of the land into statutes, and though that was

laudable, it was dangerous to meddle with the

fixed principles laid down by the

We now give the conclusion of our verbatim report (taken by Mr. James Crankshaw, B.C.L., Professional Shorthand Reporter), of rice! Then came the third charge, that the trial of the McNamee Whelan libel case Mr. McNamee was a crimp and bounty the trial of the McNames-Whelan libel case as follows :--

Mr. D. MAGNASTER, Q.O., addressing the Court on the legal aspect of the case, referred particularly to the personal liability of the defendant; and in reply to the contention that THE POST Printing and Publishing Company, and not the defendant, must take any responsibility attaching to the publication in question, the learned counsel cited Rescoe and Archibold to show that all persons concerned in the publication of a libel were equally jury. guilty of a misdemeanor. He contended, therefore, that the defendant, as managing therefore, that the defendant, as managing trayer, a crimp and bounty broker—all for trayer. the learned counsel's position.

that case and the present one is in the fact Montreal, and that he had posed as an absothat Gagnon was the propietor.

Mr. Justice Bansay -In that case it was allowing the article to appear in the paper that rendered him liable.

Mr. MACMASTER contended that the fact of the defendant having staned and sworn the affidavit of propriete shi deposited according to law, and being the in described as a shareholde: and the managing director of the company, made him liable under the authorities cited. He also argued that under section seven of the libel act it was competent for the defendant under the plea of "not guilty," to have proved that he had no knowledge of the publication of this article, and if he had proved that fact, it would have been a good defence. The defendant had not, however, made such proof, though it was open to him. The learned Judge, in the course of the discuseion, expressed considerable regret at the extraordinary way in which the Libel Act was drawn. He said there was only one man in England that could draw a criminal statute but to lodge the present indictment for thel. properly, and he should not wonder if there | The defendant was at liberty to pleas at am was no man at all in Canada that could draw

Mr. MACMASTER then proceeded to address the jury. He said it was not his intention to detain them long as they must already be weary with the amount of time this trial had taken, and he had no doubt they desired to escape as soon as possible from the duties imposed upon them, however determined they might be, as he was sure they were, to discharge those duties properly. He would not attempt to imitate the plan of the learned counsel who had first ad. offences; and he Mr. Whelan asked them by dressed them on behalf of the defendant, and who had gone a number of times over the evidence that had been adduced in the case, and some that had not been adduced, until the tale might be looked upon more in the character of a chapter from the "Arabian Nameee was guilty of every one of these things Nights." With regard to the second counsel that were charged against him, Mr. McNamee who had addressed them for the defence, he was entitled to a verdict at their hands. The might say that he evidently did not attempt charge was not a distributive one. Mr. to indict upon the jury what he had not been permitted to indict on the Court, and kept a part of the article and leave other parts unlarge portion of the browledge he had been part of the article and leave other parts unlarge portion of the browledge he had been part of the article and leave other parts unlarge portion of the browledge he had been part of the article and leave other parts unlarge portion. large portion of the knowledge he had to himselt. It was his (Macmaster's) duty to address them upon the case that had been

submitted. The first question they had to deal with was: What was the indictment against Mr. Whelan? On taking up the newspaper article proved in the case, they found that, on the 15th of March last, the defendant published to the world five or six very serious charges against Mr McNamee. It was necessary for them to look to some extent at the the position of the case, and he proposed to origin of that article; and his learned friend argue before them very briefly-not to argue, Mr Doherty had done part of the prosecution's but to call their attention to the essential work, when he read a letter addressed to Mr. Whelan by Mr. McNamee, in which Mr. Mc-McNamee discussed their old standing differences, saying that they had differed, and these differences had assumed a seriousness, it was desirable that they should be settled once for all by a tribunal, which Mr. McNamee then suggested. He said to Mr. Whelan: "Refer them to the arbitration of three lawyers, three Irish Catholics and three Protestants, and I will abide by the result." That was the offer of a man badgered by the defendant. "If," said my client, "you are unwilling to accept " the tribuna: I now place before you, make " your charges like a man in print, in order " that I may bring you before the public tri-" bunsle, and there deal with you in the way "you deserve." That was the manly outspoken offer of my client, and Mr. Whelan accepted the challenge, and, in fulfilment of it, published the article complained of. He called it an Indictment. That was the heading he put to it; he put this indictment before the world on the fliteenth of March last, and it went forth to all Canada. From that day Mr. McNamee has stood indicted for the most henious charges that have ever been brought before a Court tence? No. It was proved by one of the men out of THE POST newspaper office that the defendant had the guidance of the business itself it says they promised to investigate these charges, and that they had made that investigation. Note the calmness and deliberation of the defendant, and the corresponding effect his statements would have on the public mind. "In doing so," continues the article, "we have spared neither time, "pains nor money." Here is another indication of the particularity and deliberation with "epured neither time, pains nor money in "our endeavors to arrive at the truth. Thera "remains, in order to complete the fulfil " ment of our pledge, but to give to the pub-"lic the result of our labors. Our readers " will find in the correspondence published "in another column a sufficient explanation "of our not having done so at an earlier "date. As the result of our enquiries, we " now declare that the person referred to in "the article clipped from the Hour is Francis "Bernard McNames, President of the St. " Patrick's Society of this city. Against him

" we make the following charges:" Now, gentlemen of the jury, as honorable men, called upon to decide in the interests of justice between these two parties, you are confronted with this position of affairs. One says, "If you have a charge to make, make it open-"ly;" the other says, "I have made an "investigation; I have spared neither " time, labor nor expense, and I make the fol-"lowing charges as the result." The balance of the article has been read to you. You have heard the charges which it makes against Mr. McNamee. The first and second of those charges substantially accuse Mr. Mc-Namee with being a Fenian, with having introduced Fenianism into Canada; and after having induced his dupes to enter the organization that he then and there betrayed them | He would, however, take a portion of history and their plans to the Government, was guilty of the crime of Iscarlot, and had en- the Fenian movement suggested to one

laudable under some circumstances to te an informer, as for instance, when a man sees a violation of the peace and in this accusation against my client there is not merely the charge of being an ordinary informer,—grievous though that may be,— but the charge of treachery damned by avabroker, and the too plain insinuation in this accusation and in the defendant's plea being that Mr. McNamee had spirited men over into the United States at the time of the American war, and forced them into a foreign army, receiving a price from the American authorities.

Then came the charge of offering to pay man to put daylight through a prominent citizen, who, so the article charges, had done him (McNamee) some real or supposed in-

doubtedly concerned in this publication and money—as well as an instigator of assassina-was consequently properly indicted. The tion, but that not content to enjoy his ill-Gagnon case was also cited as substantiating gotten gains in obscurity, he had obtruded and forced himself forward on all public oc-Mr. KERR suggested a difference between casions as the representative irishman of lute dictator in laish matters till he had nearly succeeded in driving all respectable the negligence of Gagnon, as propeletor, in Irishmen in disgust from taking any active part or interest in such matters, and had been, in fact, a disgrace and incubus upon the shoulders of the Irish people of this city, thwarting or perverting to his own personal aggrandisement every step that they had taken in connection with national or other affairs. These were the charges made, and he

thought they would all admit, as men to whom a good name was dear, that they should not be made unless they were true, and it was for the public good they should be published to the world. No one could afford to have the cupboard of his private life turned open to the public gaze; for man was not perfect. If man were perfect he should occupy another Ephere. No man, said the in a real be exposed, unless it is for the , while interest. Think of these accusations he ught regainst this man. There was no course open to him not guilty;" or instead of remaining in the position of defendant he might become the virtual prosecutor, and say: "Every word of "that article or indictment that I published to the world is true, and it was in the public "interest that I should publish it." As a matter of fact, Mr. Whelan did exactly plead this, and by his plea was charging Mr. McNames over again with every word of the article complained of. Instead of being the defendant he virtually became the prosecutor, accusing their verdict to say that Mr. McNamee was guilty of each and every one of these crimes with which he charged him in his paper. Unless Mr. Whelan, therefore, could prove before them and to their satisfaction, that Mr. Mcproved; but he must prove the truth of every part, or he failed to justify, and must submit to a verdict of guilty; and further, the defendant must not only prove the truth of every part of the article, but that the publication of every part of it was in the public in-terest. The law of the country said that unless the defendant proved that all the charges made were true, and it was for the public benefit that they should be published, the Crown was entitled to a verdict. That was element that those charge Namee had not been proved, and that Mr. Whelan's case fell to the ground. He would briefly run over the charges. The first charge was that, being a Fenian, Mr. McNamee was among the first to introduce Fenianism into Canada and was the principal, if not the sole instrument, in the original organization of a branch of that body in this city, and that he endeavored to graft Fenianism on the St. Patrick's Society, as it then existed.

basis was that Mr. McNames was a member of the Hibernian Society, which was established in Montreal, in the fall of 1862, and with which he and a number of others were associated. He was in it but a short time; and Mr. O'Mears had told them that at that time the objects of the Society were to give Ireland the same privilege of self-government as we now enjoyed in Canada. It was not proved that Mr. McNamee belonged to a Society that had any other object than that: O'Meara said that in its inception it was a sort of benevolent society. Why was not Mr. McNamee asked point blank, he was a Fenian'? According the evidence of Mr. O'Mears, the object of of Justice. Was this a thing of inadver- this Society were to give to Ireland the same political privileges, the same measure of self-government that we in Canada enjoy. This is precisely what the combined wisdom of that office; and in the outset of the article of the Canadian Parliament suggested by resolution at its last session—a resolution transmitted to the Queen. So Mr. McNamee was just twenty years before his time. Was it an offence in Mr. McNamee to hold such opinion it he was a Fenian? Holding these views was quite a different matter to being a Fenian. Where was the evidence of his having introduced Fenianism? Where was the man that was sworn in by him as a which the publication was made. "We have Fenian? Where was there sny evidence of any organization other than this harmless

What was the basis for that charge? The

benevolent Hibernia | Society. The second charge was that having so intreduced Fewlaniem and induced unsuspecting and misguided persons to become membors of the Fenian organization, he betrayed his dupes to the Government of Canada. revealed to that Government all the plans and doings of the men whom he had made amenable to the law, so that he might be enriched

by their betrayal. Where were the people whom the prosecutor had betrayed? There was no evidence of anything of the sort. He had been a member of the Hibernian Society, and he sympa. thised with Fenianism in Ireland. That was all. Sympathy is not a crime. Men sympathise on a variety of subjects, and Mr. Mc-Namee committed no wrong in sympathizing with this Fenian movement in Ireland, as he would show by citing a matter of history. Mr. Macmaster proceeded to read from Justin McCarthy's " History of Our Own Times," as to the effect of Fenianism in Ireland.

Mr. JUSTICE RAMSAY said counsel must not read books to the jury. The Court did not want the evidence of McCarthy.

Mr. MACNASTER supposed that he had a right to cite matters of history; but under the raling of the honorable judge he would desist. sworn to in the present case, to the effect that riched himself by this ignoble operation, of the leading minds of Great Britain the This, gentlemen, is not the ordinary accuest idea of ameliorating the condition of the pector and in t

Fenianism was not made out. Sympathy for fewer members in St. Patrick's Boelety since it was all that was proved sgainst his McNames was the President of that Bociety: It man 8968 a violation of the peace and takes means to have the culprit arrested; but client; but men were not to be punished for the charge made in the last accessation was a takes means to have the culprit arrested; but in this accusation against my client there is sympathizing. There was entire lack of grievous one against; Mr. McNamee; it was proof in relation to the second charge, the far more grievous against the Irish people. dupes to the Government for gain.

The third charge was that the prosecutor,

He would ask the gentlemen of the jury ary evidence whatever of it? If they were to take up the plea of the defendant they would was inveigled into the American army?

The honorable Judge had said that this was virtually a violation of the Enlistment Act, Then they could point to the Iron Duke himand if this accusation were true let one of the men come forward who was made a soldier. What man had come forward there to say that he was taken away, and that he was quietly hurled into the American army? Not one. The defence had broken down upon that charge clearly and undoubtedly. They had the evidence of Mackenzie that when a load of men were going away from the wharf at Quebec the prosecutor, pointing to those men had said, "There goes a load of men worth \$100 a head to me;" and this had been brought forward by the defence on the assumption that they were to infer that it meant that McNamee was going to sell these men to the American Government for service in the army. There was no proof of this; but there was proof of a railway going on in Onio, where men were paid higher wages McNamee was an Irishman-was he to be than in Canada; and there was proof that condemned for possessing this noble charac-McNames considered that he was to participate in the contract for the construction of pate in the contract for the constitution of the defendant himself. Having new tuning profits. There was not the slightest through these different charges, the learned counsel urged the gentlemen of the jury to what had not been made to the part of the part ness in any respect whathever.

The next charge was that the prosecutor had offered a person \$500 to put daylight through Mr. Brydges, because he he had been injured by him. There was a point of law injured by him. There was a point of law specially applicable to this as to the other porlions of the case, as to whether even if this charge were true it was in the public interest that it should be published in the newspapers, enmity towards him. He was, moreover, a Namee had any Il-feeling against Mr. Brydges; but because on account of a man who was his greatest personal enemy? When they had oath against oath, they might be permitted to take suspicion. They sho ld look doubtfully upon the evidence of a man, who himself addid not want the joking side. wanted to trump up an accusation against Mr McNamee; and he took the serious side of it. it should be proved. The evidence of Messrs. word of mouth, but he got it from O'Reilly in black and white. And O'Reilly, who tunity of quenching the thirst for revenge up to measure his oath with that of Mowould receive that evidence of been on speaking terms with his client for that the defendant's Counsel should expect seven years. He asked the gentlemen of the the jary to over look their duty to society jury to take a look back through the vistas and respect to their consciences, and find this of their lives and say how many there were man not guilty of the charge then pending who could come into the witness box, and by against him. He (Mr. Macmaster) putting a slight coloring on some of their had now gone ove the whole series most harmless expressions, make them appear of these accusation, and he would most infamous and wicked. As Hume says, ask the gentlemen of the jury to look the most simple act might often be made to at the brutality of the slander made against bear the countenance of a fault." And if the Mr. McNames, and the determination with real truth of this interview between O'heilly and McNamee (if it occurred at all) were discovered, it would turn out to te a joke and never calculated to be construed into an offer to take the life

of one who was proved to have always been knew what he was doing. He was none one of McNamee's best friends. The last accusation in the article is a reiteration of the several flagrant charges that precede it. It says that he "started in his career as an election bummer, having fitted himself by a course of crimping, bounty-brokerage and informing, and made money at each." Where is the proof that he made a cent of money at any one of trem? Then it went on to say that he had not been content to enjoy his ill gotten gains in Namee were guilty of any offence such a obscurity, but had pushed himself forward on position might be taken by the defendant. all public occasions as the representative Irishman of Montreal, had posed himself as the absolute dictator in matters affecting the Itish community, till he had nearly succeeded in driving all respectable Irishmen in dis-gust from taking any active part or interest as an informer? What did he say to-day to ed in driving all respectable Irishmen in disin such matters, and had been, in fact, a disgrace and an incubus upon the shoulders of the Irish people of this city. Now, it was a grave charge to a man who held his orimp and a bounty broker? Upon all these good name dear, to be accused of being a disgrace to his race. It hurt a man's sensibilities, slung his pride sel he had not been able to prove this accusa-and wounded his self-respect. Such charges tion about McName's connection with the should not be made unless they could be proved. A respectable man, Mr. Bernard duty of the defendant as a journalist to keep

THE WALL TO THE PARTY OF THE PA ed that this first charge with regard to terest in Irish affairs, and he said there were gravamen of which was that the prosecutor Would Mr. Bernard Tansey undertake organized a Fenian Society for the purpose to swear that anything done by Mr. of drawing in and afterwards betraying his McNames would deter him from taking an interest in Irish affairs. Is Mr. Tansey any less an Irishman now than he was ten years during the American war, was engaged as a lago? When did the time arrive that Irisharimp and bounty broker, and employed men would be held back? This was a slur on the Irish name. Never in the next had Irishmen hesitated to take their proper posiwhat evidence had they of that? Had they tions merely because one man chose to push himself forward or act as a dictator. Was there any crime in Mr. McNames pushing see that he put forward the names of men himself forward? Irishmen in all times had in the city of Montreal and Quebec who were pushed themselves to the front in the first to prove that plea. What man had been put in the box and said; "I'was taken over into halfs of this great Empire? Then they the United States by Mr. McNamee, and I | could point to Palmerston, foremost of British statesmen and the greatest man since Wellington-himself an Irishman. Was it in war? zelf. Wherever the Queen's honor had to be vindicated, there were Irishmen pushing themselves forward, ever to the front, unchecked by any foe, undismayed by any danger, overcoming every difficulty. In our own they had bayonet-ted the Russian, sabred the Egyp-tian, and outwitted the Turk. Whereever British prestige had to be maintained, there were Irishmen to sustain it. This charge was a torturing of Irlsh history-an ignoring of the nation's record—a slur and libel on the name of a brave, chivalrous and patriotic people. Since the morning of Irish history, Irishmen had pushed forwardwherever danger or duty summoned. Their part had ever been-aye-and would ever be forward-and first among the foremost. Mr. teristic of his race. That he was an incubus was an idea existing only in the imagination ask themselves whether Mr. Whelan had proved all these charges. Had there been a betrayal of Mr. McNamee's associates to the Covernment? They saw in the witness box the officers who were entrusted with matters concerning the Fenian raid; and they heard those officers state that, far from McNamee having anything to do with giving information about Feotherwise it would not avail if they could nisms, he was himself suspected of being possibly believe it to be true. In support of a Feniam and that they had instructhis charge, the only evidence they had was tions to keep a sharp look out on his movethat of Michael O'Reilly. He (Mr. Macmaster) | ments. What would be thought in an ordiasked them to take that evidence with nary case for larceny, if the first three witsome misgiving and at the same time to nesses put in the box by the prosecution said bear in mind that Mr. McNamee emphatithey knew nothing about it. Mr. Whelan cally contradicted it. O'Reilly was the de. had put Mr. Schiller, Mr. Coursol and Mr. termined opponent of the prosecutor. He had Ormond in the box to prove Mr. McNanee an informer and that secret service money had relative, and the enmity between them was been paid to him. But did they prove that? thus of the bitt-rest; for when relatives fell No; but they proved on the contrary, that out their empity was far greater than when they had the control of that secret out his evidence by the lantern light of their knowledge, been paid to Mr. McNamee malice. He told them that McNamee had His learned friend, Mr. Kerr, with that great

they were not related. O'Reilly came there service money at the time in question, and embittered against the prosecutor, and spelled | that not one penny of it had, by them or to incited him to put daylight through Mr. ingenuity which was his natural character-Brydges, not on account of injuries latic, said it was the policy to keep from the suffered by McNamee, not because Mc- public the names of parties to whom payquarrel with or ments were made out of the secret serill-feeling against Mr. Brydges; but because vice fund. Did he mean that it was O'Reilly supposed that his dismissal from the the duty of the gentlemen who had Grand Trunk Railway was due to Mr. to do with this fund as Government Brydges. Why should Mr. McNamee boil officials to go into that box and forswear over with indignation against Mr. Brydges themselves? No. He could not mean that. He meant that they had the legal right to decline to make any revelation, on the ground that it was to the public interest not to tell the evidence of this man O'Reilly with some anything about matters connected with this secret service; and as a matter of fact, the lander of the Government has over and over mitted that, where there was enmity, men again refused to say what has been done with would go a great deal further than when the public money set aside for this serthere was not. Men often used extreme ex- vice. But was that the course that pressions in an offhand manner without the the officers put in the box in this least intention of their taking effect; case had taken? Did they shelter themand in this way they were often breaking selves under their privilege, as they might necks and consigning their neighbors to hotter have done, when asked, Was anything paid climes than we live in ; and it might be that if to Mr McNamee? Or, did he reveal anything Mr. McNamee did use this expression spoken | about the movements or plans of the Feniana? of by O'Reilly, it was one of those imprudent | There officers did not screen themselves beutterances which, although it should not have hind their privilege, but answered No to been made use of, was never intended to be in those questions. And it was with a great earnest. O'Reilly said it might have been in deal of surprise that he (Mr. Macmaster) joke or it might have been in carnest, and he heard the defendant's counsel urge them to told the defendant so when he gave him the bring in a verdict of not guilty, seeing that on information. But had the defordant put it this, the most serious charge, they had entirely in that way in this libellous atticle? Did and signally failed. If there was anything he leave any latitude for a joke? No. He in the charge that the private prosecutor was made it as serious a matter as he could. He an informer and a betrayer of his associates, He whom he had himself drawn into an illegal organization and had entiched himself by it, And then he would not take O'Reilly's mere Schiller, Coursol and Ormond completely exonerated Mr. McNames. There was not one particle of proof in the evidence that had found that at last he had obtained an oppor- been brought forward to support that most serious charge; and yet the defendant's counwhich had for years been burning within him, sel had the astoris' ing assurance to ask for a went to the camp of the enemy to put in verdict at their hands. He was surprised that writing what Whelan would not trust him to his learned friends should do this, knowing tell on cath. This was the man that came as he did, that they were thoroughly aware if there was any essential count or charge, the Names. The learned counsel took it that truth of which was not established, the prosecution were entitled by law to a verdict at O'Reilly's with a grain of salt. He had not the hands of the jury. He was surprised

which it was hurled against him. The de-

fendant said, "we make these charges calm-

ly and deliberately." What dignity and

deliberation! "We make these charges calmly and deliberately." The defendant

of your excitable men. He was a

first addressed them asserted that the defend-

felt to be a "sacred duty," that learned gentle-

man ventured on ground exceedingly unsafe;

he was treading on extremely delicate ground

when he said it was a duty to expose Mr. Mc-

Namee, because Mr. McNamee was a can-

didate for a public office. If Mr. Mc-

But was it his duty to publish this slander

without any grounds to support the truth of

the statement. How stood he to-day? What

did he say to-day to his charge against Mc.

his charge against McNamee of having be-

trayed his companions? What did he say to-

day to his charge against McNamee of being a

charges he had failed. What was his position, when by the admission of his coun-

secret service? It was said that it was the

St. Patrick's Pociety; and that it was his right to criticise him. So it was, so long as he fought with the sword of truth; but when he took up the engger of falsehood collective wisdom and genuls of ages, and endeavored to stab Mr. McNamee, then It had been suggested that the statute he was guilty of a crime, and he must suffer divided libel into two different offences, one for publishing a libel knowing it to be false,

." We make these charges," said the article, It remains with him (McNames) to decide when we shall be called upon to substautiste these charges before another tribunal." he was to be a candidate for re-election, and two days before the great annual procession on St. Patrick's Day. Think with what feelings my client walked at the head of thousands of Irishmen in the city of Montreal with that article rankling is every

and justice be was entliked to claim. THE JUDGE'S CHARGE. able importance, and he might generalize that [most annoying of all the minor offences; but libel was more particularly important at the present day, because it was becoming a national defect. Pepole in this country were becoming addicted to it more than ever in the world before. Therefore, it was of the utmost importance that the principles governing the understood, so that men's lives might not be rendered miserable. The liberty of the press had nothing to do with what was commonly talked. Formerly governments established censors over the press; and on the withdrawal of this censorship it was generally supposed that any man with a pen This was a mistake, and he asked them to bring their minds back from the wild and more than spoken words,-for a picture would 026,8 character and reputation. That whether he was doing a duty or not. It was the publishing by one person of something injurious to the character of another. There could be no difficulty as to this article being a libel. The indictment had been met by the defendant in two ways: first, by saying he was "Not guilty,"-that is, that he did not write and publish it, or that it was not a libel, one or the other; and then under a recent statute,-a statute of a rather dangerous character,—he had also availed himself of the privilege of pleading justification, or saying that the libel was true and was published in the public interest, and if the defendant had established that, he was entitled to a verdict of not guilty. The common law rule rendered the libeller punishable, whether the libel were true or false, unless it were a privileged communication; but advancing political freedom privileged communications to publications in the press made in good faith; and it was a new rules, they did not change old principles. They should have simply extended the principle of privileged communications to bona fide publications made in the press for the public good. But, besides pleading justification, the defendant had also pleaded "not guilty," under which he claimed to be acquitted, because he had not been proved to be the printer and publisher of THE POST newspaper. This proposition was unfounded in law and unsupported by the facts. The record of proprietorship was signed by Mr. Whelan as that rendered him responsible. But if any. fendant guilty. thing further were wanting to fasten his rescalm man. When his learned friend who ponsibility it was supplied by the evidence of O'Nell, who had testified that Whelan had the running of the whole of the business ant was acting in the fulfilment of what he of this newspaper office. The defendant also claimed that he should be acquitted because he simply complied with Mr. McNamee's letter requesting him to publish the article. If McNames had handed the article to Whelan and said: "Be good enough to publish that," the prosecution would have been at an end; but that was not the case. Whelan and McNames had had differences. McNames said: "You are slandering me; and it is becoming intolerable, unless you will arbitrate the matter, put your accusations in writing." Spoken slander w s not crimical, and McNamee said: "Instead of "slandering me in this way do it relieve the poor little sufferer immediately openly in print and then I shall repend upon it; there is no mistake about indict you for libel." Mr. MoNamee Chore is not a mother on earth who has end defied Mr. Whelan, in the figurative terms of used it, who will not tell you at once the figurative terms of

> into an idea that the article was published for Mr. McNamee's benefit.
> Then another point had been raised. A

hoped, beyond the Jury's, to conceive how

any man of common sense could twist this

and the other where there was no knowledge calmly and deliberately in the fulfilment of of its faisity. He had been obliged to rule what we feel is a sacred duty. In his that that was not the intention of the Legisspeech, to which we have already referred, lature, but that it was to be left to the jury Francis Bernard McNamee declared that he to say whether there was a guilty knowledge. would leave the charges brought against or not, so that the Court might fix the punhim to the verdict of the public. We have, ishment, which is greater for publishing a lithis choice the indictment upon which publishing one without such knowledge. We have felt it our duty to arraign him. With regard to the scienta, if they did not believe the defendant's justification, his guirty knowledge was fully established. By the plea of justification, the whole burden Here was the direct challenge from the de- of proof was shifted. Instead of the defendant to the prosecutor, made, too, at a time fendant saying to the prosecutor, "Prove when Mr. McNamee was a public officer, the your case," he said, "What I have said of president of a representative national society; you is true; and I had a right to say it of made, too, within a week or two of the then you." "Therefore the question was not pending election for the presidency, at which whether the defendant published the article knowing it to be false. This guilty knowledge could be presumed from the general facts of the case. What they had to decide was whether the charges in the article had been proved or not. The Hon. Justice then proceeded to review the charges and the evibeart! Think of his feelings-and those of | dence bearing on them in detail. In regard to his family-knowing the atrocities with the charge that McNames was a Ferien and which he was accused, the ignominy had introduced Fenianism into Canada, he of remaining under these terrible accuss- said that to call a man a Fenian was libellous. tions until he received his vindication in for it was accusing him of a crime for which, if a verdict of his countrymen. Were they, the found guilty, he could be sent to gad or prob-gentlemen of the jury, prepared to seal the ably hanged. The next accusation was as bad act of the defendant, to say that Mr sicNamee but infinitely more infamous; it charged Mcshould go down to all time, condemned and Names with inducing men to become Fenians convicted of the crimes attributed to him by so that he might betray them to the Governthese extraordinary accusations o which he ment and make money. This was accusing has not been proved guilty. He Mr (Macmaster) had too much respect for their sense of justice, to believe for a moment that they would permit the defendant,—(who had McNamee had sent men over into the United calmly and deliberately made these changes, States and sold them to fight the battles of knowing what he was about)—to that country. This, really, meant that he escape. If they did that, then the sold these men to commit who esale murder, reputation of no one in the country or that he destined them to be put in such a was safe. Fancy the stab that would go to position, that, becoming destitute, they would the heart of the prosecutor and into the be forced into the American army. He (the breast of his family if these terrible accusa-tions were condoned. Since the 15th of March last Mr. McNamee had borne this heavy burden, and had walked abroad as a with which these people were regarded, at marked man. For this day he had impa- that time, was unbounded; and there was never tiently waited, and he trusted that this day any difficulty in discovering and brieging an impattal jury of his countrymen, while them to justice. Yet, the jury were now meting out justice to the wrong doer, would asked to believe that Mr. McNamee had sent grant him the vindication which from law 2,000 people to the states to be enlicted in the army, though nobody bad ever prosecuted him before the Courts for any of these of-Hon. Justice Bansay, in his charge to the fences; and although no man had been projury, said:—It had been truly remark— duced here upon whom this offence had been ed to them that this case was one of consider. Practiced. The theory of the defence was. that, having proved that men were taken out remark by adding that all cases of libel, at of the country by McNamee, and that the present moment, were of importance in some of them enlisted in the Amthemselves. Reduced to writing and put in a crican army, it must be presumed that permanent form, slander was one of the they were taken away for that purpose. No one could jump at such a presumption. In regard to the accusation of having incited the shooting of a prominent citizen, there was a certain amount of evidence on this point.
O'Reilly swore positively that McNamee had offered him \$500 to put daylight through Mr. Brydges; but that it might have been in joke. liberty of the press and the protection of O'Reilly, however, admitted that he was un-private individuals should be rightly friendly towards McNamee. Would the jury, friendly towards McNamee. Would the jury, if they were trying McNamee on this charge believe O'Reilly's statement? If not, then Whelen was not justified in publishing it. The next and last charge against McNames, after repeating, virtually, what had been said in the previous part of the article, went on to say that he had obtruded and pushed himself in his hand, an inketand at his elbow, and forward, and become an incubus on the Irish some paper might write anything he pleased. people. The learned Judge did not see the necessity for this last clause of the article, which he characterized as a mere slanderous declamatory appeals so common at the sweeping up of all the previous slanders, in present day, and so inimical to the interests order to give the article point. The libel law of truth. The question they had to decide would lead to the most mischievous results if was whether the defendant had published a men were to be slandered in this slip dash false and maticious libel against Mr. Mc- way. If such general accusations could be Names. In the first place, what was a libel? published there would be an erd of peace; It was any writing, -in fact, anything for men would take the law in their own hands. They would not tolerate if. Referring do or any signs that again to the charge of Fenianism the learned made permanent, - that injured Judge said there was little doubt that the Hibernian Society had worked in connection was the fundamental idea of libel. It had with the Fenian Brotherhood, an illegal assonothing to do with the malice of the party, or ciation. The defence had succeeded somewhat in that, and if that allegation had stood alone they might have had some claim to a verdict. It was a very unfair argument to say that because McNamee left the Hibernian Society he intended to betray his associates. But there was really no difficulty as to the cause of his leaving the Society, he had simply left it on account of persons who did not like him as President, and then McNamee went off in a huff. The Hon. Justice in conclusion said that a great deal of nonsense was spoken on what was called the sacred duty of a journalist. A journalist stood in the same position as any o her man in the community. He had no privileges or sacred duties whatsoever. All that was cant and rubbish, repeated till it had fairfied the public mind. The journalist had no more right than any other man to denounce his neighbor. had made it necessary to extend the rule of He had no more facilities for deing harm, and some opportunities for doing good. All these wild, and declamatory appeals about great misfortune that the Legislature did not | the liberty of the press and the sacred duties take more care to see that in laying down of a journalist must be put away from them. They had to decide first, whether or not this article was a libel. About that there could be no doubt. They had next to decide whether the defendant's accusations against McName had been proved to be frue, and whether the publication was in the public interest. Every one of the accusations must be proved to be substantially true, and every one of them must be such that their publication was for the public good. If there was any one of them that was not true-although mixed u with something that was true-the article was the managing director of the company, and a libel, and it was their duty to find the de

PROFIT, \$1,200.

"To sum it up, six long years of bed-ridden sickness, costing \$200 per year, total \$1,200 -all of this expense was stopped by three Bottles of Hop Bitters, taken by my wile. She has done her own housework for a yes since, without the loss of a day, and I want everybody to know it for their benefit."-N.E Farmer.

MOTHERS! MOTHERS!! MOTHERS!!! Are you disturbed at night and broken of the rest by a sick child suffering and crylar rest by a sick child suffering and crylar rest by a sick child suffering pain of cutting tests If so, go at once and get a bottle of ME WINSLOW'S SOOTHING SYRUP. It w relieve the poor little sufferer immediately "the Ring," to "come on." It was beyond will regulate the bowels, and give rest to the learned Judge's comprehension, and, he mother, and relief and health to the operating like magic. It is perfectly safet use in all cases, and pleasant to the taste, is the prescription of one of the oldest best female physicians and nurses in its United States. Sold everywhere at 25 cm