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THE
BARBAVILLA TRIALS
AND THE
CRIMES ACT
IN
IRELAND.

BY
REV. JOHN CURRY, Adm.

“He that justifieth the wicked, and he that condemneth the just, both are abominable before God.”—PROV. xv. 17.

SECOND EDITION
(REVISED & IMPROVED.)

DUBLIN :
PRINTED BY W. J. ALLEY & CO.,
RYDER'S ROW, CAPEL STREET.

1885.

PRICE ONE SHILLING

Houses of the Oireachtas

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GENERAL PRINTERS,
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DUBLIN.

REV. JOHN CURRY, A.M.

He has furnished the notes, and he has revised the text, and
the notes have been printed in the year 1887.

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P R E F A C E .

MY object in these pages is to make a compilation of the evidence and circumstances bearing upon the guilt or innocence of the Barbavilla prisoners, and without rhetorical argument to indicate the conclusions to which a rational being should be led therefrom. I have been asked to do this by those whose aid I had invited in my struggle against oppression and wrong; and I am thus compelled to intrude a *brochure* upon the public.

I ask for it an attentive reading and an extensive circulation; for, thus only, can such a correct public opinion, on the merits of the case I discuss, be formed as will sweep away all opposition to needful inquiry, and result, I hope, in liberating the innocent, and in visiting with condign punishment, those who in doing them wrong have also inflicted injury on the cause of law and order in this country.

Except to prove, if called upon, what I state in these pages, I know nothing else I can do publicly for my injured people. I intrust their case to their faithful representatives, to the talented and heroic Irish Parliamentary Party, and to their fellow-countrymen at home and abroad who have ever taken the side of the weak against the strong in every just cause.

I ask my revered bishop and my brother priests in

Westmeath to closely consider the whole case, and if they believe with me that eleven of our people are unjustly incarcerated, to enkindle a sound public opinion that shall not be extinguished till it lights to liberty those unjustly condemned to wear away the best years of their lives in the darkness of prison dungeons.

St. Mary's, Collinstown, St. Patrick's Day, 1885.



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Houses of the Oireachtas

THE
BARBAVILLA TRIALS
AND THE
CRIMES ACT IN IRELAND.

CHAPTER I.

INTRODUCTION.

A WEEK in the month of September, 1884, was given to special devotions by the Catholics of Collinstown. They crowded night and day to their church to assist at Mass, to listen to sermons, and receive the Sacraments of Penance and the Blessed Eucharist. When the devotions were coming to an end, I received a message from Mrs. Cole, the wife of Patrick Cole, a chief witness for the Crown in the trial of the second batch of the Barbavilla prisoners. The message was a request for an interview. I consented to the interview, but it was to be in the presence of witness. Accordingly, on the evening of the 11th, when the devotions were over, Mrs. Cole came to the Presbytery and had an interview with the Very Rev. H. Behan, the priest who conducted the special devotions, and myself. Immediately on her presenting herself she endeavoured to throw herself on her knees, acknowledged that she knew her husband's evidence against the Barbavilla prisoners was concoction, that she had helped him to concoct it, and that, feeling most miserable in conscience in consequence, she could not rest till she had told her guilt, and that now when we knew it we might use her admissions as we liked. We listened to the woman's story, and became convinced she was telling the truth. Believing so, I wrote the following statement which, in substance, she had made. I read it for her, and she signed it as correct.

"I, Jane Cole, wife of Patrick Cole, of Kilpatrick, Co. Westmeath, seeking peace of conscience and pardon from Almighty God, of my own free will

make the following statement in the presence of the Rev. Hugh Behan, P.P., V.F., and the Rev. John Curry, Administrator, who, at my request, have consented to receive it:—

“I acknowledge that I encouraged my husband to offer evidence in the recent Barbavilla trials, and I did so knowing that the evidence he was to give, and did give, was concocted by him to satisfy the Crown and to save himself. I know that he knew the evidence he was giving in corroboration of M'Keon's evidence was untrue, and I know that he believed there was no meeting at the Widow Fagan's such as M'Keon deposed to, and in which my husband corroborated him.

“Dated 11th September, 1884.

“Signed,

“JANE COLE.

“Witnessed by Hugh Behan, P.P., Enfield, Co. Meath; John Curry, Adm., Collinstown, Co. Westmeath.”

At the time this statement was made, we had no expectation that another one was soon to follow. On the contrary, we were led to believe that the woman's husband was hardened in guilt, and his wife even feared for her life, should he come to know that she had told his villainy.

Contrary, then, to expectation, on the Sunday following, I was asked to give an interview to Cole himself. I gave it on similar terms to those on which I gave the interview to his wife, and the outcome of it was the following statement, which I am ready to declare on oath was entirely voluntary. I may add, it is believed in by the three priests who witnessed it. They are men who by their experience ought to know something about human nature, and be able to tell pretty well when the truth, in a case like this, is being told. It was made close on to the hour of midnight. Police accompanied Cole to the church, in the sacristy of which it was taken. He made it with a disregard of consequences, and of his own free will. I have its original as also that of his wife's statement, and I am ready to produce both and to attest them on oath as are the other witnesses if required to do so. A special commissioner from the *Freeman's Journal*, and Mr. T. D. Sullivan, M.P., Westmeath, had interviews with Cole regarding it. He fully admitted his false evidence to them, and he did so subsequently to me with more detail than in the attested document.

The following is the statement referred to:—

“I, Patrick Cole, of Kilpatrick, Westmeath, seeking peace of conscience and pardon from Almighty God, do make, of my own free will, the following statement, in presence of the Very Rev. Hugh Behan, P.P., V.F., Enfield; the Very Rev. Joseph Higgins, D.D., P.P., Delvin; and the Rev. John Curry, Adm., Collinstown, who, at my request, have consented to receive it. I permit these clergymen to make what use they think prudent of this statement:—

“I was arrested on the 11th July, 1883, on a charge of conspiracy to murder. My trial was finally fixed for the June Commission, 1884. I gave information on the 4th of June, 1884. I was induced to do so by the belief that I would certainly be convicted, having known how the prisoners previously tried on the same charge had fared, and also through consideration for my family. My first statement was rejected, inasmuch as it contained no information regarding the alleged meeting at the Widow Fagan's. I was further told by Head-constable Lynch that ‘unless I made

a clean breast of it,' and told all about that meeting, my evidence would not be taken. I subsequently made the statement which I afterwards swore to on two trials. I now declare that that evidence was untrue, except as regards my connection with Fenianism many years ago. I swore to what was false when I said that I attended a meeting at the Widow Fagan's. I never knew of such a meeting. I don't believe such meeting was held. I had no personal knowledge of any meeting in or about Byrne's publichouse, though I swore I attended one there. I may have said what Mrs. O'Dwyer swore about me, though I positively contradicted her evidence. I solemnly declare I had no connection with the alleged conspiracy. I know not why my name should have been associated with it unless it be that M'Keon, who gave information in the case, had an old spleen against me. I am the father of seven children, all young, who would become utterly destitute in the event of my conviction. It was principally in consideration for them that, in a moment of weakness, I took the steps of which I now heartily repent. I make this declaration to repair, as far as I can, the injury I inflicted on others.

"Signed this 14th day of September, 1884.

"PATRICK COLE.

"Witnessed by Hugh Behan, P.P., V.F., Enfield, County Meath; Joseph Higgins, D.D., P.P., Delvin, Westmeath; John Curry, Adm., Collinstown, Westmeath."

These statements gave me something to go upon in my desire to see justice done to the Barbavilla prisoners, most of whom everyone who knew them, believed to be completely innocent of the awful crime for which they were condemned. I had only just come to the locality, and I had not had time to give their case much consideration. I then commenced to consider it fully, and I became convinced not merely that gross injustice had been done in the case, but that the injustice was so palpable that no fair-minded man could doubt of it when the circumstances would be fully known. The refusal of the Executive in the Maamtrasna case to grant a proper inquiry when asked for by an archbishop made me feel how useless it would be for me to make a similar application. Hence I asked the Members for Westmeath to assist me in the case. Both of them immediately promised earnest co-operation, and the senior Member, Mr. Sullivan, at much inconvenience, spent a few days in the locality learning for himself the injustice of the verdicts. He became thoroughly convinced that a gross miscarriage of justice had taken place in the case, and he and his colleague willingly endorsed the following memorial and sent it to the Lord Lieutenant for me. I give it in full, as it will introduce the merits of the case to the general reader.

"THE BARBAVILLA TRIALS.

"TO HIS EXCELLENCY EARL SPENCER, LORD LIEUTENANT OF IRELAND, ETC.

"St. Mary's, Collinstown, Nov. 1884.

"MAY IT PLEASE YOUR EXCELLENCY—You are, doubtless, aware of a diabolical murder that took place in this locality on the 2nd April, 1882. By that deplorable event a lady lost her life, and deep indignation was felt all over the kingdom against the perpetrators of that foul deed. For a long time the murder seemed wrapped in mystery; and even still there is no judicial decision fixing the perpetration of it on anyone. Eleven men, sup-

posed to have been involved in a conspiracy which culminated in it, have been tried for that conspiracy, found guilty of it, and are now undergoing their sentences of penal servitude consequent upon that conviction.

“Some of these men are my parishioners. Their relatives live here in the greatest grief and misery, and they are convinced, and I am certain that there are many innocent amongst them, locked up in jail, enduring all the maddening miseries of prison life. I have not arrived at my conviction, but after mature consideration, and on most reliable information, and I testify that my conviction as to their innocence is shared in by all in this locality.

“A gross miscarriage of justice has, we believe, taken place. A conspiracy, for personal aggrandisement and the gratification of personal pique, instead of a notorious conspiracy of ‘Invincibles,’ has existed; and by perjury and concoction, these conspirators have so far succeeded as to make it appear that law and order are vindicated, whereas perjury has triumphed, the truth is victimised, and innocence oppressed.

“In these circumstances, it becomes my duty to seek to place the facts of the case before your Excellency. I do so in the hope that the cry for justice I utter may be listened to by you.

“I know the difficulty of obtaining an investigation such as the case requires from your hands. I say it, without disrespect, that those who may advise you that the convictions I seek to quash are justifiable have their information from interested and unreliable sources. I fear that their prejudices and class interests urge them to uphold the verdicts. I am afraid, too, that injury to the peace of the country may be apprehended by you should you act as if you even doubted that the verdicts were correct. But I would respectfully remind you of the great Christian principle that should guide all upright statesmen, ‘Be just, and fear not.’ Even a pagan poet has written

‘Fiat justitia; ruat cælum.’

“You may think the prisoners, whose cause I plead, received a fair trial, that upright judges tried them, that able counsel defended them, that conscientious juries decided the cases; and on this ground also you may object to the re-opening of them.

“It may be impolitic, as a rule, I admit, to re-open criminal cases when once they have been decided. There are cases, however, when revision is necessary for good government, for inspiring the public with confidence in the administration of the law, and for justice. When the evidence on which convictions were obtained is found to be perjury, or when new circumstances vitiating it in essential points, come to light, it becomes the ‘constitutional duty,’ as Mr. Gladstone has recently expressed it, of the person who holds the Queen’s prerogative of mercy, to revise the case and to repair the injustice.

“Now such, I contend, is the case regarding the Barbavilla prisoners, whom, for legal accuracy, I must call convicts. They were tried in two batches; and though arrested in April, 1883, it was only in June, 1884, that the last batch were tried and convicted. It was only with great difficulty that convictions were obtained even from carefully selected juries, well-known to have no sympathy with the prisoners. There were at least two disagreements, and though it may not be lawful to have divulged it, yet it is a well-known fact that in one of these juries there were ten for an acquittal. I state these facts to show your Excellency how, *prima facie*, the evidence against the prisoners must have been weak and barely sufficient to satisfy the juries as to their guilt. A small portion of the facts that I am now able to bring before you would, I believe, if known to the juries, have brought about different verdicts. A number of innocent men would have been set free; and a whole crowd of truthful and respectable persons would have been saved the imputation of perjury which the convictions I appeal against cast upon them. Possibly, too, real criminals, moral assassins and conspirators against the prisoners, would have taken their place in the dock, and be now suffering for their villainy in some of her Majesty’s convict prisons. I beg, therefore,

respectfully, but earnestly, your serious attention to this whole case. I beg for an investigation into it.

“To be satisfactory, that investigation ought to be exhaustive—otherwise all the horrid facts will not come to light. It ought to be public—the character of many people—of a whole district—is involved in it. It ought to be held by some independent person who has no interest in upholding the verdicts of the courts, and who will report faithfully to your Excellency and to the public, the real merits of the case. I submit that a proper inquiry will show that not merely should the verdicts have been ‘not guilty’ in the sense of ‘not proven,’ but that many of the prisoners would have walked out of the dock proved to be innocent of the awful crime laid to their charge.

“I know my responsibility in what I assert as a citizen and priest. I know the injury inflicted on society when the vindication of the law is unjustly assailed. I also know the injury inflicted on law itself when injustice in its name is allowed to triumph.

“With this full knowledge I deliberately assert that the chief evidence against the prisoners I appeal for, is a story full of improbabilities, replete with inconsistencies, filled with contradictions, procured by intimidation and bribery, and told by persons without a shred of moral character—some of whom manifestly perjured themselves before judge and jury, others I am prepared to convict of perjury in their most important statements, by evidence that never yet saw the light, and all of whom were flatly contradicted by many witnesses of irreproachable character.

“Moreover, one of the chief witnesses relied on for the prosecution has come forward of his own free will and proclaims that all his important evidence is perjury. He admits that he swore guilt against the prisoners, and against himself, when there was none. He now acknowledges their innocence, and tries to undo the injury he has helped to inflict upon them, no matter what the consequence to himself. It can be proved that his evidence against the prisoners was perjury, independently of his own statement, by reliable evidence that has been found only since the convictions. Thus, your Excellency, the circumstances that have arisen since the trials are such as not merely justify, but demand, a revision of them.

“I ask for that revision—not that criminals may be set free—but that injured and innocent men may get that mercy, if mercy it must be called, by which they will obtain justice at your hands.

“I am, your Excellency, most respectfully yours,

“JOHN CURRY, Adm.”

The following is the reply received to the above:—

“Dublin Castle, 23rd Dec., 1884.

“SIR—With reference to your letter on behalf of the prisoners convicted in the Barbavilla conspiracy to murder case, I am directed by the Lord Lieutenant to acquaint you that although your letter contains nothing new affecting the accuracy of the case on which the prosecution rested, beyond the alleged statement of the witness Patrick Cole, his Excellency has fully considered the whole matter, and particularly the bearing of Cole’s statement, and has come to the conclusion that no sufficient reasons exist for directing any further inquiry, and that the law must take its course.

“I have the honour to be sir, your obedient servant,

“W. S. B. KAYE.

“The Rev. John Curry, St. Mary’s, Collinstown.”

To this the following rejoinder was forwarded:—

TO HIS EXCELLENCY EARL SPENCER, LORD LIEUTENANT OF IRELAND, &c.

“St. Mary’s, Collinstown, Dec. 27th, 1884.

“MAY IT PLEASE YOUR EXCELLENCY—I beg to acknowledge the receipt of the reply you directed to be sent to my communication regarding the Barbavilla prisoners.

"In this reply it is stated that my letter contained 'nothing new affecting the accuracy of the case, beyond the alleged statement of Patrick Cole.'

"I beg to assure you this is the least portion of my case for the prisoners. I claim for it only that it should remove that prop from their case the Crown counsel thought necessary for it when they took Cole as a witness. I would not claim his 'alleged' statement even for this was I not able to prove *aliunde* what I asserted in my letter—that his evidence at the trials was false.

"I also asserted in my letter that the chief evidence against the prisoners 'was told by persons . . . I am prepared to convict of perjury in their most important statements by evidence that never yet saw the light.'

"Without multiplying quotations, I merely add my letter contained the following:—

"A small portion of the facts that I am now able to bring before you would, I believe, it known to the juries, have brought about different verdicts.

"How, without inquiring into these *facts*, your Excellency can be said to have 'fully considered the whole matter,' I must now leave the public to judge, bearing in mind what the Book of Proverbs (xv. 17) admonishes us of—'He that justifieth the wicked, and he that condemneth the just, both are abominable before God.'

"I remain, your Excellency, most respectfully yours,

"JOHN CURRY, Adm."

CHAPTER II.

JUSTICE DENIED.

EARL SPENCER has thus thought fit to refuse an investigation into the case of the prisoners whose cause I plead. Were no more known of the case than this, there would be enough known to show the iniquity of the regime under which we live in Ireland at present. Eleven men are sentenced to terms of imprisonment amounting in the aggregate to 86 years. Their guilt was always doubted by great numbers in the country. The evidence against them was admittedly weak in the extreme, and given by persons of infamous characters.

There were two disagreements before the final conviction was obtained, and on the fourth trial ten of the jurors were for an acquittal. A chief witness whose evidence the Crown thought necessary comes forward, and with the risk of the jail (the fear of which made him, before, perjure himself and rank himself as an informer) before him, proclaims the wrong he has helped to inflict on innocent men. A priest who ought to be supposed to know the truth in the case, and to be interested in the preservation of law and order, becomes convinced the prisoners have been unjustly convicted, and that the complete innocence of many of them can be fully established. He has become possessed of conclusive proof that the case against all of them was concoction and perjury.

He offers to prove so much, and asks for an opportunity of doing so; his request is endorsed and presented by the "M.P.s" for the county after personal inquiry into the case, and—

"O tempora! O mores!"

the request is refused! Without a chance of a word reaching his Excellency, except from the enemies of the prisoners, who are financially and otherwise interested in upholding the verdicts, he replies, "he has fully considered the whole case" and that "the law must take its course!" Need more be said to show how unfairly the poor prisoners are treated? Were they English convicts, no Home Secretary would dare to refuse an inquiry, and the rectification of the injustice; but alas, poor Ireland! you are treated as a conquered country! You are ruled by aliens who are guided by your domestic enemies! Fair play is unknown within your boundaries! Constitutional government has fled from your shores! Even the discharge of a constitutional duty that is the birthright of the greatest criminal in the land, is denied to your priests and your trusted members of Parliament asking for it on behalf of some of your representative and respectable sons!

Great however is the power of truth and stronger still than perjury and intrigue; great is the force of public opinion—and with these two powerful weapons I strive to fight the cause of helpless men, the victims of a cruel injustice.

"Magna est veritas et praevalabit."

I hope to succeed in so convincing the public as to the iniquity of the convictions that the detention of the prisoners cannot be long; but whether I succeed or not in that, I certainly wish to remove a stain in public estimation from the characters of highly respectable people. Perhaps, too, I shall be instrumental to some extent in putting a check on a system that prevails in this country of vindicating the law—a system which is a reward for plotting and perjury, and which leaves the lives of the public at the mercy of the most depraved individuals in a locality, should they chance to be backed up by a few unscrupulous policemen.

CHAPTER III.

STATEMENT OF THE CASE.

It is difficult to commit to paper, or even mentally to grasp all the details of the Barbavilla trials. The accused were many, the witnesses were numerous, and besides about a dozen weekly preliminary investigations, the trials at the Commissions were as

many as five. The court itself was unable to try all the prisoners at one time, and hence they were tried in two batches.

For conciseness sake I purpose dealing with the cases of all the prisoners together, stating at the one time all that has been proved against them and all that can be proved for them.

The evidence against them all was substantially the same, though they were treated to different sentences. The prisoners in the first batch got each ten years' penal servitude—those in the second, seven, with the exception of John M'Grath who got only twelve months. He has recently been released. The reason the first batch were sentenced more severely than the others was because they were supposed, from the evidence, to be parties to the actual murder for which they were never charged. The only reason I can find for the comparatively lenient sentence on John M'Grath is that he paid his rent when the "No Rent Manifesto" was issued. Thus it would seem the five other prisoners in his batch got six additional years each, because it was not shown for them that they had paid their rent.

The indictment against all the prisoners was the same, viz. :— that "on the 24th March, 1882, they unlawfully did conspire, combine, confederate, and agree together, feloniously, wilfully, and of their malice aforethought, to kill and murder one William Barlow Smythe."

The evidence against all the prisoners, therefore, should prove that they attended an alleged conspiracy meeting—that at the Widow Fagan's—on that day. Hence, on this point the whole case against all the prisoners hinges; and if the evidence is shown to have been insufficient to prove the attendance of each and all of them there, the verdicts should be upset. Even if the Crown have private information inculcating some of the prisoners—that's no justification in any civilized state for detaining any, should they have been unfairly convicted on perjured and concocted evidence. For a stronger reason, if it is shown that there was no such meeting—that, in fact, that meeting was a monstrous fiction concocted by the witnesses for the Crown—not merely should the verdicts be upset, but the perjurers and their abettors in the case should be punished as the law directs.

Judge Lawson, in leaving the case with the jury which convicted the second batch, thus puts the issue :—

"In conclusion he asked them if they believed that the meeting of the 24th March was held as deposed to, and that the prisoners were present, they should do their duty without hesitation; if they believed it was not held, or had a reasonable doubt on their minds, they should acquit the prisoners."—*Freeman* report.

Such, then, was the indictment, and such the simple issue for the juries who tried all the prisoners, to decide.

What was the evidence that supported this indictment.

The Chief Baron, who presided at the trial by which the first

batch was convicted, thus summarizes it in his charge. I quote again from the *Freeman* :—

“What was the case for the Crown. It could be divided into three classes—first, the direct testimony of witnesses who were present at the time and place where the conspiracy was alleged by the Crown to have been entered into; secondly, the evidence of independent witnesses of facts which were alleged to corroborate the truth of those witness who deposed as a matter of fact to the formation of the conspiracy; and the third, the evidence of certain witnesses who deposed to statements or admissions of one of the prisoners. which statements and admissions were evidence against most of the prisoners as made then, but not evidence against the other prisoners in the dock. That was the case for the Crown.

This classifies all the evidence the Crown adduced against any and all of the prisoners; and if I prove not merely that that evidence was insufficient and outweighed by much stronger and more reliable evidence, but that it was invention and perjury, the Executive that continues to uphold the verdicts must be regarded as acting unconstitutionally and tyrannically, and the prisoners as the victims of foul play. This, I believe, I shall succeed in doing in these pages.

Before entering into the merits of the case I think it right to point out difficulties that prevented the prisoners from getting fair trials.

CHAPTER IV.

DIFFICULTIES OF A FAIR TRIAL.

I. TRIAL by jury in the sense of there being twelve jurors who know the habits, manners, and characters of the prisoners and the witnesses, is a farce under the Crimes Acts in Ireland. Twelve men out of a class hostile to that from which the Barabilla prisoners were taken, and with bitter prejudices against the agitation that was alleged to have led up to the murder of Mrs. Smythe, were carefully selected, at each trial, to try them. Only very few at all the trials were members of the same religion as the prisoners, scores of their co-religionists being carefully excluded from the box by the Crown. The jury packing in the second trial was commented on by the *Freeman*, Feb. 14th, 1883, as follows :—

“To try this case a panel of 200 jurors, selected in equal proportions from the city and from the county of Dublin, was returned, and the trial opened on Monday last. The whole body of jurors were called, and a large number answered to their names. The prisoners had the right of challenging six jurors, while the Crown possessed the unlimited power of ordering as many of the remaining 194 jurors on the panel to stand aside as Mr. Julian, the Crown Solicitor for Westmeath, assisted by Mr. George Bolton, the man-of-all-work at the Castle, thought expedient to secure a ‘fair trial.’ This

privilege was exercised by Mr. Bolton telling Mr. Julian to have 'stand aside' 25 Roman Catholic jurors of the city and county, some of whom were gentlemen of the highest standing, and at least one a magistrate of the county of Dublin. How long this operation might have proceeded will never be known, but Mr. Bolton seems to have advised Mr. Julian to be satisfied when twelve good and true non-Catholic jurors were empanelled."

The same journal thus alludes to the jury packing on the trial that resulted in a conviction. After showing the partiality of the Crown when a poor Cavan Catholic was murdered and Protestants were tried for the murder, it continues :

"Let us now see the course pursued by the Crown in the Barbavilla case. Here it was apparent that the greatest care was observed in selecting the jury. We have first the incident caused by the calling of Mr. Amos Vereker. On this gentleman, who occupies a very high position in one of our largest commercial establishments in the city, coming forward, Dr. Boyd, Q.C., the leading counsel for the prisoners, mentioned that he was instructed that Mr. Vereker was a personal friend of Mr. Wm. Barlow Smythe, whom the prisoners were charged with conspiring to murder, and this Mr. Vereker at once acquiesced in. In any civil case of the most formal nature, such a statement by one of the parties to the action would at once cause a juror to be excused from attending. Though fine distinctions in theory may be sought to be drawn, we say the analogy is perfect. The judge tells Dr. Boyd he cannot excuse the juror without the consent of the Crown, and manifestly suggests to the Crown counsel the propriety of their assenting. The Crown counsel are silent. They prefer to have on the jury a personal friend of the man for attempting whose murder the prisoners are being tried. Dr. Boyd then challenges for cause, and triers are appointed. The first question Mr. Vereker answers in the affirmative is that he is a member of the same Orange lodge with Mr. William B. Smythe. Yet no consent from the Crown to his standing aside. He then says he may have formed an opinion on the case, but he thinks he has not a decided one. The Chief Baron charges the triers, who find Mr. Vereker stands indifferent, when, to avoid having on the jury the personal friend and companion at his Orange lodge of Mr. Smythe, Dr. Boyd challenged peremptorily. What is the meaning of this action on the part of the Crown? Why should they seek thus to destroy any good effects that getting a verdict may have on the peace of the country? But this is not all. The Crown challenges no less than 32 jurors before they find a jury that pleases them. There may have been amongst these 32 one or two who are not Catholic. We believe that this was what should be called skilful tactics, so as to blind the public to the real fact that the Crown consider some 30 Catholics who were called as unworthy to be trusted to find a true verdict on the evidence. Among the gentlemen challenged are some of our most respectable citizens. One gentleman holds Her Majesty's Commission of the Peace. How he will continue to do so in the face of the insult to which he has been subjected is a matter for his consideration. How the Crown can reconcile his appointment as a justice with their belief in his unfitness as a jurymen is a matter which perhaps they can explain; but the effect of the proceedings on the public mind cannot fail to be in the highest degree unsatisfactory. No matter how right a verdict obtained under such circumstances may be, it cannot have the effect which, in a properly governed country, a verdict of a jury in such a case should produce. The verdict is tainted with the suspicion of having been procured unfairly, and under the circumstances tends to bring the administration of the law into contempt. The Barbavilla case is another addition to the long list of cases which show that the right of the Crown to an unlimited number of challenges should be restricted and reduced to the same number now given to the prisoner."—*Freeman*, 24th April 1884.

The juries in all the cases were selected on the objectionable lines here alluded to, and no one was allowed into the box who was not known to be adverse to the prisoners.

The jurors believed in the honesty of the prosecution, and thought the Crown would not proceed against the prisoners if it did not believe in their guilt. Any sort of evidence, therefore, that could at all afford an excuse for regarding them as guilty, would suffice in the case. I have no doubt the jurors believed them guilty, and only wanted some show of reason for convicting them.

2. Another difficulty of a fair trial arose from the political tone given to the case by the Crown. Everyone knows the hostility existing between class and class in Ireland since the Land League agitation. Most of the crime of the country was fathered on that agitation, and the mere mention of the League was enough to excite prejudice in the hearts of judges and jurymen. Of this state of things the counsel for the Crown most unfairly took advantage to influence the minds of the court and jury against the prisoners. The MacDermott introduced this matter in his opening speech, and when nothing else could throw a taint on the evidence of the witnesses for the defence, this "slur" was insultingly cast upon them. Were you President of the local branch of the Land League? asked one Crown Counsel of a most respected clergyman. Were you Treasurer of the Ladies' Land League? insultingly asked another of an accomplished lady, the wife of Dr. O'Dwyer. Are you aware that William M'Cormack whose general character you bear testimony to as excellent, was Treasurer of the Land League? is the question on cross-examination put to a respected Justice of Peace. Answers in the affirmative being given to all these questions, no further attention seemed necessary on the part of the Crown to the witnesses for the defence.

The following is a sample of the language used by the Counsel for the Crown :

"When they found M'Cormack secretary to an association which was afterwards proclaimed illegal. . . . When they found M'Cormack's sister also belonging to the association, then they had sufficient introduction to Wm. M'Cormack's respectability. They all knew the teachings of this association; and they were told that M'Cormack was a highly respectable man, &c."—The MacDermot, 4th Trial, *Freeman* Report.

Is not this atrociously unfair on the very face of it? And with a jury who believed the Land League the cause of all the crime in the country for the last five years, what chance of fair play had the poor unfortunate prisoners?

That the murder of Mrs. Smythe had anything whatever to do with the Land League there wasn't a particle of evidence to show. Some of the prisoners were members of the League; others were not. The local branch was under the presidency of a priest who most deservedly enjoys the respect of his brother priests and his bishop,

and to insinuate that the League was at all privy to, or responsible, in any way, for the foul deed, was a cowardly slander of the deepest dye. Shame on the counsel that had recourse to such artifices to hunt a dozen helpless men to prison, and, perhaps, to death!

3. It had been ruled early in the case that evidence of the murder was evidence in the case of the conspiracy. Although the prisoners had been indicted only for a conspiracy to murder, yet it was given in evidence that certain of them were observed coming from the scene of the assassination. Thus, the odium of the murder, and the desire to have it avenged, were brought into action against all the prisoners. This occurred, too, though the grand jury did not find a true bill against any of the prisoners, except one, on the capital charge. According to Judge Palles, the evidence for conviction in one case ought to be the same as in the other. Yet, though the Crown knew they hadn't evidence on the capital charge to satisfy even a carefully selected Dublin jury, it proceeded against the prisoners on a minor charge on the self same evidence. I cannot show the iniquity of this proceeding better than by the following illustration. I remember reading, when a boy, in the *Irish Times*, a report of a trial in Kingstown, or thereabouts. In passing sentence, the magistrate said—I fine you ten shillings, but, if the case were fully proved against you, I would send you to jail for twelve months!

4. The difficulty of country people being able to fix dates after the long interval between the murder and the trials was pleaded to discredit their evidence. Yet everyone knows that there are dates of great importance in families and districts that are indelible in the human memory. The incidents occurring on days of extraordinary events are remembered accurately for years after their occurrence. The peculiar incidents of the selling of William M'Cormack's farm on the 24th March, 1882, and the deplorable murder of Mrs. Smythe on the 2nd April, are of such a kind. Yet where witnesses swore to events on these days inconsistent with the case against the prisoners, I am told they were frequently asked, "where were you the Sunday before at two o'clock?" and such questions.

The above are difficulties common to all the trials, but one arose specially for the trial of the second batch of prisoners that I must leave the counsel for the prisoners to tell.

The jury retired at twenty minutes past six o'clock, and at ten minutes to seven o'clock returned into court.

The Foreman said he was asked did his lordship convey in his charge that the evidence of the M'Keons could not be relied on as witnesses.

The Chief Baron—I certainly did not. That is a matter entirely for you, and not for me,

The jury again retired.

At a quarter to eight o'clock the jury returned into court with a verdict of guilty against all the prisoners for having conspired to murder Mr. Smythe.

In reply to the Clerk of the Crown, who asked if the jury had agreed to the verdict,

The Foreman—We do.

In reply to the usual question as to whether the prisoners had anything to say why sentence should not be passed upon them,

Swords—We are as innocent as the child unborn.

The Chief Baron, in sentencing the prisoners, said—After a trial extending over five days, conducted with very great care, you have been found guilty by the jury of the crime of entering into a conspiracy to commit wilful murder. I would not be doing my duty if I did not state now what I had stated *upon the previous occasion before the jury arrived at that conclusion*—that I thoroughly agree in the verdict they have arrived at, which appears to me to be the only one that was consistently open upon the facts proved. In some cases of indictment for conspiracy to commit murder, the conspiracy fortunately did not result in the crimes intended. This was not one of those cases. The object of this conspiracy, as found by the jury, was the murder of Mr. Barlow Smythe, but although he lives, the shots that were aimed at him took effect upon another, and you and each of you are in point of law as well as in morality, guilty of the murder of that unfortunate lady, Mrs. Smythe. You have not been indicted for that murder, but as I told the jury, you could not be convicted on this indictment without a cogency of evidence sufficient to have convicted you and each of you of the wilful murder of that lady—if that had been the form of the indictment," &c. . . .

Dr. Boyd said he did not think the other prisoners should be tried at the present commission. His lordship had expressed very strong observations on the case just tried.

The Chief Baron—I cannot help that.

Dr. Boyd—Your lordship might have postponed the sentences until the other trials were over.

The Chief Baron—I don't think I should.

Mr. Teeling said he held a brief for William M'Cormack, one of the prisoners at the bar, and he asked his lordship, he having expressed an opinion on the case forming a general credibility of the testimony of the M'Keons, and under such circumstances he thought it would not be desirable to go on with the other cases to-morrow.

The Chief Baron said the jury could not have found a verdict without arriving at that conclusion. He had expressed an opinion on the case, which he was entitled to do.

Mr. Teeling again applied for a postponement upon the ground, he would not say they would not get a fair trial, but he thought in the interest of justice the trial ought to be postponed.

The Chief Baron said the same course he had adopted had been pursued in the Phoenix Park cases. He was now referring to the expression of his approval of the verdict.

Mr. Teeling said when another jury came into the box and his lordship would say to them as he had said to the last jury before the verdict, that he would not express an opinion to them, that it would be impossible for a second jury to come to the consideration of the case in the same state of mind as the jurors had entered the box who disposed of the last case. It could not be suggested that the general circumstances of the case as affecting the prisoners were substantially different from the case just decided. His lordship's statement amounts to the fact that the credibility of the M'Keons had been established.

The MacDermott, on the part of the Crown, acceded to the application, but not at all on the ground as put forward by Mr. Teeling and Dr. Boyd. He acceded under the circumstances that the prisoners had not instructed counsel until within the last morning or so.

The Chief Baron said he was extremely glad of being relieved of the necessity of trying the case a second time, and a case upon which he had ex-

pressed an opinion in fact. He had always endeavoured in criminal cases to postpone until passing sentence the utterance of any opinion that he might have formed of the facts. He always regarded a jury as a constitutional tribunal, not only to decide certain questions, but a tribunal to whom it was usual and right to leave questions. He thought that, where the questions was a question of credibility, such a course as leaving it to a jury became necessary. He had taken the greatest care in the present case, but it would not be his opinion, nor would it be consistent with his duty as a judge when he came to pass sentence in a case, not to express an opinion he had formed on a question of fact, especially in a case in which there had been a third trial. He believed it was obligatory upon him to pass these sentences at once.

The prisoners were then put back, and their trial was adjourned until the next commission.—*Freeman* report, 24th April, 1884.

Now, I ask what fair chance had the unfortunate prisoners if the judge told the jury before their verdict what the report tells us he did in passing sentence upon them. I have no full report of his charge. Himself ought to know what it contained, and here are his words as reported. “I would not be doing my duty *if I did not state now what I had stated upon the previous occasion before the jury arrived at that conclusion*, that I thoroughly agree in the verdict they have arrived at, which appears to me to be the only one that was consistently open upon the facts proved.” Was not this monstrous in such a case; and, though the second batch were tried under a different judge, must not the expressions of the Chief Baron have reached the subsequent juries and have unduly influenced them against the prisoners?

CHAPTER V.

ORDER AND RESULTS OF THE TRIALS.

HAVING pointed out the peculiar difficulties in the way of fair trials, I now proceed to the order in which they took place:—

The prisoners were arrested on different dates—some in April, —some in July, 1883. Several remands were asked for and obtained. S. I. Jacques, Tilson, and others swore in turn each week they had got important information since the previous week, and if they got another remand, they would have more, &c.

All the prisoners, except Cosgrave and Mulvany against whom not an iota of a crime was sworn to by anyone, and who were a week in custody, were eventually committed for trial on the 24th July, 1883. Their names are—Robert Elliott, Bryan Fitzpatrick, Arthur Swords, John Boyhan, James Gaffney, Michael M'Grath, Patrick Fagan, William M'Cormack, P.L.G.; John

M'Grath, Patrick Cole, P.L.G.; Michael L'Estrange, Bernard Rynd, and John Fagan.

True bills for conspiracy being found against all the prisoners, they were divided into two batches. The supposed actual murderers were placed in the first batch, and the mere conspirators in the second. By clever manœuvring in trials which Dr. Boyd has said were filled with irregularities, some of which were censured from the bench, the Crown counsel got admission for evidence of the actual murder against all the prisoners.

The first batch were put on trial 10th December, 1883. This trial proved abortive owing to the illness of a juror. Another one took place at the next Commission, 11th February, 1884, and owing to the impartiality of Chief Justice Morris's charge, says the *Freeman's Journal*, even an exclusively Protestant jury disagreed. An adjournment then took place till next Commission, the prisoners being detained in custody.

A third time* this first batch of prisoners were arraigned, and this time after the packing of the jury, a scare in the Park, and the judge's charge before referred to, a conviction ensued, and five prisoners got 10 years' penal servitude each. Says the *Freeman* the next day—"The verdict is tainted with the suspicion of having been procured unfairly, and, under the circumstances, tends to bring the administration of the law into contempt."

The judge having rendered a fair trial for the remaining prisoners, a matter of extreme difficulty, an adjournment on a different pretext was agreed to, and on June 11th, under Mr. Justice Lawson, the trial of the second batch on the same charge commenced. Notwithstanding the action of judge and jury at the previous trial, and the fact that Pat Cole, P.L.G., had come from the dock to corroborate the "independent" witnesses, and to "swear to the meeting at the Widow Fagan's," and that he swore to it as he was expected to do, there was a disagreement. This time there were ten on the jury for a verdict of acquittal. A fifth time, 17th June, 1884, were the same witnesses trotted out. Everyone was becoming weary of the case, and it was getting little public attention. The witnesses had their evidence pretty well strung together by that time, the judge charged dead against the prisoners, and the jury came to the conclusion that there was a sufficient "modicum of truth" in the story (considering there had been a murder and necessarily a conspiracy leading up to it, and no other conspiracy than the alleged one was known to them) to send five innocent men to jail for seven years, and one for twelve months.

* April, 1884.

CHAPTER VI.

CHARACTER OF THE CROWN WITNESSES.

From what I stated in Chapter III. it is evident that the guilt or innocence of all the prisoners depends upon their being present at the alleged meeting at the Widow Fagan's on the 24th March, 1882. That meeting, then, is the one thing on which the whole case hangs, and I fearlessly assert that no such meeting was ever held. Let us investigate the evidence for and against this alleged meeting.

There were only three witnesses produced at any of the trials who directly swore to it. These were Pat M'Keon, senior, P. M'Keon, junior, and Pat Cole, the informer. The two first admitted, one time or another on the trials, that they were willing enough to become assassins; yet, as they said they did not take the oath of assassination at the meeting, the judge decided early on in the case (*vide* Crown report first trial, page 98), they were to be regarded as independent witnesses whose evidence need not require corroboration like that of informers. The third "direct" witness was Pat Cole who was taken out of the dock and put into the witness box as an informer to *corroborate the independent witnesses!* There was an attempt made to prop up the case with indirect evidence, but there was no attempt made to corroborate it in a single particular that fixed guilt on many of the prisoners.

Before analysing the evidence it is well to know the characters of those who gave it.

Here is what his father says of the elder M'Keon.

"Since he was a boy 16 years of age he was nothing but a drunkard, a vagabond, and a rogue; in fact he could not get too bad a character. He married at about 17 years of age, and I set him up in Collinstown. All I gave him he drank and squandered, and he had to leave Collinstown and then went to Belfast to live. He had to leave Belfast during the time of the Fenians and went to England. He came back and had not a rag on his back, but drank all. He went about several places. . . . During the whole time he was constantly drinking, and had his wife and children starved."

Here is what the same individual says of the younger M'Keon, his grandson—

"He is in fact worse than his father" (above described). "He was always plundering and thieving, and breaking into houses. The only character I could give of him is the worst of the worst."

Another relative, an aunt with whom he lived, says of him—
 “He is a liar, a rogue, and a great blackguard.”

I have not been long in the locality where these witnesses lived, and I have no personal knowledge of either of the M'Keons. I would have no hesitation, however, in deposing on oath that the above faithfully represents their characters in the place.

Though Judge Lawson and Sergeant Lynch minimised their evil doings and strove to whitewash them before the jury, here is what they swore regarding themselves—

Patrick M'Keon, senior, swore—

“In November, 1881, I met Michael Fagan . . . he told me he was getting up an assassination society. . . I consented to join it. He told me it would make me up.”

Patrick M'Keon, junior, cross-examined by Dr. Boyd, Q.C.—

“Do you recollect being examined before Mr. Woodlock before you joined the army? No answer.

The Lord Chief Justice—Do you recollect that? I do not know Mr. Woodlock.

Dr. Boyd—The police magistrate in Dublin? Yes.

You were? Yes.

Were you asked there were you married? Yes.

Did you say you were not? Yes.

Was that true? No, it was not true.

Were you asked whether you had ever been apprenticed? Yes.

Did you say you had not? Yes.

Was that true? It was not; but then I did not kiss the book at that time.

. . . Dr. Boyd, Q.C.—You may tell as many lies as you like when you don't kiss the book? Yes, I tell no lies.”—(Crown report, first trial.)

Sergeant Lynch swore of young M'Keon—

Do you know young M'Keon? I do, well, sir.

A very good boy? Well, he was wild. I was 9½ years in Collinstown, and —

The Lord Chief Justice—What does he say?

Witness—He was a wild young boy.

The Lord Chief Justice—A wild young boy when he was young? Yes.

Dr. Boyd—What do you mean by his being a wild young boy? Well, there were some complaints lodged against him; and I had to bring him before the magistrates.

What complaints were they? There was a complaint lodged against him—that he got into a house and had taken away some bread and things from it,

Did you hear any complaint about his stealing geese? *No, sir, I did not.*

Now, are you quite sure of that? *Well there was some geese stolen in the locality.*

Was he there at the time the geese were stolen? I don't know what geese you allude to.

What ones do you allude to? Mr. Gallagher lost some geese. *I am not aware whether he was there or not at the time.* I never suspected him of stealing them.

Mr. Gallagher lost geese? He did.

And you don't know whether the young M'Keon was there or not at the time? No answer.

Innocent policeman! *I am satisfied he was there.*"—(Crown Report 1st trial.)

Thus, with reluctance, and with a seeming disregard for truth which had to be worried out of him, did the sergeant speak of the principal swearer in the case. He forgot to state that he had been in jail on another charge; but young M'Keon, in reply to Dr. Webb at the last trial, gave the finishing stroke to his own character. He then swore—

"I was ready to take the oath to assassinate if my father had not interfered. If I had taken the oath I would have fulfilled the obligation.

And assassinated any body? Yes. If I wouldn't, I would be assassinated myself.

Were you shocked when you heard Mrs. Smythe had been assassinated? Not much.

Were you shocked at all? Not a bit."—Freeman Report, 19th June, 1884.

The only other witness that gave direct evidence was Pat Cole, and his character will be sufficiently known from his evidence and its recantation given in their proper places.

What class of Crown witness Rose Reilly belonged to I don't know; but her character is notoriously of the unmentionable type.

CHAPTER VII.

THE EVIDENCE FOR THE MEETING AT WIDOW FAGAN'S.

It may be tedious, but it is necessary, to give in full the evidence bearing upon this alleged meeting. The only thing charged against the prisoners is that they attended it. But was there such a meeting? Did all the prisoners sworn against attend it? If either of these questions should be answered in the negative, I challenge the Crown to deny that the whole case against all the prisoners should fall to the ground. Further, if there should be even a reasonable doubt on either point the same conclusion should be come to; but there is overwhelming evidence, a tenth portion of which would suffice in times of ordinary fair play, to necessitate an emphatic denial to both questions.

Was the meeting held as alleged? The only witnesses that swore to it directly were the M'Keons and Cole. Therefore with them chiefly have we to deal on this point. The first mention of it in the case is in the information of P. M'Keon, sen., sworn to, 5th June, 1883. The second, is in his depositions made 20th June, 1883. I give them and the fullest report I can find of his evidence at the trials consecutively, that on an easy comparison the untrustworthiness of the witness on any point may be manifest. The improbabilities of the story and its inconsistencies will be apparent.

Is it too much to suppose the ruffians that were willing to join assassination societies for the good of their pocket, and to assassinate "anybody" without repugnance, were prepared to swear falsely to obtain much money or to "get out of trouble?" Stupendous rewards—£2,500 were offered by the Government—were tempting bait for old M'Keon, and there was a prosecution for wife desertion and perjury hanging over his son, when Sergeant Lynch picked him up in Clonmel.

EVIDENCE OF P. M'KEON, SENIOR.—INFORMATION SWORN 5TH JUNE, 1883.

The information of Patrick M'Keon, senior, of Castlepollard, carpenter, who saith on his oath that a short time before John Fagan, son of Widow Fagan, left the employment of John Walsh, blacksmith, of Ballyknock, he told me that his brother Michael, who was living in Dublin, was about establishing a society that would benefit the country in that locality. In the month of *November*, 1881, I met Michael Fagan, before referred to as the brother of John Fagan, in the house of his mother, at Kilpatrick. He told me he was getting up an assassination society for the good of the country, and that if I joined it he would make me up. I consented to join it. I had a conversation with John Fagan after this, and he informed me that about March his brother Michael would be down to establish the society and put it in force. On the 24th March, 1882, on the day before the holiday in that month, I was present at a meeting which was held at the Widow Fagan's house, at Kilpatrick. I was working at my father's at the time, at Kilpatrick; and in the early part of that day John Fagan told me there was to be a meeting at his mother's house on that night, and I was expected to attend. I attended that meeting. I went to it about *half-past eight o'clock*, p.m. There were two men there who play music, whose names I do not know. They live at Cladagh, near Ranella. About half-past nine o'clock a *dance commenced*, and in less than an hour after this three men came to the house across the fields from the direction of James Gibney's, of the Curragh. One of these men was Michael Fagan, of Dublin, son of the Widow Fagan, of Kilpatrick. Another of these men was called by the name of E. Mack. I believe his name was M'Caffrey. I heard that the name of the third man was believed to be Curley. John Fagan told me his name was Curley. About twenty minutes after these three men came, Arthur Swords, of Rickardstown, came. There were then present—Arthur Swords, of Rickardstown; Patrick Cole, of Kilpatrick; William M'Cornick, of Ballinavine; John M'Grath, of Collinstown; John Fagan, of Kilpatrick; John Fagan, of Collinstown; Patrick Fagan, of Monkstown; Joseph M'Grath, of Rickardstown; Michael M'Grath, of same place; William Boyhan, of Rickardstown; John Boyhan, of Kilpatrick; James Gaffney, son of Widow Gaffney, Kilpatrick; John Gill, of Kilpatrick; Robert Elliott, of Ballyknock; Patrick Hanlon, of Dernegarra; William Mulvany, of Kil-

cumney; Michael Cosgrave, of Rickardstown; Bernard Rynne, of Kilpatrick; Michael L'Estrange, of Kilpatrick; and Bryan Fitzpatrick, of Tuitestown. We all shook hands with Michael Fagan, and his brother John introduced the other men to us. *The men were in and out at the dance for some time after this. In less than an hour after Michael Fagan and the other two men came, we—that is, all the men I have named and myself—assembled in the lane at the end of the Widow Fagan's house, and formed into a circle with Michael Fagan, the two strange men, William M'Cormick, Patrick Cole and John M'Grath, of Collinstown, in the centre. When we went into the lane, the man called E. Mack told us to form a circle. We did so, and he then told us that the object of the society was to remove tyrants. This man had a book in his hand, and he handed it round and swore those present whom I have named above (with the exception of myself, my son Patrick, William Mulvany, and Michael Cosgrave, who refused) to carry out the object of the society when required. After this Arthur Swords named William Barlow Smythe, of Barbavilla; William Edward Smythe, of Glananea; Lord Longford; Mr. Keating, of Newcastle; and Matthew Weld O'Connor, of Baltrasna, as tyrants, to be removed, and Swords said the first should be Mr. Smythe, of Barbavilla. E. Mack then directed Arthur Swords, of Rickardstown, and John Fagan, son of the Widow Fagan, of Kilpatrick, to make arrangements for the removal of Mr. Smythe; and Swords and John Fagan then told off William Boyhan, John Boyhan, Robert Elliott, Michael M'Grath, Patrick Hanlon, John Fagan, of Collinstown, his brother Patrick Fagan, of Monkstown, and Joseph M'Grath, to carry out the murder of Mr. Smythe, and that John Fagan himself was to act as signal man, while Arthur Swords was to have charge of the entire business. After these arrangements were settled in the lane we separated. Some went into the house and others went home. Before we separated, notice was given by John Fagan, of Kilpatrick, that another meeting would be held the night following, at the house of John Fitzpatrick, of Tuitestown. The persons before stated by me as having refused to be sworn were myself, my son, William Mulvany, and Michael Cosgrave. All the others were sworn to carry out the objects and purposes of the society, as stated by the man whom I knew as E. Mack. On that occasion John Fagan, of Kilpatrick, informed me that on the night before a meeting was held at Arthur Swords', for a like purpose.*

DEPOSITION OF P. M'KEON, SENIOR, SWORN 20TH JUNE, 1883.

The deposition of Patrick M'Keon, senr., of Castlepollard, County of Westmeath, Carpenter, taken in the presence and hearing of the above-named defendants, who stand charged that defendants, in or about the month of March, 1882, did, unlawfully, wilfully, and feloniously conspire, confederate and agree together to murder certain persons. The said deponent saith on his oath that I lived at Castlepollard. I knew John Fagan, son of the Widow Fagan. He was in the employment and served part of his time with John Walsh, a blacksmith, who lived at Ballyknock. I know a little of his brother, Michael Fagan. Michael Fagan had a conversation with me in November, 1881. The purport of that conversation was, that he was going to start a society for the good of the country in that neighbourhood. I had no similar conversation with John Fagan at the time. I often was talking to John Fagan in 1882. He asked me to join that society, and I agreed to do so. The name given to the society by John and Michael Fagan was "the Assassination Society." After this I received information from John Fagan of an intended meeting of that society. He did not tell me at that time who were to be present. The meeting was held on the 24th March, 1882. It was held at the Widow Fagan's house. I got notice to attend that meeting from John Fagan, on that day. I attended the meeting. There was a dance in the house that evening. There were persons there stated to be from Dublin. One of them was called E. Mack.

Michael Fagan was there, and a man who I am informed was Curley. There was a meeting of people outside the house. Michael and Patrick Fagan, John and William Boyhan, Joe M'Grath and Michael M'Grath, Elliott and Hanlon, Bryan Fitzpatrick and Arthur Swords, John Gill and James Gaffney, William M'Cormick and Patrick Cole, and John M'Grath, Michael L'Estrange and Bernard Rynne, William Mulvany and Michael Cosgrave. Joseph M'Grath is dead, and John Fagan is gone to America. All the persons I have named were outside the house at the meeting while Michael Fagan was there. We all knew him, and shook hands with him. *I did not see anyone introduce the other men with Michael Fagan.* We assembled outside the house. There was a circle formed. *There was nothing said until a book was going to go round.* It was said then that the object of the society was to do away with tyrants. It was one of the three strange men that said this. He was the man with the book. His name was E. Mack. He handed the book round to the people I have named as being present. They were all sworn except William Mulvany, Cosgrave, myself and my son. They were sworn to do away with tyrants and bad landlords. That was the object of the society. The names of gentlemen mentioned to be removed were—William Barlow Smythe, William E. Smythe, Mr. Keating, the Earl of Longford, and Mr. O'Connor. *John Fagan and Swords named all those persons.* The same men were deputed to carry out the arrangements—they were to name and appoint the persons who were to carry them into effect. *They did not then name any person, but Swords and Fagan took some persons aside. They so took John Fagan, Patrick Fagan, Joseph M'Grath, John and William Boyhan, Michael M'Grath, Hanlon and Elliott. I could not tell what they were to do.* They were taken aside in three "divides." Before we separated, there was notice of another meeting to be held at John Fitzpatrick's, of Tuitestown. I identify all the persons now present.

Cross-examined by Mr. Nooney, Solicitor—My son is now in Dublin.

When did your son leave Walsh? I can't say.

When did you see him last before he left Walsh's? *I did not see him from the night of the meeting.*

On the 24th of March? Yes.

You never saw him at all, and you within three miles of him? He was not so long there after that.

Do you mean to swear that he left Walsh's shortly after the 24th of March? I can't say when he left after that. *I saw him at Collinstown in May.*

That was before you had made an information? It was.

Had you any talk with him then? No, sir. *I did not talk, except to ask how he was.*

Was there any statement made by him read to you? No, sir.

Did you ever hear of any? No.

At that time you were with him at Collinstown, you had no conversation with him? No.

And none after that? No.

Now, there are manifest discrepancies in the foregoing, but the inconsistencies will be more apparent from the evidence of the same witness given at the first trial. Were I to give even the meagre reports of his evidence at the subsequent trials, the contradictions would be increased.

The MacDermott, Q.C.—You had, as a matter of fact, a conversation with John Fagan in November, 1881? Yes.

Now, do you remember what has been called Widow Fagan's dance? Yes.

On the 24th March, 1882? Yes.

Tell me; were you at that dance—did you go there that night? I did.

Before you went there, had you a conversation with John Fagan?

Yes, sir.

Did you go there by appointment? Yes, sir.
 Now, just raise your voice and tell the jury what hour of the night did you go to that dance? *About half-past nine o'clock.*
 Just tell the jury what happened when you went there—now, slowly?
They formed a "circle."

Who formed the circle—give me the names? *E. Mack.*

Wait a moment—E. Mack was there? He was.

Was his name mentioned there as E. Mack? Yes.

Was it mentioned where he came from? Yes.

Where? From Dublin.

Who else was there? A man supposed to be Curley.

Was his name mentioned as Curley? Yes.

Where was it said he came from? Dublin.

From Dublin, also? Yes.

Who did you say formed the circle? John and Michael Fagan.

Will you tell the names of the men who were in the circle? Yes, sir.

Name them? William Boyhan.

Who else? Joseph M'Grath.

Well? Michael M'Grath.

Well? Arthur Swords.

Well? John Gill.

Well? John Boyhan.

Well, who else? James Gaffney.

Well, M'Keon, go on? Bernard Rynne.

Well, who else? Michael L'Estrange.

Well? Patrick Hanlon.

Well? Robert Elliott.

Who else? Patrick Fagan.

Well? John Fagan.

That is Mr. Talbot's servant? Yes.

Well? Bryan Fitzpatrick.

Well? William M'Cormick.

Well, who else? John M'Grath.

Well? Patrick Cole.

Well? William Mulvany.

Well? Michael Cosgrave.

Well, do you remember anyone else? Well, I don't remember anyone else.

A Juror (Mr. Hely)—We ought to understand from the witness whether four of the men whose names he has mentioned are the men in the dock.

The MacDermott, Q.C.—I was just coming to that. (To the witness)—You have mentioned Michael L'Estrange—is he the man in the dock? Yes.

Who else do you see in the dock? Arthur Swords and Robert Elliott.

Who is the man at the corner? Michael M'Grath.

Well, were the four men at the bar there that night and in that circle? They were.

Have you any doubt of it? No doubt.

When was that circle formed? —

A Juror—He did not mention his son's name.

The MacDermott, Q.C.—Was your son there? He was.

Were you yourself there? I was.

What was that circle formed for? It was formed for an Assassination Society.

What was it said it was for? To do away with tyrants and bad landlords.

And what was to be the name of it? "The Assassination Society."

Who said it was to be formed for doing away with tyrants and bad landlords? E. Mack.

Did anyone else say it? Michael Fagan and John Fagan.

Who mentioned that the name of it was to be "The Assassination Society?" E. Mack.

Did anyone else say it? Michael Fagan and John Fagan.

They also said it? Yes.

Now, you have told us the name and the object of the society—what happened next? *The book went round then.*

What was done with the book when it went round? It was handed to John Fagan from E. Mack.

What was done then? John Fagan passed it to the next man.

Was the book kissed? Oh, yes.

The book was passed from hand to hand? Yes; and John Fagan walked at the back.

Outside the ring or circle? Yes.

What kind of book was it? It was a small book, about six inches in length.

The Lord Chief Justice—You can't say what kind of book it was? No.

A Juror (Mr. Healy)—Was it like a song book? —

The MacDermott, Q.C.—Was it a prayer book, or anything of that kind? It was something of that sort; it was like a prayer book—about six inches long.

A Juror—Did you take it in your hand at all? No.

The MacDermott, Q.C.—Did you kiss the book? No, sir; I did not.

What did you say? I refused.

What did you say? I said I would not have the book, *for I did not like the face of what they were at.*

You didn't kiss it? No.

Did anyone else refuse? Yes.

Who? My son; I would not let him kiss it.

Did you take him aside in any way? —

Dr. Boyd, Q.C.—I object. The question should be what he did?

The MacDermott, Q.C.—As a matter of fact, *what did you do? I called him down out of the ranks, brought him down beside me, and told him not to kiss it.*

Did anyone refuse to kiss it but you and your son? Yes; Mulvany and Cosgrave went away *before the book went round.*

Did all the rest, or did any of the rest kiss it? They all kissed it.

A Juror—May I ask, my Lord, did this witness see the four prisoners kissing the book?

The MacDermott, Q.C.—Did you see, as a matter of fact, any of the prisoners kissing the book? Yes, sir; all.

A Juror—*Did you and your son remain there after refusing to kiss the book? He went away, and I remained for about ten minutes.*

Another Juror (Mr. Healy)—The gentleman wants to know whether you were afraid to remain after you kissed the book? I was not much afraid.

A Juror—They were all sworn in your presence, and although you refused to be sworn, they did not object to your remaining there? *I passed an apology to John Fagan.*

The MacDermott, Q.C.—*What was the apology you passed? That there was to be a meeting on another night in John Fitzpatrick's, and I would go there.*

Now, will you tell me, after the book was kissed, what was said next? That everybody should abide by the law of the society or death.

And what was the law? The law of assassination.

Now, M'Keon, what else was said after that? They mentioned some to be done away with.

They mentioned some to be done away with? Yes.

Now, raise your voice and mention the names of some of those who were to be done away with? The first was Mr. William Barlow Smythe.

And the next? Mr. William Edward Smythe.

Who else? The Earl of Longford.

Who else? Mr. Keating.

Who else? Mr. O'Connor.

What happened next? Nothing more, sir.

Now, did anything else happen while you were there? No, sir; not in my time.

Were any persons taken away from the rest—taken aside from the others? Yes; they were taken in three divides—taken away from the circle.

Who were the men that were taken away? I disremember who they were.

Who took them? John Fagan and Arthur Swords.

Before you left that night, was anything said about another meeting? Yes, sir.

What was said? That there was to be another meeting held in John Fitzpatrick's next night.

CROSS-EXAMINATION.

Cross-examined by Dr. Boyd, Q.C.—Where do you live, M'Keon? Castlepollard.

And you are a carpenter? Yes.

With whom do you work? Occasionally with a man named Brogan.

Were you working in '82 with him? I was.

Do you know a man named Mahon? What does he follow?

Do you know a man named Mahon? In Castlepollard?

Do you know a man named Mahon? I do.

Did you see Mahon on the 24th of March? I did not.

What were you engaged at upon the 24th of March? I was working at my father's house, in Kilpatrick.

What were you working at? To the best of my opinion I was making wheels.

How long had you been at your father's house making wheels? A day and a-half.

Then you were there the night before? Yes.

How many nights did you sleep at your father's house? Two nights.

That is, you slept there on the 23rd and 24th? Yes.

When did you leave your father's house. On the 25th March, about five o'clock.

And went back to Castlepollard? Yes.

Do you know a man called *Thomas Cole*? Yes.

Was he in your father's? *He did not come in that night.*

What night? *The 24th.*

Was he in on the 23rd? He was.

He saw you that night? He did.

How far is Kilpatrick from Castlepollard? About three miles.

Irish? Yes.

How far is it from Castlepollard to Barbavilla? About the same distance.

Had you to pass the chapel when you were coming to your father's? No; I went the other road.

There are two roads, then? Yes.

Had you any conversation with Mahon about measurements of timber, necessary for flooring a room? No, sir.

Either on the 23rd, 24th, or 25th? No, sir.

None at all? No.

Did you see your son on the 23rd? Yes, sir.

Did you sleep with your son on the night of the 23rd? Yes, sir.

Who slept in the bed with you? *Thomas Cole.*

The three of you together? Yes, sir.

In your father's house? Yes.

Where does your wife live? In Castlepollard.

Did you ever take a sup of drink? Occasionally.

Did you ever get the worse of liquor? I might, sometimes.

Does Brogan keep a public-house? He does.

On your oath, were you drinking there on the 24th? No, sir.

At any time on the 24th? No, sir.

As I understand your evidence, you were not in Castlepollard at all on the 24th? No, sir.

The Lord Chief Justice—Is it at Castlepollard Brogan keeps the public-house? Yes.

Dr. Boyd, Q.C.—And he keeps a bakery, too? Yes.

When you came over, on the 23rd, did you see any of the Fagans? Yes.

Which of them? John.

Did you know both? Yes, sir, perfectly well.

Did you know Michael? Yes.

How long had he been away from the place? About a year and a-half or two years.

What business did he follow? A blacksmith.

Who told you to go to the house of Widow Fagan on the 24th? John Fagan.

Where did you see him? Passing the way.

At your father's. Yes.

Did he tell you that there was to be a dance? He did.

And you went? I did.

What time? *About half-past nine o'clock.*

Did you ever swear it was about half-past eight? There was no clock in the house.

I am not asking you about a clock. Did you ever swear it was about half-past eight? There was no clock in the house, and I could not be sure.

That is not an answer. Did you ever swear that you went about half-past eight? *I can't recollect.*

You won't swear that you didn't swear upon a previous occasion "I went to it about *half-past eight p.m.?*" I can't recollect.

Now, you say it was about half-past nine. Did you go into the house? No, sir.

Were you inside the whole night at all? No, sir.

Was there any dance there? There was, sir, some inside.

Who were there when you went there? All the men I have mentioned, except the Dublin men. They were not there when I went down.

Was there any music there? There was the music of a flute playing inside.

Was that all? That was all I heard.

Did you see the man who was playing? No.

Do you know anything about him? No.

On your oath, *did you swear, "There were two men playing music, whose names I don't know—they lived at Cladagh, near Ranella?"* I did, sir.

Is that true? (No answer.)

You did not go into the house? No.

What time did the strange men come? About half-an-hour after I went there.

Did you ever swear, "*About an hour after this, the dancing commenced about half-past nine o'clock?*" The music was going on when I went down.

Then it would not be true to swear that the dance commenced an hour after you went down? (No answer.)

It was half an hour after you went that the there men came—the strangers? Yes.

On the 5th June, 1883, you swore "About half-past nine o'clock the dancing commenced, and in less than an hour after this three men came to the house across the fields, from the direction of James Gibney's, at the Curragh"—did you see them coming across the fields? I saw them coming up the lane.

And how were you able to swear that they came across the fields if you only saw them in the lane? They came the short way.

Was there moonlight? *There was no moon up.*

What was there to give you light to see those men in the fields? On your oath, sir, don't you know it was new moon the day before, and there was no moonlight? The night was not dark.

Had you any candle or lamp? No.

And you saw the men coming through the fields?

The Lord Chief Justice—Did he swear that in his information?

Dr. Boyd, Q.C.—Yes. (To the witness)—Who were the three men that came?

Witness—Michael Fagan, E. Mack, and the man supposed to be Curley.

Supposed by you to be Curley? No, sir; I was told he was Curley.

By whom? John Fagan.

What were you doing if you did not go into the house from half-past eight to eleven o'clock? What were you doing outside? Walking about.

All the time? Yes.

With whom? Among the crowd.

And the dance was going on inside, and none of you went in? No; I did not see any of the party outside going in. The door was kept shut.

May I ask if you were not inside, and if the door was kept shut, how you make out the identity of the men who were playing the music?

The MacDermott, Q.C.—He says he didn't know them.

Dr. Boyd, Q.C.—I beg your pardon. He says they came from Cladagh.

The Lord Chief Justice—How did you know these men were inside?

Witness—I was told it.

Dr. Boyd, Q.C.—Who by? John Fagan.

By John Fagan, who was not inside? He was not inside.

And yet he could tell you the men playing inside were from Cladagh? Yes.

You mentioned the names of the people who were there; who told you E. Mack's name? John Fagan.

What was the first thing said when the people formed together? A circle was formed when the three men came.

Were they introduced to the party? Yes, sir.

By whom? Michael Fagan.

Did you ever swear that there was no introduction—did you swear this: "I did not see anyone introduce the other men that were with Michael Fagan;" That is not a straight answer; I don't understand that.

Well, then, you don't give straight answers, for that is your own answer.

The MacDermott, Q.C.—He said the very opposite; what he said was: "We all shook hands with Michael Fagan and his brother John, who introduced the other man to us."

Dr. Boyd, Q.C.—The MacDermott is reading from another information made by the witness, and that is not fair.

The Lord Chief Justice—Were there two informations made by the witness?

Dr. Boyd, Q.C.—There were; and *in one he swears nobody introduced the men, and in another he swears they were introduced.*

The Lord Chief Justice—You ought to ask him did he say so-and-so in one information, and did he say so-and-so in the other.

Dr. Boyd, Q.C.—Did you swear that anybody introduced them. (No answer.)

Did you also swear at any time that Michael Fagan and his brother John introduced the other men? Yes, sir.

Which is true? That is true.

Then what you swore secondly is not true—that nobody introduced them? (No answer.)

Very well; I pass on. What did Mack say to you when you were formed into a circle? E. Mack said nothing to me.

What did Mack say to the party who were there formed into a circle? They were formed into a circle by Mack and John Fagan.

Well, what did he say to you then? He said he was going to start a society.

To the Lord Chief Justice—This is what Mack said.

Dr. Boyd, Q.C.—Yes; go on.

Witness—“To do away with tyrants and bad landlords.”

Did he say anything further; do you recollect did he use the words “remove” tyrants? He did.

That is what you swear. That is the historic word that we have become familiar with. Well, anything more? “Tyrants and bad landlords.”

Did he say anything more? Not at that time.

Did he say whether he wanted to join or not? He did not ask me. He wanted all hands to join.

Did he say that. He did.

Tell us what he said? He said he wanted all to join.

Did you consent to join it? No.

To anybody? *I consented to Michael Fagan that I would join when he would come down.*

I presume this was on a former occasion? —

The MacDermott, Q.C.—*In November, 1881, when he was down.*

A Juror—When you consented to join this assassination society in 1881, did you understand the object of it? No, sir.

The Lord Chief Justice—What did he say to you when you consented? He said it was for the good of the country.

Dr. Boyd, Q.C.—*He said nothing at all about the object of the society, except that it was for the good of the country? Not in 1881.*

Listen to your information: “He told me he was getting up an assassination society for the good of the country, and that if I joined, it would make me up.” What did you mean by that, sir—what do you think of that? (No answer.)

Very well; you decline to tell me. Now, sir, at this meeting, tell me all that was said by Mack when he was starting this society—an assassination society to remove landlords and tyrants? He said nothing more; only to remove tyrants and bad landlords.

Was that all said before the book was passed? No, sir.

When was it said? When the book was passed.

After the book was passed? Yes, sir.

Then, do you mean to say there was nothing said about the object of the society before the people were sworn? (No answer).

You are a long time thinking of that. Was there anything said before the oath was administered—before the book went round? When the book went round it was said that the society was to do away with tyrants and bad landlords. That was the word.

Tell me the form of the oath? —

The Lord Chief Justice—I beg your pardon. He does not say that there was an oath administered.

Dr. Boyd, Q.C.—*Was there an oath administered?*

Witness—*There was.*

Tell me the form of the oath? —

A Juror—Does he understand the question? What were the words used?

Witness—The words used were, “To do away with tyrants and bad landlords.”

Dr. Boyd, Q.C.—Was each man sworn separately? One after the other.

That is what I call separately.

The Lord Chief Justice—They were told, as I understand it, that this society or circle were to do away with tyrants and bad landlords, and the book went round and was kissed. There was no separate oath administered to each person, and they did not call on any name, as we understand the form of an oath.

Dr. Boyd, Q.C.—He says there was a form of oath, and that they were all sworn. What was the form of oath?

Witness—In that way.

In what way? —

The Lord Chief Justice—I did not understand that there was anything like what is ordinarily called an oath. He does not say that they swore to do so-and-so, “so help me, God.” They were told that they were to do away with tyrants and bad landlords, and then the book went round and was kissed.

Dr. Boyd, Q.C.—Didn't you say you were not told anything of the object of the society until after the book went round.

Witness—I did not.

When was it said, then—when the book was commencing to go round? Yes.

It was E. Mack who said it? Yes.

And was it Mack handed round the book? *Mack handed the book round to John Fagan, and he handed it to the next man, and that man handed it on to the next.*

Did you say on your direct examination that Fagan passed round on the outside of the circle and handed the book to each man?

The MacDermott, Q.C.—He did not.

The Lord Chief Justice—He said Fagan passed round on the outside.

Dr. Boyd, Q.C.—Do you swear that the person who handed the book round to the people was Mack and not Fagan.

Witness—Mack handed the book first; that's all.

Was Fagan in the centre at the time he handed it to him? He was standing *in the front* of the circle.

And did Fagan take the oath, too? Yes.

And all the others were sworn, except the four you have named? Yes.

And you said you did not like the face of what they were doing? Yes, sir.

Didn't you know, sir, as far back as the previous November, the face of what they were doing? No.

Then your information will speak for itself. *When was the meeting to be held at Fitzpatrick's announced?* That night.

Before you went away? Yes.

How long? *Just after the book went round.*

How long after it went round? *It might be a few minutes.*

Had your son gone away then? Yes, he was gone away.

Now, you are quite certain about that? I am quite certain.

Before the date of the next meeting was mentioned, had he gone away? Yes.

You say you remained for about ten minutes after the book went round? Something like that.

Did you go to the meeting in Fitzpatrick's? No, I did not.

And they said nothing at all to you—they accepted your excuse to go to the next meeting? No; they said nothing.

And when you refused to take the oath, they said nothing? No. I did not discourse to any man but John Fagan.

When did the three “divides” take place? After the book went round.

How long after? Just when it was over.

Was that before or after the next meeting was announced? Well, I can't say whether it was before or after.

What was said about the three divides, or who said anything about them? I did not hear anyone saying anything about them.

Nor any direction given for the removal of any of the people named? No.

Then, it would be untrue if anybody swore that you were there when the parties gave directions for the removal of certain people, and gave instructions as to who should remove them—that would not be true? I think not, sir.

Listen to your oath, sir? —

A Juror—I don't think he understands the question.

Dr. Boyd, Q.C.—I'll make it as clear as I can. *You say there was nothing said about three divides before you left—was there or was there not? Was there anything done about them? Yes; the men who took the oath were taken in three divides.*

Who took them? John Fagan.

Anybody else? Arthur Swords.

Anybody else? No, sir.

And nothing was said by or to John Fagan or Arthur Swords as to what they were taking them for? Not that I heard.

Now, I'll read your information :

E. Mack then directed Arthur Swords, of Rickardstown, and John Fagan, son of the Widow Fagan, of Kilpatrick, to make arrangements for the removal of Mr. Smythe; and Swords and John Fagan then told-off William Boyhan, John Boyhan, Robert Elliott, Michael M'Grath, Patrick Hanlon, John Fagan, of Collinstown; his brother, Patrick Fagan, of Monkstown; and Joseph M'Grath, to carry out the murder of Mr. Smythe, and that John Fagan himself was to act as *signal-man*, while Arthur Swords was to *have charge* of the entire business. After these arrangements were settled in the lane, we separated. Some went into the house and others went home.

Is that true, or is what you have sworn to-day true? (No answer.)

A Juror—Let us have an answer to that question.

Dr. Boyd, Q.C.—I can't get an answer. Which is true, sir?

A Juror—Now, let us have a clear answer to that.

Dr. Boyd, Q.C.—*Is that information true?*

Witness—*It is true.*

The MacDermott, Q.C.—Now, let him explain.

A Juror—You heard Counsel read that last information; is it true.

Witness—*It is true.*

A Juror (Mr. Hely)—*And how do you reconcile that with the answer you gave a moment ago? (No answer.)*

Another Juror—*Didn't you say, just now, you did not hear any arrangement made? (No answer.)*

Dr. Boyd, Q.C.—*Didn't I ask you, did you hear for what purpose the men were taken away in three "divides," and didn't you tell the jury it was not said for what purpose they were taken? (No answer.)*

The Lord Chief Justice—*What do you say? You state in your information that Fagan and Swords took the men away in three "divides," and you said a moment ago it was not stated for what purpose they were taken; how do you reconcile these two statements? (No answer.)*

A Juror (Mr. Hely)—*This is the whole pith of the thing.*

Another Juror—*Some of us are of opinion that the witness does not understand the question.*

The Lord Chief Justice—*Your information has been read to you, in which you state that the men were taken away for a certain purpose—is that true? I did not hear what they were taken for.*

Dr. Boyd, Q.C.—*On your oath, what did you mean when you swore that men were told off to carry out the murder of Mr. Smythe (No answer.)*

A Juror—*If you didn't understand that, sir, why did you swear it? I didn't understand it at all.*

Dr. Boyd, Q.C.—*Who put it into your mouth—who suggested it to you? (No answer.)*

Look here, sir; was not that the information made by you on the 5th June, on which these men were arrested? (No answer.)

A Juror—I suppose we may take it for granted that that information refers to the same time and place?

Dr. Boyd, Q.C.—I'll read the whole information.

It is given at pages 19 & 20.

Comment on this evidence is needless.

EVIDENCE OF P. M'KEON, JUN.

I give the evidence of the younger M'Keon in the same way as I have given his father's. Before the first trial he was sworn three times, but only twice did he refer to the meeting under investigation. On the 17th May he made no allusion to it; and on the 27th June he merely said, "I was at the house of Widow Fagan the Friday week before the murder." On the 17th July, however, he swore to the meeting and its details. Hence I content myself with giving that deposition of the 17th July, 1883, as far as it refers to the meeting, and the evidence he gave on trials in the same matter.

THE DEPOSITION OF PAT M'KEON, JUN., OF DUBLIN, TAKEN 17TH JULY, 1883.

"The said deponent sayeth on his oath that—I remember being at the house of Widow Fagan on the 24th March, 1882. Several persons were assembled outside that house on the evening of that day. I was amongst the number. It was about ten o'clock at night. The names of the prisoners who were there were—Wm. M'Cornack, P. Cole, J. M'Grath, M. M'Grath, J. M'Grath, P. Fagan, J. Fagan, J. Fagan the blacksmith, M. L'Estrange, B. Rynne, J. and W. Boyhan, Cosgrave and Mulvany, R. Elliott and Hanlon were there; J. Gaffney, J. Gill, and A. Swords were also there. Some of those I have named—John Fagan and William Boyhan, have left the country, and Joe M'Grath is dead. . . . I was asked to attend that meeting by John Fagan, the blacksmith. I had no conversation with J. Fagan about the objects of the meeting, but he told me there was to be a dance in the house and asked me to go. I was not inside the house. All the persons I have named were outside the house, the same as myself. There was a circle formed outside. A book was sent round. It was said the object of the society was to do away with tyrants and bad landlords. There was no form of swearing gone through, but they sent the book around. Wm. Mulvany, Michael Cosgrave, I, and my father, refused to take the oath. There were names of certain persons mentioned as persons to be done away with. Mr. Smythe, Mr. Smythe, Glenanea, the Earl of Longford, Mr. Keating, and Mr. O'Connor. I stayed but a short time at the meeting. *I was the first to go away, and I left all the rest after me.*"

Cross-examined by Mr. Nooney—I cannot tell what time I left the Widow Fagan's, but I left *after the book went round*. I got there about ten o'clock.

Re-examined—"With the exception of the two men that went away and the other man that died, *all the rest* are now present that attended that meeting."

PATRICK M'KEON, JUN., SWORN AND EXAMINED BY MR. O'BRIEN, Q.C.

In March of 1882, where were you living, M'Keon? At Walsh's.

And where was that; was it near Barbavilla? About a mile from Barbavilla.

Is that Walsh's forge? Yes.

You were living there in March, '82, you say? Yes.

What is your father's name? Patrick M'Keon, sir.

And your name is Patrick too? Yes.

And what is your father? A carpenter.

And what were you yourself? I was serving my time as a blacksmith.

Were you serving your time as a blacksmith in March, '82 to Walsh? Yes.

He was a blacksmith? Yes.

Now, were you sleeping in Walsh's house? No, I used to sleep at the house of my grandfather.

What was his name? Pat M'Keon.

The Lord Chief Justice—Another Pat!

Mr. O'Brien, Q.C.—Yes, my lord. (To witness)—and about how far was your grandfather's house from Walsh's forge? About a quarter of a mile.

You used to sleep there; and where used you take your meals? At Walsh's.

To whom you were bound apprentice, or were serving your time? Yes.

Now do you remember the eve of Lady Day in March being any place—being at Mrs. Fagan's house, do you remember? Yes.

Dr. Boyd, Q.C.—I beg your pardon, Mr. O'Brien, you have no right to suggest where—

Mr. O'Brien, Q.C.—The question is answered. (To witness)—On the 24th of March, '82, do you remember where you were? Yes.

Where were you in the evening? I was at the Widow Fagan's house.

Was your father there? Yes, sir.

Now, do you remember before you went to that house speaking to any one of the Fagans? Yes, sir.

To which of the Fagans did you speak? To John Fagan.

And was it after speaking to John Fagan that you went to the Widow Fagan's on the night of the 24th of March? Yes.

When you went to the Widow Fagan's, who did you see there? I "seen" several persons assembled outside.

A Juror (Mr. Hely)—Speak out; we don't hear what you say at all.

Mr. O'Brien, Q.C.—He says he saw several persons when he went over to the Widow Fagan's, gentlemen.

Mr. Hely—Yes; but we want to hear him ourselves. (To witness)—Speak up, sir, we want to hear you without distressing ourselves too much.

Mr. O'Brien, Q.C.—I ask you again, when you went to the Widow Fagan's house, who did you see; speak up loud now? I "seen" several persons there.

Could you give the names of some you saw? Yes, sir.

Very well; just of the Fagan family who did you see? I "seen" two.

Who were they? John and Michael, sir.

Was John the person who spoke to you before you went there? Yes.

Where is he now, do you know? He is in America, I believe.

Mr. O'Brien, Q.C.—Very well (to witness). Now, besides Michael and John Fagan, whom else did you see? I "seen" William M'Cormick, Pat Cole, John M'Grath, Michael M'Grath, Joseph M'Grath, Pat Fagan, John Fagan, Michael L'Estrange, Bernard Rynne.

Who else? John Gill—

Who else? James Gaffney, John Boylan. And who else? William Boylan, Arthur Swords.

Well? Robert Elliott—

Who else; or did you see anything else—as well as you now remember? Patrick Hanlon.

Do you recollect anyone else? And two strange men from Dublin.

Mr. Hely (juror)—Speak up, sir; continue to speak up; we want to hear you.

Mr. O'Brien, Q.C.—Now, who were the strange men; were they named amongst them? One was said to be Curley.

The Lord Chief Justice—One was said to be what?

Mr. O'Brien, Q.C.—Said there to be Curley, my Lord. (To witness)—Named Curley you mean? Yes, sir.

And did the other man pass by any name; what was he called? He went by "E. Mack."

The other man went by the name of "E. Mack." Now, look at these men there in the dock; did you see them there on that occasion? Yes; I did.

You gave their names already. Tell me; can you say whether you saw

a man named *Bryan Fitzpatrick* there or not? *He might be there; but I could not say.*

You could not say. Now, what was going on inside the house of the Widow Fagan? Flute playing, sir.

There was a flute playing. Was there a dance going on, can you tell? I could not tell, sir.

You were not inside? No.

But there was flute playing going on inside? Yes.

The Lord Chief Justice—And does he state he was not inside?

Mr. O'Brien, Q.C.—Yes, my Lord. (To witness)—Now, did Michael Fagan do anything? What took place? Curley, or any of them, what did they do? There was a circle formed outside the house.

Were the men you have mentioned amongst the circle outside? Yes.

Now, when the circle was formed outside the house, what was done? The book was sent round, sir.

The book was sent round. Before the book was sent round, did any man speak that you recollect? Yes, sir.

Who spoke? *E. Mack spoke, sir, and John Fagan spoke too before the book was sent round.*

Can you recollect what John Fagan said? Yes, sir.

Well, tell the jury. Look up there and tell what he said? He said that the object of the society was to do away with tyrants and bad landlords.

Did John Fagan say anything else, or did anyone else speak, can you recollect? Yes, sir; John Fagan spoke, and he entitled it the Assassination Society.

The Lord Chief Justice—Said that it was to be an Assassination Society, or what?

Mr. O'Brien, Q.C.—He says John Fagan entitled it "the Assassination Society." (To witness)—Well, after that, what was done, do you recollect? *The book was kissed.*

Mr. Hely (juror)—My Lord, his voice is failing. We will have to rely upon your notes altogether, my Lord, unless he speaks up.

Another juror—The man is a bit nervous.

Dr. Boyd, Q.C.—Oh, wait till you hear much more about him, gentlemen.

Mr. O'Brien, Q.C.—Surely my friend is not going to address the jury at this stage. (To witness)—Now, what was done with the book? It was kissed sir.

Who handed it round? *E. Mack, sir.*

Was there anything said then—anything else. Tell me first did every one there kiss the book? Yes, with the exception of four.

Who were the four that refused? William Mulvany, Michael Cosgrove.

And who else? Myself.

And who else? And my father.

Did you refuse to kiss the book?

Dr. Boyd, Q.C.—That is not the way to ask the question, I submit.

Mr. O'Brien, Q.C.—What did you do, then; did you kiss the book, or what did you do? No, sir. I would not be let do it.

What? My father hindered me from doing it, sir.

But in point of fact the four you mentioned did not kiss it? Yes, sir.

After the book went round, was anything said then—did anyone speak, or what took place after the book went round? Yes, sir.

Tell the jury what was said. That there were certain persons to be done away with.

Who said that? John Fagan.

A Juror—Were there two John Fagans present?

Mr. O'Brien, Q.C.—Yes; and I will have them distinguished for you, if you will allow me. (To witness)—Was this John Fagan the son of the Widow Fagan? Yes.

And the brother of Michael Fagan? Yes.

And who was the other John Fagan? He was a man that was with Mr. Talbot.

The MacDermott, Q.C.—A servant man to Mr. Talbot? Yes, sir.

Mr. O'Brien, Q.C.—*Now, what did John Fagan say*—you said he intimated that some one was to be done away with; what did he say, as well as you can now recollect? He mentioned W. B. Smythe.

Yes; who else? W. E. Smythe.

Who else? The Earl of Longford.

Anyone else? Mr. Keating.

And anyone else? Mr. O'Connor.

Now, after he mentioned these names, was there anything else said, or what took place, do you recollect? *I left it then, sir.*

Did you leave then? Yes.

Whilst you were there did any of them go from the circle at all, as well as you can recollect? Yes, sir; Cosgrave and Mulvany went away, sir.

Did they go away with you? Yes, before the book went round.

Was the book tendered to them, or what took place with reference to them; I want to know, about the book? When they "seen" what was going on they went out.

The Lord Chief Justice—Who went out?

Mr. O'Brien, Q.C.—Cosgrove and Mulvany; when they saw what was going on about the book, they went out.

A Juror—Did you go at the same time that they went? No, sir.*

CROSS-EXAMINATION.

Cross-examined by Dr. Boyd, Q.C.—Where did your father live? Castlepollard.

And what s the trade he had there? Carpenter.

You have got your voice wonderfully. Where does he work. Castle pollard.

Who used he to work with? Mr. Brogan.

Did he work with Mr. Brogan in March, 1882? I cannot tell you

Do you swear that? Yes.

You can't tell whether he did or not? I could not tell, because I was not near him.

At what time? That time.

What time? The time you mention.

What time? I was not near him in March or April. The 24th of March was the last time I seen him.

"I was not near him the time I mentioned." Now, you say you were with him on the 24th March. So I was, on the 24th March.

Were you with him on the 25th March? *Yes, in the evening, about five o'clock.*

And you were with him on the 24th? Yes, on the night of the 24th.

What time did you arrive with him? About ten o'clock.

You arrived at your father's at Castlepollard? I did not go into Castlepollard. At Fagan's.

At Fagan's? Yes.

Where did your father sleep? He slept at the house of my grandfather on the night of the 24th March.

Do you swear that? Yes.

Where did you sleep? I slept there also.

* It is remarkable that here M Keon speaks of the meeting as if it was held *inside* some house. The MacDermott must have thought he intended to swear to the meeting as being so held for so he described it in his opening statement.—Vide *Freeman* report first trial.

How many of you slept in the house that night? There was two others in it, in the one bed. My grandfather was there.

And the two of you slept in one bed? Yes.

Your father and yourself? Yes.

There was there, you say, your grandfather and aunt? Grandfather and aunt was in the room off the kitchen.

Were they all that was in the house? That is all I seen at that time.

Who were in the house, sir? That is all in the house at the time, and another boy. He was not in that night, and I did not see him until next morning.

What is the name of the other boy? Thomas Cole.

Used Cole to sleep with you? Yes, he used.

And Cole was not there that night? No, sir.

On your oath, did Cole get up to allow you in that night? No, sir.

Nor was he in the house that night? Not that I seen.

Was there any other bed in the house but the two? There was three beds—my grandfather's—

Your aunt's, and the one you two slept in? Yes.

There was only these three? Yes.

The Lord Chief Justice—What did you say about another boy?

The MacDermott, Q.C.—Thomas Cole is the other boy.

Cross-examination continued by Dr. Boyd, Q.C.—Where did your father go that day? I did not see him until 10 o'clock that night.

Where did you see him? At the Widow Fagan's.

And you never saw him until you met him by accident at the Widow Fagan's? No.*

And you did not know he was going that night? No.

The Lord Chief Justice—This was the night of the 24th.

Dr. Boyd, Q.C.—The night of the alleged swearing. (To witness)—You did not know he was going? No.

Nor anything about him until you saw him there accidentally? Not a word.

Was it you asked him to leave with you? No, I did not.

Did the two of you leave together? No, I left the place before him.

Where did you go? I went to the house of my grandfather.

And where did he go? He came about half-an-hour afterwards.

Who told you to go to the meeting? John Fagan invited me.

You are very particular; a written invitation, I suppose? It is all the same.

When did he tell you? About a week before it took place.

That there was a meeting on that day, the 24th, at Widow Fagan's do you swear that? I do.

He told you that a week before; did he tell you what it was for? He did not tell me what the meeting was for; he said there was to be a dance there; that's all.

He did not tell you the hour to come? He did; he told me to be there about 9 or 10 o'clock.

For a dance; aren't you a very innocent fellow; do you commence your dances in the country about 9 or 10 o'clock; eh, M'Keon? I was not in the habit of being at many dances, and I could not tell what hour it was.

It was ignorance of you, you know. Now, do you mean to tell the jury that you, a country lad, could not tell what hour dances are held in the country, because you were not in the habit of being at many dances; do you mean to tell that to the jury, that you could not tell what time dances are in the country? I said I was not in the habit of being at any dances.

You were not at this one, for you did not go into the house? I was not at the dance.

* The father swore he slept with him the night of the 23rd, and was about the place all that day

Though you were asked to the dance, you did not go to the dance? I seen when I went there it was no dance.

Then you know what a dance is? I do.

And I suppose you have seen many a dance? No; I said I was not in the habit of going to many.

I don't care what you said. I am asking you what is the fact—have you been at many dances? I might be at a dance on the side of the road.

Only on the side of the road: do you swear that? Yes.

And never in the house at a dance? No; never.

He said nothing about the objects of the meeting? Not to me at that time.

But you had a shrewd suspicion of it. Now, look down and see what is to be your answer?—

Mr. O'Brien, Q.C.—It is a most improper observation. Conduct yourself when you come here like any other counsel.

Dr. Boyd, Q.C.—Some counsel imagine they are omnipotent in a Court of this sort. Behave yourself like a gentleman. It is the usual course, and I object to it.

The MacDermott, Q.C.—We only complain of the observation that the witness was looking down to us for liberty to answer the questions, and it would be exceedingly wrong not to notice it.

Dr. Boyd, Q.C.—I don't say you would do it, but he is looking down. (To witness)—You had no shrewd suspicion of the object of the meeting? Not the slightest.

You were perfectly innocent when you went there what it was for? Yes; I was.

Who went with you? I had no one going with me; only myself.

And you strolled up there about 10 o'clock just? I could not say it was exactly 10 o'clock. I could not tell the hour of the night.

Where did you come from to it? I came from Walsh's.

Is that from where you were living? Yes.

Did you tell any one you were going to it? No; not one.

That you were going to a dance; you never said that? No; I told no one where I was going to.

At what time did you leave Walsh's to go? I left Walsh's about eight o'clock.

What time does the forge close? Sometimes it would be closed at 7, and more times at 8, 9 and 10, according.

What time did it close that night? About eight o'clock.

Where did you go from that? I went to a neighbour's house on the side of the road.

You stayed for an hour, and you left about nine o'clock? Yes.

Where did you go to then? I went up the road next Kilpatrick.

Is that the name of a man or the name of a place? It is the name of a townland.

What did you go up towards Kilpatrick for on the 24th of March, of all days in the year? I went up for the purpose of going where I was invited to go.

Was that the road to Fagan's? Yes, that was the road.

And you went up then? Yes.

And you went straight then up from Gaffney's and Kilpatrick as straight as the road would lead you. What are you looking down at; will you hold up your head and answer if you are not ashamed of it; what kept you on the road? I was doing nothing but just walking along.

Doing nothing but just walking along by yourself? No.

And you were just amusing yourself for an hour until the meeting? I could not say whether it was nine or ten o'clock I got there.

You said you left the forge about eight o'clock, and you were in Gaffney's for an hour; how long was it from that until you got to Fagan's?

I could not say exactly the time I got into it, but I know it did not take me very long.

How long were you there before anything took place? I was just a few minutes.

Only a few minutes before the question of the book affair—do you mean to tell me you did not tell Miss Gaffney when you were going away from her, “Darling, I have to leave you to go for a dance?” No, I did not.

You did not say a word to her about the dance, or to Mrs. Gaffney? No.

Although you were leaving them and going up to the dance, you never said a word about where you were going? No, not a word.

Were all the people you have mentioned in your direct examination there when you went there that night to Fagan’s? They were all there but Arthur Swords, and he was there in a couple of minutes.

He was the only one who came up afterwards? Yes.

What sort of night was it? It was a middling bright sort.

Bright moon, wasn’t it? There was no moon. The moon was not shining, but still it was bright.

Whereabouts were these people all gathered? They were outside Widow Fagan’s house.

We are outside it now, too; but you are far away from it.

Where were they outside the house? They were in the lane outside.

Did they remain in the house long? As long as I was there they remained in it.

They did not go into the barn? No; they did not.

Is there a barn there? I could not say.

Who was the first person who spoke about what brought you all there? John Fagan and Michael Fagan were speaking, but I did not know what they were saying. They were speaking amongst themselves.

Who was the first person that spoke that you heard? The man that handed round the book was the first.

Who was that? E. Mack.

What did E. Mack say? He said—he told us the name the society was to be.

What did he say it was to be? The Assassination Society.

And what else did he say? He said nothing else at that time.

Did he say anything else before the book was passed round? He did.

What did he say? He said that any orders given by the Assassination Society—the violation of them would be death.

Did he say anything further? No; only handed the book.

Did John Fagan say anything about the society? Yes; he said the object was to do away with tyrants and bad landlords.

Did he say anything more about it than that—who was it gave it the name of the Assassination Society? Did you say it was E. Mack—is that correct? That is correct.

You have no doubt about that—think of it a little while longer, and then perhaps—

The MacDermott, Q.C.—It is a year and a-half since.

Dr. Boyd, Q.C.—Which of them said it? John Fagan said it.

Then, it was not E. Mack said it? No.

Then, what do you mean by swearing to the jury it was not E. Mack said it—which is right? John Fagan said it.

And E. Mack is wrong.

The MacDermott, Q.C.—Said what?

Dr. Boyd, Q.C.—That the name of the society was to be the Assassination Society—is that what you say now? Yes.

That John Fagan said and not E. Mack? Both were talking of it. I could not say rightly which of them said it. Both of them said it. Between them both it was titled |

Mr. O'Brien, Q.C.—That is between John Fagan and E. Mack—between them both it was titled, he says.

Dr. Boyd, Q.C.—Don't you know that on your direct you said it was Fagan, and now on your cross you say it was Mack. Which of them was it gave its name according to you? It was between them both it was.

Then they were both speaking? They were.

Who swore the people who were sworn? E. Mack.

What did he swear them to do? To do away with tyrants and bad landlords.

That was the form of the oath—to do away with tyrants and bad landlords? Yes.

And there was a book passed round? Yes.

Had they joined hands in a circle before this? They were there, but they had not their hands joined.

They were standing round in a circle? Yes.

When was it you said you would not take the oath? Eh!

Answer the question. You know it gives you a long time to think what you will answer when you say eh. When was it you said you would not take the oath? Do you hear the question? I said it sure at the time when the book was going round.

How many were sworn before you said it? I could not tell.

Were there any sworn before you said it? I cannot tell how many were sworn.

What did you say when you refused to do it? I said I would see them some other time.

Did you hear your father say anything? No; he told me to stand back.

He told you to stand back? He would not allow me to take the oath; he told me to go home.

Did they hear him say that? I cannot tell.

How far were you away from the people when your father said that to you? He said it easy. I don't suppose any of them could hear him but myself. No one could hear it but ourselves.

Were you there when your father refused to take it? I was.

What did your father say when he refused to take it? I could not tell.

Were you there standing by—listening? I was not near enough to know.

How far were you asunder from one another—it is nonsense to talk that way? I did not count the distance, and I could not tell.

About how far were you away—were you as far as from the jury? No, I was not.

Did your father go away from you at the time he told you not to take it, or did he stay beside you? I stepped out of the ring.

Did your father remain in the ring? No.

Did he step out of the ring? He did.

Did the two of you stand together out of the ring? No; I went home.

Now you are in a great hurry. Before you went home did your father and you stand together? Yes, we did.

Were you present when your father refused to take the oath? Yes.

What did he say when he refused to take the oath? He said he would meet them some other time.

Didn't you a minute ago swear you were too far off to hear what he said—which is true? No; but I say it is not.

What is not true—what you have just sworn? I am not; I tell you there was notice for another meeting to be at Fitzpatrick's.*

I didn't know of it. But I know of it.

* The father swore the notice for this meeting was not given till the end of the proceedings, and consequently not till the son had left.

It is time enough to talk of Fitzpatrick's after a while. How far was your father away at the time you said it? Said what?

Do you know what I mean: do you, on your oath? I will test your veracity to the jury by that. Do you know what I mean? (No answer.)

The MacDermott, Q.C.—Have you any questions to ask the witness?

Dr. Boyd, Q.C.—I asked him a question in the presence of the jury. You may not have heard it.

Witness—I could not understand the question properly that you put to me.

Dr. Boyd, Q.C.—(To witness)—You don't understand my voice; I suppose I don't speak loud enough for you? You are speaking loud enough.

You don't like that; I wish you would do the same. Tell me, my friend, these other two men that you say—Mulvany and Cosgrave—would not take the oath; where were they when your father would not take it? They were not there when the book was going round at all.

They had left before that? Yes.

They had left before you refused? They were the first who left it.

On your oath did you swear you were the first person to leave it? Yes, after the book went round I did; but they went before it.

Did you say Mulvany and Cosgrave refused to take the oath? Yes; when they seen what was going on. John Fagan left and said he would be back in a minute.

Now, listen to this. Did you sign this? Now, I have asked you before what was the form of the oath, and you said it was to remove bad landlords and tyrants. "There was no form of swearing gone through?" But I made a mistake at that time. I corrected it since that.

Very well; I will read your correction since that—"No form of swearing gone through, but they sent the book round. William Mulvany, Michael Cosgrave, I and my father refused to take the book." You said they left before the book went round—these two men, and now you said they refused to take the book. "There were the names of certain persons mentioned as the persons to be done away with—Mr. Smythe, the Earl of Longford, Mr. Keatinge, and Mr. O'Connor. I stayed but a short time at the meeting. I was the first to go away. I left all the rest behind me." Which is true, now? Did you swear that? Answer that—yes or no, first? (No answer.)

Did you swear that; answer yes or no?

The Lord Chief Justice—Isn't that in the information.

Dr. Boyd, Q.C.—It is; but surely I have permission to get the lie from himself.

Witness—I corrected that to Mr. Julian afterwards; it was only a mistake.

Dr. Boyd, Q.C.—Was it a mistake of you to leave out all mention of your being at Widow Fagan's on the 24th in your first information? (No answer.)

Was it a mistake of you to leave out all mention of the meeting of the 24th in your last information? Don't speak so fast. I can't understand you properly.

Does the witness pledge his oath to that. Was it a mistake of you to leave all mention of the meeting of the 24th out of your first information. Is that slow enough for you? (No answer.)

Give your knee another rub now, and you will have an electric shock coming from it in a moment.

The MacDermott, Q.C.—Can't you ask a question.

Dr. Boyd, Q.C.—You have no right to say that.

The MacDermott, Q.C.—He is asking a question with one word after another.

The Lord Chief Justice—Was it left out of the information?

Dr. Boyd, Q.C.—It was. (To witness)—Was it a mistake to leave it out of our first information? (No answer.)

A Juror—Why did you leave it out? It was a mistake.

Dr. Boyd, Q.C.—Did you always recollect about the meeting of the 24th? Yes; but I could not think of it at the same time.

The Lord Chief Justice—What was left out of the first information?

Dr. Boyd, Q.C.—The meeting of the 24th.

The Lord Chief Justice—In its entirety?

Dr. Boyd, Q.C.—Yes, all mention of it; and he says he did not think of it at the time. (To witness)—Do you mean to swear to that jury that the meeting at which murder was planned—that you forgot it when you made your first information?

Mr. O'Brien, Q.C.—You said it was not in the information, and we will explain that in a minute. Here is what is in the information, to correct my friend. He says it is not referred to at all. "I was at the house of Widow Fagan on Friday week before the murder."

The Lord Chief Justice—He will be able to explain that afterwards.

Dr. Boyd, Q.C.—I suppose he will, but there is not a word of it in it.

The MacDermott, Q.C.—It is mentioned in the first information.

Mr. Carson—No; that is the second information you are reading out of.

The Lord Chief Justice—It is better to leave Mr. Boyd to go on now, and you can explain any matters you wish afterwards.

Dr. Boyd, Q.C.—(To witness)—Is what counsel for the Crown said, or what you said, correct—that you could not think of it, or that you did mention it? Think of what?

About the meeting of the 24th? I did not think of it at the time I was giving my information.

Such an immaterial circumstance. And now tell me do you mean to tell the jury that you, who refused to take the oath, remained present when the objects and people were mentioned who were to be dealt with, or to be removed? Yes.

And they allowed you to remain there, although you refused to take the oath yourself? They did.

And Michael Fagan and Curley, whose names you have mentioned, were two of the parties who allowed you to remain there after you had refused to take the oath? Yes.

And you went away voluntarily? I went away when I was sent away.

And your father remained behind you? Yes.

What time did you get home that night? I can't tell what time it was.

Did you go straight home? Yes, I did.

How long would it take you to go home from Fagan's to your grandfather's? About ten minutes.

Well, what time did you get home? I could not say.

Was there anybody up in the house when you got home? No.

They had gone to bed? Yes.

The door was left on the latch? It was always left on the latch when it was known there was anyone out.

It was on the latch that night? It was latched but not locked.

Did you see Cole that day before you left? What Cole?

The Cole that lives in the house with you? No; I did not.

He sleeps there every night? Yes, he was in the habit of sleeping there.

And you did not see him there that night? No.

What time did your father come in? In about half-an-hour after me.

Did you ask him what took place after you left? No; I had no conversation at all with him.

Although your father remained after he sent you away, you had not a word of conversation with him? No.

What time did you get up in the morning? I think it was about seven o'clock.

And was your father gone before that? He was.
 He went away before that? Yes.
 What time did he go? I could not tell exactly, but it was early.
 He went to Castlepollard? I could not exactly say.
 Had he any drink on him that night? He had not.
 Perfectly sober? He might have drink; he had the smell of drink, but he was not drunk.
 Had you any drink? No.
 Are you a teetotaller? Well, I am not, but still I had no drink.
 A misfortune that might have happened you. You could not get any drink? No; no misfortune about it at all.
 When did you see your father again after that? I could not tell you that.
 Before I come to that—did Elliott mention he was going to the dance, or say anything to you about the dance before? No.
 You did not know he was going there until you saw him there? I never knew he was going until I saw him.
 What hour of the evening had you left him; did you leave him at the forge when it had closed up? Yes, I did.
 Did you leave him behind you there, or did he come with you? He went to Walsh's.
 That is Walsh's house? Yes.
 After you went to Gaffney's? Yes.
 And that is the time you parted? Yes.

EVIDENCE OF PAT COLE.

This evidence was given only against the second batch of prisoners, and it is thus reported in the *Freeman* :—

Having been sworn, Cole was examined by the MacDermott, Q.C., and in reply he said :—

I live at Kilpatrick, but have been over eleven months in jail. I was a shopkeeper, and farmed over fifty acres (Irish). I acted as a poor-law guardian (elected) for Kilpatrick Electoral Division for about eight or nine years, and was a guardian when arrested on this charge. I joined the Fenian Brotherhood in 1867, but after my marriage, about eleven years ago, I ceased to attend the meetings. I remember a Mr. Daly, of Limerick, coming to organise the movement, and more recently, Dan Curley, Michael Fagan, and Edward M'Caffrey came down from Dublin to start a new society. John Fagan, Michael's brother, told me previously that they were coming. I attended the "initiation" meeting outside Mrs. Fagan's house, on the 24th March, 1882, by the invitation of John Fagan. When I arrived John Fagan and Michael L'Estrange were there. Afterwards there attended Pat Fagan, John Boylan, James Gaffney, John M'Grath, William M'Cormick (all the prisoners in the dock), Arthur Swords (convicted), Michael Nugent, Joseph M'Grath (since deceased), William Boyhan (in America), Michael M'Grath (convicted) Wm. Mulvany, Michael Cosgrave, Bryan Fitzpatrick (also convicted), the two M'Keons, Pat Fitzsimons, Robert Elliott (convicted), Arthur Swords (convicted), and the three men from Dublin—Michael Fagan, Dan Curley, and Edward M'Caffrey. When the proceedings began Curley was spokesman. He said that "they had come down to introduce a new society, formed on the old Fenian one; that it was absurd to think that the independence of Ireland ever could be gained by going to the open field, and that it was arranged to take another plan; that one man would be worth a hundred in another way." He said "that could be done secretly, by removing tyrants and bad landlords out of the country, and that if they were removed that was all that would be required." He went on to say "that means should

be taken to effect that." M'Caffrey was the next to speak. He said it was unnecessary for him to say much after what his friend had remarked; that all he need do was to form the society, and the instruction of that was to keep secrets. This new society, he said, was to be called an Assassination Society, and the penalty would be death to anyone who divulged its secrets. Then he said, "All who wished to join should now take the book and kiss it." A circle was then formed, and the book went round. All present kissed it except Mulvany, Cosgrave, and the two M'Keons. (Same as previously stated.) After that Curley said he hoped the meeting would be a success, and he would look forward to its results.

Well, what was said then? Arthur Swords then said that there was plenty of work in the county to begin at once—that Mr. Barlow Smythe of Barbavilla, was after turning out a tenant named Riggs, and Riggs, being an old member of the Fenian Society, should not be trampled upon.

What else did he say? That he should be looked after at once and removed, but the want of firearms was very much felt. Michael Fagan said that he had brought two revolvers down for the purpose of giving them to the members, and Patrick Fitzsimons said he would get one for that part of the country. Robert Elliott remarked that he had an old wide-barrelled pistol that would do good work. Other names were mentioned—Mr. Smythe, of Glenanea, was mentioned as being a great tyrant. Mr. Weld O'Connor was said to be one of the worst agents, and Lord Longford and Mr. Keating were also named. Arthur Swords said that the society should be extended into the localities where these gentlemen lived. It was arranged to hold another meeting at the house of Bryan Fitzpatrick's father. On that occasion the prisoner William M'Cormick referred to the fact that he had been in Mullingar on that day buying in his farm—sold with others on the same estate for arrears of rent. The meeting was not held afterwards at Fitzpatrick's, but on the night before Mrs. Henry Smythe was murdered there was an assembly outside Byrne's publichouse in Collinstown. Bryan Fitzpatrick and John Fagan came out of the publichouse and said to those gathered outside that they had the subject of Mr. Smythe's removal under discussion inside, and that it was agreed that it should take place on the following day. Fitzpatrick said that William Woods agreed to it—that he was inside also.

Who told off the men to carry it out? Arthur Swords, and he told off John Fagan (the brother of Michael), William Boyhan, Michael M'Grath, Patrick Hanlon, Robert Elliott, and Bryan Fitzpatrick—with himself. He said they were to place themselves at different points of the avenue convenient to the big house, and when the carriage would be passing from church to fire into it. Joseph M'Grath was appointed to watch if anybody would be coming. The meeting broke up after these arrangements were made, about nine o'clock. Next day going to Mass with my wife I saw "a lump of fellows" at the back of Walsh's forge, and going towards Barbavilla. When driving home about one o'clock I saw Pat Hanlon convenient to my own place going down in the same direction. Later I saw William Boyhan and John Fagan, who joined Pat Hanlon at Broghan's gate, go off also towards the demesne. I went to the top of a little hill near my own place, and I saw walking the same road in front of these men Robert Elliott and Arthur Swords. After my dinner I heard four shots in quick succession from the direction of Barbavilla, and later, having gone to the door, I saw* all the men I have mentioned coming out of the demesne at different points, making for their homes. Subsequently Pat Hanlon gave me the shot pouch to keep for him, and after his arrest I destroyed it.

The MacDermott—I cannot ask you what he said when he gave you the pouch, but my learned friends may if they choose.

* This is impossible

Mr. O'Riordan, Q.C., cross-examined the witness—As a Fenian I had bound myself to assassinate no one. That was not part of the programme at all. The Assassination Society came from the Fenian Society though. I had not attended a meeting of the Fenians for about eight years, but I subscribed up to a couple of years before '82. I knew Michael Fagan from his infancy, but he did not speak to me about the Assassination Society until the 24th March, '82. He did not tell me that he and others were at that time looking out for Mr. Forster, the Chief Secretary, to murder him. When Michael's brother first told me what the new society was to be for—assassination—I said that it would be better to do no such thing. But I could not help attending the meeting, because I knew from the attitude of people before that if I would not "rejoin in" I would suffer. I knew Mr. M'Cormick well, and I am sure he said he had been in Mullingar on the 24th March buying in his farm. I know that Mr. M'Cormick's sister is married to Dr. O'Dwyer, and I remember seeing her in this courthouse after the second trial here. She came to see her brother, and my wife, who then came to visit me, introduced her to me.

Do you remember Mrs. O'Dwyer saying on that occasion, "Mr. Cole, those M'Keons are swearing fearfully false?" I have no recollection of anything of the kind.

Or anything like that now in presence of your wife? No.

And did you rejoin "They are swearing fearfully. I would swear anything myself to get out of this?" I never said such a thing. I am positive of that. I first gave information on the 4th June, to Sergeant Lynch, R.I.C. I sent for him, and afterwards the Crown Solicitor came and took my deposition.

It is needless to point to the improbabilities in the story of these witnesses; nor need I point out the inconsistencies and manifest perjuries that become plainly evident from a careful comparison of their evidence. Dr. Boyd shows off sufficiently the worth of the evidence of the M'Keons'; and its incompatibility with the evidence of Cole is very apparent. According to young M'Keon on the 17th July, the Dublin Invincibles were not present at all at the meeting. They were most conspicuous at it according to his subsequent accounts and to those of his father; and yet on the 17th July he gave the names of *all* that were present and the names he gave included none of the Dublin contingent. According to Cole not merely were Fagan, Curley, and M'Caffrey present, but before the book went round and consequently before M'Keon, jun., left, they made speeches as if reporters were present, and such as we sometimes read as being made far away from the reach and power of the English Government. Could Curley and M'Caffrey have made the speeches Cole gives them credit for consistently with the M'Keons' version of the meeting? Assuredly no. Cole says nothing about a dance, and according to him the meeting broke up about 9 o'clock. But it is needless to institute a comparison, and I am chiefly compiling. Cole has solemnly stated his chief evidence on the trials was all perjury. The Crown considered his evidence necessary for convicting the second batch of prisoners, otherwise why would they pardon him who, if guilty at all, was the most deserving of punishment

by reason of his education, position, and age. Conscience smitten and without a hope of ever getting back into the social position he lost—for how could he expect to do so—he proclaims the evidence is a tissue of perjury. He perseveres, I believe, in that statement, and suffers for it, both from the Government, which supplied him with Emergency men while he continued in his perjury, and from the people who regard him, unjustly, I think, as a greater criminal than previously. His wife solemnly declares she knew he was concocting his evidence, and helped him to do so. A person of untainted reputation is ready to swear that Cole perjured himself when he swore to his being about home at the time the shots were heard. Another person swore at an investigation in Collinstown immediately after the murder that he was with Cole a long way off at the time when the murder was being committed. He would particularise the time then if he were asked; and I can testify that this *alibi* for Cole exactly corresponds with his own statements to me, when there could possibly be no collusion between the parties. Assuredly, then, Cole can be proved a perjurer, independently of the inconsistencies in his story, and his own admissions; and the proof his evidence gave the case for the Crown falls, and should bring down the verdict along with it.

CHAPTER VIII.

NEGATIVE EVIDENCE.

I leave my readers to judge the conclusiveness of the above evidence regarding the alleged meeting. It is all, I contend emphatically, the Crown has produced against Wm. M'Cormick, John M'Grath and many others. *But it is not all it could produce in their favour.*

Early on in the case the man, Hanlon, sworn to by the M'Keons as taking the oath of assassination at the meeting at Widow Fagan's, was accepted by the Crown as a witness and examined in Mullingar. He is the man M'Keon, junior, swore Elliott said did half the work. He is the man M'Keon and Cole swore they saw joining Elliott and others, and going to Barbavilla immediately before the murder. Did the Crown itself believe them? Why then take Hanlon as a witness and not rather try to hang him? No, they couldn't have believed the evidence against Hanlon. Nor did they believe he was at the meeting at the Widow Fagan's. If they did, they would produce him and have his admissions on the point. Surely he would be willing enough to swear to it if it were true. Otherwise if he would not swear to the truth why did they pardon him? Will Earl Spencer be good enough to ask Hanlon was he at the alleged meeting?

Here is what he swore at an investigation in Mullingar when produced against the prisoners charged with attending the meeting.

Patrick Hanlon, having been sworn, deposed as follows, in reply to Mr. Julian—My name is Patrick Hanlon.

Do you remember the day of the murder of Mrs. Smythe? I do, sir. It was on a Sunday.

Do you know the month and the day of the month? I know the month; it was April; I was stopping at the Widow Reilly's in Kilpatrick.

There was a Rose Reilly examined here? Yes, sir; she was a daughter of the Widow. My business is making brooms sometimes, and labouring other times according as I get it; I gather the materials for the brooms; I had only the use of the kitchen in the Widow Reilly's; my wife cooked my food there.

Were you out in the neighbourhood on the Sunday of the murder? I was, sir.

What brought you out? To get some wood for the purpose of cooking; it was after one o'clock I went out; I was not at Mass on that day; it was after second Mass.

Where did you go? I went to the bogwood of Mr. Smythe.

And then where did you cross? I crossed Mr. Salmon's land until I went to the stream; I then turned along by the stream and entered the wood beside Heffernan's land; I entered the plantation.

When there did you hear anything peculiar? In a few minutes after I entered the plantation; I heard somebody whistle.

Did you go on then to any other place? I went to see who the person was.

Near the place did you see any persons? I saw four men; they were in the field after leaving the plantation when I saw them.

The place where you saw them, where did it lead to? It leads to Mr. Smythe's of Barbavilla.

Do you know who these men were? I do.

Who were they? Michael M'Grath, William Boyhan, Arthur Swords, and L'Estrange.

In what direction were they going? They were going in the direction of Mr. Smythe's.

Did you then hear any others whistle? I did, sir; I heard a whistle farther on.

That is nearer to Barbavilla than where the men were? Yes, sir.

Did any of these men give another whistle as if in answer to that? It was answered by one of the four men; I then went back and tied up the firewood and went to cut some briers.

Just at that time did you hear anything in particular? I heard five or six shots fired.

How long was it after you saw the four men that you heard the shots fired? About a quarter of an hour.

After you heard the shots did you see the men again? I did.

How long after? It might be about five minutes.

Were they walking or running? They were running, sir; L'Estrange and Boyhan crossed the fence and went in the direction of Boyhan's house; the others went in the Rickardstown direction.

Were they sufficiently near at the time for you to recognize them? Boyhan and L'Estrange were within 40 yards of me; M'Grath and Swords were somewhat further off; they were all running.

Did you find anything on the track where the men went? Yes, I found an old shot pouch within three yards of the fence where Boyhan and L'Estrange crossed.

Did you see any other man there? No, sir.

When you were in Heffernan's field did you see any man? I did; I saw

a man on the hill; when coming back I saw a man whom I believe to be the same on my return.

Where then did you go to? I went home with the firewood to Fagan.

To the Chairman—I saw the man in Salmon's field when I was returning; I did not return the same way as I went; when going I went through Heffernan's land; when coming back I came through Salmon's.

Mr. Nooney stated he had no question to ask the witness.

To the Chairman—I do not think any of the men saw me, as I stood in the shade of a tree.—*Westmeath Examiner* Report.

If Hanlon were a sworn conspirator, as deposed to by M'Keon, would his conduct at the time of the murder be as he describes it? The names of the men he gives as going into the wood differ from those given by M'Keon (see page 62), and he makes no mention of Elliott at all.

CHAPTER IX.

EVIDENCE AGAINST THE MEETING.

If no more were presented before any other men than the Dublin jurors who tried the case, or if the foregoing evidence were put before them in ordinary times, and in circumstances in which they would be free from bias, I challenge anyone to say there would have been a verdict of guilty. There's not a particle of evidence fixing guilt on any of the prisoners, uncontradicted by the witnesses themselves, or by one another, and it is so improbable that even witnesses of untainted character would with difficulty get credence for it.

There was, however, a defence made and evidence in abundance was available though it was not always offered for the prisoners. This evidence, I contend, should have obtained for some of the prisoners the verdict of "not guilty," not merely in the sense of *not proven*, but in the sense that their innocence was completely established.

The first evidence I give is that of the two men liberated by the Crown on account of their refusing to take the oath at the meeting.

William Mulvany, of Kilcumney, near Collinstown, examined by Mr. Carson, said he lived there in March, 1882. He knew the prisoner Fagan, was not at a meeting there at that time. He was arrested after the murder, and was kept in jail seven days, and was then discharged.

Cross-examined by Mr. O'Brien, Q.C.—Though he lived within half a mile of the Widow Fagan's place he was not near it except about eight years ago. He was never at a little music at Arthur Swords'. He heard that a concertina was played there. It might have been played by some person about the house. He knew Hanlon and Elliott. Did not know John Fagan, even by eyesight.

Michael Cosgrave, examined by Dr. Boyd, said he knew the Widow Fagan's house, but never stood in it in his life. It would not be true to say that he was at a meeting there on the 24th of March. He never refused to

take an oath at that time because the question was never put to him. He was arrested on the 11th of July, and was kept in jail some days.

On cross-examination by Mr. Molloy, witness said he did not know John Fagan, the blacksmith, nor Michael Fagan.

To a Juror—I have about six acres of land, and labour on it. I had been a coachman.

Immediately on their release these men made affidavits accusing the M'Keons of perjury.

If these witnesses are telling the truth there ought to be an end to the whole case. And surely they ought to be believed, for were M'Keons' story about them true, they might now be in affluent circumstances, without any dishonour, whereas they are creatures of laborious toil, struggling for their daily subsistence. Alas, must it be said of Irishmen in their own country, unbelieving

“Are her sons till they learn to betray.”

Other witnesses were examined at some one or other of the trials, but as their testimony concerns the story of the M'Keons it is applicable to all the trials, though counsel for the prisoners in the exercise of their judgment sometimes deemed it prudent not to produce it. I give it as fully as possible, however, as I am anxious for the whole truth to be known. Those who know anything about the want of tact of many Irish people living in the country, and the cleverness of counsel cross-examining them will understand that some seeming contradictions or unlikely statements do not prove perjury.

Mary Anne Fagan, of Kilpatrick, examined by Mr. Carson, said that there was not a meeting at her house in March, 1882. There were no musicians there. Pat and Joe and Mary and Kate and Lizzie, her children, were living with her. John used to stop there on and off. Michael was in Dublin. He went there in June in 1880.

To Mr. O'Brien, Q.C.—Mary is 26 years of age, Kate 16, Lizzie going on 11. Witness did not know of any dances about there in the year 1882. Her girls are not dancers. They did not go to a dance in 1882, nor in 1881, nor in 1883, nor in 1880.

When did they go? Not this five years.

But did they go five years before that? I could not say.

Did they? Oh, they did. I would swear they did not go to a dance for five years. Michael was in Dublin within a month of three years. He went to Dublin in 1880. He came to her house on the 27th of May, stopped there on the 28th, and went to the Mullingar races. That was in 1881. He was not there in 1882. That was the only time that Michael went down from Dublin. Mrs. Smythe was murdered on Palm Sunday. Her son John was with her that day. He was at Ballyknock House the night before. She did not know that Fitzpatrick was there. Her son John came to her that morning, and remained there preparing for Mass. He went by himself. Patrick, John, and Joe were there then. John worked in Lynch's, the blacksmith's. She could not tell what time her son John came home. He took his dinner with her at two o'clock. All her girls were at dinner with her that day. When it was coming up to seven o'clock she heard of Mrs. Smythe's murder.

Do you swear that to the jury? Yes.

Who told you of that murder? I don't know. John went to America in August, 1882. I remember hearing the clock strike two that day.

To Mr. Carson—It was not the year of the murder that Michael came down from Dublin.

Michael Cosgrave recalled, in reply to Mr. Molloy said he was living at home in his own house on the day of Mrs. Smythe's murder. He was living close on fifty years in that locality. He heard of the murder about four o'clock that day.

Joseph Fagan, examined by Dr. Boyd, said he was a son of the Widow Fagan, and that he was at home on the 24th of March, 1882. There was no dance there, nor were there musicians.

To The MacDermot—He was at a dance at Ballyknock House about November, 1882. He often heard a flute played at Kilpatrick. Never heard a flute being played for a dance. He never remembered a dance at his mother's house.

Did you ever hear of an Assassination Society? I don't know. I was at home when Mrs. Smythe was shot. My brothers Pat and John were at home. That was between one and two o'clock. I heard of it next day. I went up to L'Estrange's about two o'clock. I did not hear then that the lady was shot in the demesne. I never belonged to the Land League, I could not tell whether Pat or Michael did. Michael is of good character. I cannot tell where he is now. I heard of the murder at L'Estrange's. I heard that a lady had been shot.

You did not think that was very much matter? No.

Would it strike you if a crow were shot? No.

Would it strike you if a white crow were shot? It would.

But shooting a lady would not matter much? I don't know. I could not tell why she was shot.

Mr. Smythe was a good landlord? Yes. I never went to a dance, or to a wake, or to a marriage. (Laughter.) I live more than a mile from where the lady was shot. I was working with L'Estrange on Monday. He did not tell me who was shot. I asked no questions about it.

The MacDermot referred to the witness's original informations, in which he said he saw John on the road after Mass, and that he met people on the road who said that they heard shots in the wood. He now said that that was untrue. He admitted his signature was to it.

The foregoing is evidence from persons who should know of it if the meeting at the Widow Fagan's was held. Here is evidence from the relatives of the M'Keons that disproves from another point of view their story.

Thomas Cole (examined by Dr. Boyd, Q.C.) contradicted the statement of Patrick M'Keon, senior, that on the night of the 23rd March witness and the two M'Keons slept in one bed at old M'Keon's house at Kilpatrick. On the morning of the next day young M'Keon breakfasted with his grandfather, who is also my grandfather. He always breakfasted there on Sundays.

Cross-examined by Mr. Molloy, Q.C.—I did not harbour any good opinions of young M'Keon, and when I heard of the murder I thought of him and remembered he breakfasted with us.

Had you a suspicion that he was concerned in the murder? I could not have anything else, sir.

Why? Because he used to carry arms, sir—a revolver. It had five chambers.

Did you not hear that young M'Keon was eating his dinner with Walsh and Rynne when the shots were fired? Not when I suspected him, which was when I heard of the murder. I heard from a boy named William Fagan that a lady had been shot at Barbavilla. I did not know who it was.

Or suspect? I thought it was Lady Harriet Monck. I did not know of any other lady being there.*

Rose M'Keon, sister of Patrick M'Keon, the first of the witnesses examined on behalf of the Crown, deposed that her brother did not sleep in his father's house on the 23rd and 24th March, 1882, as he had stated.

Constable Humphrey Tilson, R.I.C., swore to the accuracy of the various statements which had been read in court. He had taken them down in each person's own words, introducing nothing.†

District-Inspector Wm. Jacques, R.I.C., corroborated the policeman's evidence.

The foregoing witnesses deny about the meeting being held at the Widow Fagan's, the matter upon which the *whole case* depends. Other witnesses proved the fact that M'Keon was blind drunk in Castlepollard when he swore he was at the meeting; that he was not in Kilpatrick at all the days he swears he was working there; and that the prisoners he swore attended that meeting were miles away at the time. But the difficulty of fixing a date so long past or their connection with the Land League, or with the prisoners, or with the locality were sufficient to enable the juries to regard all these witnesses as perjurers, to not even doubt that they were telling the truth, to believe the disreputable, perjured witnesses in preference to them, and on their improbable, contradictory and perjured statements, to send the prisoners into penal servitude. Was ever such a verdict given and upheld before?

A young man named Francis Farrell, an assistant in the establishment of Mr. Daniel Grogan, of Castlepollard, deposed that on the night of the 24th March, 1882, Patrick M'Keon was in the shop, and was under the influence of drink. Patrick Coghlan, John Mahon, and several others were there.

Patrick Coghlan was examined, and gave corroborative evidence.

Now, it is clearly seen that M'Keon, senr., swore, again and again, that he was working in Kilpatrick the day of the alleged meeting, and it was while doing so he got word to attend it. Since the trials an account book has come into my hands that proves with mathematical certainty—if it has not been made up for the occasion, which an inspection shows it cannot have been—that M'Keon, senr., was working that day for Mr. Daniel Brogan, Castlepollard. I am ready to produce the book, and willing to have it examined by competent persons; and I say unhesitatingly it will prove to any impartial mind how false that essential point in M'Keon's evidence is. This book never was produced at any of the trials, and I can explain satisfactorily why it was not. If it proves the evidence of M'Keon about the meeting to have been concoction and perjury, even now the prisoners

* He also swore Pat M'Keon, senr., did not sleep at his grandfather's the night of the 24th March, and that M'Keon, junr., was with him at home when he swore he was at the meeting.

† The meaning and value of this evidence of the police is explained at pages 72, 73, &c.

ought to get the benefit of it. I am certain if it were examined by the jury there could not have been a conviction unless no vestige of judicial decency was to be found in Green Street.

Witnesses were produced to prove an *alibi* for one of the prisoners. A notable circumstance enabled them to remember the 24th March though it was long past. No doubt all the other prisoners could prove an *alibi*, too, if the date of the meeting were not so distant when they were arrested.

Mrs. M'Cormick, mother of the prisoner William M'Cormick, repeated the evidence given on the former trial, to the effect that the prisoner went into Mullingar on the 24th March, 1882, along with Father O'Reilly to buy in his farm, and that he returned home in the evening about half-past six, and did not again leave the house that evening.

In cross-examination, she said her son, the prisoner, was treasurer of the Land League, of which Father O'Reilly was president. Her daughter was treasurer of the Ladies' Land League. Both son and daughter were anxious that she should pay the rent, but she declined because the people were being threatened.

Rev. Patrick O'Reilly deposed to M'Cormick having called on him on the morning of the 24th March, 1882, and gone with him to a sale of farms in Mullingar, and having afterwards returned with him to Collinstown about half-past five in the evening.

In cross-examination the witness stated that he himself was president, and M'Cormick was treasurer of the local branch of the Land League until the Land League was proclaimed. M'Cormick was elected a poor-law guardian while he was in prison on the present charge.

Annie M'Cormick, sister of the prisoner William M'Cormick, corroborated her mother's evidence as to the presence of her brother in the house on the night of the 24th of March, 1882.

Eliza Murtagh, servant in Mrs. M'Cormick's employment, gave similar evidence.

Patrick Jevers, servant boy in the employment of Mrs. M'Cormick, gave similar evidence. He said that the usual time for going to bed in the house was half-past ten or eleven o'clock—there was no set time for the family going to bed.

John M'Cormick deposed to having been in William M'Cormick's house and seen him there at eight o'clock at night on the 24th of March, and remained there till ten o'clock.

Edward Curran, ploughman to Mrs. M'Cormick, deposed to having seen William M'Cormick in the house up to nine o'clock on the evening of the 25th of March.

Mrs. O'Dwyer, sister to Wm. M'Cormick and wife of Dr. O'Dwyer, of Granard, deposed, that when visiting her brother in the cells after the second trial of the first batch of prisoners, she was introduced to Pat Cole (now an approver) by Mrs. Cole. Witness observed—"The M'Keons are swearing fearfully false." Cole said they were, but that he himself would swear anything to get out of that. His wife said—"Don't say that, Pat," and witness also said, "Oh, don't say that, Mr. Cole."

In cross-examination the witness said she received subscriptions for the Ladies' Land League. She had never been formally appointed treasurer. Her brother was treasurer of the Land League. She could form no opinion as to what its objects were. She received the subscriptions for the Ladies' Land League in the school-room at Collinstown. When the conversation took place with Cole to which she had deposed she did not observe a warder present.

Christopher M'Grath deposed that the prisoner M'Grath had been six or seven months in Mullingar Lunatic Asylum about 20 years ago.

This closed the evidence for the defence.

John Hoey, the warder in charge of the prisoners in the cells underneath the court-house, was examined for the prosecution, and said that at the time of the alleged conversation between Mrs. O'Dwyer and Mr. and Mrs. Cole, he was standing close by them, and that it could not have occurred without his having heard it.

In cross-examination the witness said he was not called on the first trial. He had read the evidence given on the last trial by Mrs. O'Dwyer. He did not come up to contradict it, because he was not called. He was asked yesterday by the deputy-governor to make a written statement on the subject and he had done so.

Arthur Clegg, deputy-governor of Richmond Prison, deposed that it was the duty of the warders to be present when a visit was made to a prisoner and to hear what passed.—*Freeman* Report, 5th Trial.

Regarding the contradiction given by the warder to Mrs. O'Dwyer, I think much importance ought not to be attached to it. He is an official, and the evidence merely amounts to this. He was bound to hear everything said in the cell. He didn't hear what Mrs. O'Dwyer states Cole said. Therefore Cole never said it.

Of course the warder could not say he neglected his duty. If he did—well, no matter : and who would ever expect his evidence would favour the prisoner? If it would, it would not be called for, nor given. I have been told by a person in a position to know the real explanation of this contradictory evidence without imputing perjury either to the warder or Mrs. O'Dwyer, that something like what the lady swore was said, though the exact words were not used. Moreover, when Cole made his recantation I asked him about what Mrs. O'Dwyer swore he said, and in reply he stated he couldn't remember the words that were used.

Were he then making a false statement at his own request before three priests, anxious to make a blacker scoundrel of himself to get back into favour, would he not state outright that the lady was perfectly correct?

Was then the meeting held? Scores of persons swore to things, everyone of which is inconsistent with it. They are ready to swear the same things again. Their priest encourages them to do so. Good God! is it to be supposed they would all perjure themselves. What! he would encourage them? Are they all to be disbelieved, and the wife deserters, rogues, perjurers, and drunkards to be credited instead!

There is another witness who was produced at all the trials, and who acted a shameful part, I fear with the connivance of the Crown—Rose Reilly.

What she was expected to prove against the second batch of prisoners it is hard to see. The only point I think she was produced to establish was that Michael Fagan was in the locality about the time of the meeting.

Rose Reilly was examined, and in reply to The MacDermot, Q.C., stated that Patrick Hanlon lodged with her, and that he and Arthur Swords had been together in the house. She never heard them in her presence speak one word to each other. Hanlon left her house the morning of the murder and went in the direction of the river.

The MacDermot—Was that in the direction of the wood? In the direction of the river.

Was it in the direction of the wood as well? Some points may be. Hanlon was away an hour or so, and he said he had heard shots. John Fagan went to the Fairyhouse Races. She did not see Michael Fagan before the murder. She never swore that she saw Michael Fagan before the murder.

Did you ever swear before Mr. Nagle that you saw Michael Fagan before the murder and the Fairyhouse Races? I did not. I did not know the time that the Fairyhouse Races took place.

Did you ever swear that you saw him and John Fagan before the murder and the races? I will swear no more? I am tired swearing (laughter).

Tell me, did you swear this before Mr. Nagle—"I saw Michael Fagan in the neighbourhood about the time of the murder. I saw him walking about the road with his brother John. I heard they were going to the Fairyhouse Races. I only saw him once in April last. It was on a Sunday. I think—the Sunday before the murder. It was some days before John Fagan was arrested at the Fairyhouse Races when Michael was down. Before the murder John Fagan went up to Dublin to Michael and remained a month there?" (No answer).

Mr. Justice Lawson—Did you say the Sunday before the murder? No; my lord. It is a long time, and I cannot be particular. It is so long gone by that I cannot remember.

Cross-examined by Mr. Teeling—Constable Lynch often offered me money to give evidence. He spoke to me several times.

Mr. Garrett Nagle, R.M., deposed to the taking of the depositions quoted and the accuracy of the statements therein contained as being in accordance with Rose Reilly's testimony.

Now, she contradicted and perjured herself shamefully on all the trials. She was presented to the jury, as an unwilling witness, and her first deposition, on which she was never cross-examined, and which has no coherence, was equivalently, though not judicially handed into the jury as evidence that the unfortunate man who was convicted of the Park murders was down at his mother's in or about the time of the alleged meeting. Now suppose that to be true, as it is not, yet all Rose Reilly's first deposition, obtained by the coaxing and cajolery of Sergeant Lynch would prove, is that Michael Fagan was in the neighbourhood on a Sunday, was seen in the daytime, &c., &c. The evidence of all the other witnesses is that he was down on Friday, on the night of the alleged meeting. Surely had he staid over the holiday and over the Sunday, many persons would have seen him. But his employer swore from his books in court that he was at his work in Dublin on the day of the meeting till two o'clock, and again the next morning at 6 a.m.—a very unlikely thing if he was down in Kilpatrick during the night and again the next day. The police themselves would have known of his presence—but it is trifling with the case to have his presence

ntroduced at all. Were not he and his reputed companions afterwards proved to be at that time making repeated attacks on the life of Mr. Forster and other important men in Dublin? Were not the police watching everyone, particularly these? Who saw them leaving Broadstone, arriving at Athboy, Killucan, or Mullingar? Who drove them over ten miles to Kilpatrick? Who took them back? It seems ridiculous to have further to entertain the question.

No one in the locality knew anything about that now celebrated meeting, which really is described as being of considerable dimensions, and such a meeting could not be held without everyone knowing it. The M'Keons swear there was a dance going on inside. Surely there must have been females at that dance. Let the Crown name one of them. I have searched diligently and I can't find an individual who knew aught of it. Could not the musicians, with all the arts the Crown recently has of making informers be induced to say something about it if there was a dance? I have accidentally met a person alluded to by M'Keon as one of them. He answers me he knew naught of that dance; was never at such a thing there in his life. I have gone to the house where it is stated to have been held. It has been enlarged somewhat since the 24th March, 1882. Mr. T. D. Sullivan at one time, persons skilled in measurements at another time, accompanied me, and will it be believed, the place is and was utterly incapable of allowing even two persons to dance an Irish jig. Will Earl Spencer send down an engineer to supply him with the dimensions?

The elder M'Keon swore he was at his father's the night before, the day of, and the night of the meeting. Every one of his own friends, those in the house where he lived, swear positively to the contrary, but of course they are all regarded as perjurers, they would be afraid, forsooth, to tell the truth.* All the Fagans swear there never was such a meeting or dance; but being related to the unfortunate man that was hanged not one of them can be even reasonably suspected of telling the truth. A number of persons swear positively that M'Keon the elder was blind drunk in Castlepollard, miles away, the whole time he swears he was attending the meeting; but how can they, no matter how they satisfy themselves about it, remember that particular night? They swear they can, and they give reasons why; but of course they are regarded as perjurers too. A number of other persons, who in their own county would be regarded as incapable of swearing falsely, swear an *alibi* for one person sworn to be there; but they are interested persons, and of course a Dublin jury regards them as perjuring themselves too. The jurors got it into their heads—

* The younger M'Keon swore he had not seen his father till he met him unexpectedly at the meeting, though the elder swore he slept with him the night before the meeting and was working where the young fellow lived for the day and a-half previous. See page 35.

thanks to Crown counsel and the bench—that all the people here are capable of any wickedness, because of the crime of a very few, and the existence of a land league, and the fact that no one gave evidence about the murder, when no one probably had true evidence to give. Therefore they force themselves to believe the miscreants M'Keon, and the pretended informer Cole, in as much of their perjuries as will send eleven men to penal servitude for the best years of their lives!

CHAPTER X.

HOW THE CONVICTIONS WERE OBTAINED.

SUCH is the direct evidence, as before the Court, against all the Barbavilla prisoners. I deny that the finding of the whiskey bottle and the portions of firearms, even if it corroborate the story of young M'Keon against one of the prisoners, corroborates in any point his evidence against the rest of them. But even if these were points of corroboration, their worth will be shown when treating of them in the second portion of the case. Suffice it here to state the finding of the weapons was the work of Sergeant Lynch, and that young M'Keon swore he never heard about the whiskey bottle being found, though he can read, and lived in the locality when the report of the finding of the bottle appeared in all the newspapers, and was sworn to at the coroner's inquest!

Now, the improbabilities, contradictions, and manifest perjuries in the evidence of the chief witnesses against the prisoners are so palpable that they need not be further indicated. The mystery is how could a judge and jury regard a single fact proved that would justify a verdict of conviction. This is the way was done.

The M'Keons were unworthy of credence—and gave contradictory evidence—but was not the substance of their evidence true? Could they agree about the meeting at all, or could they give any particulars about it, if there had not been a meeting, and if they had no opportunities of telling one another what to swear about one? Certainly they could not. No matter how many contradictions or inconsistencies were in their story, being apart, as was sworn, before and while they were in the hands of the police and during all the investigations and trials, young M'Keon and his father could not agree even upon the substance of it unless such a meeting was held. One might concoct the story. The other might be capable of doing so too. But, how could both concoct the same story substantially and involve in it all the prisoners? They had no opportunities of doing so, at all events until they had told it in evidence. There were no interviews. The police too well guarded them, &c. Thus concoct-

tion was an impossibility, and hence the substance of their story about the conspiracy meeting was true, the jury thought, and there was a sufficient *modicum* of truth in their evidence to warrant a conviction.

In proof that the jury were led to believe in the impossibility of concoction, I refer to the evidence of the M'Keons given in presence of the police and court at the several trials.

What the elder swore at one of the investigations is already given at page 21, and the following portion of his evidence is from the *Freeman* report of the fifth trial.

Cross-examined by Mr. O'Riordan—In November, 1881, Michael Fagan mentioned the Assassination Society to me, and I was quite willing to go in for it. I first got into the hands of the police in relation to this matter in June, 1883.

Did you go to the police, or did the police go to you? We met.

By arrangement? No; by accident. I met Head-constable Lynch. Nothing was said about a reward. I saw my son to-day. He has been brought up by the police from Clonmel, where the regiment is in which he had enlisted. He was never present when I was examined. *The police would not let us mix or speak to one another. We are not living together now.**

Thus, at all the trials—even the very last—the jury were led to believe there was no concoction nor any opportunity of concocting, at all events till the evidence as to the meeting was first given by the two M'Keons. In fact, when the elder M'Keon was asked had he interviews with his son, Mr. Justice Lawson made the remark that to insinuate that such a thing was possible, was to insinuate that the very sources of justice in this country were polluted—and the suggestion was scouted as an impossibility.

Now, what is the fact that I am prepared to prove to the satisfaction of any impartial man in the kingdom? It is that the M'Keons perjured themselves when they swore before the jury they had no interviews or opportunities of concoction. The fact is they were allowed so to perjure themselves by those who worked up the case for the Crown, who heard the perjury, and who knew it to be perjury, and whose connivance convinced the jury that in that essential particular, at all events, the M'Keons were telling the truth. The fact is, the very sources of justice were polluted in this case, and that too by the police who got rewarded for their conduct in it. The fact is the M'Keons had interviews—they had them with the connivance and the co-operation of the police—and they had at least one interview when they were put together by Sergeant Lynch that one might get the other to swear about the meeting at the Widow Fagan's!

I crave the closest attention to this particular point of the case, for it shows the value to be attached to the evidence of the sergeant in other portions of it, and it is the point on which the trials revolve. To show its importance I must more fully explain.

See Crown report, first trial, for young McKeon's swearing to the same effect; or note, p. 56.

The first depositions as to the alleged meeting were made on the 5th and 20th June, 1883, by Pat M'Keon, sen. I have given his character at page 16, and it is well known Sergeant Lynch was fond of his company previous to the arrest of the prisoners. Now, it is a remarkable fact that Patrick M'Keon, junior, had made his first deposition the 17th May previous. In it he said nothing about the conspiracy or the meeting. Surely he could not have forgotten a matter of such importance had he known it. It was the very thing, and the only thing, with which the prisoners against whom he swore, were charged. On the 27th June he made his second deposition, and now he can not be said to have forgotten it, for he swears, very abruptly, "I was at the house of the Widow Fagan the Friday week before the murder."* He then says no more about it, and—*mirabile dictu*—he was asked nothing as to why he was there or what occurred. There can be no fair reason for not asking him on these points, as all the persons he could implicate were already publicly sworn against by his father; and all of them who were in the country were in reach, if not in the hands of the police. Why, then, did he not swear about the meeting on the 27th June? Why was he not asked? Sub-Inspector Jacques, who gained handsomely by the trials, at the first trial was put up to swear he had told him the particulars about the meeting previously (*vide* Crown Reports, p. 51.) Why was not young M'Keon asked about them then? The magistrate knew what the elder M'Keon had sworn about the meeting a day or two before, and Jacques was his assistant and guide at the investigation. It cannot be that young M'Keon was an unwilling witness. Such a thing is contrary to his whole character in the case, and if he were an unwilling witness why would he allude at all to being at the house of the Widow Fagan the day of the alleged meeting? Why would he have told Jacques all about it? Why then did he not swear to the details of the meeting on the 27th June?

Because he was not then sufficiently instructed in that portion of his perjured story. He was taught it, however, before the 17th July. He learned his lesson badly, to be sure; but all the same he was got to swear to it when it was thought he was fit to be examined upon it.

This is sweeping language, but not merely is it justifiable—it is necessary in this horrible case.

I know, and can prove, that after young M'Keon made his first deposition, and had become a Crown witness, and deposed unscrupulously to many falsehoods, that he told the police who had charge of the case, and who got highly rewarded for working it up, that he knew nothing about the meeting at Widow Fagan's. Sergeant Lynch had been trying to get him to swear to it. I know nothing about it, said he.

* See page 61

Your father has sworn to it, and that you were at it, said the sergeant, or words to that effect.

Even if he has done so, replied he, it is not true. As far as I know no such meeting ever took place.

When this was told his father, the latter said, let me have a chat with him, and it will be all right.

Thereupon, to my certain knowledge, the son was handed over to the father, and can it be doubted—to be taught by him what to swear about the meeting! *

What renders these atrocious proceedings more horrible still is that the M'Keons were allowed to have interviews repeatedly during the time of the trials; yet they were listened to, swearing they had no such interviews, by the police who were in charge of the case, and who were very eager to contradict by reference to note books and otherwise, every important point sworn to by the witnesses for the prisoners.

Now, had the juries known that the M'Keons perjured themselves when they denied having interviews would they believe a syllable from their lying lips? Had they known that not merely had they interviews but that they were put together by Sergeant Lynch that one might teach the other what to swear, what would have been the issue of the trials? Had these facts been known, could twelve men be got, even on a panel selected under the Crimes Act, to hesitate about a verdict of acquittal? Would not even Judge Lawson pronounce the very sources of justice polluted, order the perjurers into the dock, and place under immediate arrest Sergeant Lynch as the abettor of the perjury, and probably the chief concoctor of the entire case? I ask the jurymen who convicted in the cases to tell the public what would have been their verdict in these circumstances. I ask the lawyers who conducted the case for the Crown, and who were instrumental in effecting, conscientiously though it be, a triumph for perjury and concoction over innocence and truth, will they sleep with an easy conscience till the wrong is rectified. I ask the judges who tried the cases, particularly those who sentenced the prisoners and who

* Were you told what your father had sworn? No; I did not know what he said at all.

The Lord Chief Justice—Had you read your father's deposition before your oath? No, sir.

Did you hear it read? No, sir; I did not.

Dr. Boyd, Q.C.—Nor weren't told what he had sworn—for he was examined on the 5th June—or what evidence he was giving? No, sir; there was no one to tell me.

You were not told? No.

You swear that Lynch did not tell you? Lynch did not tell me.

Did your father tell you? No.

Nor nobody? No one at all.—From cross-examination of McKeon, junr. 1st trial, Crown reports, page 25.

endorsed the verdicts, will they rest contented till this whole business is thoroughly investigated, the injured and innocent set free, and the real culprits punished for their evil doings.

CHAPTER XI.

SUMMARY.

CONVINCED, therefore, as I am, that the foregoing proves to the satisfaction of every impartial mind that the alleged meeting at the Widow Fagan's is a pure fiction, I contend that the verdict of conviction against the prisoners is a gross miscarriage of justice. The concluding words of Judge Lawson to the jury more than bear me out in this :

"In conclusion, he asked them if they believed that the meeting of the 24th March was held as deposed to, and that the prisoners were present, they should do their duty without hesitation. If they believed it was not held, or if they had a reasonable doubt on their minds, they should acquit the prisoners."—*Freeman* report, June 22nd, 1884.

Now, the only evidence that the meeting was held is that of the M'Keons and Cole. The character and performances of the two former are already given, and the latter presented himself to the jury as a perjurer and murderous conspirator. A pretended informer, he was taken out of the dock to save himself and to corroborate "independent" witnesses. Stricken with qualms of conscience and defying the punishment of the Government which immediately in a telling way by the withdrawal of Emergency men, came down upon him, and heedless of penal consequences, almost as soon as he got out of the clutches of the "workers up" of the case, of his own accord he declares his evidence about the meeting was all concoction and perjury. His wife, too, smitten with remorse and seeking peace of mind, spontaneously declares she knew he concocted his evidence and helped him to do so. Other witnesses have since been found who can prove his perjury. His evidence and that of the M'Keons, intrinsically at variance as they are, are the only proofs given to the jury for the meeting. Was ever so weak a case presented in a court of law? And could a stronger case against the meeting be presented? The evidence against it is simply overwhelming.

1 No dance or meeting such as described could possibly be held in the place sworn to. It is not the size of a first-class railway compartment, and how could all the men described as being at the dance there be even contained much less be dancing in it?

2. Numbers of people swore, and are ready to swear, that old M'Keon, who first swore to the meeting and that he was at it, was blind drunk five miles away at the time.
3. The account book of his employer will show that he was working five miles away the day he swore he was working beside the place of meeting when he got word to attend it.
4. All the people in the house swear there never was such a dance or meeting there, and no one in the whole locality knows anything about it.
5. A half a score of reliable witnesses—some of them highly respectable people—swore, and are ready to swear, that some of those sworn to be at it were elsewhere, four miles away the whole time it was supposed to be held.
6. Two persons not incriminated, though they were sworn to as being at it, swore positively at the first opportunity when they got free from custody, that they never heard of such a meeting.
7. Two others who, it was sworn, were at it, and who were accepted by the Crown as witnesses in the case (Hanlon and Rynne) knew nothing about it. They would be produced at the trials to swear to it if they did, and when sworn at investigations they said nothing about it.
8. The musicians sworn to have been performing at it deny it *toto coelo*.
9. One of the witnesses taken out of the dock because deemed necessary to prove the case for the Crown, and promised pardon if he would "tell all about the meeting at the Widow Fagan's," says he never heard of such a thing till about being arrested for being at it, and only swore to it to save himself.
10. The Priest in charge of the district, backed up by the two Members of Parliament for the County, undertakes to prove that the other witnesses for it taught one another what to swear about it.

Was it right to refuse an investigation into the verdicts in these circumstances? Will any reasonable man believe the meeting was ever held in the face of such overwhelming evidence, on the inconsistent and perjured statements of two lying ruffians? Is it possible that all other witnesses—thanks to the vituperation of the MacDermott and Sergeant O'Brien, and the "hounding down" by the police—are to be regarded as perjurers? Can it be supposed that no one else in a whole locality is capable of telling the truth? Is there not even a "reasonable doubt" about the M'Keons' monstrous fiction? Will anyone but an abettor of injustice and tyranny defend Earl Spencer if he persist in refusing an investigation into the case? It may be said he has been ignorant of the details and facts of the case—that he has been

guided by his advisers, who would lose honour, reward, prestige, promotion, &c., if what they have been rewarded for is proved to be iniquity—but affected ignorance in a case like this is no excuse. It is equivalent to culpable injustice.

CHAPTER XII.

THE CORROBORATIVE EVIDENCE.

I THINK I might rest my case for the prisoners on what I have shown in the last two chapters. In them is shown that there was no sufficient proof for the alleged conspiracy meeting, for attending which alone the prisoners were arraigned and convicted. Not merely is it shown that there is no reliable proof of the meeting, but abundance of convincing proof has been adduced that it was not at all held.

However, corroborative evidence was given to the jury. One portion of it was sworn to by a witness, above suspicion in court, Sergeant Lynch; and it was calculated to bring conviction to the minds of the jury that at least Robert Elliott was beyond all doubt the actual murderer. Therefore, why not convict him at least of conspiracy? And how convict him without convicting all the others against whom the same evidence as to the conspiracy was adduced?

Such, I fear, was the fallacious reasoning that weighed with a too credulous jury in the cases.

Now, Robert Elliott is not a Catholic—he is the only non-Catholic amongst the prisoners—yet I, a priest, hesitate not to declare he is as innocent of the crime for which he is convicted as is Judge Pallas who sentenced him to ten years, and declared him deserving of execution.

The special evidence against *him* is the only corroborative evidence in the case. This Chief Justice Morris declared in his charge on the second trial; and that special evidence is what the Chief Baron alluded to as constituting the second class of evidence. It consists, said the learned judge, of “the evidence of independent witnesses of facts which were alleged to corroborate the truth of the witnesses who deposed as a matter of fact to the formation of the conspiracy.”

From this it would seem that this corroborative evidence was hardly intended to corroborate the swearing of the M'Keons in any specific point fixing guilt upon all the prisoners though it was used against all of them. It was intended rather to stamp the rest of their evidence with the mark of truth. The argument from it would seem to be like this:—M'Keon swears Elliott told him he left a bottle at the place of the murder . . . that he saw him hiding the remnants of a gun, &c. . . . The bottle was found there, the remnants of a gun were likewise found in the

place indicated. Therefore M'Keon was telling the truth about them, &c.

This undoubtedly is, if true, corroboration against Elliott, but it is not against Wm. M'Cormick and the others. Nor does it show that if M'Keon was telling the truth about Elliott he was proved to be doing so against the other prisoners. It is needless to point out how illogical such an argument would be, and how useless to brand with the stamp of truth the uncorroborated points of the evidence of such a character as young M'Keon.

I contend, therefore, that the corroborative evidence should have no weight whatever, at all events against the second batch of prisoners, who were never suspected of having any part in the actual murder, and against whom it was merely sworn that they attended the alleged conspiracy meeting ten days before. I believe it used to be a judicial requirement in corroborative evidence that it should corroborate in some point fixing guilt upon the prisoners against whom it is used. Now, even if what M'Keon swore about Elliott's telling him he left a whiskey bottle where the murder was committed and where one had been found, were true, that did not corroborate any of his evidence about the meeting on the 24th March, nor would it prove his veracity in what he swore against Wm. M'Cormick, John M'Grath, and several others. Nor, if what Sergeant Lynch swore about finding the remnants of a gun and what M'Keon swore about Elliott's hiding it were true, would that corroborate young M'Keon in any point fixing guilt upon anyone but Robt. Elliott. There might have been, notwithstanding, no conspiracy meeting whatever at the Widow Fagan's, and all the second batch of prisoners might be, as I believe they are, perfectly innocent. I leave this technical point however to the lawyers; and whether the evidence be corroborative or not, I have no hesitation in saying it is utterly and entirely false. It bears intrinsic evidence of its falsity. It is told by young M'Keon and the police, the chief of whom is Sergeant Lynch, whose foul action in this whole case has been alluded to already, and it is contradicted by a number of witnesses who, there is no sufficient reason to suppose, were perjuring themselves in the case.

What is the corroborative evidence in the case?

It consists solely in the evidence about the whiskey bottle and the remnants of the gun, and its worth will be fully seen from the account given of the movements of the prisoner Robert Elliott, the day of the murder. The only person who swore to this account is young M'Keon. His father's evidence had reference only to the conspiracy meeting. I give the evidence of the former on this point, as sworn by him on different occasions.

FIRST DEPOSITION OF P. M'KEON, JUN., 17TH MAY, 1883.

I am stationed at present in Clonmel. I am about four months in the army. I recollect the month of April, 1882; I was then living with a black-

smith named John Walsh at Ballynock. I remember the Saturday evening before Mrs. Smythe was shot, I was in this town* that night. Bryan Rynne and his son Pat were with me, and John Fagan and John Boyhan and Thomas M'Enroe, no one else. I was in Daly's public house, none of them were there with me. I was home to Ballynock with them. When we came to Ballynock House, John Fagan tripped up Pat Rynne and they quarrelled; they did not fight. Robert Elliott was not with us that night, but I saw him in Collinstown that night in Daly's public house. I saw him next morning at Walsh's house; he left about eight o'clock. He was a journeyman blacksmith working with Walsh. I saw a revolver with him that morning; he had it in his pocket. I did not see him afterwards that day until about three o'clock. Before I saw Elliott at three o'clock I had my dinner at Walsh's. Bryan Rynne and myself and John heard shots fired towards Barbavilla. About half-an-hour after we heard the shots I saw Elliott coming from the river bank from the direction of the Black Wood. In about ten minutes afterwards Elliott came into Walsh's house; Bernard Rynne had gone away at that time. Elliott said to me when he came into the house that he was thirsty, as he had been lying in the wood; that he left a bottle there. He said also that he was firing at a black crow, but that the right crow was down now, and that he thought it was the master. He also said that the innocent would suffer for the guilty. I saw Elliott change the revolver from one pocket to another. I then came away. The next morning, on Monday, I saw Elliott break the revolver in the forge; he melted some of it in the fire and hid away more of it in the wall. I came on him unawares while he was doing this, and he said to me not to say anything about what he hid away some of the pieces in the wall behind the forge in the small planting. On the Sunday evening before, when walking with Elliott after he came in from the direction of the wood, he said that he thought he took down the master. I told him that it was one of the ladies that was shot at Barbavilla; he said, "I thought it was the master I had." I heard that Bryan Rynne and John Fagan were with Elliott the Saturday night before. Elliott told me that they were home with him that evening. Bryan Rynne and John Fagan were home part of the way with me that Saturday evening; they came half way and they stopped there. On that Sunday before Elliott came in, as I have stated, a little after three o'clock, the police went round, and I heard that one of the ladies had been murdered. I was in a little room in Walsh's house when Elliott came in, and after he spoke about the firing I told him that it was one of the ladies was shot. He then said, "I thought it was the master I had." I took the weapon I saw with Elliott to be a revolver. I know it was some sort of firearms; the day I saw Elliott hiding away parts of the weapon, I went to the wall to look at them; I saw pieces of the weapon there; I never saw a revolver before; it might have been a pistol that Elliott had; I know it was a firearm of some sort.

SECOND DEPOSITION OF P. M'KEON, JUN., 27TH JUNE, 1883.

I remember the time of the murder of Mrs. Smythe at Barbavilla. I was at the house of Widow Fagan on Friday week before the murder; I was then staying with John Walsh; I was an apprentice with him and slept at my grandfather's. His name was Pat M'Keon. On the night preceding the murder I slept at my grandfather's, and I breakfasted in the morning of it at John Walsh's. A man named Elliott was working with me as journeyman at Walsh's. He was in the habit of taking his meals at Walsh's. I saw him about eight o'clock; he was inside in the room; he had a firearm with him. It appeared to be either a cut down gun or a long pistol; it was partly hid under his coat; the muzzle projected from under it. After breakfast time he left the house, about eight o'clock, and he took the weapon

with him. I saw him again on that day at half-past twelve o'clock, or coming up to one o'clock; he was then coming down the Widow Broughan's gate by Talbot's ditch. I also saw another man; I did not know his Christian name, going through Kit L'Estrange's field; his name is Hanlon;* he is now present. I also saw Arthur Swords, William Boyhan, and John Fagan at Widow Broughan's gate. I was standing at the hill over Pat Cole's house at the time I saw these men. The three persons I have last named were joined by Hanlon and Elliott at Widow Broughan's gate. They all five went together across the hill; they went in the direction of the Black Bog, that was in the direction of Barbavilla. When they went into the hollow I lost sight of them; I was standing at Cole's house, then; it might have been about a quarter to one o'clock at the time; I think it was about that time. After that I went into Cole's for tobacco, and I then went on towards a neighbouring house, Gaffney's, and I went in there. I afterwards went to John Walsh's and got my dinner there. B. Rynne, myself, and John Walsh were at dinner; Elliott was not there. I went out of Walsh's after dinner. Before I went out of the house I heard six shots; I went out to the back of Walsh's house; I was doing, and stayed there for a while. While there I saw a man coming out of the corner of a place called the White Field. I saw him coming along the stream. I could not see at the time if he had anything with him. He stayed for some time in a track of furze. He came on to Walsh's house. That man was R. Elliott. I went into Walsh's house after I saw him. He came in while I was there. I had a conversation with him. He had a fire-arm with him. He remarked that he was dry. He reached for a bottle he had in his pocket, but did not find it. He said he got the bottle from Collinstown from Biddy Daly. He said he left it after him at Barbavilla Wood where he had been lying at the foot of a tree for some time. He said he was firing at a black crow, but the right crow was down. I told him I heard a lady was shot in Barbavilla. He said he thought it was the master he had; he also said that Hanlon did half the work. The morning after, I saw Elliott in Walsh's forge about eight o'clock. He was smashing up the firearm he had the day before. He was smashing it with a hammer in pieces, and burned some of it in a fire. He hid a portion of it out in the wall at the back of the forge.

Cross-examined—I dined that Sunday about two o'clock. I went outside the house immediately after dinner. It was then I saw Elliott after I had been outside the house a short time. When he came home to Walsh's house he used the expression about the crow. I then said a lady had been shot at Barbavilla. It was in Walsh's house after dinner I heard the shots when I was inside the house. I heard that the lady was shot from Mrs. Walsh. They were all talking of it in the house. Barbavilla Wood is nearly a mile from Walsh's house. Nobody came to the house during or after dinner but Elliott. The police came shortly before Elliott came. I did not look at the weapon when Elliott came; I only saw part of the barrel sticking out of his coat. I think it was about three o'clock when Elliott came to the house. I knew the police came because Mrs. Walsh was talking of them; I did not see them myself. I attached no meaning to what Elliott said about the crow until he told me afterwards about the master.

THIRD DEPOSITION OF P. M'KEON, JUN., 17TH JULY, 1883.

I remember the day of the murder of Mrs. Smythe. I was staying at that time at my grandfather's (Pat M'Keon), and I took my meals at John Walsh's; I was apprenticed to him as a blacksmith. On the Sunday morning of the murder I breakfasted at Walsh's. There was a young man who lived there, Robert Elliott; I saw him that morning; he had either a

* A Crown witness Rose Reilly, swore Sergeant Lynch offered her plenty of money if she would swear she saw Hanlon going in the same direction

cut down gun or a long pistol with him; he carried it under his coat; the muzzle was projecting from it. I saw him again near one o'clock in the day. I saw him cross the fields in the direction of Broughan's gate. I saw Hanlon about the same time cross the ditch into L'Estrange's field. I saw other persons, namely, Arthur Swords, William Boyhan and John Fagan at Broughan's gate. Elliott and Hanlon joined them. I was near Pat Cole's at the time. They all went across the hill in the direction of Barbavilla. I lost sight of them when they went down into the hollow. I think it was one o'clock, or near it. I don't know exactly. After that I went into Pat Cole's for tobacco, and I also went to the house of a man named Gaffney. I went home to Walsh's and had my dinner. John Walsh and Bryan Rynne were at dinner. Elliott was not at dinner that day. After dinner I went out to the back of Walsh's house. While I was within the house I heard shots fired. While outside the house, after I was some time there, I saw a man *coming out of Barbavilla Wood* into the White Field. He was coming pretty quick. I could not see anything with him at that time. He afterwards came within my view. When first I saw him he was not near enough for me to know him. I afterwards did know him to be Robert Elliott. After that I went into Walsh's. Robert Elliott came in. I had a conversation with him at that time. He had a firearm with him the same as he had in the morning. He remarked he was getting dry. He searched his pockets to see if he could find a bottle. He had not the bottle. He said he must have left it in the wood after him, where he was lying at the foot of a tree for some time. He said he was firing at a black crow, but the right crow was now down. I said I heard a lady was shot in Barbavilla. He replied, "I thought it was the master I had." He said that Hanlon did half the work. I saw Robert Elliott the next morning in the forge. It was about 8 o'clock. He was breaking up the firearm he had the day before. He was smashing it with the hammer, and he burnt some of it in the fire. I saw him hide some of it in the wall at the reere of the forge.

EVIDENCE OF P. M'KEON, JUN., AT THE FIRST TRIAL.

About the close of dinner—dinner was about two o'clock—I heard shots in the direction of Barbavilla. I went out about *half-an-hour after dinner* to the back of Walsh's house. After I had been there awhile I saw a man *coming out of the corner of the White Field*, the corner that was nearest to me. He proceeded in the direction of Walsh's house. I did not then know him. . . . When he was near Walsh's house I knew him to be Robert Elliott. I went into Walsh's house before him. He came into a small sleeping room. He sat down. . . . He had the cut-down gun under his coat, the same as in the morning. He remarked that he was dry, &c. He said he was firing at a black crow.

What else? He searched his pockets for a bottle—

Go on now; tell what took place? He said he got a bottle from Biddy Daly, of Collinstown —

Yes; what else did he say? He could not find it in his pocket that time.

Did he look for the bottle? Yes, and could not find it.

Very well; what took place then? He said he must have left it in the wood.

Did he say anything else? He said he was lying there for some time.

Yes; what else? He said he was lying there, at the foot of a tree, sir.

Now did he say anything else, or was there any further conversation?

He said he was firing at a black crow.

Well, what else? He said the right crow was now down.

Anything further? I said I heard a lady was shot at Barbavilla.

Now, do you know whether, whilst you were out, the police had been at Walsh's? Whilst I was inside.

Whilst you were inside? Yes.

Well, what occurred? I did not see them at all. *I was lying on the bed asleep at the time.*

Did you hear voices? No, sir.

But were you speaking to Mrs. Walsh about—

Dr. Boyd, Q.C.—I object to this—

Mr. O'Brien, Q.C.—I am not asking what was said, and I am perfectly entitled to get out the fact that she spoke to him. (To witness)—Were you lying on the bed? Yes.

And when you came out did you speak to Mrs. Walsh—don't say what was said—*or* did you hear her speak? I heard her speak.

Did you hear the voices of any people speaking to Mrs. Walsh whilst you were inside on the bed, before you came out? No, sir, I did not.

Very well; but you say you heard her speak? Yes.

Now go back to your conversation with Elliott. You stated to him that you heard that a lady was shot at Barbavilla? Yes, sir.

Did you tell Elliott who brought that news—who stated it? No, sir.

Very well; what did he say to that? He said, "I thought it was the master I had."

The Foreman—"I thought it was the master I shot," did he say?

Mr. O'Brien, Q.C.—I thought it was the master I had,"—(To witness)—Now had you any further conversation then, do you recollect? Yes; he said that a man named Hanlon did half the work.

Had you any further conversation, or do you recollect whether you had or not? Not that evening.

Not that evening. Now, on the next morning—Monday morning—do you remember being in the forge? Yes, sir.

About what hour in the morning were you in the forge? About eight o'clock, sir.

When you went into the forge, was there anyone there before you? Elliott was there.

What was Elliott doing in the forge when you went in? He was smashing up the firearm.

Was that the firearm you saw with him the day before? Yes.

How was he smashing it—what was he doing exactly—how much of it was destroyed, do you recollect? He destroyed the whole of it.

Did he take it all to pieces? Yes; he broke it up in pieces.

A Juror—Was it a revolver or a gun? Oh, it was no revolver, nor it was not a gun either; it was something like a pistol. I said already it was either a cut-down gun or a long pistol. I could not tell which.

Mr. O'Brien, Q.C.—Now, what became of the pieces of this firearm? He burned some of them in the fire, and hid more of it in an old wall at the rere of the forge.

Can you say what bits he hid? I could not exactly say; I don't know the name of it.

A Juror—Was it some of the iron part? Yes, sir; it appeared to be like the lock.

Mr. O'Brien, Q.C.—You say he hid that in the wood? No, sir; in the wall at the rere of the forge.

Now, do you know Lynch, the Head Constable? Yes, sir.

Do you remember seeing him in Clonmel? Yes.

What time did you see Lynch in Clonmel; what month was it, can you recollect? It was in the month of May, sir.

Was it May of this year, can you recollect? Yes, sir.

Don't say what you said now, but did you make a communication to Lynch; when he spoke to you, did you speak to him? Yes, sir.

Very well. I cannot ask what you said to him. Were you in the army in Clonmel? Yes, sir.

Cross-examined by Dr. Boyd— Who came back from mass along with you? Brian Fitzpatrick, MacIlroe, and Pete Collins . . .

Did Elliott know you had not taken the assassination oath? I don't know.

You left the meeting before Elliott left? Yes.

When Elliott came in, did he not try to conceal himself from you—coming in, you say, returning from the murder—did he? I don't know what you said, sir.

Did he try to conceal himself from you coming into the house? No.

He did not? No.

Did he try to conceal himself from you going out of the house in the morning? No.

He went out openly before you, with the muzzle of this cut-down gun or pistol sticking out of his coat? He did not go outside the door with it sticking outside his coat; he put it in before he went out.

Had you any talk with him before he went out? No.

You did not say anything to him? No.

Did he pass through the side room going out? He had to pass through the kitchen.

That is where you take your meals, isn't it? No.

Have you another room to take your meals in? Yes.

Where is it situated? It is down off the kitchen.

Is that the other side of the bedroom? Yes; the other side of the kitchen.

He should pass out through the kitchen, at all events, to go out with his weapon? He had to turn out of that room and out of the kitchen.

Was Mrs. Walsh there? I don't know whether she was or not.

But, at all events, you said nothing to him, although you saw him in the inner room, and he went out openly before you? Not a word.

And now you say you fell asleep on the bed after dinner? Yes.

And you stayed there for half-an-hour after dinner? I could not tell how long it was.

How long was it after you heard the shots before you went out? After dinner being over I heard shots, and then I went into the room.

And then you went into the room to lie down? Yes.

And you lay down then? Yes.

And went asleep? Yes.

And you don't know how long you were asleep? No.

And it was after that you went outside? Yes.

And stood at the end of the house? Yes.

And then you saw him down at the break of the furze? No; I saw him at the corner of the White Field.

Could you see much of the White Field from Walsh's? Yes, you could see nearly the whole of it.*

And you waited at the end of the house until he came up? Until he came up to me enough to know who it was.

He came in in a few minutes afterwards? Yes.

And then you had the talk with him that you mentioned; that is the way that it occurred? Yes.

And you can't tell how long it was between the time you heard the shots and the time Elliott came in? (No answer.)

Isn't that it? I think it was about three o'clock he came in. . . .

Can you read and write? Yes, I can.

Did you ever read in the newspaper an account of what was found in Barbavilla? No.

Was it ever read to you? No.

* This is utterly untrue. Only the top of a hill in that field can be seen from Walsh's.

Do you mean to say that, a murder having occurred in your locality, you had not the curiosity to read the account of it in the papers? I never read anything about it.

You never heard of it either? I might hear people talk of it; that is all.

Did you hear about the bottle that was found in the wood? No.

You did not hear about the bottle—you only heard people talking about it; perhaps you did not hear that anyone was murdered at all? I was well aware there was.

CHAPTER XIII.

REMARKS ON THE FOREGOING EVIDENCE.

An attentive reading and comparison of the foregoing several statements, sworn to by young M'Keon, will show the glaring improbabilities and manifest perjuries in this portion of his evidence, as well as in that already reviewed. To describe Curley and Co. forming an assassination society in the slipshod manner deposed to, is absurd enough, but to describe Elliott coming red hot from the murder, and in a quiet, easy-going way, telling of his crime to one who did not join the conspiracy, and destroying and hiding the weapon as stated, and, though caught in the act of secretion, leaving it there without further concern, baffles the credulity of an ordinary man even in a most trustworthy witness. To believe that Elliott, who was described as rambling through the country in dread of his life, would act as described before his enemy, M'Keon, who was well known to be the most disreputable character in the locality, is more than human credulity can believe. That a Dublin jury should be asked to do so, on the word of an avowed rogue and perjurer, shows to what an extent the Crown went for a conviction.

An attentive comparison will show the contradictions in the story, but it may be asked why did M'Keon vary in telling it. The manifest reasons will appear from a slight comparison and reflection:—

1. When first sworn he saw Elliott leave the house at eight o'clock in the morning, and did not afterwards see him till three o'clock. Before he was sworn again, Hanlon had sworn he saw a lot of the prisoners going into the wood previous to the murder. Hanlon never mentioned Elliott's name. M'Keon had a hatred against Elliott, as I can prove, and was known to threaten his life. He was bent on his destruction when the murder case turned up, and it would not do that the persons sworn against by Hanlon should go into the wood without Elliott. Hence M'Keon, in his second swearing, sees him again "at half-past twelve" or thereabouts, and sees Hanlon and himself join the other supposed murderers and go into the wood with them, though Hanlon swore he went in with himself to steal timber and kept concealed from the others all through. Of course Hanlon was not produced at

the trials, nor was he proceeded against, though, according to M'Keon, he "did half the work," and though Sergt. Lynch swore he believed him to be concerned in the murder, 17th May.

2. When first sworn, M'Keon stated he saw a revolver with Elliott the morning of the murder, and that he saw him change it from pocket to pocket. Further down in his deposition he was got to say it might have been a pistol or some sort of a firearm. He had never seen a revolver before. How innocent he was, though it is well known he even possessed a revolver! However, he knew when sworn the second time a lot about firearms, and that it was not a revolver, but a "cut-down gun or a long pistol." How could he have known it was not a revolver if he did not know what a revolver was? Had he learned since he had seen it? If so, had he not learned when first sworn, as then he had been a soldier? He found out that a revolver could not have committed the murder, and it would be too big a jump to state straight off about its being even a cut down gun. Hence, the second time he swore it was either a cut down gun or a long pistol. Now, if the latter, it could not have committed the murder, and the lock, trigger, &c., found by Sergt. Lynch would not have belonged to it. If the former, Elliott could not have been changing it from pocket to pocket. Hence, that it may be supposed to be the weapon that did the harm, and the one, portions of which were found, it is not sworn any longer to have been in Elliott's pocket, but "under his coat with the muzzle sticking out!"

3. M'Keon, according to his first oath, saw Elliott coming from the Black Wood. That not identifying him sufficiently with the scene of the murder, according to his second he saw him nearer to it, and, according to his third oath, he saw him coming from its immediate proximity. "I saw a man coming out of Barbavilla Wood into the White Field." Now, this being a physical impossibility from where he stood, as anyone can test for himself, I find he afterwards ceased to see him coming from so near the murder.

4. He reaches the climax of inconsistency in his efforts to describe the time of his seeing him. Compare the several versions as I have given them.

Now, is perjury not manifest in this whole portion of young M'Keon's evidence? He was at the meeting of the Invincibles and refused to take the oath. He knew of the determination to murder Mr. Smythe. He saw the murderers going into the wood. He heard the shots, went and took a sleep, came out when he awoke, and saw the murderer only then escaping from the scene of the assassination! Why, one minute would take Elliott from where the shots were fired to where M'Keon swears he first saw him, and with Mr. Smythe firing his revolver and the coachman whipping his horses, and the whole household of Mr.

Smythe in an uproar, one may be sure the murderer did not linger to be caught. But Elliott must have tarried all the while M'Keon was taking his sleep, within 100 yards of the murder. And when at length he emerged the police had been to Walsh's, and they must have been watching and searching in the direction of Barbavilla. It is an open country there. The path Elliott is described as having taken, can be clearly seen for a long portion from Walsh's house, and he could not possibly have avoided arrest. I challenge contradiction by anyone visiting the locality. Besides, will any sensible person seriously maintain that the sleep was a reality, was it a human possibility in the circumstances? Why, then, was it introduced, and that so late in the swearing? Because M'Keon had sworn he had gone out to the back of Walsh's house immediately after the shots were heard. He then remained outside till he saw Elliott, and when Elliott told him (in one statement he did so when taking a walk that Sunday evening, in another when in the bedroom), he had taken down a crow, he had answered "I heard a lady was shot." How could he have heard it so soon? From Barbavilla to Collinstown Police Barracks is about a mile, and thence to Walsh's is also a mile. That there might be time for him to have heard of the murder the sleep was introduced. That it was a reality no one can believe. The persons in Walsh's house deny it on their oaths. The story is incredible, told by a trustworthy witness, but by young M'Keon, who, I think, has hardly told any truth, even accidentally, in the whole case, it is preposterous to ask anyone to credit it. It is monstrous to send eleven men to penal servitude upon it.

5. The statement about the bottle is the very sort of a one that would answer in a concocted story after it was known that a bottle was found on the scene of the murder. But that the murderer would tell that he had left one there, is simply too much for anyone to believe. Then, M'Keon's saying he never knew a bottle had been found, though he reads and lived in the locality, and though the finding of it was proved at the inquest and stated in all the papers, makes him too innocent of all interest in the murder business. It is a small circumstance in the case, but the bottle, when found, was empty and corked. Now, would Elliott have been looking for whiskey from it if he had emptied it, as he must have done before he corked it?

6. The finding of the portion of the firearm is the only remaining important part of his evidence. It must be borne in mind that the parties to this transaction are young M'Keon and Sergeant Lynch.

(a.) Observe how the former describes the destruction and hiding of it. "The next day, on Monday, I saw Elliott break the revolver in the forge. He melted some of it in the fire, and hid away more of it in the wall. I came on him unawares, while

he was doing this, and he said to me not to say anything about that he hid away some of the pieces in the wall behind the forge, in the small 'planting.' . . . I saw Elliott hiding away parts of the weapon. I went to the wall to look at them. I saw pieces of the weapon there. (Dep. 17th May.)

"The morning after, I saw Elliott in Walsh's forge, about eight o'clock. He was smashing up the firearm he had the day before. He was smashing it with a hammer in pieces, and burned some of them in the fire. He hid a portion of it out in the wall.' (Dep. 27 June.) (3rd Dep. almost identical with 2nd.)

Now, it is quite clear this evidence means that when M'Keon entered the forge he saw Elliott destroying the weapon. The destruction took place before the secretion of it. Such is the manifest reading of the above; but, besides, the breaking up must have preceded the hiding of the parts into which the weapon was broken. Now, if that is the case, how could Elliott be caught unawares by M'Keon breaking the weapon in the forge, and hiding a portion in the wall outside at the rear of the forge, and how could he say to M'Keon, "Don't say anything about it?" Moreover, would not Elliott have changed the hiding place when he found it was discovered?

(b.) The cross-examination by a juror on this portion of the evidence is also very instructive.

Dr. Wm. Carleton proved that Mrs. Smythe died from gun-shot wounds. The right portion of the bones of the skull were cleared away.

Patrick M'Keon, the second informer, was recalled.

The Foreman of the Jury—Do you consider yourself bound by the oath you have taken? Yes.

What became of the barrel of the gun? It was burned in the fire.

The Chief Justice—In the smith's forge, do you mean? Yes.

The Foreman—You are a blacksmith? Yes.

And how was it burned? It was burned into a clinker.

The Chief Justice—What is a clinker? The hard cinder that iron burns into at the bottom of the fire.

The Foreman—How long did that take—how long were you there? It was burned in three or four minutes.

The gun-barrel was burned into a clinker in three or four minutes? Yes.

Another Juror—And you are a blacksmith? Yes.—*Freeman Report*, 4th trial.

Is it not perfectly evident that M'Keon never saw Elliott hiding any portion of the firearm? And what must be thought of Sergeant Lynch, when he swears that after a statement made by M'Keon he found them without any difficulty or delay? They were hidden there for a diabolical purpose, and probably not by young M'Keon, who had bid good bye to the locality, and who manifested no eagerness to become a witness in a case he knew nothing about. Who hid them? Is it too much to conclude that some of those who were coaxing and threatening people into

giving evidence, who connived at perjury, and who, I fear, assisted concoction if they did not themselves invent the whole case for the Crown, were probably the hidiers and the finders of the portions of the firearms? Is it too much to suppose this, especially, as it can be proved that Elliott was miles away the time the murder was actually committed.

CHAPTER XIV.

EVIDENCE FOR ELLIOTT.

First, let it be remembered M'Keon was not at Walsh's at all the morning he swore he saw Elliott leaving with the weapon. This the Walshs' proved.

Besides this, the people with whom M'Keon lived, know he was in bed that morning till he was too late to go even to eleven o'clock mass.

Moreover, he could not possibly be home from eleven o'clock mass on a Palm Sunday at the hour he states he saw the murderers going into the wood.

So much, to prove positively that M'Keon perjured himself in his whole story. Now, there is abundance of proof that Elliott was not in the locality of the murder at all from early morning till dark on that day.

Thomas Kennedy, Castlepollard, blacksmith, knew the prisoner Elliott by sight only. He had never worked for witness. He saw Elliott on a Sunday in Castlepollard; he could not say what Sunday it was. In Castlepollard he bought a hat, and had his hair cut. He could not say if that was the Sunday Mrs. Smythe was shot.

Cross-examined by the MacDermott, Q.C.—I only knew him by eyesight.

Mrs. Anne Kennedy, wife of the last witness, stated she knew Elliott by sight. She saw him in her house at Castlepollard on a Sunday about the time Mrs. Smythe was murdered. She heard of the murder only the next day after he was there. He had his dinner in her house, and she did not see him again.

Cross-examined by Mr. O'Brien, Q.C.—Did not you hear your husband say to Sergeants Lynch and Tilson that he could not name the day upon which Elliott was with you? (No answer.)

(After the question had been repeated several times, witness said she had said that it was on the day before they heard of the murder that Elliott had been with them.)

Did your husband say it? After some hesitation witness replied—"I can't say what he said. We said we heard of the murder on the next day."

Did your husband say so? I don't know.

Why did hearing of the murder fix upon your mind the fact that he had been there on the Sunday? Because he was a stranger.

To the Foreman of the Jury—I gave Elliott his dinner for nothing, as he was looking for work.

John Carter was examined—He said he was a labourer and gardiner. On the Sunday in question he was coming from chapel, when Kennedy called him in to cut Elliott's hair. He did so, and Elliott gave him a drink. He had a new hat with him.

Cross-examined by the MacDermott, Q.C.—He remembered cutting Elliott's hair the day before the murder. He told the police, when they made enquiries, that he had not cut Elliott's hair.

Was that a lie? Yes.

Intentional? No.

Did you tell them that you did not drink with him at all? I did.

Was that a lie? It was.

Was it intentional—did you tell the lie on purpose? Well I knew that it was against the law to drink on Sunday (laughter.) Witness never belonged to a secret society.

Do you ever tell the truth to the police? No, I do not (loud laughter.)

Margaret Walsh, wife of John Walsh, the blacksmith with whom Elliott worked, examined—Young M'Keon was apprentice. Elliott was living with them at the time of the murder of Mrs. Smythe. He slept in the house that night and breakfasted with them that morning. He went out and returned in the evening bringing a new hat with him.

Cross-examined by Mr. O'Brien, Q.C.—Her husband was uncle to the Fagans.

Did you state to Sergeant Tilson that M'Keon used to go and lie down on the bed? I never did; and if I did it would be untrue.

Did your husband state it? I don't know. I heard of the murder from the police.

Before the police came up didn't Brian Fitzpatrick pass on horseback? He did.

Did he say anything about the murder? He said he heard a lady was murdered; but he did not say it was true.

When the police were speaking to your husband about a horseman calling that day, immediately or very shortly after the murder, did you interfere to prevent him telling what he knew? No, I did not. That is another lie. Elliott left the place on his own accord on the 29th of May, after the murder.

John Walsh, the blacksmith, gave corroborative testimony.—*Freeman Report.*

Besides the evidence given for the *alibi* for Elliott on one of the trials—it was not given at the trial he was convicted at, because of the "hounding down" the police had had recourse to at the previous ones,—a man whom I believe to be truthful, and who was incapable of giving evidence at the trials because of a mental affliction from which he is now completely cured, remembers being in Elliott's company in and from Castlepollard the very time he is supposed to have been committing the murder. His evidence is most important in the case, and I have no doubt if an impartial man examine him, he will pronounce it true. The name of this man is Philip Dunne.

STATEMENT OF PHILIP DUNNE.

"I live at Gilliardstown. On the Saturday before the day of the murder I went to the fair of Granard, and I returned the same night to my brother's, at Beyward, Castlepollard. Remained at my brother's till about two p.m. next day; then I went on my way home through Castlepollard. I saw Elliott (whom I knew to be working with John Walsh) near the Market House. It must have been then about three o'clock, p.m. I was not then speaking to Elliott. He was then twenty yards from me. I continued my journey home. Elliott followed out (that is left the

town immediately after me) ; he caught up with me on the road, about fifty perches outside of Castlepollard. When he caught up with me he asked me was this the road to Ballinknock. I said not, that it was the road to Collinstown. He said he thought so, because when coming to Castlepollard there was a wall to his right hand side. I then said, 'It is a round for you to go to Collinstown, but if you come with me I will show you a short cut from my place to Ballinknock.' He remarked, 'I saw you before.' 'I suppose you did,' said I. 'I saw you in John Walsh's,' replied Elliott. I said, 'I suppose you did.' 'I work there with Walsh,' said he. Elliott came with me as far as the lane turning into my own house, where I parted with him. I was home about 4 o'clock p.m. It would take about half-an-hour to go from the point where I parted with Elliott to my own house, so I conclude I parted with Elliott about 3.30 p.m."

The Walshs, the Castlepollard witnesses, and Dunne—again, I ask, are all these witnesses perjurers, and M'Keon alone telling the truth. Even if the firearms were found by Sergeant Lynch, and not hidden by him or one of his associates, does that prove that Elliott hid them? Does it prove that he hid them after committing the murder with them? Does it prove that any of the other prisoners had a particle to do with it, or with the conspiracy that led to it? Not at all.

There were objections, of course, to the witnesses for the defence; and, country people as they are, some of them may have been tripped up into very disagreeable admissions before a Dublin jury. Is it much to be wondered at that one witness should tell a lie about illicit drinking—a penal offence; though it is to be deplored that another should say he never told the police the truth? But surely such things are not enough to discredit a whole crowd of witnesses, especially when all against the truth of their swearing is the contradictory story of a perjurer and rogue. But these witnesses were not fairly dealt with at the trials, and police were ready, when they deemed it advisable, to start up in court against them and swear the very opposite. This deterred the Counsel for the defence from examining many of them at the trials where convictions ensued. I will give some instances—

Does any sane man believe in the sleep M'Keon swore he took after he heard the shots that killed the lady? He had known of the plot to murder Mr. Smythe. He had seen men sworn to murder him and grouped together to arrange for his assassination. He saw these men going into the place where they would meet their intended victim; he heard a number of shots coming from the very direction they had gone, and he went in and *immediately fell asleep*? He never remembered about that sleep when three times sworn. His testimony on these occasions completely excluded its possibility; but he remembered it the *fourth* time

when it suited his purpose—when it was even necessary that his previous statement might be possibly true. Yet Head Constable Tilson swore Mrs. Walsh told him she thought he had taken the sleep. He knew it positively because he had it “in his note book,” and he could not open his lips at the trial (*vide* Crown Report, first trial, page 92) without looking at that book. When the conflict of testimony between him and Mrs. Walsh arose, and she said, in her simplicity, “How could I tell him M’Keon took the sleep when he didn’t,” his notes were an unerring corroboration that she was perjuring herself, and that M’Keon’s monstrous inventions were the truth. Is it not singularly strange that M’Keon himself had said nothing about the sleep on the day Mrs. Walsh is said to have told the constable of it? He even swore subsequently to it, that he went out of Walsh’s *immediately* after dinner. Compare dates.*

Another instance—Walsh himself was questioned about M’Keon breakfasting at his house the morning of the murder. He denied it emphatically, but Sergeant Tilson’s notes again settled the question. Here is the report (Crown Report, page 92).

CONSTABLE TILSON SWORN AND EXAMINED BY THE MACDERMOTT, Q.C.

Are you a sergeant of Constabulary? Yes.

Do you recollect—

Mr. Carson—Put by your notes.

The MacDermott, Q.C.—No; he will not.

Mr. Carson—Until he is asked to prove them in some way.

The MacDermott, Q.C.—Do you know John Walsh, the blacksmith? Yes

Did you go to him in connection with this charge against the prisoners? I did.

Had you a conversation with John Walsh about it? I had.

Did you ask him for a statement? I questioned him upon every matter that I thought connected with the case.

Did you ask whether young M’Keon breakfasted in that Sunday morning or not?

Sunday morning, the 2nd April, ’82? Yes.

What questions did you ask him? I asked him was Pat M’Keon, and Bernard Rynne at their breakfast in his house on the morning of the murder. He said Bernard Rynne was in, but “I think,” he said, “Pat M’Keon was in too.” The word was “I think.”

Look at your note, and say whether he said anything further on the subject. Did you take down in writing what he said at the time? I took it all down.

Dr. Boyd, Q.C.—Do you think, my Lord, he can go further than that.

The Lord Chief Justice—He has taken it down, and he may refresh his memory from it.

The MacDermott, Q.C.—Did he say anything further about the breakfast; look at your note? Yes, he said Bernard Rynne did not come to his breakfast that morning? M’Keon and Elliott were at breakfast.

Did you hear John Walsh stating to-day that he never said anything of the kind to you? I did.

Is that untrue? It is; I took it down in the book.

A Juror—Is that the book? It is.

* Tilson’s notes were taken 22nd May. M’Keon swore, 27th June following, that he left Walsh’s immediately after the shots were fired.

Did you make any correction in it since.

Did you read it to him? I did not.

The MacDermott, Q.C.—Do you recollect again, on a subsequent day, having a similar investigation, and conversing with the witness in the presence of Inspector Jacques? Yes.

Did he on that subsequent occasion—what did he say about the breakfast? I don't think he was questioned about the breakfast on the second occasion. Unless I looked at my notes I could not be sure.

Look at your notes and see; you have a right to look at them. (After reading)—There is nothing about breakfast on the second occasion.

Tell me—you know Mrs. Walsh, the wife of that witness? Yes.

Who was here to-day? Yes.

You heard her state to-day that she never, on any occasion, said to you that young M'Keon sometimes went into the room and lay down on the bed? It is not true; she stated to me on that subject—I put the question to her, would she see M'Keon if he went in and lay down on the bed—

The Lord Chief Justice—I don't think the lying on the bed is material. It is not alleged by M'Keon in his depositions.

Cross-examined by Dr. Boyd, Q.C.—Show me this book about the breakfast. (Book handed to Counsel.) What day did this conversation with Walsh take place? On the 22nd of May.

Of this year? Of this year.

Did he give you, when he went in, these answers immediately to the questions you put? Some questions he answered at once, and others he had to consider.

Apparently inclined to tell the truth? Yes.

I find what you have here is this, that he says—“M'Keon and Rynne were stopping with me at the time. I am not sure, but I don't think either of them were at home on the Saturday night. M'Keon used to stop at his grandfather's, and I think Rynne went home that night. I think M'Keon came for his breakfast that Sunday morning. Rynne did not come for his breakfast that morning. M'Keon and Elliott were at breakfast. I believe they went to second Mass?” Yes.

“M'Keon, Rynne, and I took our dinner about two o'clock. Elliott took his breakfast about half-past nine o'clock, and I didn't see him again till half-past six o'clock”——

The MacDermott, Q.C.—He said the same here.

The Lord Chief Justice—There is no contradiction of that.

Dr. Boyd, Q.C.—If he made the statement; really a vital one——

The Lord Chief Justice—We are only inquiring into the statement about the breakfast of this young M'Keon. We are not inquiring into whether he saw Elliott again that day. There is no contradiction about that.

Now, besides the emphatic denial of Walsh that he said what the constable read from his notes, is it to be believed that he said Elliott, the Protestant, went to second Mass? He never was known to do such a thing the whole time he was in Collinstown.

Afterwards Sub-Inspector Jacques was put up to corroborate the Sergeant and to annihilate poor Walsh.

SUB-INSPECTOR JACQUES SWORN AND EXAMINED BY MR. O'BRIEN, Q.C.

You are a Sub-Inspector of police? Yes.

Do you remember having a conversation with Walsh any time? I do as to who breakfasted on the 2nd of April, 1882.

Dr. Boyd, Q.C.—Was the constable with you? The constable was with me.

Mr. O'Brien, Q.C.—Tell what occurred? I brought Walsh from his forge into his own house, and in the presence of his wife, he made the statement to me, with reference to the breakfast, that the sergeant had taken the day before from him.

And that he is after reading now? Yes.

What did he state? That he believed—I pressed him upon the matter—that he believed M'Keon came for his breakfast that morning; that he was in the habit of sleeping at home, and coming for his breakfast in the morning.

You pressed him? I did.

Dr. Boyd, Q.C.—Did you take a note of it? I did not.

Had you knowledge of the note taken by Sergeant Tilson the day before? Yes.

And it was a repetition of what he said to Sergeant Tilson? A repetition.

He states positively that Walsh admitted M'Keon's breakfasting there the morning in question—and in Tilson's presence—and Tilson seems to say there was no question about the breakfast when Jacques was present. And these were the police, be it borne in mind, who got up the evidence in the case. They are the persons—Jacques, Lynch, and Tilson—who have done splendidly by the convictions. They are the men who were, *fas aut nefas*, trying to get evidence in the case, and some of whom, I am informed, frequently wanted persons to admit statements they put into their mouths. They are the men, too, who dissuaded the advisers of the Lord Lieutenant from recommending an investigation.

Another instance—Dr. Boyd had argued on one of the trials that Elliott being an Ulster Protestant, and probably an Orangeman, it was most unlikely that the other prisoners—all Catholics—would trust themselves in a murderous conspiracy with him. Thereupon up was put a policeman (it was the habit on these trials to have an official to contradict every strong point for the defence) who swore Elliott was registered as a Catholic in the workhouses of Kells and Drogheda.

Other evidence was given by Constable Galligan, who deposed that before May last Elliott had been in Drogheda and Kells Workhouses, where he had been registered as a Catholic.—*Freeman Report*, second trial.

Now, I have inquired at these places, and I hold certificates from them that Elliott was in them, and was registered as a Protestant. He was attended by the Protestant Chaplains, and never pretended to be anything but a Protestant!

So much, then, for the corroborative portion of the evidence adduced against the prisoners. It ought to have force only against Elliott, and before it could have any force even against him young M'Keon and Sergeant Lynch must both be regarded as telling nothing but the truth about it, and there must be no reasonable doubt but that all the witnesses for the defence were wilfully perjuring themselves in the case.

CHAPTER XV.

PROFESSIONAL SWEARING.

The only portion of the case remaining to be treated of is that which embraces the 3rd class of evidence alluded to by the Lord Chief Baron. This is not evidence, he tells us, against all the prisoners; and hence I might not deal with it in contending that some of them are unjustly convicted. But it is of such an incredible nature—told by witnesses of such unreliable character—that its production will damn the case for the Crown more and more. I give the evidence from the *Freeman* report:—*

The new witness, Joseph Mahon, of Navan, in reply to Mr. Molloy, Q.C., deposed that in the spring of '83 he was watchman in Navan. On that occasion he saw Robert Elliott there. (Identified the prisoner.) Elliott asked him for a chew of tobacco; he gave him some. Elliott then said he was in too late to get into the workhouse or lodgings, and witness gave him a night's lodging in the weigh-house. Some days after witness met him, and he (the prisoner) met him. He had on the previous time told him that he was a blacksmith, and on the second occasion he said he had to leave a nice job in Westmeath, and mentioned that it was on account of the murder of Mrs. Smythe; and Elliott said that unfortunately he had his finger in the pie, and was pushed into it. When coming out of the publichouse the prisoner asked him to look about and see if there were any of the police knocking about. He did so; and he did not see Elliott until he saw him in Richmond Prison about a fortnight ago. It was in a yard he saw him, amongst other prisoners, and he knew him when he saw him.

Dr. Boyd—Is this the first time you have been examined as a witness? It is not.

Is there a better known witness for an *alibi* than you? I do not know what you mean.

Do you know that there is not a better Crown witness in Navan than you? I don't know that.

How many times were you examined for the Crown? This is the fourth time. I would not wish for £500 that I was brought here, but I would, of course, like my expenses.

Did you ever say that you would have no objection to hang a man for £50? No, never.

Do you know a man named Gough? I do.

Were you examined in the case of a man named Cullen? I was. I think it was about three months ago.

At the Assizes? Yes; before Chief Justice Morris.

What did he say of you? I don't know. The jury acquitted the prisoner. The charge against Cullen was for burning a hay stack. There were other witnesses besides him. Cullen had told him that he was in trouble again with a man named Curran.

Dr. Boyd—Just what Elliott said.

Witness—Cullen said to him that he would burn Curran's place to the ground, and said that to witness on more than one occasion.

You swore he said so, and the jury did not believe you? Yes, sir.

Do you occupy the position of craneman or watchman now? No, sir.

Have you been dismissed from your employment? I have, sir, on short notice.

* Mahon and Nevin were not examined except at the third trial; the Crown said they had not their evidence till immediately before its commencement.

Did you know that there is a prosecution against you? I do not know. If it was a fault for which I was dismissed, it should have been brought against me four months ago.

The witness then explained that there had been a charge made against him of having altered a weigh docket from 24 cwt. to 20 cwt.

Who got the price for the 4 cwt.? I don't know, sir.

You would not touch it? Well, I don't know about that.

The Chief Baron—What did you change the docket for? The man who had the load came back to him after it being weighed, and said it had been cut down on account of dirt.

Dr. Boyd—Did you ever tell anybody that you expected to get £50 for your evidence in this case? No, sir; I did not.

Who paid you for your expenses in Cullen's case? Mr. Jackson did.

Did you say that Jackson was a decent man, but you would get more in another case? No, sir. I said at the time Boylan shot the man that I was told I would get £50 for giving evidence, and there was not so much noise about it.

Did you hear anything about money in this case? No.

Did you hear of a reward offered in this case? No, sir, never.

Is that as true as everything you have sworn? That is true anyway.

When did you give your evidence first in this case? I did not give it until they took it out of me.

When did you give your evidence? Six weeks ago.

Dr. Boyd—And this is the evidence the Crown said they did not get until the other day!

Peter Kevin—was examined.

In reply to the MacDermott—He stated he was the son of a farmer residing in the county Westmeath. He was sent to prison on the 11th of July last. Before that he was a Fenian.

Did you know any of the prisoners in the dock to be members of that society? Bryan Fitzpatrick was a Fenian; but I was a member of the Young Fenian Society, and he was a member, and he belonged to the old society. I heard tell of Michael Fagan when he was hanged, but I did not know him. When in Mullingar Jail I met some of the men in the dock and had a conversation with them. I know Fitzpatrick for over twelve months, and he said to me that he was taken at last.

On what charge? For the murder of Mrs. Smythe. He said that Michael Fagan was an unlucky sight to them for breaking up their society, or for changing their society.

Did he say what change Michael Fagan had made in the society? Yes that he had turned it into a branch of the Invincibles. He said that the M'Keons' were not able to prosecute them for the murder, but they were afraid they would get five years on the conspiracy.

Did he say whether Michael Fagan came down to the country or not? Yes; he said he came over to his mother's, and that they had some sort of a spree in the house, and a meeting. He talked about a man named Riggs, who was turned out by Mr. Barlow Smythe, and "alluded that he was an unlucky sight to them for taking his part." We had several conversations, and of course I disremember all that was said. I know Bernard Rynne, too. He was also in Mullingar Jail with me and I had a conversation with him.

What did Rynne say? He said that when the prisoners were arrested he was summoned as a witness against the prisoners, but said nothing. He only laughed and smiled at the men, and he said that there was a man named Sergeant Lynch who saw him. The thing was mentioned to the gentlemen of the court, who had a suspicion that he knew something about the prisoners or about the society or whatever it was, or he would not have been arrested. Another time he told me that one of the prisoners had called him an informer.

Did he mention the names of the prisoners? Yes; John Fagan; and I said if John Fagan called him an informer again, as he had the name he would

have the gain. I said he ought to report Fagan to the head warden, who was then acting as governor. He did not say whether he would complain or not, and then I mentioned something about the punishment he might get with the other prisoners—perhaps ten years' penal servitude, and suggested that he should go against them. "No," he said. "I will wait until the very last." That is all I have to say over Rynne. Before I was in jail I heard of Robert Elliott as a journeyman blacksmith working in the west townland. I had a conversation with him in prison, too. He told me that the prosecutor was a man named M'Keon, who came into the forge where he (Elliott) was working, and saw a bit of a gun—the end of a gun—in the forge, which he had not the good luck to throw into the drain convenient to Barbavilla, as well as the blunderbuss that was cast away there.

Did he say what he was doing with the gun when M'Keon came in? Yes, that he was after breaking it up; and M'Keon saw the remains.

In any of the conversations did Elliott mention the Fagans? Yes; he said something about Michael Fagan—that he was an unlucky sight for them—and he said again that if he had stood his ground and not left the country, going away to work in Drogheda, he might never have been taken.

Cross-examined by Dr. Boyd, Q.C.—He cast off his prison clothes last Thursday. He was in jail under the Crimes Act for posting a threatening notice. It was a threat to a man named M'Gartland that he would suffer one of those days, for getting a boy prosecuted for carrying a gun without a licence. He got six months for it, and the notice was given to him to post. He did not care about the punishment. He was in jail now for the third time. He was never sent to jail for threatening to split his uncle's head open, but he threatened he would take Joe Brady's place for him. The second time he was in jail was for selling two sheep, the property of Mr. Weld O'Connor, that had been stolen. He heard tell of these trials in December last, when he was in Mullingar Jail. He first made the statement of the evidence he has given when in Dundalk Jail last Thursday. In August last, in Mullingar Jail, he wrote out his statement. He then gave that statement to Sergeant Power.

Was it true, therefore, that Thursday last was the first day you gave the information? I say I gave it in Dundalk Jail and Mullingar—I gave it several times. I did not know what you meant when you asked me did I swear that Thursday last was the first day I gave information.

Do you swear that? I do.

Dr. Boyd, Q.C.—You may go down, sir.

Cross-examined by Mr. Sullivan—Do you expect to go back to prison? I don't know, sir. I may be left in Kilmainham, but I have not formed the slightest idea about it.

Re-examined by the MacDermott—He was acquitted on a charge of sheep-stealing. A dispute about a right of way existed between his father, himself, and his uncle; that was why he threatened him. The threatening notice that he posted and was in jail for was not written by himself, but was given to him to post.

District-Inspector Jacques deposed that Rynne was examined after the first batch of prisoners before the magistrates, and when he got on the table he commenced laughing and smiling at the prisoners.

REMARKS ON THE FOREGOING.

1. A short time previous to its being given, Chief Justice Morris pronounced the witness Mahon, who came before him as a Crown witness in Trim, utterly unworthy of credit. He was on that trial also pretending that another prisoner, arraigned for a heinous offence, had confessed his crime to him. The prisoner in Trim was acquitted.

2. In introducing Mahon to the jury the MacDermott stated that between the intervals of his pretended interviews with Elliott, the latter had been in the Navan Workhouse. Probably that was sworn to at the trial—the reports are very meagre—but whether or not, the MacDermott must have been briefed to the effect. Now, such a statement is utterly untrue. The officials in Navan declare that, as far as they know, no such person was there; and it can be proved Elliott never went disguised after the murder.

3. Nevin's evidence is so utterly silly, improbable, unreliable and irrelevant, as far as most of the prisoners are concerned, that it hardly needs comment. His references to Rynne are simply childish. That unfortunate fellow, who is a half fool, was taken by the Crown as a witness. Of course his pardon must have been at least implicitly promised him. He was undoubtedly implicated, for M'Keon, senr., had previously sworn he attended the meeting, and took the oath of assassination. He didn't, however, swear up to the mark. He knew nothing about the meeting at the Widow Fagan's, for being at which he was sworn against by M'Keon. Rynne also swore he heard Elliott was in Castlepollard buying a hat the day of the murder—the very thing Elliott was doing. It wouldn't do at all that that evidence should be uncontradicted, and how better upset it than by sending to prison the unfortunate fellow who wasn't either clever enough, or wicked enough, to perjure himself. With guileless candour he swore what he thought was the truth, but his evidence didn't assist the case as made out by Sergeant Lynch. He was foolish enough to laugh at the prisoners as he was mounting the witness-table in Mullingar. He did this, too, in the very presence of S. I. Jacques; and *after* he gave his evidence he was sent to the dock, and sentenced to ten years' penal servitude. Is there a principle of honour with the Irish Executive if such a sentence is allowed to stand?

4. These two witnesses swear they gave their information to the authorities a long time before the trials. Yet the Crown Counsel stated at the beginning of the third trial that it had turned up only then. A few days' adjournment then took place that it might be inquired into by the counsel for the prisoners. Is it not clear that those who briefed the Crown Counsel withheld the evidence as worthless, or that those who gave it evidently perjured themselves? In either alternative, it should never have been produced in a court of justice, and its production shows how "hard up" counsel were for evidence to convict.

CHAPTER XVI.

ELLIOTT'S ACCOUNT OF HIMSELF.

Now, in contrast with the inconsistent and improbable story against him, told by a perjurer and rogue, and willing assassin,

I give the plain, simple story of Robert Elliott himself, as given to his Solicitor for his defence. It is not contradicted in any point except by young M'Keon. The portion of it that speaks of his statement when being arrested, agrees with the version of it given by Sergeant Galligan, and it is corroborated by the various witnesses who swore for the defence. Such an agreement is morally impossible in the supposition that his statement is a lie.

STATEMENT OF ROBERT ELLIOTT.

" 29th May, '82, left John Walsh's, Ballinknock. 1st June commenced to work for Fagan in Ballynacarig, Westmeath. Worked three days and left. I then went to Belturbet, Co. Cavan, and commenced to work for a man whose name is Brady, on the 9th of June. I remained with him 8 or 9 days. I then went to Killeshandra, and commenced to work, June 19th, 1882, for Mr. William Harkin. I remained with him two weeks. I then went to my people in Fermanagh, and remained with them four days. I then went to Omagh, Co. Tyrone, and commenced to work, July 10th, for William M'Cracken. I remained with him one week and left. I then went to Londonderry, and commenced to work for Samuel Henderson, July 19th. I worked 4 days for him. I then went to Coleraine, and commenced to work, July 31st, '82, for Alexander Boyle. I worked one week with him. I then went to Armagh, and commenced to work for Robert Hill, August 12th, '82. I worked 7 days for him. I then went to Samuel Crookshank's, Curravalley, Co. Monaghan, and commenced to work, August 22nd, '82. I worked for him 16 days. I then went to Bartle Ball, Histyholmac, Co. Meath, about the middle of Sept., '82, and worked a few days for him; and then one week for his brother William. I then went to Mooneystown, near Athboy, Co. Meath, and commenced to work for John Smith. I remained with him until about the 20th of October, '82. I then went to work for Bartlet Coyle, near Kilmoon Police Barrack, Co. Meath, November 1st, '82. I remained with him between 3 and 4 weeks. I then went to Trim, Co. Meath, and commenced to work for one M'Loughlin, about the 1st. of Dec., '82, as near as I can recollect. While working with M'Loughlin in Trim, I was attacked with rheumatism in my back, and went to the Union Hospital in Trim, under the care of Dr. Reilly. Mr. Trout, the Protestant curate, was chaplin. I got something better in a few days, and came out and went to Mooneystown, to John Smith. I went to work for him, and worked one week. The pains in my back and hip grew worse than ever. I then went to Kells, and went to the Union Hospital on the 22nd or 23rd of December, '82, under the care of Dr. Sparrow. Rev. Dr. Bell, and the Rev. Mr. Greeson, were the Protestant chaplins. I got better, and left the hospital about

the 18th or 19th January, '83. I then went to Ashbarden, Co. Meath, and worked a few days for one Tracy. I then went to Christopher Lacy, Black Hills, near Balbriggan, Co. Dublin, and worked with him in February, and up to the 26th of March, '83. I then left him, and went to work for Mrs. M'Quirk, March 27th, '83, in Drogheda. I remained with Mrs. M'Quirk unto the 26th of April, '83. I was again attacked with pains in the back and limbs. I was advised to go to the hospital. I went to the Relieving Officer's house to get a ticket, and a woman told me that he was at the Workhouse—that the Board was sitting. I then went to the Workhouse. I was put into a small room, where there was some people waiting to get out-door relief. I was not in the office. A man came up to me, and asked me what I wanted, and asked my name. I told him that I was bad with pains in my back, and wished to get to the Hospital. I told him my name. He then went into the Board-room. Shortly after the Doctor came and seen me, and I was admitted to the Hospital in Drogheda Workhouse, April 26th, '83. I was not able for to go to prayers the first Sunday; the next Sabbath I went. I do not remember the minister's name. I told him that after a few days in the hospital that I was sent to the infirm ward, and that I was not getting better. I told him that I would be better treated in Kells by Dr. Sparrow; that I had been under his care a few months before. He asked me if I knew the Rev. Dr. Bell; I told him that I did. He then told me if I thought that I would be able to go to Kells to come to his house next day at 2 o'clock. The next day was Monday, May 7th, '83. I came out of the infirm ward in Drogheda Union, and went to the Minister's at 2 o'clock, as he told me to do the day previous. He gave me 3s. to take me to Kells. He told me that he would write to the Rev. Dr. Bell about my case. I then went to the Railway Station, and got a ticket for Kells. I got on the wrong train, and did not know it until I was at Castle Bellingham. I remained in Bellingham that night; the people that I stopped with told me that there was a good doctor in Dundalk, and that it was only 6 miles from me. The next day I went into Dundalk, May 9th, '83; I went to the hospital in Dundalk Union. I left the hospital on the 16th of May, '83. I disremember the Doctor's name, or the Minister's. I never registered as a Catholic, or denied my name or country. I then came back to the Co. Meath, to Bartle Ball, Histryholmac, Sunday afternoon, May 20th, '83. He and several persons were sitting on a ditch near his house when I came up to him; he shook hands with me. He then told me that there was four police there on Friday night looking for me, and that I had better look out. He said that they searched the house, and went upstairs and searched the bed. I told him that I never did anything to leave myself in the power of the police, and that I thought that it would be best for me to go and see Mr. Gargan, the Magistrate (he

lived close by), or the Sergeant at Carlanstown. He and the people who were with him told me that the races of Kells would be on Tuesday the 22nd, and that I could see the Sergeant when we were on our way to the races; and that if he heard that I was with him he would be there before Monday. 21st May, '83, I worked for Bartle Ball; shod one pair of croydon wheels, and two horses; steel-faced a sledge, turned one pair of horse-shoes, and made some horse-nails. On the 22nd of May, '83, Bartle Ball and I and some others started for Kells. When we were coming into Carlanstown we seen the Sergeant standing in the police barrack door; we went on down the village until we came to Mr. Kerrigan's house, in front of where the Sergeant was standing. I wanted some tobacco, so all hands went in. Bartle Ball treated me and the others that came with us. Ball went out first, and I lit my pipe and went out. Sergeant Galligan and he were talking. I asked the Sergeant, in the presence of Ball, if he was looking for me; I said that my name was Robert Elliott. He said that he was; and said 'come over to the barrack.' I asked him what there was against me. He told me that I was charged with the murder of Mrs. Maria Smythe, at Barbavilla, in the Co. Westmeath, on the 2nd of April, '82. I told him that I was in Castlepollard on that day, at the time the murder was committed; and that I bought a new hat, and had my hair cut; and that I did eat dinner in Thomas Kennedy's house, and left there at two o'clock.

"This is a true statement of Robert Elliott."

April 12th.

MR. NOONEY,

SIR,

On the 8th May, '82, John Walsh went to a fair in Collinstown. Pat M'Keon and I were working in his forge. About 10 o'clock Mrs. Salmon's boy came with two horses for to get shoes on. I told M'Keon for to get the feet ready too; I would fit the shoes. He then left the forge. After some time I went to Walsh's house to look for him. Mrs. Walsh told me that M'Keon came in and told her that he fell out with me. I then went back to the forge and shod the horses myself. After they were shod I seen M'Keon and some other fellow lying in John M'Cormick's field. I then locked the forge, and went to Mrs. Walsh; told her that I was afraid that M'Keon and the person that was with him would attack me when no person was about the place. I then went to Collinstown, and told Walsh that M'Keon left, and that I was afraid to stay in the forge alone. He told me they dare not attack me. He said that he bought a pig and paid 26s. for it, and he would soon be home himself; he then bought some nail-rod for me. I then went back to the forge, and made horse-nails until Walsh came home. M'Keon stopped away

about a week. During that time he sent word to Walsh that if he would discharge me that he would come back. I hope, Sir, that you will see John Walsh and his wife about this statement; it is correct.

Yours truly,

R. ELLIOTT.

CHAPTER XVII.

CONCLUSION.

I have now given, with all the completeness I am able, the case for and against the Barbavilla prisoners. It has cost me a deal of research and trouble to do so, and the task has not been a palatable one. The conclusion which I submit I have proved in these pages, is what I felt it my duty to communicate and to offer to prove to the Lord Lieutenant. The unfairness of the trials, and the injustice of the verdicts, are more than manifest from the facts and statements herein given, every one of which I am ready to prove. The full iniquity of the proceedings cannot be adequately described. A foul murder, base, cowardly and brutal, had undoubtedly been committed in Barbavilla; and far be it from me to shield in any way the authors or the instigators of that diabolical crime. But it has not been proved home to any of those convicted as the law requires. I have given all the evidence ever given against all the prisoners, and I fail to see a single fact established that fixes guilt on a single one of them. On the contrary, the evidence against them is manifestly a tissue of falsehoods, and the charge a monstrous concoction. Such it manifestly is; and it is attested only by the oaths of the most unreliable and criminal characters in the whole locality,—men of admittedly evil repute, whose horrible perjuries in the case were at least wilfully connived at, if not actually prompted, by one or two interested and unscrupulous policemen.

On this evidence eleven human beings have been sent into prison for the best years of their lives. Some of them are men of innocent natures, of high respectability, and of unblemished character. No one who knows John M'Grath would suspect him as even capable of the foul crime for which he is convicted; and here is what was sworn on the trials by men whose oaths the Crown ought to respect, about William M'Cormick:

Robert Battersby, J.P., was examined as to the character of William M'Cormick, whom he stated he had known for twelve years. M'Cormick's general character was excellent. He held a licence to carry arms, granted by the local resident magistrate, Mr. Lambert. In 1881 and 1882 he was rather unpopular and disliked.

In cross-examination the witness said he was not aware that M'Cormick was treasurer of the local branch of the Land League. The Meath hounds had been poisoned on the Carrick cover, which was near M'Cormick's, but witness never heard that M'Cormick was charged with this by Mr. John Battersby, of Carrick.

John Henry Moore, who had been agent on the estate on which the M'Cormicks were tenants, said the general character of the prisoner, whom he had known from childhood, was good.

In cross-examination the witness said he could not say whether many respectable men had of late joined secret societies and engaged in illegal proceedings. He had never heard that William M'Cormick was a Land Leaguer.

Mr. Mooney, Sessional Crown Solicitor and Clerk of the Crown for Westmeath, and a magistrate for the county Kildare, gave the prisoner M'Cormick a most excellent character.

These men, and others perhaps as innocent though in humbler circumstances of life, have been branded with the conspirators' and murderers' brand by the verdict of the jury, and by the judge's sentence they are being confined in maddening dungeons for the best years of their lives, without evidence to justify even their arrest; they must have been almost beggared by the heavy legal expenses of their defence. Their properties have been considerably injured by their absence, if they be not irremediably ruined. Their characters are tainted; their prospects blighted; and their families left in wretchedness and misery. They are, too, in imminent danger of losing their lives by contracting diseases that are so easily caught in our Irish prisons. At least two of those originally arrested on the false swearing of the M'Keons', after many months in jail, were liberated without trial because further imprisonment would kill them. One other in similar circumstances has actually died since his release; and another, John M'Grath, has been liberated since his conviction, and sent home to die of a disease caught in prison. It is much to be feared that others will likewise surrender their lives as the completion of the injustice of which they are the victims. At all events should they survive the term of their sentences, they will when liberated be found invalided for the rest of their career on earth. Can the magnitude of the injury done them be exaggerated, and is there no power in the world to save them from what seems to be their fate? To arouse public opinion on their behalf, to overturn the victory given to perjury, and to the spirit of private and public revenge, and to show to the world the foul play and tyranny the Crimes Act encourages in Ireland, are the objects I have striven for in these pages. If the public voice be raised to demand for me an opportunity of proving the statements I herein make, I am hopeful of the result.

“Thrice is he arm'd that hath his quarrel just,
And he but naked, though lock'd up in steel,
Whose conscience with injustice is corrupted.”

