

cedent, or authority, or by any thing, excepting by express statute-law militating against them. In the illustrative note at this place which will be found below, in the report of the trial, the authority of the civil law is adduced; and it may not be amiss to place in opposition to the luminous reasoning that appears in Mr. Hooper's speech, the diametrically opposite doctrine that was attempted to be set up in a late case of defamation, in Canada—Nickless vs. Brown—In the appeal-suit in that cause it was argued (see report thereof in the Canadian Spectator of 14th May) that :

"In civil actions the truth had been admitted as a sufficient justification, any restriction of the liberty of speech being rather of a public than a private nature;" but that "On an indictment the truth was no justification, because of its tendency to a breach of the peace."

Now the exact reverse is actually the fact, and whilst there are numerous cases in civil suits for libel in which the truth could be no justification, no case can be supposed, where the State is the prosecutor upon indictment, in which the truth would not be a complete justification; for I set at nought, the absurd quibble by which the tendency of libels to incite breaches of the peace has been, by an afterthought, laid down as the reason why they are prosecutable as offences against the public; and revert to the original ground of such prosecutions, namely, that since the public are interested in knowing the truth respecting such citizens as by their station and reputation, might, or ought to, be confided in as honourable and able men, the public are injured, if by the publication of a *falsehood*, those men are deprived of their confidence.

In the course of the argument in that case, it was stated that "the court below had virtually declared that in no case would the truth of the