

he presume so to enter, despite this prohibition, he is, and shall be, *thereby* excommunicated.

" And whereas, one of the chief objects of this admonition is the salvation of the said Samuel Carten, and the delivery of his soul from the power of the Devil, he is hereby most earnestly conjured, in the name of Jesus Christ, the judge of the living and the dead, to reflect seriously on his present awful situation, and to merit by sincere amendment, and true repentance, that entire pardon and reconciliation which his Spiritual Father in Christ aforesaid, will be most happy to extend to him, and above all the pardon and forgiveness of his offended Father in Heaven.

" 15th April, 1819 "

There is a paper which we are told is a monition, I ask, you if on your judgment's as men you believe it to be such ;—why gentlemen one of the charges contained in it—is made upon a surmise of acts done by Mr. Carten some six or seven years ago—and yet Bishop Walsh at a meeting which took place in February openly stated that he hoped Mr. Carten would continue a member of his Church and a pew-holder for thirty years longer.

(The learned Counsel here cited authorities from Godolphin and Brown's Civil law to the effect that an excommunication could not be pronounced without a just charge and all due solemnities ;—and that the Canon law required a previous summons or citation before any party could be sentenced.)

Now, then gentlemen I put it to you—have these requisites been complied with in this case ? to my mind they have not. I do think this is trifling with one to cite a man to appear and *retract or make reparation for a crime* at one and the same time—it is as absurd as it is unjust. What, gentlemen was the answer given by Mr. Connolly yesterday when pressed upon this point ? Why, he was asked, was not the monition issued first, and time given for Mr. Carten to appear and make his defence—and the sentence promulgated ? His answer sounded strangely in my ears—most strangely ; because, it would save the Bishop trouble. What, gentlemen, is this an answer to such a question which ought to satisfy you ; when in dealing with rights the most sacred and the most holy—rights the loss of which dauns the reputation and character, think you this a good and sufficient excuse for such a course. Is it right that this paper containing the narration of his guilt—and his sentence should be promulgated at one time, for no better reason than that it would save the Bishop trouble. It does seem to me that such

a course is but trifling with the most sacred feelings of our nature—dealing with them in a manner in which none of you would wish to have your slenderest rights dealt with. You are called on to say that Samuel Carten was justly exeluded—according to the rites canons and discipline of the Catholic faith ;—can you do so with the evidence before you ? can you on your oaths affirm that the crimes charged against Samuel Carten are crimes which he did commit ? is there any evidence of his culpability ? I ask you gentlemen in behalf of a fellow subject—to give him those privileges and immunities the birthright of every British subject. Mr. Carten denies the justice of these charges—he has asked for an opportunity to refute them—that opportunity has been denied him, he has been seized by the collar—thrust from a building which he was entering—and which he had a right to enter—condemned and punished and you are asked to give your sanction to such an outrageous violation of every principle of justice—asked to sanction a condemnation couched in language from which the human soul revolts in horror.

I will now turn your atention to an analogous case—*Beaurain vs. Sir William Scott* :

The defendant as Vicar General and Official Principle of the Consistorial and Episcopal Court of the Bishop of London had required the plaintiff to appear as guardian *ad litem* to his son, (who was a minor, and whose wife was proceeding against him for a separation in that Court), and ordered him to be excommunicated for refusing to do so—and this was an action in the case for unlawfully excommunicating the plaintiff. Two grounds were taken for the plaintiff : 1st, That the Ecclesiastical Court had no authority to compel Mr. Beaurain to become guardian against his will ; and 2ndly, because no regular citation or monition had been served on Mr. Beaurain before the excommunication had been directed. On the other side, the counsel of Sir William Scott did not deny that the action might be maintained if the Ecclesiastical Court had exceeded its jurisdiction ; but they called witnesses, among whom was Sir John Nicholl, Judge of a Supreme Court, who on appeal had affirmed Sir Wm. Scott's sentence, to prove that the plaintiff was bound to become guardian for his son, and that the proceedings against him were perfectly regular. It was also proved that Sir Wm. Scott had behaved with great generosity to the plaintiff in his subsequent misfortunes, for which the plaintiff had himself expressed great gratitude. Lord Ellenborough left it to the Jury to decide upon the effect of the evidence, stating that he himself did not perceive anything unreasonable in the plaintiff being required to become guardian *ad litem* in the