

it would require more than the ingenuity of a Philadelphia Lawyer to demonstrate that the mere expression of approval, in such a case, is sedition, or any thing of the kind. And, again, if I did express my approval of the designs of the Young Irelanders, the question would arise, Have any people a right to go to war for the attainment of a political object? The recent trial of Smith O'Brien disclosed the fact, that the people of England, or rather the immaculate, consistent and loyal Whigs were prepared or preparing to march an armed body of men into London, with the view of overawing the King and Parliament, in 1831, into a concession to their views on the subject of Reform. To go farther back—in 1780 there sprung up in Ireland, as if by magic, Eighty thousand armed men, possessing all the skill and discipline of a veteran army, and valour and enthusiasm which would have made them equal to any emergency—and affording, through the leadership of the illustrious Duke of Leinster, a guarantee that their power would be exercised for the public advantage only. Over this army of Volunteers the British Government held no controul; indeed, through his inability to suppress, the Viceroy was compelled to recognize it, and treat its officers with the same degree of respect as he did those of the regular Army. At this time, the Government and the people of Ireland were at issue on the questions of free trade for Ireland and the independence of her Parliament. The British Ministry would not yield—the people had no alternative but to rush to arms. On the field pieces of this truly national armament were inscribed, "Free Trade, Free Parliament, or speedy Revolution;" and yet its promoters and commanding officers were not only not accused of disloyalty to the Sovereign, but became the objects of especial favour at court. Barry Yelverton and Hussey Burgh, who were on the Duke of Leinster's Staff, were afterwards appointed Chief Barons of the Exchequer; and Henry Grattan, who occupied a similar post in that same army which threatened a "speedy Revolution," was not considered unworthy of a seat in the Privy Council, a seat in the Irish House of Commons, and after the Union, of a place in the Imperial Legislature. Nay, the King of England condescended to eulogise, in the most unqualified terms, the loyalty and fidelity of his Irish subjects while those very subjects were in arms without his Majesty's authority, and prepared to do battle for their rights against his Ministry.* The fact was, the Volunteers were loyal to their Country, their King and Constitution, and not to the King's Ministers; and the Ministry being unable to subdue so formidable a body, deemed a conciliatory course the wisest they could pursue. Had Government, however, been as powerful at that time as the Castlereagh Government in 1798, or the Clarendon one in 1848, many of those who held seats in Parliament, and commissions in the Volunteer Army, would doubtless have been hung and quartered as traitors. But, I ask pardon of my readers—it is not the history of those times I purpose to write.

To return to the editorial under review: The next sentence asserts that Ireland has been oppressed to a greater extent than any other country in ancient or modern times, and concludes by saying, that if she had the power as well as the will to relieve herself from this oppression, "thousands who have no more in common with the Irish people than the universal sentiment of liberty, would rejoice to witness the exercise of that power, and would proclaim, as worthy the applause of mankind, the men who were foremost in directing it."

First, as to the oppression; if it be treason or sedition to say that Ireland has been badly governed, I will at once plead guilty, and declare that all history, from the time of the Henrys (vulgarly called the conquest), when

*On the 24th of November, 1782, his Majesty the King delivered a Speech from the throne, in which he called, in the following clause, the attention of his Parliament to the condition of Ireland:—

"In the midst of my care and solicitude for the safety and welfare of this country, I have not been inattentive to the state of my loyal and faithful kingdom of Ireland. I have (in consequence of your addresses, presented to me in the last session) ordered such papers to be collected and laid before you, as may assist your deliberations on this important business; and I recommend it to you to consider what further benefits and advantages may be extended to that kingdom, by such regulations and such methods, as may most effectually promote the common strength, wealth, and interests of all my Kingdoms."

Ireland submitted to the English yoke, down to the reign of Her present Majesty—is a monstrous lie. As to the second part of the sentence, every intelligent reader will perceive that I have only enlarged on a very trite remark, namely, that Rebellion, when it fails, is treason, but when it succeeds, is glorious Revolution. If this be sedition, Her Majesty's Law Officers would have occasion, every day in the year, to prepare an indictment against some presumptuous printer.

The next and last sentence condemns the Young Irelanders for their incapacity in not perceiving their inability to cope with the Government, and states that they cannot hope for an acquittal before partizan judges, and a partizan jury.

Now, I presume that even our new Solicitor General, though he may be ever so anxious for a case, would not pronounce the sentence of which the above is the substance, to be an overt act of treason, nor yet sedition. It is certainly not disloyal to say that the Young Irelanders were incapable of effecting a revolution; nor is it disloyal to say they were to be tried by a partizan Bench and Jury. The term partizan means, being the adherent of any particular cause or party. The Judges who preside at the Clonmel Commission have been quite conspicuous as the advocates and adherents of a political sect, and have rendered themselves very obnoxious to the majority of the people of Ireland by their opposition to the Repeal of the Union, the cause in which the prisoners were engaged. Something more than mere partizanship might be asserted of the Jury panel, when it is known that in a Catholic county, the Sheriff returns only 18 Catholics in a list of 228 jurors. For these facts, I can refer to almost any of the London newspapers, and to several of them for expressions far stronger than any I have used in reference to the Bench and Jury.

It appears, however, that that part of the editorial which caused the most uneasiness, is the concluding expression of "regret that such men ever espoused such a cause, or having espoused it, they did not succeed." What "cause?" "Rebellion, of course," cry a dozen voices. I beg your pardon, gentlemen, I meant no such thing—you are all decidedly too hasty in jumping at such a conclusion. Repeal of the Union was undoubtedly the "cause" Smith O'Brien took in hand—physical force, I believe, he contemplated, (but did not use) as a means of carrying it out. Rebellion is never a cause—it is the means, or the effect of a contest for the accomplishment of a certain object, which is the cause. Supposing the Volunteers to whom I have referred had been put down by Government, and I should say, "I am sorry they did not succeed," would any one suppose I meant success in overthrowing British Sovereignty in Ireland? No—their object or "cause" was principally Free Trade, and my 'regret' would have had reference to that alone.

"But if you are a Repealer," I fancy I hear some one ask, "why do you 'regret' that Smith O'Brien 'espoused the cause' of Repeal?"

I answer, because Smith O'Brien espoused that cause with the intention of employing physical force, if necessary, which I think at least impracticable, and because I have confidence in the efficacy of a moral agitation.

"O, but, Smith O'Brien and his confederates committed acts of rebellion, and it is disloyal to sympathise with them."

Stay, most cautious reader. Your proposition is not strictly true, and even if it were, your conclusion would not be logical. Smith O'Brien was charged with having committed acts of rebellion, at the time I published the editorial, but those acts had not been proved against him before that tribunal which alone had the right to judge; and, acting on the humane maxim of English Law, I was fully justified in believing Smith O'Brien innocent, until, at least, his Jury had decided otherwise. His Jury has decided otherwise—has decided that he is guilty of High Treason; but that same jury has declared unanimously that his life, for many reasons, should be spared. This qualified verdict seems like saying, "We declare Smith O'Brien guilty of high treason, but we believe him not to be guilty, and therefore his life should be spared." This point is so ably and clearly put by a popular London Journal (*The News of the World* of the 15th instant,) that I cannot do better than quote its words:—

"The qualified verdict of the jury, in the case of Mr.

O'Brien, is an unsatisfactory result. High Treason is so awful a crime, that it can have no qualifying circumstances: the law which defines it has imposed upon it such tremendous penalties, that it is manifest those who defined its guilt, also declared that there could be no qualifying circumstances accompanying it; and yet, the Jury who tried Mr. O'Brien gave, upon their oaths, a qualified verdict when they said, "The Jury being unanimously of opinion that for many reasons his life should be spared."

"The opinion is, we believe, one that must be responded to by every person who has read over the trial, and maturely weighed the evidence. The trial, we conceive, discloses the state of the facts to be really this—that Mr. Smith O'Brien did, with others, contemplate effecting a revolution in Ireland, at Ireland, at a future period—that, if he were permitted, he would have carried that intention into effect—that Lord Clarendon, by the vigour of his measures, baffled him—that Lord Clarendon prevented a rebellion—that Lord Clarendon, by so doing, converted the individual, who would most probably have been a rebel, into an outlaw—that Mr. O'Brien, finding himself in the position of an outlaw, with a warrant for his arrest, and a price set upon his head, acted as an outlaw—endeavoured to induce all with whom he came in contact to arm themselves in his defence, to resist the police, and even the army, if they sought to enforce the warrant against him; and so acting as an outlaw, when deprived of the power and the choice of being a rebel, he has been, for his acts as an outlaw,—treated as a rebel; and the same verdict which declares him guilty of a crime to which no mercy can be shown, says, at the same time, that, "for many reasons his life should be spared."

I am not defending the conduct of Smith O'Brien. I am defending my own conduct in not condemning him prematurely; and if I believed him to be loyal to the Queen and Constitution at the time I published the editorial which has called forth this explanation of my views, I would not be singular in entertaining that belief. On his trial the following testimony was given:—

"John Bolton Massey, Esq., sworn and examined by Mr. Fitzgerald.—Has known Mr. Smith O'Brien since he was a boy, most intimately, and from his knowledge of Mr. O'Brien's sentiments, could never collect any hostility on his part to the King, Lords, and Constitution; he was a decided Repealer.

"Sir Denham Norreys, Bart., examined.—Is a member of Parliament; was an M. P. in 1843; believes the report now handed in to be a perfectly correct report of what Mr. O'Brien stated in Parliament in 1843; the document produced (found in Mr. O'Brien's trunk) is in Mr. O'Brien's handwriting; it is an address to the people of Great Britain; Mr. O'Brien is a friend to the Queen, Lords, and Commons; is a friend to social order and an enemy to anarchy.

"William Fitzgerald, Esq., Adelphi, sworn and examined by Sir Colman O'Loughlen.—Has been acquainted for twenty years with Mr. W. S. O'Brien; is a friend to the Queen and constitution; he never concealed his sentiments; he is a friend to social order; believes him to be as humane and tender-hearted as any man in existence.

"Hon. Cornelius O'Calaghan sworn and examined by Mr. Fitzgerald.—Is acquainted with Mr. S. O'Brien; knew him as an M. P.; knew him eight or nine years; believes him to be attached to the Queen and constitution."

So much then, for the accusation of disloyalty against myself. I am sorry that I have been obliged to play the critic at such a length on my own performance; but the alarm of well-meaning friends left me no other alternative. As for my enemies, I have no objection to read communications by the score, and editorials by the yard, in the other two papers, all intended to show that I have committed an indictable offence. If I am guilty of any such offence, the Law Officers understand their duty, without having it pointed out to them by any impudent fellow who can write a communication for the Newspapers. A prosecution would be just the thing to promote the circulation of the *Examiner*, and I heartily wish it may be commenced. If not, I must conclude that the Law Officers of the Crown can discover nothing in the editorial to justify a prosecution against me; and my loyalty to my Queen and country must remain unimpeached. E. W.

Tuesday Morning.—The above article not having been written, for the most part, until a late hour yesterday—we were obliged to omit other matter previously in type; and this circumstance will account for the little delay in getting out the present sheet.

The Hon. W. H. Merrit, the new Canadian Provincial Secretary, has been re-elected by acclamation for St. Clair.

A soldier of the Royal Canadian Rifles came to his death recently by drinking a pint of raw whiskey.