General has told you, with perfect truth, that Dr. Achilli questioned the Roman Catholic faith. Having been brought up in that faith, having become a monk and a priest, and long officiated in both characters, he came forward about 1845, saying, "Behold a convert to Protestantism! one who could no longer endure the abominations of the Catholic Church!" His language against the church which he had left was of the strongest character. He everywhere not only denied the doctrine of the Roman Catholic Church, but he spoke in strong terms of the corruption of the clergy, of the dissoluteness of the lives of the priests, of the abominations of the conduct of the members of the hierarchy. In a letter to Pope Gregory XVI., after descanting on the corruptions of the Roman Catholic Church (it is at p. 376 of his book, entitled, "Dealings with the Inquisition"), he says:—

"Yes; the people, deceived by you, have good reason to believe in you. You have deceived them with your doctrines—your own, not those of the Gospel; invented for your own profit alone; not for the benefit of men's souls; to which you have even denied consolation when they could not give you silver and gold in payment for it. You deceive them with your practices when you, so avaricious, preach disinterestedness; you, so impure, chastity; you, so vindictive, forgiveness; you, so insubordinate, submission; you, so turbulent, peace; you, so self-indulgent, temperance; you, so indolent, industry; you, so immoral, holiness. Thus, to this day, you have deceived the people, and they have ceased to believe in you; perceiving that God did not dwell in you—that God no longer spoke through your untruthful lips."

Gentlemen, if this was the way in which he addressed the head of the church to which he had once belonged, you may easily believe, gentlemen, that when he spoke of the subordinate members of the hierarchy he was not more considerate in his use of terms. Throughout his work he dwells perpetually on what he calls the dissolute lives of the clergy, on the corruptions and abominations of the church, from the pope upon his throne down to the lowest minister connected with the church; he represents that the rule is that of wickedness and licentiousness, and that purity and virtue are the rare exceptions. This is the sort of language in which, since his desertion of the Roman Catholic Church, he has always spoken of it. If these things are true, it is of course important to mankind, and to the Christian world, that the truth should be known. I quarrel

¹ In all criminal trials it is the best possible evidence of the charge, that it has been made in the prisoner's presence, and been uncontradicted; and in all judicial proceedings, what is said in the presence of one of the parties, and not denied, is good evidence against him, as an admission. This argument was not at all adverted to by the judge, yet surely was material and forcible? It is true, Achilli had barely denied the charges, but had not taken the steps which his own counsel declared the proper step to take to vindicate his character.

not, therefore, with him if his statements are true. *But how are we to know that they are true?* Is a Catholic, who believes, of course, that the church of his ancestors is the one true church,—is he to submit to such shocking imputations upon it? Or is one who having come to it from the conviction that it is the true church, and who, in consequence of that conviction, has been induced to abandon a position of distinction and of emolument, and all that can operate upon meaner minds, for the sake of following what he believes to be clear truth, and to attach himself to that which in his mind is the true faith; is he to remain silent under these accusations against the church and the faith in which he believes? Gentlemen, I am satisfied that there is not one of you, firm as may be your attachment, and firm as may be your affection for the Protestant Church,^j who would not be ready to do this justice to members of the Catholic Church, or who would not say,—that when accusations such as these, which Dr. Achilli has for years fulminated against the whole body of the Catholic clergy, are made public to the world,—there is not one of you who would not say that it was the right, nay, the duty of a Catholic to come forward and vindicate his church from the imputations and aspersions thus cast upon it. It would, indeed, be a mockery to talk of “toleration”—it would be a farce to say that religious opinions were free—if you would only listen to accusations against the Catholic Church, and not allow its members to raise their voices in its vindication. Now, gentlemen, the defendant, Dr. Newman, had become a member of the Roman Catholic Church. All who belonged to the Church of England had witnessed his desertion of it with regret: his ability, his learning, his piety, and integrity, no man, even in the envenomed conflicts of religious strife, has ever ventured to question. Under the influence of strong feelings of conviction he had become a convert to the Catholic faith, and he now came forward to vindicate not only the religion he had adopted, but himself, for the course he had pursued. He found that one who, like himself, was a convert, but a convert from, not to the ancient faith, had attacked the church and the religion which he had embraced. He found, also, that the mode which this individual adopted for the purpose of attacking the Catholic Church, was not merely to impugn its doc-

^j “*Sed quære de hoc,*” as the old lawyers would say. It is morally certain that the majority of the jury did not believe in, or belong to any church at all; and even of the few who might be members of the Church of England, it is pretty certain that all were of that class which do not really believe in a church as a divinely appointed body, with a divine mission, and sacraments. And let the reader be reminded, that Mr. Drummond, recently, in the House of Commons, declared that no one of this class would be a fair judge in any tribunal to consider the case even of an Anglican who believed in the sacramental system; which (he justly said) constitutes the essence of a church.—(*Debate on Mr. Bennett’s Case.*) What a farce, then, was this trial of Dr. Newman by a common jury (for it really was so), chiefly composed of those to whom the very idea of a church was absurd, and to whom sacraments were superstitions.

trines and impeach its creed, but the course he pursued was to bring the whole of its clergy into odium and disrepute, and to hold them up to odium and execration, as men whose whole lives and habitual practices were so abandoned, that, to use his own expression, applied to Pope Gregory XVI.,^k they “cried to heaven for vengeance,” and demanded that the good portion of mankind should unite to sweep away these abominations!^l Can any man wonder, when these attacks were made,—openly, repeatedly in lectures, in pamphlets, at public meetings, and in books,—that a champion of the church thus attacked should think fit to come forward in its defence? Gentlemen, I do not appeal to your prejudices or passions—they are not on my side—but to your judgment, and I ask you with confidence, can any one of you hesitate to say that those who uphold the cause of the Roman Catholic Church were justified in making what defence they could against such charges as these, so long as that defence was consistent with truth and honesty? Now, let us see what was the course to be pursued by a party thus acting as a champion of the Roman Catholic Church? How were these accusations to be met? There was this difference between the accusations of Dr. Achilli against the Church and of Dr. Newman against Dr. Achilli, that the latter dealt chiefly in general charges; it was rarely that facts advanced by Dr. Achilli were specific—they were vague and unsatisfactory—charges that corruption abounded in the church—that the lives of its clergy were crowded with iniquities of every description—but the charges, though vague, assumed importance from the circumstance that the man who came forward to accuse and denounce, was not only accuser but witness; he could say “I am a living testimony of the things I speak to; I have been a monk and a priest, and I know what monks and priests do; I know the interior of monasteries and convents, and I tell you of the lives they lead there, and the practices there pursued; I can tell you of the wicked and sinful things there performed, against the laws of God and man; and for these things I tell you that these institutions, and the church to which they belong, should be swept away from the face of the earth, as unworthy any longer to be allowed to exist on it.”^m Surely he would not adopt statements of this kind until their truth was shown? Here is a witness who speaks, not to specific facts, but as to general charges, of what he alleges as within his own knowledge. What, then, is the

^k A pontiff of exemplary piety, and unimpeachable character.

^l It was observed that the foreman and another of the jury nodded their heads assentingly to these shocking statements; both when originally read and now repeated. This is only a specimen of the outward signs by which the jury denoted their foregone conclusion, and their predetermined resolution to convict. Most of them, probably, had been prejudiced by Achilli’s awful book, and had obviously imbibed the most intense horror and hatred of the Catholic Church. Was this one of the objects of Achilli, in waiting till after the circulation of his book, before he prosecuted any one for these charges?

^m Here, again, one or two of the jury nodded assent.

first question which occurs? Who is this witness who thus comes forward to denounce the church of which he was once a member, and is now an apostate? Is he a person worthy to be believed? Is his testimony such as may safely be relied upon? Take the common every-day illustration to be found in the proceedings of courts of justice. A witness comes forward to depose to facts upon which, perhaps, it is impossible to meet him directly, because he alleges them to have taken place entirely within his own knowledge. What is the first question those who are called upon to act in defence of parties accused upon the testimony of such a witness think it necessary to put? Who, and what is the witness? whence comes he? what are his antecedents? what are his motives? That is the common and obvious course suggested by good sense and experience of mankind. The same question, surely, presents itself in the case of Dr. Achilli. He holds up the Catholic hierarchy and institutions to odium and execration, on the strength of his own intimate acquaintance with the proceedings of the clergy. The first question surely is,—who are you that tell us these astounding facts? He says, “I am one on whose high sense of morality and religion these abominable things have made so deep and painful an impression, that I have resigned all, rather than continue a member of a Church in which they occurred. My motive for leaving it was, that my reason revolted against its doctrines, and still more, that my moral and religious sense revolted against the deeds by which I found myself surrounded.”^a Gentlemen, if these were the grounds on which he left the church;—if it be true that such were the abominations he witnessed, that though he had already attained a position of proud pre-eminence, and although at every step as he proceeded there appeared a prospect of his rising higher and higher, until he attained the highest rank in the church (and this is what he represents),—if it be true that he abandoned all this from a sense not merely of the erroneousness of the Catholic doctrines, but disgust and abhorrence of the abominations of the Catholic clergy, —I admit that his testimony is such as would be calculated to make a powerful impression on the minds of those who were wavering as to their faith, and still more upon the minds of those who believed that the pure and reformed Protestant worship was more acceptable in the eyes of God; and who, being members of that communion, would be naturally disposed to take an unfavourable view of the doctrines and the practices of the Catholic Church. Was it not, then, natural on the part of those whose duty it was to vindicate the faith in which they were born, or which they had embraced from conviction, against these aspersions,—to inquire who and what Dr. Achilli was; and to ascertain whether it were true that he had been induced to quit the Catholic Church, and become

^a Nothing could be more effective and powerful than this passage, and a similar passage in Sir Alexander's reply.

a convert to the Protestant, from the motives and for the reasons he represents—abhorrence of the practices of the Catholic Church." What if it should turn out that, instead of having been voluntarily a deserter from the faith in which he was born, he had been expelled ignominiously from that church for his crimes, and that he had adopted Protestantism simply because the exigency of the moment required that he should do so as a means of obtaining a subsistence—surely, if this should turn out, it would be a circumstance of the greatest possible weight in determining the question whether his evidence, in the matters about which he has spoken, is deserving of the slightest credit. Nobody can for an instant doubt that it would be a most important fact and ingredient in the consideration of the case. If you found that instead of having quitted the church, he had been expelled from it, that would necessarily be in itself a circumstance calculated to detract materially from the value of his testimony. It entirely destroys the inference which would necessarily be produced from the fact, if it were a fact, that he had quitted the church from disgust for its doctrines and the practices of its clergy. No one can doubt that it was a most important question to be solved. What if it turned out that Dr. Achilli had been expelled ignominiously from the Catholic Church? I ask you, if that were proved,—I ask you, if any one of you had found your church or your religious community attacked in the uncompromising manner in which Dr. Achilli did not scruple to attack the Catholic Church, would it not be deemed right to publish such a fact to the world? No man can answer that question in any way but one. If his expulsion from the church had been brought about, not merely by his apostacy from its doctrines, but had been the consequence of his own confession of crimes, bad enough in any one, but detestable in one who had become a member of the sacred calling of the Christian ministry, would it not have been the duty of those who were sifting his evidence, and anxious,—because believing it utterly untrue,—to disprove and refute it, to bring this fact before the world? Gentlemen, this is our case! Such is the position in which Dr. Newman was placed by the writer of the article in the *Dublin Review*, which appeared before Dr. Newman published these Lectures. When Dr. Achilli came to England, he everywhere and in every way publicly denounced the Church of Rome; representing himself as one who came forward as a witness, in consequence of the impression produced upon his mind by the horrors he had seen. This naturally led to inquiries as to who and what he was. And so early as June, 1850, was published an article in the *Dublin Review*, giving the whole account of his life, with the charges referred to in this case, giving the most minute details in each instance,—challenging him to meet them; stating the proofs that would be adduced—in documents (judgments and records of courts, or of the police) or in living witnesses. Gentlemen, for fifteen months Dr. Achilli allows these charges to remain unanswered

and almost unnoticed—no, I am wrong there, for in 1850 he published a book called “Dealings with the Inquisition,” and in that book he adverts to charges brought against him in the *Dublin Review*, and contents himself with a general denial of them, but takes no steps against the proprietor or publisher of this review, or the author of the article. Yet the author was not beneath his notice, for it was no other than Cardinal Wiseman. He himself says Dr. Wiseman is the author of the article, and he adverts to him in these terms :—“There is the renowned Cardinal Wiseman, the archbishop of Westminster, according to the pope’s creation, the same who has had the assurance to accuse me from his pulpit, and to publish an infamous article in the *Dublin Review*, in which he has raked together, as on a dunghill, every species of filth from the sons of Ignatius Loyola ; nor is there lie or calumny that he has not made use of against me.” Now this book was written before Dr. Newman’s lecture appeared ; he knew, therefore, of this article in the *Dublin Review*, but he takes no proceedings against it, although all these facts, now adverted to in far more general terms, were by Dr. Wiseman specifically set forth—facts which my friend admits it was incumbent on Dr. Achilli, the moment they were mentioned, immediately to bring before a court of justice. Well, gentlemen, Dr. Newman, finding Dr. Achilli continuing to propagate those charges against the Roman Catholic Church, not merely making those statements in discourses from the pulpit or at public meetings, but publishing them in a book which professed to relate “Dealings with the Inquisition,” taking the opportunity of going over the whole of the institutions of the Roman Catholic Church, and denouncing them in terms such as I have before referred to—Dr. Newman at length comes forward, and certainly does reiterate the charges that had appeared fifteen months before in the *Dublin Review*, referring to the very book in question. Well, I am quite ready to admit that Dr. Newman is legally responsible for every word to be found in his pamphlet, although published elsewhere before that pamphlet appeared. Up to the present moment, I have been endeavouring to make clear to you the position in which he was placed, and the motives which have induced him to come forward. But then the question is, whether he can justify these charges. It was not to stop the mouth or stifle the voice of a man who came forward to denounce the Catholic faith, but it is for a very different purpose,—to test the credibility of the witnesses, by a reference to his character and antecedents. No one can hesitate to admit that this is a perfectly legitimate course for any one to pursue who was interested in the truth or falsehood of the charges to which the accuser referred,—to endeavour to ascertain how far he was worthy of belief. Inquiries have been made respecting him, as inquiries had been made before the article in the *Dublin Review* appeared ; and the result is, that as Dr. Newman felt himself justified in adopting these charges, which had

remained unanswered or unrefuted in the first instance, so now, having published them, and being called upon to answer for it, after further investigation he feels himself justified in putting upon the record a plea, alleging openly in the court that these charges are well founded, and that there is truth in all of them; and he is prepared to vindicate thus the course of conduct he has pursued. And here, gentlemen, I must say the Attorney General has adopted a course which has filled me with astonishment. His client, Dr. Achilli, has come forward to vindicate his character from the aspersions thus cast upon him. He knows—he has long known—every one of the accusations which have been brought against him: he has, by means of the special plea, put upon the record about five months ago, distinct enumeration of each specific case, with all the details of time and place necessary to enable him to meet the different charges. He is the accuser: he has put Dr. Newman upon his defence; he is here; he is within the precincts of the court; the Attorney General could have put him into the box; I should have supposed him all anxiety to be there! I should have imagined that the first object of his heart would be at once to rush into the witness-box, and to go through the charges brought against him, and deny them upon his oath, and show them there was no foundation for them—for the falsehood and the calumnious character of which he here calls Dr. Newman to account. But, no! That course is not convenient. It is better to see what can be made out on the side of the defendant; if witnesses can be broken down; if documents can be excluded; it may be that a verdict may be obtained without calling Dr. Achilli before you.

The *Attorney General*.—I pledged myself to produce him.

Sir A. Cockburn.—Yes! but at what time?

Lord CAMPBELL.—The Attorney General has pledged himself to call Dr. Achilli, and I hope I may say, without being charged with showing any partiality, that the natural course seems to be, first to bring forward the proof of the accusation, and then to go into the defence.^o

Sir A. Cockburn.—Gentlemen, I will only say, then, that if this be so, I entirely concur in the course I understand was pursued by my learned friend when I was not in court—of demanding that the prosecutor should not be present while our witnesses were being

^o The observations of Sir A. Cockburn were evidently making an impression upon the jury, when Lord Campbell interfered, and destroyed it by his observation; as to which, the writer appeals to the profession, whether the practice be not, in a case of criminal information, for the purpose of clearing the character of the prosecutor, at once to call him into the box, and submit him to examination. The case of the duke of Cumberland is an instance which will occur at once to many—the more in point, as resembling the present in respect to the lapse of time, and the gravity of the charges. By declining to call Achilli before he had an opportunity of studying what the witnesses stated against him, his counsel evaded the only test which could be applied to his statements, sworn in his own defence.—See note, *ante*, p. 58.

examined. I pass on at once, then, to the accusation, and to the case which will be submitted to you, only observing that I own I should like to have had an opportunity of examining Dr. Achilli himself, before he knew the exact amount of evidence which could be adduced against him. It appears—and I am speaking now only from the information Dr. Achilli has himself furnished us with—it appears that Dr. Achilli, who is, I understand, somewhere about fifty years of age, was brought up at Viterbo, where he received his education, and in 1819 he entered as a novice into the Dominican convent; there he passed one year of his noviciate, became a monk in the ensuing year, and afterwards a priest of the Roman Catholic Church. In both, I believe, but, at all events, in one of these capacities, he took a vow of perpetual chastity. Gentlemen, no one can doubt, however loose may be the practices of society on subjects such as that I have referred to, in the case of a person in the holy office and calling of a minister of the Gospel, continence is a duty which cannot without grave and serious offence be violated. But when to that consideration is superadded solemn and holy vows, taken voluntarily upon this subject, one can understand that accusations of this kind assume a very grievous character. It is admitted that charges imputing to a monk or a priest incontinence, are of a most serious character; and I will only accompany that with this observation, that if this be so, surely they must be matters of grave and serious moment if they turn out to be true in the case of a man who is denouncing those very crimes against the clergy of the Roman Catholic Church, as one of the reasons for his leaving that Church, and becoming a convert to Protestantism.^p Gentlemen, Dr. Achilli became a priest in the year 1825, and in 1826 he was appointed professor of philosophy at the seminary or college at Viterbo, and remained at Viterbo, with occasional absence, till the year 1833. The libel charges that during that time he was guilty of various acts of incontinence at Viterbo. It says, first, “I am that Achilli who, in the diocese of Viterbo, in February, 1831, robbed of her honour a young woman of eighteen.” Is that true, or false? It might be said that, if at an early period of life, when his blood was hot, he committed an offence of that kind, but had atoned for it by a life of purity and holiness, it would be cruelty to fling the charge in the face of a man who now came forward to reprove those crimes. I concur in that view; but this is only the commencement of the history, which will be brought down year by year to the present time. This is the first case specially referred to in the catalogue of enormities charged against him:—In February, 1831, he robbed of her honour a young woman of eighteen. I will produce that young woman before you, and you shall hear her tale. Her name was Elena Valente. She has now for some time been

^p By the instinct of an experienced advocate, Sir Alexander anticipated the objection the jury would take to his examining Achilli on charges of this kind, and endeavoured to deal with it.

married. You shall hear how he pursued her, and how at length she became his victim, became disgraced, and remained so for some years, until at last, her character being to a certain extent retrieved, she was, as I have said, married; and has since lived in a respectable position. That is one case. Then, there is the case of Rosa de Alessandris, in the year 1833, and also that of another person, in the year 1834. As to these cases especially, gentlemen, I must say I should like to have had the opportunity of asking Dr. Achilli some questions before he knew the amount of evidence I could produce; for a party who has the opportunity of swearing in his own defence, and of doing so after he knows the worst that can be proved against him, of course is in a very favourable position. Rosa de Alessandris is married, and will not come forward; but I have the written confession of Dr. Achilli, and the same as to the other; he has been actually tried for these things; he has confessed them, and has been punished for them! Gentlemen, with respect to his deprivation, there is, I believe, a mistake in the date; but I shall prove that for the offence of incontinence he was deprived of his faculties. He remained at Viterbo until 1833: proceedings were instituted against him in the court of the bishop;⁹ and on his leaving Viterbo and going to Rome (where he had strong friends), the affair was hushed up, and he became professor in the college of the Minerva. He remained at Rome a year, and then proceeded to Capua; and, as he states, at the invitation of Cardinal Serra, he preached the Lent sermons there that year. Gentlemen, there is no doubt that he from his youth has shown eminent ability; and being a man of great knowledge and eloquence, his preaching was sought after; but this is quite consistent with his private life being quite irreconcilable with the sacred character he held. It seems, that having left Capua, and having stayed a year at Rome, he passed his time for two or three years between Capua and Naples. At this time there occurred two of the cases which form the subject of the present libel; and he admits by his own confession two cases at Capua! Then, we come to the case of seduction at Naples, in 1840. I have the woman here,—Maria Principe, now married to Balisano. I shall prove that this woman, being then a girl of fifteen, he debauched, at the convent; that she became pregnant; and that complaint was made by her father and mother at the time. The father is dead; but I have her here. She is now married; and is, I believe, a respectable person; her mother comes with her, and you shall hear their evidence. Remember that her statements are not produced here for the present occasion; they had been made long ago, and brought to the attention of Achilli by the complaints of the parties; there were proceedings before the commissioner of police; it is a matter recorded and known as having happened many

⁹ Which, it will be found, could not be proved, because the record had been burnt; and Lord Campbell refused to receive a copy made by an official person, and authenticated by a municipal seal.

years ago. Well, gentlemen, it seems that soon after, Achilli left Naples; and it seems that, in 1839, he separated from the Dominican order to which, up to this time, he had been attached, whether he separated himself so entirely as he represents is a question; for we find that after this he is still spoken of as of the order.^r However, he became, he says, secularized, and took upon him to quit the order free, as he states, from the obligations which continuance in it imposes.

He went on preaching at Capua, &c., but such was the scandal produced by these various acts—which did not merely imply incontinence, but the greatly aggravated offence of seduction, if not of violation—the scandal caused was such that it was necessary to bring the matter before his ecclesiastical superiors, by whom he was sentenced to suspension from the functions of the priesthood, and seclusion in one of the more rigid houses of the order. This did not suit Dr. Achilli (laughter), and accordingly he began to meditate secession from the Church. The fame of his proceedings had become so notorious, however, that it reached the Court of Rome; he was demanded from the Neapolitan Government; he was taken to Rome and brought before the Inquisition; he was then charged specifically with the crimes I have mentioned, and the acts of incontinence tending to bring disrepute upon their order. I have here an authentic copy of the record of the judgment, which I shall put in evidence. It contains the confession of Achilli himself of these very specific acts. He was sentenced by the Court of Inquisition to perpetual deprivation of all ecclesiastical functions; prohibited from preaching, from confessing, and from administering the sacraments; and condemned for penance to three years' seclusion in one of the more rigid houses of the order. He retired to the convent of Nizarro, where three years were to be passed in doing penance. But this did not suit him. (Laughter.) In his book he said he went to Nizarro to arrange his private affairs. He does not say a single word about these proceedings before the Inquisition. I should have liked to have asked him a few questions before I laid my proofs before you on this part of the case. However, he did not stay at Nizarro, but went off in haste to Ancona, and meeting with a gentleman, he got his name inserted in his passport, and went with him to Corfu, which is in the dominions of this country. He now openly secedes from the Roman Catholic religion, and professes to have adopted the pure truth of Protestantism. At Corfu he opened what he called an Italian church, but there he soon got into a serious scrape, "and made the wife of a tailor faithless to her husband." The tailor (named Garramoni) had separated from his wife, and had been adjudged to allow her 2s. a week as alimony. But he dis-

^r In the judgment of the Inquisition (in 1841, after the secularization) it is ordered that he retire to one of the houses of his order; and upon the hint thus afforded, the Attorney General founded one of his arguments for his atrocious charge of falsification—a flagrant quibble, however; for it might still very naturally be spoken of as his order, *i. e.*, the order to which he had been vowed.

trusted the fidelity of his wife, and watched her house at night with the view of clearing up his suspicions, and one night, at half-past eleven o'clock, he saw a person come there, not in the dress of a priest, but in an ordinary dress. He seized hold of the party, and holding up a light, he found that it was Dr. Achilli. The tailor then instituted a suit, which ended in a compromise, and it was agreed that the husband should pay no more money, and let his wife off on that condition. We had this man here for many weeks, but unfortunately he was obliged to leave England: we have a man who was present and saw the whole of the transaction,—a man who saw the seizure made of the person who had gone into the house,—and I will prove that Dr. Achilli was that person. I have also the transcript of the proceedings, which will establish the assertion made in the libel, that “your name came before the civil court of Corfu for your crime of adultery.” After this scandal he left Corfu and went to Zante, and it was now that he “made acquaintance” with the wife of a chorus singer named Coriboni. The wife of this man was a woman of notoriously bad character, combining, as it is stated, prostitution as a means of getting money with the profession which her husband carried on. Dr. Achilli took these people into his suite (laughter), and travelled with them to Zante, where he was desirous of establishing this reformed Italian church, under that mission which he boasts in his book of having received from Heaven. He there applied to a gentleman named Reynolds, who held an office of respectability and trust in the customs. Mr. Reynolds was disposed to further the object, became a subscriber, and obtained the subscriptions of others, and interested the vice-governor of the island, Colonel Ford, and thus having obtained considerable subscriptions, the church was opened. Mr. Reynolds happened to know something of this Madame Coriboni, whose character was open and notorious, and he was not a little astonished, when he went to the church, to find the wife officiating as pew-opener, and the husband as clerk. (Great laughter.) He thereupon remonstrated with Dr. Achilli (I have Mr. Reynolds here, and will put him in the box); upon which Dr. Achilli assured him that the woman was a second Magdalen (laughter), had forsaken her evil practices, and intended to lead a pure and virtuous life. Mr. Reynolds hardly knew what to make of this; but after a little, circumstances came to his knowledge which led him to think that the Magdalen was anything but a penitent! (Laughter.) It so happened that his house was opposite Dr. Achilli's, and commanded a view of a room used as a laundry, in which the woman worked; and he thus had an opportunity of seeing Dr. Achilli toying with this Magdalen in a way not at all satisfactory to one who had desired to receive from him the teaching of a minister of religion. (Great laughter.) This happened more than once, and there was always that degree of familiarity between the parties which naturally led to unfavourable conclusions. From what was seen going on

between Dr. Achilli and this woman it became necessary to close the blinds of this and the adjoining houses, the ladies in which were much scandalized. Dr. Achilli was also seen walking arm-in-arm with this lady, to the infinite scandal of the new Protestant congregation; and no doubt was left that a criminal intercourse subsisted between them. Mr. Reynolds and Mr. Ford remonstrated, but as Dr. Achilli persisted in keeping her in his house, they would have no more to do with him, and the congregation was broken up. Dr. Achilli then went to Malta, and put himself in communication with some gentlemen there connected with a plan to establish an Italian Protestant college at Malta. A body of gentlemen, at the head of whom was the earl of Shaftesbury (a nobleman who is at the head of every benevolent undertaking calculated to promote the moral, social, and religious welfare of mankind), were endeavouring to introduce the Protestant religion among the Italians in Malta, and with that view to establish a college there for general instruction, and it was arranged that Dr. Achilli should be the theological professor at the college, with a handsome salary; it being believed that he had been actuated in his secession by the purest motives. He goes to Malta, where he is associated with others, two of whom were two persons who had been priests (named Saccares and Leonini), and who had been somewhat too hastily adopted at this college. A person named Kaossi, who had been an Armenian priest, and fled from the Roman Catholic authorities, was also a member of the college, and he had not been long there before he made charges against his fellow labourers, charges of gross immorality, involving Dr. Achilli as well as Saccares and Leonini, though he was only so far connected with them that he was said to have connived at their conduct. These charges were referred to the superiors of the college, the Rev. Mr. Hadfield and the Rev. A. Watt, and by them were transmitted to the committee in London, who desired an investigation to be instituted: as Saccares and Leonini, as well as Dr. Achilli, denied the charges, Kaossi was called upon to prove his charges, or be considered as a calumniator. His principal proof consisted of a confession, alleged to have been made by Saccares, but which Saccares and Leonini denied altogether. The consequence was that Kaossi was looked upon as an inventor, and was about to be dismissed, when numerous persons came forward and gave a different account of the affair, which led the Messrs. Hadfield and Watt to appoint a day to resume the inquiry. All this was known to Dr. Achilli. It was known to him that these charges were of the most serious character, charges which related to the introducing of bad women into this Protestant college. It was known to him that the board were most anxious for another investigation; but, to the astonishment of all, Dr. Achilli took upon himself, without communicating with the authorities at Malta or London, to send Saccares into Sicily to distribute Bibles there, which of course anybody else could have done, and this was looked upon as a mere pretext to get

rid of him, as it necessarily put an end to his connection with the college. The board in London were indignant at the proceedings on the part of Achilli, and it ended in his dismissal from his office. The committee, consisting of gentlemen of the highest respectability, the earl of Waldegrave, the Rev. R. Burgess, and others, dismissed him after investigating the matter. Being dismissed, in 1850, he came to England, when he began that course of lecturing and writing, and holding up to hatred and disgust the doctrines and practices of the Roman Catholic Church, which he has since pursued. I should now tell you that in the year 1849, being at Rome, during the time of the Revolution, a time when anarchy prevailed, he there married a lady named Heley, according to the rites of his new Italian church. Whether or not that was consistent with his vows of perpetual chastity is a question into which I will not enter. But, however, having now become, according to his own view, a husband—whatever might have been his past conduct, one would have supposed that from the moment when he entered into the holy estate of matrimony, at least, we should have heard no more of the incontinent doings of Dr. Achilli. But he had no sooner entered London than he recommenced his usual practices. At the first house in which he lived in London there was a maid servant named Harriet Harris, and he made use of every effort to seduce that young woman. He failed, and she complained to her friends. Mrs. Achilli shortly after arrived in London, and he desisted from his attempts. Though not successful with the girl Harris, he was successful with another, named Jane Legg. He took a house at No. 11, Shaftesbury-terrace, Pimlico. Jane Legg was his servant there, and yielded to his solicitations; she became with child; I believe, however, not only Dr. Achilli, but a friend of his also, who was there, had connection with her. She went away, and had a child, who died of the small-pox; and, in conversation with her sister, it appears that though Dr. Achilli never did anything for her, he never denied that he had had to do with her. He had another servant, Sarah Wood, whose reluctance and resistance he overcame; and another, named Catherine Gorman, with whom he did not succeed. Gentlemen, we have these witnesses here, and shall call them before you. If these witnesses are to be believed in; if, when a married man, after having removed from those demoralizing examples which he, Dr. Achilli, alleges himself to have witnessed when in the convents of the Dominican order; if, after having left that polluted atmosphere for the purer atmosphere of the Protestant Church, and having allied himself in what he believed to be a matrimonial alliance with a young lady who devoted herself to him; if you find after all this, he still continued his dissolute and licentious conduct, and he endeavoured to make every woman the victim of his insatiable lust, that will tend, I think, to throw some light upon the other charges, and will, I think, lead you to believe that these charges are well

founded. And if these things be so, I ask whether those whose Church is denounced by such a man, on the grounds of the alleged licentiousness of its clergy, are not justified in holding him up—him, the accuser and witness—in the true colours in which he deserves to be pourtrayed, in order that the people of this realm, who are to judge of the truth of his representations, and whom it is sought to influence in their religious views by the statements he makes—I ask whether it is not right that his real character should be pourtrayed, that they may judge of the credit to be attached to the evidence of such a witness?—that they may judge whether the Catholic Church is that foul nest of pollution and crime, or whether these things are not fabricated and invented by him in order to conceal the real reasons and the fact of how he ceased to be a member of that Church; whether it were as he represents, that it was from his horror at such abominations, he was induced to hold the clergy of that Church up to execration; and whether it was that, having been guilty of these excesses himself, and having been brought to justice and exposed to penance and contrition, he takes care not to bring forward this in his narrative, because he knew that no credit would be attached to statements coming from so foul a source? Whatever may be the zeal of the Protestant Church (and I rejoice to see it burn brightly when occasion requires), I trust it will never lead us to be guilty of denying to others the free, full, and unfettered exercise of their religion, or the free expression of their opinions, or to prevent them from confuting malignant and wicked accusations. Gentlemen, it was under such views alone that Dr. Newman came forward. Dr. Achilli is to Dr. Newman utterly unknown. But when he came forward as the public accuser and denouncer of the Church of which Dr. Newman is now an ornament, he feels that he was justified in ascertaining who and what Dr. Achilli was, and, if he has been guilty of these outrages upon religion and morality, showing him in his true colours. Gentlemen, I say that the cause of truth demands that in these matters of religious opinion and controversy—matters in which all mankind are deeply interested—truth should be on both sides adhered to, and that testimony, to which great effect will necessarily be attached, should be sifted, and when it rests on the character of the witness, that character should be ascertained and judged of by those who are interested. On the other hand, I admit that when, with a view to silence an adverse witness, falsehoods and crimes are charged which are known to be untrue, that is conduct on which reprobation cannot be too severely visited. It is for you, gentlemen, to judge in which of these two positions Dr. Newman stands. You will certainly be satisfied that at least he has not invented these stories. It will be proved satisfactorily that he has not intended to be a calumniator and slanderer. These are matters which have been brought against Dr. Achilli long ago—matters standing recorded against him;—he cannot be unprepared to meet

them. I believe, from my instructions, that I shall be enabled to prove this case, not indeed in every minute particular, but at all events as to the substantial charges, I shall be enabled completely to make them out; and then it will be for Dr. Achilli, or for his counsel, to see what answer can be given to them. I own I should like to have known the answer Dr. Achilli would have given before he knew the extent of the proof I could adduce. I think, however, my learned friend (Serjeant Wilkins) was right, in my absence, in desiring that the witnesses should be ordered out of court, that Dr. Achilli should not at all events know the precise extent of the proof we have to bring against him.^a Be that as it may, he will have an opportunity of going step by step through every portion of the charges. You will hear what he has to say in his defence. If Dr. Newman has charged him unjustly,—if the accusations are unfounded,—Dr. Newman will be the last man to flinch from the consequences which must fall upon him; but he will be protected by the conviction and consciousness that he has not been influenced by any personal feeling or vindictive motive against Dr. Achilli; that he has simply attacked him in order to repel the foul accusation which Dr. Achilli has thought proper to bring forward on his own testimony against the Church, of which Dr. Newman is now a member. Gentlemen, when Dr. Achilli shall have been called, I shall again have an opportunity of addressing a few observations to you. In the mean time, I will only ask you to do this—forget for the moment that you entertain religious opinions on one side or the other; look at this case as if no religious considerations were connected with it, and, forgive me for saying, be upon your guard lest aught of prejudice that may pervade your minds should mingle with your judgments. Bring to the case a calm, dispassionate consideration of the evidence laid before you. If you are of opinion that Dr. Achilli is not guilty of these matters charged against him, then Dr. Newman must submit to your verdict; but if you believe the witnesses—if you are satisfied by the documents I shall place before you—then, although it may be painful to your feelings to come to the conclusion that Dr. Achilli is an impostor, and that, though the accusations brought against the Roman Catholic Church, however congenial to Protestant feelings, are unfounded and calumnious, you will not hesitate to do justice, and in that case we look with confidence to your verdict.^t

Elena Justini^u was then called in, and having been sworn, was examined by Mr. Bramwell, through an Italian interpreter.—

^a From the daily reports, however, he knew all the evidence against him before he was called; and from his own short-hand writers.

^t Sir Alexander Cockburn's address occupied nearly two hours; he sat down about twelve o'clock.

^u This witness had a most modest and ingenuous countenance, and gave her evidence in a very artless and apparently truthful manner, which made a great impression. As Sir F. Thesiger conceived he was justified in imputing that she

My age is forty years. I am married to Vincenzo Justini. I was married two years ago. My maiden name was Valente. I am now living at Viterbo, where I have lived from my birth. I know the Dominican convent there. I knew Dr. Achilli at Viterbo. He was a monk of that convent. I have been in that convent when he called me. I was then about seventeen or eighteen years of age. Dr. Achilli deflowered me. It was in the sacristy. I was in service at that time with Signora Gentili, with whom Dr. Achilli was acquainted. He had been a visitant to her house in the country for a month. He had offered familiarities to me before. I had walked out with him alone. He had asked me to walk with him. He had already commenced to insult me when he was at the country house. I was intimate with him again some little time after the first occasion at the convent. He sent for me by a messenger. It was customary to give servants a present after visiting in a house; and he sent to say he wished to give me one. I went to him. I asked him whether there was any sin in it, and he replied that there was not. I told him that there was hell in it. He said, "Not at all, otherwise hell would be quite full."

Cross-examined by Sir *F. Thesiger*.—I arrived in London last Thursday. I shall have been away from Viterbo six months on the 23rd of this month. I have since been living at Paris, Dover, and some other places (the name of which I do not know) between Dover and London. I came from Viterbo with Madame Rosina Gilbert; my husband also accompanied me. I was in Paris three months. I came to Dover, as far as I recollect, in May. There were other witnesses in this cause at Paris—Giovanni Principe and her mother. They lived in the same house with me and my husband. They accompanied us to Dover, and lived there with us. We received instructions to leave Viterbo from a lawyer. Did you see your priest before you came away?—Yes; the curate. Did he send you here?—He told me I ought to come here. While I was at Paris, I told Principe and her mother of what had happened to me, and they told me what had happened to them. I did not know them before I met them in Paris. I have seen some of the other witnesses in this case in London, but not at Dover or Paris. I have seen an English gentleman named Reynolds, who lives at Corfu. Have you spoken to any Roman Catholic priest since you came to London?—No; I have not lived in London with any of the witnesses but the two Principes. I had known Achilli a month before the occurrence at the convent. I had been in the service of Signora Gentili about a month before that took place. The convent is about two miles from her home. Dr. Achilli came to

gave false evidence, and Lord Campbell intimated that it was suspicious, and was not confirmed, the reader is requested to mark it carefully, in order to compare it with Achilli's, which was pressed by Sir A. Cockburn, as completely confirming it; and to which confirmation Lord Campbell never referred the jury at all!

stay with her at her country house for a month. I was the only servant in the house. The other members of the family were two men. It was, perhaps, five or six days after Achilli came that I first took a walk with him in the country. He solicited me on this occasion. He said that he would take me to show me a place where the two gentlemen of the Signora Gentili's family were in the habit of shooting. Instead, however, of taking me to see the chase, he took me to a hut, where I was with him alone. He there solicited me, but I denied him. I returned home in his company. Did you tell Signora Gentili what had occurred?—No. Did you tell it to your confessor?—Yes; five or six days afterwards, when my mistress allowed me to go to confession.^v I never again walked out with Achilli. He solicited me once more during his stay in the house of Signora Gentili. I did not tell Signora Gentili what had occurred, but in the morning I showed that I was disturbed, and said that I would leave the place. I did not, however, leave the house until Achilli had left. I was only engaged for a month. I left the signora's on the last day of October, and the affair at the convent happened some time in November. Achilli had sent for me to the convent, saying that he wanted to give me the usual present to servants. When I got there he was waiting for me in the sacristy. The sacristy opens from the church. I went into the sacristy because I saw him there, and beckoning to me. He gave me nothing but a silk handkerchief, which was older than he was. (Laughter). Next day, I went to the same confessor to whom I had told what had happened before, when I was living with the Signora Gentili. I began to cry, and he then said, "I knew you were in the hands of a rapacious wolf in sheep's clothing." Did you tell your mother what had taken place?—No; because the confessor forbade my mentioning it, as Achilli was an ecclesiastic.^w Achilli afterwards sent to me to come to him at the house of a family who were related to him at Viterbo. I felt I was dishonoured, and therefore I went.^x After the first occasion I changed my confessor,

^v It is evident there were some restrictions upon her in this respect; and, perhaps, this was the cause of her fall. At all events, it confirms the Catholic theory, that frequenting the sacrament of penance gives strength to resist sin; the very disclosure of temptations often destroying them.

^w These and similar questions showed the drift of the cross-examination was not so much to break down the evidence (which so acute an advocate soon saw hopeless), as to produce the impression on the minds of the jury and the public, that the fact must have been revealed by the confessor, with a violation of the secret sanctity of the sacrament. The ingenuous disclosure by the witness, however, of the fact that Achilli had told it to a friend of his, quite frustrated this pious purpose. Moreover, the messages which went backwards and forwards might naturally have revealed it; with other circumstances in the course of an intimacy of that kind. Now, Lord Campbell put Sir F. Thesiger's point to the jury, but never adverted to these obvious answers.

^x When the witness gave her evidence this was remarked by every one as a touch of nature, most materially confirming it; but Lord Campbell actually put it to the jury as a circumstance of suspicion! As if a woman after her fall were to be judged of by the same reasoning as before!

and did not go so often to confession as previously. I told the second occurrence to my new confessor. Did you tell him the name of Achilli?—No; because it is the custom not to mention the name of the sinner, but merely the sin. Did you mention the name of Achilli to the first confessor?—Yes; because, as he lived near the villa, I thought he might otherwise suspect some of the family. Besides the handkerchief, he gave me a beautiful present—three sausages. (Laughter). They were both given me on the first occasion. He promised, but never gave me anything afterwards. During all this time you never told your mother what had happened?—No. Did you ever tell it to any one but to your confessors?—No. Once, to my great surprise, a person asked me, “Is it true that Father Achilli has been intimate with you?” I replied, “Who told you that?” and he answered, “Achilli himself.” He said it to me because, as far as I understood it, he wished to arrive at the same end. This was some few months afterwards. The whole connection with Achilli extended over some months, but probably not a year. Achilli remained at Viterbo but a short time after this intercourse had taken place. I do not think he remained a year. And you never told these occurrences to any one but your confessor; not even to your mother?—No; I told her about six months ago that I was coming here upon a trial, but did not even then tell her that Achilli had been intimate with me. Would you have me publish my own sin? The curate caused me to come to him, and asked me whether I had known anything of Achilli. I said, “Why do you ask?” He said, that it would be for the glory of God and the honour of the Church.¹ Was that the confessor you had confessed to?—No; he is dead. He heard what I had to say. He sent me to Rome. I saw the grand vicar, and an English lawyer, and a Phillipine father. They said I must come here. I said all I have been saying here.² I have had my expenses on coming over here to this trial paid by the lady who brought me here, but I have not received even half a biocchi in money. That lady now lives with us. She is a Roman Catholic.

Re-examined by Mr. *Bramwell*.—After what happened with Achilli, I went to a convent for three years. I was not a nun, but went to try if I had a vocation to be one; if the Lord called me to it. My confessor advised me to go. He said I was in danger of becoming a disreputable character. I found I had not a vocation to be a nun. I afterwards married. I never had mentioned to me

¹ That she should tell the truth, of course; but not only, however, did Sir F. Thesiger, when he put the question, but Lord Campbell, in reading over the evidence, repeat the answer in a tone—the one of sneering sarcasm, the other, of grave suspicion—calculated to create the impression that the priest was suborning false evidence. Is this an illustration of a fair trial?

² Sir F. Thesiger's cross-examination lasted nearly two hours. It is impossible to imagine a more trying test for a witness—a female, and a foreigner—as to events occurring twenty-three years ago; but the universal impression was, that her evidence was strengthened, instead of being weakened, by the ordeal.

the affair with Achilli, except by the man, who said Achilli had told him of it.^a

The Rev. Joseph Giotti (generally known as Father Vincent), was then examined by Mr. Addison. He said: I am a native of Viterbo, and am thirty-two years of age. I received part of my education at the Lyceum College, at Viterbo. Achilli was then professor of philosophy there, and was in priest's orders and a Dominican monk. What was his character? The *Solicitor General* objected to the question. Mr. Addison.—This is upon the charge that he had earned the reputation of a scandalous friar. Lord CAMPBELL.—What was his moral character? Very bad. His reputation was bad? Yes. By Mr. Addison.—Were these charges pending against him in the Bishop's Court? The *Attorney General* objected to the form of the question.^b Mr. Addison.—Is there a court there called the Bishop's Court? Yes. Who presides in it? The grand vicar. Do you know of proceedings against him in that court? Yes. Have you acted as secretary? Yes. At the time of the proceedings? No.^c I was at Viterbo when Achilli left that place: he left suddenly. Did he escape? I do not know. How did he leave? He was not found. What do you mean by his not being found? I cannot explain myself further: he was not found.^d I was not there for a day or two before he left. The archives of the Bishop's Court, at Viterbo, were all burnt during the last revolution, in 1849.

Cross-examined by Sir F. Kelly.—Achilli left Viterbo in 1834. I was then about thirteen years of age. I have never seen him since he left. I received a subpoena to attend this trial in the beginning of last December, from Mr. Flannagan, an Irish priest. I was then and am now a priest at Broadway, Worcester. I have, since December last, been abroad, in order to obtain information about this business. I have seen the person who bore the name of Rosa di Alessandris.^e I saw her once at Viterbo. I did not give nor offer to her, or any one else, money to give evidence about this business. I saw several persons when abroad with reference to this business. I did not induce any one

* What an illustration of the powerful effects of the sacraments of the Church is this poor girl's case! What a contrast to the instances adduced of females in this country who had similarly fallen; but, alas! had not been similarly reclaimed!

This witness was upwards of three hours under examination; and at its close, I heard on all sides exclamations to the effect that her evidence was unimpeachable. And this was the witness given up by Lord Campbell to Sir F. The-siger's cruel imputations of perjury!

^b This is a specimen of the strictness with which the prosecutor's counsel scrutinized the evidence and objected in every possible way.

^c Mentioned in the plea; one of the many witnesses Dr. Newman could not procure.

^d This is an instance of the scrupulousness with which a good Catholic will swear, though it was set down as equivocation, or fencing. How could he swear that Achilli had absconded (which was what counsel were driving at) if not actually and personally cognisant of it, however he might infer it from the facts? A witness on oath is not to state inferences, but facts; and facts to which he can safely swear of his own knowledge. Such is the force of prejudice, that even educated persons conceived that this conscientiousness was "jesuitical." In Jar-dine's Criminal Trials will be seen similar instances of prejudice against priests, simply for answering circumspectly and scrupulously.

^e So he could not state anything as to them of his own knowledge.

to come over as a witness ; but I did see many persons who are not here. I did not seek out any one. Persons came to me spontaneously as soon as they heard what I was come about. It is a small town, and my errand was soon known. I put myself in communication with the grand vicar at Viterbo, and with a Dominican priest, named Zoppi. I know the last witness. I saw her in Italy. I did not interrogate her. I saw her in company with her husband. Dr. Newman was the person who employed me to go to Italy. I was at Viterbo about fifteen days, and was occupied during the greater part of that time in seeing persons with respect to this matter. I was in Rome about seven or eight days. I saw there three persons with respect to their giving evidence. I believe none of them are witnesses.

Re-examined by Mr. *Bramwell*.—I saw Rosa di Alessandris at Rome. Did you endeavour to persuade her to come to this country to give evidence? I told her to do so. She refused. She was unwell. She was in the family-way. I saw the chief of the police at Viterbo. He gave me a document I produce. It is his private copy of the proceedings against Achilli. I made the copy of it. Lord CAMPBELL (to counsel).—How do you propose to make this evidence?^f Mr. *Bramwell*.—I was trying to see how, my Lord. (To the witness) Has it any seal? It has the authenticated seal of the city. Lord CAMPBELL (with much acerbity)—If it were authenticated a hundred times it would not be evidence.^g Mr. *Bramwell*.—I thought so, my Lord.

Sophia Maria Balisano^h was then examined by Mr. *Badeley*, and replied in her native language, rendered by the interpreters.—I shall have been married eight years in November next, and my maiden name was Principe. I am not certain that I am yet twenty-eight years of age. Before I married I lived at Naples. I knew Dr. Achilli there : that is about twelve or thirteen years ago ; when about thirteen or fourteen years of age. I at that time frequented the church of St. Peter for prayer, and first saw Dr. Achilli in the sacristy of that church, who was sub-prior, when I went to make a small offering of money at an image.ⁱ The purpose for which I went led me into the sacristy. I went one day alone, and he shut the door of the sacristy. I wished to leave, but he prevented it, and dishonoured me. He used violence. I tried to get away, and struggled with him. I was before a virgin ; I then became pregnant. Before my confinement

^f This was said with much acerbity, without waiting to see how it would be admissible.

^g Here is a specimen of the technical strictness of the law of England. A copy of a public document (destroyed), made by a public officer, and authenticated by a public seal, is inadmissible. It is to be observed, that as the officer's was only a copy, the witness's (duly authenticated) was as good, there being no degrees in secondary evidence ; so that the officer's copy could not have been admitted ! How strikingly this shows the terrible difficulties a defendant encounters in such a case in obtaining legal proof.

^h She is a middle-aged woman, belonging, like Giustini, to the humbler classes, and gave her evidence in a quick manner, with a good deal of gesticulation, and with every appearance of sincerity and veracity.

ⁱ The paper she identified, and which was afterwards shown to Achilli, in his cross-examination, related to a *pia unione*, in honour of the Blessed Virgin, one of the obligations being to visit her image in the chapels in question, for the purpose of praying for the divine mercy through her intercession. The giving of alms was only an incidental duty of the members, and did not necessarily lead them to the sacristy, nor out of the church. The Church has always encouraged

my father and mother went to Dr. Achilli ; I, however, was not with them. I remonstrated with him at the time, and said it was a harm and an evil he was doing ; but he replied, that it was no harm—that it was rather a good than an evil. I did not return from the church by the same door at which I entered. Mr. *Badley*.—Did he make you any presents? Witness (with great contempt).—A bit of sweetmeat from time to time.¹ (Great laughter.) The thing produced great distress in my family ; my father, three years afterwards, died from illness arising out of it.

Cross-examined by the *Attorney General*.—I left Naples on the 16th of January, and my mother accompanied me to Civita Vecchia. Who desired you to come from Naples here? A Dominican father named Serouli. How did he discover that you knew anything of Achilli? Because I went to the tribunals at Naples, and it was a well-known thing. How came he to ask you? A trial took place in Naples about thirteen or fourteen years ago : he asked me if the thing were true or not? In coming to this country everything I have required I have had, but no money, for it was not necessary. I came alone a great part of the journey, but it is a Phillipian father who has taken care of me, and I don't know what or how much he has paid. I have been in England about two months, and while in Paris met with the witness Giustini. We are now living together, and we have talked together about the business. Have you conversed with any priest since coming over about giving evidence? No. When I went to put money under the image of the saint I saw Dr. Achilli alone. There were other people coming to pay, *but of Dominican monks none except him*. The church was open all day : it was closed at twelve, and re-opened at vespers. The sacristy was a first room ; there was a second where the vestments were kept, and there was a third where he sat. The door of the sacristy was in one way, and the entrance to these other rooms in another. I went to the sacristy to put down my name, but the money was paid at the end of the year, and this was done by many. I used to go at different hours, when I knew Dr. Achilli would be engaged on this particular business. It was in the morning, about nine or ten, when the act happened, and between November and December, but I do not remember the exact date. I went through the church to get to the sacristy, and there were many people in the church at the time. I went in and presented a little book, which he took and turned over. He then locked the door ; I felt some fear ; but he said, " Be quiet, or shame will grow out of it." I said, " You are a priest, let me go ;" he replied, " Oh, this is no sin." I did not call out ; nobody could have

confraternities (the origin of our Saxon " guilds," the precursors of corporations), which had originally a religious character, and are extremely ancient. There yet remains at Rome an inscription relative to the establishment of one ; and even as early as the reign of Constantine the Great, the Christians began to form such associations. The arch-confraternity of " *Raccomandate di S. Maria*," was founded in the thirteenth century. It was half-religious and half chivalrous, and in the fourteenth century rendered great services to the poor, and still exists ; and a modern traveller states it has one hundred and twenty-four foreign " filiations."

A modern traveller says :—" Many of the lay confraternities came on Sundays and festivals, with sweetmeats for the sick." The practice of giving sweetmeats is common, it is clear, in Italy ; but an ignorant English jury, very likely, would think it strange.

heard me there, and I had not the strength, because he said to me, "You are all red in the face now. You had better wait and go out by the monks' entrance, and not through the church." The exit from the sacristy in that way was also locked, but with a sort of latch, and not a large key. Dr. Achilli showed me the way out, opening the door and looking if there was anybody about the entrance. I did not at first tell anybody of what had happened, but when I had increased so much in size that I could not conceal the fact, I told my mother; that was in February or March. I did not complain to him; my father and mother went. He knew that I was in the family-way, but denied that he had anything to do with it. Dr. Achilli resided in Naples a year or more after I spoke to my mother.

This terminated the cross-examination, and at past four o'clock the Court rose, reserving the re-examination till to-morrow.

SECOND DAY.

The LORD CHIEF JUSTICE took his seat at half-past nine. There was a delay of a few minutes on account of the witnesses not having arrived. Lord CAMPBELL asked Mr. *Lewin* very roughly—"Are you the defendant's attorney, sir?" "Why are not your witnesses here?" "They will be here directly, my lord." "Where are they, sir?" "In Manchester-buildings, my lord." "Why are they not here, sir?" "A clerk has gone for them, my lord; they will be here in a moment." "They ought to be here now! The Court ought not to be delayed!"^k Shortly after they arrived—

Maria Giovanna Principe was recalled and re-examined by Mr. Bramwell.—The society to which I belonged was one which Dr. Achilli had founded. I paid money. Many others paid besides myself. We were not called by the name of any society. We received a paper like this (produced). I received it from Achilli. I do not know whether these payments commenced after he came. I never was at that church after he left it. I do not remember his leaving the church. A short time before he left my mother was aware of this circumstance. I went before the police at Naples about Achilli. I saw a commissary of police there. I made a statement, always repeating what had happened. My father and mother went there also. Achilli was not there. I never spoke to him in the streets. I visited him afterwards in the sacristy.

^k The most appropriate comment on this ebullition is the observation of a barrister (a stranger to the contest), "What an affectation of haste!" The whole delay was about five minutes, and Lord Campbell well knew the "reason why." He was well aware that it was of the utmost importance to keep the defendant's witnesses from communication with the prosecutor, who was in the precincts of the court; and he also knew that there are no proper waiting-rooms for witnesses in Westminster Hall. Indeed, the absence of accommodation is disgraceful, and as detrimental to the administration of justice; and in such a case there seemed no reason to aggravate the difficulties of so arduous a case by this rough rebuke. It is a small circumstance in itself, but sufficient to show the secret *animus*. Separately these incidents are insignificant, their accumulation is suspicious. Straws floating in the same direction show the current clearly.

Cross-examined by the *Attorney General*.—I went before the commissary of police before I was delivered. That was when I was four or five months gone with child. Achilli was still in Naples at that time. He was brought before the police. He caused my father to be called before the commissary. I never met Achilli before the police. When Achilli went before the police I did not go. I was only once before the police. I think the event was repeated seven or eight times in the sacristy, between December and Lent. My mother knew of it at that time. Achilli did not leave Naples for some time afterwards, after I knew myself to be with child. I know why Achilli brought my father before the police. It was to say that my family had uttered this calumny against him, and that it was a calumny.

Re-examined by Sir *A. Cockburn*.—My father was called a second time before the police, after I had made the complaint. Nothing was done to him upon the complaint of Achilli. The commissary had informed himself, between the two complaints, whether my family was an honest one, and whether I was an honest girl. Afterwards he, hearing the truth, sent for my father, and then he gave the papers to another tribunal. My father was sent for a third time, and other times as the knowledge of the commissary increased. How did it end? The *Solicitor General* objected. Lord CAMPBELL ruled that the question was irregular. Sir *A. Cockburn*.—You went into it yourselves!

Signora Principe was then called and examined by Sir *A. Cockburn*.—I am the mother of the last witness. I knew of my daughter being in the family way, but I do not remember the month or year. My daughter was not then married. She was about thirteen or fourteen years of age. I learned from my daughter who was the father of the child. I saw her weak and ill. I inquired of her what was the matter. She told me everything. She had always conducted herself well up to that time. I have seen Dr. Achilli about this matter. I saw him after my daughter told me who was the father. He was in a procession,¹ and I and my husband took him aside. We called him into a house, and told him the affair. He was angry. He said it was not him. He said, "I am a priest." I said, "I will apply first to Divine justice, and then to the laws of my country." He then turned from me and said, "Go to the devil if you like, to me it matters nothing." I afterwards saw him again. He caused me to be called before the commissary of police. I went before the commissary. My husband was summoned with me. We both of us went. That was a few days after the conversation I had had with Dr. Achilli. Dr. Achilli was not present before the commissary. My daughter was afterwards taken before the commissary. Dr. Achilli, when he went to the commissary, stated that a low family had calumniated him. The commissary then sent for the father, wishing to know how the priest was involved in the matter. My daughter then went to the commissary, because he (the commissary) told us we were to take her before him, and we did so. He wished to ascertain the age

¹ Achilli swore this could not be true, because (as Sir *A. Cockburn* said he always would give a reason) it was not allowable to speak to a monk in a procession; and one of the jury eagerly seized hold of this, and nodded his head sagely. As if a person under such circumstances would stand on etiquette! Sir *A. Cockburn* put it far more truly, that this very incident showed the force of these feelings. And be it observed, that if all this evidence had been according to the atrocious invention of the *Attorney General*, "trumped up by ecclesiastics," they could hardly have framed so out of the way an incident, but have chosen a more usual and common manner of communication.—See note to his examination.

of my daughter. The commissary caused my daughter to confess everything that had happened. We were not condemned for the charge we had made against Dr. Achilli. Dr. Achilli left Naples after this—I don't know how long after, but we lost sight of him.

Cross-examined by the *Solicitor General*.—I am fifty-nine years of age. I was twenty-four or twenty-five years old when my daughter was born. She was born at Naples, and I lived there until this affair happened. I have never left Naples. My husband was a baker. I had no business of my own. There is nothing which will enable me to tell what year this took place with Dr. Achilli. I can only guess: it happened between thirteen or fourteen years ago. My husband died three or four years afterwards of a disease of the heart. I did not know Dr. Achilli before this circumstance, but I knew him by sight; I saw him preaching in all the churches. Dr. Achilli might stay at Naples a year or two after this occurrence. I cannot say how long he remained. I saw him in the procession four or five days after I knew of the pregnancy. The matter was before the police altogether three or four months. It was about a month after I saw Dr. Achilli in the procession that he applied to the police. Dr. Achilli did not preach in the churches for more than a year after the application to the police. I saw him when I first spoke to him, then I never saw him any more. My daughter lived with me three or four months after her confinement. I was then forced to send her to work. She went to work. I used to take her there and fetch her back. My daughter married eight years ago; that was one year before my husband's death.

Antonio Russo^m examined by *Serjeant Wilkins*.—I am a resident at Corfu, and am a carpenter. I know Garimoni, a tailor, at Corfu. One night in July, 1844, I was walking with Marino Vanice in the street of Viannello. We passed the house of the mother-in-law of Garimoni. As we passed the house, Garimoni opened the door. He called me in, and pointed out some one to me and my friend. He said, "Here is a Catholic priest, Achilli." I saw Achilli on the stairs near the apartment of the wife of Garimoni. This was about eleven o'clock at night. It was dark. I took hold of him and said, "What are you doing here?" He trembling answered me, "Nothing." I know it was Achilli, because Garimoni called out, and a lamp was brought. I distinctly saw his face. Garimoni was very angry, and scolded his wife. He was also very angry with Achilli. A police officer was called for by Garimoni. Achilli was trembling, but did nothing. When the light was brought, the constable not being there, Achilli stepped through, and escaped. He ran away like a horse. I and Vanice were afterwards called before the Court. It was eight or nine days afterwards. There were depositions taken.ⁿ I was examined. Garimoni was in England for some time—two or three months. He went away about a month ago.

^m The witness was an honest-looking fellow, who spoke with every appearance of truthfulness.

ⁿ This commences the evidence as to the case of Garimoni; the next witness also refers to it. It will be seen from the affidavit of Garimoni (*see ante*), that he was prepared to be a witness for Dr. Newman, and was only prevented by the delay of the trial, which compelled him to return to Naples; the documents produced by the Corfu judge, Mr. Kirkpatrick, support the story; which is also confirmed by Achilli himself, and his own witness, the wife, especially by the inconsistency between his evidence and hers. And all this was put aside by the jury and the judge, simply because Achilli chose in terms to deny it!

Cross-examined.—I came over with Garimoni and lived with him here. I know Captain Lawrence, inspector of police at Corfu. Garimoni left this country, but I cannot tell when, because I also went away for one or two days. I went to Paris and Corfu, and then returned here. Before Garimoni and I left I had not heard of the arrival of Captain Lawrence. I heard that in Corfu. I did not tell Garimoni of it, because everybody in Corfu knew it.^o When I came back I found Garimoni was gone, but I knew he was at Corfu. I have had the misfortune to be imprisoned at Corfu once. I was put in once for two or three hours for some youthful trifle. I mean to say I have only been imprisoned once at Corfu. I had beaten my brother, and was imprisoned again. Once more I have been accused, but not convicted. They said it was for robbery. I was three days, or two, or four, in prison for that. I cannot swear I have not been in prison four times, because when a child I was taken up. In 1840, 1843, 1844, or 1845, I do not recollect whether I was in prison. I was never in the house of Garimoni's mother-in-law before that time. I do not know whether Garimoni lived with his wife. When Dr. Achilli ran away like a horse I do not know where he went. I do not know that Dr. Achilli lived next door to Garimoni's mother-in-law. I never knew Dr. Achilli before that evening, not even by sight. After this fact I never set eyes upon him. I was called before the court at Corfu upon this business.^p I have not said my deposition was taken in Corfu.

Re-examined by *Serjeant Wilkins*.—I was never charged with theft more than once, and it was not true. The trifles for which I was imprisoned were for being in the streets, or a little intoxicated. When Garimoni said it was Achilli in the house it was loud enough for Achilli to hear him. The lamp was put to his face by the wife of Garimoni, by the desire of the husband, who obliged the wife to bring the lamp.

Giovanni Patrini examined by *Mr. Badeley*, through an interpreter.—I am a jeweller at Corfu. I know Dr. Achilli. I have seen him at Corfu several times. I know Garimoni. I received communications from him as to his wife, which led me to observe the house of his mother-in-law. He took me one night to watch between ten and eleven. We saw a man come out; it appeared to be Achilli from his stature. I was acquainted with Achilli. I knew the wife of Coriboni; she was a woman of bad character; her name was Albina.

Sir *F. Thesiger* declined to cross-examine this witness.

Bocchiciampi examined by *Mr. Addison*.—I knew Achilli in Ancona in 1841. He sought my acquaintance, his object being to go to Corfu, I had a passport for Corfu, and he asked my permission to insert his name in the passport. I gave it to him. He went to the English consul. His name was inserted in it; he told me he could not get out of Italy for want of a passport; he had not money to pay his passage. Did you

^o In the face of this fact (confirmed by the documents produced by the judges), the Attorney General ought to have shrunk from imputing false swearing; and Lord Campbell, in the case of Principe, admitted that the matter, having been brought forward publicly at the time, was very strong evidence of its truth; though he did not say so in this instance. Why did he not? He, however, did say one of the charges in this case was proved; yet the jury found it not proved!

^p Why not? Sir *F. Thesiger* objected to the very kind of question which afterwards Lord Campbell was compelled to admit might be put; though here by his tone he encouraged the jury to object. — See Achilli's cross-examination.

get repaid? The *Attorney General* objected to the question. Lord CAMPBELL.—I do not see how it bears on the charges.^a Mr. *Addison*.—At Ancona did you observe him with females at an hotel? The *Attorney General* objected; what charge is this upon? Sir *A. Cockburn*.—General immorality. Do you shrink from it? Lord CAMPBELL (sternly).—That is not fair! The *Attorney General*.—I am bound to take care that no question be irregularly put. Sir *A. Cockburn*.—There is a general charge of profligacy and unpriestlike conduct. Lord CAMPBELL.—But can you give evidence of such conduct in any part of the world? By Mr. *Addison*.—I have seen Achilli at Corfu. There was a woman living in his house, a servant. Have you seen him in a bad part of the town frequented by bad women? Yes. More than once? Yes. The *Attorney General*.—I really must interpose! Nothing is charged as to Corfu but Coriboni and Garimoni. Sir *A. Cockburn*.—You compelled us to give those names. Lord CAMPBELL would not allow the line of examination to be proceeded with.

Cross-examined by the *Attorney General*.—It was in 1841 or 1842 I accompanied Dr. Achilli to Corfu. That was after he had been confined in the prisons of the Inquisition?^r Yes.

Mr. W. A. Reynolds, examined by Sir *A. Cockburn*.—I was employed at Zante and the Ionian Islands, by the government, for twenty-five years. I have retired on half-pay. I was collector of customs from 1842 to 1851. I remember Dr. Achilli being brought to my house at Zante, by Captain Ford and his family. He spoke to me upon the subject of establishing an Italian Protestant church in the island, in the autumn of 1844. He asked for my assistance and co-operation. He said he was taking a house for that purpose, and he did so in a few days. It was on the opposite side of the road, contiguous to mine. I assisted him in his object. Subscriptions were entered into. The chapel was opened in 1844. I attended on the first occasion. I was struck by the appearance of a woman of notoriously bad character, who acted as doorkeeper, and let us in. I knew her by sight from having seen her in Cephalonia, where she carried on the life of a common prostitute, her husband bringing persons to her. My dressing-room looked towards the back of her house, and I had friends living in the street in the front of her house. I often visited those friends. Her dress was very peculiar. She was always standing at the door, with her person much exposed. Everybody in the place knew what she was. Her husband was a chorus singer. He used to bring home friends to her. Her husband acted as Dr. Achilli's clerk, reading the Church of England prayers. I considered it my duty to call on Dr. Achilli the next morning. I told him I should be excessively sorry to deprive him of good servants, whom, I dared to say, he had taken on the recommendation of some friends; but I considered it my duty to inform him

^a The object of this part of the cross-examination was to show that Garimoni had departed from a fear of Captain Lawrence's disclosures, as chief of the police. But see the affidavit of Garimoni (*see ante*). First, the prosecutor's lawyers protracted the trial so that defendant's witnesses had to leave; and then they try to blast their characters!

^r Of course, the object of this was to counteract any awkward ideas about absconding, and excite the sympathies (or bigotries) of the jury. It was enough to turn the current of their feelings had it set ever so strongly against him. The very words, "prisons of the Inquisition," seemed always to have mysterious potency. Throughout this was the prosecutor's *cheval de bataille*.

of their bad character, and the impropriety of keeping them in his service. I told him everything I knew of the woman and her husband. He said he was aware already of her previous character ; that he hoped she had become a second Magdalen ; that he considered it his duty, as a clergyman, to continue his protection to her. I believe I rejoined he was free to give what charity he liked, but it was a very improper thing forcing her upon the congregation ; and that if I saw either of them there again I would leave the chapel instantly, and I was convinced if I did so all the rest of the English would follow my example. I had my wife and daughter, and servant, living with me at that time. My house was opposite Dr. Achilli's, commanding a view of the room on his upper floor, which room was used by this woman as a laundry. The distance from my house to that room was, perhaps, fifteen or twenty feet. After that conversation, I several times saw Dr. Achilli in that room with that woman. I have seen him in his shirt-sleeves, and the woman in her open undress, working at her ironing. I could only see the upper part of his person.^a Her shoulders were almost bare, as she usually dressed. She had no gown on then, as is common with that class of women. I have seen Dr. Achilli put his hands on her shoulders and on her bosom, talking and laughing all the time. I have seen it several times. I kept my blinds down on account of my daughters, it being an improper sight for them. The blinds were also kept down at the next house to mine. I saw Dr. Achilli after this, and expostulated with him. He said it was his duty, she being a Magdalen, to support her against all the world. Lord CAMPBELL.—Did you charge him with the indecent familiarities ? I did not mention exactly all I had seen ; but I told him he was too familiar with his servant, and that I had seen so much going on, that I considered it necessary to stop it. I advised him to send her and her husband away. I saw him after this time at my own house. I did not go to see him. He came to me. I requested my wife to leave the room. I then, in private, told him what I had seen, and insisted on his sending them away. He became extremely violent ; he never denied his connection with the woman. [The *Attorney General* (angrily).—“He never denied his connection with the woman !” Lord CAMPBELL.—Did you charge him with it ? I charged him with familiarities. Lord CAMPBELL (with an air of extreme indignation).—Sir, you surprise me ! I am astonished that you should venture to make such an observation ! You never charged him with criminal intercourse ?^b Witness.—I charged him with the indecent familiarities. Sir *A. Cockburn*.—Did he deny the familiarities ? No.] My wife came down and the conversation was put an end to. After I had remonstrated with him, I went once through his bed-room. There was a bed with two pillows. I said, “It is a double bed.” I do not remember how he turned it off. There was a table

^a This is important ; it destroys the whole force of the reason Achilli gave for the improbability of the statement, and strongly confirms it. Achilli said it was impossible, for his house was higher than the witness's, so that the latter would have to look upwards ; the effect of which would be precisely what the witness described—that he could see only the upper part of the person, to the waist.

^b As if this were not necessarily implied in such indecencies ! Let the reader observe the roughness with which, at a hint from the prosecutor's counsel, this most respectable witness was thus most unjustifiably assailed, before a jury already obviously prejudiced, and with whom this episode was enough to destroy the credit of the witness. No such ebullition occurred on any occasion against any one who appeared on the part of the prosecutor.

laid in his dining-room for two persons. I apologized for intruding, as I saw he was going to have a friend to dinner. He said it was only the table laid for himself and poor Albina,^u as he made her dine with him. I was out one evening when the band was playing near the Mole. There were some friends with me. My attention was called to Dr. Achilli being behind me with this woman leaning on his arm. I quitted the congregation. The other English residents did the same, on account of this business. The matter made much stir.

Cross-examined by the *Attorney General*.—I arrived here on the 15th February last. I left the Ionian Islands on the 6th February. I then went to Malta. I was collector of customs. The chapel had not been established many months. Coriboni's wife acted as door-keeper at the chapel on the first occasion only, and her husband only once acted as clerk. My windows had jalousies. The windows to Dr. Achilli's room were quite open. I saw these familiarities several times—five or six times, perhaps, or it might be oftener. They were always the same sort of familiarities. I, perhaps, saw them for five or six minutes. They continued after my remonstrances, the windows still open. Dr. Achilli was quite aware I had seen all this. I could see perfectly well. I had told him I could see, but they continued.^v I attended the chapel once or twice afterwards. I do not know about what time the last remonstrance was made. Pray, sir, has not Dr. Achilli remonstrated with you? With me? upon what? Upon anything I ask you, sir, has he not remonstrated with you? No; I cannot understand on what he should remonstrate with me. Why, sir, has he not remonstrated with you for your habitual intemperance? For my intemperance? certainly not. Mr. Reynolds, remember! I know I am upon my oath, sir. Did he never remonstrate with you? No! never! You never were intemperate? I am not an intemperate man. I might have been at a dinner party a little jovial, as other men are, but I am not in the habit of being intoxicated—all men are a little intemperate, perhaps, now and then. The *Attorney General*: I don't know that. Witness: Dr. Achilli never remonstrated with me upon the subject. If I had been intemperate I should not have served the Ionian government twenty-five years. Mrs. Read, who lived next door to me, had her blinds pulled down. She is dead, but Mr. Read is living, and in this country, but he is nearly blind. Dr. Achilli took me over his house to show it to me. His bed-room was on the third floor. I have talked to Lieut. Stoney about this matter. I think I told him that the reasons of

^u An observable coincidence with the evidence of Patrini, who said that was her name. This was not mentioned in the charge.

^v Yes; but Achilli swore the witness could not see; and if he truly swore according to his own belief, that would of course amply account for his being reckless about these familiarities, supposing him to have committed them. Therefore, this part of the cross-examination, pointing to improbability on the score of recklessness (on which Lord Campbell strongly relied, in discrediting this witness), quite breaks down. Indeed, the whole principle of such objections to evidence, otherwise respectable, is founded on a flagrant fallacy—the assuming that persons who are very lustful are likely to be very careful. As if passion might not run away with prudence! As if sensuality might not be supposed to besot the mind, and make it blind to consequences! As if all great crimes did not presuppose this sort of besottedness. Yet this palpable fallacy, pressed again and again in different forms, was the staple of Lord Campbell's charge, and the sole argument for disregarding a whole body of respectable testimony!

my suspicions were the two pillows to the bed and the two covers on the table. I know Captain Read. He was at the Ionian Islands. I have so far assisted in this case that I was asked by Messrs. Lewin, the attorneys of Dr. Newman, to go to Corfu and meet the gentlemen they had sent there. I was asked to go out on account of my knowledge of the place. I had told them what I knew, and they engaged me as a witness. I told them what I knew by letter from Malta in November or December last. I wrote to them in consequence of seeing the circumstance in the papers. Have you any relations of the Roman Catholic persuasion?^w No. I found a Roman Catholic gentleman at Corfu, Dr. Scandeller, who had been written to. I know Parson Mitchell; he was at one time chaplain to the forces in Cephalonia. I don't know that he was engaged in this matter. I have not been paid, but expect to be paid after the rate granted to merchants or bankers.^x I have not the least idea what it will be. I expect to receive 1*l.* a day up to this time. I brought down the witnesses the other day, and subpoenaed some of the Italian ladies.^y I gave Mr. Stoney a subpoena at Plymouth, as I live in that neighbourhood. I gave the witnesses no notice that the trial was deferred. I did not see Dr. Achilli after I withdrew from the chapel. My wife was confined to her bed, and therefore did not see anything. A servant of mine witnessed these familiarities. She sat at the window, which commanded a view of the laundry. There were from seventeen to twenty-five English who attended the chapel. This letter (produced) is in my hand-writing. The *Attorney General* read the letter (addressed to Lieut. Stoney), as follows:—"Can you come up to give evidence in an action of libel, brought by Giovanni Achilli, our *ci-devant* parson, against Dr. Newman, in relation to his living with the wife of a chorus singer as his concubine, at Zante, about which I kicked up such a row. You cannot have forgotten it! Do you remember a conversation with Achilli as to my quitting the congregation, because he would continue to keep that woman with him? If you can speak to the point, Lewin will send you the sum we mentioned, to pay the expenses up and down, and for the stay in London; in fact, they are quite disposed to be liberal.^z You need not be ashamed to appear in the case, for Lord Shaftesbury and several clergymen are summoned."^a (To the witness) What did you

^w And what if he had? Are Roman Catholics to be supposed by reason of their religion ready to suborn perjury? This unworthy insinuation is the substratum of the Attorney General's case.

^x That is for his expenses, of course.

^y Because he understood Italian. Lord Campbell made as much of this as the Attorney General; but what does it come to?

^z The Attorney General well knew that this meant merely expenses, which a witness could claim; for his clients had clearly been in communication with Stoney or they could not have got the letter. Was this a fair use of the license of counsel, to insinuate subornation of perjury, on such a misrepresentation?

^a The Attorney General would never have dared, had he not known that he had judge and jury with him, to read this letter, which so thoroughly confirmed the witness's evidence when the explanation of it (of which the Attorney General was fully aware) was given. For if the witness's statements were not true, Stoney could have been called to disprove them. And, now, will it be believed that Lord Campbell discredited this witness in his charge, by referring to the insinuation, without alluding to the explanation—hinting that he had been concerned in getting up the case, without mentioning that it was

mean, then, by their being "disposed to be liberal?"—Only that he had said he would not come up without being paid his expenses. Lord CAMPBELL.—Who told you they would be liberal? I merely said so on my own authority.

Re-examined by Sir *A. Cockburn*.—How did it happen that you served three witnesses with subpoenas?—I happened to be at Mr. Lewin's office, and was going down where they were living, and was asked to hand them over. This Lieut. Stoney: you have known him several years? Yes. And he, as an officer, objected to come up unless paid his full expenses? Yes; he was a family man, on small means, and could not afford to come at his own expense. When did he say that? In Liverpool, in March. You had spoken to him, then, on the subject? Yes. Was he unwilling to come as a witness? Yes. And so in consequence of what had passed between you on the subject, and as he was anxious to be furnished with money, you wrote to him in the terms of the letter? Yes. Was any money sent to Stoney?—No.

Rosina Lavaney examined by Mr. *Addison*, through an intrepeter in French.^b—I am a Swiss, and now residing at Geneva as a nursery governess. I was servant to Mr. Reynolds at Zante, in 1844, and continued so until 1851. I returned to Geneva when her and his family quitted the Ionian Islands. I remember a Mr. Ford visiting Mr. Reynolds, and introducing Dr. Achilli to that gentleman. I went to the Protestant chapel the first time that it was opened, with Mr. Reynolds. I then saw the wife of Coriboni on her knees before the door, acting as pew-opener. Her husband acted as chanter or singer. I recollect Mrs. Reynolds being ill. I then sat in a chamber near hers, in order to be ready to attend her when called. I could, from that window, see into a room in Achilli's house, which was used as a laundry. The room in which I sat had Venetian blinds, which I used to have so closed that though I could see through them I could not be seen. I have several times seen Achilli with Coriboni's wife in that room. I have observed Coriboni's wife with her neck very bare, and Achilli in his shirt-sleeves. I have observed very great acts of familiarity between them. The wife of Coriboni being thus uncovered, I have seen Achilli several times place his hands on her shoulder and bosom. I have seen them talking and laughing together. I have seen them walking together in the public streets of Zante towards evening. I never saw Coriboni and his wife together. The blinds in Mr. Reynolds' house, looking towards Achilli's, were kept closed, because Mrs. Reynolds was ill, and could not bear daylight. I do not know of any other reason for the blinds being closed.^c The blinds were not always kept closed after Mrs. Reynolds recovered.

Cross-examined by the *Attorney General*.—I came over from Geneva about a fortnight ago. I knew about coming two or three days before I came. I heard about it from Mr. Reynolds, who wrote to me. I saw Mr. Reynolds after I came here. I have been living with Madame de Plume, whose husband has a government office. The expenses of my

only casually, and in consequence of seeing the case in the newspapers; and, above all, Lord Campbell never adverted to the obvious confirmation of the witness's story, by the omission to call Stoney, who, if he did not know it to be true, could and would have been called to contradict it!

^b The witness was an ingenuous-looking girl, who gave her evidence with equal modesty and simplicity.

^c No other reason would be given her; because (as she said) it was not decent to mention the other matter to her.

journey have been paid for me, but I have not received any money. Mr. Reynolds paid for me. I quitted the Ionian Islands at the same time as Mr. Reynolds, and came with him to Lyons, where he left me for London, and I went to Geneva. Achilli and Coriboni's wife used often to be together in the public streets, where every one could see them. Her husband lived with them. How often did you see these familiarities? Several times. Were you very much shocked?^d I was much disgusted. Did you always turn away when you saw them? I did, after I had seen that Achilli and Coriboni's wife acted so. I could only see what took place when they were before the window; had they retired into the other part of the room I could not have seen them.^e Used he to begin the moment he came into the room? I do not know, for my window was not opposite to their door.^f Only one window of Mr. Reynolds' house commanded this room of Achilli's house. These familiarities continued several times. Did you mention them to any one but Mr. Reynolds? I mentioned them to Mrs. Reynolds and the young lady (the daughter), but to no other person, although I heard other persons talking of them. Miss Reynolds was then fifteen. I am now twenty-eight. What, did you mention these familiarities to a young girl of fifteen? She used to see it herself. She was disgusted with it the first time she saw it. I do not know how often she saw it, for we ceased to speak of it, as it was not decent.

Re-examined.—I am a Protestant. The blinds in Mr. Reynolds' house were Venetian blinds, of such a nature as one could see through them without being seen. The blinds were kept shut because it was hot. I heard many persons talking of this affair.^g

Vincenzo Barga examined by Mr. *Badeley*.—I have lived in Corfu twenty-three years. I am an armourer. I recollect Achilli coming to Corfu as a Catholic priest. He appeared as a Protestant. Four or six days after he came he declared himself a Protestant. I do not know whether he was a Protestant or a Catholic. I knew Coriboni and his wife. They lived together. I have seen Coriboni's wife in public as a bad woman, in which character she was known and esteemed in public. The *Attorney General* objected. How was this material? Sir *A. Cockburn*.—If she were of general and notoriously bad character, and he nevertheless persisted in retaining her after remonstrances, and though he was a minister of the gospel—surely this would tend to show that he kept her to satisfy his desires. Lord CAMPBELL.—It cannot be necessary. Mr. *Badeley*.—Have you seen Achilli with her? I have

^d This was said in a tone of sarcasm—very ungenerous towards a girl evidently innocent and ingenuous.

^e Here it will be observed how this coincides with Achilli's own account of the relative position of the rooms preventing persons seeing into his house, except looking in an upward direction.

^f This is important, as answering the suggestion relied on by the *Attorney General* and Lord Campbell, as to the improbability of such indecency; for in Achilli's house it would appear as if the blinds were closed.

^g The *Attorney General*, conscious how monstrous and infamous it would appear to charge the witness with perjury, artfully endeavoured to show she might have sworn falsely, though not wilfully, by reason of her having seen some one committing these indecencies, and then having been induced by Reynolds to believe it was Achilli. Strange sophistry, this! Does the *Attorney General* think this would have been any the less perjury to swear to something told her by another, and which she did not know herself! Because she swore she saw Achilli.

seen Achilli enter the house where she lived. I cannot say how often. Achilli left in 1843. Coriboni's wife and Achilli were said to have left Corfu together. I do not know it of my own knowledge. I lost sight of them both at the same time.

Cross-examined by the *Attorney General*.—It was Dr. Achilli's own house, was it not? I do not know. It was next door to the house of the mother-in-law of Garimoni.

Re-examined by Sir *A. Cockburn*.—When did you first become acquainted with the wife of Coriboni? I knew her as a public dancer at Corfu. When did she come first? The *Attorney General* objected. Sir *A. Cockburn*.—Surely it is a regular question; he has already said he had seen Achilli enter the same house. Lord CAMPBELL.—This is a case in which, as I am anxious to arrive at the truth by all means, I will not stop the examination. Sir *A. Cockburn*.—When did Achilli come to Corfu? I cannot say exactly. Was it after Coriboni's wife had come? I believe it was afterwards. Do you know if Coriboni's wife resided all the time in the same house as Achilli? So long as I knew her she was living in the same house. Was that Achilli's house or her husband's? I do not know.

The Rev. George Horatio Hadfield examined by Mr. Serjeant *Wilkins*.—I am a clergyman of the Church of England, now resident at Whitechurch, Hampshire. In August or September, 1846, I was appointed principal of St. Julian's Protestant College, Malta. After the vacation of 1847 I returned to Malta in September. I am well acquainted with Achilli. On the 19th July, 1847, he was appointed Italian professor of theology in that college. He came to Malta on the 11th December. Before he arrived, a priest, named Keosse, who had been a Catholic priest, had brought certain charges against two persons named Leonini and Saccares, who had been priests. The *Attorney General*.—Were these charges in writing! I have the statement here. Mr. Serjeant *Wilkins*.—Were they Protestants? They professed to be Protestants; they were connected with the college. They were residing in a house connected with the college as missionary students. I communicated with the committee of the college in London several times on the subject of these accusations, which had gone to London before. I afterwards, at their request, inquired into these charges. The earl of Shaftesbury is the chairman, and the earl of Waldegrave is another member. In consequence of these charges a meeting took place at the mission-house at Malta, on the 28th of December, in the presence of Achilli and the accused priests. At my request, Mr. Bryan, the vice principal, took the chair. Achilli was present. Keosse was then called upon to state his charges against these priests. Leonini was charged with having committed adultery with a Maltese lady. Saccares was charged with sleeping out of the mission-house, and having frequent intercourse with women of bad character. Achilli had lived in the same house with these persons during the same year. Keosse had not lived with them. The priests were called upon to answer the charges, and denied them. The examination was written and sent to London. I have here the depositions. As they denied the charges the case was for the time held not to be proved. Achilli called Keosse a calumniator. On the 5th of January, notice was given to Keosse either to substantiate his charges or to withdraw them. As long as they rested merely upon his authority the charges were not believed. Some time after that a Dr. Bonavia made a statement to me, which I mentioned to Dr. Achilli. Dr. Bonavia stated that he had heard from Saccares similar statements

to those which Keosse stated that he had made to him. I gave this statement to Achilli on the 16th of February, 1848, telling him at the same time that I was going to send it to the committee in London. On the 19th of February, 1848, I received from Dr. Achilli this letter (which was read, as follows):—"I have need of the Rev. Mr. Saccares for an important mission, and he starts immediately for his destination, consequently he does not any longer belong to the college." I believe that Saccares left upon that day. I received no information of that between the 16th and 19th, that he was going away. I left Malta for England on the 24th of April, 1848. Dr. Achilli came to London soon after. Was he dismissed? Our notion was he had removed himself; that he had resigned his position in the college. In obedience to directions from the earl of Shaftesbury I dismissed Leonini from his position in the college. Keosse continued to teach after I left Malta, but has since returned to the Church of Rome. Dr. Achilli was well acquainted with the charges brought against Leonini and Saccares.

Cross-examined by Sir *F. Thestiger*.—The students in that department of the college to which Dr. Achilli belonged were Italian priests, who had seceded from the Church of Rome. Including Dr. Achilli himself, their number varied from three to seven. Keosse was also there as a seceding priest, and in order that he might teach Turkish in some of our other institutions he lived in the same house; but he did not live there when Achilli was there before. Achilli had not left Malta before I had; but he came to England soon after me.^b

The Rev. Alexander Watts examined by Mr. *Addison*.—I was formerly clerical secretary to the committee of the Malta college. I recollect the charges against Leonini and Saccares coming to England. I had a conversation with Achilli about it. He was anxious that I should suppress the whole of them. He insisted that I should deliver them to him, and not bring them before the committee, as he said that it would not be of any use to do so. I would not do so; the charges were laid before the committee, and they decided upon investigating them. The investigation was first entered upon by the principal, vice-principal, and Dr. Achilli, who formed the council of the college. Their report was sent home to London; the committee then requested the bishop of Gibraltar to assist in the investigation. His lordship declined, because Saccares, one of the principal parties accused, and who was a witness, had been sent away by Dr. Achilli. Subsequently the committee, taking into consideration that Saccares had been sent away from the island by Dr. Achilli while those charges were pending, upon some mission of his own, and without the consent of the committee, determined to remove him, and decided upon closing that branch of the institution over which he presided. The resolution to that effect was dated May 8, 1848. The *Attorney General*.—Where is it? (Put in and read.)

"Resolved, that it is not desirable, under existing circumstances, to keep up the Mission House; and that notice be given to Dr. Achilli and the other priests, that their professorship ceases, and that the establishment for ex-priests will close in a few months."

September 26, 1848, Dr. Achilli addressed a letter to the earl of Shaftesbury, which he requested might be laid before the college committee. (The letter was then put in and read.) "I am about leaving London to

^b See as to this matter Achilli's own affidavit, disclosing the publication of these proceedings.

go to my mission. I have hitherto hoped that you and the other members of the Maltese college committee would not allow me to leave England so embittered, as I assure you, that although separated from the college, I still equally love you in the Lord; it is only a misunderstanding for which you have got angry with me. I did not know that I was forbidden to come to England, and thought that the employment you confided to me was serving you and the cause of religion. But this is to be as God has willed it. I think, however, that God forbids that there should be any ill dispositions between us. Therefore, if you believe yourselves offended with me, I beg your pardon; while on my own side, I shall willingly forgive any offence that may have been offered. I have suffered much, without having on my own conscience anything to reproach me. Have I transgressed your laws, or failed in my duty? Do not allow me to leave this country, perhaps for the last time, without receiving from you one little word of friendship. Even a servant, when no longer wanted, has a character given him, and his month's wages paid him; but it appears you are sending away your servant without even a letter, or paying him his stipend, which was fixed to be paid by the year; and I have only received it for eleven months. I beg you to interpret this to the committee."

This letter was laid before the committee, and an answer sent, Dec. 6, 1848. (Put in and read.)

"Malta College Office, 3, St. James's Street,
December 6, 1848.

"Rev. Sir,—At the last meeting of Committee, held on the 15th November, 1848, Lord Ashley, at your request, laid before the members present your letter addressed to his lordship, dated September 26, 1848. The Committee request me to send you the following reply. When you arrived in England in June last, after being absent a whole month from your official situation and important duties in the Malta College, without communicating your intention of leaving, either to the principal or to the Committee in London, I expressed to you the dissatisfaction which the Committee felt with your proceedings in these respects, especially as you had been previously informed by them that they did not wish you to come to England that summer on the business of the College. I then asked you to attend a meeting of Committee to be held next day, that you might have an opportunity of offering any explanations which you might think proper. You neither attended that meeting nor any other subsequent ones since your arrival in England. You have addressed no letter of explanation to the Committee, except this short note, in which you desire to be informed in what respects you have failed in your duty, and request some recommendatory letter before leaving England, expressive of the Committee's Christian regards. The Committee are not a little surprised at the tenor of your communication, after they have so fully expressed their views of your unjustifiable mode of acting, both as regards your deserting your post at Malta during term time, as well as in respect to your summarily removing, upon your own authority, Signor Saccares from the College, and sending him upon some mission of your own into Sicily. You did this, too, at the very time when you knew that the most serious accusations of gross immorality were brought against Signor Saccares, then resident in the Mission House. You thus defeated the ends of justice, or deprived the accused, if innocent, of the opportunity afforded of clearing his character before the world.

“ I regret to add, that the Committee have had additional cause of dissatisfaction with you since your return to England. I have before me a letter from one of our subscribers, in which, before paying his subscription, he requests me to give him some explanation of the injurious statements made by you to him respecting the Malta College.

“ You conclude by mentioning that the salary paid you was only for eleven months instead of for a year. You forget that the Committee did not engage your services by the year. You were paid quarterly, as all the other officers of the Institution, at a certain rate per annum. When I gave you the amount of salary due, according to the terms of the resolution of the Committee, held on the 19th of June, 1848—including payment for the month you were absent from Malta without leave—you expressed yourself perfectly satisfied in signing the acknowledgment.

“ It has been with sincere regret that the Committee have felt themselves obliged, for the above reasons, to withdraw their confidence from you, and to remove you from the advantageous situation they had conferred on you in the College. In that office you had an opportunity of rendering most important service to the cause of Italian reformation, by preparing missionary agents, so much wanted to occupy the different fields of labour which might be opened up.

“ I remain, yours faithfully,

(Signed)

“ ALEX. WATT, Secretary.

“ To Dr. Achilli.”

Cross-examined by the *Attorney General*.—You have read the resolution laid on the table on the 8th May, 1848, by the earl of Harrowby, for consideration? (It is read, as follows):—

“ Resolved,—That it is not desirable, under the altered circumstances of Italy, to keep up the existing Mission House at Malta, and that notice be accordingly given to the Italian Theological Professor, Dr. Achilli, and to the other inmates of the Mission House, that the Professor’s appointment will cease, and the establishment for ex-priests will be closed in three months from the date of the receipt of this communication.”

Will you read the minute of the final resolution taken by the committee on the 24th May, 1848. (It is read, as follows):—

“ After prayer, the committee proceeded to consider the resolution submitted to the last meeting, by the earl of Harrowby, respecting the discontinuing of the Mission House at Malta, and the termination of Dr. Achilli’s appointment as Italian Theological Professor.

“ This resolution was unanimously agreed to, and the secretary was instructed to send a copy of it to Dr. Achilli.”

Cross-examined by the *Attorney General*.—I recollect Achilli coming to England after the resolution of the committee with respect to the closing of the Mission House. Was there afterwards a resolution of the committee of the 19th June? Yes; when a letter was read from the bishop of Gibraltar, in which his lordship expressed his great dissatisfaction with the conduct of Achilli with respect to Saccare. The *Attorney General* (angrily).—I object to the witness stating the contents of the bishop of Gibraltar’s letter. I simply wanted to know the resolution to which the committee came. The witness then read the following resolution of the committee:—“ The committee, having taken a review of the whole conduct of Dr. Achilli, in connection with the statements of the bishop of Gibraltar, came to the following resolution:

—“That Dr. Achilli having voluntarily abandoned his post at Malta, during term time, without the permission, and even contrary to the expressed wishes, of the committee, as contained in their letter of April 18th, resolved, that the engagement between the committee and Dr. Achilli must be considered as virtually terminated by his act.” That resolution was communicated to Achilli. The *Attorney General* objected that only the resolution was to be received. Sir *A. Cockburn*.—I submit that the statements of the bishop of Gibraltar must be read, as referred to in the resolution. The *Attorney General* eagerly objected. Lord CAMPBELL.—I think the whole forms one document. The *Attorney General*.—I asked only for the resolution. Lord CAMPBELL.—The statements referred to are a kind of preamble, and form part of the resolution. The *Attorney General*.—The resolution was sent to Achilli, not the reasons, which are not evidence against him. Sir *A. Cockburn*.—What I ask for is matter of recital, and leads to the resolution; without it we have not the whole of the resolution. It implies that, in consequence of what was stated by the bishop of Gibraltar, the resolution is come to. Lord CAMPBELL.—Does not the resolution begin at the words, “The committee having taken a review,” &c. Sir *A. Cockburn*.—The question is, on what grounds Achilli was dismissed; my learned friend wants to confine me to the resolution, but my object is to show that the committee took into consideration a great deal more than they thought it necessary to say in the resolution. Lord CAMPBELL.—I think that as the resolution refers to the bishop’s statements as to matter of recital, the whole must be read.¹

The Earl of Shaftesbury examined by Sir *A. Cockburn*.—I was chairman of the Malta Protestant College. Complaints of Dr. Achilli’s conduct with respect to Saccares were forwarded to the committee. Accusations of immorality against Saccares and Leonini had been previously forwarded to the committee, and this matter was referred to the authorities of the college for investigation. One of these authorities was Dr. Achilli himself, as the head of the department of ex-priests. It became his duty, in conjunction with Mr. Hadfield, the head of the college, to conduct an inquiry into the conduct of these persons, Leonini and Saccares. We heard afterwards that Dr. Achilli had sent Saccares away. We received a letter from the bishop of Gibraltar, and on the receipt of that letter, it appeared useless to continue the inquiry when the principal party had been sent out of the way, to avoid examination. The *Attorney General* objected. Lord CAMPBELL.—The resolution speaks for itself. Sir *A. Cockburn*.—Did Achilli come to London in consequence of a summons from you? No. Did he anticipate that summons by coming to London? Yes. Had he any authority from you to leave his post, and come to London? No. On his arrival did he state reasons for leaving Malta? Not that I am aware of; except that he said he came on business of his own. Before his arrival you had acted? Before his arrival we had come to the resolution to break up the whole establishment, believing that the evil could not be eradicated.

The *Attorney General* again objected to entering into the reasons of their dismissal; it was recorded in the resolution already produced

¹ Let the reader observe this; the reasons recited in a resolution of a voluntary society are to be read (and rightly and reasonably) as forming part of it; but afterwards, the Lord Chief Justice refused to receive the reasons recited in a judgment of a regular court of justice, of a sovereign and independent prince!

that Dr. Achilli's engagement was virtually terminated by his own act; and nothing was there said as to his having sent Saccares out of the way. Sir *A. Cockburn*.—Though that was not adverted to, I will show that it was taken into consideration. Lord CAMPBELL.—We cannot ask about what was passing in the minds of the committee. Sir *A. Cockburn*.—I propose to prove what passed at the meeting of the committee. Lord CAMPBELL.—The resolution with its preamble states the reasons of the dismissal. Sir *A. Cockburn*.—They are not all stated. The question is what they were. Lord CAMPBELL.—We must take them from the resolution. Sir *A. Cockburn*.—There might be many grounds on which they were unanimous, but in order to avoid exposure they may only have stated one of them in the resolution. Surely, when afterwards a question arises as to what they were, the resolution is not to be conclusive? The question is on what grounds the committee really proceeded. Lord CAMPBELL.—The resolution states them, and you cannot go further and enter into other grounds. Sir *A. Cockburn*.—Then we are shut out from proof plainly applicable to the issue.¹

Dr. Bonavia examined by Mr. *Bramwell*.—I was teacher of Latin and Italian at the college of Malta. I was there teaching for the last three years. I remember Achilli being there; he resided at the same house with Leonini and Saccares. I had some conversation with him respecting the charges which were made against them. I asked him if he had heard the reports which were circulated with respect to them in the town? He said he had. I next asked if he believed them? He replied that he did not. Did he express any opinion as to the propriety of what had taken place? So far as I remember he did not express any disapproval. Did he use any expression as to its being wrong? The *Attorney General* objected. The witness continued.—I asked if he thought it was judicious to permit the visits of a married lady who it was said used to come from Valetta to visit Leonini at the Mission House? He in return asked me if I thought it was wrong? I said it was not judicious, on account of the reports which were circulated in the town, and that it was especially injudicious to allow the lady to be admitted to Leonini's own room. He asked again whether there was any harm in permitting such visits? I said I thought it was wrong, Leonini being a bachelor, and it might lead to bad results. He then got into a passion, rose from his chair, and said, "You are too scrupulous because you are married; if you were a bachelor perhaps you would do worse than Leonini; it would be better for you to mind your own business, and not to meddle with our affairs, if you wish to continue in our friendship." He then left me in the room, and went to join his companions, who were playing cards.

Cross-examined by the *Attorney General*.—Have you ever told this to anybody before this? This is the second time I have ever mentioned this conversation. What was the first? I told it first to Mr. Lewin (the defendant's attorney), after my arrival in London. I have been five months in London upon this affair. Sir *A. Cockburn*.—We wanted to try it four months ago, but were prevented. Witness continued.—I am a member of the Maltese bar, but I do not carry on the profession,

¹ Which was, that Achilli had been dismissed for reasons the committee could not get themselves to describe. The effect of the decision was, to exclude a great deal of evidence contained in the minutes of the committee (portions of which they had published), and referring to other reasons they did not think proper to publish.

being teacher of Italian in the Maltese College. The *Attorney General*.—Did you go to Mr. Lewin, or he come to you? Neither. How came you to mention it? After I had heard of the case, I thought it my duty, being called upon to come here, and say all I knew for the sake of truth. Who advised you to come here? Am I bound to answer? Lord CAMPBELL.—You are. Witness.—It was Dr. Bryan, vice-president of the college.^k The *Attorney General*.—How did he know of the conversation between you and Dr. Achilli? No one knew.

Re-examined by Sir *A. Cockburn*.—How came Dr. Bryan to send you? I do not know. Did you mention to him that you had conversations with Leonini and Saccares? Yes.^l Sir *A. Cockburn*.—My lord, I have a brief full of the evidence of these persons.^m

Harriet Harris,ⁿ by Mr. *Addison*.—I am aged twenty-two. I am now in service. In March, 1850, I was engaged as a servant by Dr. Achilli, who was then living in Northumberland-street, Strand. He had just taken a house in Shaftesbury-crescent, Pimlico. I went there in the morning. I found there a Mr. Castellini, who was making the drawing-room carpet. Dr. Achilli arrived soon after in a cab. Mrs. Achilli did not arrive until a fortnight afterwards. I got dinner ready. Dr. Achilli was in and out of the kitchen during the day. In the evening, Dr. Achilli came in and took very improper liberties with me. There was then no one in the house but ourselves. He put his hand round my waist. He kissed me. I did not consent, but got away from him as soon as possible, and went into the back kitchen. He followed me there, and told me what he had gone through when he was abroad, and amongst other things he said that he had been imprisoned for six months. When he was in the back kitchen, he attempted to put his arms round my waist and my neck, and to kiss me. He then went out, I think. He came in after I went to bed, I think about twelve o'clock. Nothing more took place that evening. He made several attempts subsequently to put his arms round me, but I got away from him, and he kissed me twice when I was not aware of it. I mentioned this to my aunt, Mrs. Cadogan, and to Mr. Castellini. These attempts all took place before Mrs. Achilli came back. He did not repeat them subsequently.

Cross-examined by the *Solicitor General*.—I had been in service six months before I went to Dr. Achilli's house. I remained in Dr. Achilli's service three months. Mrs. Achilli came home about a fortnight after I went, but I never told her of these liberties. Mrs. Achilli found fault with me about the kitchen being dirty. I afterwards gave her warning. I subsequently asked her to let me stay, but she refused.^o I re-

^k Why should he have mentioned it to any one? The ex-priests had all removed, and there was an end of the affair. The conversation only became important on account of the present proceedings, and the issue raised on them; and then naturally it would recur to his recollection. Yet, not only the Attorney General, but the Lord Chief Justice seized hold on this slight circumstance to discredit this most respectable person's evidence!

^l This of course explained Dr. Bryan's sending the witness without his knowing the particular conversation above deposed to, which would transpire, probably, upon examination by defendant's attorney.

^m Including the evidence of Kaossi, who, however, could not be got hold of: another instance of the difficulties of Dr. Newman.

ⁿ A very pleasing, modest-looking girl.

^o Mrs. Achilli afterwards states the reason, which casts no discredit on the girl. She was said to be dirty: she did not look so.

ferred a lady afterwards to her for a character; she said she could not give me a character for cleanliness, and she said two or three other things about me which I did not think right. My aunt was the first person who spoke to me about coming here to give evidence. I afterwards saw Mr. Lewin. These things never took place anywhere except in the kitchen.

Re-examined.—Dr. Achilli often came into the kitchen.

Mrs. Cadogan.—Harriet Harris is my niece. I remember her complaining to me of what Dr. Achilli had done to her during the first week that she was there. She complained that he had used indecent liberties towards her.

Cross-examined by the *Attorney General*.—When my niece spoke to me I did not at once go off to Dr. Achilli to remonstrate; I did not mention the matter to Mrs. Achilli after she had arrived. I first mentioned it to Mrs. Castellini, about a month after my niece left. I saw Mr. Lewin, the lawyer, about this business about six weeks ago.

Re-examined by Sir *A. Cockburn*.—When my niece came to me I said I understood that Mrs. Achilli was coming home in a few days.

Jane Legge^p examined.—I was in the service of Dr. Achilli about ten months ago. I was in his service seven or eight months altogether. I was servant of all work. He then lived at Shaftesbury-crescent, Pimlico. During the time I was in his service he took liberties with me. He began to do it about three months after I had entered his service. I gave notice to leave, and he asked me to stop on. I did so. He had before that kissed me two or three times, but nothing else. He took other liberties with me a day or two after that on which I had consented to stop. He came up to me when I was in my mistress's bedroom, and took liberties with me. Eventually he was too intimate with me. This happened several times, and I ultimately became pregnant. I stayed about four months after that. I left because my mistress gave me notice to leave. I afterwards got another place, for which Mrs. Achilli gave me a very good character. I was afterwards delivered of a child, which died. I saw Dr. Achilli about a fortnight before I was confined. I did not speak to him about my situation, because I was not with him more than a minute or two. While I was at Dr. Achilli's, a friend of his, Mr. Augustini, was staying there. He also was intimate with me. I never told Dr. Achilli. I am now stopping with Mrs. Johnstone, Vauxhall-road, where I have been awaiting this trial. I was before that living with my sister, Mrs. Logan. I saw Dr. Achilli there, on the occasion of his coming to see a gentleman who lodged at my sister's house. That was after the death of my child. I never asked him for anything; he never gave me anything. I have since seen him at Mrs. Logan's, and have spoken to him about coming here. About five weeks after the death of my child, I told him of my subpoena to give evidence on this trial. He said that I had no need to go. I told him again about a week after, that I had to go; and he said to me that I was to shut the door in the faces of those who came to subpoena me.

Cross-examined by the *Solicitor General*.—I had lived at two places in London before Dr. Achilli's; but, subsequently to that, I had been in the country for two years. Mrs. Achilli never complained of my conduct with regard to men. She only said that she would not allow a young man to come to see me. I did not meet a man outside the house.

^p A girl who appeared to speak truthfully.

After she had spoken to me, I received a young man, a friend, in the house. She came down stairs one night after her return from a party, and found a young man in the back kitchen. He had been in the house about two hours. She did not then tell me that I must leave her service. The *Solicitor General*.—How many men were you in the habit of seeing while you were at Dr. Achilli's? I am not obliged to answer that question. Lord CAMPBELL.—You must answer. I had no men come to see me except that young man and another friend of mine, who came to see me once or twice. The *Solicitor General*.—Then you have told us of Augustini besides; that makes three men. Any more? I have not told you that I had anything improper with the other two. Lord CAMPBELL.—Did they come to court you? Yes, sir. (Laughter.) Mrs. Achilli never found fault with me, except with regard to that young man. She said she would not allow him to come in the evening, but that he might come in the morning if he liked. She never saw anything wrong in me with regard to any man in her life. The *Solicitor General*.—Did you ever, after she had found fault with you about the young man being behind the door in the kitchen, say one word about Dr. Achilli having taken liberties with you? No, sir. Do you remember her one night telling you to go to bed, and that she afterwards watched, and found that you had opened the area door, and had gone out? Yes; I went to speak to my friend at the door; nothing more. Was it a man or a woman? A man. Did she not tell you that you must quit her service? No, sir.

Sarah Logan.—I am the wife of John Logan, an engineer, who lives at 11, Shaftesbury-crescent, Pimlico. I am the sister of the last witness. She was delivered at my house. Dr. Achilli came to my house to take lodgings for two friends. Subsequently a clerk from Mr. Lewin's came to inquire about my sister. I sent to inform Dr. Achilli about it. He came to me one day, in the evening, and said that Mrs. Castellini was employed by Dr. Newman's party,—that *Dr. Newman was a very bad man,*⁹ and he hoped to have him sent to prison. He said if the people came again I was to shut the door in their faces. I said it had been a great expense to us having to keep my sister, particularly as the baby had died in our house. He said, "Yes, yes." He said nothing more, except that he would come again, and repeated that we were to shut the door in the faces of any persons who came to serve us with subpœnas. Two or three days afterwards he came again to us. We had then been subpœnaed. We showed him the subpœnas, and he said he thought they would not compel us to go. He said that he thought my sister Jane had nothing to say against him. I said, "Of course, sir, you know what passed between you and Jane." He made me no answer. Nothing more was then said. Some days after he came again, about an anonymous letter which had been sent him about my sister. It said he ought to be ashamed to draw poor domestics into trouble, and not bear them through it; and that unless he sent 5*l.* to defray all expenses, he should further hear of it. I said that I did not know who had sent it. Dr. Achilli said that it must have come from the same parties as the subpœnas.

Cross-examined by the *Attorney General*.—Dr. Achilli talked to me in English on every occasion.^r I cannot tell from where my sister

⁹ The reader will remark this.

^r When examined, it will be observed, he said, he could not speak English well enough; and claimed to be examined, through an interpreter, in Italian.

came to my house. I believe that it is owing to Mrs. Castellini that we were subpoenaed. I did not wish to come here to be mixed up in the business,^a and therefore I said to my sister, on seeing her talking to Mrs. Castellini after we had received our subpoenas, "I had rather spit in her face than talk to her." (Laughter.) I did not wish my sister to have anything to say to her.

Re-examined by Sir *A. Cockburn*.—This was after I had seen Dr. Achilli.

Sarah Wood^c examined by Mr. *Bramwell*.—I am aged 19. I am now living with my parents at Windsor. I have lived in the service of Dr. Achilli. I entered his service in March of the year before last. I came to his house from the House of Mercy, at Windsor; Mrs. Tennent sent me. He took liberties with me after I had been with him about a fortnight. I went up stairs to clear out Augustini's bed-room, and while I was there, Achilli came in; he followed me several times round the room and tried to put his hands round my waist, but he did not succeed, as I walked away from him. His proceedings were interrupted by a knock at the door. He ran down stairs and commenced writing. I went down to see who it was, and found it was my mistress, who had returned home for her parasol. After she went out again I went back to the bedroom, and he followed and renewed his attempts. I walked away and began to cry, and threatened to write to Mrs. Tennent. He said if I did I should be a very naughty girl. He gave me a religious book, the title of which was "Come to Jesus." About a fortnight afterwards, when Mrs. Achilli was out, he called me into his dressing-room to dust the table. I knelt down for the purpose of dusting the legs, and while I was doing this he bolted the door, and then taking me by the shoulders threw me with great force upon a bed. I resisted with all my might, but could not get away. He was intimate with me then against my will. I told him I would leave. I stayed five months afterwards, however. I left because I was so ill that I could not stay any longer. I could not write. I asked my mistress to write to Mrs. Tennent, but she would not.^d When I got ill she wrote to some one who wrote to Mrs. Tennent. My father then came to take me away.

Cross-examined by the *Attorney General*.—The House of Mercy is a place for women who have misconducted themselves. I was taken in there on the recommendation of Mrs. Tennent. I was in the house about nineteen months; I was sixteen when I went there. Mrs. Tennent recommended me to Mrs. Achilli. I am a Protestant. I fasted during part of Lent, while I was with Mrs. Tennent, but not while I was at Dr. Achilli's. Had you not a hymn-book to the Virgin Mary?^e No. Some people say that the House of Mercy is a Roman Catholic establishment, but I believe it is not.^f Mrs. Achilli told me that Mrs. Tennent had been a Roman Catholic, but had left that religion. I told

^a She was clearly a reluctant witness, as any person so respectable naturally would be—to detail the disgrace of her own sister. This, of course, adds to the value of her evidence.

^c A girl, equally plain looking and plain speaking. The Attorney General sneered bitterly at her plainness of look, but did not allude to her plainness of speech, which had a remarkable air of truthfulness and sincerity.

^d Mrs. Achilli was not asked if this were untrue.

^e What a question to discredit a witness by! One of the finest passages in Sir A. Cockburn's reply is upon this.

^f It is a Tractarian house.

no one of the liberties which Dr. Achilli had taken with me^x until about four months ago, when one of Mr. Lewin's clerks came to me at Windsor. I did not then tell him about the worst part of the liberties. Three or four days afterwards, however, my father and mother questioned me about the matter, and I told my mother all. They told me I should tell the truth, and I then got a woman to write to Mr. Lewin to tell him all that had passed between me and Dr. Achilli.

Re-examined.—I had been seduced before I went to the House of Mercy. I went there in consequence of having quarrelled with my family.

By the COURT.—I was away from my father's house about three days before I went to the House of Mercy. I had been seduced about six months previously. I first went there without his knowledge. I had been to school, but I left as soon as I could nurse the baby.

Catherine Gorman.—I lived in service with Miss Lambert, 3, St. James's-street, from 1843 to 1849. Dr. Achilli came to lodge there in 1847, before he went to Malta. About six months after he came, he attempted to take liberties with me by putting his hands about my waist. He asked me to confess to him. I got away from him. On one occasion subsequently he asked me to show him the name of a street on the map. I went up to the table for the purpose; he came to me. I went away directly. I am a Catholic, and mentioned these things to my confessor, and in consequence of advice I received from him I avoided being alone with Dr. Achilli.^y Dr. Achilli, while at Miss Lambert's, was irregular in his habits, and used to come in late at night.

Cross-examined by the *Solicitor General*.—Miss Lambert was a dress-maker. I never told her of this conduct on the part of Dr. Achilli.^z I was first applied to about coming here by Mr. Simpson, of Clapham-common. He is a Roman Catholic, living upon his own property. I have also seen Father Hutchinson, at the Oratory, about it. He came to me about a week after Mr. Simpson.

Mr. James V. Harting examined by Mr. *Badeley*.—I am a solicitor, in Lincoln's-inn-fields. LORD CAMPBELL.—Are you a Roman Catholic? I am, my lord. Mr. *Badeley*.—I was employed in November or December last to go abroad to collect the evidence necessary in this case. I went first to Rome, then to Viterbo, then again to Rome, then to Naples, then to Malta, then back to Naples; afterwards once more to Rome, and thence home. At Viterbo I entered into communication with the bishop and his vicar-general, and with the priors of St. Quercea and another convent. I communicated also with the police

^x He had told her that Dr. Newman was a "bad man."

^y Let the reader who is prejudiced against the practice of confession remark this. It probably saved the girl, as it would have saved Giustini, had she followed the confessor's advice. Moreover, in both cases the advice given appears to have been the same—to avoid the occasion of temptation—the best test of sincerity; and what can more strongly show the falsity of the vulgar idea about confessing, and sinning again, &c., so current in anti-Catholic publications, or on anti-Catholic platforms.

This does not seem at all decisive; the poor girl would be disheartened by the destruction of the notice she had hoped to be restored to; and her voice and manner betokened a great degree of depression—almost despair.

^z Here, again, the inference insinuated is fallacious. Of what use would it have been to mention it to the mistress? She would not have believed the girl, on the denial of a clergyman; and the girl would more likely have lost her place than the landlady her lodger.

authorities at Viterbo, and the apostolic delegate. The gonfalonière of Viterbo (an officer resembling a mayor), told me that he could not furnish me with any police documents, because they had all been destroyed. I received from him a declaration of what he heard. Lord CAMPBELL.—Is not this a waste of time? There are no documents to produce. Mr. *Badeley*.—You went to Naples? Yes; I went to the Minister for Ecclesiastical Affairs, and obtained a copy of a letter addressed by the Minister of Police to the Minister of Ecclesiastical Affairs of Naples. Lord CAMPBELL.—How do you make that evidence? Sir *A. Cockburn*.—It is an official report from the Minister of Police. The allegation it is produced to prove is, that on a certain police report of Naples the name of Achilli appears in connection with a certain statement. Lord CAMPBELL (referring to the plea).—That, in a certain official document or report of the officer of police at Naples, he is mentioned as known for habitual incontinence. It is in support of that allegation? Sir *A. Cockburn*.—Yes; and first we show that it is an official report of the police, and then we produce it from the office of the Minister for Ecclesiastical Affairs. Lord CAMPBELL.—Is that the proper custody? Sir *A. Cockburn*.—It was a report made to that department, which had jurisdiction over the subject matter, the conduct of a priest. The document emanates originally from the proper department, and it is produced from the proper department. The *Attorney General*.—How can the witness know that? or even if it purport to be so, how can it give itself an authentic character? That must be established by other evidence. Lord CAMPBELL.—It is produced by a most respectable gentleman, no doubt; but what proof have I that it is an official document of the Neapolitan police? Sir *A. Cockburn*.—There are certain official seals on it. (To the witness) You went to the office the Minister of Ecclesiastical Affairs directed you to?—Yes; there was over the door an inscription, “Office of Minister of Ecclesiastical Affairs.” I asked for the official report made by the Minister of Police in regard to Giovanni Achilli. I went to the Minister of Police. I was introduced to him by that appellation. He told me that being an ecclesiastical affair, the document would be found in the ecclesiastical department. At that office the original document was produced, of which this is a copy. It was produced from the archives, and was on the file of papers relating to this case. Was that the proper custody? Yes. The *Attorney General*.—How do you know? The proper authorities told me so. By Sir *A. Cockburn*.—I saw the seals affixed; one is the seal of the office of ecclesiastical affairs; the other is the seal of the ministry of foreign affairs. I took it there, and had the seal impressed in my presence.^a Lord CAMPBELL.—The document is clearly inadmissible.^b

Sir *A. Cockburn*.—Do you produce a copy of the judgment of the Court of Inquisition?^c Yes. Is that a regular tribunal in Rome, having jurisdiction over ecclesiastics?^d It is. The *Attorney General*.—

^a What could he have done more?

^b Which shows (if it be so) the strict technical absurdity of the English law. A document was offered, not to prove that Achilli was incontinent, but that he was reported as so; which is all that the libel and plea alleged; so the decision was that the document was not proved to be a copy of the report. How could it possibly be proved, then?

^c Now ensued a struggle as to the admissibility of this document, which formed, in a legal point of view, the most interesting feature of the case.

^d The reader is requested to consider a few remarks on the origin and cha-

How do you know the business of the court? I hope you have had no personal acquaintance with it? I know it from the statements of the assessor. I applied at the office of the tribunal.

The *Attorney General*.—There is no evidence that this is the regular

racter of the Roman Inquisition. In our own Anglo-Saxon laws, the principle is to be found—that offences against the religion recognised by the state, are not merely spiritual offences, but crimes against society, which the state is bound to punish; and hence, in those laws are to be seen secular penalties for spiritual offences. And Balmez shows that opinions opposed to the interests of morality, society, and the safety of the state, are crimes against the state, and cognizable by the civil power.—*Protestantism and Catholicism Compared*. Now, this was the general character of the mediæval sects against which the Inquisition was directed. If the third Council of Lateran sanctions the severe measures enacted by the civil power against the sectaries of those times, it is because, in the words of the decree, “they exhibited such barbarities against Christians, as not to spare churches or monasteries, but destroying and wasting all like pagans.”—*Harduini Coll. Conciliorum*, vi. p. 2. Llorente, in citing the decree, omits this clause! which is precisely the description of the Wickliffites, the Waldenses, and the Lutheran or Calvinist reformers, who “wasted and destroyed, like pagans, and acted exactly as the Danes had done many centuries before, not sparing monasteries or churches.” Even Mosheim admits that the Cathari raised disturbances in nearly all the states of Europe.—(ii. 465.) (See, as to the infernal atrocities of the Lutherans and Calvinists, *Mores Catholici*, last book.) The Albigenses, according to a contemporary account he preserves, held that all acts of Christian virtue were superfluous, and that the crimes of the voluptuaries would not meet with punishment—which reminds one irresistibly of the blasphemous “sin boldly” of Luther, and the sentiments ascribed to Achilli in the evidence. Arnold of Brescia attempted a revolution, civil as well as ecclesiastical.—*Mosheim*, ii. 471. The Henricians burned the sacred emblems of Christianity, tortured and insulted the clergy, and forced monks by violence to a violation of their vows.—*Fleury*, iv. 578. And the Huguenots in France, or the Stadingers in Germany, committed similar excesses.—*Fleury*, v. 251. The Council of Verona, in which the tribunal of the Inquisition was first formally established, 1184, was a mixed assembly, in which the emperor acted with the ecclesiastical powers; and the organization it received in the Council of Toulouse, 1229, was the result of painful memories of the long and sanguinary struggle to which the Albigensian atrocities had given occasion. The original constitution simply required each bishop to visit annually suspected districts of his diocese, summon witnesses before him, and interrogate them on oath for the discovery of heretics, such as those above described, and members of secret associations. In the Council of Toulouse it was first ordained that there should be a standing commission in each parish, consisting of the parish priest, and two or three laymen of good repute, whose duty it would be to report to the bishop and magistrate cases (*i. e.* of the character above described) occurring within their districts. It was in 1248 that the Dominican order received the special superintendence of the tribunal. The popes reserved superior authority and power of appeal, and invariably exercised it in favour of moderation and mercy.—See *Llorente* and *Balmez*. The Roman Inquisition is not to be confounded with the Spanish, which was not established until 1482, and was purely local and political, not only without the privity of the pope, but in opposition to his remonstrances; and repeatedly checked by appeal from its sentences. Thus, then, the Roman Inquisition is as old as the twelfth century, has ever since been a recognised legal and ecclesiastical tribunal, had its origin rather in civil than spiritual offences, was reasonable and moderate in its character, and, from its very nature, was peculiarly directed, not so much against mere heresy, as against immorality. This is the tribunal of which the Lord Chief Justice of England was so ignorant, and against which he had such vulgar prejudice, that he professed not to know it had a regular legal character at all! and then, even in

course by which a document of this kind is authenticated or made admissible; if it be admissible at all. Lord CAMPBELL (to the witness).—Was that the office professing to be the office for transacting business belonging to this court? It was. What part of Rome is it

opposition to sworn evidence of one of the best canonists in Europe, said he had a notion that it had to do only with heresy, and not with immorality! This is the tribunal, too, of which he said, "Thank God, we have no Inquisition in this country!" which, if it referred to the mode of procedure, was simply untrue, seeing that commissions of Inquisition are identified with the law of England from the earliest times; and the original constitution of the Roman Inquisition resembles strikingly the Saxon court lect in principle, for both were tribunals lay, or partly lay, for the discovery and suppression of nuisances, though the one might be more usually (not exclusively, as in the case of brothels, &c.) directed against physical, the other against moral nuisances. And then, as to the scope of the jurisdiction; does the Lord Chief Justice of England consider it a thing to thank God for, that there is no parochial commission of two or three laymen of good repute to inquire into and suppress such abominations as those of the Agapemone, or of Mormonism! Probably the people of Italy "thank God" they have not such abominations recognised, or silently sanctioned by law, in their country! And as to the secrecy of the Inquisition—its way of taking evidence—it can only be objectionable to prejudice and ignorance; for all the evidence in Chancery and the civil courts is taken in the same way; as also the evidence before a grand jury, which forms a tribunal in strong analogy to the Inquisition, as even in this country moral nuisances may be "presented" before it,—such as blasphemous publications, or public assemblies. Suppose a man were to teach publicly that the Scriptures were the work of impostors, should he not be presented to a grand jury, and indicted on their presentment? And would not the evidence be, in the first instance at least, taken in secret? What is that but the Inquisition? And as to subsequent publicity, of what use is it but to raise scandal and do mischief, and spread the corruption it is desired to suppress? Indeed, the legislature has recently established, most wisely, an ecclesiastical Inquisition, under the Church Discipline Act, for secret inquiries into offences of clergymen; for the express purpose of preventing the scandal caused by offences of ministers of religion. Can there then be a prejudice more vulgar and more ignorant than this against the Roman Inquisition? It is the less creditable in men of rank, education, and station, because all accounts, ancient and modern, attest the extreme moderation of the Roman Inquisition, and its regular recognised system. In 1541, Pope Paul III. urged the Neapolitans to resist the introduction of the Spanish Inquisition, because it was excessively severe, and refused to moderate its rigour by the example of the Roman, which had been in operation three years without a single complaint. And, in 1563, Pope Pius IV., in the same spirit, advised the Milanese, that their Inquisition should continue, as of old, subject to the Roman court, whose rules of procedure were extremely mild, and left the accused the fullest liberty of defence.—*Llorente*. Thus as long ago as the age of the Reformation, the Roman Inquisition had regular recognised rules of procedure. And so recently as the present generation, the Viscount de Tournay, prefect of Rome under Napoleon, from 1810 to 1815, published a description of the Inquisition. "The duties of the congregation of the holy office are very well known; but that which is much less so, is the moderation of its decisions, and the gentleness of its proceedings. Now the size of the prisons, and their healthiness and cleanliness, are a proof of the feelings of humanity of those who presided over them."—*Etudes Statistiques*, vol. ii. p. 47.

As to evidence of a judgment, it is elementary law that "It is not matter of substance to show letters of administration, for whether they are legally granted or not, belongs to the cognizance of the spiritual courts, who are governed by the rules of the civil law, and, therefore, they legally cannot be weighed at common law, since it has different measures of jurisdiction."—*Gil-*

in? The Vatican? I found the notary; he referred me to the assessor; the document was delivered to me by the notary. It has the certificate of the secretary of state and archivist, Cardinal Antonelli. The *Solicitor General*.—Pray, Sir, have you had business with the Holy Inquisition before? Not personally. What means have you of knowing anything of the course of business in the court? From books of practice and from seeing documents of the court. You have no personal experience; you know nothing except what was told you? And what I learn from books of practice. You were never there before? No. Do you know anything, then, about the office? They gave me books of practice to refer to. A book of practice of the Holy Inquisition? Yes.^e Who told you of the course of the office? The assessor and the notary, officials of the court. You were introduced to him as a notary of the court? Yes. And you found him at the office of the Inquisition? Yes. He was spoken of as a notary of the Inquisition? Yes. Lord CAMPBELL.—He would not know St. Peter's until he was told. (Laughter.) The *Solicitor General*.—You know nothing of the document but that he gave it you? No. You compared it with no other document? No. Do you know anything of the genuineness of the document, or whether it is a copy of the judgment? Except from what he told me, and from the seal of the office. I saw the seal affixed at the office, and Cardinal Antonelli's afterwards. The office was at the Vatican, in the rooms appropriated to the Inquisition. Lord CAMP-

bert on Evidence, 95. So probate of a will under the seal of the court is sufficient, and no evidence to the contrary can be given, for the spiritual courts are the proper judges. But the adverse party may give in evidence that the probate is forged, or obtained by surprise.—*Ibid.* 75. In the present case, the Court presumed it to be forged, at least, in part. So again, exemplifications are of better credit than any sworn copy, for the courts of justice that put those names to a copy are supposed more capable to examine, and more exact and critical in their examination, than any other person is or can be; and, besides, there is more credit given to their seal than to the testimony of any private person; and therefore we are more sure of a fair and perfect copy when it comes attested under their seal, than if it were a copy sworn to by any private person.—*Ibid.*

^e Of which this is a summary:—"The Court of Holy Office is charged with the correction of all offences against faith and morals, and from the nature of its functions proceeds most commonly on accusation made, or, as it is technically termed, '*per via di denunzia*.' In cases of notorious offenders it proceeds *ex debite officii*, or '*per via de Inquisizione*.'

"The depositions are all taken on oath, and in writing, by the notary of the court, and are signed by him and by the witness. If, after preliminary inquiry and perusal, and consideration of the evidence so taken, the judge considers that the case should proceed, he decrees accordingly; and upon the decree so made which is signed by the notary, a citation issues. After the evidence against the accused is completed, the accused is interrogated upon the facts so obtained; and if he denies them, the evidence is read over to him; but in the first instance the names of the witnesses are not given. If he still persists in his denial, he is confronted with the witnesses, and all are again interrogated in the other's presence, and he may call witnesses to contradict—if he can. Upon the result the judges then proceed to judgment. In cases where the accused, upon interrogation, confesses the charges, or some of them, no confrontation takes place. The preliminary depositions,—the decree to proceed, the citation and return, the evidence in substantiation of the charges, and of the accused, and of his witnesses (if any) for the defence, with the judgment, and what was done thereon,—make up the process which is preserved as of record in the archives of the court." See Achilli's own admission as to its fair procedure.

BELL.—I don't suppose the prisoners are there! The *Solicitor General*.—Who introduced you there? Am I obliged to state? Certainly. I have no objection to write it on a paper for the Lord Chief Justice, The *Solicitor General*.—No; I must have an answer. It was Monsignor Talbot. Lord CAMPBELL.—Private secretary to the Pope!^f

The Bishop of Southwark called (as Dr. Grant) and examined by Sir *A. Cockburn*.—Dr. Grant, you are a Catholic bishop? I am. Lord CAMPBELL.—Of what see? The bishop was silent. Sir *A. Cockburn* was about to object. The *Attorney General* rose and said, "The public prosecutor is present!" Lord CAMPBELL exclaimed, "Oh, I will not press for an answer!" Sir *A. Cockburn*.—Were you resident in Rome for many years? For nearly fifteen years. You were for some time rector of the English College at Rome?^g I was. During your residence there, the matters with which I was charged led me to an acquaintance with the business of the courts of Rome. I know the Inquisition among other courts. The office is in the Vatican; formerly it was in the palace called the Palace of the Inquisition, close to St. Peter's; but since the French occupation it has been taken into the Vatican: the court, however, sits elsewhere. Lord CAMPBELL.—Have you been at Rome since the invasion of the French? I was there then, my Lord. Sir *A. Cockburn*.—Do you know the seal of the court? I have never seen it actually affixed to any document; but I have seen documents belonging to the court. I have never received documents directly from the Inquisition. I have received them through other congregations,—as the Propaganda. I have applied at the office of the Inquisition, and the documents have come through other courts. I have applied not at the office, but to the court, by petition, and have had answers to the petitions. The documents I received were sealed; they had seals affixed, purporting to be the seal of the court. Looking at the document now produced, from having been acquainted with the seal of the court, I can say that this is similar. Strangers are not allowed to enter into the office. The COURT.—How do you know that? I have had to wait until the clerk came out.^h

^f The *Attorney General*, in his reply, pressed the reluctance to mention the name as a proof of a conspiracy for forgery of the document? What a state of mind that man's must be who could fasten so fearful a meaning on so trivial a circumstance! The witness was well aware of the prejudice against a "Monsignore."

^g The English college had been originally the hospital of the Holy Trinity and St. Thomas—established for English pilgrims, after the destruction of the ancient Saxon school, in 847, which was founded by King Ina, in 727, for the education of Saxon ecclesiastics. It was for the maintenance of this school he originated Rome's scot, or Peter's pence, which was paid with some intermissions until the reign of Henry VIII. In 1351, just 500 years ago, the present hospital was founded; and there exist in the archives letters from Henry VII., eulogizing the foundation. In 1579, it was devoted to English exiles, and the hospital being dissolved, a college was erected, with the revenues of the former establishment. Cardinal Allen (once rector of St. Mary's, Oxford), aided in establishing the college; and in 1680, the college and church were rebuilt by Cardinal Howard. In 1798, the French confiscated his property, and it was not restored till 1811, when Dr. Gradwell, afterwards vicar apostolic of the London district, was made rector. In 1828, Dr. Wiseman succeeded him, and was followed, in 1844, by Dr. Grant. The college gives gratuitous education to twenty-five ecclesiastical students. In the Roman universities the legal studies embrace international law, the canon and civil law, and the institutions of ecclesiastical and criminal law. The reader may be informed that the bishop is esteemed a very good canonist.

^h The *Attorney General* made a most mysterious and suspicious affair of this;

Cross-examined by the *Solicitor General*.—Have you received such a number of documents with the seal of the court as to make you familiar with the seal? From looking at the seal on this particular document I believe it to be the true one. That is no answer. I ask you, have you received, yourself, a sufficient number of documents under the seal of the court to enable you to swear that you are familiar with the seal? I have received documents with the seal,—not this particular seal. No, of course; but that form of seal, that appearance of seal? Yes? Is the office at the Vatican? I believe so. Believe! do you not know? I mean that about the time I was leaving Rome the French had re-occupied the Palace of the Inquisition, and that the office was, I believe, to be taken into the Vatican. You learn it from what you heard? I was told so by one of the officers of the Inquisition. Sir *A. Cockburn*.—Now, my Lord, I tender this judgment in evidence. The *Attorney General*.—I beg to call your lordship's attention to the Act 14 & 15 Vict. c. 99, s. 7, providing "that all judgments, &c. and any proceedings or decrees, may be proved in any court of justice by examined copies, or by copies authenticated by the seal of the court to which the original document belongs; and that if any copies shall purport to be so sealed, the same shall be admitted as evidence in every case in which the original document is reasonable evidence, without any proof of seal, or of the judicial character of the person sealing," &c. Now the ground on which I submit that this proof here fails is, that there is no evidence of the existence of a court having jurisdiction over the subject matter, which is essential, in order to make the seal of the court authenticate itself in this way. Sir *A. Cockburn* (to the bishop of Southwark).—Has the Court of Inquisition jurisdiction over the clergy in matters ecclesiastical? It is the supreme court in matters ecclesiastical. It has jurisdiction over the clergy in higher crimes. The *Attorney General*.—How do you know that? Because I have been acquainted with all the different courts, having been consulted by those courts upon points of law; and from being consulted by the courts, it was naturally my duty to know what affairs belonged to one court rather than another. I was employed by the English bishops in getting documents from each. Lord CAMPBELL.—Are you acquainted with canon law? I was employed by Cardinal Acton to advise him on points of canon law; and he was judge in several of these courts. Has the Inquisition a jurisdiction of its own? The court is regulated by the canon law. You are aware that there is a distinction between the proceedings of a court and its jurisdiction? I am speaking of jurisdiction. I am asking whether the jurisdiction exercised by the Court of Inquisition exists by consent of the state? It exists by consent of the sovereign of the state; and in Rome its proceedings are regulated by the canon law. You will not distinguish between jurisdiction and proceedings. I am now on the jurisdiction. I want to know if its jurisdiction depends on the canon law, or whether it is peculiar to itself? It is a jurisdiction peculiar to itself; and I thought I had explained that it depended for existence on the act of the sovereign of the state, or sovereign. Then is the jurisdiction of the Inquisition the same in every state in which it is allowed to be established, or does it vary

and pressed it as another proof of his frightful theory of forgery and fraud! As if a much more natural reason (the true one) were not the desire to avoid scandal through any disclosure of matters of immorality that might be pending against any priests!

according to the will of the sovereign of each state? As a matter of law, I believe that sovereigns have dictated to it as to its proceedings; for instance, in Spain, and in some particular cases; to what extent I do not know. Then its jurisdiction varies in different states? Yes. We are now inquiring into its jurisdiction in Rome? Yes. It is there the supreme court of ecclesiastical jurisdiction. The *Attorney General*.—You have not been consulted by the Inquisition? No. When you say you were consulted by the different courts, you mean by the other courts? By Cardinal Acton, for different courts of which he was a member, and by the Propaganda. Not with regard to the Inquisition? I was obliged to know what proceedings would belong to the Inquisition. I was agent for the ecclesiastical affairs of the English bishops, and it was my duty to be acquainted with the particular business belonging to each court. I do not quite understand. Are we to gather, that all which does not belong to the other courts belongs to the Inquisition? No; the different matters are distributed among the different courts; and the Inquisition is one, the Propaganda another, the Congregation of Rites another. Then, knowing what is the business of the other courts, you assume that what does not belong to other courts belongs to it? I do not assume it; I have a knowledge, derived from the general run of business with which I was acquainted, as to what part goes to each particular court. Lord CAMPBELL.—I do not see how it is possible to have more satisfactory evidence!¹ The *Attorney General*.—What are the matters within the jurisdiction of the Inquisition? The jurisdiction is partly criminal, and partly a court to advise the Holy See on difficult questions of theology. What is the nature of the criminal jurisdiction it exercises? It exercises general jurisdiction on matters of heresy, and in great cases of immorality against ecclesiastics. Have you explained the whole of the jurisdiction exercised by the Inquisition? What I have said takes in most of the subjects of it; unless, perhaps, I ought to add that there are other circumstances supposed to fall under the classification of heresy. The *Attorney General* (sarcastically).—Oh, heresy! no doubt. (Laughter.) Sir A. Cockburn.—Cases of immorality are subject to its jurisdiction? Yes. Sir A. Cockburn again tendered the judgment for admission. Lord CAMPBELL.—What is the objection? The *Attorney General*.—I object not upon the ground of jurisdiction, nor as to the seal, but to the mere production of the judgment, without any proof that Dr. Achilli was before the Court, or that there were any proceedings on which it was founded. It may be a mere statement of matters *ex parte*; it may be a mere fabrication, from beginning to end!¹ The

¹ Even the Lord Chief Justice grew impatient at the peddling, pettifoggish objections taken to the admission of the document; the admission of which, however, he afterwards entirely neutralized.

² The atrocious suggestion, which involves such venerable men as Cardinal Antonelli, and the other ecclesiastics of the Roman congregation, in the crimes of conspiracy and forgery, and subornation of perjury, might have been and was supposed at this time to be a mere savage burst at the close of a long day's struggle, with the anticipation of a defeat; but the reader will find that the *Attorney General* in his reply repeated it deliberately, and made it the ground of his defence of Achilli! What a desperate defence it was, may be imagined from its own nature and from the fact, that, at the close of the evidence for the defendant, it was generally conceived that the line taken in reply would be to suggest that there were two Achilli's (if, indeed, there could be two!); and this,

Solicitor General.—I have likewise to object that there is not only *no* proof of the identity between the prosecutor and any gentleman named Achilli, but there is no proof that any one at all was before the Court! Lord CAMPBELL.—That is what has been just urged. The *Solicitor General.*—I contend that it is contrary to the first principles of the law of England to admit as evidence against a man a judgment in a criminal procedure without clear proof that he was called upon to answer. My Lord, this is the first time that a judgment of the Inquisition has been tendered in evidence (at least, since the Reformation) in an English court of justice;^k and whatever may be the nature of the court, it is not to dispense with the first principles of the English law. Mr. *Ellis.*—Even in civil matters, a judgment is not evidence where it appears that the party was not heard.^l The confession may have been put in without Dr. Achilli appearing at all; and it is a tribunal of whose authority or seal the Court can know nothing.

Lord CAMPBELL.—I am called upon to determine whether this document is admissible in evidence on the allegation in the plea.^m I am clearly of opinion that it is. I am not considering whether it is evidence under which Dr. Achilli could be led out to be burnt alive, or to be imprisoned for life in the dungeons of the Inquisition;ⁿ but merely whether it sustains the allegation in the plea. We must not be frightened at the word “Inquisition!” Thank God, the thing has no place in this country!^o But I have abun-

it will have been seen, was actually hinted at by the Solicitor General. But Achilli’s counsel—knowing that the very name of the Inquisition was a “tower of strength” to them—determined upon that which, ordinarily, would have been indeed a desperate course,—to defend one man by imputing forgery, conspiracy, and perjury, to half a hundred others!

^k But not the first time ecclesiastical judgments or documents, emanating from the Holy See, have been received in English courts of justice; on the contrary, the law of England has a distinct class of decisions, and a regular course of procedure on the subject, settled centuries ago. The course at common law is, for the bull or brief to be certified by a Catholic prelate. When the Catholic Church was recognised by law this would be by his seal; now it must be in person; and that is the only difference. Year Book 31, Edward III., 9, cited in the writer’s pamphlet on the Catholic hierarchy, p. 25.

^l Yes, but here that did not appear; but the contrary appeared.

^m Which was, that by the Court of Inquisition, Achilli had been perpetually suspended and deposed from the functions of the priesthood.

ⁿ The reader will remark and appreciate this specimen of impartiality, and compare it with the following extract from Scrogg’s charge in the case of poor Coleman:—

“You shall have,” says Scroggs, in Coleman’s case, “a fair, just, and legal trial. If condemned it will be apparent you ought to be so; and without a fair proof there shall be no condemnation. Therefore, you shall find we will not do to you as you do to us, blow up at adventure, kill people because they are not of your persuasion. Our religion teacheth us another doctrine, and you shall find it clearly to your advantage. We seek no man’s blood, but our own safety.”

^o Here there was some stamping of feet from some of the lowest class in the outer portion of the court; marked indignation and disgust from the educated portion of the audience—including members of the bar—and even clergymen of the Church of England. Lord Campbell did not check the applause he received! The *Times* remarked on this:—“We have every respect for the high judicial character and attainments of Lord Campbell, and it is therefore

dant evidence before me of the existence of such a jurisdiction, and that this is a judgment under the seal of the tribunal, and I have no difficulty in admitting it *valeat quantum*. It is remarked, in the course of the argument, that this is the first time since the Reformation that the judgment of the Court of Inquisition has been tendered in evidence in an English court of justice. Looking at this document, however, I find that it is a copy of the proceedings of the Court of Inquisition; that such a jurisdiction is exercised at Rome. Thank God, it does not extend to this country! ^p This country will, however, be ready to receive documents emanating from courts of justice in other countries; and I think that, in receiving this document, I am not in the slightest danger of doing that which may prove injurious to the Protestant religion of this country. ^q I do not receive this as I should a record of a Court of Admiralty, as conclusive evidence of the facts, ^r but only as evidence in support of the defendant's allegation that there is such a judgment in the Court. ^s

The judgment was then put in :^t—

“Testor ego infrascriptus notarius S. Congregationis Romanæ, et Universalis Inquisitionis, quod perquisitis actis assumptis in S. Officio contra sacerdotem P. Hyacinthum Achilli religiosum professum ordinis Prædicatorum, constat ex eisdem actis, ipsum Achilli, constitutis judicialibus excussum, fuisse reum confessum de carnali copula, dum in cœnobio Viterbiensi moraretur, cum pluribus fœminis habita, item de defloratione alterius virginis in civitate Montis Falisci, aliâsq̄ue duas

with great regret we find him, in a case of so much delicacy and excitement, drawing attention to the Ecclesiastical Titles Act, ‘thanking God’ that ‘we have no Inquisition in this country,’ and, after he had been sufficiently applauded, renewing the remark that it might be applauded again, and assuring the audience, with grotesque solemnity, that by admitting this document he did so without the slightest degree of danger to the Protestant religion of this country—a discovery which was received by the enthusiastic audience with a third round of cheers.”

^p There was another outbreak from the back of the court, which Lord Campbell received as placidly as the first. It will be seen that he at once rebuked the applause Dr. Newman's counsel elicited.

^q And if it were otherwise, the Lord Chief Justice would not have admitted it.

^r Why not? It was a judgment of a regular court of a sovereign state. Why should it not be taken as all judgments of supreme courts are, as conclusive evidence of the facts it recites? Let it be observed, this latter sentence, was spoken after the chief justice had read the judgment carefully, and proved that it recited such offences as were charged in the plea, and if given full effect to, would sustain the plea. And let it be also observed, that the struggle throughout was for the admissibility, at all events, of the entire documents, including the grounds of the judgment as recited in it; the whole appearing (as will be seen) as one and the same record under the same authentication; and so it was admitted, and an objection even started as to the reception of the recitals. Next day, however, after further reflection, Lord Campbell rejected the recitals!

^s The struggle for the admission of these documents lasted about two hours.

^t When the judgment was put in, a barrister of some eminence turned round and exclaimed, “Thank God for that! Newman is now morally vindicated! Whatever the verdict may be, the Court cannot sentence him!”

mulieres Capuæ carnaliter cognovisse. Eruitur quoque aliam puellam Neapoli matrem reddidisse; ac superiorem ordinis Prædicatorum scutato quinquaginta alteri foeminae ab eodem Achilli corruptæ pependisse ad damna illata sarcienda.

“Denique fidem facio, quod ob memorata crimina, et alia de quibus in actis maturo prius discusso examine gravaminum ex actis resultantium, perpensis defensionibus, aliisque ex more consideratis, nec non benigne excepta ipsius inquisiti confessione, ejusdemque declaratione sequentis tenoris:—Non chiedo di non esser gastigato, auzi amo—che si proceda severamente sul conto mio in quel modo la giustizia esige. Ricevero, con rassignazione qualunque disposizione venga emanata, ed ove mancasse qualche ragione a procedere con più rigore, la mia confessione sia bastante a punirmi come meglio credera il S. Tribunale.’ Emi. Inquisitores Generales, Fer. iv., die 16 Junii, 1841, in Conventu S. Mariæ supra Minervam decreverunt: Inquisitus P. Hiacynthus Achilli—prævia suspensione perpetua a celebrando sacrificio Missæ, inhabilitatione perpetua ad quancumque directionem animarum, et ad Verbi Dei prædicationem, nec non privationis vocis activæ ac passivæ, et impositis penitentiis salutaribus, damnatur ad manendum per triennium in aliqua domo Religiosa sui ordinis strictioris observantiæ.

“In quorum fidem Datum ex Cancellaria S. Officii hac die 22 Septembris, 1851.

“ANGELUS ARGENTI,

“S. Rom. et Univ. Inquis., Notus.

“Testis, Fr. VINCENTIUS LEO SALLUA, O.,

“Præd. 1. Socius S. R. Inquis.

“Witness, JOHN GORDON,

“Cong. Orat. Presb., Birmingham.

“Witness, NICHOLAS DARNELL,

“Cong. Orat. Presb., Birmingham.

“Sworn before me at Rome, this 17th day of November, 1851.

“JOHN FREEBORN,

“British Consular Agent, Rome.”^a

The following translation was read:—

“I, the undersigned notary of the Holy Roman and Universal Congregation of the Inquisition, do testify that, after a complete investigation of the proceedings instituted in the Holy Office against Father Hyacinth Achilli, priest, religious professor of the order of preachers, it is proved from the same acts that the said Achilli, having been examined by the established authorities, confessed himself guilty of having held carnal intercourse, whilst he was living in the monastery of Viterbo, with many women; also of having deflowered another who was a virgin in the city of Mount Faliscue, and of having carnally known

^a The above document is sealed at the signature with a large seal bearing the insignia of the triple crown, supported by St. Peter and St. Paul, &c., with these words on the margin, “Sigil. S. Roman. et Univers. Inquisitionis,” in Roman capitals, and at the foot it is stamped with the seal of the British Consulate, Rome.

^v In the civil law, the parties exhibited their interrogatories on their several allegations, and the witnesses were privately examined upon these interrogatories by the same judges who tried the cause.—*Gilbert on Evidence*, p. 39, citing *Dig. lib. xxii. tit. 5. sec. 3. de Test.*

two other women at Capua. Moreover, it is discovered that he made another girl at Naples a mother, and that the superior of the order of preachers paid fifty scudi to another woman who had been corrupted by the same Achilli, in order to make amends for the injuries done. Lastly, I attest that on account of the crimes of the above-named, and other crimes of which mention is made in the acts, after mature and deliberate examination of the heavy charges resulting from the acts, after having weighed the charges put forth, and considered^w other matters according to custom, and after having mercifully accepted the confession of the accused himself, and his own declaration of the following tenor,—“ I do not ask to be chastised, nay, rather I desire to be severely dealt with on my showing, according as justice demands. I will receive with resignation whatever punishment may be determined upon, and supposing there were wanting sufficient reason for proceeding with greater rigour, I desire that confession be considered sufficient grounds for punishing me as the said tribunal shall think best,”^x—their eminences the Inquisitors General on Wednesday, June 16, 1841, in the Convent of Santa Maria supra Minerva, decreed that the accused Father Hyacinth Achilli, after having been for ever suspended from the celebration of the sacrifice of the mass, and for ever disabled from any sort of direction of souls, and preaching the Word of God, and deprived of active and passive voice in the government of his order, and after having had salutary penances imposed upon him, be condemned to remain for three years in some religious house of his order of the most strict observance.^y

“ Given in testimony of all these facts for the chancellor’s office of the Holy Office, on this day, Sept. 22, 1851.”^z

^w The following is the form of a judgment by confession, in the Queen’s Bench, which is drawn up by the master, or officer answering to the “ notary ” of the Inquisition, who first sets forth the declaration, and then says :—“ The said C. D. (defendant) says, that he cannot deny the action, and therefore it is considered (*ideo consideratum est*) that the said A. B. do recover against the said C. D.” &c. That is, the master certifies the pleadings as the notary certifies the acts, and then certifies that “ it is considered ” by the Court, &c., just as the notary does in the Court of Inquisition. The parallel appears precise. With respect even to common conviction by magistrates, as to which the rule is very strict, it was long ago held by Holt, C.J., and lately recognised by Denman, C.J., that “ it was enough if it appeared (*i. e.* on its face) that an offence had been committed, and an adjudication of imprisonment by a court of competent jurisdiction.”—*Bethel’s case*, Salkeld’s Reports, cited *in re Hammond*, Queen’s Bench, Trinity Term, 1846.

^x The *Times* says, “ Against these positive statements, these accumulative and corroborative probabilities, and these dangerous admissions, there is nothing to be set except the denial of Dr. Achilli, adhered to with steadiness and pertinacity ; a denial which amounts to little more than a repetition of the affidavit upon which the criminal information was granted. If no amount of evidence could outweigh Dr. Achilli’s denial on oath, the solemn proceedings of the trial were a hollow mockery ; and if it could, it is difficult to conceive what testimony the jury could have expected.”

^y The *Times* says, “ The sentence of the Inquisition, moreover, solemnly recites under respectable attestation his own confession and submission, in Italian.”

^z It has long been settled law that a foreign judgment is *prima facie* evidence even of a debt to be recovered in this country, and conclusive until it be impeached by the other party (per Butler, J., *Walker v. Willer*, 1 Douglas ; also *Sinclair v. Fraser*, 20 Howell’s State Trials). This doctrine was recently affirmed

Mr. Reynolds re-called and examined by Mr. *Badeley*.—Do you know the seal of the court at Corfu? Yes. This is the seal of the Civil Court (looking at document produced). Mr. *Badeley* then tendered in evidence the document :

ANTONIO CAPELLO, Present.

Corfu, 3rd July, 1843.

(Stamp.)

4th Class.
6d.

President of the Meeting, S. A. Capello.

To the Noble Civil Tribunal.

The Petition of Nicholas Garimoni, in answer to that of June 21, 1843, of Marianne Crisaffe, his Wife.

(Stamp.)

U. States of
The Ionian Isles.
Royal Arms.
1850.

States that his wife was surprised in the house of her mother, at about half-past 11, on the night of this last 2nd July, 1843, by her husband, while she was in company with a certain Signor Aehilli Giacinto; and that the time, the manner, the circumstances, and the conversation that followed the surprise, prove that the said wife was unfaithful to her conjugal duty.

Witnesses : ANTONIO VIRISSO.
MARCO TEVANSKI.

(Signed) STATIO SPANOPULO, Advocate.

Extracted the 5th March, 1850, from the Acts of Trial, No. 120 (of July, 1843), of the Civil Tribunal.

(Signed) NICOLO VARTLA, Local Archivist.

William Nicholi was then called, and said,—I am a Dominican friar. Every one becoming a member of that order takes the three usual vows

solemnly in the House of Lords, *Houlditch v. Donegall*, 8 Bligh's Reports, N.S.; and even to that extent of receiving evidence against it, the judgment is only examinable when a party applies to our courts to enforce it. Per Eyre, J., *Phillipps v. Hunter*, Q.H. Blackstone's Reports.

In a case occurring within the last five years, Lord Denman and the Court of Queen's Bench held that even a plea to an action on a judgment in a colonial court (which is treated as a foreign judgment), must steer clear of any inquiry into the merits of the case, for whatever constituted a defence in that court ought to have been pleaded thereto.—*Henderson v. Henderson*, 6 Queen's Bench Reports.

So in another late case, Alderson, B., in giving judgment, said "It is not contrary to natural justice, that a man who has agreed to receive a particular notice of a legal proceeding should be bound by a judgment in a cause where that particular mode of notification has been duly performed, even although he has not had actual notice of it.—*Vallee v. Dumergue*, Exchequer, Trinity Term, 1849.

In a late case in the Common Pleas, Maule, J. said, "Whether a man is bound by the law of a foreign country is matter of law here and everywhere. There is nothing on the absence of process contrary to natural justice, if there has been some other kind of notice, as verbal notice." And Wilde, C.J., said, "If a court of competent jurisdiction have given judgment, that judgment, at the place where it was given, is conclusive against the parties, if not appealed against; and that, even where so sued upon itself in this country, it is *prima*

of poverty, obedience, and chastity. Every priest, whether of that order or not, comes under the obligation to chastity. The *Attorney General*.—What, are the vows repeated? Witness.—No; but the office of priest involves it in itself. *

facie evidence of a cause of action.—*Bank of Australasia v. Harding*, Trinity Term, 1850.

In a case occurring last year, Lord Campbell recognised these doctrines, and said, “It does not appear that the question has ever been decided whether even in an action upon a foreign judgment the merits of the case on which the foreign court has regularly adjudicated, may be put in issue. Doubtless it is open to the party to show that the foreign court had not jurisdiction (in *Dr. Newman’s* case he called upon him to prove that it had) of the subject matter of the suit, or that he never was summoned to answer (*quære*, as any notice, usual or accepted, is held sufficient in cases just cited), and had no opportunity of making his defence, or that the judgment was fraudulently obtained. It is enough to say that the *dicta* against retrying the cause are as strong as those in favour of the proceeding, and it must now be taken to have been in due manner decided against the defendant. How far it would be permitted to a defendant to impeach the competency or integrity of a foreign court, from which there was no appeal, it is unnecessary here to inquire (in *Dr. Newman’s* case he permitted the prosecutor to impeach both); the documents by which the case was established in a distant quarter of the globe may be lost, or not forthcoming; and the witnesses who truly swore it may be absent or dead. If the judgment were given by a court in a foreign country, how is the cause to be retried here?”—*Bank of Australasia v. Nias*, Queen’s Bench, Hilary Term, 1851.

* In the first place, a postulant is reminded according to the formulary for receiving to the order:—“Oportet quod intelligas, quæ habeas servare in religione, ne postea dicas, te fuisse deceptum, vel non credidisse tot ardua esse in ea. In primis oportet te servare tria, vota principalia religionis, viz. obedientiam, paupertatem, et castitatem. Quantum ad obedientiam scias quod eris obligatus servare Regulam et Constitutiones nostras, et obedientias majorum tuorum, ita quod non existimes te ullam habere libertatem, sed totalitu esse subjectum, et privatam propria voluntate.—Quantum ad paupertatem, similiter non poteris habere aliquid quantum modicum, quod possit dici tuum vel quod tu possis dicere, hoc meum est.—Circa castitatem teneberis non solum servare castitatem corporis, sed etiam mentis; id est, quod non cogites de rebus inhonestis, nec deleeteris in illis, et ultra hoc non poteris loqui turpia, aut facere actus turpes et inhonestos, et lubricos nutus et fixationes oculorum in mulieres; et ita te existimes in hoc tamquam non esses homo, sed lapis vel lignum.” These admonitions, which are rather curtailed, precede the admission to the noviciate, which lasts twelve months; during that period the postulant is required to live in accordance with the said rule, and at the expiration of that term, if nothing be said to the contrary by the superiors, and the postulant still continue to bear the habit and observe the rule, a tacit profession takes place, binding him to the order, and *vice versâ*. If, however, a public and oral profession takes place, as is the universal practice, he uses the following form:—“Ego, frater N—, facio professionem: et promitto obedientiam Deo, et Beato Mariæ, et Beato Dominico, et tibi,” &c. Upon this form the Constitutions remark:—“Declaramus quod professio est votum solemnne. Declaramus quod inter tria vota principalis, et essentialius religioni est obedientia, tum quia per eam majus bonum Deo offertur, quam per alia (offertur enim per obedientiam Deo propria voluntas et bona animæ; quæ præferuntur bonis corporalibus et exterioribus quæ per alia vota Deo offeruntur); tum secundo, quia votum obedientiæ continet in se alia vota, et non ex converso (qui enim promittit obedientiam, promittit caste et sine proprio vivere); tum tertio, quia votum obedientiæ proprie se extendit ad actus proprios propinquos fini religionis, qui est perfectio charitatis et dilectionis Dei. Quanto autem aliquid est propinquius fini tanto melius est; et propterea in professione nostra exprimimus solum votum obedientiæ,

Sir *A. Cockburn* then put in Achilli's book, "Dealings with the Inquisition,"^b to show that if the defendant's charges against Dr. Achilli were true, their publication was for the public utility, when

sub quo continetur observatis castitatis et voluntariæ paupertatis, et præceptorum quæ in Regula et Constitutionibus continentur, vel quæ a Prælato fiunt:— Declaramus, quod ex voto nostræ professionis tenemur et obligamur caste, et sine proprio vivere, et Regulam ac Constitutiones non contemnere, et præcepto in Regula, vel in Constitutionibus facto, in his quæ sunt secundum regulam et constitutiones, usque ad mortem inclusive obedire."—"Item declaramus, etc. similiter si profitendo exprimat aliquid religioni repugnans, puta se dicat; non intendo servare castitatem promissam, quantumcumque illam promittam, non tenet professio; hæc enim expressa nocent, non expressa non nocent."

^b As this book was regularly received in evidence, anything stated in it is, of course, evidence against the author; and as the law privileges "fair criticism" on any publication, a few remarks upon its character may properly be made. It is, however, really beneath criticism, and all that need be said of it on that score is that it is a collection of loose, gossiping stories, obviously the effusions at once of enmity and vanity, the object of which is to convey an exalted idea of himself, and to cast odium on all other of the ecclesiastics in the Catholic Church. And this enmity and vanity are so blind, that they lead to the most ludicrous self-contradictions. Thus, for instance, he calls the Inquisition "barbarous," yet elsewhere admits he said he had no fault to find with the slight correction he had received; and, surely, for a person who had for ten years (as he himself admits) been secretly teaching what they deemed heresy, and perverting others to it, a few months' imprisonment (putting out of question the alleged immoralities) was not very barbarous. In another place, he represents himself as a sworn enemy to hypocrisy, and as one frank and sincere by nature; and yet he acknowledges that for many years, after being perfectly persuaded that the mass was an imposture, he continued to celebrate it! He professes to narrate accurately things said at secret conclaves of the Inquisition, and represents a Jesuit as giving a circumstantial exposure of the arts and artifices of his own order! He professes to state things he ascertained as happening at Ancona, while he was passing through it as a fugitive to Corfu, in such haste, as it was sworn in evidence, that he had not money to pay his passage, and had to get his name into another person's passport. He pretends to have been disgusted with the monks for their immoralities; yet he does not venture to say he ever remonstrated with them, or represented matters to the superior authorities, whereas he discloses that they repeatedly remonstrated with, and complained against him. He says he could not live among them, but does not say that he ever demanded an investigation into their conduct. He says he was himself, on several occasions, in authority, as sub-prior, prior, and visitor, yet does not venture to say he ever used his authority to repress these supposed practices, except in a single case of a man since silenced by death. He represents the monks as distrusting and disliking him, and yet as pressing him to continue with them. He alleges that no complaint had been made against him until 1841, when thrown into prison, yet repeatedly states that accusations were made against him ever since 1833. He says the Bible is deemed heresy in the Church of Rome, yet says he held chairs of scriptural teaching; represents an eminent ecclesiastic as giving him a copy of the Bible to read, and declares that he for years preached and taught entirely from the Bible. He says he was full of wrath against the Church, ever since he discovered her deceits, and yet, though he also says he discovered those deceits, and was persuaded her whole doctrine was imposture, as early as 1833, he never seceded to Protestantism until he had been sentenced to perpetual deprivation. He says the Inquisition proceeded only for heresy, yet says that he was known to have held that heresy for ten years previously, and at the same time admits that there was a report that he had been guilty of other crimes, and speaks of documents produced to prove the falsehood of accusations as to his conduct at Viterbo, made while he was in the Inquisition prison! He

The *Attorney General* said that he would not trouble his learned friend to prove this, but would at once admit it.

In this book Achilli says, "The first attack against me was at Viterbo" (p. 37). Some among the friars disliked me" (p. 36). "The vicar of the bishop raised reports against me. I was told of the evil reports but took no notice of them" (p. 130). "I entreated the general of the order to allow me to remain in peace at Viterbo, but he refused to comply with my request, and ordered me to renounce my professorship, and repair to Rome: at last I could visit no longer, and was obliged to surrender my professorship into the hands of the bishop" (129—30). "It was thus that I was forced, at the close of 1833, to leave Viterbo."^c "The first of my accusations dated from 1830,^d while holding the head professorship of theology in the college of Viterbo, and advocating and teaching with great zeal the Romish doctrine." "I disbelieved in the mass, and rejected its doctrine" (161, 162). "I was perfectly persuaded of its impostures in 1835, and the heresies of its doctrine, but continued to celebrate it without devotion, but with a show of earnestness" (201). "At that time I had never yet publicly given any idea that I was at all dissatisfied with the doctrines of the Church, or differed in opinion with the monks, or had quitted that faith which I had hitherto advocated to the world" (186). "I had never been really a monk" (254). "At Capua, I foresaw a persecution against me" (237). "At Naples I was continually attacked by false reports" (257). "I had occasion to leave Naples on account of important business which called me to Rome in 1841. I set off with the intention of returning again at the end of a fortnight, but while I was on the point of leaving Rome to return to Naples, I was arrested by the Inquisition. If this had not befallen me, I should have returned to Naples, enjoying a little world of my own"^e (261). "When I was afterwards in the power of the Inquisition, the inquisitors spread reports relating to other accusations than those originally alleged." A report was circulated that I had been guilty of other crimes than those for which I was placed in the Inquisition" (20).

says the sentence for heresy is inevitably burning, yet not only admits his own sentence was a "slight correction," but does not dare to state (what the best authorities say, could not be stated) that a single case had occurred of a capital punishment by the Roman Inquisition. He declares the Church connived at immoralities, yet says he was placed in posts which gave him full power to correct them, and that he was known as constantly complaining of them! He says he writes under no vindictive feeling, yet takes care to say something injurious against every one who ever reprovved him; and his book teems with charges the most shocking and shameful against ecclesiastics, whom every traveller in Italy knows are men as venerable for their virtues as for their age, and who even Lord Campbell felt compelled to say were men eminent for learning and piety. He tells a stupid story about a woman being ordered on her salvation to "denounce" her husband to the Inquisition (what on earth does that mean?), and yet discloses that she disobeyed the injunction (and told the party who gave it that she had done so, and should do so), without the slightest inconvenience following! It is, in short, a book crammed with coarse calumnies, the malignity of which are only equalled by their monstrosity; and such, in short, is its absurdity, that it can scarcely impose upon the meanest minds, except by reason of its pandering to the vilest and most vulgar prejudices.

^c Then it could not have been for heresy he was sent away from Viterbo.

^d The witness Giustini swore her acquaintance with him commenced about 1830, and lasted a year or so, and was known to other parties.

^e Then it was not voluntarily he left the Church.

“ A process was got up against me before the Inquisition in ” 1842 (33).^f “ There no one, not even the dearest friend, can afford protection or support: there every accusation has to be fully entered into. The accuser gives his name to the tribunal, the same with the witnesses.^g They began in this manner with respect to myself. The first attack against me was made at Viterbo,^h in concert with certain parties at Rome, and some of the Dominicans from Naples ”ⁱ (37). “ Documents were laid before the British consul at Rome, by my friends, while I was in prison, proving the falsehood of the accusations laid to my charge at Viterbo ”^j (79). “ In July, 1842, I was released, by order of Pope Gregory, from the prisons of the Inquisition ” (1). “ I was set free for want of any definite charge being established against me: I was still under strict surveillance ” (266). “ In September I was near Nazzano. I set off for Ancona. I left Ancona on 4th October, and two days afterwards reached Corfu. I was fortunate enough to get included in the passport of a family, with which I travelled without any separate mention of my name: this was a necessary precaution to insure me from molestation on the road ” (268). “ There the Papal consul demanded my expulsion as having been guilty of enormous crimes. Several of the Maltese at Corfu had at one time taken into their heads to follow me in the streets with insulting and threatening words ” (269). “ I opened the Italian church in Corfu, in 1844, with Bandiera at my side. He and his brother, two dear friends, at the head of a few Italians, embarked from Corfu, and landed on the shores of Calabria, where, in a skirmish with the troops of the king, they were taken prisoners and put to death ” (270). “ I was closely united with the brothers Bandiera. When my friends set out for Calabria, I took my departure from Corfu, to settle at Zante. It was settled that I should there receive communications and instructions from them as to my future proceedings ” (275). “ At Malta, an article in a journal proposed to the people to welcome me with cudgels, stones, and other offensive missiles; and another which accused me of being an impostor and hypocrite. I opened the Italian church and published my writings. “ These proceedings silenced the reports against me ” (282—3). “ Some English clergymen, and others who called themselves Protestants, were afterwards induced to oppose themselves to me ” (288). “ The renowned Cardinal Wiseman, the archbishop of Westminster, according to the Pope’s creation, has published an article against me in the *Dublin Review* ”^k (76).

Sir *A. Cockburn* stated that that was the case for the defendant,^l and the Court then (at a quarter past eight o’clock) adjourned to half-past nine o’clock to-morrow.

^f Which could not have been for heresy.—See former notes.

^g The reader will remark how striking is this testimony to the fairness and impartiality of procedure of the Inquisition, as to which see notes to the judgment.

^h The place to which the evidence of Giustini refers; and he afterwards shows that this accusation was not for heresy, as, outwardly, he was zealous in teaching the Romish doctrines.

ⁱ Where the affair of the Principes occurred.

^j Where he says he never disclosed any heresy.

^k Which expressly refers to this article in the *Dublin Review*.

^l Which was most materially confirmed by the last piece of evidence adduced—the book. Unhappily, however, its numerous confirmations were not put to the jury.

THIRD DAY.

The Court sat at the usual hour.

Sir *A. Cockburn*.—My Lord, I beg to tender in evidence the *Dublin Review*, for July, 1850, to show that the charges contained in the libel were published some time ago, and with specific references to facts and dates, proving that the prosecutor has had ample opportunity of meeting these charges, and also showing that they were not got up for the justification of Dr. Newman. The *Attorney General* objected. Lord CAMPBELL.—I do not think it is evidence. Sir *A. Cockburn*.—Perhaps the same proof is contained in Achilli's book.

Giovanni Giacinto Achilli^m was then called, and examined by the *Attorney General*.

The *Attorney General* first asked him whether he would give his evidence in English or Italian? to which he replied, "I would prefer to give my evidence in English, but as I cannot speak fluently in conversation," I would prefer being assisted by an interpreter." Sir *A. E. Cockburn* observed that Dr. Achilli could preach in English. The *Attorney General* said, reading a sermon was a different thing. Lord CAMPBELL said, no doubt the witness would give his evidence best in Italian. The prosecutor was then examined by the *Attorney General*.—I am 49 years of age. I was born at Viterbo. I was educated in the Roman Catholic faith, in the College of the Jesuits at

^m The *Times* thus described him: "He is a plain-featured middle-sized man, and his face is strongly Italian. His forehead is low and receding, his nose prominent, the mouth and the muscles around full of resolution and courage. He wears a black wig, the hair of which is perfectly straight, and as he close shaves, this wig gives to his appearance a certain air of the conventicle. His eyes are dark and deep set; and with his black wig, sallow complexion, and sombre aspect, leave an impression upon the mind of the observer by no means agreeable, and not readily to be forgotten. Judging of his intellectual powers, from his physiognomy and mode of giving evidence, one would be led to say that he was a man of considerable penetration and acuteness. The questions put to him by his own counsel he answered with great clearness, and in a calm, unwavering, quiet manner, without any trace of strong excitement, or feeling deeply roused. Sometimes a slight contemptuous smile accompanied his denials, and once or twice he seemed to treat points angrily. His general bearing was cautious and careful—replying with great reflection and precision."

ⁿ It had been already proved that he could speak well enough in English in common conversation.—See the evidence of the witness Logan.

^o No doubt he would "prefer" it; the reason is obvious: the process of interpretation is tedious, and interposes not only great opportunity for reflection upon the replies to be given, but breaks the force of cross-examination. It was remarked, that when a little excited, he would constantly commence an answer in good English, and then turn to the interpreter, and put it in Italian. And he soon became even himself so wearied with the double process of interpreting questions and answers, that he begged the questions might be put in English and answered in Italian. Thus he secured himself all the advantages of both systems,—hearing in English, answering in Italian,—to his own satisfaction, no doubt. In every conceivable way the Court shielded him.

Viterbo. I entered into the Dominican convent of La Querci, at Viterbo, as a novice, in the year 1819. I was then sixteen years old. I remained there as a novice a little more than a year. I then became a professed monk of the Dominican order.^p After that, in 1821, I went to Lucca to pursue my studies there. In 1824 I entered into priest's orders. I was then under the canonical age. I obtained my orders, being under age, by a dispensation from the Pope. It was at the solicitation of the duke of Lucca. In the same year I went to Rome to pursue my studies at the College of Minerva there.^q In the early part of 1827, I was sent to Capranica to preach the Lent sermons. Capranica is in the diocese of Sultri, in the province of Viterbo. I was appointed by the bishop of Sultri. I have got the patent of my appointment here.^r In the spring of 1827, I received an appointment as *Lector Philosophiæ* in the seminary of the bishop of Viterbo. The appointment is here. I commenced my duties in November, 1827. I remained there discharging my duties till 1833 inclusive. On the 6th of October, 1832, I was appointed by the Master of the Sacred Palace to be his vicar in the diocese of Viterbo; and, among other things, made me not only censor of the press, but president of the censorship. I have got here an appointment of vicar from the Master of the Sacred Palace. In 1833, I obtained from Cardinal Valzi, bishop of Monti-Fiasconi, unlimited authority to confess persons of both sexes in his diocese.^s That gave me authority to impose penance and to give absolution. In the same year, 1833, I was appointed, by the general of the Dominicans, prefect of studies and head professor of the College of Minerva at Rome. I have got the appointment here. At the end of 1833 I left Viterbo with the provincial of my order, on a visitation tour of the Dominican

^p Such early profession is not usual.

^q The Dominican seminary. A splendid library was founded for public use by Cardinal Casanata, in the Dominican convent of St. Maria sopra Minerva. The printed books, in 1838, numbered 180,000 volumes, besides manuscripts. Some inedited writings of St. Thomas Aquinas have been discovered here. Here also is a complete collection of prints and engravings, amounting to several thousands. There are six rooms filled with books; the chief hall is 300 feet long.—*Reminiscences of Rome*. The church of the convent is a magnificent edifice, containing many chapels, one of which contains the body of St. Catherine of Sierra, the St. Theresa of the Dominican order.

^r The Attorney General carefully refrained from asking, and Sir A. Cockburn, amid all the embarrassments he had to encounter under a partial judge and prejudiced jury, who were watching when they could interrupt him, omitted to ask how long Achilli exercised the offices thus alleged to have been conferred. And the value of the mere evidence of appointments, may be appreciated from a passage in the history of Titus Oates. "He took orders, and officiated as curate in several parishes, and as chaplain on board a man-of-war; but all these situations he successively forfeited in consequence of his misconduct (yet no doubt he produced his appointments as proof of character). Houseless and penniless, he applied to Dr. Tonge, a man in whom weakness and credulity were combined, with a disposition singularly mischievous and acute; and who deemed it his duty periodically to warn his countrymen of the designs of the Jesuits. In Oates he found an apt instrument for his purpose, and it was arranged that he should feign himself a convert to the Catholic faith. He accordingly obtained a place in the college of English Jesuits, but the habits of Oates did not accord with the discipline of a college, and after a trial of five months he was disgracefully expelled and injured."—*Lingard*, vol. xii.

^s Another diocese. Be it observed, he never remained long at any place.

convents in Tuscany.¹ I was engaged on that visitation tour about a year. I returned to Viterbo in November, 1834, when the visitation tour was ended. I then stayed in my own convent at Gradi, with the provincial. I remained at Viterbo only a few days on my return. I was then appointed visitor of another place. In 1827 I was chosen confessor of the governor of Viterbo by the apostolical delegate. During the whole time I was at Viterbo, and down to 1833, I continued to act as confessor to the governor. The general authority to confess, which I had at Viterbo, was renewable from year to year; and it was renewed from year to year down to 1833. When I returned to Viterbo, in 1834, I remained a few days, and was appointed visitor to the convent of Nepi. I was engaged there four weeks. I then went to Rome. I arrived at Rome in the month of December, 1834. In 1835 I had two patents to preach the Lent sermons. I have got them here. One was from the cardinal archbishop of Capua. The authority was to preach at his cathedral at Capua. The other was from the same cardinal to preach Lent service in the church of St. Maria di Capua, a collegiate church. I have them here. I also received authority to confess persons of both sexes. That was an appointment during pleasure. I held that appointment all the time I was at Naples. In 1835 I obtained letters of secularization from the Pope. I produce them. I did not immediately avail myself of them, because I was requested by Cardinal Acton to remain a little longer in my order, till I had better tried my vocation.² After I had the letters I went to Naples and lived in the Dominican convent for four years. During that time, in the month of June, 1838, I went to Rome. I stayed only a month at Rome; with that exception I stayed all the time in the Dominican convent at Naples. In the month of June, 1838, I was confessor to the princess of Saxony, Duchess de Bourbon. In February, 1837, I was made free of my order in the province of Naples. I have a minute of my incorporation. I was affiliated. I produce the minute. On the 3rd of August, 1837, I had a patent constituting me to be prior of the convent of St. Pietro Martyrio, Naples. Before my appointment I was sub-prior. This was by the provincial of the order. There is in it, and also in another document, a clause absolving me from all excommunication; that is a clause which is put in all patents which have the power of conferring any jurisdiction. I was also appointed by the provincial to be his commissary in a cause to be tried in the Convent del —, near Naples. On

¹ The peregrinations of other friars or priors of the Dominican order, have produced blessed fruit. "Who," says Digby, "could describe the fruits of peace which followed the steps of a Friar Lawrence of England, or a St. Vincent Ferrer (who came to England), who never left a town without having chased from it the demon of discord, and re-established peace, order, and harmony, and who passed as an angel of peace through Spain, France, Italy, Savoy, Switzerland, England, and Ireland; or of a Raymond of Capua, 23rd general of the order; or he who afterwards governed the Church as Pope Innocent V.; or he who afterwards was Pope Benedict XI. Thus, in 1299, Brother Angelo of Faventia, prior of the Dominicans, made peace between Bologna and Romagna. So Friar John made peace in Verona, Vicenza, Mantua, Padua, and Bracea; and the treaty he drew up between the Guelphs and Ghibellines may be seen in Muraton." (Art. 9, Ital. iv. p. 117). Oh, let no one take their idea of the religious orders from the life of Achilli or his associates! Very different scenes and occurrences characterize their history!

² Sir A. Cockburn asked the reason, on examination.

the 15th of December, 1838, I was also appointed commissary to conduct an election in a convent at Naples. In 1839 I completed my secularization. I remained at Naples after that as a secular priest for about two years. In 1841 I went to Rome. I arrived in Rome from Naples in the year 1841, but I do not recollect the month. In the spring of 1842 I was imprisoned in the Inquisition. I remained in the prison of the Inquisition at that time about three months. I then went to pass the summer in the country near to Rome. I afterwards went to Ancona. From Ancona I proceeded to Corfu. I was assisted in getting from Ancona to Corfu by Boccheciampi. I met him at Ancona, and he said to me he was going to the Ionian Islands. I told him I was going the same way, but I had no passport. He said I might make use of his, because he had a passport for five people, and they were only four. So I took no name, but was No. 5. I remained at Corfu about a year and a half. I went from Corfu to Zante. I remained at Zante about a year and a half; that was till about July, 1846. I then went to Malta. From Malta I came to England. I came to England for the first time in May, 1847. I was then appointed professor of the Malta College. I went to Malta, and acted in the duties of my professorship. I returned to England in June, 1848. I remained in England at that time till January, 1849. I then went to Rome. I was married at Rome on the 24th of June, 1849.^v I married Miss Heley, an English lady, who had been educated in Italy. Soon after my marriage I was again put into the Inquisition.^w I remained in the Inquisition about six months. I was at the Castle of St. Angelo. I was taken out of prison under pretence of giving testimony in a political cause. The French authorities interfered in my favour. After I left Rome I came to England, where I have remained ever since. I have since been minister of the gospel at the Italian Protestant chapel, in Dufours'-

^v The validity of manner depends on the *lex loci*. To be valid, this marriage ought to have been in conformity with the laws of the then existing republic. But the republic had passed no new marriage law: marriage was just as it had been under Pope Pius, and as it is now; and to be valid, it was necessary that it should be celebrated before the parish priest. Again, the republic had not revoked the law (part of the civil law) which makes a marriage contract by a friar or priest invalid. By the law of the republic, a Roman subject or a priest was incapable of legally marrying. Nor could it be considered as a marriage between strangers and aliens. Achilli had never been naturalized in England; he was a Roman subject, subject to the Roman law. The *lex loci* did not apply; the marriage was not celebrated according to the law of this country. The officiating elder was Saccares, who was so summarily sent from the Protestant College at Malta. It is fair to add that, in 1850, Achilli was legally married to the same lady at St. Martin's Church.

^w In his narrative, he says, "In 1841 I had troubles with the Inquisition, the result of which was, that being weary of serving in the ministry of the Roman Church, I separated myself entirely from that office, and made to the Inquisition my renunciation for perpetuity of all the honours and emoluments which I had enjoyed up to that time. The Inquisition, on its part, drew up a decree of dismissal for perpetuity from all the branches of my ministry" (p. 8.) The reader will observe this account is quite consistent with, and confirms the decree of the Inquisition and the recital of his confession, for renunciation is an equivocal phrase, and may mean confession of a criminality necessarily involving perpetual renunciation; and a comparison of the language of the decree will show a striking coincidence. But let the reader particularly observe, the narration admits a decree of dismissal; the jury found the fact of a decree of deprivation; and he swore in court he never was deprived at all! See his affidavit also.

place, till two weeks ago. I have never been deprived of any office for any cause.^x Neither in the month of February, 1831, nor at any other time, did I ever know a person named Elena Valente Giustini. While I was at Viterbo, I never robbed of her honour any young woman at any time. I knew a family at Viterbo of the name of Gentili. There are two families there of the name of Gentili—two brothers. At that time the only woman of the name of Gentili was the wife of Count V. Giulio Gentili. Neither of the family lived in the country. I did not pass my country month, 1831, with the family of a Gentili. It was my custom in the month of October to pass my time at the country-houses of my friends or relations. These families were in Zelli, Christofori, and Tekeschi. I believe I passed the month, in 1831, with two, if not all three of them. I do not know of any country-house of the Gentili. In neither of these three families was there a servant girl with whom I went out to any place. I never went with any servant girl to a place where the two Gentilis were shooting. Now look at that woman Elena Valente, now Giustini.^y Do you know that woman?—I have never seen her! Elena Valente or Giustini—all these questions have been directed to her? I never saw her! Sir *A. Cockburn*.—You ought to repeat the questions in the presence of the woman. The *Attorney General* (in English).—Have you ever had criminal intercourse with that woman anywhere?—No; never. In any place in the world? No. Sir *A. Cockburn*.—The questions ought to be put in Italian, that the woman may understand them. The *Attorney General* (through the interpreter in Italian).—Did you ever see that woman in the sacristy of the church at Viterbo? No. Sir *A. Cockburn*.—Let her be placed where the jury can see her.^z The *Attorney General* objected.^a Sir *A. Cockburn*.—It is very hard, that as he is brought to contradict her on oath, the jury may not see her countenance. The *Attorney General*.—You excluded the prosecutor while the witnesses were being examined against him. Sir *A. Cockburn*.—But now they are confronted; surely the jury should see the countenances of both! The *Attorney General* again objected, and being supported by the Court, continued his examination of Achilli. Have you ever seen her in the house of a relation of yours? No. Have you ever had criminal intercourse with her? No. Did you ever give her any pocket-handkerchiefs and sausages? No. I

^x It is to be observed these answers were so many formal negatives of the charges in the plea, following the precise words there used, like his affidavit.

^y The first witness, who was now sent for into court: when she came in, she was placed opposite Achilli, with her back to the jury, who could not see her. She looked at him with an air of innocent wonderment as she heard him quietly contradicting all she had sworn. See her evidence and her cross-examination as to the Gentilis, which Sir *A. Cockburn* contended confirmed her.

^z The reason was that every one remarked the truthful character of her countenance, and her shocked expression at the assertions of Achilli.

^a The objection spoke volumes to the hearer, and will to the reader. Achilli's counsel shrunk from any real confronting of him and his accusers. It was apparent to every one present that he nerved himself by a powerful effort to meet them; his hands moved, and his countenance worked convulsively, and strikingly contrasted with the quiet and composed aspect of the woman, who looked "more in sorrow than in anger." So much did the *Attorney General* dread the effect of her countenance on the court and jury, that directly he had finished his questions respecting her, he peremptorily ordered her out of court. And such was the witness whose air of truthfulness he durst not contemplate or fairly face—to whom he imputed perjury!

am not speaking of any presents given at any time, but as rewards for criminal intercourse? Certainly not. I have not at any time given such things to any one. You have not given a handkerchief at any time? Perhaps I may have given an old handkerchief to a poor woman. Do you know a person of that name? I know one^b of the name of Rosa di Alessandris, a nun, a relative of mine, of St. Bernardino, in Viterbo. Were you ever found guilty of having debauched, seduced, and robbed of her honour Rosa di Alessandris? The one of whom I have spoken is older than I am in age. That is no answer. (Question repeated.) With her I could not commit any sin, because she is shut in a nunnery. Lord CAMPBELL.—Answer the question! I never was found guilty of having debauched, seduced, and robbed of her honour a woman of that name. I know of no other woman of that name except my relative. I never had carnal connection with Rosa di Alessandris, in the sacristy of the church at Gradi, or anywhere else. I never gave any money to the father of Rosa di Alessandris as hush-money. I think I was a child of five or six when the father of Rosa di Alessandris died. In the month of July, 1834, did you debauch, seduce, and carnally know a woman whose name is unknown, and who was before chaste?^c (Laughter.) No. In 1834 I was on my tour with the provincial, and returned in November to Viterbo. In 1835, while resident at Viterbo, in the neighbourhood of Monte Fiasconi, did you debauch, &c., one Vincenza di Guerra? In 1835 I was not at Monte Fiasconi, nor at Viterbo, nor do I know Vincenza Guerra. Did you debauch any woman at Capua? No. I was at Capua in 1835, occupied preaching morning and evening. I resided in the house of the cardinal archbishop. I resided all that time under the eyes and nose of the archbishop. Did you, in that year, or at any other time, have any connection with any woman who was “chaste and unmarried.” No. (The witness Principe, now Balisano, was here brought into court.) I am now going to ask you about Naples in 1840. Do you know that woman?^d No! You were in 1840 living at Naples as a secular priest, having obtained your letters of secularization? Yes. Did you ever see that woman in the sacristy of the church at Naples? No. I have never seen that woman. This is the very first time I have seen her. The *Attorney General* (handing to him the paper which had been identified by Principe). I know this paper very well. The filling up in writing is mine. This paper was given for an image in the church of St. Pietro Martyro to collect money. I did not collect the money, but there was one specially charged to do it. Persons came to write their names, but they did not come into the sacristy; they stayed at the door. I never had connection with that woman in the sacristy, or in any rooms off the

^b The reader will remark the peculiarity of the answers in this and other instances.

^c The Attorney General, in repeating the different averments of the plea, made merry with their formality, to hide the formality of his questions.

^d Similar remarks apply in this as in the former case. The *Times* stated,—“The effect produced by these meetings was dramatic, the poor women eyeing their alleged seducer with half-timid yet steady glances, while he, his face overspread for the moment with a slight pallor, turned upon them eyes that seemed to pierce through them.” The impression made upon every one in court by this confronting was the reverse of unfavourable to the witnesses; and the Attorney General, conscious of it, did not venture to repeat the experiment. He did not dare confront Achilli with Principe and her mother together, nor with any of the English witnesses.

sacristy, or anywhere. Do you remember, while you were at any time walking in a procession, the mother of Principe addressing you? No. Were you ever before the police on the subject of any charge made against you respecting Principe? No. You were never before the police on the subject of the charge? No. When I came away from the Dominicans the brethren began to make war upon me, and they spread charges against me. I made no account of this, as is my custom. My friends, irritated at such proceedings, tried in every way to subvert and destroy such charges. Did the duke of Lavrino interfere? Sir *A. E. Cockburn*.—How can he swear to what the duke did? Lord CAMPBELL.—Unless he were present. The *Attorney General*.—Had you communications with the duke on the subject? With all my friends. Were you ever before the police with the duke of Lavrino and your friends? No. In Corfu did you know a tailor, named Garimoni? Yes. Did the wife live with her mother? Yes. Did you live next door to them at Corfu? Yes. Did you ever commit adultery with Garimoni's wife?^e No. I remember a fact that happened.^f One night I was passing before the house of the wife of Garimoni. She was at the door and called me, asking me to answer certain questions. She began to ask these questions, when we were surprised by her husband. The questions were but begun, but not finished. I believe she meant to ask me if I had heard any noise in her house on the previous night; and I believe she alluded to certain screams or cries that in fact I had heard. Before the questions were finished Garimoni came up. He began very furiously to inveigh against his wife. I was at the door of the house. It appears to me that he pushed me inside the house.^g Certain it is I made a step within the door. I reprov'd Garimoni for this his bad conduct to his wife. I made way with my hands and got out. That is the only occasion I was ever in the house. I never met her in any place. Was any complaint made against you for adultery with her? Some days after I heard that Garimoni spoke against me through the city. I went to complain to the secretary of the lord high commissioner, Mr. Fraser. Do you know anything more of your own knowledge, as to Garimoni and his wife? I have heard that Garimoni wrote certain letters, but no more.^h When you were at Corfu had you two persons in your service, Coriboni and his wife? Yes. They remained in my service all the time I remained at Corfu, and all the time I remained at Zante. They did not come with me to Zante, but they came some weeks after I had gone. I knew Mr. Reynolds at Zante very well. I did duty in a chapel at Zante. Mr. Reynolds was one of my congregation. I lived near him. His house did not look into mine, but mine did into his. My house was higher than his, and I could see his house only from my upper windows. There were two upper

^e It was remarked at the bar that this was a case in which the police proceedings precluded total denial.

^f The reader will observe how strongly all this confirms the witnesses for the defence, and let him compare it with the cross-examination of Garimoni's wife, who quite contradicted him. Lord Campbell never remarked on these discrepancies.

^g Even this is quite consistent with the story told by the witnesses for the defence, for they said Garimoni tried to detain Achilli, and this "pushing in," which he speaks of, may have been as he was pressing out.

^h The reader will observe the evasive character of the answer, and the cautious way in which the next question is conceived.

windows. I think it would have been necessary (for me) to have put the person out of window to be seen. I never committed any indecency with Coriboni's wife. Did Mr. Reynolds ever remonstrate with you on any conduct of yours towards her? *Non mi ricordo.*ⁱ I recollect that Mr. Reynolds, after an event that happened between us, did speak to me relative to the persons in my service. I had in friendship and charitably given some slight reproof to Mr. Reynolds because he was in the habit, at that time, of drinking a little too much in the evening, and being drunk. (Laughter.) The first time it appeared to me that he received it (the reproof) with resignation. At the second time he became a little displeased. After this he began to absent himself from the congregation. After a certain time I saw no more of him at my congregation. After the reproof I went to pay him a visit, to make friends with him again, and then he, assuming an altogether serious tone, began to reprove me about my servants. He said that they had been, before coming to me, persons not of good morals. I answered that *I should be satisfied if they behaved well while they were in my house.*^j I begged him to tell me if he had anything to say against them at that time. I remember that he himself spoke in eulogy of them,^k only he would have me, at his will, send them away. Coriboni lived with his wife in the house with me. They had a child. Coriboni's wife never slept with me. She never dined with me. I never told Mr. Reynolds that Coriboni's wife, "poor Albina," was going to dine with me. I never walked arm-in-arm with her in the public streets. The band used to play late at night. I never went with Coriboni's wife, late at night, to hear the band play, nor did I ever go alone. My congregation increased very much after Mr. Reynolds left it. I continued to do duty in the chapel about six or seven months after he left—as long as I continued in Zante. I did duty in the chapel to the last moment I was at Zante. The congregation increased up to the last moment. Do you know that woman (Principe's mother,^l who was now placed opposite him)? No, no, no; I do not know her at all. When I left Zante Coriboni and his wife left my service. When I was at the college at Malta there were two priests there, Saccares and Leonini. They had been converted from the Romish Church. The accusation against Saccares and Leonini was made while I was in London, and the alleged faults were committed while I was away.^m The accuser was an Armenian priest, to whom, according to my judgment, no credit ought to be given. I was charged by the committee of the Malta College in London to make inquiries into these charges, although

ⁱ Here, again, the reader will remark the reply.

^j This answer excited so much attention, that Sir A. Cockburn caused it to be repeated, and specially animadverted upon it in his reply. It need scarcely be said, that Lord Campbell took no notice of it in his charge.

^k The reader will appreciate the probability of this, after the admissions already made by Achilli, and the evidence of the other witnesses, as to the woman's character.

^l She had been brought into court directly after the daughter, and the Attorney General did not confront them together with Achilli, and delayed for some time confronting them at all, during which time the poor woman sat in court; and, of course, Achilli had time to prepare for it, and was evidently bracing himself up for it; but his hands and his face evinced considerable agitation of mind.

^m It was stated in the evidence for the defence that Achilli was residing in the house with these persons at the time.

I had advised the secretary of the committee not to institute proceedings against these accused persons. I gave as a reason because I knew very well the character of the accused, and that no credit ought to be given to the accusation. I afterwards investigated the matter on my return to Malta. My result was that there was not any credit to be given to the charge, and I have pleasure in adding that neither Mr. Hadfield nor any other person has ever found that the charges were true. It appeared that our inquiries were finished when it came to my knowledge that they were continued still on the part of Mr. Hadfield. I complained of this to him and to the vice-principal. The principal answered that he had been charged by the committee thoroughly to investigate. I sent Saccares somewhere. Before I sent him I communicated to Mr. Hadfield that Saccares was going on a commission into Sicily.ⁿ I did not send him away to hinder and stifle the investigation. Were you implicated in the charges? I fancy not; as they were in Malta, and I was in London. As far as I know I was not implicated in the charges. Were you dismissed from the college of Malta for several acts of vice and immorality? No. Did you ever preach against the laws of chastity and morality? No. You were not an infidel? I believe not.^o Was there ever a time when you did not believe in the truths of Christianity? No. Lord CAMPBELL.—Was there ever a time when you did not believe in the divine mission of our Saviour? No. The *Attorney General*.—After your marriage you came to this country with your wife? Yes. I was lodging, when in England, in 1847, at No. 3, St. James's-street, at the house of Miss Lambert. I knew Catherine Gorham there. I never took any liberties with the servant of Miss Lambert. When you came to England with your wife where did you live? I was living at No. 20, Northumberland-street; afterwards in Shaftesbury-crescent: I had there a servant named Harriet, I think. I never conducted myself indecently to Harriet Harris. I never attempted to seduce Harriet Harris. I think I had a servant named Jane Legge. I had two of the name of Jane. One followed Harriet Harris. That Jane lived about six months or so, but I do not recollect exactly. I never had criminal intercourse with her. I never behaved indecently to her, nor did I ever attempt to seduce her. I remember Sarah, who came from the House of Mercy, at Windsor. I never had criminal intercourse with her, nor attempted it. You were in the prisons of the Inquisition upon two occasions? Yes. Was there any proceeding in the courts of the Holy Office against you? No; (correcting himself) Yes. The first time you were at the Inquisition, were you questioned by the Inquisition? Yes; every day. Lord CAMPBELL.—What charges were made? I was charged with regard to my teaching in the school, and in the pulpit, and my conduct in the confessional. The *Attorney General*.—Was there any charge brought against you except upon account of your teaching? No. Not for your moral conduct? No; the Inquisition is not competent to judge of those offences.^p I do not ask what passed when you were not present, but were you to your face never charged in the Inquisition with immoral conduct? No. Personally? No.^q Do you know of

ⁿ By a letter written the day he went away, and which of course could not be received till he had left.—See the cross-examination.

^o A Mahomedan could say the same.

^p This is in direct opposition to the evidence of the bishop of Southwark.

^q Perhaps not, literally; but suppose the proceedings were in writing, and

any charge of immorality being made against you to the Inquisition? No. Did you ever hear of such a charge made against your moral character? I think not. Did you ever make any confession to the Inquisition of having had carnal intercourse with any women at Viterbo or elsewhere? No. (The judgment of the Inquisition, which had been put in yesterday, was here shown to him.) You see the statement there of your confession, and throwing yourself on their mercy? Yes; I see it. Did you make any confession, and throw yourself on their mercy? No. Perhaps they might have asked me, at the commencement, whether I was content to stand or throw myself upon their mercy? Upon that supposition I should have answered "yes;" and then the chancellor of the Inquisition would naturally have written that I threw myself upon their mercy.* This is not simply throwing yourself on their mercy, but acknowledging the sentence and submitting to punishment (he reads it). I believe that the first words may be admitted, but not the last. I did not ask not to be chastised, if I merited it. On the contrary, I should desire that proceedings should be instituted in such manner as justice required. I may have said I should receive with resignation whatever orders or dispositions might emanate. I cannot admit the rest. Not the part in which it is stated or said,—if they wanted to proceed with greater rigour, your confession would be sufficient? It is probable I may have put in the first part, but not the second. The first part applies to charges as to your teaching, but not to any charge made against you about deflowering women? No. LORD CAMPBELL.—On what charges did these proceedings take place? Relative only to my teaching. Was there any sentence or judgment? No. No judgment, no sentence was pronounced upon me; only a decree of the Congregation of the Holy Office, ordered by the Pope, that I should be set at liberty. I was set at liberty under certain conditions, that I should become reconciled again to the Holy See, and, in the meantime, that I should abstain from the exercise of my ministry. This reconciliation, according to the secret instructions given, consisted in that I should write and publish some book in favour of the Roman Catholic Church. I must correct an observation I made, not having sufficiently reflected.^a My incarceration at the Inquisition took place in 1841, and after my liberation I remained a certain time at Rome, and afterwards, as I said, I went into the country, in the neighbourhood of Rome. These are all the conditions upon which I was released from the Inquisition on the first occasion.^b

Cross-examined by Sir *A. E. Cockburn*.—You became a monk of the order of St. Dominic in 1820? Yes. You were professed, and took the vows? Yes. What are the vows you took? The Dominicans profess one single vow; it is in these words: "I, Giacinto Achilli, promise obedience to God, to the blessed Virgin, to the patriarch St. Dominic, and to you, most Reverend Father General of the order, till

he received a copy of the charges, and confessed them? The Attorney General would have put that question if he durst.

^a The reader will remark the cautious character of questions and answers here, and compare them with the judgment, and the affidavit and narrative of Achilli, *ante*.

^b A remarkable expression, coupled with the fact that he carefully reflected on every reply he gave.

^c The examination in chief lasted from half-past nine till a quarter to one. The Court then adjourned for a few minutes for refreshment—an opportunity of which Achilli availed himself.

death." Do you mean to say, on the oath you have taken, that you did not take a vow of poverty and chastity? (Achilli was silent, professing not to understand—question repeated.) I believe not. Are you not in a condition to swear positively on the subject, one way or the other? (Achilli was silent, professing not to understand.) Oh, you understand me perfectly! Do you mean to tell the Court you do not know what vows you took on becoming a monk? I believe the vow of obedience. Do you swear that? Yes. And that you took no vow of poverty or chastity? Yes. And that these vows are not taken by persons who become monks of the order of St. Dominic? If it is not their intention to profess and to take those vows, certainly they do not take those vows. That is not an answer! What I ask you on your oath is, whether, when persons become monks of the order of St. Dominic, they are not under the obligation to take the vows of poverty and chastity? It depends upon their own will. Is it not a necessary condition to their being admitted into the order? The necessary condition is the vow of obedience alone.^u You became a priest in 1824? Yes. Is chastity part of the vocation of a priest? Yes (with a sardonic smile). You were resident at Viterbo, with occasional absences, until 1833? Yes. Now can you state that, from the time you were professed, in 1819, until you left in 1833, you had no intercourse with any women whatever? (Achilli was silent, smiling in the same manner.) Answer the question! Have you, during the time you were at Viterbo, from 1826 until 1833, had intercourse with women? (Some moments silent, with the same unpleasant smile, half convulsive.) I have not had intercourse with any women, according to the tenor of the imputation which has been made against me.^v Have you had intercourse with other women besides those? (Silent, with the same disagreeable sort of smile.) The *Attorney General* objected. Lord CAMPBELL.—I cannot compel him to answer, but Sir Alexander has a right to put the question. Sir A. Cockburn.—Then, Dr. Achilli, I put this question, whether you had not, during your residence at Viterbo, intercourse with other women (silent),—I am not speaking of those in the libel, I speak of others? (Still smiling). I could answer, no. But I ask whether you will answer no? (Silent, with the same smile.) I am privileged by the judge not to answer. You decline to answer on the ground of privilege? I accept the privilege, and beg not to answer. From 1819 to 1833 I had no intercourse according to the imputation cast upon me. Have you had intercourse with many others? Whether I have had intercourse with others I decline to answer, because I am privileged by the judge. Did you ever have intercourse with women during that period in the sacristy of a church? No, never. Were you, in 1826, sent to Quercea for three months for penance? No. Were you, in 1826, sent to Quercea for three months? I went of my own accord. You mentioned that the provincial, while you were at Viterbo, took you with him on a tour of visitation; who was he? He is changed every two years. In 1833 was Brochetti provincial? And Spaletti vicar of the bishop? Yes. He was a great

^u The reader will compare this with the evidence of the Dominican monk, previously examined, and that of Achilli's own witness, the apostate monk.

^v *I. e.* according to the terms of the libel. This answer caused a visible sensation in court. Assuming him to be guilty of the crimes there charged, by swearing thus he would avoid (as far as possible) any proof of them, while at the same time, by declining to deny such offences, he would secure himself against an indictment for perjury.

friend of yours, was he not? Oh, yes. Now, at the time when Brochetti took you, had not complaints been made against you as to your moral character? (Silent.) There were charges against you? (Still silent.) Come, come, answer that! Some things may have been said about it, but I did not hear them; or if I did, it would make no impression upon my mind. Were there not charges made against you by Spaletti, the vicar of the bishop? Yes; I think there were. Some charges? Yes. Is that the man of whom you say in your book, "There was one crafty man who used to calumniate me behind my back; a certain Spaletti, vicar of the bishop: he raised various reports against me, and also made use of some Dominican monks who were displeased with my advancement"? Yes. Then he did make complaints about you? Yes. And the other monks too? I believe so; I was told so. Now, did you not go on this visitation tour to get out of the way of these "reports" or charges made against you? No, no. Did you not know, when you started on the visitation, that these charges were in circulation against you? I was then at a distance from Viterbo, and did not know what passed in Viterbo: I started from Rome. How long had you left Viterbo before you went on the visitation? Some weeks, I think. When you left Viterbo to go to Rome, did you not know of these complaints and accusations against you? There was not a word to say against me when I left Viterbo. How came you to go to Nepi in 1834? To make a visitation of a convent. Was there not, in 1834, a charge made against you of having attempted the virtue of a woman in the cardinal's house? No. Will you swear that? Yes. Have you ever heard anything of that charge? I may have heard it among other stories, but without foundation. Did you not hear it in 1834, before you left to go to Nepi? (Achilli professed not to understand.) Oh, you understand me perfectly. I ask whether that charge had not been made against you before you left for Nepi? I cannot exactly recollect whether it was made a little before or after my journey. I ask you whether you did not go to Nepi to get out of the way of that charge? No, no. What was this charge about the woman in the cardinal's house? I do not recollect; I may have heard it, but I do not know. Did you hear of such a charge being made,—it is a serious thing to have attempted the virtue of a woman in the house of a cardinal!—did you hear of it? *Non mi ricordo!* Why, is it not a thing to make an impression upon a man? No, thousands of such accusations have been made against me: I am indifferent to such accusations. Then the accusations have been made? At Rome, for instance, it was said that I had killed a nun! Now, in 1835, you obtained the brief of secularization? Yes. On condition of obtaining a patrimony? Yes. Are not the words in the brief in the plural, referring to the vows you had taken? "*Votorum.*" Do you still persist in saying that you took only one vow? Yes; that is a common form of the brief of secularization. Well, but if it be the common form, to speak of the monks' vows, do you still persist in saying that they only take one vow? There are two Dominican monks to be called; you may ascertain from them the real nature of the vow. Yes; but at present I must ascertain from you. When did you obtain your patrimony? Soon after I obtained the decree of secularization from the government. When was that? It is dated 6th August, 1839: I produce it. It is the authorization of the government,—the royal *exequatur*. Is that required by the law? Yes. That the government should concur with the Pope before a monk can be secularized? Yes. You obtained that

in 1839? Yes. And soon after you got your patrimony? Yes. Then up to that time you continued to be a monk? (Smiling.) According to the law of Naples, I was no longer a monk; and I did not then belong to the diocese of Naples. Is it not necessary to the secularization that you should get a patrimony and royal authorization, which you did not obtain till 1839? Yes. And do you then mean to say that you did not continue a monk in the interval between 1835 and 1839? No, no; I was a monk from 1835 to 1839, under a monastic vow. Now, to give effect to the Pope's brief of secularization, is it not necessary that you should be accepted by some ordinary? Yes. Was that ever done? Yes. When an ordinary accepts a secularized monk, does he not write what he has done on the Pope's brief, and return it to Rome as the record of the secularization? It is not necessary that he should write it on the same document. Is not that the ordinary course? Yes or no. Now, when you were at Viterbo I understood you to say that you never saw Elena Valente? No. Never before to-day? No. Had not the Christopher family a house in the neighbourhood of Viterbo? Yes. Was Christopher dead? Yes. Had he married a Gentili (smiling)? In the house of Christopher, where I went, there was a lady and her son. Now this lady—was she not the widow of a Christopher? Yes. And was she not a Gentili? I think so. Was she not a Gentili? (Silent.) Yes or no; upon your oath, was she not a Gentili before she married; and at that time was she not a widow? (After a pause) Yes. And did you not pass a month in the year referred to at that lady's house? Yes. Was there not a young woman named Elena Valente, a servant in the house? (Achilli professed not to understand.) Oh, you understand the question! I never saw that face before. I think I can recal it all to your recollection. Was there not a lame girl there! I do not know. Was there not a lame servant girl there? *Non mi ricordo.* I had no reason to recollect it. But the girl says she has much reason to remember you. (Laughter, in which Achilli joined.) Was there not a servant girl there at that time? *Non mi ricordo:* it is impossible to recollect. Do you remember going out to see shooting? I may have done so. I used to go out shooting. Is that part of the vocation of a monk? (Achilli laughed.) The grand vicar used to go out shooting too! (Laughter.) Lord CAMPBELL.—Sir Alexander, in Roman Catholic times bishops used to keep hounds. Sir *A. Cockburn*.—Not monks, my lord. (To Achilli.) Did you never take out that girl on any occasion to see the shooting? No. I took no woman with me, because I took the son of Madame Christopher. Did you ever take any female out with you? No, never. Did you never see her before to-day? Never. Have you friends at Viterbo at the present time? I do not know; because I am not allowed to keep up a correspondence. Have you relations there? Several. And you mean to say you cannot correspond with them? I cannot. Is it that they refuse to have anything to do with you? No. Have you attempted to correspond with them? Since I came to London I have not tried. You have no difficulty in getting friends for this prosecution? (Smiling sardonically) I hope that the providence of God will furnish me with the means. Yes, but Providence is expected to work through the agencies of this world. Who provides the funds for this prosecution? The providence of God. (Still smiling.) Through whom? My friends. Who are they? They do not exist yet! Explain. I mean that I hope friends will have the kindness to provide for this need of mine. Lord CAMPBELL intimated some doubt as to the relevancy of this. Sir *A. Cockburn*.—I mean to

show that funds are not wanting. Lord CAMPBELL.—From what I can see I believe funds are not wanting on either side. Sir *A. Cockburn*.—Have you caused inquiries to be made at Viterbo, with respect to Elena Valente or Guistini? No; nor about any other of the women named in the plea; but I have caused that which was done by my adversaries at Viterbo to be observed. Through whom? If I were to name the person it would tend to compromise him. I gather from your last answer that you have the means of communicating with Viterbo? It is not proved (smiling) that I have the means of communicating with Viterbo. I have only the means of communicating by the Roman States. At all events I understand you to say you have caused observations to be made in Viterbo? ^w Yes. Now I have to ask you about Rosa di Alessandris: Did you never know a person of that name besides the nun? No. I am speaking of a person with light hair, now married? No. There is no such person among the other women you will not tell me about? No. Did you ever give money to the father of any girl? No, no, never. Or caused it to be given? No. Did you ever know of the convent giving money to hush up an affair in which you were concerned? No. According to your account the monks at Viterbo were very wicked people? ^x I am not come here to cry out against monks. But you have cried out against them, and written against them. Yes, when time and circumstances allowed of it. But now that you are not writing but speaking upon your oath, do you abide by what you have written, that they are such profligate people? I have not said that the monks at Viterbo were so. Well, what sort of people were they? Some good and some bad. ^y Were you not reprov'd by the superior? So long as I remained among the Dominicans I was their idol. You left in 1833? Yes. In 1835 you were at Capua? Yes. When were you at Naples? After I spent a Lent at Capua. Now I must ask you whether, while you were at Capua, you had not intercourse with women? I must give the same answer as before: I said before, I spent at Capua a Lent, under the eyes and nose of the cardinal archbishop. That is not an answer to my question! I appeal to the privilege granted by the judge. Now, while you were there, under the eyes and nose of the cardinal archbishop, did you not make an attempt on the virtue of one of his chamberlains? No, never. Were you charged with it? No, never; it is quite new. As to any others, you put yourself upon your privilege? I could answer no; but I have a privilege, and I mean to avail myself of it. Do you consider a charge of unchastity a serious imputation on your character as a Roman Catholic priest, while you were one, or as a Protestant clergyman, since you have become one? I consider these are real crimes for any Christian, and I do not make much difference between a clergyman and a layman. Would you not be glad to have an opportunity of clearing yourself from these imputations, if you could do so? The *Attorney General* objected, and

^w The inference of course would be, that if he could have discovered anything to the discredit of the witnesses he would have done so. Surely this was important? Yet Lord Campbell never adverted to it.

^x The only ones he could know much about, since, after leaving Viterbo, he was constantly shifting from place to place.

^y Which of course is, and has ever been, the truth, and is a mere truism—a truism, however, on which the whole fabric of falsehood against the Catholic priesthood or religious orders is built. No one doubts there may be bad monks and bad priests; but the history of Achilli and his associates shows that they all become Protestants. And he says he never was a monk.

Lord CAMPBELL interposed. *Sir A. Cockburn* then directed the woman, Maria Principe, whom he had previously called in, to be placed where both the prosecutor, the judge, and the jury could see her. There (to Achilli); have you ever seen that woman before this day? No. Do you mean to swear that? (Achilli looked confused under her quiet, steady glance; his hands moved nervously, his countenance changed, he hesitated, and faltered),—I see before me an Italian face (hesitating again): it is more of a Neapolitan (still hesitating): her dress confirms me in the notion that she is a Neapolitan. Did you, on your oath, never see that woman before to-day? My word is an oath: I believe the oath of a Christian superfluous. Do you mean to say that there is no sanction in an oath? No; but that my word is of the same value as an oath. Now, I ask you, on your oath, do you mean to say that you never had criminal knowledge of that woman? I do. (*Sir A. Cockburn* had the question repeated in Italian, with the same answer.) Let the mother stand forward! (Mother and daughter now stood together before Achilli.) Did you never see that woman? Never. You never saw her before? (To the interpreter: Put the question in Italian!) Never. Did not that woman and her husband call him from a procession and charge him with having debauched their daughter? No, never. Did any one call him out from a procession and charge him with a crime? No; for this reason: it is impossible to ask for any monk who is going in procession.* Was it not in consequence of the scandal caused by the incident that your friends instituted proceedings before the authorities? No. Did you make any complaints before the police? No. Did your friends, at your instigation? No, not through my instigation; but they made complaints. Did you know at the time that they were making complaints? They used to tell me they had done so. How long were these proceedings going on? I do not know; they told me of them many times. How long was it these proceedings lasted? A little time. Well, did you not learn from your friends the name of the family they had caused to be brought before the police? No.^a What! did they not tell you the name of the family they had summoned before the police? They may have given me the name, but I cannot now recollect.^b When you learnt from your friends that they had insti-

* The confraternity of Santissimo Salvatori, at Rome, provides dowries for poor maidens. It is usual to conduct the latter in procession to the Dominican Church de S. Maria sopra Minerva (where Achilli) was, on the 25th of March. The confraternity has filiations all over Italy, and very likely such was the procession the Principes alluded to, *i. e.*, a procession of girls, not of monks. (It is observable it occurs in March; and the Principes said the interview occurred at that time.) In this supposition Achilli's denial of the possibility of interrupting him in a procession, was of the same character as his denial of having been at the house of a "Gentili," because he had married a Christopholi! Achilli would naturally be present, but not in the procession; and neither he nor she positively alleged that he was in it, or forming part of it, but present, and assisting at some procession, not necessarily of monks.

^a The reader is requested to remark this part of the cross-examination; Achilli had sworn he never saw mother or daughter: the object of this cross-examination was to test the probability of that—even assuming the charge against him to have been false, on the supposition that he would naturally hear or learn the name of his accusers; and he admitted that the charge was brought before the police.

^b He was not asked to recollect the name, but whether he had been told it, or had known it at the time.

tuted a complaint before the police, did you not think it worth your while to go before the police yourself? No; I knew these things had no reality.^c Now, with respect to this society at the Church of St. Peter the Martyr, was there not a book in which the names and payments of the members were entered? Yes. Did you not sometimes enter the receipt of the money in the book? Yes. You recognise the paper (handed to him)? Yes.^d Did you fill up the writing? Yes. Now, with respect to the secularization, which was completed in 1839, were not charges made against you by the principal of the order? Yes. At that time? Yes. By Ancorani and Cardinal Lambruchini? Yes. These were the persons of whom you speak in your book, "Ancorani died, loaded with infamy; Lambruchini is still, for his greater punishment, among the living"? Yes. These were the persons of whom you thus speak in this Christian spirit? I speak for the purpose of making a revelation to Christians. It is sometimes necessary to give the names of persons. I ask you whether, at the time you completed your secularization, there were not charges pending against you, with the assent of the head of your order, Ancorani? When I obtained my secularization, Ancorani was not my superior. I am speaking of 1839, when you completed your secularization: were not charges then pending against you? When I exhibited my degree for secularization bitter war was declared against me. That is not an answer to my question. I ask you whether, at the time you left the order, and perfected your secularization, there were not charges pending against you on the part of the principal of your order? (Achilli, who had hesitated a good deal, here grew rather angry.) I am not come to continue these answers, which cannot have to do with what I have come to state.^e Lord CAMPBELL.—The question is perfectly admissible. Sir A. Cockburn.—At the time when the secularization was perfected, were there not proceedings pending against you with the concurrence of the general of the order? There were no accusations pending—no proceedings. Were there no accusations against you without actual proceedings, which you may have anticipated? I cannot know of any accusations brought against me by Ancorani, because there were no communications between him and me. Lord CAMPBELL.—That is a precise answer.^f Did you not quit the order to avoid proceedings being instituted against you? No. My petition for the royal *exequatur* was before I heard of the complaints against me. How long after the petition did you hear of the charges? A few weeks. When did you first hear of any charges being brought against you? There was some gossip talked about: I knew of this gossip after I had given the petition for an *exequatur*. Now, were you not

^c But the charge was a reality, and the person who made it; and the question was, whether he had never had the curiosity to learn who it was, or to look at him? Conceive a clergyman having such a charge investigated at a police-court, and never being present to confront the girl!!

^d The confirmation this gives to Principe is obvious; and it raises a strong presumption of probability that he must have seen her at the sacristy of that church.

^e The reader will have observed that this is not the first time Achilli was betrayed into an expression indicating that he had come to make certain prepared statements rather than unreserved disclosures of the facts.

^f If this were so, why did he not give that answer before? But see what follows.

suspended from your office of prior of the convent and ordered to go to Scurcola for penance for three years? I have never been suspended from my office. I terminated my priorate in peace and good harmony with the monks, who were on the point of re-electing me again when I was secularized. When did the priorship cease? In July, 1839. Were you ordered to go to Scurcola at any time for three years? After I had sent a petition to the government for an *exequatur* I received a curious letter from Ancorani. And among other curious things in it, was there an order to go to Scurcola? To go somewhere; possibly Scurcola. Was it not in fact Scurcola? I received three orders: one to go to Benevento, another to Pensi in the Abruzzi, and the third, possibly, to Scurcola. Are not these convents houses of severe observance? No; because all these are small, and wherever the family is small there is no strict observance. Did not the letter of Ancorani order you to proceed to one or other place for three years? No; because such an order is never given for a determined time. Were you ordered to proceed to one of these convents until he should permit you to leave it? All the orders so given are in this way—according to the will of the superior. Did not the letter state that the order proceeded upon the ground of these immoralities which are charged against you? ^s As I said, the letter of Ancorani contained many curious things—he was an old man and had lost his wits. That is what you mean by saying in your book “he died loaded with execrations,” and that he had been for forty-seven years Inquisitor, and had committed all kinds of iniquities? Did he not order you to go to the convent on the ground that you had been guilty of gross immorality? No, no. Was it so stated in the letter among the other curious things it contained? No, no. What were these curious things, then? There was, among other things, a question in which I was involved, because Ancorani wanted to bring about a reformation in Naples (Achilli caught himself up at the word reformation, and immediately added)—“to change some good habits into bad ones.” “A reformation to change good habits into bad ones!” Is that why you said he lost his wits? Now I ask you, when you were at Naples,^h did you not have intercourse with several women? To the same question I return the same answer.^h How came you to leave Naples in 1841? (Achilli affected not to understand.) Oh, you understand! I ask what caused you to leave Naples in 1841?ⁱ (Still he paused, and assumed an unintelligent look.) You understand me? It was for family matters (hesitating). I went there with the intention of going on to Viterbo. Why, you were arrested, were you not? No, afterwards; not then. Were you not arrested by the police at Naples, and taken back to Rome? No. Do you mean to state that deliberately? (He hesitates). That you were not arrested, and taken back by the police to Rome? No. Where were you arrested? At Rome. Were any proceedings instituted against you at Naples? No. Were you removed from the Neapolitan dominions? No. Nor taken out of Naples? No. Neither then nor at any other time? No. In September, 1840,† were you not

^s The reader will not fail to remark these answers, and particularly the next!

^h It will be recollected, the Principes' case was alleged to have occurred there.

ⁱ The object of this part of the cross-examination was to show, that after the scandal caused by the Principe case he was removed from Naples.

conducted by the Neapolitan police out of Naples, and a passport given you to Rome? Never was I conducted by the police of Naples out of the territory of Naples.^j I left Naples in company with an uncle of mine. I went as far as Fransoni, a town between Naples and Rome; I stopped there, and then returned to Naples, without having heard a word from the police. Now attend! did not the police direct you to leave Naples, and give you a passport for Rome, and did you not leave Naples and go back again secretly? No; I never was told by the police in this matter to leave Naples at all. I asked for my passport from the Minister for Foreign Affairs, and he sent it to me; and with that I went to Fransoni, and then returned openly to Naples. If you got a passport to Rome, why did you return to Naples? Because I was lame. I had something the matter with my foot, and as a proof of this when I returned I was obliged to keep my bed. How long? I do not know. On the second occasion, did not the police remove you from Naples? After I got well I returned freely, and began again my journey for the same purpose that had induced me to begin the first. That is a long answer! I wanted a short one—yes or no—to this question: did not the police remove you from Naples after you had returned there from Fransoni? The police had not given any such orders. Now how long were you at Rome before you were arrested? I was a few weeks in Rome, and then I left it and went into the neighbourhood. How long was it after you went there that you were arrested? (Achilli hesitated.) LORD CAMPBELL.—How long was it after you went to Rome before you were arrested? Several weeks. Sir *A. Cockburn*.—Were you arrested in Rome? In Rome. Had you any office at that time in Rome? Having left the Dominican order, I had therefore renounced all those employments I had held while I was in the order.^k Does the Minerva College belong to the order? Yes. Had your professorship there been appurtenant to the Dominican order? Yes. Now, as to the proceedings in the Inquisition, you say no charge was made against you on the score of immorality? No. You say it is not within the jurisdiction of the Court? It is not. You never admitted any criminality of any kind? No. Did you admit that you had preached in the pulpit, or taught in the confessional any erroneous doctrines? No;^l there was no occasion. Why? Because they did not urge it.^m Now answer the

^j The reader will remark these replies.

^k Then what honours, or employments, or emoluments did he renounce, or the Inquisition deprive him of, after this, his return to Rome, in the year 1841? He represents (let it be observed) that he lost all in 1841, for heresy alone. Yet he now admits he had nothing in 1841 to renounce.

The object of this part of the cross-examination was to reduce Achilli to this assertion, either that there was no confession at all on his part, or no confession of immorality; and in the very next answer it will be observed, he said no heresy was charged. It is only after some reflection that he gives a different reply—that he had been charged with heresy. And then, again, he appeared embarrassed when pressed to say if there were a confession as to heresy, not only as having already denied that there was any confession at all, but as perceiving that this would be tantamount to such a charge of forgery against the Inquisition as might appear incredible. He underrated, however, the credulity of an English jury. He might well hesitate, however, for soon after he alleges that he was instructed to write a theological book—a curious commission for a convicted heretic.

^m Let it be observed this was before he had professed to be a Protestant, and before he was commissioned to write a book, as he says.

question, not inferentially, but, yes or no, did you make any admission in respect of any matters with which you were charged? (He reflects.) Oh yes; about justification by faith: I was charged with having preached justification by faith. Well, did you, in respect of that, throw yourself on the mercy of the Court? (Achilli paused—professing not to understand.) Do you understand me? (He hesitated.) Did you not in respect of that preaching, throw yourself on the mercy of the Court? (He reflected, and then replied), I confessed and justified myself by St. Thomas of Aquinas. Did you throw yourself on the mercy of the Court? (He was again silent, affecting not to understand.) You understand me? I ask you did you throw yourself on the mercy of the Court? No. They passed upon you a sentence of deprivation, did they not? It is a general rule that whoever is accused before the Court, remains suspended until he comes out of it. What! if he be found guiltless? Whoever comes out of the Inquisition who is not absolutely absolved. Then you were not absolutely absolved? (He hesitates,) You were suspended? I was under surveillance. How long did you continue so? There was no time specified: it was until my final reconciliation with the Holy See. And during the time you remained under surveillance would you be excluded from the exercise of the various functions of the priesthood? Yes. And consequently incapable of any benefice or appointment in the church? Yes. Now, as well as being under surveillance, were you not ordered to remain for three years in one of the religious orders of more rigid observance? I do not know. (Hesitating.) I have not known of this condition. Lord CAMPBELL.—Was such a sentence ever pronounced upon you? No, no sentence at all was given against me;ⁿ all that was done was a decree, in virtue of which I was allowed to go out of the Inquisition. Sir *A. Cockburn*.—Surveillance was a condition of liberation? Yes. Was it not also a part of the decree that you were to spend three years in some religious house of rigorous observation? No (hesitating), not in those words, but in other words; I was advised, admonished, warmly recommended, to pass some time in retirement; to go through what is called in Rome “spiritual exercises.”^o (Reflecting.) You must observe that all those who come out of the Inquisition, even those who are declared innocent, are recommended to make these exercises. What I ask you is this: whether you were not ordered, as part of the decree, to spend three years, prior to your reconciliation with the Church, to spend three years in a house of religious observance? (He hesitates.) Yes or no! No. Were you not taken to Nazali for that purpose? I went from my choice. So a man may, and yet have police officers with him! Did you? No, no. You swear that positively? Yes. Is there a house of more rigorous observance at Nazali? No (hesitating), not of strict observance, but a religious house. Did you go there in consequence of the advice so warmly given you to perform

ⁿ In his narrative, he says there was a “decree” against him; and the jury have found that, in the words of the plea, he was by a decree or sentence, “suspended and deprived.”

^o Probably those of St. Ignatius; and let those who partake in the popular prejudices against the Jesuits, only read this immortal work, on which the Jesuits are formed, and an admirable edition of which, in English, has recently been published by Cardinal Wiseman, who, in his excellent and eloquent preface, at once describes the marvellous effects produced on the hearts of all who pass through these exercises (a series of meditations on the great truths of Christianity and the life of our Lord), and discloses the real causes of these results.

religious exercises? (He hesitates; question repeated.) I went also for this purpose. I went to collect myself. And when you had succeeded in collecting yourself, at the end of a fortnight, you took yourself off? Yes (with a laugh). Well, then you went to Ancona. Yes. For the purpose of getting out of Italy altogether? Yes. There you met Sig. Bocchiampi, who gave you a passport. Yes. Did you not put your own name in it? No. What was the necessity for this mystery: why did you not get a passport for yourself? I had written to Rome to a friend of mine, and he answered that the government would not give me one to go out of the Roman States; and I was recommended to go back to Rome. Well, you went to Ancona, and thence to Corfu; and you went and lived next door to Garamoni? No, not at first; afterwards. How long? Some months. How long after you went to live in that house did this affair happen about the husband surprising you at night? I lived in the first house some months; I believe it was about the middle of my stay in Corfu that it happened. Before it happened had you ever spoken to the woman, his wife? Never. Did you know who she was? (He hesitates.) Then or immediately after? I have some doubts, because I had no regard for Garamoni, and did not care much about the family. Had anything happened to cause dissension between him and you? I employed him at first as a tailor.^p Where was he living?—not with his wife? No. Did you not know that? Corfu was a small town; everybody knew it. Did you not know that they had separated because not on good terms? At that time, I believe, I did not know it. Yet you say all Corfu knew he was not living with her? A fact may be known without the reason being known. At what time in the night did this surprise take place? I do not know exactly, but it was not my habit to go to my house much before eleven o'clock. Was it not nearer twelve? I cannot speak to a quarter of an hour. You say she called out to you, and put questions to you, which were interrupted by the arrival of the husband? Yes. Did you go to the door? I went near the door. Were you in the dress of a priest? No. Did she begin to put any question to you? No.^q Then how did you know what she wanted? (He hesitates.) You suggested some questions as being put to you? She was about to put to me! About to put to you! then it was your imagination? Yes, from a few words. What were the few words? For instance, "have you heard" referred to the noise I had heard the night before. In your imagination? She did not use the word "scream"? No. Were you living next door? (He hesitates) No, not next door; at an angle. Did Garamoni charge you with having been in the house with his wife? Not that evening. Did he seize you? No; (hesitating) Yes (hesitating again); No. Did he not take hold of you? No, no.^r Did you not try to get away! I believe he pushed against me. Did he not take hold of you, and did you not struggle to get loose? No; he had nothing to say to me, only to his wife. But did he not charge his wife in your presence with having admitted you into her

^p Yet she swears positively she did not know him, which he does not venture to do, however! The reader will remark the phrase "at first" in connection with the question. Let the reader remark there was documentary evidence in this case, so a general denial would not do, as in the other cases.

^q The reader will remark this reply, as compared with the other answers, and even compare these with the cross-examination of Garamoni's wife.

^r Which might be for the purpose of preventing him from leaving the house, as he was going to escape; and that confirms the evidence for the defence.

company? That was his usual habit: (after a pause) he was a man without civility. Oh! I am not talking of civility!—I ask you if he did not charge his wife with admitting you for improper purposes? (He hesitated, and affected not to understand). This is the third time I have asked you, and you understand English as well as I do:—Did he not charge his wife with admitting you for improper purposes? I think not (pausing); I don't recollect his words precisely (pausing again), but they appeared to have been these: "Worthless woman! I have caught thee!"^s Did he not, while he held you, make her hold the candle to you? (He professed not to understand, and the question was repeated in Italian.) Oh, you know what I said! Did he not hold you? (He still hesitated.) Did he not hold you, and make his wife bring a candle? Oh no; he did not put his hands on me. Did you not use your hands to get away? The door was small, and there were the husband and wife there, and I believe another person, and I was obliged to open my way and make a passage to get out. And when you did get out you ran? No, I had no need of it; my own door was a few steps off. (Pausing.) Now that I recollect, my own house had two doors. Yes; and one of them was the back door? Yes. And did not the people in the street try to stop you? No, no, no. But you got in at the back door? Yes. Now, did you know Garamoni afterwards said you had been there with his wife? (He hesitated.) Were you ever before the tribunal about it? No. Have you got Madame Garamoni here? (Achilli here smiled with sardonic triumph, and was silent.) Don't stand there grinning at me, but give me an answer! Yes, yes (still smiling); you will have the pleasure of seeing her! Well, have you got Madame Coriboni here? No. Where did you make the acquaintance of Coriboni? At Corfu. When you were there, you had put off your priestly character, had you not, and were travelling as the Cavalier Achilli? It was my name. Yes, but "cavalier," did you make use of that title in your passports (a nod) and on your card? (He hesitates.) Is not that the card you used (handed up to him)? Yes. Now, when did you make the acquaintance of Coriboni? In the summer of 1843. What was he? He was a small merchant; he went about with an operatic company; he was then engaged in business about the theatre. Why, he was a chorus singer, was he not? I do not know (hesitating); I have never seen him as such in the theatre—I believe he was so. And the wife, was she so? (Hesitates.) She had no occupation of her own. Where did they live? At Corfu? Yes, while living at Corfu? *Non mi ricordo*. I ask you where they were living when first you made their acquaintance? I cannot recollect. How came you to have their acquaintance? All the Italians who were at Corfu sought my acquaintance, and took pleasure in it. Did you learn what was this woman's character? No. Did you take any trouble to ascertain? No. Was she dressed peculiarly? No. How was she dressed? Very modestly.^t When you took her into your service, you knew nothing about her character? No. Who recommended the chorus singer to you? He himself came and requested me to engage him. Did you take any trouble to ascertain his character? No; I had known him habitually from sight, and he

^s The reader will remark the many confirmations all this presents to the evidence of the witnesses for the defence, to which he is requested to refer.

^t The reader will remember the evidence of several respectable artizans, as to her gross immodesty of dress.

appeared to be a good man. Where had you occasion to see him? About the streets. He appeared a good man from his outward appearance? Yes. So you judge of people in that way? No. And the lady, did she appear from her outward appearance to be a good woman? I had no objection to her; I had nothing to find fault with about her. You mean her appearance I suppose: was she good-looking? Neither the one nor the other. You took them with you to Zante? I did not take them with me. How soon did they come after you? A few weeks after. As soon as you were settled? No; I was three months in Zante before they came. When did you engage them as your servants in Corfu? In the summer of 1843. Did you engage them to come into your service before you left Corfu for Zante? Yes. Then they were to follow you whenever you got a house? No, no; that was not our compact. What was your compact? I took them when I left Corfu. They were in your service at Corfu? Yes. And when you took your house at Zante, you sent for them again to Zante. Yes. You used part of your house for purposes of public worship, for your congregation? Yes. Now, the first time you opened it for that purpose, did Coriboni officiate as clerk? Yes. (Great laughter.) Was he a Catholic? (Achilli laughed, as he replied) Neither a Catholic nor a Protestant, like most of the Italians. Well, then, he might have done for either a Protestant or Catholic church: were you one of that class? No; he had an antipathy to the Roman Catholic Church, but nevertheless he was not a Protestant. Oh, he was in a state of transition, like the chrysalis: not good enough for a parson, but good enough for a clerk! (Achilli laughed, as did every one else.) You were the parson: you had got to a farther stage of transformation, and had become a Protestant! he had not gone so far, and could only be a clerk! (Laughter, in which Achilli joined, but with an air of annoyance.) And the lady, did she officiate? No. She was doorkeeper? No, no. Did she not sit at the door? Oh no, never! Did Coriboni continue to officiate as clerk, or did he cease after the first time? No, no; he continued in that office to the last. Did not Mr. Reynolds speak to you on the impropriety of having these two persons in your service in the chapel? (Achilli paused, then replied) And I remember, as I have said, that after I had reproached him about drunkenness, he spoke with me about the servants. Lord CAMPBELL.—He gave a full explanation before." Sir *A. Cockburn*.—Did he not, on the occasion of the opening of the chapel, remonstrate with you upon the impropriety of those persons being employed? No; on the contrary, he has often used my servants. The question I asked was, whether he did not remonstrate against your having them connected with the church? No, no. Now, you have represented that, on two occasions, you reproved him for his habits of intemperance? Yes; and I will add, that on the second occasion I was requested to do this by his own wife. (Achilli said this with a savage sort of air.) Pray, did you ever see him addicted to intemperance? I have had opportunities of seeing him.* Was he an habitual drunkard? Oh, yes. By day and by night. (He

* "A full explanation!" A flat contradiction to the evidence of several respectable and unimpeachable witnesses. "A full explanation!" It will be observed that in every instance Lord Campbell interposed to check, discourage, or destroy the effect of questions or observations of the defendant's counsel.

† The reader will remark this reply.

nodded assent.) You have seen him drunk? Sometimes. How long had you known him when you remonstrated with him upon this habit? (He hesitated: the question was repeated.) Some months. What has become of Coriboni? He is in the Roman States.^w Oh, he went back to Catholicism? I believe there are few Catholics there.^x Oh, then, they are all becoming Protestants? They are negative. (Laughter.) Did you ever say Madame Coriboni was a Magdalen? No; it is a story. Is it a story that Mr. Reynolds remarked to you that he saw two pillows in your bed there? He never saw it; neither he nor any other man have ever seen my bedroom. That is no answer to my question: I ask whether it is untrue that he spoke to you about you having a double bed? It is untrue. LORD CAMPBELL.—That is quite satisfactory.^y Sir *A. Cockburn*.—Have you ever walked arm-in-arm with the wife of Coriboni? I should say I should have lost my position if I had been seen so.^z Were you ever in the streets with her? (Hesitating) I may have met her in the streets, and come home with her.^a What made you leave Zante? I determined to go to Malta, because I intended to open an Italian church there? Did you ever open it? Yes. In your house? Yes. How long did you officiate there? As long as I continued in the house; a few months afterwards, being employed in the college at Malta, I opened another Italian chapel. Had you subscriptions at Malta? No. Any at Zante? A few friends collected some money among themselves, which lasted a short time. What means of subsistence had you during the time from your leaving the Roman States until you went to Malta? I received some money from my family, and I earned some by literary labours. Now, as to the college at Malta, in reference to Leonini and Saccares, you have said that, before you sent Saccares to Malta, you communicated that to Mr. Hadfield? Yes. Was that by letter? Yes. Was not Saccares gone at that time? When I sent the letter he had not gone. But he was in the act of leaving? Yes. You sent him, you say, to Sicily, on an important mission: was that to distribute Bibles in Sicily? Yes. What number of Bibles? Fifty or sixty. Were they procured from the college at Malta? They were sent out from the committee in London. Did you not afterwards deny that you had sent Saccares away at all? I never denied sending him away;^b I only denied sending him away to obstruct the further investigation. Did you not know that a day was fixed by Mr. Hadfield for resuming the inquiry? No; I did not know it at all;^c I thought the investigations

^w Probably his correspondent, by whom he communicated with Viterbo, through the Roman States—as he had said he did.

^x Then the supposed state of morals there is no test of the Catholic religion. The fact is, however, that, as he said of the monks, “There are some bad, and some good,” and the bad are everywhere in the majority. But those who do not believe in a religion, nor realize it, are no fair specimens of its results.

^y Very satisfactory!

^z And it appears he left the place in a few months.

^a The reader will remark these answers.

^b In a publication issued by his friends last year, it is stated that he did not send him away, but he went voluntarily. Let the reader refer to the replies issued by the committee of the Malta College, which will materially assist him in appreciating Achilli.

^c The *Times* truly says, “This answer caused sensation.”—See Mr. Hadfield’s evidence.

were at an end. Did you not say before that you conceived there was no foundation for the charges, and that after that the principal told you he was charged thoroughly to investigate the matter? Yes. Was not it after that he told you he was employed for that purpose you sent Saccaces away? Because the investigation was at an end. Did he not tell you he was going to resume it? No, no, no. Lord CAMPBELL.—He says he did not know.^d Sir *A. Cockburn*.—You came to London, and first resided at Northumberland-street, and engaged Harriet Harris? Yes. Mrs. Achilli came soon after? Yes. Was a person named Castellini employed in the house at the time? Yes. How late did he remain? All day, till late in the evening. You never took any liberties with that young woman? No. Never put your hand upon her? No, no; never touched her. You say the same of Jane Legge,—you never touched her? No, no. Do you know her sister, Mrs. Logan? Yes. Did she send you a message as to her having been served with a subpoena? No; but having some occasion to go to her, I knew of the business. Did you look at the subpoena? No. You did not say she need not attend court, or that the day was gone by? No. You are sure of that? She told me she was forced to accept it, by a man who put it into her hands. Did you give her any advice? No. (Hesitating) I may have said it was a curious thing. I put it to you distinctly: did you not tell her, if any one else came, to shut the door in their face? Not in that sense. Not in that sense! did you tell her, if anybody came again to shut the door in their face? Not about that. She told me that it was with violence this paper had been put into her hands, and I answered that in the houses in England I did not believe that violence could be used. Did you not use these words, “shut the door”? Oh no. Did she say any one had forced themselves into the house? Yes! Did she not speak to you about your being improperly intimate with her sister? No. (Hesitating.) I think not. Think not! why surely it is a thing that would have struck you? She said she had been forced to receive the papers. I am not speaking of the papers, but of the intimacy with her sister, which is a very different thing. (He hesitates.) Did she not speak to you on the subject of your being intimate with her sister? No, never. Did she speak to you on the subject? Never. Did she not say, “You must know best whether you have been intimate with my sister?” She never said these things to me; on the contrary, she said she was sorry the thing about her sister had been mooted at all. I did not ask whether she was sorry or not. But did she not speak to you about your intimacy with her sister? (He hesitates.) Did she not say, “Sir, you must know if it be true”? No. Now about Sarah Wood: you never took any liberty with her? No, no. Did her uncle ever see you on the subject? No. Nor her father? I do not know. Well, now I put the same question as to England as to the other places where you have been: have you ever had connection with any other women besides these? The foreman of the jury rose indignantly, and said, the question was unfair. Lord CAMPBELL.—I think the learned counsel has a right to put the question. Sir *A. Cockburn*.—I think the question is relevant: but I will put a specific case. Did you ever know a girl named Louisa Colchester? The *Attorney General*.—There is no charge about that. Sir *A. Cockburn*.—Is that a reason why I should not put the question! Lord CAMPBELL.—You cannot ask as to a specific case. You should have put it upon

^d Another kind interposition.

the record. Sir *A. Cockburn*.—My lord, how could we, when we did not know of it at the time? and indeed it has happened since. I submit that his having been guilty of offences similar to those charged in the plea, raises a strong inference as to the probability of those charged having been committed. There are certain offences charged: he denies these upon his own testimony; and of course the question is as to the credit of the witnesses. Am I not entitled, then, to support their credit by showing, out of his own mouth, that he has been guilty of similar offences? Lord *CAMPBELL*.—You cannot put the question. Sir *A. Cockburn*.—When did you openly renounce the Church of Rome, and become a Protestant? So soon as I arrived at Corfu I began to write letters to the cardinal and the Pope. When did you become convinced of the untruth of the Catholic doctrine as to the mass? As to the real presence. Lord *CAMPBELL*.—Transubstantiation. I began to have doubts upon the doctrine when I was explaining it as professor of philosophy at Viterbo. Did you continue to celebrate mass long after that? I had doubts. ^e Does this truly describe the state of your mind (reading from his book)? “From this time, in saying mass, I was no longer a Christophagus. I had ceased to believe in what I did. What then in reality was the act I performed? I know not. I was like Luther and many others who no longer believed the mass, who had rejected its doctrines, and learnedly refuted its errors, but still continued to celebrate it.” And again, “With respect to the mass, though I was thoroughly persuaded of its imposture, I still continued to perform it without devotion, yet with a show of earnestness.” Now I ask you, after hearing these passages, whether, when persuaded of the imposture of the mass, you continued to celebrate it? It would have been only in me what happened with all the reformers who seceded from the Church! Am I to take that as an answer in the affirmative? Did you continue to celebrate the sacrifice of the mass after you had ceased to believe in its reality? I was not perfectly satisfied (hesitating): I had not my heart touched, although I was persuaded. But you say you were perfectly persuaded of the imposture of the mass. Did you, after that, continue to celebrate it? Yes. I had that persuasion in my mind; I had not felt the strength of it in my heart. You were persuaded of its imposture in your mind, but not in your heart! I believed that conversion rests more in the heart than in the mind.^f Now, as to the convent at Viterbo, was it not made matter of complaint against you that you did not attend choir with regularity? As professor of philosophy I was not obliged to attend choir. I asked whether it was not made matter of observation against you? No, never.^g

^e This was at Viterbo. Now, supposing the evidence against Achilli to be true, he was then in mortal sin, and not of a state of grace, which any Catholic theologian would conceive a perfectly satisfactory explanation of these doubts of his, and this want of faith.

^f Here some of the vulgar portion of the audience gave a cheer, to which Lord Campbell complacently listened. What was cheered,—the practising religious imposture, or the explanation of it as “conversion”?

^g In his book he says, one of the friars said to him, “Why do you attend choir so seldom?” He gives as his reason, not exemption, but objection, and concludes,—“These are the reasons why I come to choir so seldom.” To attend choir is to recite the “office” of the Breviary (consisting chiefly of the Psalms of David), from which the Morning and Evening Prayer of the Church of England is composed. Achilli speaks sneeringly of reciting the Psalms of David in this office.

Re-examined by the *Attorney General*.—As professor I was exempted from attending choir on week days; on Sundays I attended choir and preached. Is this a true account of your state of mind (reading from his book)? “I had for years received the doctrine of the Bible. I was a Christian in mind, but not in heart. If Christianity were as some suppose, a mere opinion, or belief, it would suffice, in order to become a Christian, to admit the truth of the Scriptures; the absurdity of which is manifest from the consideration that in this case the first Christian could have been no other than the devil. I possessed the understanding of faith, but not faith itself. I could instruct others in its precepts, but was not myself capable of obeying them.”^h Yes. Now with regard to your leaving Naples, when did you return there from Fransoni? In November.ⁱ

Dominico Pogge, examined by the *Attorney General*.—I was brought up in the Church of Rome, and was a Dominican father. I am now principal of a Protestant educational establishment at Seacombe, near Liverpool. I was in Viterbo from the beginning of 1831 to June, 1833. I lived in the convent of Gradi when Dr. Achilli was sub-prior. I remember his preaching there. I was afterwards at Rome, and in 1837 he went then to reside at Naples. He was confessor to the princess of Saxony. Dr. Achilli was then universally and very highly esteemed. At Rome I never heard anything against him, but at Viterbo I did, for there he had many enemies. The monks and priests greatly esteemed him, but not the bishop. His appointment to preach the Lent sermons, to visit convents, and to be prior of the convent of St. Pietro the Martyr, at Naples, are great marks of distinction, and could only have been conferred on a man whose character for morality stood high.

Cross-examined by Sir *A. Cockburn*.—You were one of the fathers? Yes. What vows did you take? I took the vow of obedience as a Dominican, but always thought that though not explicitly, implicitly those of “poverty” and “chastity” were included. The book of “Ferrares” is one of authority, but there are things in it which have been obsolete. But this is an edition of 1783, and it states, “*Tria vota, paupertatis, castitatis, et obedientiæ, sunt essentiæ religionis ex jure divino.*” Now is that so, that the three vows of poverty, chastity, and obedience are of the essence of the religious life? All that is perfectly true, according to the belief of the Church of Rome. So that it would be an essential part of the vow taken by a Dominican, to obey the injunc-

^h This was when he was “first laid hold of by the Inquisition.” Now, if the evidence for the defence were true—or even if the inference drawn from his declining to answer the general questions about fornication be correct, he was then in mortal sin, and out of a state of grace, which would perfectly explain this state of mind on the principles of Catholic theology; and the ensuing remarkable words strikingly coincide with the theory, and with what theologians describe as the state of mind succeeding much mortal sin.

ⁱ This examination closed at half-past four; he had been in the box seven hours.

^j Hear how one spoke 800 years ago, who had been bred up by monks. Odelrius, councillor of Roger, earl of Shrewsbury, in 1083:—“Who can worthily relate all their vigils, hymns, and psalmody! prayers, alms, and sacrifices! What shall I say of their chastity, their poverty, their obedience! From my tender youth I have been admitted to familiar relations with monks, and have learned thoroughly what were their manners, and I am sure all men are inferior in their lives to monks who live canonically, according to their rule.”—*Orderic Viterb. lib. v.*

tion of chastity? Certainly. Pray when did you leave the Church of Rome? I decline answering that question. What! not answer as to when you left the Church of Rome? Why? I did not come here to give an account of my actions. Why is there anything in your idea derogatory to character in becoming a Protestant? I did not come here to give an account of my actions: it is enough to say that I have had the happiness to leave that Church. Well, when did your happiness begin? Lord CAMPBELL.—He cannot say what had been passing in his own mind, perhaps. Sir *A. Cockburn*.—I am speaking, my lord, of outward acts. When were you received into the Protestant Church? I have not been admitted into the Church of England formally, though I have been in fact. When did you cease to frequent the worship of the Church of Rome,^k and attend the worship of a Protestant congregation? That is another question: I must beg to repeat, I have not come here to give an account of my actions. Why, what objection can you have to answer such a question? I have one in my own mind; I may be wrong; but you must excuse me. (The manner of the witness made the Court and counsel very merry.) You cannot tell me, then, the first time that you went to a Protestant Church? No. Lord CAMPBELL.—I cannot imagine what objection you have to answer that. I cannot answer questions upon extraneous subjects. Sir *A. Cockburn*.—When did you leave Italy? In 1840. At that time had you seceded? I have it in my own mind. (Much laughter.) Well, so soon as you came to England? I have not come here to answer questions about myself. Well, I won't ask you any more? Thank you. (Great laughter.)

Dominichi Paoli examined by the *Attorney General*.—I was formerly a friar of the order of Serviti, at Viterbo. I lived in that town from the end of 1831 to near the end of 1837. I knew Dr. Achilli there. I have nothing to say against him. I know nothing of any charges against Dr. Achilli during that time.

Cross-examined by Sir *A. Cockburn*.—I am here a year, a free man, having left the Roman Catholic Church. I came originally, engaged by a society to evangelize foreigners during the time of the Great Exhibition. (Much laughter.) What society? It was a society for the evangelization of foreigners. I was at Geneva, and was called to England by that society. When did you leave the Roman Catholic Church? I have been severed from the communion of the Catholic Church for two years: I say so, because I have left Italy two years.* I left Italy freely, in order to profess freely my religious opinions. I have known Dr. Achilli and treated him as an acquaintance. Between leaving Italy and going to Geneva I went here and there, wherever I was sent by my superior. Who supports you now? I live on the means afforded by Father Gavazzi. I act as his secretary. Is Father

^k Perhaps he had not ceased at all. It is a doctrine of Catholic theology, that a Catholic can never thoroughly lose the grace of faith imposed by baptism, until he have become reprobate. If this be so, none of these supposed "conversions" can be sincere, in cases where all sense of religion is not lost; and the most remarkable reluctance of this man strikingly confirms this hypothesis; as also does the contemptuous conduct of Achilli in having a Catholic clerk to perform Protestant services at Corfu; and his own language in his book, explaining that he had not faith; as to which, see former note on his cross-examination.—See also evidence of next witness. Of course the argument does not affect those born Protestants.

Gavazzi the man who, being formerly in the Church of Rome, now goes about speaking against it? Yes.

Captain William Hudson Lawrence, R.A., on half-pay, Inspector-General of Police in the Ionian Islands, examined by the *Attorney General*.—In consequence of an application from the solicitor for the prosecution in this case, I sent for a copy of the proceedings between Garamoni and his wife at Corfu. (A witness produced other documents in the same case.) I was employed to find the wife of Garamoni, and she is in this country. I also tried to find out Coriboni and his wife, but could get no information about them. What is the character of the witness Russo, who has been brought over here? I only know it from documents at the police-office.

Mr. Kirkpatrick called and examined by the *Attorney General*.—I was chief justice of the Ionian Islands. I have perused the papers produced by the last witness. It appears that there was a suit for alimony on the part of the wife. Does it appear that witnesses were examined? No. Lord CAMPBELL.—To what length did the suit go? There was a compromise, which is stated in the proceedings; but it came before the court.^m

Marianna Crisaffi Garamoniⁿ called and examined by the *Attorney General*, through an interpreter in Italian.—I am the wife of Garamoni, a tailor, who carried on business at Corfu. I remember Dr. Achilli living next door to me and my mother there. My husband did not reside with us. I remember one night speaking to Dr. Achilli as he was passing. My husband used violence towards me many times, and many accusations have been made against him on that account. I wish I had him here. (Laughter.) My face has been disfigured by him. I said nothing to Dr. Achilli. I had not spoken to him when my husband came up. Dr. Achilli was passing. I wished to call Dr. Achilli because my mother pointed him out to me, and said that probably he being a neighbour had overheard the quarrel between me and a lady friend of my husband. I said to her that I would wait till the evening and ask him if he had heard it. I did so. I got to the window for the purpose of calling him, and as I was going down to speak to him, my husband and Dr. Achilli rushed in together. I wished to call him, that he might be a witness in my favour, but I did not know him. I should like my husband to be here; but he is not—he has run away. (Laughter.) He rushed up stairs on the occasion referred to, and said many things he ought not to say, because the cause was given in my favour. Dr. Achilli was outside the door when my husband pushed him up to it. Dr. Achilli never was in the house before. I know nothing of these calumnies about him. I know not who this

^l And if they had known anything against him they would have been produced. Lord Campbell did not notice this, though he dropped something to the discredit of Russo.—See his charge.

^m That is quite clear, and is what the plea alleges. Surely, that part of it ought to have been found for the defendant? Lord Campbell thought so.

ⁿ Very smartly dressed, but very ugly, with a nose battered in. She wore a veil over her face, and Sir A. Cockburn desired her to raise it, that her countenance might be seen. The prosecutor's counsel was rather pleased at this, as her present repulsive appearance raised a plausible inference of the improbability of the charge. This, however, would depend upon whether her nose were battered before or after the alleged event; and, of course, from the character of Garamoni, it was likely to be inflicted after the event, supposing it to have happened.

Dr. Achilli is. Now I know him, as he has been pointed out to me, but before, I did not know him : the daughter of the landlady where I now reside pointed him out to me. There were proceedings in the court between you and your husband? Yes, and I came out victorious. (Laughter.) Dr. Achilli wished that we should make peace ; I had forgiven him before a hundred times, and so I forgave him this also. We lived together some years, but now we are separated again, and have been for more than seven years.

Cross-examined by Sir *A. Cockburn*.^o—I have been married about sixteen years, and my husband has always led me a miserable life. Did not your quarrels arise from his accusing you of being intimate with other men? Oh, no, no, no ; I have always come out with proofs of my innocence. (Laughter.) Did the quarrels arise from his imputing to you improper conduct with other men? It was I who accused him. Why did you bring forward proofs of innocence unless you were accused? I was always beaten, because he had to do with other women. (Laughter.) Was it not because he said you had to do with other men? No, there are many proofs of what I say : two doctors, four lawyers, and many other men. (Much laughter.) What, to prove your innocence? No, no ; they will all prove that he is a bad man. (Continued laughter.) When did Achilli come to live near your mother's house? I don't know.^p How long before this affair? I don't know. Was it one month, or two, or more? I cannot say anything about it. Did you not know who lived next door to you ; did you never see Achilli before that evening when you called to him? No. Had you not been waiting up for him? It was for the purpose of calling the gentleman, whom I did not know. Did you not know it was your next door neighbour? My mother told me that evening that this gentleman was my neighbour. Did you see him go out of his house? No ; I had not seen him before.^q I saw him then passing, and I called to him, and I was going down stairs. How did you know that he was out? My mother told me that he was not at home, and I said,—“I will remain all night, if necessary, in order to see him.” Did you say anything to Dr. Achilli besides calling him? I did not even call him, but my intention was to call him for the purpose I have mentioned.^r (Sensation.) I was still up stairs with a light when they came to the door. Did your husband call you to bring a light! No ; but I, wishing to go down and speak to the gentleman, brought it down. Did you hold it up to the gentleman's face? No ; but I had it in my hand. Did your husband say, “Worthless woman, I have caught you”? He tormented me, and the whole of that night he went about telling every one that he had caught me with this gentleman.^s (Laughter.) Two persons passed at the time, and my husband said to them, “See, I have caught my wife with this gentleman.” Did he take hold of Achilli? He came up stairs and insulted me. Did he lay hold of Achilli? He was outside, in the street. That is not an answer. Did not your husband hold Dr. Achilli against the

^o Let the reader particularly attend to this cross-examination, which completed the evidence on the Garamoni charge.—See the plea.

^p The reader is requested to compare this evidence with that of Achilli's and the other witnesses, on this charge.

^q How, then, could she have known him when she saw him return?

^r Achilli had sworn she came down and was speaking to him, having actually commenced a question.

^s Here is a complete confirmation of the witnesses for the defence.

wall? Yes; and insulted him in various ways. Did he struggle to get loose? Oh no. How did he get loose? I don't know, for I was up stairs. I did not come down to the door. I could not come. I was at the window. I never came down. I was at the top of the stairs; they lead down to the door. How came the door to be opened at 11 at night? I opened it from above; it is common with the women in Italy to do so by a string passing from a latch up stairs. I had opened the door, and was preparing to come down to speak to him.^t

Mrs. Achilli called and examined by the *Attorney General*.—I was married at Rome, in 1849. I met my husband in Paris after his escape from the Inquisition. I took a house in Shaftesbury-crescent, and had a servant named Harriet Harris, who was with me three months. I found the kitchen very dirty, and she said it was not a usual thing for English ladies to go there. I said I was not English; "I have not the custom of the English ladies, and I will come when I like." She then gave me notice, but wanted to stay at the end of the month. I, however, would not allow her to stay. Sir *A. Cockburn*.—The girl said all this herself. Witness continued.—Jane Legge was also in my service. I came home one night at 11 o'clock, and found a young man in the back kitchen, and I ordered her to leave next day. She never complained to me of any liberties being taken with her. Sir *A. Cockburn*.—She said so herself. The *Attorney General*.—Was Sarah Wood a Catholic? I think she was; she would not eat meat on Wednesday or Friday.

This concluded the evidence for the prosecution, and it being half-past six o'clock the Court adjourned.

This closed the case in reply.

THE FOURTH DAY.

Sir *A. Cockburn* rose to address the Court in reply on the part of Dr. Newman: "—

Gentlemen of the Jury,—The course which has been pursued on the part of the prosecution in laying their evidence before you after that for the defence, entitles me to address you on the evidence which has now been adduced; and I shall discharge that duty with as much brevity as possible. Possibly after the length of time the case has occupied, some of you, or even all of you,

^t The cross-examination was very skilful and successful. In a common case it would have secured the defendant the verdict. This and the few preceding questions were very acute.

^u Of this splendid speech the *Times* says:—"Sir A. Cockburn addressed the jury for the defendant during a period of four hours, and in a speech which was listened to throughout with breathless attention. We cannot hope to convey more than a very faint idea of the nervous eloquence by which it was characterized. It is very rarely indeed now-a-days that our courts of justice are so thoroughly roused from their habitual state of dull repose; and some difficulty was experienced in suppressing the spontaneous bursts of applause with which the highest efforts of the advocate's forensic powers were received."

may have formed conclusions as to the result at which you ought to arrive. Nevertheless, I am sure, that even if you should have formed any such opinion, you will listen with attention, in the discharge of your duty, to the observations I feel it necessary to make to you in the discharge of mine. Gentlemen, this case has assumed in my mind, and probably in the minds of every one connected with it, a deep and most powerful interest. I have not, and cannot of course be expected to have, any religious sympathy with Dr. Newman; but I have an interest in the case, not only that which the advocate ought always to feel for his client, but an interest that justice shall be done. And I have an additional interest, derived from the peculiar form which the case has now assumed. Gentlemen, the issues have become complicated in this matter. You have no longer the simple question, whether Dr. Newman has been guilty of publishing a libel without facts to sustain the charge he has made, or whether, on the other hand, Dr. Achilli has been wantonly assailed in his character. A new question has now arisen—one of not less painful interest—for it is this:—By whom gross, foul, deliberate perjury has been committed in the evidence which has been adduced! For from that there is no escape! On the one side or the other we have wicked and deliberate falsehood! It is a case which admits of no compromise, on which conflicting testimony cannot be reconciled, or any supposition of mistake, misunderstanding, or misdescription. The women who come forward and state that Dr. Achilli was the man who robbed them of their virtue, cannot be mistaken as to the identity of the man. No woman, whatever the length of time that may pass, forgets the man by whom she was first initiated into the arts and mysteries of vice! And although one might conceive the possibility that a licentious libertine, in the number of his victories, might forget an individual one, still, when time and place, and circumstances, are brought vividly to his recollection, there can be no mistake on his part; and there can be no possibility, that in the generality of his criminal intercourse with women, the particular case should not be present to his mind when he denies its truth! On the one side or the other, there is foul and deliberate perjury. The women who swear that Achilli seduced them from virtue, the mother who swears that she assailed him as the man who had effected the ruin of her child, either they spoke the truth or they wickedly invented the story they came here to tell! On which side lies the truth? That, gentlemen, you have to determine. And in order to determine it rightly, and in determining it to do justice, you must bring to the consideration of the case impartial and dispassionate minds; not assuming, until you have carefully considered and weighed all the circumstances which ought to be taken into account on the one side or the other, that truth is with our party or the opposite.

Now let us pass in review the evidence we have laid before you for the defence; and on the other hand, contrast it with the evi-

dence adduced on the part of the prosecution. If you believe the witnesses of Dr. Newman, the charges against Dr. Achilli, all or most of them, are substantially proved; if you believe Dr. Achilli, these witnesses are perjured, the accusations made against him are unfounded, and Dr. Newman is without defence.^v On which side lies the truth! Do the witnesses we have called declare the truth, or is Achilli to be believed when he asserts that all that is said is false? I am aware, gentlemen, that every attempt will be made to prejudice the witnesses I have brought before you. Every topic ingenuity can suggest, or prejudice adopt, will be put forward with the consummate skill of my learned friend, and he will have the advantage of following me, so that I can only by anticipation grapple with the observations he is likely to make. He has,—in addition to the advantage he must always have over me,—he has on this occasion the advantage of answering instead of being answered; and he has the still greater advantage of addressing those, who, unless a rigid sense of duty interpose between him and their prejudices and feelings, must offer a congenial auditory to the observations he addresses to them. But nevertheless, gentlemen, I despair not in the strength of what I believe to be the truth! And I will proceed to compare the evidence on both sides, and to point out to you what appear to me strong and cogent grounds for maintaining and believing that the truth is on the side of Dr. Newman on this occasion. With these preliminary observations, I will pass on to the material matters for consideration, and will follow this case through the different chapters of the life of Dr. Achilli, and the charges which attach to the various epochs of his career.

We find that he was educated a Jesuit, that he became a Dominican and a monk, and passed a portion of his life at Viterbo. Thence removing to Rome (where he stays a short time), he goes to Capua, from Capua to Naples, from Naples back to Rome, where he is proceeded against before the Inquisition; then to Corfu, thence to Zante, next to Malta, and lastly to England.^w Each of these residences forms a chapter in the history of his life; and I will follow him through each.

We begin with Viterbo. We call a witness from Viterbo, who states that he was the occasion of her seduction. Is she a witness to be believed? She comes forward here and tells her story in an apparently artless manner. *She* has no advantages of a Jesuit education, or of a mind trained in the subtleties of casuistry or metaphysical research! She comes and tells a plain tale. She states that she was a servant in a country-house,—that Achilli was there on a visit,—that he induced her to walk out with him,—that

^v That is, at the trial. The question of law would remain, whether the occasion were not privileged.—See Introduction.

^w The reader has already remarked how ambulatory he was, which of itself answers the imputations of negligence or connivance levelled against the Church. He was continually removing, or being removed.

he ultimately succeeded,—and in a place of which the sacredness she might have supposed would be her protection. What doubt is cast upon this statement?—who comes to contradict it? It is clear, from Achilli's statement, that he has had every opportunity of investigating the past life of this woman. Since that period in her life many years have elapsed; she has married,—she has lived in Viterbo ever since,—she is settled there. He has communication with Viterbo; he has stated to us that he has carefully watched the movements of his adversaries in that place. He knew that Elena Valente was a witness through whom it was intended to prove the plea, which was filed several months ago. He has had every opportunity of inquiring into the whole course of her career, and ascertaining what has been her character;^x and yet not a single word has been or can be suggested against her!—not a single imputation can be cast upon her! And even after a very strict and severe cross-examination this woman's character is blameless and unimpeachable, with the exception of that one transaction, in which she was misled (if she speak the truth) by Achilli himself. Well; but then it is to be said she was under the influence of her priest. Her priest told her it would be for the glory of God and the honour of the Church that she should state what had happened; and, therefore, I suppose, from the way in which the question was put, and the effect he seemed to give to it, that is to be insisted upon as proof that this is a story got up by the priests for the purpose of putting down Achilli. I suppose that is to be the case set up against her! and against a good deal of the evidence, personal or documentary, which has been laid before you on our side. You will be told of the acts of the Jesuits, and the tricks of the Catholic priesthood, and of pious frauds for the advancement of the Catholic religion, and of the doctrine that the sacredness of the end sanctifies the means;^y and other such topics as these will be addressed to you. But it is a two-edged sword, and cuts two ways! You will be told of Italian perfidy, and how little Italian witnesses can be relied upon.^z Again, I say, it is a two-edged sword!—be careful how you use it!

For what is Achilli! on whose oath these witnesses are to be convicted of perjury? Is *he* not an Italian? Was *he* not educated by Jesuits? Was *he* not initiated into all the craft and artifice which is ascribed to that well-known fraternity?^a (whether rightly or

^x And such efforts had been made in other cases, as that of Russo, though with scarcely better success. The strength of this argument is evident; yet Lord Campbell never noticed it!

^y Condemned by all Catholic theologians (as every Catholic well knows), but acted upon by the promoters of the Reformation and Revolution. On no other principle could Cranmer and his associates have traitorously conspired to set aside the lawful heir to the crown, or Burnet and his colleagues have traitorously thrust out their sovereign from his throne.

^z This coarse prejudice surely should now be destroyed, after the awful exhibitions of perjury this country has witnessed since the new Act came into operation, for examining the parties to a suit.

^a Alas! ill known to those who calumniate them!

wrongly I stop not to inquire.^b) Is *he* not a subtle disputant, and an ingenious casuist?—brought up amidst Italian priests and monks, himself an Italian, a priest, and a monk? You saw him in the witness-box! Gentlemen, I would not be guilty of his physiognomy; but I cannot help thinking that if, instead of appearing in the garb of a Protestant preacher, he had appeared in the monk's cowl, it would have struck many of us that, having our minds imbued with notions we are apt to entertain respecting the characteristics of that portion of the Catholic clergy, that the man and his habit were by no means ill-suited!^c And I say, gentlemen, if you are going to hear it urged against the testimony of the witnesses I have adduced, that they are Italians, and under the influence of priests and monks, I tell you that the man who is brought to meet them is an Italian, a Jesuit, a priest, and a monk!^d and I claim for my simple peasants—unless circumstances, intrinsic or extrinsic, denote that they are disentitled to the credit—I claim for them, at least, as much consideration at the hands of an English jury as the Italian priest who is produced against them can secure!

Well; but is there no other circumstance to be taken into consideration in testing the value of the evidence? There is. It is the interest which the parties have, and under which they speak in the witness-box. How stand the parties here? What interest can these women have to come here and proclaim their own disgrace, that a confessor, or priest, has told them to go forward and speak the truth for the glory of God and the honour of his Church? Gentlemen, do you suppose that Dr. Newman has been suborning testimony, and inducing witnesses to come forward here and lay perjury upon their souls in order to protect himself against this information?^e Gentlemen, we may differ from Dr. Newman—we all of us probably do; we may have regretted to see him falling off from the faith in which he had been bred,—but it has never occurred to any living soul to impute to him anything which can affect his morality, his honour, or his integrity!

^b “*Jesuitæ vero qui se maxime nobis opponunt aut necundi, aut si hoc commode fieri non potest, ejiciendi aut certe mendaciis et calumniis, opprimendi sunt.*”—*Calvin. apud Becan. t. i. Opusc. xvii. Aphoris. 15: de modo propagandi Calvinismum.* Pascal, their great calumniator, when asked if in reality he were sure all he had written against them was just, made the excuse of an unscrupulous counsel,—“that it was those who furnished him with information to look to that; not for him, who only arranged the materials.”—*Mores Catholicæ*, lib. vi. c. 8.

^c This was more cruel to the monks than to Achilli.

^d What a disgrace to the age so “liberal and enlightened,” that such a curious species of argument should be resorted to by so acute an advocate, as the only way of neutralizing so coarse a prejudice!

^e This atrocious insinuation had been originally suggested from the judgment-seat; and now, not only was the Attorney General silent, instead of indignantly disclaiming it, but the Lord Chief Justice of England sat still and listened to its repetition with serenity and complacency.

Will it be said that these persons have been brought for the purpose? No one surely can suggest it? The obvious answer is, that if the principle upon which this defence has been conducted, was to suborn testimony, we might have accumulated case upon case against Achilli. But is there no such interest on the other side? Ask yourselves this question before you determine on this contest of oaths! Consider the position in which Achilli stands, and the circumstances under which he is brought into the witness-box, Everything he has in the world is at stake! Your sympathies will be appealed to on that ground—but observe, on the other hand, what an important circumstance that is to take into consideration, when you come to consider the evidence he has given, and the amount of credit to which it is entitled. One thing is perfectly clear, whether by his own act, or by the act of the authorities of the Catholic Church, he has quitted or has been driven from that Church for ever.^f All hope of preferment, honour, or emolument is in that quarter cut off for ever; and his hope of maintenance and existence in the country to which he has transferred himself depends upon the position he has assumed as a Protestant preacher: adopted by a particular body, anxious for the propagation of Protestantism, and for proselytism among the members of the Catholic Church. He has been adopted by them as a great and shining light in this work of conversion; and to his utility in that respect, his character is absolutely essential—if that fails, there is an end to Dr. Achilli, and an end to all those pleasant prospects which no doubt stand out for him in the future. Observe, then, the deep interest he has in denying these charges. What interest, which the witnesses who have been called can have, is to be compared with his? None that can possibly be suggested! Surely this is a circumstance which demands your serious consideration before you come to the conclusion that the witnesses who swear to these facts are perjured!

Again,—when we are comparing the evidence of two witnesses diametrically opposed to each other, it becomes important to look at any of the surrounding circumstances which may show on which side the balance should incline. And there was a circumstance connected with Elena Valente, which I think tends to show somewhat the unscrupulous character of the man whose answer is in question. Achilli is prepared to have her placed before him? He is asked if he had ever seen her before? “Oh, no, no!” Well, she has stated, that in a certain year, he was on a visit at a house where she was living as servant—the house of a lady who was a Gentili; and he is asked: were you ever in the house of a Gentili? “Oh, dear no! it is impossible—there are only two Gentili families in Viterbo, and there are two brothers heads of families: besides, I always passed the month’s vacation

^f Not necessarily so. The very prelates and priests he has most cruelly calumniated, would be the first to hail his reconciliation and return.

in the houses of three friends." (Whom he mentions, and one of whom he says was a Christopholi.) That seemed conclusive. However, when I come to cross-examine him, it comes out that though it is true he went to the house of a Christopholi, the lady was a widow, and had been a Gentili. Christopholi, her husband, was dead, leaving her and a young son, and she had been a Gentili! And this lady had a country-house in the neighbourhood of Viterbo, as Elena Valente described it. That lady was in the habit of receiving Achilli as a visitor, and she received him (with her brother-in-law) that very month in which criminal relations are represented to have subsisted between him and Elena Valente! And if it be asked how she came to call the lady by the name of Gentili, the answer is, that the Italian ladies do not always drop their first name when they marry; and we have proof of it in this very trial,—for instance, the witness Giustini is better known by her maiden name of Valente; so Maria Principe, though married, continues to be called by that name; and my learned friend himself calls Madame Garamoni by her maiden name of Crisaffi, and she answers to that name; just so was it with Madame Gentili,—her husband Christopholi died soon after marriage, and she goes on being called by the name of Gentili, some times by one name and sometimes by another. Now I ask any one who has a mind unprejudiced, and an intellect unclouded, whether he can doubt that when Achilli stated there was no Gentili whom he had visited, and it was impossible, because the name of the lady was Christopholi, he did not know who was alluded to, and that she was a Gentili? That shows you gentlemen, the casuistry of the man you have to deal with; and it is calculated to throw a very considerable light on the whole of the case. I ask you whether, under these circumstances, you can hesitate to give your credit to the witness Valente instead of to Achilli? That is, then, the case which happened at Viterbo.

Gentlemen, this brings me to the next chapter, which is Capua; but as that case rests on documentary evidence, I pass it over for the moment, preferring first to follow the oral evidence of living witnesses; and this takes me to Naples. There occurred the case of Maria Principe. According to her account, Achilli took advantage of her going to the church of St. Pietro Martyro, at Naples, for the purpose of paying her contribution to an association that had been formed in honour of the Virgin Mary. She proved afterwards with child, and tells her father and mother; and her father died a year or two afterwards, his death being accelerated, according to her account, by the grief occasioned by his daughter's shame. But that, perhaps, is a delusion!§ An Italian and a Catholic, I suppose, has not the common feelings of humanity! and it is not to be believed that he

§ The advocate's voice here changed, by one of those sudden inflections which at once mark and excite deep feeling, and the next sentence produced thrilling effect.

can have grieved in sorrow and anguish over the ruin of his daughter! all that of course is a delusion! However, gentlemen, according to her evidence the father and mother, when they found out who it was, although to address a monk in a procession might have been in the Neapolitan States an offence, called him aside and addressed him in the language of remonstrance; and it is with difficulty that he breaks away from their importunity! But all that is a delusion! When the mother and daughter are introduced into court Achilli looks with profound contempt upon both, and says he has never seen their faces!^h It is all falsehood! But there are corroborating circumstances! It is clear that there was a society such as the girl represents; and a paper is produced, such as was given to every person who was a member of the society. The paper produced has actually Achilli's writing upon it! And he admitted that he often made entries in the books containing the account of moneys received. So far there is confirmatory proofⁱ which cannot be got over. Possibly, if the paper had not been produced, we should have heard Achilli declare that he had nothing to do with such an association! that it was all imagination or invention! So far, then, she was clearly speaking truth. As to the rest of her story, why should you presume, gentlemen, that these two witnesses are perjured? If the object has been to produce perjured testimony, why are we reduced to the necessity of proving some of these cases by documentary evidence, upon which we know that the whole thunder of the Attorney General's eloquence will be discharged—the judgment which comes from the Vatican? Observe that these two witnesses are persons upon whose character not the slightest imputation is cast! though inquiries have no doubt been made with respect to them; and if Achilli cannot go to Rome there is nothing to prevent his agents from going to any place in Italy; the names of the witnesses were given long ago, and he had no difficulty in ascertaining whether they were respectable and reputable, or persons whose conduct was open to reprehension, or whose character was tainted by any crime or offence. Yet all we have is the simple denial of Achilli! who declares that he has never seen them!

Now observe, gentlemen, the rest of the evidence! It seems that the parents, in their resentment, did not spare him even when they met him in the pomp of a Catholic procession; and they told on every occasion this story of the ruin of their daughter. The matter became serious,—such a charge against a monk, and a priest, and the prior of a convent! This was a matter too serious to be hushed up. Some one goes before the police; it matters not who, whether Achilli or his friends; the material fact is that all this charge is brought forward against him. The commissary of police investigates the matter.

^h If this were untrue, of course the other general denials could not be relied upon; and it is, therefore, of the utmost importance to consider the probabilities as to this case.

Which Lord Campbell did not advert to.

If you believe Achilli, he was profoundly indifferent to the whole matter! It was only the anxiety of his friends, who induced him to interfere at all in it! He, like the Roman, wrapped himself in his virtue (or his monk's gown), and treated it all with supreme contempt! Do you believe it? Do you believe that he never took the trouble to inquire who the persons were who preferred this charge against him! Can you believe it possible? Or, if you believe it possible, does it not argue an utter insensibility to such an imputation? That he should know himself charged with such a shocking crime, and not rush at once to the police to know who made the charge! It was only (as he says) his friends who chose to come forward and have the matter inquired into. Gentlemen, if it be true, it argues either an utter insensibility to such accusations, or it leads to the inference that he durst not meet them face to face in the place where all parties were known, and where the result of the inquiry, if pursued actively by him, might have been to make manifest the truth of the charge, to pull him down from his place of honour and dignity, and consign him to condign chastisement! But at all events, mark this,—the matter was investigated! In Naples the Church stands high—the priesthood is exalted: a charge against a priest is a most serious matter! There would be no indisposition on the part of the authorities to protect a priest against what appeared unfounded calumnies. On the contrary, the leaning would be the other way. The disposition would be to silence calumniators, who dared to ascribe to him a crime so monstrous and so foul! But what does the commissary of police? He has the parties before him; he tells the parents to send the girl to him; he hears her artless tale; he believes her, and sends them away, leaving the case to take its course; and the priest remains silent! The parents continue their complaints: he treats it with indifference, and goes elsewhere, leaving them without reparation; and when they come forward to tell their tale, the victim of his lust is to be the victim of his falsehood, and to the shame which he has already affixed upon their brow is to be added the brand and infamy of perjury!^j Pause, gentlemen, whatever may be your feelings in the case, and take care that you do justice between these parties! This is an old matter! It is no invention! It is clear from Achilli's own account that this charge was preferred against him by these very people at Naples. Does not this of itself show there was a ground for the charge; and that is not to be dismissed on the simple denial of Achilli,—his unsustained denial; and that all these persons have stated is not to be disposed of as a charge preferred by perjured witnesses, who have invented and fabricated their story!^k

Gentlemen, this brings me to the case of Garamoni at Corfu.

^j No one who heard will ever forget the terrific effect of this powerful passage.

^k Lord Campbell put this to the jury (the only point against Achilli which he did put), but they of course disregarded it, and found this charge also false!!

We have accused Achilli of improper intimacy with Garamoni's wife, and with having figured in some court of justice in some suit between them. Now, upon the documents produced before you, it clearly appears that Garamoni was before the civil tribunal of Corfu on a petition for alimony, which he refused to pay on account of the alleged unfaithfulness of his wife with Achilli; to which he alleged in answer, that the matter came before the tribunal, and was afterwards compromised on the terms of her abandoning her claim to alimony. This satisfies one part of the plea, alleging that the charge came before the court.¹ Then as to the truth of the charge, we have the evidence of two or three witnesses: that Garamoni believed his wife was playing him false (she gives of course the version which might be expected from her,—that she suspected him of unfaithfulness; but when a husband beats the wife, it appears more probable that he suspected her), and this led him to observe the house. These two witnesses state (and they are as to this in a great degree confirmed by the wife), that one evening, finding his wife was watching at the window, he and Patrini see Achilli go in; and then he calls Russo, and opens the door, where he finds, as the witnesses allege, Dr. Achilli. A struggle ensues; Achilli escapes—he gets away, and goes in (as he himself says) at the back door of his house! It is to be said that Russo is not to be believed because he has been imprisoned on some trivial charge when he was a child! But there appears nothing against him that should disentitle him to credit. And he is confirmed by other witnesses. What say Achilli and the wife of Garamoni? He gives his own evidence, and calls her to assist him. It would have been wiser for him to have left her alone! for out of their own mouths will I convict them of irreconcilable discrepancy and palpable falsehood! Achilli states, "I lived next door. One evening, between eleven and twelve, she was at the door, and calls me to her, and says she had some question to put to me. I went across; and she had just begun it, so that I heard the first words, 'Have you heard ——?'" Had Achilli stopped there, one might perhaps have believed him. But he produces the wife of Garamoni; and she says, "I was waiting at the window to see him. My mother had told me to wait and ask him if he had heard cries." (What his hearing cries could have had to do with any interest of theirs, I do not quite see, especially as he could not have known from whom they proceeded, or from what cause). "My mother had gone to bed." (Strange that the mother of a young woman, with a jealous husband, separated from him, should go to bed, and leave her, between eleven and twelve at night, to see a man whom she says she had never seen before, just to ask him about some noise! Surely, if she were so interested in the solution of that question, she might have sat up

¹ Lord Campbell himself said this was proved, yet the jury found it not proved "to their satisfaction!"

a little longer, or postponed putting it till next morning! Strange and improbable story to any one who is not resolved to believe every syllable Achilli chooses to swear to! and you will see she contradicts him. And now comes this striking fact,—that whereas Achilli stated she came down and spoke to him, she says she never came down stairs at all! You see she is anxious not to be placed too near him, from fear of suspicion of anything improper between them; but Achilli, who does not see that so strongly as she does, says “she came down and was speaking to me!” And then he says, the “husband came and pushed me into the house!” Obsequious husband! What an improbable story is this! What an insult to our understanding, to ask us to believe it! Gentlemen, we are not Italians, but we are Englishmen: we are not so subtle as Dr. Achilli, but we possess plain reasoning faculties, which lead us to reject such stories so utterly irreconcilable. We have here a direct and deliberate contradiction, in a matter most material, and in which the witnesses cannot be mistaken. Gentlemen, they learnt their lesson, but they did not learn it well! On one point they agreed, that they were both to say that he was called over in order that some question might be put to him; but they forgot to agree as to whether she came down and spoke to him or not. He says she did; she says she did not. Nor is this all. It is part of our case that Garamoni seized Achilli; he says Garamoni never seized him: the wife says he did seize him, and held him against the wall! There is another contradiction. Is such testimony entitled to the slightest credit? And on such contradictory testimony are you to reject the evidence of two witnesses who agree, and who are confirmed by the very testimony thus adduced in opposition?

Gentlemen, the next case is that of the wife of Coriboni, at Zante; and if here the balance of evidence does not incline decisively in favour of the defendant, I understand not the nature of testimony at all! Achilli could not have been unaware that there had been serious imputations made upon his moral conduct. He admits that accusations had been made against him,—unfortunate man! He has gone through a long career of innocence and virtue; but, somehow or other, it has happened that “thousands of charges” have been (as he admitted) made against his character. Surely, it behoved such a man to walk circumspectly! But what does he do? Before he leaves Corfu, he engages these two persons,—Coriboni and his wife; and who were they? Coriboni was a chorus singer: he had a fair wife. To be sure, Achilli says she was neither well-favoured nor ill-favoured; but, however, she sought, it seems, to make up for any deficiencies in the perfection of her charms by a liberal disclosure of such as she possessed. According to the evidence of several witnesses, she was a woman of loose character. Well, he takes these persons into his service, without the slightest inquiry as to who or what they are. He says he saw Coriboni in the streets, and heard he was a chorus

singer. He waits not to inquire into their character: all Corfu would have given it to him. She was not exactly the person for a minister of religion to have about him, but he engages them both. He goes to Zante. They come there after him, and are taken into his service; and he having opened a chapel, Coriboni, to his great astonishment, finds himself converted, though a Catholic, into a Protestant clerk. (Laughter.) In Shakspeare's language, he had, in the exercise of his vocation, played in his time many parts,—sometimes a peasant, sometimes a soldier, sometimes a prince, sometimes a priest of Isis,—but now he was a Protestant clerk. (Great laughter.) He had not yet gone beyond the chrysalis stage, which had produced the butterfly Achilli; he was still in the grub condition (renewed laughter), looking to the bread and cheese; ready to exercise this or any other vocation that might be suggested to him. He had no objection to be a Protestant clerk, although he had never thought of the Protestant religion. I dare say it never occurred to his mind but as a heresy; but the moment he is told by Achilli to go through certain ceremonies, and make certain responses, he is perfectly ready, for a reward,—anything for an honest livelihood (like Achilli himself, in that respect),—and accordingly he becomes the Protestant clerk, as Achilli had become the Protestant parson. Gentlemen, talk to me of the distinction which Achilli spoke about, between “the religion of the heart and of the mind,” as if such expressions were applicable to a case like this! Gentlemen, there is a religion of the understanding, and there is a religion of the heart; and the true religion is that which combines both—when the faith which is found in the recesses of a man's heart is in unison with the reason and the intelligence with which God has endowed us! But there is a religion which is detestable, and it is the religion of the breeches pocket; and that, gentlemen, is the religion which too many, if they do not profess, practice; and when a man is expelled from the Catholic Church, he is ready enough to join the Protestant Church, or *vice versá*;^m and he is caught up by people who are foolish enough to believe that every man who professes to be a convert is so in truth, from conscience and conviction; though, when his motives come to be ascertained, they are found to be of the most sordid and interested character of which human nature is capable. Take the case of Achilli. He professes to have abjured the errors of Rome,

^m Has there ever been a convert from the Catholic Church as to whom it cannot be shown that he was stained by immorality, or influenced by worldly self-interest? It certainly cannot be said of the first Reformers; nor could the evidence in this case support a contrary theory as to modern “conversions.” It is to be observed that a Catholic has to give up a faith—a Protestant to get one. Of course this reasoning does not apply to those who are born and bred Protestants, whose sincerity is unquestionable. But, on the other hand, from the Reformation downwards, have not converts to Catholicism been, as a body, men of good moral character, and acting against their earthly interest? The argument is not suggested offensively, but as really worthy of serious consideration.

and to have become a convert to the Protestant Church. He establishes a Protestant chapel, and takes a Catholic chorus singer for a clerk, making him participate in the public worship of the Church of England. Does not this show the real feelings and motives of Achilli? Was it not a wanton desecration of all that is sacred in religion? Well, he is remonstrated with by Mr. Reynolds, who, when he first enters the chapel, is astounded to see Coriboni acting as clerk, and his wife as doorkeeper. He says, "What are you doing? You have a woman here of bad character, unfit for any service in a Protestant place of worship!" What does Achilli reply? He says himself that his answer was, that it was indifferent to him, so long as they behaved well in his house. A large charity, truly, to consider this a sufficient reason for placing them in a Protestant chapel, to cause scandal to the virtuous! Such, however, was Achilli's view of the subject. According to Mr. Reynolds, the result of his remonstrance was, that the Coribonis were removed from the chapel, and never acted there again. Achilli, on the contrary, says that there was no remonstrance as to the chapel, and that they acted there throughout. That is a flat contradiction: it is for you to say whom you believe. Mr. Reynolds goes on to speak to familiarities between Achilli and the woman Coriboni; and the same things were witnessed by the young lady who was likewise called. Mr. Reynolds says, further, that he remonstrated with Achilli about them. He says he never so remonstrated: but he says that, after he had accused Mr. Reynolds of drunkenness, he spoke to him about the employment of these persons. Now, gentlemen, there can be no doubt of this, that Achilli has a strong interest in making out his case. Mr. Reynolds does not, on the other hand, appear to have any interest to induce him to swear falsely. Has he invented these things? Are they unlikely to have happened? Achilli denies it all! He says, also, it was impossible. Why? "Because my house commanded his—not his mine!" Well, gentlemen, you have here oath against oath; and remember the oath of Achilli is the oath of a man whose *all* is staked upon the issue! And how Mr. Reynolds is to be considered as having fabricated falsehoods is to me incomprehensible. The Attorney General produced a letter, however, to disparage his testimony;—a foolish letter to a gentleman, whom Mr. Reynolds refers to as capable of confirming his statements, and who, it appears, was unwilling to come up from Plymouth to London unless his full expenses were paid, being an officer on half-pay, with a large family. Something had passed on the subject between them, and Mr. Reynolds writes to assure him that he need have no fear on that score, for that he would be dealt with "liberally." And that, it is to be pretended, was purchasing testimony! Why, could he have conceived that an officer in her Majesty's service was capable of being bribed, by the con-

sideration of having his expenses paid on a liberal scale, to come and give false testimony? The proposition is monstrous! — unless, indeed, the fact that this gentleman was mean enough to hand over a letter which had been written to him confidentially by a friend, may lead to the conclusion that this would have been only a true estimate of his character! Is this the ground on which we are to come to the conclusion that all which Mr. Reynolds has stated was false! Gentlemen, it shows the very reverse. That letter which my learned friend produces refers to the transaction as to which Mr. Reynolds testified. It says, “You remember the matter we were talking about?” That shows there was such a transaction! Besides this, is there no other evidence about it free from all imputation? Yes, there is the evidence of the young lady, the nursery-governess. What is to impeach her testimony? she is no longer in the family of Mr. Reynolds; she resides elsewhere; she is not an Italian; she is not a Catholic; she is a most respectable person—a Protestant. She has no interest in supporting Dr. Newman, of whom probably she never heard! She says she saw the Coribonis at the chapel the first time, and that they never officiated there again; and she says she saw what passed between Achilli and the woman. If these things did not take place, then not only is Mr. Reynolds perjured, but this young lady too! And what motive can she have to come here and lay perjury upon her soul for the sake of Dr. Newman, whom she has perhaps never heard of, and for whose religious persuasion she can have no sympathy? It is to be said, “The windows were open, and is it supposable that a man officiating, as minister of religion, having a character to maintain, would be so mad as to expose his conduct thus at an open window to public view?” Yes, but if you believe Achilli, he believed that they could not command a view of his window. That puts an end to the whole argument.ⁿ Is that young woman to be deemed unworthy of credit because it suits the purpose of Achilli to say that she is perjured? What right has any one to ascribe perjury to her? She has no interest,— Achilli has. Who is it who is on his trial? The legal defendant is Dr. Newman; but he is forgotten, — the real defendant is Achilli, and he has all the advantage of the sympathy which a party accused generally engages. And he has the further advantage of swearing in his own favour. According to the law of England, if he had been the party legally accused in the proceeding, he could not have been examined. Whether that is a wise state of the law is another thing; and whether, in every case, civil or criminal, a man should not be ready to state, on oath, all he has to state, is deserving of consideration. But why has the law been established on its present principle? Because the party accused of crime will, in the position in which he

ⁿ Will it be believed that Lord Campbell actually put this argument for the prosecutor to the jury, with his own approval, and suppressed the answer afforded by Achilli's own oath!

is placed, hardly be able to resist the overwhelming temptation to save himself from the consequences of his offence even at the expense of the false evidence which may be necessary to his exculpation.

Lord CAMPBELL.—It must also be considered whether, if he were permitted to give evidence in his own favour, he must not likewise give evidence against himself.^o

Sir A. Cockburn.—The principle, however, on which the law at present proceeds is well worthy of serious consideration, as an important ingredient in the question. And certainly to that principle this case is an exception; for Achilli swears in his own defence,—his character, his all is at stake; and one would scarcely be supposed, to put that under the influence of motives so overwhelming, he could give evidence such as he might not give in a cause affecting another. On the other hand, I repeat, there is nothing in the shape of interest or undue influence to induce this young lady to come forward; and I ask you, are you justified in disbelieving her when you can only do so on the supposition that she has committed perjury! Surely Achilli has an interest infinitely stronger than any which can be ascribed to Mr. Reynolds? and this we have by confirmatory testimony. It has pleased Achilli to ascribe his evidence to resentment at having been remonstrated with for habitual drunkenness. Mr. Reynolds denies that. And is it to be supposed that an habitual drunkard would have been continued for twenty-five years in the service of the British Government as collector of customs and inspector of health? Do you imagine that it would not have been discovered, and that he would not have been disgraced? That, I think, is a tolerable answer to the charge thrown out against him by Achilli. And you will observe that in every instance wherever he has an accuser to deal with, he brings a charge against him. At Viterbo there is somebody connected with the convent who is dissatisfied with his conduct; and he is handed down to the world as a man of villanous character, capable of any atrocity. The superior of his order finds fault with him, and threatens to bring him to trial for alleged offences; and he is said in this book to have “died loaded with execrations!” A cardinal, also, who thought the proceedings of Achilli ought to be inquired into, is said to have been living only that he may add to his crimes. Such is his habitual course; and so

^o Why not? The writer believes such originally to have been the law of this country, and that the early criminal trials show it to have been so. In such a case as the present, surely common sense would indicate that, if a man be allowed to come and swear in his own defence, against the evidence adduced by the defendant—the latter ought to have been able to call him to examine him before he knew what the exact amount of that evidence would be, that it might be seen how much he would admit and how much deny. And it is believed that this, as it is even now the usual, was originally the regular course.—See remarks on this point in the Introduction; and see Sir A. Cockburn’s opening speech.

the moment Mr. Reynolds appears against him he is set down as an habitual drunkard! Well; so much for the case at Zante.

Next we come to Malta. There he is in the college where there was a department for priests who had seceded from the Church of Rome, and it turned out that these converts were not the best of men. It appears that the conduct of two of them, Leonini and Saccares, was such as brought scandal on the college. Inquiry was made, and charges brought forward which at first were not substantiated. Certain communications are made to the committee, and they order a more strict and searching investigation to take place, to be conducted partly by Achilli himself. The day is fixed for resuming the inquiry, when just before it is going to commence, Achilli sends away the principal party, Saccares, whereby the whole inquiry becomes a nullity. This is a suspicious circumstance, the more so, since the committee having taken it into consideration, dismissed Achilli from the college. He says in answer, "I did not believe the truth of the charges." What answer is that to the order of his superiors to institute a new inquiry? Then he says, he did not know that there was to be another inquiry, and thought the inquiry had concluded! But here he is contradicted by every witness who is called from the committee or the college,—by Lord Shaftesbury, by Mr. Watts, by Mr. Hadfield, and by Dr. Bonavia; all agreed that the inquiry was to be resumed by Achilli himself! Then again, he says,—“I gave Mr. Hadfield notice, that I was going to send Saccares away, ‘so he could have stopped him.’” Is that so? He “gave notice,” in a letter dated the very day Saccares went, and stating “he goes immediately; he no longer belongs to the college;” so that Mr. Hadfield’s jurisdiction over him had already ceased, as he had no authority over him except as a member of the college. Remember, Achilli had been the intimate friend of these two priests, Leonini and Saccares, and had lived in the same house,^p and if there had been immorality, of course the blame would have attached to him. It was no doubt very convenient to send Saccares away. Had he been examined, who knows what might have come out? Who knows, if ladies visited the convent, whom they visited? It would never do to let all this out; so all in a sudden there arises an urgent necessity for sending bibles into Sicily, so Saccares was sent away as fast as possible. Gentlemen, this is not a view taken for the first occasion in this case. You have heard it from Lord Shaftesbury and other witnesses, who are not Italians nor Catholics, but English Protestants, who can have had no feeling against Achilli; on the contrary, he was a great convert from Catholicism, he was a great gain from Rome. Nevertheless, they see that it will not do to maintain Achilli any longer of the college, and they dismissed him, and now he comes forward

^p It is hardly necessary, to those who are acquainted with the character of Achilli’s book, to say, that these were ecclesiastics venerable for piety and learning.

and says, as usual, that this is all false, and that he has been treated in the most unjust way! And there is another thing in this part of the case. What say you, gentlemen, to the conversation with Dr. Bonavia? Is he not to be believed? No! For he comes forward against Achilli. Everything alleged against him is to be disbelieved! Yet he is a Protestant; he is neither a Catholic nor a Tractarian, but a zealous Protestant. What interest has he in misrepresenting the matter? Why is he to be disbelieved? Is this conversation imaginary? If not, and it be true, then when there was a question of flagrant immorality—a charge of introducing women for improper purposes—would you expect to hear the man who has been denouncing the alleged immoralities of Catholic priests, and who represents himself to have been actuated by his abhorrence for them in leaving the Catholic Church—would you expect to find him saying to a person remonstrating about similar practices in a Protestant college, “Oh, you are too scrupulous!”

Now we come to the last stage of the history—London. In the meantime he had married, and surely where he had induced a young lady to associate her happiness with his, he becomes bound to her virtuously. But, at the first house he takes, he solicits the chastity of a girl in his service! If that be true, what a light does it throw back on the early history of his life! If a man who has already entered into the holy state of matrimony be so forgetful of his duty, that he is unfaithful to his wife, we can judge of the credit to be given to him when contradicting similar charges of the same character. And is this witness a Catholic, or an Italian? Is she come here to perjure herself? Has Dr. Newman brought her? If so, why should she not have stated *all* which the other woman swore to? And how is her testimony to be destroyed? Why, it is said that Mrs. Achilli accused her of being dirty! But Mrs. Achilli gave her a character, and is it to be supposed that after finding another service she should come here to swear falsely against her former mistress? Was that all which Mrs. Achilli was called here for? No gentlemen! She was called here to excite your sympathy! There you see a little of the art with which the case has been conducted. She was not called here to state things which the witnesses had already admitted. She was called to excite your sympathy, and for no other purpose! I pass on to the next witness,—Jane Legge. She, I admit, was of a bad character, but she showed some honesty and conscience; and declined to swear what she did not know to be true. Now her sister, Mrs. Logan, is a respectable person; and she has no interest in the matter, and is indeed a reluctant witness. It appears that when subpoenaed she sent for Achilli, who says, “Nonsense, you need not attend; shut the door in their faces!” Then a conversation ensues as to how they had discovered that her sister had anything to say against Achilli; and Mrs. Logan says Mrs. Castellini must have told them; at which she is very angry; and then as the conversation goes on,

she says, "You must know best what has passed between you and Jane." He maintains a discreet silence! Then we come to Sarah Wood; is *she* perjured? She tells her simple story. She came from the House of Mercy, where unfortunate women who have fallen into guilt and shame are restored to virtue and society. She is recommended from that place, which is in itself strong evidence of her being reformed in character; and her very going there shows that the poor girl (still very young) was resolved to try and live virtuously in future. After what happened at Achilli's her health fell off, and she had to leave: her father is sent for, and takes her away. Why? Who can doubt it! What should detract from the truthfulness of her story? Is she too perjured? Yes. Good God! am I in England?—am I in a court of justice? Shall I hear it said—that because it is surmised that she is a Catholic—that she has a book with the cross upon it!—that therefore she is to be presumed capable of conspiracy and perjury! Is that too not to be believed? How monstrous! It is possible there may have been a mixture of Catholicism at the House of Mercy. But you, gentlemen, will not, I trust, administer justice upon such a principle! You will not permit your minds to be clouded by prejudice, and to be perverted by this fanaticism and bigotry (for so it is)! I trust these miserable feelings will not be allowed to interfere. I hope you will be enabled to hold the scales of justice fairly even, though your hands may be shaken by the excitement of religious passion, and the warmth of religious zeal! These will be appealed to, I doubt not; but I appeal to your sense of justice, to your consciences as men and as Christians, and I ask you to look on these things with the recollection that however great may be faith and zeal, justice is one of the earliest born and the dearest emanations from God, and from religion!⁹ (A burst of cheering.)

Lord CAMPBELL (with great gravity).—These expressions of feeling must not be repeated.^r

Sir A. Cockburn continued.—It is a curious thing, gentlemen, that my learned friend, the Attorney General, though he confronted two of the Italian witnesses with his client, did not venture to confront him with any of the English witnesses against him, who came forward one after another to testify to the same kind of things. It is for you to say whether the whole testimony be not overpowering, and whether it is rebutted by his general denial.

Before I pass from the oral evidence, let me say a single word as to the witnesses who are called to speak as to Achilli's character!

⁹ Nothing could be finer than his delivery of this noble sentiment, which was obviously the genuine effusion of a generous and noble nature. The burst of cheering which ensued was enthusiastic; and there was not, I believe, a person of education present, who did not sympathize, if they did not share in it.

^r He never said that, when the coarser portion of the audience cheered him. Those were gentlemen who cheered now; and judge and jury were evidently disgusted.

Who are they? They are seceders, like himself, from the Church of Rome, his associates, having a common interest with him; who, of course, give him the highest possible character. But it is curious that if he should have borne such a remarkably good character, he should have had (as he himself tells us) hundreds of charges made against him! Let this evidence pass for what it is worth! It may be true that he was placed in responsible positions; many a man is placed in such positions, who, if his life were really known, it would be impossible, even for his patrons and supporters, to uphold him any longer.^a

Gentlemen, I now come to a part of the case on which so much was said yesterday,—the judgment of the Court of Inquisition. It is an important document, if you take its sentence as true; for it recites the various offences I have already referred to, and others of which we have not been able to offer oral proof. You will understand the difficulty which there necessarily must be in obtaining evidence of matters of this nature. And you have observed that some evidence offered has been excluded, on account of its not having been proved in regular form of law, and witnesses not being produced to prove the facts necessary to make it admissible.

Lord CAMPBELL said,—I have examined the document since yesterday, and though I do not at all regret having admitted it in evidence, I must remark that the first portion of it merely seems to state the result of the examination by the notary;^b then afterwards

^a The question is, supposing Achilli to have been rightfully accused, when his conduct became really known to the authorities; and, still more, to the Holy See. So soon as the Holy See heard of it, it seems, he was perpetually deprived.

^b But the notary is declared to be "Notary of the Congregation of the Inquisition," and this is (like all the rest) attested and authenticated; so that it seems exactly analogous to the official act of the master, or other officer, who draws up a judgment of one of the superior courts in this country: for instance, in the Court of Chancery, the Chancellor dictates merely the minutes of his decree, which are afterwards drawn up by the master. Every judgment is, in fact, drawn up by some such officer of the court; the judges only pronounce—they do not record. The only difference between the English and the Italian judgment is, that the former does not state that it is drawn up by an officer, whereas the latter does, which is more truthful. And when the Lord Chief Justice said, "the first portion appears to be the result of the notary's examination," what did he mean? How did it appear? The words are, "After a complete investigation" (which, it is to be presumed, was judicial), "it is proved from the same acts," &c. (*i. e.*, to the court); and then follow the words, "After having weighed, &c., their eminences, the Inquisitors, decree," &c. The whole is absolutely one sentence! Lord Campbell's separation of it into "two portions" is not only arbitrary, but absurd. The notary (*i. e.*, the master), states the whole continuously as equally the act of the court. It is as plainly as possible expressed, that the same judicial persons who had weighed the proofs had received the proofs (or how could they have weighed them?),—and having "weighed the proofs," they decree; and the weighing the proofs is clearly the inducement of the decree, an integral part of it, as much as the recitals of a deed; and the same officer who certifies the latter portion certifies the former portion; so that if the former part "appear" to be the result of his examination, so must the latter; all alike is equally authenticated, as constituting an entered

there comes judgment. I should have hesitated more in receiving it if I had been made more acquainted with the commencement; but as it is, I do not regret having admitted it, as I feel disposed to open the doors as widely as possible, so as to admit evidence which may throw light on the issues. It is an informal document.^u

Sir A. Cockburn.—It is the best that could be got, my lord. We cannot dictate to continental courts, in what form they shall draw up their judgments! We can only take them as we find them. It professes to be founded on certain accusations preferred against Achilli, and his acknowledgment of the charges: we have proved the document in proper form. We were not able to procure witnesses as to some of these charges having been preferred against him. He says they were not. That is for you to judge of. He denies it; for the reason, he says, that questions of immorality are not within the jurisdiction of the Court of Inquisition; and that they exercise jurisdiction over matters of religion alone, and not over the morals of the clergy. But this is the evidence of a deeply interested party; and, on the other hand, we have the evidence of a perfectly competent party, Dr. Grant, a Catholic bishop. Where his see might be I do not think at all material to the truth or value of his testimony, which, therefore, I press upon you. He says he was a long while resident at Rome, and acted for parties there who exercised jurisdiction in other ecclesiastical courts; and that it was his duty to ascertain the jurisdiction of those different courts, and to ascertain the limits of each. Speaking from the knowledge thus acquired, he is enabled to state that the Court of Inquisition takes cognizance of matters relating to faith, and, as regards the clergy, of cases of gross immorality. It is natural to suppose that it should be so. It is the highest court of ecclesiastical jurisdiction; and what is more likely than that it should comprehend within the sphere of its powers, cases of gross offences against morality among the clergy? Accordingly, we find that this particular document professes to be the record of a sentence pronounced upon inquiry into immoralities committed by Achilli. Do you believe the evidence of Achilli on the point, who is interested, or of Dr.

judgment. In a judgment in the Court of Queen's Bench, the master or other officer (after reciting the pleadings on which judgment is given) writes, "therefore, it is considered by the court, that," &c. Now, though he does not say he wrote it all, it is known he wrote it all; and what would be said of a judge, who, on the record of a judgment being "returned" to him, should reject all the pleadings, on the ground that what followed the "*ideo consideratum est*" was the act of the court, and the previous part was only the result of the master's examination? The judgment would be, of course, utterly useless, as it could not be known what state of facts it was pronounced upon.

^u Because foreign courts are not so formal as ours. It is formal enough, however, on any practical, if not on any technical, consideration; and if rejected on that ground, no foreign judgment could be received. "An informal document," according to our special pleading ideas of formality! Is that a fair way of treating it? Besides, how can we know that it is "informal?" Enough for us, that it is duly authenticated.

Grant, who is not interested, and who has a competent knowledge on the subject? Besides, this observation, surely, is on the surface of the case; it is obvious that it must have been known that the judgment would be produced in this case; and canonists and jurists acquainted with the ecclesiastical law of Italy, could easily have been brought to prove (if it were so) that it had professed to proceed in a matter over which it had no jurisdiction.

Lord CAMPBELL.—We must draw a distinction between the judicial part—the sentence, and the previous portion.^v It does not set out the offences for which the sentence was pronounced.^w

Sir A. Cockburn.—It sets out no other but the immoralities alleged; and if these were not the true grounds on which the judgment proceeded, there is no ground at all set forth!^x This is a court not conducted with such formality as the judgments in this court. It is said, too, that this is the first time a judgment of the Court of Inquisition has been proved in this country;^y which of itself might show that any particular technicality ought not to be expected. But is it to be presumed to be a wicked imposture in reciting that Achilli had confessed certain offences, for which he was sentenced? Is it to be assumed a fabrication? Achilli says he never was suspended or deprived by any sentence. Now, he admits he was before the Inquisition. Were these charges, then, brought against him? He says they were not; why? because they do not come within the jurisdiction of the court. But we have it proved, by a perfectly competent authority, that they do. Was then a sentence passed? He says not. He admits, however, that he may have thrown himself upon the mercy of the court; not for what is stated here, but for teaching false doctrine; and

^v See previous note.

^w Not set out the offences!—"Having confessed himself guilty of," &c. (see the judgment, end of second day). Besides, what a curious objection, after having ruled that the offences recited were to be rejected! The defendant's counsel remarked this at once.

^x Therefore, either there were no grounds at all, or these were not the true ones. In the former case, there could be no judgment; in the latter case, as the document is entire, and with an entire authentication, the whole must have been fabricated—which was the atrocious theory of the Attorney General. But the Lord Chief Justice rejected that theory, and admitted it as a valid judgment, so the whole ought surely to have been received as of equal validity; for who ever heard of a judgment one half genuine and the other half forged? And who ever heard of assuming fabrication against a record! or even the judgment of an inferior court, not of record. But the Inquisition, as it had been proved in evidence, is the supreme court of Rome. It is to be observed, also, that the judgment is accompanied with the chancellor's certificate, "given in testimony of all these facts," of which, one fact is the confession of the charges recited; and another fact is that the court had considered these facts. Again, the judgment recites that, "The court having considered the defences" (to the previous charges), "and other matters, &c. decree," which is exactly analogous to the "*ideo consideratum est*," of a judgment in our Queen's Bench. Is it rational to reject not merely what comes before, but after, the "*consideratum est*?"

^y See former note.

what follows? He says, the Pope interfered in his behalf (that same pope whom he abuses so outrageously!), and he was set at liberty on certain conditions! one of which was reconciliation to the Church, and in the mean time he was to be under strict surveillance. What does that imply! Total and entire suspension from all functions of an ecclesiastical character: and then he was recommended "to go for some time to a place of penance." What says the judgment? So far he confirms it to be true. It says distinctly that he was to be suspended and deprived, and sent for three months to a house of rigorous observance. Is that true or false? Gentlemen, we have heard a great deal about the Inquisition—though the Roman must not be confounded with the Spanish²—and none of the atrocities can be imputed to the former which are ascribed to the latter. It is not a court which is approved of in this free country,^a where religion and everything is unfettered, limited only by the laws necessary for the peace and good order and welfare of mankind. We desire no secret tribunals.^b But do not let us be unjust on that account! Do not let us assume that a court, sitting under the authority of their sovereign to discharge the duties of their office, will put upon record, and send into another court, a judgment which does not exist, or on grounds which were not true, or for a punishment which was not decreed. Can you discredit this document? I think not. And if you believe it, it goes a long way towards confirming the testimony given by the witnesses who have been called.

Let me now, gentlemen, call your attention to a part of the case which is not unimportant. What is the account which Achilli and his friends give of him? Why, that up to 1840 or 1841, he was a man esteemed, honoured, and promoted; the idol of the monks and friars; the confidential friend of his superiors; taken by the provincial on visitations; upheld by bishops, supported by cardinals, loved, honoured, and revered. He goes to Rome: honours await him! Professorships' benefices are offered him; everybody is his friend; the Pope himself is disposed to be his benefactor.^c Well, this is a feeling and prosperous state of things! How comes it, then, that if these representations be true, in 1841 he was seized by the Inquisition?^d For erroneous doctrine? What!

² Very commonly it is so, by the ignorant.

^a How many persons know anything about it?

^b But we have them: grand juries, Court of Chancery (in taking evidence), civil courts, commissions under Church Discipline Act, &c. &c.

^c And let it be remarked that Achilli declares that for ten years before this, he departed from the doctrines and practice of the Church, in teaching, and was openly at variance, as he was known all along to have heretical tendencies; whereas his friends, the friars, say at Rome nothing was known of his alleged immoralities; and he himself declares that it was not for those things he was deprived. Then what was it for? Not for heresy, as that was an old story.

^d So summary a process is not usual in cases of heresy; and, on the other hand, such is the course taken when flagrant immorality is discovered in a

he, the beloved and the courted, esteemed and revered of all mankind—he seized and thrown into the Inquisition! Do not these contradictions show that an attempt is made by Achilli to palm off untruths upon you, presuming upon your want of knowledge of the position in which he was placed? Is it not much more probable that what is related by those who have come to give evidence against him, and what is recited in the judgment, is true; and that his excesses had at last reached to such a head, and been so discovered, as to render it necessary for the Church to interpose? He was not removed from Naples, he says; but yet he returns to Naples almost as soon as he had left it, and tells rather a loose story about a lame foot. Is it not improbable, that if, when he reached Rome, he was surrounded by honours and favours, without any imputations upon his moral character, he should have been suddenly cast into prison? And immediately after, a sentence is passed against him, which, he admits, puts him out of the pale of the Church. There was an end of all hope of honour, or dignity, or advancement for Achilli in the complicated hierarchy of the Catholic Church! Can you doubt that he said to himself, “This will not do; I will go to Corfu, or Malta, and get up a Protestant chapel and Protestant congregation.” We have it, surely, clear as proof can make it, on the admission of Achilli himself, that he continued in the Catholic Church, ministering its sacraments, until, after having left Naples for Rome, he got into the prisons of the Inquisition. Now, if he had then in his heart and soul abjured the Catholic faith, how came he so long to continue in the ministry of that Church? He had left Viterbo in 1833; and ten years before, while yet there, he tells us in his book that, though perfectly persuaded of the imposture of the mass, and of the heresies of its doctrines, he continued to celebrate it with a show of devotion. Does not this show you that he was what Dr. Newman has called him, “a hypocrite under a cowl?” Who can dispute it? The men who minister one of the most solemn and sacred acts of religious worship—when their hearts do but despise what their hands perform—who will deny that they are hypocrites! Hypocrites in the matter of religion! hypocrites on the most sacred of subjects! hypocrites, not only before men, but before God, at whose altars their very presence is a sacrilege and a profanation! Gentlemen, is a man of that character to be believed upon his oath? And,

priest. He is at once put into prison.—See numerous instances in the life of St. Thomas of Villanueva, for instance, or St. Charles Borromeo, or any other eminent bishop.

* There is a striking parallel between this part of the speech and the argument of Lord Stafford's counsel as to Titus Oates:—“He objected that this witness, according to his own testimony, not only pretended to be a Catholic, while he was in reality a Protestant, but during his voluntary transactions with the Jesuits, had lived in the practice of a religious worship, which in his conscience (at least so alleged!) he believed to be idolatrous. Was a man of this degraded character, —a miscreant of such deep dissimulation and hypocrisy,—admissible as a wit-

on his sole and supported assertions, are a whole body of witnesses to be consigned to the shame, perchance the penalties, of perjury? Is that justice? I hope I do him no wrong; but I own I cannot bring myself to understand how, consistently with honesty, truth, or anything that bears the remotest resemblance to religion, a man can bring himself to convert religion into a mockery—that which should be a sacrifice to God, into a hideous farce! I cannot comprehend how such a man is to be credited against the evidence of witnesses who have no such shameful hypocrisy as that to answer for! Observe how complete, and systematic, and sustained the hypocrisy must have been! The cardinal, under whose eyes he was living at Capua; the provincial, who took him on his visitation tour—would these and other ecclesiastics have supported the man if they had believed that he thought their faith an imposture? He now does his utmost to hold up the practices of the Catholic Church to odium and detestation: yet for years he was mixed up in them, and continued to participate in them, until he is discovered and brought to trial, and sentenced to deprivation; and then, and not till then, he professes himself a Protestant, and he makes us a present of his conversion! And is he a gain to us—a glory to us? He, forsooth, has sacrificed all for conscience sake! He might have been anything in the Church, and he represents himself as having sacrificed all this that he might satisfy the dictates of his conscience and the inspirations of his God! God grant it may be so, but I cannot bring myself to believe it.

Gentlemen, it will be for you to determine upon the conflicting evidence in this case. There is one topic I must advert to before I set down. In pressing certain questions upon the prosecutor I fear I incurred your reprehension, manifested (you must forgive me for saying so) in rather a remarkable manner. Matters of evidence are usually left for the consideration of the judge. I felt it my duty to press some questions as to his general incontinence; and I will explain the grounds upon which I did so. Gentlemen, there may be differences of opinion as to the degree of the religious or moral obligation which attaches to all men as regards continence or chastity. Some men may look upon a departure from the religious or moral law in that respect as a venial matter, others may attach to it a greater gravity. But do not forget, whatever may be the view you take on this subject, that this is the very matter before us, the very subject of the present inquiry. We are considering

ness?"—*Lingard*, vol. xii. chap. vi. p. 236. Let the reader judge, if there were force in the reasoning of Dr. Newman's counsel,—let him judge of the unfairness of Lord Campbell in omitting all allusion to it, or any comments on the value or character of Achilli's evidence,—though he went out of his way to have a fling at the Tractarian clergy, he imputing to them what Achilli had acknowledged of himself! That is, Lord Campbell took no notice of a certain matter affecting the credit of the chief witness and party in the case before him, but took notice of a matter supposed to affect the conduct of parties not at all before him!

whether a charge brought against Achilli of having been guilty of certain excesses is an unfounded charge. Witnesses are brought who depose to certain instances which he denies. How are we to decide between the conflicting testimony? Is it of no importance, by way of ascertaining on which side the truth lies, to ascertain what are the habits of the man in this respect. Is it possible that any men can shut their eyes to the importance of such a test in determining upon a particular instance, whether a man has committed an act of criminality? It does not determine the question; but surely with any person capable of reasoning, the fact that a man is in the habitual practice of violating a moral obligation, must be material in deciding whether he is to be credited when he contradicts a witness who deposes to a particular instance? A man may decline to answer, but his silence is equivalent to an admission that he could say much more; and it may justly be said, "As you profess to come here to clear your character, what matters it whether you were guilty of incontinence with A. B. and C. or D., E. and F.? How comparatively unimportant is a single isolated instance as contrasted with the general tenor of a man's conduct? What do you think of a man who says, "I am ready to answer you in a particular instance—I will swear I am innocent; but, though I profess to have come here to clear my character from these aspersions, I will not say a word as to my general habit! Here is a man who professes to have instituted these proceedings against Dr. Newman, to clear his character from these imputations: witnesses are brought against him; he denies their statements; then, to test the evidence, he has been asked what has been his conduct in other cases, and he declines to answer! "I could answer no, but will not." Why do you not? Why clearly because, in the face of your own friends, and intimates, and associates, the apostate monks—you dare not deny it! Does such a man vindicate his character? Is he the man to say, "The witnesses who have spoken against me are perjured, and are not to be believed!"

And now, gentlemen, I have gone through this case. I have only to beg you, in conclusion, to bring to the consideration of it calm and dispassionate minds. It must be apparent to you that if the matters that have been alleged against Achilli by Dr. Newman be true, he was justified in calling attention to the character of the person who was, as a witness,* impugning the Catholic doctrines and the practices of the Catholic Church; denouncing licensed immoralities as well as erroneous principles; and doing so by stating things as of his own knowledge. Surely in such a case there must be a right to inquire into the character of such a man who comes forward as accuser and witness. And that is what Dr. Newman has done in this case. He was not the first to do so. As I have already said, this very book of Achilli's discloses that these matters were brought before the world in the *Dublin Review* in 1850. Why was that allowed to sleep, unvisited by any legal proceedings on the part of Achilli, for

a year and a half? Then, when these matters had come repeatedly under the attention of his fostering patrons, with whose favour and protection he has ministered in this country, and who bring him forward as a great conversion; they,—who felt that unless these imputations were removed, his usefulness in that capacity would be destroyed,—they call upon him to come forward and “vindicate his character” from these aspersions. His everything—his existence—his all is at stake—and on his sole oath you are asked to disbelieve them all, and place implicit reliance upon it in opposition to the evidence of many respectable witnesses!

Gentlemen, I ask you to take these things into your calm and dispassionate consideration. I know the difficulty I encounter,—I have felt it from the commencement. I have felt all along the disadvantageous ground upon which I am placed in defending Dr. Newman. We have here two great champions of opposing Churches—two converts from the faiths in which they were bred: both come forward, each to assert and maintain the truth of the Church he has joined; and I am pleading for one, a Catholic, before a Protestant tribunal. And the difficulty I feel must be, in such times as these, greatly enhanced. The spirit of proselytism, re-enchanted after a long sleep, has again arisen; and the Catholic, with upraised cross, and the Protestant with open bible, have entered into the arena to contend for domination over the interests of mankind. God prosper the truth, say I! Of course we are all interested, from the natural feelings of our minds, for the religion to which we belong; in the triumph and success of one of these two causes, our feelings have been recently kindled afresh, with an energy, which, until then, we had not known in our own time, elicited by any contests which had arisen. And with these feelings fresh in our minds, we have a case like the present, where the religious opinions seem to have come concentrated into one focus. Forgive me, gentlemen, if I ask you to bring to the case the best and calmest judgment you can bring to bear upon the evidence! I cannot shut my eyes to the manner in which your feelings on the subject of religion may in this case bias your understandings in determining this case. Gentlemen, these halls, in which this inquiry is now taking place, have not to day for the first time been witnesses of justice miscarrying upon questions of religious controversy! There remain (unhappily for our fame) in the pages of our history, transactions, here done—here—in this great hall, which is associated with (I grieve to say) the darker as well as the more glorious epochs of our history, here have taken place in former times, in justice and judicial proceedings: over those periods, history would willingly draw a veil, were it not that by holding up her beacon-light she warns posterity against the errors of the past, and guards them against those passions which deaden the conscience and steel the heart. Those days, when human life was sacrificed to religious bigotry,—thank God the time is gone by! We

now know that innocence rests safe under the judges and the liberties of the land. Still there have been times when juries, and even judges, have lent themselves to judicial murders on the score of religion! The present are different times, but the same feelings that then preponderated may with insidious subtlety shut your ears and blind your eyes to reason, and may induce you not to bring to the present case the same clear understandings that I know you would exercise on any other. I ask you, if you can, to give the evidence your calm consideration; and if you do that, I entertain the strongest confidence your verdict will be for the defendant. (Applause.)

The *Attorney-General* then rose and addressed the jury in reply on the part of the prosecution:—

Gentlemen of the Jury,—My learned friend, in one of the most impassioned and eloquent addresses ever delivered in a court of justice, after urging every topic calculated to excite your passions, has exhorted you to calmness, and has spoken of the great advantage which Dr. Achilli possesses from the course which this investigation has taken. But I must beg leave to remind you that this is the first time his counsel has been heard upon the matters of which he was accused.^f My learned friend virtually opened the case upon these various charges, in a speech, almost as powerful and impressive as that we have just heard, commenting upon and pressing the proofs as against Dr. Achilli, before the voice of his counsel had been heard. The whole case is now before you, subject to his observations and the directions of the judge. All that the bitterest hate, the most unwearied industry, the most unbounded resources, and unlimited means could combine for the destruction of one man—a most formidable adversary—has been accumulated; and it is for you to say whether the whole body of the evidence produced is of such weight as to crush the prosecutor, or whether it will crumble into dust at the touch of impartial investigation!^g

^f Which was his own counsel's fault, who shrunk from going into the case until he had put Dr. Newman to the proof of it, throughout treating it as a question not whether the charges were true, but whether they were proveable, a prudent course for any client, but surely scarcely satisfactory as to innocence.

^g The most fitting comment upon the very scrupulous speech of the *Attorney General*, may be found in a brief extract from a description of the conduct of the prosecuting counsel in the case of Lord Stafford:—"They detailed to the audience all the pernicious doctrines so often and so falsely attributed to the Church of Rome,—as, that faith is not to be kept with heretics, and that actions vicious of their own nature, become virtuous when their object is the benefit of the Church. They spoke of the Jesuits—they called on the lords to display their love of truth, and zeal for the Protestant cause. The condemnation of an innocent man seems not to have alarmed their consciences. They acted as if they thought it their duty to employ all the resources of their ingenuity to procure a conviction, leaving it to the Court to detect the fallacy of their reasoning, to remove the web which they had so artfully woven, and sift out the truth from the chaff under which they had buried it. If injustice were done, the judges and not the advocates were responsible."—*Lingard*, vol. xii. chap. 6, p. 230. (If Sir Frederic relied on this, it was a poor reliance in this case.) In both

Gentlemen, there never has been an instance in an English court of justice, in which a trial has taken place under similar circumstances! My learned friend has told you, that though this is a complaint against Dr. Newman for having published a libel on Dr. Achilli, the charges are those on which Dr. Achilli is accused. Now every court of justice allows to the meanest criminal that privilege which has been studiously taken from Dr. Achilli.^h Remember that my learned friends desired all the witnesses to be removed out of court, and the necessary consequence was, that Dr. Achilli was removed, and was thus prevented from giving instructions for their examination as the case proceeded.ⁱ Gentlemen, I think that as my learned friends have been studying the proceedings of the Inquisition, they have rather followed the Roman form on this occasion! Notwithstanding this, however, I have never known an instance in which a man stood so fearful an ordeal as did Dr. Achilli, in an examination which lasted seven hours. And I ask you whether anything but his consciousness of truth could have enabled him to stand such a trial! ^j

Gentlemen, my learned friend has suggested that this is a subject of religious controversy; he has referred to the flames of religious bigotry as re-enchanted in this country; he has stated that two champions of antagonistic Churches are before you; and he has supposed that I might possibly seek to excite your religious prejudices, and appeal to your religious feelings. But, gentlemen, I shall call upon you to decide from no motives of such a nature!^k I should be perfectly ashamed of myself if I were to endeavour to excite prejudice on such grounds!^l This is not a question of religious controversy!^m If it had been, you would never have been troubled with this inquiry! But Dr. Achilli says: "In the conflict between us, you, Dr. Newman, have chosen to use poisoned arrows;"ⁿ

instances, a monstrous and unscrupulous theory was invented, of a conspiracy between pope, cardinal, and Jesuits.—(p. 231.) In each case there was a pretended plot which in both cases no one can doubt was not in the least believed, but put forth to inflame the passions and prejudices of the vulgar. Has no greater improvement taken place in the morality of the bar?

^h In a case where he is indicted and arraigned for punishment; but who ever heard of such a principle in cases of criminal information for clearing of character. The one is a compulsory proceeding, the other voluntary.

ⁱ Much he must have required this opportunity after about two years' notice of the charges. Besides, he had it after all, for he had the evidence taken *verbatim*, and written out each night.

^j But did he stand it? He stood in the box, it is true; but the question is if he stood it morally, not physically. The writer believes it was the general opinion at the close of his cross-examination, that he had not "stood it," but had, notwithstanding general denials, confirmed every witness against him.

^k Only suggesting that friars and eminent ecclesiastics had conspired to suborn perjury and commit forgery, and that every Catholic must be capable of such crimes.

^l It is a pity he was not ashamed to do so.

^m Not properly, no doubt. But was it not made so?

ⁿ Had Achilli not used them? (See the note on his book.) It was the advocate as well as the client who used them. The poison exists only where there is falsehood. And let the reader judge as to the truthfulness of this speech.

and you have assailed my character : if you can establish the truth of your charges, the law will protect you, but if not, you must be convicted as a malignant libeller!"^o

My learned friend has said, indeed, that Dr. Newman had no personal feeling. Gentlemen, we cannot dive into men's hearts, and discover the secret motives lurking there! We must judge of men by their acts, and if we find, in coarse language,^p serious attacks upon the character of Dr. Achilli, we must presume that there is some motive which actuated him ; and we can attribute it to nothing else but that feeling of hatred which does not require personal knowledge of the individual to be engendered. Dr. Newman has exhibited all the energy and zeal of a proselyte ;^q he, too, turned from the Protestant faith to the Catholic. My learned friend admits that Dr. Achilli, who has embraced the Protestant faith, is a man of great learning and eloquence ; he is a most formidable antagonist of that faith which Dr. Newman has embraced ; and these feelings may well be enkindled, even although Dr. Achilli be unknown to him ; and his hatred may be as strong as if they had come into personal collision.

But, then, my learned friend said that these matters had been made public long ago in the *Dublin Review*, which Dr. Achilli himself has attributed to Cardinal Wiseman, by the Pope's creation, archbishop of Westminster. Very true ; and if Dr. Wiseman could have thrown off his mask, and avowed the article,^r Dr. Achilli would have been quite ready to enter the lists with him at the earliest opportunity. But Dr. Wiseman preserved his *incognito*.

^o Not at all. Such an inference of course would suit Achilli and his counsel, who shrunk from producing him till he had put his answer to the strictest proof. But the question with public opinion will be, not whether the charges were proved, but whether they were true : the verdict does not even show that they were not proved, for it is notorious that it was not a fair trial. Besides, legal proof is one thing, moral evidence another. Again, the man is in no danger of being deemed a malignant libeller who states what he believes to be true. Now, did Sir F. Thesiger really believe the atrocious charges he put forth without the semblance of a reason ? If not, then it is the Attorney General who must defend himself from the charge. Can he do so by the " licence of the bar ? "

^p This was as bad taste as the " ribaldry " of Lord Campbell. Nothing more severe need be said of it, or could be said.

^q It should be mentioned that Sir Frederic has a great power of sarcasm ; he shines in sneering. This is not a usual attribute of a generous mind ; and though no doubt he is in private character honourable, and high spirited, no traces of a truly noble nature will be found in his speeches—no genuine bursts of feeling such as constitute eloquence, and are to be found, for instance, in the speeches of Sir A. Cockburn. Sir Frederic is, as an advocate, audacious, artful, and sarcastic ; and this speech will amply exemplify the description. But no noble forbearance will be discerned in it.

^r This argument was an imposition. Achilli could of course have compelled the publisher to give up the author, under pain of bearing all the consequences himself. Now, is it fair for counsel to impose on juries by such misrepresentations ? And if they do, ought not the judge to correct them ?

It was not until he saw these "Lectures" appear under a name once respected,^s that he felt he had met an adversary who was visible, and ready to come forward in the open course of day, and with whom he could contest. He therefore proceeded against the publishers. Dr. Newman at once fairly came forward; and this was the first opportunity Dr. Achilli obtained of meeting his adversaries in a court of justice.

Gentlemen, you have heard the charges which are now brought forward against him on the plea of justification, extending over the whole history of his life.^t Was there ever a man placed in such a situation? It is admitted that he is virtually on his trial.^u If he were actually so for the purpose of punishment, some specific offence would have been selected and established against him, and no other matters could have been entered into, nor could he have been put to the question; and, under these circumstances, he would have been in a far more favourable position as an accused person than he can possibly be in the present prosecution; for he is now called upon to answer for twenty-six years of his whole life!^v arranged into twenty-three charges. And it is almost impossible, when his counsel is addressing himself to one of these charges, to avoid entering into others. But notwithstanding all these disadvantages, and though your minds have been twice over-impressed by the powerful addresses of my learned friend, I have not the slightest apprehension that, without any prejudice being appealed to,—without your minds being led to anything but a desire to do justice to this most important case,—I shall ultimately satisfy you that there is no ground for supposing that he has succeeded in establishing any one case against Dr. Achilli, and that consequently I am entitled to your verdict.

Now, gentlemen, in the first place, that we may narrow the field of observation, and be better able to direct our minds to that which I admit the most important part of the case, it is right to draw your attention to various charges which have been placed upon this record, but of which there is not the slightest proof.^w

^s Another sneer. For his own sake, it is well for Sir Frederic if he be as truly respected as Dr. Newman is, and ever will be.

^t Was not the burden far greater on Dr. Newman to have to prove them, than on Achilli to have to meet them? especially as the latter would not answer to them until they were put to the proof?

^u Voluntarily, not compulsorily, which makes all the difference. He challenged inquiry first by his book, and next by his prosecution.

^v Not at all. He called on Dr. Newman to enter into all that history.

^w Is that so? Dr. Achilli declined to answer as to any acts but those specifically stated in the plea; and by a strict application of those rules of special pleading which have just been swept away by the Common Law Procedure Act, his counsel forced Dr. Newman to so particular a specification, that it was scarcely possible to procure positive proof to correspond precisely with it; and Achilli only swore to the negative of that strict specification. Of the value of such a species of swearing, the reader can easily satisfy himself by referring to his cross-examination on the Gentili case, where he swore he had not been visiting in the

It is alleged in charge 4 that Dr. Achilli, as early as 1826, was deprived of his faculty to lecture. Now, the only lectureship he obtained at Viterbo was in 1827; yet he is, in 1826, accused of being deprived of his lectureship, for an offence which his superiors wished to conceal! ^x He continued in that lectureship till 1833; and here we have an example of the rashness with which the charges against him have been made. The fifth charge is that, in 1827, Dr. Achilli had already earned the reputation of a scandalous friar. It has been said, "Slander well, and some of it is sure to stick." ^y Yet two monks at Viterbo have been called, and have sworn that Dr. Achilli held a high reputation at the period referred to, ^z and this character has been proved to have been maintained by him for ten years after. ^a It is established that he was employed in offices of trust, as, for example, to confess persons of both sexes; that in 1835 he was sent a visitor to the convent of Neppi; that when at Rome he preached the Lent sermons; that at Naples he was sent for to preach before the duchess of Saxony; and that in 1837 he was appointed prior of the Dominican Convent. Can you believe, with such evidence before you, then, that in 1827 he was a friar of scandalous reputation? Can you think so with the fact that he held various offices down to 1835, when he obtained his letters of secularization, which were not completed until 1839?

It was alleged, in the seventh charge, that Dr. Achilli debauched Rosa di Alessandris, and in September, 1833, was found guilty by the bishop of Viterbo. In the twelfth charge, this is alleged to have been committed in the sacristy of the church of St. Gradi, Viterbo; and in the twentieth charge he is alleged to have given fifty scudi to the father of Rosa di Alessandris, as hush-money. Now, no evidence has been given on this subject for the defendant; but Dr. Achilli has stated that he had a relation, a nun, of that name,—that her father died when he was a child,—that he had never had such an accusation brought against him, and that the whole was untrue. It has been said that the papers of the police-court in Viterbo have

house of a Gentili, when it turned out she was a Gentili, and went by that name, though she had married a gentleman who had left her a widow. Therefore the very acts he would not speak to, may have been the very acts alluded to in the plea, with some trivial or nominal mistakes.

^x Sir A. Cockburn had mentioned a mistake in the date!

^y Probably the reader will think, referring to the note upon Achilli's book, that he rather acted upon that principle; for, as Sir A. Cockburn justly remarked, there is this difference between his charges and Dr. Newman's,—that the former were so vague and general, that they could not be grappled with, and at the same time so sweeping that they involved whole bodies and classes; while the latter were distinct and specific, and pointed at a particular person, who had every possible facility for meeting them.

^z One of them declined to answer any questions as to his previous conduct, even the time of his alleged conversion! and the other was a poor refugee, private secretary to Father Gavazzi.

^a Achilli himself discloses that during the whole time he had been the subject of repeated remonstrances, representations, and reports, and his history is one series of removals.

been burnt during the revolution ; but this was not a police case. ^b Then I come to the eighth charge, in which it is alleged that, in July, 1834, Dr. Achilli debauched another woman, whose name is unknown ; but who, nevertheless, it is said, " was chaste and unmarried." ^c (Laughter.) But the jury have it in evidence that the greater part of that year he was on a tour of visitation, with time and place given, and means of contradiction, which, had proof been attempted, would have been incontrovertible. ^d Then there was the ninth charge, which sets forth that, in 1835, Dr. Achilli had debauched Vincenza Guerra, at Viterbo. Now, in 1835, Dr. Achilli never was in Viterbo, but preached the Lent sermon that year. The patent of his appointment has been produced, dated 21st April, 1835, with a patent to confess persons in Capua ; and he exercised that office in that year. It is said that he was convicted of these things before the Inquisition, whereas the fact is that he was never within many miles of the place. ^e The thirteenth charge is, that in 1841, at Rome, Naples, and Malta, Dr. Achilli spoke against the Eucharist and chastity, and by this corrupted various persons. Now this shows how these charges have been fabricated, for here some persons, who it is said had been debauched in 1831, appear as again led astray by the preaching and teaching of Dr. Achilli in 1841. ^f The twenty-first charge sets forth that, by an official document in the archives of the police-court at Naples, Dr. Achilli was convicted of habitual incontinence. In support of this charge, my learned friends produced a document, procured from the minister of ecclesiastical affairs at Naples. Gentlemen, we have recently had a little revelation as to the character and credit of the Neapolitan police ; and it was necessary, if they proposed to give one of its reports in evidence, to go to the fountain head, or satisfy us that the ecclesiastical department was the proper depository for documents of that description. A Roman Catholic solicitor, of great respectability, who was sent abroad for the purpose, was unable to give any information as to its authenticity, though he

^b How so ? The Principe case came before the police. Then why did he exclude the document, if it could have nothing to do with the charge ?

^c A sorry jest upon the formality of the plea, which the prosecutor's lawyers had stickled for with the utmost strictness.

^d This tells against Achilli, for if he were absent from Viterbo at the time at which the charge is laid, he could have proved the fact.

^e Lent does not commence till about March ; and he might have been back after Easter.

^f A repetition of the wretched jest upon the necessary formalities of the pleadings. The time was not material ; and as to the substance, it was sworn by several witnesses that Achilli had told them " it was no sin." Sir Frederick of course did not mention this. He shrunk from the evidence, and contented himself with sarcasms and sneers.

^g What a monstrous misrepresentation ! He gave full information about it. Where should a report about ecclesiastics be but in the Ecclesiastical Department ? Who ever heard of reports from the police being found at the Department of Police ?

had the means of doing so, as he had resorted to the police authorities ; and so the document was excluded upon an objection I felt it my duty to take. My learned friend said, on one occasion, "What! do you shrink from the truth? Are you afraid of an investigation?"—an observation intended to create prejudice in your minds. I know the case will not be decided on such grounds ; but I have felt it my duty to confine the investigation strictly to the charges which Dr. Achilli came here to meet.^h

These, gentlemen, are the matters upon which no evidence has been adduced, and upon which Dr. Newman must necessarily be found guilty. And now I will proceed, step by step, to the other heads of accusation against Dr. Achilli ; and I shall be able to satisfy you that there is no ground for any of them.

Gentlemen, the first of these charges is, that Dr. Achilli has been an infidel. Now it will hardly be asserted on the other side that any peculiar meaning for the occasion is to be given to this expression. Everybody understands, by the term "infidel," one who denies the inspiration of the Scriptures, and the Divine origin of the Christian religion. Gentlemen, Dr. Achilli has never been an infidel in that sense of the word. It is alleged that he preached against the Eucharist and absolution. If it be meant that, because Dr. Achilli did not believe in transubstantiation or auricular confession, that he is therefore an infidel, I say,—without the least levity, but with a strong feeling,—I hope the number of such infidels will daily increase! Gentlemen, with all the trembling anxiety suited to such sacred subjects, I make only those remarks which are necessary to show that the charge is not substantiated. Dr. Achilli is next charged with being a hypocrite under a cowl ; and you have heard some eloquent passages from his book to support this accusation. I will read another passage from it, in which he says,ⁱ "I already disbelieved in the virtue of the cross ; take away the doctrine of transubstantiation, and the mass is nothing but a lie,—a solemn imposture." Then he goes on : "From this time, in saying mass, I had ceased to believe in what I did. I was like Luther, and many others, who no longer believed in the mass,—who had rejected its doctrines and refuted its errors,—but still continued to celebrate it. * * * Although I myself no longer adored * * * yet there never failed to be some who adored, believing ; and therefore I could not help looking upon myself as the agent of idolatry." And upon this it is said that he was a

^h Exactly so ; he first pins Dr. Newman down to technical strictness of pleading, and then to technical strictness of proof. And this is called "clearing his character!"

ⁱ "While advocating and teaching with great zeal the Romish doctrine." Achilli's own words (which his counsel took care not to read), just before the passage cited. And directly afterwards the unhappy man says, the more he advanced in spiritual light, the more he was averse to the hypocrisy of the priests! They were hypocrites for doing what they believed in ; he is "averse to hypocrisy," doing what he did not believe in!

hypocrite; because for ten years he practised what he believed an imposture, and was the agent of what he considered idolatry. Gentlemen, here you have the description of a strong mind struggling with doubts! You have an example of the course which is followed on all occasions.^j It is difficult for a man to tear himself from his ancient faith.^k There are so many associations intimately interwoven with it, that it is almost impossible for a person all at once to disengage himself from it. A reference is made to Luther,—you all remember how he struggled with himself till his strong mind was bowed down with exhaustion; and it was only by degrees he advanced to the position he afterwards assumed. So with the great Reformers of our own Church. From year to year they progressed to conversion.^l And does anybody believe that because Luther remained in the Church in which he had been born and bred, until his thoughts had ripened into conviction, and the full light of truth poured upon his mind, Luther would properly be characterized as a hypocrite?^m But, gentlemen, who is the person from whom these charges proceed? From Dr. Newman! Was he suddenly converted? Did no doubts intrude into his mind while he was a member of our Protestant Church! Did conviction flash at once upon his soul? Did he lie down at night a satisfied and contented Protestant—disbelieving in transubstantiation, confession, and absolution—and rise up in the morning a full blown Romanist?ⁿ Strange that such an

^j Even Lord Campbell shook his head at this, and evidently was disgusted; yet so resolved was he not to say a single word against Achilli, that in his charge he vents his disgust, not at him, but at the Tractarian clergy!

^k But he had “torn himself from his faith,” being persuaded it was an imposture. The only thing he had not torn himself from was his professorships, and so forth.

^l It will be seen, Sir Frederic argues all along on the Protestant theory, that faith is obtained by reason; but St. Augustine wrote an essay on the “Advantage of believing,” in which he shows that conviction does not necessarily involve it; and a greater than Augustine (though he is quoted in the homilies of the Church of England), teaches, that “faith is the believing of what is not seen; *i. e.*, neither by mind nor sense: in conformity with which the Catholic doctrine is, that faith is infused in baptism, and is only lost by sin, and accordingly the sublime baptismal service commences, “*Quod petis ecclesiæ Dei?*”—to which the answer is “*Fides.*” On this theory, no one baptized and bred in the Catholic faith would ever lose it except through falling into sin. The reader is invited to scrutinize the history of all converts to Protestantism from Luther to Achilli, to satisfy himself on this point.

^m Those who have read even such a life of Luther as Michelet’s, will probably think him rather chargeable with brutality than hypocrisy; and those who have read such a history of the Reformation as Maitland’s, may perhaps think our Reformers chargeable with both. Luther was expelled from the Church before he disbelieved in the mass, but he believed in it long afterwards; and so with the English Reformers; and if they are chargeable with hypocrisy, it was rather in professing to reject doctrines they really believed than in pretending to believe doctrines they rejected.

ⁿ The fallacy is flagrant of comparing the cases. The one was the case of a man who had lost his faith for ten years, the other the case of a man by degrees

argument should proceed from such a course. If this is to be the hypocrisy which is attributed to Dr. Achilli, he shares it in common with the ornaments of our faith, our church, and our religion; and he is contented to suffer the imputation, more especially in consequence of the quarter from which it comes!

Gentlemen, I now come to the case of Elena Valente. My learned friend anticipated that I should offer some observations about Italian witnesses. I think that there has been some intimation of the interest felt in Roman Catholic countries in this inquiry. It is clear that great facilities have been given to persons seeking evidence, and that a Roman Catholic solicitor of great respectability was in communication with a personage high in the Romish Church, whose name he wished to communicate privately to his lordship. Why this mystery in respect of matters to be made the subject of a judicial inquiry? Did Mr. Harting think it was at all wrong in going abroad to procure evidence? Why, then, this anxiety to conceal the name of this individual? Was he afraid that it was coming too near the precincts of the Vatican,^o and that a suspicion might arise that in the highest quarters in the Romish Church so great an interest was taken in this contest? upon which must depend whether Dr. Achilli is to continue a formidable antagonist, or be crushed? Gentlemen, I think it is due to the interests of justice and truth to remind you of this circumstance, and to beg you for yourselves to consider, whether it is capable of any satisfactory explanation, consistently with a desire that only the truth should be arrived at. Again, we have the fact that Elena Valente has been sent over to this country for the glory of God and the honour of holy mother Church. Nor is this all. She next says she concealed the fact for twenty years from all but her confessor; yet her curate, who could have known nothing of the matter,^p is found advising her to come over, for the glory of God, and the good of the Church! Gentlemen, in judging between the witnesses, let me remind you of some circumstances as to their credit. Where do they come from? They are Italians, who return to their native country when their work is done, uninfluenced by public opinion, and likely, even if they have failed in the truth, for the honour of the Church and the glory of God, to obtain from their tender-hearted confessors a very easy absolution.^q Dr. Achilli, on the acquiring conviction. And who says that Dr. Newman remained in the Church of England after he had acquired that conviction?

^o This is the deliberate suggestion of a complicity in conspiracy, perjury, and forgery, on the part of the Holy See. If this be not the meaning of the insinuation, it meant nothing; but the tone, and emphasis, and countenance of the speaker sufficiently showed there was a meaning, and a most malignant meaning.

^p This is a most monstrous perversion of the evidence: the witness stated that Achilli had mentioned it to one of his friends, and that messages went from him to the girl.

^q Sir Frederick found fine scope for his sneering here; and no one can conceive the contemptuous expression of his sarcasm. But he forgot his client.

other hand, is a preacher of the Gospel here,^r is bound to England, as shut out from Roman Catholic countries, and is exposed to all the consequences of perjury. But how do these witnesses come here? Valente and the Principes have been living together; they have compared notes; and now let me refer to a curious coincidence in the evidence which they gave. The offence as to Rosa di Alessandris is charged to have been committed in the sacristy; and as to the girl Principe is said to have occurred on Good Friday. In the plea of justification no allusion is made to the offence as to Valente or Principe, that it took place in the sacristy; but when the two witnesses came here they both said so.^s Gentlemen, this leads me to remark on the course, in my opinion, very unfair, which my learned friend adopted in the cross-examination of Dr. Achilli. Gentlemen, Dr. Achilli came into court to meet the specific charges against him;† he was ready to answer on each charge, but was pressed whether he had not been incontinent with other women. Dr. Achilli availed himself of the privilege of the law; but is a man to be denied the justice which the law allows him because at any^u period of life he may have forgotten those rules of morality which are obligatory on us all? If such a question were put to the wisest and best among us, we should find it very difficult to answer in the affirmative, with truth, and according to conscience. I know of no distinction between persons in holy orders and laymen in this respect; nor between the vow made by a monk or priest, and that which is made for us all at our baptism, and which binds all to chastity. And is Dr. Achilli to be prejudiced because he refused to say if at any time he had broken this obligation? On the contrary, I say that it tends to his credit as a witness. If Dr. Achilli had come determined to deny everything, what prevented his contradicting that he had ever sinned? How could his credit have been impeached, except from our knowledge of human nature, and our knowledge of the operation of that law of celibacy, which prevailed in the Roman Church? I ask you, therefore,

What evidence is there in the case of "tender-hearted confessors," and "easy absolution," except as to him? Other confessors are shown to have given good advice, to abstain from sin and avoid the occasions of it—the notorious condition of absolution—as Sir Frederick can scarcely fail to know. What shadow of evidence, what semblance of pretence was there for this coarse and calumnious imputation, except as to his own client, who, it was sworn repeatedly, said it was no sin, and asked one of the girls to "confess to him!"

^r He himself stated that he had ceased to be so two weeks before the trial, at least where he had been for a year or two. Another of his numerous removals. Surely the whole argument applies rather to him than them. For the last twelve years he has been ambulatory, whereas they have lived in the same place all their lives. And pray are they not punishable for perjury in their own country?

^s Queer reasoning this! that anything not stated by the pleader is not to be believed.

^t Exactly so; in other words, only to put Dr. Newman to technical accuracy of proof on precise specification.

^u The questions were as to every period.

whether the withholding of that denial does not add to the credit of Dr. Achilli's testimony in other respects? Gentlemen, I now turn to the evidence of Elena Valente. How is she confirmed? She gave no dates. [Mr. *Badeley*.—Dates are not material.] My learned friend says dates are not material, and he is technically right but morally wrong! ^v I ask then, again, how is she confirmed? Stress has been laid on a contradiction or equivocation in the evidence of Dr. Achilli, who at first stated that he had not visited at the time in the house of a Gentili, and afterwards admitted that he had then at that time visited a lady whose maiden name was Gentili, but who had been married and was a widow. But Elena Valente said two brothers of the husband (Christopholi) were there; and if ladies in Italy retain their surnames on marriage, the rule does not, I suppose, apply to gentlemen, or they would be Christopholi, and not Gentili. Therefore, the argument falls to the ground. ^w But, observe, twenty years after the events they go to hunt up evidence; they make inquiries; they find the name of a Gentili, and never hear of the other name of Christopholi. Elena Valente, on the other hand, would know nothing of the lady's maiden name of Gentili, but only the married name of Christopholi, and thus it is clear the persons who were at work to procure the evidence, were led into a mistake, in consequence of there once having been a lady named Gentili, who was afterwards a Christopholi, of which they were not aware. Well, gentlemen, twenty years afterwards, this accusation is brought against Dr. Achilli. At that time he was publicly lecturing and preaching, no one breathing anything against his character; ^x and, twenty years afterwards, in the streets of London, there is heard a voice calling him to account for this act, alleged to have been committed so long ago, no person having heard of it in the mean time, except the confessor, who is dead,—not even her mother! ^y—Yes, I am mistaken, there was a remarkable fact stated by the witness, that on one occasion a person came to her and told her that Achilli had mentioned it to him, and she supposed he had told her this for the purpose of inducing her to commit the sin with this person, his friend! and yet Dr. Achilli is supposed to have preserved his reputation in the Church, and passed from one office to another! ^z Gentlemen, Dr. Achilli solemnly denies ever

^v Here is an instance of professional audacity. The reader will think Mr. *Badeley* "morally right," in thinking the substance of a charge alone is in question.

^w Why? The whole of this part of the Attorney General's argument was, and at the trial, and is to me still, perfectly unintelligible.

^x In his book (which is in evidence), he states that the general of the order refused to allow him to remain at Viterbo, and ordered him to renounce his professorship, and repair to Rome,—that there were then "evil" reports against him, and that he was forced to leave Viterbo.

^y A woman seduced, and wishing to continue in sin, would naturally keep it secret, and she says she gave up confession after the second commission.

^z Who supposes that? The evidence shows just the reverse. (See note above.)

having seen her, and it is for you to say whether you believe her statement under these incredible circumstances. Here is the whole case at Viterbo, though five are charged; that of Valente and four others, those of Rosa di Alessandris and Vincenza di Guerra; and two strangers, as to whom no proof is offered.^a

The next witness is Principe, and to her the same remarks apply as to Valente.^b The crime here is charged to have been committed on Good Friday; and though it happened in 1840 this might have enabled Dr. Achilli to fix on the day, and state where he was during the whole of it. But she states it to have occurred in November or December. Again, she states her age to have been about fifteen, and she was twenty-five years old when her daughter was born, but her mother says her own age is fifty-nine, which makes her to have been born in 1793; and so the daughter must have been born in 1818, and therefore twenty-two years old in 1840, and not fifteen.^c There is another circumstance, also, to which I must call your attention: the girl, in her first examination, only spoke of one occasion. My learned friend, the Solicitor General, in his cross-examination, confined himself to that; but on re-examination, the next morning, she stated that it had happened on several occasions; no doubt her memory had been refreshed by sleep!^d What confirmation is there of her story?^e Is it not incredible? These are the two Italian

Valente says, she is forty years old: then she was born in 1812. She says this happened when she was eighteen years of age: then it would be about 1830. Now, in 1833 he states in his book (which is evidence), that he was forced to leave Viterbo; and that there were "evil reports" against him. And from that time forward, if he passed from one office to another, he passed from one place to another. In 1835 he got leave to secularize, and in 1839 he left the order. In 1840 the affair of Principe is stated to have occurred, and in 1841 he is perpetually deprived of the priesthood.

^a This is not true. The judgment states his confession of crime, with many women at Viterbo, and he on oath did not deny it. Now, what do names matter in a proceeding to clear character? The reader will remark the monstrous and repeated misrepresentations of the evidence by the Attorney General.

^b Namely, that she is not to be believed,—first, because an Italian; secondly, because she is a Catholic; thirdly, because Achilli contradicts her.

^c An old woman of sixty years of age, examined in a foreign country, through an interpreter, makes, or is imagined to have made, in the hands of the most crafty and subtle cross-examiner of the day, a slip in recollection as to her exact age at the time of her marriage, a quarter of a century ago; therefore she has committed perjury! And after all there is not even a slip. The poor woman said she could not recollect well how old she was at her marriage; and her error is the substratum of the argument—more ingenious than ingenious.

^d Why, the girl was only asked on the first occasion, on her first examination. What would have been said of her if she had volunteered half-a-dozen others?

^e 1. The evidence of her mother. 2. The fact that they were before the police about it. 3. The fact that Achilli appears never to have claimed to be confronted with her at that time. 4. The fact that they were not punished for making a false charge. 5. The fact (shown in Achilli's evidence) that he soon after found it convenient to leave Naples, and is immediately after that imprisoned. 6. The judgment of the Inquisition in 1842, reciting this very offence. The reader will remark how Achilli's counsel shrank from the greatest portion of the evidence.

cases; and I submit, gentlemen, that these two cases are disposed of!

Proceeding to Corfu, I now come to charge 14, in which it is asserted that Dr. Achilli committed adultery with the wives of Garamoni and Coriboni. Now anything short of the entire proof of these charges is entire failure of evidence, and I contend that that has been the case. No witnesses are brought by Dr. Achilli from Italy, for obvious reasons, but there are some from Corfu. Garamoni was brought over by the defendant, but afterwards Captain Lawrence came over; he was well known to Garamoni, and Garamoni was well known to Captain Lawrence; and as soon as the latter arrived in this country the former left, and could not he prevailed on to return. (Laughter.)^f Coriboni and his wife have left the island, and could not be traced.

In the case of Garamoni the defendant called two witnesses, Patrini and Russo; but the value of their evidence may be tested by these two facts, that Russo had not seen Dr. Achilli before the night in question, and Patrini only knew him by his "stature"! Then there is the documentary evidence as to the proceedings before the court, which were, however, compromised. What does the evidence in this case amount to? That Dr. Achilli is passing, and the wife calls him to ask him a question! On such evidence you are asked to convict Dr. Achilli of adultery with her! Gentlemen, I am sure you will not find him guilty on such slender grounds!

Next as to the case of the wife of Coriboni. It is said she was a chorus singer, and a person of bad repute, and that Dr. Achilli ought to have known it, as all Corfu did, and then it is imputed to him that he could only have engaged them from a bad motive. Yet it appears that Dr. Achilli lived in repute, and, as he says, he would have lost his character if this were known.^g The charge rests chiefly on the testimony of Mr. Reynolds, who has been connected with the getting up of the defence. It is for you to say whether you believe his statements as to the conduct of Dr. Achilli, which, if they be true, must have shown unblushing effrontery in acting thus at an open window?^h You will recollect that the house of Dr. Achilli was higher than Mr. Reynolds', and the distance was not above twenty feet between the two windows; and further, the room in which all this is alleged to have so openly occurred was the room in which Coriboni's wife was at her work, and where her husband would naturally come if he wanted to see her. There is another circumstance also: the young woman stated that her jealousy blinds were down to keep the sun out—and the sun would strike from

^f Let the reader refer to Garamoni's affidavit (*ante*, Introduction), and he will appreciate the policy of the prosecution, and the candour of the advocate.

^g He did not remain long at Corfu; and he states in his own book (which is part of the evidence against him), that he was in such "repute," that the very populace followed him about the streets.

^h From which, however, Achilli swore he believed he could not be seen.

above—so that the jealousies would be so pulled that no one could look through them upwards,—which they must have done to see what was passing in the room in Dr. Achilli's house.ⁱ I do not impute perjury to that young woman, but she may have seen the familiarities, and Mr. Reynolds may have told her it was Dr. Achilli.^j With reference to the testimony of Mr. Reynolds, Dr. Achilli stated distinctly that it was only after he had remonstrated with him for drunkenness that Mr. Reynolds remonstrated, and then not about these familiarities, nor about the Coribonis officiating in the chapel. Mr. Reynolds says this caused scandal; if so, should any of the congregation have been ignorant of the fact, and should we not have had some of them here? Dr. Achilli states distinctly that he never walked out with her, and if this were untrue he could be contradicted by some of the persons who must have seen him. At the same time he admits that when he met her near the house he may have walked home with her. If he had been seen walking with her, however (he added), his congregation would have left him, yet he states that the congregation had increased when he left the place.^k And then, gentlemen, he went to the Protestant college of Malta: and I ask you, if he had been living in so profligate and scandalous a manner at Zante and Corfu, the infamy of it would not have travelled to Malta?^l And if it were known in Malta, would the committee of the Protestant college have engaged him?^m Surely this alone is an answer to all that Mr. Reynolds states with respect to what occurred at Zante or Corfu.

Well, gentlemen, Dr. Achilli is now come to Malta, professor of the Protestant college; and the plea of justification asserts that he was dismissed, not only for hindering an investigation concerning charges of immorality against others, but also on account of being implicated in these charges, and on account of the former offences charged against himself. Now, as respects the immorality charged against Leonini and Saccares, Dr. Achilli says he was in London at the time; and a conversation with Dr. Bonavia is relied upon, in which Dr. Achilli is represented to have said that the witness was

ⁱ And could not the jealousies be turned upwards? This argument, ingenious but frivolous, shows how hard pressed Achilli's counsel were for topics to speak upon.

^j And would not this be perjury? To swear positively she saw a person whom she did not see? Would seeing some man be seeing Achilli? The absurdity of the argument shows how hard up the Attorney General was for some way of getting rid of her evidence, and how he shrunk from imputing perjury to her.

^k Contradicted by two respectable witnesses, one saying the matter made a great stir, and the other that the congregation declined.

^l It would take some little time to follow him there; but when he is there, it is in evidence (in his book), that the papers exhorted the people to pelt him with offensive missiles, and that he was stigmatized as an impostor and a hypocrite.

^m They of course did not know it at the time they engaged him; but did they at the time they dismissed him? And how long was that afterwards? A few months. What was it for? In his own affidavit (Introduction, *ante*) he discloses that they had heard unpleasant stories of his past life.

too scrupulous about such things, and would do worse if he were a bachelor; but Dr. Achilli said he did not believe the charges; and is it because in an angry conversation he says such words he is to be presumed guilty of them himself? And in common justice, the authorities of the college must be presumed to have given the true reasons of his dismissal in their minutes and resolutions on the subject.

Lord CAMPBELL.—It was on your objection I held that they could not be asked as to reasons not mentioned in those resolutions, or communicated to Dr. Achilli, but I now think that they might be asked that question, and I beg that Lord Shaftesbury may be sent for.

The Earl of Shaftesbury recalled and re-examined by Sir *A. Cockburn*.—What were the reasons for which Dr. Achilli was dismissed from the college at Malta? Lord CAMPBELL.—Were they ever discussed by the committee? Yes. Were they discussed? Yes. And communicated to Dr. Achilli? Oh yes. By letter? Yes. The *Attorney General*.—Have you the letter? Not with me; all the documents were in Court yesterday. Sir *A. Cockburn*.—They shall be sent for. The *Attorney General*.—I must have the letter, my lord. Sir *A. Cockburn*.—I will ask this question, then,—what were the matters discussed before the committee as the grounds of his dismissal? Certain charges were made against certain priests, and we charged Dr. Achilli to make an investigation. Lord CAMPBELL.—We have had all this before. Lord Shaftesbury.—My lord, I am not conversant with courts of justice, and can only answer the questions which are put to me; and if I am to be interrupted every moment I do not know how I can give evidence at all. This inquiry being pending, we received information that the principal witness, Saccares, is removed; and that the bishop of Gibraltar, as visitor of the college, declined to go on with the investigation. Lord CAMPBELL.—What we desire is, the other reasons, besides those reduced in writing, and communicated to Dr. Achilli. Sir *A. Cockburn*.—Were there any other reasons besides the fact of Dr. Achilli having sent away Saccares? Am I to be confined to facts or opinions? Lord CAMPBELL.—To facts. Sir *A. Cockburn*.—Whatever was discussed before the committee, and which in the general opinion of the committee operated to induce his dismissal. The *Attorney General*.—I cannot acquiesce in that. Lord CAMPBELL.—There is an allegation in the plea that there were other reasons which the committee could not get themselves to describe; other reasons besides those expressed in the resolutions. That is the question before us. Lord Shaftesbury.—The reasons that governed the committee were these. We felt that if the whole matter were to become public, so great a scandal would be brought upon the college, that we felt that for the sake of the institution itself,—for the sake of morality, and for the credit of the Protestant religion,—there was nothing left for us but to break up the concern, get rid of the whole transaction, and wash our hands of so foul a business. Sir *A. Cockburn*.—Were these specific charges brought under the consideration of the committee? I am speaking of general reasons, not of charges officially made before the committee.

The *Attorney General* continued his reply.—Gentlemen, I am glad this additional evidence has been given, for so far from esta-

blishing the truth of the plea, it has utterly failed, and the matter is set at rest, I hope, for ever.ⁿ

Gentlemen, I now pass to the sixteenth charge, respecting the English girls. Four servants in succession are mentioned (as well as another person of whom we have had no evidence), and in no one instance was any complaint made to Dr. Achilli or his wife! Upon this subject, I would observe, that the legislature have of late years taken into consideration the facility with which cases could be brought forward, and passed an Act requiring corroborative proof in support of the statement of the woman in cases of attempted affiliation. This, I think, is entitled to your serious consideration, in weighing the credit to be given to these witnesses. One of them admits she was accused by Mrs. Achilli of being dirty, which is a serious thing, you know, with a servant. In the case of Jane Legge, though expenses had been incurred, no application appears to have been made to Dr. Achilli on account of it; and if he were implicated, why should her sister, Mrs. Logan, be so angry at the idea of being summoned to give evidence against him? You need not be reminded of the character of Jane Legge, and the same remark applies to Sarah Wood. This witness says Dr. Achilli gave her a religious book. Why was it not produced?^o It would have been at least a confirmation to her story.^p Then, as to the case of Catherine Gorman, no indecency is alleged; and if it had occurred, is it likely that if she had made charge against him he would have continued at the lodging-house? It is clear on what principle these charges have been got up. "Get the servants of every house he has been in! If Catholics, all the better!"^q Such are the sort of cases brought forward against Dr. Achilli. Gentlemen, you have seen Mrs. Achilli; and after seeing her, and looking on these girls, for instance, Sarah Wood, I ask you, in your own judgment and experience of mankind, whether the mere comparison does not discredit their stories!

And, now, gentlemen, we come to the extraordinary document

ⁿ A fine specimen of forensic audacity of assertion. The earl had just stated that which distinctly proved the plea, viz., that there were matters the disclosing of which would cause such scandal, that in order to avoid it, they not only dismissed Achilli but destroyed the whole concern.

^o Suppose Achilli had sworn he never saw it?

^p How so? Even supposing him to have admitted it, what would the gift of such a book show? It was otherwise with the girl Principe, for he swore he never saw her; and the paper she produced had his writing on it; and he admitted he entered names of the members in the book sometimes. There the thing formed a link in a chain of evidence, to which Achilli's counsel took care not to advert. It cannot fail to be observed how the Attorney General avoided the most material points, and dwelt diffusely on the most frivolous.

^q This infamous insinuation, that Catholics are to be assumed to be capable of perjury, only deprived of its effect, not of its atrocity, by the fact that Sir Frederic imputed perjury to every one who swore against his client. Charges so reckless and unscrupulous are of course contemptible, and recoil on the person capable of making them.

from the Holy Inquisition.^r You will observe that the defendant relies on that document for proof of several of his charges, of which there has been no oral evidence, but which, he says, proved upon the confession to be found in this document. I quite agree in the propriety of the course his lordship has adopted of admitting this document, as he expressed it, *valeat quantum*. His lordship held that as there was an allegation in the plea, that Dr. Achilli was found guilty by the Court of Inquisition, and certain punishment awarded, in support of that allegation, the document professing to come from the Court of Inquisition, was evidence to show that there was such a judgment; but, observe, not evidence to establish any of the facts contained in the judgment.^s And here I must call your attention to the terms of this extraordinary document. It is the first time that a judgment of the Court of Inquisition has been produced in evidence in an English court of justice, and I hope it will be the last! I think probably it will be, after the fate which awaits this judgment, now before us.^t You will see that in 1851 Mr. Harting went to Rome, and there is put in communication with certain authorities there. Now mark, there could be no harm in getting a judgment of the Court of Inquisition. There is nothing discreditable in it; but, somehow or other, Mr. Harting was unwilling publicly to announce the name of the individual who exerted himself to get a copy of the judgment; and now it turned out that it was Monsignore Talbot, private secretary of the pope.^u And I suppose he thought the interference of Monsignore Talbot was a matter which would not bear the light, that it was something which would turn to the prejudice of the defendant's case—or otherwise he would at once have communicated, without any hesitation, the name of the individual.^v He goes, through the instrumentality of Monsignore Talbot, to the office of the Inquisition, where he obtains the document. How does he obtain it? Let us see how these matters are “authenticated,” and the credit we may attach to their “authentication.”^w And observe, so secret are their proceedings, that even a gentleman who is now a bishop of the Church, going to the office for papers, was not allowed to enter, but was kept at the door—the clerk, or notary, or other official person, coming out to deliver to him the papers.^x There has been, therefore, no examina-

^r The Attorney General reserved this, as a *bonne bouche* for the jury, to the last, and gave it them just after exciting their disgust about poor Sarah Wood. There was certainly consummate art in his address.

^s Did it not prove the whole of the judgment? If so, the confession it recited was proved too, for it was part of the judgment.—See Notes to the judgment.

^t In an ordinary case a counsel would not dare so to assume the decision of the jury. This is one of the many symptoms of the “foregone conclusion.”

^u What evidence was there of that? And if it were so, what shadow of reason would it give for so foul an insinuation as follows?

^v This is truly ridiculous. There may be private reasons for not mentioning names, and Achilli himself had declined to do so.

^w Sir Frederic found full scope for his sneering here.

^x To prevent scandal transpiring from disclosure of any of the charges.

tion of the copy with the original,^y and no opportunity of investigation as to whether any original exists at all.^z We are left entirely to uncertainty or conjecture. The notary, I suppose, delivered out to Mr. Harting the paper in question; and whether that paper be the representative of any other which previously existed, or whether it were then created for the first time,^a we are wholly unable to suggest.^b Now you will remember that Dr. Achilli says, though he may possibly have thrown himself upon the mercy of the Court, he never was charged with the offences set forth in the judgment, but the accusation was confined to heresy; whereas this document states, that he having been examined by judicial functionaries, confessed himself guilty of immorality. You will observe that this document was obtained in September, 1851, and the pleas were filed in February this year; so that first this document is procured, in which this is inserted, which is to be used as the confession of Dr. Achilli; then in this document are found the different charges contained in the pleas; and then, lastly, the proof of the pleas is referred back to the judgment!^c And observe, the judgment states that he is "to be imprisoned in one of the houses of his order," though, in 1839, he had completed his secularization, and was a monk of no order at all. That, no doubt, is not conclusive, but it surely is a circumstance worthy of consideration in connection with the other facts which are stated in the judgment, and with the reliance which we can place upon those facts. His lordship has said that this document is not evidence of the facts it sets forth, and rather intimated that if he had more narrowly examined it, he might not have admitted it at all.

LORD CAMPBELL.—I said it was evidenced that a sentence was pronounced, not of the facts it recited, and which are simply stated by the notary as the result of his examination.^d I think I must take it as evidence of such a sentence having been pronounced!

The *Attorney General*.—Gentlemen, considering the course which

^y The authentication or exemplification of a copy by a court is of more force than that of any private person.—See *Gilbert on Evidence*, cited *ante* (Notes on judgment).

^z If there were forgery, what could be the value of any examination by the witness?

^a Is not the suggestion of forgery, as it is without the semblance of a reason, unscrupulous? and was it not utterly unjustifiable in law?—See Notes on judgment, *ante*.

^b Then why suggest so shocking an insinuation?

^c If this do not imply that there was a conspiracy, forgery, and perjury, it was nonsense; and any one who heard Sir Frederic, could not question the meaning he wished to convey to the jury.

^d For this monstrous misrepresentation, there not only is not the slightest pretence, but it is utterly in opposition to the whole tenor of the document, which speaks of their eminences' examination, not of the notary. The officer only certifies that their eminences had considered and adjudged; and the Secretary of State certifies that there is such a court with such a jurisdiction, and with such an officer, and with such a seal.

Dr. Achilli had pursued up to 1841, in gradually breaking off from the Roman Catholic Church, I don't think I am interested in contending that the Holy Inquisition did not pronounce this sentence against him.^e But, as to the other matters the document sets forth, I maintain that it is a scandalous fabrication!^f and that there is not a pretence for any of these charges, of which this is to be made the foundation.

Gentlemen, with confidence I say, that on all the other matters Dr. Achilli is absolved and acquitted; and he now stands before you, ready to receive your verdict, anticipating, with entire confidence, that the verdict will be one which will clear his character, and vindicate him from the foul slanders which Dr. Newman has thought proper to promulgate against him, and pronounce a condemnation upon Dr. Newman, upon which he may be answerable to the law.

Gentlemen, I have now gone through,—with anxiety, with the deepest interest, and with a consciousness of my own inability to do justice to the case,—the various matters in this case, but with a firm confidence in your deliberate judgment, which, I trust, will be found justified by the result of the case. I appeal to you, whether I have, in any way, endeavoured to excite any prejudice;^g whether I have not endeavoured to detach this anxious and painful inquiry from all those religious considerations^h in which it has been said to be involved.

Gentlemen, I have represented to you the cause of a man, who, under unprecedented and unparalleled difficulties, has, I may say, been called before you (because it was impossible for him not to challenge his accuser to substantiate the truth of his statements in a court of justice) to answer for a considerable period of his life, on charges of a most serious description, and which necessarily, from their nature, are complicated with one another. I have endeavoured to disentangle them from the complexity in which they are involved. I have been anxious that your duty should be discharged in the way my lord desires, by a specific application of your minds to each distinct particular charge in succession. And, notwithstanding the formidable character of my task, I trust that, at all events, I have

^e Here for once the Attorney General forgot. He forgot his client had sworn that he never was sentenced to deprivation at all. See his affidavit and his evidence!

^f There can be no doubt, now, as to the Attorney General's intention to make these shocking and unscrupulous suggestions of criminality in some of the most venerable and virtuous men in Europe, whom even Lord Campbell was compelled to say were men of "learning and piety." Did the Attorney General believe what he suggested? If not, is this the morality of the English bar, of which he is *ex officio* the leader?

^g The audacity of this is almost amusing, just after imputing a conspiracy to suborn perjury to the heads of the Catholic Church, and after insinuating that Catholics were by reason of their religion peculiarly addicted to perjury.

^h See his previous references to "auricular confession" and "transubstantiation."

performed my duty fairly; that I have not confused any statements which have been made on the part of the witnesses, or misrepresented any single fact which has been proved in evidence before you. I am sure, the more this case is sifted the better will it be for Dr. Achilli; the more light that can be thrown upon it, the more the truth will appear; and I am desirous that no part of it should escape from your most minute and careful examination. It is a perilous issue which awaits him, and I rejoice, with confidence, in the force of truth, in the circumstances by which he is enabled to show it, and I trust this case to your impartial determination.

THE LORD CHIEF JUSTICE.—Gentlemen of the jury, I am sure you will devote your earnest attention to this case, and consider it with the utmost impartiality. Gentlemen, some apprehension has been expressed that you might be biassed by difference of religion. Of that I sincerely believe there is not the remotest chance!ⁱ even if you were all Protestants. Even had the credit of the Protestant religion been at stake, I am sure you would give a verdict founded upon the evidence before you. But I cannot see how it can be said that in this case the credit of the Protestant religion is at all involved. The character of Dr. Achilli is at stake in the deepest manner; but the charges which are imputed to him took place when he was still of the Roman Catholic religion,^j and I cannot see how it could affect the Protestant faith that there should have been a Roman Catholic priest, who pretended to come over to the Protestant persuasion, and who deserves no credit for his professions. Then, as to Dr. Newman, there is no danger of his being looked upon by you unfavourably, though he has left the Protestant religion, and is now of the Church of Rome. Gentlemen, no doubt he has acted from the purest motives, and I give him credit for the course he has adopted. What I dislike to see is, clergymen (if there be any such) remaining in the Protestant Church, who, while they are Roman Catholics in heart, and wish to be so in their practice, remain in the Protestant Church;^k but when a man of piety, honour, and education^l (like Dr. Newman), feels that he does not belong to the Church of England, and resigns his position in that

ⁱ The first thing the judge does is to try and destroy all the effect of the powerful appeal made to them by the defendant's counsel, to discard prejudice, by assuring them that there was not the least danger of any prejudice. Acting on that assurance, they would of course make no effort to discard it, nor feel the least distrust of their predispositions.

^j The jury would not be so blind as not to see that Achilli had been rather a Protestant ever since 1829, at least; and he says so in substance himself.

^k No allusion to the admission of Achilli, that he had for so many years retained the emoluments of a Church he believed an imposture. Yet did not this go to his credit?

^l The jury had read Lord Campbell's insinuations of the possibility of a conspiracy to suborn perjury. The next sentence actually assumes the whole question not only of Dr. Newman's legal but moral guilt.

Church, and all the advantages arising from it, there is no reason to cast any imputation upon him.

Gentlemen, I, however, must say that Dr. Newman, in attacking Dr. Achilli as he has done, has acted rashly and recklessly, even though he might well believe in the truth of what he said.^m He has asserted a number of things of which he could have no personal knowledge, and as to which he might be mistaken. At this juncture, I must do him the justice to say, that when an application was made for this rule, he acted with perfect propriety, and at once stepped forward.

This being a criminal information, filed by the authority of this Court, I may explain, all that the Court says by permitting it to issue is, that there are reasonable grounds for bringing the case before a jury.

Gentlemen, as to the libel, there seems to be no doubt that the statements made by Dr. Newman affecting Dr. Achilli amount to a libel, for it contains imputations on the character of Dr. Achilli; and there is nothing in the occasion of making these charges which would exempt Dr. Newman from the responsibility which ordinarily attaches to any one who makes such charges.ⁿ

Gentlemen, two pleas have been placed upon record,—the first is “Not guilty;” and there can be no doubt that your verdict upon that plea must be for the prosecutor, because Dr. Newman admits the publication; and it will be for you to say whether this is a libel, *i. e.*, containing criminatory charges against the prosecutor.

Formerly that would have been the only question to determine; but now the law is altered; and those who were charged with libel have an opportunity of alleging in justification that they have stated the truth, and were actuated by laudable motives. I am happy to believe that this is a great improvement in our jurisprudence, for it has taken away the reproach embodied in the saying, “The greater the truth the greater the libel.” Now if the truth be established there can be no blame, but rather commendation for speaking the truth.

There is, therefore, a plea of justification on the record; and it will be for you to say, on the evidence before you, whether the various imputations justified in the second plea by Dr. Newman have been established. As to some of those imputations, hardly any

^m Was not this a rash and reckless assertion in a judge, who had it in evidence that a year and a half before Dr. Newman published his lecture, Cardinal Wiseman (as Achilli knew) had published a circumstantial statement of every one of the charges (citing official documents), and that this had not been legally answered; and who, moreover, had heard witnesses depose to some of the charges as having come before public courts: and had in evidence a judgment of the Inquisition, reciting Achilli's confession, which also is referred to by the Cardinal, and had doubtless been seen by him, and probably by Dr. Newman? Was it not *unjust*, after such evidence, for the judge to tell the jury the defendant had no fair foundation for making his charges? Must not this have biassed the jury?

ⁿ *Sed quære*.—See the Introduction.

proof has been adduced, while upon others most serious evidence has been offered; and it will be for you to say whether you believe that evidence, and whether you consider the allegations established. You will be furnished with a copy of the twenty-three charges; and I shall ask you whether all or any, and if any, which of them, be in your opinion proved.

Gentlemen, you can hardly recollect all the evidence which has been adduced in support of some of the most material of these charges; and I should not be satisfied to leave you to come to a conclusion without reading over to you the whole of the evidence, with a few observations which may suggest themselves to me, merely for your assistance, advising you to form your own opinion, and not in the slightest degree to be influenced by anything I say, except so far as you may concur in them. I think that, after the eloquent speeches we have heard, and which have done the highest credit to the English bar,^o you cannot come to a calm and satisfactory conclusion without hearing the evidence again.

Now there is no direct evidence respecting the five first charges,^p as to his being deprived of his faculty to lecture, &c.; and the evidence begins with the sixth charge, relating to Elena Valente. If you believe her evidence, that charge is substantiated. But, at the same time, there are improbabilities in her story,^q and, so far as I observe, it is unconfirmed.^r If you believe her, however,^s her evidence is sufficient. (Here the learned judge read his notes of her evidence; and when he read the sentence, "I saw the curate," he observed)—You must not be swayed by these peculiarities in a Catholic country; she might very innocently see her curate before she came. (After reading the answer as to not telling any one, he observed)—This is a remarkable thing! She made no complaint to her parents!^t (After concluding the evidence, laying emphatic stress on the words "The curate told me it was for the glory of God and the honour of mother Church," he said, shaking his head most incredulously)—Gentlemen, these are extraordinary circumstances! but you must decide! The next witness called does

^o Including the Attorney General's unscrupulous imputations, of course.

^p Let the reader refer to the evidence, and judge how far this is so.

^q What were they? The learned judge could point out none. He shook his head, however, so solemnly and gravely, that he implied the most utter unworthiness of credit. It is not only what he said, though that, it is conceived, was enough to destroy any chance of a fair trial, even with a fair jury, but the way in which he said it.

^r She was confirmed by Achilli himself in his cross-examination, to which Lord Campbell does not refer.

^s Another shake of the head.

^t Did Lord Campbell ever hear of a girl seduced complaining to her parents? Would anything but a sense of religious obligation, and the belief in the sacrament of penance, ever induce her to reveal her shame to any one? Would not her parents be precisely the last persons she would wish to know of it?

not confirm her, nor do I find any confirmation of her evidence!^u

The next witness is the Rev. Mr. Giotti, who says (reading his evidence), "I saw Rosa di Alessandris, and told her to come, but she would not." Gentlemen, this deserves consideration! No doubt the means were afforded her to come.^v

This, then, is all the evidence relating to Elena Valente, and there is nothing in corroboration of her own evidence!^w

Then we come to the next witness, and to the most serious case of all, that of Maria Principe, which deserves your most careful consideration. It is clear that this is no recent invention,^x for many years ago this charge was brought against Dr. Achilli. It may have been unfounded, but it is not a new invention. So far as Elena Valente is concerned, there is nothing to show that it might not now be brought against him for the first time; but as to Maria Principe, it is clear that complaints were made soon after the time at which the outrage is supposed to have been committed.^y She says (reading her evidence), if you believe the mother, the complaint was made to her by the daughter, and that immediately Dr Achilli was charged with having seduced the girl. It is true he denies it, but the charge he admits was brought against him immediately. This is certainly evidence for your consideration, as supporting the statements of the girl.^z Dr. Achilli says, he never applied to the police, but his friends did, and it is evident there had been some scandal about it.^a

^u Here again wholly omitting to call attention to the cross-examination of Achilli, who, after swearing he never saw her, and never was at the house of a Madame Gentili, where she said she was at the time, confessed he had been at the house, and at the very time.

^v It is hardly credible that Lord Campbell should have forgotten the fact, stated that she was ill, and in the family-way, and could not come. Yet his manner implied that she would not come because she could not prove the charge respecting herself.

^w See the previous note as to this most monstrous mis-statement.

^x Implying that others were, or might be. Is that a usual course for a judge, without the least evidence, to assume and suggest that sworn evidence may be false?

^y And Achilli left Naples just after the time the girl was delivered!

^z This is the fairest, the only fair portion of the charge, so far as the evidence is concerned; and it serves as a contrast to show the unfairness of the rest. Why did not Lord Campbell at least allude to Achilli's cross-examination as to Valente, as he did with respect to Principe. In this case, however, it is only an allusion, and a very indistinct one. He does not notice the paper the girl produced. The circumstance that he used to make entries in the books about the members of the confraternity, the extraordinary fact that he swore that he never asked to see the girl who made such a charge, and other confirmations. He could call the evidence of Valente—simple, straightforward, and natural—"extraordinary," and shake his head at it; but did not say "extraordinary!" and shake his head at the marvellous assertions of Achilli.

^a Here he omits to mention Achilli's departure from Naples just after—one of the most pregnant and important facts of the trial; and on which the whole case as to the judgment of the Inquisition very much turns.

Gentlemen, we now come to the Corfu case; and here I think the evidence is not at all satisfactory.^b (He read the evidence as to the Garamonis.) I think the evidence, to show the adultery, is not at all satisfactory! Then there is the case of the Coribonis. (He read the evidence, remarking on that of Mr. Reynolds.) Gentlemen, this is a very extraordinary story! He reports that Dr. Achilli was living in adultery with this woman; and that still in the day time he could see them toying in this familiar manner! It is for you to consider the probability of this!^c It is extraordinary that Dr. Achilli should have committed these indecencies at an open window!^d It must be observed that Mr. Reynolds certainly has been active in getting up the case;^e and the letter he wrote to Lieutenant Stoney is worthy of being attended to, where he says, "they are disposed to be very liberal!"^f You saw the way in which Mr. Reynolds gave his evidence, and it is for you to say what credit you attach to it.^g

Gentlemen, we now come to the charge as to Malta, which is, in substance, that Dr. Achilli sent away Saccares to prevent inquiry respecting his misconduct and immorality. No doubt he sent him away; it is for you to say whether it was from improper motives. (His lordship read the evidence.) Gentlemen, I do not think that the evidence makes out the charge that Dr. Achilli was dismissed on the ground of immorality, or complicity in immorality. With respect to the conversation spoken of by Dr. Bonavia, no doubt it is very discreditably to Dr. Achilli if it ever occurred; but the witness never mentioned it to any one before he came over on this case.^h

^b Here is a downright destruction of a whole case, supported by the concurrent testimony of three witnesses, supported by documentary evidence, and confirmed not only by the prosecutor, but by the inconsistency between his statements and those of the wife, who was his witness!

^c This seems somewhat of an extraordinary argument!

^d How is it Lord Campbell omitted to mention that Achilli swore to his belief that he could not be seen from that window!

^e An utter assumption—nay, a perfect perversion of the evidence! Mr. Reynolds had simply seen the case in the newspapers, as an honest man communicated what he knew, and wrote to Stoney to tell what he knew; took some subpoenas in his pocket to a witness who lived near his destination; and one morning, as he spoke Italian, came down with the Italian witnesses! These are good grounds for a judge to discredit a gentleman of twenty-five years' standing in a government office, whose evidence was confirmed by a young lady of unimpeachable character, and indirectly confirmed by other evidence.

^f It will scarcely be credited, but is the fact, that Lord Campbell, while adopting thus the dark suggestions of Achilli's counsel, as to bribing of evidence, said not a syllable as to the explanation, and the disclosure that Stoney had refused to come unless his full expenses were paid, which any witness has a right to require! This part of the charge is especially submitted to the consideration of all who care for justice.

^g Scroggs did not bully any witness more than Lord Campbell did Mr. Reynolds, nor discredit any more recklessly than he did Dr. Bonavia.

^h Why should he?—See note to his evidence.

Gentlemen, as to the evidence of Harris, and the other female servants, if you believe it, it shows great immorality; it is for you to say whether you believe it. (He read the evidence.) As to Sarah Wood, it is remarkable she should have concealed it so long, and disclosed it to no one! still, it may be true.

Gentlemen, I need not read the evidence of Mr. Harting, which I thought made the judgment of the Court of Inquisition admissible, as it was only for my information. Dr. Grant's evidence, also, is immaterial, except as to the Court having jurisdiction over serious moral offences. He is a most respectable witness, and says it has such jurisdiction. The judgment comes in the name of the notary.ⁱ We generally have the proceedings of the judges to speak for themselves. Here you have the notary of the Inquisition, who says he has inspected certain documents; and then he gives us his own result from his examination, so that the early part of it is rather in the nature of a deposition or examination, than of a judgment.^j But then afterwards come words which distinctly amount to a decree of the Court, because it is contained in these words: "Their eminences the Inquisitors-General decreed," &c.^k Now, gentlemen, I think that is not only admissible evidence, but very strong evidence, to prove that such a sentence was pronounced. Because, the Court of Inquisition, no doubt, is a regular tribunal in the Roman States, and is presided over by men of learning and piety. They knew that this document was to be used in a court of justice in England; and I cannot suppose for a moment that they would wish to impose upon us.^l It is a supposition that we cannot entertain. We cannot come to the conclusion that there has been such a fabrication.^m That such a judgment was pronounced, I, for one, have no doubt. But, then, for what cause it was pronounced is a different thing. We should rather suppose it was heresy! Dr. Achilli says it was, and that no charge of immorality was brought up against him. It is for you to say whether, looking at the whole document, you believe it was heresy or immorality. It purports to recite a confession of Dr. Achilli; but that he denies.

ⁱ They are always in this, and in every other country, certified by an officer. Judges never draw up judgments, still less take copies.

^j It states that depositions had been taken, and that Achilli had been examined by the established authorities.

^k This really is a flagrant misrepresentation. The document runs thus:—"After having weighed and considered, &c., and accepted the confession of the accused (so recited), their reverences decree." It is all one sentence, which Lord Campbell cut in two! It is as though it had been written, "Their eminences having weighed and considered, &c., and accepted the confession set forth, decree," &c.

^l Then why did Lord Campbell permit the jury to believe that the reasons which these eminent men certified in their judgment (one of them setting his seal to the copy), were not the reasons of the judgment?

^m But he leaves them at liberty to assume the material part of it to have been fabricated!

Mr. *Badeley*.—I beg to call your lordship's attention to this, that the nineteenth charge does not allege for what cause the judgment was pronounced, but only that he was by the court suspended and disabled.

Lord CAMPBELL.—As I have already observed, I think that allegation is sustained by the judgment produced. Gentlemen, I now come to the examination of Dr. Achilli; and I will repeat what I said at the opening of the case, that the more natural course was, that the accuser, who is prosecuted, should first come forward and make out his charges, before the prosecutor appears for examination.^a (His Lordship read his notes of the examination, observing on it as he went along.) It is proved that the charge as to Garamoni's wife "came before the court," but not on the merits of the case; and there is no proof that Dr. Achilli was guilty.

Mr. *Badeley*.—My Lord, the twenty-second charge states simply that the name of Dr. Achilli came before the court on the charge.

Lord CAMPBELL.—No doubt that allegation is supported,^o but there is no proof of the guilt of Dr. Achilli.

Mr. *Badeley*.—That is not alleged, my Lord, in this charge.

Lord CAMPBELL continued his reading of the prosecutor's evidence, and his comments. Gentlemen, there was an insinuation that Dr. Achilli, as he had made a vow of celibacy, that it was discreditable that he should have entered the holy estate of matrimony. We must remember, however, that Luther married, and married a nun!^p With regard to the Inquisition, Dr. Achilli stated that it is not a court competent to adjudicate on questions of immorality. But there he must be mistaken; for Dr. Grant, who is a canonist, well acquainted with the courts, says it has jurisdiction over immorality. It should seem certainly more probable that it should be heresy!^q

Gentlemen, Dr. Achilli was cross-examined with great severity; and it was proper that he should be so. In the course of his cross-examination, he was asked certain questions which he declined to answer.^r Now, that is pregnant matter for your consideration.

^a On a criminal information, the object of which is to clear character? Then, how is it the Court has always required the prosecutor to enter fully into the case on affidavit, and deny, and as far as he can, disprove, the charges, before even a rule nisi is issued?

^o It would be curious to know how the jury reconciled it to their consciences to find this issue against Dr. Newman. The document was produced (see *ante*), with Achilli's name in it, in connection with the charge! This may serve as a specimen of the conscientiousness of a "British jury," and the moral value of this verdict. It was in flagrant defiance of the facts!

^p Which the Lord Chief Justice clearly thought one of his main merits.

^q Here is a British judge putting his own misinformed notions, and encouraging the jury to put theirs, in opposition to sworn evidence!

^r When Fenwick, on his trial, asked Titus Oates if he had not forsworn himself, by declaring that he came over to England with Hilsley, Scroggs interposed, and decided that could not be urged, as Oates had not been convicted of

From his declining to answer, one may not unfairly suppose that in some cases he had erred in point of chastity,⁹ and that may afford some ground for presuming that he might have done so in other cases. I must, however, point out for your consideration, that so far as his credit goes, this is rather in confirmation of it, for it would have been easy to say no; and he declines to do so. You will consider whether this does not raise him in your estimation as regards his credibility as a witness.^t Gentlemen, I have now gone through the whole of the evidence, and leave the case in your hands.^u

His lordship then directed the jury to be furnished with an abstract of the plea of justification, and asked them to say whether they found any of the allegations proved, and, if so, which of them? He had done his duty in the case, and he was sure that they would do theirs.

The jury then (at about about half-past eight) retired. They did not return into court until eleven o'clock.

On their return it was asked, "Are you agreed on your verdict?"

The Foreman.—Yes; on the nineteenth charge we find proved. All the rest we find not proved. (Sensation and partial cheering.)

Lord CAMPBELL.—The nineteenth charge respects Dr. Achilli's being deprived of his professorship and prohibited from preaching and hearing confession. You find that to be proved?

The Foreman.—Yes, my Lord, proved.

Lord CAMPBELL.—And you find none of the other allegations proved?

The Foreman and several of the Jurors.—No, none of the others. (Here some of the people in the court,^v beginning to understand the verdict, burst out into a vigorous cheer, which no one attempted to suppress.)

Lord CAMPBELL.—With regard, then, to the plea of not guilty. The first plea is not guilty. You see that involves the publication, and the question whether it was of a libellous nature.

perjury. The decision Lord Campbell gave as to the questions put to Achilli, is precisely a parallel, and was by no means the worst he gave.

⁹ Rather a mild way of putting it! The man was asked at every place of residence if he could deny having committed criminal acts; and he was a priest and a monk! But that probably made them meritorious in the eyes of Lord Campbell and a common jury.

^t Not in the least. As he could not truly deny the charges he would be deterred by dread of indictment for perjury. The eagerness with which Lord Campbell laid hold of this fallacious argument to uphold Achilli's credit, strikingly shows what an overwhelming influence was at work in his mind. It never occurred to him to observe what a confirmation there was of the credit of the other witnesses against Achilli. Nay, he had declared their evidence unconfirmed, or "extraordinary."

^u The best comment, after all, on this "charge," is a remark of a barrister who heard it:—"Another reply on the part of the prosecution!"

^v Most of them of the coarser sort: the better portion of the audience had long left, well knowing what the verdict would be, and too disgusted to wait for it.

A Juror.—Not guilty. That's what we find.

Lord CAMPBELL.—No, understand me. The first plea is not guilty; and that involves the question whether it is proved that the defendant published this alleged libel, and whether it be libellous. Do not mind the truth of the charges at all. As to this, say only on that do you find him guilty; and that it was of a libellous nature?

The Foreman.—Yes, guilty.

Lord CAMPBELL.—On that you find him guilty. There is then a verdict for the Crown on that. Then we come to the justification; and on the justification you find that the only part of it which is proved is the nineteenth, respecting Dr. Achilli being deprived of his professorship, and prohibited from preaching, and from hearing confession.

A Juror.—Yes, that is the verdict.

Lord CAMPBELL.—Wait a moment; and let me see. That is (after a pause), you find that that is true which is alleged in the decree of the Inquisition, as far as that decree goes?

A Juror.—Yes.

Lord CAMPBELL.—So far as that decree goes. You don't find as to the reasons for the decree, but as to the decree itself?

The Foreman.—Yes, only that.

Lord CAMPBELL.—Very well. Then you find it to be true that Dr. Achilli was suspended from the celebration of mass, prohibited from any cure of souls, and from preaching, and from hearing confession, and from exercising his sacerdotal office in any way, according to the decree of the Inquisition. And all the rest you find not to be proved?

The Foreman.—Not to our satisfaction.^w

Lord CAMPBELL.—Very well. Then on the justification I direct a verdict to be entered for the Crown, on that issue as well as on the plea of not guilty; and that special finding I, of course, will report to the Court when necessary. (Here again a loud cheer was given by the thronged court.) I now discharge you, gentlemen, from your attendance, and beg to thank you. (Renewed cheers.)

A Juror.—I beg your Lordship to understand that we did not consider this case as regards Protestantism and Catholicism. We only looked at it as a matter of fact.

Lord CAMPBELL.—Oh, I am sure you have dealt with it conscientiously.^x

^w The writer is informed, that one of the jurors, being asked how he came to give such a verdict, said, "Oh, we believed him guilty, but we were not satisfied." What this meant may be inferred from the answer of another—"that they were afraid of the consequences." Such is trial by jury! And with such tribunals in this country, Lord Campbell thanks God we have no Court of Inquisition! composed of ecclesiastics, whom he acknowledged as eminent for "learning and piety." Perhaps the people of Italy may thank God they have not such judges and juries!

^x Scroggs, at the trial of Coleman, said to the jury—"You have acted like very

Another hearty cheer was now given, which the learned judge did not for a moment attempt to check.

Some conversation took place between his lordship, the jury,^y and the learned counsel, respecting the fees to be paid to the jury. All parties agreed that it was a "hard case;" but his lordship said he had no power to grant anything like an indemnity, and, accordingly, only the customary nominal fee was paid to each jurymen. Immediately afterwards the assemblage dispersed.

good Christians, and very good subjects; that is, like very good Protestants." Those good Protestants gave verdicts which every one now regards as judicial murders; and the reader will judge whether the eulogy of Lord Chief Justice Campbell was worth more than that of Lord Chief Justice Scroggs. The *Spectator* says:—"It was a right Protestant jury. The public found it impossible to disbelieve all the mass of evidence in justification of the libel; but the jury laboured under no such judicial scruple. There is a way out of every difficulty; and the jury, ably instructed how to pick and choose what to see, think, and believe, proved apt pupils. They disclaimed all consideration of the question of Catholic or Protestant; but, if the case is not a beautiful example of honourable adhesion to the 'subauditum,' it is a still more perfect specimen of instinctive sympathy. They found that the nineteenth article against Achilli was proved—but, with a mental reservation which they were admirably assisted to develop, they accepted the evidence of the note from the Inquisition to prove that Achilli had been permanently suspended from his functions in the Romish Church; but they rejected the same evidence so far as it testified to the reasons of his suspension—the scandalous and notorious incontinence of his life." The case, however, is far stronger than is stated here. The Lord Chief Justice almost said they ought to find the charge as to Principe proved; and did say that one of the charges as to Garamoni's wife was proved. On these two serious charges, then, the verdict was even against the opinion of the judge. With respect to the cases of the women who came forward, the reader will judge whether the verdict was against the evidence. As to the other cases (especially those of women whose names were unknown), and also as to the charges of general immorality, infidelity, and irregularity, the reader will judge whether the verdict was against the prosecutor's own acknowledgments. They are particularly requested to remark that it is charged that he caused scandal by visiting private houses, and not frequenting choir, &c., and otherwise not observing the rules of a religious life, and to refer to the admissions in his own book, and his own evidence as to those and all the other charges.

^y A special jury are entitled to a fee of one guinea. Most of the special jurors in this case, however, were really of the common jury class. They are called "merchants," because the special juries can only be taken from the names so designated (or as bankers or esquires) in the jury lists, which are made up by the churchwardens and overseers; and no mistake in the designation can be remedied, except on application of the party, or upon notice to him—a trouble no one is likely to take; so that, practically, all the ordinary sort of tradesmen are classed as "merchants."—See 6 Geo. IV. c. 50.

A P P E N D I X .

The following extracts from the able articles in the *Times and Chronicle* are inserted, as showing public opinion upon the trial:—

“It is a great thing, no doubt, that in Protestant England the principle embodied in the national faith should triumph over its Roman Catholic adversaries; but it is a still greater thing that justice should be administered with purity and impartiality—that the landmarks of the law should not be transgressed—and that no feelings but those of the calmest and highest morality should sway the decisions, or intrude into the proceedings, of our courts. We cannot afford to buy controversial success at the price of our reputation for a calm and immaculate administration of justice, or to subvert the rules upon which testimony is received and estimated, to satisfy a predilection, or to appease an antipathy. Time was when, amid the cheers of a brutal multitude, on the faith of the impossible and self-contradictory evidence of Oates, Bedloe, and Dangerfield, English juries consigned innocent men to death, and received from the judge the shameful commendation that they had acted like good Protestants. Has the lapse of 170 years entirely removed us from those narrow prejudices and cruel partialities which in the days of the Popish plot poisoned the pure fountains of justice, and affixed an indelible stigma on the character of a nation not habitually unfair or inhuman? Will the opinion of the educated classes in this country, and of the great European community, ratify the verdict of a jury which absolved Dr. Achilli from every taint and stain, and seemed to aim at placing him on a higher pinnacle of moral purity than even he arrogated to himself.

“But thus much we say, that Dr. Newman undertook to prove certain acts of incontinence, and produced persons from a vast number of different places to speak to acts ranging over a long period of time, of which, if their statement was believed, they had the most complete knowledge. These witnesses did not break down, were not involved in any material contradiction, and stated nothing in which there was any strong antecedent improbability. Many of them made contemporary statements of the injuries they had received, and those statements and their consequent investigation were followed on more than one occasion by a change of residence on the part of Dr. Achilli. In one instance, that of the wife of Coriboni, two respectable witnesses proved that Dr. Achilli was seen in circumstances denoting undue familiarity with a person whom he chose to retain in his service after having been warned that she was a common prostitute, testimony which the Attorney General could find no other way of neutralizing than by suggesting that they had mistaken him for her husband in the broad daylight. Wherever he bent his steps, scandal, either justly or unjustly, seems to have followed him. The police at Naples, and the Inquisition at Rome, the Bishops' Court at Viterbo, and the Courts of Corfu—all seem to have had more or less to do with him, and all for the same

alleged propensity, and after a short residence in England we find a number of women ready to bring the same charges against him. Now stopped in a procession at Naples by a clamorous mother, now dogged at Corfu by a jealous tailor, now solemnly remonstrated with by members of his congregation on account of his maidservant, he is the most unfortunate of men if all these charges have been trumped up without substantial foundation. The charges can neither be ascribed to Roman Catholic nor Protestant malignity, for they began when he was of the one religion, and continued when he was of the other. Roman Catholics accused him while he was a Roman Catholic, and Protestants while he was a Protestant, and always of the same thing. He himself declines to attest his chastity by an oath, and thus seems to admit that if the prosecution succeeds it is because Dr. Newman has selected the wrong instances, not because he has charged an untrue offence. The sentence of the Inquisition, moreover, solemnly recites under respectable attestation his own confession and submission in Italian, and his conversation with Dr. Bonovia clearly shows how lightly he held the offence of which he was accused. Against these positive statements, these accumulative and corroborative probabilities, and these dangerous admissions, there is nothing to be set except the denial of Dr. Achilli, adhered to with steadiness and pertinacity under a long but not very skilful cross-examination—a denial which amounts to little more than a repetition of the affidavit upon which the criminal information was granted. If no amount of evidence could outweigh Dr. Achilli's denial on oath, the solemn proceedings of the trial were a hollow mockery; and if it could, it is difficult to conceive what testimony the jury could have expected. Many of the witnesses were poor; but it is among the poor that the profligates seek their victims. They could not be corroborated as to the fact, for that is a matter of secrecy; they were not discredited, they were not broken down, they were simply put aside and disbelieved. The principle upon which this case was decided would put an end to all proof by human testimony. If we are to require publicity in matters whose very essence is secrecy, virtue in witnesses the very nature of whose confession degrades them, and confessions by the accused of what even worldly influence binds them to deny, we may shut up our courts of justice, proclaim impunity for crime, or use ordeals and divinations as a substitute for the investigation we have rejected.

“If there is to be no presumption in favour of assertions attested by oath, no public writer can venture, should the public interest—as was admitted in the case of Dr. Newman by the prosecuting counsel—ever so imperiously require it, to make statements, however well founded, criminatory of the character of another. Who can hope to be believed when such a mass of evidence has been flung aside as worthless? We consider that a great blow has been given to the administration of justice in this country, and Roman Catholics will have henceforth only too good reason for asserting, that there is no justice for them in cases tending to arouse the Protestant feelings of judges and juries.

“We wish we could conclude our observations on this case without saying anything calculated to imply a censure on the jury or the judge, under whose auspices they have, it seems to us, so signally miscarried. From the time when one of them objected to the exclusion of Dr. Achilli from the court, and another to the searching and reasonable question as to his general chastity, which he did not find it expedient to answer, till the faltering announcement, preceded and followed by unchecked ap-

plause, that the justification was not proved to their satisfaction, there is every reason to think that the case was not viewed by the jury with complete impartiality and absence of sectarian feeling.

"We have every respect for the high judicial character and attainments of Lord Campbell, and it is, therefore, with great regret we find him, in a case of so much delicacy and excitement, drawing attention to the Ecclesiastical Titles' Act, "thanking God" that "we have no Inquisition in this country;" and after he had been sufficiently applauded, renewing the remark that it might be applauded again, and assuring the audience with grotesque solemnity, that by admitting this document he did so without the slightest degree of danger to the Protestant religion of this country—a discovery which was received by the enthusiastic audience with a third round of cheers. We now take our leave of this painful subject, trusting we may not soon again be called upon to comment on proceedings so indecorous in their nature, so unsatisfactory in their result—so little calculated to increase the respect of the people for the administration of justice, or the estimation by foreign nations of the English name and character."—*Times*.

"No judicial proceeding has, for a long time past, excited so much interest as the present trial of the *Queen v. Newman*.

"It is but fair to admit that only an honest zeal and a deep conviction of the truth of his statements could have led Dr. Newman to originate so dangerous an inquiry. No one will suspect him of being a sharer in the conspiracy which, if we are to believe the verdict of the jury, must have been organized. He has proved that his opinion of the prosecutor's guilt was based on evidence abundantly convincing to his own mind; for, until the testimony of his witnesses was contradicted in detail, it must have commanded the belief of all except those who may be assumed to have suborned it. If the defendant should ever be called up to receive sentence, the Court of Queen's Bench will, no doubt, intimate, by its judgment, his entire innocence of any proceeding which could give the prosecutor a reasonable ground of complaint.

"It is greatly to be regretted that Lord Campbell should have been tempted to degrade his high position for the sake of an ill-timed and indecorous burst of applause.

"Various opinions were expressed in court respecting the prosecutor and the defendant; but all the instructed part of the audience was of one mind as to the conduct of the presiding judge. We make no complaint against Lord Campbell's summing up, nor against any legal decision which he pronounced.² In fact, the language which excited

² The following letter appeared in the *Chronicle* of the 28th of June:—"I turn to the article in your paper, for the purpose of correcting an error into which you seem to have fallen. You say, 'We make no complaint against Lord Campbell's summing up, nor against any legal decision which he pronounced.' Sir, I regret to say that very serious complaints are made both against the one and against the other. His summing up was extremely partial, as well as imperfect; for he made occasional observations upon portions of the evidence, as he read it, as if the circumstances were improbable, or unconfirmed, and carefully avoided all notice of the discrepancies between the testimony of Dr. Achilli himself and those very witnesses who were called to support him. No attempt was made to balance the conflicting statements—no observation offered upon the consistency of the story which each of the defendant's witnesses had given—no notice taken of the remarkable fact, that not one of those witnesses had been shaken upon cross-examination, or of the extreme improbability, not to say impossibility, that so many could have been suborned from so many different places, and under

universal reprobation was wholly immaterial to the issue. The vulgar obtuseness displayed in the feeble jest which was directed from the bench against a Roman Catholic bishop, forms the only excuse for the impropriety of a judge's addressing a political insult to a witness of dignified position.

such a variety of circumstances as well as characters, to perjure themselves without any assignable motive. Lord Campbell never called the attention of the jury to the important, the convincing fact, that all these oaths of all these various witnesses were only met in reality by the oath of Dr. Achilli himself; nor did he remind them of the far greater probability of perjury on the part of Dr. Achilli, who had so deep an interest at stake, than on that of all the witnesses against him, who had nothing to gain. His lordship asserted that the story of Elena Valente was uncorroborated, but he totally suppressed Dr. Achilli's prevarication respecting the family of Gentili, and the admissions which he had made confirmatory in some measure of Elena Valente's evidence. He never commented upon the secrecy with which such iniquities are usually committed, or upon the absolute impossibility which must often exist of adducing corroborative proofs, even in cases which have occurred recently, and in places close at hand, and much more in one the date of which was so distant, and the scene so far removed. With respect to the case of Garamoni, he wholly omitted to point out the extraordinary and palpable contradictions which there were between the statement made by Madame Garamoni and that of Dr. Achilli—contradictions so utterly irreconcilable that one or the other of these persons must necessarily have spoken falsely; and in adverting to the case of Coriboni and his wife, Lord Campbell took care to dwell upon the points which he thought calculated to discredit the testimony of Mr. Reynolds, but said as little as possible of the evidence of Madame Lavanchy, although her evidence was unimpeached, and was a plain and positive confirmation of that of Mr. Reynolds.

“These, and many other observations, might be made upon Lord Campbell's summing up, which would justify the strongest complaints against it—as neither able nor impartial—calculated neither to assist the jury, if they had been anxious to ascertain the truth, nor to do justice between the parties, nor to save the witnesses from unjust and unreasonable imputations. As to his lordship's decision upon the legal points submitted to him, considerable doubt is felt as to the correctness of the view which he took of the judgment of the Court of Inquisition. He allowed that the document was properly authenticated, and admissible as legal evidence; he even stated that it would be absurd to suppose that the contents of that document had been fabricated, or that those who certified it were capable of misrepresentation; but yet he declined to take judicial notice of the first part of it, while he adopted the last, and treated the sentence as valid, without any regard either to the acts of profligacy on the part of Dr. Achilli, or to Dr. Achilli's own confession of those acts, upon which the sentence professed to be founded. But if this instrument was available in one part, why not in another? The whole of it rested upon the same authentication—each portion was vouched by the same authority—and if credit was to be given, by the comity of nations, to the act of the foreign court in passing such a sentence, why not to the grounds upon which they passed it, those grounds being plainly set forth, and there being direct evidence that the matters were within the jurisdiction of that tribunal? The law of England usually treats the judgment of a foreign court as conclusive upon the points upon which it professes to decide, when those points are proved to have been within the court's jurisdiction, and there is no palpable error or inconsistency upon the face of it. Dr. Achilli, indeed, had the hardihood to deny, not only that he was charged with such offences before the Inquisition, but even that they were within the jurisdiction of that court—a point upon which he received a direct contradiction from Bishop Grant, a witness whose character and whose testimony were alike unimpeachable. Dr. Achilli, however, went a little too far, for he swore positively that no such sentence had been pronounced against him, and that he had never been deprived of his sacerdotal

“A graver breach of propriety was committed when evidence was offered of the judgment pronounced on the prosecutor by the Inquisition. The document produced was a copy of the proceedings of that court, and the only dispute was as to its formal sufficiency—‘Thank God,’ was the remark which the Lord Chief Justice interposed at this point, ‘Thank God, we have not in this country a tribunal of Inquisition.’ Of course, the expected cheers of an ultra-Protestant audience greeted this irrelevant appeal to their prejudices.”—*Morning Chronicle*.

functions, although the very court which had sentenced him certified that he had, and if his oath was of so little value (as the jury themselves have told us) as to this latter statement, what is its worth as to the former? And as he had denied the wicked deeds with which he was charged by Dr. Newman, and which appeared to be, in parts at least, the same as those to which his confession related, why should that confession, which was set forth at length in the judgment, have been excluded from the jury, as a piece of evidence which they were not entitled to consider? The whole document ought to have been submitted to them, each part of it being connected with the other, and the whole being equally denied by the wholesale abnegations of Dr. Achilli. So much for Lord Campbell’s “legal decision;” and it may, I think, be gravely doubted whether in this respect he was not wrong in law. But whatever may be the legal value of this document in all its parts, of its moral value there can be no doubt, and no doubt Dr. Newman found in it a justification for exposing the conduct of this man, “the accuser of his brethren,” who comes forward, as his counsel tells us, only to vindicate his character from the charge of profligacy; and yet, when he is asked, in open court, respecting his immorality with other women than those whose names were specified in the pleadings, declines to answer the inconvenient question, and shelters himself under the protection of the Court? And this is the man who has been put forward as their champion by the Evangelical Alliance—who has been paraded upon platforms, and lauded in pamphlets—who is to be regarded as basely calumniated when assailed by Dr. Newman, but as the witness of undoubted truth when he publishes a book which treats with profane scoffing the most solemn ordinances of the religion of the great majority of the Christian world, and abuses with the most insolent ribaldry and the coarsest imputations, not only the pope himself, but all those also whom he found it convenient to attack.

“Sir, I regret to think that this trial will fix a lasting stain upon the annals of our judicial proceedings. It tells Roman Catholics that they must not hope for impartial justice from a Presbyterian judge or a Protestant jury; for I am sorry to say that not only was the judge thus unmindful of his dignity and his duty, but the jury showed, to all who observed their demeanour, the bias which from first to last they felt in favour of the prosecutor. Such, indeed, was the conduct of some of them, that, if reports are true, it was a subject of grave consideration with Dr. Newman’s counsel whether it might not become his duty to throw down his brief, and refuse to submit to the farce of arguing before men who seemed scarcely anxious to conceal their determination to decide against him. Happily, however, the evidence which was laid before them has been also laid before the public; and whatever advantage Dr. Achilli may fancy that he has gained by the verdict of these jurymen, he will find that, in the judgment of an impartial public, his single and interested oath will not outweigh the testimony of a host of disinterested witnesses, uncontradicted by anybody besides himself.

“I am, Sir, your most obedient Servant,

“ONE WHO WAS PRESENT AT THE TRIAL.”



