Protestant Alliance And the Jesuits.

From the "Catholic Times" of Liverpool we take the following :—

Once again the Protestant Alliance has suffered defeat in the Law Courts. Not content with the decision of Mr. Kennedy, the magistrate, who refused to convert the law into an instrument for the exercise of bigotry, they appealed to a Divisional Court for a mandamus. They got their answer on Monday last. The Lord Chief Justice in delivering the judgment of the Court held that the magistrate had a right to refuse to grant summonses for the expulsion of the Jesuits and in his discretion to take account both of the character of the Act of 1822 and of the time at which it was passed. In a word, the Court scouted the attempt to persecute innocent men, and the decision has met with hearty approval from the press. "It would be a pity," says the "Daily Chronicle," "if at the beginning of the twentieth century we were to return to anything even remotely resembling the religious intolerance of the sixteenth." "It is really time that we got rid of the Jesuit bogie," writes the "Newcastle Chronicle." If Jesuits transgress the ordinary law of the land let them be punished; but whilst they obey it let them have the same liberties as other citizens. Such is the feeling of the people. The Protestant Alliance being unable to use reasonable arguments against the Jesuits, are anxious to use legal violence, but happily their ferocity is restrained by the courts.

PROCEEDING IN COURT. — The case of "the King v. G. G. Kennedy, Esq." came on for hearing in the King's Bench on Friday before the Lord Chief Justice, Mr. Justice Darling, and Mr. Justice Channel. It was the argument upon a rule nisi that had been obtained for a mandamus commanding Mr. G. G. Kennedy, the metropolitan police magistrate, to proceed to hear and determine the matter of an application by the Rev. Charles Stirling for three several summonses upon three several informations laid by the applicant against the Rev. Sydney Smith, the Rev. Herbert Thurston, and the Rev. John Gerard respectively, under section 34 of the Roman Catholic Belief Act, 1829 (10 Geo. IV., c 7), charging them with having been admitted and become Jesuits within the United Kingdom.

The section under which the proceedings were taken provides that :—"In case any person shall, after the commencement of this Act, within any part of this United Kingdom be admitted or become a Jesuit or brother or member of any such religious order, community, or society as aforesaid, such person shall be deemed and taken to be guilty of a misdemeanor, and being thereof lawfully convicted shall be sentenced and ordered to be banished from the United Kingdom for the term of his natural life." The information in each case merely alleged that the person charged had, since the commencement of the Act—namely, since 1829, been admitted and become a Jesuit within the United Kingdom, without giving any particulars. The application for the summonses was made on January 17, 1902, when the learned magistrate reserved his decision. On January 24 he gave his decision refusing the summonses. After referring to section 34 of the Act under which the proceedings were taken, and to sections 28, 29, 30, 33, and 36, the learned magistrate proceeded as follows :—"Now it may be observed, first of all, that all those sections are practically obsolete, and no records of any proceedings under them are accessible, and in the words of the late Sir James Stephen, in his 'History of the Criminal Law,' 'These provisions ever since they have been passed have been treated as a dead letter.' It would seem to be gathered from them that membership of this religious Order is not a criminal condition in itself, and is only made so under certain circumstances. It must be more, in my view, than a mere matter of policy, especially when such serious consequences as banishment for life and transportation are involved; and they are, moreover, provisions which, in my opinion, should be enforced by the Crown and not by a private informer. The confirmation of this view is, I think, to be found in section 38 of the Act, which says, 'that all penalties imposed by this Act shall and may be recovered as a debt due to His Majesty, by information to be filed in the name of His Majesty's Attorney-General.' It may be said that banishment, which is the penalty enacted by sections 29, 31, and 34, is not one of the penalties which is indicated in Section 38, but the provisions are so far allied to the common subject matter that the procedure to enforce any of them should be by way of information from the Crown Office itself. Therefore, in my judgment, this application should be refused upon the ground that it is wrongly instituted. The third ground arises on the initiation of the proceedings themselves on the words of section 34, because it says that after the pasing of the Act one of the gentlemen was admitted and became a Jesuit contrary to the provisions of section 34 of the Act. Now I think that information is too scanty and too bare a statement, and insufficient to support an application for a criminal process. Therefore, in exercise of the discretion which is conferred upon me by the Indictable Offences Act, I dismiss the information." In answer to Mr. Avory, who appeared before the magistrate on behalf of the Rev. Charles Stirling, the magistrate stated that he would refuse an application based on an amended information giving further particulars, because the just ground of his decision—namely, that the Crown should be the informer—would still remain. The learned magistrate further explained that he had used the words "practically obsolete" in speaking of the provisions of the sections in question because they were not actually obsolete. He did not put that as a ground of his decision; he put it as influencing his discretion.

Sir Edward Clarke, K.C., Mr. Hugo Young, K.C., and Mr. Dennis O'Connor on behalf of the persons against whom the informations were laid; and Mr. Sutton, on behalf of the learned magistrate, appeared to show cause against the rule; Mr. Avory, K.C., and Mr. Biron appeared in support of the rule.

Sir Edward Clarke contended, in the first place, that the learned magistrate was right in holding proceedings under the statute could only be taken at the instance of the Crown. That was the only way in which the provisions of the statute could be harmonized. Where the statute imposed a pecuniary penalty, that was recoverable only by the Crown. Further, where the statute imposed the punishment of banishment, it was necessary in order to carry out the punishment to invoke the executive authority of the Crown, which under section 35 the Crown might, or might not, exercise in its discretion. If the Crown did not choose to carry out the sentence of banishment, then the person proceeded against was free to remain in the United Kingdom without any ill consequences to himself; for in that case he would not be at large within the United Kingdom "without some lawful cause" within the meaning of section 36. If the words in that section, "some lawful cause" did not refer to a case where the Crown in its discretion had refrained from carrying out the sentence of banishment, they were meaningless. He referred to and commented on sections 28-38 of the Act, as all supporting the contention for which he contended. Secondly, even supposing the learned magistrate was wrong in the construction he had put on the Act, he had nevertheless entertained the application for the summonses, and, that being so, his decision could not be reversed by mandamus even though it were wrong in point of law. He cited "Ex-parte Lewis" (21 Q.B.D., 191) and "Rex, v. Bros." (85 I. T., 581), in support of his contention. Sir Edward Clarke had not concluded his argument when the court rose on Friday.

Sir Edward Clarke, continuing his argument at the resumption of the proceedings on Monday, contended that the learned magistrate had not refused to entertain the application, but had entertained it, and come to a conclusion upon it, and that the magistrate's decision, therefore, could not be reviewed in law. He further argued that, even supposing the magistrate was wrong in holding that proceedings under the statute could only be taken by the Crown and that his decision in this respect could be reviewed, there remained the other grounds on which the magistrate had exercised his discretion. The information gave absolutely no particulars; it stated neither the time nor the place of the alleged offence. It was perfectly consistent with the information that the admission to the Order of the Jesuits had taken place 50 years ago. A magistrate was entitled, in determining whether he would or would not grant a summons in a criminal matter, to consider such a circumstance as that a long period had elapsed since the alleged offence- So also he might refuse a summons with reference to the object with which the summons was sought. The magistrate had in this case exercised a discretion with reference to considerations of this character, and the court would not review the exercise of the magistrate's discretion in such circumstances.

Mr. Hugo Young followed on the same side.

Mr. Sutton, on behalf of the learned magistrate, also argue that the rule should be discharged.

Mr. Avory, in support of the rule, argued that there was nothing in the Act of 1829 to indicate that a peculiar rule depriving the private prosecutor of his ordinary rights was to prevail with reference to offences under that Act. As to the suggestion that the penal sections of the Act were obsolete, they had been recognized as existing in various recent statutes—for example, the Promissory Oaths Act, 1871—and as late as 1898 a Bill to repeal them had been introduced into Parliament, but had failed to pass.

The Court discharged the rule.

The Lord Chief Justice said that this case certainly presented very considerable difficulty, and had given the Court very anxious consideration. He did not think the principles of law to be applied were difficult to state, but when they came to be applied other difficulties might arise. If an inferior tribunal declined jurisdiction, or thought it had no jurisdiction, through wrongly construing an Act of Parliament, there was no doubt that in ordinary circumstances a mandamus would go to order the inferior tribunal to exercise its jurisdiciction. If, on the other hand, a magistrate, not misunderstanding the law and not improperly applying the law, exercised his discretion, then, at all events under the Indictable Offences Act, 1848, which was the Act the Court had to consider in the present case, the exercise of his discretion could not be reviewed. When the rule was moved all that was stated on affidavit was that the magistrate had refused to grant the summons on the grounds that the provisions of the Act under which the proceedings were taken were practically obsolete, and that proceedings under the Act would only be taken by the Crown. That had, however, been supplemented by Mr. Avory, who had stated quite accurately that the proceedings had been taken on informations alleging merely that the defendants had since the Act of 1829 become Jesuits within the United Kingdom; but that the magistrate, on being asked whether any amendment of the information would affect his decision, had said it would not, as the objection that the proceedings were taken by a private person would remain. Under these circumstances he had considered the case on the assumption that, whatever amendment had been made in the information in the way of stating details, the magistrate's decision would have been the same. He had done his best to get at what was the real decision of the magistrate, and he would read a part of the magistrate's judgment which seemed to him to show that the magistrate had dealt with the case as a matter of discretion and not on the ground that the Act was obsolete or that the Act could only be put in force by the Crown. His Lordship then read all the latter part of the judgment of the learned magistrate, set out in the report of the first day's proceedings, and referred to the further observations made by the magistrate in answer to Mr. Avory after delivering judgment. His Lordship continuing, said that, reading it fairly he thought that what the magistrate had said amounted to a statement that in the circumstances brought before him he had come to the conclusion that he ought not to issue a summons. He would state what, as he understood, the learned magistrate had taken into consideration. He had taken intoc onsideration the fact that the sections of the Act of 1829 in question had never been put in force. He had gone through the clauses of the Act and come to the conclusion, which His Lordship thought right, that the object of the Act was to get the Jesuits out of the country and not to punish criminally inuividual Jesuits. It was a matter in respect of which the learned magistrate thought that proceedings ought to be instituted, not by a private person, but by a representative of the Crown. All these matters were matters which the magistrate was justified in taking into consideration. It was impossible to say that there was no discretion merely because there was prima facie evidence that the offence had in fact been committed. He thought also the fact that the offence was not within the Vexatious Indictments Act made a difference. He quite agreed that in ordinary cases it was very undesirable that there should be an indictment without preleminary proceedings before a magistrate. But in such a case as this he thought the magistrate might take into his consideration the fact that his refusal of the summons would not prevent the preferring of an indictment. The fact was that this was a very special Act. No practice had arisen under it which could be regarded as "exposition contemporanea" of it and therefore the considerations the magistrate should apply to it were necessarily different from those arising in an ordinary case. In his opinion it would be no legal bar to proceedings under the Act that they were taken by a private prosecutor; and if the magistrate had proceeded upon the ground that proceedings could not be taken by a private individual he thought he would have been wrong. But he came to the conclusion that the real substance of the matter was that the magistrate exercised his discretion. The Court therefore ought not to interfere, and the rule must be discharged.

Mr. Justice Darling and Mr. Justice Channel also delivered judgments expressing the opinion that the rule should be discharged.

The Idea of "Home."

The rapidity with which people now travel, the custom of going to hotels to board, the perpetual rest, unsettled state of feverish existence that exist on all sides to-day indicate the passing of "the home," the vanishing of the "domestic hearth." For over forty years Russel Sage, the New York millionaire, has lived in a rented house, and despite his wealth he has never consented to move away from that house. He gives as his reason, for not wishing to have a palace, or any other house, is an evidence that it is the idea of a home that sways him, and the associations that cling to the place in which the best years of his life have been spent, knit him to the humbler dwelling. He said, the other day :—

"I don't like having a new idea of home. Home is home—and that's this place. I don't want to think of any other place as home. I should feel as if I had moved in a hotel. Our home is completely furnished, and I have spent too much time and care in improvements and in selecting antique furniture and trappings which are associated now with just the spots they have occupied so many years. If those things were set down in any other place they wouldn't belong there."

There is a fine sentiment underlying this reason for clinging to the home. Mrs. Sage has a more feminine idea, but one equally as praiseworthy—she says :—

"Indeed, I think that the secret reason I don't want to move is because none of the curtains would fit. If curtains that are moved from one house to another were even too long, one could manage. But they are always too short, and what can one do? Our rugs wouldn't fit. For that matter, our furniture wouldn't fit. And to get new things—fancy having to get everything in one's house new! I can think of no harder work. I should be all the rest of my life settling."

Sea Air a Cure for Nervousness.

There is nothing to compare skilled physicians declare, with the effects of sea air in cases of nervous affection. It must be taken in the right away, however.

The patient who, being ordered to take the sea-air cure, rushes down to the sea shore, spends all of his time on the beach, frets over expenses and rushes back to his office to make up by extra work for his brief holiday only exaggerates his nervous trouble.

That is taking the treatment in the wrong way.

The sea is too exciting for nervous patients at first. They should be gradually accustomed to the air and surroundings to get the benefits to be derived.

The famous English physician Ide advises that such patients should stay at a house some little distance from the beach with quiet, sunny rooms sheltered from the wind.

After thoroughly resting from the fatigue of the journey they should seek sheltered spots out of doors, and after three or four days walk down to the beach several times a day, resting afterward each time, warmly covered.

If there is little sleep or appetite the walks must be restricted, and the patient should rest in bed several times a day or permanently .

The sea air makes such demands on the metabolism that the stays on the beach should not be allowed to increase the metabolism beyond what the powers of digestion and assimilation are able to keep pace with.

The patient should always rest for an hour before each of the principal meals of the day.

As the strength increases four or six hours a day can be spent on the beach.

Long trips and excursions should be carefully avoided.

Some Notes

BOOKS AND READING.

"BY CRUX."

SOME time ago I had occasion, in this column, to make special reference to some of the works of the late Brother Azarias, of the Order of the Christian Brothers. Since then I have been reading one of his most valuable productions—a volume entitled "Books and Reading." It contains such a vast fund of information that it would be impossibfe, unless one wrote a volume equally as extensive as his own, to give any idea of the liberal education, in English literature, that it affords. His study of Dante is a marvellous piece of analytical composition, while his study of Browning is, if anything, still more wonderful. However, I cannot refrain from occupying a short space this week with reference to his contrast between Wordsworth and Byron. I have no intention of adding aught of my own to the passages I purpose quoting, beyond the statement that, for over twenty years back I have harbored the exact same opinions and felt the identical impressions that he conveys, regarding these two poets. I kept my opinions and impressions to myself, for the simple reason that I felt I was, if not alone, at least in a very remarkable minority regarding them. I was, therefore, doubly pleased to find that Brother Azarias, and the eminent writers whom he quotes, entertained the same views and had come to the same conclusions. One does not always like to run up against the stone-wall of conventional opinion; persons, who think not for themselves, but live on the products of other people's mental labors, are apt to style one a crank— or some other milder term, meaning the same thing.

AUBREY DE VERE'S VIEWS. — The author of "Books and Reading" commences his chapter on Wordsworth, by quoting a charming record left by Aubrey de Vere, of the way in which he first came under the influence of Wordsworth from a reading of "Lagdamia." We see in this how the reading of that poem weaned him from his extravagant admiration for Byron. Aubrey de Vere says :—"Some strong, calm hand seemed to have been laid on my head, and bound me to the spot till I had come to the end. As I read, a new world, hitherto imagined, opened itself out, stretching far away into serene infinitudes. The region was one to me unknown, but the harmony of the picture attested its reality. Above and around were indeed

'An ampler ether, a diviner air,
And fields invested with purpureal gleams,'

and when I reached the line—

'Calm pleasures there abide—majestic pains,'

I felt that no tenants less stately were fit to walk in so lordly a precinct. I had been translated into another planet of song—one with larger movements and a longer year. A wider conception of poetry had become mine, and the Byronian enthusiasm fell from me like a bond broken by being outgrown."

OTHERS INSPIRED BY HIM. — I will now turn from this admirable extract to something more astonishing, and I will use the words of Brother Azarias. "No less true is it — though not so generally known—that Wordsworth helped to mould the character of Thomas Davis. 'The ideals he found in Wordsworth,' says Justice O'Hagan, 'especially the ideal of a pure and exalted love of country, took full possession of him.' His influence upon John Stuart Mill was no less marked. The first reading of Wordsworth's poems was an epoch in that philosopher's life. 'What made his poems a medicine for my state of mind,' he tells us, 'was that they expressed not mere outward beauty, but states of feeling and of thought colored by feeling under the excitement of beauty. I needed to be made to feel that there was real permanent happiness in tranquil contemplation. Wordsworth taught me this, not only without turning away from, but with greatly increased interest in, the common feeling and the common destiny of human beings.'" Poetry influencing types of character as distinct as Aubrey de Vere—the poet, Thomas Davis—the patriot, and John Stuart Mill—the philosopher, as well as Brother Azarias—the religious student and thinker, must contain an element of strength worthy of serious consideration.

BYRON AND WORDSWORTH. — I will now quote another passage which, being disjointed, cannot have its full effect, as it would were I able to give the ten pages preceding it, but which will explain what I have often felt, but could not express the reverse of the medal. It is again Brother Azarias who speaks. "We are now in position to understand how difficult it is for one in full sympathy with the poetry of Wordsworth to continue to admire Byron. The methods, the point of view, the temper of soul of each can be brought together only to be contrasted. You follow Byron upon his pilgrimage through Southern Europe. You are at once impressed with the magnificent swing of his lines, the ease and vigor with which he grasps and interprets a splendid scene or a great work of art, the vividness and distinctness of his descriptions, the power with which he gives out the impressions that he receives. You are compelled to respect his faculty of observation and his accuracy of description. But his soul vibrates only to the great, the tragic, the magnificent in nature and art. Rome, Venice, Waterloo; the haunts or homes of men whom he holds in admiration, such as Dante, Rousseau, Voltaire; gigantic structures, such as St. Peter's, and the Coliseum; grand or sublime scenery, such as the Alps, the ocean, Lake Leman; the scenes of a tragic story, such as Chillon, or the Palace of the Doges; these are the themes to which 'He struck his harp, and nations heard entranced.' All Europe fell for a while under the spell of his genius. Even at this hour you cannot read his finer descriptive passages without feeling your soul thrill. But he was lacking besides in many of all those qualities that go to make up the greatness. He had no steadiness of purpose; he had no moral consistency. His philosophy was the musings of a misanthrope. He had the morbidness of Leopardi, without the literary polish or the intellectual consistency of the great poet of Pessimism. Those staying qualities that come of severe study and calm meditation were not his; and, therefore, in spite of his great natural endowments and the fitful lights that flash through his lurid genius, he has ceased to be an influencing power in literature. He is the poet of wild unrest. On the other hand, Wordsworth is the poet of the simple, the lowly, the commonplace, and the spiritual in nature and in human life. His ideals are those of repose, cheerfulness and contentment."

AS AN INTRODUCTION. — It is with no small degree of satisfaction that I have thus found so many men of attainment and of different dispositions, spheres in life and manners of thought, giving expression to ideas that I have had conceived in my mind fully "twenty golden years ago." Next week I purpose again coming to this subject; and the foregoing quotations will serve as an introduction to my own remarks upon this, to me very interesting study. I wish to deal with Wordsworth and his works from the religious standpoint, and I feel that both poet and poems lend themselves to a careful examination in that regard. Meanwhile, I leave to the readers the above passages as subject-matter for calm meditation and study.

I grow rapidly towards complete dislike of the thing called "society," but this must be moral rather than mental development. Society is a barren humbug, fruitful only of thistles and wormwood. Home life is the sweetest and noblest in enjoyment and production.— John Boyle O'Reilly.