

ERSKINE, DR. KENEALY AND HIS CLIENT.

of Mark Twain's books, namely, whether the author is speaking seriously or in jest. A parallel between Dr. Kenealy's wholesale and reckless vituperation, and Erskine's well-merited denunciation of Lord Sandwich in Captain Baillie's case, could hardly be drawn in sober earnest. Such a parallel the *Albany Law Journal* draws, and, in fact, argues that if Dr. Kenealy is to be rebuked by the press, forsaken by his associates, and deprived of his gown Erskine should have been treated in the same way. Is the *Journal* only laughing at the poor doctor, or does it speak with serious simplicity? We have not space to catalogue the transgressions for which Dr. Kenealy is brought to task, but we must take the liberty of reminding our contemporary of some of the principal offences of which, as every one who followed the course of the trial knows, he was guilty. He assailed in the most unmeasured terms the Roman Catholic priesthood, whom he accused of being in a wicked conspiracy to obtain possession of the Tichborne revenues, an accusation which had not a solitary fact for its foundation. He constantly asserted that the government was using sinister means to bring about the conviction of his client. He aspersed the character and motives of numbers of disinterested witnesses who were so unfortunate as to give testimony that told against him, such attacks being totally unsupported by evidence. He traduced Lady Radcliffe in such a way that the jury thought it necessary to refer specially to his aspersions in their verdict. He impeached the honesty and insulted the dignity of the Bench, so that even the *Albany Law Journal* declared "that had Dr. Kenealy addressed such remarks to an average American Court, he would not have escaped with a lecture." Nor were the offences referred to committed once only and without premeditation, but they were persisted in and repeated through-

out the whole of an address of extraordinary length. This is the advocate for whose conduct Erskine's history is supposed to furnish a parallel. We entreat the writer in the *Albany Law Journal* to read the story of *Rex v. Baillie* again. We think a second perusal will lead him to agree with us that the mere technical error of animadverting on the conduct of Lord Sandwich, a corrupt and profligate politician who, in the political prosecution in question, was chiefly interested in obtaining a judgment adverse to Captain Baillie, and was known by all to be "the dark mover behind that scene of iniquity," bears no similitude to the manifold and repeated offences of Dr. Kenealy. With great deference also we beg to remind our contemporary that though (as he truly says) the English people "took" to Mr Erskine, after his astonishing *début*, the "government" of the day did not "take" to Mr. Erskine at all, Lord Sandwich, the real prosecutor in *Rex v. Baillie*, being a member thereof. Furthermore, that Erskine's history furnishes an example, and by no means an uncommon one, of the way an English advocate pushes on, *not through royal favor*, for George III. hated the Whigs, to whom Erskine belonged, but *in spite of royal dislike*. Erskine's greatest fame was gained in State trials, when he defended men whom the King's favorite minister, the younger Pitt, had indicted for high treason. We mention these facts in answer to certain remarks about the subserviency natural to English lawyers, which are made, doubtless with sincerity, in the article under notice.

The *Albany Law Journal* speaks of the King sending the horse-guard and galloping people off to the Tower: of Orton finding it necessary to cross the Irish channel to get a counsel: of English lawyers being dependent on the Crown for advancement: of the difference it would have made in the Tichborne case had