A REPORT

OF THE

EXTRAORDINARY TRANSACTIONS WHICH TOOK PLACE AT PHILADELPHIA, IN FEBRUARY 1799.

IN CONSEQUENCE OF

A MEMORIAL

FROM CERTAIN NATIVES OF IRELAND TO CONGRESS,

PRAYING A REPEAL OF THE

ALIEN BILL;

—CONTAINING—

AN ACCOUNT OF THE PROCEEDINGS WHICH PRODUCED THE MEMORIAL—THE ASSAULT ON THE COMMITTEE AT ST. MARY'S CHURCH.—AND THE PROCEEDINGS AT THE MAYOR'S OFFICE, UPON THE ARREST OF THE MEMORALISTS.

A COPY OF THE MEMORIAL.

AND, THE TRIAL, WITH THE NAMES OF THE JURY, THE EVIDENCE AT LARGE, THE SPEECHES OF COUNSEL ON BOTH SIDES, AND THE CHARGE TO THE JURY.

BY WILLIAM DUANE.

PHILADELPHIA:

PRINTED AT THE OFFICE OF THE AURORA.

1799.

E 327
.I8
Office

INTRODUCTION.

THE extraordinary perverſion of civil authority to party purpoſes, the wicked attempt to weaken or break down the right of petition, the abuſe of the forms of law, where there was neither a crime defined nor an irregularity proved or committed—and the final trial and acquittal of the parties proſecuted, which are laid open in the following pages, are deſerving of the moſt particular attention from every freeman.

A ſtatement of the trial has already appeared in ſome of the public papers. But the report was far from correct, and the mode in which it was introduced to the public as a *Trial of Rioters*, when the very evidence detailed proved that there was no riot on the part of the proſecuted, was ſuch a violation of propriety and a mean ſervility to a diſappointed party, that theſe prefatory explanations and the report are due to juſtice.

This report thus became neceſſary, and the *Judges*, the *Jury*, the *Auditors*, and the *Evidence* will teſtify to its correctneſs. It may be proper, however, as a matter of elucidation and hiſtory, to narrate the circumſtances which gave a pretext to the authors of this mockery of civil adminiſtration to violate decency and pervert the laws.

The people of the United States have not yet forgot, the two laws, notorious by the names of the *Alien and Sedition Bills*.

Numerous petitions from all parts of the Union had been preſented to Congreſs againſt theſe bills during the Winter ſitting of 1798—9.

The moſt numerous body of people that have emigrated from Europe, under the hoſpitable and national invitation of the laws, were Iriſh. A number of perſons of that nation of great reſpectability, ardently attached to the freedom and independence of America, numbers of whom had removed with their families, fortunes, and affections hither, and who had family connexions by conſanguity or marriage in theſe States, were much affected at the idea of being cut off from the proſpect of that freedom which was the cardinal inducement of their removal from Europe to the United States.

Theſe well diſpoſed and valuable addition to the public ſtock of men, at the inſtance and by the advice of ſeveral of their relations and others na-

tive citizens of the United States, had a meeting. A clergyman of the Presbyterian church and several members of the Catholic church of St. Mary, suggested the propriety of forming a respectful and expressive Petition to Congress, and to have it signed by every person who felt an interest in being a freeman.

The period was short, for by the political movements in the House of Representatives, the Petitions against these two Bills were made the order of the day for Monday, and this meeting was held only on the preceding Friday. It was proposed by a clergyman that the petition, a draft of which was prepared by two citizens then present, should be printed the next day, and offered for signature at the respective places of worship, after service on Sunday. The shortness of the period and the necessity of the case rendered any other mode of proceeding impracticable, and of necessity it was adopted. Annexed is a copy of that petition.

The Committee chosen to circulate it, was selected judiciously and composed of Americans by birth, and by naturalization, and of respectable Emigrants. Among them were Dr. *James Reynolds*, a naturalized citizen, *Robert Moore*, a gentleman of large fortune, deposited in one of our public banks, and who had removed to the United States to settle and enter upon mercantile pursuits on a large scale; William Duane, an American by birth, and Samuel Cuming, a young Irishman, a printer.

The petition being printed on Saturday and circulated in several parts of the city on that evening, was carried on Sunday after service to the several places of worship, where the Irish Emigrants principally resort, which are the Catholic and Presbyterian churches; at the latter no opposition was made. At the former this trial will best explain what was done, and what was intended to be done.

In the church yard a disturbance was first begun by Mr. *George Meade*, a gentleman who was formerly an eminent merchant in Philadelphia, but whose mind is said not to be correct. He attacked Messrs. Moore and Duane particularly, and in language so approbrious that he has since begged pardon; but he did not meet an uncivil reply from either of those whom he attacked.

These four citizens were some taken and some went voluntarily before the Mayor, where they were detained under a silly species of examination until near the dusk of the evening. Mr. Meade acknowledged that if any one had used such language to him as he had used to those gentlemen, he should have knocked him down. Mr. Meade besides being in his dotage and his head covered with reverend grey hairs—could not excite violence from those to whom he spoke, and whose national temper towards age he knew was a secure shield to him. Mr. Meade's evidence though taken before the Mayor, Robert Wharton, Esq. was not introduced on the trial—and with consummate prudence on the part of the prosecution.

After a detention at the Mayor's of *five hours*, and without being permitted to have any verbal or written communication with their friends, a committal for the common prison was made out for the four, and they were delivered into the custody of the sheriff, with an allowance of an hour to find security in 4000 dollars each!—Bail stood voluntarily forward for Messrs.

Duane, Reynolds, and Moore; and a citizen of property offered to become bail for Mr. Cuming, who was refuſed, becauſe though his freehold was worth 200 dollars, he would not ſwear that he owed nothing. Mr. Cuming was therefore committed to a ſmall room in the priſon wherein were 17 vagrants picked up from the ſtreets—treated with inſult—without a bed to lie on, and threatened to be put into one of the dungeons "if *he grumbled*!" Bail was however taken by the Chief Juſtice, and the parties appeared and ſtood their trial.

MEMORIAL

TRIAL.

AT a Court of OYER and TERMINER, held at the State Houſe Philadelphia, on Thurſday, February 21ſt, before J. D. Coxe, Eſq. Preſiding, Judge; R. Keen, Jonathan B. Smith, and A. Robinſon, Eſqrs. aſſiſtant Judges, Two Indictments were laid againſt James Reynolds, M. D. Robert Moore, Eſq. William Duane, editor of the Aurora, and Samuel Cuming, printer, for an alledged riot, &c.

The proſecution was carried on in the name of the Commonwealth, and Mr. *Hopkinſon* acted in the room of the Attorney General.

Meſſrs. *Dallas*, *Dunkin*, and *Beckley*, counſel for the defendants.

The defendants had been ſeverally held in 4000 dollars recognizance, to appear and ſtand trial, and they accordingly appearing in Court.

Mr. *Dallas*. Having examined the indictments, remarked, that the name of the proſecutor was not on the back as cuſtomary.

Mr. *Hopkinſon* ſaid there was no perſonal proſecutor; the ſtate was proſecutor; he had privately ſtated the ſame thing to Mr. Dallas before, and he was ſurpriſed the ſame queſtion ſhould now be aſked of the court. He then read the charges as they had been tranſmitted from the mayor's office, and that it was from the evidence that had appeared before that magiſtrate, had been deemed proper to inſtitute the two ſeparate charges.

Mr. *Dallas*. The gentleman need not be at all ſurpriſed, that upon a matter of public inveſtigation, I ſhould make a diſtinction between what was a fact, and what ought to be the legal form of proceeding; I certainly had received the information mentioned, but I did not conceive myſelf bound thereby to conclude the fact was therefore juſt and proper. On the contrary, when I ſaw that there was no real or ſubſtantial ground for diſcrimination, either from the information received, or from the evidence that had been given at the mayor's office; when I knew that James Gallagher, junr. was the perſon implicated, as the perſon ſuppoſed to be aſſaulted, and whoſe life is alledged to have been endangered by a riotous meeting, he thought where that charge was ſeparated, the accuſer ſhould alſo be ſeparated; it was under theſe impreſſions that I could not waive a public duty, however reſpectable the author of the private information, which beſide was of a nature that could be conſidered as confidential. The indictment I could not conſider as drawn up in the attorney general's office, but at the inſtigation of Mr. Gallagher, a young man of impetuous paſſions, and acting under their immediate influence.

The *Court*. Were the bills drawn up in the attorney general's office ?

Mr. *Hopkinſon*. No : they were not.

The *Court*. As the grand jury has returned two indictments, the court has no control over them ; they muſt be tried in courſe. With reſpect to the ſecond indictmetn, the defendant would certainly have a right to demand the name of the proſecutor, were there not a deciſion upon the law of aſſembly which eſtabliſhes, that when the attorney general ſhall declare the proſecution to be ordered by the public, no proſecutor need be named. The gentleman employed on behalf of the ſtate, declares upon a return, there is no proſecutor actually employed, under theſe circumſtances the court are unanimouſly of opinion that none need be indorſed.

The names of the jury were then called over and they were ſeverally impanneled.

J. RINCK,	DANIEL SHITTLE,
THOMAS TOMPKINS,	DANIEL ZELLER,
HENRY LEECH,	WILLIAM ETRIS,
HENRY HOFFNER,	JACOB WALTER,
GEORGE GREBLE,	JOHN HASTANG,
JOHN SOWDER,	MICHAEL MALEY.

Mr. Hopkinſon opened the proceedings very briefly. He ſaid he acted as proſecutor in the name of the Commonwealth, and in the place of the Attorney General. In the diſcharge of this duty he ſhould not engroſs much of the time of the Court and Jury, as he would confeſs that he had but a very limited knowledge of the circumſtances of the caſe. The evidence however was ample, and rather than riſque the probability of leading the minds of the Jury wrong, he ſhould rely upon that evidence, and they would apply it in ſuch a manner as juſtice required according to their beſt underſtanding.

There were two bills he ſaid preſented to the Grand Jury, one of them againſt James Reynolds, William Duane, Robert Moore, and Samuel Cuming, for a riot and aſſault ; there was a ſecond count in the ſame indictment found on that Bill, for riot only. The ſecond indictment was againſt James Reynolds alone, for an aſſault upon James Gallagher junior, with an intent to kill. Having read the indictments, he obſerved that they were laid in the common form of indictments for riot and aſſault, and the ſecond indictment was founded on the more aggravating conduct of Dr. Reynolds, compared with that of his colleagues. The jury would therefore endeavour in receiving the teſtimony of witneſſes to diſcriminate between the two charges exhibited, the one againſt the whole, and the other againſt an individual. It was only neceſſary further to ſtate to the Jury, that the time when this affair took place was on Sunday, the 9th of February in the yard of the Catholic Church of St. Mary.

The counſel for the defendants remark that the ſeparation of this caſe into two indictments was a very extraordinary proceeding ; to which reply was made that it was only ordinary. It was aſked if the defendants would be tried on the two indictments by the ſame or by ſeparate Juries. Their counſel obſerved that it was immaterial, the mode which gave leaſt trouble

to the Court would be beſt. They would be tried together and by one Jury.

Evidence on the part of the proſecution was then called

JOHN BROWN, *Sworn*,

Mr. *Hopkinſon*. Relate ſuch circumſtances as you know concerning the transactions at St. Mary's church on the ninth inſtant.

Anſ. I went to church laſt Sunday was a week, at about half paſt nine o'clock; I had not been there but a few minutes before Dr. Reynolds and Mr. Cuming ſtepped up to the gate where I was ſtanding. Dr. R. had four ſmall notices in his hands, two of which he gave to Mr. C. to put up on the *doors* * in the yard of the church—Dr. R. put up one on each gate: when he had put up the firſt, I went and read it, before I had done reading it, the clerk of the church came up where I was ſtanding reading it, I ſhewed it to him; I told him it was a pretty thing to be upon the gates and doors of the church—he immediately pulled them both off the gates. Juſt as I was going into the yard, I met Mr. John O'Hara, one of the truſtees, I told him of it; he went up with me into the yard, and he pulled the two off the church doors: I then went into church.—Dr. Reynolds nor Mr. Cuming ſaid nothing when the clerk pulled down the notices, though they were both paſſing by at the time. This is all I know before church.

By the Court. Did they go away, or did they go into the Church?

Anſ. They went away out of the yard. About ten minutes before ſervice was over I got up from my place, and went to the window, I ſaw Dr. Reynolds,† Mr. Moore, Mr. Duane, and Mr. Cuming, ſtanding at the tomb-ſtone of the late Rev. James Burns, talking together. Mr. Moore and Mr. Duane, each of them had a large paper, ſpread on the tomb-ſtone, before them; one at the weſt end, and the other at the eaſt end of the tomb. That is all I know. I then returned to my place. I did not get down from my place, in the upper gallery, till after the congregation were gone out, and I ſaw nothing more.

Mr. *Dallas*. Do you recollect the notice that was poſted up, as you ſay, on the door? Would you know it if you ſaw one of them?

Anſ. I believe I ſhould. (One of thoſe that had been torn *from the wall* near the door was read.)

"Natives of *Ireland*, who worſhip at this Church, are requeſted to re-
"main in the yard after divine ſervice, until they have affixed their ſigna-
"tures, to a memorial for the *repeal* of the *ALIEN BILL*."

Queſ. Did you at any time ſay, to any of theſe gentlemen, that they were doing wrong? Or did you hear any noiſe during the ſervice? Or was there any diſturbance, or interruption of the ſervice? *Anſ.* No.

Queſ. Then I underſtood you to ſay that Dr. Reynolds and Mr. Cuming only were preſent? *Anſ.* Yes.

Queſ. Did you ſee the printed paper; the Memorial to be preſented to Congreſs? *Anſ.* Yes.

* The evidence on this trial ſhould afford a very ſerious leſſon to perſons called upon to give evidence, and to Jurors how they receive it. The young man now examined cannot be ſuſpected of a want of probity, but it appeared in the courſe of his examination and that of others, that his memory was not very accurate—the fact was, no bills had been posted on the doors, as will be ſeen in a ſubſequent evidence.

† The evidence was here under another miſtake; undoubtedly he thought he ſaw Dr. Reynolds there, but in truth he had not been at that place during the whole day.

Quef. Would you know it?

Anf. Yes: That is one of them *(the Memorial produced.)*

Quef. You are clear the clerk faw Dr. Reynolds and Mr. Cuming, and that no violent or improper language was made ufe of? *Anf.* Yes.

JOHN CONNOR, *Sworn.*

Mr. *Hopkinfon.* Relate what you know of the cafe before the Court.

Anf. The circumftances that took place, before church, I am totally ignorant of. I came there rather late. *As I went into the Church I perceived, on the door, one of these notices,** which I read and went into the Church. During the fervice Mr. Gallagher, jun. I perceived was going round the Church to different gentlemen of the congregation, to their pews. He came to the pew where I fat; after he had intimated to me that it would be defirable I fhould ftay, and that there was to be a feditious meeting after prayers was over. In confequence of this intimation, I went out of Church rather before prayers were over, with a view of ftaying to fee the end of it; on going out, or when I got near the veftry-room, I perceived Dr. Reynolds: he had in his hands a large paper. At this time there were a number of perfons round him: I do not know whether they were of the congregation or not. I addreffed myfelf to him, I afked what the purport or intent of that paper was? He replied, it was a remonftrance to Congrefs praying for a repeal of the *Alien* and *Sedition* bills, or to that effect. I ftated to him that I conceived it was a very improper thing, both as to time and place. He obferved that the emergency of the thing was fuch, that it could not be avoided, as the fubject was to be taken up in Congrefs the following day. I expreffed to him, that I believed it was viewed by the congregation generally, as an infult offered to their Church. He obferved in reply, he would defend himfelf againft any infult.

Quef. Nothing paffed between your obfervation and his reply?

Anf. Nothing.

By this time a number of the congregation were coming into the yard, and that particular part of the yard became very much crouded—on which an altercation took place between a number of them, apparently addreffing themfelves to Dr. R. I fuppofe to the fame effect as what I had. On which a loud cry of "*turn him out*" was heard, on which I recollect feeing Mr. Gallagher with his hands extended, with a view as I fuppofed to turn Dr. R. out. I do not know from whom the cry proceeded, at this time Dr. R. put a piftol to the body of Mr. Gallagher—a great commotion took place at this moment; the cry was by feveral, that he had a piftol in his hand—When the piftol was put to the breaft of Mr. G. I made an effort to lay hold in which I did not fucceed, there was fuch a concourfe of people I was fhoved away from him; finding, as I conceived, the matter taking a ferious turn I immediately went down to the office of the Mayor, with a view of having the peace commanded; but I did not fee the Mayor, and brought no officer with me—When I returned, there were ftill a number of perfons there. I then perceived a concourfe of people going down Shippen-ftreet, or Prune-ftreet, with two or three conftables, I went down Prune-ftreet and faw the conftables on the fteps of a houfe belonging to Dr. Shippen (where Dr. Reynolds lodged.) In a fhort time Dr. R. came to the door, they took him from that houfe to the Mayor's Office, where we waited a confi-

* Here is a miftake alfo, for the notices were pofted on the wall at the de fide of the door.

derable time before the Mayor came in, after which we were all examined.

Mr. *H.* Before you saw Dr. Reynolds draw his pistol, did you see Mr. Gallagher, or any other person push Dr. R. ?

Ans. I saw his (Mr. G's.) hands extended as I mentioned : I am not positive as to his touching him.

Mr. *Dallas.* You saw the bill posted up : Did you see or hear any thing to disturb divine worship ?

A. No :—I did not see any of the other persons.

Ques. Did Mr. Gallagher mention their names when he went round to the pews, and informed you that there was to be a seditious meeting after church ?

Ans. He told me so—but no names.

Ques. No indication of riot by noise at this time ? *Ans.* No.

Ques. You say that after you came out, there was a cry of "*turn him out ?*" *Ans.* Yes !

Ques. Was Mr. Gallagher in the position you describe with outstretched arms, after this cry of "*turn him out ?*" *Ans.* Yes.

Ques. Did Mr. Reynolds produce a pistol before the cry of "*turn him out ?*"

Ans. I did not see it.

Ques. I wish you to be correct in stating whether Dr. Reynolds declared that he would not suffer himself to be insulted, *before* or *after* this cry of "*turn him out?*"

Ans. Before:—that observation was made to me personally.

The court. Were there many persons at that that time round Dr. Reynolds ?

Ans. Several.

Mr. *Dallas.* You mention that several of the congregation considered the presentation of that memorial for signatures as an insult ?

Ans. Several declared so.

Ques. When he made the declaration that he would defend himself, was Mr. Gallagher in view ?

Ans. Yes : I saw him immediately after.

Ques. Did you see Dr. Reynolds hustled or shoved about in a violent manner. Was the pistol taken from Dr. R. before you went to the mayor ?

Ans. Before.

Ques. You say you did not see any other of the gentlemen beside Dr. Reynolds ?

Ans. I saw no other.

Ques. After your return were the people much inflamed ; were you apprehensive of violence from Dr. Reynolds or from the congregation ?

Ans. I believe the danger was mutual.

Ques. I *believe so too*—Did you see Dr. Reynolds beaten and thrown down ?

Ans. I did not see him thrown down, though I am sure he was down.

Quss. During all this commotion did you see any of the other gentlemen ?

Ans. I saw Mr. Moore shortly after I came up from the Mayor's office.

Ques. What was Mr. Moore doing at that time?

Anſ. Nothing.

Ques. Did you enter into converſation with him.

Anſ. A ſlight one.

Ques. What was his behaviour; did he ſeem very boiſterous?

Anſ. He ſeemed diſpoſed to leave the place in a quiet manner.

Ques. Then during all the time you did not ſee Mr. Moore engaged in any riotous act.

Anſ. No; I did not ſee Mr. Duane nor Mr. Cuming that day until I ſaw them at the Mayor's office.

Ques. You ſay in the former part of your teſtimony, that the memorial was for the repeal of the alien *and Sedition bill.*

Anſ. I underſtand it ſo.

Mr. *Hopkinson.* You ſay the congregation generally conſidered it as an inſult—Did any one joſtle or inſult him?

Anſ. Not at that period.

Mr. *Dallas.* I underſtood you to ſay ſeveral perſons diſapproved of it.

Anſ. Yes: ſeveral.

JAMES GALLAGHER, junr. *Sworn.*

Counſel. Relate what you know of the matter before the Court.

Anſ, When entering the ſouth door of the Church of St. Mary's, on the Sunday before laſt, I obſerved an advertiſement calling on all the natives of Ireland to remain, &c. to affix their names to a memorial againſt THE ALIEN and SEDITION BILLS.—I am poſitive both were mentioned (being ſhowed one, he ſaid it was not the ſame) I tore it down, when I was accoſted by a perſon who while in the Mayor's office, called himſelf James Cuming,* aſked me how I dare tear that paper down: called me an impertinent ſcoundrel.—It was poſted, *not on the door,* but on the wall beſide the door.

The Court. What was the obſervation?

Anſ. Cuming ſaid I was an impertinent ſcoundrel for tearing it down. I told him that no *Jacobin* paper had a right to a place on the walls of that Church. He was immediately after joined by ſeveral others.

Queſ. Were Mr. Moore, Mr. Duane, or Dr. Reynolds among them?

Anſ. No. I did not ſee them; I ſaw Mr. Duane for the firſt time that day at the mayor's office. The perſons that were there perhaps belonged to the church, they gave me much abuſe, and threatened me for inſulting their nation, they did not mention what nation; but ſaid if it was not the Sabbath they would puniſh me for inſulting their nation. The advertiſement was ſoon afterwards replaced by Cuming, and appeared to be the ſame. I then walked down to the corner of the church, and met Mr. John Taggart, and told him of theſe things, he told me it was very improper conduct, and he tore down the ſecond bill. I then went into church, and informed the Rev. Mr. Neale of what had paſſed, I begged him to endeavour to prevent it, for if a meeting took place in that yard, there certainly would be rioting and perhaps bloodſhed. He ſaid he did not know how to act—that he had two of

* This aſſertion was a palpable miſtake; when the evidence was taking at the Mayor's, one of the perſons under examination, called Mr. Cuming, *James*; upon which Mr. Cuming roſe to tell the Mayor that his name was not James but *Samuel,* when he was ordered to be ſilent in a very rude manner.

thoſebills before that had been torn down by the clerk—that if he had known it when he was in the pulpit, he could certainly have forbid it—after ſome reflection, he deſired me to go and inform ſome of the influential members of the church of it, in his name and prevent it. I then went to my father's pew, who aſked my reaſon for it, and I told him: he deſired me to take ſome men out of the church and turn them out, I told him I had been out of the church and ſaw no perſons there. He is one of the truſtees of the church; I waited till ſervice was over, and I went out at the weſt door, and ſaw a number of perſons with papers at Mr. Burn's tomb, but they were quiet: I then went to the tomb ſtone of my mother, to prevent any riot taking place there; then I went down the ally at the ſouth ſide of the church, and I ſaw a croud at the ſoutheaſt corner; when I got near it, I heard a perſon declaring he would not be forced or puſhed out of the yard, and the cry of "turn him out," I got into the croud when I ſaw Dr. R. keeping four or five perſons at bay, I went forward in order to turn D. Reynolds out of the church yard, as I felt myſelf hurt by the injury and inſult done to my religion, making that a place of political meetings; and more ſo becauſe I did not obſerve a ſingle Catholic among them. Before I had time to catch hold of Dr. R. he preſented a piſtol to my breaſt, and to the beſt of my recollection, I was coming up to him; I had my hands raiſed with a view to put him out; he declared he would ſhoot any man that would lay hold of him; I ſtruck at him, he wheeled, I don't know whether I ſtruck him or no, and the piſtol hand fell by his groin, when Mr. Lewis Ryan took hold of him, threw him down, and took the piſtol from him. *I kicked him twice or three times while he was down.* I do not know whether he took the piſtol out of his pocket or not. I then went to the mayor, in order to have him apprehended. He was not at home. I retured, but did not ſee Dr. R. till he came out of Dr. Shippen's with the conſtable.

Mr. *Dallas*. Did you ſee Mr. Cuming, Mr. Duane, or Mr. Moore, at this time? And did any of them manifeſt a riotous diſpoſition?

Anſ. I ſaw Mr. Moore at the time he was ordered to go out of the church yard. He ſaid he would go with pleaſure. He anſwered the ſame when he was ordered to go to the mayor's. I did not ſee Mr. Duane at all there; nor did I ſee Mr. Moore behave in a riotous manner, or exceptionable at all. There was not a word of converſation between me and Dr. R. till at the croſs examination at the mayor's. I did not ſee them together: Dr. R. was very active. Mr. Taggart was cloſe by during the tranſactions.

Queſ. Do you recollect whether the notices were the ſame as that now ſhewn you?

Anſ. I believe this to be in the ſame hand writing.

Queſ. Mr. Gallagher, you ſeem to have juſt ideas of your religion. I wiſh to know ſomething of your politics, when you called the memorial a *jacobin paper*, and the meeting of four perſons to receive ſubſcriptions to it, a Jacobin meeting? Do you call petitioning for a redreſs of grievances, Jacobiniſm?

Anſ. It was indifferent to me what were the contents of the paper, it had no buſineſs there.

Rev. LEONARD NEALE, *Sworn.*

On Sunday before laſt, the 9th of this month, I repaired to the church to

preach, agreeable to my practice; after the commencement of divine service, when I got into the Sacrifty,* I met with two notesor advert isements on the table, which the clerk told me he had pulled down, in conformity to an order I had given him respecting all publications whatever, unless they were authorised by me. I immediately prepared myself and went to the pulpit. Having finished sermon, I returned to the Sacrifty, where after taking off my surplice, I was accosted by Mr. James Gallagher, jun. who stated to me that advertisements had been fixed up on the church wall, and at different places about the church; and that he was apprehensive from the way they were put up, guarded or protected by the people that put them up, there might be some disturbance. I considered myself applied to in my official character, both as superior of the church, and president of the board of trustees. I replied, I had two of the notices, that the clerk had pulled down: *that I deemed the affixing those notices on the church as an insult to me and the board of trustees* who had the care of the church; because, according to the usage of the church, no notice or advertisement should be put up without my positive consent: Being at a loss how to proceed immediately, and not being able to speak to the trustees. Upon a short recollection, I desired Mr. Gallagher to go to some of the principal gentlemen of the congregation, and inform them from me, as worship was going on and I could not speak to them, that those advertisements were fixed up without my approbation, and that any meeting whatever, after the church was over, I deemed to be perfectly wrong, and I should never suffer it; and if I had known of it before sermon, I should have forbid it from the pulpit.† I requested some of the leading members of the congregation to step forward immediately after service into the yard, and by their influence prevent any disturbance or meeting whatever; after which I took my cloak and went round the church outside; my object was to see if there were any more papers affixed on the church; and if possible to meet with the gentlemen who put them up, and request them to retire from the place. I saw none of them, or any body else. I then returned and went home; expecting they had dropped their design of having a meeting in the church yard. There were no persons in the church yard when I came out of the church, I saw neither men nor any paper. Divine service was not over, as they staid at the altar. Divine worship was not at all disturbed, except by the young man going out at my request, and entirely at my direction.

Rev. Mr. CARR, *sworn:*

Respecting the transaction which took place, I know nothing. I have no knowledge whatever.

Ques. Mr. Carr; Before the meeting in the church yard, were you ever applied to for permission.

Ans. No, I had no knowledge of it, or consultation, nor any hint of such a transaction taking place.

Ques. You superintended a church in Ireland, did you not; was it, or not, customary in Ireland, after the congregation were out of church, to attend to any particular public business?

* The Sacrifty is the room in which the priests put on their surplices and vestments. The same as the vestry in the Lutheran churches.

† This Revrend gentleman and evidence is another instance of the caution necessary for to be observed by witnesses and jurors it appears that he said if he had known of the intended meeting before ser on he should have noticed it from the pulpit, but in the first part of the evidence it appears he did know of it for he had the two bills torn down by the clerk, before he went into the pulpit.

Anſ. I have known it many times; it is frequent in the country, and I knew it once occur in Dublin: meetings of this kind are appointed frequently in Ireland, after retiring from church. Papers are frequently brought for the people to ſign, and it was never conſidered any profanation of the church, or inſult to the congregation, otherwiſe it would not be allowed. One inſtrument in particular was called the Catholic declaration, intended to obtain a repeal of ſome ſeverities on the Catholics. On another occaſion, it was done reſpecting the militia law.

Queſ. Did you ever know any thing of the kind except where it particularly reſpected Catholics?

Anſ. No, I believe not, though the militia law, was very much, and very generally diſliked. Whenever thoſe things are done, they are done by the paſtors; they are always conſulted on it.

Queſ. Is it not uſual to poſt up notices or advertiſements on the church gates in Ireland?

Anſ. In the capital it is not common, but in the country it is very common. But matters of great public importance are generally given from the pulpit.

LEWIS RYAN, *ſworn.*

Going to church on the Sunday before laſt, at a little paſt 10 o'clock, I made no ſtop at the church door, but went right in, as I ſuppoſed myſelf to be rather late. The firſt thing during ſervice which took my attention, was James Gallagher, jun. coming up from the ſacriſty, and going into the pew of Mr. George Meade, and whiſpering to him, and to ſome others, which occaſioned me to take notice of his coming from that door in the time of devotion, and whiſpering: this took my attention, becauſe if any thing was wanting, it was the buſineſs of the clerk to communicate it. That made me look round, as I expected ſome diſturbance was going forward, but I ſaw none at that time. Going out from the church, between the ſacriſty door and the gate, there ſeemed a croud: the firſt perſon I obſerved in the croud, much agitated with the buſineſs, was old Mr. Conroy: ſeeing the old gentleman ſo much concerned in the buſineſs, occaſioned me to ſtop, knowing him to be always a regular, orderly man, and a man whom I knew to belong to the church. In ſtopping to look at what was going forward in the croud, I ſaw a gentleman dreſſed in black cloaths, that appeared ſtrangely to me. Mr. Conroy was wanting him to go out of the yard. I did not know who it was, but I found in the mayor's office that it was Dr. Reynolds, the perſon I took the piſtol from afterwards. I did not diſtinctly hear the converſation that was going forward. I went near, when Thaddy M'Carney came up to this gentleman who was thus engaged, telling him he was a gentleman, and he wiſhed him to go away peacebly; at this time James Gallagher, junr. ſtepped forward: he held up one or both hands; he appeared to me to give him a puſh, not that I ſuppoſed he received any injury, but only as though he wiſhed him to go. At this time the gentleman ſtepped a little back, and put his right hand into his pocket: it appeared to me that this was after he received the puſh—this is to the beſt of my knowledge. He then pulled out a piſtol and preſented it towards the body of J. Gallagher, junr. which part of the body, he could not expreſſly ſay. I ſuppoſed the perſon who pulled out the piſtol to be inſulting the congregation by ſome

means or other, but I did not know how. I was very desirous to prevent any damage being done, to any person coming out of the church. I felt very much alarmed at the sight of fire-arms, and I did not know how to act in the business, for it was difficult to engage with a man having fire-arms. This gentleman then stepped a little backwards, his right side coming towards me, but in the motion, the point of the pistol appeared to fall as low as the groin or thigh of J. Gallagher, junr. I made a grasp at the pistol, and got hold of it by the barrel: I found I had not a safe hold, and I feared my fingers were over the muzzle, and it instantly struck me, if the pistol should go off, I should undoubtedly lose some of my fingers. The gentleman who had the pistol turned towards me when I laid hold of it. I did not study the preservation of Mr. Gallagher, junr. after that: I thought then I ought to stand on my own defence, and that I was in a dangerous situation, as the man appeared to be in a violent passion. Having firm hold of the pistol with my right hand, with my left, I took him round his body, to keep the point of the pistol from my body. I then got him on my left hip to give him a fall as much as possible, with my foot before him: I then brought him right over with a fall on the bricks. At this time I did not know who I was in grips with. I did not strike Dr. Reynolds, nor he me to the best of my knowledge, but he held the pistol fast till he was down: by the fall, I seemed to renew my hold of the pistol, and got my hand towards the lock. I then put my left hand to assist my right, and twisted it from him as he was lying; I was much agitated; when I was got out from the croud a little, I held up the pistol, and snapped it to prevent any injury with it, because I did not know but it might be taken from me, and injury done with it. The pistol did not go off.

Ques. Was the pistol cocked?

Ans. I really cannot say whether it was cocked, or whether I cocked it.

Ques. Did any priming fall out of the pan?

Ans. I cannot say whether or not. I kept the pistol after I had snapped it, went to some people whom I knew; they asked me if the pistol was loaded. Seeing no ramrod I could not inform them: some one present took the pistol and unscrewed the barrel; as I found no wadding, I did not suppose it was charged, not being in the practice of using such instruments. I put it into my pocket, and asked T. R. Ryan to go home with me, and I again snapped the pistol in the fire place behind the log, to see what fire the flint would give. It did not go off. I again unscrewed the barrel and found a ball in it, and in the breech, I think they call it, some powder, the quantity I can't say. I did not know of the constable being after that gentleman, but I was told it was Dr Reynalds I took the pistol from: my 'prentice boy told me that the constable was after the gentlemen, and soon after J. Gallagher, jun. came to me and told me I must take the pistol to the Mayor. I went, but I knew nothing at all of the memorial or the proceedings 'till after the scuffle: I did not know that gentleman was Dr. R. 'till I was told it in the Mayor's house. I did not know what passed respecting any proceedings before I went up: I only came forward with a wish to be peaceable, and on that account I laid hold of the pistol. When Mr. G. pushed the gentleman, he appeared to me to wish him to go.

Quef. Did you hear the cry of "*turn him out,*" before Dr. Reynolds drew the piſtol.

Anſ. I do not recollect what words paſſed, I was apprehenſive of bad conſequences and thought of nothing elſe.

Quef. Did Dr. Reynolds make uſe of any words at the time he took out the piſtol? *Anſ.* I cannot ſay, for there was talk but I do not know by whom, only Carney telling him he was a gentleman, and wiſhing him to go.

Quef. Did you at any time that day ſee Mr. Moore, Mr. Duane, or Mr. Cuming.

Anſ. No: until I ſaw them at the Mayor's. I ſhould not have known Dr. R. again.

Mr. J. TAGGART, *ſworn.*

Going to church on Sunday week, I went pretty late, I met young Mr. Gallagher at the gate: he told me of the papers, put up on the walls, and that he had torn one down, but that afterwards the ſame perſons had put up another, and they threatened him with abuſive language, for taking it down. I was not preſent at the time, I only heard it from him. I then went and pulled down the paper, but I took very little notice of the perſons who were ſtanding there, but underſtood they were the perſons who put up the paper, one of them expoſtulated with me, and ſaid there was no harm in the matter. I ſaid I thought it was a very improper place, I ſaw no violence done, nor did I receive any abuſe whatever; I did not read the paper I pulled down but tore it in bits.

Quef. You were informed that it was a paper againſt the alien and ſedition bills, by Mr. G. Did you call it a jacobin paper?

Anſ. No, I thought it was an improper place, and I did not look at the notice.

Quef. No inſult or violence was offered you.

Anſ. No. After taking this paper down, I went into the church, I took care to be out pretty early to ſee if there were any more notices. This was in conſequence of young Mr. Gallagher coming to my pew, and whiſpering that it was Mr. Neale's deſire that this meaſure *ſhould be prevented in a moderate way by the people of influence.* I came out early, as I ſaid, to prevent it in an eaſy way as poſſible. When I came out of the church, I found two men, one with a paper, pen and ink, ſtanding at the eaſt corner door. Mr Moore was not one of them. Theſe two men, uſed a great deal of perſuaſion, when I told them I was their friend, and they would ſee it. I deſired they would go away, for it was a *matter made up*, that they ſhould receive not one ſignature there. I took the paper, and told them if it was for my brother I would not ſuffer it, but would perſuade them to go away, for no paper ſhould be put up there. I made a little puſh at them. There was no riot or violence committed by them. They ſaid they would not inſult any perſon. I told them that they were inſulting me, in the firſt place, and next, the whole congregation. They then went away without oppoſition, when I got theſe two men to the upper gate, I looked to the lower gate, and ſaw ſome perſon falling. I did not know any of the party: I afterwards ſaw Dr. Reynolds down. When he got up, I took him by the hand, I did not know then that he had had a piſtol. I led him by the hand to the ſtreet

After I had returned ſome one told me that Dr. R. had preſented a piſtol at ſome perſon's breaſt, by which I was much irritated. I then, ſaid it was high time to take them to the Mayor.

Queſ. How did Mr. Moore act? did you ſee him? *Anſ.* Yes. He ſaid that if it was diſagreeable to the congregation he would deſiſt, which he did, and that he did not mean to inſult the congregation, and he would go with us to the Mayor's; he did ſo, the Mayor was not at home and he went with us to Mr. Jennings. Mr. Moore's behaviour was very gentleman like, and civil. This is all I know of the affair.

The Court adjourned till half paſt three; when the Court again met, and proceeded to hear evidence on the part of the defendants, when Mr. Dunkin roſe and addreſſed the Jury to the following effect.

Gentlemen of the Jury,

As junior counſel on the part of the defendants, who are ſaid to have committed an aſſault and riot; and on the part of James Reynolds, ſaid to have committed an aſſault with intent to murder James Gallagher, at the ſame time and place, I riſe to addreſs you.

The buſineſs as it has been brought before you on the part of the proſecution, requires no particular exertion on my part, nor is it neceſſary for me to take up much of your time with exculpatory evidence, when the evidence given already on the part of proſecution has gone ſo excluſively in the favor of the defendants. As counſel in this cauſe it is nevertheleſs fit that I ſhould lay the whole matter before you, in order that you may ſee upon what frivolous grounds ſuch ſerious charges have been laid againſt theſe gentlemen.

On Friday, the 7th of February, a motion was made in the Houſe of Repreſentatives of the United States, that the ſeveral petitions which were preſented, praying for a repeal of the alien bill, ſhould be made the ſpecial order of the day for the Monday following, the 10th inſtant, when the ſubject was to undergo a diſcuſſion in that houſe. On the evening of Friday, the 7th a number of Iriſh aliens met together, as men who felt themſelves, and ſtill feel themſelves particularly intereſted: a number of their friends equally averſe to the alien bill aſſembled with them, in order to form a petition to be preſented to the Houſe of Repreſentatives, on the following Monday.

The Memorial I ſhall take the liberty of offering to the conſideration of the Court, and Jury; and it will be found that it is barely a Memorial to Congreſs, couched in language the moſt reſpectful, manly, and decent, praying not the repeal of two laws as had been alleged, but of one law, by which the memorialiſts were aggrieved.

[Mr. *Dunkin had proceeded in reading the Memorial from the printed copy, a conſiderable way, when the counſel for the proſecution appealed to the Court,* whether it was *neceſſary* or proper to read the Memorial as it made no part of the matter at iſſue.]

Mr. *Dallas.* We claim no indulgence from the Court in this caſe, we ſtand ſo high on the ground of law and of juſtice, that we need none; this paper has been called a *jacobinical* paper, and unqueſtionably the intentions of the defendants are to be found in that paper. But the proſecution is againſt its being read. There may be prudence in that deſire. Becauſe it

would not only manifeſt the innocence of the defendants but it would do them honor. We will not then preſs the reading of it becauſe we do not ſtand in need even of that. The Court and Jury will nevertheleſs keep the circumſtances of this memorial in mind; and if there ſhould any matter ariſe *ex poſt facto* which the defendants never could have contemplated, and which the preſentation of ſuch a petition ſhould not have given riſe to, that matter will be duly weighed; if in this peaceable and conſtitutional act of ſeeking ſubſcriptions, they ſhall be found to have been wantonly attacked, then the Jury will determine whether the defendants are not actually the injured parties. I will even anticipate an anſwer that may be made, that the ground was ſacred, that it was private property; but while I allow this is true, I deny any act contrary to law or propriety, I inſiſt that the act of ſeeking ſubſcriptions was a conſtitutional act, and that there was no irregularity, or breach of the peace in the whole proceedings of the defendants, nor any ſtep taken by them ſeverally which was not juſtiſied by the circumſtances of the caſe. I am therefore willing that the reading of the memorial may be diſpenſed with.

The Court. Here is a charge of a riot, and there is evidence of actual violence; now whether that violence has ariſen out of the *time* and *place* choſen to collect ſubſcriptions is a matter for conſideration. Suppoſe the paper legitimate in all its parts, but if it is carried in an illegitimate manner, and a riot and treſpaſs enſues, it matters very little what the contents of the paper may be.

Mr. *Dallas.* I wiſh the court to advert to the law as laid down in *Hawkins.* If ſeveral perſons innocently meet, and there is nothing in the manner or purpoſe of their meeting improper; and they are attacked, an affray enſues, and in their own defence they become parties in the affray, they who are attacked are ſurely innocent of the affray. Again: If a tumult ariſe after an innocent meeting, and only a part of thoſe who met innocently are engaged in it, ſurely thoſe who are not even on the defenſive in the affray cannot be conſidered as parties in it; and the law being that three or more perſons are neceſſary to conſtitute a riot, it clearly appears from the evidence already given that the intention of the defendants was not only innocent but laudable, and that even if it were neither, that there were not a number ſufficient to conſtitute a riot concerned in the acts that took place.

Mr. *Dunkin.* Then proceeded. I ſhall diſpenſe with the reading of this reſpectable memorial, and ſhall confine myſelf to the facts connected with it, which were made the pretext for the preſent proſecution. On Friday evening at a meeting of gentlemen, ſome intereſted by principle, and others coming in immediately under the deſcription of aliens, met, formed the memorial in queſtion, and the defendants were appointed as part of a committee to obtain ſignatures. A conſiderable number of names had been ſubſcribed on Saturday, but the time being limited, made it neceſſary for that committee to make unuſual exertions to obtain a competent number. It was mentioned to them at the time, that it would not be diſagreeable to the worſhippers at the church of St. Mary for them to obtain ſignatures there, for that *three fourths* of the people who viſit that church, came under the penalties created concerning aliens. In conſequence, theſe gentle-

men repaired to the yard of that church on the Sunday following, where they actually did obtain ſeveral ſubſcribers. At this time, ſome young men, owing to the impetuoſity of their diſpoſition, or the violence of party politics, ruſhed upon Dr. Reynolds, and uſed him as has been related this morning in the evidence of the proſecution. In this ſituation, if Dr. Reynolds had actually SHOT thoſe perſons he would have been juſtifiable in the eye of the law, but he did not go to thoſe extremes in which he would have been warranted.

It is well known that a party ſpirit has very much prevailed in this city, and it is as well known that Dr. Reynolds has been particularly pointed at by the party to whom he is oppoſed. He has not even had quiet in his own houſe, and has been expoſed to particular hazard. Political or perſonal animoſity has proceeded ſo far againſt him as to menace his life in a manner that cannot be too ſtrongly deprecated. In this city that gentleman has been threatened to be aſſaſſinated. The intention has been ſolemnly communicated to him, from an authority not to be queſtioned, from a gentleman who holds a ſituation of honor, a member of the Congreſs of the United States. In this ſituation, Dr. Reynolds did not loſe ſight of prudence, he aſked advice how he ought to act in ſuch a ſingular caſe, and he was adviſed to arm himſelf; he ſaid he would arm himſelf with a piſtol, but the gentleman told him that a piſtol was an uncertain defence it was liable to ſo many accidents; a *dirk* was a more ſecure weapon of defence; Dr. Reynolds however contented himſelf with carrying a piſtol. And in this he was juſtified by every law, human and divine. As to the other three defendants, I have heard nothing that can poſſibly impeach either their conduct or their reſpectability. The moment that they found it was a meaſure in the leaſt diſagreeable to the congregation, they retired, and ceaſed even to take ſubſcriptions there. In this reſpect, their conduct bears a very remarkable contraſt with thoſe who oppoſed them. On their parts, there was forbearance and decorum. On the others, violence and blows. We ſhall now call evidence to ſubſtantiate the facts we have alledged.

The honorable MATTHEW CLAY, *ſworn.*

Queſ. Pleaſe to inform this Court and the Jury whether you underſtood Dr. Reynolds was to be aſſaſſinated, and when.

Anſ. I was aſked by a gentleman if I knew Dr. R. I told him I did—he aſked me when I expected I ſhould ſee him, or whether I ſhould ſee him ſhortly, I ſaid ſoon. I aſked him, why. His anſwer was, *tell D. Reynolds to be upon his guard, there is a plot to aſſaſſinate him.* I did communicate this to Dr. R. I told him of it the ſame day in the afternoon. Dr. R. then aſked me what he ſhould do—I told him if it was me, I ſhould prepare to defend myſelf againſt any aſſault.

Queſ. Did you mean, or expreſs any mode of defence?

Anſ. He aſked me whether I thought a piſtol was a good mode of defence—I anſwered I did not; he might defend himſelf in a better manner, for that a piſtol might miſs fire; I would do it ſome way to anſwer a better purpoſe.

Mr. *Hopkinſon.* Having told him you thought that was not a ſure defence, did you tell him what was?

Anſ. I told him what I thought a more proper way; I told him I would

take a DIRK, which if a man was to attempt to aſſaſſinate me, I thought a ſafer mode of defence.

Queſ. Are you, or not, a member of the Houſe of Repreſentatives of the United States? *Anſ.* I am.

Queſ. Was this communication made to Dr. R. before the affair at St. Mary's church? *Anſ.* It was, ſome days.

Queſ. How long? *Anſ.* Near a week.

Mr. *Hopkinſon.* Pleaſe to mention who were the perſons that deſired you to communicate this to Dr. Reynolds.

Anſ. I was informed by a member of the Senate.

Queſ. What is his name?

Mr. *Dallas.* Under ſanction of the Court, I conceive that the only queſtion before the Court is whether ſuch a communication was made to Dr. Reynolds by reſpectable authority; and that reſpectable authority is produced, who teſtifies that about a week before the tranſaction at St. Mary's church he gave Dr. R. notice of a plot to aſſaſſinate him; that he aſked advice from the witneſs, and he exactly told him what happened, that a piſtol is a very uncertain weapon of defence.

Mr. *Hopkinſon.* I do inſiſt on the name of the perſon. Dr. R. has taken unuſual ſteps. Had Mr. Clay declared of his own knowledge that there was ſuch a deſign it would have been ſufficient, but when he tells it at ſecond hand, it is fit the author ſhould be known.

The Court. Digreſſions are not compatible with judicial proceedings, if they were indulged there would be no end to trials. The evidence produced is eminent from character and ſtation: a man of fortune and member of the Legiſlature of the Union; if he himſelf was ſatisfied of the fact, even though it might not be really intended, and communicated under the impreſſion of its truth to Dr. Reynolds, it is not neceſſary that he name the authority, ſince he himſelf ſays it is reſpectable. The name of the perſon is not neceſſary to the preſent iſſue.

Mr. *Dallas.* We do not object to reveal the name; but we conclude if the one is done, that it will be neceſſary to name the perſons who laid the plot alſo.

Mr. *Hopkinſon.* Did you ſeriouſly believe, from the authority and circumſtances under which it was related to you, that there was ſuch a purpoſe meditated?

Anſ. I did ſeriouſly think there was a plot laid; the name of one of the perſons in the plot was mentioned; a few days previous to this, that perſon had a very ſerious contention with Dr. Reynolds; ſo that it impreſſed itſelf on my mind as a fact; and were I placed in ſuch a ſituation myſelf I certainly ſhould have been prepared with weapons of defence.

Mr. *Clay,* wiſhed to add a further obſervation, leſt he ſhould appear officious in this buſineſs, he wiſhed it to be obſerved, that he boarded and lodged in the ſame houſe with Dr. Reynolds, and being enjoined to tell him of the danger he was in, he told him of it, and at the ſame time mentioned his authority to Dr. R. If the Court had thought it the leaſt material, he ſhould not object to mention the gentleman's name.

THADDEUS M'CARNEY, *ſworn.*

Queſ. Do you recollect being in Church on Sunday week. *Anſ.* Yes. I am a member of that congregation, and conſtantly attend that church.—

When I came out of the church laſt Sunday was a week, I ſaw at the eaſt end, a croud; I aſked what was the purport of that croud: they told me it was with an intent to obtain ſignatures to a petition to obtain the repeal of the alien bill.

Queſ. Are you a citizen of the United States. *Anſ.* No, I have been in the country only two years.

I then ſtepped forward with an intent to put my ſignature to it, when I ſaw a gentleman. I think it was Dr. Reynolds, at the ſame time I ſaw a man in the crowd who appeared to be Daniel Conroy, who ſeemed to be inſulting that gentleman. This Conroy ſaid that the gentleman ought to be kicked out of that place, or ſome ſuch words, *I believe kicked out.* The words were no ſooner ſaid, than the Doctor was ſhoved four or five yards in a rio ous manner, but not kicked. Dr. R. aſked Conroy, whether he was a member of that church, a truſtee or ſupporter of it. If that was the caſe he would go away peaceably. I believe it was before they ſhoved him that he uſed thoſe expreſſions, after which they ſhoved him at leaſt four or five yards. He then turned his face round towards the eaſt, and put his hand in his pocket, and ſaid he would ſhoot any one that would inſult him, or ſomething to that effect. He then took out a piſtol, but neither cocked nor preſented it to any body, but rather held it up with the muzzle elevated in his hand. Immediately after he was laid hold of and pinioned by Mr. Ryan and I believe others: I was cloſe by him, and Mr. Gallagher junr. at the ſame time was at my right hand. He made a blow at Dr. R. before the piſtol was pulled out. I do not know whether he ſtruck him or not, but I believe he did not, he then pulled out his piſtol. Dr. R. was then thrown to the ground, a number of people were about him. I told them the perſon was a great Iriſh gentleman, and ought to be treated as a gentleman, and if he had done wrong the laws were open. He was then liberated.

Queſ. Do you know whether it was, or was not the deſire of a number of the members of that congregation for the petition to be brought there that day to obtain ſignatures? *Anſ.* I believe it was, becauſe I for one would put my name to it.

Queſ. What reaſon have you to believe that it was the wiſh of ſeveral others of the congregation that the paper ſhould be brought there?

Anſ. Several told me ſo; ſeveral did ſign it. I ſaw no diſturbance, but divine ſervice.

Queſ. You ſaw no diſturbance?

Anſ. Not till after divine ſervice, I mean; there was a cry from Mr. Conroy, to turn out or kick out Dr. Reynolds. I did not know Mr. *Gallagher* before, but after I ſaw him at the Mayor's office I knew it was he, and would know him again.

Queſ. Did you know before the Sunday, that the paper was to be brought there that day?

Anſ. Yes: I knew it before: I knew it on Friday.

Queſ. What time?

Anſ. I don't know preciſely, but ſome time before ſun-down.

Queſ. Who told you of it that were members of the congregation?

Anſ. Great numbers: I don't know now all of them, but ſo many it would take an hour to tell them.

Quef. I infift, fir, on your naming fome of thofe who told you that they would fign it.

Anf. A man cannot always keep an almanac in his head : will you give me time ? I think John M'Gurk was one ; I told him there was application for the repeal of the alien bill. I don't mean to fay that any of the members of the congregation faid they would bring the paper there for fignatures, but that a number of them would fign if they were brought there. The friends I afked to go faid they would fign it there becaufe the time was fo fhort.

Mr. *Hopkinfon.* The witnefs has faid two oppofite things:

Mr. *Dallas.* The witnefs has corrected himfelf ; he has been confufed by repeated queftions.

Witnefs. If any of yourfelves were in my fituation perhaps ye'd be perplext by crofs queftions.

Quef. What time did you go to church ?

Anf. I went not until after fervice was begun ; the people were in church when I went in ; when I came out it was after eleven. I faw nothing to difturb fervice ; I faw no one going from pew to pew. When in the yard I heard Mr. Conroy cry "turn him out" or "kick him out."

Quef. Did you fee any other perfons bufy about Dr. Reynolds ?

Anf. Being a ftranger, I do not know every body—I faw Mr. Ryan.

Quef. Do you know Mr. Gallagher, junior ?

Anf. I believe if I was to fee him I fhould.

[Being afked to point him out, feveral different perfons were prefented to him—he at length difcovered and pointed out Mr. Gallagher, junior.]

Quef. Did you fee any perfons in the yard on a particular tombftone with a paper ? *Anf.* No, fir ; I did not.

WM. HARPER, *Sworn.*

I was in the church yard about the time that fifteen or fixteen people had come out of church, and then Dr. Reynolds had not arrived from his lodgings.

Quef. Did you fee any perfons near the tombftone of Mr. Burns with papers ?

Anf. I don't know of any tombftone of a Mr. Burns ; I never was in the yard before, but I faw feveral perfons in the yard collected round Dr. Reynolds ; he had a memorial to Congrefs receiving fignatures againft the alien bill.

Quef. Did you not fee Mr. Duane, or Mr. Moore, or Mr. Cuming there with him ?

Anf. No ; I faw none of them there but Dr. R. he held a memorial and was furrounded by perfons all ftrangers to me. I was myfelf dragged by violence out of the church yard. I was in the yard before Dr. R. I faw him come in alone. I did not fee the fcuffle in which Dr. R. was abufed, as I fuppofe it happened while I was abufed myfelf.

Quef. Are you a citizen of the United States ? *Anf.* No.

Quef. What induced you to go to that place ?

Anf. I went to receive fubfcriptions to the memorial, after fervice:

Quef. Were you there before the fervice began ?

Anf. No ; the people were coming out before I went.

The evidence on both ſides being cloſed, Mr. Dallas roſe on behalf of the accuſed, and addreſſed the Court and Jury

May it pleaſe your honors,

Gentlemen of the Jury.

In riſing to addreſs you on the part of thoſe gentlemen, it is not on their account that I am impelled to requeſt a ſolemn and patient attention, but from a much higher motive my duty as a citizen. This, gentlemen, is no common cauſe, it is preſented to you for deciſion at a time and under an aſpect which render it ſingularly ſolemn and intereſting. If any of you have heard the clamours and miſrepreſentations which have reached my ears abroad, concerning the conduct of theſe gentlemen, how much aſtoniſhed muſt you be to hear the evidence that has been produced on the part of the proſecution; to hear and witneſs the whole iſſue on the two indictments now before you! Who has not heard that a dark conſpiracy had been formed to overthrow not alone the Conſtitution but to ſubvert the very principles of our form of government. Upon ſuch rumours, upon ſuch clamours, calculated rather to diſgrace our police and the character of our citizens, I ſhould dwell very lightly, had they not in ſome meaſure received a ſanction from the mayor of this city, the effect of which I think is evident in the return made of the indictments before you. You heard this morning from the gentleman who acts for the Attorney General in this proſecution, why the charge againſt theſe gentlemen, which ought to have been compriſed in one common accuſation, has been ſubdivided into two indictments containing diſtinct charges; you have heard that while Dr. Reynolds is on one hand accuſed of a riot and aſſault, in common with the others, he is ſeparately and individually charged as a rioter and aſſaſſin. [*Here the two indictments were read.*] They are accuſed of wilfully and maliciouſly ſtirring up a riot on an holy day and in a holy place, by attempting to obtain ſignatures to a memorial which reflects the higheſt honor on the pen that wrote it. But the mayor of this city charges this act as an evil one, done with an intent to ſubvert the government of the United States: Concerning popular rumour or marked malevolence, I ſhould ſay nothing, of me it can take no hold, although it is well known no perſon has been more ſubjected to the laſh of ſlander than I have been; but theſe indictments are different from a popular rumour or a private ſlander, you have here the preſentment of a public magiſtrate, no leſs than the mayor of this reſpectable city, wherein theſe gentlemen are ſolemnly charged in the face of the public with deliberately procuring an aſſembly of people with the determination of ſubverting the Government of the United States. I am now obliged to aſk you, gentlemen of the Jury, what evidence has been produced, what facts have you heard, which can give a ſhadow of ſupport to ſuch a henious accuſation? But it does not end there; according to the politics of the preſent day, any man who wiſhes to exerciſe the right of free opinion, any man earneſt in his devotion to the principles of freedom, is marked out for party obloquy; theſe gentlemen who have been charged with an intent to ſubvert the government, already appear, from the evidence produced to criminate them, free from every imputation or even ſuſpicion of guilt. But you have heard them called Jacobins! What! is the right of petitioning for a redreſs of grievances of Jacobiniſm? Are forms of proceeding eſtabliſhed by the Conſtitution to be

converted into criminal acts by the voice of faction ? Are these gentlemen to be treated like the mere out casts of society, for re-receiving signatures to a memorial that confers honor on its author ? But the artifice and violence of faction have gone farther, it has been publicly asserted, that these gentlemen should not be allowed counsel—that whoever should stand forward to defend them ought to be denounced ! or in other words, that he should be exposed to that torrent of calumny and abuse which is so much at the command of a certain party, and who appear to hold the exclusive possession of it. What can be the object of such violence—and of such denunciation ? And do those who are thus so loud against these gentlemen, on a charge not proved, do they wish that the privilege of counsel provided by the constitution should be destroyed ? If these are their views, their slanders are consistent. Do they wish to deter gentlemen of the legal profession from standing forward, whenever party animosity is elevated to a certain degree ? I say, if once the independence of the bar can be shaken, our laws may be good, our courts of justice may be composed of wise and upright judges ; I repeat it, if the independence of the bar can be shook ; the instant it becomes subject to the influence of fear, of power, of a faction or party, our laws, our independent judges, our constitution are naught. I speak it with pride, because I know I speak a well approved language ; it is of the utmost importance that the bar should possess that independence which I now exercise. I have known, indeed, some instances where the influence of power and the menaces of party, have deprived men under accusations perhaps as groundless as the present, of the privilege of counsel for their defence, but God forbid that the instances should be multiplied or ever arise again.

I have thought it my duty to notice matters so much connected with this trial—I have thought it proper to shew the influence which has been attempted to be set up to introduce passions where there was not evidence. There can be no doubt but this is a party case, a party question altogether. But however vehemently party spirit may have been exerted against the defendants, I trust I shall not hazard my reputation with the honorable Court or the Jury, in being the advocate of these gentlemen. Is it possible that in a country like this, we shall have the pure cements of justice polluted by party. I say upon the critical ground where we now stand, the courts of justice must tread with particular caution. Upon the ground we now stand, there is the utmost danger that a Grand Jury or a Petit Jury may be unconsciously though really influenced by party. This may not be the case on the present occasion. I trust in God that nothing has or will appear to justify such an apprehension-- but if it is not now, it soon may be the case : Look abroad, is not party, marshalled nay armed for violence ; has not party entered into the recesses of private society and torn it up by the roots, so that scarcely any intercourse subsists between men differing upon political principles ? Is not the country almost equally divided in its population by party spirit ? Where is the hope of safety, where the expectation of a harmonious intercourse in society, if these furious passions are to be introduced upon every slight occasion before a court of Justice ? I appeal to you, gentlemen of the Jury, if this is an over-drawn picture, if it is not strictly true. It is not to rouse party passions that I thus draw it before you, but to point out how it operates, and

how much it has done, and how far it has proceeded, against these gentlemen, without facts or evidence even to support appearances. In other countries, and particularly in that with which habit and language has made us most intimate, all the parts of government are carried on by their proper functionaries; in every other civilized country we find the public servants adequate to the due discharge of their functions, but it is an evil in ours, that when a man finds himself vested with a "little brief authority," he conceives himself to be omnipotent, that all power is centered in himself, and that law and establishments must instead of leading him bend pliantly to his prejudices. This is indeed a malancholy picture of society, but it is a true one, and if we mean to mend it we must first fairly look at it. Indeed in that country to which I have particularly referred, party will some times dare to intrude, but justice is there so well administered, that probably to that circumstance alone may be attributed its internal tranquillity; were it not for the due administration of criminal justice, that government might before now have been overwhelmed in common with those where justice was not to be had. When the British minister with all the violence of party animosity selected *Hardy*, *Tooke*, and others, as the objects of vengeance, they were not dismayed by his power nor by his menaces; the courts and juries have in all their convulsions maintained a dignified and enviable independence; the judges of that land are too wise not to know, that where the people have no hope, their condition cannot be worse, and that if they had not this one resource from oppression, the people would rise and wrest the abused authority from their hands—the British minister brought those men before a jury, and they were acquitted; perhaps happily for him, for the nation was thereby appeased. Such is the model we have adopted, a jury is called, a jury judges, and a jury decides, and to the decision of a jury before whom the present charges have been brought I submit with perfect confidence, as I confide in the real independence of the Court.

For my part I solemnly declare, that I never felt happier in the discharge of my duty than in being the advocate of these gentlemen in this cause; for notwithstanding all the out-door rumours, and all the noise that has been raised on this occasion, I must say that this cause ought never to have appeared before a court; but being brought forward in such a strange shape, I am willing to abide the award, since I know that it must be honorable to these gentlemen.

Having treated of the general principle and character of the prosecution, I shall now examine it by the rule of law. But before I can enter on the case I shall state a few necessary facts. Here are two indictments, one for a riot and assault, and the other for an assault on James Gallagher, with an intent to kill him. Under correction of the court if I am mistaken, I shall lay it down as a general position, that on all cases of riot it is indispensably necessary, that three persons or more should be actually concerned. The riot in the present case is charged as a circumstance independent of the alledged assault on Mr. Gallagher; but a riot is also alledged to have been committed by these four gentlemen. I will now appeal to the understandings of the jury how far the charge in this indictment corresponds with the testimony that had been produced? Is there in the whole of this evidence on the part of the prosecution a single allegation to support this strange charge? Here it is said that these four gentlemen being evil disposed persons assembled

unlawfully to commit an unlawful act, this unlawful act is a riot with an intent to assault Mr. Gallagher. Wherein has it been shewn that Dr. Reynolds was an evil disposed person, how has it been proved that he premeditatedly and maliciously committed this act? Is there in the indictment any thing of which he was guilty? It appears from the evidence of the principal witness in this case, Mr. Gallagher, junior, that Mr. Moore deported himself with the utmost propriety; that Mr. Duane he did not see at all, and the single witness who saw him after service, was conclusive that he saw him doing nothing wrong: there then are two of the gentlemen completely exonerated from every evil imputation, nay they are proved to have behaved, either in a decorous manner, or to have been perfectly innocent.—With respect to Mr. Cuming, he was not seen after he went to post up the notices which you have seen, and at that time it appears that so far from acting offensively or riotously, he stood merely on the defensive, and afterwards went away peaceably, even when he saw the notices torn down by the clerk. In the name of Heaven then what has become of the riot? If three persons are necessary to constitute a riot, who or where are the persons? Mr. Gallagher did not see Mr. Cuming after service, of Mr. Moore he speaks respectfully, and Mr. Duane he never saw at all! Can this be called an unlawful meeting? If the indictment is to be taken up in this manner, it must be proved, that three persons were engaged together; if you cannot find that, then you cannot find the first count in this indictment.

With respect to the second count of the indictment, there is no evidence whatever to support it. But let us enquire what was the real object of those gentlemen in going to that Church-yard, and how far it was possible they could be criminated for going there. The law is very clear on this subject, in *Hawkins's*, section 2, page 153, it is said that if a meeting takes place at a *church-ale**, where the intention of the meeting is innocent; and after they shall have met any quarrel shall ensue, it is then an affray, because it was an action that had not been pre-contemplated. These principles apply to the present case pointedly, for even a church is mentioned.—And it is implied that some act, bad in itself, should have been previously contemplated to render the meeting in any respect criminal. There can be no doubt on the mind of any man who has heard the citation or advertisement read, but this falls under the like innocent *intent*. If that is to regulate a jury, this must be pronounced innocent. It must be proved that on going to the Church-yard of St. Mary's those persons contemplated some unlawful act, or that if they did not intend any unlawful act, being there met, some act of violence was committed, which did not occur suddenly, before they can be convicted agreeable to the indictment: but if all this violence occurred suddenly, without any intended disturbance, then they must be discharged.

No premeditation of an evil purpose has been here shewn. The act of receiving signatures to a memorial has not been even surmised to be criminal, and although it appears that there was an affray, which could not have been foreseen by these gentlemen, it has been proved that three of them had not any concern in it whatever. To Dr. Reynolds alone then can any charge for any affray be presumed. Against Mr. Moore, Mr. Duane, and Mr. Cuming, the whole indictment falls to the ground.

* See Johnson's Dictionary.

What then was their object ? Is it poſſible to conceive that in this populous and reſpectable city, the ſeat of government, where the conſtitution is in every man's hands, and where the expoſition of its principles, are in conſtant emanation from the chambers of Congreſs ? Is it poſſible that it ſhould be ſaid to be criminal, to ſolicit ſignatures to a decent and dignified memorial for a redreſs of grievances ? If this were indeed a crime, who is the man that on one ſide or the other would be guiltleſs ? Is this a ground for a charge of riotous proceedings, an act the furtherance of which that man would be indeed criminal who would not devote his whole time and talents to promote—an act which every man, who holds the liberties and conſtitution of this country dear, ought to have done ; an act expreſsly recognized by the conſtitution itſelf, and which every man who feels and thinks ought to ſupport at every hazard.

Gentlemen, I will not read this memorial, becauſe it would engroſs too much of your time and that of the court, but I may appeal to the public ſentiment, not on the law againſt which the memorial was framed, but on the memorial itſelf ; wherever it has been read, by whomſoever it has been ſpoken of, the friends or the enemies of the law, it has been never denied to have been honorable to its author, decent in its language, and a good expoſition of the grievances which were inflicted by the law to thoſe with whom it originated. I do not mean in this place to enter into a diſcuſſion of that law, I barely alledge that it was paſſed at a period when a particular policy bore down every principle before it: Far be it from me to arraign any meaſure of the honorable body which paſſed that law, but I will ſay, that if Congreſs ever had a right to paſs ſuch a law, the people have alſo an indiſputable right to complain of it, but particularly thoſe who were expoſed to the ſeverity of its proviſions. But it will be ſaid thoſe people are aliens. I will reply, the citizens of theſe ſtates have doubted the conſtitutionality of this law, they more than doubted its juſtice ; it was therefore a crime in the citizens who have from all parts of theſe ſtates remonſtrated againſt this law, if it was criminal in theſe gentlemen; it was by the example of the people, they were led to expreſs in moderate and reſpectful language, what had been before expreſſed with marked and pointed ſeverity within the chambers of Congreſs, by a very reſpectable minority of the people's repreſentatives. Let it not be ſaid that in petitioning againſt this law, they meant to violently oppoſe it ; that by expreſſing an opinion againſt a law they meant to overturn the conſtitution and all law ; the idea can never be entertained in this court nor credited by a jury of freemen ; they never meant to oppoſe the law, but in the mode provided by the Conſtitution, and ſo long as the judiciary ſanctioned it, they in common with every other good citizen deemed themſelves bound to ſubmit to it. But this orderly ſubmiſſion muſt not be conſidered as forbidding them to ſeek its repeal by the mode which they have followed and which the Conſtitution authoriſes. But it will be ſaid this memorial proceeds from aliens ; have aliens then no rights, no claims to freedom or juſtice ? A particular claſs of men are invited by the moſt flattering views of freedom and independence, ſafety and ſecurity to the American ſhores, under the ſanction of known laws and an admired conſtitution ; they are taught to believe, that the moment they arrive they ſhall enter into a free participation of all theſe bleſſings—but after their arrival, after

bringing with them their affections, and thoſe dear ties of family which ſecure affection, bringing with them their induſtry and their talents; they find all their travail fruitleſs; all their flattering temptations diſappear, and even their hopes are annihilated: They fly from tyranny at home, and they are told in the country to which they had fled for freedom's ſake--"You are "become ſubject to the mandates of an individual---who like all other men "muſt be fallible." Far be it from me to ſay that they will meet with tyranny here; but I aſk, if with regard to aliens, all that reſpects courts of juſtice, the confrontment of the accuſer, and the free ordeal of a jury, are not to them totally done away; and if they are not left to the diſcretion of an individual, who, however wiſe or juſt himſelf, muſt of neceſſity receive his information from others who may not poſſeſs the ſame ſcruples. Men thus cut off from ſociety have a right to ſay---"we have been deceived; yet "we are in a country which claims to be free, we will ſubmit to the laws "that aggrieve us, but we will ſhew ourſelves worthy of freedom, by reſ-"pectfully remonſtrating againſt that law which was declared to be un-"conſtitutional by a reſpectable minority in Congreſs, and by a very large "portion of the people." Need I refer to this memorial, need I dwell upon the decent dignity of language in which it is couched? Am I not juſtified in ſaying of it, that if any memorial ever preſented to Congreſs was peculiarly entitled to reſpect, this is it; if any were ever more modeſt, more confined to the ſubject, more devoid of inflammatory matter,or more reſpectful than this, I know it not,I have never heard of it, it is impoſſible that there could be any more free from exception; it muſt be received in Congreſs with reſpect, I am ſure this court will reſpect it, and I am ſure it will merit and meet reſpect wherever it ſhall be ſeen and read. If this document is of that character, if its intentions are unexceptionable, and that the evidence proves the conduct of thoſe who are now accuſed of a riot, was in ſtrict conformity with its principles, under what light does this proſecution appear? Away with all thoſe odious imputations of riotous deſigns! Could theſe gentlemen, could any man of leſs ſenſe than they poſſeſs, have ever entertained the idea of obtaining ſubſcriptions by a riot---by a riot in connexion with ſuch a memorial? The firſt queſtion that muſt occur reſpecting the ſignatures to this memorial is, were they to be obtained by violence or by perſuaſion? Thoſe who framed this memorial and ſtarted with it, muſt have ſaid, "this object "can be only obtained by civility and a gentle demeanor---the judgment of "men muſt be addreſſed, and there is in the ſubject that which muſt carry "the heart along with the head." Then if this memorial is ſuch, and if ſound policy required their deportment to correſpond with it, let us enquire what their deportment was according to the evidence?

It is for me to enquire or decide between men upon matter of opinion; I will not diſpute upon mere points of delicacy; I am not about to ſay whether it was right or wrong on a Sunday, and in the yard of a church, to aſk men to put their ſignatures to this paper. Some will think it wrong, others not; it is a matter of private opinion, greatly dependant on ſituations and events; but this I muſt ſay, that as it reſpects the right of the citizen to petition, it is moſt important, for nothing can be more important to the citizen than the conſtitution under which he lives, which guards

his civil and political rights, and which ſhould be guarded from all attacks direct and indirect. With reſpect to the time and place, let me appeal to gentlemen from the country, where the people, ſcattered over wide ſpread townſhips, and at too great a diſtance to meet but on Sundays at their common place of worſhip—if it is not common to meet after divine ſervice at or near the church, and there ſign papers on public occaſions. Take into conſideration the ſtate of the community, and the matter appears a reaſonable mode of proceeding. I have myſelf ſeen accounts of ſuch proceedings on Sundays in the eaſtern newſpapers.---- But though even there alone theſe gentlemen would be juſtifiable, they are much more ſo by the habits of the people whom they particularly addreſſed, the natives of Ireland; where it is the univerſal cuſtom to tranſact ſuch buſineſs after ſervice, nay to notice ſuch ſubjects in the intervals of the ſervice, by the Prieſt from the altar.

Should we not then when we paſs laws of peculiar ſeverity, make no allowance for the inoffenſive cuſtoms of thoſe whom they implicate?--- When a man who may have reſided 13 years, and who has reared up a large family, after having married in this country, without a view of every returning to that which gave him birth; when we have paſſed laws which deprive ſuch men of the rights of freemen, only becauſe they have not lived one year longer among us, muſt an additional cruelty be added to their injury, of denying them the right to remonſtrate; ſhall there be no conſideration for the feelings of theſe people, who had been as it were deluded from their native land, men many of whom have not been ſufficiently long in the country to have acquired an accurate knowledge of the written laws.

Theſe men, having aſſembled for a laudable purpoſe, was it not natural to them to ſay, we will purſue preciſely the ſame path we have purſued in the country from whence we came? There was no idea in the minds of the clergy that this was unholy, either as it reſpected the houſe of God, or the ſacred deſignation of the day. All that the witneſs who was of the clergy ſaid, was, that in Ireland, though it was cuſtomary, it was given notice of generally by the Prieſt himſelf, at the inſtance of the members of the congregation. Surely our Legiſlature, while they act in this way with reſpect to aliens, muſt expect that our Juries will act with ſome view to the habits and cuſtoms they brought with them from abroad. Theſe men tortured and perſecuted, engaging in a reſpectful addreſs (certainly a lawful purſuit) determined to do here what they had been accuſtomed to do in other places; and to take the opportunity when the people were collected in the neighborhood of the church. I do believe that they would have avoided the place and time if they could. I believe the anſwer of Dr. Reynolds was a ſufficient proof of his diſcretion, when he was aſked the reaſon of coming there that day, he ſaid, "We cannot diſpenſe with the preſent opportunity, as the ſubject is to be taken up in Congreſs to morrow." Now here is a man engaged in a lawful object, who thinks himſelf juſtifiable, from the manners of his own country, but ſtill he would through delicacy have avoided it if he could, but the circumſtance was preremptory. True it is, that no application was made to the prieſt, in order that he ſhould an-

nounce the meeting ; but people who were earneſt in an undertaking might eaſily paſs over that ceremony, and of their own ſpontaneous motion, without any intention of diſreſpect or harm, having projected the memorial, appoint thoſe who were to go to the church yard to obtain ſignatures. Theſe were men, not authoriſed to do any unlawful act, but to perform the lawful object of their appointment, and this they attempted, by poſting up this notice: " Natives of Ireland who worſhip at this Church are requeſted to wait in the yard after divine ſervice, till they have affixed their ſignatures to a memorial to Congreſs for the repeal of the Alien Bill." Now, gentlemen, the policy of the memorial being ſuch, is it poſſible that any men, bent upon riot or outrage would have proceeded this way ? Can it be ſuppoſed that theſe few men went there with a deſign to beat the whole congregation into a ſignature ? They muſt certainly then have fixed theſe notices up, that the congregation ſhould be upon their guard, that they were going to compel them to ſign ? This cannot be admitted, for they gave a previous honorable notice. But gentlemen this application, worded as it is, is not to the congregation in general it is only to the natives of Ireland who worſhip there. Theſe natives of Ireland !—hah ! Theſe Iriſhmen are Jacobins, and of courſe they will ſign nothing but a Jacobinical addreſs !

We now come to the political part of the evidence. Having by an involution of ideas connected Iriſhmen and Jacobiniſm, the affection of his mind jaundiced his eyes to every thing; this wholeſome memorial was ſeen by him tinged with the ſame pale and ſickly hue of JACOBINISM, and on the inſtant it is reſolved in the words of the evidence that " *it ſhould be prevented at all events* !" I ſhall now endeavor to trace the progreſs of this delirious declaration, in which I muſt introduce the *hero* of this important drama, Mr. *James Gallagher*, jun. Intoxicated by the phantaſy of Jacobiniſm, his heart is ſtruck with horror upon ſeeing the walls contaminated with this Jacobinical notice, and he valorouſly reſolves to pull it down ; after diſplaying in the ſame breath, his religious moderation and his violence againſt Jacobiniſm, he proceeds, where ?—To his devotion ? No ! His religious and his political zeal were now in warm cooperation, and he proceeds to alarm the clergyman, with his ideas of horror and bloodſhed ; having alarmed the prieſt; after coming from the altar, his boiling zeal leads him to the moſt influential characters in the church, who are ſucceſſively alarmed with the apprehenſions of this terrible Jacobinical conſpiracy, and even this religious hero forgets his religious duty, ſo wholly engroſſed is he by holy rage againſt Jacobiniſm ; forth he iſſues foaming with political fury, eager to encounter thoſe windmills generated in his own imagination by a ſmall piece of paper ; but for a moment helays aſide his politics, and he very gravely tells you that he retired to the tomb of his parent in order to prevent any riot there—to prevent any riot, when neither noiſe nor diſturbance of any kind occurred, agreeable not only to his own teſtimony but that of every other witneſs, for a conſiderable time after. But no adventure occurring here, he again ſallies forth to ſupport his religion, and diſplay his courage at the ſame time with his politics. He ſees Dr. Reynolds *keeping at bay five or ſix perſons*, who menaced him, and then this valorous hero ruſhes on him, and

he tells you with a voice of triumph and elation—that after Dr. Reynolds was on the ground he "*kicked him three times*"—Thefe are the words of this young hero "*when he was down I kicked him three times.*" This act to befure was not quite reconcilable with a profeffion of piety, neither was it perfectly confiftent with that heroifm which men are apt to admire, where true courage fcorns to triumph o'er the fallen, but it was perfectly confiftent with the heroifm of our temporary politics, for by kicking Doctor Reynolds three times while down, he became qualified to *carry difpatches to France, or to go on an embaffy to the favages.**

Let me beg your ferious attention gentlemen to the evidence—During the whole period of the divine fervice there is not the leaft noife, no appearance of riot or difturbance of any kind. I fay then that deporting themfelves fo honorably to their truft, the conduct of thofe gentlemen bears a very remarkable contraft with that of thofe who profeffed fo much delicacy about religion, and paid fo little regard to decency and moderation. There is much indulgence to be made for thefe gentlemen ; the law of which the memorial complained operates upon the fubfcribers as an *ex poft facto* law, and they had a juft right to complain. They were not apprized of any particular rules eftablifhed in that church—it appears in evidence that the paftor had it in his difcretion to grant the privilege of pofting up bills ; furely the exiftence of the power to grant is an argument of the propriety of the act itfelf. Would not the repeal of fuch a law be as juft and praifeworthy an act as could be obtained on the Sabbath ? Would it be lefs fo to take fignatures to obtain its repeal ? We know that in the Eaftern States meetings have been held in the churches to obtain complimentary adreffes to the Executive of the Union. If the act is right in the latter cafe it cannot be wrong in the former ; the rules of conftruction in both cafes are precifely the fame, nor are we to be guided by names in either cafe. This is an enlightened day, and we muft hope that the American people will never be reduced to that ftate of bigotry, when the benevolence of religion will be banifhed and bigotry fubftituted in its place ; when the magiftrates fhall protect the criminal and fuffer the injured to be profecuted. I cannot fee any diftinction for my part, however prejudices may run, between the propagation of a legal and juft meafure in this form and at fuch a time, and any other. Nor can I perceive how it fhould be criminal in thefe gentlemen to promote the repeal of a law in this manner ; or that it fhould be meritorious for another perfon to mount the pulpit, and in a harangue after invoking the name of God, declare all the federalifts deities, and that republicans (I was going to fay Jacobins) are all devils. Thefe are not feigned allufions. I have heard fuch language made ufe of where no concerns of this earth fhould be fuffered to enter, where the paffions of humanity fhould have been foothed by the fentiments of charity and benevolence, and not irritated to animofity and hatred. I afk you gentlemen of the Jury, whether thefe gentlemen by going in a peaceable manner to that ground, under all the circumftances related, could have contemplated any violence, much lefs have been guilty of fuch enormous defigns as are charged in the indictment ? Did they deferve to

* The audience burst into a sudden shout of laughter which continued for some time. The allusions were so strong and neatly conveyed ; the former alluding to the appointment of Mr. Humphry's to carry dispatches to France, after he had been convicted of treacherously assaulting B. F. Bache the late editor of the Aurora. The latter allusion was to the mission of the gentleman who was counsel for the prosecution, to form a treaty with an Indian tribe, in consequence of his composing the popular song "Hail Columbia."

he tells you with a voice of triumph and elation—that after Dr. Reynolds was on the ground he "*kicked him three times*"—Theſe are the words of this young hero "*when he was down I kicked him three times.*" This act to be-ſure was not quite reconcilable with a profeſſion of piety, neither was it perfectly conſiſtent with that heroiſm which men are apt to admire, where true courage ſcorns to triumph o'er the fallen, but it was perfectly conſiſtent with the heroiſm of our temporary politics, for by kicking Doctor Reynolds three times while down, he became qualified to *carry diſpatches to France, or to go on an embaſſy to the ſavages.**

Let me beg your ſerious attention gentlemen to the evidence—During the whole period of the divine ſervice there is not the leaſt noiſe, no appearance of riot or diſturbance of any kind. I ſay then that deporting themſelves ſo honorably to their truſt, the conduct of thoſe gentlemen bears a very remarkable contraſt with that of thoſe who profeſſed ſo much delicacy about religion, and paid ſo little regard to decency and moderation. There is much indulgence to be made for theſe gentlemen ; the law of which the memorial complained operates upon the ſubſcribers as an *ex poſt facto* law, and they had a juſt right to complain. They were not apprized of any particular rules eſtabliſhed in that church—it appears in evidence that the paſtor had it in his diſcretion to grant the privilege of poſting up bills ; ſurely the exiſtence of the power to grant is an argument of the propriety of the act itſelf. Would not the repeal of ſuch a law be as juſt and praiſeworthy an act as could be obtained on the Sabbath ? Would it be leſs ſo to take ſignatures to obtain its repeal ? We know that in the Eaſtern States meetings have been held in the churches to obtain complimentary adreſſes to the Executive of the Union. If the act is right in the latter caſe it cannot be wrong in the former ; the rules of conſtruction in both caſes are preciſely the ſame, nor are we to be guided by names in either caſe. This is an enlightened day, and we muſt hope that the American people will never be reduced to that ſtate of bigotry, when the benevolence of religion will be baniſhed and bigotry ſubſtituted in its place ; when the magiſtrates ſhall protect the criminal and ſuffer the injured to be proſecuted. I cannot ſee any diſtinction for my part, however prejudices may run, between the propagation of a legal and juſt meaſure in this form and at ſuch a time, and any other. Nor can I perceive how it ſhould be criminal in theſe gentlemen to promote the repeal of a law in this manner ; or that it ſhould be meritorious for another perſon to mount the pulpit, and in a harangue after invoking the name of God, declare all the federaliſts deities, and that republicans (I was going to ſay Jacobins) are all devils. Theſe are not feigned alluſions. I have heard ſuch language made uſe of where no concerns of this earth ſhould be ſuffered to enter, where the paſſions of humanity ſhould have been ſoothed by the ſentiments of charity and benevolence, and not irritated to animoſity and hatred. I aſk you gentlemen of the Jury, whether theſe gentlemen by going in a peaceable manner to that ground, under all the circumſtances related, could have contemplated any violence, much leſs have been guilty of ſuch enormous deſigns as are charged in the indictment ? Did they deſerve to

* The audience burst into a ſudden shout of laughter which continued for ſome time. The alluſions were ſo ſtrong and neatly conveyed ; the former alluding to the appointment of Mr. Humphry's to carry diſpatches to France, after he had been convicted of treacherouſly aſſaulting B. F. Bache the late editor of the Aurora. The latter alluſion was to the miſſion of the gentleman who was counſel for the proſecution, to form a treaty with an Indian tribe, in conſequence of his compoſing the popular ſong "Hail Columbia."

be ſo groſsly treated as they have been? For we find that it is they only who have ſuffered violence, Are theſe gentlemen to be deprived of the right of expreſſing their opinions, any more than thoſe who differ from them? It is true we are in a ſtate of ſociety ſo entirely divided and cut up, that with the moſt diligent and minute obſervation I am not able to aſcertain on which ſide the majority lies. But it is not therefore a rule that either of thoſe diviſions ſhould dictate to the other an abſolute deriliection of the right of opinion. No; I thank God we are not yet in that ſtate, when one ſet of men ſhall ſay and do as they pleaſe, while another only ſhall ſay and do as they may be permitted!

Were there in putting up theſe ſimple notices any indications of a riotous diſpoſition? Mr. Gallagher tells you that he was abuſed by thoſe who put them up. But mark the language of this inconſiderate young man. He tells you that they abuſed him for an inſult upon their nation; could there be any doubt of the nation that was meant, when we find the notice expreſsly addreſſed to the natives of Ireland only, and it is clearly perceptible, that when he called their memorial and notice *Jacobinical* papers, that he meant and they felt the inſult. But here he really meant to give a touch of his politics; a ſenſe of religion came to him at the Mayor's; for he did not tell them at the church that they were profaning his religion by poſting their notices, his politics only were there intereſted—trace him a little further and we ſhall find how very compatible his religious ſentiments are with his practice. When he inſulted the perſons who put up the notices, they retorted as he acknowledges by calling him ſcoundrel and raſcal, and by declaring that reverence for the Sabbath only ſaved him from chaſtiſement; this young man's religion and politics retreated calmly into church. But mark him on returning from his devotion how courageous and charitable, he who could bear to be called a raſcal, this pious hero upon hearing the vociferation of "*kick him out*!" and upon ſeeing Dr. Reynolds, who had never offended him, *keeping four or five perſons at bay*, this valiant youth ruſhes forward, and he kicks Doctor Reynolds, but remember it was not until Dr. R. was on the ground—when his heels had been tripped up by another perſon. By what right ſhould this young man inſult thoſe perſons—was he a truſtee—or who made him the *cenſor morum?* In his whole conduct we trace a reſemblance of thoſe perſons whom we ſometimes hear of making their eſcape from one of our public inſtitutions.

What then is the true charge againſt theſe gentlemen? have we not negative evidence that after the notices had been poſted up, and the clerk was in the act of pulling them down, Dr. Reynolds and Mr. Cuming were paſſing by, that they ſaw him do it, and that they acted with ſo much decorum as not even to ſay a word in oppoſition to it. Now if this is true, and it is proved by the evidence for the proſecution, is it not reaſonable and juſt to conclude, that all that followed of violence was to be attributed to this young man. Had they indeed been of the ſame violent temper, there is no knowing to what an extent a juſt reſiſtance might have carried the quarrel. We know that when he inſulted the perſons in the firſt inſtance that he did not act as the ambaſſador of Mr. Neale. Could theſe gentlemen ſuppoſe that a clergyman in the ſubſequent ſtage would countenance ſuch

intemperate behaviour? But there was no violence whatever done nor intended by any of those gentlemen, as is evident from the remaining testimony. This Mr. Gallagher goes to Mr. Taggart, and brings him to the place where the notices were; Mr. Taggart addresses them as good citizens, in decorous and temperate language, and at the same time pulls down the notices that had been put up the second time in their presence. But here there is no violence---"no" says Mr. Taggart, "I reasoned with them and they reasoned with me." Yet we find that he tore down the paper. Now if there was any thing like a violent or riotous disposition would it not have been displayed on this occasion when their object of notification was frustrated?

Now, sirs, because this self appointed *censor morum*, Mr. James Gallagher, jun. chose to pull down this *Jacobinical paper* as he calls it, and therefore chose to go and tell the priest that the consequences would be riot and bloodshed in the Church yard of St. Mary, are these gentlemen to be placed in this unpleasant situation of going through the form of a trial and made the theme of public alarm and private conversation. But this young man's memory is as extraordinary as his conduct—his memory almost supercedes written testimony; for he swears that the notice put up by these gentlemen coupled the *Sedition* with the *Alien Law*. But look to the notice, it contains no such idea, the paper positively contradicts it—the nature of the case and the contents of the memorial would be sufficient of themselves to contradict it. The object here is to combine the idea of two laws, one of which it was presumed they had nothing to do with, while the very circumstance of coupling shews the opinion, that they had reason to complain of the other. There can be no doubt that this young man, where his passions do not take complete possession of his understanding, is entitled to credit. But his imagination was so much heated by an indiscriminate perusal of newspaper essays and paragraphs for and against those bills, and his mind so much distorted by the perpetually reiterated cant of Jacobinism, as to have confused and confounded all order and propriety in his mind, so that wherever the Alien Bill comes in the Sedition Law must from the necessity of his case be dragged in also; and thus he has formed a kind of *hocus pocus* to himself of which every one but himself can conceive the incongruity.

After this young man had got Mr. Taggart to the spot and had those harmless notices pulled down, by that gentleman, who it appears never read them, but took it upon his authority that they were jacobinical papers, this young man in the fervor of his politics or piety, for it is difficult to determine which, at this point, he goes to the Rev. Mr. Neale and says to him "Good "God, sir, there is a plot, a jacobin plot, the notices are stuck up upon the "church doors, horror and bloodshed is contemplated, and you must in-"terpose your spiritual authority." That this poor little advertisement so simple in itself, so narrow in its object, so bounded in its view, should in the eyes of this young man be deemed all abundant with evils as the Nile is prolific of blessings, would be unaccountable upon any other ground, than those which I have endeavored to shew—the heated state of the young man's imagination. Where could the sober and temperate mind discover mischief in so plain a form of words? To me this notice appears in its plain and undorned style expressing exactly what it means; to him it means every thing

dire and diſaſtrous ; his mind ſees in it the gulph of deſtruction which is to ſwallow the whole congregation up like the heroes of the bloody buoy, and full of the idea he piouſly reſolves to attack the conſpirators and with the aid of thewhole congregation threſh them out of the field. But after going to his prieſt he goes next to his *papa*, who tells him, and no doubt with becoming diſcretion, to go and get ſome men and turn them all out. But it is ſomewhat remarkable that the young hero does not appear on the ſcene for ſome time, his paſſion had taken a lower ſtation, he did not chooſe to go into the church yard alone, he retired for a while to his pew. But I ſhould have obſerved, that after he had gone to his father, he went to Mr. Connor, and told him "you muſt ſtay after church, there is to be a ſeditious meeting." Let me put it to the conſcience of the jury and the judgment of the court, whether it is within the capacity of a reaſoning man to diſcover in this notice, either ſedition or a diſpoſition to riot? From the whole tenor of the evidence we find the conduct of the accuſed in perfect harmony with this notice, and worthy of the memorial that they held for ſignature. Is there in ſeeking theſe ſignatures ought that can be tortured to a ſeditious intention? Is a conſtitutional right then branded with this opprobrium? Would the attorney-general proſecute for ſuch an act? No; I will take upon me to defend his honor from ſo odious a ſuſpicion. I will boldly ſay that the man who would call *this* a ſeditious act, ought never to participate in the adminiſtration of juſtice nor in any ſtation in a court of law! What! ſhall one claſs of people be at liberty to addreſs one branch of the government, and a ſecond claſs ſhall be expoſed to ſlander and perſecution for addreſſing another branch of the government? Shall they not be permitted to do this juſt and legal act without being branded with diſreſpectable epithets? Such acts of injuſtice are not calculated to promote ſocial ſecurity or public character; they are calculated to inflame and produce a dangerous and fatal colliſion of party paſſions; effects which could never be produced by a memorial drawn up with ſo much decency and moderation as that which has been called a jacobin paper.

Gentlemen, I aſk you, I aſk any man who has either read this memorial or heard the evidence which has been brought forward, to point out the ſedition in it—to point out the tendency therein to produce riot. And are you to be called hereto determine that to be criminal which muſt have reached ever ear and every heart preſent as innocent? And this, becauſe this young man had created *hobgoblins* which affrighted him with their unreal deformity! Are the wholeſome and reverend courſes of the law to be made ſubſervient to his weakneſs; or are his intemperate actions to be laid hold of by party, to pervert the ſacred ends of juſtice?

This is throughout a party tranſaction. The firſt and only licentious diſpoſition which I can diſcover in the whole of the evidence, is exhibited by this young man, Mr. Gallagher, jun'r. It was he that tore down the notices. It was he that brought Mr. Taggart to tear down the ſecond. It was he that alarmed the prieſt, and diſturbed the church ſervice. It was he that alarmed Mr. Connor into a belief of ſueh a riotous deſign. It was he that called the memorial a jacobin paper and the holders of it jacobins. It was he that alarmed the aged Mr. Conroy, and clamoured for his inſulted religion—I beg his pardon it was not his religion that he felt for here, he loſt

all consideration for its precepts in his vehemence against jacobinism. He takes upon himself to say that is wrong, which men at least as well informed as himself and as free, say is right. But was it for him to be the umpire in such a case; or would he have ventured to take upon him to dictate in such a case, were he not previously confident that the numbers on his side were so much superior to his antagonist. Had the congregation been equally divided when they came out of church what might not have been the consequence, what would have been his conduct? Why, this self-created *Ajax*, he who boasts of attacking Dr. Reynolds while that gentleman kept five others at bay, and who so bravely boasts of having kicked him when he was down) this hero would most probably have retired to his seat or to his home.

We have heard much of jacobinism; great use has been made of this word for delusive purposes. As to jacobinism as it is generally described, I need not declare my abhorrence of it; I am as much opposed to the arbitrary and sanguinary character of jacobinism as I am firmly devoted to peace, security, and freedom. I am for republicanism, it is on the principles of republicanism, I rely for my own liberty and my family's protection; my interests are inseparable from the freedom of my country, and I must therefore be from principle as well as interest a foe to jacobinism, or any measures that would lead to disorder. But I cannot help expressing my astonishment that any man should be found capable of daring to brand such a proceeding as these gentlemen had in hand with so base an epithet; to denounce as riotous a constitutional right, the obtaining of signatures to a respectful memorial addressed to the proper organ of government. But all this outrage of propriety, in words and deeds, is accounted for, in the intemperance and inconsistency of this mistaken and thoughtless young man; yet after all his political zeal, this principal hero of the drama when he had created this storm, he left it to work, and retires a while undisturbed. Upon entering the church his piety takes fire, and he spreads the flame to Mr. Taggart, Mr. Connor and the Priest; his troubled spirit impatient under his political fervor, takes instantly another direction, and he modestly tells you that he retired from the scene a while to watch over the tomb of his mother. How powerful is frenzy or infatuation; he who could feel all those lively impressions of danger to the government and of defilement to his church, and the next moment to be impressed with the sweetest impressions of filial remembrance, retiring from the sacred precincts where the remains of his parent were entombed, he plunges into a degree of violence that outrages all law, all the amicable and humane principles of religion, and all the impressions of a sincere and reverential sorrow; he had but stept from the tomb, when his ears are gladdened by the sound of a voice familiar to him, crying aloud "*turn him out*," he rushes to the spot, and he sees Dr. Reynolds keeping four or five persons at bay, in a moment he forgets his religion and the solemn tomb, and he joins loud in the shout of war; he runs into the scene of battle with passions which while there was danger he did not manifest; after he had stirred up alarm and rage he retired for a while leaving it to others to carry on the war, but he tell you himself that on his return he directly went up to Dr. R. with a determination to put him out! By his own statement it appears he did

not return until there was no danger, and then his courage mounts to the highest. I claim your particular attention to this part of the evidence, because it is important, with respect to the two indictments.

I will now endeavor to analyse the facts which have been produced in order to prove that these persons were neither of them engaged in a riot.

The first witness, Mr. Brown, says that he saw Dr. Reynolds and Mr. Cuming together, putting up the notices, but that they were standing very peaceably, and were guilty of no violence. This witness gives no evidence whatever of a riot, and this is the only witness that gives any testimony that applies to three persons, which are the legal number to constitute a riot. I ask any man whose mind is divested of party prepossessions whether there is the least circumstance that can be entitled a riot? I ask further: If this is a point established, what evidence is there to criminate Mr. Duane or Mr. Moore? I ask you gentlemen, is there one of you who would conceive himself wrong to be engaged in the same way as they were? With respect to Mr. Cuming, there is nothing said about his conduct during the whole affray: all that is said is by Mr. Gallagher, and that took place before he went into church, and nothing appears to prove them disposed in the least to riot. Can it be necessary for me to proceed in one argument to establish the innocence of those men, beyond what evident observation must point out.

May I not here with confidence dismiss every further discussion of the question of riot? I appeal to the jury to reflect for one moment, however mistaken those men may have been in the opinions of some with respect to their going into the church-yard on Sunday, whether when they went there it was with an intent to obtain their object by any criminal means? Was it not a lawful act? And where then is the proof of criminal intentions or violence on their part. A fray was produced, but not by these gentlemen, it was produced by the unwarrantable conduct of Mr. Gallagher, let not those who are the authors of mischief complain, much less when they are the first actors in violence. These gentlemen went into this church-yard without any view to violence, but they were forced from the object for which they went, they were thrown out of their place: they had not time even to give explanation or make an apology, because Mr. Conroy came up, and told them to go out, and before they had time to explain, the cry of "turn them out" was to be be heard. We find that Dr. R. was not at all unwilling to go out of the church yard. I wish the attorney general had subpœnedMr. George Meade,* that we might have heard what he had to say concerning the idea of young Gallagher about jacobinism, which had so much got the better of this little gentleman's judgment, that I am really astonished, generated as this business was, his prediction was not verified—that bloodshed did not take place.

Having said thus much on the riot, let me call your attention to the other indictment which is before you, against Dr. Reynolds alone for assault, &c. I am surprized that two indictments could possibly have been instituted; and I can no otherwise moderately account for it, than by supposing some error or misapprehension in the proceedings at the Mayor's. We have seen that in Dr. Reynolds' conduct nothing has been proved of a riotous nature;

* See the Introduction.

yet here is in one, the act of riot exhibited against him before you, as a rioter; but is it not extraordinary, that in one moment you should indict him for riot, and punish him for it, and in the next, present him for assault with intent to murder. It is a well known, and sound rule of penal justice, that no man can be indicted twice for the same offence: but I ask, if you were to find both these indictments true against Dr. R. whether he would not be punished twice for the same offence. But how can this be called an offence? It is not pretended that he struck any body, or that he attempted to strike any body, but when he was attacked by the rodoubtable Mr. Gallagher, he produced a pistol. I am here not to say he was right in producing a pistol, but I will say, that he was not wrong. If a man is surrounded, so that his strength is overpowered, he is justifiable in using this weapon, not to destroy life, but to hold it *in terrorem*, in aid of his physical strength. I will shew that this is the positive language of the law, as well as of reason. I am willing to maintain that a man is justified in carrying arms to defend himself. Every assault is actionable, but there is no doubt that arms are to be used only when the blow cannot be avoided: if any man attempts to strike me, the law allows me to anticipate the blow: if I cannot prevent his making use of his strength, the law of nature and the law of reason justifies me, not in applying to extremes—but if it becomes necessary to my safety, I am to make use of the weapon to prevent the blow, and even take his life, if necassary to my own safety.

Dr. Reynolds was assailed; a croud came about him: there was a general cry of "push him out." We must suppose him placed under all these indications, and when young Gallagher approached him with threats, while at that moment he was keeping four or five persons at bay: he came up, influenced by resentment to assist in the business: Dr. R. would have been equal to the contest with Mr. Gallagher alone, but his hands were not equal to the contest with the addition of him to four or five more. In this predicament, and being struck, or struck at by this young man, having a pistol in his pocket, Dr. R. produced it, and though it was said the pistol was loaded, yet we find he did not make use of it but to extricate himself from his assailants.—The probability must be formed from the nature of the case, which is, that the pistol was produced at the moment that the push was given: when personally attacked, he says, "I will not suffer myself to be insulted." I ask whether, in common conduct, which must be allowed by every man who hears me, he would not, if attacked by four or five men; if he could scarcely keep these persons at bay, and had not strength to encounter them, but still having the command of himself so as not to draw his postol, if he had any, if he saw the sixth man coming up with a menacing appearance and shouts, would he not draw his pistol from his pocket under these circumstances, and say "no, this is going too far; 'till I was struck I checked "my passion I would not go to extremeties." Would not any one have added, "I will now defend myself?" This was an act which every man would have done, to prevent further insult. If he had contemplated any violence, is it possible to suppose that he being armed, would not have committed it before? They did not know he was armed. Besides, it does not appear whether the pistol was cocked or not. This pistol was put into the pocket of Dr. R. with the same view as it was used for—to protect

his perſon from aſſaſſination, and it was produced from his pocket to protect him from inſult. Dr. R. was well known to the paſtors of that church, and to have ſuffered expatriation and the ſacrifice of the dear ties of kindred, friends, and an enviable ſociety, inpromotingthe reſtoration of liberty of conſcience totheCatholics of Ireland. He went to that place with a view of obtaining ſubſcriptions to a memorial for the relief of his country people arrived from Ireland ; he went there peaceably, without any view of violating the ſacred ground, or to offer any inſult to the congregation, for they had broken up before he came; and before he could utter an apology, abuſive language was poured out upon him; all this he can bear, and even the words " put him out." He can bear even to be kept at bay by four or five men ; but the moment this young man put him in further peril, here he is ſtruck, he ſays, he can bear it no longer, " any man that offers me violence I will kill him :" theſe words I put in the ſtrongeſt light they can poſſibly bear, becauſe I know the law will bear me out in it.

Gentlemen, why was this piſtol put in Dr. Reynold's pocket, was it to murder Gallagher ? Was it with a deſign to uſe it on this occaſion ? No; I am ſorry to ſay, that we found occaſion for the evidence of Mr. Clay ; when we heard his evidence, every man here muſt have ſeen occaſion for him to wear a piſtol, every man muſt be convinced that there was a plot to aſſaſſinate Dr. Reynolds. Mr. Clay is a gentleman of known integrity and veracity, and would not ſuffer this impreſſion to be made on his mind, without his concluſions were drawn from the ſtrongeſt evidence. There can be no doubt but there did exiſt a conſpiracy to aſſaſſinate Dr. Reynolds, which was communicated to him prior to this time ; ſo ſoon as he heard it he aſked advice, he aſks " ſhall I carry piſtol ?" He is told that there is no ſecurity in a piſtol, that the danger was ſuch as to require a more ſecure weapon for defence, and that he ought to carry a dirk. What man would have heſitated to protect himſelf againſt a menace of that kind ? I appeal to every man in court—I appeal to the attorney general himſelf, on this point ; he carries a ſword-cane and ſo do I ; there are many gentlemen in this country, who from the occaſion of the times, and the combination of circumſtances, who wear ſword-canes. There were two periods when every one wore weapons of defence, from neceſſity. The firſt when the police was ſo defective that robberies were conſtant, and ſelf-protection became neceſſary through the defects of the law. The ſecond, when political fury roſe to ſuch a height, as in 1785-6, that it no longer became a queſtion of defence againſt robbers, but againſt political opponents. The times are altered, or party violence has become leſs ſerious ; we ſee indeed that the ſpirit of party yet preſerves a diſpoſition to aſſaſſination in the threats againſt Dr. R's. life, and that he at the preſent time has occaſion to act on the defenſive as every one did at theſe periods ; there is no danger to be apprehended from a man who carries a ſword-cane or other weapon of defence ; there is no law in Pennſylvania to prevent it ; every man has a right to carry arms who apprehends himſelf to be in danger. If every man has a right, was not this gentleman juſtifiable in putting arms in his pocket, when ſo ſpecial an occaſion commanded him ? Here there is no danger of error, it was a mere accidental circumſtance of Mr. Clay lodging in the ſame houſe that brought the deſign on Dr. Reynold's life to his knowledge. Mr. Clay is a man of

too high credit and acknowledged underſtanding to render what he ſays queſtionable. The court muſt be ſatisfied of its propriety from ſo reſpectable an authority.

A few words more as to the manner of this buſineſs.

Mr. Brown ſays nothing all about the riot: Connor ſays that Dr. R. obſerved, that he would defend himſelf againſt every inſult: this was before he was puſhed by Gallagher, but perhaps this gentleman might have been miſtaken as to the time theſe words were ſpoken, for from the other evidence it muſt have been later than he places it. Now, gentlemen, you will perceive by the indictment, that he is tried for aſſault, with intent to murder, and yet throughout the whole of the evidence we hear nothing but defenſive language, and defenſive actions from the party! Where then is the MALICE AFORETHOUGHT? This muſt be in every murder; this muſt be proved reſpecting aſſault. My client ſays that he contemplated no violence, but all he did was to prevent outrage on himſelf: it is proved that when he drew the piſtol, he conſidered himſelf to be in danger every moment, and he had evident foundation for this belief. Every act that produced riot and confuſion ſeems to have been in the hoſtile treatment he received, and there is no ground for believing that he intended to injure any one. He was expoſed to groſs inſult and abuſe, but he proved that he would not always ſubmit to it. Inſult he did ſubmit to in being thus ſhouted at, and being thus bayed, hut he withheld his laſt reſource till he received a puſh from this *mighty Goliah*, he then thought proper to ſtand on his defence by the production of a piſtol; he then ſays, I will make it the worſe for him if any man inſults me.

The next witneſs meriting our attention is Mr. Gallagher himſelf: he went forward and determined to put out Dr. R. Here we find him inſtigated by his ſenſe of his religious obligations. I hope his knowledge of religion is more correct than his ſenſe of politics, in denominating this act ſedition and Jacobiniſm. He ſaw that the party who were oppoſed to Jacobiniſm was ſufficiently ſtrong to prevent theſe meaſures; and therefore he thought himſelf perfectly ſafe to go and join it. The narrative exhibited by Mr. Ryan is a perfect picture of this tranſaction, and therefore I ſhall again call it to your recollection. [*Here he read that part of the teſtimony.*]

There cannot be a queſtion, whatever doubt might hang upon your minds with reſpect to the other witneſſes, that Mr. Ryan's teſtimony muſt be correct. The time of preſenting the piſtol, he tells you was after Dr. R. had received the puſh from Gallagher. He ſays Dr. R. ſtepped back; I preſume to put his hand in his pocket; he ſays he was by, and ſaw G. arrive upon the ſpot, as well as the firſt acts of G. and Dr. R. pulling out his piſtol. Gentlemen, if this piſtol was in ſo bad a ſtate as this witneſs ſtates it to be, it is probable that he only put it in his pocket, at ſome former period, and let it remain there, but on this occaſion uſed it IN TERROREM. Now, if Dr. R. had come with a bloody mind and with intention to kill as the indictment ſtates, would he have brought a weapon in this wretched condition?

Mr. M'Carney ſays that Dr. R. was ſeized and pinioned the moment the piſtol was produced. However I ſhall not dwell on his evidence,

I have taken up much of your time, but I conceive this case so interesting to every citizen that I feel the force of a good maxim *to resist the first appearance of evil.* I am persuaded I am before a court who will not indulge the least antipathy to those who have been called Jacobins; nor favour for federalists; far be it from me to suppose that you will not do justice. There can be no doubt but there are men who will think they have a right to bring every Jacobin to the ground, but the time is not yet arrived for a court to say what opinions are worthy of merit or demerit. I am sure that you will not say, that a man has been guilty of assault with intent to murder, merely because he was the object of party hatred, and revenge. Believing that you will act uprightly I shall rest satisfied that you will acquit the defendants of both indictments.

Mr. Dallas having concluded his observations, Mr. Hopkinson rose and addressed the Jury to the following effect:

Gentlemen of the Jury,

You must have an uncommon degree of discernment, if you can still recognize the case now in issue; and which you have been sworn to try, through the tedious and verbose harangue, the political confessions and discussions—the low, vulgar and unworthy wit, which the gentleman who has just sat down has thought proper to introduce—a kind of wit which he would have been ashamed to have offered to a company at his own table, but which he has thought sufficiently dignified, for you and this place: but it is particularly observable that it is against Mr. Gallagher, on this occasion he has chosen to make a violent and unprecedented attack, expecting to destroy the weight of that gentleman's evidence in your view, and thus obtain his end. Another object indeed he had, and which he obtained, to excite the vulgar laugh, this is the God he worships; I must be permitted by and bye to recall your attention to the case: Mr. Gallagher has been brot forward here to give testimony on the part of the commonwealth, in a prosecution instituted to preserve the peace of that commonwealth and your peace as members of it, for every man is interested therein; coming forward in this capacity he has been treated in the most rude and unmanly manner, and in a stile of indecent language, such as the whole ability of that gentleman could produce, and its effect has been to excite a laugh, such as that gentleman's wit could raise; but to you, I appeal to say, if Mr. Gallagher's conduct as a witness has not been unexceptionable, and it is only as such that he was a proper object of observation at all. Did not Mr. G. with equal candor and truth answer the questions preferred to him on the one side as the other; by the counsel for the defendants as for the commonwealth? Did he not conduct himself throughout with entire fairness and propriety? How then has he deserved the treatment he has received? Have we seen in Mr. G's. deportment any of that passionate violence, that indiscreet intemperance, that party madness, of which we have heard so much from Mr. Dallas: and yet one half of the gentleman's language has been directed to place him in these exceptionable views, and depreciate his testimony. You have heard much of the value of the independence of the bar and of courts. But what is to become of the utility of courts, if the

very fources from whence they derive that information on which they are to ground their decifions, are to be dried up and brought into public contempt, in the manner now attempted; what gentleman will come within thefe walls as a witnefs, if he is expofed to fuch illiberal treatment and perfonal abufe? A gentleman comes here bound by a recognizance from which he is unable to extricate himfelf, to depofe the truth, and perform a neceffary duty to his country, and finds himfelf in the face of this court and of that country an object of ill-timed farcafm and low jefting, which he is obliged to hear, and which by the rules of the court it is well known he is unable to anfwer. Viewing then the independence of witneffes as of at leaft as much importance as the independence of the bar, the attacks made on Mr. G. were indecent and improper in the higheft degree. Did Mr. G. come here to be made an object of public laughter, the plaything of the gentleman's amufement? To be be called "THE HERO OF THE DRAMA?" To be told "THAT HE WENT TO HIS PAPA" and fo forth? His object was, gentlemen, to make this young gentleman little in your eyes, that the weight of his teftimony might be taken off; but to clofe this lift of ill timed and abominable jokes and to fill up the meafure of indecency, the tomb of this young man's mother was not permitted to efcape unftained with ribaldry; but here the gentleman failed of fuccefs, the public mind fhrunk with horror from this facriligious attempt upon it; and a folemn, and awful filence was found where the gentleman expected a return of that loud laugh which has fo exhilirated his fpirits; his mirth recoiled upon him, and overwhelmed him with that guilty confufion, which is the natural confequence, even in the moft fhamelefs, of an unfuccefsful attempt at unjuftifiable merriment; when this gentleman fhall come to his pillow and the power of reflection fhall rife out of the giddy tumult that now envelopes him, this deed will give him pain, and, I hope, repentance. But if Mr. Dallas thinks himfelf an adept at perfonal attacks and contefts of this kind, why has the gauntlet been fo often and fo publicly thrown before him, unanfwered; if he thinks he has wit, he has had opportunities enough to exercife it in felf-defence; if he believes himfelf to be farcaftic, God knows, farcafm has been lavifhed upon him without meafure and without reply.

The gentleman obferved this was not a common cafe, I did intend it fhould have been a common cafe, and as fuch I introduced it and intended it fhould appear to the jury, but the gentleman would not let it remain fo; I know no party in it: it was my wifh and defire, it fhould have come before you on legal teftimony and legal ground: as an indictment for a riot, without anticipating the fubject right or wrong, but the gentleman has indulged himfelf in a wide field of political difcuffion and has honoured me as well as Mr. G. with a portion of his wit, and of which I fhall in courfe take proper notice. Early in his addrefs, he made a direct avowal, that he confidered this a party queftion, and he treated in that way altogether. If this is a party profecution, let me afk who made it fo? Does he mean to fay that the mayor was inftigated by party motives in this bufinefs, and therefore brings it forward in this fhape? If he does not think the mayor has thus proftituted his office and his oath, then it muft be the attorney general, but I will not prefume that he lays this charge to the attorney general, becaufe I know the gentleman has too refpectful an opi-

nion of that officer to believe it was him; if it was neither of these gentlemen, it must be the grand jury, who have prostituted their oaths to indulge themselves with the gratification of party spirit. Perhaps he will not be willing to acknowledge either of these charges; if then the gentleman will not stand up and accuse the mayor; if he will not stand up and accuse the attorney general; if he will not stand up and accuse the grand jury; whom, in the name of justice, does he mean to accuse of this party malignity and prosecution? Does he mean to suggest, gentlemen, that you have been brought here to be instigated to your decision by party views or party hate?

The next point of discussion, and which indeed was the first on which the gentleman departed from the true point of discussion, Mr. Hopkinson said, was by delivering some opinions on the constitutional right of petitioning for any redress of grievances of the national legislature. Gentlemen, I am not here called upon to make my political conclusions: nor do I stand here to catch the public ear with professions of political rectitude: let my obedience decide whether I observe the laws, and have attachment to the constitution of my country. By that I am willing to be tried. So far as relates to the right of petitioning, I am free to declare that there can be no doubt, but every citizen has that right, and is justifiable in exercising it in a proper manner and proper place: but I do also declare, that aliens have no right whatever to petition, or to interfere in any respect with the government of this country: as the right of voting in elections is confined to our citizens, the right of petioning is also; if aliens do not like the laws of this country, God knows there are ways and wishes enough for them to go back again: if they undergo greater hardships under the operation of our laws, than of their own, let them choose the lesser evil: this, they have an undoubted right to do. If our citizens see the laws wrong, I am the last to wish to prevent them from petitioning for their repeal, and execrate the man that would. They have an unbounded right; but it appears that a majority of the persons assembled to sign and procure signatures on this occasion are not citizens of the United States. Let us for a moment, even admit that it was right for them to petition, this right should be exercised in a proper manner, and at a proper time and place. I will say that that the greatest evils this country has ever endured, have arisen from the ready admission of foreigners to a participation in the government and internal arrangements of the country: to demonstrate this, I need only appeal to the acts of the government. It has been their opinion when this country commenced its carreer as an independent nation, it felt itself impressed with all the frank and generous failings of youth, all the unsuspecting candour of inexperience. It was delighted and infatuated with the idea of becoming an asylum for the unfortunate and oppressed of all countries, and too readily opened its arms to all. This has been the bane of the country: had the Americans been left to themselves, we should not this day have been divided and rent into parties; it would not have been necessary that one party should carry pistols and dirks for defence against the other at the recommendation of a member of Congress or any other person, and that this conduct should be justified by a public advocate in a court of justice. But I leave it to his country and his own conscience to judge of the propriety of such conduct. I do say that we never should have been brought to this state, or

that ſuch doctrines would never have been advocated, had it not been for the introduction of this foreign leaven amongſt us, that has fermented the whole maſs of the community : at the firſt eſtabliſhment of our government it was determined to give foreigners a full enjoyment of all privileges after a reſidence of two years : after a while they diſcovered the neceſſity of making the reſidence longer, and made it five years, but experience proved that even five years, was not long enough to accommodate theſe people to our manners and cuſtoms. Fourteen years is now thought, by the wiſdom of the Federal Government, a proper period to drench them of thoſe dangerous habits and propenſities they too often bring with them. We have even ſeen perſons come among us who could not ſpeak our language, enjoy the ſame benefits and do the ſame things, as our citizens. But if perſons come here to take protection from the ſevereties of their own government, they muſt abide by our laws, and not by their turbulent diſpoſitions engage in broils, and call it a legal meeting. Have we not ſeen foreigners, by their forwardneſs and intrigue, forcing themſelves even into the adminiſtration of our government and ruling over us, are there not thoſe, who but a few years ſince *ſcarcely* roſe above the characters of needy vagrants and beggars, now riding in their carriages over us and our children.

I will now introduce the buſineſs itſelf, as to the manner and place of conducting it. As to the *manner* and *time*, it was in the higheſt degree improper. If theſe gentlemen went to obtain petitions for this or any other pupoſe, thoſe petitions ought to contain the mind of the perſons who ſigned it : If this is neceſſary, let us examine how far it is probable the object could be maintained by the means they uſed. Here is a monſtrous lengthy petition, containing a variety of learned political diſquiſitions on the conſtitution, profound enquiries into the law of nations, and a deep inveſtigation of the obligation of the treaties executed by this government, &c. which would require at leaſt half an hour but to read : will any man tell me that theſe enquiries and diſcuſſions could be made by ſtanding at a church door, with pen ink and paper in hand to arreſt the paſſing multitude, that the object was to convey to Congreſs the opinions of thoſe people ? Could this opinion be formed or obtained in this haſty way without time to reflect a moment on the ſubject or read a line of the paper to which they are required to give an implicit aſſent. This is indeed completely miſleading the people, who ſhould at leaſt know what the paper contains before they ſhould be required to ſign it, and not depend entirely on the poſſible miſrepreſentation of a few. Many perſons have been thus brought to ſign petitions, who have afterwards declared that they did not know what they were about, that different objects were ſtated to them from the true ones. If ſo, who deceives, who inſults the people ? Such a petition is not deliberately their opinion. I therefore infer (for the notice does not ſay that theſe people are called upon to DELIBERATE or REFLECT, but to SIGN) that theſe are the perſons who treat the people with contempt: they preſent them a paper ; they ſay to them " you cannot underſtand this thing, it is above your capacity, we have thought for you, ſign it ; it contains ſuch and ſuch particulars: it is all right." A few choſen perſons impoſe upon a multitude of aliens who appoint them to draw up a petition, and the people are to ſign it ! Here it is that the people ought to take fire ; here it is that they ought to

be offended; becauſe it is requiring them to ſign an inſtrument without any knowledge of its contents, or opportunity of enquiry into its merits. But this was not a proper place for executing this buſineſs. Are not thoſe people ſatisfied that the flood gates of the preſs are open to them to ſpread ſedition and diſcontent over the land? Are not the ſtreets and market houſes open for them to bawl out their political opinions and rail againſt the government, but they muſt profane the temples of God with noiſy tumult —diſturb the devotions of the pious, and inſult the Throne of Heaven with riot and confuſion? But no, they have deſerted the ſtreets and markets, and have reſorted to a ſacred place to forward their works of diſorder.— This, gentlemen calls for a ſerious mode of puniſhment, and merits the moſt ſerious animadverſion. It is not merely my fancy which conceives that an OFFENCE is committed in tranſacting this buſineſs in a church, or a church yard, but I am ſpeaking to you the language of the law, for the law regards the place ſacred in which divine worſhip is carried on. He read 4th *Blackſtone*, page 146, to ſubſtantiate the illegality of the act, and preſumed that the court would not doubt the authority. Extraordinary powers are given to thoſe to whom the care of thoſe places are committed, and an act which would be juſtifiable in other places is prohibited here. I cannot undertake to purſue the gentleman through his lengthy diſcuſſion of the alien law. Believing it to be my duty to ſubmit to the will of the American people as expreſſed by their conſtitutional organs, I am not in the habit of minutely ſcanning every law that is promulgated, of balancing and ſcrutinizing every ſection and line, ſearching for imperfections fancied or real, and rejoicing at the diſcovery of ſome ground of clamour: I leave ſuch taſks to ſuch ingenious gentlemen as Mr. Dallas, and content myſelf with obeying the law which I find neither oppreſſes me nor my neighbour, having too much reſpect for the ſource from whence the laws of this country proceed to believe them unconſtitutional or oppreſſive from ſlight ſuggeſtions or envious diſcontent.

The gentleman has ſaid that aliens have been invited from diſtant ſhores, and then are turned back again at the will of a man eaſily deceived. Gentlemen, are you called to try the conſtitutionality, of the alien law? No. Does this reaſon juſtify the defendants in going to churches, and church yards at the hours of worſhip to obtain the repeal of that law? No citizen can juſtify the meaſure, no perſon can conceive that conſecrated ground is thus to be trampled on. Does the gentleman mean to queſtion the RIGHT or POLICY of the government in making that law? If either of theſe was his object this is not the time or occaſion to diſcuſs them, it is not your province nor the province of this court to decide on that law; you ſhould not now even think whether ſuch a law has been paſſed or has not. It is your province to ſay whether Dr. Reynolds and the reſt of the defendants are guilty of the riot charged on them or not, this is what ought to be the object of your enquiry. The gentleman has endeavoured to juſtify the meaſure by two facts: one is that it is common in the Eaſtern States to meet in the church yards for public buſineſs: the attorney general who is from thoſe States, declares that he never knew any inſtance of the kind in his life. The gentleman has gone farther, and brought the evidence of Mr. Carr, to prove the exiſtence of this practice in Ireland, the place

whence these people came. If they came here with a view of avoiding the oppression which they complain of in their own country, they ought not to expect to bring with them their bad customs, at least they cannot blame us for rejecting them. But the case mentioned is a case very different from the present, and if its propritey is at all contended for, it can be only under the same circumstances: there no meeting is held but upon the particular call of the priest: Besides, the occasion is different: it is well known that the Catholics in that country are the particular objects of legal severity, and that they have endeavoured to obtain the redress of this grievances: their churches belong to themselves, and if they resort to them for meetings in that case, it is to remove a difficulty which presses on their religion; this is a justification for the practice, in that country, which does not exist here. But at any rate, the practice of that country is no rule for us: if they choose to keep a tavern in their churches, we are not bound to suffer or to sanction it. *The gentleman in this part of his long speech thought proper to throw out observations which were intended to raise a laugh, I suppose at my expence, I am prepared to meet it with as hard blows at least as the attack came, but I perceive he has made his retreat out of court,* I conceive that generosity demands of me to spare him; but not without regret.

He has endeavoured, gentlemen, to influence your minds by throwing, a false colouring over the events of the present times in this country: he has raised up to your view the appalling spectres of murder, bloodshed and riot, of party marshalled against party for mutual destruction: I see nothing of it; I do not perceive that strength in the party opposing the measures of our government which he would have you believe—Some few disorderly and discontented people indeed may be found, whose turbulent and jealous dispositions cannot be quiet. But from the gentleman's representations, from his horrible perdictions and bloody fears, it would seem as if all the energies of our government, all the strength of the American people is requisite to keep down aspiring faction, and stem the torrent of foreign influence and party. I know not what secrets of plots and revolutions that gentleman may be acquainted with, or what are his sources of information; for myself, I foresee, I fear no such things. It is not to be denied that many Americans, many honest and true Americans, have become by intrigue and delusion connected with the designing demagogues in many points and in their own opinions of many measures. But still I do not distrust my countrymen. I do not fear them, they have property, they have character, they have friends at stake, and they will think well before they throw them all at hazard; they know the value of order and good government and will not easily sacrifice them. By artful misrepresentations, by systematic falsehood, and by every species of delusion some of my countrymen have been led astray and may be now combined with designing men who effect to be seeking their good, when in truth they are leading them to destruction. But when the mask shall be thrown down, when emboldened by a deceptive success these creatures shall come out in their true characters, and with an avowal of their real designs, their influence will vanish and they must shrink into detestation and contempt. Let the monster rear his head uncovered and a single blow will prostrate him. I know that the fondness the American people justly have for their liberty, and their jealous caution against any infringement is used as an engine of deception, and sometimes makes them the dupes of in-

trigue. But this can only ſucceed to a certain point: beyond this they cannot be brought without juſt cauſe and ſerious deliberation; they will ſign improper papers; they will ſay a thouſand indiſcreet things; they may even do ſome, but when it comes to ſerious miſchief—to revolutions and bloodſhed, they will ſtop and reflect; they will aſk where will this end, what am I to gain by it: what are the oppreſſions of my government that require ſuch awful, ſuch deſperate remedies The American will look to his habitation peaceful and undiſturbed. His eye will reſt on his family, and ſmiling happy on his buſineſs, flouriſhing and plentiful; on his character valuable and good; on his friends dear and reſpectable; what then, he will exclaim, can I hope for in a change; what have I not to fear from it? what have I to expect from revolutions? what have I not to dread from them? Let thoſe who poſſeſſing nothing, have every thing to expect from changes that invert the order of ſociety, that remove all things from their places; who can never be eaſy but in broils, tumult and revolutions, attempt this work of iniquity, for me, I am done with it: Let then this foreign junto, this imported gang of diſcomfited ſeditious, but ſhew them in their juſt character, and ſuch of my countrymen as have been deluded into their train will drop off rapid as the leaves in autumn from ſome bleak old tree, and leave the bare and expoſed trunk in all its deformities, a public mark of deriſion and reproach.

I will not run over an explanation of thoſe popular terms which Mr. Dallas has introduced to you, I will not call myſelf a federaliſt, or another man a jacobin, I will not ſay I am a republican and a friend to freedom, as he has, but I will ſay that I am bound and determined at all events and extremities to ſupport the will of the people as expreſſed by the conſtitutional organs of their government, and this is all the party I wiſh to know, all the name I want to be deſignated by.

I beg your pardon gentlemen, for taking up ſo much of your time on theſe topics, I have thought it neceſſary to ſay ſomething upon them, becauſe the gentleman oppoſing me has ſaid ſo much. I will now proceed to ſhow you, that agreeable to the facts that have been produced, and agreeable to law, theſe perſons can, and muſt be convicted of the crimes charged to them in the indictment, aud will therefore ſhew that the arguments uſed in your hearing to exculpate them are without foundation in fact or in law. The gentleman firſt complains of two indictments. A riot is compoſed of a number of facts of different kinds, committed by different perſons, ſome with one degree of aggravation, ſome with another,—and upon thoſe depend the atrocity of the general offence and the criminalty of each offender, then of courſe it is proper for the attorney general to preſent the whole of the tranſactions to you in the manner of their occurrence; it was not for me to decide the particular guilt of each of the defendants, or involve them all under a joint and equal charge, but to lay every charge before you in legal form, and leave to you to diſcriminate or not believe the offenders as the teſtimony ſhall warrant. I am willing to reſt the deciſion with a jury of my country. I have brought all the charges to your view, and reſt it with you to ſubſtantiate which charge you pleaſe, or both, or neither. You have a right to ſubſtantiate both, if from the evidence both appear to you to be proved. Here are a number of men charged with a riot; ſome of them

may have been guilty in the prosecution of this riot of more atrocious actions than others, and therefore there ought to be a separation of their guilt; therefore, though several are indicted on one charge, and for the general offence against the peace of the country, one having committed a more enormous crime than the rest, may be charged and convicted of an assault with intent to murder: in those cases it lies with the court to determine how far the different degrees of guilt in the parties merit different punishment, and to proportion them to their several crimes: But it is for you to decide on the facts, without any view whatever to what the effects will be. You may find either, or neither of these indictments true, as the weight of evidence shall support you.

I shall now undertake to prove to you, that a riot has been committed, and that the persons pointed out in the indictment have been guilty of that riot. In order to prove that I am right in the first assertion, I shall produce you a legal definition of a riot. The council for the defendants explained this to you from memory: he said the person charged must have assembled *with intent to do an unlawful act.* This is not the law. First Hawkins 293, we find that a riot seems to be a tumultuous disturbance of the peace by three persons or more, in the exercise of something, whether the act in itself were lawful or not, if carried on in a violent and tumultuous manner, the persons are guilty of a riot. In section third of the same, we find where persons assemble together innocently, and do form themselves into parties, breaking the peace, they are guilty of a riot: this is precisely the case with the one which is now before the court.

I will now proceed first to shew from the testimony that all the persons named in the indictment were present and assisting in this proceeding. Mr. Brown, the witness, expressly says that he saw all the persons: he saw them all at the tomb-stone of Mr. Burns. Mr. Connor expressly mentions *Dr. Reynolds and Mr. Moore, and Gallagher mentions Cuming, Reynolds and Moore. So that the persons were all seen at different periods by the several witnesses, and all of them by one: they were all in this church yard at one and the same time. I shall now go to prove that they have been guilty of a riot.

First, in order to make out the whole number of persons named in the indictment, and according to the legal number necessary to commit a riot, it is not necessary that every one of them should be guilty of an act of violence; that every one of them should have a pistol in his pocket. I say that if four or five persons are charged with a riot, and if one of them only is actually engaged in violence although none of the rest engage, if they come there with one object in view, and with a manifest determination to support and assist each other, although one individual might be guilty of some greater act of violence, and would be liable to a higher degree of punishment, yet all of them participate in the guilt of a riot: thus each who came into the church yard, participating in the same design, and for the purpose of mutual support, though none but Dr. Reynolds was guilty of violence, they were all partakers in the riot. This is sound reason, and a

* The Council mistook the evidence in this case, Mr. Connor did not say he saw Dr. Reynolds there—he could not, for he never was there.

ſound principle of law, which I ſhall endeavor to prove. Mr. Brown tells you, when he came to church in the morning, he ſaw Dr. R. with four notices, &c. and that in the preſence of Dr. R. and Mr. Cuming, the clerk took down theſe notices from the walls.

I wiſh you to attend to this gentleman: remember that the clerk was an officer of the church, and what he did was an act, in a manner, of the congregation; in the preſence of thoſe perſons, he took down the notices which they had put up: was not this a ſufficient intimation to them that it was a wrong act they were doing? It was a proof to them that what they were doing was diſagreeable to the congregation. Seeing it was offenſive, they like good citizens as it would at firſt appear went away, but we find Dr. R. afterwards return with more friends; after the clerk had taken them down he returns with his friends and piſtol. Finding the buſineſs was offenſive, he ought not to have appeared there again, but he did appear there again with a paper for ſignatures. I ſuppoſe by the circumſtance, that the cauſe of his going away ſo quietly was, that he determined to follow the advice of Mr. Clay; he had got his piſtol and dirk, he therefore went back with the advice of this member of Congreſs in his head, and brought a loaded piſtol; now he ſays I will protect myſelf from all inſult. We do not find Dr. R. ſhew that peaceable demeanor afterwards as before, but his piſtol led him into violent meaſures. Mr. Connor in a polite inoffenſive manner ſtated to Dr. R. that it was viewed by them as an inſult to the church to have thoſe notices put up, but Dr. R. replied "*he would protect himſelf againſt any inſult.*" What is his conduct? We do not ſee him behave as a peaceable citizen now. Where is this good, this quiet man? no, he has a loaded piſtol in his pocket; thus armed, he throws the gauntlet, by this he invited inſult; he puts the whole church at defiance; he ſays come on with you, I am now ready for you. He ſeems to have wiſhed to be attacked, to ſhow that he had not forgotten *the leſſon given him by the member of Congreſs*: he ſays, I would defend myſelf againſt any inſult, where not the ſhadow of inſult had been offered to him.

When coming forward in the church yard, where he had no right to be, he ſays, now I will ſtand my ground. Gentlemen, I wiſh you to obſerve that this ground is the ſpecial property of the congregation; it belongs as much to them as your houſes belong to you: ſuppoſe Dr. R. came to your houſe, either of you, you would ſay no doubt, ſir, you have no right here; but you are not obliged to reaſon with him, whether his conduct is right or wrong: you may ſay that you do not like him to come into your houſe, and that is ſufficient. Suppoſe he ſays that he will defend himſelf againſt inſult, would you not turn him out as well as you could? You would. I date all this riot from the ſingle moment that Dr. R. threw the gauntlet to the church. He was twice warned by them, firſt by the clerk in pulling down the notices, and afterwards by Mr. Connor, that the congregation did not like it; and could it be ſuppoſed that the congregation would ſuffer themſelves to be bravadoed by this man? He goes home and returns with his piſtol. When he would not depart, we find the people proceeded to put him out, whether he would or not. This is what any congregation would do. Is there a man amongſt you but would do it if it was

your church ? You would do it, either as christians, or as men, and if he would not walk out quietly, you would proceed to exercise violence against him.

But was this the only act of violence committed on the part of the defendants ? I have shewn that it came from Dr. R. in the first instance, I will shew you that he still contended in it. When Mr. Gallagher said that no Jacobin paper (he ought to have said no paper whatever) should be put up there. Mr. Cuming immediately called Gallagher a scoundrel. Gallagher goes into the church, not with that rashness, not with the impatient party spirit which has been ascribed to him, but with the greatest prudence and decorum, the young man goes to the priest, and relates to him the event. He from that moment became authorised by the legal authority which the pastor of the church gave him. The pastor did not know what had been done, nor scarcely what to do, but he directs the elders of the church, through this young man, to take measures to prevent this improper meeting. Now was not all this disturbing public worship by this kind of interruption on his going about this church ? Mr. Gallagher was in his duty to do this under the direction of Mr. Neal the pastor of the church. Reynolds caused all this interruption. When Gallagher came out of the church, it appears that he saw some persons standing quietly together with a paper : as they were quiet he did not interfere with them, but after a short time, he saw a few persons together, and presently perceived they were engaged in a riot ; he supposed it was necessary to give it some assistance ; he saw Dr. R. engaged on one side, and the members of the congregation on the other, he then assisted to put out Dr. R. This is the whole conduct of the young man, and yet he has been said to be the first foundation of the uproar ! Gentlemen, I think that not one of you will doubt that when a noise is made like this, when a whole neighbourhoed is disturbed, and when a pistol is drawn, not one of you will, can hesitate to acknowledge that a riot was bred by somebody. I will say that all these persons are actually involved with Dr. R. in producing this riot, and can there be a doubt what is your duty on this subject ? Can there be a doubt but Dr. Reynolds drew this pistol with intent to murder Mr. Gallagher ? Will any person suppose that if he drew a loaded pistol, declaring he would shoot any person that insulted him, that he did not do it with intent to commit murder ; can it be supposed that he did not intend to commit murder because he did not commit murder ? If that is a fair argument, murder must always be committed, or otherwise it cannot be intended, or the intention be indictable at all. Is it not to be supposed that he intended some desperate act, when he declared at the same time that he would shoot any person who should insult him ? But another reason is this : he did not put this pistol in his pocket for nothing : he put it there under some bloody design ; he did it strictly agreeable to the bloodyinstructions of his great teacher the member of the house of repre-presentatives of the United States. He doubtless did it with a view to execute a desperate object, to go through the business at all events.

But you have been told that all this was justifiable by the assault made on him by Mr. Gallagher. But Mr. G. was doing a lawful act ; he was expressly exercising his duty. If an officer in the exercise of his duty is killed,

the perſon who kills him is guilty of murder, but if that officer kills the perſon while in the unavoidable duty he is engaged in, he is acquitted.

Gallagher had a right, to put Reynolds from the ground, to execute his duty at all events, but if Reynolds had killed Gallagher, he would have been guilty of murder. So a ſheriff's officer, though he makes the firſt attack, which by his office he is right in doing, if he is killed in the execution of that duty, the other is guilty of murder Contrary to this doctrine, Mr. Dallas has ſaid that Dr Reynolds had a right to kill this young man : I ſay he had not, even if this had happened in a common ſtreet, much leſs in that church yard, for no man can juſtify murder by aſſault : the law does not : The law ſays, if a man attack you by a ſword, you have no right to kill him, till you have made every attempt to eſcape, but not in any inſtance to take the life, unleſs it be to ſave life, for nothing is the value of life, but life. This may happen every day otherwiſe, and we ſhould be drawn into a ſyſtem of legalizing bloodſhed and murder if this were the caſe.

I take it then, gentlemen, that in the caſe of Dr. Reynolds, he is without any kind of juſtification for his conduct : he was on the premiſes of another man, who had a right to put him out of it : And as to the others, who tried to aſſiſt him; they were the ſame, becauſe they came with the ſame intentions. The gentleman himſelf has only endeavoured to controvert the force of the evidence by law, but no law can be found to juſtify ſuch conduct as either of theſe perſons were guilty of and particularly Dr. Reynolds.— From the whole force of the evidence, and the directions of the law, you can do no other than find theſe perſons guilty according to the indictment.

Mr. Hopkinſon having concluded his obſervations, Judge Cox, after firſt enquiring, whether the church of St. Mary was incorporated, and being anſwered by one of the Truſtees preſent, that it was, he thus addreſſed the Jury.

Gentlemen of the Jury,

In this caſe gentlemen, there has been much aſperity between the gentleman who conducts the proſecution, and the gentleman who defends the caſe : with that we have nothing to do. We have, with great patience, heard them make their attacks, and retorts with great ingenuity, but it is now our duty to turn to the narrative, and entirely diſregard what has been ſaid extraneouſly on either ſide ; and compare the recital with law. We have heard ſome obſervations about party, but I ſhould be extremely ſorry if any court in this country ſhould ever be influenced in their judgment by any party deſigns. I am confident, ſo far as regards this court, that no ſuch influence exiſts. The grand jury have prefered two indictments, the firſt for riot and aſſault upon James Gallagher, jun. and for a joint aſſault againſt him, leaving out the word riot. The ſecond is a ſingle charge againſt James Reynolds alone, for an aſſault with a loaded piſtol, with intent to murder. It has been ſaid on the part of the defendants, that theſe two indictments, being but for one act ought not to be ſeparated, and that argument I confeſs had ſome weight upon my mind, but the attorney general ſtating it was agreeable to the practice of the courts of Pennſylvania, I did not choose to make any alteration : I know that if it was againſt the defendant, it could do him

no injury, becauſe the queſtion would ſtill be open, and a new trial could be had.

With reſpect to the queſtion of the riot on the firſt indictment, that is the firſt thing to which we will advert. It ſeems gentlemen, that the queſtion of law has been pretty well defined by the different gentlemen, although they have diſagreed. I will endeavour to ſtate to you as accurately as I can my opinion upon it, from my experience upon this ſubject, I conceive, if the parties had gone forward with the joint contemplation of doing an unlawful act, and then one doing a more atrocious act than the others, the whole of that party muſt participate in the crime: or if they have lawfully aſſembled, and after that they join in an unlawful act, even though they aſſembled lawfully, in may end in a riot; but then none of thoſe perſons lawfully aſſembled are implicated in it, but thoſe who were actually engaged: I take the latter to be moſt immediately connected with the caſe before us. It is not to the animadverſions which have been made in the evidence produced in this caſe that you are to look for your direction, nor to be guided by any firſt impreſſions that may have been made on your minds, by either of the witneſſes, or the party views which you have been led to conceive the indictment is drawn with. I conceive the caſe muſt ſtand very well explained on your own minds, and therefore much obſervation will be unneceſſary.

The teſtimony of John Brown informed you, that he ſaw all the defendants together, and facts ſupported the teſtimony given by him: when he got up from his ſeat, he ſaw the whole four defendants at a tomb-ſtone, &c. This appeared to be about ten minutes before the congregation came out of church. One of thoſe gentlemen (Mr. Moore) was ſaid to have behaved very well to the laſt. There is no other teſtimony to ſhew, that they were all there at the ſame time. It appeared that part of them came in the morning before ſervice began, and were actively engaged in putting up papers, noticing a certain part of the congregation to remain to ſign a petition to Congreſs againſt the alien bill. You have been informed, and it was admitted in court, that the congregation of St. Mary's church were incorporated agreeable to the laws of the State, by which they are entitled to hold the church and ground as their own property. The queſtion then is, whether that corporation, or thoſe perſons who manage for it, have not a right to exclude any ſtranger from that church itſelf, becauſe every part of it is encloſed. It is not common property. If you ſhould be of the opinion that they have this right to exclude perſons, then certainly it was unlawful for perſons to come and put up notices on that church, and particularly as they received the warning by the clerk pulling down the notices; the queſtion muſt return with more force whether had not they a right to put them out? Still they might not have had a bad intention in thoſe meaſures; but finding they returned in the yard a little before the ſervice was cloſed: here were the whole four,* with papers for ſignature, and pen and ink. Some of the congregation acted particularly under the order of Mr. Neal, whom ſeveral of

* The evidence in this inſtance was unfortunately miſtaken and the Judge of conſequence adopted—no doubt then it was the miſtake of the mind, and not intentional;—but it ought to be a warning to courts, juries, and evidence—Brown really never ſaw Dr. Reynolds as he ſwore.

us know, and it will not be doubted, is the minister of the church: these people warned out this assembly of persons, and if they did not go out, then is it not a question whether they had not a right to remove them? I will give my opinion that they ought to have done it, but as gently as possible, and particularly as they had superior strength.

If you should be of an opinion that they came here with a view of doing an unlawful act, though one of them only might have committed that act, then there can be no kind of doubt but you can pronounce the whole of them guilty, upon common law principles. If on the other hand you should be of opinion that it was not an unlawful meeting, but that a little after the ending of the service one of them did an unlawful act, then I cannot withhold my opinion that one of them only was guilty of an unlawful act, and therefore the rest are innocent.

As to the second indictment, which is merely against James Reynolds, there can be no doubt but he did present a pistol at, J. Gallagher, but whether with intent to murder or not you may judge by the circumstance. It appears that there was some kind of disturbance before he presented the pistol, but whether that jostling which he received justified the act, I will not say.

I have no other observations to make on this business, as it has taken up so much time, I do not doubt but you will dispassionately weigh the circumstances with due attention, and give that verdict which the various facts related to you dictate.

The jury retired, and in about half an hour entered in a letter and sealed it, their verdict of NOT GUILTY as to any of the counts. Their verdict was delivered to the court next morning, it being 10 o'clock when the trial closed.

THE END.

Pamphlet 49

A MEMORIAL.

TO THE

SENATE AND HOUSE OF REPRESENTATIVES.

THE RESPECTFUL MEMORIAL OF THE SUBSCRIBERS, NATIVES OF IRELAND, RESIDING WITHIN THE UNITED STATES OF AMERICA.

A NUMBER of the Natives of Ireland, residing in places convenient for mutual communication, and affected with great anxiety on account of their situation under "*the law concerning Aliens,*" find themselves irresistibly impelled respectfully to address the Legislature of the United States, in order to procure its repeal. Whether the course of a few ensuing years shall terminate their sojourning in America, or the appointed lapse of time shall enable them to acquire the rights of Citizens, it is indispensible to their comfort and well-being, that, in the interim, they enjoy personal liberty, tranquillity and safety. The tenure of these inestimable blessings, however, has been rendered unexpectedly precarious, as they apprehend, by the law which was passed on the 25th of June 1798, concerning *Alien Friends.*

In the case of a legislative act, vesting, for the first time, in the executive department of the United States, a discretionary power over the bodies of the inhabitants, your memorialists find it important to notice certain known principles of law, common to this and other nations. It is held, as well in America as in other countries, that every man is to be deemed perfectly innocent, until he shall be found guilty in due form; and that every innocent inhabitant, whether of domestic or foreign birth, is entitled to the full and complete protection of the laws and of the various branches of the Government. Hence in those countries, where the obligations, rights, and relations of "*persons,*" occasion them to be classed under the names of magistrates and subjects, it is held, that alien friends, actually residing within the jurisdiction, are no less subjects* than native inhabitants. Their personal liberty, their tranquillity, and safety are therefore deemed matters of *legal and absolute right*, resulting from their indisputable duty and obligation to submit and conform to all the laws of the land. When we respectively departed from our native homes for these states, we did not believe we should enjoy less of

* Blackstone's Commentaries and Wood's Institutes.

thefe perfonal bleffings, than the freemen of this country, though we could not expect to participate in thofe civil privileges, which belong to natives, till time and circumftances fhould have made us alfo citizens. We trufted, however, that we could not individually be made to fuffer any diminutions of our fafety, freedom, or peace, but thofe which, under the operation of general laws, the citizens muft alfo endure; and, that, *protected* equally with them, we could not be fubject to any proceeding of the nature of fine, imprifonment, banifhment, or other punifhments, nor to trial nor judgment, without the ufual agency of a well defined judiciary power and the benefit of an impartial jury. But the alien law of 1798, has alarmingly changed our condition. We tremble at our prefent fituation. The wholefome forms of examination, indictment, trial and judgment, and thofe approved and ineftimable principles of liberty and law, which protect the citizen, feem to be in a great meafure laid afide in regard to us; and much of the judicial powers of courts and jurors, to which we were amenable, appear to be transferred, without control, appeal, or refponfibility, into the hands of a fingle executive officer. We love and venerate *certain* and *known laws*. So far as the rules of our conduct are fixed by record and notified by due promulgation, we can walk, with decent confidence, order, and fafety, before the public authorities. But it is impoffible for us to difcover the unwritten ftandard in the mind of a chief magiftrate, and equally impoffible to plead, in our defence, or act up to that ftandard, as long as it remains unrecorded and unpublifhed. It may be greatly varied from time to time, by circumftances unknown to us, or not in our command. If, for example, the two citizens, to whom the people affign, primarily and eventually, the office of Prefident, fhould happen to cherifh different opinions, the mortality of the firft might occafion a new ftandard of alien conduct to govern the executive power.

Till the law of 1798 was pafled by Congrefs, we prefumed it to be certain, that the mere refidence of *Alien Friends*, within the proper limits of the fixteen ftates, was not an object of federal legiflation. Before the adoption of the prefent Conftitution of general government, the footing of *Alien Friends*, in every ftate, depended on its own laws. A defined part of the power concerning that defcription of people was certainly transferred, by the conftitution, to the general government—that is to fay, *the entire power over the law of "Naturalization."* But we do not perceive by what claufe or fection, a power over the mere refidence of alien friends is vefted in Congrefs. The benefits of the writ of *habeas corpus* are difpenfed by the judges, and alien friends, confcious of attachment to your conftitutions, and unwilling to fuffer a difgraceful, afflicting, and ruinous banifhment from their adopted country, might apply for judiciary inveftigations upon this fubject, which, however calm, decent, and orderly, might be attended with ill effects. All fuch things, it would be our moft ardent wifh, to avoid. Wherefore we earneftly hope, that a revifion of the law may be judged expedient by congrefs.

Befides the apparent abfence of a grant of the power, which we have noticed, the right to receive perfons migrating into every ftate feems to us to be exprefsly referved to the feveral members of the American Union, till the year 1808. Even the emendatory power is not fuffered, till then, to affect this right. The power merely to receive emigrants, if they might be inftantly ordered to depart under a federal law, would not only be ufelefs, but might produce diffatisfaction in the ftates. There was a time, when the reception of a particular defcription of labourers was actually permitted by feveral of the ftates, and when vaft danger might have been juftly apprehended from the continuance of the trade. At that moment fuch an alien law of congrefs, with inconfiderable modifications, might have been ufed to abolifh the commerce. Such a law we believe, would have been deemed a contravention of the federal conftitution: and if fo, we do not perceive any dif-

ference of principle, ſufficiently material, to bring the preſent act concerning aliens within the power of congreſs. It contains no deſignation of colour, nativity nor condition, and the general maſs of foreigners are more important than the ignorant and inefficient claſs to which we allude.

We ſubmit with great deference, a ſuggeſtion, that ſo far as the alien law is retroſpective in its operation, its execution would appear to be a contravention of the third clauſe of the 9th ſection of the conſtitution of the United States, which forbids all laws *ex poſt facto*. Alien friends, who came hither before its date, upon the faith of better conditions, *authoritatively offered to them*, ought not, as we conceive, to be deprived of their rights by its poſterior proviſions. They may be truly guiltleſs men and might be ruined by a ſudden departure, after having committed their perſons, families, credit, and properties to the faith and hoſpitality of the country. The laws of ſeveral of the ſtates concerning the ſales of their lands, and for the encouragement of learning, trade, banks, inſurance companies, and manufactures have induced many foreigners to commit to your protection their perſons, their families, their credit, and their fortunes. The ſales of the federal lands and of the lots of your new metropolis, and the incorporation of the bank of the United States have given, we believe, the ſame inducements. A foreigner can *occupy* and *uſe* his lands, and *vote as a ſtockholder*, if he be preſent. It was a formal and ſolemn ſtipulation, offered by yourſelves. It ſeems to be againſt the public faith and credit, by force of a poſterior law, to ſeparate him from his eſtates and privilege without any proof of his committing ſome offence; and after even requiring him to prove, that he will *not* be dangerous, or injurious, ſtill to ſubject him to an executive order of baniſhment from his property.

The queſtion, of being a foreigner or not, appears to be left to the judgment of the preſident. for there ſeems to be no control over his belief, and the marſhal is bound to execute his precept.

It appears to us particularly grievous, that there is no gradation in the treatment of aliens under this law. An action of little importance, diſcoloured by deceitful informers till it is miſconſtrued into a dangerous ſymptom, may produce baniſhment; and acts plainly of the moſt injurious nature can occaſion no more. Humanity, juſtice, and prudence require a well proportioned regulation of crimes and puniſhments. But under this law baniſhment without trial may be inflicted on thoſe of us, who ſhall have excited perſonal reſentments, though really unattended with public danger. America had taught us to dread and abhor new and unuſual puniſhments; and at the time of her ſeparation from Great Britain no power in the empire was deemed competent to inflict baniſhment. In the ſame hard ſpirit, it ſeems to us, that a nonconformity to this law is to be puniſhed with a kind of perſonal attainder; for though an alien inhabitant may have been a reſident for years, with recorded view to citizenſhip, may have veſted his all in your corporations or lands by invitation of your legiſlatures, may have married into an American family, may have a number of native children left in his ſole care and protection by the death of his American wife, though he may have pledged his perſon, his ſkill, and his labours, in the form of partnerſhips and prudent debts, to your own citizens, though he may have abdicated his native rank and abjured his native allegiance in compliance with your ſtatutes, yet he may be prevented, under the alien law, from ever becoming a citizen of this his adopted country. It ſeems to have been in a different ſpirit that "the people of the United States ordained "and eſtabliſhed, that no bill of attainder or *ex poſt facto* law ſhall ever be paſſ-"ed."

The act of congreſs, which we requeſt you to reviſe, is liable, as we conceive, to another juſt and momentous exception. It is a humane and wholeſome maxim of your own law, that no one ſhall be twice puniſhed for the ſame offence. An

alien, however, may commit an act for which he may be fined by the judiciary power, in a sum equal to his all. Yet the same offence may be rendered the foundation of a second punishment in the grievous form of banishment, under the act of which we complain.

In comparing the law concerning alien friends with your existing treaties, some objections on that ground have arisen in our minds. Out of the mass of the natives of foreign countries, resident here, many, who are not citizens, have permanent commercial rights, which your statute may be found to abridge. These rights are expressly saved to alien *enemies* by your law of July 1798. We forbear to pursue further this topic.

We have anxious doubts, whether power ever to permit the return of an alien once banished under this act, is contained in the law, though he may have left behind him a native American wife and children, and all the means of their and his support, in debts and lands. His return, at best, depends on implication.

When we remember the missions of William Penn to Germany to invite emigrants, and the vast benefits of that description of citizens to many of the states, though brought from despotic governments; when we read of the introduction of the Hugonots, the Acadians, and the people of Gallipolis from the French dominions; when we look at the numerous supporters of your navigation, your commerce, your funds, your monied institutions, your arts, your manufactures, and your agriculture, from every foreign clime, and particularly from Ireland, when we survey the evidences of the industry, skill, and treasures they have collectively introduced, and view the inviting objects for new industry, wealth, and skill, which your favoured land yet contains, we consider it as unnecessary to dwell upon the benefits which a continuance of your wonted policy in regard to foreigners would certainly produce. But belonging ourselves to a description of alien friends, whose native country has been engaged, by a pursuit of your conspicuous and influential example, in an effort for liberty, we feel much more sensibly than any other class of aliens, the enacting of the law, concerning which we have been impelled to address you. We are apprised of the agitations produced here by two rival foreign nations, in the years 1793 and 1794, and of those occasioned in the beginning of the year 1797, by a foreign attempt to commit your neutrality with a neighbouring power. We lament to find that an alien law, so greatly affecting us, should have appeared necessary in the middle of 1798, which the dangers of these three former years were not thought to require. We are apprehensive, from these circumstances, and from the misrepresentations incessantly propagated concerning us and our countrymen, in the American gazettes, that unjust impressions, concerning the Irish residents in the United States, and the Irish in general, may have contributed to the adoption of this law. A decent statement of some facts, by removing prejudices, may contribute to procure us the relief we respectfully desire.

When an unjust principle of British legislation, inadmissible by the pepole of these states, gave rise to a seven years' war, and to your republican and influential revolution, the Irish nation groaned under much greater political evils, from the same power, that sought to oppress you. Besides these afflictions of Ireland, there were, at the same time, various ills of a civil and ecclesiastical nature, which rendered the situation of that country almost insupportable. The Congress of the United States, fully apprised of this state of things, transmitted a noble and affecting address to the people of Ireland, and invited them to partake in the cause of liberty and the reform of the empire. The distance of Ireland from America, nay her nearness to England alone, prevented, as we believe, a perfect common cause, and one common issue. But watched and restrained as they were, the movements of the Irish volunteers made a powerful diversion in your favour in the old world, while the muster rolls of your forces, by land and sea, both public and private, and the civil

lists of the states and of the union afford abundant proofs that the blood of the Irish flowed in your service here, as if it were their own, and that they faithfully acted in your highest public trusts. We glory in the belief, that of the Irish residents in the United States, a greater *proportion* partook of the hazards of the field and of the duties of your independent republican councils, than of the native Americans. At the peace of 1783, every uninfluenced Irishman felt a true brotherhood for the United States. From the earliest dawnings of your revolution, from the day of your fraternal address to the people of Ireland, *your example* received the unremitted attention of her wisest patriots, and was the fond theme of every sound heart, which her island contained. In the numerous intercourses, which the ties of blood, curiosity, commerce, or migration have since produced, the Irish caught from you the spirit of equal liberty, civil and religious.—Though lulled to rest by the peace of 1783, the revolutions of France, Batavia, and Belgium, once more awakened the solicitudes of Ireland. She had by this time learned to measure the vast wrongs, and to ascertain the corruptions, by which she was governed. She compared the abject depressions of man in Ireland with *the American principle* that "all men are created equal." She contrasted the impious tyranny of conscience, which afflicted her, with the religious liberty, which blessed the Americans. She compared the free elections of these states, with the sale and purchase of her own peerages, and with more than two thirds of her commons' house, nomiminated by ninety British and Irish noblemen, bishops, and "*gentry*." She saw her three millions of disfranchised Catholics, without a single representative, and remembered well what you had taught her, "that taxation and representation are inseperable" She saw the votes of the ninety electors of her nominal representation openly bought by individuals, the purchase of the votes of those same representatives by the executive power, and the price of those votes as openly accepted. She heard her sons accused of a wild and savage ignorance, while the barbarian laws of her oppressive legislature forbad the endowments of the most necessary schools. Her free presses were subjected to persecutions and violence daily increasing, 'till they were finally suppressed. These and a sad catalogue of other ills, the statement of which here might be thought improper, were objects like yours of many humble petitions and decent remonstrances. These numerous applications met the fate of those of America to the same authority, and from the same causes,—Ireland wept in secret over her sad condition—The volume of *American* History lay open before her.—To that volume an over-ruling Providence turned her eyes.—She read in *your* pages that "*foreign assistance, if necessary to you was certainly attainable.*" Notwithstanding the obstacles of law and the declamations of regal loyalty, America, she saw, had *legalized* the use of foreign assistance in wars of emancipation. Your country, it was found, had asked such aid boldly: she appeared to have been heard with due respect: she had actually received foreign assistance; she had extensively used it; she had used it as far as it could be procured; she had used it with effect, with perfect safety and final success. America, impelled by her determination to resist an inadmissible principle of British legislation, rather than submit, had avowed, by anticipation, to England—had warned the parent state, *that she could obtain aid from foreign powers.* In order to secure it, she had hastened her act of independence—her separation from our common oppressors. One of your agents procured large aids from France and Spain, and another from Batavia. Foreign troops, fleets, arms, clothing, stores, money and credit were furnished you to a degree, that would, in one year, decide the fortunes of the Irish. If it is believed that Ireland has struggled against England, so, *previously*, did the United States.—If America was alarmed by a violation of important principles, and a little oppressed in fact; all principle has been outraged towards Ireland, and oppression there exceeds the conceptions of the Americans.—If Ireland be supposed to have sought the assistance of France, Spain, and

Batavia, the ſame aid was *firſt ſought and uſed* by America.—If Ireland be charged with deſiring a ſeparation from England, ſuch a ſeparation was long ſince glorioufly *accompliſhed* by America.—If Ireland wiſhesto convert herſelf into *a republic*, ſuch a change was *illuſtrioufly* made by the Americans.

Ireland muſt be ſenſible of the peculiar ſituation of the United States in this hour of her own awful trials—We preſume ſhe has neither ſought nor expected American aid—But we, *reſpected legiſlators*, have no right, no power, no inclination, no diſpoſition to addreſs you upon ſuch ſubjects. Led hither by the purſuit of ordinary buſineſs, or driven from our homes, like your venerable forefathers, by civil and religious oppreſſions, our views are only extended to perſonal ſafety, peace, and freedom. To regain and preſerve thoſe bleſſings we have endeavoured to remove, by a plain repreſentation, apparent miſconceptions concerning the natives of Ireland, which might otherwiſe prevent our relief.

Before we conclude, however, you will ſuffer us to remind you, that the feelings, the prudence and the ſervices of our country men were engaged on your ſide by your voluntary and ſolemn aſſurances in 1775, that " the important conteſt " into which you had been driven was" not only " intereſting to every European " ſtate, but" particularly " affected Ireland," as " a member of the Britiſh em- " pire," that for thoſe reaſons you thought it " a duty to addreſs her," that you were " peculiarly deſirous of furniſhing her with a true ſtate of your mo- " tives and objects, that you faithfully proclaimed Ireland to have been *ever* friend- " ly to *the rights of mankind*," that you ſpontaneouſly " acknowledged with *plea- " ſure* and *gratitude* that our nation had produced patriots, who had nobly diſtin- " guiſhed themſelves in *the cauſe of humanity and America*." You affectionately told us, " that you were not ignorant that the labour and manufactures of Ireland, " like thoſe of the ſilk-worm, were of little moment to herſelf, but ſerved only " to give luxury to thoſe, who neither toil nor ſpin." In the true ſpirit of ſympathetic affection and in the genuine manner of fraternal explanation, you expreſſed " your conſolation from the reflection, that if your meaſures againſt the Britiſh " government ſhould occaſion much diſtreſs to the people of Ireland, the fertile re- " gions of America would afford them a *ſafe aſylum* from poverty, and, *in time*, " from *oppreſſion alſo*"—" an aſylum, you truly ſaid, in which thouſands of our " countrymen had found hoſpitality, peace, and affluence, and become " united" " to you by all the ties of conſanguinity, mutual intereſt and affection." You publiſhed to the liſtening world your knowledge of the Iriſh grievances. You emphatically declared, " that the tender mercies of the Britiſh government had " long been cruel towards her." You arouſed the ſtrongeſt feelings of virtuous patriotiſm within us, by reciting the agonizing truth, that " *in the rich paſtures of " Ireland, many hungry parricides had fed, and grown ſtrong to labour in its de- " ſtruction*." You poured out a fervent and affecting " hope, that the patient " abiding of the meek might not always be forgotten," and in all the ſolemnities of religion, you devoutly invoked the throne of grace for us and for yourſelves, that " the iniquitous ſchemes for extirpating liberty might ſoon be defeated." Whilſt the genius of humanity flew to Heaven with the common prayer for Ireland and America, the hearts of our generous and afflicted countrymen joined in one common reſponſe. Half our ſupplications have been already granted by the favour of divine providence, for *you have been made free*. Suffer *us* then to enjoy among you, the peace, liberty and ſafety, which our gallant countrymen have helped to eſtabliſh, till gracious Heaven, by diſpenſing to Ireland the ſame bleſſings, ſhall grant the remainder of our mutual prayers.

TRIAL