

repose and a few hours of calm deliberation. And again, gentlemen, although I admit that the behaviour of the audience in general was on last evening rather improved and more orderly than on the day previous, it was, nevertheless, not such as to permit a Judge to bring to a review of the important question at issue, a desirable calmness and self-possession. Gentlemen, before I proceed it may be advisable that I endeavour to remove one or two false impressions which portions of the speech of the learned counsel for the defence may have stamped upon your minds. Mr. Young, in the course of his address, stated that it was a very humiliating sight to behold Bishop Walsh dragged before such a tribunal as this, and he did me the honor to point at me as a *Protestant Judge*, and at you, gentlemen, as a *Protestant Jury*. Gentlemen, I cannot understand it. I cannot comprehend how a man who calls himself a Protestant can entertain such a horror of Protestant Judges and Protestant Juries. I could understand Mr. Carten were he to complain at being tried before a Protestant Jury and an old Tory Judge. Mr. Young's horror at Bishop Walsh's being here tried I can not comprehend. Why, gentlemen, all subjects save one, I mean the Representative of the Crown, may be tried before this tribunal. The learned Counsel told you that Mr. Carten had mocked and laughed at somebody—and seemed to consider his so doing as a very heinous crime; but scarcely had the words passed his lips when he committed the very same offence himself. Who is this Samuel Carten? he asks:—he is a low fellow—can scarcely read or write; cannot put two sentences of English together, &c., and as if he were some Jack the Giant Killer, pointed his finger at him, and so close to his mouth, that had he been the "ravenous wolve" he is represented to be, he would have bitten it off. Now, this was wrong, and I am sure Bishop Walsh, who is a gentleman and a scholar, never instructed his Counsel to adopt such a course. There is another subject which I must bring under your consideration. Out of the forty eight jurors drawn, you are aware that each party has the privilege of striking off a certain number until it is

brought down to twenty four; and from that number the jury are drawn. Now suppose the Plaintiff did strike off all the Catholics on the jury, which the learned Counsel seemed to consider so remarkable a circumstance, was there not good reason when the learned Counsel tells you that every good Catholic in the city has a pang at his heart—is thrilled with horror at the Plaintiff's conduct. Now, gentlemen, the principle laid down by Mr. Young, that the right of excommunication must reside within every religious body, is perfectly just and right. The question for you to try is—has Mr. Carten been legally cut off from his Church—is the paper which has been put in evidence an excommunication and a monition both—and whether the Bishop has the power, by assigning one reason, to excommunicate any member of his Church. This has been asserted on one hand and controverted on the other, upon various grounds—one of which is that the paper of itself carries internal evidence that something more is required. To assert that Mr. Carten is not a Catholic is nonsense. Mr. Carten denies not the tenets of his Church—he does not desire to quit that Church—all he asserts is that he does not admit the right to put him out in this way—to invest any man with such a power as is sought for by Bishop Walsh is repugnant to the spirit of our Laws; if, gentlemen, in considering this question you arrive at the conclusion that Samuel Carten has been illegally excommunicated your verdict must be for him. In conclusion, gentlemen, I charge you to do your duty—simply—firmly—plainly; regardless of persona or consequences. I have the advantage of trying this cause before a Jury not one of whom I know—and in the presence of a talented Bar, whom I sincerely respect, with not one of whom, however, am I on terms of intimacy. I have never been a popular Judge—and I never will be one—for I believe it to be utterly inconsistent with popularity for any man to speak plain and unpalatable truths.

The Jury retired, and after having been absent the best part of the day, returned to Court without agreeing upon a verdict when they were dismissed by the Judge.